



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2015 Assembly Bill 239**

**Assembly Amendment 1 to  
Assembly Substitute  
Amendment 1**

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### CURRENT LAW

Wisconsin law requires schools to administer examinations “designed to measure pupil attainment of knowledge and concepts” in grades 4, 8, 9, 10, and 11. [s. 118.30 (1), Stats.] Wisconsin law also requires schools to excuse students from taking those specific examinations upon parental request, but does not explicitly require schools to excuse students from taking examinations administered in grades 3, 5, 6, and 7.<sup>1</sup> The requirement to excuse students from examinations upon parental request (hereinafter referred to as “student opt out”) applies to public schools, independent charter schools, and private schools participating in a parental choice program (choice schools).

### 2015 ASSEMBLY BILL 239

Assembly Bill 239 (AB 239) expands student opt out by requiring schools, at parental request, to excuse students in grades 3 through 12 from taking any examination designed to measure pupil attainment of knowledge and concepts. AB 239 also prohibits the Department of Public Instruction (DPI) from considering the number of students who opt out of examinations when measuring school performance and school district performance for school and school district accountability reports (commonly referred to as “school report cards”). Further, AB 239

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<sup>1</sup> Federal law requires that certain examinations be administered throughout grades 3 through 11. The state-required examinations in grades 4, 8, 9, 10, and 11 satisfy some of the federal requirements. State law also requires the administration of some additional examinations, but does not require student opt out upon parental request for those additional examinations.

requires schools to annually provide parents and guardians with a written summary of certain information regarding examinations before the first day of school.

### **ASSEMBLY SUBSTITUTE AMENDMENT 1**

Under Assembly Substitute Amendment 1 (ASA 1), every school board, independent charter school operator under s. 118.40 (2r), Stats. (charter school operator), and choice school governing body must, at parental request, excuse a student enrolled in grades 3 through 12 from taking any examination required under state or federal law. However, students may not opt out of any examination required for high school graduation.<sup>2</sup>

Under ASA 1, annually beginning in the 2016-17 school year, every school board, charter school operator, and choice school governing body must create a written summary of examinations to be administered during the school year, based on the best available information. Each school board, charter school operator, and choice school governing body must post the summary to its website. They must also provide parents with a paper copy of the summary or with instructions for how to access the summary online. The summary or instructions to access the summary must be provided before any examination required to be included in the summary is administered. A school board or charter school operator must provide the information to the parent or guardian of each student. A choice school governing body is only obligated to provide the information to the parent or guardian of each choice student.

The examination summary must include the following information:

- A listing of all examinations required by state and federal law, as well as locally required examinations, except for the civics examination required for high school graduation and any test administered for a grade or score in a class.
- The grade level at which each examination is administered.
- The expected dates of examination administration.
- The duration of each examination.
- The process that the school uses to determine an appropriate alternative in-school activity for students who have opted out of an examination.
- The school's policies and procedures for opting out of examinations.
- The purpose of each examination and a description of how the school will use the data derived from the examination.

No school board, school district administrator, public school principal, charter school operator, administrator, or choice school governing body may encourage or counsel a parent to

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<sup>2</sup> An examination required for high school graduation includes the civics test now required by 2015 Wisconsin Act 55, the 2015-17 Biennial Budget. [See s. 118.33 (1m) (a) 1., Stats.]

request an opt out. DPI may not consider the number of students who opt out of examinations when measuring a school's performance, or a school district's improvement, for the purposes of the school and school district accountability reports.

### **ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1**

AB 239 was introduced before the 2015-17 Biennial Budget, 2015 Wisconsin Act 55 (Act 55), was signed into law. Act 55 created and modified statutory provisions that relate to AB 239, as amended by ASA 1. Assembly Amendment 1 (AA 1) to ASA 1 was introduced to ensure that the original intent of AB 239, as amended, is achieved in light of the changes made by Act 55. AA 1 modifies ASA 1 as discussed below.

#### **Independent Charter Schools**

In addition to those entities permitted to establish independent charter schools under s. 118.40 (2r), Stats., under s. 118.40 (2x), Stats., created by Act 55, independent charter schools may now be authorized by the director of the "Office of Educational Opportunity" established as part of the University of Wisconsin System. Under Act 55, "2x" charter school operators must administer examinations in the same way and to the same extent as "2r" charter school operators.

Under AA 1, "2x" charter school operators must excuse a student in grades 3 to 12 from taking a state or federally required examination upon parental request. "2x" charter school operators may not encourage or counsel parents to request an opt out. Finally, like "2r" charter school operators, "2x" charter school operators must create and provide parents or guardians with an examination summary.

#### **Alternative Examinations**

Under Act 55, school boards, charter school operators, and choice school governing bodies must, upon parental request, excuse students from taking an examination approved by the State Superintendent or an alternative assessment in grades 4, 8, 9, 10, and 11. Under ASA 1, school boards, charter school operators, and choice school governing bodies must instead excuse students from taking "any examination required under state or federal law."

AA 1 clarifies that "any examination required under state or federal law" includes an alternative examination. Therefore, under AA 1, students in grades 3 to 12 must be excused from taking an alternative examination at parental request.

#### **Opportunity Schools and Partnership Programs**

Act 55 creates the "Opportunity School and Partnership Programs" under which responsibility for the general supervision of a public school that meets certain conditions may be granted to a commissioner who reports to the county executive. When this occurs, the school is referred to as an "opportunity school." Responsibility for the operation and general management of an opportunity school is transferred from the local school board to a managing

entity chosen by the commissioner. Under Act 55, opportunity school managing entities are required to administer state and federal examinations.

Under AA 1, opportunity school managing entities must create and provide parents and guardians with an examination summary just as school boards, charter school operators, and choice school governing bodies must. Opportunity school managing entities must, at parental request, excuse students in grades 3 to 12 from taking state and federally required examinations. Finally, AA 1 prohibits opportunity school managing entities from encouraging or counseling a parent to request an opt out.

### **Examination Information on School Websites**

Under Act 55, school boards, charter school operators, and choice school governing bodies must “annually publish information” on their websites about state and federal examinations. Current law provides no guidance as to what information must be published, specifically, in order for the requirement to be satisfied.

AA 1 clarifies that the examination information that school boards, charter school operators, and choice school governing bodies must publish on their websites must comply with the examination summary requirements established by AB 239, beginning in the 2016-17 school year.

### **Technical Corrections**

Under Act 55, every school board must annually publish a Class 1 notice and post a description of the educational options available to children in the school district on its website. The title to the new statutory section [s. 118.57, Stats.] includes “pupil assessments” even though school districts are not required to include information about “pupil assessments” in the notice. AA 1 deletes “pupil assessments” from the statutory section title.

The notice under s. 118.57, Stats., must also include the performance category assigned to each school within the school district boundaries in the school’s most recent accountability report under s. 115.385 (1), Stats. Currently, s. 118.57, Stats., includes an incorrect cross-reference to s. 115.385 (2), Stats. AA 1 corrects the erroneous cross-reference.

### **BILL HISTORY**

Assembly Amendment 1 was offered by Representative Thiesfeldt. On October 27, 2015, the Assembly adopted Assembly Amendment 1 on a voice vote, adopted Assembly Substitute Amendment 1, as amended, on a voice vote, and passed Assembly Bill 239, as amended, on a voice vote.

RES:jal