



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 20-082

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated November 2020.]

1. Statutory Authority

a. In the rule summary’s explanation of agency authority, the agency should consider revising the list of pupil services professionals for which the agency is required to implement the licensure of in the second paragraph explaining the agency’s authority under s. 118.19 (10), Stats., to include school counselors. The agency’s proposed rules affect the licensure of school counselors and s. 118.19 (10), Stats., gives the agency authority to implement the licensure of school counselors, but, as currently written, the explanation of agency authority does not address school counselors.

b. The agency could more clearly indicate its statutory authority for licensure of speech language pathologists. The agency has not explicitly identified statutory authority for its licensure of speech-language pathologists, but s. PI 34.028 (2) (d) addresses licensure for speech language pathologists. It appears that the agency may be relying on the authority under s. 227.11 (2) (a) (intro.), Stats., which is generally cited, but could be identified in relation to this category of related service professionals.

2. Form, Style and Placement in Administrative Code

a. The agency could consider revising the introductory clause in the caption for the proposed rule as follows:

The State Superintendent of Public Instruction hereby proposes an order to repeal s. PI 34.061 (2) (c); to amend s. PI 34.028 (1); and (3), and 34.060 (title)

and (1); to repeal and recreate s. PI 34.028 (2) and (4); and to create s. PI 34.040 (2) (k) to (m), relating to revisions to licensing of pupil services professionals.

b. In s. PI 34.028 (4) (b), the abbreviation “sub.” should be inserted before the second reference to “(2) (d)”, and the abbreviation “s.” should be inserted before the reference to “PI 34.040”.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. PI 34.028 (4) (a), each reference in the introduction and subdivisions to pars. (a) and (c) is unclear. The references to par. (a) are referring to itself, for the paragraph within which the reference is made, and the references to par. (c) are referring to sub. (4) (c), which does not exist. Are these intended to refer to sub. (2) (a) and (c) in each instance? These should be corrected to identify the proper intended cross-references in each instance. The format of the cross-references should also be revised to include the designation abbreviation “sub.” or “par.”, depending on which designation is applicable for the corrected cross-references.

b. In s. PI 34.060 (1), the reference to the Department of Safety and Professional Services should be revised to the Board of Nursing.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. PI 34.028 (2) (a), the agency should consider defining the word “comparable”. As it is currently written, the rule allows the state superintendent to issue a tier I license to an applicant who has completed all of the coursework in a “comparable approved program” in another state but the rule does not explain what constitutes a comparable program. Defining criteria for comparability of programs for the purposes of this section would provide more clarity for license applicants as to the standard that is expected.

b. To correct for a typographical error, the agency should consider revising the text created in s. PI 34.028 (2) (a) 3. as follows:

For a school psychologist, the applicant must hold a master’s degree or higher.

c. The agency may want to take this opportunity to amend the current text of s. PI 34.040 (2) (intro.) to correct for a typographical error. In that provision, the word “application” should be amended to “applicant” as follows:

The state superintendent may issue a tier II license under this section to an ~~application~~ applicant who meets one of the following:

d. In s. PI 34.040 (2) (k) 2., the agency should consider defining the phrase “successful experience” or removing the word “successful” from the rule. As it is currently written, the rule indicates that there is a difference between a year of experience completed and a year of experience completed successfully, but it is unclear what makes a year of experience successful rather than simply completed.

e. In s. PI 34.040 (2) (k) 3. f. and g., an applicant for a clinically trained social worker license must complete trainings “as required in s. PI 34.022”. Likewise, in pars. (L) and (m),

applicants for licensed school nurse licenses and school psychologist licenses must have “met the requirements under s. PI 34.022”.

However, the “requirements” under s. PI 34.022 are criteria that educator preparatory programs must address in their conceptual framework in order to be approved by the State Superintendent of Public Instruction. In other words, the requirements listed under s. PI 34.022 must be met by an educator preparation program, rather than by an educator seeking licensing.

Additionally, under ss. PI 34.058, 34.059, 34.061, and 34.062, school social workers, school psychologists, and school counselors must all complete an approved educator preparation program in their area of study in order to obtain licensure. Under s. PI 34.060, school nurses are not necessarily required to complete an approved educator preparation program in their area of study.

For these reasons, the agency should consider revising s. PI 34.040 (2) (k) and (m) to remove the references to s. PI 34.022, as they are redundant. Additionally, the agency should consider revising s. PI 34.040 (2) (L) to make the reference to s. PI 34.022 less confusing. For example, s. PI 34.040 (2) (L) could read: “The applicant for licensed school nurse . . . has **completed a program that satisfies the criteria for an approved educator preparation program’s conceptual framework, as described in s. PI 34.022.**”.