ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION ADOPTING PERMANENT RULES

The scope statement for this rule, SS 043-14, was published in Register No. 701, on May 14, 2014, and approved by State Superintendent Tony Evers, on May 27, 2014. 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 create PI 80, relating to community programs and services.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 120.13 (19), Stats.

Statutory authority:

120.13 School board powers. The school board of a common or union high school district may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils, and including all of the following:

(19) COMMUNITY PROGRAMS AND SERVICES. Establish and maintain community education, training, recreational, cultural or athletic programs and services, outside the regular curricular and extracurricular programs for pupils, under such terms and conditions as the school board prescribes. The school board may establish and collect fees to cover all or part of the costs of such programs and services. The school board may not expend moneys on ineligible costs, as defined by the department by rule. Costs associated with such programs and services shall not be included in the school district's shared cost under s. 121.07 (6).

Explanation of agency authority:

Under s. 120.13 (19), Stats., the Department is required to define ineligible costs by rule.

Related statute or rule: N/A.

Plain language analysis:

Ineligible costs means school district costs that are not the actual, additional costs to operate community programs and services. First, costs are ineligible if they are not costs to operate community programs and services. Community programs and services do not include any program that is limited to only school district pupils or any program or service whose schedule presents a significant barrier for age-appropriate school district residents to participate in the program or service. Second, costs must not only be costs to operate community programs and services to be eligible but also must be actual, additional costs. Ineligible costs include costs that would be incurred by the school district if the community programs and services were not provided by the school district.

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

Comparison with rules in adjacent states: No information.

Summary of factual data and analytical methodologies:

Under current law, a school district may establish community education, training, recreational, cultural, or athletic programs and services. The school board may collect fees to cover all or part of the costs of such community programs and services. Current law excludes such costs from the school district's shared cost. The property taxes levied for community programs and services are outside the district's revenue limit.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

It is unknown how many existing school district expenditures on community programs and services will remain eligible costs under this rule. To the extent that school district expenditures change based on the definition of eligible costs defined as a result of this rule, school district revenue limits and local property taxes may change. In 2013-14, school districts levied $79,560,060 for community service fund programs.

Anticipated costs incurred by private sector:

There is not expected to be a cost to the private sector.

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 80 is created to read:

CHAPTER PI 80
COMMUNITY PROGRAMS AND SERVICES

PI 80.01 Purpose.

(1) Under s. 120.13 (19), Stats., the school board of a common or union high school district, a unified school district, or a 1st class city school district may establish and maintain community education, training, recreational, cultural or athletic programs and services, outside of its regular curricular and extracurricular programs for pupils.

(2) The purpose of this chapter is to define which costs are ineligible under s. 120.13 (19), Stats.

PI 80.02 Ineligible costs.

A school board may not expend moneys on ineligible costs for community programs and services. The following are ineligible costs:

(1) Costs for any program or service that is limited to only school district pupils.

(2) Costs for any program or service whose schedule presents a significant barrier for age-appropriate school district residents to participate in the program or service.

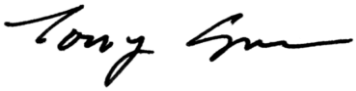
(3) Costs that are not the actual, additional cost to operate community programs and services under s. 120.13 (19), Stats.

(4) Costs that would be incurred by the school district if the community programs and services were not provided by the school district.

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.

Dated this 13th day of April, 2015



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Tony Evers, PhD
State Superintendent