

[Clearinghouse Rule 15-080](#)

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

The scope statement for this rule, 094-15, was published in Register No. 717A3 on September 21, 2015, and approved by State Superintendent Evers on October 5, 2015. It modifies SS 070-15, which was published in Register No. 716A2 on August 10, 2015, and approved by Superintendent Evers on August 24, 2015. 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*, 2015 WI App 21, 361 Wis.2d 255.

The state superintendent of public instruction hereby proposes to repeal PI 8.01 (2) (f) 1.; to renumber PI 8.01 (2) (f) 2.; and to amend PI 8.01 (2) (f) (title), PI 8.01 (4) (b) (intro.), 1. and 6., and PI 8.01 (4) (c) (intro.); relating to technical changes to PI 8 as a result of 2013 Wisconsin Act 257.

The rules are being adopted under s. 227.16 (2) (b), Stats., which provides that rulemaking does not need to be preceded by notice and public hearing if the proposed rule brings an existing rule into conformity with a statute that has been changed.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 121.02 (1) (f), Stats.

Statutory authority: s. 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." As such, PI 8 is required to effectively implement school district standards pertaining to days and hours of instruction under s. 121.02 (1) (f), Stats.

Related statute or rule: N/A

Plain language analysis:

The proposed rule change revises PI 8 as a result of 2013 Wisconsin Act 257, which amended s. 121.02 (1) (f), Stats., to eliminate the requirement of 180 scheduled days of direct pupil instruction. PI 8 is modified to reflect this change in school district standards.

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 proposed rule change will align PI 8 with the statutory changes made as a result of 2013 Wisconsin Act 257 with respect to school days and hours of instruction. Any other changes to PI 8 that are needed to align these rules with current statutes will also be made.

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)

Carl Bryan
Budget and Policy Analyst
Wisconsin Department of Public Instruction
Carl.Bryan@dpi.wi.gov
(608) 267-9127

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

As provided in s. 227.16 (2) (b), Stats., there is no requirement that a public hearing be held for this rule because the proposed rule brings an existing rule into conformity with a statute that has been changed.

SECTION 1. PI 8.01 (2) (f) (title) is amended to read:

(f) ~~Days and hours~~ Hours of instruction.

SECTION 2. PI 8.01 (2) (f) 1. is repealed.

SECTION 3. PI 8.01 (2) (f) 2. is renumbered 8.01 (2) (f).

SECTION 4. PI 8.01 (4) (b) (intro.) and 1. is amended to read:

(b) A school district board may request a waiver from the requirements under this chapter, with some exceptions, as specified under s. 118.38, Stats. A school district board requesting a waiver from the requirement to schedule and hold at least the number of hours of direct pupil instruction specified under sub. (2) (f) ~~2-~~ and s. 121.02 (1) (f) ~~2-~~, Stats., shall submit all of the following information to the department:

1. A letter from the district administrator or school board president requesting a waiver from the hours of direct pupil instruction requirement under sub. (2) (f) ~~2-~~ and s. 121.02 (1) (f) ~~2-~~, Stats., and specifying the reason or reasons for requesting the waiver.

SECTION 5. PI 8.01 (4) (b) 6. is amended to read:

6. A description of the actions the school board took to make up the hours of instruction missed during the period of the school closure and what prevented the district from scheduling and holding at least the number of hours of direct pupil instruction specified under sub. (2) (f) ~~2~~ and s. 121.02 (1) (f) ~~2~~, Stats.

SECTION 6. PI 8.01 (4) (c) (intro.) is amended to read:

(c) In determining whether to grant a waiver from the requirement to schedule and hold at least the number of hours of direct pupil instruction specified under sub. (2) (f) ~~2~~ and s. 121.02 (1) (f) ~~2~~, Stats., the department shall consider all of the following factors and may consider additional factors:

SECTION 7. 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

Tony Evers, PhD
State Superintendent