

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

**GENERAL INFORMATION**

Rule No.: PI 11

Relating to: Standards for disproportionality in special education and LEA determinations

Rule Type: Permanent and Emergency

**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).

The Department needs an emergency rule to establish state criteria required under IDEA and related regulation until a permanent rule process can be completed.

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

The proposed rule amends Chapter PI 11 of the Wisconsin Administrative Code and establishes standards and/or criteria related to disproportionality in special education and local education agency (LEA) determinations under the Individuals with Disabilities Education Act (IDEA).

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

The amendment related to disproportionality in special education will set criteria and establish procedures related to determining disproportionality in special education identification, placement, and discipline. Criteria and procedures related to LEA determinations will also be set. No other policy alternatives than a rule are available as the department is required by statute to promulgate rules in setting criteria that enforce federal law.

4. The statutory authority for the proposed rule.

Under 227.10 (1), Stats., "each agency shall promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of that statute. A statement of policy or an interpretation of a statute made in the decision of a contested case, in a private letter ruling under s. 73.035 or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts does not render it a rule or constitute specific adoption of a rule and is not required to be promulgated as a rule." As such, a rule is required for the enforcement of special education law under 34 CFR 300.602 and 34 CFR 300.646.

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 minimal.

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

The proposed rule would impact local education agencies that provide programs to children with disabilities in Wisconsin.

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.

Related to disproportionality in special education, “[e]ach State that receives assistance under Part B of the Act, and the Secretary of the Interior, must provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LEAs of the State with respect to - (1) The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3) of the Act; (2) The placement in particular educational settings of these children; and (3) The incidence, duration, and type of disciplinary removals from placement, including suspensions and expulsions.” 34 CFR 300.646.

Related to LEA determinations, “[e]ach State must use the targets established in the State’s performance plan under § 300.601 and the priority areas described in § 300.600(d) to analyze the performance of each LEA.” 34 CFR 300.602(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 rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1), Stats.

#### Contact Information

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