

Wisconsin Department of Public Instruction
**STATEMENT OF SCOPE
FOR ADMINISTRATIVE RULES**

GENERAL INFORMATION

Rule No.: PI 2, PI 9, PI 14

Relating to: Red Tape Review of rules governing school district boundary appeals, pupil nondiscrimination, and school finance

Rule Type: Permanent

NARRATIVE

Pursuant to *Coyne v. Walker*, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope for this rule. *Coyne v. Walker*, 368 Wis.2d 444.

1. Finding/nature of the emergency (Emergency Rule only).

N/A

2. A description of the objective of the proposed rule.

As a result of the Assembly Education Committee's Red Tape Review of administrative rules held on May 18, 2017, the Department proposes to address the requested rule changes:

PI 02: The requested changes is a technical change that removes past dates from rules governing school district boundary appeals under PI 2 of the Wisconsin Administrative Code.

PI 09: The requested change adds information related to school technology in the school board's evaluation of the status of nondiscrimination and equality of educational opportunity.

Additionally, the requested change makes technical changes to 1) update the references to federal law under s. PI 9.04 (2); and 2) add religion to the list of characteristics for which a person may not be denied admission or participation in a public school.

PI 14: The requested change revises the rule provisions governing minimum standards for audits and school district audit contracts to conform the rule with changes in federal guidance, generally accepted accounting principles, and current practice. The requested change will also update the sample contract for two or more school boards (contained in the PI 14 appendix), in accordance with these changes.

3. A description of the existing policies and new policies included in the proposed rule and an analysis of policy alternatives.

PI 02: Chapter PI 2 describes the procedures for those wishing to appeal a boundary change due to school district reorganization as a result of consolidation, creation, or dissolution of school districts or the transfer of large territory. The rule, which has not been amended since 1990, contains references to requests for reviews by a school district boundary appeal board (or "SDBAB") under s. 121.78 (1) (c), Stats., which is now obsolete. Additionally, PI 2 provides that members of the SDBAB who were regular and alternate members on January 1, 1990 shall be appointed regular members to serve the remainder of their terms, and that by May 1, 1990, the State Superintendent shall appoint four new members, with two members appointed to terms which expire on May 1, 1990 and two members appointed to terms which

expire on May 1, 1992. Finally, PI 2 provides that the chapter applies to all petitions or resolutions for reorganization filed on or after January 1, 1990, which is the effective date of 1989 Wisconsin Act 114. The proposed technical change will eliminate requirements related to past dates which are no longer relevant to the implementation of the rule. Without a rule change, the Department will continue to administer the rule as it exists in PI 2.

PI 09: 1985 Wisconsin Act 29 repealed and recreated s. 118.13, Stats., which prohibits discrimination in public schools on the basis of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability. Section 118.13 (2), Stats., requires school boards to develop policies and procedures to implement the statute including a complaint procedure. Section 118.13 (3), Stats., requires the state superintendent to decide appeals of local school board decisions, requires the state superintendent to promulgate rules, and authorizes the state superintendent to review school district compliance and to provide technical assistance to school districts. Chapter PI 9 specifies the 20 areas in which the school board must have policies and procedures to achieve nondiscrimination. Additionally, school boards must submit an annual report to the state superintendent and must evaluate the status of nondiscrimination and equality of educational opportunity at least once every 5 years. The Assembly Education Committee requested that information related to school technology be added to the rule as a part of the school board's evaluation of the status of nondiscrimination and equality of educational opportunity.

Federal code governing complaints and appeals to the state superintendent relating to pupil nondiscrimination has since been updated and the rule contains references to US code which no longer exist. Further, the statutes were updated with 1991 Wisconsin Act 131, which prohibited discrimination in public schools on the basis of religion. Because the rule had not been revised since these changes took place, the proposed changes will add religion to the list of pupil characteristics for which a person may not be denied admission or participation in a public school. This rule change would reflect how the Department is currently required to administer the rule due to the statutory language referenced above.

PI 14: Chapter PI 14 discusses school financial matters including determining the official pupil enrollment of each school, specifying how school districts can contract with each other for services, and the standards for auditing school district accounts. Recent federal guidance, generally accepted accounting principles, and regulations regarding minimum audit standards and standard contracts have changed in 2014 and the rule must be updated to reflect those recent changes. This rule change would align Department work to current requirements.

4. The statutory authority for the proposed rule.

PI 02: Under s. 227.11 (2) (a) (intro.), Stats., "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation." As such, a rule is required to effectively establish procedures for school district boundary appeals under s. 117.35, Stats.

PI 09: Section 118.13 (3) (a) 2., Stats., requires the state superintendent to promulgate rules necessary to implement pupil nondiscrimination under s. 118.13, Stats.

PI 14: Under s. 227.11 (2) (a) (intro.), Stats., "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation." As such, a rule is required to effectively establish minimum uniform provisions for contracts between two or more school districts under s. 66.0301, Stats.

Additionally, the authority for promulgating s. PI 14.03 (minimum standards for audit and standard school district audit contract) found in s. 120.14 (4), Stats., which requires the Department to prescribe minimum standards for school district audits and a standard school district audit contract.

5. An estimate of the amount of time agency employees will spend developing the proposed rule and of other resources needed to develop the rule.

The amount of time needed for rule development by Department staff and the amount of other resources necessary are indeterminate.

6. A description of all of the entities that will be affected by the proposed rule.

No entities should be affected by this rule change since the change will only be done to align terminology of the PI rule chapters with current statutes and practice, eliminate redundant language, and eliminate the use of dates that have passed and will no longer apply.

7. A summary and preliminary comparison of any existing or proposed federal regulation that addresses or is intended to address the activities to be regulated by the proposed rule.

N/A

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses).

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

Contact information

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