

Clearinghouse Rule 25-041

PROPOSED ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AMENDING RULES

The scope statement for this rule, SS 007-25, was published in Register No. 830A3, on February 17, 2025, and approved by State Superintendent Jill K. Underly, PhD, on March 5, 2025.

The State Superintendent of Public Instruction hereby proposes an order to amend s. PI 34.036 (2) (b), relating to Tier I special education aide program licenses.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: ss. 115.28 (7) (a) and (c), Wis. Stats.

Statutory authority: ss. 115.28 (7) (a) and (c), Wis. Stats.

Explanation of agency authority:

The state superintendent is authorized under s. 115.28 (7) (a), Wis. Stats., to promulgate rules establishing the standards of attainment and procedures for the licensing of educators in the state:

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, 118.1915, 118.192, 118.193, 118.194, 118.195, and 118.197; prescribe by rule standards, requirements, and procedures for the approval of teacher preparatory programs leading to licensure, including a requirement that, to be approved by the state superintendent, a teacher preparatory program shall demonstrate that it provides instruction that prepares teachers to teach reading and language arts using science-based early reading instruction, as defined in s. 118.015 (1c) (b), and does not provide instruction on teaching reading and language arts that incorporates 3-cueing, as defined in s. 118.015 (1c) (c), and 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.

Additionally, the state superintendent has the authority to license and make rules for the examination and licensing of persons employed to provide publicly funded special education and related services under s. 115.28 (7) (c), Stats.:

115.28 General duties. The state superintendent shall:

(7) Licensing of teachers.

(c) Subject to s. 118.19 (4m), license and make rules for the examination and licensing of persons, including teachers, employed to provide publicly funded special education and related services, as those terms are defined in s. 115.76 (14) and (15).

Related statute or rule:

N/A

Plain language analysis:

The objective of the proposed rule will be to amend ch. PI 34.036, Wis. Admin. Code, to include administrators of charter schools and county children with disability education boards (CCDEBs) as eligible to recommend licensure for Tier I, special education program aides.

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

Section 300.156 of the Individuals with Disabilities Education Act requires state education agencies to establish and maintain qualifications to ensure that special education personnel are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. However, because educator licensure in the United States is typically governed by each state and local government, federal regulations are generally silent with respect to the issuance of teacher licenses. As a result, the requirements for licensure 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 February 21, 2025, and did not receive any comments on the statement of scope for the proposed rule.

Comparison with rules in adjacent states:

- **Illinois:** Under Illinois law, at least 75% of teachers at a charter school must be certified.
- **Iowa:** Charter schools in Iowa must meet the same certification requirements as other public schools, including ensuring that teachers are certified or in the process of obtaining a license.
- **Michigan:** Michigan public school academies, nonpublic schools, and local and intermediate school districts can request a teacher permit in certain circumstances if they are unable to fill a position with someone who holds full certification.
- **Minnesota:** To obtain a Tier 1 or Tier 2 license in Minnesota, applicants must have a job offer by a Minnesota public school district. The District Verification for a Tier 1 (or Tier 2) License Form must be completed, then signed and dated by the authorized Minnesota public or charter school official. An Educational Service Agency in Minnesota cannot request this license.

Summary of factual data and analytical methodologies:

Chapter PI 34 of the Wisconsin Administrative Code governs the licensure of school personnel, including those licensed to work as a special education program aide. Under the rule, the state superintendent may issue a tier I, special education program aide license to an applicant who is at least 18 years of age and is recommended by the district administrator of the employing school district or the administrator of a cooperative education service agency. This license is valid for 5 years and is renewable.

Since the rules were promulgated, the department has identified the need to amend the rule with respect to individuals recommending issuing this license. Therefore, the proposed rule will amend ch. PI 34.036, Wis. Admin. Code, to include administrators of charter schools and CCDEBs as eligible to recommend licensure for tier I, special education program aides. Without a rule change, the department would be required to implement ch. PI 34, Wis. Admin. Code, as the rules currently exist.

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, 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.

RULE TEXT**SECTION 1. PI 34.036 (2) (b) is amended to read:**

PI 34.036 (2) (b) Is recommended by the district administrator of the employing school district or the administrator of a CESA, charter school or county children with disabilities education board to receive a license under this section.

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 _____ day of _____, 2025

Jill K. Underly, PhD
State Superintendent