

# Special Education Tuition

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*Updated June 25, 2019*

## Background

Districts often find it cost-effective to purchase special education services from another agency, particularly for expensive or highly specialized services. These can range from a shared psychologist to the full-time attendance of a student in a non-resident district. School districts may also establish cooperative agreements to share the cost of services. DPI supports these efforts to ensure that districts are able to meet their FAPE responsibilities within their limited resources. However, there are legal, accounting, and fiscal monitoring considerations to consider.

Tuition is “the price of or payment for instruction.”<sup>1</sup> State statutes do not provide a specific definition of tuition, but it is described more broadly than full-time enrollment out of one school district into another.<sup>2</sup> The statutory method for computing tuition is designed to determine a daily rate based upon an enrolling school district’s average daily cost per student, which is not applicable in many situations. DPI is allowed to approve alternative procedures for determining tuition.<sup>3</sup> These methods are defined in such a way to treat different tuition arrangements consistently for IDEA Maintenance of Effort.

## Tuition Agreements

State statutes define two types of agreements under which tuition may be paid for special education services.<sup>4</sup> **An agreement under s. 121.78 (1) (a)<sup>5</sup> is made for an individual student, while an agreement under s. 66.0301 is for cooperative delivery of a program under a fiscal agent.** The legal authority and requirements for each type differ, so an agreement must specify its type.

### Tuition Agreements for Individual Students (s. 121.78 (1) (a))

Two Wisconsin LEAs may enter into an annual tuition agreement for an individual student. The agreement must include two components:

1. **The specific amount of tuition to be paid in the school year of attendance.** The amount must be determined with one of the three methods approved by DPI, described in the following section on “Determining Tuition.” A tuition agreement for a student with disabilities must break the amount into separate Fund 10 and Fund 27 components.

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<sup>1</sup> tuition. *Webster’s new collegiate dictionary* (8<sup>th</sup> ed.). (1977). Springfield, Mass.: G.C. Merriam.

<sup>2</sup> Examples: “[An agency of service] provides services for which tuition may be charged” (s. 121.76 (a)). “Pupils may be placed in: (a) Special education and related services under subch. V of ch. 115....” (s.121.78 (3)).

<sup>3</sup> s. 121.76 (2) (a).

<sup>4</sup> There is a third type of tuition agreement under s. 121.78 (1) (b) for enrollment in out-of-state public schools, but out-of-state enrollments required by IEPs fall under the more specific laws on placing students with disabilities.

<sup>5</sup> As amended by 2015 Wisconsin Act 55, the 2015-17 biennial budget.

2. **A specific estimate of the maximum amount of state aid to be received by the enrolling district in the following year and paid to the resident district as a transit of aid.** If the enrolling district receives less aid than was estimated, it may pay the resident district only the amount it receives. However, if the enrolling district receives more, it would retain the difference between the aid received and the estimate.

The agreement should incorporate the student's IEP or describe the services to be provided. Districts are strongly encouraged to take care in determining the amounts specified in the tuition agreement, in particular due to the consequences on IDEA Maintenance of Effort (MOE). **DPI will not be granting MOE exceptions for inaccurate tuition estimates.**

Tuition agreements for individual students are factored into a district's space determination for the Open Enrollment program. **A district may not reserve space for tuition students separately from Open Enrollment.** Whether a district accepts students under tuition agreements will be considered by DPI in its review of Open Enrollment denials for lack of space.

## Cooperative Program Agreements (s. 66.0301)

Two or more Wisconsin LEAs may enter into a cooperative "66.0301" agreement to provide a special education program. The term of the agreement is specified in the contract and may cover multiple years. A fiscal agent must also be designated. The agreement must be based upon the program's actual costs, describing how those costs will be shared or prorated among program participants. Any state or federal aids received by the agency of service for serving the resident district's students must be paid to the resident district as a transit of aid.<sup>6</sup>

Cooperative agreements are not factored into a district's space determination for the Open Enrollment program. However, **districts may not cast a tuition agreement for an individual student as a cooperative agreement to avoid any space determination or Open Enrollment denial issues.**

## Billing and Payment

**Individual tuition and cooperative program agreements must be billed and paid in their full "gross" amount. Agreements for "net" tuition after deduction of estimated aid transits are not permitted.** A tuition invoice may include a credit for transit of aid, but the billing and paying LEAs must record both items in full as separate entries. "Net" tuition agreements under-report actual expenditures and revenues for IDEA Maintenance of Effort, do not fulfill the requirement for transit of actual aids received, and create problems with the use of grant funds. The WUFAR guidance document on "Special Education Tuition/Purchased Services and Transits of Grants & Aid," available at <http://dpi.wi.gov/sfs/finances/wufar/accounting-issues-examples>, has more detail on recording tuition payments and transits of aid.

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<sup>6</sup> S. 121.76 (2) (c).

## Determining Tuition

There are three approved methods for determining tuition: (1) standard tuition under the statutory method, (2) a base transfer rate plus actual, additional costs, and (3) the actual cost of services. Agreements must be clear about which method is used. Invoices for tuition must separate the portion for regular education and base or overhead expenses, which is coded to Fund 10, from the portion for special education and related services, which is coded to Fund 27.

### Method 1: Standard Tuition

State statutes define the standard method for computing tuition.<sup>7</sup> It calculates daily rates for “regular” and “special” tuition—the regular rate applies to all students, while the special rate is specific to the special education program serving a specific student. DPI form PI-1524 is used to compute these rates from financial data coded using the Wisconsin Uniform Financial Accounting Requirements (WUFAR). Regular tuition expenses and revenues are coded to Fund 10, while special tuition is coded to Fund 27.

Form PI-1524 for standard tuition is available at <http://dpi.wi.gov/sfs/finances/tuition/overview>.

### Method 2: Base Transfer Plus Actual, Additional Costs

As an alternative to the standard tuition computation, a district-initiated tuition agreement may begin with the base transfer amount used for students without disabilities in the Open Enrollment (OE) program, and add any actual, additional costs of special education and related services specific to the individual student. The base transfer amount is a Fund 10 expense and revenue; only the actual, additional costs are coded to Fund 27.

With this method, an actual, additional cost of special education and related services is a cost that would not exist but for the need to provide FAPE to the individual student being enrolled, above and beyond the costs of providing FAPE for all the other students with disabilities served by the enrolling LEA. It must be directly attributable to the student, and may not include any averaged or prorated costs. (This was the tuition method used for students with disabilities in the Open Enrollment program prior to the 2016-17 school year.)

**Tuition agreements may not use the higher OE transfer rate for students with disabilities** (\$12,431 in 2018-19). Parent-initiated student participation in the OE program transfers both the educational and financial responsibilities of FAPE to the enrolling district, whereas the resident district maintains the fiscal responsibilities under a district-initiated tuition agreement.

Form PI-1524-BT for “base transfer plus” tuition is available at <http://dpi.wi.gov/sfs/finances/tuition/overview>.

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<sup>7</sup> S. 121.83.

## Method 3: Actual Cost

In some cases it may be appropriate to charge the actual cost of providing services to an individual student with disabilities. By law, tuition must:

1. Include any unusual costs associated with the student,
2. Exclude any costs paid from a source other than tuition and property taxes,
3. Cover only the period during which services were actually provided or available, and
4. Not impose a financial burden on the agency of service.<sup>8</sup>

An LEA may charge tuition under these conditions to cover its actual cost of providing services. With this method, tuition for special education and related services provided to fulfill an IEP is coded to Fund 27, while tuition for services outside the scope of an IEP or other ancillary costs is coded to Fund 10. Administrative or overhead costs may be included only if they would not otherwise exist but for the specific program for which tuition is to be paid.

**Cooperative program (s. 66.0301) agreements must be based upon participants' actual costs.**

## Frequently Asked Questions

**Q: Which tuition method should we use?**

A: It depends on the type of agreement:

- The method used for tuition under s. 121.78 (1) (a) for an individual student should be appropriate to the specific circumstances of the student, resident district, and agency of service. If the student is enrolled by and attends the agency of service full-time as if they were a resident, the standard tuition or "base transfer plus" methods may be most appropriate. If the student is served for only an hour a day, the actual cost method may be more appropriate.
- Cooperative program (s. 66.0301) agreements must be based upon actual cost.

**Q: What's the difference between tuition and a purchased service?**

A: Tuition is payment for instructional services. A purchased service is any service contracted by a district from another agency or provider. There is much overlap between tuition and purchased services, but they are not one and the same.

**Q: Does the board have to approve every tuition agreement?**

A: S. 121.78 (1) (a) specifies that tuition agreements for individual students are made between school boards, while s. 66.0301 specifies that cooperative agreements are between "municipalities," including school districts. Whether or how a board may delegate authority to enter into tuition agreements is a matter of legal opinion and board policy.

**Q: Do we have to renew tuition agreements every year?**

A: An individual tuition agreement under s. 121.78 (1) must be renewed every year. A cooperative program agreement under s. 66.0301 is in effect for the term specified in the contract, which may be for multiple years.

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<sup>8</sup> s. 121.75.

**Q: We share a psychologist with other districts. Is that tuition?**

A: No. Payments for the purchase of non-instructional services are not considered tuition. However, special education psychological services costs (function 215000) are part of the standard daily tuition rate computation defined in state statutes.

**Q: We're paying for a special education student. Why isn't the entire cost in Fund 27?**

A: Under the legal definition of standard tuition, there is a base component reflecting general costs and an additional component reflecting special education costs. Several years ago, the U.S. Department of Education stopped allowing DPI to count the base Open Enrollment transfer toward MOE, which is why we required that it be coded to Fund 10. In order to treat different enrollment arrangements consistently, we require that the base component of any tuition be coded to Fund 10.

**Q: Can there be Fund 10 tuition under the actual cost method?**

A: Yes. Any portion of actual cost tuition that cannot be directly attributed to the excess or additional cost of fulfilling a student's IEP is coded to Fund 10. Depending upon the specific circumstances, a portion of actual cost tuition may or may not be coded to Fund 10.

**Q: We're using the "base transfer plus" method and the enrolling district isn't charging any additional cost for a student with an IEP. How can there be no Fund 27 tuition?**

A: The base transfer amount is always coded to Fund 10. If the enrolling district is able to fulfill a student's IEP with its existing program and personnel, then it incurs no actual, additional costs of providing special education and related services to that student and there is no Fund 27 tuition to be charged.

Updated 6/25/19 to reflect 2018-19 pupils with disabilities open enrollment transfer amount rlb

*Updated July 30, 2015 to reflect the changes in 2015 Wisconsin Act 55, the 2015-17 biennial budget.*

*Updated February 11, 2016 to revise method 2 and other related language as a result of the changes to Open Enrollment under 2015 Act 55 (the 2015-17 biennial budget) and to specify that "net" tuition agreements are not permitted.*