Report From Agency

FINAL REPORT
CLEARINGHOUSE RULE 16-019
CHAPTER PI 36
PUBLIC SCHOOL INTER-DISTRICT OPEN ENROLLMENT

Analysis by the Department of Public Instruction

Statutory authority: 118.51 and 227.11 (2) (a) (intro.), Stats.

Statute interpreted: 118.51, Stats.

This proposed rule will align PI 36 with current statute, which was modified by 2015 Wisconsin Act 55. 2015 Wisconsin Act 55 modified the public school open enrollment program as it relates to pupils with disabilities beginning in the 2016-17 school year. Specifically, Act 55 made the following changes:

- Deleted the authority of a resident school district to deny an open enrollment application on the basis of undue financial burden.
- Established a new per pupil aid transfer amount for pupils with disabilities of $12,000. Similar to the current open enrollment transfer amount for regular education pupils, the $12,000 is to be transferred from the resident district to the nonresident district for each open-enrolled special education pupil.
- Indexed the new $12,000 transfer amount annually similar to the transfer amount for regular education pupils. The indexing amount is based on the revenue limit per pupil adjustment and the change in categorical aid funding per pupil in a given year.
- Deleted the requirement that the resident district pay tuition to the nonresident district for a special education pupil attending under open enrollment.
- Deleted the requirement that a nonresident district provide an estimate to the resident district of the costs to provide the special education services required in the individualized education program (IEP) for a pupil with disabilities who applies for open enrollment.

The proposed rule will align DPI Administrative Code and practice with these provisions contained in Act 55.

A list of the persons who appeared or registered for or against the proposed rule at a public hearing:

As provided in s. 227.16 (2) (b), Stats., there is no requirement that a public hearing be held for this rule because the proposed rule brings an existing rule into conformity with a statute that has been changed.

Summary of public comments relative to the rule, the agency's response to those comments, and changes made as a result of those comments:

No public hearing was held and no comments were received.

Changes to the plain language analysis or the fiscal estimate:

None.

Responses to Clearinghouse Report:

2. Form, Style and Placement in Administrative Code:

- Revised the enumeration of sections treated by the proposed rule in the rule's introductory clause for consistency with the treatments indicated in the rule text.
- Revised the language in SECTION 7 to read "s. 118.51 (11) or (12)~~ (a) or (b) 2.~~, Stats.," rather than "s. 118.51 (11)~~ or (12) or (b) 2.~~ , Stats."
- Repealed the Note following s. PI 36.06 (4) (c) 4.
- Removed the reference to the "basic open enrollment payment" in s. PI 36.08 (3) (a) 1.
- Reversed the underscore and strikethrough in SECTION 16 (now SECTION 17).

5. Clarity, Grammar, Punctuation and Plainness:

- Clarified the language in s. PI 36.08 (3) (c) regarding notification to the resident district of ending a pupil's special education services in order to calculate the open enrollment payment for the pupil.
- Added the "s" at the end of the word "day" in s. PI 36.08 (3) (c) 1.

Changes deemed necessary by the Department to improve implementation of the rule:

- Deleted the proposed modification of s. PI 36.02 (10) in SECTION 2 of the rule. This will retain the definition of "currently-attending pupil" as stated in the current PI 36.