PROPOSED ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
CREATING PERMANENT RULES

The scope statement for this rule, SS 035-18, was published in Register No. 748A1, on April 2, 2018, and approved by State Superintendent Tony Evers on April 27, 2018. 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*, 2016 WI 38, 368 Wis. 2d 444.

The State Superintendent of Public Instruction hereby proposes to create PI 31, relating to aid for school mental health programs.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 115.364, Stats.

Statutory authority: s. 115.364 (3), Stats.

Explanation of agency authority:

Under s. 115.364 (3), Stats., the Department is required to promulgate rules to implement the statutes relating to aid for school mental health programs.

Related statute or rule: None.

Plain language analysis:

The proposed rule creates a new rule chapter, PI 31, to implement aid for school mental health programs, which was created as a result of 2017 Wisconsin Act 59, the 2017-19 budget. Among the changes, the rule establishes procedures for reimbursement of eligible expenditures and the ways in which eligible schools may submit a request for reimbursement under the program.

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

Comparison with rules in adjacent states:

- Illinois: Upon the Department's review, there does not appear to be comparable rules governing aid for the purpose of reimbursing school districts for expenditures on social worker services, as provided under Wisconsin's aid for school mental health programs. However, under 23 Illinois Administrative Code ch. I, s. 555, Subpart A, the Illinois State Board of Education provides for school mental health support grants with the goal of: 1) meeting students' needs for mental health intervention services; 2) contributing to the development of a mental health support system for students integrated with community health agencies and other agencies that serve children; and 3) reducing the stigma associated with mental health and mental illness within the community. Under these rules, eligible applicants shall be school districts, public university laboratory schools, charter schools, and area vocational centers.

- Iowa: Upon the Department's review, there does not appear to be comparable rules governing aid for the purpose of reimbursing school districts for expenditures on social worker services, as provided under Wisconsin' aid for school mental health programs, in the Iowa administrative code. However, Iowa Administrative Code Chapter 281-66 governs school-based youth services programs, which includes mental health counseling services in the context of the educational needs of students and are made available at the elementary, middle and high school level.

- Michigan: Upon the Department's review, there does not appear to be comparable rules governing aid for the purpose of reimbursing school districts for expenditures on social worker services, as provided under Wisconsin's aid for school mental health programs, in the Michigan administrative code. However, Michigan Administrative Code section R

340.1001-340.1018 governs the practice of social workers to provide mental health services to students and to support school climates conducive to learning.

- **Minnesota:** Upon the Department's review, there does not appear to be comparable rules governing aid for the purpose of reimbursing school districts for expenditures on social worker services, as provided under Wisconsin's aid for school mental health programs, in the Minnesota administrative code. However, Minnesota Administrative Rules section 8710.6300 governs the practice of social workers to administer mental health services in a school setting.

Summary of factual data and analytical methodologies:

2017 Wisconsin Act 59 created s. 115.364, Stats., which creates a new categorical aid program beginning in the 2018-19 school year to support school districts, independent charter schools, and private schools participating in a parental choice program in the provision and expansion of mental health services by reimbursing eligible schools for expenditures on social worker services. The Act also created s. 115.364 (3), Stats., which provides that the Department shall promulgate rules to implement this program. This proposed rule change is needed to implement aid for school mental health programs provided under s. 115.364, Stats., created as a result of the 2017-19 budget, 2017 Wisconsin Act 59. Unless a rule is in place, the Department may be prevented from efficiently implementing and administering this program.

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. The Department will publish a hearing notice in the *Administrative Register* which will provide information on the deadline for the submission of comments.

SECTION 1. PI 31 is created to read:

CHAPTER PI 31
AID FOR SCHOOL MENTAL HEALTH PROGRAMS

PI 31.01 Purpose. This chapter sets forth procedures for the payment of aid for school mental health programs as allowed in s. 115.364, Stats.

PI 31.02 Definitions. In this chapter:
(1) "Department" means the Wisconsin department of public instruction.
(2) "Eligible independent charter school" has the meaning given under s. 115.364 (1) (a), Stats.
(3) "Eligible private school" has the meaning given under s. 115.364 (1) (b), Stats.
(4) "Eligible school district" has the meaning given under s. 115.364 (1) (c), Stats.
(5) "Entity" means an eligible independent charter school, eligible private school, or eligible school district.

(6) "Expenditures" means the salary and fringe benefits an entity pays to employ, hire, or retain a social worker or the **(1)** costs to contract for the services of a social worker.

(7) "Social worker" means an individual licensed as a school social worker under s. PI 34.062.

(8) "School year" has the meaning given under s. 115.001 (13), Stats.

PI 31.03 Eligible expenditures. The state superintendent shall do all of the following when determining an entity's expenditures under s. 115.364 (2), Stats.:

(1) Only reimburse an entity for an increase in its expenditures in the prior school year compared to the immediately preceding school year.

(2) When determining an eligible school district's expenditures, only reimburse for increased expenditures recorded to the school district's general fund.

PI 31.04 Reporting.

(1) An eligible charter school shall submit a request for reimbursement as follows:

(a) For the 2018-19 school year, submit a form provided by the department by March 15, 2019.

(b) For each subsequent school year, submit the request as part of the report required to be submitted to the department under 20 USC 6311 (h).

(2) An eligible private school shall submit a request for reimbursement by submitting a form provided by the department by March 15.

(3) An eligible school district shall submit a request for reimbursement as part of the report required to be submitted to the department under 20 USC 6311 (h).

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.