STATEMENT OF SCOPE

Department of Financial Institutions

Rule No.: DFI-CSP 1

Relating to: College Savings Program

Rule Type: Permanent

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

N/A

2. Detailed description of the objective of the proposed rule:

This scope statement proposes three revisions to the administrative rules that govern the state's college savings program. The college savings program is administered by the College Savings Program Board, which is attached to the Department of Financial Institutions.

The purpose of each proposed revision is to ensure that state law grants participants the full range of options and benefits authorized by the federal statute governing college savings programs, 26 U.S.C. s. 529 ("Section 529").

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

The proposed revisions concern three discrete aspects of administering the college savings program: account ownership, rollovers, and refunds.

<u>Account ownership</u>. The college savings program permits individuals, trusts, and entities to establish college savings accounts to cover educational costs for beneficiaries at eligible institutions. Wis. Stat. s. 224.50(2)(a). The current state administrative rule mandates that "[t]here shall be only one owner per account," DFI-CSP 1.03, which limits the flexibility of program participants in establishing and managing their accounts.

Section 529, however, does not expressly bar joint ownership of accounts. To ensure that program participants enjoy greater flexibility, the College Savings Program Board proposes removing the one-owner restriction from DFI-CSP 1.03 and replacing it with language authorizing joint ownership of accounts to the full extent permitted by Section 529.

<u>Rollovers</u>. DFI-CSP 1.09(4) authorizes participants to make rollover contributions from accounts held with other states' Section 529 college savings programs. Under the current administrative rule, "If rollover distributions are allowed by another state's qualified tuition program, an account may deposit all or part of the funds from an account in that state's qualified tuition program to a new account in the program as provided under section 529 of the internal revenue code, and any regulations issued thereunder." The Board proposes to simplify this language and clarify its breadth by stating that rollovers are permitted to the full extent authorized by Section 529 or another state's qualified tuition program.

This revision should ensure that Wisconsin administrative law will not be construed in a manner that could restrict this state's college savings program from accepting rollover contributions that would otherwise be permissible under the law of other affected jurisdictions.

Refunds. When students transfer or withdraw their enrollments, educational institutions may owe refunds of tuition and fees paid from those students' college savings accounts. Under the current state administrative rule, such refunds must be paid "directly to the program manager for credit to the applicable designated beneficiary's account." DFI-CSP 1.12.

That rule is more restrictive than federal law, which permits a refund to be paid to any qualified college savings account for the beneficiary. 26 U.S.C. s. 529(c)(3)(D). For that reason, the College Savings Program Board proposes replacing the above-quoted language with language authorizing the payment of refunds in any manner permitted by Section 529.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 224.50 of the Wisconsin Statutes establishes the state's college savings program, which is to be administered by the College Savings Program Board. Wis. Stat. s. 224.50(2)(a). The Board is authorized to "[p]romulgate rules to implement and administer" the program. Wis. Stat. s. 224.50(2)(e). At a duly noticed meeting of the Board on August 28, 2019, it voted unanimously to proceed with the proposed revisions to the administrative rules described herein.

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

75 hours.

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

The proposed revisions affect participants in the state's college savings program and the program vendor responsible for managing participant accounts (presently TIAA-CREF Tuition Financing).

7. 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:

Each of the three revisions is intended to ensure the present and future conformity of state administrative rules with federal law governing college savings programs, 26 U.S.C. s. 529. Each proposed revision would authorize participants to take certain actions (regarding account ownership, rollovers, and refund processing) to the full extent permitted by 26 U.S.C. s. 529.

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

None.

Contact Person: Matthew Lynch
Chief Legal Counsel, Department of Financial Institutions

Phone: 608.266.7968 Email: Matthew.Lynch@dfi.wisconsin.gov