

## STATEMENT OF SCOPE

### Department of Financial Institutions College Savings Program

**Rule No.:** DFI-CSP

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**Relating to:** Eliminating obsolete provisions, correcting cross-references, eliminating rules that are redundant with statutes, correcting errors, and modifying the structure of existing rules in nonsubstantive ways.

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**Rule Type:** Permanent

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

N/A

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

The College Savings Program Board, an attached board of the Department of Financial Institutions, seeks to amend certain rules it administers in two nonsubstantive ways.

First, it seeks to repeal or modify certain provisions of chapter DFI-CSP 1 of the Wisconsin Administrative Code that have become obsolete or unauthorized due to changes in 26 U.S.C. 529, the federal law governing qualified tuition programs such as Wisconsin's college savings program. For example, section DFI-CSP 1.01 describes the purpose of the program as enabling participants to invest funds "to pay the cost of attendance at an institution of higher education." While that statement remains accurate in part—many Wisconsin families use the college savings program to help pay for college or other higher education—it has become incomplete. Amendments to federal and state tax law since the time DFI-CSP 1.01 was promulgated have established that college savings program funds may also be used for other purposes, including the costs of elementary or secondary school attendance, the costs of participating in certified apprenticeship programs, and rollover contributions to beneficiaries' retirement accounts. The Board seeks to update this and similar references in its administrative rules to remove outdated language and more accurately reflect the full range of currently permissible uses of invested funds under applicable tax law.

Second, the proposed revisions modify the structure of existing rules to conform to current Wisconsin drafting practices, which will provide greater clarity and consistency with the drafting style of other statutes and rules administered by the agency.

**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 rules foster compliance with existing statutory policies requiring the elimination of obsolete or unauthorized rules, correction of cross-reference errors, elimination of conflicts with current statutes, and modification of existing rules to ensure consistency with current drafting conventions.

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

Section 224.50 (2) (e) of the Wisconsin Statutes authorizes the College Savings Program board to “[p]romulgate rules to implement and administer” the program.

Wis. Stat., s. 227.14 (1) requires that in drafting administrative rules “an agency shall adhere substantially to the form and style used by the legislative reference bureau in the preparation of bill drafts and the form and style specified in the manual prepared by the legislative council staff and the legislative reference bureau under s. [227.15 \(7\)](#),” and Wis. Stat., s. 227.29 (1) directs agencies to address rules that are “unauthorized,” “obsolete or that have been rendered unnecessary,” or “duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction.”

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

75-150 hours

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

The proposed changes concern drafting style and the removal of obsolete or unauthorized provisions or cross-references, which are nonsubstantive in nature. Therefore, while these amendments are expected to provide clarity to the public generally, they would not directly affect any entities.

**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:**

26 U.S.C. 529 is the federal tax statute governing qualified tuition programs such as Wisconsin’s college savings program. It establishes the requirements for state programs, permissible uses of funds by program participants, and penalties for impermissible uses.

Wisconsin law requires the College Savings Program Board to “ [e]nsure that the college savings program meets the requirements of a qualified state tuition plan under [26 USC 529](#)”, to utilize section 529’s definitions of qualified or nonqualified withdrawals, and to conform to section 529 in other respects. See Wis. Stats., ss. 224.50 (2) (b), 224.50 (2) (e), 224.50 (2) (i), and 224.50 (3) (a) 3.

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

These proposed amendments are non-substantive in nature and would not have an economic impact upon the Department, the Board, or college savings program account owners and beneficiaries.

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