Chapter PI 49

SPECIAL NEEDS SCHOLARSHIP PROGRAM

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Note: Chapter PI 49 was created by emergency rule, EmR1619, effective 6–2–16.

PI 49.01 Purpose. Any qualified pupil in grades kindergarten to 12 who meets the requirements under s. 115.7915, Stats., may attend any school participating in the special needs scholarship program under s. 115.7915, Stats. This chapter establishes eligibility and participation requirements for schools participating in the special needs scholarship program under s. 115.7915, Stats., the calculation and distribution of scholarships under s. 115.7915 (4m) and (4p), Stats., and the application and approval procedures for pupils and eligible schools under s. 115.7915, Stats.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; EmR1815: emerg. am., eff. 7–1–18; EmR1911: emerg. am., eff. 7–1–19; CR 19–095: am. Register March 2020 No. 771, eff. 4–1–20.

PI 49.02 Definitions. In this chapter:

(1) "4–year–old kindergarten outreach activities" means the direct services that a school provides to 4–year–old kindergarten parents and primary caregivers that have an educational component that fulfills the requirements of s. 121.004 (7) (cm), Stats.

(2) "Applicant" means a child's parent who is acting on behalf of the child, or, for a child with a disability who has reached the age of 18 and has not been adjudicated incompetent, the child.

(3m) "Classroom records" means teacher–originated test scores, report cards, progress reports, and attendance records.

(4) "Count date" means the third Friday in September and the second Friday in January except as provided under s. 121.05 (3m), Stats.

(5) "Department" means the Wisconsin department of public instruction.

(5m) "Designee" means an individual who is designated to assist in processing pupil applications and transfer requests by the special needs scholarship program administrator on a form provided by the department.

(6) "Eligible education expenses" means all direct and indirect costs associated with a private school's educational programming for pupils enrolled in grades kindergarten to 12.

(7) "Financial audit" means the modified financial audit or standard financial audit, and includes the audit opinion and supplemental schedule, required under s. PI 49.09.

(8) "Full scholarship pupil" means a pupil who was determined to meet the application requirements of s. 115.7915 (2), Stats., and this chapter, and is eligible for a payment under s. 115.7915 (4m) (a), Stats.

(9) "Generally accepted auditing standards" means the auditing standards prescribed by the accounting examining board under s. Accy 1.202.

(9m) "Local education agency" means a school district or the operator of a charter school under s. 118.40 (2r) or (2x), Stats.

(9s) "Modified financial audit" means the audit required under s. 115.7915 (6) (e), Stats., for a school that received less than $100,000 under ss. 115.7915, 118.60, and 119.23, Stats., in any school year.

(10) "Official attendance records" means a listing of all kindergarten through grade 12 pupils enrolled in the school by grade level.

(11) "Parent" has the meaning given in s. 115.76 (12), Stats.

(12) "Partial scholarship pupil" means a pupil who was determined to meet the application requirements of s. 115.7915 (2), Stats., and this chapter, and is eligible for a payment under s. 115.7915 (4m) (e), Stats.

(12m) "Primarily special needs scholarship program expenses" means eligible education expenses that are at least 50 percent related to special needs scholarship program pupils.

(13) "Professional standards" means all of the following:

(a) Standards established by the accounting examining board under ch. 442, Stats.

(b) Standards issued by the comptroller general of the United States for engagements in which the use of generally accepted governmental auditing standards is required.

(c) Standards issued by the American Institute of Certified Public Accountants.

(14) "Reserve" means the difference between the revenue received under s. 115.7915, Stats., and the amount of net eligible education expenses for special needs scholarship program pupils.

(15) "Scholarship" means a payment under s. 115.7915 (4m) or (4p), Stats.

(16) "School term" has the meaning given in s. 115.001 (12), Stats.

(17) "School year" has the meaning given in s. 115.001 (13), Stats.

(18) "Special needs scholarship program administrator" means the person who has the authority to do all of the following:

(a) Process pupil applications and transfer requests.

(b) File reports and forms required under this chapter and s. 115.7915, Stats.

(19) "Special needs scholarship program" means the program established under s. 115.7915, Stats.

(19m) "Standard financial audit" means the audit required under s. 115.7915 (6) (e), Stats., for a school that annually received a total of at least $100,000 under ss. 115.7915, 118.60, and 119.23, Stats., in any school year.

(20) "State superintendent" means the state superintendent of public instruction.

(21) "Working papers" means the record of audit procedures performed by the auditor, the relevant audit evidence obtained by the auditor, and the conclusions reached by the auditor.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; EmR1630: emerg. cr. (5m), (9m), am. (18), eff. 11–1–16; CR 16–066: cr. (5m), (9m), am. (18) Register April 2017 No. 736, eff. 5–1–17; EmR1815: emerg. r. (3), am. (5m), (7), (15), cr. (19m), eff 7–1–18; EmR1911: emerg. r. (3), cr. (3m), am. (5m), (7), cr. (9s), (12m), am. (15), renum. (18) to (18) (intro.) and am., cr. (19m), eff. 7–1–19; CR 19–095: r. (3), cr. (3m), am. (5m), (7), cr. (9s), (12m),

am. (15), renum. (18) to (18) (intro.) and am., cr. (19m) Register March 2020 No. 771, eff. 4–1–20; correction in (12m) made under s. 35.17, Stats., Register March 2020 No. 771.

PI 49.03 School requirements. (1) PRIVATE SCHOOL. A school participating in the special needs scholarship program shall be a private school as defined in s. 115.001 (3r), Stats.

(2) SPECIAL NEEDS SCHOLARSHIP PROGRAM ADMINISTRATOR. The special needs scholarship program administrator shall be one of the following:

(a) An owner of the school.

(b) An individual appointed as the school's special needs scholarship program administrator by the governing body of the organization operating the school.

(3) NOTICE OF INTENT TO PARTICIPATE. Annually by the first weekday in March, a school that intends to participate in the special needs scholarship program in the following school year shall file a notice of intent to participate with the department. The notice shall include all of the following:

(a) The number of scholarships the school has available for new pupils applying to the special needs scholarship program under s. PI 49.05 (3) or transferring to the school under s. PI 49.05 (5).

(b) The number of full scholarship pupils and partial scholarship pupils that will continue to participate in the special needs scholarship program based on the following:

1. The school shall include all special needs scholarship program pupils on the second Friday in January count report filed under s. PI 49.06 (5), unless the school has received written correspondence from the parent withdrawing the pupil from the special needs scholarship program.

2. The school shall include any other special needs scholarship pupils accepted at the school after the second Friday in January, unless the school has received written correspondence from the parent withdrawing the pupil from the special needs scholarship program.

3. The school may only identify a pupil as a partial scholarship pupil if the pupil's individualized education program team has determined that the pupil is no longer a child with a disability as specified under s. 115.7915 (4m) (e) 1., Stats., prior to the date the school files its notice of intent to participate with the department.

(bm) The expected number of special needs scholarship program pupils that will participate in summer school under s. PI 49.16.

(c) The school's special education program profile required under s. 115.7915 (6) (g), Stats.

(d) The signature of the head of the governing board, or if designated by the head of the governing board, the special needs scholarship program administrator.

(e) The name of the special needs scholarship program administrator.

Note: The notice of intent to participate and special education program profile may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

(4) BACKGROUND CHECKS. (a) In this subsection, "license" means a valid license issued by the department under ch. PI 34.

(b) Schools shall conduct criminal background investigations of all employees by completing one of the following:

1. Conduct a criminal background check prior to employing any individual at the school and every 5 years after the date of the previous background check.

2. Complete all of the following procedures for an individual with a license:

a. Obtain and retain a copy of the license.

b. Annually determine that the individual has a license in advance of the employee working for the school term.

(c) The requirements under par. (b) shall be completed for all individuals defined as employees under s. 108.02 (12), Stats., who are directly or indirectly related to educational programming. For the purposes of this paragraph, an individual shall be determined to be directly or indirectly related to educational programming if any of the following apply:

1. Any compensation for the individual is included as an eligible education expense in a financial audit submitted under s. 115.7915, 118.60, or 119.23, Stats.

2. The individual interacts with pupils.

3. The individual performs financial, administrative, or academic duties for the school.

(d) A school may not employ any of the following individuals:

1. Individuals who have engaged in immoral conduct as defined under s. 115.31 (1) (c), Stats.

2. Individuals who are not eligible for a teaching license under s. 118.19 (4), Stats.

(5) CERTIFICATE OF OCCUPANCY. (a) By the first weekday in May prior to the first year a school participates in the special needs scholarship program, the school shall file one of the following documents with the department for all locations of the school:

1. A certificate of occupancy issued by the municipality within which the school is located.

2. If the municipality within which the building is located does not issue certificates of occupancy, a certificate of occupancy issued by the local or regional governmental unit with authority to issue certificates of occupancy.

3. A letter or form from the municipality within which the building is located that explains that the municipality does not issue certificates of occupancy.

(b) If a school moves to a new location or adds a new location, the school shall file one of the following with the department before pupils attend the new location:

1. A certificate of occupancy issued by the municipality within which the building is located.

2. If the municipality within which the building is located does not issue certificates of occupancy, a certificate of occupancy issued by the local or regional governmental unit with authority to issue certificates of occupancy.

3. A letter or form from the municipality within which the building is located that explains that the municipality does not issue certificates of occupancy.

(c) A temporary certificate of occupancy does not meet the requirements of this subsection.

(6) ACCREDITATION REQUIREMENTS. A school participating in the special needs scholarship program shall be accredited by an accrediting agency under s. 115.7915 (2) (c), Stats., for all of the grades the school makes available to special needs scholarship program pupils. Annually by August 1, a school participating in the special needs scholarship program shall file with the department a notice from the school's accrediting agency under s. 115.7915 (2) (c), Stats., stating that the school is accredited as of the date of the notice. The notice shall meet all of the following requirements:

(a) The notice shall include the following information:

1. The school's name.

2. The school's address for each location included in the accreditation.

3. The grades accredited by the agency.

4. Notification that the school is accredited at the time the notice is filed.

(b) The notice shall be filed no earlier than the beginning of the school year.

(c) The notice shall be completed by an authorized member of the accrediting agency.

(7) STATE SUPERINTENDENT APPROVAL. Annually by the first weekday in March preceding the school year of participation, a school seeking approval as a private school by the state superintendent under s. 115.7915 (2) (c), Stats., shall file with the department a special needs scholarship program private school requirements form demonstrating the school meets all of the requirements under s. 118.165 (1), Stats.

Note: The special needs scholarship program private school requirements form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; EmR1630: emerg. cr. (3) (e), r. (5) (d), am. (6) (intro.), (a) 3., cr. (7), eff. 11–1–16; CR 16–066: cr. (3) (e), r. (5) (d), am. (6) (intro.), (a) 3., cr. (7) Register April 2017 No. 736, eff. 5–1–17; EmR1815: emerg. cr. (3) (bm), r. and recr. (4), am. (5) (a) (intro.), (6) (intro.), (a) (intro.), 4., (b), (c), eff 7–1–18; EmR1911: emerg. am. (3) (intro.), (b) 1., 3., cr. (3) (bm), am. (3) (d), r. and recr. (4), am. (5) (a) (intro.), (b) (intro.), (6) (intro.), (a) (intro.), 4., (b), (c), (7), eff. 7–1–19; CR 19–095: am. (3) (intro.), (a), (b) 1., 3., cr. (3) (bm), am. (3) (d), r. and recr. (4), am. (5) (a) (intro.), (b) (intro.), (6) (intro.), (a) (intro.), 4., (b), (c), (7) Register March 2020 No. 771, eff. 4–1–20; correction in (4) (c) 1. made under s. 35.17, Stats., Register March 2020 No. 771.

PI 49.04 Financial information and surety bond.

(1) DEFINITIONS. In this section:

(a) "Initial expected payment" means a school's expected scholarship payment amount based on the total of the following:

1. The full–time equivalent for pupils expected to participate in the special needs scholarship program multiplied by the per pupil payment amount determined under s. 115.7915 (4m), Stats. The full–time equivalent for the pupils in this subdivision shall be based on the number of scholarships identified as available in the school's notice of intent to participate filed under s. PI 49.03 (3).

2. The expected summer school payment for pupils participating in the special needs scholarship program based on the expected number of special needs scholarship program pupils that will participate in summer school identified in the school's notice of intent to participate filed under s. PI 49.03 (3).

(b) "Revised expected payment" means a school's expected scholarship payment amount calculated as the total of the following:

1. The full–time equivalent for pupils expected to participate in the special needs scholarship program multiplied by the per pupil payment amount determined under s. 115.7915 (4m), Stats. The full–time equivalent for the pupils in this subdivision shall be based on the number of scholarships identified as available in a revised school information update form filed under sub. (5).

2. The expected summer school payment for pupils participating in the special needs scholarship program based on the expected number of special needs scholarship program pupils that will participate in summer school identified in the school's notice of intent to participate filed under s. PI 49.03 (3).

(1m) FINANCIAL REQUIREMENTS. If a school's initial expected payment is at least $50,000, the school shall do one of the following:

(a) Annually by the first weekday in June prior to the school year, file a bond with the department payable to the state of Wisconsin equal to 25 percent of the initial expected payment.

(b) Annually by the first weekday in March prior to the school year, file financial information with the department that demonstrates that the school has the ability to pay an amount equal to the initial expected payment, including all of the following:

1. A budget and cash flow report, on a form provided by the department, for the following school year that contains all of the following:

a. Anticipated enrollments for all pupils enrolled in the school.

b. Anticipated enrollments for special needs scholarship program pupils.

c. Estimated total revenues and costs.

d. Estimated amounts required under s. PI 49.09 (3) (a) and (b).

e. A schedule of anticipated beginning and ending net assets.

f. Anticipated beginning and ending reserve balance.

2. A statement of whether the school has any past due amounts, interest, or penalties due to the U.S. internal revenue service, the Wisconsin department of workforce development, or the Wisconsin department of revenue. An amount must be disclosed even if it is in dispute. If a school has past due amounts, interest, or penalties due to a government entity, the school shall do all of the following:

a. Disclose to the department the outstanding amount owed.

b. File with the department statements or other correspondence from the government entity stating the amount the government entity claims is due, the amount in dispute, and nature of the amount due.

3. The most recent balance sheet and income statement for the legal entity of the school.

4. Bank statements for all cash and investment accounts included in the balance sheet required under subd. 3.

5. Any other information required by the department to determine the financial position of the school.

Note: The budget and cash flow report may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

(2) FINANCIAL INFORMATION REVIEW. The department shall review the financial information filed by a school under sub. (1m) (b) and any other information available to the department to determine if the school meets the requirements under s. 115.7915 (6) (f) 2., Stats. In making a determination, the department shall remove the special needs scholarship program revenue from the school's budget to determine if any of the following indicators exist:

(a) The school has inadequate revenues and other financial resources to fund current operations in the budget filed under sub. (1m) (b).

(b) The school has negative cash flows in any month in the budget filed under sub. (1m) (b).

(c) The school has a negative net asset balance in the financial audit, or in a financial audit submitted under s. 118.60 or 119.23, Stats., or in the budget filed under sub. (1m) (b).

(d) The school has a negative net current obligation in the financial audit, or in a financial audit submitted under s. 118.60 or 119.23, Stats., or in the budget filed under sub. (1m) (b). The net current obligation shall be calculated as the current assets less the current liabilities.

(e) The school has a net loss or negative change in net assets in the financial audit, or a financial audit submitted under s. 118.60 or 119.23, Stats., or in the budget filed under sub. (1m) (b).

(f) The audit opinion statement included in the financial audit, or a financial audit submitted under s. 118.60 or 119.23, Stats., contains a qualification as to the school's ability to continue as a going concern.

(g) The school failed to make payments to vendors as required by written agreement or, if there is no written agreement, within 90 days of invoice or payment request. The department shall consider this an indicator even if the school has entered into a payment plan with the vendor to pay the past due amount.

(h) The school has past due amounts with government agencies, including payment of employee withholdings. The department shall consider this an indicator even if the school has entered into a payment plan with the government agency to pay the past due amount.

(i) The school failed to pay its employees as required by ch. 109, Stats., or by written agreement with the employee.

(3) INSUFFICIENT FINANCIAL INFORMATION. (a) Except as provided under par. (b), the department shall determine that a school does not meet the requirements under s. 115.7915 (6) (f) 2., Stats., if any of the indicators under sub. (2) exist.

(b) An amount in dispute identified under sub. (2) (g) shall not be considered an indicator under sub. (2) (g) if all of the following are true:

1. The school provided the department with written correspondence between the school and the vendor evidencing that the amount is in dispute.

2. The school has sufficient cash available to pay the amount in dispute.

3. The disputed amount is included in the budget as a current liability and paid in the first month of the budget.

(c) A school that does not meet the requirements under s. 115.7915 (6) (f) 2., Stats., shall file a surety bond with the department that meets the requirements under sub. (1m) (a) by the first weekday in June prior to the school year.

(4) BOND CALL PROVISIONS. The department may call a bond filed by a school under this section for any of the following reasons:

(a) The school failed to timely file the report required under ss. PI 49.08 and PI 49.09 or the reports required under s. PI 49.07 (1).

(b) The school failed to timely refund the department any amount certified due from the school under s. PI 49.07 (4).

(c) The school failed to timely refund the department the reserve balance as prescribed under s. PI 49.09.

(d) The school failed to timely refund the department any other money owed to the department for any other reason under this chapter or s. 115.7915, Stats.

(5) REVISIONS TO NUMBER OF AVAILABLE SCHOLARSHIPS. (a) A school that filed a bond under sub. (1m) (a) that the department determined met the requirements under s. 115.7915 (6) (f) 1., Stats., may revise the number of scholarships available as follows:

1. The school shall file with the department a school information update form with the revised number of scholarships available. The school information update form shall include the expected summer school payment for pupils participating in the special needs scholarship program based on the expected number of special needs scholarship program pupils that will participate in summer school identified in the school's notice of intent to participate filed under s. PI 49.03 (3).

2. A school may not accept more special needs scholarship program pupils than indicated on its notice of intent to participate under s. PI 49.03 (3) until the school information update form is filed with the department.

3. The school shall file with the department a revised bond if the expected payment increases and the difference between the initial expected payment and the revised expected payment based on the number of scholarships available under subd. 1 is at least $50,000. The revised bond shall be equal to 25 percent of the revised expected payment based on the number of scholarships available under subd. 1. This bond shall be filed with the department by the first weekday in November.

4. After the third Friday in September, a school may not increase the number of scholarships available under this paragraph if either of the following apply:

a. If a bond was not revised under subd. 3., the revised expected payment is at least $50,000 more than the initial expected payment.

b. If a bond was revised under subd. 3., the revised expected payment is at least $50,000 more than the amount calculated under subd. 3.

(b) A school that filed financial information under sub. (1m) (b) that the department determined met the requirements under s. 115.7915 (6) (f) 2., Stats, may revise the number of scholarships available as follows:

1. The school shall file with the department a school information update form with the revised number of scholarships available. The school information update form shall include the expected summer school payment for pupils participating in the special needs scholarship program based on the expected number of special needs scholarship program pupils that will participate in summer school identified in the school's notice of intent to participate filed under s. PI 49.03 (3).

2. The school shall file a bond with the department if the expected payment increases and the difference between the initial expected payment and the revised expected payment based on the number of scholarships available under subd. 1 is at least $50,000. The bond shall be payable to the state of Wisconsin and be equal to 25 percent of the difference between the initial expected payment and the revised expected payment based on the number of scholarships under subd. 1. This bond shall be filed with the department by the last weekday in August.

3. A school may not accept more special needs scholarship program pupils than indicated on its notice of intent to participate under s. PI 49.03 (3) until the bond required under subd. 2. is filed with the department.

4. After the last weekday in August, a school may not increase the number of scholarships available under this paragraph if either of the following apply:

a. If a bond was not filed under subd. 2., the revised expected payment is at least $50,000 more than the initial expected payment.

b. If a bond was filed under subd. 2., the revised expected payment is at least $50,000 more than the amount calculated under subd. 2.

(c) A school that had an initial expected payment of less than $50,000 may revise the number of scholarships available as follows:

1. The school shall file with the department a school information update form with the revised number of scholarships available. The school information update form shall include the expected summer school payment for pupils participating in the special needs scholarship program based on the expected number of special needs scholarship program pupils that will participate in summer school identified in the school's notice of intent to participate filed under s. PI 49.03 (3).

2. The school shall file with the department a bond if the expected payment increases and the revised expected payment based on the number of scholarships available under subd. 1 is at least $50,000. The bond shall be payable to the state of Wisconsin and be equal to 25 percent of the revised expected payment based on the number of scholarships available under subd. 1. This bond shall be filed with the department by the last weekday in August.

3. A school may not accept more special needs scholarship program pupils than indicated on its notice of intent to participate under s. PI 49.03 (3) until the bond required under subd. 2. is filed with the department.

4. After the last weekday in August, a school may not increase the total number of scholarships available under this paragraph if either of the following apply:

a. If a bond was not filed under subd. 2., the revised expected payment is at least $50,000.

b. If a bond was filed under subd. 2., the revised expected payment is at least $50,000 more than the amount calculated under subd. 2.

(d) A school that files a revised school information update form under this subsection may not remove an available scholarship for which it has already received an application under s. PI 49.05 (3) or a transfer request under s. PI 49.05 (5) (b) unless the application or transfer request has been determined ineligible.

(e) Pupils that are determined eligible under s. PI 49.05 (4) (a) or (5) (c) 1. for whom there is no scholarship available until the

requirements in par. (a), (b) or (c) are met shall be placed on the waiting list as specified under s. PI 49.05 (4) (c) 2. for applications and s. PI 49.05 (5) (c) 2. for transfer requests.

Note: The school information update form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; EmR1630: emerg. r. (5), eff. 11–1–16; CR 16–066: r. (5) Register April 2017 No. 736, eff. 5–1–17; EmR1815: emerg. r. and recr. (1), cr. (1m), am. (2) (intro.), (a) to (e), (3) (c), cr. (5), eff 7–1–18; EmR1911: emerg. r. and recr. (1), cr. (1m), am. (2) (intro.), (a) to (f), (3) (c), (4) (intro.), cr. (5), eff. 7–1–19; CR 19–095: r. and recr. (1), cr. (1m), am. (2) (intro.), (a) to (f), (3) (c), (4) (intro.), cr. (5) Register March 2020 No. 771, eff. 4–1–20.

PI 49.05 Pupil application requirements. (1) EXPLANATION OF RIGHTS AND SPECIAL EDUCATION PROGRAM PROFILE. When an applicant applies to a school, the school shall provide the applicant with all of the following:

(a) An explanation of the rights of a child with a disability and his or her parent in a public school compared to the rights of a child with a disability and his or her parent at a private school participating in a special needs scholarship program on a document provided by the department under s. 115.7915 (4) (am), Stats.

(b) The profile of the school's special education program required under s. PI 49.03 (3) (c).

(2) AGE REQUIREMENT. In order to be eligible for the special needs scholarship program, a 4–year–old kindergarten pupil, 5–year–old kindergarten pupil, and a first grade pupil shall attain the ages specified in s. 118.14 (1), Stats.

(3) APPLICATION RECEIPT. An application shall be considered received under s. 115.7915 (3) (b), Stats., when an applicant has submitted all of the following to the school:

(a) An application.

(b) Residency documentation.

Note: The application may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

(4) APPLICATION ELIGIBILITY DETERMINATION. Within 21 days of receiving an application under sub. (3), the special needs scholarship program administrator or designee shall do all of the following:

(a) Determine if the application is eligible pending the verification under par. (b) 1. by verifying all of the following:

1. The address on the pupil's application is in the Wisconsin school district listed on the application using the state of Wisconsin's Statewide Voter Registration System or any another source permitted by the department.

2. The residency document submitted under sub. (3) (b) is one of the residency documents specified by the department that shows the pupil resides at the address on the application at the time of application. The residency document shall be dated no earlier than 3 months prior to the date the application is submitted under sub. (3) (a). If a school receives a lease agreement as a residency document, the lease term shall include the date the application was submitted under sub. (3) (a). The document shall contain the name of the parent on the application and match the address on the application.

(b) If the application is determined eligible under par. (a) and the school has an available scholarship for the pupil, the school shall do all of the following:

1. Send an email to the local education agency that developed the pupil's individualized education program or services plan requesting that the local education agency verify the pupil has an individualized education program or services plan that meets the requirements under sub. (7).

2. Send an email to the pupil's resident school district notifying it that, pending verification that the requirements of sub. (7) are met, the child will be awarded a scholarship under s. 115.7915, Stats.

(c) Notify an applicant in writing if one of the following occurs:

1. The application under sub. (3) is determined ineligible. The school shall state in its letter the reasons why the application is ineligible.

2. The application under sub. (3) is determined eligible but the school does not have a scholarship available for the pupil. The school shall state in the letter the pupil's place on the school's waiting list.

Note: The student application designee authorization form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

(5) TRANSFER REQUESTS. (a) An applicant may submit a transfer request for a pupil to transfer to a different school participating in the special needs scholarship program on a form provided by the department. A pupil that has been determined to no longer be a child with a disability under s. 115.7915 (4m) (e) 1., Stats., may not transfer under this subsection to a different school participating in the special needs scholarship program.

(b) A transfer request shall be considered received under s. 115.7915 (3) (b), Stats., when an applicant has submitted all of the following to the school:

1. A transfer request form.

2. Residency documentation.

3. Individualized education program or services plan.

(c) Within 21 days of receiving a transfer request under par. (b), the special needs scholarship program administrator or designee shall do all of the following:

1. Determine if the transfer request is eligible by verifying all of the following:

a. The address on the pupil's transfer request is in the Wisconsin school district listed on the transfer request using the state of Wisconsin's Statewide Voter Registration System or another source permitted by the department.

b. The residency document submitted under par. (b) 2. is one of the residency documents specified by the department that shows the pupil resides at the address on the transfer request at the time the pupil applies. The residency document shall be dated no earlier than 3 months prior to the date the transfer request is submitted under par. (b). If a school receives a lease agreement as a residency document, the lease term shall include the date the transfer request was submitted under par. (b). The document shall contain the name of the parent on the transfer request and match the address on the transfer request.

c. The pupil was a special needs scholarship program pupil on the most recent count date based on the department's response to the email request under subd. 1m.

1m. Send an email to the department requesting verification that the student was a special needs scholarship program pupil on the most recent count date.

2. Notify an applicant in writing if the transfer request was accepted or not accepted. The school shall state in its letter the reason or reasons why the transfer request is ineligible if the transfer request is determined ineligible. If the transfer request is determined eligible but the school does not have a scholarship available for the pupil, the school shall state in the letter the pupil's place on the school's waiting list.

Note: The transfer request form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

(6) SIBLING PREFERENCE. (a) A school may give an application under sub. (3) or a transfer request under sub. (5) from a sibling of a pupil who is already attending the school preference over either of the following:

1. An application under sub. (3), if the school has not yet sent either of the emails required under sub. (4) (b).

2. A transfer request under sub. (5), if the school has not sent the letter of acceptance under sub. (5) (c) 2.

(b) A school shall determine the eligibility of a sibling receiving preference under par. (a) before the date the school is required to determine the eligibility, under sub. (4) or (5), of any application or transfer request the sibling is given preference over.

(c) If the school is unable to determine if the sibling application or transfer request is eligible within the time period required under par. (b), the school must accept the applications and transfer requests in the order they were received.

(7) INDIVIDUALIZED EDUCATION PROGRAM OR SERVICES PLAN IN EFFECT. A pupil shall be determined to have an individualized education program or services plan in effect if the pupil meets one of the following:

(a) A local education agency is implementing the individualized education program or services plan at the time the school receives an application as provided under sub. (3).

(b) A local education agency developed the individualized education program or services plan no earlier than 3 years prior to September 15 of the school term for which the student submits an application under sub. (3), and there has not been a more recent reevaluation that determined the student no longer has a disability.

(7g) LOCAL EDUCATION AGENCY VERIFICATION. The local education agency that developed the pupil's individualized education program or services plan shall provide one of the following to the school within 5 business days of receiving the request under sub. (4) (b) 1.:

(a) If the pupil has an individualized education program or services plan that meets the requirements under sub. (7), the local education agency shall send a copy of the individualized education program or services plan to the school as verification that the pupil meets the requirement under sub. (7).

(b) If the pupil does not have an individualized education program or services plan that meets the requirements under sub. (7), the local education agency shall send an email or other written correspondence to the school indicating that the pupil does not meet the requirement under sub. (7).

(7r) LETTER OF ACCEPTANCE OR DENIAL. Within 7 days of receiving the verification under sub. (7g), the special needs scholarship program administrator or designee shall notify the applicant, in writing, whether the application submitted under sub. (3) was determined eligible or ineligible. If the application is determined ineligible, the letter shall state the reason or reasons why the application is ineligible.

(8) SCHOLARSHIP CONTINUANCE. Except as provided under sub. (9), a scholarship awarded to a pupil under this chapter shall continue until any of the following occur:

(a) The pupil graduates from high school.

(b) The pupil attains the age of 21. A pupil who attains the age of 21 shall receive the scholarship until the end of the school term in which the pupil attains the age of 21.

(c) The pupil no longer resides in Wisconsin as of the third Friday in September.

(d) The pupil is enrolled, in or out of Wisconsin, in another private school, a home–based private educational program, a charter school under s. 118.40 (2r) or (2x), Stats., or a public school district.

(e) A student who has been determined to no longer have a disability leaves the school he or she is attending.

(9) SUMMER SCHOOL ATTENDANCE. A pupil may attend summer school at a different school and continue to receive a special needs scholarship program scholarship. The school the pupil attends under this subsection may not receive a special needs scholarship program payment under s. PI 49.16 for the pupil.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; correction in (1) (title) made under s. 35.17, Stats., Register October 2016 No. 730; EmR1630: emerg. am. (4) (intro.), (c) 2., r. and recr. (5) (a), (b), am. (5) (c) (intro.), renum. (5) (c) 2. (intro.) to (5) (c) 2. and am., r. (5) (c) 2. a., b., (d), am. (7) (a), r. and recr. (7) (b), cr. (7) (c), (d), eff. 11–1–16; CR 16–066: am. (4) (intro.), (c) 2., r. and recr. (5) (a), (b), am. (5) (c) (intro.), renum. (5) (c) 2. (intro.) to (5) (c) 2. and am., r. (5) (c) 2. a., b., (d), am. (7) (a), r. and recr. (7) (b), cr. (7) (c), (d) Register April 2017 No. 736, eff. 5–1–17; EmR1815: emerg. am. (1) (a), r. (3) (c), am. (4) (a) (intro.), r. (4) (a) 3., renum. (4) (b) to (4) (b) (intro.) and am., cr. (4) (b) 1., 2., renum. (5) (c) 1. to (5) (c) 1. (intro.) and am., cr. (5) (c) 1. a., b., 1m., renum. (6) (a) to (6) (a) (intro.) and am., am. (6) (c), r. and recr. (7), am. (8) (intro.), cr. (8) (e), (9), eff 7–1–18; EmR1911: emerg. am. (1) (a), r. (3) (c), am. (4) (a) (intro.), 2., r. (4) (a) 3., renum. (4) (b) to (4) (b) (intro.) and am., cr. (4) (b) 1., 2., renum. (5) (c) 1. to (5) (c) 1. (intro.) and am., cr. (5) (c) 1. a. to c., 1m., renum. (6) (a) to (6) (a) (intro.) and am., am. (6) (c), cr. (7g), (7r), am. (8) (intro.), cr. (8) (e), (9), eff. 7–1–19; CR 19–095: am. (1) (a), r. (3) (c), am. (4) (a) (intro.), 2., r. (4) (a) 3., renum. (4) (b) to (4) (b) (intro.) and am., cr. (4) (b) 1., 2., am. (4) (c) 2., renum. (5) (c) 1. to (5) (c) 1. (intro.) and am., cr. (5) (c) 1. a. to c., 1m., am. (5) (c) 2., renum. (6) (a) to (6) (a) (intro.) and am., am. (6) (c), r. and recr. (7), cr. (7g), (7r), am. (8) (intro.), cr. (8) (e), (9) Register March 2020 No. 771, eff. 4–1–20.

PI 49.06 School year enrollment. (1) DOCUMENT RETENTION. A school shall retain all of the following records for at least 5 years from the end of the school year in which the pupil applies or 5 years after the pupil no longer attends the school, whichever occurs later, unless the department or a law enforcement agency requires the school to retain the records for a longer period:

(a) Copies of all documentation required under s. PI 49.05 for all accepted and non–accepted special needs scholarship program pupils who have submitted applications or transfer requests to the school.

(b) Copies of any documentation received for reevaluations under s. 115.7915 (2) (h), Stats.

(c) Copies of all documents required under s. PI 49.12.

(2) SIMULTANEOUSLY ENROLLED PUPIL. Except as provided under s. PI 49.05 (9), a pupil participating in the special needs scholarship program may not receive a scholarship and be simultaneously enrolled, in or out of Wisconsin, in another private school, a home–based private educational program, a charter school under s. 118.40 (2r) or (2x), Stats., or a public school district. A pupil receiving a scholarship under s. 115.7915, Stats., may not receive a payment under s. 118.60 or 119.23, Stats.

(3) FULL–TIME EQUIVALENT. The full–time equivalent shall be determined as follows:

(a) Pupils in grades one through 12 shall be one full–time equivalent.

(b) A kindergarten pupil shall be one–half full–time equivalent except as follows:

1. A pupil enrolled in a 5–year–old kindergarten program that requires full–day attendance by the pupil for 5 days a week, but not on any day of the week that pupils enrolled in other grades in the school do not attend school, for an entire school term shall be counted as one full–time equivalent.

2. A pupil enrolled in a 5–year–old kindergarten program that requires full–day attendance by the pupil for 4 days a week, but not on any day of the week that pupils enrolled in other grades in the school do not attend school, for an entire school term shall be counted as a 0.8 full–time equivalent.

2m. A pupil enrolled in a 5–year–old kindergarten program that requires full–day attendance by the pupil for 3 days a week, but not on any day of the week that pupils enrolled in other grades in the school do not attend school, for an entire school term shall be counted as a 0.6 full–time equivalent.

3. A school may count a pupil enrolled in a 4–year–old kindergarten program that provides the required number of hours of direct pupil instruction under s. 121.02 (1) (f), Stats., as a 0.6 full–time equivalent if the program also annually provides at least 87.5 additional hours of 4–year–old kindergarten outreach activities.

4. For purposes of this subsection, "full–day" means the following:

a. If the private school offers first grade and is participating in a program under s. 118.60 or 119.23, Stats., the length of the school day required to meet the total number of hours of instruc-

tion for first grade pupils under ss. 118.60 (2) (a) 8. and 119.23 (2) (a) 8., Stats.

b. If the private school does not participate in a program under s. 118.60 or 119.23, Stats., the length of the school day required to meet the total number of hours of instruction for first grade pupils at the private school under s. 118.165 (1) (c), Stats.

c. If the private school does not offer first grade and is participating in a program under s. 118.60 or 119.23, Stats., the length of the school day required to meet the total number of hours of instruction for first grade pupils under s. 118.165 (1) (c), Stats.

(3m) APPLICATION AND TRANSFER REQUEST SUBMISSION. By the next filing deadline, a school shall file with the department, using the online application system or other manner specified by the department, all of the applications determined eligible under s. PI 49.05 (4) and (7r) or transfer requests accepted under s. PI 49.05 (5) that have not previously been filed with the department. The filing deadlines are the second Friday in August, the last weekday in August, the third Friday in September, or the second Friday in January.

(4) PRELIMINARY CLASS LIST SUBMISSION. Annually by the last weekday in August, a school shall file with the department, using the online application system or other manner specified by the department, all of the following:

(b) A list of pupils enrolled in the special needs scholarship program at the school that identifies if each pupil was determined to no longer be a child with a disability under s. 115.7915 (4m) (e) 1., Stats., in a previous year.

(c) A class list of all pupils enrolled in the special needs scholarship program at the school by grade level. The class list may only include applications or transfer requests filed under sub. (3m) by the last weekday in August and may not include pupils that have withdrawn from the school.

(d) A list of the pupils that were enrolled in the special needs scholarship program that are no longer eligible for a scholarship under s. PI 49.05 (8) and have not been previously reported to the department.

(5) PUPIL COUNT REPORTS. Annually by the last weekday in September and the last weekday in January, a school shall file with the department, using the online application system or other manner specified by the department, all of the following:

(b) A pupil count report stating all of the following:

1. The grade of each pupil participating in the special needs scholarship program on the immediately preceding count date. In order to be eligible for payment, a 4–year–old kindergarten pupil, 5–year–old kindergarten pupil, and first grade pupil shall attain the age specified in s. 118.14 (1), Stats. A pupil may only be included in the pupil count report if the pupil's application or transfer request was filed under sub. (3m) by the count date for which the report is being submitted.

2. Whether each pupil meets the requirements under sub. (6).

3. Whether each pupil is a full scholarship pupil or a partial scholarship pupil.

4. The total number of pupils in the school on the immediately preceding count date that meet the requirements under sub. (6).

(c) As part of the pupil count report for the third Friday in September, a school shall do all of the following for pupils that submitted applications or transfer requests in a previous school year that were determined eligible under s. PI 49.05 and have not had one of the events in s. PI 49.05 (8) occur:

1. Obtain residency documentation for the pupil's address on the third Friday in September that meets all of the following requirements:

a. The documentation is dated between the third Friday in August and the last weekday in September. If a school receives a lease agreement as a residency document, the lease term includes the third Friday in September.

b. The documentation is one of the residency documents specified by the department.

c. The document contains the name of the parent.

d. The address on the document matches the pupil's address as of the third Friday in September.

2. Determine whether the pupil has a different address than the previous school year. If a pupil has a different address, the school shall determine the pupil's resident school district for the new address using the state of Wisconsin's Statewide Voter Registration System or any other source permitted by the department.

(d) A list of the pupils that were enrolled in the special needs scholarship program that are no longer eligible for a scholarship under s. PI 49.05 (8) and have not been previously reported to the department.

(e) As part of the pupil count report for the third Friday in September, the school's start and end date for the current school term.

(6) COUNT REQUIREMENTS. A school may include a pupil on its pupil count report under sub. (5) (b) only if one of the following applies:

(a) The pupil is in attendance for instruction on the count date.

(b) The pupil is absent on the count date but attended the school for instruction at least one day during the school term prior to the count date and at least one day after the count date, and the pupil was not enrolled in another school in or out of Wisconsin, including another private school, a home–based educational program, a charter school under s. 118.40 (2r) or (2x), Stats., or a public school district, during the period of absence from the school.

(7) AGREEMENT OF SERVICES. A school may only include a pupil on its report under sub. (4) (b) or (5) (b) if the school has a written agreement, as required under s. 115.7915 (6) (h) 1., Stats., with the pupil's parent that meets all of the following requirements:

(a) The agreement specifies the services that will be provided to the special needs scholarship program pupil.

(b) The agreement is signed and dated by the parent and the school by the due date of a report submitted under sub. (4) (b) or the count date for a report submitted under sub. (5) (b).

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; EmR1815: emerg. am. (2), (3) (intro.), cr. (3m), am. (4) (intro.), (d), (5) (intro.), (c) (intro.), 1. a., cr. (5) (d), (e), eff 7–1–18; EmR1911: emerg. am. (2), (3) (intro.), renum. (3) (b) 2. (intro.) to (3) (b) 2. and am., r. (3) (b) 2. a., b., cr. (3) (b) 2m., (3m), am. (4) (intro.), r. (4) (a), am. (4) (c), (d), (5) (intro.), r. (5) (a), am. (5) (b) 1., (c) (intro.), 1. a., c., cr. (5) (d), (e), (7), eff. 7–1–19; CR 19–095: am. (2), (3) (intro.), renum. (3) (b) 2. (intro.) to (3) (b) 2. and am., r. (3) (b) 2. a., b., cr. (3) (b) 2m., renum. (3) (b) 4. to (3) (b) 4. (intro.), cr. (3) (b) 4. a. to c., (3m), am. (4) (intro.), r. (4) (a), am. (4) (c), (d), (5) (intro.), r. (5) (a), am. (5) (b) 1., (c) (intro.), 1. a., c., cr. (5) (d), (e), (7) Register March 2020 No. 771, eff. 4–1–20; correction in (5) (e) made under s. 35.17, Stats., and correction in (7) made under s. 13.92 (4) (b) 1., Stats., Register March 2020 No. 771.

PI 49.07 Enrollment audits. (1) REPORT COMPLETION AND SUBMISSION. A school shall engage an auditor to compile the enrollment audit using agreed upon procedures that identify ineligible pupils for whom the school has received payment under s. 115.7915 (4m) or (4p), Stats., pupils with incorrect data in the department's database, and additional eligible pupils qualifying the school for a payment. The report shall be prepared in accordance with professional standards and identify the procedures agreed upon by the auditor and the department that were used. A school shall file an enrollment audit with the department for the following:

(a) The third Friday in September enrollment reported under s. PI 49.06 (5) (b). A school shall file its third Friday in September enrollment audit with the department by December 15.

(b) The second Friday in January enrollment reported under s. PI 49.06 (5) (b). A school shall file its second Friday in January enrollment audit with the department by the first weekday in May.

(2) SCHOOL RECORDS. A school shall provide its auditor with the official attendance records and the original classroom records for the auditor's use in conducting the enrollment audit. The official attendance records shall identify pupils participating in the

special needs scholarship program. If the official attendance records are from the school's student information system, the school may provide a separate report from the student information system that identifies which students are special needs scholarship program pupils.

(3) REQUIRED PROCEDURES. An auditor shall complete the procedures specified in the department's audit guide, including all of the following:

(a) Determine the school's process for preparing attendance records and accepting and reviewing applications and transfer requests.

(b) If a school counts any 4–year–old kindergarten pupil as a 0.6 full–time equivalent, as provided under s. PI 49.06 (3) (b) 3., verify that the 4–year–old kindergarten program is providing at least 87.5 hours of 4–year–old kindergarten outreach activities as documented by teacher logs.

(c) Complete a fraud risk assessment.

(d) If the school uses a student information system, complete testing of the enrollment software using one of the following:

1. The department's pupil enrollment software test plan.

2. A pupil enrollment software test plan developed by the auditor. The auditor shall annually submit the plan to the department for approval. The auditor shall not use the test plan until it is approved by the department.

(f) Verify that the total number of pupils attending the school on the official attendance records match the total number of pupils based on the pupil count report under s. PI 49.06 (5) (b) for each grade category.

(g) Verify the enrollment for all special needs scholarship program pupils reported on the pupil count report under s. PI 49.06 (5) (b) using the school's official attendance records.

(i) Verify that the special needs scholarship program pupils meet the requirements of s. PI 49.06 (6).

(j) Verify that the school did not receive a payment under s. 115.7915 (4m), Stats., for any of the following:

1. Pupils for whom the school is receiving a childcare payment for all day care.

2. Pupils who are enrolled in a public school district.

3. Pupils participating in a program under s. 118.60 or 119.23, Stats.

(k) Select a sample of at least 60 pupils not participating in the special needs scholarship program from original classroom records and verify the school included the selected pupils in the official attendance records. The sample shall include pupils from each classroom. If the pupils are in different classrooms during the day, the auditor may select one period and select pupils from each classroom for that period. If the auditor identifies an auditing exception, the auditor shall increase the sample size in increments of 60 pupils until the auditor finds no additional exceptions or until the auditor verifies that all pupils have been properly included in reported enrollments. If the school has an enrollment of fewer than 60 pupils who did not participate in the special needs scholarship program, the auditor shall examine records for all pupils who did not participate in the special needs scholarship program.

(L) Reconcile the enrollment the school reported to the department under s. 115.30 (3), Stats., with the official attendance records of the school.

(m) Verify that any application that has not been counted on a previous count date under s. PI 49.06 (5) (b) meets the requirements of s. PI 49.05 and s. 115.7915 (2), Stats. If the auditor identifies that an application is missing the information required under s. PI 49.05 (4) (a) 2., the school may correct the application if the applicant provides the missing documentation. The missing documentation shall be provided by the due date of the enrollment audit specified under sub. (1) in which the application is required to be reviewed under this subsection. If the missing documentation is not provided by the required date, the application shall be determined ineligible.

(n) If a pupil participated in the special needs scholarship program in the previous year, the auditor shall verify that the residency documentation obtained pursuant to s. PI 49.06 (5) (c) meets the requirements of that paragraph.

(o) Verify that any pupils in 4–year–old kindergarten, 5–year–old kindergarten, or first grade meet the age requirements in s. 118.14 (1), Stats.

(p) Verify that the school complied with the requirements under s. PI 49.03 (4).

(q) Perform other auditing procedures as agreed upon by the auditor and the department.

(r) Verify that any reevaluations required under s. 115.7915 (2) (h), Stats., have been completed and that the school properly identified partial scholarship pupils on the pupil count report under s. PI 49.06 (5) (b) 3.

(s) Verify that the school has a written agreement with each parent specifying the services that will be provided to each special needs scholarship program pupil. The auditor shall ensure the school and the parent entered into the agreement by the count date.

(t) Verify that any transfer request that has not been counted on a previous count date under s. PI 49.06 (5) (b), meets the requirements of s. PI 49.05. If the auditor identifies that a transfer request is missing the information required under s. PI 49.05 (5) (b) 2. or 3., the school may correct the transfer request if the applicant provides the missing documentation. The missing documentation shall be provided by the due date of the enrollment audit specified under sub. (1) in which the transfer request is required to be reviewed under this subsection. If the missing documentation is not provided by the required date, the transfer request shall be determined ineligible.

(u) If the school operated a summer school program, review all school documentation to support the summer school report the school filed with the department under s. PI 49.16 (5). The review shall be part of the third Friday in September enrollment audit.

(4) CERTIFICATIONS. (a) Upon review of the enrollment audits, the department shall certify an amount due from a school or an amount due to the school. The certifications shall include any adjustments identified in the financial audits submitted under ss. PI 49.08 and 49.09 to the costs for a pupil or government assistance revenue received for educational programming for a pupil in the reports submitted under s. PI 49.13 (7). If, based on the financial audit, the payment amount calculated under s. 115.7915 (4m) (cm), Stats., for a pupil in a report submitted under s. PI 49.13 (7) is less than the payment amount calculated under s. 115.7915 (4m) (a) 2. b., Stats., the payment for the pupil shall be calculated as specified under s. 115.7915 (4m) (a) 2. b., Stats. If a school fails to file an enrollment audit with the department, the department may determine that all special needs scholarship program pupils are ineligible.

(b) A school shall refund to the department the amount certified as due to the department as specified under s. PI 49.13 (6).

(c) The department shall pay any additional amount due to a school for eligible pupils within 60 days of the date of the certification letter.

Note: The enrollment audit form and department's pupil enrollment software test plan may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; correction in (3) (p) made under s. 35.17, Stats., Register October 2016 No. 730; EmR1630: emerg. cr. (3) (r) to (t), am. (4) (b) 1., eff. 11–1–16; CR 16–066: cr. (3) (r) to (t), am. (4) (b) 1. Register April 2017 No. 736, eff. 5–1–17; EmR1815: emerg. am. (1) (intro.), (a), (2), (3) (a), r. (3) (e), am. (3) (f), r. (3) (h), am. (3) (k), (m), (p), (t), cr. (3) (u), renum. (4) (b) (intro.) to (4) (b) and am., r. (4) (b) 1., 2., eff 7–1–18; EmR1911: emerg. am. (1) (intro.), (a), (b), (2), (3) (a), r. (3) (e), am. (3) (f), r. (3) (h), am. (3) (j) 3., (k), (m), (p), (t), cr. (3) (u), am. (4) (a), renum. (4) (b) (intro.) to (4) (b) and am., r. (4) (b) 1., 2., eff. 7–1–19; CR 19–095: am. (1) (intro.), (a), (b), (2), (3) (a), r. (3) (e), am. (3) (f), r. (3) (h), am. (3) (j) 3., (k), (m), (p), (t), cr. (3) (u), am. (4) (a), renum. (4) (b) (intro.) to (4) (b) and am., r. (4) (b) 1., 2. Register

March 2020 No. 771, eff. 4–1–20; **EmR2117: emerg. am. (4) (a), eff. 6–12–21; CR 21–046: am. (4) (a) Register February 2022 No. 794, eff. 3–1–22.**

PI 49.08 Financial audit. (1) FINANCIAL AUDIT REQUIREMENTS. Annually by October 15, a school shall submit a financial audit and financial audit supplemental schedule to the department. The financial audit shall comply with all of the following:

(a) The financial audit shall either include the school–only balances and activity or shall be prepared at the consolidated level as permitted by generally accepted accounting principles.

(b) A school may submit a financial audit that includes a modified audit opinion due to fixed assets purchased in previous years not being included in the financial audit.

(c) The school shall have support for the original purchase price for the fixed assets and evidence that the school paid for the fixed asset purchases in order for the depreciation expense to be an eligible education expense. If any fixed assets are included in the statement of financial position that do not meet these requirements, the financial audit shall include a footnote disclosure that includes the fixed asset amount, accumulated depreciation, and current year depreciation expense for the fixed assets that do not meet the requirements to be included as an eligible education expense.

(d) Except as provided under par. (b) and sub. (4) (b), a financial audit that includes a modified audit opinion does not meet the requirements under s. 115.7915 (6) (e), Stats., and this chapter unless the modification is approved by the department.

(2) COMPLIANCE WITH AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS REQUIREMENTS. An auditor engaged by a school to provide the audit opinion in this section shall comply with the auditing standards established by the American Institute of Certified Public Accountants, including all of the following:

(a) The auditor shall develop written audit programs identifying the steps and procedures to be followed in conducting the audit, including establishing the planning materiality that the auditor will use for the audit.

(b) The auditor shall trace all entries on the financial audit and financial audit supplemental schedule to the trial balance provided by the school.

(c) The auditor shall obtain sufficient appropriate audit evidence to conclude that the financial statements do not contain misstatements the effect of which, when aggregated with misstatements in other accounts and transactions, exceeds the planning materiality and results in a material misstatement in the financial statements or in the school's net eligible education expenses. The auditor shall determine sufficient appropriate audit evidence based on the requirements of the American Institute of Certified Public Accountants.

(3) STANDARD FINANCIAL AUDIT. (a) The standard financial audit shall be prepared in accordance with generally accepted accounting principles.

(b) Except as provided under par. (c), the standard financial audit shall include 2–year comparative financial statements containing all of the statements required by generally accepted accounting principles, including a statement of financial position, a statement of activities, and a statement of cash flows. Both years of the financial statements shall be audited.

(c) The first year a school completes a standard financial audit for the special needs scholarship program, the statement of activities and statement of cash flows may only include the current school year.

(4) MODIFIED FINANCIAL AUDIT. (a) The modified financial audit shall include an audited one–year statement of financial position prepared as required by generally accepted accounting principles.

(b) A school may submit a modified financial audit that includes a modified audit opinion due to post–retirement benefits being excluded from the statement of financial position.

(5) MANAGEMENT LETTER. The management letter required under s. 115.7915 (6) (e), Stats., shall include all of the following if issued by the auditor:

(a) Any letter issued under the American Institute of Certified Public Accountants Statement on Auditing Standards 114.

(b) Any letter issued under the American Institute of Certified Public Accountants Statement on Auditing Standards 115.

(c) Any other letter to management communicating significant deficiencies or material weaknesses in the internal controls.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; EmR1815: emerg. r. and recr. (1), cr. (3) to (5), eff 7–1–18; EmR1911: emerg. r. and recr. (1), cr. (3) to (5), eff. 7–1–19; CR 19–095: r. and recr. (1), cr. (3) to (5) Register March 2020 No. 771, eff. 4–1–20.

PI 49.09 Financial audit supplemental schedule. (1) ELIGIBLE EDUCATION EXPENSES. The eligible education expenses included in the financial audit supplemental schedule shall comply with all of the following:

(a) Eligible education expenses may only include those expenses that already have or will result in a cash disbursement.

(b) Eligible education expenses may only include the following:

1. In a standard financial audit, expenses that are in the statement of activities, except for the cost of land. The amount that the school paid for land shall be included in the first year the land is used for educational programming using an allocation method under par. (d), if applicable.

2. In a modified financial audit, expenses that would be included in the statement of activities for the school year based on generally accepted accounting principles except for the following:

a. The amount that the school paid for land shall be included in the first year the land is used for educational programming using an allocation method under par. (d), if applicable.

b. Post–retirement benefits may be included as an eligible education expense based on the amount expended for the post–retirement benefits in the school year.

(c) An expense may only be included as an eligible education expense one time.

(d) If an expense or government assistance revenue is partially related to educational programming, the school shall use an allocation method to determine the portion that is related to educational programming.

(e) The following may not be included in kindergarten through grade 12 eligible education expenses:

1. Contributed services, fixed assets or goods.

2. Scholarship awards and financial support for pupils to attend the private school, including payments to parents or others on behalf of pupils.

3. Daycare expenses except expenses for before or after school care for kindergarten through grade 12 pupils that are enrolled in educational programming at the school.

4. Expenses for pupils who are enrolled in the public school district and attending the private school.

(2) AUDITOR REVIEW OF ELIGIBLE EDUCATION EXPENSES. An auditor shall ensure the eligible education expenses a school included in the supplemental schedule comply with the requirements under sub. (1) and s. PI 49.08 (1) (c).

(3) SUPPLEMENTAL SCHEDULE CALCULATIONS. The supplemental schedule shall calculate all of the following:

(a) Net eligible education expenses incurred primarily for special needs scholarship program pupils as follows:

1. Determine the amount of primarily special needs scholarship program expenses. The amount included as an eligible education expense shall be determined using an allocation method specifically related to the expense being allocated. This amount may not include costs included as eligible in any statements provided under s. PI 49.13 (7).

2. Subtract all government assistance revenues received for primarily special needs scholarship program expenses.

3. Subtract the lesser of the following:

a. Fundraising revenue.

b. The non–administrative fundraising expenses included in the expenses in subd. 1. In this subdivision, administrative expenses include expenses for school personnel, copying, mailing, or fixed assets used for other school purposes.

4. Subtract all insurance proceeds received for primarily special needs scholarship program expenses.

(b) Net eligible education expenses for all pupils as follows:

1. Determine the amount of eligible education expenses, excluding eligible education expenses in par. (a) and costs included as eligible in any statements provided under s. PI 49.13 (7) incurred in that school year. If an expense is included under par. (a) that is not 100 percent related to special needs scholarship program pupils, the total expense prior to applying the allocation percentage shall be excluded under this subdivision.

2. Subtract all government assistance revenues received for eligible education expenses. This amount shall not include government assistance revenues subtracted in par. (a) 2. or in the statements provided under s. PI 49.13 (7).

3. Subtract the lesser of the following:

a. Fundraising revenue.

b. The non–administrative fundraising expenses included in the expenses in subd. 1. In this subdivision, administrative expenses include expenses for school personnel, copying, mailing, or fixed assets used for other school purposes.

4. Subtract all insurance proceeds received for eligible education expenses, excluding eligible education expenses in par. (a).

(c) The net eligible education expenses for special needs scholarship program pupils as follows:

1. Calculate the percentage of pupils at the school participating in the special needs scholarship program as the full–time equivalent for the special needs scholarship program pupils compared to the all pupil full–time equivalent. The full–time equivalents shall be based on the average of the full–time equivalents determined in the enrollment audits under s. PI 49.07. The full–time equivalent for the special needs scholarship program pupils shall exclude pupils that received a payment under s. PI 49.13 (7) in that school year.

2. Multiply the amount calculated under par. (b) by the percentage under subd. 1.

3. Add the net eligible education expenses under par. (a) and costs included as eligible in any statements provided under s. PI 49.13 (7) incurred in that school year.

4. Subtract government assistance revenue related to that school year that is subtracted in the statements provided under s. PI 49.13 (7).

(d) The reserve balance as follows:

1. Determine the total scholarships received for the school year being audited and any adjustments for the school year under s. PI 49.07 (4). This amount shall include summer school revenue received under s. 115.7915 (4p), Stats., for the immediately preceding summer.

2. Add the prior year reserve balance, if any.

3. Subtract the amount determined under par. (c).

(e) The school's cash and investment balance that must be maintained under sub. (4) as follows:

1. Determine the sum of any remaining depreciation on fixed assets used by the school and any land purchases that have not yet been included in eligible cost under sub. (1) (b) that meet the requirements to be included as an eligible education expense. The depreciation under this subdivision shall not include depreciation for leased right of use assets.

2. Subtract the amount under subd. 1. from the amount under par. (d).

(3m) PAYCHECK PROTECTION PROGRAM LOANS. Notwithstanding sub. (3) (a) 2., (b) 2., and (c) 4., the forgiven portion of Paycheck Protection Program loans administered by the U.S. small business administration under 15 USC 636 may not be included as offsetting government assistance revenue in the supplemental schedule.

(4) MAINTAIN RESERVE BALANCE. The school shall maintain the reserve balance, if positive, for future eligible education expenses for special needs scholarship program pupils. The school's cash and investment balance shall be at least as much as the amount calculated under sub. (3) (e), if positive. If the school is participating in a program under s. 118.60 or 119.23, Stats., the cash and investment balance shall be at least as much as the reserve calculated under this chapter and chs. PI 35 and 48 less the sum of any remaining depreciation on fixed assets used by the school and any land purchases that have not yet been included in eligible cost under sub. (1) (b) that meet the requirements to be included as an eligible education expense. The depreciation under this subsection shall not include depreciation for leased right of use assets.

(5) FINANCIAL AUDIT SUBMISSION. (a) If a school ceases to participate or is barred from participation in the special needs scholarship program under s. 115.7915, Stats., it shall submit to the department the financial audit for the final school year in which it participated. The net eligible education expenses under sub. (3) (c) shall be multiplied by the percent of the school year the school participated in the special needs scholarship program if the school was not eligible for all of the payments under s. PI 49.13. This percentage shall be calculated as follows:

1. The net eligible education expenses shall be multiplied by 25 percent if the school was only eligible for the September payment.

2. The net eligible education expenses shall be multiplied by 50 percent if the school was only eligible for the September and November payments.

3. The net eligible education expenses shall be multiplied by 75 percent if the school was only eligible for the September, November, and February payments.

(b) If a school fails to submit the financial audit, the school's net eligible education expenses for the year shall be determined to be zero for purposes of determining the school's reserve balance.

(6) REFUND OF THE RESERVE. If a school ceases to participate or is barred from participating in the special needs scholarship program under s. 115.7915, Stats., and the school's reserve is positive, the school shall refund the reserve balance to the department as specified under s. PI 49.13 (6).

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; correction in (4) made under s. 35.17, Stats., Register October 2016 No. 730; EmR1630: emerg. renum. (3) (a) 3. to (3) (a) 3. (intro.) and am., cr. (3) (a) 3. a., b., renum. (3) (b) 3. to (3) (b) 3. (intro.) and am., cr. (3) (b) 3. a., b., am. (5) (title), renum. (5) to (5) (a), (b), eff. 11–1–16; CR 16–066: renum. (3) (a) 3. to (3) (a) 3. (intro.) and am., cr. (3) (a) 3. a., b., renum. (3) (b) 3. to (3) (b) 3. (intro.) and am., cr. (3) (b) 3. a., b., am. (5) (title), renum. (5) to (5) (a), (b) Register April 2017 No. 736, eff. 5–1–17; EmR1815: emerg. am. (1) (e) 1., (3) (d) 1., (e) 1., (4), eff 7–1–18; EmR1911: emerg. renum. (1) (b) to (1) (b) (intro.) and am., cr. (1) (b) 2., am. (1) (e) 1., (2), (3) (a) (intro.), 1., 2., 3. b., 4., (b) 1., 2., 3. b., (c) 1., 3., cr. (3) (c) 4., am. (3) (d) 1., (e) 1., (4), renum. (5) (a) to (5) (a) (intro.) and am., cr. (5) (a) 1. to 3., am. (6), eff. 7–1–19; CR 19–095: renum. (1) (b) to (1) (b) (intro.) and am., cr. (1) (b) 2., am. (1) (e) 1., (2), (3) (a) (intro.), 1., 2., 3. b., 4., (b) 1., 2., 3. b., (c) 1., 3., cr. (3) (c) 4., am. (3) (d) 1., (e) 1., (4), renum. (5) (a) to (5) (a) (intro.) and am., cr. (5) (a) 1. to 3., am. (6) Register March 2020 No. 771, eff. 4–1–20; **EmR2117: emerg. cr. (3m), eff. 6–12–21; CR 21–046: cr. (3m) Register February 2022 No. 794, eff. 3–1–22.**

PI 49.10 School financial requirements. (1) ENGAGEMENT LETTER. A school shall have a written engagement letter with each auditor providing services required by this chapter. The school or auditor shall provide a copy of the engagement letter to the department upon request. The written engagement letter shall contain all of the following:

(a) A statement that the auditor shall comply with generally accepted auditing standards and the requirements of this chapter.

(b) A statement that the auditor shall comply with generally accepted governmental auditing standards if other governmental agencies providing funds to the school so require.

(c) The responsibilities of the school and the auditor in meeting the requirements of this chapter.

(d) The services the auditor provides to the school that are in addition to those audit and attestation services required under this chapter.

(e) The auditor's acknowledgement that the department will rely on the auditor's work to fulfill the department's responsibilities under s. 115.7915, Stats., and this chapter.

(f) The auditor's compensation for the services the auditor provides to the school.

(2) FINANCIAL ACCOUNTING SYSTEM. A school shall use a double entry financial accounting system organized in a manner that enables preparation of the financial audit and financial audit supplemental schedule. A school shall balance the financial accounting system and provide the auditor with a trial balance of the account balances.

(3) ADJUSTING ENTRIES. Adjustments to the school's trial balance recommended by a school's auditor shall be approved by the school before the entries are recorded in the school's financial accounting system.

(4) RECORDS RETENTION. A school shall retain all financial and pupil records relating to the enrollment audits under s. PI 49.07 and the audit required under ss. PI 49.08 and PI 49.09 for at least 5 years from the due date of the financial audit for each school year, unless the department or a law enforcement agency requests that the school retain the records for more than 5 years.

(5) RECORDS AVAILABILITY. A school shall furnish all financial and pupil records the auditor considers necessary to provide the audit opinion or agreed upon procedure reports. Upon request by the department, a school shall provide the department access and copies to the records referenced in the auditor's working papers.

(6) SCHOOL RESPONSIBILITY. An auditor's failure to completely or properly perform the responsibilities set forth in s. 115.7915, Stats., or this chapter is not a defense to any determination the department makes under this chapter or s. 115.7915, Stats.

(7) AUDITOR BAR. A school participating in the special needs scholarship program may not engage an auditor who the department bars under s. PI 35.12 (7), PI 48.12 (7), or PI 49.11 (7) until such time as the auditor provides evidence acceptable to the department that the auditor has made procedural changes and has successfully completed professional development training that enables the auditor to comply with the requirements of this chapter, chs. PI 35 and 48, and ss. 115.7915, 118.60, and 119.23, Stats.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; correction in (7) made under s. 35.17, Stats., Register October 2016 No. 730; EmR1815: emerg. am. (6), eff 7–1–18; EmR1911: emerg. am. (6), eff. 7–1–19; CR 19–095: am. (6) Register March 2020 No. 771, eff. 4–1–20.

PI 49.11 Auditor requirements. (1) INDEPENDENCE REQUIREMENTS. An auditor engaged by a school to meet the requirements under this chapter and s. 115.7915, Stats., shall comply with the standards of the American Institute of Certified Public Accountants, including all of following:

(a) An auditor shall comply with the requirements of s. Accy 1.101.

(b) An auditor shall obtain the school's trial balance if completing compilation or review services.

(c) Except as provided in par. (d), an auditor may not post or prepare for posting typical reoccurring financial transactions to the school's general ledger, including cash receipts and disbursements, invoices or billings for services, billings from vendors and suppliers, and payroll activity.

(d) An auditor shall obtain written approval of the school's management prior to posting adjusting, correcting, and closing journal entries to the school's general ledger. An auditor's working papers shall document evidence of management approval for all such entries resulting from a financial statement compilation, review, or audit.

(e) If an auditor assists in the preparation of a school's budget, the auditor shall do all of the following:

1. Comply with s. Accy 1.201 (1) (e), regarding forecasts.

2. Identify that such assistance was provided, if required by the department.

(2) INQUIRIES. An auditor shall promptly respond to inquiries or requests made by the department. The auditor shall notify the school of any inquiries or requests made by the department and the auditor's response.

(3) WORKING PAPERS RETENTION. An auditor shall retain working papers relating to the enrollment audits under s. PI 49.07 and the audit required under ss. PI 49.08 and 49.09 for at least 5 years from the due date of the financial audit for each school year, unless the department or a law enforcement agency requests that the auditor retain working papers for more than 5 years.

(4) WORKING PAPERS REVIEW. An auditor shall permit the department to review audit working papers prepared in support of the enrollment audits under s. PI 49.07 and the audit required under ss. PI 49.08 and 49.09. An auditor shall promptly provide copies of working papers the department requests.

(5) AUDITOR PEER REVIEW REPORTS. An auditor completing any of the audits and agreed upon procedure reports under s. 115.7915, Stats., or this chapter shall file the auditors peer review required under s. 442.087, Stats., with the department within 30 days of the report issuance.

(6) LICENSE REQUIREMENTS. (a) The auditing firm that is engaged by a school to complete the audits and agreed upon procedure reports under this chapter or s. 115.7915, Stats., shall be licensed as a certified public accounting firm by the accounting examining board under ch. 442, Stats.

(b) The individual auditor who signs the engagement letter for the audits and agreed upon procedure reports under this chapter or s. 115.7915, Stats., shall be a licensed certified public accountant by the accounting examining board under ch. 442, Stats.

(7) AUDITOR BAR. (a) The department may bar an auditor who fails to timely and properly fulfill the auditing and reporting requirements of this chapter or s. 115.7915, Stats.

(b) An auditor who is barred under par. (a) shall not complete accounting, auditing, or other reporting requirements for any schools participating in the special needs scholarship program or in a program under s. 118.60 or 119.23, Stats., until such time as all of the following occur:

1. The auditor files with the department evidence acceptable to the department that the auditor has made procedural changes to the manner in which the auditor conducts an audit.

2. The auditor successfully completes professional development training that will enable the auditor to comply with the requirements of this chapter, chs. PI 35 and 48, and ss. 115.7915, 118.60, and 119.23, Stats.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; correction in (3), (4), (7) (b) made under s. 35.17, Stats., Register October 2016 No. 730; EmR1911: emerg. am. (5), renum. (7) (b) to (7) (b) (intro.) and am., eff. 7–1–19; CR 19–095: am. (5), renum. (7) (b) to (7) (b) (intro.) and am. Register March 2020 No. 771, eff. 4–1–20.

PI 49.12 Quarterly reporting to parent. A school shall report to the parent of a pupil participating in the special needs scholarship program at least quarterly using a form provided by the department. The report shall describe the implementation of the child's individualized education program or services plan, as modified by agreement between the school and the child's parent, and the pupil's academic progress.

Note: The record of implementation and progress form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special–needs–scholarship.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16.

PI 49.13 State aid payment calculation. The state superintendent shall make the payments under s. 115.7915 (4m) and (4p), Stats., to schools participating in the special needs scholarship program. The state superintendent may withhold payment from a school under s. 115.7915 (4m) and (4p), Stats., if the school violates this chapter or s. 115.7915, Stats. The state superintendent shall make the payments as follows:

(1) SEPTEMBER PAYMENT. The September payment shall be based on the number of special needs scholarship program pupils at the school reported under s. PI 49.06 (4). The state superintendent shall calculate the September payment as 25% times the total of all of the following:

(a) The full–time equivalent for full scholarship pupils multiplied by the per pupil payment amount determined under s. 115.7915 (4m) (a), Stats.

(b) The full–time equivalent for partial scholarship pupils, as reported under s. PI 49.06 (4) (b), multiplied by the per pupil payment amount determined under s. 115.7915 (4m) (e), Stats.

(c) The prior year actual cost for pupils, as reported by the school under sub. (7), and as calculated under s. 115.7915 (4m) (a) 3. and (cm), Stats.

(2) NOVEMBER PAYMENT. The November payment shall be based on the number of special needs scholarship program pupils reported in the school's pupil count report for the third Friday in September required under s. PI 49.06 (5) (b), unless a pupil is determined ineligible by the department. The state superintendent shall calculate the November payment as 50 percent times the amount owed for eligible pupils less the September payment received. The state superintendent shall calculate the amount owed for eligible pupils as the total of all of the following:

(a) The full–time equivalent for full scholarship pupils multiplied by the per pupil payment amount determined under s. 115.7915 (4m) (a), Stats.

(b) The full–time equivalent for partial scholarship pupils, as reported under s. PI 49.06 (4) (b), multiplied by the per pupil payment amount determined under s. 115.7915 (4m) (e), Stats.

(c) The prior year actual cost for pupils, as reported by the school under sub. (7), and as calculated under s. 115.7915 (4m) (a) 3. and (cm), Stats.

(2m) SUMMER SCHOOL PAYMENT. The November payment shall include any payments due to the school for summer school instruction of special needs scholarship pupils in the immediately preceding summer as indicated in the report filed under s. 115.7915 (6) (k), Stats., unless otherwise determined ineligible by the department.

(3) FEBRUARY AND MAY PAYMENTS. The February payment and May payment shall each be based on the number of special needs scholarship program pupils reported in the school's pupil count report for the second Friday in January required under s. PI 49.06 (5) (b), unless a pupil is determined ineligible by the department. The state superintendent shall calculate the February and May payments as 25 percent times the total of all of the following:

(a) The full–time equivalent for full scholarship pupils multiplied by the per pupil payment amount determined under s. 115.7915 (4m) (a), Stats.

(b) The full–time equivalent for partial scholarship pupils, as reported under s. PI 49.06 (4) (b), multiplied by the per pupil payment amount determined under s. 115.7915 (4m) (e), Stats.

(c) The prior year actual cost for pupils, as reported by the school under sub. (7), and as calculated under s. 115.7915 (4m) (a) 3. and (cm), Stats.

(4) CEASED INSTRUCTION. The state superintendent may not make a September, November, or February payment to a school that has ceased instruction prior to the payment date.

(5) ENDING A SCHOOL TERM EARLY. The state superintendent may not make a May payment to a school that has ceased instruction prior to the end of its scheduled school term unless the school obtained prior written approval from the department to end the school term early.

(6) AMOUNT DUE TO DEPARTMENT. A school shall refund an amount due to the department under this chapter or s. 115.7915, Stats., as follows:

(a) If the school is currently eligible to receive special needs scholarship program payments, the department shall reduce the payments made under s. 115.7915 (4m) and (4p), Stats., by the amount owed. If reducing a payment made under s. 115.7915 (4m) and (4p), Stats., is insufficient to pay the amount owed, the school shall pay the remaining amount within 60 days of the date of the notice to the school of the amount due.

(b) If the school is not currently eligible to receive special needs scholarship program payments, the school shall refund the department within 60 days of the date of the notice to the school of the amount due.

(7) STATEMENT OF ACTUAL COST. (a) By the third Friday in July, a school may submit a statement of actual costs on a form provided by the department for a special needs scholarship program pupil. The statement of actual costs shall calculate the actual costs for the pupil as the costs for the pupil under par. (b) less any government assistance revenue received for educational programming for the pupil. Government assistance revenue under this paragraph shall include the forgiven portion of Paycheck Protection Program loans administered by the U.S. small business administration under 15 USC 636 if the amount is forgiven by October 15 following the school year the expenses were incurred. If the payment amount for the pupil based on the statement of actual costs is less than the payment amount calculated under s. 115.7915 (4m) (a) 2. b., Stats., the payment for the pupil shall be calculated as specified under s. 115.7915 (4m) (a) 2. b., Stats.

(b) The statement of actual cost may only include costs that meet at least one of the following criteria:

1. The cost was incurred to provide the services identified in the pupil's individualized education program or services plan.

2. The cost was incurred to provide specially designed instruction, regardless of where the instruction is conducted, that is provided to meet the unique needs of a child with a disability, including instruction in physical education.

3. The cost was incurred to provide aids, services and other supports that are provided in regular education classes or other education–related settings to enable a child with a disability to be educated with nondisabled children to the maximum extent appropriate.

4. The cost was incurred to provide transportation or such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including all of the following:

a. Speech–language pathology and audiology services.

b. Interpreting services.

c. Psychological services.

d. Physical and occupational therapy.

e. Recreation, including therapeutic recreation.

f. Social work services.

g. School nursing services designed to enable a child with a disability to receive an education as described in the agreement of services required under s. 115.7915 (6) (h) 1., Stats.

h. Counseling services, including rehabilitative counseling.

i. Orientation and mobility services.

j. Medical services for diagnostic and evaluative purposes only.

k. The early identification and assessment of disabling conditions in children.

5. The cost was incurred to provide services or activities for school personnel to meet the unique needs of a child with a disability.

(c) Notwithstanding par. (b) 4., the cost of a medical device that is surgically implanted or the replacement of such a device may not be included in the statement of actual cost.

(d) The statement of actual costs may only include costs that meet the eligible education expense requirements under s. PI 49.09 (1).

(e) The statement of actual costs may only include costs for a pupil incurred after the pupil is accepted into the special needs scholarship program at the school under s. PI 49.05 (5) (c) 2. or (7r).

(f) Only the school that submitted the statement of actual costs under par. (a) may receive the per pupil payment based on the actual cost in the statement in the subsequent school year under subs. (1), (2), and (3).

Note: The statement of actual cost may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/special-needs-scholarship.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; EmR1815: emerg. am. (intro.), (2) (intro.), cr. (2m), (6), (7), eff 7–1–18; EmR1911: emerg. am. (intro.), cr. (1) (c), am. (2) (intro.), cr. (2) (c), (2m), am. (3) (intro.), cr. (3) (c), (6), (7), eff. 7–1–19; CR 19–095: am. (intro.), cr. (1) (c), am. (2) (intro.), cr. (2) (c), (2m), am. (3) (intro.), cr. (3) (c), (6), (7) Register March 2020 No. 771, eff. 4–1–20; correction in (7) (c) made under s. 35.17, Stats., Register March 2020 No. 771; correction in (7) (e) made under s. 13.92 (4) (b) 7., Stats., Register January 2021 No. 781; **EmR2117: emerg. am. (7) (a), eff. 6–12–21; CR 21–046: am. (7) (a) Register February 2022 No. 794, eff. 3–1–22.**

PI 49.14 Department authority. (1) INQUIRIES. The department may make inquiries to ascertain the accuracy and completeness of information contained in audits or reports required under s. 115.7915, Stats., or this chapter. Schools and auditors shall promptly respond to inquiries made by the department.

(2) TRAINING. The department may provide training to school staff and auditors. The department may charge a reasonable fee for providing training under this subsection.

(3) PUPIL CONFIDENTIALITY. The department shall maintain pupil confidentiality at all times.

(4) ORDER TO BAR. The department may issue an order barring a private school from participating in the special needs scholarship program if the department determines that the school has done any of the following:

(a) Failed to submit the financial audit or financial audit supplemental schedule in two or more years by the date specified in s. PI 49.08.

(b) Submitted a financial audit or financial audit supplemental schedule that does not comply with the requirements under s. PI 49.08 or 49.09 in two or more instances in the same year or in different years.

(c) Excluded liabilities, whether or not the school disputes the amount owed, from the financial information required under s. 115.7915 (6) (f) 2., Stats., and s. PI 49.04 (1m) (b).

(d) Included assets in the financial information filed under s. 115.7915 (6) (f) 2., Stats., and s. PI 49.04 (1m) (b) that exceed the assets of the school.

(e) Failed to file a bond required under s. PI 49.04 for 3 consecutive months after the date the bond is due.

(f) Failed to conduct background checks required under s. PI 49.03 (4) for two or more individuals.

(g) Employed an individual in violation of s. PI 49.03 (4) (d) 1. or 2.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; correction in (4) (b), (g) made under s. 35.17, Stats., Register October 2016 No. 730l; EmR1815: emerg. am. (4) (c), (d), (g), eff 7–1–18; EmR1911: emerg. am. (4) (a) to (e), (g), eff. 7–1–19; CR 19–095: am. (4) (a) to (e), (g) Register March 2020 No. 771, eff. 4–1–20.

PI 49.15 Right to a request a hearing. (1) WHO MAY REQUEST. A person or school adversely affected by an action of the department under this chapter or s. 115.7915, Stats., may request a contested case hearing on that action. A request for a contested case hearing shall be filed with the office of legal services within 14 days of the date of the department's action.

Note: See s. 227.42, Stats. A request for a contested case hearing may be filed with the office of legal services at the following address:
Office of Legal Services
Wisconsin Department of Public Instruction
125 S. Webster St.
PO Box 7841
Madison, WI 53707–7841

(2) REQUEST FORM. (a) A request for a contested case hearing under sub. (1) shall be in writing and shall describe all of the following:

1. The department action on which a hearing is requested.

2. The requester's substantial interest claimed to be adversely affected.

3. How the department's action adversely affected the requester's substantial interest.

4. The grounds for the hearing request, including each of the specific material facts or legal issues that are in dispute. Any material fact or legal issue that is not disputed shall be deemed admitted.

5. The relief sought.

(b) Upon the request of the department, the person or school who filed a request for a hearing under sub. (1) shall provide the department with any additional clarifying information the department determines is necessary to decide whether to grant or deny a hearing request.

(3) GRANTING OR DENYING REQUEST. (a) The department shall grant or deny a request for a contested case hearing under sub. (1) within 20 days after a request is filed, unless the person or school requesting the hearing agrees to an extension of time. The department may grant a request for a contested case hearing if, upon preliminary review, it appears that all of the following apply:

1. The department has jurisdiction over the matter.

2. The request for a hearing complies with the requirements under subs. (1) and (2).

3. The requester is entitled to a hearing under s. 227.42, Stats.

(b) Any action taken by the department which is contested under sub. (1) shall remain in effect until the state superintendent issues a final decision and order under s. 227.47, Stats.

(4) TRANSCRIPT. (a) Upon filing a written request with the department, any party in a contested case hearing may obtain a written transcript of the hearing. Except as provided in par. (b), the department shall charge the requesting party the actual cost to produce the transcript.

(b) The department may provide a written transcript free of charge to a requesting party if the requesting party demonstrates, to the department's satisfaction, that the requesting party is indigent and has a legal need for the transcript.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; correction in (2) (a) 2., (3) (a) 3. made under s. 35.17, Stats., Register October 2016 No. 730.

PI 49.16 Summer school attendance and payment. (1) DEFINITION. In this section, "academic purposes" means summer school learning experiences that are related to or similar to instruction the school offers during the regular school term or for which credit toward graduation is given.

(2) LIST OF CLASSES. Annually by the first weekday in May, a school shall file with the department a list of academic summer school classes and laboratory periods that the school will provide in the following summer. The department shall annually review the list to ensure the classes are for academic purposes.

(3) PROGRAM REQUIREMENTS. A school may count any of the following as instruction for academic purposes:

(a) Music programs, lessons, sections, or clinics.

(b) Swimming instruction programs, if taught or directed by a teacher at the site of the instruction.

(c) Field trips if accompanied by a teacher and if all pupils have equal access to the field trips regardless of a pupil's ability to pay.

(4) PUPIL ATTENDANCE REQUIREMENTS. A school may include a pupil in its summer school report if the pupil was a special needs scholarship program pupil on a count date during the school year immediately preceding the summer school instruction.

(5) REPORT. A school counting pupils for special needs scholarship program summer school payment purposes shall file a summer school report with the department listing the special needs scholarship program pupils who attended summer school and the number of days the pupils attended. The school shall report this information on a form provided by the department.

(6) CHOICE PAYMENT. A school may not receive a summer school payment under ss. 118.60 (4m) or 119.23 (4m), Stats., and a summer school payment under s. 115.7915 (4p), Stats., for the same pupil in the same school year.

Note: A summer school report form may be obtained at no charge from the Wisconsin department of public instruction's website at http://dpi.wi.gov/sms/special–needs–scholarship.

History: EmR1619: emerg. cr., eff. 6–2–16; CR 16–005: cr., Register October 2016 No. 730, eff. 11–1–16; correction in (2) (a) 2., (3) (a) 3. made under s. 35.17, Stats., Register October 2016 No. 730; EmR1815: emerg. cr., eff 7–1–18; EmR1911: emerg. cr., eff. 7–1–19; CR 19–095: cr. Register March 2020 No. 771, eff. 4–1–20.