



March 31, 2023

The Honorable Stephen Nass
Co-Chair, Joint Committee for Review of Administrative Rules
State Capitol, Room 10 South
PO Box 7882
Madison, WI 53707

The Honorable Adam Neylon
Co-Chair, Joint Committee for Review of Administrative Rules
State Capitol, Room 204 North
PO Box 8953
Madison, WI 53708

Dear Senator Nass and Representative Neylon,

Pursuant to Wis. Stat. §227.29, I am submitting this biennial report to the Joint Committee for Review of Administrative Rules. The enclosed report covers the agency's review of administrative rules in the 2023-24 biennium and describes the rules for which the following circumstances apply:

- The rule is deemed unauthorized
- The authority to promulgate the rule has been restricted
- The rule is deemed obsolete or has been rendered unnecessary
- The rule is duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a court ruling
- The rule is deemed to be economically burdensome

This report was prepared by Sara Kleinman, Administrative Rules Coordinator at the Department of Public Instruction. If you have any questions, please contact her directly at adminrules@dpi.wi.gov.

Sincerely,

Erin K. Fath

Erin Fath, Director
Policy, Budget, and Research Team
Department of Public Instruction

EF:sk



2023-24

2017 WI Act 108 Review of Administrative Rules

Submitted on March 31, 2023

Wisconsin Department of Public Instruction
Jill K. Underly, PhD, State Superintendent
Madison, Wisconsin

2017 WI Act 108 Review of Administrative Rules 2023-24 Biennium

A Report to the Joint Committee for Review of Administrative Rules

Prepared by:

Sara Kleinman
Administrative Rules Coordinator

Policy, Budget, and Research Team
Office of the State Superintendent



Wisconsin Department of Public Instruction
Jill K. Underly, PhD, State Superintendent
Madison, Wisconsin

March 2023

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Introduction

This report is prepared pursuant to Wis. Stat. § 227.29, created as a result of 2017 Wisconsin Act 108.

Under 2017 Act 108, each state agency that has promulgated rules in the Wisconsin Administrative Code is required to submit a biennial report to the Joint Committee for Review of Administrative Rules. The report must list the rules for which the following circumstances apply:

- The rule is deemed unauthorized, whereby the authority to promulgate the rule has been eliminated, together with a description of the legislation that eliminated the agency's authority to promulgate any such rule.
- The authority to promulgate has been restricted, together with a description of the legislation that restricted that authority.
- The rule is deemed obsolete or has been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary.
- The rule is duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a court ruling.
- The rule is deemed to be economically burdensome.

Per 2017 Act 108, the report must also describe the agency's actions, if any, to address each of the rules listed and must include an explanation for any listed rule for which the agency has not taken any action. It must also describe the status of each rule listed in the agency's previous report.

This report covers the agency's review of rules in the 2023-24 biennium. A description of all rules that meet each of the criteria required in this report are separated by section in the pages that follow, along with the agency's actions in response to each rule.

The department's administrative rules website at <https://dpi.wi.gov/policy-budget/administrative-rules> provides general and specific information about the administrative rules process, including all proposed rule modifications which are currently in process. Questions about the department's administrative rules and rulemaking activities may be directed to the Department of Public Instruction by mail at the Department of Public Instruction, Attn: Sara Kleinman, Administrative Rules Coordinator, P.O. Box 7841, Madison WI, 53707; or by email at adminrules@dpi.wi.gov.

Agency Review of Rules and Enactments

Unauthorized rules, together with a description of the legislation that eliminated the agency's authority to promulgate any such rule (Wis. Stat. § 227.29 (1) (a))

There are no rules promulgated by the Department of Public Instruction that meet this criteria.

Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority (Wis. Stat. § 227.29 (1) (b))

There are no rules promulgated by the Department of Public Instruction that meet this criteria.

Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary (Wis. Stat. § 227.29 (1) (c))

There are no rules promulgated by the Department of Public Instruction that meet this criteria.

Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling (Wis. Stat. § 227.29 (1) (d))

1. [PI 8] (School District Standards): [2021 Act 30](#) relates to incorporating the Holocaust and other genocides into the state model social studies standards and requiring instruction on the Holocaust and other genocides. It has rendered s. PI 8 in conflict with statute because the rule does not include the Holocaust as a component of the state model social studies standards. The proposed changes will bring PI 8 in conformity with the statutes.

Action Taken: The DPI has begun the process of promulgating this rule change.

2. [PI 40] (Early College Credit Program): [2021 Act 217](#) relates to grants to support the teaching of college courses in high schools and Independent Charter School pupil participation in the Early College Credit Program. It has rendered PI 40 in conflict with statute because the rule does not include students enrolled in Independent Charter Schools as eligible for the Early College Credit Program, or Independent Charter Schools as eligible to be reimbursed for tuition costs. The proposed technical changes under this rule will bring the rule chapter in conformity with the statutes by including Independent Charter Schools in the provisions.

Action Taken: The DPI has begun the internal process of promulgating this rule change.

3. **[PI 34] (Educator Licenses):** [2021 Act 236](#) relates to substitute teacher permits issued by the Department of Public Instruction. It has rendered PI 34 in conflict with the statute because of newly created requirements that an individual must meet in order to obtain a substitute teacher permit from the DPI, which are not yet reflected in PI 34. The proposed rule change will bring the rule chapter in conformity with the statutes.

Action Taken: The DPI has begun the internal process of promulgating this rule change.

Rules that the agency determines are economically burdensome (Wis. Stat. § 227.29 (1) (e))

There are no rules promulgated by the Department of Public Instruction that meet this criteria.

Status of each rule listed in the previous report

Unauthorized rules, together with a description of the legislation that eliminated the agency's authority to promulgate any such rule (Wis. Stat. § 227.29 (1) (a))

There were no rules promulgated by the department that met this criteria.

Rules for which the authority to promulgate has been restricted, together with a description of the legislation that restricted that authority (Wis. Stat. § 227.29 (1) (b))

There were no rules promulgated by the department that met this criteria.

Rules that are obsolete or that have been rendered unnecessary, together with a description of why those rules are obsolete or have been rendered unnecessary (Wis. Stat. § 227.29 (1) (c))

1. **PI 19 (Education For School Age Parents):** The language referring to approved costs under s. PI 19.05 was proposed to be repealed because the requirement to submit annual program plans to the department, which included costs for school age parent programs being submitted for reimbursement, was no longer needed. The annual requirement to submit program plans was repealed in the department's prior biennial review under [CR 19-069](#). The reference to approved costs under PI 19.05 was intended to be removed under CR 19-069 but was omitted in error. Because the annual requirement to submit program plans is no longer in rule, the reference to approved costs under PI 19.05 was repealed to help clarify the rule as it has been rendered unnecessary.

Action Taken: The department promulgated this rule to address the changes listed above. [CR 21-010](#), relating to biennial cleanup of DPI administrative rules, was submitted to the Legislative Council Rules Clearinghouse on January 20, 2021. The final rule was promulgated and became effective on October 1, 2021.

Rules that are duplicative of, superseded by, or in conflict with another rule, a state statute, a federal statute or regulation, or a ruling of a court of competent jurisdiction, together with a citation to or the text of any such statute, regulation, or ruling (Wis. Stat. § 227.29 (1) (d))

1. **PI 34 (Educator Licenses):** 2019 Act 43, relating to a license to teach based on reciprocity and granting rule-making authority, created a tier II license based on reciprocity. This has rendered

PI 34.038 in conflict with statute because the original license based on reciprocity under this section was a tier I license. The technical changes under this rule addressed. PI 34.038 to bring the rule chapter in conformity with the statutes.

Action Taken: The department promulgated this rule to address the changes listed above. [CR 21-010](#), relating to biennial cleanup of DPI administrative rules, was submitted to the Legislative Council Rules Clearinghouse on January 20, 2021. The final rule was promulgated and became effective on October 1, 2021.

2. **PI 34 (Educator Licenses):** PI 34.108 governs the rules relating to the Professional Standards Council. PI 34.108 (3) was in conflict with 15.377 (8) (c) 14., Stats., which required that a member of the Tribal School shall be included as a member of the Council. This was already being done in alignment with the statute, but a technical change was needed to amend s. PI 34.108 (3) to include a member of a Tribal School.

Action Taken: The department promulgated this rule to address the changes listed above. [CR 21-010](#), relating to biennial cleanup of DPI administrative rules, was submitted to the Legislative Council Rules Clearinghouse on January 20, 2021. The final rule was promulgated and became effective on October 1, 2021.

Rules that the agency determines are economically burdensome (Wis. Stat. § 227.29 (1) (e))

There were no rules promulgated by the department that met this criteria.

Appendix

DPI rules that do not meet the criteria for the report under Wis. Stat. § 227.29 (1)

- PI 1: Complaint Resolution and Appeals
- PI 2: School District Boundary Appeals
- PI 5: High School Equivalency Diplomas and Certificates of General Educational Development
- PI 6: Public Libraries
- PI 7: Public Transportation
- PI 9: Pupil Nondiscrimination
- PI 11: Children with Disabilities
- PI 12: Wisconsin Educational Services Program for the Deaf and Hard of Hearing and Wisconsin Center for the Blind and Visually Impaired
- PI 13: Limited-English Proficient Pupils
- PI 14: School Finance
- PI 15: Revenue Limit Exemptions for Energy Efficiencies
- PI 17: Summer and Interim Session Classes
- PI 18: High School Graduation Standards
- PI 20: Disposition of Funds
- PI 21: Driver Education Programs
- PI 22: Precollege Scholarships
- PI 23: ESEA Intradistrict Safe School Transfer Options
- PI 24: State Aid for Achievement Guarantee Contracts and Partial Debt Service
- PI 25: Children at Risk Program
- PI 26: Education for Employment Plans and Program
- PI 27: Commencement of School Term
- PI 30: Special Education Aid
- PI 31: Aid for School Mental Health Programs
- PI 33: Whole Grade Sharing
- PI 35: Milwaukee Parental Choice Program
- PI 36: Public School Inter-District Open Enrollment
- PI 37: Grants For National Teacher Certification Or Master Educator Licensure
- PI 38: State Grant Programs
- PI 41: Accommodation Of Religious Beliefs
- PI 43: Education Reform
- PI 45: Use of Race-Based Nicknames, Logos, Mascots, and Team Names
- PI 47: Equivalency Process for Educator Effectiveness
- PI 48: Racine And Wisconsin Parental Choice Programs
- PI 49: Special Needs Scholarship Program
- PI 80: Community Programs and Services