

## Clearinghouse Rule 21-008

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

The scope statement for this rule, SS 151-20, was published in Register No. 780A1, on December 7, 2020, and approved by State Superintendent Carolyn Stanford Taylor on December 21, 2020.

The State Superintendent of Public Instruction hereby proposes an order to create s. PI 17.03 (2) (e), relating to expanding virtual summer and interim session courses.

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#### ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

**Statute interpreted:** s. 121.14, Stats.

**Statutory authority:** s. 121.14 (1) (a) 1., Stats.

**Explanation of agency authority:**

The department is given rulemaking authority to establish criteria for summer and interim session classes under s. 121.14 (1) (a), Stats.:

**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.

**Related statute or rule:**

The department had previously issued an emergency rule on a related topic, Emergency Rule 2003 relating to expanding virtual summer and interim session courses, which was in effect from May 5, 2020, to October 1, 2020.

Additionally, the proposed rule creates consistency with ch. PI 8, which establishes the minimum standard for the hours of direct instruction of pupils during the regular school year which are counted for state aid purposes. Section 8.01 (2) (f) permits school districts to count hours of instructional programming offered through instruction provided in a virtual setting as well as in-person learning during the regular school year. The proposed rule will allow school districts to count enrollments in virtual courses during summer and interim sessions for state aid purposes similar to how enrollments are counted during the regular school year under ch. PI 8.

**Plain language analysis:**

The objective of the proposed rule is to expand options for school districts and county children with disabilities education boards. The proposed rule will amend ch. PI 17 of the Wisconsin Administrative Code to include virtual instruction taught to any grade level during summer classes or laboratory periods that are necessary for academic purposes. The proposed rule will create consistency between the rules governing how virtual courses are aided during the summer and interim session and the regular school year.

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

There are no comparable existing or proposed federal regulations intended to address the activities regulated by this proposed rule.

**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 December 11, 2020, 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:

- The participants at the hearing spoke in support of the proposed rule and argued in favor of additional options for keeping students engaged in their learning during summer and interim sessions.

*Agency Response:* These comments were forwarded to program staff for consideration during the rulemaking process.

- Some respondents noted an increase in the number of students who opted to use the option to enroll in virtual courses. The respondents believe that the proposed rule could be helpful for school districts seeking to offer additional options for students during summer and interim sessions.

*Agency Response:* These comments were forwarded to program staff for consideration during the rulemaking process.

**Comparison with rules in adjacent states:**

Illinois: There are no comparable rules with respect to virtual summer and interim session courses in Illinois.

Iowa: 281 Iowa Administrative Code Chapter 15 governs the use of online learning and telecommunications for instruction by schools. However, there are no comparable rules with respect to virtual summer and interim session courses.

Michigan: There are no comparable rules with respect to virtual summer and interim session courses in Michigan.

Minnesota: There are no comparable rules with respect to virtual summer and interim session courses in Minnesota.

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

Chapter PI 17 of the Wisconsin Administrative Code establishes criteria for summer and interim session classes receiving state aid, as authorized under s. 121.14, Stats. Pursuant to 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. Summer and interim session classes necessary for academic purposes include: 1) music programs, lessons, sectionals or clinics, if taught by a department-licensed teacher; 2) swimming instruction programs, if taught or directed by a department-licensed teacher at the site of the instruction; 3) instructional minutes, per pupil, per day, including field trips if accompanied by a department-licensed teacher and if all pupils have equal access to the field trips, regardless of their ability to pay; and 4) 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 (to be prorated accordingly if fewer minutes of direct instruction are provided).

The department proposes to expand options for school districts and county children with disabilities education boards for which they may be able to receive state aid during summer classes or laboratory periods. The proposed rule will amend ch. PI 17 to include virtual instruction taught to any grade level during summer classes or laboratory periods that are necessary for academic purposes. The proposed rule will create consistency between the rules governing how virtual courses are aided during the summer and interim session and the regular school year. Without a rule, the department will be required to implement PI 17 as the rules currently exist.

**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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Wisconsin Department of Public Instruction  
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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](mailto: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.

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**RULE TEXT**

**SECTION 1. PI 17.03 (2) (e) is created to read:**

**PI 17.03 (2) (e)** Online classes offered by a school district to pupils residing in the school district or attending the school district under s. 118.51, Stats., if taught by a teacher licensed by the department or authorized to teach under s. 118.19 (1b) or (1c), Stats.

**SECTION 2. 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 \_\_\_\_\_, 2021

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Carolyn Stanford Taylor  
State Superintendent