

## 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 in those programs established under subch. VI of ch. 115 where instruction shall be in the English language and in the non-English language of the bilingual-bicultural education program, and except that the school board may cause any foreign language to be taught to such pupils as desire it.

(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 in either the 6th, 7th or 8th grade, but no pupil shall be required to take such instruction if his parents file with the teacher a written objection thereto. Instruction in physiology and hygiene shall be offered in every high school.

(3) **PHYSICAL EDUCATION.** Physical instruction and training shall be provided for all pupils in conformity with the course of instruction in physical education prescribed by the department. In 1- and 2-room schools such instruction and training shall take the form of supervised playground work. 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.

(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, the department of health and social services and the college of agriculture and the extension division of the university of Wisconsin 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 and approved by the state superintendent, 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

**118.02 Special observance days.** On the following days school shall be held, unless the dates fall on a Saturday or Sunday, and 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.

**History:** 1975 c. 204, 219, 398, 422

**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

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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 flagstaff 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.

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

**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 state highway commission.

History: 1973 c. 90; 1975 c. 48.

**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 entered 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 jurisdiction or employment, no school teacher, agency coordinator, 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 this title shall forfeit not less than \$5 nor more than \$25 for each such failure or neglect.

(3) If any person designated in this title 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.

**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.

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(2) **CONFIDENTIALITY.** All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to (g). 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.

(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.** 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 is an adult or his parent or guardian if he 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.

(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.

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

**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. 51.434 (1) 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. 51.434 (1) 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.

**118.14 Age of pupils.** No child may be admitted to the 1st grade unless he is 6 years old on or before December 1 in the year he proposes to enter school. A resident over 20 years of age may be admitted to school when in the judgment of the school board he will not interfere with the pupils of school age.

**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) Unless the child has a legal excuse or has graduated from high school, any person having under control a child who is between the ages of 6 and 16 years shall cause such child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which such 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 16 years of age.

(b) Unless the child has a legal excuse or has graduated from high school, any person having under control a child who is between the ages of 6 and 18 years and who resides within a school district which also contains within its boundaries a vocational, technical and adult education school designated by the board of vocational, technical and adult education as a school with a day class program, shall cause such child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which such 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. A child is eligible to attend a vocational, technical and adult education school under s. 38.22 (1), in lieu of high school, upon attaining the age of 16 years.

(c) If his parent or legal guardian and the school board of his district so determine, any child who is 16 years of age or over shall attend,

in lieu of high school or on a part-time basis as determined by the parent or legal guardian, a vocational, technical and adult education school. Where such a determination is made, 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.

(d) A school board may permit a pupil who is in good standing academically to attend school part-time during his last school term preceding graduation from high school.

(e) If the child's parent or legal guardian and the school board of the child's district or the board's designee so determine, any child who is 16 years of age or over may be excused from full-time attendance at high school to participate in a school-work training program or work-study program developed for the child in consultation with a school social worker, psychologist or guidance counselor.

(2) (a) If the determination is made under sub. (1) (c) that a child shall 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

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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) (a) This section does not apply to:

1. Any child who has completed the full 4-year high school course.

2. Any child who is excused by the school board because he is temporarily not in proper physical or mental condition to attend school or his educational program under s. 115.85 (2), but who can be expected to return to his program upon termination of his illness or condition. The certificate of a reputable physician, reputable licensed psychologist or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, shall be sufficient proof of the physical or mental condition of the child and of the expectations for the child upon termination of his illness or condition. An excuse under this subdivision shall be in writing and shall state the time period for which it is valid not to exceed 30 days.

3. Any child exempted for good cause by the school board of the district in which the child resides, except that good cause may not be based upon the child's exceptional educational needs as described in s. 115.76 (3).

(b) Upon the ordering by the school board of the exemption of a child under par. (a) 3 the school district clerk shall mail notice of such action to the parent or guardian of the child. A parent or guardian of an exempted child may appeal the exemption to the state superintendent. Within 30 days after the decision of the state superintendent, the parent or guardian may appeal the decision to the circuit court of the county in which the school is located.

(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 or files a false statement under s. 118.16 (1) may be fined not less than \$5 nor more than \$50 or imprisoned not more than 3 months or both. In a prosecution under this subsection, if the defendant proves that he is unable to comply with the law because of the disobedience of the child in question, the action shall be dismissed and the child shall be proceeded against as delinquent under ch. 48.

**History:** 1971 c. 40, 125, 154; 1973 c. 89, 243, 319, 332; 1975 c. 39, 199

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

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 Truancy.** (1) "Truancy" means any absence of one or more days from school during which the principal or teacher has not been notified in writing 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. The only legal causes for absence are those specified in s. 118.15 (3) and (4). Upon request of the truant officer, a statement from the local health officer or nurse or attending

physician shall be submitted explaining the cause of the pupil's absence.

(2) (a) Except in school districts operating under ch. 119, the school district administrator is the truant officer unless the school board appoints as truant officer another professional employe of the school district. The school district administrator or the professional employe shall be reimbursed for his actual and necessary expenses incurred in the performance of his duties as truant officer.

(b) In school districts operating under ch. 119, the school board shall appoint welfare workers or attendance officers who shall have the powers of truant officers. To qualify for employment such welfare workers shall possess the qualifications required for teachers in such school districts and shall have all the rights and privileges of teachers.

(3) All teachers in 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 truant officers at all reasonable times. When called upon by any truant officer, such teachers shall furnish, on blanks supplied by the truant officer, such information in regard to any child between the ages of 6 and 18 who claims or who is claimed to be in attendance at such schools. Every school teacher shall notify promptly the proper truant officer of any pupil whose attendance is habitually and inexcusably irregular.

(4) A truant officer may visit any place of employment in his locality to ascertain whether any minors are employed therein contrary to law. He shall require that the school certificates and lists of minors who are there employed be produced for inspection, and he shall report all cases of illegal employment to the proper school authorities and to the department of industry, labor and human relations. When a truant officer receives a report or learns by investigation or by personal observation that any child is unlawfully and habitually absent from school, he shall proceed immediately in accordance with sub. (5).

(5) School district administrators shall require the teachers under their supervision to report all absences daily to the truant officer. Within 12 hours after receiving a report of absence or other information of absence, the truant officer shall give written notice by personal service to the parent or guardian of the absent child to send the child to some school no later than the next following day on which school is in session unless an excuse from the proper health or judicial authority is filed. The notice shall set forth the legal requirements for school attendance and s. 118.15 shall be printed on the face or back of the notice. The truant officer shall

notify immediately the principal or teacher in writing of the service of notice. Return of the child to school shall be reported immediately by the principal or teacher to the truant officer. The failure of the child to return to school on such next following school day shall be reported immediately to the truant officer by the principal or teacher. If it is the first such failure of the child to return to school during that school year, the truant officer again shall give notice to the parent or guardian of the child, and notify the principal or teacher in writing of the service of notice. If the child does not return to school on the school day next following the service of the 2nd notice, the truant officer within 3 days shall cause an action to be brought under s. 118.15 (5). If it is not the first such failure of the child to return to school during that school year, upon reasonable evidence that such absence is truancy, the truant officer shall not give a 2nd notice but shall forthwith cause an action to be brought under s. 118.15 (5).

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

(b) Truant officers may apprehend without warrant any child found violating s. 118.15 and cause the child to be placed in some school.

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

**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 charge and their daily attendance and such other facts or matters relating to the school as the state superintendent or school board requires. Any teacher who fails to comply with this section shall forfeit his wages during the time of such failure.

**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

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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 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 co-operative marketing and consumers' co-operatives 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

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. 111.32 (5) (g) 4, 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. 111.32 (5) (g) 4, 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 employees 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

**118.195 Discrimination against handicapped teachers prohibited.**

(1) No person

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.

**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 in going to and from the schoolhouse at a rate not to exceed 6 cents per mile. 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 co-operative 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, signed by the person or secretary of the association conducting the convention.

**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.

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.** In the event that an energy emergency, as defined in s. 340.01 (15s), 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 employes. Employes 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 interruption in closing.

History: 1973 c. 157.

**118.22 GENERAL SCHOOL OPERATIONS****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.

**History:** 1971 c. 154.

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

In those situations where a teacher is discharged or disciplined under (2), a dissatisfied teacher may upon petition obtain a de novo determination of all issues in any court of record in the county where the school district or part thereof is

located. *Hortonville Ed. Assn. v. Jt. Sch. Dist. No. 1*, 66 W (2d) 469, 225NW (2d) 658.

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 this title 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.

History: 1971 c. 154.

**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.

(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 authorization 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 employed by the school board of any district to perform administrative duties only, may be employed for a period of not more than 3 years. Subs (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.

**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 cities of the 1st class, 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 2 years 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. A chest X-ray or tuberculin test shall be required at least once every 3 years. If the reaction to such tuberculin test is positive, a chest X-ray shall be required. 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, employees of the state superintendent whose work brings them into contact with school children or with school employes shall have physical examinations under sub. (2).

**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, crippling 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 70% 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.

**118.26 Claim against school district.** An action upon any claim shall not be maintained against a school district until the claim has been

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presented to the school board of the district and disallowed in whole or in part. Failure of the school board to allow the claim within 60 days after it is filed with the school district clerk is a disallowance. The school district clerk shall serve notice of disallowance on the claimant by registered mail with return receipt signed by the claimant required. Such receipt shall be proof of service. The claimant may accept a portion of his claim without waiving his right to recover the balance. No interest may be recovered on an allowed claim after an order of the school board is available to the claimant. If the claimant recovers a greater amount than was allowed by the school board he shall recover costs; otherwise the school board shall recover costs. No action on a claim may be brought after 6 months from the date of service of the notice of disallowance.

An action for damages for failure to renew a teacher's contract pursuant to 118.22 cannot be maintained where no notice of claim was filed and denied under this section. *Veith v. Joint School Dist. No. 6*, 54 W (2d) 501, 196 NW (2d) 714.

In an action by nonunion school teachers against a school board challenging the deduction of fair-share payments as required by 111.70 (2), on constitutional and other basis, and seeking an injunction and return of payments made, plaintiffs' failure to comply with the notice provision of this section was

not demurrable, because the notice provision applies to legal but not equitable actions, and plaintiffs' claim is essentially one for equitable relief. *Flood v. Bd. of Education*, 69 W (2d) 184, 230 NW (2d) 711.

**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.