



Budget Act Affects Special Education

The 2015 biennial state budget adopted by 2015 Wisconsin Act 55 (Act 55) made several important changes to Wisconsin law that impact students with disabilities. School districts should be aware that the changes may affect the state aid a District receives each year in connection with special education students.

Special Needs Scholarship Program

Act 55 creates a special needs scholarship program beginning in the 2016-17 school year that allows students with disabilities to attend an eligible private school at public expense. See Wis. Stat. § 115.7915.

The Scholarship. The Department will pay an eligible private school \$12,000 per student for the 2016-17 school year and will adjust the scholarship thereafter to include increases in the per pupil revenue limit and statewide categorical aid. The Department will stop payments when a student graduates from high school, turns twenty-one, or the IEP team determines the student is no longer a child with a disability. For each student who receives a scholarship, the Department will also decrease the state aid to the student's resident school district to account for the costs of the scholarship.

Eligible Students. To be eligible for a scholarship to attend a private school, a student must have an IEP or 504 Services Plan, have attended a public school in Wisconsin for the entire school year immediately preceding the school year for which the student receives the scholarship, and have applied for open enrollment to at least one nonresident school district for the year in which the student is applying for a scholarship and been rejected by all the nonresident schools to which the student applied. If the student appealed the rejection to the Department of Public Instruction ("DPI"), DPI must have affirmed the rejection.

Private Schools. Private schools participating in the scholarship program have to notify DPI of their intent to participate in the program and provide an estimate of the number of spaces available for scholarship recipients. If the number of applicants exceeds the number of spaces available, the private school must select students randomly, although the school may give preference to siblings of pupils already attending the school. To be eligible, a private school must be approved by the State Superintendent or be accredited by one of several enumerated private school organizations by August 1 preceding the school year for which the scholarship is awarded. In addition, a participating private school must comply with Title VI of the Civil Rights Act, adhere to rules regarding criminal background checks of employees, and submit accurate financial information.

All eligible private schools must provide to each applicant a profile of the school's special education program, including methods of instruction and qualifications of teachers. In addition, the private school must implement the child's most recent IEP or Services Plan as modified by agreement between the private school and the child's parents, and provide a record of the implementation of those services, including an evaluation of the child's progress. The schools must also regularly report to the parent of the child on the child's progress.

DPI may bar any private school that fails to meet the requirements of the statute from participating in the program. Students attending a program that DPI has barred from participating may attend another participating private school and continue to receive a scholarship.

Resident District. In addition to a reduction in aid, resident districts are required to: (1) notify annually the parents of each child with a disability of the scholarship program; (2) administer standardized testing for scholarship recipients at no cost if the private school does not administer them; and (3) ensure that the IEP team of a child receiving a scholarship reevaluates the child as required by law.

Open Enrollment Changes

Open enrollment allows students to apply to attend public school in a school district other than the one in which they reside. Under prior law, when a student with a disability applied for open enrollment to a nonresident district, the nonresident district was required to send an estimate of the cost to provide the special education or related services required in the student's IEP to the applicant's resident district. The resident district could accept the estimate and pay the costs or it could deny the student's application on the basis that the cost would impose an undue financial burden on the resident district. If the resident district denied the application, the student remained in the resident district.

Act 55 repealed those portions of the open enrollment law, thereby eliminating the cost estimates and denials based on undue burden. In addition, Act 55 restructured the funding provisions, starting in the 2016-17 school year, by implementing a per pupil transfer payment from DPI to the nonresident district for each student with a disability open enrolled in the nonresident district and by eliminating the resident district's obligation to pay the costs of special education or related services. See Wis. Stat. §118.51(17)(b).

DPI will pay the nonresident district a \$12,000 per pupil transfer amount for each special education student in the 2016-17 school year and will adjust that amount thereafter to include an increase in the per pupil revenue limit and statewide categorical aid. DPI will also increase the state aid payment to a district that has more nonresident students than resident students receiving special education services, and decrease state aid to a district that has more resident students than nonresident students receiving special education services.

Special Education Transition Grants

Act 55 added a new grant program in the 2016-17 school year for school districts and independent (2r) charter schools that will award \$1,000 for each former pupil with disabilities who, within one year of leaving high school, either enrolls in certain higher education or training or has been, or remains, competitively employed. See Wis. Stat. § 115.884.

A district must demonstrate the following to the DPI: (1) the student was enrolled in the school during the 2014-15 or 2015-16 school year and during that time had an IEP; and (2) at the time the district applies for the grant, the student meets the enrollment or employment criteria in the statute. DPI is authorized to prorate the amount of its payments under this program among the school districts if the appropriation for 2016-17 is insufficient.

High Cost Special Education Aid Cap Lowered

The High Cost Special Aid Program is a financial resource for school districts serving students with disabilities whose needs are particularly costly. DPI combines an annual state appropriation with federal IDEA discretionary funds to reimburse costs incurred each year. Under prior law, for each child whose non-administrative special education costs exceeded \$30,000 in the previous school year, DPI would provide aid equal to 90% of the costs over \$30,000. Going forward, DPI will only cover 70% of those costs. See Wis. Stat. § 115.881(2). DPI still has the authority to prorate payments to eligible applicants based on appropriations. Further, an additional \$5,000,000 in funding for this program will be available in 2016-17. While DPI does not anticipate an impact on districts' current funding levels, it encourages districts to budget conservatively for this program.

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