

Report From Agency
FINAL REPORT
CLEARINGHOUSE RULE 16-057
CHAPTER PI 17
SUMMER AND INTERIM SESSION CLASSES

Analysis by the Department of Public Instruction

Statutory authority: s. 121.14 (1) (a) and 227.11 (2) (a) (intro.), Stats.

Statute interpreted: s. 121.14 (1) (a), Stats.

The proposed rule modifies existing policies and practices which include the following:

- Alignment of existing summer and interim session courses with the regular academic curriculum
 - Membership calculations related to courses funded partially or solely with grant funds
 - Allows open enrolled students attending a summer or interim course to be included in the membership count for aid and revenue limit purposes
 - Removal of duplicative and unnecessarily restrictive language relating to the operation of summer school in cooperation or through an agreement with another entity
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The hearing notice was published in the October 24th, 2016 edition of the Wisconsin Administrative Register. A public hearing was held on November 10th, 2016.

The following persons testified at the November 10th, 2016 hearing:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Daniel Bush	Lodi School District	X		

The following persons submitted written testimony:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Glenda Crook	Representing Self	X		
Melinda Goplin	Representing Self	X		
Eric Follendorf	Representing Self	X		
Linda Sattler	Representing Self	X		
Kevin Hoffman	Representing Self	X		
Hannah Wolsdorf	Representing Self	X		
Lori Rowe	Representing Self	X		
Troy Talford	Representing Self	X		
Chelsea Galinsky	Representing Self	X		
Whitney Barnes	Representing Self	X		

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Benjamin Rayome	Representing Self	X		
Ginger James	Representing Self	X		
Rene Lehman	Representing Self	X		
Mike Vaughan	Representing Self	X		
Pamela Ziolkowski	Representing Self			X
Valerie Hon	Representing Self			X
Rebecca Wendel	Representing Self			X

Summary of public comments relative to the rule and the agency’s response to those comments:

Comments on the Rule

- Most of the comments indicated support for the new flexibilities to encourage and grow instructional programming outside of the traditional school year through the rule change. Comments were specifically positive toward changes that allow field trips, competitions, and performances that are scheduled during summer or interim session classes to be counted toward instructional minutes for general aid and revenue limit calculations, similar to that of the regular school year. It can be argued that if the funding for summer and interim session classes were extended to include field trips, competitions, etc., for instructional purposes, school districts would be able to enhance a student’s educational experience during the summer in a way that they may not have been able to afford to do on their own without the rule change. This is particularly beneficial for programs such as agricultural education (FFA) or other scholastic competitions.
- One concern was raised regarding the interaction between the new and existing language on licensure for swimming instruction; specifically, s. PI 17.02 (1d), as amended by the revision, would make explicit and overarching the Department’s interpretation that summer or interim session instruction must be taught by a Department-licensed teacher for the time to be counted toward membership. However, s. PI 17.03 (2) (b), which is not affected by the revision, states that swimming may be “taught or directed” by a licensed teacher. While it is not thought that the amended PI 17.02 (1d) necessarily contradicts PI 17.03 (2) (b), it would be helpful to confirm that the Department’s intent behind and interpretation of the proposed rule is not to prohibit the practices currently in place by school districts for swimming instruction, such as providing lessons through a Red Cross-certified Water Safety Instructor under the direction of a licensed physical education teacher.
- Another concern was raised regarding the ability of school districts to plan for emergency nursing services during summer sessions. Often, many school districts do not have a school nurse for contact on a daily basis, and those that do don’t have contracted nursing hours for summer sessions, therefore putting the safety of students at risk. While the rule changes are welcomed, it has been suggested that if summer school programming is going to be encouraged and expanded then the Department should include in the information they share with school districts descriptive language and resources for emergency nursing services during summer school sessions.

Agency Response

- In response to the concerns regarding swimming instruction, the Department believes that the proposed rule, as written, still provides an exception for swimming to be taught or directed by a licensed teacher. As such, it will not prohibit the practices currently in place by school districts regarding swimming instruction.
- In response to the concerns regarding emergency nursing services, the Department finds that under s. 121.02 (1) (g), Stats., each school board is required to provide for emergency nursing services. This statutory requirement applies broadly to school districts all year when educational services are provided to students; therefore, no change to the rule is necessary. However, the Department will provide information regarding emergency nursing services to school districts in the process of establishing a summer school program as a matter of guidance.

Changes made as a result of oral or written testimony:

- No changes were made.

Changes to the analysis or the fiscal estimate:

- No changes were made.

Responses to Clearinghouse Report:

1. Statutory Authority:

a. As a part of its 2017-19 biennial budget request, the Department opted to request a statutory change that makes explicit the Department's authority to allow nonresident school districts to count open enrolled pupils in its summer average daily membership for attendance in summer or interim session classes. Therefore, this provision of the rule will be removed.

2. Form, Style and Placement in Administrative Code:

a. Because Wisconsin has a constitutionally protected and unique system for which public schools are funded, the Department believes that a comparison with rules in adjacent states was not necessary.

b. The Department accepts this change and provided the deadline to submit comments on the proposed rule.

c. The Department accepts this change and repealed the definition of CESA under s. PI 17.02 (1m), Wis. Admin. Code.

5. Clarity, Grammar, Punctuation and Plainness:

a. The Department accepts this change and changed "s." to "ss." in the list of statutes cited for statutory authority.

b. The Department accepts this change and has modified its plain language analysis to ensure clarity.

c. The Department accepts this change and replaced the term "student" with "pupil." Additionally, s. PI 17.03 (2) (c), Wis. Admin. Code will be revised to ensure that one term is consistently used throughout the chapter.

d. The Department accepts this change and rephrased the newly created s. PI 17.04 (1m) to state that all pupils who attend a summer or interim course that is necessary for academic purposes, regardless of the course funding source, must be included in the summer average daily membership equivalent, unless the school district receives tuition for the pupils.

e. Because the Department has removed the provision allowing nonresident school districts to count open enrolled pupils in its summer average daily membership for attendance in summer or interim session classes, the Department believes this change is no longer necessary.