

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

The scope statement for this rule, SS 041-16, was published in Register No. 725B, on May 31, 2016, and approved by State Superintendent Tony Evers, on June 14, 2016. 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.

The State Superintendent of Public Instruction hereby proposes an order to repeal s. PI 17.02 (1m) and 17.03 (3); to amend s. PI 17.02 (1d), 17.03 (1) and (2) (c) and (4) (Note) and (5) (Note), and 17.04 (3); and to create s. PI 17.04 (1m); relating to changes to summer and interim session classes.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 121.14 (1) (a), Stats.

Statutory authority: ss. 121.14 (1) (a) 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, a rule is required to effectively implement and administer the payment of state aid to school districts for summer and interim session classes under s. 121.14, Stats.

In addition, the Department is given specific rulemaking authority to establish criteria for summer and interim session classes under s. 121.14 (1) (a), Stats., which reads as follows:

121.14 State aid for summer classes and interim session classes.

(1)

(a) State aid shall be paid to each district or county children with disabilities education board for all of the following:

1. Subject to par. (b), those academic summer classes or laboratory periods that are for necessary academic purposes, as defined by the state superintendent by rule.
2. Subject to par. (b), for a school district or county children with disabilities education board that provides year-round school, those interim session classes or laboratory periods that are for necessary academic purposes, as defined by the state superintendent by rule.

Related statute or rule: N/A

Plain language analysis:

The proposed rule modifies existing policies and practices in the following ways:

- Aligns existing summer and interim session courses with the regular academic curriculum
- Permits membership calculations to include pupils enrolled in courses funded partially or solely with grant funds
- Removes duplicative and unnecessarily restrictive language relating to the operation of summer school in cooperation or through an agreement with another entity
- Makes various technical changes to ensure consistency in terms used throughout the rule

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:

The proposed rule modifies existing policies and practices around items such as membership calculations, eligible fund sources and credit requirements.

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 by November 21, 2016, 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* that will provide information on the deadline for the submission of comments.

SECTION 1. PI 17.02 (1d) is amended to read:

PI 17.02 (1d) "Academic purposes" means summer or interim session learning experiences that are related or similar to instruction that is offered during the rest of the school year or for which credit toward graduation is given and which is taught by a department-licensed teacher.

SECTION 2. PI 17.02 (1m) is repealed.

SECTION 3. PI 17.03 (1) and (2) (c) are amended to read:

PI 17.03 (1) Under s. 121.14, Stats., a school district or county children with disabilities education board may count pupils for aid membership for those academic summer classes or laboratory periods that are necessary for academic purposes, as specified under this chapter. Under s. 121.14, Stats., a school district or county children with disabilities education board that provides year-round school may count pupils for aid membership for those interim session classes or laboratory periods that are necessary for academic purposes. ~~A school district may operate a summer or interim session program in cooperation with a CESA or another school district under an agreement as provided in s. 66.0301, Stats.~~

PI 17.03 (2) (c) Instructional minutes, per ~~student~~pupil, per day, including field trips if accompanied by a department-licensed teacher and if all pupils have equal access to the field trips, regardless of their ability to pay.

SECTION 4. PI 17.03 (3) is repealed.

SECTION 5. PI 17.03 (4) (Note) is amended to read:

Note: Form PI-1804, Summer School Membership Report, may be obtained at no charge from the Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841 and at <http://dpi.wi.gov/sfs/children/summer-school>.

SECTION 6. PI 17.03 (5) (Note) is amended to read:

Note: Form PI-1804w, Summer School Membership Worksheet, may be obtained at no charge from the Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841 and at <http://dpi.wi.gov/sfs/children/summer-school>.

SECTION 7. PI 17.04 (1m) is created to read:

PI 17.04 (1m) All pupils who attend a summer or interim course that is necessary for academic purposes, regardless of the course funding source, must be included in the summer average daily membership equivalent, unless the school district receives tuition for the pupils.

SECTION 8. PI 17.04 (3) is amended to read:

PI 17.04 (3) If an audit is required under s. 115.28 (18), Stats., the audit shall include an examination of summer ~~school~~ and interim membership under this chapter.

SECTION 9. 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 _____ day of _____, 2017

Tony Evers, PhD
State Superintendent