

## CR 13-086

### ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION ADOPTING PERMANENT RULES

The scope statement for this rule, SS 072-13, was published in Register No. 691, on July 14, 2013, and approved by State Superintendent Evers, on July 24, 2013. Per the Dane County Circuit Court order issued in Coyne, et al. v. Walker, et al., Case No. 11-CV-4573, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope or this rule.

The State Superintendent of Public Instruction hereby proposes to repeal PI 32.01(4) (Note), PI 32.03(2)(intro) (Note), PI 32.03(4)(a) (Note), and PI 32.05; and amend PI 32.01(4), PI 32.03(2)(intro), PI 32.03(4)(a), and PI 32.03(4)(b), relating to grants for alcohol and other drug abuse programs.

The rules are being adopted under s. 227.16(2)(e), Stats., which provides that rulemaking does not need to be preceded by notice and public hearing if the proposed rule and fiscal estimate are published in the notice section of the Administrative Register and the required petition is not received by the agency within 30 days after publication of the notice.

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### ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

**Statute interpreted:** s. 115.36(3), Stats.

**Statutory authority:** s. 115.36(3)(a)5., Stats.

**Explanation of agency authority:**

Under s. 115.36(3)(a)5., Stats., the Department has authority to promulgate necessary rules to implement s. 115.36(3), Stats.

**Related statute or rule:** N/A.

**Plain language analysis:**

First, the proposed rule change would realign PI 32 with the Wisconsin Statutes. 2011 Wisconsin Act 32 deleted Sections 20.255(2) (dm) and 115.361, Stats. Thus, this rule change would eliminate the references to those statutory sections in the rule.

Second, this rule change would eliminate PI 32.05, which provides a detailed description for the Alcohol and Other Drug Abuse (AODA) Program Advisory Council required under s. 115.36(2)(e), Stats. The requirements in PI 32.05 are no longer needed because 2011 Wisconsin Act 32 deleted one of the AODA appropriations (s. 20.255(2)(dm), Stats.), which had the majority of the AODA grant funds. Given the reduced grant appropriations, the DPI believes that the size of the AODA Council can be reduced accordingly. Additionally, the description of the AODA Council is no longer needed in rule because, given the constantly changing amount of AODA funding, DPI needs the flexibility to adjust the Council's structure quickly through policy instead of the rulemaking process.

**Summary of, and comparison with, existing or proposed federal regulations:** N/A.

**Comparison with rules in adjacent states:** No information.

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

The requirements in PI 32.05 are no longer needed because 2011 Wisconsin Act 32 deleted one of the AODA appropriations (s. 20.255(2)(dm), Stats.), which had the majority of the AODA grant funds. Given the reduced grant appropriations, the DPI believes that the size of the AODA Council can be reduced accordingly.

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

If the size of the AODA Council is reduced, DPI will have to expend fewer resources staffing the AODA Council.

**Anticipated costs incurred by private sector:**

There is not expected to be a cost to the private sector.

**Effect on small business:**

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

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

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

As provided in s. 227.16(2)(e), Stats., a public hearing will not be held for this rule change unless the required petition is received by the Department.

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**SECTION 1. PI 32.01(4) is amended to read:**

**PI 32.01(4)** This chapter sets forth characteristics of a comprehensive kindergarten through grade 12 program including criteria and procedures in awarding grants under ~~ss. 115.36 and 115.361~~, Stats.

**SECTION 2. PI 32.01(4) (Note) is repealed.**

**SECTION 3. PI 32.03(2)(intro) is amended to read:**

**PI 32.03(2)(intro)** AODA PROGRAM CONTENT. Under s. 115.36 (1), Stats., every public and private school is encouraged to develop AODA programs to prevent or ameliorate alcohol and other drug abuse among minors. ~~Sections~~ Section 115.36 (3) ~~and 115.361~~, Stats., provide for grants to assist school districts in developing or supplementing AODA programs. An AODA program under this section may include any of the following:

**SECTION 4. PI 32.03(2)(intro) (Note) is repealed.**

**SECTION 5. PI 32.03(4)(a) is amended to read:**

**PI 32.03(4)(a)** The state superintendent, annually, shall establish funding limits for programs under this section based on the amount appropriated for the program under s. 20.255 (2) ~~(dm) and (kd)~~, Stats., using the criteria specified under par. (c) 2. The state superintendent shall inform school districts of the funding limits by letter which will accompany application materials.

**SECTION 6. PI 32.03(4)(a) (Note) is repealed.**

**SECTION 7. PI 32.03(4)(b) is amended to read:**

**PI 32.03(4)(b)** The council under ~~s. PI 32.05~~ s. 115.36(2)(e), Stats., shall review the applications submitted under this section and make recommendations to the state superintendent regarding the funding of school district applications. These recommendations shall be based on the criteria specified in par. (c).

**SECTION 8. PI 32.05 is repealed.**

**SECTION 9. 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 \_\_\_\_\_, 201\_

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Tony Evers, PhD  
State Superintendent