

WISCONSIN INSTITUTE
FOR LAW & LIBERTY

*Navigating the Special Needs Scholarship
Program*

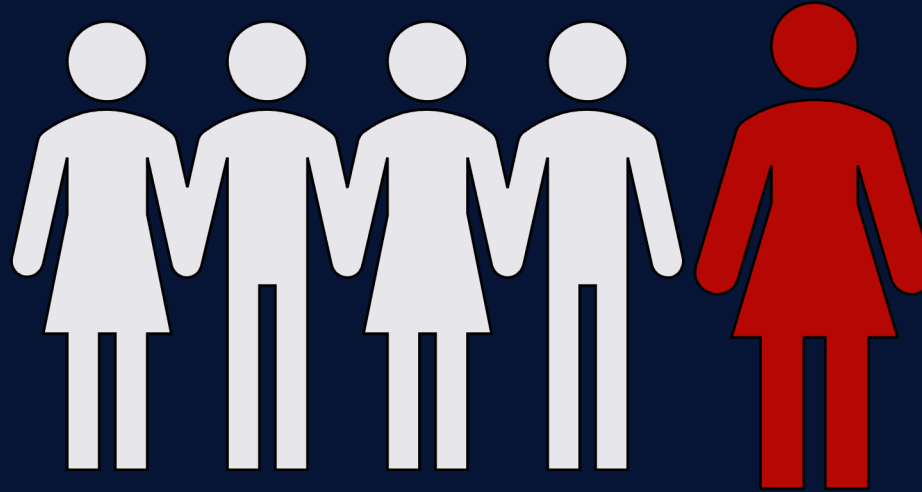
Libby Sobiech

Director & Legal Counsel of Education Policy

www.will-law.org

About WILL

- WILL is a non-profit law and policy center in Milwaukee.
- Through education, litigation and participation in public discourse, we work to advance limited government, free speech, transparency, and education reform.
- We provide timely and comprehensive policy research to advance education reform, election reform, economic freedom, and policies to advance limited government.
- Craft model legislation and advocate for bills in the state capitol.



1 out of every 5 Wisconsin students attends an educational option that isn't their assigned traditional public school.

Special Needs Scholarship Program

A scholarship program for any Wisconsin student with an existing Individualized Education Program (IEP) or qualifies for one and wants to attend a private school participating in the program.

Unlike the voucher program, there are not income or residency limitations for participating families nor enrollment periods. But a child must have an active IEP or services plan from the district to qualify.

Special Needs Scholarship Program

How does a child get a IEP or 504 plan from the district?

A “qualified person with a disability” means an individual who has a physical or mental impairment that substantially limits one or more major life activities (such as learning, walking, speaking, hearing, etc.). This includes physical disorders (e.g. diabetes) and psychological disorders (e.g. anxiety).

Special Needs Scholarship Program

Requirements for participating schools:

- 1) Notify DPI with intent to participate form with number of seats available.
- 2) Submit a school profile.
- 3) Follow the application process, including ensuring the student has an active IEP or services plan, request that document from local district, and notify resident district about student application.
- 4) Meet program requirements like background checks, accreditation, etc.

Special Needs Scholarship Program

School profile requirements:

- 1) Identifies the methods of instruction to participating students with special needs.
- 2) Qualifications of staff providing special education.

Academy of Excellence - Milwaukee

I. Methods of instruction that will be used by the school to provide special education and related services to SNSP students.

Academy of Excellence (AoE) will provide students with support to reinforce academic concepts taught as part of the regular education curriculum. The student support team may consist of the student, parents/guardian, teachers, support staff, school administrator, and school counselor or social worker, who will meet to review the student's most current Service Plan (ISP) or Individualized Education Plan (IEP) on a regular basis. The regular education teacher will provide instruction and accommodations as outlined in the IEP/ISP plan with the support of other staff and resources in the least restrictive environment. The location and frequency of the academic instruction will be individualized to the student's unique needs.

Academic and behavioral support may include: Differentiation of the general curriculum by the general education teacher; Differentiation, modification, and/or accommodation of the general education curriculum by the general education teacher in conjunction with the learning coordinator; Pull-out remediation for reading up to 90 minutes a week by the learning specialist/coordinator; Modification of assignments and/or curriculum; Use of assistive technologies; Individual or small-group reading and phonics interventions; Individual or small-group math interventions; Individual or small-group study support sessions.

II. Qualifications of the teachers and other persons who will be providing special education and related services to SNSP students.

All teachers at AoE hold a minimum of a Bachelor's Degree.

The school will outsource speech and therapy services as needed. These services will be provided by teachers having earned a minimum of a bachelor's degree from an accredited college or university.

Special Needs Scholarship Program

Program requirements for families:

- 1) The parent must agree to have the child available for reevaluation within 60 days by a school district.
- 2) The parent must agree to have child reevaluated every three years.
- 3) Complete the modified agreement with participating school pertaining to student services.

Special Needs Scholarship Program

Program requirements for schools:

- 1) Comply with all health and safety laws and codes
- 2) Hold certificate of occupancy
- 3) Comply with 42 USC 2000d
- 4) Conduct criminal background checks on school employees
- 5) Annual financial audit
- 6) Provide special education profile and information to applicants
- 7) Meet with accepted applicants and complete modified agreement.
- 8) Regularly report to parents on the student's progress.

Special Needs Scholarship Program

Modified Agreement with applicants:

- 1) Opportunity to meet with parents to discuss student's educational needs.
- 2) Explain the special education resources available at participating school.
- 3) Provide parents with information about school's policies and procedures.
- 4) Signed agreement between parent and school about agreed-upon services.

Special Needs Scholarship Program

Private School handbook:

- 1) Identify what rules and expectations for both student and parents at the school.
- 2) Detail the discipline procedure, including up to expulsion (should include notification and appeals process to the board).
- 3) Detail the expulsion process for other conduct (including an notification and appeals process).
- 4) Detail the school's mission and religious identity, if applicable, and how it applies to the decisions of the school.

Federal law and Discrimination

Private schools don't have the same legal requirements as public schools for students with disabilities.

Private schools likely must comply with Title III of the Americans with Disabilities Act (ADA) and 504 of the Rehabilitation Act. These laws prohibit against discrimination and may require some accommodation of a student with disabilities.

Federal law and Discrimination

Title III of the Americans with Disabilities Act:

- Applies to locations of “public accommodation”
- Exempts entities controlled by a religious organization.
- Required to make “reasonable modifications” to access the facility.
- But these changes cannot fundamentally alter the nature of the business’ goods and services and do not impose an undue financial or administrative burden.

Federal law and Discrimination

Section 504 of the Rehabilitation Act:

- Applies to entities that receive federal funding, including private, religious schools.
- Federal funding likely includes lunch program, title services, etc.
*The law does not have a clear definition and federal courts have found that the funding must be more than de minimis and at least direct to the program.
- Required to make or “minor adjustments” to access the facility.

Q & A

Q: What are examples of “minor adjustments” or “reasonable modifications”

It is a fact-intensive inquiry, including assessing the nature of the program an accommodation is sought and the expense of the accommodation.

Examples: minimal extra time to complete school work, class seating preferences, use of a tape recorder, larger print, lines paper, oral exams, an additional set of textbooks for students with physical strength related disabilities, etc.

Q & A

Q: Is there a difference between “minor adjustments” or
”reasonable modifications”

Although there is not a clear answer in federal law, courts have
interpreted “minor adjustments” to be a lesser standard than
“reasonable accommodations.”

Q & A

Q: Can a school dismiss a student if their needs are greater than detailed in the modified agreement between parent and school?

Yes, but this must be identified within the handbook for what the process will include.

Q & A

Q: What are some common challenges when participating in the Special Needs Scholarship Program?

A common challenge with the program can be working with the resident school districts to have a child evaluated for an IEP or services plan especially if this child has only attended a private school.

Important Takeaways

1. Private schools may have some legal obligations to students with disabilities.
2. Communication of expectations upfront are important, starting with the school profile.
3. The written modified agreement and school handbook should be as detailed as possible.
4. Notification and appeals process for any dismissal decision.
5. Process for notifying applicants if a modified agreement cannot be achieved.

Questions and Discussion



Contact WILL

Libby Sobic

libby@will-law.org

Cory Brewer

cbrewer@will-law.org

www.will-law.org