

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 11/22/2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter PI 11, Children with disabilities		
4. Subject Reevaluation criteria for orthopedic impairment, traumatic brain injury, and significant developmental delay disability categories		
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
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> 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 (if checked, complete Attachment A)		
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.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
11. Policy Problem Addressed by the Rule The objective of the proposed rule is to conform sections of ch. PI 11 of the Wisconsin Administrative Code, relating to orthopedic impairment, traumatic brain injury, and significant developmental delay disability categories, to other disability categories under ch. PI 11 that address the reevaluation criteria for special education. The reevaluation criteria are needed to address continuing eligibility for special education services and to ensure that students who may be making progress and may no longer meet initial criteria are still eligible to receive services if they continue to need specially designed instruction.		
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 held a preliminary public hearing and comment period on the scope statement for the proposed rule. No comments were received that were considered in the development of this economic impact analysis.		
13. Identify the Local Governmental Units that Participated in the Development of this EIA None.		
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) State: None. Local: This proposed rule conforms sections of ch. PI 11 of the Wisconsin Administrative Code, relating to orthopedic impairment, traumatic brain injury, and significant developmental delay disability categories, to other disability categories under ch. PI 11 that address the reevaluation criteria for special education. The reevaluation criteria are needed to address continuing eligibility for special education services and to ensure that students who may be making progress and may no longer meet initial criteria are still eligible to receive services if they continue to need specially designed instruction. The effect of the rule change is indeterminate but it is expected that the fiscal impact on school districts serving children that meet the criteria under this rule will be minimal.		

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

The proposed rule addresses continuing eligibility criteria for special education services for children with an orthopedic impairment, traumatic brain injury, or significant developmental delay. The proposed rule ensures that students who may be making progress and may no longer meet initial criteria are still eligible to receive services if they continue to need specially designed instruction. Additionally, the proposed rule conforms the reevaluation criteria for services for children with an orthopedic impairment, traumatic brain injury, or significant developmental delay with that of criteria that exist for other disability categories, including blind and visually impaired, deaf and hard of hearing, and deafblind (which became effective August 1, 2021, under Clearinghouse Rule 20-072); and speech and language impairment criteria (which became effective on August 1, 2021, under Clearinghouse Rule 20-074).

Without a rule change, the department would be required to implement ch. PI 11 as it currently exists, and there would be no reevaluation criteria to determine continuing eligibility for special education services for children that have an orthopedic impairment, traumatic brain injury, or significant developmental delay

16. Long-Range Implications of Implementing the Rule

The reevaluation criteria under the proposed rule addresses continuing eligibility criteria for special education services for children with an orthopedic impairment, traumatic brain injury, or significant developmental delay. The proposed rule would ensure that students who may be making progress and may no longer meet initial criteria are still eligible to receive services if they continue to need specially designed instruction.

17. Compare With Approaches Being Used by Federal Government

20 U.S.C. 1401(3)(A) defines a child with a disability as a child with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as “emotional disturbance”), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and who, by reason thereof, needs special education and related services.

Further, 20 U.S.C. 1401(3)(B) provides that a child with a disability, for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the state and the local educational agency, include a child experiencing developmental delays, as defined by the state and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and who, by reason thereof, needs special education and related services.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Ill. Admin. Code tit. 23 § 226.120 governs the reevaluation of children that are eligible for special education and related services and provides that procedures for the completion of reevaluations of children for whom special education and related services are currently being provided shall conform to the requirements of 34 CFR 300.303, 300.304, 300.305, 300.306 and 300.309, as well as Ill. Admin. Code tit. 23 § 226.110. Additionally, Ill. Admin. Code tit. 23 § 226.75 identifies 13 disabilities for which children are eligible for special education and related services, pursuant to the federal Individuals with Disabilities Education Act, and includes autism, deaf-blindness, deafness, emotional disability, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment.

Iowa: Iowa Admin. Code r. 281-41.303 governs the reevaluation of each child with a disability and provides that a public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with rules 281-41.304 (256B, 34 CFR 300) to 281-41.311 (256B, 34 CFR 300), if: 1) the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or 2) if the child's parent or teacher requests a reevaluation. A reevaluation conducted

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under subrule 41.303(1) may occur not more than once a year, unless the parent and the public agency agree otherwise, and must occur at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary. Additionally, Iowa Admin. Code r. 281-41.8 provides that “child with a disability” refers to a person under 21 years of age, including a child under 5 years of age, who has a disability in obtaining an education. The term includes an individual who is over 6 and under 16 years of age who, pursuant to the statutes of this state, is required to receive a public education; an individual under 6 or over 16 years of age who, pursuant to the statutes of this state, is entitled to receive a public education; and an individual between the ages of 21 and 24 who, pursuant to the statutes of this state, is entitled to receive special education and related services. Further, “disability in obtaining an education” refers to a condition, identified in accordance with this chapter, which, by reason thereof, causes a child to require special education and support and related services.

Michigan: There are no rules governing reevaluation criteria for children with disabilities in Michigan. However, Mich. Admin. Code R. 340.1721a governs the initial evaluation of each child suspected of having a disability, which is defined under Mich. Admin. Code R. 340 as a person who has been evaluated according to the Individuals with Disabilities Education Act and the Mich. Admin. Code, and is determined by an IEP team, an individualized family service plan team, or an administrative law judge to have 1 or more of the following impairments that necessitates special education or related services, or both, who is not more than 25 years of age as of September 1 of the school year of enrollment, and who has not graduated from high school: cognitive impairment, emotional impairment, deaf or hard of hearing, visual impairment including blindness, physical impairment, other health impairment, speech and language impairment, early childhood developmental delay, specific learning disability, severe multiple impairment, autism spectrum disorder, traumatic brain injury, and deaf-blindness.

Minnesota: Minn. R. 3525.2710 Subp. 2 governs the reevaluation of each child with a disability and provides that a school district shall ensure that a reevaluation of each pupil is conducted if conditions warrant a reevaluation or if the pupil's parent or teacher requests a reevaluation, but at least once every three years and in accordance with Minn. R. 3525.2710 Subps. 3 and 4. Additionally, Minn. R. 3525.1325 – 3525.1356 governs the entrance and exit criteria of children with disabilities and includes autism spectrum disorders, deaf-blindness, emotional or behavioral disorders, deaf and hard of hearing, developmental cognitive disability, other health disabilities, physically impaired, severely multiply impaired, specific learning disability, speech or language impairments, visually impaired, and traumatic brain injury.

19. Contact Name Carl Bryan, Administrative Rules Coordinator Department of Public Instruction	20. Contact Phone Number (608) 266-3275
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This document can be made available in alternate formats to individuals with disabilities upon request.