

Chapter PI 11

**RULES IMPLEMENTING SUBCHAPTER IV OF
CHAPTER 115, WIS. STATS.**

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PI 11.01 Definitions. (1) **LEGISLATIVE INTENT.** The legislature recognized that many children and youth, 3 to 21 years of age, have not experienced appropriate educational opportunities because comprehensive services were not available through all public schools which were commensurate with their EEN. Subchapter IV, chapter 115, Wis. Stats. was enacted to ensure the identification of such needs and the development of services for children to appropriately serve these needs.

(2) **BASIC TENETS.** (a) All children and youth in the public and private sectors, who are in need of special education services, shall be identified. The legislature has specified that the identification process shall include screening, referral and M-team procedures.

(b) Section 115.76 (3), Wis. Stats. defines children and youth with EEN as: "Child with exceptional educational needs" means any child who has a mental, physical, emotional or learning disability which, if the full potential of the child is to be attained, requires educational services to the child to supplement or replace regular education. Children with the following conditions, in addition to children with such other conditions as the state superintendent determines, may require educational services to supplement or replace regular education:

- (a) Physical, crippling or orthopedic disability.
- (b) Mental retardation or other developmental disabilities.
- (c) Hearing impairment.
- (d) Visual disability.
- (e) Speech or language disability.
- (f) Emotional disturbance.
- (g) Learning disability.
- (h) Pregnancy, including up to 2 months after the birth of the child or other termination of the pregnancy.

(i) Any combination of conditions named by the state superintendent or enumerated in pars. (a) to (h)."

(c) Children and youth with no EEN who require alternative educational programming shall not be included within the parameters of section 115.76 (3), Wis. Stats. EEN excludes conditions described as special educational needs (SEN) resulting primarily from poverty, neglect, delinquency or cultural or linguistic isolation from the community at large.

(d) The department shall utilize the U.S. office of education incidence rate of 10-12% of the district population as having EEN since this rate is comparable to experience with incidence findings in Wisconsin. The division shall continue to utilize this estimate for program and fiscal planning and for monitoring attainment of legislative goals. Exceptions to this overall incidence limitation and to incidence rates for individual program areas shall require local district provision of M-team evidence which clearly demonstrates incidence rates which exceed state and national norms. This may be accomplished by department staff conducting an on-site review. This evidence shall be submitted and approved by the division prior to program expansion in excess of state norms.

(e) The broad process of referrals, obtaining parental approvals, the M-team action and board placement recommendations shall be included in the district's plan (section 115.85 (3), Wis. Stats.). This plan and procedures for its implementation shall include timelines for mass screening, parental approvals, referral, the M-team process and board recommendations on placement.

(f) Definitions of terms utilized in the rules.

1. Administrator means school district administrator.

2. Behavioral records means those pupil records defined in section 118.125 (1) (b), Wis. Stats. including psychological tests, personality evaluations, records of conversations, any written statement concerning a child's behavior, achievement or ability tests, physical health records and any other pupil records which are not progress records.

3. Board means school board.

4. Boarding home means homes operated by an LEA operating special education programs or services, or both, and used 5 days a week to care for non-resident children being served in that program or service.

5. Days means calendar days unless otherwise specified.

6. CESA means cooperative educational service agency.

7. CHCEB means county handicapped children's education board.

8. Child advocate means any person representing the parent during the M-team process and at a board hearing.

9. Child study team and pupil services team means a team, other than the M-team, of professional support personnel in the district.

for special approval for this program type. Requests for aides shall receive prior approval from the division. Funding for this position shall be initiated on the date of approval.

(b) Enrollment. The enrollment for this program type may vary with a minimum of 9 children. Variation to the minimum enrollment shall require prior consultation with the division. The maximum enrollment variation shall be subject to review, or negotiation, or both between the LEA and the division.

(c) Ranges. See PI 11.21 (1) (c).

(d) Program plan. See PI 11.21 (1) (d).

(e) Facility. Control of the educational and environmental intervention variables shall be determined by individual children's needs based on the principle of the least restrictive alternative (appendix H). The facility shall also meet the requirements stated in PI 11.21 (1) (e) 1.

(f) Responsibility/accountability. See PI 11.21 (1) (f).

History: Cr. Register, December, 1976, No. 240, eff. 1-1-76.

PI 11.24 Resource room program type. (1) DEFINITION. A resource room program is a special education program type located in a regular school, where the teacher provides for instruction in specific skill areas and the children with EEN enrolled in this program are integrated into the regular academic programs. The resource room teacher provides consulting services (section 115.83 (1) (b), Wis. Stats.) and provides supplemental curriculum to the regular education program and regular education staff. This program type provides for a minimum control of the educational and environmental intervention variables and operates 5 days a week on a full-time or part-time basis.

(a) Staff. This program type shall have a minimum of one certified special education teacher within a particular program area assigned to a designated number of students. The program may include supportive staff. Teacher aides shall be considered for special approval for this program type. Requests for aides shall receive prior approval from the division. Funding for this position shall be initiated on the date of approval.

(b) Enrollment. The enrollment for this program type may vary with a minimum of 15 children. Variation to the minimum enrollment shall require prior consultation with the division. The maximum enrollment variation shall be subject to review, or negotiation, or both between the LEA and the division.

(c) Ranges. See PI 11.21 (1) (c).

(d) Program plan. See PI 11.21 (1) (d).

(e) Facility. See PI 11.23 (1) (e).

History: Cr. Register, December, 1976, No. 240, eff. 1-1-76.

PI 11.25 Itinerant program type. (1) DEFINITION. An itinerant program is a special education program in which the teacher serves students in several schools. This program operates 5 days a week. The

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itinerant teacher serves as a consulting teacher (section 115.83 (1) (b), Wis. Stats.) to regular and special education personnel.

(a) Staff. This program type shall have a minimum of one certified special education teacher within a particular program area assigned to a designated number of students. The itinerant teacher shall be assigned administratively to a specific public school but the itinerant teacher shall provide services to students with EEN attending other public schools. Speech and language are itinerant programs, except for established classroom speech and language types. The itinerant program shall not be eligible for teacher aides.

(b) Enrollment. The enrollment for this program type may vary with a minimum of 15 children. Variation to the minimum enrollment shall require prior consultation with the division. The maximum enrollment variation shall be subject to review, or negotiation, or both between the LEA and the division.

(c) Ranges. See PI 11.21 (1) (c).

(d) Program plan. See PI 11.21 (1) (d).

History: Cr. Register, December, 1976 No. 240, eff. 1-1-76.

PI 11.26 Homebound instruction program type. (1) DEFINITION. A homebound instruction program is a special education program in which a teacher serves children with EEN in the home, a hospital, a sanitarium or a convalescent home. The program may include not only direct teaching services but also correspondence courses and telephone instruction. The operation of the program shall be based on the number of children with EEN who require such services.

(a) Staff. This program type shall require a teacher to hold a valid Wisconsin teacher's license. The division strongly recommends that a teacher hold licensure in a specific program area if serving a child who is representative of a particular disability. The itinerant homebound program shall not be eligible for teacher aides, although group instruction programs in a hospital, a sanitarium or a convalescent home shall be.

(b) Enrollment. Enrollment within this program type shall require all of the following:

1. A physician's statement on a prescribed form from the division shall be submitted declaring the child physically or emotionally unable to attend school.

2. The physical or emotional incapacity to attend school shall be anticipated as continuous over 30 days.

3. The M-team shall recommend that homebound instruction is the most appropriate program to meet a child's EEN.

4. No child shall be eligible whose primary disability is defective vision, defective hearing, defective speech or other physical handicaps when special education programs and services are available unless the nature of the physical disability prevents attendance in such programs.

5. The child with EEN shall be formally enrolled in the public school system during the period of instruction in the homebound program.

(c) Ranges. See PI 11.21 (1) (c).

(d) Responsibility/accountability. See PI 11.21 (1) (f).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76.

PI 11.27 Program levels. (1) Consideration shall be given to the chronological age range of 3 to 21, as described in sections 115.76 (2) and 115.77 (4) (a), Wis. Stats. and a grade range of early childhood through grade 12. Each of these program levels shall be considered within the 6 program types described in PI 11.21 through PI 11.26. Program levels are defined in terms of the chronological age range and grade range.

(a) Early childhood.* This program level shall include a chronological age range of 0 through 5 years—11 months. This program level shall correspond to the regular school grade range of prekindergarten through kindergarten.

(b) Primary. This program level shall include a chronological age range of 6-0 through 8-11 and shall correspond to the regular education program grade range of kindergarten through third grade.

(c) Intermediate. This program level shall include a chronological age range of 9-0 through 11-11 and shall correspond to the regular education grade range of fourth through sixth grade.

(d) Elementary wide range.* This program level shall include a chronological age range of 6-0 through 11-11 and shall correspond to the regular education grade range of first through sixth.

(e) Middle school/junior high. This program level shall include a chronological age range of 11-0 through 14-11 and correspond to the regular education grade range of sixth through ninth. The middle school/junior high program level may include a variation to this chronological and grade range according to the local district's organization of educational programs.

(f) Senior high. This program level shall include a chronological age range of 15-0 through 20-11 and shall correspond to the regular grade range of ninth through twelfth. The senior high school program level may include a variation to the chronological and grade range according to the local district's organization of senior high school.

(g) Secondary wide range.* This program level shall include a chronological age range of 12-0 through 20-11 and correspond to the regular education grade range of seventh through twelfth. A secondary wide range program level shall incorporate the middle school/junior high and senior high program levels described above.

*The development of the above program levels shall require prior consultation with the division, pursuant to sections 115.77 (4) (b) and (c) and 115.83 (1) (a), Wis. Stats.

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Program levels—chronological age and grade**

| Program levels | Chronological range | Usual grade range |
|-----------------------------|---------------------|-------------------|
| L-1 Early childhood | 0 - 5 | — |
| L-2 Primary | 6 - 8 | 1 - 3 |
| L-3 Intermediate | 9 - 11 | 4 - 6 |
| L-4 Elementary (wide range) | 6 - 11 | 1 - 6 |
| L-5 Middle/junior high | 11 - 14 | 6 - 9 |
| L-6 Senior high | 15 - 20 | 9 - 12 |
| L-7 Secondary (wide range) | 12 - 20 | 7 - 12 |

**These program levels shall not preclude the flexibility of placement of a youngster outside these levels due to reasons concerning the severity of the child's EEN.

History: Cr. Register, December, 1975, No. 249, eff. 1-1-76.

PI 11.28 Non-complying districts. (1) **INTENT.** The purpose of this section is to ensure that districts will provide equal educational opportunities for children with EEN and to provide remedies in those cases where districts are not providing equal educational opportunities. PI 11.28 is intended to implement section 115.89, Wis. Stats., which requires non-complying districts to remedy the denial of equal educational opportunities.

(2) **COMPLAINTS.** The superintendent or designee shall receive and investigate complaints and data substantiating complaints charging that a district is not providing appropriate programs as required in section 115.85 (1) and (2), Wis. Stats.

(a) If the superintendent deems it necessary, the complainants shall submit, within 10 days of receipt of a written request from the superintendent, data clarifying and further substantiating the complaint.

(b) The district shall submit to the superintendent, within 10 days of receipt of a written request from the superintendent, all additional information not on file with the department relating to the district's implementation of subchapter IV, chapter 115, Wis. Stats., any other information required by the superintendent and a summary response to the specific complaint.

(3) **REVIEW.** The superintendent shall review all data within 30 days following receipt of data from the complainants and the district, and shall set a time, date and place for holding a pre-hearing conference and shall send notice of such conference to the parties to the complaint.

(a) The purpose of the pre-hearing conference is to identify or define issues in dispute, obtain agreement on facts not in dispute, obtain any specific information needed by the superintendent to determine whether a public hearing shall be held, what evidentiary proceedings, if any, are necessary as well as procedures and schedules for processing the appeal.

(b) The pre-hearing conference may be continued to a later date by the superintendent.

(c) If after the pre-hearing conference the superintendent determines that the district is in compliance with section 115.85 (1) and (2), Wis. Stats., a complete report of the issues raised by the

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complainants, as well as the disposition of such issues and agreement of the parties thereto, shall be sent to the parties to the complaint.

(4) **FORMAL PUBLIC HEARING.** (a) If after the pre-hearing conference the superintendent determines that a public hearing is necessary, notice of time, date and place and purposes of a public hearing to be held in the district shall be sent to all parties and notice of the hearing shall be given in the newspaper likely to give notice in the district.

1. An official record of the hearing shall be kept including a verbatim record of the proceedings at the hearing together with all exhibits. The record of the hearing may be a tape recording.

2. The complainants may present evidence relative to the complaint that the district is not providing equal educational opportunities for children with EEN.

(b) The superintendent shall make findings within 10 days following the public hearing in the district, including a finding that the district has denied equal educational opportunities to children with EEN or a finding that the district is in compliance relative to the specific complaints in the allegation.

(5) **REMEDIAL PLAN.** After the superintendent has found that a district has denied equal educational opportunities to children with EEN, the superintendent, through the division, may make recommendations to the district to remedy the denial of equal educational opportunities, and shall order development by the district of a remedial plan and implementation of that plan within 3 months of receipt of the order by the district.

(6) **INADEQUATE IMPLEMENTATION.** If, following consultation with the board, the superintendent finds that implementation of the plan has been inadequate to remedy the denial of equal educational opportunities, the superintendent shall request the attorney general to proceed against the district for its non-compliance with the superintendent's order.

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77.

PI 11.29 Special education program aides. (1) **POLICY.** To ensure that all instructional units have adequate support services the LEA may utilize a special education program aide when appropriate. It is not the department's intent that all units are provided with a special education program aide.

(2) **ELIGIBILITY.** Eligibility for a special education program aide shall be based on the following:

(a) Evidence of an enrollment increase beyond the recommended maximum in the particular program type/level of program unit. (PI 11.21 (1) (c)).

1. Use of a special education program aide shall not be approved where the enrollment has increased to a point where a second teacher should be employed.

(3) **EXCEPTIONS.** Exceptions shall be approved based on the following:

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(a) Evidence that use of a special education program aide is necessary to assist with certain children who might otherwise be difficult to manage or difficult to educate.

(b) Evidence that use of a special education program aide is necessary on school buses to assist in management control where there are reported problems and the safety of the children is a factor.

(c) Evidence that a special education program aide is necessary to assist a physically handicapped child to accommodate to a regular classroom situation.

(d) Exceptions covered under PI 11.29 (3) (a) (b) and (c) shall require prior approval from the division.

(4) **REIMBURSEMENT.** The department shall reimburse the employing LEA for the salary and fringe benefits of certified special education program aides at 70% (PI 11.35 (2) (a) 1.) when the following criteria are met:

(a) For the first year, a written plan shall be submitted by the LEA to the program area supervisor. The program plan shall include the following elements:

1. Program rationale.
2. Clearly articulated need.
3. Aide role and function.
4. Work schedule.
5. Any other information requested by the division.

(b) Need for this position shall be reviewed yearly.

(c) Reimbursement for this position shall be contingent upon prior approval of the program area supervisor.

(5) **SPECIAL EDUCATION PROGRAM AIDE REQUIREMENTS.** The individual shall hold a 3 year license as a special education program aide.

(6) **SUPERVISION.** In the classroom, special education program aides shall be under the direct supervision of a certified special education teacher. In cases where special education program aides are not functioning in the classroom, they shall be under the supervision of a director or supervisor or both.

(a) Use of this position shall not reduce, remove or transfer the teacher's authority or responsibility.

History: Cr. Register, May, 1977, No. 267, eff. 6-1-77.

PI 11.31 Relationships with private sector. (1) **INTENT.** This section shall define the relationships between the private sector, local districts and the department consistent with subchapter IV, chapter 115, Wis. Stats., legal opinions and the rules.

(a) For the purpose of this section, private schools shall mean any school which is non-public. See PI 11.04 (1) (d).

(2) **SERVICES.** LEAs shall provide only the EEN services as determined by statutory and rule definition, section 115.80 (3), Wis. Stats., with the following conditions:

(a) *Evaluation.* District staff may carry out M-team assessment activities within private schools. If the district elects not to carry out M-team activities within the private school, the district shall provide it within the public school.

(b) *Instructional and therapy services.* LEA-provided instructional services or physical/occupational therapy services shall be permissible within the private school only if the special education program is fully administered and operated by an LEA.

(3) **TRANSPORTATION.** General and special transportation to special education services shall be provided by the district of the child's residence if the board has requested, based on M-team findings, a private contract and the contract has been approved by the superintendent. The special transportation required shall be reimbursed at 70% of excess costs. See PI 11.35 (2) (a) 1.

(a) Where the board through the M-team recommendations and findings has made a determination that a program exists in the LEA that meets the student's needs but the parent chooses a private school placement, only the transportation provisions of section 121.54 (2) (b) 1., Wis. Stats., apply.

(4) Pursuant to section 115.78 (2), Wis. Stats., private special education schools shall submit to the division, on a form developed by the division, a yearly report on enrollments, types and levels of service, licensure of personnel and any other information required. This information is required by the division for its annual development of a state directory of public/private EEN services.

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77.

PI 11.32 M-team process. (1) **INTENT.** Subchapter IV, chapter 115, Wis. Stats. was created to provide special education only for children with the handicapping conditions of mental retardation or other developmental disabilities, physically handicapped, pregnancy, visually handicapped, hearing handicapped, speech or language handicapped, learning disabilities, emotionally disturbed or any combination of conditions named by the superintendent as enumerated in section 115.76 (3) (a) through (i), Wis. Stats. Only those children determined to have an EEN shall be included within the parameters of the mandates of this law.

(2) **M-TEAM RESPONSIBILITY.** Pursuant to PI 11.03 (1) the M-team shall determine, specify and document decisions relative to disability, handicapping condition and need for special education. A child shall not qualify as a child with EEN unless the handicapping condition requires special education. The director, supervisor or designee shall be responsible for the M-team process including determination of disability and handicapping condition, need for special education and M-team plan and shall approve the M-team evaluation process or may request additional information.

(a) *Disability.* The child shall have a mental, physical, emotional or learning disability as the initial point for determining if the child

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qualifies for special education pursuant to subchapter IV, chapter 115, Wis. Stats.

(b) *Handicapping condition.* If the child has a disability, the M-team shall determine if the child has a handicapping condition, pursuant to section 115.76 (3) (a) through (i), Wis. Stats. and PI 11.34 (2).

(c) *Need for special education.* Existence of one of these conditions shall not, in and of itself, qualify a child for special education unless the child also has a need for special education.

(d) *EEN.* If the M-team determines that the child has a disability, a handicapping condition, and a need for special education, then the child is determined to be a child with EEN.

Table I.

Determination of EEN

| Determination of a disability. | If yes, | determination of a handicapping condition. | If yes, | determination of a need for special education. | If yes, | child with exceptional educational needs. |
|--------------------------------|---------|--|---------|--|---------|---|
|--------------------------------|---------|--|---------|--|---------|---|

(3) **DISABILITY AND HANDICAPPING CONDITION.** In determining disability and handicapping condition:

(a) *Data collection and analysis.* Designated M-team members shall be responsible for the collection or analysis or evaluation or a combination thereof of the referral data. The extent of the information gathering process shall vary with each individual child depending upon the referral behavior and availability of relevant information in each case.

1. Data collection and analysis shall include:

- a. Complete written documentation from referral sources.
- b. Report of educational performance, e.g., behavioral and academic, from the child's teacher or other referral agencies, or both.
- c. A description and documentation of previous interventions, including educational, medical, social and any other interventions attempted to assist the child.
- d. Social, emotional and behavioral factors and peer and adult interactions in school, home and community.
- e. Age of onset of the condition, differentiating between initial occurrence and initial identification.

2. The chairperson of the M-team or any M-team member may request additional information or evaluations any time during the evaluation process. The following shall be included when requested, or when determined relevant and essential to a determination of a handicapping condition:

- a. Individual intellectual assessments and other individual psychological procedures.
- b. Medical evaluation.

c. Analysis of economic, social, cultural and language factors which may have an effect on school functioning.

(b) *Role of the special education teacher.* The special education teacher shall be responsible for a current written evaluation in the context of special education. The teacher shall review, analyze and incorporate information, contained in PI 11.32 (3) (a), from other M-team members. In addition the teacher shall conduct and document any interviews, observations, informal and formal, norm- and criterion-referenced tests required to reach educational conclusions. The written evaluation shall include conclusions on the following:

1. The pupil's current behavioral, social and academic functioning.
2. The individual child's learning style and how specific concepts or skills or both are acquired and utilized.

(c) *Comparison of findings.* Analysis and evaluation of data shall include a comparison of findings of individual M-team members.

(4) **DETERMINATION OF NEED FOR SPECIAL EDUCATION.** (a) Need. During the final staffing to determine whether or not the child's handicapping condition requires special education, the M-team shall:

1. Complete the summary of the individual written reports and findings submitted by M-team members, or any which may be submitted by consultants or parents and others.

2. Develop a documented, written statement of the child's needs, based on PI 11.32 (4) (a) 1. and the following:

- a. How the handicapping condition interferes with behavioral and academic functioning in the present educational program.

- b. The interventions or modifications that still may need to be attempted in regular education.

- c. A consideration of how the essential proposed educational elements will differ from the current programs.

3. For children whose handicapping conditions do not require special education, see PI 11.03 (4) (b) 3. a. b. and c.

(5) **M-TEAM PLAN FOR EEN CHILDREN.** Pursuant to section 115.80 (3) (e), Wis. Stats., and PI 11.03 (5) (a) and (b), the M-team shall recommend in writing an M-team plan to include elements in PI 11.32 (3) and (4), based upon the child's needs. Input and involvement of the parent as well as from the child, whenever appropriate, shall be allowed and encouraged in the development of the M-team plan.

(a) The M-team shall enumerate the following:

1. Statement of the child's needs, to include elements considered in PI 11.32 (3) and (4).

2. Goal statements and general objectives to meet the child's needs in the following areas as appropriate:

- a. Specify the recommended academic or behavioral interventions, or both, necessary in special education or regular education, or both.

- b. Supportive and related services.

c. School/parent communications.

3. The provisions for regularly scheduled follow-up consultation between special education and regular education staff, and when necessary with supportive personnel to ensure appropriateness of programming.

(6) **M-TEAM REPORT.** Refer to PI 11.03 (8). All findings, reports, and recommendations, as well as the M-team plan, shall become part of the M-team report.

History: Cr. Register, May, 1977, No. 267, eff. 6-1-77.

PI 11.33 Placement, student's individual educational program (IEP). (1) **PLACEMENT IN SPECIAL EDUCATION.**

(a) The director, supervisor or designee shall be responsible for the receipt of the written M-team plan, may request additional information, and shall make the placement offer to the parent.

(b) The placement decision made by the board's director or designee, pursuant to PI 11.03 (7) and PI 11.11 (4) (b) 1., shall include a justification for the type of educational placement, type and level of program, location, personnel involved and elements from the M-team plan. This shall include:

1. Statement regarding anticipated duration of special education, including the projected date of enrollment and general statement of amount of responsibility to be assumed by special and regular education and supportive services programming.

(c) The director or designee shall be responsible for systematic followup, monitoring and evaluation of the M-team plan and the IEP. This shall include the process of annual review and updating of the IEP.

(2) **THE STUDENT'S INDIVIDUAL EDUCATIONAL PROGRAM (IEP).** Each LEA shall establish or revise an IEP for each exceptional child pursuant to section 115.80 (4), Wis. Stats. This shall occur at an individual planning conference prior to the beginning of each school term for continuing students or within 6 weeks of initial placement for new students. Parents shall be informed in special cases where this cannot be accomplished. The IEP shall be revised periodically but not less than annually. The parent as well as the child whenever appropriate shall be offered the opportunity for involvement in the development of the IEP.

Note: Pursuant to P.L. 94-142, the IEP shall be in place by October 1, 1977.

(a) The IEP shall include the following:

1. A statement of the present levels of educational performance of the child.

2. A statement of annual long and short-term objectives based on the goals established by the M-team. Any other educational goals deemed appropriate may be included.

a. The statement shall include performance criteria, method of measurement and anticipated timeline for meeting criteria.

b. The statement shall include specific educational, supportive and related services needed to meet the exceptional educational needs of

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the child including the personnel responsible for the delivery of services and an estimate of the percentage of time involved in regular education and special education.

c. The statement shall include an enumeration of anticipated interventions, methods and materials to be employed.

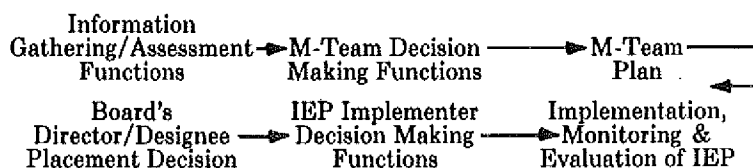
d. The objectives shall be evaluated upon attainment of the objectives or at the end of the school year.

(b) The special education teacher designated as having primary responsibility for the child's program shall be responsible for developing and revising the child's IEP.

(c) Special and regular education teachers and supportive staff working with the child shall assist in developing and revising the IEP.

(d) The IEP shall be a part of the student's behavioral records and shall be available upon request by the operating LEA from the district of residence, the teacher and the parent and the student if over 18 years.

(e) The rules in PI 11.32, PI 11.33 and PI 11.34 covering determination of eligibility, placement procedures and development of an IEP are summarized in Table I.



The division recommends that whenever appropriate, the implementer of the IEP should also serve as an M-team member. This may result in shortening the time required to develop an IEP.

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77.

PI 11.34 Eligibility criteria. (1) **STANDARDS.** Children shall be determined to have a handicapping condition who have been identified, evaluated and classified as handicapped pursuant to PI 11.03, PI 11.32, PI 11.33 and PI 11.34. The minimum criteria for the determination of handicapping condition and eligibility for special education shall be consistent throughout the state.

(a) A transition period shall be provided for moving a child out of special education who upon re-evaluation does not meet criteria in the rules.

(2) **HANDICAPPING CONDITION.** Educational needs resulting primarily from poverty, neglect, delinquency, social maladjustment, cultural or linguistic isolation or inappropriate instruction are not included under subchapter IV, chapter 115, Wis. Stats.

(a) *Mental retardation.* 1. Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior manifested during the developmental period. (AAMD definition—Grosman, 1973). (Standard deviation (S.D.) is used to signify variability from the mean. The mean is an average of the scores in a set; the standard deviation is an

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average of how distant the individual scores in a distribution are removed from the mean).

Table 1

| | |
|--|---|
| Major considerations for determination of mental retardation | |
| I. Measured intelligence | |
| Mild -2 to -3 S.D. | Moderate -3 to -4 S.D. Severe -4 to -5 S.D. |
| Profound -6 S.D. | |
| II. Adaptive functioning | |

A child is determined to be in the lower 2% of his or her age group on formal/informal criterions, scales and data in his or her ability to interact with others, manipulate objects and tools, move about in the environment and otherwise meet the demands and expectancies of the general society and environment. In addition, the child's adaptive abilities are in the lower 2% of his or her peer and age group on the reference criterion particular to his or her specific socio-cultural community.

III. Academic functioning

| | |
|---------|---|
| Age 3-5 | 1.5 years behind on normative language, perception and motor development criterion. |
| 6-9 | 2 years or more below normal grade achievement expectancies in language, motor and basic skill subjects, e.g., reading and mathematics. |
| 10-14 | 3.5 years or more below normal grade achievement expectancies in language, motor and basic skill subjects, e.g., reading and mathematics. |
| 15-20 | 5th grade or below achievement in language, motor and basic skill subjects, e.g., reading and mathematics. |

2. Children who test between -1 and -2 S.D. on individual intelligence tests, e.g., borderline intelligence (AAMD definition) may be determined to be mentally retarded on a selective basis if they:

- a. Exhibit pervasive depressed mental development similar in nature to children testing below -2 S.D. on the normal curve and if they:
 - i. Have concomitant lags in cognitive, adaptive and achievement abilities.
 - ii. Have exhibited mental retardation as documented from their developmental and school history.
 - iii. Are expected to have the condition indefinitely.

3. In determining mental retardation the evaluators shall identify those children who are mentally retarded in conjunction with depressing socio-cultural influences.

4. A child with suspected developmental disabilities other than mental retardation shall be referred to an M-team for determination of other handicapping conditions and EEN.

Note: For example, a child with the suspected condition of epilepsy may be determined to be physically handicapped.

(b) *Physically handicapped.* 1. A physically handicapped child is one who has some physical defect such as affection of the joints or bones, disturbances of the neuromuscular mechanism, congenital deformities, cardiac condition, spastic and other acquired deformities.

Such physical defects, organic diseases or conditions may hinder the child's achievement of normal growth and development.

(c) *Pregnancy*. 1. Medical verification that a girl is pregnant shall establish the disabling and handicapping condition and the need for special education.

(d) *Visually handicapped*. A visual handicap is determined by functional visual efficiency including visual fields, ocular motility, binocular vision and accommodation. A visual handicap is determined by medical examination, e.g., by an ophthalmologist or optometrist.

1. Visual fields. a. Moderately visually handicapped means distance visual measurements of 20/70 and 20/200 in the better eye after correction. Near vision measurements of 14/56, e.g., Jaeger 10, or near vision equivalents.

b. Severely visually handicapped means distance visual measurements of 20/200 to 20/400 in the better eye after correction. Near vision measurements of 14/140, e.g., Jaeger 17, or near vision equivalents.

c. Profoundly visually handicapped means:

i. Distance visual measurements are 20/500 or less in the better eye after correction.

ii. HM - the ability to perceive hand movement.

iii. PLL - perceives and localizes light in one or more quadrants.

d. Totally blind means:

i. LP - perceives but does not localize light.

ii. No LP - no light perception.

e. Peripheral field and central vision loss means peripheral field so contracted that the widest diameter of such fields subtends an angular distance no greater than 50 degrees.

2. Ocular motility means loss of vision efficiency in either eye, due to double or binocular vision.

3. Lack of binocular vision means the inability to use the two eyes simultaneously to focus on the same object and to fuse the two images into a single image.

4. Lack of accommodation means the inability of the eye to hold a steady fixation for seeing at various distances, especially near.

5. Also included shall be diagnosed physical disabilities or handicapping conditions which may result in a visual handicap or affect visual functioning in the future.

(e) *Hearing handicapped*. 1. An auditory handicap is determined by medical (otologic) and audiologic evaluations. Examination shall be done by a physician specializing in diseases of the ear and evaluation by a certified clinical audiologist. The loss in hearing acuity affects the normal development of language and is a medically irreversible condition for which all medical interventions have been

attempted. The hearing loss affects a child in varying degrees, depending on the time the loss was sustained.

a. The hard of hearing child means a child who, with a hearing aid, can develop a language system adequate to successful achievement and social growth. Audiological assessment should indicate at least a 30 db loss in the better ear in the speech range. Difficulty in understanding conversational speech as it takes place in a group necessitates special considerations.

b. Severely handicapped hearing child means a child who, with or without a hearing aid is unable to interpret adequately aural/oral communication. Audiological assessment indicates a minimum loss of 70 db in the better ear. Inability to discriminate all consonants and other difficulties appear as the loss becomes greater.

2. Characteristics of hearing impairment may not be readily apparent. Children react differently to similar losses and therefore an audiogram shall not be the sole criterion of significant EEN. Neither is the use or non-use of a hearing aid totally significant. Additional factors include inadequate, hesitant or no verbal communication, speech abnormality and, at times, aggressiveness due to misunderstanding. It is suggested that a continuing dialogue be maintained with the certified clinical audiologist in anticipation of a program recommendation.

(f) *Speech and language handicaps.* 1. Speech and language handicaps are characterized by a delay or deviance in the acquisition of prelinguistic skills, or receptive skills or expressive skills or both of oral communication. The handicapping condition does not include speech and language problems resulting from differences in paucity of or isolation from appropriate models.

a. Special considerations include:

i. Elective or selective mutism or school phobia shall not be included except in cooperation with programming for the emotionally disturbed.

ii. Documentation of a physical disability resulting in a voice problem, e.g., nodules, cleft palate, etc., or an expressive motor problem, e.g., cerebral palsy, dysarthria, etc., shall not require the determination of a handicapping condition in speech and language.

(g) *Learning disabilities.* 1. The handicapping condition of learning disabilities denotes severe and unique learning problems due to a disorder existing within the child which significantly interferes with the ability to acquire, organize or express information. These problems are manifested in school functioning in an impaired ability to read, write, spell or arithmetically reason or calculate.

2. Criteria for identification. The child shall meet the criteria in PI 11.34 (2) (g) 2. a. and b. to be considered as having the handicapping condition of learning disabilities.

a. Academic functioning. A child whose primary handicapping condition is due to learning disabilities shall exhibit a significant discrepancy between functional achievement and expected achievement. A significant discrepancy is defined as functional achievement at or below 50% (.5) of expected achievement.

i. The child when first identified, shall have a significant discrepancy in functional achievement in 2 or more of the readiness or basic skill areas of math, reading, spelling and written language. To determine a significant discrepancy in the readiness areas the M-team shall consider the child's receptive and expressive language and fine motor functioning. A significant discrepancy in the single area of math, accompanied by less significant, yet demonstrable discrepancies in other basic skill areas may satisfy the academic eligibility criteria.

ii. Functional achievement is defined as the child's instructional level in readiness and basic skill areas. Determination of functional achievement shall be based on a combination of formal and informal individualized tests, criterion - referenced measures, observations and an analysis of classroom expectations in basic skill areas.

iii. The following formula shall be used to determine expected achievement: $I.Q. \times \text{years in school}$. Years in school is defined as the number of years of school completed since enrollment in 5-year-old kindergarten. A child who entered first grade without benefit of kindergarten should have a factor of one year added to that child's total years in school for computational purposes.

iv. The following formula yields a grade score to which the child's previously determined functional achievement level is compared. If the functional achievement level is at or below the grade score derived from the formula a significant discrepancy exists:

$I.Q. \times \text{Years in School} \times .5 = \text{Grade Score}$ (50% of expected achievement). This formula is inappropriate for children who have not completed 2 years in school. Children entering kindergarten or first grade who are achieving in readiness areas one or more years below expected achievement levels for their chronological age may be considered as having a significant discrepancy between their functional and expected achievement. See Appendix J for examples.

v. A child whose functional achievement approaches but is not at or below 50% of expected achievement may be considered to have met the academic functioning criterion if the child demonstrates variable performance between the sub-skills required for each of the areas of reading, writing, spelling, arithmetical reasoning or calculation and if the child meets all the other criteria used to identify the handicapping condition of learning disabilities. This determination shall be based on the M-team's collective judgment and the rationale shall be documented in the M-team report.

vi. In attendance centers where the number of children functioning at or below 50% of expected achievement exceeds that which might be anticipated for the general population, additional efforts shall be made to substantiate that the child's functional achievement level is due to a disorder existing within the child and not due to those conditions enumerated in PI 11.34 (2).

vii. Evidence shall exist that the learning disabilities are primarily attributable to a deficit within the child's learning system. Such evidence may include average or above average ability in some areas. In documenting this in-child variability academic and non-academic behaviors shall be considered.

b. Intellectual functioning. Children whose primary handicapping condition is due to learning disabilities shall exhibit normal or potential for normal intellectual functioning.

i. This measure of intellectual functioning may be established by a score above a minus one standard deviation on a single score intelligence instrument, or by a verbal or performance quotient of 90 or above on a multiple score intelligence instrument.

ii. The instrument used to establish this measure shall be recognized as a valid and comprehensive individual measure of intellectual functioning.

iii. If there is reason to suspect the test results are not true indices of a particular child's ability, then clarification of why the results are considered invalid shall be provided. Previous experience, past performance and other supportive data that intellectual functioning is average shall be present and documented in written form.

iv. There may exist rare cases of severe language involvement which detrimentally affect the learning disabled child's ability to perform adequately on intelligence tests given the language emphasis of these instruments. In these rare situations the importance of the intellectual criteria may be reduced given substantial evidence to indicate average ability.

3. Learning problems, when primarily due to the following, shall be excluded from consideration as learning disabilities:

a. The other handicapping conditions specified in section 115.76 (3), Wis. Stats.

b. Learning problems resulting from extended absence, continuous inadequate instruction, curriculum planning, or instructional strategies.

c. Discrepancies between ability and school achievement due to motivation.

d. Functioning at grade level but with potential for greater achievement.

(h) *Emotional disturbance*. 1. Classification of emotional disturbance as a handicapping condition is determined through a current, comprehensive study of a child, ages 0 through 20, by an M-team.

2. Emotional disturbance is characterized by emotional, social and behavioral functioning that significantly interferes with the child's total educational program and development including the acquisition or production, or both, of appropriate academic skills, social interactions, interpersonal relationships or intrapersonal adjustment. The condition denotes intraindividual and interindividual conflict or variant or deviant behavior or any combination thereof, exhibited in the social systems of school, home and community and may be recognized by the child or significant others.

3. All children may experience situational anxiety, stress and conflict or demonstrate deviant behaviors at various times and to varying degrees. However, the handicapping condition of emotional disturbance shall be considered only when behaviors are characterized as severe, chronic or frequent and are manifested in 2 or more of the

child's social systems, e.g., school, home or community. The M-team shall determine the handicapping condition of emotional disturbance and further shall determine if the handicapping condition requires special education. The following behaviors, among others, may be indicative of emotional disturbance:

- a. An inability to develop or maintain satisfactory interpersonal relationships.
- b. Inappropriate affective or behavioral response to what is considered a normal situational condition.
- c. A general pervasive mood of unhappiness, depression or state of anxiety.
- d. A tendency to develop physical symptoms, pains or fears associated with personal or school problems.
- e. A profound disorder in communication or socially responsive behavior, e.g., autistic-like.
- f. An inability to learn that cannot be explained by intellectual, sensory or health factors.
- g. Extreme withdrawal from social interaction or aggressiveness over an extended period of time.
- h. Inappropriate behaviors of such severity or chronicity that the child's functioning significantly varies from children of similar age, ability, educational experiences and opportunities, and adversely affects the child or others in regular or special education programs.

4. The operational definition of the handicapping condition of emotional disturbance does not postulate the cause of the handicapping condition in any one aspect of the child's make-up or social systems.

5. The manifestations of the child's problems are likely to influence family interactions, relationships and functioning or have an influence on specific individual members of the family. It is strongly recommended that extensive family involvement or assistance be considered in the evaluation and programming of the child.

6. The handicapping condition of emotional disturbance may be the result of interaction with a variety of other handicapping conditions such as learning, physical or mental disabilities or severe communication problems including speech or language.

7. An M-team referral for suspected emotional disturbance may be indicated when certain medical or psychiatric diagnostic statements have been used to describe a child's behavior. Such diagnoses may include but not be limited to autism, schizophrenia, psychoses, psychosomatic disorders, school phobia, suicidal behavior, elective mutism or neurotic states of behavior. In addition, students may be considered for a potential M-team evaluation when there is a suspected emotional disturbance, who are also socially maladjusted, adjudged delinquent, dropouts, drug abusers or students whose behavior or emotional problems are primarily associated with factors including cultural deprivation, educational retardation, family mobility or socio-economic circumstances, or suspected child abuse cases.

(i) *Multiple handicapped.* 1. A multiple handicapped child is one who has 2 or more handicapping conditions leading to EEN which may require programming considerations and are determined by an M-team composed of specialists trained, certified and experienced in the teaching of children with the EEN.

2. A multiple handicapped child shall have the right to any and all educational, supportive and related services essential to a free appropriate public education based on the individual needs of the child.

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77.

PI 11.35 Reimbursement. (1) **INTENT.** Contingent upon prior receipt of the appropriate annual plan of services for each respective area, and operation of the program in accordance with section 115.88, Wis. Stats., and the rules, the superintendent shall authorize reimbursement for costs involved in operating and maintaining said program.

(a) The LEA shall submit, on appropriate financial claims for each program area such information and data as required by the division, for fiscal review and approval for reimbursement of the program through state general purpose revenue categorical aids.

(b) If required, the LEA shall submit any other reports, including evidence of compliance with the rules or federal and state statutes or both.

(2) **REIMBURSEMENT FOR SPECIAL EDUCATION INSTRUCTIONAL/ ADMINISTRATIVE COSTS.** (a) The rate of state aid reimbursement for each approved qualified licensed special education teacher and special education program aide shall be 70% of salary and fringe benefits pursuant to section 115.88 (1), Wis. Stats.

1. State categorical aids are currently on a sum certain basis, which means that if total fiscal claims exceed the annual appropriation requested by the department, proration shall take place.

2. The individual who spends less than full-time in special education services shall be reimbursed on a pro rata basis.

(b) An exception to PI 11.35 (2) (a) relates to special education teachers and special education program aides employed in hospitals or convalescent homes for physically and other health impaired children, wherein the board of the district in which the hospital or convalescent home is located shall be reimbursed for 100% of the actual costs incurred for instruction, pursuant to section 115.88 (4), Wis. Stats.

(c) Reimbursement for directors/supervisors. See PI 11.11 (3), PI 11.35 (2) (a) 1.

(3) Reimbursement for supportive services personnel. (a) Supportive services personnel shall include physical therapists, occupational therapists, and therapy aides.

Note: No other health treatment service shall be reimbursable.

1. The LEA shall receive 70% reimbursement of salaries and fringe benefits of these personnel. Refer to PI 11.35 (2) (a) 1.

2. See PI 11.19 (5) (d) Note for reimbursement for new program units. For continuing program units operating outside orthopedic schools a maximum of \$400 per unit shall be allowed. Any exceptions

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to this limitation shall be negotiated in advance with the division program area supervisor. No limitation shall apply for orthopedic schools.

(4) Reimbursement for related services. (a) Related services means transportation services or others designated by the superintendent.

(b) Pursuant to section 115.88 (2), Wis. Stats. the excess costs involved in providing special additional transportation services required as part of the individual educational program shall be reimbursed to the LEA at 70% of the division approved claim after payment of general transportation aids.

1. Transportation, when required, to medical, vocational, or other community supportive services related to the individual educational program, shall meet the test of such additional or special transportation needs.

2. For EEN children, the 2 mile limitation for general transportation shall not apply.

(c) Any child attending regular classes who, upon medical prescription, requires special transportation shall receive such transportation. The LEA shall be reimbursed at 70% of the full cost after general transportation aids have been paid.

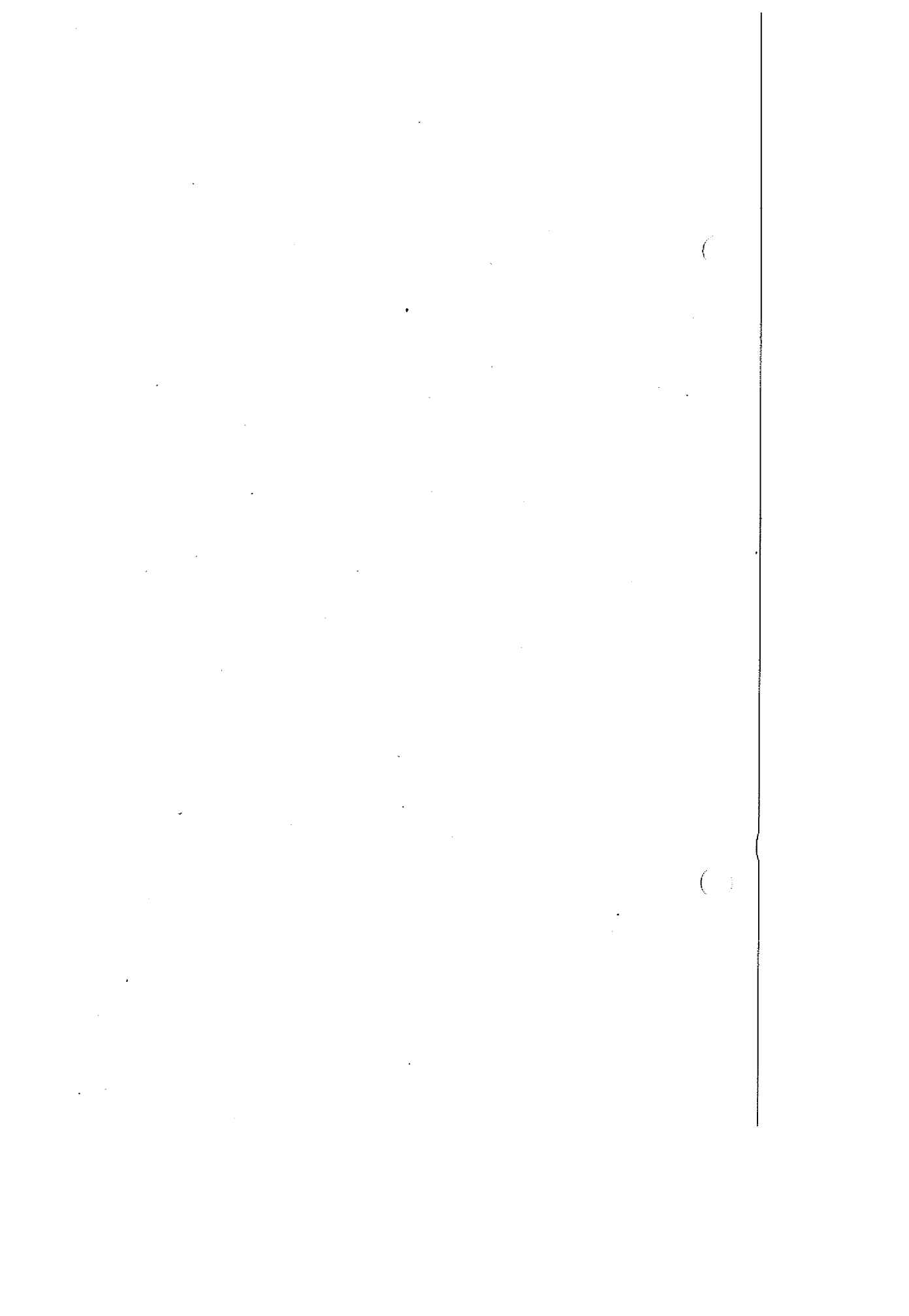
(5) REIMBURSEMENT FOR BOARD AND LODGING. (a) Pursuant to section 115.88 (3), Wis. Stats., where board and lodging from Monday through Friday is used in lieu of transportation and transportation of non-resident children between the boarding home and the special education program is required, 100% of prior-approved claims shall be reimbursed to the operating district.

(6) OTHER REIMBURSABLE ITEMS. (a) Under the other expenses approved by the superintendent, LEAs shall receive reimbursement for more expensive equipment in those unique instances requiring special consideration.

(b) Approvals for reimbursement under this subsection shall be closely monitored and limited in number. LEAs shall make a special appeal for approval from the superintendent in these instances.

Note: State reimbursement of costs of tuition involved in private contracts is not authorized by statute at this time. Section 115.85 (2) (d), Wis. Stats., and chapter 39, laws of 1975, mandate that the district of residence shall pay tuition in these instances.

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77.



Appendix J

The formula used is a modification of a reading expectancy formula developed by Bond and Tinker (Bond, G. L. and Tinker, M.A., *Reading Difficulties: Their Diagnosis and Correction* (2nd ed.) New York, Appleton-Century-Crofts, 1967). The Bond & Tinker studies indicate that the predicted achievement scores derived from the original formula (I.Q. x years in school + 1.0 = expected reading grade) closely approximate actual reading achievement. Because the components of the formula are general, i.e., number of "years in school", and intelligence, it is believed that this formula can be adapted and appropriately applied to all the academic areas specified in PI 11.34 (2) (g).

The Bond & Tinker formula did not include 5 year old kindergarten in "years in school" but in effect allowed for it by adding in a 1.0 factor. To simplify the formula and to ensure that the child is constantly compared to the same referent group, 5 year old kindergarten was added to the formula and the 1.0 factor deleted. This should ease computation without detracting from the accuracy of the formula.

Definition of factors in formula:

A. I.Q. - full scale score derived from an individual measure of intellectual functioning. I.Q. should be written as a decimal, for example 87 equals .87, 105 equals 1.05, etc.

B. years in school - number of years in school beginning with 5 year kindergarten.

The Bond & Tinker formula was weighted by a factor of .5 (50%) in order to indicate the level at or below which a child must function to exhibit a significant discrepancy. The full formula then is:

(I.Q. x years in school) x .5 = grade score (50% of expected achievement).

Examples utilizing this formula are:

A. A child beginning the fifth year of school (beginning fourth grade, e.g., 5 years in school) with a measured full scale I.Q. of 92 (.92) would have a grade score computed in the following manner:

$$(.92 \times 5) \times .5 = (4.60) \times .5 = 2.3$$

B. A child in the 7th month of second grade, who is repeating second grade, with a measured full scale I.Q. of 101 (1.01) would have a grade score computed in the following manner:

$$(1.01 \times 3.7) \times .5 = (3.7) \times .5 = 1.9$$

C. A child in the ninth year of school (8th grade) with an I.Q. of 113 (1.13), who is identified in January, would have a grade score computed in the following manner:

$$(1.13 \times 9.5) \times .5 = (10.7) \times .5 = 5.4$$

D. A child entering kindergarten at 5 years of age with average ability and functioning at or below a 4 year level in 2 or more of the

readiness areas will meet the academic criteria of eligibility. The formula for establishing grade score should not be used.

E. A child entering third grade at the age of 8 who has not completed 3 years in school (no kindergarten) would have a factor of 1.0 added to the years in school for determining grade score (50% of expected achievement).

(I.Q. x years in school) x .5 = grade score

$$(1.00 \times 2 + 1) \times .5 =$$

$$(2.00 + 1) \times .5 =$$

$$3.0 \times .5 = 1.5$$

Therefore if this 8 year old child entering third grade is achieving at the 1.5 grade level or below in 2 or more of the readiness or basic skill areas, this child will meet the academic criteria of eligibility.

F. A child entering first grade who has average ability and has completed 2 years in school (retained in kindergarten) would have the formula applied for establishing grade score.

$$(.90 \times 2) \times .5 = 1.80 \times .5 = .9$$