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

Per the Dane County Circuit Court order issued in Coyne, et al. v. Walker, et al., Case No. 11-CV-4573, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope or this rule.

The State Superintendent of Public Instruction hereby proposes to amend PI 11.36 (11) (a), relating to identification of children with significant developmental delay (SDD).

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: Subchapter V of ch. 115, Stats.

Statutory authority: Subchapter V of ch. 115, Stats., and 227.11 (2) (a) (intro), Stats.

Explanation of agency authority:

Under s. 227.11 (2) (a) (intro), Stats., "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation." As such, ch. PI 11 is required to effectively implement and provide transparency to the programs involving children with disabilities under Subchapter V of ch. 115, Stats.

Related statute or rule: None.

Plain language analysis:

20 U.S.C. 1401(3)(B) permits the identification of children with significant developmental delay (SDD) through the age of nine rather than six. The proposed rule change will consider children ages 3 through 9 who are experiencing significant delays in the areas of physical, cognition, communication, social-emotional, or adaptive development to have a significant developmental delay.

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

Comparison with rules in adjacent states: N/A.

Summary of factual data and analytical methodologies:

Allowing a child with SDD to be identified through the age of nine will provide a longer window of time to assess whether the child has a specific disability, thus addressing difficulties with accurate assessment and labeling certain children beyond age 6 who are still in need of educational interventions.

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 economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Agency contact person: (including email and telephone)

Carl Bryan
Budget and Policy Analyst
Wisconsin Department of Public Instruction
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(608) 267-9127

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 Carl.Bryan@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.

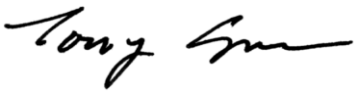
SECTION 1. PI 11.36 (11) (a) is amended to read:

PI 11.36 (11) (a) Significant developmental delay means children, ages 3~~, 4 and 5~~ through 9 years of age~~ or below compulsory school attendance age~~, who are experiencing significant delays in the areas of physical, cognition, communication, social-emotional, or adaptive development.

SECTION 2. EFFECTIVE DATE:

The 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.

Dated this 28th day of July, 2015



Tony Evers, PhD
State Superintendent