

# PROPOSED ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AMENDING RULES

The scope statement for this rule, SS 105-23, was published in Register No. 816A1, on December 4, 2023, and approved by State Superintendent Jill K. Underly on December 21, 2023.

The State Superintendent of Public Instruction hereby proposes an order to renumber and amend s. PI 34.018 (2); and to create ss. PI 34.018 (2) (a) through (c), relating to educator preparation program background checks for admission.

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## ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

**Statute interpreted:** ss. 115.28 (7) (a) and 118.19 (1), Wis. Stats.

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

**Explanation of agency authority:**

Under s. 118.19 (1), Wis. Stats., any person seeking to teach in a public school, including a charter school, or in a school or institution operated by a county or the state shall first procure a license or permit from the department. Under s. 115.28 (7) (a), Wis. Stats., the superintendent of public instruction shall 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, Wis. Stats.

**Related statute or rule:**

N/A

**Plain language analysis:**

The proposed rule would clarify what is meant by a background check as a standard for admission into an educator preparation program.

**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 and preparation. As a result, the requirements for teacher licensure and preparation 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 14, 2023, and did not receive any comments on the statement of scope for the proposed rule.

**Comparison with rules in adjacent states:**

- Illinois: Students in Illinois must complete a fingerprint-based background check(s) for field placements and be prepared to complete others as required. The first check is required prior to starting any clinical experience in a school or community setting prior to student teaching or formal internships. A second check is required prior to the start of the student teaching or first internship semester and must be completed through the school district or clinical setting in which the candidate will be completing student teaching or internship(s). State law requires all

candidates obtain a criminal background check in the school district(s) in which the candidate is placed, at the candidate's expense. The background check will consist of a State of Illinois conviction check and an FBI background check. Certain convictions will bar prospective candidates from pursuing teaching.

- Iowa: Students in Iowa must complete a background check through 3rd Degree – a background check company, prior to participating in any practicum experience. When completing an initial background check, students must self-report any criminal misconduct charges (any charges other than parking tickets or speeding tickets).
- Michigan: All students assigned to sites for clinical and/or educational experiences are required to complete a criminal background check through ICHAT prior to beginning their first field experience. Placement sites may require additional background checks. A search for a record in another state requires correspondence with that state directly. A review of convictions revealed on ICHAT is conducted similarly to convictions disclosed by the student.
- Minnesota: Minnesota does not have a comparable rule governing background checks for admission into educator preparation programs. However, Minnesota school districts require background checks on every candidate before beginning any clinical experiences, including pre-student teaching field experiences, student teaching and practicum. Decisions about candidate eligibility will be made by the district approving the clinical assignment.

**Summary of factual data and analytical methodologies:**

Section PI 34.018 of the Wisconsin Administrative Code establishes the standards for student recruitment, admission, and retention into an educator preparation program. Section PI 34.018 (2) provides that the educator preparation program shall establish its own standards for admission, including requiring a background check prior to admission into an educator preparation program. There is currently no standard for what is meant by a background check or how the background checks are to be conducted by an educator preparation program prior to a student's admission.

The proposed rule would create parameters for what educator preparation programs need to do to conduct a complete background check for students for admission into a program. Without a rule, educator preparation programs would be required to implement this section of ch. PI 34 as currently written.

**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](mailto: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.

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## **RULE TEXT**

### **SECTION 1. PI 34.018 (2) is renumbered PI 34.018 (2) (intro.) and amended to read:**

**PI 34.018 (2) ADMISSIONS.** The entity shall establish standards for admission, including requiring a background check prior to admission to an educator preparation program. A background check shall be completed by the entity no more than six months prior to the date of admission into the educator preparation program and include all of the following:

### **SECTION 2. PI 34.018 (2) (a) through (c) are created to read:**

**(a)** The entity requesting the background check shall be responsible for establishing and implementing standards for acceptable conduct. The entity shall review the results of the background check conducted under this subsection and make an approval or denial determination in accordance with the standards established under this paragraph.

**(b)** The background check shall include a review of criminal conduct at the state and federal levels.

**(c)** Convictions for crimes which would lead to the automatic revocation of teacher licensure under s. 115.31 (2) (g), Wis. Stats., shall result in additional review prior to program admission.

### **SECTION 3. 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.