

**ORDER OF THE  
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION  
AMENDING RULES**

The state superintendent of public instruction hereby repeals PI 11.14; repeals and recreates PI 11.07 and creates PI 11.02(5m), relating to transfer pupils with disabilities and surrogate parents.

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**ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION**

Statutory authority: s. 227.11(2)(a), Stats.

Statute interpreted: Subch. V of ch. 115, Stats.

In November 1996, the department held twelve informational hearings throughout the state relating to special education requirements under Chapter PI 11, Wisconsin Administrative Code. As a result of testimony presented at those hearings, the proposed rules amend the section relating to transfer pupils to permit local educational agencies (LEAs) to treat out-of-state transfer pupils in the same manner as intrastate transfer pupils so that unnecessary delays in the provision of special education services does not occur.

In addition, to make it easier for an LEA to obtain the services of a surrogate parent, the department will delete s. PI 11.14, relating to surrogate parents and follow federal law in its place.

The rule also makes several technical language and cross-reference modifications to coincide with the changes made in 1997 Wisconsin Act 164 and proposed changes made in CHR 98-068.

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**SECTION 1.** PI 11.02(5m) is created to read:

PI 11.02(5m) "IDEA" means the individuals with disabilities education act under 20 USC 1400 et. seq.

**SECTION 2.** PI 11.07 is repealed and recreated to read:

PI 11.07 (1) DEFINITIONS. In this section "transfer pupil with a disability" means a child with a disability under the IDEA whose residence has changed from an LEA in this state to another LEA in this state or from a public agency in another state to an LEA in this state.

(2) TRANSFER PUPILS WITH DISABILITIES IN WISCONSIN. (a) The purpose of this subsection is to ensure that there is no interruption of special education and related services when a child with a disability transfers from one LEA in this state to another LEA in this state.

(b) When an LEA receives a transfer pupil with a disability, the receiving LEA shall implement the IEP from the sending LEA until the receiving LEA adopts the sending LEA's IEP or develops its own IEP. To the extent that the receiving LEA is not able to implement the sending LEA's IEP, the receiving LEA shall provide services that approximate, as closely as possible, the sending LEA's IEP.

(c) The receiving LEA shall adopt the evaluation and the eligibility determination of the sending LEA or conduct an evaluation and eligibility determination of the transfer pupil. The receiving LEA shall adopt the IEP of the sending

LEA or develop a new IEP. The receiving LEA may not adopt the evaluation and eligibility determination or the IEP of the sending LEA if the evaluation and eligibility determination or the IEP do not meet state and federal requirements.

(d) When an LEA receives a transfer pupil with a disability and the LEA does not receive the pupil's records from the sending LEA, the LEA shall request in writing the pupil's records from the sending LEA. The sending LEA shall transfer the pupil's records to the receiving LEA within 5 working days of receipt of the written notice as required under s. 118.125(4), Stats.

(3) TRANSFER PUPILS WITH DISABILITIES FROM OUTSIDE WISCONSIN. (a) The purpose of this subsection is to permit an LEA to adopt the most recent evaluation and eligibility determination and IEP of a transfer pupil with a disability from a public agency in another state.

(b) When an LEA receives a transfer pupil with a disability from a public agency in another state, the LEA may provide special education and related services in accordance with the most recent IEP developed by the sending public agency until the LEA develops its own IEP or adopts the sending public agency's IEP.

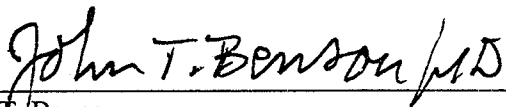
(c) The LEA shall adopt the evaluation and the eligibility determination of the sending public agency or conduct a new evaluation and eligibility determination of the transfer pupil. If the LEA decides not to adopt the evaluation and eligibility determination of the sending public agency, the LEA shall initiate a special education referral of the child. The LEA shall complete the evaluation and develop an IEP and the placement in accordance with the requirements of subch. V of ch. 115, Stats., within 90 days of the date the child enrolls in the LEA. The LEA shall adopt the IEP of the sending public agency or develop a new IEP.

(d) The receiving LEA may not adopt the evaluation and eligibility determination or the IEP of the sending public agency if the evaluation and eligibility determination or the IEP do not meet state and federal requirements.

**SECTION 3.** PI 11.14 is repealed.

The rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22(2)(intro.), Stats.

Dated this 31<sup>st</sup> day of March, 2000



John T. Benson  
State Superintendent