

**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
ADOPTING EMERGENCY RULES**

The scope statement for this rule, SS 050-18, was published in Register No. 749A3, on May 21, 2018, and approved by State Superintendent Tony Evers on June 2, 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*, 368 Wis.2d 444.

The State Superintendent of Public Instruction hereby adopts an order to repeal and recreate s. PI 34.041, relating to changes to lifetime licenses as a result of 2017 Wisconsin Act 206.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 118.19 (18) (bg), Stats.

Statutory authority: s. 118.19 (18) (bg), Stats.

Explanation of agency authority:

The Department is given authority to promulgate rules with respect to defining successful completion of 6 semesters of experience, and regular employment in education, for the purpose of receiving and maintaining a lifetime license under s. 118.19 (bg), Stats.:

**118.19 Teacher certificates and licenses; administrator and pupil services professional licenses.
(18)**

- (bg) 1. The department may issue a lifetime license under this subdivision to an individual who obtained a provisional license under par. (a) or (bc) if the individual has successfully completed 6 semesters of teaching, administering, or pupil services experience, as defined by the department by rule.
2. An individual who does not successfully complete 6 semesters of teaching, administering, or pupil services experience, as defined by the department by rule, within the 3-year term of a provisional license issued under par. (a) or (bc) may apply to renew the provisional license. There is no limit to the number of times an individual may renew a provisional license under par. (a) or (bc).

Related statute or rule: s. 115.28 (7g), Stats.

Plain language analysis:

The proposed rule specifies successful completion of six semesters of experience, for the purpose of receiving a lifetime license. The proposed rule also defines what it means for educators to be regularly employed in education, a condition for maintaining a lifetime license.

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.

Comparison with rules in adjacent states:

-Illinois (Illinois Compiled Statutes 105 ILCS 5/21B-5): The Illinois State Board of Education provides that after holding an Initial Teaching Certificate and teaching for four years, applicants may apply for a Standard Teaching Certificate. During these four years, applicants must also complete one of the following professional development options: 1) complete an approved induction and mentoring program; 2) receive an advanced degree; 3) become certified by the National Board for Professional Teaching Standards; 4) complete 12 semester hours of graduate-level coursework; 5) receive a Professional Development Certificate (NBPTS) indicating 12 hours of study; 6)

receive another certificate or endorsement; 7) complete four semester hours of graduate-level coursework in self-assessment or NBPTS certification preparation; or 8) complete 60 Continuing Professional Development Units. Once a Standard Teaching Certificate is obtained, it is valid for five years and may be renewed by submitting an assurance statement along with demonstrated completion of one of the aforementioned professional development options.

-Iowa (Iowa Administrative Code Chapter 282.13): The Iowa Board of Educational Examiners provides that an Initial Teaching License may be converted to a Standard License after two years provided that applicants meet the following requirements: 1) complete the Application for Conversion from an Initial to a Standard License; 2) enclose the appropriate application fee; and 3) have the applicant's school administrator verify that the applicant has completed a mentoring or induction program, have two full years of teaching experience, and meets or exceeds the standards for Iowa teachers. Once a Standard License is achieved, it is valid for five years and may be renewed during that time by meeting the following requirements: 1) complete six credits from a regionally accredited college/university which adds depth to the applicant's current endorsement; counts toward the completion of a graduate degree; leads to completing requirements for an additional endorsement; comes from Iowa licensure renewal courses approved by the Board of Educational Examiners; and/or is earned by receiving certification from NBPTS (up to four credits); and 2) complete the mandatory child and dependent adult abuse mandatory reporter training.

-Michigan (Michigan Administrative Code Section R 390.1101-390.1216): The Michigan Department of Education provides that Provisional Teaching Certificates are valid for six years and that applicants must meet the following requirements within that time to become qualified for a Professional Education Certificate: 1) complete the new teacher induction/teacher mentoring program, which is a cooperative between the employing school district and the Michigan Department of Education; 2) complete 18 semester hours at a Michigan college/university teacher preparation program beyond the highest degree attained; 3) have at least three years of teaching experience under the Provisional Teaching Certificate; 4) meet applicable state reading methods requirements; and 5) complete three semester hours of reading diagnostics and remediation including field experience. Once a Provisional Teaching Certificate is obtained, it is valid for five years and may be renewed by completing six semester hours at an approved Michigan college or university and/or complete 18 State Boarding Continuing Education credits.

-Minnesota (Minnesota Administrative Rules Chapter 8710): The Minnesota Department of Education provides that applicants may renew their licensure upon the expiration of their first time, full professional Minnesota teaching license, which is valid for five years. During the validity of the first full teaching license, applicants must complete 125 professional development hours which include courses representing a combination of each of the four areas: 1) positive behavior intervention strategies; 2) accommodation, modification, and adaptation of curriculum, materials, and instruction; 3) key warning signs for early-onset mental illness in children and adolescents; and 4) reading preparation. A valid professional license shall be renewed for a subsequent period of five years when an applicant presents verification that the applicant has, within the past five years, successfully completed at least 125 clock hours of professional development.

Summary of factual data and analytical methodologies:

2017 Wisconsin Act 59, the 2017-19 biennial budget, made several changes to the teacher licensure process, including the elimination of renewal requirements and the creation of lifetime licenses without an expiration date. The Act also provided that the Department may issue a lifetime license to an individual who obtained a provisional license and if the individual has successfully completed semesters of teaching, administrating, or pupil services experience. Since Act 59 was enacted, 2017 Wisconsin Act 206 added a requirement for the Department to promulgate rules that define successful completion of six semesters of experience in order to qualify for lifetime licenses. Act 206 also required the Department to define regular employment in education for the purpose of maintaining a lifetime license. As such, there are no policy alternatives because the Department is required to promulgate a rule regarding lifetime licenses.

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 34.041 is repealed and recreated to read:

PI 34.041 Tier III Lifetime License

(1) DEFINITIONS. In this section:

(a) “Educational entity” includes any of the following:

1. CESA.
2. Charter school.
3. Licensed child care provider under contract with a school district to provide three or four-year-old kindergarten.
4. Private school.
5. School district.
6. Wisconsin center for the blind and visually impaired.
7. Wisconsin educational services program for the deaf and hard of hearing.

(b) “Regularly employed in education” means employed as an educator providing services directly to students, families or fellow educators in a prekindergarten through college setting for one hour per day per semester or its equivalent.

(c) “Successfully completed” means the fulfillment of duties as a teacher, pupil services professional, or administrator for each semester completed under the terms of employment.

(2) AUTHORIZATION. A tier III license issued under this section authorizes an individual to teach or work in the license area specified under subch. VI, VII, or VIII.

(3) ELIGIBILITY. The state superintendent may grant a tier III license to an applicant if all of the following requirements are met:

(a) The applicant holds or has held a valid tier II license.

(b) The applicant meets one of the following requirements:

1. Completed 6 semesters of experience in the license area of the tier II license. The 6 semesters of experience shall be completed within the 3-year term of the tier II license. The 6 semesters of experience shall include experience providing direct services to students or providing administrative oversight in a prekindergarten through grade 12 setting in the license area of the tier II license while employed by an educational entity in Wisconsin.
2. Held a tier II license issued in the 2017-18 school year and completed 6 semesters of experience in the license area of the tier II license. The 6 semesters of experience shall have occurred between July 1, 2015, and July 1, 2018, and includes experience providing direct services to students or providing administrative oversight in a prekindergarten through grade 12 setting in the license area of the tier II license while employed by an educational entity in Wisconsin.

(c) The applicant verifies to the state superintendent that the applicant has successfully completed the service under par. **(b)** on a form provided by the department. The form shall require verification from each applicable employer for whom the applicant has successfully completed service.

(4) LICENSE AREA. If the applicant holds multiple tier II licenses under subchapter VI, VII, or VIII, experience in a license area in that subchapter will qualify as experience for other licenses held in the same applicable subchapter.

(5) DURATION. A license issued under this section remains valid unless one of the following occurs:

(a) The license holder has not been regularly employed in education for 5 or more consecutive years.

(b) The license holder does not meet the requirements under sub. (6). The state superintendent shall restore a license that becomes invalid under this paragraph if the license holder obtains a satisfactory background check under sub. (6) within 180 calendar days of the license being invalidated.

(6) BACKGROUND CHECK. An individual holding a license issued under this section shall submit a request to the department to have a new background check conducted once every five years. The request shall be made between January 1 and June 30 of the fifth year since the individual's last background check, and by the same dates every five years thereafter. The department may charge a reasonable fee to cover the cost of background checks.

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:

2017 Wisconsin Act 206 requires the Department to define, by administrative rule, "successful completion of six semesters of teaching, administrating, or pupil services experience," for the purpose of qualifying for a lifetime license. Act 206 also requires the Department to define, by administrative rule, "regularly employed in education," for the purpose of maintaining a lifetime license. An emergency rule is needed to administer these changes in advance of the Department issuing new lifetime licenses for which many educators are likely now eligible and to ensure clarity on the requirement for maintaining a lifetime license. Without an emergency rule, the Department has no standard by which to assess whether an individual's experience was successful or whether an individual is regularly employed in education to issue or invalidate lifetime licenses.

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 _____, 2018

Tony Evers, PhD
State Superintendent