

To: Legislative Reference Bureau  
From: Department of Public Instruction  
Date: August 24, 2021  
Re: Private School Choice Programs and Special Needs Scholarship Program Waivers

This memo serves as the notification to the Legislative Reference Bureau required under s. [118.38\(4\)\(b\)1., Stats.](#), of waivers the Department of Public Instruction (Department) is providing under s. [118.38\(4\)\(a\)1., Stats.](#)

### **Requirements being Waived for the Private School Choice Program**

This waiver applies to the 2020-21 school year. In

this waiver, the following definitions are used:

1. "Emergency Assistance to Non-Public Schools" means the Emergency Assistance to Non-Public Schools grants in Coronavirus Response and Relief Supplemental Appropriations Act, 2021, Pub. L. No. 116-260 § 312(a)(2) and (d).
2. "Employee Retention Credit" means an employee retention credit described in Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, § 2301, 134 Stat. 281, 347-51 (2020); Taxpayer Certainty and Disaster Tax Relief Act of 2020, Pub. L. No. 116-260, § 206, 207 and 303; or American Rescue Plan Act of 2021, Pub. L. No. 117-2 § 9651.
3. "Adjustment amount" means Emergency Assistance to Non-Public Schools funds and Employee Retention Credits that meet all of the following requirements:
  - a. The amount is included as a June 30, 2021 receivable in the financial audit required under ss. 118.60 (7) (am) and 119.23 (7) (am), Stats., and chs. PI 35 and 48 for the school year ended June 30, 2021.
  - b. The funds were used for eligible education expenses as defined in ss. 118.60(7)(am) 1m. and 119.23 (7) (am) 1m., Stats., and ss. PI 35.10 (1) and 48.10 (1).
  - c. The school expects to receive cash for the receivable after June 30, 2021.

The DPI waives the following requirements if reducing the required cash and investment balance calculated under ss. PI 35.10 (3) (d) and (4) and 48.10 (3) (d) and (4) by the adjustment amount results in a required cash and investment balance of \$0 or less:

1. The requirement in ss. 118.60 (7) (an) 1. and 119.23 (7) (an) 1., Stats., and ss. PI 35.10 (4) and 48.10 (4) to maintain a cash and investment balance that is at least as much as the amount calculated under ss. PI 35.10 (3) (d) and (4) and 48.10 (3) (d) and (4).
2. The requirement in ss. 118.60 (7) (an) 1. and 119.23 (7) (an) 1., Stats., and ss. PI 35.10 (4) and 48.10 (4) to repay the reserve balance to the department if a sufficient cash and investment balance is not maintained.

This waiver does not apply to a private school that ceases to participate in or is barred from the programs under ss. 118.60 and 119.23, Stats., for the 2020-21 school year.

### **Requirements being Waived for the Special Needs Scholarship Program**

This waiver applies to the 2020-21 school year.

In this waiver, the following definitions are used:

1. “Emergency Assistance to Non-Public Schools” means the Emergency Assistance to NonPublic Schools grants in Coronavirus Response and Relief Supplemental Appropriations Act, 2021, Pub. L. No. 116-260 § 312(a)(2) and (d).
2. “Employee Retention Credit” means an employee retention credit described in Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, § 2301, 134 Stat. 281, 347-51 (2020); Taxpayer Certainty and Disaster Tax Relief Act of 2020, Pub. L. No. 116-260, § 206, 207 and 303; or American Rescue Plan Act of 2021, Pub. L. No. 117-2 § 9651.
3. “Adjustment amount” means Emergency Assistance to Non-Public Schools funds and Employee Retention Credits that meet all of the following requirements:
  - a. The amount is included as a June 30, 2021 receivable in the financial audit required under s. 115.7915 (6) (e), Wis. Stats., and ch. PI 49 for the school year ended June 30, 2021.
  - b. The funds were used for eligible education expenses as defined under s. PI 49.02(6) and 49.09 (1).
  - c. The school expects to receive cash for the receivable after June 30, 2021.

The DPI waives the requirement in s. PI 49.09 (4) to maintain a cash and investment balance that is at least as much as the reserve if reducing the required cash and investment balance calculated under s. PI 49.09 (3) (e) and (4) by the adjustment amount results in a required cash and investment balance of \$0 or less. This waiver does not apply to a private school that ceases to participate in or is barred from the program under s. 115.7915, Wis. Stats., for the 2020-21 school year.