



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 7

TO: MEMBERS OF THE SPECIAL COMMITTEE ON STRENGTHENING WISCONSIN FAMILIES

FROM: Scott Grosz, Staff Attorney

RE: School District Funding Responsibilities

DATE: January 31, 2007

At the January 9, 2007 committee meeting, Public Member John Burgess discussed differences in funding obligations between Wisconsin and Minnesota school districts. In particular, he noted that, for students who are in certain out-of-home placements in Wisconsin, county child welfare agencies are financially responsible for each student's room, board, *and* education. According to Mr. Burgess, Minnesota school districts remain responsible for the education costs in similar situations. The committee requested additional information regarding these differences.

In general, every Wisconsin and Minnesota school district has the obligation to provide free education to children residing within the district. In Wisconsin, that requirement is codified by s. 121.77, Stats., which states that "every elementary school and high school shall be free to all pupils who reside in the district." Similarly, Minnesota law states,

"All schools supported in whole or in part by state funds are public schools. Admission to a public school is free to any person who: (1) resides within the district that operates the school; (2) is under 21 years of age or who meets the requirements of paragraph (c); and (3) satisfies the minimum age requirements imposed by this section." Minn. Stat. § 120A.20 (1) (a) (2006).

Additionally, s. 118.51, Stats., outlines the funding implications for Wisconsin open enrollment. However, the law related to open enrollment only provides a method to reconcile funding obligations between school districts. It does not shift funding obligations to entities that are not districts.

Wisconsin statutes also address funding obligations in specific cases, including attendance at nonresident districts and out-of-state schools outside of an open enrollment program, pupils with court

ordered educational placements, and pupils in out-of-home placements. In some of these cases, Wisconsin school districts' funding obligations diverge from their Minnesota counterparts.

Wisconsin school districts remain financially responsible in several specific cases. For example, districts must pay for the education of resident pupils who attend school in a nonresident district under a written agreement between the two districts. [s. 121.78 (1) (a), Stats.] Additionally, a school district must pay tuition for a resident pupil who is allowed by the district to attend school in an out-of-state district. [s. 121.78 (1) (b), Stats.] A school district also must pay tuition for a pupil who receives educational services as a result of a court order under s. 48.345 (12) or 938.34 (7d), Stats. [s. 121.78 (4), Stats.] Section 48.345 (12), Stats., does not apply to disabled children. These school district obligations follow the general rule that school districts must pay for education and are similar to their Minnesota counterparts.

However, there are some situations where the funding responsibility shifts from school districts to the State of Wisconsin or Wisconsin counties. Section 121.79, Stats., specifies that the state shall pay tuition for pupils in three situations, including two that are relevant to the committee. First, the state shall pay tuition for pupils in children's homes. [s. 121.79 (1) (a), Stats.] Second, the state shall pay tuition "for pupils in foster homes, treatment foster homes, or group homes, if the foster home, treatment foster home, or group home is located outside of the school district in which the pupil's parent or guardian resides." The latter funding obligation only arises in two situations:

- (a) If the foster, treatment foster, or group home is exempt from property taxes under s. 70.11, Stats.
- (b) If the pupil is a child with a disability and at least 4% of pupils in the district reside in foster homes, treatment foster homes, or group homes that are not exempt under s. 70.11, Stats. [s. 121.79 (1) (d), Stats.]

Additionally, s. 115.81, Stats., shifts funding obligations for the educational expenses of disabled children placed in residential care centers for children and youth (RCCs). Section 115.81 (4) (b) 5., Stats., states that a county department of social services or state agency that places a child in an RCC must pay the costs of educating the child while the child resides in the RCC.

Rather than shifting some funding obligations to the state or counties, Minnesota law requires school districts to pay for the education of children in similar situations to those described above. When a disabled child is temporarily placed in a residential program for care and treatment, Minn. Stat. § 125A.15 requires the district in which the child is placed to educate the child. Nonresident districts are able to bill these costs to the child's district of residence. Minn. Stat. § 125A.17 requires a school district to provide education to disabled children who permanently reside in foster facilities within the district. When children without disabilities are temporarily placed in residential programs for care and treatment, Minn. Stat. § 125A.51 requires the district in which the child is placed to educate the child. Again, nonresident districts are able to bill these costs to the child's district of residence. If a child is placed in a residential facility, including detention centers, Minn. Stat. § 125A.515 requires the district in which the facility is located to educate the child.