

Filed with LRB: March 4, 2013
Publication Date: March 8, 2013
Effective Dates: March 8, 2013 through August 4, 2013
Hearing Date: June 6, 2013

EmR1303

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

The scope statement for this rule, SS 013-13, was published in Register No. 686, on February 14, 2013, and approved by Superintendent Evers, on February 25, 2013. Per the Dane County Circuit Court order issued in Coyne, et al. v. Walker, et al., Case No. 11-CV-4573, the Department of Public Instruction is not required to get the Governor's approval for the statement of scope or this rule.

The state superintendent of public instruction hereby creates PI 47, relating to the equivalency process for approving alternative models to evaluate educator practice.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 115.415 (3) Stats.

Statutory authority: s. 115.415 (3) Stats.

Explanation of agency authority:

Section 115.415 (3), Stats., requires the department to promulgate an equivalency process for measuring alternative models for evaluating educator practice.

Related statute or rule: s. 115.415 (1)-(2) Stats.

Plain language analysis:

Section 115.415 (3), Stats., requires the department to establish a process for determining whether alternative models for evaluating educator practice are equivalent to state standards.

The proposed rule establishes the necessary criteria and guidelines for approving an alternative model for evaluating educator practice. This rule lays out the framework for the equivalency review process, what is needed by applicants, and a timeline of implementation.

The statewide implementation of the Wisconsin Educator Effectiveness System begins in the 2014-15 school year, with a pilot program in the 2013-14 school year. For the 2013-14 school year, any district, consortia of districts, or charter school established under s. 118.40(2r), Stats., planning to submit an application for Equivalency Review must provide written notification to the department of the district's intention on or before March 15, 2013. All applications must be submitted by April 15, 2013. The department will notify applicants of Equivalency status on or before May 15, 2013. In subsequent years, any district, consortia of districts, or charter school established under s. 118.40(2r), Stats., planning to submit an application for Equivalency Review must provide written notification to the department of the district's intention on or before January 15 of the school year preceding the planned implementation. All applications must be submitted on or before March 15 of the

school year preceding the planned implementation. The department will notify applicants of Equivalency Status on or before April 15 of the school year preceding the planned implementation.

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

Comparison with rules in adjacent states: Focus on equivalency processes

Illinois has established a similar educator effectiveness system, the Performance Evaluation Reform Act. Under the Illinois system, teachers and principals may be evaluated by any person who successfully completes training and a pre-qualification. Unlike Wisconsin's state model, Illinois is requiring all districts to design and implement systems to measure teacher and principal performance. Districts then have two options for adopting a new system that incorporates student growth measures into teacher evaluations: a school district can develop its own system that meets minimum standards mandated by state rules, or it can choose to use all or portions of a state-designed optional model. A special advisory group, the Performance Evaluation Advisory Committee, provides input on rules for districts wanting to develop their own teacher and principal evaluation systems, and provides recommendations for a statewide model for principal evaluation and a default/optional model for teacher evaluation.

Iowa allows school districts to design educator evaluation systems as long as they align with the state teaching standards. School districts are required to determine what policies, procedures, and processes are needed to support state teaching standards. Further, teacher evaluation systems must be built around a range of sources of data and information that encourage and support the demonstration of teacher mastery of the state teaching standards.

Michigan is currently in the process of developing an educator evaluation system. The Michigan Council for Educator Effectiveness will develop a fair, transparent, and feasible evaluation system for teachers and school administrators. The system will be based on rigorous standards of professional practice and of measurement. The goal of this system is to contribute to enhanced instruction, improve student achievement, and support ongoing professional learning. Currently Michigan is in the process of piloting over 800 different systems designed by school districts.

Minnesota has a voluntary educator evaluation system, the Quality Compensation, which allows local districts and exclusive representatives of the teachers to design and collectively bargain for a plan incorporating career ladder/advancement options, job-embedded professional development, teacher evaluation, performance pay, and an alternative salary schedule.

Summary of factual data and analytical methodologies:

Wisconsin Act 166 created s. 115.415, Stats., regarding educator effectiveness practices and defined the parameters for the review model.

Section 115.415 (3), Stats., mandates the promulgation of an equivalency process to review alternative educator evaluation models for use by public school districts and charter schools established under s. 118.40 (2r). The equivalency process shall be based on the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards.

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 indirectly benefit some small businesses involved in creating alternative educator evaluation programs since these have the potential to be approved and used throughout the state. However, the 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)

The agency person to be contacted if there are substantive questions on the rules:
Sheila Briggs, Director, Division for Academic Excellence, sheila.briggs@dpi.wi.gov, (608) 266-3361.

The agency person to be contacted for the agency's internal processing of rules:
Katie Schumacher, Administrative Rules Coordinator, Katie.Schumacher@dpi.wi.gov, (608) 267-9127.

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

The department will publish a hearing notice in the *Administrative Register* which will include this information.

SECTION 1. Chapter PI 47 is created to read:

CHAPTER PI 47
EQUIVALENCY PROCESS FOR EDUCATOR EFFECTIVENESS

PI 47.01 Purpose.

(1) The department recognizes that any one model for evaluating educator practice and its rubrics for observation might not suit every district. Therefore, the department has developed an application process for districts wishing to use Equivalent Models to measure teacher or principal practice within the Educator Effectiveness System.

(2) Under s. 115.415(3), Stats., the department must evaluate for approval any district's Equivalent Model. This chapter establishes the process by which these Equivalent Models can be approved based on their alignment with state standards.

PI 47.02 Definitions. In this chapter:

- (1) "Charter school" is a school established under 118.40 (2r).
- (2) "Department" means the Wisconsin department of public instruction.
- (3) "Educator Effectiveness System" means the program under s. 115.415.
- (4) "Equivalency" means the state or condition of being equal or comparable in purpose, value, meaning, or effect.
- (5) "Equivalent Model" means an alternative model under s. 115.415 (3), Stats.
- (6) "Inter-rater agreement" means consistency among evaluators.
- (7) "Principal" means the individual who serves as the administrator of the school.
- (8) "Rubrics" means the tool supporting systematic, objective evaluation of educator practice during an observation.
- (9) "School district" has the meaning defined in s. 115.01 (3), Stats.
- (10) "School year" has the meaning defined in s. 115.001 (13), Stats.
- (11) "State Educator Effectiveness Model" means the model under s. 115.415(2)(b), Stats.

(12) “Teacher” means any employee engaged in the exercise of any educational function for compensation in the public schools, including charter schools established under s. 118.40 (2r), Stats., whose primary responsibilities include all of the following:

- (a) Instructional planning and preparation.
- (b) Managing a classroom environment.
- (c) Pupil instruction.

PI 47.03 General requirements for applicants.

(1) **ELIGIBILITY.** Any school district, consortia of school districts, or charter school may notify the state superintendent in writing of its intent to apply for a review of an Equivalent Model.

(2) **APPLICATION DEMONSTRATIONS.** As part of the review process, applicants shall demonstrate the following:

(a) For the teacher evaluation model:

1. The alignment of framework and rubrics to the Interstate Teacher Assessment and Support Consortium standards and to each of the following four domains:

- a. Planning and preparation.
- b. Classroom environment.
- c. Instruction.
- d. Professional responsibilities.

(b) For the principal evaluation model:

1. The alignment of framework and rubrics to the Interstate School Leaders Licensure Consortium standards.

(c) For both the teacher and principal evaluation models:

- 1. The research base supporting the model and its rubrics has valid and reliable results.
- 2. The rubrics have four performance levels with clearly delineated, observable differences between levels which align to the state practice performance levels.
- 3. The Equivalent Model includes the same minimum number and type of observations and evaluations as the State Educator Effectiveness Model.
- 4. The Equivalent Model specifies how formative and summative feedback will inform the educator’s professional growth plan.
- 5. The development and implementation of a comprehensive orientation and training program for evaluators that certifies the evaluator’s understanding of the evaluation model and processes and the inter-rater agreement. The Equivalent Model specifies how and when evaluator recertification will be required.
- 6. The development and implementation of ongoing processes to monitor and improve the inter-rater agreement.

(3) **ASSURANCES.** As part of the review process for Equivalent Models, applicants shall agree to the following:

- (a) Applicants and their participants shall report teacher-level, school-level, and district-level data required by the department within guidelines established by the department.
- (b) Applicants shall transfer data electronically to the department according to established technologies as defined by the department, including ability to assign unique identification numbers for entities as part of the data sharing protocols specified by the department.
- (c) Applicants shall participate in a statewide evaluation conducted by an independent, non-biased external evaluator.

- (d) Applicants shall implement any corrective actions required by the department if the department determines there is credible evidence indicating that a school, school district, consortium of school districts, or charter school is no longer in compliance with the requirements of this chapter.
- (4) **TIMELINE FOR 2013-2014 SCHOOL YEAR.** Applicants shall meet the following deadlines in order to be considered for approval by the department for the 2013-2014 school year.
- (a) Any school district, consortium of school districts, or charter school planning to submit an application for review of an Equivalent Model shall provide written notification to the department of that intention on or before March 15, 2013. The notification shall include the name and contact information for the staff member responsible for the application.
- (b) Applicants shall submit all applications on or before April 15, 2013. Applications shall include a completed Equivalency Review Process Application form and all supporting evidence.
- NOTE: The Equivalency Review Process Application form may be obtained at no charge from the Department of Public Instruction, Educator Effectiveness Team, P.O. Box 7841, Madison, WI 53707-7841.
- (c) Any approved Equivalent Model will be granted approval for the 2013-14 school year only.
- (5) **TIMELINE FOR SUBSEQUENT YEARS.** Applicants shall meet the following deadlines in order to be considered for approval by the department after the 2013-14 school year.
- (a) Any school district, consortium of school districts or charter school planning to submit an application for an Equivalent Model, even if that Equivalent Model has been previously approved, shall provide written notification to the department of their intention on or before January 15. The notification shall include the name and contact information for the staff member responsible for the application.
- (b) Applicants shall submit all applications on or before March 15. Applications shall include a completed Equivalency Review Process Application form and all supporting evidence to the department.
- NOTE: The Equivalency Review Process Application form may be obtained at no charge from the Department of Public Instruction, Educator Effectiveness Team, P.O. Box 7841, Madison, WI 53707-7841.
- (c) Except as provided in paragraph (d), school districts, consortia of school districts, and charter schools must reapply for approval annually.
- (d) Beginning in the 2016-17 school year, applicants may apply for and receive approval for a period of longer than one year, as determined by the department.

PI 47.04 General requirements for department.

- (1) The department shall make the final decision to approve or not approve Equivalent Models. The department may engage external stakeholders to participate in the review process.
- (2) The department shall notify applicants in writing of the status of that applicant's Equivalent Model on or before May 15 in 2013 and April 15 in subsequent years.
- (3) If the department does not approve an application, an applicant will have an opportunity to submit additional evidence and supporting documents until June 15 in 2013 and May 15 in subsequent years. If the department does not approve the application after the additional review period, the applicant shall continue implementing the State Educator Effectiveness Model and may reapply the following year.

PI. 47.05 Corrective action.

- (1) The department may order a school district, consortium of school districts or charter school to implement corrective action specified by the department if the department determines that there is credible evidence indicating that a school, school district, consortium of school districts, or charter school is no longer in compliance with the requirements of this chapter.
- (2) If a school district, consortium of school districts, or charter school fails to implement all corrective actions in the timeline specified by the department, the department may rescind approval of that applicant's Equivalent Model. The school district, school districts within the consortium, or charter school shall adopt the State Educator Effectiveness Model in the timeframe prescribed by the department.

SECTION 2. STATEMENT OF EMERGENCY:

FINDING OF EMERGENCY

The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

Section 115.415 (3), Stats., requires the department to establish an equivalency process for reviewing alternative educator effectiveness systems. The statute also specifies criteria on which the process shall be based, including alignment to the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards. Additionally, the statute explains certain approval requirements.

The Educator Effectiveness System will be fully implemented and mandatory throughout the entire state by the 2014-15 school year. The pilot, which allows schools and districts to implement the system and inform modifications, will go into effect during the 2013-14 school year.

In order to have possible alternative models available for pilot use in 2013-14, there is an urgent need to get the equivalency process in place to approve other evaluation models. Districts intending on applying for an equivalency review of an alternative model must alert the department in writing by March 15, 2013, and January 15 each subsequent year. They must submit their application by April 15 of this year and March 15 each subsequent year in order to be approved.

SECTION 3. 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 _____, 2013

Tony Evers, PhD
State Superintendent