

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 6/13/2019
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter PI 36, Public School Inter-District Open Enrollment	
4. Subject Financial statements for special education services under open enrollment	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input checked="" type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137 (3) (b) 1., Stats. \$0	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137 (3) (b) 2., Stats.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The objective of the emergency and proposed permanent rule under this statement of scope will describe the eligible special education costs that may be reported on the financial statement, as well as provide timelines for the submission of the financial statement to the department.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments The Department contacted various associations that represent school districts and other groups in the education community for comment on the rule. These groups include the Wisconsin Association of School Business Officials, the Wisconsin Association of School Boards, the Wisconsin Association of School District Administrators, the School Administrators Alliance, and the Wisconsin Council of Administrators of Special Services.	
13. Identify the Local Governmental Units that Participated in the Development of this EIA None.	
14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) Local:  2017 Wisconsin Act 59 (the 2017-19 biennial budget) made several changes related to open enrollment. Starting in the 2019-20 school year, for pupils who are open enrolled for the second or subsequent year, the open enrollment payment could be either the per pupil payment amount under the indexing method or the actual costs to the nonresident district, up to \$30,000, if the nonresident school district had submitted to the Department a financial statement indicating the actual cost to the school district of providing a free and appropriate education to the pupil in the previous school year. Under the emergency and proposed permanent rule changes, districts that wish to use the actual cost option must submit a financial statement to the Department. Individual school district resources would not be affected due to the fact that the rules only clarify what is constituted as actual costs for special education pupils under the open enrollment program. It is expected that any changes to school district operations as a result of	

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changes under this rule, i.e., completing the required financial statement, will be absorbed by existing school district resources. As such, the local fiscal impact as a result of this rule will be minimal.

State:

Under the open enrollment program, the resident school district counts a pupil transferring to another school district under open enrollment in its pupil membership for revenue limits and general aids. For each pupil transferring to another school district, a specified amount of state aid is then transferred from the resident school district to the nonresident school district. For each special education pupil transferring to another school district, the amount of aid transferred from the resident school district to the nonresident school district equals the per pupil payment amount under the indexing method or the actual costs to the nonresident district, up to \$30,000, if the nonresident school district had submitted to the Department a financial statement indicating the actual cost to the school district of providing a free and appropriate education to the pupil in the previous school year. The emergency and proposed permanent rules specify components of the open enrollment financial statement that nonresident school districts can use to submit their information in order to be aided on actual costs for special education pupils participating in the open enrollment program. The rules will not affect the total volume of open enrollment transfers and would not impose a net impact on the distribution of general school aid in a way that would have been possible under current law. However, the Department may be required to direct staff time for the purpose of developing the required form for school districts to submit such information and to provide assistance to school districts to help them complete the form. It is assumed these changes would be absorbed within existing Department resources; therefore, there is no fiscal effect to the state as a result of this bill.

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15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The emergency and proposed permanent rules specify components of the open enrollment financial statement that nonresident districts can use to submit their information in order to receive aid for actual costs associated with a special education pupil in the open enrollment program. Without a rule change, the Department will be required to implement rules governing the open enrollment program as they currently exist in PI 36, and school boards may be faced with unclear guidance around the financial reporting requirements for special education services under the open enrollment program.

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16. Long-Range Implications of Implementing the Rule

This proposed rule will align Chapter PI 36 of the Wisconsin Administrative Code with the statutory changes under 2017 Wisconsin Act 59 and clarify certain provisions that have been implemented around special education costs under the open enrollment program.

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17. Compare With Approaches Being Used by Federal Government

N/A

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18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois rules and statutes are silent as it relates to procedures for transferring pupils via interdistrict open enrollment.

Iowa (Iowa Admin. Code r. 281-17.11(282)): The district of residence shall pay to the receiving district on a quarterly basis the actual costs incurred by the receiving district in providing the appropriate special education program. These costs shall be based on the current year expenditures with needed adjustments made in the fourth quarter payment. The responsibility for ensuring that an appropriate program is maintained for an open enrollment special education pupil shall rest with the resident district. For an open enrolled special education pupil where the receiving district is located in an area education agency other than the area education agency within which the resident district is located, any moneys received by the area education agency of the resident district for an approved open enrollment special education pupil shall be forwarded to the receiving district's area education agency.

Michigan (Mich. Comp. Laws Ann. § 388.1705 sec. 105 or 105c): Each local school district must decide whether it will participate in schools of choice, whereby local school districts may enroll nonresident students and count them

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in membership without approval from the district of residence. If a student is eligible for special education programs and services, a district may not refuse enrollment to a student eligible for special education programs unless there is no written agreement with the district of residence. If the student resides in a contiguous intermediate school district, the enrolling district and district of residence must have a written agreement regarding the payment of added costs of special education programs and services. If a student is eligible or becomes eligible for special education services and relocates to a resident district outside of the boundaries of the intermediate school district, then the enrolling district and the district of residence must have a written agreement regarding the payment of added costs of special education programs and services in order for the student to continue to be counted in membership by the enrolling district. If a student relocates to another resident district outside of the boundaries of the intermediate school district in which the enrolling district is located, then the enrolling district and the district of residence must have a written agreement regarding the payment of added costs of special education programs and services in order for the student to continue to be counted in membership by the enrolling district. School districts that enroll nonresident students receive the lesser of their own foundation allowance or the foundation allowance of the district of residence.

Minnesota (Minn. Stat. Ann. § 127A.47 subd. 7): Minnesota statutes require that the general education aid and special education aid for resident school districts must be adjusted for each pupil attending a nonresident district and paid to the serving district under the enrollment options program. Special education aid paid to the resident district must be reduced by an amount equal to 90 percent of the unreimbursed cost of providing special education and services, which is the difference between the actual cost of providing special education services minus the amount of general education revenue attributable to a pupil for the portion of time the pupil receives special education services outside of the classroom, minus special education aid attributable to a pupil that is received by the district providing special education services.

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