

**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 6/26/2019
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3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)  
Chapter PI 49, Special Needs Scholarship Program

4. Subject  
Changes to rules governing the Special Needs Scholarship Program as a result of 2017 Wisconsin Acts 36 and 59 and other changes

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
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7. Fiscal Effect of Implementing the Rule  
 No Fiscal Effect     Increase Existing Revenues     Increase Costs     Decrease Costs  
 Indeterminate     Decrease Existing Revenues     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 <b>(if checked, complete Attachment A)</b>

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.?  
 Yes     No

11. Policy Problem Addressed by the Rule  
This emergency rule replaces emergency rule provisions, which were established under Emergency Rule 1815. Emergency Rule 1815 amended ch. PI 49 of the Wisconsin Administrative Code in order to conform Department rules governing the special needs scholarship program to changes in statute as a result of 2017 Wisconsin Acts 36 and 59 and other changes. This emergency rule also includes items that will assist schools, auditors and the department in the administration and implementation of the program since Emergency Rule 1815 was published.

Key aspects of this emergency rule include the following:

- Specifies the requirements for the modified financial audit and the standard financial audit.
- Clarifies the individuals for whom schools must complete background checks and specifies that schools do not need to complete a background check for individuals with a current license issued under ch. PI 34.
- Modifies certain due dates so the dates will not fall on a weekend.
- Specifies that the notice of intent to participate may be submitted by the special needs scholarship program administrator.
- Modifies the accreditation requirements to allow accrediting organizations to provide a notice rather than a letter of the accreditation status of schools.
- Specifies that the budget required for meeting the financial requirements option for schools with expected payments over \$50,000 must include the anticipated beginning and ending reserve balance.
- Clarifies that schools with expected scholarships over \$50,000 that use the financial requirements option and participate in the private school choice programs must have a financial audit under ss. 118.60 and 119.23 that demonstrates the school has the ability to pay the expected scholarship amount. Also specifies the financial requirements include the school not having a net loss or negative change in net assets.

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- Specifies that schools may change the number of available scholarships in certain circumstances.
  - Specifies what is required for an Individualized Education Program (IEP) or services plan to be in effect.
  - Specifies when the school must send the following emails:
    - o The email to the local education agency that developed the IEP or services plan verifying that the student had an IEP or services plan that was in effect; and
    - o If the resident school district did not develop the IEP or services plan, the email to the pupil's resident school district notifying them that the pupil will receive a scholarship if the verification above determines the pupil is eligible for the program.
  - Specifies that the local education agency sending the IEP or services plan to the private school in response to the IEP or services plan verification email request is considered the verification that the student has an IEP or services plan that meets programmatic requirements.
  - Removes the pupil eligibility requirements related to open enrollment denials since the requirement for an open enrollment denial was removed from s. 115.7915, Stats.
  - Clarifies the pupil eligibility requirements for transfer pupils and how transfer requests may be corrected if errors are identified by the auditor.
  - Clarifies that if a pupil who no longer has a disability attends a different school, the pupil is not eligible for a special needs scholarship program scholarship.
  - Modifies the full time equivalent determination so that it is based on the required number of hours for first grade pupils in the private school rather than first grade pupils in the public school district.
  - Modifies the dates by which applications and transfer requests must be submitted to the department.
  - Specifies that the school must identify pupils no longer eligible for a scholarship in the preliminary enrollment report and pupil count reports.
  - Clarifies the agreement of services requirements.
  - Removes the requirement to use original classroom records when completing the procedures for special needs scholarship program pupils for the enrollment audit. The procedures ensure the submitted pupil counts are accurate by comparing the school submitted pupil count reports to the official attendance records.
  - Specifies that the identification of special needs scholarship program pupils may be in a different report than the official attendance records, if the official attendance records are from the student information system.
  - Specifies the requirements for a school to receive a special needs scholarship program summer school payment and the audit requirements of the summer school report.
  - Specifies that a pupil may attend a different school for summer school and still be eligible for a special needs scholarship program scholarship.
  - Clarifies the requirements for including fixed assets in the financial audit.
  - Specifies that leased right of use assets, which will be required in financial audits due to a change in generally accepted accounting principles, are not included in the required cash and investment balance calculation.
  - Specifies how net eligible education expenses are calculated if the school is not eligible for all special needs scholarship program payments.
  - Specifies what is considered a management letter.
  - Clarifies what expenses are primarily related to special needs scholarship program pupils and how they impact the reserve balance schedule calculations.
  - Clarifies the school's responsibility for the financial requirements.
  - Specifies the requirements for the statement of actual cost, how payments will be made for students with a statement of actual cost, and the impact on the reserve balance schedule calculations.
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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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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 engaged and reached out to several stakeholders in the school choice community during the development of this rule, including School Choice Wisconsin, the Wisconsin Catholic Conference, and the Wisconsin Council of Religious and Independent Schools.

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13. Identify the Local Governmental Units that Participated in the Development of this EIA

None.

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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:

2015 Wisconsin Act 55 created the Special Needs Scholarship Program under s. 115.7915, Stats., which was later modified by 2017 Wisconsin Acts 36 and 59. The Special Needs Scholarship Program affects local education agencies and private schools. There is no economic impact on local education agencies or private schools with respect to the rule because the rule implements statutory changes and is intended to clarify wording and improve procedures for schools and the Department.

State:

No fiscal effect.

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

Modifications to the rule will align the rule chapter to statutory changes as a result of 2017 Wisconsin Acts 36 and 59, as well as better assist schools and the Department in the administration of the program based on feedback from participating schools and items identified since implementation of the program. Without a rule change, statute and rule will not be consistent and the Department may be prevented from efficiently administering the program.

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16. Long-Range Implications of Implementing the Rule

The proposed rule will better assist schools and the Department in the administration of the program based on feedback from participating schools and school districts and conforms the rule to best practices and efficiencies identified since implementation of the program. In addition, rule and agency practice will be consistent with the statutes as modified by 2017 Wisconsin Acts 36 and 59.

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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)

There do not appear to be comparable rules or statutes governing special needs scholarship programs in neighboring states.

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19. Contact Name

Carl Bryan, Administrative Rules Coordinator  
Department of Public Instruction

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20. Contact Phone Number

(608) 267-9127

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