

Report From Agency
FINAL REPORT
CLEARINGHOUSE RULE 21-102
CHAPTER PI 11
CHILDREN WITH DISABILITIES

Analysis by the Department of Public Instruction

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

Statute interpreted: ss. 115.76 (5) (a) 10. and 115.762 (3) (a), Stats.

The proposed rule seeks to update ch. PI 11 of the Wisconsin Administrative Code with respect to evaluations for specific learning disabilities (SLD) of children in homeschool and private school settings. The proposed rule will provide that when evaluating a child in a private school or home-based private education program, IEP teams may use the significant discrepancy method as an alternate procedure for identifying a child with an SLD.

The hearing notice was published in the December 13, 2021 edition of the Wisconsin Administrative Register. A public hearing was held on January 11, 2022.

No persons testified at the January 11, 2022 hearing. However, the following persons submitted written testimony:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Amy Ellison	Representing Self		X	
Greg Fenton	School District of La Crosse	X		
Katie Moder	Fond du Lac School District	X		
Emily Webber	Mukwonago Area School District	X		

Summary of public comments relative to the rule and the agency's response to those comments:

- The respondents in favor of the proposed rule and the related emergency rule argued in favor of the proposed change which would allow IEP teams to use significant discrepancy as a method for identifying a child with an SLD in homeschool and private school settings. Because school districts face certain difficulties with respect to monitoring interventions for students in homeschool and private school settings and ensuring they are delivered with fidelity, the respondents believe the use of significant discrepancy for students in homeschool and private school settings makes sense given the current structure in those settings compared to students in public schools.

Agency Response: The department agrees. No further changes are necessary.

- The respondent opposed to the proposed rule disagrees with the change to create separate rules for private schools. If the rule does not allow for significant discrepancy when making an SLD determination in the public school setting, the respondent believes that private schools should also be required to provide interventions according to the same criteria established for public schools.

Agency Response: Since the criteria for SLD determinations were established in current rule, the department has identified revisions which were necessary for IEP teams to conduct comprehensive evaluations of homeschool and parentally placed private school students. This is necessary not only for IEP teams to meet federal Child Find requirements but has increased importance to support school districts and private schools in implementing the Special Needs Scholarship program under current law. Further, since the licensing requirements for private schools are different than that of public schools, private schools may not have the appropriately licensed staff members to deliver interventions. Finally, Wisconsin public schools have multi-tiered systems of support in their buildings that are designed to provide high quality interventions when needed. Private schools may not have such systems in place, and, therefore, these interventions may not exist when conducting an SLD evaluation. Therefore, the option of using significant discrepancy for these students is in response to changes in federal law which permit the use of alternate procedures for identifying SLD in homeschool or private school settings, which includes significant discrepancy. Technical assistance, training, and best practice recommendations from the department will emphasize that IEP teams are encouraged to use the same criteria for public schools when evaluating a parentally placed private school student whenever possible. Adding this proposed language gives IEP teams an option to conduct a comprehensive special education evaluation when it is not possible to apply these criteria. No further changes are necessary.

Changes made as a result of oral or written testimony:

No changes were made.

Changes to the analysis or the fiscal estimate:

No changes were made.

Responses to Clearinghouse Report:

No changes were made.