pi035_EmR1021.pdf **Public Instruction – Creates s. PI 35.07 - EmR1021**

Publication Date: **June 16, 2010**
Effective Dates: **June16, 2010 through November 12, 2010**

ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION CREATING EMERGENCY RULES

The state superintendent of public instruction hereby creates PI 35.07, relating to establishing a temporary, nonrenewable waiver from the requirement that a teacher have a bachelor's degree in order to teach in a private school under the Milwaukee Parental Choice Program.

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ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: Section 119.23 (2) (a) 6. and (7) (b) 3., Stats., and SECTION 9139 (4r) of the nonstatutory provisions of 2009 Wisconsin Act 28.

Statutory authority: Sections 119.23 (2) (a) 6. c. and 227.11 (2) (a), Stats., and SECTION 9139 (4r) of the nonstatutory provisions of 2009 Wisconsin Act 28.

Explanation of agency authority:

Section 119.23 (2) (a) 6. c., Stats., requires the department to, by rule, implement a process to issue a temporary, nonrenewable waiver to certain teachers that meet specific statutory requirements and who are employed by a private school participating in the Milwaukee Parental Choice Program (MPCP) program.

Section 119.23 (11), Stats., requires the department to promulgate rules to implement and administer the MPCP.

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

SECTION 9139 (4r) of the nonstatutory provisions of 2009 Wisconsin Act 28, requires the department to, no later than the first day of the 4th month beginning after the effective date of the Act (October 1, 2009), submit proposed rules to the Legislative Council staff.

Related statute or rule: N/A

Plain language analysis:

2009 Wisconsin Act 28, the 2009-11 biennial budget bill, made several modifications to the Milwaukee Parental Choice Program under s. 119.23, Stats. The Act requires all of the private school's administrators have at least a bachelor's degree and teachers to have a bachelor's degree from an accredited institution of higher education. For teachers that do not have a bachelor's degree, the department is required to develop a rule setting forth the process to issue a temporary, nonrenewable waiver for eligible teachers who have been teaching for at least 5 consecutive years immediately preceding July 1, 2010.

By statute, a teacher may apply for a temporary, nonrenewable waiver if he or she:

- was employed by the private school participating in the Milwaukee Parental Choice Program (MPCP) on July 1, 2010,
- has been teaching for at least the 5 consecutive years immediately preceding July 1, 2010, and
- does not have a bachelor's degree from an accredited institution of higher education on July 1, 2010.

The statutes further require the applicant to submit to the department a waiver application designed by the department and a plan for satisfying the requirements under s. 119.23 (2) (a) 6. a., Stats., including the name of the accredited institution of higher education at which the teacher is pursuing or will pursue the bachelor's degree and the anticipated date on which the teacher expects to complete the bachelor's degree.

The rules include the statutory requirements described above and establish the process for requesting the temporary, nonrenewable waiver. The rules require specific information to be submitted by July 31, 2010, when applying for the waiver, including:

- Information documenting that the institution of higher education is accredited.
- The name and contact information of the accredited institution of higher learning.
- A list of specific classes to be taken to complete the bachelor's degree, including updates of any changes that have occurred in the applicant's plan.
- If applicable, an official transcript showing courses already completed that count toward the bachelor's degree.
- Information demonstrating a bachelor's degree from the accredited institution of higher education can be issued within five years under the plan proposed by the applicant.

Finally, no waiver granted under these rules is valid after July 31, 2015.

The Act requires the permanent rules to be submitted to the Legislative Council by October 1, 2009.

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

Comparison with rules in adjacent states:

Illinois, Iowa, Michigan, and Minnesota do not have rules relating to private school voucher programs.

Summary of factual data and analytical methodologies:

The waiver granted under these rules is only available to teachers that meet the requirements on July 1, 2010 and valid until July 31, 2015. The information required in the rule is typical of information requested from regular teachers in determining whether they are on-track to receiving proper certification.

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)

Robert Soldner, Director, School Management Services, (608) 266-7475, robert.soldner@dpi.wi.gov.

Place where comments are to be submitted and deadline for submission:

The department published a hearing notice in the *Administrative Register* which included this information.

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SECTION 1. PI 35.02 (1g) is created to read:

PI 35.02 (1t) "Accredited" has the meaning defined in s. PI 34.01 (1).

SECTION 2. PI 35.047 (11m) is created to read:

PI 35.047 (11m) A private school shall ensure all teachers employed by the private school have a bachelor's degree from an accredited institution of higher education or a temporary, nonrenewable waiver under s. PI 35.07 (2), all administrators have at least a bachelor's degree from an accredited institution of higher education and all teacher aides have graduated from high school, been granted a declaration of equivalency of high school graduation or been issued a general educational development certificate of high school equivalency. If a waiver has been granted to a teacher under s. PI 35.07 (2), the private school shall ensure the teacher has made progress with the plan and, if applicable, the teacher has submitted an updated waiver form to reflect any changes made to the five-year plan submitted to the department under s. PI 35.07 (2) (b).

SECTION 3. PI 35.07 is created to read:

PI 35.07 Administrator, teacher and teacher aide requirements. (1) Except as provided under sub. (2) and s. 119.23 (2) (c), Stats., all of the teachers, administrators and teacher aides at a private school participating in the Milwaukee parental choice program shall meet the requirements under s. 119.23 (2) (a) 6. a., b., and (7) (b) 3., Stats., respectively.

(2) (a) Any teacher employed by the private school on July 1, 2010, who has been teaching for at least the five consecutive years immediately preceding July 1, 2010, and who does not satisfy the requirements under s. 119.23 (2) (a) 6. a., Stats., on July 1, 2010, shall apply by July 31, 2010, to the department on a form prepared by the department for a temporary, nonrenewable waiver from the requirements under s. 119.23 (2) (a) 6. a., Stats.

(b) The applicant shall include all the following information on his or her waiver application under par. (a):

1. Information documenting that the applicant was employed by a private school participating in the Milwaukee parental choice program on July 1, 2010.

2. Information documenting that the applicant had been teaching for at least five consecutive years immediately preceding July 1, 2010.

3. A plan for obtaining a bachelor’s degree by July 31, 2015, from an accredited institution of higher education. The plan shall be updated if any changes occur and shall be submitted to the department and to the private school that employs the applicant. The plan shall include all of the following:

a. Information documenting the institution of higher education is accredited.

b. The name and contact information of the accredited institution of higher learning.

c. The anticipated date on which the teacher expects to complete the bachelor’s degree.

d. A list of specific classes to be taken to complete the bachelor’s degree.

e. If applicable, an official transcript showing courses already completed that count toward the bachelor’s degree.

f. Information demonstrating a bachelor’s degree from the accredited institution of higher education can be issued within five years under the plan proposed by the applicant.

(c) The department shall review the information provided under pars. (a) and (b) to determine whether to grant a waiver to applicant in meeting the requirements under s. 119.23 (2) (a) 6. a., Stats. The department may not issue a waiver if any of the required information is not provided. If the department determines the information submitted is false, the waiver will be denied or revoked if already issued.

(d) No waiver granted under this section and s. 119.23 (2) (a) 6. c., Stats., is valid after July 31, 2015.

NOTE: The Milwaukee Parental Choice Program Teacher Waiver Application, PI-MPS-PCP-100, is available at no charge by writing to the Wisconsin Department of Public Instruction, Milwaukee Parental Choice Program, P.O. Box 7841, Madison, WI 53707-7841 or by going to the department's web site at http://dpi.wi.gov/sms/choice.html.

FINDING OF EMERGENCY

Pursuant to SECTION 9139 (4r) of the nonstatutory provisions of 2009 Wisconsin Act 28, the Department of Public Instruction is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Dated this ___ day of June, 2010

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Tony Evers, PhD
State Superintendent