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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 19-095

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]**

#### 1. Statutory Authority

a. In SECTION 11 of the proposed rule, the department provides limited exceptions to the requirement that a school conduct background checks of its employees. Specifically, the department requires that a school conduct a background check for employees who are directly or indirectly related to educational programming, as defined by the proposed rule, which leaves open the possibility that an employee who is not directly or indirectly related to educational programming need not complete a background check. The proposed rule also provides that a school need not conduct a background check on an individual who is licensed by the department, presumably because a background check is conducted by the department via the licensing process.

However, the statute provides that a private school participating in the Special Needs Scholarship Program (SNSP) *shall* conduct criminal background investigations of its employees without providing for any specific exceptions. The department should provide an explanation of its authority to deviate from the statutory directive that a participating private school conduct criminal background checks of its employees.

#### 2. Form, Style and Placement in Administrative Code

a. In SECTION 12 of the proposed rule, specifically under s. PI 49.03 (6), does the department intend to leave the reference to August 1, or would the department prefer that this due date be phrased as “by the first weekday in August” or “by the last weekday in July”?

b. In SECTION 14 of the proposed rule, the department should strike “File with the department” from s. PI 49.04 (1m) (b) 3., 4., and 5., and should instead begin each subdivision with “The most”, “Bank statements”, and “Any other”, respectively. Each subunit following an introduction should form a complete sentence when read with the introduction. [s. 1.03 (3), Manual.]

c. In s. PI 49.07 (4) (a), under SECTION 48 of the proposed rule, the department should change “s. PI 49.08 and PI 49.09” to “ss. PI 49.08 and 49.09”.

d. In SECTION 68, the department should insert spaces into the citation so that it reads as “s. 227.22 (2) (intro.), Stats.”.

### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In SECTION 13 of the proposed rule, the department defines “initial expected payment” and “revised expected payment” in part based on the SNSP summer school payment included in a school’s notice of intent to participate in the program. However, this phrasing is a bit imprecise because the information included in the notice of intent is the number of pupils who are expected to participate in summer school, not the expected payment amount. The department should consider revising its definitions to more accurately reflect that the summer school payment is based on the number of pupils included in the school’s notice of intent to participate.

b. In SECTION 14 of the proposed rule, the department requires that certain schools file any statements regarding past due amounts, interest, or penalties due to the IRS, the Wisconsin Department of Workforce Development, and the Wisconsin Department of Revenue. The same subdivision, however, also requires that a school do certain things if it has past due amounts, interest, or penalties due to “a government entity” generally. This could be interpreted to mean entities other than the three previously listed. If the department intends to only require certain actions in response to debts owed to the three listed agencies, it should clarify the language in s. PI 49.04 (1m) (b) 2.

c. In SECTION 16 of the proposed rule, the department provides that a school that filed a bond may be required to file a revised bond in order to increase the number of SNSP scholarships available. Any such revised bond must be filed by the first weekday in November. The same subsection provides that a school that either filed financial information or was not required to file a bond or financial information may be required to file a bond in order to increase the number of SNSP scholarships available. However, such bonds must be filed by the last weekday in August. Why is there a difference in filing deadlines?

d. The department should revise s. PI 49.04 (5) (b) and (c), under SECTION 16 of the proposed rule, to clarify what may occur in terms of increasing the number of scholarships available when the school at issue is not required to file a bond.

e. In s. PI 49.04 (5) (f), under SECTION 16 of the proposed rule, the department provides that any bond filed under the subsection must include the expected SNSP summer school payment. The department should clarify whether or how inclusion of the SNSP summer school payment is to be factored into the calculations to determine whether a bond or revised bond must be filed under s. PI 49.04 (a), (b), and (c). Is the summer school payment to be factored into a bond only

after an initial determination regarding whether a bond or revised bond must be filed is made based only on the number of scholarships to be paid?

f. In s. PI 49.05 (7) (b), under SECTION 26 of the proposed rule, “no longer had a disability” should be “no longer has a disability”.

g. In SECTION 31 of the proposed rule, the department should consider deleting “and sub. (3)” from s. PI 49.06 (3) (b) 4. a., b., and c. because sub. (3) does not mention a certain number of hours of instruction for first grade pupils.

h. The department should review s. PI 49.06 (3m) under SECTION 35 of the proposed rule and clarify if necessary. As drafted, it is unclear whether a school is required to file applications and transfer requests on an ongoing basis or once each school year.

i. In s. PI 49.06 (5) (e), under SECTION 41 of the proposed rule, the department should review whether it intended to reference school term rather than school year and change if necessary.

j. In s. PI 49.09 (3) (c) 4., under SECTION 56, does the offsetting revenue mentioned mean government assistance revenue? If so, this should be clarified.