

Report From Agency
FINAL REPORT
CLEARINGHOUSE RULE 19-081
CHAPTER PI 36
PUBLIC SCHOOL INTER-DISTRICT OPEN ENROLLMENT

Analysis by the Department of Public Instruction

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

Statute interpreted: s. 118.51, Stats.

The objective of the emergency and proposed permanent rule under this statement of scope will describe the eligible special education costs that may be reported on the financial statement, as well as provide timelines for the submission of the financial statement to the department.

The hearing notice was published in the June 24th, 2019, edition of the Wisconsin Administrative Register. A public hearing was held on July 26th, 2019.

No persons testified at the hearing held on July 26th, 2019. However, the following persons submitted written testimony:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Dan Rossmiller	Wisconsin Association of School Boards			X

Summary of public comments relative to the rule and the agency’s response (bolded) to those comments:

The respondent offered technical suggestions for consideration in the permanent rule, including the following: a) clarifying the reference to “that school year” in ss. PI 36.08 (3m) (a) and (b), which is potentially ambiguous; b) clarifying the reference to “in the subsequent school year” in s. PI 36.08 (3m) (d), which is also potentially ambiguous; and c) changing the cross-reference to s. 118.51 (17) (b), Stats., in s. PI 36.08 (3m) (e), which is arguably too broad as applied in rule, with s. 118.51 (17) (b) 2., Stats.

Changes made as a result of oral or written testimony:

- a) The change is accepted per the comments received from Legislative Council under item 2. a. in the Clearinghouse report.
- b) The Department has removed the reference to “the subsequent school year” from s. PI 36.08 (3m) (d).
- c) The change is accepted per the comments received from Legislative Council under item 2. c. in the Clearinghouse report.

Changes to the analysis or the fiscal estimate:

No changes were made.

Responses to Clearinghouse Report:

2. Form, Style and Placement in Administrative Code:

- a) The change is accepted.
- b) The Department agrees that greater clarity is needed for the provision and has corrected the statement in s. PI 36.08 (3m) (a) to read that the nonresident school board may submit a financial statement that shows the actual cost the nonresident school board incurred to provide FAPE to the child during the prior school year.
- c) The Department agrees that greater clarity is needed for provision and has corrected the cross reference in s. PI 36.08 (3m) (e) to s. 118.51 (17) (b) 2., Stats. The Department also added a statement in that provision to read that the nonresident school board may either receive the per pupil transfer amount under the indexing method under s. 118.51 (17) (b) 2. c., Stats., or the transfer amount under s. 118.51 (17) (b) 3., Stats.

4. Adequacy of References to Related Statutes, Rules and Forms:

The change is accepted.