

Clearinghouse Rule 19-111

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

The scope statement for this rule, SS 034-19, was published in Register No. 759B, on March 25, 2019, and approved by State Superintendent Carolyn Stanford Taylor on April 9, 2019.

The State Superintendent of Public Instruction hereby proposes an order to amend s. PI 34.086 (5) (b) (intro.); and to create s. PI 34.086 (6), relating to changes to licensure for educational interpreters.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 115.76 (14), Stats.

Statutory authority: s. 115.28 (7) (c), Stats.

Explanation of agency authority:

Under s. 115.28 (7) (c), Stats., the State Superintendent has the authority to license and make rules for the examination and licensing of persons, including teachers, employed to provide publicly funded special education and related services, including interpreting services as provided under s. 115.76 (14) (a) 2., Stats.

Related statute or rule:

None.

Plain language analysis:

The proposed rule amends chapter PI 34 of the Wisconsin Administrative Code with respect to creating flexibility for licensing educational interpreters. The proposed rule eliminates the requirement for certain educational interpreters to complete the educational interpreters performance assessment (EIPA) as a condition of their renewal once the licensee passes the EIPA with a score of 3.5 or above.

Summary of, and comparison with, existing or proposed federal regulations:

Section 300.34 (c) (4) of the Individuals with Disabilities Education Act defines interpreting services as a related service with respect to educating a child who is deaf or hard of hearing. Under the Act, interpreting services are taken to mean oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and special interpreting services for children who are deaf-blind. However, because education in the United States is typically governed by each state and local government, the Act does not address how states administer the licensure of educational interpreters as a related service. As such, federal regulations are generally silent with respect to the licensure of educational interpreters.

Summary of any public comments and feedback on the statement of scope for the proposed rule that the agency received at a preliminary public hearing and comment period held and a description of how and to what extent the agency took those comments into account and drafting the proposed rule:

The Department held a preliminary public hearing and comment period on March 25, 2019, and received comments on the statement of scope for the proposed rule. A brief summary of comments and the Department's response to those comments are as follows:

- One individual submitted written comments in support of the Department’s proposal to promulgate rules and note that the proposed changes meet the standard testing practices in the sign language interpreting profession. Once achieving a passing score on the EIPA, interpreters will be able to focus on taking courses that will help them improve their skills and knowledge in the field. Finally, educational interpreters would be able to save money by no longer having to pay for the assessment up front, and the Department will be able to save money on reimbursing for part of the cost of the exam (if the interpreter passes the EIPA), thus allowing it to allocate funds that would help interpreters fulfill their continuing education requirements in the current rule.

Agency response: The Department agrees.

Comparison with rules in adjacent states:

- **Illinois:** Per Illinois Administrative Code, educational interpreters are issued a license through the State Board of Education and must, in part, pass the EIPA with a score of 3.5 or above to receive certification.
- **Iowa:** Per Iowa Administrative Code, educational interpreters are issued a license through the Public Health Department Professional Licensure Division and must, in part, pass the EIPA with a score of 3.5 or above to receive certification.
- **Michigan:** Per Michigan Administrative Code, educational interpreters are issued a license through the Michigan Department of Education and must, in part, pass the EIPA with a score of 4.0 or above to receive certification. Educational interpreters who do not have at least a 4.0 but plan to work in an elementary or secondary setting may apply for temporary assignment as an underqualified interpreter.
- **Minnesota:** Per Minnesota Administrative Code, educational interpreters are issued a license through the Public Health Department of Education and must, in part, pass the EIPA with a score of 4.0 or above to receive certification.

Summary of factual data and analytical methodologies:

Chapter PI 34 governs the licensure of school personnel, including educational interpreters who may be authorized by holding a 5-year renewable license by the Department. Under the current rule, license holders who wish to renew their interpreter license must, in part, pass the EIPA with a renewal score set by the State Superintendent in consultation with the State Superintendent’s Advisory Council on Deaf and Hard of Hearing Programs. Currently, the score required for initial and renewed licensure is set by the State Superintendent at 3.3 (this will increase to 3.5 on July 1, 2020). Upon consultation with the advisory council, the Department proposes to adjust its practices with respect to licensure for educational interpreters and permit that once an educational interpreter has passed the EIPA with a score of 3.5 or higher, the educational interpreter would not need to retake the EIPA and would only have to maintain their license by submitting evidence of continuing educational units or credits. Without a rule change, the Department would be required to enforce the current standards for educational interpreters as they exist in the current rule.

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 adminrules@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.

SECTION 1. PI 35.086 (5) (b) (intro.) is amended to read:

PI 34.086 (5) (b) ~~The~~ Subject to sub. (6), the licensee does fulfill one of the following skill verification components:

SECTION 2. PI 34.086 (6) is created to read:

PI 34.086 (6) EXCEPTION TO RENEWAL REQUIREMENTS. If the licensee attains a score of 3.5 or higher on the Educational Interpreter Performance Assessment, the licensee is not required to satisfy the requirements under par. (5) (b) for renewal.

SECTION 3. 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 _____, 2019

Carolyn Stanford Taylor
State Superintendent