

**REPORT TO
LEGISLATIVE COUNCIL RULES CLEARINGHOUSE
WAIVER OF SCHOOL HOURS
PI 8.01 (4), WISCONSIN ADMINISTRATIVE CODE**

Statute interpreted: ss. 115.01 (10) (a) 2. and 3. and 118.38 (2) (bm), Stats.

Statutory authority: ss. 118.38 (2) (bm) and 227.11 (2) (a), Stats.

Explanation of agency authority:

Section 118.38 (2) (bm), Stats., requires the department to promulgate rules establishing criteria for waiving the requirement to schedule at least the number of hours of direct pupil instruction specified under s. 121.02 (1) (f) 2., Stats., if school is closed by order of a local health officer, department of health services, or school district administrator under s. 115.01 (10) (a) 2. or 3., Stats.

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.

Court decisions directly relevant : None

Related statute or rule:

Section 121.02 (1) (f) 2., Stats.

Plain language analysis:

2009 Wisconsin Act 42 allows school boards to meet the 180 school day requirement by including the following in the definition of “school day”: 1) a school district administrator closing a school due to a threat to the health or safety of pupils or school personnel, unless the school board determines otherwise (this does not include days closed due to inclement weather) and 2) the department of health services (in addition to a local health officer) closing a school.

Notwithstanding these provisions, a school board must still provide the required number of instructional hours under s. 121.02 (1) (f) 2., Stats. Thus, the Act requires the department to promulgate rules establishing criteria for waiving the required number of hours of direct pupil instruction if a school is closed for either reason stated above.

As required in the Act, the proposed rules will establish criteria for waiving the requirement to schedule at least the number of hours of direct pupil instruction specified under s. 121.02 (1) (f) 2., Stats., to address either of the above scenarios.

Summary of, and comparison with, existing or proposed federal regulations: None.

Comparison with rules in adjacent states:

Illinois, Iowa, Michigan, and Minnesota do not have rules relating to school hours or waiving of school hours.

Summary of factual data and analytical methodologies:

The information required in the rule is typical of information requested from school districts that have requested waivers from the school hour standard requirement under s. 121.02 (1) (f) 2., Stats.

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):

Deborah Mahaffey, Assistant State Superintendent, Division for Academic Excellence, (608) 266-3361 or deborah.mahaffey@dpi.wi.gov.

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

The department will publish a hearing notice in the *Administrative Register* which will include this information.

Agency procedure for promulgation:

Notice to Legislative Council pursuant to s. 227.15, Stats., and proceeding under the ten day notice/hearing process pursuant to ss. 227.16 to 227.18, Stats.

Description of any forms (attach copies if available): None.