

CHAPTER 118

GENERAL SCHOOL OPERATIONS

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118.01 Curriculum requirements. (1) FUNDAMENTAL COURSE. Reading, writing, spelling, English grammar and composition, geography, arithmetic, elements of agriculture and conservation of natural resources, history and civil government of the United States and of Wisconsin, citizenship and such other subjects as the school board determines shall be taught in every elementary school. All instruction shall be in the English language, except:

(a) Those programs established under subch. VII of ch. 115 where instruction shall be in the English language and in the non-English language of the bilingual-bicultural education program.

(b) The school board may cause any foreign language to be taught to pupils who desire it.

(c) The school board may cause any course to be taught in a foreign language if the purpose is to facilitate the instruction of English speaking pupils in that language.

(2) PHYSIOLOGY AND HYGIENE. Physiology and hygiene, sanitation, the effects of controlled substances under ch. 161 and alcohol upon the human system, symptoms of disease and the proper care of the body shall be taught, but no pupil may be required to take such instruction if his or her parents file with the teacher a written objection thereto. Instruction in physiology and hygiene shall include instruction on sexually transmitted diseases and shall be offered in every high school.

(3) PHYSICAL EDUCATION. Physical instruction and training in physical education shall be provided for all pupils. In this subsection "physical education" means instruction in the theory and practice of physical exercise and instruction in hygiene, but does not include medical supervision. No person may be denied, on the basis of sex, necessary physical education facilities, equipment, instruction or financial support, or the opportunity to participate in any physical education activity, as provided in 20 USC 1681 et seq.

(4) PREVENTION OF ACCIDENTS. Every public school shall provide instruction on the prevention of accidents and promotion of safety on the public highways.

(5) MORALS. Every public school shall provide instruction in morality and the individual's responsibility as a social being, including the value of frugality and other basic qualities and principles specified or referred to in section 22 of article I of the constitution of this state insofar as such qualities and principles directly or indirectly affect family and consumer education.

(6) ANIMAL LIFE. Every public school shall provide instruction in kindness to and the habits, usefulness and importance of animals and birds, and the best methods of protecting, preserving and caring for all animal and bird life.

(7) FIRE PREVENTION. Every public school shall provide instruction on fire prevention.

(8) COOPERATIVES AND CONSERVATION. Every high school shall provide instruction in

cooperative marketing and consumers' cooperatives and conservation of natural resources.

(9) DAIRY PRODUCTS. Every public and private elementary and high school shall give instruction in the true and comparative vitamin content and food and health values of dairy products and their importance for human diet. The course of such instruction and the educational material therefor shall be prescribed by the department and shall be included in the instruction manuals for such schools. Such educational program shall be directed by the department through school district administrators and such other educational officials whose cooperation may be deemed necessary to insure its success. The department of agriculture, trade and consumer protection, the department of health and social services and the college of agriculture and the university of Wisconsin-extension shall cooperate with and assist the department in the development and execution of such program.

(10) CITIZENSHIP. Every public and private school, by appropriate instruction and ceremony to be formulated by the department, shall provide instruction in the proper reverence and respect for and the history and meaning of the American flag, the Declaration of Independence, the U.S. constitution, the constitution and laws of this state as well as the duties and responsibilities of citizenship, so that government of the people, by the people and for the people may function and endure in the United States of America.

(11) FAMILY AND CONSUMER EDUCATION. Every public high school shall provide instruction, as part of one or more existing courses developed by the school district in which the school is located, on the rights and responsibilities of the family and consumer, including, without limitation because of enumeration, the consumer and the economy; consumer behavior and decision-making; contracts; credit alternatives; budgeting and family finances, with emphasis on frugality and thrift; savings and investments; insurance; profit and loss; the responsibility and morality of family living; and other societal concerns for instilling qualities of integrity and fiscal competence in young persons during their formative family years in accord with sub. (5). At the option of the school district, such instruction may also be provided in a separate course.

History: 1971 c. 154; 1971 c. 164 s. 86; 1971 c. 219, 336; 1973 c. 333; 1975 c. 395; 1977 c. 29 s. 1650m (4); 1977 c. 284; 1979 c. 53; 1979 c. 162 s. 38 (11); 1979 c. 221, 301; 1979 c. 346 s. 15; 1981 c. 291.

118.015 Reading instruction. (1) PURPOSE AND INTENT. It is the purpose and intent of this

section to provide for a developmental reading program for pupils at all grade levels.

(2) EMPLOYMENT OF READING SPECIALISTS. Each school district shall employ a reading specialist certified by the department to develop and coordinate a comprehensive reading curriculum in grades kindergarten to 12. At the discretion of the state superintendent, a school district may contract with other school districts or cooperative educational service agencies to employ a certified reading specialist on a cooperative basis.

(3) DUTIES OF READING SPECIALIST. The reading specialist shall:

(a) Develop and implement a reading curriculum in grades kindergarten to 12.

(b) Act as a resource person to classroom teachers to implement the reading curriculum.

(c) Work with administrators to support and implement the reading curriculum.

(d) Conduct an annual evaluation of the reading curriculum.

(e) Coordinate the reading curriculum with other reading programs and other support services within the school district.

(4) SCHOOL BOARD DUTIES. The school board shall:

(a) Develop a program of reading goals for the district for grades kindergarten to 12.

(b) Make an assessment of existing reading needs in grades kindergarten to 12 in the district based on the reading goals established under par. (a).

(c) Make an annual evaluation of the reading curriculum of the school district.

History: 1977 c. 29.

118.02 Special observance days. On the following days when school is held the day shall be appropriately observed: January 15, Dr. Martin Luther King, Jr. Day; February 12; February 15, Susan B. Anthony's birthday; February 22; April 13, American Creed Day; September 28, Frances Willard Day; October 9, Leif Erikson Day; October 12; and November 11. If any such day falls on a Saturday or Sunday, the observance shall be on a school day immediately preceding or following. If school is held on June 14, that day shall be appropriately observed as Robert M. La Follette, Sr. Day. If the governor by proclamation sets apart one day to be designated as Arbor and Bird Day, under s. 14.16 (1), that day shall be appropriately observed; otherwise, the last Friday in April shall be observed as Arbor Day.

History: 1975 c. 204, 219, 398, 422; 1979 c. 214, 301, 355.

118.025 Arbor day observance. A school principal may request one free tree provided from state forest nurseries by the department of

natural resources under s. 28.06 for each 4th grade pupil in the school for planting in conjunction with an annual observance and celebration of arbor day.

History: 1981 c. 59.

118.03 Textbooks. (1) (a) The school board shall adopt all the textbooks necessary for use in the schools under its charge. The list of the adopted books shall be filed with the school district clerk.

(b) The school board may purchase textbooks and sell them to the pupils at cost or it may designate agents of the school district to sell the textbooks to the pupils. The agents, at stated times, shall make settlement with the school district for books sold. The agents may add a selling commission which shall not exceed 10% of the net price.

(c) No dealer in textbooks may sell any books at a price to exceed 15% above the net list prices, transportation added thereto.

(d) Any person violating this subsection may be fined not less than \$25 nor more than \$100.

(2) No book may be adopted for use or be used in any public school which falsifies the facts regarding the history of our nation, which defames our nation's founders or misrepresents the ideals and causes for which they struggled and sacrificed or which contains propaganda favorable to any foreign government.

118.04 Summer classes. Any school board may elect to operate summer classes or to permit pupils to attend summer classes operated by another school district on a tuition basis if the school district of operation will accept them. Sections 118.15 and 118.16 shall not apply to summer classes. Every school board electing to operate summer classes:

(1) Shall make rules governing attendance and cause them to be spread on the school board minutes.

(2) May accord to children living in the school district during the summer session the status of residents of the school district for the purpose of attendance at summer classes, even though the children were not regular residents of the school district during the preceding regular school session, but any such children who are not legal residents of the state shall not be counted in computing the state aid to which the school district is entitled.

(3) May permit children from another school district to attend summer classes upon payment of nonresident tuition.

(4) Shall not charge tuition for attendance at summer classes of pupils who are residents of the school district.

118.05 School conservation camps. (1)

To promote an understanding of geology, geography, conservation, nature study and other aspects of general knowledge which are learned best by actual contact with nature itself, any school district may establish, operate and maintain and levy taxes to support individually or in co-operation with other school districts or municipalities a school conservation camp. The camp need not be within the school district.

(2) The school board of any such district may operate, contribute to the operation of, participate in the joint operation of, pay or charge fees for the operation of the school conservation camp. The school board may admit nonresident pupils as well as resident pupils of the school district. The school board shall determine age and other entrance requirements and the program to be offered. The camp may be operated in summer or at any other time that the school board determines.

(3) The school board may acquire, rent or accept the free use of facilities and equipment to operate the camp and may accept private contributions of any kind.

(4) The school board may conduct the camp on property under the custody of other municipal, state or federal agencies when permission is granted or on private property with consent of the owner.

(5) Every state agency shall co-operate in making their staff and facilities available to further the objectives of this program.

118.06 Flag and pledge of allegiance. (1)

Every school board and the governing body of every private school shall cause the U.S. flag to be displayed in the schoolroom or from a flag-staff on each school ground during the school hours of each school day.

(2) Every public and private school shall offer the pledge of allegiance in grades one to 8 at the beginning of school at least one day per week. No student shall be compelled, against his objections or those of his parents or guardian, to recite the pledge.

118.07 Safety requirements. (1)

Every school board and the governing body of every private school shall provide a standard first aid kit for use in cases of emergency.

(2) (a) Once each month, without previous warning, the person having direct charge of any public or private school shall drill all pupils in the proper method of departure from the building as if in case of fire, except when the person having direct charge deems that the health of the pupils may be endangered by inclement weather conditions.

(b) Annually the person having direct charge of any public or private school shall file a report pertaining to such drills on forms furnished by the department of industry, labor and human relations. Such reports shall be made to the department of industry, labor and human relations and, in each community having a recognized fire department, to the chief of the fire department. When no fire drill is held during any month, the person having direct charge of the school shall state the reasons therefor in the report.

(3) Within 30 days after its occurrence, every accident involving a pupil in a physical education class or during physical education or playground activities which results in the pupil's absence from school for 3 or more consecutive days shall be reported to the school board. The school board shall make an annual report to the state superintendent, who shall maintain records of the frequency and nature of such accidents.

History: 1971 c. 164 s. 85; 1975 c. 39; 1981 c. 373.

118.08 School zones; crossings. (1) On any street or highway which borders the grounds of any public or private school in which school is held for a term of not less than 6 months, the authority in charge of the maintenance of the street or highway shall erect black and yellow "school" warning signs. The authority may also designate school crossings across any street or highway, whether or not the street or highway borders on the grounds of a school.

(2) All signs required by this section and their installation shall comply with standards adopted by the department of transportation.

History: 1973 c. 90; 1975 c. 48; 1977 c. 29 s. 1654 (8) (g).

118.09 Safety zones. (1) Every school district maintaining a school outside the corporate limits of a city or village shall provide at the school site a zone which will provide safety for pupils from vehicular traffic during loading and unloading of pupils at the school. The zone may consist of a widening toward or into the schoolyard of the traveled portion of the adjacent highway so as to permit a vehicle to stop in the extended area completely clear of such traveled portion or may be constructed wholly within the schoolyard with connecting roads to the adjacent highway. The zone and approaches from the highway for use of vehicles shall be graveled or hard-surfaced.

(2) The school district shall co-operate with the agency of the town, county or state having jurisdiction of the highway to the end that matters pertaining to the highway will be properly protected. Contracts for the necessary materials and construction and maintenance, including snow removal, of zones may be en-

tered into with the county or town or with private persons. If the contracting party does not have jurisdiction over the highway, the contract shall be approved by the agency of the state, county or town having jurisdiction over the highway before any work is commenced thereunder.

(3) All loading and unloading of pupils at the school, whether transported by a public or private vehicle, shall take place in the safety zone. The operator of a vehicle under contract to transport pupils to the school shall have necessary police powers so that pupils will be properly safeguarded in loading and unloading at the zone and while his vehicle is approaching and leaving the zone. He shall first alight before loading or unloading pupils at the zone, and while at stops on his highway route to load and unload pupils, he shall exhibit the vehicle's stop sign.

(4) Private schools shall comply with this section to the same extent as school districts.

118.10 School safety patrols. Any school board may organize school safety patrols and, with the permission of the parents, appoint pupils as members thereof for the purpose of influencing and encouraging the other pupils to refrain from crossing public highways at points other than at regular crossings and for the purpose of directing pupils not to cross highways at times when the presence of traffic would render such crossing unsafe. Nothing in this section authorizes or permits the use of any safety patrol member for the purpose of directing vehicular traffic, nor may any safety patrol member be stationed in that portion of the highway intended for the use of vehicular traffic, but this section shall not affect any plan in operation on July 11, 1939, under which a junior police patrol directs traffic under the authorization, supervision and control of either the sheriff's department or of the chief of police or traffic department of the police department of any city, town or village. No liability shall attach to the school district or any individual, school board member, school district administrator, teacher or other school authority by virtue of the organization, maintenance or operation of a school safety patrol organized, maintained and operated under this section.

118.105 Control of traffic on school premises. (1) Any school board may request local authorities to control motor vehicle and pedestrian traffic on off-highway school premises located within the jurisdiction of such local authorities.

(2) If the governing body of any town, city or village by ordinance regulates the operation and parking of motor vehicles on off-highway public school premises, school drives or parking lots or pedestrian traffic on any such drives or parking lots, the school board may enter into written agreements with such governing body for reimbursement of the cost of enforcing such ordinance.

(3) Nothing in this section shall preclude the governing body of any town, city or village from repealing ordinances regulating the operation or parking of motor vehicles on off-highway public school premises, drives or parking lots or regulating pedestrian traffic on such drives or parking lots without prior consent of a school board which requested enactment of such ordinance.

History: 1975 c. 251.

118.11 School fences. The school district shall erect and maintain all the fence necessary to enclose the school site or grounds without any financial burden on the holders of adjoining properties.

118.12 Prohibitions and penalties. (1)

(a) Within the school district of his or her jurisdiction or employment, no school teacher, agency administrator or employe, school district administrator or other school employe connected with any public school may act as an agent or solicitor for the sale of school books, school supplies or school equipment, or solicit or promote such sales to individuals or the school district or receive any fee or reward for any such sales.

(b) Any person violating this subsection shall forfeit not less than \$50 nor more than \$200 for each offense and may be removed from office therefor.

(2) Any officer or teacher who fails or neglects to make the reports or who fails to keep the records required by chs. 115 to 121 shall forfeit not less than \$5 nor more than \$25 for each such failure or neglect.

(3) If any person designated in chs. 115 to 121 to prosecute an action for a forfeiture or neglect of duty fails to prosecute the action within 10 days after being requested in writing by an elector of the school district to do so, any elector of the school district may prosecute the action.

History: 1979 c. 89, 301.

118.125 Pupil records. (1) DEFINITIONS. In this section:

(a) "Pupil records" means all records relating to individual pupils maintained by an elementary or high school but does not include notes or records maintained for personal use by

a teacher or other person who is required by the department under s. 115.28 (7) to hold a certificate, license or permit if such records and notes are not available to others nor does it include records necessary for, and available only to persons involved in, the psychological treatment of a pupil.

(b) "Behavioral records" means those pupil records which include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records and any other pupil records which are not progress records.

(c) "Progress records" means those pupil records which include the pupil's grades, a statement of the courses the pupil has taken, the pupil's attendance record and records of the pupil's school extracurricular activities.

(d) "Directory data" means those pupil records which include the pupil's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, photographs, degrees and awards received and the name of the school most recently previously attended by the pupil.

(2) **CONFIDENTIALITY.** All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to (j). The school board shall adopt regulations to maintain the confidentiality of such records.

(a) A pupil, or the parent or guardian of a minor pupil, shall, upon request, be shown and provided with a copy of the pupil's progress records.

(b) An adult pupil or the parent or guardian of a minor pupil shall, upon request, be shown, in the presence of a person qualified to explain and interpret the records, the pupil's behavioral records. Such pupil or parent or guardian shall, upon request, be provided with a copy of the behavioral records.

(c) The judge of any court of this state or of the United States shall, upon request, be provided by the school district clerk with a copy of all progress records of a pupil who is the subject of any proceeding in such court.

(d) Pupil records may be made available to persons employed in the school which the pupil attends who are required by the department under s. 115.28 (7) to hold a certificate, license or permit.

(e) Upon the written permission of an adult pupil, or the parent or guardian of a minor pupil, the school shall make available to the person named in the permission the pupil's progress records or such portions of his behavioral

records as determined by the person authorizing the release.

(f) Pupil records shall be provided to a court in response to subpoena by parties to an action for in camera inspection, to be used only for purposes of impeachment of any witness who has testified in the action. The court may turn said records or parts thereof over to parties in the action or their attorneys if said records would be relevant and material to a witness's credibility or competency.

(g) The school board may provide the department or any public officer with any information required under chs. 115 to 121.

(h) Information from school health records shall be made available to state and local health officials to carry out the purposes of s. 140.05 (16).

(i) The district board of the vocational, technical and adult education district in which the public school is located shall, upon request, be provided by the school district clerk with the names of pupils who have withdrawn from the public school prior to graduation under s. 118.15 (1) (c).

(j) Directory data may be disclosed to any person, if the school has given public notice of the categories of information which it has designated as directory data with respect to each pupil and has allowed a reasonable time thereafter for the parent, legal guardian or guardian ad litem of any pupil to inform the school that all or any part of the directory data may not be released without the prior consent of the parent, legal guardian or guardian ad litem.

(3) MAINTENANCE OF RECORDS. Each school board shall adopt rules in writing specifying the content of pupil records and the time during which pupil records shall be maintained, except that no behavioral records may be maintained for more than one year after the date upon which the pupil graduated from or last attended the school, unless the pupil specifies in writing that individual behavioral records may be maintained. Rules adopted under this subsection shall be published by the school board as a class 1 notice under ch. 985. Pupils records need not be maintained for a period of longer than 5 years after the pupil ceases to be enrolled in the school. School districts may maintain such records on microfilm or in such form as the board deems appropriate.

(4) TRANSFER OF RECORDS. Within 5 working days, a school district shall transfer to another school or school district all pupil records relating to a specific pupil if the transferring school district has received written notice from the pupil if he or she is an adult or his or her parent or guardian if the pupil is a minor that the pupil intends to enroll in the other school or

school district or written notice from the other school or school district that the pupil has enrolled or from a court that legal custody of the pupil has been transferred to the department of health and social services for placement in a juvenile correctional facility. In this subsection "school" and "school district" include any state juvenile correctional facility which provides an educational program for its residents instead of or in addition to that which is provided by public and private schools.

(5) USE FOR SUSPENSION OR EXPULSION. Nothing in this section prohibits the use of a pupil's records in connection with the suspension or expulsion of the pupil or the use of such records by a multidisciplinary team under ch. 115.

(6) APPLICATION TO EXISTING RECORDS. Any records existing on June 9, 1974 need not be revised for the purpose of deleting information from pupil records to comply with this section.

History: 1973 c. 254; 1977 c. 418; 1979 c. 205; 1981 c. 20, 273.

Legislative Council Note, 1979: Sub. (4) is amended to make it clear that the phrases "school" or "school district" in that subsection include state juvenile correctional facilities which provide educational programs to their residents. Current sub. (4) spells out the circumstances under which a school district is required to transfer pupil records. This bill would add the requirement that records be transferred on written notice from a court that legal custody of the pupil has been transferred to the department of health and social services for placement in a juvenile correctional facility. The bill imposes a time limit of 5 working days on all required transfers of pupil records. [Bill 659-A]

See note to 19.21, citing 63 Atty. Gen. 272.

Pupil information which local education agencies are required to release to the department of public instruction under the reporting provisions of ch. 89, laws of 1973, may be provided, with or without permission, without violation of the state or federal confidentiality statutes. 65 Atty. Gen. 1.

Secondary schools may not provide a vocational, technical and adult education district with names of dropout students. 67 Atty. Gen. 254.

Access to student records in Wisconsin. 1976 WLR 975.

118.126 Privileged communications. A school psychologist, counselor, social worker or nurse shall keep confidential information received from a student that the student or another student is using or is experiencing problems resulting from the use of alcohol or other drugs.

History: 1979 c. 331.

118.13 Pupil discrimination prohibited. No person may be excluded from or discriminated against in admission to any public school or in obtaining the advantages, privileges and courses of study of such public school on account of sex, race, religion, physical condition, developmental disability as defined in s. 51.01 (5) or national origin. No separate school or department may be maintained for any person on account of sex, race, religion or national origin. Any member of a school board who votes to exclude from any public school any child on account of sex, race, religion, physical condition,

developmental disability as defined in s. 51.01 (5) or national origin may be fined not more than \$100 or imprisoned not less than 30 days nor more than 6 months or both. The superintendent may promulgate rules necessary to carry out the purposes of this section.

History: 1975 c. 94, 275, 422; 1977 c. 418 s. 929 (55).

Where Columbus, Ohio school board pursued purposefully segregative practices with current, systemwide impact, systemwide remedy was appropriate. Columbus Board of Education v. Penick, 443 US 449 (1979).

Where Dayton, Ohio school system was dual system when Brown I was decided in 1954, measure of school board's post-Brown I conduct under unsatisfied duty to liquidate dual system is effectiveness, not purpose, of actions to desegregate system. Dayton Board of Education v. Brinkman, 443 US 526 (1979).

118.135 Sex discrimination in athletics prohibited. No person may be denied, on the basis of sex, the opportunity to participate in interscholastic, intramural or club sports offered in a public school, as provided in 20 U.S.C. ss. 1681 et seq. No person may be denied, on the basis of sex, necessary facilities, equipment, instruction or financial support for such sport, as provided in 20 U.S.C. ss. 1681 et seq.

History: 1977 c. 284.

118.14 Age of pupils. (1) Except as provided in sub. (2) and s. 115.28 (8), no child may be admitted to kindergarten unless he or she is 5 years old on or before September 1 in the year he or she proposes to enter school. Except as provided in sub. (2) and s. 115.28 (8), no child may be admitted to the 1st grade unless he or she is 6 years old, on or before September 1 in the year he or she proposes to enter school. A resident over 20 years of age may be admitted to school when in the judgment of the school board the resident will not interfere with the pupils of school age.

History: 1977 c. 418, 429.

118.145 Admission to high school. (1) The school board of a district operating high school grades shall determine, with the advice and consent of the state superintendent, the minimum standards for admission to high school.

(2) A certificate or diploma or other written evidence issued by a school board showing that the pupil has completed the course of study in the elementary grades of the school district in which the pupil resides shall entitle the pupil to admission to high school. Such certificate or diploma or a certified copy thereof or a certified copy of a list of graduates shall be filed with the school district clerk of the school district operating the high school.

(3) If the superintendent of a private school files with the department the course of study for elementary grades prescribed by such school

and if such course of study is substantially equivalent to the course of study prepared for elementary grades by the department, a certificate or diploma or other written evidence issued by the superintendent of the private school showing that the pupil has completed such course of study shall entitle the pupil to admission to a public high school. The certificate or diploma or a certified copy thereof or a certified copy of a list of graduates shall be filed with the school district clerk of the school district operating the high school.

History: 1975 c. 39, 199.

118.15 Compulsory school attendance.

(1) (a) Except as provided under pars. (b) and (c), unless the child is excused under sub. (3) or (4) or has graduated from high school, any person having under control a child who is between the ages of 6 and 18 years shall cause the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age.

(b) Upon the child's request of the school board and with the written approval of the child's parent or guardian, any child who is 16 years of age or over may attend, in lieu of high school or on a part-time basis, a vocational, technical and adult education school. Where such a request is made and approved by the school board, the district board of the vocational, technical and adult education district in which the child resides must admit the child and must enter into the contract specified in sub. (2). Every district board must offer day class programs satisfactory to meet the requirements of this paragraph and sub. (2) as a condition to the receipt of any state aid.

(c) Upon the child's request and with the written approval of the child's parent or guardian, any child who is 16 years of age or over shall be excused by the school board from school attendance. A child who is excused from school attendance under this paragraph shall be informed by the school board of the availability of programs within the vocational, technical and adult education system and of the child's right to be readmitted to school upon request. The school board may specify when the child will be excused or readmitted after being excused from school attendance.

(d) Any child's parent or guardian, or the child if the parent or guardian is notified, may request the school board to provide the child with program or curriculum modifications, including but not limited to:

1. Modifications within the child's current academic program.

2. A school work training or work study program.

3. Enrollment in any alternative public school or program located in the school district in which the child resides.

4. Enrollment in any nonsectarian private school or program, located in the school district in which the child resides, which complies with the requirements of 42 USC 2000d. Enrollment of a child under this subdivision shall be pursuant to a contractual agreement which provides for the payment of the child's tuition by the school district.

5. Home-bound study, including nonsectarian correspondence courses or other courses of study approved by the school board or nonsectarian tutoring provided by the school in which the child is enrolled.

6. Enrollment in any public educational program located outside the school district in which the child resides. Enrollment of a child under this subdivision may be pursuant to a contractual agreement between school districts.

(e) Any decision made by a school board or a designee of the school board in response to a request for program or curriculum modifications under par. (d) shall be reviewed by the school board upon request of the child's parent or guardian. The school board shall render its determination upon review in writing, if the child's parent or guardian so requests.

(2) (a) If the determination is made under sub. (1) (b) for a child to attend a vocational, technical and adult education school, the district board governing the vocational, technical and adult education school shall establish appropriate vocational and technical courses in accordance with par. (b) 1 and the school board of the district and the district board governing the vocational, technical and adult education school shall enter into a contract for such attendance.

(b) The contract shall set forth:

1. The courses at the vocational, technical and adult education school which are approved by the state superintendent as being courses for which credit will be given to meet high school graduation requirements.

2. The amount per student class hour of instruction, not including any debt retirement cost, which the school board shall pay to the district board of the vocational, technical and adult education school for pupils attending such school. If either board sends written notice to the state superintendent or the director of the board of vocational, technical and adult education that the boards are unable to reach an agreement on the amount to be paid, the state superintendent and the director shall determine

the amount within 15 days of receipt of such notice.

(c) Pupils attending a vocational, technical and adult education school under this subsection may receive general education subjects at the vocational, technical and adult education school and shall be counted as pupils enrolled in the high school for all purposes including computing state aid for the school district and contractual payments therefor by the school district shall be deemed costs of operation and maintenance. No state aid may be paid to the vocational, technical and adult education district for pupils attending the vocational, technical and adult education school under this subsection.

(d) Transportation, or board and lodging under s. 121.57 (1) (a), for pupils attending a vocational, technical and adult education school under this subsection shall be provided by the school district, and state aids shall be paid therefor, on the same basis as is transportation for pupils attending high school.

(3) This section does not apply to:

(a) Any child who is excused by the school board because the child is temporarily not in proper physical or mental condition to attend school or an educational program under s. 115.85 (2), but who can be expected to return to school or the program upon termination or abatement of the illness or condition. The school attendance officer may request the parent or guardian of the child to obtain a written statement from a licensed physician, dentist, chiropractor, optometrist or psychologist or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, as sufficient proof of the physical or mental condition of the child. An excuse under this paragraph shall be in writing and shall state the time period for which it is valid, not to exceed 30 days.

(b) Any child excused for good cause by the school board of the district in which the child resides, with the written approval of the child's parent or guardian, except that good cause may not be based upon the child's exceptional educational needs as described in s. 115.76 (3). An excuse under this paragraph shall be in writing and shall state the time period for which it is effective, not to exceed one year.

(4) Instruction during the required period elsewhere than at school may be substituted for school attendance. Such instruction must be approved by the state superintendent as substantially equivalent to instruction given to children of like ages in the public or private schools where such children reside.

(4m) No school board, school board member, multidisciplinary team under s. 115.80 or

person employed by a school board or cooperative educational service agency may in any manner compel a pregnant girl to withdraw from her regular education program.

(5) Whoever violates this section may be fined not less than \$5 nor more than \$50 or imprisoned not more than 3 months or both, after evidence has been provided by the school attendance officer that the activities under s. 118.16 (5) have been completed. In a prosecution under this subsection, if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under ch. 48.

History: 1971 c. 40, 125, 154; 1973 c. 89, 243, 319, 332; 1975 c. 39, 199; 1979 c. 221, 298, 300, 355; 1981 c. 20

Compelling Amish parents to send their children to high school infringes upon their religious liberties. *State v. Yoder*, 49 W (2d) 430, 182 NW (2d) 539; aff'd, 406 U.S. 205.

A city is not liable for failure to enforce the school attendance laws for damages resulting from an assault by truants. *Riemer v. Crayton*, 57 W (2d) 755.

See note to art. I, sec. 18, citing *State v. Kasuboski*, 87 W (2d) 407, 275 NW (2d) 101 (Ct. App. 1978).

The Amish and compulsory school attendance. 1971 WLR 832.

118.155 Released time for religious instruction. (1) Any school board shall, without approval of the state superintendent, permit pupils with written permission of a parent or guardian to be absent from school at least 60 minutes but not more than 180 minutes per week to obtain religious instruction outside the school during the required school period. The supervisor of such religious instruction shall report monthly, to the principal of the school regularly attended, the names of the pupils who attended such weekly religious instruction. The school board may deny the privilege of released time to pupils who absent themselves from such religious instruction after requesting the privilege. The time period, or periods, allotted for the pupil to be absent from school for the purpose of religious instruction shall be determined by the school board.

(2) Any transportation to religious instruction or from religious instruction to the public school shall be the responsibility of the parents or of the organization sponsoring the religious instruction.

(3) The school district shall be released from all liability for a pupil who is absent from school in accordance with sub. (1).

History: 1973 c. 161.

Constitutionality upheld. *State ex rel. Holt v. Thompson*, 66 W (2d) 659, 225 NW (2d) 678.

118.16 School attendance enforcement.

(1) In this section:

(a) "School attendance officer" means an employee designated by the school board to deal

with matters relating to school attendance and truancy.

(b) "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of s. 118.15.

(2) The school attendance officer:

(a) Shall determine daily which pupils enrolled in the school district are absent from school and whether that absence is excused under s. 118.15.

(b) Annually, on or before August 1, shall determine how many pupils enrolled in the school district were absent in the previous year and whether the absences were excused under s. 118.15 and shall notify the state superintendent of the determination.

(c) Shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph must be given before the end of the 2nd school day after receiving a report of an unexcused absence and may be made by personal service, mail or telephone call of which a written record is kept.

(d) May visit any place of employment in the school district to ascertain whether any minors are employed there contrary to law. The officer shall require that school certificates and lists of minors who are employed there be produced for inspection, and shall report all cases of illegal employment to the proper school authorities and to the department of industry, labor and human relations.

(e) Shall have access to information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at a private school located in the school district.

(3) All private schools shall keep a record containing the information required under ss. 115.30 (2) and 120.18. The record shall be open to the inspection of school attendance officers at all reasonable times. When called upon by any school attendance officer, the school shall furnish, on blanks supplied by the school attendance officer, such information in regard to any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at the school.

(4) The school board shall establish a written attendance policy specifying the reasons for which pupils may be permitted to be absent from a public school under s. 118.15 and shall require the teachers employed in the school district to submit to the school attendance officer daily attendance reports on all pupils under their charge. No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences from school. The school board may establish policies which utilize detention as a deterrent to truancy. The school board shall provide each pupil enrolled in the public schools in the district with a copy of the school attendance policy established under this subsection and shall file a copy of the policy in each school in the district. In addition, the school board shall make copies available upon request.

(5) Prior to any proceeding being brought against a child under s. 48.13 (6) or against the child's parent or guardian under s. 118.15, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred:

(a) Met with the child's parent or guardian to discuss the child's truancy or have attempted to meet with the child's parent or guardian and been refused.

(b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under s. 118.15 (1) (d).

(c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems.

(d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

(6) Following receipt of evidence that activities under sub. (5) have been completed, the school attendance officer may file information on any child who continues to be truant with the court assigned to exercise jurisdiction under ch. 48 in accordance with s. 48.24. Filing information on a child under this subsection does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

(7) Any school district administrator, principal, teacher or school attendance officer who violates this section shall forfeit not less than \$5 nor more than \$25.

History: 1971 c. 164 s. 85; 1975 c. 39; 1979 c. 221, 298

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118.17 Indigent children. The principal or teacher in charge of any public school shall report to the authority administering general relief for the municipal unit wherein the school is situated the name and address of any child in the school whose parent, guardian or other person having control, charge or custody of the child is without sufficient means to furnish the child with food or clothing necessary to enable the child to attend school.

Cross Reference: 120.12 (11) provides for free books and school supplies for indigent children.

118.18 Teacher reports. Every teacher shall record the names, ages and studies of all pupils under his or her charge and their daily attendance and such other facts or matters relating to the school as the state superintendent or school board requires.

History: 1979 c. 301.

118.19 Teacher certificates and licenses.

(1) Any person seeking to teach in a public school or in a school or institution operated by a county or the state shall first procure a certificate or license from the department.

(2) Until the end of the 1971-1972 school year, no certificate or license to teach in any public school may be issued unless the applicant has completed, beyond the work of the high school, 2 years of school work which were devoted to pedagogical instruction and training. Any teacher who has taught in any public school in the 1937-1938 school year or prior thereto may continue to teach in the public schools without complying with this subsection.

(3) (a) Beginning with the 1972-1973 school year, no certificate or license to teach in any public school may be issued unless the applicant possesses a bachelor's degree including such professional training as the department by rule requires, except as permitted under s. 115.28 (17) (a) and par. (b). Any teacher who taught in the public schools in the 1937-1938 school year or prior thereto may continue to teach in the public schools without complying with this subsection.

(b) The state superintendent shall permanently certify any applicant to teach Wisconsin native American languages and culture who has successfully completed the university of Wisconsin-Milwaukee school of education approved Wisconsin native American languages and culture project certification program at any time between January 1, 1974, and December 31, 1977. School districts shall not assign individuals certified under this paragraph to teach courses other than Wisconsin native American languages and culture, unless they qualify under par. (a).

(5) After written notice of the charges and of an opportunity for defense, any certificate or license to teach issued by the department may be revoked by the state superintendent for incompetency or immoral conduct on the part of the holder.

(6) In granting certificates or licenses for the teaching of courses in economics, social studies or agriculture, adequate instruction in cooperative marketing and consumers' cooperatives shall be required. In granting certificates or licenses for the teaching of courses in science or social studies, adequate instruction in the conservation of natural resources shall be required.

(7) No certificate or license to teach industrial arts subjects may be issued unless the applicant has had 3 years of practical experience beyond apprenticeship or 4 years of institutional training in such subjects. For purposes of salary schedules and promotion, any person teaching an industrial arts subject on January 1, 1936, who had 5 years of practical or teaching experience in such subject shall be deemed to have the equivalent of a bachelor's degree.

History: 1971 c. 154; 1975 c. 39, 95; 1979 c. 346; 1981 c. 314 s. 146.

Superintendent must follow criteria of this section in approving vocational teachers for high school students. 68 Atty. Gen. 248.

118.195 Discrimination against handicapped teachers prohibited. (1) No person otherwise qualified may be denied a certificate or license from the state superintendent under s. 118.19 (1) because he is totally or partially blind, deaf or physically handicapped nor may any school district refuse to employ a teacher on such grounds, if such handicapped teacher is able to carry out the duties of the position which he seeks.

(2) Any school board may request the state superintendent for advice and assistance in interpreting this section.

118.20 Teacher discrimination prohibited. (1) No discrimination because of sex, except where sex is a bona fide occupational qualification as defined in s. 111.36 (2), race, nationality or political or religious affiliation may be practiced in the employment of teachers or administrative personnel in public schools or in their assignment or reassignment. No questions of any nature or form relative to sex, except where sex is a bona fide occupational qualification as defined in s. 111.36 (2), race, nationality or political or religious affiliation may be asked applicants for teaching or administrative positions in the public schools either by public school officials or employes or by teachers agencies or placement bureaus.

(2) The state superintendent or a person designated by the superintendent may receive and investigate complaints charging discrimination in employment, assignment or reassignment of teachers or administrative personnel in the public schools and the superintendent or designee may hold hearings, subpoena witnesses and take testimony to effectuate the purposes of this section.

(3) If the superintendent finds probable cause to believe that any discrimination prohibited by this section has been or is being practiced, he shall immediately endeavor to eliminate the practice by conference, conciliation or persuasion. In case of failure to eliminate the discrimination, the superintendent shall issue and serve a written notice of hearing, specifying the nature of the discrimination which appears to have been committed, and requiring the public school official, employe, teacher agency or placement bureau named, hereinafter called the "respondent" to answer the complaint at a hearing before the superintendent. The notice shall specify a time of hearing not less than 10 days after service of the complaint, and a place of hearing within the county in which the discrimination is alleged to have occurred.

(4) After hearing, if the superintendent finds that the respondent has engaged in discrimination prohibited by this section the superintendent shall make written findings and recommend such action by the respondent as shall satisfy the purposes of this section and shall serve a certified copy of the findings and recommendations on the respondent together with an order requiring the respondent to comply with the recommendations. Any person aggrieved by noncompliance with the order shall be entitled to have the order enforced specifically by suit in equity. If the superintendent finds that the respondent has not engaged in the alleged discrimination, he shall serve a certified copy of his findings on the complainant together with an order dismissing the complaint.

(5) If any public school official, employe, teachers agency or placement bureau violates sub. (1) or fails or refuses to obey any lawful order made by the superintendent pursuant to this section, such person shall forfeit and pay into the state treasury not less than \$25 nor more than \$50, or be imprisoned not less than 5 nor more than 30 days. Such violation or failure or refusal to obey an order shall be grounds for the removal of any school district administrator, member of a school board or other public school official. Findings and orders of the superintendent under this section shall be subject to judicial review under ch. 227.

(6) Upon request of the superintendent, the attorney general or district attorney of the county in which any investigation, hearing or trial under this section is pending, shall aid and prosecute under supervision of the superintendent, all necessary actions or proceedings for the enforcement of this section and for the punishment of all violations thereof.

(7) In administering this section the superintendent shall have authority to make, amend and rescind rules necessary to carry out the purposes of this section.

History: 1975 c. 94; 1977 c. 286 s. 4; 1981 c. 334 s. 25 (2).

See note to 111.31, citing *Kurtz v. City of Waukesha*, 91 W (2d) 103, 280 NW (2d) 757 (1979).

118.21 Teacher contracts. (1) The school board shall contract in writing with qualified teachers. The contract, with a copy of the teacher's authority to teach attached, shall be filed with the school district clerk. Such contract, in addition to fixing the teacher's wage, may provide for compensating the teacher for necessary travel expense. A teaching contract with any person not legally authorized to teach the named subject or at the named school shall be void. All teaching contracts shall terminate if, and when, the authority to teach terminates.

(2) Any person who contracts to teach in any public school shall file in the office of the school district administrator, within 10 days after entering into such contract, a statement showing the date of expiration and the grade and character of certificate or license held. In any school district not having a school district administrator, the statement shall be filed with the school district clerk. Teachers employed by a cooperative educational service agency shall file the statement in the office of the agency coordinator. No order or warrant may be issued by the school district clerk in payment of the salary of any teacher, unless the teacher has complied with this subsection.

(3) School boards may provide in the contracts of teachers of agricultural and homemaking courses for payment out of school district funds for services performed outside the school district and connected with the performance of their regular teaching duties, and for travel expenses connected with such services.

(4) School boards may give to any teacher, without deduction from his wages, the whole or part of any time spent by him in attending a teachers' educational convention, upon the teacher's filing with the school district clerk a certificate of attendance at the convention,

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signed by the person or secretary of the association conducting the convention.

History: 1979 c. 301.

Cross Reference: See 118.22 (2) for requirement that majority vote of full board membership is required for employment of a teacher.

See note to 111.70, citing *Bd. of Education v. WERC*, 52 W (2d) 625, 191 NW (2d) 242.

Teacher's lack of legal authority to teach assigned courses, although known to school board at time of hiring and subsequent assignments, was sufficient ground for dismissal despite fact that school superintendent repeatedly assured teacher that the certification problem was an administrative omission which would be cured by the board. *Grams v. Melrose-Mindoro Jt. School Dist. No. 1*, 78 W (2d) 569, 254 NW (2d) 730.

Individual teacher's contract under 118.21 and 118.22 is subservient to collective bargaining contract under 111.70. 60 Atty. Gen. 342.

School boards have authority to contract with teachers to provide for an increment or sum in addition to the regular salary in return for the teacher choosing an early retirement option. 63 Atty. Gen. 16.

Even though a teacher was properly dismissed for an admitted violation of school rules, she is entitled to a due process hearing on other charges affecting her reputation as a teacher. *Carpenter v. Greenfield School Dist. No. 6*, 358 F Supp. 220.

118.215 Energy emergency and school operations. If an energy emergency results in the reduction of fuel supplies that may require curtailment of the operations of public elementary and high schools, the determination as to how to meet such crises shall be made locally by each school system or district. Changes in terms and conditions of employment proposed to meet such crises, other than salaries and wages, shall be negotiated between the school board and the bargaining representative of the employees, if any. Employees of any school system or district in which school operations are curtailed or in which schools are closed due to an energy emergency shall receive full payment of salary or wages under their employment contracts or arrangements as if there had been no such curtailment or closing.

History: 1973 c. 157; 1977 c. 29, 203, 418.

118.22 Renewal of teacher contracts. (1) In this section:

(a) "Teacher" means any person who holds a teacher's certificate or license issued by the state superintendent or a classification status under the board of vocational, technical and adult education and whose legal employment requires such certificate, license or classification status, but does not include part-time teachers or teachers employed by any board of school directors in a city of the 1st class.

(b) "Board" means a school board, vocational, technical and adult education district board, board of control of a cooperative educational service agency or county handicapped children's education board, but does not include any board of school directors in a city of the 1st class.

(2) On or before March 15 of the school year during which a teacher holds a contract, the board by which the teacher is employed or an employe at the direction of the board shall give the teacher written notice of renewal or refusal to renew his contract for the ensuing school year. If no such notice is given on or before March 15, the contract then in force shall continue for the ensuing school year. A teacher who receives a notice of renewal of contract for the ensuing school year, or a teacher who does not receive a notice of renewal or refusal to renew his contract for the ensuing school year on or before March 15, shall accept or reject in writing such contract not later than the following April 15. No teacher may be employed or dismissed except by a majority vote of the full membership of the board. Nothing in this section prevents the modification or termination of a contract by mutual agreement of the teacher and the board. No such board may enter into a contract of employment with a teacher for any period of time as to which the teacher is then under a contract of employment with another board.

(3) At least 15 days prior to giving written notice of refusal to renew a teacher's contract for the ensuing school year, the employing board shall inform the teacher by preliminary notice in writing that the board is considering nonrenewal of the teacher's contract and that, if the teacher files a request therefor with the board within 5 days after receiving the preliminary notice, the teacher has the right to a private conference with the board prior to being given written notice of refusal to renew his contract.

(4) A collective bargaining agreement may modify, waive or replace any of the provisions of this section as they apply to teachers in the collective bargaining unit, but neither the employer nor the bargaining agent for the employes is required to bargain such modification, waiver or replacement.

History: 1971 c. 154; 1981 c. 223.

See note to 118.26, citing Veith v. Joint School Dist. No. 6, 54 W (2d) 501, 196 NW (2d) 714.

Notice of intent not to renew that part of a contract which provided extra pay for extra work as a coach is not necessary. Richards v. Board of Education, 58 W (2d) 444, 206 NW (2d) 597.

Dual purpose of hearing under (3) is to persuade board to renew contract or, failing that, to voluntarily resign. Rawhouser v. CESA No. 4, 75 W (2d) 52, 248 NW (2d) 442.

In absence of evidence of bias or high probability of bias of school board, trial court had no jurisdiction to hold de novo hearing as to competence of teacher facing nonrenewal under (3). Naus v. Jt. Sch. Dist. No. 1 Sheboygan Falls, 76 W (2d) 104, 250 NW (2d) 725.

See note to 788.10, citing Jt. School Dist. No. 10 v. Jefferson Ed. Assn. 78 W (2d) 94, 253 NW (2d) 536.

Under (2), board has exclusive right to hire and fire a teacher. Due process does not require that board be an impartial decisionmaker. Hortonville Ed. Assn. v. Joint Sch. Dist. No. 1, 87 W (2d) 347, 274 NW (2d) 697 (1979).

Employment contract which recites that teacher's employment will not be renewed cannot be construed as a waiver of rights granted by this section. Presumption of board's good

faith discussed. Faust v. Ladysmith-Hawkins School Systems, 88 W (2d) 525, 277 NW (2d) 303, 281 NW (2d) 611 (1979).

Layoff of teacher is not equivalent of "refusal to renew" when collective bargaining agreement under 111.70 contains layoff provisions incorporated in teacher's contract. Mack v. Joint School District No. 3, 92 W (2d) 476, 285 NW (2d) 604 (1979).

"Private conference" under 118.22 (3), on nonrenewal of teacher's contract is a "meeting" within 19.82 (2). 66 Atty. Gen. 211.

Civil rights; academic freedom; refusal to hire a nontenure teacher for a constitutionally impermissible reason. 1970 WLR 162.

Fairness of a hearing before a school board on nonrenewal of a teacher's contract. 1971 WLR 354.

118.23 Populous counties; teacher tenure.

(1) In this section "teacher" means any person who holds a teacher's certificate or license and whose legal employment requires such certificate or license, who is employed full time and meets the minimum requirements prescribed by the governing body employing such person and who is employed by a school board, board of trustees or governing body of any school operating under chs. 115 to 121 and lying entirely and exclusively in a county having a population of 500,000 or more. "Teacher" does not include any superintendent or assistant superintendent; any teacher having civil service status under ss. 63.01 to 63.17; any teacher in a public school in a city of the 1st class; or any person who is employed by a school board during time of war as a substitute for a teacher on leave while on full-time duty in the U.S. armed forces or any reserve or auxiliary thereof and who is notified in writing at the time of employment that the position is of a temporary nature. This section does not apply to any teacher after the close of the school year during which the teacher has attained the age of 65 years, nor to any subsequent employment of such teacher.

(2) All teachers shall be employed on probation, but after continuous and successful probation for 3 years and the gaining of the 4th contract in the same school system or school, their employment shall be permanent except as provided in sub. (3). All principals shall be employed on probation, but after continuous and successful probation for 3 years and the gaining of a 4th contract in the same school system or school, their employment shall be permanent except as provided in sub. (3). Upon accepting employment in another school system or school to which this section applies, a teacher who has acquired permanent employment under this section shall be on probation therein for 2 years. After continuous and successful probation for 2 years and gaining the 3rd contract in such school system or school, employment therein shall be permanent except as provided in sub. (3). A person who acquired tenure as a teacher under this section shall not be deprived

of tenure as a teacher by reason of his employment as a principal.

(3) No teacher who has become permanently employed under this section may be refused employment, dismissed, removed or discharged, except for inefficiency or immorality, for wilful and persistent violation of reasonable regulations of the governing body of the school system or school or for other good cause, upon written charges based on fact preferred by the governing body or other proper officer of the school system or school in which the teacher is employed. Upon the teacher's written request and no less than 10 nor more than 30 days after receipt of notice by the teacher, the charges shall be heard and determined by the governing body of the school system or school by which the teacher is employed. Hearings shall be public when requested by the teacher and all proceedings thereat shall be taken by a court reporter. All parties shall be entitled to be represented by counsel at the hearing. The action of the governing body is final.

(4) If necessary to decrease the number of permanently employed teachers by reason of a substantial decrease of pupil population within the school district, the governing body of the school system or school may lay off the necessary number of teachers, but only in the inverse order of the appointment of such teachers. No permanently employed teacher may be prevented from securing other employment during the period he is laid off under this subsection. Such teachers shall be reinstated in inverse order of their being laid off, if qualified to fill the vacancies. Such reinstatement shall not result in a loss of credit for previous years of service. No new permanent or substitute appointments may be made while there are laid off permanent teachers available who are qualified to fill the vacancies.

(5) A collective bargaining agreement may modify, waive or replace any of the provisions of this section as they apply to teachers in the collective bargaining unit, but neither the employer nor the bargaining agent for the employees is required to bargain such modification, waiver or replacement.

History: 1971 c. 154; 1979 c. 89; 1981 c. 223.

Layoff and reinstatement provisions in this section are to be applied separately to classroom teachers and principals. 70 Atty. Gen. 6.

118.235 Lunch period for teachers. Every school board shall grant daily a duty-free lunch period to each of its teachers, except that a school district may contract with any teacher employed by it for services during such period. Such period shall be not less than 30 minutes and shall be provided at or near the time of the regular school lunch period.

118.24 School district administrator. (1)

The school board of any district may employ a school district administrator, a business manager and school principals and assistants to such persons. Persons certificated for such positions may be employed for a period of not more than 3 years.

(2) (a) Under the direction of the employing school board, the school district administrator shall have general supervision and management of the professional work of the schools and the promotion of pupils.

(b) The school district administrator shall not be a member of the school board and shall not engage in any pursuit which interferes with the proper discharge of the duties.

(c) The school district administrator shall make written recommendations to the school board on teachers, courses of study, discipline and such other matters as the administrator thinks advisable and shall perform such other duties as the school board requires.

(d) The school district administrator may act as principal or teacher in any school under the administrator's supervision.

(e) The school district administrator shall attend annually one convention called by the state superintendent for the purpose of consultation upon matters pertaining to the supervision and management of the schools. The administrator shall be reimbursed for actual and necessary expenses incurred for travel, board and lodging because of attendance at such convention. Bills for such expenses shall be audited and allowed by the school board upon presentation of an itemized statement of expense accompanied by a certificate of attendance signed by the state superintendent.

(f) The school district administrator shall ensure that the administrative and pupil service staff in the district cooperate with the board established under s. 51.42 in the dissemination of information regarding the availability of alcohol and drug abuse services and to jointly establish procedures for the referral to appropriate agencies of students experiencing problems resulting from the use of alcohol or other drugs.

(3) The principal shall perform such administrative and instructional leadership responsibilities as are assigned by the district administrator under the rules and regulations of the school board.

(4) A business administrator shall perform such fiscal and business management and other administrative duties as are assigned by the district administrator subject to the rules, regulations and approval of the school board.

(5) School principals and business administrators, and assistants thereto, may, upon autho-

rization from the school board or district administrator, attend conventions for the purpose of promoting and stimulating their professional growth and for improving the schools of the district and the state. For such approved attendance they may be reimbursed for actual and necessary expenses incurred for travel, board, lodging and attendance at such conventions upon proper filing of proof of attendance and of such necessary expenditures.

(6) The employment contract of any person described under sub. (1) shall be in writing and filed with the school district clerk. At least 4 months prior to the expiration of the employment contract, the employing school board shall give notice in writing of either renewal of the contract for a period not to exceed 3 years or of refusal to renew such person's contract. If no such notice is given, the contract then in force shall continue in force for one additional year. Any such person who receives notice of renewal or who does not receive notice of renewal or refusal to renew the person's contract at least 4 months before the contract expiration shall accept or reject the contract in writing on or before a date 3 months prior to the contract expiration. No such person may be employed or dismissed except by a majority vote of the full membership of the board. Nothing in this section prevents the modification or termination of an employment contract by mutual agreement of the parties. No school board may enter into a contract of employment with any such person for a period of time as to which such person is then under a contract of employment with another school board.

(7) Prior to giving notice of refusal to renew the contract of any person described under sub. (1), the employing board shall give such person preliminary notice in writing by registered mail at least 5 months prior to the expiration of such contract that the board is considering nonrenewal of the contract, and that if such person files a written request with the board within 7 days after receiving such notice, the person has the right to a hearing before the board prior to being given written notice of refusal to renew the contract. The written request for a hearing shall include a statement requesting either a private hearing or a public hearing before the board. Section 118.22 does not apply to such a proceeding. If a hearing concerning nonrenewal of the contract is requested, the reasons upon which the board is considering nonrenewal may also be requested and the board shall furnish such reasons before the hearing in writing.

(8) Personnel administrators and supervisors, curriculum administrators and assistants to such administrative personnel, when em-

ployed by the school board of any district to perform administrative duties only, may be employed for a period of not more than 3 years. Subsections (5) to (7) are applicable to such persons when they are employed to perform administrative duties only.

(9) Nothing in this section shall be construed:

(a) To prohibit the school board of any district from hiring part-time administrative personnel; or

(b) To prohibit the employment relations commission from making a determination that persons hired as part-time administrative personnel shall be included in the collective bargaining unit of persons hired as teachers and shall be covered by the terms of a collective bargaining agreement which exists pursuant to s. 111.70.

History: 1975 c. 379, 421; 1979 c. 331.

118.25 Health examinations. (1) In this section "school employe" means a person employed by a school board who comes in contact with children or who handles or prepares food for children while they are under the supervision of school authorities.

(2) (a) As a condition of employment, the school board, except in 1st class cities, shall require a physical examination, including a chest X-ray or tuberculin test, of every school employe of the school district. Freedom from tuberculosis in a communicable form is a condition of employment. In the case of a new school employe, the school board may permit the school employe to submit proof of an examination, chest X-ray or tuberculin test complying with this section which was taken within the past 90 days in lieu of requiring such examination, X-ray or test. If the reaction to the tuberculin test is positive, a chest X-ray shall be required. Additional physical examinations shall be required thereafter at intervals determined by the school board. The school employe shall be examined by a physician in the employ of or under contract with the school district, but if a physician is not employed or under contract, the examination shall be made by a physician selected by the school employe.

(b) Such physical examinations, chest X-rays or tuberculin tests shall not be required of any school employe who files with the school board an affidavit setting forth that he depends exclusively upon prayer or spiritual means for healing in accordance with the teachings of a bona fide religious sect, denomination or organization and that he is to the best of his knowledge and belief in good health and that he claims exemption from health examination on these grounds. Notwithstanding the filing of such

affidavit, if there is reasonable cause to believe that such employe is suffering from an illness detrimental to the health of the pupils, the school board may require a health examination of such school employe sufficient to indicate whether or not such school employe is suffering from such an illness. No school employe may be discriminated against by reason of his filing such affidavit.

(c) The physician making a physical examination shall prepare a report of his examination upon a standard form prepared by the department of health and social services and the department. Such report shall be retained in the physician's files and he shall make confidential recommendations therefrom to the school board and to the school employe on a form prepared by the department of health and social services and the department. The recommendation form shall contain space for a certificate that the person is free from tuberculosis in a communicable form. The cost of such examinations, including X-rays and tuberculin tests, shall be paid out of school district funds.

(3) In counties having a population of less than 500,000, the school board may require periodic health examinations of pupils by physicians, under the supervision of local boards of health and the department of health and social services, and may pay the cost of such examinations out of school district funds.

(4) If a health or physical examination made under this section includes the testing of vision, such test may be made by an optometrist. Forms used for reporting such vision tests shall so indicate.

(5) As a condition of employment, special teachers, school psychologists, school social workers, co-operative educational service agency personnel and other personnel working in public schools shall have physical examinations under sub. (2). The employing school district or agency shall pay the cost of such examinations.

(6) As a condition of employment, employes of the state superintendent whose work brings them into contact with school children or with school employes shall have physical examinations under sub. (2).

History: 1979 c. 221, 301.

118.255 Health treatment services for children with special physical or mental health treatment needs. (1) (a) Under this section "physical or mental health treatment services" means treatment for physical or orthopedic disability, developmental disability, emotional disturbance, hearing impairment, visual disability, speech or language disability; and

includes itinerant services such as evaluative and diagnostic services.

(am) "Private school" has the meaning set forth in s. 121.51 (3).

(b) Words and phrases used in this section which are identical to words and phrases defined in s. 115.76 shall be given the meaning contained in s. 115.76.

(2) (a) If a school board, cooperative educational service agency or county handicapped children's education board provides physical or mental health treatment services to its pupils, it may also provide such services within the private school facilities to those private school pupils who are referred to the public school board, cooperative educational service agency or county handicapped children's education board by the administrator of a private school for evaluation for possible servicing. There shall be no charge for health treatment services provided to any pupils unless public school students or their parents are charged for similar services. For purposes of state aid, as it is provided under s. 115.88 to the public school district, for the health treatment service program, private school pupils receiving such health treatment services shall be counted among the pupils of the public school district receiving such services, although each child may receive health treatment services within his own school facilities, whether public or private.

(b) A school board, cooperative educational service agency, or county handicapped children's education board providing services under this section may enter into agreements with the administrator of a private school on the scheduling, space and other necessary arrangements for performance of such health treatment services. A school board, cooperative educational service agency or county handicapped children's education board shall not pay any private school for any services or facilities provided under this section. Control of the health treatment services program shall rest with the public school board, cooperative educational service agency or county handicapped children's education board.

(c) A school board cooperative educational service agency or county handicapped children's education board may provide health treatment services only within private school facilities located within the boundaries of the school district, cooperative educational service agency or county.

(3) The school board, cooperative educational service agency or county handicapped children's education board maintaining health treatment services shall report annually to the department of public instruction, and at such other times as the department directs, such information as the department requires.

(4) If the state superintendent is satisfied that the health treatment services program has been maintained during the preceding school year in accordance with law he shall certify to the department of administration in favor of each school board, cooperative educational service agency and county handicapped children's education board maintaining such health treatment services, an amount equal to 68% of the amount expended for items listed in s. 115.88

(1) by the school board, cooperative educational service agency and county handicapped children's education board during the preceding year for these health treatment services. The department of administration, upon such certification shall distribute the amounts to the appropriate school board, cooperative educational service agency and county handicapped children's education board.

History: 1973 c. 307; 1977 c. 83; 1981 c. 317.

This section authorizes local school districts to provide health and welfare services, but not educational services, to students attending private schools; it may be unconstitutional to the extent that any of the services authorized thereby are rendered in church-affiliated private schools. 64 Atty. Gen. 75.

118.257 Liability for referral to police. (1)

In this section, "school" means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

(2) A school administrator, principal or teacher employed by a school is not liable solely for referring a pupil of the school to law enforcement authorities, or for removing a pupil from the school premises or from participation in a school-sponsored activity, for suspicion of possession or consumption of an alcohol beverage.

History: 1979 c. 331; 1981 c. 79 s. 17.

118.26 Claim against school district. No action may be brought or maintained against a school district upon a claim or cause of action unless the claimant complies with s. 893.80.

History: 1977 c. 285; 1979 c. 323 s. 33.

VTAE districts are school districts under this section. *Binder v. Madison*, 72 W (2d) 613, 241 NW (2d) 613.

118.27 Gifts and grants. The school board of a district may receive, accept and use gifts or grants of furniture, books, equipment, supplies, moneys, securities or other property, real or personal, used or useful for school research and educational purposes. All moneys received as gifts or grants shall be placed in the school district treasury but shall be considered segregated trust funds. Whenever a school board receives gifts or grants under this section, it shall make such use thereof, or invest the same in the

case of moneys, as the donor or grantor specifies. In the absence of any specific direction as to the use of such gifts or grants by a donor or grantor, the school board may determine the use of or invest the same in accordance with the law applicable to trust investments. In the use, control or investment of such gifts or grants, the school board may exercise the rights and powers generally conferred upon trustees.

118.28 Community action agencies. The school board of a school district may appropriate funds for promoting and assisting any community action agency designated by the U.S. community services administration pursuant to the community services act of 1974.

History: 1977 c. 29.

118.30 Pupil minimum competency tests.

(1) A school board may participate in the pupil minimum competency testing program under this section by notifying the state superintendent. Any school board that has elected to participate in the minimum competency testing program may withdraw from the program at any time by notifying the state superintendent.

(2) (a) By July 1, 1985, with the active involvement of school district administrators, teachers and parents, every school board that is participating in this minimum competency testing program shall adopt objective-referenced pupil minimum competency tests consisting of test items which reflect the school district's curriculum and the school district's minimum standards of proficiency in reading, language arts and mathematics. The department shall provide technical assistance, at no charge, to school boards which request it. The tests shall be designed to assess individual pupil progress in reading, language arts and mathematics and to identify competency deficiencies. To the extent possible, the tests and test items shall be free of bias.

(b) The school board may adopt the tests under par. (a) from any of the following sources:

1. Locally developed tests.
2. Locally developed tests using test items developed by the state superintendent under s. 115.28 (10) (b).
3. Commercially developed tests.
4. Tests developed by the state superintendent under s. 115.28 (10) (b).

(c) After July 1, 1985, a school board that is participating in this minimum competency testing program may not administer the objective-referenced pupil minimum competency test in reading, language arts or mathematics unless the test is approved by the state superintendent. The school board shall submit the test, along

with the methodology used to determine the psychometric validity of the test, to the state superintendent for approval. The state superintendent shall approve the test, at no charge, if he or she determines that it is psychometrically valid and that it complies with the requirements under par. (a) and the criteria established by the state superintendent by rule for the approval of submitted tests. If the state superintendent does not approve the test, he or she shall notify the school board, in writing, of the disapproval and the reasons for the disapproval.

(3) (a) For the 1985-86, 1986-87 and 1987-88 school years, using the tests adopted or approved under sub. (2), every school board that is participating in this minimum competency testing program shall test all of the pupils enrolled in the school district once in grades 1, 2, 3 or 4, once in grades 5, 6, 7 or 8, and once in grades 9 or 10 to assess minimum competency in reading, language arts and mathematics, except as provided under par. (b).

(b) 1. The school board may determine not to test a pupil enrolled in a special education program under subch. V of ch. 115. The school board may modify the format and administration of the tests for a pupil enrolled in such a program.

2. According to criteria established by the state superintendent by rule, the school board may determine not to test a limited-English speaking pupil, as defined under s. 115.955 (1), may permit the pupil to be tested in his or her native language or may modify the format and administration of the tests for such pupils.

(c) Beginning in the 1985-86 school year, upon request of a school board that has elected to participate in this minimum competency testing program:

1. The department shall pay the cost of printing the tests required under par. (a), but payments may not exceed the cost of printing the tests developed under s. 115.28 (10) (b).

2. The department shall pay the cost of machine-scoring the tests required under par. (a) if the tests are constructed so that they may be machine-scored, but payments may not exceed the cost of machine-scoring the tests developed under s. 115.28 (10) (b).

(4) (a) A school board that has elected to participate in this minimum competency testing program shall provide remedial services, and shall be the sole judge in determining the suffi-

ciency of such remedial services, to any pupil whose performance on the minimum competency tests does not meet the school district's minimum standards of proficiency in the skill areas tested. A pupil shall be allowed to retake the test in any skill area in which the pupil demonstrates deficiencies.

(b) A school board that has elected to participate in this minimum competency testing program shall provide a written report of each pupil's test results to the pupil's parent or guardian when the test results are available. The report shall be in plain language. If a pupil does not meet the test's minimum standards of proficiency in the skill areas tested, the report shall suggest a conference between the parent or guardian, an administrator designated by the school board and one or more teachers to discuss the test results and the school district's recommendations to provide remedial services.

(c) Any school board that has elected to participate in this minimum competency testing program may consider the results of the tests required under sub. (3) (a) as a requirement for high school graduation.

(4m) The test scores included in the reports under sub. (4) (b) may be used to evaluate teacher performance but they may not be used to discharge, suspend or formally discipline a teacher nor as the reason for the nonrenewal of a teacher's contract.

(5) By January 1, 1987, the school district administrator of every school district that has elected to participate in this minimum competency testing program shall report each school's test results to the school board and recommend to the school board any changes in the school district's educational program, including plans that would address pupil reading, language arts and mathematics deficiencies indicated by the reports under sub. (4) (b). Upon receipt of the report, the school board shall establish a basic skills improvement plan which includes a written response to each of the school district administrator's recommendations.

(6) The test results shall not be used in determining general or categorical aids to school districts.

(7) This section does not apply after June 30, 1988.

History: 1981 c. 241.

NOTE: Chapter 241, laws of 1981, sections 2m and 6, repeal this section effective 7-1-88.