

STATEMENT OF SCOPE

Department of Workforce Development

Rule No:

DWD 65

Relating to:

Order of Selection for Vocational Rehabilitation Services

Rule Type

Permanent

Detailed Description of the Objective of the Proposed Rule

The proposed rule will update ch. DWD 65 to align the rule with the new federal Workforce Innovation Opportunity Act (WIOA) requirements including the department's Division of Vocational Rehabilitation requirement to continue to provide pre-employment transition services to potentially eligible students after an eligibility decision is made and they are placed on the order of selection. The proposed rule will also eliminate outdated provisions and terminologies, clarify language and update references for accuracy to ensure the rule is consistent with current practices and applicable state statute and federal regulations.

Description of Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Chapter DWD 65 provides the criteria and procedures for the order of selection for vocational rehabilitation services to conform to the requirements of the Rehabilitation Act of 1973, as amended and 34 CFR 300-399 and as directed under ch. 47, Stats.

The proposed rule will create language requiring the department to provide pre-employment services to potentially eligible students that are determined eligible for vocational rehabilitation services and placed in a closed category on the order of selection. The proposed rule may also do the following:

- Create a definition for potentially eligible student and closed category.
- Eliminate obsolete provisions and terminologies.
- Correct cross-references.
- Update and clarify language to reflect current practices.
- Create clarity to ensure the rule is consistent with state statute and federal regulations.

The policy alternative is to do nothing and the department will not be in conformity with WIOA or federal regulations. If the department is not in conformity with federal regulations, funding for vocational rehabilitation services will be impacted and could be reduced.

Detailed explanation of statutory authority for the rule, including the statutory citation and language

Section 47.02 (1), Stats.

"The state agrees to accept the provisions of 29 USC 701 to 796i, the rehabilitation act of 1973 as amended, and the provisions of 34 CFR 300 to 399 to carry out the purposes

of the act and to adopt methods of administering the vocational rehabilitation program which will maximize federal participation. The department shall sign agreements with the federal government under 29 USC 701 to 796i to provide vocational rehabilitation services."

Section 47.02 (1m), Stats.

"The department may cooperate with the federal government in carrying out federal acts concerning vocational rehabilitation."

Estimate of amount of time that state employees will spend developing the rule and other resources necessary to develop the rule

The total amount of staff time is estimated to be approximately 150 hours.

List with description of all entities that may be affected by the proposed rule

The proposed rule will impact students requiring pre-employment services who are potentially eligible for vocational rehabilitation. Service providers who offer pre-employment transition services and consumers placed on the order of selection.

Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule

29 USC 721 requires a state to submit and have approved by the Secretary of the U.S. Department of Labor, a unified or combined state plan in accordance with WIOA (29 USC 3112, 3113) for vocational rehabilitation services. In the event the state cannot provide services to all eligible individuals with disabilities who apply, the state is required to show the order to be followed in selecting eligible individuals for services. The order of selection must include that individuals with the most significant disabilities will be selected first.

34 CFR 361.48 requires each state to ensure that the Vocational Rehabilitation program, in collaboration with local education agencies, provide or arrange for the provision of pre-employment transition services for all students with disabilities from federal funds and ensure pre-employment transition services are available to all students with disabilities regardless of eligibility for vocational rehabilitation services.

Section 110(d) of WIOA requires the state to reserve 15% of the allotted funds for the provision of pre-employment transition service for all students with disabilities.

Anticipated economic impact of implementing the rule (note if the rule is likely to have an 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.

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