

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis
ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

Sections 1, 2 and 4 of the proposed rule provide that the forgiven portion of loans under the PPP are not included as offsetting revenues in the financial audit supplemental schedule for schools participating in any of the state's Parental Choice Programs and the Special Needs Scholarship Program. It is the department's understanding that most schools participating in the Parental Choice Programs or the Special Needs Scholarship had a PPP loan. The effect on small businesses as a result of this rule is indeterminate because the department does not have: 1) the PPP loan amounts; 2) the amounts forgiven; and 3) when the amounts will be forgiven for each private school participating in the Parental Choice Programs or Special Needs Scholarship Program. According to the Small Business Administration, First Draw PPP loans made to eligible borrowers qualify for full loan forgiveness if during the 8- to 24-week covered period following loan disbursement:

- Employee and compensation levels are maintained
- The loan proceeds are spent on payroll costs and other eligible expenses; and
- At least 60% of the proceeds are spent on payroll costs

The department anticipates that schools participating in the Parental Choice Programs or Special Needs Scholarship Program will meet the above criteria and have their PPP loan forgiven in whole or part. Without this rule, the forgiven portion of a PPP loan that was used for eligible education expenses would be included in offsetting revenue and decrease a school's eligible education expenses, resulting in an increase in the school's Parental Choice Programs and/or Special Needs Scholarship reserve balance. The reserve balance is the remaining balance of Parental Choice Programs or Special Needs Scholarship revenue that hasn't been spent on eligible education expenses. Private schools participating in the Parental Choice Programs or Special Needs Scholarship Program are required to have a cash and investment balance that is at least as much as the reserve balances with certain adjustments. As a result, the increase in the reserve balances would result in schools being required to have a higher cash and investment balance.

Additionally, sections 3 and 5 of the proposed rule specify that any amount forgiven for a PPP loan until October 15th in the following school year reduces the costs in the Special Needs Scholarship Program statement of actual cost for the current school year. The proposed rule provides if an amount is forgiven between the due date of the statement of actual costs and October 15th, the change in the per pupil payment will be made through the Enrollment Audit certification process. Finally, this rule change ensures that schools will not receive less than the standard payment rate for a pupil included in a statement of actual costs due to changes in the actual cost, such as costs that are subsequently forgiven.

Forgiven PPP loans will not be counted as government assistance revenue and will therefore not increase the cash and investment balance required for private schools participating in a Parental Choice Program or the Special Needs Scholarship Program as a result of this rule. There are no anticipated compliance costs associated with the proposed rule or anticipated additional costs to small businesses. The proposed rule helps small businesses by ensuring a private school does not receive a payment for a pupil below the standard payment rate because of costs in the statement of actual cost that are subsequently forgiven. The effect on small businesses as a result of the rule is indeterminate.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

An analysis conducted by the department indicates that the proposed rule may impact small businesses in the state, specifically private schools participating in any of the state's Parental Choice Programs or the Special Needs

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Scholarship Program that have received loans under the PPP. Chapters PI 35, 48, and 49 of the Wisconsin Administrative Code govern the administration of private schools participating in the Milwaukee Parental Choice Program, the Racine and Wisconsin Parental Choice Programs, and the Special Needs Scholarship Program, respectively, including fiscal requirements for schools participating in any of these programs. Under current rule, private schools participating in the Parental Choice Programs and Special Needs Scholarship Program must annually submit a financial audit that determines the school's net eligible education expenses. Further, under current rule, private schools participating in the Special Needs Scholarship Program may submit a statement of actual costs for services provided to a pupil participating in the Special Needs Scholarship Program.

Pursuant to s. 118.38 (4) (a) 1., Stats., the department was given the authority to waive the requirement that any PPP loans received under the CARES Act that are forgiven on or before June 30, 2020, be included as offsetting revenue in the 2019-20 financial audit. However, the forgiveness for some of the participating schools' loans will not be included in the school's financial audit until after the 2019-20 school year. Further, the federal government has made additional PPP loans available. These loans would also be forgiven at a later date. In analyzing the economic impact of this rule, PPP loans that are forgiven will not result in a reduction in each participating private school's net eligible education expenses in the financial audit supplemental schedule. Additionally, private schools participating in the Special Needs Scholarship Program will not receive less than the standard payment rate for a pupil included in a statement of actual costs due to costs that are subsequently forgiven.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

Forgiven PPP loans will not be counted as government assistance revenue and will therefore not increase the cash and investment balance required for private schools participating in a Parental Choice Program or the Special Needs Scholarship Program as a result of this rule. There are no anticipated compliance costs associated with the proposed rule or anticipated additional costs to small businesses.

5. Describe the Rule's Enforcement Provisions

Wis. Stat. 115.7915, 118.60, and 119.23 and Chapters PI 35, 48, and 49 specify that the financial audit supplemental schedule, including the offsetting revenue, is audited by an independent auditor. The financial audit, including the financial audit supplemental schedule, is then reviewed and certified by the department. The audit of the financial audit by the independent auditor also includes reviewing the statement of actual costs.

Additionally, the proposed rule provides if an amount is forgiven between the due date of the statement of actual costs and October 15th, the change in the per pupil payment will be made through the Enrollment Audit certification process.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes
 - No
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