

Chapter PI 36

PUBLIC SCHOOL INTER-DISTRICT OPEN ENROLLMENT

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Note: This chapter was created as an emergency rule effective January 17, 1998.

Subchapter I — General Provisions

PI 36.01 Authority and intent. (1) This chapter is adopted under s. 227.11 (2) (a) and (b), Stats., and interprets ss. 118.51, 118.52, and 121.05 (1) (a), Stats.

(2) (a) Under s. 118.51, Stats., a pupil in grades kindergarten to twelve may attend a public school in a nonresident school district under the full-time open enrollment program. A pupil may attend a prekindergarten, 4-year-old kindergarten, early childhood or school-operated day care program in a nonresident school district only if the pupil's resident school district offers the same type of program that the pupil wishes to attend and only if the pupil is eligible to attend that program in his or her resident school district.

(b) Under s. 118.52, Stats., beginning in the 1998-99 school year, a pupil enrolled in a public school in the high school grades may attend public school in a nonresident school district under the part-time open enrollment program for the purpose of taking a course offered by the nonresident school district. A pupil may attend no more than 2 courses at any time in nonresident school districts under the part-time open enrollment program.

(3) This chapter establishes procedures and requirements relating to applying for the full-time and part-time open enrollment programs; timely notification to school boards, parents and the department as required in the statutes; accepting and rejecting applications; and filing and deciding appeals.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98; CR 04-008: am. (2) (a) Register September 2004 No. 585, eff. 10-1-04.

PI 36.02 Definitions. In this chapter:

(1) "Application period" means the period beginning on the first Monday in February and ending with the third Friday following the first Monday in February, as specified in s. 118.51 (3) (a) 1., Stats., during which application forms may be submitted to nonresident school boards.

(1m) "Child with a disability" has the meaning given in s. 115.76 (5), Stats.

(2) "Department" means the Wisconsin department of public instruction.

(3) "Full-time open enrollment program" means the program under s. 118.51, Stats. and subch. II.

(4) "Kindergarten" means 5-year-old kindergarten.

(5) "Nonresident school board" has the meaning given in s. 118.51 (1) (b), Stats., when referring to the full-time open enrollment program, or the meaning given in s. 118.52 (1) (a), Stats., when referring to the part-time open enrollment program.

(6) "Nonresident school district" has the meaning given in s. 118.51 (1) (c), Stats.

(7) "Parent" includes a guardian. A pupil age 18 years of age or older acting on the pupil's own behalf, may take any action authorized to or required of a parent.

(7m) "Parental notification date" means the first Friday following the first Monday in June by which parents are required under s. 118.51 (3) (a) 6., Stats., to notify the nonresident school district whether the pupil will attend the nonresident school district in the following school year.

(8) "Part-time open enrollment program" means the program under s. 118.52, Stats., and subch. III.

(9) "Resident school board" has the meaning given in s. 118.51 (1) (e), Stats.

(10) "Resident school district" has the meaning given in s. 118.51 (1) (f), Stats.

(10m) "School term" has the meaning given in s. 115.001 (12), Stats.

(11) "School year" has the meaning given in s. 115.001 (13), Stats.

(12) "Sibling" includes step-siblings who reside in the same household.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98; CR 04-008: renum. (1) to be (1m) and am., cr. (1), (7m) and (10m), am (4), Register September 2004 No. 585, eff. 10-1-04.

Subchapter II — Full-time Open Enrollment

PI 36.03 Parent and pupil responsibilities. (1) APPLICATION AND NOTIFICATION PROCEDURES. (a) The parent of a pupil who wishes to attend a public school in a nonresident school district under the full-time open enrollment program shall apply on the form developed by the department. The application shall be submitted to the nonresident school board and shall be received in the nonresident school district office no earlier than the first day of the application period and no later than 4:00 p.m. on the last day of the application period. A postmark does not constitute timely submission.

(b) 1. A separate application form shall be submitted for each pupil applying. A separate application form shall be submitted to the board of each nonresident school district to which the pupil is applying. Applications may be submitted to no more than 3 nonresident school boards for any pupil in any school year. If applications are submitted to more than 3 nonresident school districts for any pupil, all the applications are invalid.

2. The application form shall indicate the resident school district in which the pupil will reside in the first school term in which the pupil first wishes to attend a nonresident school district. No more than one resident school district may be indicated on any application form submitted for the pupil during any application period, and all application forms shall contain the same resident school district. Failure to indicate a resident school district or indicating more than one resident school district on a single or multiple applications shall render invalid all applications submitted for that pupil during that application period.

(c) The parent shall answer all applicable questions on the application form accurately to the best of her or his ability. Deliberately providing false or misleading information may result in the application being denied or the pupil being required to return to

the resident school district, if the false or misleading information is discovered after the pupil is admitted to the nonresident school district.

(d) The parent shall sign the application. If the pupil's parents are separated or divorced and if the parents have joint custody of the pupil, the application shall be signed either by both parents or by the parent who has been given sole power to make major decisions under s. 767.24 (6) (am), Stats.

(e) 1. The signature of a parent on the application form grants permission until May 15 of the year in which the application is completed for the nonresident school board to request the following information from the resident school board:

a. Information about whether the pupil has been referred for a special education evaluation under s. 115.777 (1), Stats.

b. Whether the pupil has been found to be a child with a disability; whether the pupil has a current individualized education program; and, if so, a copy of the pupil's individualized education program.

2. The signature of a parent on the application provides acknowledgment that the parent has been notified that under s. 118.51 (8), Stats., the resident school board shall provide to the nonresident school board to which a pupil has applied under this section, upon request by that school board, a copy of any expulsion findings and orders pertaining to the pupil, a copy of records of any pending disciplinary proceeding involving the pupil, a written explanation of the reasons for the expulsion or pending disciplinary proceeding and the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceeding.

(f) The parent of a pupil who is enrolled in a private school or a home-based private educational program or who is otherwise not enrolled in a Wisconsin school district may apply for the pupil to attend a nonresident school district under the full-time open enrollment program in the following school year. If the application is accepted by the nonresident school board and is not denied by the resident school board and if the parent notifies the nonresident school board that the pupil will attend the nonresident school district in the following school year, the parent shall ensure that, prior to attending school in the nonresident school district, the pupil enrolls in the resident Wisconsin school district according to procedures established by the resident school board under s. PI 36.05 (10).

(g) The parent of a pupil who has moved or who plans to move from the resident school district during a school year may apply for the pupil to return to the resident school district as a nonresident pupil in the following school year.

(h) If the application is accepted by the nonresident school board and is not denied by the resident school board, the parent shall notify the nonresident school board no later than the parental notification date of the pupil's intent to attend school in that district in the following school year. If the nonresident school board does not receive the notification under this paragraph on or before the parental notification date, the nonresident school board may determine that the pupil does not intend to attend school in that district the following school year.

(2) TRANSPORTATION. (a) Except as specified in s. 118.51 (14) (a) 2., Stats., the parent is responsible for transporting the pupil to and from school in the nonresident school district.

(b) The parent of a pupil who is eligible for a free or reduced-price meal under 42 USC 1758 (b) may apply for reimbursement of costs incurred by the parent for transportation of the pupil to and from the pupil's residence and the school the pupil will be attending. If the parent incurs costs for transportation less than the full distance between the pupil's residence and the school, reimbursement is based on the distance for which the parent incurred costs. If the parent incurs costs for transportation greater than the distance between the school and pupil's residence, for example, transportation to and from the school and an alternative site, such as a day care program that is farther from the school than the

pupil's residence, reimbursement is limited to the costs for transportation to and from the pupil's residence and the school.

(c) The estimate of transportation reimbursement under s. 118.51 (14) (b), Stats., shall be based on the information submitted on the application and shall be a preliminary determination of whether the parent or guardian is eligible for transportation reimbursement and an estimate of the amount of transportation reimbursement the parent may receive. If the application is approved and if the pupil attends school in a nonresident school district, the parent shall submit a claim for reimbursement during the school year of attendance and shall provide information, including actual transportation cost and mileage and verification of the family's monthly income. If the family's monthly income at the time of submitting the claim exceeds the income threshold for eligibility, the claim shall be denied.

(d) The reimbursement shall be equal to the lesser of the following amounts:

1. If the mode of transportation is a family vehicle, the amount determined by multiplying the total miles round trip by the actual number of round trips made during the semester or school year to which the claim applies and multiplying the product of this calculation by the rate specified under s. 20.916 (4), Stats. If the mode of transportation is other than a family vehicle, the actual cost of the transportation.

2. Three times the statewide average per pupil transportation cost.

(3) CHANGE OF ADDRESS; CHANGE OF OPEN ENROLLMENT STATUS.

(a) If, after notifying the nonresident school board by the parental notification date that the pupil will attend the nonresident school district in the following school year, the parent decides that the pupil will not attend the nonresident school district in the following school year, the parent shall promptly notify both the resident and nonresident school boards in writing. The parent may not later notify the resident and nonresident school boards that the child will attend school in the nonresident school district the following school year.

(b) If the pupil attends the nonresident school district and, during the school year, the parent wishes the pupil to return to the resident school district, the parent shall notify both the resident and nonresident school boards in writing. This notification shall be final and the pupil may not return to the nonresident school district under the full-time open enrollment program during that school year. If the parent wishes the pupil to attend the nonresident school district during the following school year, the parent shall again follow the application procedures specified in s. 118.51, Stats., and this chapter.

(c) The parent shall promptly notify the nonresident school district of any change of address. If the address change results in a change of resident school district prior to the third Friday in September of the first year in which the pupil has applied to attend the nonresident school district under this section, the open enrollment is void. If the address change results in a change of resident school district at any time after the third Friday in September of the first school year in which the pupil attends the nonresident school district under this section, the pupil may continue attending the nonresident school district under the program without reapplication unless required under s. 118.51 (3) (c), Stats.

(d) If, in any school term, the pupil enrolls in and attends any other public school district, charter school under s. 118.40 (2r), Stats., private school or home-based private educational program, in or out of Wisconsin, the open enrollment ceases and the pupil may not attend the nonresident school district under this program in that school term. If, in any school term for which the pupil is entitled to attend the nonresident school district under this program, the pupil has not attended school in the nonresident school district on or before the third Friday in September, the open enrollment ceases and the pupil may not attend the nonresident school district under this program in that school term. If the pupil wishes

to attend the nonresident school district in any subsequent school year, the pupil shall submit a new application as provided in s. 118.51 (3) (a), Stats., and this section.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98; CR 04-008: am (1) (a), (b), (f), (h), (2) (b) and (3) (a), cr. (1) (b) 2., r. (1) (e) 1. a., (i), (2) (d) 2. and (3) (d), renum. (1) (e) 1. b. and c. to be (1) (e) 1. a. and b. and am., r. and recr. (3) (c), Register September 2004 No. 585, eff. 10-1-04.

PI 36.04 Nonresident school board responsibilities.

(1) (a) The nonresident school board shall adopt policies to administer the full-time open enrollment program as required in s. 118.51 (4) (a), Stats., and as permitted in par. (b). If the nonresident school board wishes to amend its policies under s. 118.51 (4) (b), Stats., it shall do so prior to the first day of the application period to which the policy will first apply.

(b) If a school board wishes to create a waiting list as permitted under s. 118.51 (5) (d), Stats., it shall adopt a policy prior to the first day of the application period to which the waiting list will first apply. The policy shall provide for all of the following:

1. A procedure to establish a numbered waiting list of all applicants, following its acceptance and rejection criteria under s. 118.51 (5) (a) and (b), Stats., and the procedures required by s. 118.51 (3) (a) 2., Stats., and this section.

2. A procedure for notifying parents if the pupil has been accepted from the waiting list. The notification shall include all of the following:

a. A written notice that the pupil has been accepted from the waiting list and a written notice of the school or program to which the pupil will be assigned.

b. The date by which the parent must notify the nonresident school board whether the pupil will attend the nonresident school district and the procedures the parent must follow to do so. The school board shall provide 10 calendar days from the date the notice was mailed for the parent to respond. The policies may provide that if the parent does not respond within the specified time period, the acceptance will be rescinded and the space will be offered to the next applicant on the waiting list.

(c) The last date on which the school board may notify a parent that an applicant has been accepted from the waiting list is the third Friday in August.

(2) (a) The nonresident school board shall, upon request of a parent or pupil, provide the full-time open enrollment program application form and the application form for transportation reimbursement.

(b) If the nonresident school board has adopted a policy under s. 118.51 (4) (a) 1., Stats., requiring reapplication under s. 118.51 (3) (c) 1., Stats., it shall notify a pupil's parents no later than the first day of the application period if a pupil will be required to reapply for the following school year.

(c) The nonresident school board shall establish a procedure to receive and date applications that are received during the application period. The nonresident school board shall return to the parent any application received prior to the first day of the application period or after 4:00 p.m. on the last day of the application period. The nonresident school board shall notify the parent of the reason for returning the application and of the dates of the application period.

(d) If the application submitted by the parent is incomplete, the nonresident school board may make an effort to obtain the missing information provided the information is received prior to the end of the applicable period. The nonresident school board may not request any information in addition to the information on the application form except the information authorized under s. 118.51 (8), Stats., and s. PI 36.03 (1) (e).

(3) On the fourth Monday in February, the nonresident school board shall send copies of the open enrollment program application form to the resident school board or boards whose pupils have applied under the open enrollment program and to the department.

The nonresident school board shall also send the original application form for transportation reimbursement to the department.

(4) After the last day of the application period, the nonresident school board shall act on the applications received using the criteria in its policies developed under s. 118.51 (4) (a) 1. to 3. and 5., Stats. If the nonresident school board receives more applications for a particular grade or program than there are spaces available in the grade or program, the nonresident school board shall determine which pupils to accept on a random basis, after granting preferences required in sub. (6).

(5) If a nonresident school board determines that space is not otherwise available for open enrollment pupils in the grade or program to which an individual has applied, the school board may nevertheless accept an applicant who is already attending school in the nonresident school district or a sibling of the applicant.

(6) (a) The nonresident school board shall give preference in accepting applications to pupils and to siblings of pupils who are already attending public school in the nonresident school district, including, but not limited to, the following pupils:

1. Pupils who are currently attending the nonresident school district under the full-time open enrollment program.

2. Pupils for whom tuition is paid to the nonresident school district under subch. V of ch. 121, Stats.

3. Pupils who currently reside in the nonresident school district but plan to move prior to the beginning of the following school year.

4. Pupils who moved out of the nonresident school district during the current school year but have remained in public school in the nonresident school district under s. 121.84 (1) (a), Stats.

(b) If, in the random selection process one pupil from a family is chosen, the nonresident school board shall give preference to the remaining siblings in the family for whom the parent applied at the same time.

(7) For each applicant who is a child with a disability, on or before March 15, the nonresident school board shall notify the resident school board of the estimated tuition cost for the special education program required by a pupil's individualized education program, including the estimated cost for transportation, if transportation is required by the pupil's individualized education program.

(8) The notification of acceptance or rejection required under s. 118.51 (3) (a) 3., Stats., may be made on a form created by the department. If the notification of acceptance or rejection is post-marked on or before the first Friday following the first Monday in April following receipt of the application, it shall be considered timely. If the board does not make timely notification that the application is rejected, the application shall be considered approved.

(9) If the application is rejected, the nonresident school board shall send written notice of the rejection as required in s. 118.51 (3) (a) 3., Stats. The notice shall include the following:

(a) The reason for the denial and information about appealing the denial to the department.

(b) The pupil's number on the waiting list under s. 118.51 (5) (d), Stats., if applicable.

(10) If the application is approved by the nonresident school board, the nonresident school board may require the parent to provide or sign a release for the nonresident school board to request the pupil's records from the resident school board as specified under s. 118.125 (4), Stats.

(12) If the nonresident school board does not receive the notification under s. 118.51 (3) (a) 6., Stats., on or before the parental notification date, the nonresident school board may determine that the pupil does not intend to attend school in that district the following school year.

(13) The nonresident school board shall notify the resident school board and the department of changes in a pupil's status as an open enrolled pupil including, but not limited to, the following:

(a) A change in the pupil's resident school district that results in termination of the pupil's open enrollment, such as:

1. The pupil becomes a resident of the nonresident school district.

2. The pupil becomes a resident of a school district other than one indicated on the application form, if the change in resident school district took place prior to the third Friday in September of the first school term in which the pupil attends the nonresident school district under this program.

3. The pupil is no longer a resident of Wisconsin.

(b) A change in the pupil's resident school district that does not result in termination of the pupil's open enrollment. If the pupil's resident school district changes after the third Friday in September of the first school term in which the pupil attends the nonresident school district, the pupil may continue to attend the nonresident school district without reapplication. The school district in which the pupil resides on the third Friday in September in any school year shall be the resident school district for purposes of full-time open enrollment in that school year.

(c) The pupil is found to be a child with a disability or is found to no longer be a child with a disability.

(d) The pupil withdraws from the nonresident school district or enrolls in another school district, charter school under s. 118.40 (2r), Stats., private school, or home-based private educational program, in or out of Wisconsin, in which case, the pupil's open enrollment is terminated.

(e) The pupil is expelled from the nonresident school district, in which case the nonresident school district may notify the parent that the pupil's open enrollment is terminated.

(14) On or before June 30, the nonresident school board shall report the name of each pupil who will attend the nonresident school district in the following school year, including pupils continuing from the previous school year, to the pupil's resident school board and to the department.

(15) The nonresident school board shall maintain all completed application forms for a period of 3 years.

(16) For each child with a disability who is accepted for full-time open enrollment by the nonresident school district and is not prevented from attending the nonresident school district by the resident school board, the nonresident school board and the resident school board shall either determine that the amount of payment shall be calculated using the daily tuition rate under s. 121.83, Stats., or shall jointly agree to a different amount.

(17) The nonresident school board shall provide such information as the department determines is needed to comply with s. 118.51 (15) (c), Stats.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98; **CR 04-008: renum. (1) to be (2) (a), c. (1), renum. (2) to be (2) (c), (5) to be (2) (d) and am., cr. (2) (b) and (5), am. (4), (6) (a) (intro.), (7), (8), (9) (intro.), (a), (12), (16) and (17), r. and recr. (9) (b) and (13), r. (11), Register September 2004 No. 585, eff. 10-1-04.**

PI 36.05 Resident school board responsibilities.

(1) The resident school board shall, upon request of a parent or pupil, provide the full-time open enrollment program application form and the application form for transportation reimbursement.

(2) If the resident school board has adopted a policy to limit the number of pupils transferring to nonresident school districts as permitted under s. 118.51 (6), Stats., the number of pupils permitted to transfer shall be determined by multiplying the resident school district's enrollment for the preceding third Friday in September by the percent allowed under s. 118.51 (6), Stats., or the percent specified in the resident school board policy, whichever is greater.

(3) Upon request of the nonresident school board, the resident school board shall promptly provide the disciplinary records spec-

ified under s. 118.51 (8), Stats., and the records related to a child with a disability as specified under s. PI 36.03 (1) (e).

(4) Upon request of the nonresident school board, the resident school board shall provide the pupil records specified under s. PI 36.04 (10) within 5 working days.

(5) (a) After receipt of the application forms from the nonresident school board under s. 118.51 (3) (a) 1., Stats., the resident school board shall act on the applications received using the criteria in its policies developed under s. 118.51 (4) (a) 3. to 5., Stats. If more than the maximum allowable number of resident pupils apply to attend public school in nonresident school districts in any school year under this section as specified under s. 118.51 (6), Stats., the resident school board shall determine which pupils will be allowed to attend public school in other districts on a random basis, using a method approved by the resident school board.

(b) Once a pupil has begun open enrollment, the resident school board may not act on any subsequent application for the pupil that was submitted to the nonresident school board pursuant to the nonresident school board's policy to require reapplication under s. 118.51 (3) (c) 1., Stats.

(6) (a) The resident school board shall give preference in accepting applications to pupils and to siblings of pupils who are already attending public school in the nonresident school district, including, but not limited to, the following pupils:

1. Pupils who are currently attending the nonresident school district under the full-time open enrollment program.

2. Pupils for whom tuition is paid to the nonresident school district under subch. V of ch. 121, Stats.

3. Pupils who currently reside in the nonresident school district but plan to move prior to the beginning of the following school year.

4. Pupils who moved out of the nonresident school district during the current school year but have remained in public school in the nonresident school district under s. 121.84 (1) (a), Stats.

(b) If, in the random selection process one pupil from a family is chosen, the resident school board shall give preference to the remaining siblings in the family for whom the parent applied at the same time to attend the same nonresident school district.

(7) The notification of acceptance or rejection required under s. 118.51 (3) (a) 3., Stats., may be made on a form created by the department. If the notification of acceptance or rejection is post-marked on or before the first Friday following the first Monday in April following receipt of the application, it shall be considered timely. If the board does not make timely notification that the application is rejected, the application shall be considered approved.

(8) If the application is rejected, the resident school board shall provide notice to the parent stating why the application was rejected and that the decision may be appealed to the department within 30 days.

(10) The resident school board shall establish procedures for pupils who were not enrolled in the resident school district at the time of applying for full-time open enrollment in a nonresident school district to enroll in the resident school district so that the resident school district may include the pupils in the report required under s. 121.05 (1) (a) 11., Stats.

(11) The resident school board shall provide such information as the department determines is needed to comply with s. 118.51 (15) (c), Stats.

(12) For each child with a disability that is accepted for full-time open enrollment by the nonresident school district and is not prevented from attending the nonresident school district by the resident school board, the resident school board and the nonresident school board shall either determine that the amount of payment shall be calculated using the daily tuition rate under s. 121.83, Stats., or shall jointly agree to a different amount. The res-

ident school board shall pay the amount agreed upon according to a schedule that is agreed upon by the 2 school boards.

Note: Information about the Full–Time Public School Open Enrollment Program, including the open enrollment brochure for parents and open enrollment forms including application forms, transportation reimbursement claims, school board approval and denial forms and notification of school or program assignment forms, may be obtained from the Department of Public Instruction Open Enrollment web site at www.dpi.state.wi.us/dpi/dfm/sms/psctoc.html or are available at no charge by writing to the Wisconsin Department of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707–7841.

History: Cr. Register, July, 1998, No. 511, eff. 8–1–98; CR 04–008: am. (3), (6) (a) (intro.), (7) and (8) (intro.) and (a) and (10) to (12), renum. (5) to be (5) (a), cr. (5) (b), r. (8) (b) and (9), Register September 2004 No. 585, eff. 10–1–04.

Subchapter III — Part–time Open Enrollment

PI 36.06 Parent and pupil responsibilities. (1) APPLICATION AND NOTIFICATION PROCEDURES. (a) The parent of a pupil who wishes to attend a public school in a nonresident school district under the part–time open enrollment program shall apply on the form developed by the department. The application shall be submitted to the nonresident school board and not later than 6 weeks prior to the date on which the course is scheduled to commence. The parent shall obtain the date on which the course is scheduled to commence as specified under s. PI 36.07 (1) and the application form shall be received in the school district office no later than 4:00 p.m. on the last day on which the parent may apply. A postmark does not constitute timely submission.

(b) A separate application form shall be submitted for each pupil applying and for each course for which the pupil is applying. A separate application form shall be submitted to the school board of each nonresident school district to which the pupil is applying.

(c) The parent shall answer all applicable questions on the application form accurately to the best of her or his ability. Deliberately providing false or misleading information may result in the application being denied or the pupil being required to return to the resident school district, if the false or misleading information is discovered after the pupil begins taking the course in the nonresident school district.

(d) The parent shall sign the application. The signature of a parent on the application grants permission for the nonresident school board to request from the resident school board any pupil records that are necessary to determine whether the pupil meets the entrance criteria for the course. The signature of a parent on the application provides acknowledgment that the parent has been notified that under s. 118.52 (10), Stats., the resident school board shall provide to the nonresident school board to which a pupil has applied under this section, upon request by that school board, a copy of any expulsion findings and orders pertaining to the pupil, a copy of records of any pending disciplinary proceeding involving the pupil, a written explanation of the reasons for the expulsion or pending disciplinary proceeding and the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceeding.

(e) A pupil who is enrolled in a private school or a home–based private education program is not eligible to take a course or courses in a nonresident school district under the part–time open enrollment program.

(f) If the application is accepted by the nonresident school board and is not denied by the resident school board, the parent shall notify the resident school board and the nonresident school board in writing no later than the last week day, excluding state holidays, preceding the date the course is scheduled to commence of the pupil's intent to attend the course in the nonresident school district. A postmark does not constitute timely submission.

(g) If the application is denied by either the resident school board or the nonresident school board, the parent may appeal to the department within 30 days of receipt of the notice of denial as provided under subch. IV.

Note: The Part–Time Public School Open Enrollment Application Form, may be obtained at no charge from any school district or by writing to the Wisconsin Department

of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707–7841.

(2) **TRANSPORTATION.** (a) The parent is responsible for transporting the pupil to and from the course in the nonresident school district that the pupil is attending.

(b) 1. The parent of a pupil who is attending a course under the part–time open enrollment program may apply for reimbursement of costs incurred by the parent for transportation of the pupil to and from the pupil's residence or school in which the pupil is enrolled if the pupil and parent are unable to pay the cost of such transportation.

2. The parent shall submit a claim developed by the department no later than 30 days after the end of the school semester to which the reimbursement claim pertains.

3. The state superintendent shall use the guidelines developed under s. PI 40.06 (4) (d) to determine eligibility of those applicants who are unable to pay under this section.

4. The state superintendent shall give preference for reimbursement under this subsection to pupils who are eligible for a free or reduced–price lunch under 42 USC 1758 (b). Except as specified in subd. 4., the state superintendent shall reimburse claims made under this subdivision at a rate per mile in accordance with s. 20.916 (4), Stats., or the actual cost of the transportation, whichever is less.

5. If adequate funds are not available under s. 20.255 (2) (cw), Stats., to reimburse all transportation claims under this chapter and under s. PI 40.06 (4), the state superintendent shall prorate the available funds among only those applicants eligible for free or reduced–price lunch under 42 USC 1758 (b).

6. Any funds provided under s. 20.255 (2) (cw), Stats., that remain after payment has been made to reimburse claims under subd. 3. and under s. PI 40.06 (4) (a), shall be prorated to reimburse claims submitted by other applicants under this paragraph and under s. PI 40.06 (4) who are unable to pay for transportation.

Note: The Part–Time Public School Open Enrollment Transportation Reimbursement Application Form, may be obtained at no charge from any school district or by writing to the Wisconsin Department of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707–7841.

History: Cr. Register, July, 1998, No. 511, eff. 8–1–98.

PI 36.07 Nonresident school board responsibilities.

(1) The nonresident school board shall establish a starting date for each course and shall, upon request of a parent or pupil, provide the starting date, the deadline date for applying for the course, the part–time open enrollment application form and the application form for reimbursement of transportation costs.

(2) The nonresident school board shall, within 3 working days of receiving an application to attend a course from a nonresident pupil, send a copy of the application form to the resident school district.

(3) Upon receipt of a signed application form, the nonresident school board may request from the resident school board any pupil records that are necessary to determine whether the pupil meets the entrance criteria for the course.

(4) If the nonresident school board has adopted a policy under s. 118.52 (5), Stats., to give preference in attendance in a course to residents of the school district, the preference may apply to any resident of the school district that is eligible to take the course including the following pupils:

(a) Pupils taking the course who are enrolled in a school in the school district other than the one in which the course is taken.

(b) Pupils who are enrolled in private schools or home–based educational programs who are taking a course in the school district other than under s. 118.145 (4), Stats., or who are taking a non–core course in addition to any courses taken under s. 118.145 (4), Stats.

(c) Pupils over 20 years of age who are admitted to school under s. 118.14 (2), Stats.

(5) The nonresident school board shall give preference in attendance at a course to residents of the school district who apply to take courses under s. 118.145 (4), Stats., provided that the applicant under s. 118.145 (4), Stats., applied for the course prior to one week before the scheduled start of the course or a date established by the nonresident school board that is not earlier than six weeks before the start of the course nor later than one week before the scheduled start of the course.

(6) If the nonresident school board receives more applications for a course than there are spaces available in the course, the nonresident school board shall determine which pupils to accept on a random basis, using a method approved by the school board.

(7) The nonresident school board shall make an effort to ensure that the notice required under s. 118.52 (3) (c), Stats., is received by the parent no later than one week prior to the date on which the course is scheduled to commence. If the notice is postmarked at least 3 days before the date on which the notice is required to be received by the parent, this shall constitute timely notification.

(8) If the application is rejected, the nonresident school board shall:

(a) Provide notice to the parent that the decision may be appealed to the department within 30 days, and

(b) Send a copy of the application, including the notice of denial, to the department and to the resident school board.

(9) If, after the parent has notified the nonresident school district that the pupil will attend the course, the parent notifies the nonresident school district that the pupil will not attend the course, or if the pupil fails to attend the course, the nonresident school district shall promptly notify the resident school district.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

PI 36.08 Resident school board responsibilities.

(1) The resident school board shall, upon request of a parent or pupil, provide the part-time open enrollment program application form and the application form for transportation reimbursement.

(2) The resident school board shall make an effort to ensure that the notice required under s. 118.52 (3) (d), Stats., is received by the parent no later than one week prior to the date on which the course is scheduled to commence. If the notice is postmarked at least 3 days before the date on which the notice is required to be received by the parent, this shall constitute timely notification.

(3) If the application is rejected under s. 118.52 (6), Stats., the resident school board shall:

(a) Provide notice to the parent that the decision may be appealed to the department within 30 days, and

(b) Send a copy of the application, including the notice of denial, to the department and to the nonresident school board.

(4) If, after the parent has notified the nonresident school district that the pupil will attend the course, the parent notifies the nonresident school district that the pupil will not attend the course, or if the pupil fails to attend the course, the nonresident school district shall promptly notify the resident school district.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98.

PI 36.09 Calculating cost of course. The cost of the course under s. 118.51 (12), Stats., shall be calculated as follows:

(1) Calculate the total number of hours of instruction that the student will be enrolled in the course.

(2) Calculate the total number of hours of instruction required annually for a full-time high school student in the nonresident school district.

(3) Divide the result of sub. (1) by the result of sub. (2).

(4) Multiply the result of sub. (3) by the school district's regular annual tuition rate, as calculated under s. 121.83 (1), Stats.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98; CR 04-008: r. and recr. Register September 2004 No. 585, eff. 10-1-04.

Subchapter IV — Appeals

PI 36.10 Appeals. (1) **DEFINITIONS.** In this subchapter, "school board" means either the resident school board that denied an application under s. 118.51 (6), (7) or (12) (b), Stats., or under s. 118.52 (6), Stats., or the nonresident school board that denied an application under s. 118.51 (3) (a) or (7), Stats., or under s. 118.52 (5), Stats.

(2) **RECEIPT AND FILING OF APPEALS.** (a) The parent of a pupil whose application for open enrollment has been denied by a school board may file an appeal of this decision to the state superintendent within 30 days after receiving the decision. Upon receipt of the appeal, the department shall send a copy of the appeal to the resident and nonresident school boards.

(b) The appeal shall be in writing and shall include a copy of the notice of denial. The appeal shall specify what decision is being appealed, the specific reasons for the appeal, including why the appellant believes that the decision was arbitrary or unreasonable, and any other facts relevant to the appeal. The appeal shall be signed by the appellant or the representative of the appellant.

(c) If the appeal is filed by the representative under par. (b), the representative shall file a notice of representation with the state superintendent that includes the written consent of the appellant.

(d) Failure of the appellant to file an appeal within 30 days of receiving the notice of denial shall deprive the state superintendent of jurisdiction in this matter.

(3) **PROCEDURES.** (a) As soon as possible, upon receipt of a written appeal filed under sub. (1), the state superintendent shall acknowledge receipt of the appeal in writing to the appellant and the resident and nonresident school boards. Upon receipt of the notice of appeal from the state superintendent, the school board whose decision is the subject of the appeal shall deliver to the department a copy of the school board's policy under s. 118.51 (4) or 118.52 (4), Stats., the official record of the school board's decision under s. 118.51 (3) (a), (5), (6), (7) or (12) or 118.52 (3) (b), (5), or (6), Stats., and an explanation of the specific reasons for the decision.

(b) The state superintendent shall affirm the school board's decision unless the state superintendent finds that the decision was arbitrary and unreasonable. The appellant bears the burden of proving that the school board's decision was arbitrary or unreasonable.

(c) The state superintendent may use any or all of the following procedures which he or she determines to be appropriate in the appeal process:

1. Provide technical assistance and information and attempt to resolve the matter informally.

2. Conduct an investigation. If the state superintendent decides to conduct an investigation, the investigation may include an on-site review or any other activity which the state superintendent deems appropriate.

3. Issue a decision based on a review of the record of the school board, argument from the parties and any other matter the state superintendent deems appropriate.

(4) **DECISION.** (a) The decision of the state superintendent shall be in writing stating separate findings of fact and conclusions of law. Decisions shall be served on all parties by mailing a copy to each party's last known address.

(b) The state superintendent's decision on an appeal of a school board decision on full-time open enrollment may be appealed to the circuit court in which the appellant resides by filing a petition for review within 30 days of service of the state superintendent's decision, pursuant to s. 227.53, Stats. The decision of the state superintendent on an appeal of a school board decision on part-time open enrollment shall be final and is not subject to judicial review under subch. III of ch. 227.

(5) WITHDRAWAL. At any time prior to the issuance of a final decision, the appellant may withdraw the appeal in writing. Upon receiving such a request, the state superintendent shall issue an order dismissing the matter. If the request for withdrawal is received within 30 days of the school board's decision issued under s. 118.51 (3) (a), (5), (6), (7), or (12), or 118.52 (5), Stats., the dismissal shall be without prejudice. If the request to withdraw is received more than 30 days after the school board's deci-

sion is issued under s. 118.51 (3) (a), (5), (6), (7), or (12), or 118.52 (5), Stats., the dismissal shall be with prejudice.

Note: Information about filing an appeal, including a form which may be used to file the appeal, may be obtained from the Department of Public Instruction Open Enrollment web site at www.dpi.state.wi.us/dpi/dfm/sms/psctoc.html or are available at no charge by writing to the Wisconsin Department of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707-7841.

History: Cr. Register, July, 1998, No. 511, eff. 8-1-98; **CR 04-008: am. (4) (a), Register September 2004 No. 585, eff. 10-1-04.**