

## Clearinghouse Rule 15-038

### PROPOSED ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION REVISING PERMANENT RULES

The scope statement for this rule, SS 046-14, was published in Register No. 701, on May 31, 2014, and approved by Superintendent Evers, on June 10, 2014. 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*, No. 2013AP416, 2015 WL 686178 (Wis. Ct. App. Feb. 19, 2015).

The state superintendent of public instruction hereby proposes to amend ch. PI 17 (title), ss. PI 17.01, 17.03 (title), (1), (2) (intro.) and (c), 17.03 (3) and (3) (e), (4), and (5), 17.04 (intro.), (1), and (2), 17.05 (title), (1) (intro.), (2) (intro.) and (b), and (4); to renumber s. PI 17.02 (1); and to create ss. PI 17.02 (1), (2m), and (6) and 17.03 (2) (d); relating to changes as a result of 2013 Wisconsin Act 257.

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### ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

**Statute interpreted:** 121.14, Stats.

**Statutory authority:** 121.14, Stats., and 227.11(2)(a)(intro), Stats.

**Explanation of agency authority:**

Under ss. 227.11(2)(a)(intro) and 121.14, Stats., the Department is authorized to establish criteria for summer school classes and interim session classes receiving state aid. Section 121.14(1)(a), Stats., provides specific rulemaking authority as follows:

**121.14 State aid for summer classes and interim session classes.**

**(1)**

**(a)** State aid shall be paid to each district or county children with disabilities education board for all of the following:

1. Subject to par. (b), those academic summer classes or laboratory periods that are for necessary academic purposes, as defined by the state superintendent by rule.

2. Subject to par. (b), for a school district or county children with disabilities education board that provides year-round school, those interim session classes or laboratory periods that are for necessary academic purposes, as defined by the state superintendent by rule.

**Related statute or rule:** None.

**Plain language analysis:**

This proposed change will modify PI 17 as a result of statutory change made in 2013 Wisconsin Act 257. Any other changes to PI 17 that are needed to align with PI 17 with current statutes will also be made.

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

**Comparison with rules in adjacent states:** N/A

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

This is a change to align PI 17 with the statutory changes made as a result of 2013 Wisconsin Act 257, including changes to s. 121.14, Stats.

**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 [Carl.Bryan@dpi.wi.gov](mailto:Carl.Bryan@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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**SECTION 1. Chapter PI 17 (title) is amended to read:**

Chapter PI 17  
SUMMER SCHOOL PROGRAMS AND INTERIM SESSION CLASSES

**SECTION 2. PI 17.01 is amended to read:**

**PI 17.01 Applicability and purpose.** This chapter establishes criteria for summer ~~school programs~~ and interim session classes receiving state aid, as authorized under s. 121.14, Stats.

**SECTION 3. PI 17.02 (1) is renumbered PI 17.02 (1m).**

**SECTION 4. PI 17.02 (1), (2m) and (6) are created to read:**

- (1) “Academic purposes” means summer or interim session learning experiences that are related or similar to instruction that is offered during the rest of the school year or for which credit toward graduation is given.

- (2m) “Interim session” has the meaning given in s. 115.001(3m), Stats., for school districts or county children with disabilities education boards that provide year-round school. Interim sessions are not an extension of the regular school day or school week.
- (6) “Year-round school” means a school that does not have more than 45 calendar days between consecutive sessions during which hours of direct pupil instruction are counted to meet the requirement in s. 121.02 (1) (f), Stats.

**SECTION 5. PI 17.03 (title), (1), (2) (intro.) and (c) are amended to read:**

**PI 17.03 Summer ~~school programs~~ and interim session classes.** (1) Under s. 121.14, Stats., a school district or county children with disabilities education board may count pupils for aid membership for those academic summer classes or laboratory periods that are necessary for academic purposes, as specified under this chapter. ~~A school district may operate a summer school~~ Under s. 121.14, Stats., a school district or county children with disabilities education board that provides year-round school may count pupils for aid membership for those interim session classes or laboratory periods that are necessary for academic purposes. A school district may operate a summer or interim session program in cooperation with a CESA or another school district under an agreement as provided in s. 66.0301, Stats. ~~In this section, “academic purposes” means summer school learning experiences are related or similar to instruction that is offered during the rest of the school year or for which credit toward graduation is given.~~

- (2) ~~Summer school courses~~ and interim session classes necessary for academic purposes may include ~~all~~ any of the following:
- (c) Up to 270 minutes of instructional time, including field trips, per student, per day, if accompanied by a department-licensed teacher, and if all pupils have equal access to field trips, regardless of their ability to pay.

**SECTION 6. PI 17.03 (2) (d) is created to read:**

- (d) Online classes offered to high school pupils and pupils in grades 7 and 8 that meet the requirements of s. 121.004 (8) (b), Stats., and s. PI 36.11 (1) and in which at least 8,100 minutes of direct instruction are required to earn one credit and the lesser hours are to be prorated accordingly.

**SECTION 7. PI 17.03 (3) (intro.) and (e), (4), and (5) are amended to read:**

**17.03 (3) Summer ~~school~~ and interim session** activities not necessary for academic purposes include all of the following:

- (e) Any offering not provided by ~~or directed on site by~~ a department-licensed teacher.
- (4) A school district under sub.(1) shall annually submit to the department a summer ~~school~~ or interim session membership report.
- (5) A school district under sub. (1) shall document and retain the calculation of summer ~~school~~ or interim session membership on a form provided by the department.

**SECTION 8. PI 17.04 (intro.), (1) and (2) are amended to read:**

**PI 17.04 Summer ~~school~~ or interim session classes aid calculation.** (1) Summer ~~school~~ average daily membership equivalent shall be included as a full-time equivalency in the school district's September official enrollment of the school district required under s. 121.05 (1) (a), Stats.

- (2) The summer ~~school~~ average daily membership equivalent reported under sub. (1) shall be calculated using the school district's total summer ~~school-resident~~ or interim session pupil membership minutes, up to 270 minutes per pupil per day, divided by 48,600, and rounding to the nearest whole number.

**SECTION 9. PI 17.05 (title), (1) (intro.), (2) (intro.) and (b), and (4) are amended to read:**

**PI 17.05 Fees charged for summer ~~school courses~~ and interim session classes.** (1) A school district or county children with disabilities education board offering a summer ~~school program~~ interim session classes may charge reasonable fees for the following:

- (2) A school district or county children with disabilities education board offering a summer ~~school~~ or interim session classes program may not charge fees for any of the following:
- (b) Books for indigent children residing in the school district.
- (4) A school district or county children with disabilities education board offering a summer ~~school program~~ interim session classes may not prohibit an eligible pupil from attending summer ~~school~~ or interim session classes, expel or otherwise discipline the pupil, or withhold or reduce the pupil's grades because the pupil or the pupil's family cannot pay or has not paid fees charged under sub. (1).

**SECTION 10. 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 \_\_\_\_\_, 2015

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Tony Evers, PhD  
State Superintendent