

State of Wisconsin  
Department of Public Instruction



**NOTICE OF PUBLIC HEARING**

**Identification of Children with Specific Learning Disabilities  
and Significant Developmental Delays**

**NOTICE IS HEREBY GIVEN** That pursuant to ss. 115.76 (5) (b) and 227.11 (2) (a), Stats., and interpreting ss. 115.76 (5) (a) 10. and (b), Stats., the Department of Public Instruction will hold public hearings as follows to consider the amending of Chapter PI 11.36, relating to the identification of children with specific learning disabilities and significant developmental delays.

The hearings will be held as follows:

<i>DATE AND TIME</i>	<i>LOCATION</i>
September 25, 2007 4:00 - 7:00 p.m.	Chippewa Falls CESA 10 725 West Park Avenue Conference Center
October 2, 2007 4:00 – 7:00 p.m.	Brookfield CESA 1 19601 West Bluemound Road Suite 200
October 3, 2007 4:00 – 7:00 p.m.	Oshkosh CESA 6 2300 State Road 44 Large Conference Room
October 4, 2007 4:00 – 7:00 p.m.	Madison GEF 3 Building 125 South Webster Street Room 041

The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Kathy Laffin, Consultant, Specific Learning Disabilities, at (608) 266-2841 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

***Copies of Rule and Contact Person***

The administrative rule and fiscal note are available on the internet at <http://dpi.wi.gov/pb/rulespg.html>. A copy of the proposed rule and the fiscal estimate also may be obtained by sending an email request to [lori.slauson@dpi.state.wi.us](mailto:lori.slauson@dpi.state.wi.us) or by writing to:

Lori Slauson, Administrative Rules and Federal Grants Coordinator  
Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above mail or email address no later than October 10, 2007, will be given the same consideration as testimony presented at the hearing.

*Analysis by the Department of Public Instruction*

**Statute interpreted:** Sections 115.76 (5) (a) 10. and (b), Stats.

**Statutory authority:** Sections 115.76 (5) (b) and 227.11 (2) (a), Stats.

**Explanation of agency authority:**

Section 115.762 (3) (a), Stats., requires the department to ensure that all children with disabilities are identified, located and evaluated.

Section 227.11 (2) (a), Stats., gives an agency rule-making authority to interpret the provisions of any statute enforced or administered by it if the agency considers it necessary to effectuate the purpose of the statute.

**Related statute or rule:**

Subchapter V of Chapter 115, Stats. Chapter PI 11, Wis. Admin. Code.

**Plain language analysis:**

In 2004, the Individuals with Disabilities Education Act (IDEA) modified the evaluation procedures for the identification of children with specific learning disabilities (SLD) under 20 U.S.C. 1414 (b) (6). As specified in IDEA, the evaluation procedures relating to the identification of specific learning disabilities provide that: 1) States may not require the use of significant discrepancy as part of a determination of SLD, 2) States must permit the use of a process based on a child's responses to scientifically-based intervention as part of its determination of a SLD, and 3) States may permit the use of other alternative research-based procedures to determine whether a child has a SLD. IDEA also added reading fluency skills as an area of identification for SLD. Because the department's current rule under s. PI 11.36 (6), relating to specific learning disabilities is not consistent with the federal requirements, the rule will be modified to align with the U.S. Code. The proposed rules will allow a four-year period during which a school district "is permitted but not required to" continue to use the significant discrepancy formula in identifying children with SLD.

In addition, 20 U.S.C. 1401 (3), permits the identification of children with significant developmental delay (SDD) through the age of nine. The department's current rule under s. PI 11.36 (11), relating to SDD permits identification only through the age of six. The proposed rule will extend the SDD age limit through the age of nine as authorized under federal law.

**Summary of, and comparison with, existing or proposed federal regulations:**

The proposed rules directly reflect the language under 34 CFR 300.307 to 300.311 as authorized under 20 U.S.C. 1221e-3, 1401 (30), and 1414 (b) (6).

**Comparison with rules in adjacent states:**

Illinois, Iowa, Michigan, and Minnesota (as well as the remaining states) will be revising their law to comply with the federal language.

**Summary of factual data and analytical methodologies:**

See the plain language analysis.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:** N/A

**Anticipated costs incurred by private sector:** N/A

**Effect on small business:**

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

**Agency contact person: (including email and telephone)**

Stephanie Petska, Director, Special Education, [stephanie.petska@dpi.state.wi.us](mailto:stephanie.petska@dpi.state.wi.us), 608/266-1781.

### *Fiscal Estimate*

The proposed rules modify eligibility criteria used to identify children with specific learning disabilities (SLD) to be consistent with federal requirements. The federal requirements focus more on early intervention services and do not want the use of “significant discrepancy” in determining whether a child has a SLD. This rule modification should not result in altering the size of the population of children identified as having a disability. Wisconsin must comply with federal requirements in order to remain eligible to receive more than \$200 million in federal IDEA funds.

The rules also permit the identification of a child with significant developmental delays (SDD) through the age of nine, rather than the age of six. Allowing a child with SDD to be identified through the age of nine will provide a longer window of time to assess whether the child has a specific disability, and thus, should not result in altering the size of the population of children identified as having a disability.

These rules are not expected to have a local or state fiscal effect.

### *Initial Regulatory Flexibility Analysis*

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

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State Superintendent or Designee