

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

The scope statement for this rule, SS 071-13, was published in Register No. 691, on July 14, 2013, and approved by State Superintendent Evers, on July 24, 2013. Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11-CV-4573, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope or this rule.

The State Superintendent of Public Instruction hereby proposes to repeal PI 21.01 (Note), PI 21.04(4) (Note), PI 21.05; amend PI 21.04 (title), PI 21.04(intro), PI 21.04(1)(a), PI 21.04(1)(b), PI 21.04(1)(c), PI 21.04(2), and PI 21.04(3); and to repeal and recreate PI 21.04(4), relating to driver education programs.

The rules are being adopted under s. 227.16(2)(e), Stats., which provides that rulemaking does not need to be preceded by notice and public hearing if the proposed rule and fiscal estimate are published in the notice section of the Administrative Register and the required petition is not received by the agency within 30 days after publication of the notice.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 115.28(11), Stats.

Statutory authority: ss. 115.28(11) and 227.11(2)(a)(intro), Stats.

Explanation of agency authority:

Under s. 227.11(2)(a)(intro), Stats., "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation." Under s. 115.28(11), Stats., the DPI is required to approve driver education course plans that meet certain guidelines.

Related statute or rule: N/A.

Plain language analysis:

PI 21.05 requires the Department of Public Instruction (DPI) to issue certificates. This will soon be unnecessary since the Department of Transportation (DOT) is going to issue on-line certificates which will apply to students in school driver education programs. This rule change will not take effect until DOT begins issuing these on-line certificates.

Additionally, PI 21.04 requires DPI to approve driver education course plans. However, to be more efficient, DPI is modifying the way it reviews driver education course plans. The DPI proposes modifying PI 21.04 to state that a public or private high school, county children with disabilities education board, or a CESA submitting on behalf of a district that it has contracted with to provide driver education instructional services, must submit an assurance that it is complying with the program requirements in PI 21.04 in order to receive DPI approval. This assurance will substitute for DPI actively approving the specific program components. The DPI will continue to review each program's instructors to verify that their departmental driver education certification is current and valid.

Summary of, and comparison with, existing or proposed federal regulations: N/A.

Comparison with rules in adjacent states: No information.

Summary of factual data and analytical methodologies:

These changes are designed to update the rule to reflect future practice. If these changes are not made, the rule may not align with agency practice.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

First, this rule change will avoid duplication of effort on the DPI's part because the DOT will be issuing on-line certificates for students in school driver education programs. Second, this rule change will make the approval process for driver education course plans faster because public or private high schools, county children with disabilities education boards, and CESAs will provide an assurance that their driver education course plans meet the necessary requirements and then the plans are approved. It will also save the DPI resources because employees will not need to spend time reviewing driver education course plans.

Anticipated costs incurred by private sector:

There is not expected to be a cost to the private sector.

Effect on small business:

The proposed rules will have no economic impact on small businesses, as defined in s. 227.114 (1), Stats.

Agency contact person: (including email and telephone)

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Place where comments are to be submitted and deadline for submission:

As provided in s. 227.16(2)(e), Stats., a public hearing will not be held for this rule change unless the required petition is received by the Department.

SECTION 1. PI 21.01 (Note) is repealed.

SECTION 2. PI 21.04 (title), PI 21.04(intro), PI 21.04(1)(a), PI 21.04(1)(b), PI 21.04(1)(c), PI 21.04(2), and PI 21.04(3) are amended to read:

PI 21.04 (title) Minimum standards for department approval under ~~s. 343.06 (3), Stats.~~ s. 343.06(1)(c), Stats.

(intro) A public school, private school, CCDEB, or CESA driver education program ~~shall be~~ is approved by the department under s. 343.06 (1) (c), Stats., if the program uses vehicles which meet the requirements of s. PI 21.03 and the program meets all of the following requirements:

(1) COURSE STANDARDS.

(a) A driver education course ~~shall include~~ includes the following:

(1) COURSE STANDARDS

(b) During the regular school year, the classroom course ~~shall extend~~ extends over at least 6 weeks for each student. During a summer school program, the classroom course ~~shall extend~~ extends over at least 3 weeks for each student.

(1) COURSE STANDARDS

(c) The on-street driving instruction ~~shall extend~~ extends over at least 3 weeks for each student. No student ~~may spend~~ spends more than one hour per day actually behind-the-wheel in the on-street instruction. The one hour limitation does not include observation instruction.

(2) REFRESHER COURSE. If more than one year and one month elapses between completion of the classroom instruction and commencement of the laboratory instruction, a refresher course of classroom instruction ~~shall be~~ is required. The refresher course ~~shall be~~ is at least 10 hours, and ~~shall include~~ includes a course of study deemed appropriate by the school district.

(3) TEACHER REQUIREMENTS. Teachers of the classroom instruction, simulation instruction, range instruction, and on-street instruction ~~shall~~ possess a valid license to teach driver education issued by the department as required in s. PI 34.33 (5).

SECTION 3. PI 21.04(4) is repealed and recreated to read:

PI 21.04(4) REQUIRED ASSURANCE. A public or private school, CCDEB, or CESA electronically submits to the department an assurance that its driver education course plan complies with the requirements of this section along with a list of its driver education instructors and their DPI teacher file numbers.

SECTION 4. PI 21.04(4) (Note) is repealed and recreated to read.

PI 21.04(4)(Note) Contact the Driver Education Program, Department of Public Instruction, P.O. Box 7841, 125 S. Webster Street, Madison, WI 53707-7841, for the current Internet address where a statement can be electronically submitted.

SECTION 5. PI 21.05 is repealed.

SECTION 6. 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 _____, 201_

Tony Evers, PhD
State Superintendent