

## Clearinghouse Rule 22-006

# PROPOSED ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION REVISING PERMANENT RULES

The scope statement for this rule, SS 105-21, was published in Register No. 791A4, on November 22, 2021, and approved by State Superintendent Jill K. Underly on December 9, 2021.

The State Superintendent of Public Instruction hereby proposes an order to repeal and recreate s. PI 24.03 (3), relating to calculation of aid under the achievement gap reduction program.

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## ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

**Statute interpreted:** s. 118.44, Stats.

**Statutory authority:** s. 118.44 (6) (e), Stats.

### **Explanation of agency authority:**

Under 118.44 (6) (e), Stats., the Department is given statutory authority to promulgate rules with respect to the payment of state aid under the achievement gap reduction (AGR) program under s. 118.44 (6), Stats.:

### **118.44 Achievement gap reduction; state aid.**

(6) State aid.

(e) The department shall promulgate rules to implement and administer the payment of state aid under this subsection.

### **Related statute or rule:**

N/A

### **Plain language analysis:**

The objective of the proposed rule is to make updates to the calculation and payment of aid under the AGR program. The proposed rule will provide that school districts participating in the AGR program shall use prior year enrollment data to calculate the number of low-income pupils enrolled in a grade eligible for funding under the AGR program in the eligible school.

### **Summary of, and comparison with, existing or proposed federal regulations:**

There are no comparable existing or proposed federal regulations intended to address the activities regulated by this proposed rule.

### **Summary of any public comments and feedback on the statement of scope for the proposed rule that the agency received at a preliminary public hearing and comment period held and a description of how and to what extent the agency took those comments into account in drafting the proposed rule:**

The Department held a preliminary public hearing and comment period on December 6, 2021 and did not receive any comments on the statement of scope for the proposed rule.

### **Comparison with rules in adjacent states:**

There are no comparable rules governing achievement gap reduction programs in adjacent states.

**Summary of factual data and analytical methodologies:**

The AGR program allows a participating school to meet the obligations of a five-year contract by implementing one of three strategies, or a combination of these strategies in every kindergarten through 3rd grade classroom: 1) one-to-one tutoring provided by a licensed teacher; 2) instructional coaching for teachers provided by a licensed teacher; or 3) maintaining 18:1 or 30:2 classroom ratios and providing professional development on small group instruction. The AGR program requires each participating school to create performance objectives for reducing the achievement gap between low-income students in that school and students in the same grade and subject statewide. The AGR program is funded by a sum certain appropriation and is prorated among all low-income pupils in participating grades. Aid payments are calculated from the statewide appropriation to determine the per pupil allocation.

When the AGR program was established in the 2015-16 school year, the department promulgated ch. PI 24 of the Wisconsin Administrative Code to implement and administer the payment of aid under the program. Under s. PI 24.03 (3), an eligible school shall receive aid by reporting to the department, on a form supplied by the department, the number of low-income pupils enrolled in a grade eligible for funding in the eligible school on the third Friday in September by the third Friday in October. Since the rules were promulgated, the department has identified revisions to the rules governing the AGR program which are designed to improve implementation of the program and ease the burden of school districts reporting their enrollment data to calculate the number of eligible pupils eligible for aid under the program. The proposed rule will use the prior year's enrollment data for calculating the number of low-income pupils eligible for aid, which would be certified and obtained directly from the WISEdata system, instead of requiring school districts to enter this data into the AGR program before the third Friday in October deadline. The proposed rule would also provide school districts with the flexibility to provide current year enrollment data in the event of unforeseen or unusual circumstances affecting school enrollment, which may include school closures or school consolidations. Without this change, the department would be required to implement ch. PI 24 as the rules currently exist, and school districts would be required to report their enrollment data pursuant to current rule requirements.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:**

N/A

**Anticipated costs incurred by private sector:**

N/A

**Effect on small business:**

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

**Agency contact person: (including email and telephone)**

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**Place where comments are to be submitted and deadline for submission:**

Comments should be submitted to Carl Bryan, Department of Public Instruction, 125 S. Webster Street, P.O. Box 7841, Madison, WI 53707-7841 or at [adminrules@dpi.wi.gov](mailto:adminrules@dpi.wi.gov). The Department will publish a hearing notice in the *Administrative Register* which will provide information on the deadline for the submission of comments.

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## RULE TEXT

### SECTION 1. PI 24.03 (3) is repealed and recreated to read:

#### **PI 24.03 (3) LOW-INCOME PUPIL ENROLLMENT.**

(a) Except as provided in par. (b), in the aid calculation under sub. (1), the department shall use the sum of low-income pupils in a grade eligible for funding in the eligible school on the third Friday in September of the previous school year, as reported by the school district pursuant to s. 121.05 (1) (a), Stats.

(b) An eligible school that has an increase in enrollment of 25 percent or more between the third Friday in September of the previous school year and the third Friday in September of the current school year may report to the department the number of low-income pupils eligible for funding in the eligible school on the third Friday in September of the current school year. When a report is made under this paragraph, the department may use the number provided under this paragraph in the aid calculation under sub. (1).

### SECTION 2. EFFECTIVE DATE:

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2022

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Jill K. Underly, PhD  
State Superintendent