

ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION ADOPTING EMERGENCY RULES

The scope statement for this rule, SS 112-18, was published in Register No. 755A3, on November 19, 2018, and approved by State Superintendent Tony Evers on December 14, 2018. Pursuant to *Coyne v. Walker*, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope for this rule. *Coyne v. Walker*, 2016 WI 38, 368 Wis. 2d 444.

The State Superintendent of Public Instruction hereby adopts an order to create s. PI 34.0405, relating to educator licenses for military spouses.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 115.28 (7) (a), Stats.

Statutory authority: s. 115.28 (7) (a), Stats.

Explanation of agency authority:

115.28 General duties. The state superintendent shall:

(7) Licensing of teachers.

(a) License all teachers for the public schools of the state; make rules establishing standards of attainment and procedures for the examination and licensing of teachers within the limits prescribed in ss. 118.19 (2) and (3), 118.191, 118.192, 118.193, 118.194, and 118.195; prescribe by rule standards, requirements, and procedures for the approval of teacher preparatory programs leading to licensure, including a requirement that, beginning on July 1, 2012, and annually thereafter, each teacher preparatory program located in this state shall submit to the department a list of individuals who have completed the program and who have been recommended by the program for licensure under this subsection, together with each individual's date of program completion, from each term or semester of the program's most recently completed academic year; file in the state superintendent's office all papers relating to state teachers' licenses; and register each such license.

Related statute or rule:

PI 34 contains the current administrative rules governing the licensure of school personnel. Clearinghouse Rule 17-093, relating to stakeholder workgroup revisions to licensure, became effective on August 1, 2018 and made several changes to the teacher licensing process, which includes clarifying the program approval process for traditional and alternative route programs and simplifying the educator licensing process. Among the changes advanced by this rule package, the Department adopted a tiered approach for educator licensing, which allows certain educators to obtain a license fitting their unique training and experience, including the creation of provisional licenses to allow new educators, out-of-state license holders, and other highly qualified individuals, to start the progression to a lifetime license.

Plain language analysis:

This emergency rule amends the Department's current rules governing educator licenses under PI 34 of the Wisconsin Administrative Code in order to streamline the process for educators who are military spouses to receive a teaching license in Wisconsin. As such, this rule creates a three-year nonrenewable Tier II license for spouses of active duty military personnel who hold a valid teacher, pupil services, or administrator license from another state, and provides verification of the applicant's spouse's current military orders and a copy of either the applicant's marriage license or the military ID card for the applicant's spouse.

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

Because education in the United States is typically governed by each state and local government, federal regulations are generally silent with respect to teacher licensure. As a result, the requirements for teacher licensure are regulated by and vary by state.

Summary of any public comments and feedback on the statement of scope for the proposed rule that the agency received at a preliminary public hearing and comment period held and a description of how and to what extent the agency took those comments into account and drafting the proposed rule:

The Department held a preliminary public hearing and comment period on December 6th, 2018, and received comments on the statement of scope for the proposed rule. A brief summary of comments and the Department's response to those comments are as follows:

- Comments received indicate general support for the proposed rule, but requested consideration for clarifying the phrase “upon military orders” from any proposed rule (as indicated in the scope statement: “...the Department proposes a rule change that would allow it to issue a license to military spouses based solely on their license in another state and upon military orders”). This is because sometimes the military member receives unaccompanied temporary orders, or long-term unaccompanied “permanent change of station” orders to a location where the spouse and family are not allowed to live. According to the rule the way it is currently described in the statement of scope, the military spouse would not be issued a teaching license because the military member does not have military orders to Wisconsin, regardless of whether this state is the best place for the family.

Agency Response: The comments were forwarded to program staff for their consideration prior to drafting of the proposed rule. The emergency rule covers situations that arise such as the example provided above.

Comparison with rules in adjacent states:

- **Illinois:** Senate Bill 275, enacted in 2012, states that licensing boards, including the Illinois State Board of Education which issues teacher licenses in the state, shall issue expedited temporary occupational or professional licenses to military spouses. The temporary licenses are valid for six months after issued or until a decision is made regarding the full license application, whichever comes first, and no temporary license can be renewed. In order to qualify, spouses need to hold valid licenses from other jurisdictions and be married to active duty, reserve, or National Guard service members. In addition, the Service member needs to be assigned to a duty station in Illinois. Spouses need to submit applications for full licensure and pay the application fee.
- **Iowa:** There is currently no legislation regarding license portability for military spouses in the state of Iowa. There have been no previous bills proposed or rejected and there are no pending bills regarding license portability for military spouses. However, there is a provision in the Iowa administrative code that provides a special temporary license to military spouse teachers that is valid for three years (see 282 - 13.7(3) in the Iowa Administrative Code).
- **Michigan:** Act 299, Section 339.213 became effective in 2014. This bill requires occupational licensing boards, including the Michigan Department of Education which issues teacher licenses in the state, to provide military spouses with a temporary license if they have a current license in good standing, provide proof of marriage to a service member assigned to a duty station in Michigan, and pass a criminal background check. A temporary license is valid for six months and may be renewed once if spouses need additional time to fulfill the licensing requirements.
- **Minnesota:** House Bill 3172, effective in 2014, allows licensing boards, including the Professional Educator Licensing and Standards Board which issues teacher licenses in Minnesota, to issue a temporary license or expedite applications for military spouses of active duty service members. Spouses must have a current, valid license with no disciplinary action and pass a criminal background check. Temporary licenses are valid for a length of time determined by each board.

Summary of factual data and analytical methodologies:

PI 34 of the Wisconsin Administrative Code governs educator licenses, which was rewritten and had become effective on August 1, 2018. The Department's rules governing program approval for educator licenses also exist under PI 34. Currently, the educator preparation of military spouses is often done through alternative route programs, which are not the

equivalent of approved Wisconsin educator preparation programs. In addition, because military assignments are often 18 months or shorter, it is often difficult to meet the one year of full-time experience requirement in order to receive an educator license in Wisconsin based on reciprocity. For these reasons, the Department proposes a rule change that would allow it to issue a license to military spouses based solely on their license in another state and upon military orders. Without a rule change, the Department would be required to administer educator licenses as they currently exist in PI 34 and affected license applicants will have to meet the current rule requirements in order to receive a license by using current license pathways.

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)

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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 adminrules@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 34.0405 is created to read:

PI 34.0405 Tier II military spouse license. A three-year nonrenewable military spouse license may be issued to spouses of active duty military personnel under the following conditions:

- 1) The applicant holds a valid teacher, pupil services, or administrator license from another state.
- 2) The applicant provides verification of the applicant's spouse's current military orders and a copy of either the applicant's marriage license or the military ID card for the applicant's spouse.

SECTION 2. STATEMENT OF EMERGENCY

The Department of Public Instruction finds an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

School districts throughout the state are experiencing difficulties obtaining and retaining licensed personnel, particularly in rural areas located around military institutions in the state. These difficulties can impact children's educational experience. An emergency rule is needed to create another option in the teacher licensing process for military spouses who are seeking a license. A permanent rule would not be able to provide for this license in time for when school districts are required to make hiring decisions; therefore, an emergency rule is necessary until the process for promulgating a permanent rule can be completed.

SECTION 3. EFFECTIVE DATE:

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 _____, 2019

Carolyn Stanford Taylor
State Superintendent