

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

The scope statement for this rule, SS 107-17, was published in Register No. 742A1, on October 2, 2017, and approved by State Superintendent Tony Evers on October 12, 2017. 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*, 368 Wis.2d 444.

The State Superintendent of Public Instruction hereby adopts an order to repeal EmR 1711 and ss. PI 34.01 (53), 34.14 (1) (a) 1. to 3. and (b), 34.17 (4), 34.33 (5m); to renumber and amend ss. PI 34.14 (1) (a) (intro.); to amend ss. 34.14 (1) (intro.), 34.15 (2) (a) 3. a., 34.17 (5), and 34.30 (2); to repeal and recreate s. PI 34.21; and to create ss. 34.175, 34.185, 34.30 (2) (p), 34.34 (21), and subch. IX; relating revisions to emergency rules governing licensure as a result of 2017 Wisconsin Act 59.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 115.28 (7) (a), Stats.

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

Explanation of agency authority:

115.28 General duties. The state superintendent shall:

(7) Licensing of teachers.

(a) License all teachers for the public schools of the state; make rules establishing standards of attainment and procedures for the examination and licensing of teachers within the limits prescribed in ss. 118.19 (2) and (3), 118.191, 118.192, 118.193, 118.194, and 118.195; prescribe by rule standards, requirements, and procedures for the approval of teacher preparatory programs leading to licensure, including a requirement that, beginning on July 1, 2012, and annually thereafter, each teacher preparatory program located in this state shall submit to the department a list of individuals who have completed the program and who have been recommended by the program for licensure under this subsection, together with each individual's date of program completion, from each term or semester of the program's most recently completed academic year; file in the state superintendent's office all papers relating to state teachers' licenses; and register each such license.

Related statute or rule:

Through its work with stakeholder groups, the Department advanced an emergency rule, Emergency Rule 1711, on June 14, 2017, to help school districts address teacher shortages and provide flexibility and clarity around teacher licensing by doing the following:

- Creating a one-year License with Stipulations (replacing emergency licenses and permits) for:
 - Teachers and pupil services professionals from another state who have not met Wisconsin testing requirements;
 - Speech Language Pathologists who hold a valid license from DSPS; and
 - If a district cannot find a fully licensed teacher or pupil services professional, an individual with a bachelor's degree.
- Creating a three-year License with Stipulations as part of a district-sponsored pathway for experienced teachers to receive another teacher license in a new subject or developmental level.
- Issuing licenses to teachers from another state who have successfully completed the edTPA or the National Board process (*Foundations of Reading Test still required*).
- Starting January 1, 2018, allowing Initial and Professional Educators to use professional growth goals and work in Educator Effectiveness as another option to renew or advance their license.

- Allowing educator preparation programs flexibility in their admissions policies by removing specific testing (Praxis CORE) and GPA requirements from rule.
- Allowing teacher and pupil services candidates to demonstrate content knowledge with a 3.0 or higher GPA in license area, by successfully completing a content-based portfolio, or by successful completion of the currently used Praxis II exam.
- Removing the master's degree requirement for the Library Media Specialist License and make it a stand-alone license based on completion of a major.
- Creating a Junior Reserve Officer Training Corps (JROTC) teaching license allowing someone who has been certified as a JROTC instructor by a branch of the military to teach JROTC courses in a high school.

Since Emergency Rule 1711 became effective, 2017 Wisconsin Act 59, the 2017-19 biennial budget, made several changes to the teacher licensure process, including provisions that are not consistent with Emergency Rule 1711. Among these changes were eliminating renewal requirements for licenses and creating lifetime licenses without an expiration date. Further, Section 9135 (5p) of 2017 Wisconsin Act 59, nonstatutory provisions, requires the Department to promulgate rules to revise Chapter PI 34 of the Wisconsin Administrative Code, and to simplify the teacher licensure system by doing at least all of the following:

1. Simplifying the grade levels that a licensee is authorized to teach under his or her license.
2. Creating broad field subject licenses.
3. Allowing school boards to increase the number of teachers in a school district by offering internships and residency opportunities.
4. Creating a permit that authorizes an individual who is enrolled in a teacher preparatory program to teach in public schools as part of an internship, residency program, or other equivalent training program.
5. Simplifying licensure reciprocity for individuals who hold a license in another state.
6. Expanding pathways for individuals who hold a license issued by the department to obtain additional licenses to fill positions in geographic areas and subject areas that are in need of educational personnel.

This emergency rule seeks to build upon the changes in Emergency Rule 1711 while conforming with changes to statute under 2017 Wisconsin Act 59. The promulgation of new emergency rules will ensure implementation of the statutes during the promulgation of a related permanent rule (Clearinghouse Rule 17-093), currently pending at the time of the filing of this emergency rule, in order to fulfill the nonstatutory requirement that the Department promulgate rules related to teacher licensure in the manner described above.

Plain language analysis:

This emergency rule will replace Emergency Rule 1711 to align emergency rule provisions with recent changes in statute as a result of 2017 Wisconsin Act 59. In promulgating a new emergency rule, the Department will continue to implement the flexibilities provided by Emergency Rule 1711 with the exception for the provision allowing educators to use professional growth goals and work in educator effectiveness as an option to renew or advance their license, since this provision is no longer consistent with statute. Instead, this new emergency rule creates rules around the new provisional and lifetime licenses, which were created under 2017 Wisconsin Act 59, as well as a subchapter relating to obsolete licenses. This new emergency rule will ensure consistency between rule and statute while a related permanent rule (Clearinghouse Rule 17-093) completes promulgation.

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

Because education in the United States is typically governed by each state and local government, federal regulations are generally silent with respect to teacher licensure. As a result, the requirements for teacher licensure are regulated by and vary by state. However, under 34 CFR 300.156 (c), a special education teacher in the state who teaches elementary school, middle school, or secondary school must have obtained full state certification as a special education teacher, or passed the state special education teacher licensing examination and holds a license to teach in the state as a special education teacher, has not had licensure requirements waived on an emergency, temporary, or provisional basis, and holds at least a bachelor's degree. "Full state certification," according to federal regulations for the purpose of special education teachers, includes participating in an alternate route to certification as a special education teacher if the alternate route includes: 1) high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and

lasting impact on classroom instruction, before and while teaching; 2) participation in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher monitoring program; 3) functions as a teacher only for a specified period of time not to exceed three years; and 4) satisfactory progress toward full certification. This emergency rule makes necessary changes to make the teacher licensing process more flexible and efficient while complying with existing federal regulations related to the qualifications of special education teachers.

Comparison with rules in adjacent states:

- **Illinois** (Illinois Compiled Statutes 105 ILCS 5/21B-5): The Illinois State Board of Education expects all of its certified teachers to complete a state-approved teacher preparation program and have at least a bachelor's degree. While the minimum degree requirement for Illinois teachers is a bachelor's degree, some of these programs are at the graduate level. License applicants graduated from an out-of-state teacher preparation program are recognized by the Illinois Department of Education if it has been approved by that state's Department of Education, or if it leads to a teaching certificate or license in that state. License applicants who graduated from a foreign college or university must have their foreign credentials evaluated and converted to fit the American credits/courses standard to receive licensure.
- **Iowa** (Iowa Administrative Code Chapter 282.13): The Iowa Board of Educational Examiners requires that, in order to be eligible for a teaching license in Iowa, graduates from Iowa institutions must meet the following requirements: 1) A baccalaureate degree from a regionally-accredited institution; 2) Completion of a state-approved teacher preparation program in Iowa, including the required assessments; and 3) Recommendation for licensure from the designated recommending official where the program was completed. Graduates from out-of-state institutions must meet the following requirements: 1) A baccalaureate degree from a regionally-accredited institution; 2) completion of a state-approved teacher preparation program, including the coursework requirements for a content area teaching endorsement, coursework in pedagogy, and a student teaching or internship placement, completed for college semester credit through a regionally-accredited institution; 3) Recommendation for licensure from the designated recommending official where the program was completed; 4) Valid or expired license from another state; and 5) Completion of the required Iowa assessments (not required if the applicant completed their teacher preparation program prior to January 1, 2013, or if the applicant has three years or more teaching experience on a valid license in another state). Applicants who have completed certain nontraditional programs may or may not be eligible for licensure in Iowa.
- **Michigan** (Michigan Administrative Code Section R 390.1101-390.1216): The Michigan Department of Education Office of Professional Preparation Services requires that applicants pursuing certification via a traditional route should hold a bachelor's degree, complete a state-approved teacher preparation program, and earn passing scores on the state-required tests. The traditional route to certification leads to the issuance of a provisional certificate, Michigan's initial teaching certificate for new teachers. After successfully completing three years of teaching experience and continuing education, those holding an initial certificate may upgrade to a Professional Education Certificate. Highly effective and qualified teachers may then move up to the third tier of certification, the Advance Professional Education Certificate. Provisional and interim certificates to teach are available for applicants who are pursuing alternative pathways to licensure.
- **Minnesota** (Minnesota Administrative Rules Chapter 8710): The Minnesota Board of Teaching requires all applicants for teacher licensure in the state to graduate from a state-approved teacher preparation program and hold a minimum of a bachelor's degree, as well as demonstrated completion of a human relations course, which is included in all Minnesota approved teacher preparation programs. Teacher preparation programs completed outside of Minnesota may count if the program is equivalent to that of an approved Minnesota teacher preparation program. If the applicant did not complete a teacher preparation program in one of the states with a reciprocal licensing agreement, the applicant must also complete an approved human relations course in order to be licensed in the state. Applicants who have completed an online teacher preparation program will be recognized as long as the program is regionally accredited, approved by the state in which it is offered, be a field for which Minnesota offers licenses, and include a supervised practicum and student teaching. Graduates of foreign teacher preparation programs must have their credits evaluated by a member agency of the National Association of Credential Evaluation Services.

Summary of factual data and analytical methodologies:

PI 34 contains the current administrative rules governing the licensure of school personnel. Section 115.425, Wis. Stats., and PI 34.36, Wis. Admin. Code, provide the duties of the Professional Standards Council for Teachers, which advises the State Superintendent of Public Instruction on matters pertaining to the licensure of teachers. In its advisory capacity, the Professional Standards Council reviews and makes recommendations for administrative rules related to teacher

preparation, licensure and regulation. Beginning in April 2015, the PSC conducted a review and began the development of a strategic plan for addressing school staffing challenges in Wisconsin with the goal of developing, supporting, and retaining teachers.

Further, a leadership group was convened by the Department to address school staffing challenges and was composed of a diverse set of stakeholders throughout the state to provide feedback and policy recommendations. This group was represented by individuals from various groups, including the Wisconsin Association of School Boards, the Wisconsin Association of School District Administrators, the Wisconsin Association of School Personnel Administrators, the Association of Wisconsin School Administrators, the Wisconsin Education Association Council, the Wisconsin Council of Administrators of Special Services, the University of Wisconsin System, the Wisconsin Association of Colleges for Teacher Education, and the Wisconsin Association of Independent Colleges and Universities. The leadership group recommended strategies to address school staffing needs, including fewer licenses with greater flexibility, easing the licensing process for out-of-state license holders, reducing the testing burden, and expanding pathways into the profession. Some of their recommendations were used in the development of this rule.

Emergency Rule 1711 became effective June 17, 2017, and was promulgated to provide flexibility and transparency around the teacher licensing process. 2017 Wisconsin Act 59, which became effective September 23, 2017, made several changes to the licensure process, including provisions that are not consistent with Emergency Rule 1711, including the elimination of renewal requirements for licenses and creating lifetime licenses without an expiration date. This emergency rule will replace Emergency Rule 1711 with a new emergency rule that ensures consistent implementation of the statutes during the completion of the permanent rule promulgation process under Clearinghouse Rule 17-093. Among the changes, the new emergency rule will replace the provision allowing educators to use professional growth goals and work in educator effectiveness as an option to renew or advance their license with rules around provisional and lifetime licenses and create a subchapter relating to obsolete licenses. Without this emergency rule, statute and rule will not be consistent and the Department will not be in compliance with its requirement under Act 59 to promulgate rules related to licensure.

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), 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. EmR1711, published in the Wisconsin State Journal on June 17, 2017, is repealed.

SECTION 2. PI 34.01 (53) is repealed.

SECTION 3. PI 34.14 (1) (intro.) is amended to read:

PI 34.14 (1) DIVERSITY OF STUDENTS. The SCD shall create and implement an explicit plan with adequate resources to recruit, admit and retain a diverse student body ~~as follows:~~

SECTION 4. PI 34.14 (1) (a) (intro.) is renumbered PI 34.14 (1m) and is amended to read:

PI 34.14 (1m) The SCD shall establish standards for admission to initial programs, ~~that include all of the following:~~

SECTION 5. PI 34.14 (1) (a) 1. to 3. and (b) are repealed.

SECTION 6. PI 34.15 (2) (a) 3. a. is amended to read:

PI 34.15 (2) (a) 3. a. Content knowledge shall be determined by ~~passing scores on standardized tests approved by the state superintendent which shall include the state's model academic standards~~ the candidate having a cumulative grade point average of not less than 3.0 on a 4.0 scale for courses in the subject area or position; achieving passing scores on standardized tests approved by the state superintendent which shall include the state's model academic standards; or successfully completing a content-based portfolio designed by the SCD.

SECTION 7. PI 34.17 (4) is repealed.

SECTION 8. PI 34.17 (5) is amended to read:

PI 34.17 (5) OUT OF STATE APPLICANTS. ~~An initial educator~~ A provisional license may be issued to an applicant who completes an approved program from out of state, who has fewer than 5 years of successful experience in an early childhood through adolescence school setting in his or her respective teaching, pupil services or administrative license, and who has met the competency test requirements under s. PI 34.15 (2) (a) 3. a. A provisional teaching license may also be issued to an applicant who completed a program in another state and received a passing score on the teacher performance assessment approved by the state superintendent. The applicant shall provide evidence that the requirements under s. PI 34.15 (4) have been met before qualifying for a ~~professional educator~~ lifetime license.

SECTION 9. PI 34.175 is created to read:

PI 34.175 Provisional license

(1) A three-year renewable provisional license may be issued to an individual who meets one of the following:

(a) Has completed a preparation program approved by the state superintendent and received an institutional endorsement from that program.

(b) Has completed an approved program in another state and who has met the competency test requirements under s. PI 34.15 (2) (a) 3. a. A provisional educator teaching license may also be issued to an applicant who completed a program in another state and received a passing score on the teacher performance assessment approved by the state superintendent. The applicant shall provide evidence that the requirements under s. PI 34.15 (4) have been met before the individual is eligible for a lifetime license.

(c) Holds an expired initial or professional educator license.

(d) Has received a passing score on the National Board for Professional Teaching Standards assessment. The applicant shall provide evidence that the requirements under s. PI 34.15 (4) have been met before the individual is eligible for a lifetime license.

(2) An individual who does not meet the requirements for a lifetime license may apply to renew the provisional license. There is no limit to the number of times an individual may renew a provisional license under (1).

SECTION 10. PI 34.185 is created to read:

PI 34.185 Lifetime license. A lifetime license with no expiration date may be issued to an individual who meets all of the following:

(1) Holds or has held a provisional license.

(2) Has completed at least 6 semesters of experience in the subject or position of the provisional license in one or more Wisconsin public school districts within the 5 years immediately preceding the effective date of the new lifetime license.

(3) The school board of each school district in which the individual served as a teacher, administrator, or pupil services professional certifies to the department that the semesters completed by that individual in that school district were completed successfully.

SECTION 11. PI 34.21 is repealed and recreated to read:

PI 34.21 License with Stipulations.

(1) The state superintendent may issue a one-year, renewable license with stipulations that authorizes the license holder to teach in the subject area of the license or work in the pupil services area of the license. A license may be issued under this subsection if an individual meets any of the following requirements:

(a) The individual has completed an approved educator preparation program in another state but has not met all of the requirements in this chapter for licensure as a provisional or lifetime educator.

(b) For an individual seeking a license to work as a speech and language pathologist in a school setting, the individual holds a valid speech language pathologist license issued by the department of safety and professional services.

(c) If the individual's employing school district conducted a search for a fully licensed candidate and no fully licensed individuals were acceptable for the assignment, the district administrator or designated official of the employing school district may request that a license be issued under this subsection to an individual who holds a bachelor's degree or higher from an accredited college or university but does not meet the requirements for licensure under s. PI 34.17 or 34.18. This request shall be in writing, provide a justification of need, affirm that a search for a fully licensed candidate was conducted but no fully licensed individuals were acceptable for the assignment, and if the request is for a license with stipulations in a pupil services area, that the candidate meets all education requirements for the pupil services area.

(2) A license under sub. (1) (a) may be renewed if the applicant did any of the following during the term of the license:

(a) Satisfactorily completed at least 6 semester credits in an approved licensure program at an IHE or the equivalent coursework toward completion of a Wisconsin approved alternative route program in the teacher or pupil services area of the emergency license.

(b) Attempted to complete all of the tests required for licensure in the teacher or pupil services area of the license.

(3) A license issued under sub. (1) (b) may be renewed if the applicant continues to hold a valid speech language pathologist license issued by the department of safety and professional services.

(4) A license issued under sub. (1) (c) may be renewed if the individual meets one of the requirements under sub. (2) and the district administrator or designated official of the employing school district submits a written request that meets the requirements of sub. (1) (c).

(5) The state superintendent may issue a 3-year, non-renewable license that authorizes the license holder to teach in a subject or developmental level other than the subject areas or developmental levels covered by the individual's valid initial, professional, master educator, or life license. A license under this subsection may be issued to an individual who meets all of the following requirements:

(a) The individual holds a valid provisional, lifetime, or master educator license.

(b) The individual has at least one year of full-time teaching in the school district that requests this license.

(c) The district administrator or designated official of the individual's employing school district requests that a license to be issued under this subsection and attests that the school district will provide appropriate professional development and supervision to assist the teacher to become proficient in the preparation program content guidelines for the new subject or developmental level.

(6) A license issued under sub. (4) is only valid in the school district that requested it.

(7) Special education teachers who are issued a license under this section must meet the requirements in 20 USC 1412(a)(14)(C).

SECTION 12. PI 34.30 (2) is amended to read:

PI 34.30 (2) TEACHING CATEGORIES EARLY CHILDHOOD THROUGH ADOLESCENCE — REGULAR AND SPECIAL EDUCATION LICENSES. A license may be issued under this subsection to an individual who has completed an approved program in a license category with at least a major and has the institutional endorsement that an approved program in professional education has been successfully completed. An applicant who has completed an approved program and is issued a license under par. (a) to (d), (f) to (k), ~~or (m)~~ to (n), or (p) may be issued an additional license at the early adolescence through adolescence level under s. PI 34.29 (2) (a) 1. a. to c., (b) 1. a. and b., (c) 1. a. to c., or (d) 1. a. to f., if the applicant completes coursework in the additional disciplines that equates to a college minor. An applicant who has completed an approved program and is issued a license under par. (a) to (d), (f) to (k), or (m) to (n) may be issued an additional license at

the early childhood through adolescence level under par. (d), (g) 2. a. to g., (h), or (n) if the applicant completes an approved program that equates to a college minor in the additional discipline.

SECTION 13. PI 34.30 (2) (p) is created to read:

PI 34.30 (2) (p) *Instructional library media specialist.* In order to qualify for an instructional library media specialist license, an applicant shall complete an approved program, including a clinical program that incorporates the model academic standards for library media.

SECTION 14. PI 34.33 (5m) is repealed.

SECTION 15. PI 34.34 (21) is created to read:

PI 34.34 (21) JROTC INSTRUCTOR. A license to teach Junior Reserve Officer Training Corps courses may be issued to an applicant who holds a valid Junior Reserve Officer Training Corps instructor certification from the United States Army, Navy, Air Force, or Marine Corps. This permit shall be valid for 5 years and is renewable.

SECTION 16. Subchapter IX of PI 34 is created to read:

SUBCHAPTER IX
OBSOLETE LICENSES

PI 34.37 Obsolete Licenses.

(1) Based on the needs of school districts and enrollments in preparation programs, the state superintendent may choose to designate licenses as being obsolete and no longer issue initial licenses in that area. A person who holds a license that is designated as obsolete may continue to carry out any functions permitted by the license, as long as the license remains valid.

(2) All of the following licenses are designated as obsolete:

- (a) Music (all) – 500
- (b) Reading Specialist – 2-year nonrenewable
- (c) Reading Teacher – 2-year nonrenewable
- (d) Science (all) – 600
- (e) Astronomy – 627
- (f) General Science – 620
- (g) Geology – 637
- (h) Physiology – 630
- (i) Provisional School Psychologist – 56
- (j) School Psychologist I – 57
- (k) School Psychologist II – 58
- (L) District administrator – 05
- (m) Assistant district administrator – 06
- (n) High school principal – 25
- (o) Assistant high school principal – 26
- (p) Junior high school principal –
- (q) Assistant junior high school principal – 31
- (r) Elementary school principal – 35
- (s) Assistant elementary school principal – 36
- (t) Elementary school principal – 40
- (u) District administrator – 04
- (v) Elementary/middle level principal – 34
- (w) Middle/secondary level principal – 24
- (x) Supervisor, coordinator or director – 10, – 15, – 20
- (y) Special education supervisor – level A –
- (z) Supervisor of counseling and guidance – 968
- (aa) Supervisor of counseling and guidance – bilingual – 969

- (ab) School library supervisor – 09–900
- (ac) Instructional Library Media Supervisor - 5091
- (ad) Instructional Technology Coordinator – 5092
- (ae) Charter School Instructional Staff

SECTION 17. STATEMENT OF EMERGENCY

The Department of Public Instruction finds an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

The licensure changes provided by 2017 Wisconsin Act 59 have become effective September 23, 2017 and an emergency rule is needed to administer these changes while the related permanent rule completes promulgation.

SECTION 18. EFFECTIVE DATE:

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Dated this _____ day of _____, 2018

Tony Evers, PhD
State Superintendent