CHAPTER 118

GENERAL SCHOOL OPERATIONS

118.001 Duties and powers of school boards; construction of statutes.
118.01 Educational goals and expectations.
118.015 Reading instruction; early literacy curricula and instructional materials.
118.016 Reading readiness assessments; characteristics of dyslexia.
118.017 Foreign language instruction.
118.019 Human growth and development instruction.
118.02 Special observance days.
118.025 Arbor day observance.
118.03 Textbooks.
118.035 School uniforms.
118.04 Summer classes.
118.045 Commencement of school term.
118.05 School conservation camps.
118.06 Flag, pledge of allegiance, and national anthem.
118.065 Federally chartered youth membership organizations.
118.07 Health and safety requirements.
118.075 Indoor environmental quality in schools.
118.076 Lifesaving skills instruction.
118.08 School zones; crossings.
118.09 Safety zones.
118.10 School safety patrols.
118.105 Control of traffic on school premises.
118.11 School fences.
118.12 Sale of goods and services at schools.
118.123 Reports and records; forfeitures.
118.124 Statistics of crimes and other safety-related incidents.
118.125 Pupil records.
118.126 Privileged communications.
118.127 Law enforcement agency information.
118.13 Pupil discrimination prohibited.
118.133 Participation in interscholastic athletics and extracurricular activities.
118.134 Race-based nicknames, logos, mascots, and team names.
118.135 Eye examinations and evaluations.
118.14 Age of pupils; phase in of 4-year-old kindergarten.
118.145 Admission to high school.
118.15 Compulsory school attendance.
118.153 Children at risk of not graduating from high school.
118.155 Released time for religious instruction.
118.16 School attendance enforcement.
118.162 Truancy committee and plan.
118.163 Municipal truancy and school dropout ordinances.
118.164 Removal of pupils from the class.
118.165 Private schools.
118.167 Private school determination by state superintendent.
118.169 Pupil identification.
118.17 Indigent children.
118.175 Pupils without parents or guardians; report required.
118.18 Teacher reports.
118.19 Teacher certificates and licenses; administrator and pupil services professional licenses.
118.191 Experience-based licensure for technical and vocational education subjects.
118.1915 Licensure for Junior Reserve Officer Training Corps instructors.
118.192 Professional teaching permits.
118.193 Licenses based on reciprocity.
118.194 Initial license to teach; Montessori.
118.195 Discrimination against handicapped teachers prohibited.
118.196 Teacher development program.
118.197 Initial license to teach; alternative preparation programs.
118.20 Teacher discrimination prohibited.
118.21 Teacher contracts.
118.22 Renewal of teacher contracts.
118.223 Collective bargaining.
118.225 Teacher evaluations.
118.227 Prohibited agreements and references; immoral conduct.
118.23 Populous counties; teacher tenure.
118.235 Lunch period for teachers.
118.24 School district administrator.
118.245 Referendum; increase in employee wages.
118.25 Health examinations.
118.255 Health treatment services for children with special physical or mental health treatment needs.
118.257 Liability for referral to police.
118.26 Claim against school district.
118.27 Gifts and grants.
118.28 Community action agencies.
118.29 Administration of drugs and emergency care.
118.291 Asthmatic pupils; possession and use of inhalers.
118.2915 Asthma in schools; use of short-acting bronchodilators.
118.292 Possession and use of epinephrine.
118.2925 Life-threatening allergies in schools; use of epinephrine.
118.293 Concussion and head injury.
118.2935 Sudden cardiac arrest; youth athletic activities.
118.294 Undesignated glucagon.
118.295 Suicide intervention; civil liability exemption.
118.30 Pupil assessment.
118.301 Alternative pupil assessments.
118.305 Use of seclusion and physical restraint.
118.31 Corporal punishment.
118.32 Strip search by school employee.
118.325 Locker searches.
118.33 High school graduation standards; criteria for promotion.
118.335 Tribal regalia at graduation ceremonies or school-sponsored events.
118.34 Technical preparation programs.
118.35 Programs for gifted and talented pupils.
118.38 Waivers of laws and rules.
118.40 Charter schools.
118.42 Low-performing school districts and schools; state superintendent interventions.
118.43 Achievement guarantee contracts; state aid.
118.44 Achievement gap reduction; state aid.
118.45 Tests for alcohol use.
118.46 Policy on bullying.
118.50 Whole grade sharing.
118.51 Full-time open enrollment.
118.52 Part-time open enrollment.
118.53 Attendance by pupils enrolled in a home-based private educational program.
118.55 Early college credit program.
118.56 Work based learning programs.
118.57 Notice of educational options; accountability report performance category; pupil assessments.
118.58 Class rankings.
118.60 Parental choice program for eligible school districts and other school districts.

Cross-reference: See definitions in s. 115.001.

118.001 Duties and powers of school boards; construction of statutes.

The statutory duties and powers of school boards shall be broadly construed to authorize any school board action that is within the comprehensive meaning of the terms of the duties and powers, if the action is not prohibited by the laws of the federal government or of this state.

History: 1995 a. 27.

This section expresses the legislature's intent to give school boards broader powers and wide discretion in exercising those powers, but it does not mean that, when the legislature had previously authorized a board to take particular actions using specified procedures, the board has the authority to follow other procedures in taking those particular actions. Madison Metropolitan School District v. Burmaster, 2006 WI App 17, 288 Wis. 2d 771, 709 N.W.2d 73, 05-0875.

The duties and powers under this section and ss. 120.12 (14) and 120.13 extend to individual teachers as employees of the school board. It would be absurd to require teachers to obtain special permission from the school board with respect to every detail of their teaching. Summer homework, particularly for an honors class for which students receive additional credit, fits comfortably within the range of what is reasonable and is not unconstitutional. Larson v. Burmaster, 2006 WI App 142, 295 Wis. 2d 333, 720 N.W.2d 134, 05-1433.

Together, this section and ss. 120.12 (1) and 120.13 provide that a school board has the power to do all things reasonable to promote the cause of education and the duty to care for, control, and manage the property and affairs of the school district, and courts are required to broadly construe such already broad powers and duties so as to authorize any school board action that is within the comprehensive meaning of the terms of such powers and duties, so long as the action is not prohibited by state or federal laws. The powers of a school board include the power to authorize a ban from district property of an individual whose presence on district property the board has determined would unnecessarily expose students to potentially dangerous behavior. Klosterman v. School District, 2022 WI App 54, 404 Wis. 2d 688, 981 N.W.2d 424, 20-2076.

118.01 Educational goals and expectations. (1) PUR-

POSE. Public education is a fundamental responsibility of the state. The constitution vests in the state superintendent the supervision of public instruction and directs the legislature to provide for the establishment of district schools. The effective operation of the public schools is dependent upon a common understanding of what public schools should be and do. Establishing such goals and expectations is a necessary and proper complement to the state's financial contribution to education. Each school board should provide curriculum, course requirements and instruction consistent with the goals and expectations established under sub. (2). Parents and guardians of pupils enrolled in the school district share with the state and school board the responsibility for pupils meeting the goals and expectations under sub. (2).

(2) EDUCATIONAL GOALS. (a) *Academic skills and knowledge.* Since the development of academic skills and knowledge is the most important goal for schools, each school board shall provide an instructional program designed to give pupils:

1. Basic skills, including the ability to read, write, spell, perform basic arithmetical calculations, learn by reading and listening and communicate by writing and speaking.

2. Analytical skills, including the ability to think rationally, solve problems, use various learning methods, gather and analyze information, make critical and independent judgments and argue persuasively.

3. A basic body of knowledge that includes information and concepts in literature, fine arts, mathematics, natural sciences, including knowledge of the elements of agriculture and the conservation of natural resources, and social sciences, including knowledge of the rights and responsibilities of the family as a consumer, cooperative marketing and consumers' cooperatives.

4. The skills and attitudes that will further lifelong intellectual activity and learning.

5. Knowledge in computer science, including problem solving, computer applications and the social impact of computers.

(b) *Vocational skills.* Each school board shall provide an instructional program designed to give pupils:

1. An understanding of the range and nature of available occupations and the required skills and abilities.

2. Preparation to compete for entry level jobs not requiring postsecondary school education.

3. Preparation to enter job-specific vocational training programs.

4. Positive work attitudes and habits.

(c) *Citizenship.* Each school board shall provide an instructional program designed to give pupils:

1. An understanding of the basic workings of all levels of government, including the duties and responsibilities of citizenship.

2. A commitment to the basic values of our government, including by appropriate instruction and ceremony the proper reverence and respect for and the history and meaning of the American flag, the Declaration of Independence, the U.S. constitution and the constitution and laws of this state.

3. The skills to participate in political life.

4. An understanding of the function of organizations in society.

5. Knowledge of the role and importance of biological and physical resources.

6. Knowledge of state, national and world history.

7. An appreciation and understanding of different value systems and cultures.

8. At all grade levels, an understanding of human relations, particularly with regard to American Indians, Black Americans, Hispanics, Hmong Americans, and Asian Americans.

(d) *Personal development.* Each school board shall provide an instructional program designed to give pupils:

1. The skills needed to cope with social change.

2. Knowledge of the human body and the means to maintain lifelong health, including:

a. Knowledge of the theory and practice of physical education, including the development and maintenance of physical fitness;

b. Knowledge of the nutritive value of foods, as outlined in the Dietary Guidelines for Americans, a publication of the federal departments of health and human services and agriculture, and knowledge of the role of a nutritious diet in promoting health, preventing chronic disease, and maintaining a healthy weight.

c. Knowledge of physiology and hygiene, sanitation, the effects of controlled substances under ch. 961 and alcohol upon the human system, symptoms of disease and the proper care of the body. No pupil may be required to take instruction in these subjects if his or her parent files with the teacher a written objection thereto. If a pupil does not take instruction in these subjects as a result of parental objection, the pupil may not be required to be examined in the subjects and may not be penalized in any way for not taking such instruction, but if the subjects receive credit toward graduation, the school board may require the pupil to complete an alternative assignment that is similar to the subjects in the length of time necessary to complete. Instruction in physiology and hygiene shall include instruction on sexually transmitted diseases and shall be offered in every high school.

d. Awareness about drug abuse, including prescription drug abuse, and prevention.

3. An appreciation of artistic and creative expression and the capacity for self-expression.

4. The ability to construct personal ethics and goals.

5. Knowledge of morality and the individual's responsibility as a social being, including the responsibility and morality of family living and the value of frugality and other basic qualities and principles referred to in article I, section 22, of the constitution insofar as such qualities and principles affect family and consumer education.

6. Knowledge of the prevention of accidents and promotion of safety on the public highways, including instruction on the relationship between highway safety and the use of alcohol and controlled substances, including prescription drugs, under ch. 961.

7. The skills needed to make sound decisions, knowledge of the conditions which may cause and the signs of suicidal tendencies, knowledge of the relationship between youth suicide and the use of alcohol and controlled substances, including prescription drugs, under ch. 961 and knowledge of the available community youth suicide prevention and intervention services. Instruction shall be designed to help prevent suicides by pupils by promoting the positive emotional development of pupils.

8. Knowledge of effective means by which pupils may recognize, avoid, prevent and halt physically or psychologically intrusive or abusive situations which may be harmful to pupils, including child abuse, sexual abuse and child enticement. Instruction shall be designed to help pupils develop positive psychological, emotional and problem-solving responses to such situations and avoid relying on negative, fearful or solely reactive methods of dealing with such situations. Instruction shall include information on available school and community prevention and intervention assistance or services and shall be provided to pupils in elementary schools.

History: 1983 a. 412; 1985 a. 29, 213; 1989 a. 31; 1995 a. 27, 229, 448; 1997 a. 27, 35; 2017 a. 152, 262; 2023 a. 266.

118.015 Reading instruction; early literacy curricula and instructional materials. (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.

(1c) DEFINITIONS. In this section:

(a) "Phonics" means the study of the relationships between sounds and words; this includes alphabetic principle, decoding, orthographic knowledge, encoding, and fluency.

(b) "Science-based early reading instruction" means instruction that is systematic and explicit and consists of at least all of the following:

1. Phonological awareness, including word awareness, rhyme recognition, repetition and creation of alliteration, syllable counting or identification, onset, and rime manipulation.

2. Phonemic awareness, including phoneme identification, isolation, blending, segmentation, addition, substitution, and deletion.

3. Phonics.

4. Building background knowledge.

5. Oral language development.

6. Vocabulary building to develop lexical and morphological knowledge.

7. Instruction in writing.

8. Instruction in comprehension.

9. Reading fluency.

(c) "Three-cueing" means any model, including the model referred to as meaning, structure, and visual cues, or MSV, of teaching a pupil to read based on meaning, structure and syntax, and visual cues or memory.

(1m) EARLY LITERACY CURRICULA AND INSTRUCTIONAL MATERIALS. (a) Beginning in the 2023-24 school year and annually thereafter, the council on early literacy curricula shall recommend to the department early literacy curricula and instructional materials for use in the following school year in grades kindergarten to 3. The council on early literacy curricula may recommend only early literacy curricula and instructional materials that satisfy the following criteria:

1. The curricula and instructional materials include all of the components of science-based early reading instruction.

2. The curricula and instructional materials do not include 3-cueing.

(b) 1. By no later than 30 days after the department receives recommendations under par. (a), the department shall submit to the joint committee on finance proposed recommendations on early literacy curricula and instructional materials that satisfy the criteria under par. (a) 1. and 2. for use in the following school year. If the cochairpersons of the joint committee on finance do not notify the department within 14 working days after the date of the submittal of the proposed recommendations that the committee has scheduled a meeting to review the proposed recommendations, the department shall adopt the proposed recommendations for use in the following school year. If, within 14 working days after the date of the submittal of the proposed recommendations, the cochairpersons of the committee notify the department that the committee has scheduled a meeting to review the proposed recommendations, the department may not adopt the proposed recommendations unless the committee approves or modifies the proposed recommendations. If the committee modifies the plan, the department may adopt the recommendations only as modified by the committee.

2. The department shall maintain on its website a current list of the early literacy curricula and instructional materials recommendations adopted under this paragraph.

(c) The department shall award grants to reimburse school boards, operators of charter schools, and governing bodies of private schools participating in a program under s. 118.60 or 119.23 that adopt a literacy curriculum from the recommendations adopted under par. (b) after January 1, 2024. A grant under this paragraph shall be an amount equal to one-half of the costs of purchasing the literacy curriculum and instructional materials adopted from the recommendations adopted under par. (b). If the amount appropriated for this purpose is insufficient to pay the full amount to all grant recipients under this paragraph, the department shall prorate the grant awards among all grant recipients.

(d) Beginning on July 21, 2023, no school board, operator of a charter school, or governing body of a private school participating in a program under s. 118.60 or 119.23 may purchase curricula or instructional materials that include 3-cueing.

(2) EMPLOYMENT OF READING SPECIALISTS. Each school district shall employ a reading specialist certified by the department to 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) 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.

(d) If the school board maintains an Internet site for the school district, include a link to the guidebook related to dyslexia and related conditions that is published on the department's Internet site under s. 115.28 (56) (b).

(5) PROHIBITED INSTRUCTIONAL PRACTICES; 3-CUEING. Beginning in the 2024-25 school year, no public school, including a charter school, or private school participating in a program under s. 118.60 or 119.23 may provide instruction that incorporates 3-cueing in the core reading curriculum for grades kindergarten to 3 or in supplemental materials, including materials used for reading intervention, for pupils in grades kindergarten to 3.

History: 1977 c. 29; 1995 a. 27 s. 9145 (1); 1997 a. 27; 2019 a. 86; 2023 a. 20.

118.016 Reading readiness assessments; characteristics of dyslexia. (1) DEFINITIONS. In this section:

(a) "At-risk" means a pupil scored below the 25th percentile on a universal screening assessment or diagnostic assessment, as indicated by the publisher of the assessment.

(b) "Diagnostic assessment" means a tool that includes all of the following:

1. An assessment that evaluates a pupil's skill in the areas listed in par. (L) 1. to 5., rapid naming, phonological awareness, word recognition, spelling, vocabulary, listening comprehension,

and, when developmentally appropriate for the pupil, oral reading fluency and reading comprehension.

2. An opportunity for a pupil's parent to complete a family history survey to provide additional information about learning difficulties in the pupil's family.

(c) "Dyslexia" means a specific learning disability that is all of the following:

1. Neurobiological in origin.

2. Characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language. Consequences of these difficulties may include problems in reading comprehension and reduced reading experience that may impede vocabulary growth and background knowledge.

3. Often unexpected in relation to other cognitive abilities.

(d) "Family history survey" means a questionnaire that includes questions about previous recommendations for summer reading support or outside tutoring, general interest in reading and books, family history of characteristics of dyslexia, and any known family struggles in reading or spelling.

(e) "Fidelity" means to perform in the manner that the author or publisher of a program or assessment intends.

(f) "Fundamental skills screening assessment" means an assessment that evaluates whether a pupil possesses phonemic awareness and letter sound knowledge.

(g) "Inadequate rate of progress" means a pupil's rate of improvement that is minimal and that with continued intervention the pupil is unlikely to demonstrate grade-level skills by the end of the school year.

(h) "Independent charter school" means a charter school established under s. 118.40 (2r) or (2x).

(i) "Intervention" means an intervention that is all of the following:

1. Explicit, direct instruction that is systematic, sequential, and cumulative and follows a logical plan of presenting the area of deficit that targets the specific needs of the pupil without presuming prior skills or knowledge of the pupil.

2. Individualized instruction to meet the specific needs of a pupil in a setting that uses intensive, highly concentrated instruction methods and materials that maximize pupil engagement.

3. Instruction that incorporates the simultaneous use of 2 or more sensory pathways during teacher presentations and pupil practice.

(j) "Parent" has the meaning given in s. 115.76 (12) (a).

(k) "Reading readiness assessment" means a fundamental skills screening assessment, universal screening assessment, or diagnostic assessment.

(L) "Universal screening assessment" means an assessment that evaluates a pupil's skill in all of the following areas:

1. Phonemic awareness.

2. Decoding skills.

3. Alphabet knowledge.

4. Letter sound knowledge.

5. Oral vocabulary.

(2) FOUR-YEAR-OLD KINDERGARTEN; SCREENING REQUIREMENT. Each school board and the operator of each independent charter school shall annually assess the early literacy skills of each pupil enrolled in 4-year-old kindergarten in the school district or in the independent charter school at least 2 times during the school year using a fundamental skills screening assessment selected by the department. The school board or operator of the independent charter school shall ensure that the first screening assessment is administered before the 45th day after the first day of the school term and that the 2nd screening assessment is administered by the date that is 45 days before the last day of the school term. The school board or operator of the independent charter school shall ensure that assessments required under this subsection are administered with fidelity.

(3) EARLY LITERACY ASSESSMENTS; 5-YEAR-OLD KINDERGARTEN TO 3RD GRADE. Each school board and the operator of each independent charter school shall annually assess the early literacy skills of each pupil enrolled in 5-year-old kindergarten to 3rd grade in the school district or in the independent charter school as follows:

(a) *Universal screenings.* Screen the pupil at least 3 times during the school year using a universal screening assessment selected by the department. The school board or operator of the independent charter school shall ensure that the universal screening assessments are administered at the following times during the school year:

1. The first universal screening assessment is administered before the 45th day after the first day of the school term.

2. The 2nd universal screening assessment is administered in the middle of the school term, as determined by the school board or operator of the independent charter school.

3. The 3rd universal screening assessment is administered by the date that is 45 days before the last day of the school term.

(b) *Diagnostic assessment.* Assess a pupil using a diagnostic assessment as follows:

1. No later than the 2nd Friday of November if a universal screening assessment administered under par. (a) 1. indicates that the pupil is at-risk.

2. Within 10 days after a universal screening assessment is administered under par. (a) 2. if the universal screening assessment indicates that the pupil is at-risk.

3. Within 20 days after a teacher or parent who suspects that the pupil has characteristics of dyslexia submits a request for a diagnostic assessment.

(c) *Administering assessments with fidelity.* Ensure that each assessment required under this subsection is administered with fidelity.

(4) PARENTAL NOTIFICATION. (a) *Assessment results.* A school board or operator of an independent charter school shall provide the results of a reading readiness assessment, in writing, to a pupil's parent no later than 15 days after the reading readiness assessment is scored. For purposes of providing results of a reading readiness assessment under this paragraph, a school board or operator of an independent charter school shall provide at least all of the following to a pupil's parent in the native language of the pupil's parent:

1. The pupil's score on the reading readiness assessment.

2. The pupil's score in each early literacy skill category assessed by the reading readiness assessment.

3. The pupil's percentile rank score on the reading readiness assessment, if available.

4. The definition of "at-risk" and the score on the reading readiness assessment that would indicate that a pupil is at-risk.

5. A plain language description of the literacy skills the reading readiness assessment is designed to measure.

(b) *Special education information.* If a diagnostic assessment indicates that a pupil is at-risk, a school board or operator of an independent charter school shall include information about how to make a special education referral under s. 115.777 with the diagnostic assessment results provided to the parent under par. (a).

(c) *Dyslexia information; certain pupils.* If a school board or operator of an independent charter school is required to assess a pupil's early literacy skills using a diagnostic assessment, a

school board or operator of an independent charter school shall provide all of the following, in writing, to the pupil's parent:

1. A description of the common indicators and characteristics of dyslexia.

2. Information about appropriate interventions and accommodations for pupils with characteristics of dyslexia.

(d) *Early literacy remediation plan; availability.* A school board or operator of an independent charter school shall post its early literacy remediation plan, as established under sub. (6), on the school district's or independent charter school's website.

(5) INTERVENTIONS; AT-RISK PUPILS. (a) *Personal reading plans.* If a pupil enrolled in 5-year-old kindergarten to 3rd grade is identified as at-risk based on a universal screening assessment or diagnostic assessment, the school board of the school district or operator of the independent charter school in which the pupil is enrolled shall do all of the following:

1. Create a personal reading plan for the pupil that includes at least all of the following:

a. The pupil's specific early literacy skill deficiencies, as identified by the applicable assessment.

b. Goals and benchmarks for the pupil's progress toward grade-level literacy skills.

c. How the pupil's progress will be monitored.

d. A description of the interventions and any additional instructional services that will be provided to the pupil to address the pupil's early literacy skill deficiencies.

e. The programming using science-based early reading instruction, as defined in s. 118.015 (1c) (b), that the pupil's teacher will use to provide reading instruction to the pupil, addressing the areas of phonemic awareness, phonics, fluency, vocabulary, and comprehension.

f. Strategies the pupil's parent is encouraged to use to help the pupil achieve grade-level literacy skills.

g. Any additional services available and appropriate to accelerate the pupil's early literacy skill development.

2. Provide the interventions described in the pupil's personal reading plan to the pupil, as soon as practicable.

3. Monitor the pupil's progress at least weekly using the method described in the pupil's personal reading plan to determine whether the pupil demonstrates an inadequate rate of progress.

4. Provide a copy of the pupil's personal reading plan to the pupil's parent and obtain a copy of the pupil's personal reading plan signed by the pupil's parent.

5. After providing the interventions described in the pupil's personal reading plan to the pupil for 10 weeks, notify the pupil's parent of the pupil's progress, as determined under the pupil's personal reading plan.

(b) *Deadlines for plan creation.* If a school board or operator of an independent charter school is required to create a personal reading plan for a pupil under par. (a) 1., the school board or operator shall prepare the personal reading plan as follows:

1. If the pupil is identified as at-risk based on a universal screening assessment administered under sub. (3) (a) 1. or based on a diagnostic assessment administered under sub. (3) (b) 1., no later than the 3rd Friday of November.

2. If the pupil is identified as at-risk based on a universal screening assessment administered under sub. (3) (a) 2. or 3. or based on a diagnostic assessment administered under sub. (3) (b) 2. or 3., within 10 days after the applicable screening assessment is administered.

(c) *Inadequate rate of progress.* For purposes of determining whether a pupil demonstrates an inadequate rate of progress under par. (a) 3., a school board or operator of an independent charter school shall determine whether the pupil is likely to demonstrate grade-level skills by the end of the school year by assessing one of the following:

1. For a pupil enrolled in 5-year-old kindergarten, nonword or nonsense word fluency and phoneme segmentation fluency.

2. For a pupil enrolled in 1st, 2nd, or 3rd grade, oral reading fluency.

(d) *Plan completion; 3rd grade.* A 3rd grade pupil who has a personal reading plan under par. (a) 1. is considered to have completed the personal reading plan if the pupil's parent and the pupil's school agree that the pupil has met the goals outlined in the personal reading plan and the pupil scores at grade-level in reading on a summative assessment, as defined by the department by rule.

(6) EARLY LITERACY REMEDIATION PLAN; SCHOOL DISTRICT OR INDEPENDENT CHARTER SCHOOL. A school board or operator of an independent charter school shall establish an early literacy remediation plan for grades 5-year-old kindergarten to 3 that includes all of the following:

(a) The assessments the school board or operator of the independent charter school uses to satisfy the requirements under sub. (3).

(b) A description of the interventions the school board or operator of the independent charter school uses to address characteristics of dyslexia.

(c) A description of how the school board or operator of the independent charter school monitors pupil progress during interventions, including the frequency of monitoring pupil progress during interventions and any assessment tools used to monitor pupil progress during interventions.

(d) How the school board or operator of the independent charter school uses results of assessments required under sub. (3) to evaluate early literacy instruction being provided in the school district or at the independent charter school.

(e) A parent notification policy that complies with subs. (4) and (5) (a) 4. and 5.

(7) REPORTING ASSESSMENT DATA. By no later than July 15, 2025, and each July 15 thereafter, a school board shall report for each school and for the school district, and the operator of an independent charter school shall report for the independent charter school, all of the following to the department:

(a) The number of pupils who were identified as at-risk as the result of a fundamental skills screening assessment administered in the previous school year.

(b) The number of pupils who were identified as at-risk as the result of a universal screening assessment administered in the previous school year.

(c) The number of pupils who were identified as at-risk as the result of a diagnostic assessment administered in the previous school year.

(d) The names of the diagnostic assessments used to assess pupils in the previous school year.

(e) The number of pupils enrolled in 5-year-old kindergarten to 3rd grade who began receiving interventions during the previous school year, by grade.

(f) The total number of pupils enrolled in 5-year-old kindergarten to 3rd grade who received interventions under a personal reading plan during the previous school year.

(g) The number of pupils enrolled in 5-year-old kindergarten to 3rd grade who exited interventions during the previous school year, by grade.

(h) The number of pupils for whom a referral under s. 115.777 was made during the previous school year based on diagnostic assessment results provided to a parent under sub. (4) (a).

(8) DEPARTMENT; DUTIES. (a) *Selected and approved reading readiness assessments.* 1. By no later than July 15, 2024, and subject to subd. 2., the department shall select a fundamental skills screening assessment and a universal screening assessment, and establish and maintain a list of diagnostic assessments that are approved by the department for use under this section.

2. The department may select or approve an assessment under subd. 1. only if the assessment meets all of the following criteria:

a. The assessment has a sensitivity rate of at least 70 percent.

b. The assessment has a specificity rate of at least 80 percent.

c. The assessment includes a growth measure.

3. The department shall publish a list of the assessments selected or approved under subd. 1. on its website and submit the lists of approved assessments to the appropriate standing committees of the legislature under s. 13.172 (3). If the department modifies a list under subd. 1., the department shall submit the modified list to the appropriate standing committees of the legislature under s. 13.172 (3).

(b) *Reports to the legislature.* By November 30, 2025, and by each November 30 thereafter, the department shall compile the information it receives under sub. (7) and submit a report to the appropriate standing committees of the legislature under s. 13.172 (3) that includes the number of pupils identified as at-risk in the previous school year, by school and by school district.

(9) STATE SUPPORT. (a) *Payments and assessments.* From the appropriation under s. 20.255 (1) (f) and subject to par. (b), the department shall pay a school board or operator of an independent charter school the per pupil cost of each reading readiness assessment required to be administered under sub. (3) (b). Beginning in the 2025-26 school year, the department may pay a school board or operator of an independent charter school under this paragraph only if the school board or operator of the independent charter school does all of the following:

1. Submits the report required under sub. (7) for the previous school year.

2. In the report required under sub. (7) for the previous school year, indicates that the school board or operator of the independent charter school used only reading readiness assessments selected or approved under sub. (8) (a) for that school year.

(b) *Proration.* If the appropriation under s. 20.255 (1) (f) in any fiscal year is insufficient to pay the full amount of aid under par. (a), the department shall prorate state aid payments among the school boards and operators of independent charter schools entitled to the aid.

(c) *Assessments.* The department shall provide to each school board and operator of an independent charter school the reading readiness assessments required for the school board or operator to comply with subs. (2) and (3) (a), at no cost to the school board or independent charter school.

(10) ENFORCEMENT. (a) If a parent or guardian of a pupil enrolled in 4-year-old kindergarten to 3rd grade in a school district or independent charter school believes that the school board or operator of the independent charter school is not in compliance with this section, the parent or guardian may file a complaint with the department that describes the specific manner in which the school board or operator is not in compliance with this section. The department shall review a complaint received under this paragraph and issue a determination on whether the school board or operator is in compliance with this section. If the department determines that a school board or operator of an independent charter school is not in compliance with this section, the department shall notify the school board or operator of its determination and shall include in the notice the specific actions required for the school board or operator to be in compliance with this section.

(b) If the department determines under par. (a) that a school board or operator of an independent charter school is not in compliance with this section and the school board or operator continues to fail to comply with this section, the complainant under par. (a) may bring an action for injunctive relief or a writ of mandamus in circuit court to compel the school board to comply with this section.

(11) RULES. The department may promulgate rules under this section only on the following:

(a) A process to select or approve assessments under sub. (8) (a).

(b) A process to request that a specific diagnostic assessment be approved by the department.

History: 2011 a. 166; 2013 a. 20; 2015 a. 55; 2023 a. 20; 2025 a. 129.

118.017 Foreign language instruction.

(1) 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) A school board may grant foreign language credit to a pupil who has satisfactorily completed a high school course in American sign language.

History: 1983 a. 412 ss. 4, 5; Stats. 1983 s. 118.017; 1989 a. 280.

118.019 Human growth and development instruction.

(1) PURPOSE. The purpose of this section is to foster a partnership between parents of pupils attending schools in the school district and the schools in the school district to promote the optimal health and well-being of the pupils. The provisions of this section are in addition to, and do not supplant, the requirements under ss. 118.01 (2) (d) 2. c. and 8. and 118.13 (1), which are critical to maintaining the physical and psychological health of each pupil.

(1m) DEFINITIONS. In this section:

(a) "Age-appropriate" means suitable to a particular age group of pupils based on their developing cognitive and emotional capacity and consistent with adolescent development and community standards.

(b) "Medically accurate information" means information that is scientifically-based and published, where appropriate, in peer-reviewed journals and textbooks.

(2) SUBJECTS. A school board may provide an instructional program in human growth and development in grades kindergarten to 12. If the school board elects to provide an instructional program under this section, when the school board establishes the curriculum for the instructional program, the school board shall make determinations as to whether and, if so, for what subjects covered in the curriculum the pupils shall be separated by gender. If an instructional program is provided, the following instructional program is recommended:

(a) Present medically accurate information to pupils and, when age-appropriate, address the following topics:

1. The importance of communication about sexuality between the pupil and the pupil's parents or guardians.

2. Reproductive and sexual anatomy and physiology, including biological, psychosocial, emotional, and intellectual changes that accompany maturation.

5. The benefits of and reasons for abstaining from sexual activity. Instruction under this subdivision shall stress the value of abstinence as the only reliable way to prevent pregnancy and sexually transmitted infections, and shall identify the skills necessary to remain abstinent.

7. Methods for developing healthy life skills, including setting goals, making responsible decisions, communicating, and managing stress.

8. How alcohol and drug use affect responsible decision making.

9. The impact of media and one's peers on thoughts, feelings, and behaviors related to sexuality.

10. Adoption resources, prenatal care, and postnatal supports.

11. The nature and treatment of sexually transmitted infections.

(c) Address self-esteem and personal responsibility, positive interpersonal skills, and healthy relationships.

(d) Identify counseling, medical, and legal resources for survivors of sexual abuse and assault, including resources for escaping violent relationships.

(e) Address the positive connection between marriage and parenting.

(f) Present information about avoiding stereotyping and bullying, including how to refrain from making inappropriate remarks, avoiding engaging in inappropriate physical or sexual behaviors, and how to recognize, rebuff, and report any unwanted or inappropriate remarks or physical or sexual behaviors.

(2d) NONDISCRIMINATION. An instructional program under this section shall use instructional methods and materials that, consistent with s. 118.13 (1), do not discriminate against a pupil based upon the pupil's race, gender, religion, sexual orientation, or ethnic or cultural background or against sexually active pupils or children with disabilities. Nothing in this subsection shall be construed to prohibit a school board from approving an instructional program under this section that includes instruction on abstinence from sexual activity or that is abstinence-centered.

(2m) REQUIRED SUBJECTS. If a school board provides instruction in any of the areas under sub. (2) (a), the school board shall ensure that instruction conforms to s. 118.13 (1) and that the following is provided, when age appropriate, in the same course and during the same year:

(c) Presents abstinence from sexual activity as the preferred choice of behavior for unmarried pupils.

(d) Emphasizes that abstinence from sexual activity before marriage is the only reliable way to prevent pregnancy and sexually transmitted diseases, including human immunodeficiency virus and acquired immunodeficiency syndrome.

(e) Provides instruction in adoption, parental responsibility, and the socioeconomic benefits of marriage for adults and their children.

(f) Explains pregnancy, prenatal development, and childbirth.

(g) Explains the criminal penalties under ch. 948 for engaging in sexual activities involving a child.

(h) Explains the sex offender registration requirements under s. 301.45. Instruction under this paragraph shall include who is required to report under s. 301.45, what information must be reported, who has access to the information reported, and the implications of being registered under s. 301.45.

(i) Provides medically accurate information about the human papilloma virus and the human immunodeficiency virus and acquired immunodeficiency syndrome.

(j) Explains the process under s. 48.195 under which a parent of a newborn child may relinquish custody of the child to a law enforcement officer, emergency medical services practitioner, or hospital staff member.

(2s) PROVISION OF INSTRUCTION. Subject to s. 120.13 (37m), nothing in this section prohibits a school district from providing instruction under this section, in whole or in part, to pupils while the pupils are separated from members of the opposite sex.

(3) DISTRIBUTION OF CURRICULUM TO PARENTS; NOTICE. Each school board that provides an instructional program in human growth and development shall annually provide the parents or guardians of each pupil enrolled in the school district with an outline of the human growth and development curriculum used in the pupil's grade level, information regarding how the parent or guardian may inspect the complete curriculum and instructional materials, an explanation of the exemption under sub. (4), and a statement that pupils exempted from instruction under this section will still receive instruction in the subjects under s. 118.01 (2) (d) 2. c., unless exempted, and s. 118.01 (2) (d) 8. The school board shall make the complete human growth and development curriculum and all instructional materials available for inspection by a parent or guardian upon his or her request at any time, including prior to their use in the classroom.

(4) EXEMPTION FOR INDIVIDUAL PUPILS. No pupil may be required to take instruction in human growth and development or in the specific subjects under subs. (2) and (2m) if the pupil's parent or guardian files with the teacher or school principal a written request that the pupil be exempted.

(5) ADVISORY COMMITTEE. In any school district that offers a human growth and development curriculum, the school board shall appoint an ad hoc advisory committee whose role is to advise the school board on the design and implementation of the human growth and development curriculum and to review the curriculum. Parents, teachers, school administrators, pupils, health care professionals, members of the clergy, and other residents of the school district shall comprise the committee. No one category of member shall constitute more than one-fifth of the membership of the committee, except that parents may comprise more than one-fifth of the membership of the committee. No more than one quarter of the members of the committee may be made up of employees of the school district or their spouses or members of the school board or their spouses.

History: 1985 a. 56; 1987 a. 399; 1989 a. 203; 1995 a. 27; 1997 a. 27; 2001 a. 16; 2005 a. 341, 445; 2009 a. 134; 2011 a. 216; 2021 a. 90; 2025 a. 202.

118.02 Special observance days. On the following days when school is held or, if the day falls on a Saturday or Sunday, on a school day immediately preceding or following the respective day, the day shall be appropriately observed:

(1) January 15, Dr. Martin Luther King, Jr. Day.

(2) February 12, Abraham Lincoln's birthday.

(3) February 15, Susan B. Anthony's birthday.

(4) February 22, George Washington's birthday.

(5) March 4, Casimir Pulaski Day.

(5m) March 17, for "The Great Hunger" in Ireland from 1845 to 1850.

(5r) April 9, Prisoners of War Remembrance Day.

(6) April 13, American Creed Day.

(6m) April 19, Patriots' Day.

(7) April 22, Environmental Awareness Day.

(7g) The last Friday in April, Arbor Day, except that 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.

(7r) June 14, if school is held, Robert M. La Follette, Sr. Day.

(7w) September 11, a day to remember the attacks that oc-

curred on September 11, 2001, and to honor law enforcement officers and fire fighters.

(8) September 16, Mildred Fish Harnack Day.

(9) September 17, U.S. Constitution Day.

(9g) Wednesday of the 3rd week in September, as part of Wonderful Wisconsin Week under s. 14.16 (8), Wisconsin Day.

(9r) Friday of the 3rd week in September, POW-MIA Recognition Day.

(9t) Wednesday of the 4th week in September, Bullying Awareness Day.

(10) September 28, Frances Willard Day.

(11) October 9, Leif Erikson Day.

(12) October 12, Christopher Columbus' birthday.

(13) November 11,Veterans Day.

History: 1975 c. 204, 219, 398, 422; 1979 c. 214, 301, 355; 1985 a. 232; 1987 a. 11, 16, 403; 1989 a. 146; 1993 a. 333; 1999 a. 83; 2001 a. 16, 20, 104, 105; 2003 a. 305; 2005 a. 149; 2009 a. 309; 2021 a. 213.

118.025 Arbor day observance. The principal of a public, private, or tribal school 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; 2009 a. 302.

118.03 Textbooks. (1) 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.

(2) 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 percent of the net price.

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

(4) Any person violating this section may be fined not less than $25 nor more than $100.

History: 1983 a. 412.

118.035 School uniforms. (1) In this section, "school" means a public school and includes a charter school other than a charter school under s. 118.40 (2r) or (2x).

(2) A school board may adopt a policy that requires all pupils enrolled in school in the school district, or all pupils enrolled in one or more schools in the school district, to wear a uniform while in school or while under the supervision of a school authority.

(3) If a school board adopts a policy under sub. (2), it shall do all of the following:

(a) Establish a method whereby the parent or guardian of a pupil enrolled in a school in which the policy is in effect may exempt his or her child from complying with the policy.

(b) Ensure that no pupil is penalized academically or otherwise discriminated against because the pupil's parent or guardian has chosen to exempt the pupil from complying with the policy.

(c) Notify each parent or guardian of a pupil enrolled in a school in which the policy will be implemented of the policy at least 3 months before the school board implements the policy.

(d) Assist economically disadvantaged pupils to obtain the uniforms.

(4) The requirements under sub. (3) do not apply to any school board that has in effect on September 1, 2001, a school uniform policy for pupils enrolled in a school in the school district and has had such a policy in effect continuously since that date.

(6) Nothing in this section affects the authority of a school board to require pupils to wear uniforms for extracurricular activities, and the provisions of sub. (3) do not apply to such a requirement.

History: 2001 a. 16; 2015 a. 55; 2017 a. 143.

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 or interim session classes of pupils who are residents of the school district if the school board receives aid for such classes under s. 121.14 (1) (a). The school board may establish and collect reasonable fees for social, recreational, or extracurricular summer classes or interim session classes and programs which are neither credited toward graduation nor aided under s. 121.14.

History: 1983 a. 27; 2013 a. 257.

118.045 Commencement of school term. (1) Except as provided in subs. (2) and (3), beginning in the year 2000, no public school may commence the school term until September 1.

(2) Subsection (1) does not prohibit a school board from doing any of the following:

(a) Holding athletic contests or practices before September 1.

(b) Scheduling in-service days or work days before September 1.

(c) Holding school year-round.

(3) A school board may commence the school term before September 1 in any school year if the school board requests the department to allow it to commence the school term before September 1 and the school board includes reasons with its request. The department may grant a request only if it determines that there are extraordinary reasons for granting it. The department shall promulgate rules to implement and administer this subsection.

History: 1999 a. 9; 2001 a. 16.

Cross-reference: See also ch. PI 27, Wis. adm. code.

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 cooperation 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 cooperate in making their staff and facilities available to further the objectives of this program.

118.06 Flag, pledge of allegiance, and national anthem. (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 school shall offer the pledge of allegiance or the national anthem in grades one to 12 each school day. Every private school shall offer the pledge of allegiance or the national anthem in grades one to 12 each school day unless the governing body of the private school determines that the requirement conflicts with the school's religious doctrines. No pupil may be compelled, against the pupil's objections or those of the pupil's parents or guardian, to recite the pledge or to sing the anthem.

History: 1993 a. 492; 2001 a. 16.

118.065 Federally chartered youth membership organizations. (1) In this section:

(ag) "Governing body" means any of the following:

1. For a public school other than a charter school that is not an instrumentality of a school board, a school board.

2. For a charter school that is not an instrumentality of a school board, including a charter school authorized under s. 118.40 (2r) or (2x), the governing board of the charter school.

(as) "School" means a public school, including a charter school authorized under s. 118.40 (2r) or (2x).

(b) "Youth membership organization" means an organization identified in 36 USC ch. 301, 309, 311, 709, or 803 that has an educational purpose and that promotes civic involvement.

(2) Beginning in the 2026-27 school year, at the beginning of a school term, a youth membership organization may request that the governing body of a school allow representatives of the youth membership organization to provide oral information or written information, or both, regarding the youth membership organization to pupils during a school day on school property, including information about how the youth membership organization furthers the educational interests and civic involvement of pupils consistent with good citizenship, for the purpose of encouraging pupils to join the youth membership organization.

(3) If a youth membership organization submits a request under sub. (2) to the governing body of a school, the governing body or its designee may schedule at least one date and time, which may be noninstructional time as determined by the governing body or its designee, during the beginning of the school term for representatives of the youth membership organization to provide information as described under sub. (2).

History: 2025 a. 79; 35.17 correction in (1) (b).

118.07 Health and 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) 1. 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 in case of a fire, except when the person having direct charge deems that the health of the pupils may be endangered by inclement weather conditions. At least twice annually, without previous warning, the person having direct charge of any public or private school shall drill all pupils in the proper method of evacuation to a safe location in case of a tornado or other hazard. At least twice annually, without previous warning, the person having direct charge of any public or private school shall drill all pupils in the proper method of evacuation or other appropriate action in case of a school safety incident. The public and private school safety drill shall be based on the school safety plan adopted under sub. (4). A safety drill may be substituted for any other drill required under this subdivision. The school board or governing body of the private school shall maintain for at least 7 years a record of each fire drill, tornado or other hazard drill, and school safety drill conducted.

2. Notwithstanding subd. 1., if a person having direct charge of a public or private school determines that providing previous warning of a drill required under subd. 1. is in the best interest of pupils attending the school, the person having direct charge of the public or private school may provide previous warning of the drill.

(b) In each community having a recognized fire department, the person having direct charge of any public or private school shall annually file a report pertaining to such drills, on a form furnished by the department of safety and professional services, with the chief of the fire department. When no fire drill is held during any month, or when only one or no tornado or other hazard drill is held in a year, the person having direct charge of the school shall state the reasons in the report.

(4) (a) Each school board and the governing body of each private school shall have in effect a school safety plan.

(b) A school safety plan shall be created with the active participation of appropriate parties, as specified by the school board or governing body of the private school. The appropriate parties may include the department of justice, local law enforcement officers, fire fighters, school administrators, teachers, pupil services professionals, as defined in s. 118.257 (1) (c), and mental health professionals. Before creating or updating a school safety plan, a school board or governing body of a private school shall, in consultation with a local law enforcement agency, conduct an on-site safety assessment of each school building, site, and facility that is regularly occupied by pupils. The on-site assessment shall include playgrounds, athletic facilities or fields, and any other property that is occupied by pupils on a regular basis.

(bm) A school safety plan shall include all of the following:

1. An individualized safety plan for each school building and facility that is regularly occupied by pupils. The individualized safety plan shall include any real property related to the school building or facility that is regularly occupied by pupils.

2. General guidelines specifying procedures for emergency prevention and mitigation, preparedness, response, and recovery.

3. Guidelines and procedures to address school violence and attacks, threats of school violence and attacks, bomb threats, fire, weather-related emergencies, intruders, parent-student reunification, and threats to non-classroom events, including recess, concerts and other performances, athletic events, and any other extracurricular activity or event.

4. The process for reviewing the methods for conducting drills required to comply with the plan.

(c) The school board or governing body of the private school shall determine which persons are required to receive school

safety plan training and the frequency of the training. The training shall be based upon the school district's or private school's prioritized needs, risks, and vulnerabilities.

(cf) 1. In this paragraph, "interactive critical mapping data" has the meaning given in s. 165.88 (3m) (ac).

2. Upon the creation of a school safety plan under par. (a) and upon each review of a school safety plan under par. (d), a school board shall submit a copy of the most recent blueprints or interactive critical mapping data for each school building and facility in the school district to each local law enforcement agency with jurisdiction over any portion of the school district and to the office of school safety. Upon the creation of a school safety plan under par. (a) and upon each review of a safety plan under par. (d), a governing body of a private school shall submit a copy of the most recent blueprints or interactive critical mapping data for the private school and all of its facilities to each local law enforcement agency with jurisdiction over the private school and to the office of school safety.

(cm) Neither a school board nor a governing body of a private school may include in a school safety plan any of the following:

1. A requirement for an employee to contact a school administrator, school official, or any other person before calling the telephone number "911."

2. A prohibition against an employee reporting school violence or a threat of school violence directly to a law enforcement agency.

3. A prohibition against an employee reporting a suspicious individual or activity directly to a law enforcement agency.

(cp) Each school board and the governing body of each private school shall ensure that, at each school building regularly occupied by pupils, pupils are drilled, at least annually, in the proper response to a school violence event in accordance with the school safety plan in effect for that school building. The person having direct charge of the school building at which a drill is held under this paragraph shall submit a brief written evaluation of the drill to the school board or governing body of the private school within 30 days of holding the drill. The school board or governing body of the private school shall review all written evaluation submitted under this paragraph. A drill under this paragraph may be substituted for a school safety drill required under sub. (2) (a).

(d) Each school board and the governing body of each private school shall review and approve the school safety plan at least once every 3 years after the plan goes into effect.

(e) Before January 1, 2019, and before each January 1 thereafter, each school board and the governing body of each private school shall file a copy of its school safety plan with the office of school safety. At the time a school board or governing body files a school safety plan, the school board or governing body shall also submit all of the following to the office of school safety:

1. The date of the annual drill or drills under par. (cp) held during the previous year.

2. Certification that a written evaluation of the drill or drills under par. (cp) was reviewed by the school board or governing body under par. (cp).

3. The date of the most recent school training on school safety required under par. (c) and the number of attendees.

4. The most recent date on which the school board or governing body reviewed and approved the school safety plan.

5. The most recent date on which the school board or governing body consulted with a local law enforcement agency to conduct on-site safety assessments required under par. (b).

(4m) No school board, private school, or charter school may knowingly do any of the following:

(a) Purchase or use free-flowing elemental mercury for any purpose.

(b) Purchase or use a mercury-containing compound or an instrument or measuring device that contains mercury unless one of the following exceptions applies:

1. No reasonably acceptable, mercury-free alternative exists, in which case the school board, private school, or charter school shall use a compound, instrument, or measuring device containing the lowest mercury content available.

2. The purchase or use of the compound, instrument, or measuring device is required under federal law.

3. The only mercury-added component in the instrument or measuring device is a button cell battery.

(c) Beginning January 1, 2012, store free-flowing elemental mercury or, unless one of the exceptions under par. (b) applies, store a mercury-containing compound or an instrument or measuring device that contains mercury.

(4p) (a) Except as provided in par. (b), no school board, governing body of a private school, or operator of a charter school may assist a school employee, contractor, or agent to obtain a new job in a school or with a local educational agency, as defined in 20 USC 7801 (30), if the school board, governing body, or operator knows or has a reasonable suspicion to believe that the school employee, contractor, or agent committed a sex offense, as defined in s. 301.45 (1d) (b), and the victim was a minor or a pupil.

(b) Paragraph (a) does not apply if any of the following apply:

1. The assistance is the transmittal of administrative and personnel files.

2. The information the school board, private school, or charter school knows or that is the basis of the school board, private school, or charter school's reasonable suspicion has been properly reported to law enforcement and law enforcement has closed any resulting case or investigation without a conviction.

(5) Each school board shall require every employee of the school district governed by the school board to receive training provided by the department in identifying children who have been abused or neglected, in the laws and procedures under s. 48.981 governing the reporting of suspected or threatened child abuse and neglect, and in the laws under s. 175.32 governing the reporting of a threat of violence. A school district employee shall receive that training within the first 6 months after commencing employment with the school district and at least once every 5 years after that initial training.

(6) (a) 1. Each school board, governing body of a private school, and operator of a charter school shall, after receiving a report that alleges any of the following, notify the parent or guardian of each pupil alleged to be a victim, target, or recipient of the alleged conduct if the individual under subd. 3. or 4. who received the report determines there is reasonable cause to suspect that the alleged conduct occurred:

a. Sexual misconduct, as defined in s. 948.098 (1) (d), by a school staff member, as defined in s. 948.098 (1) (c).

b. That an individual who has been convicted of a serious child sex offense, as defined in s. 948.13 (1), has engaged in an occupation or participated in a volunteer position that requires the individual to work or interact primarily and directly with children in a manner that would be a felony under s. 948.13.

c. That a sex offender, as defined in s. 948.14 (1) (d), has intentionally captured a representation of a minor pupil without the written consent of the minor pupil's parent or guardian.

2. Notice required under subd. 1. shall be provided in person or by phone, including voicemail, and shall be provided by no later than one of the following, whichever is applicable:

a. If the report is received on a school day before the end of regularly scheduled instruction, 5 p.m. on that day.

b. If the report is received on a school day after the end of regularly scheduled instruction or on a day that is not a school day, by noon of the next calendar day.

3. For purposes of subds. 1. and 2. a. and b., a report is considered to be received by a school board or the operator of a charter school when it is received by an individual employed by the school district or operator of the charter school to whom any of the following applies:

a. For purposes of the employment, the individual is required to hold a license issued by the department under s. PI 34.066 or 34.067, Wis. Adm. Code.

b. The individual has been designated by the school board or operator of the charter school as a Title IX coordinator, as defined in 34 CFR 106.8 (a).

4. For purposes of subds. 1. and 2. a. and b., a report is considered to be received by the governing body of a private school when it is received by an individual employed by the governing body of the private school as an assistant principal, a principal, or an administrator, as defined in s. 118.60 (1) (ad), or by an individual who has been designated by the governing body of the private school as a Title IX coordinator, as defined in 34 CFR 106.8 (a).

5. Subdivision 1. does not apply to a report received by the school board, governing body of a private school, or operator of a charter school that alleges conduct by the pupil's parent or guardian.

(b) Each school board shall annually provide parents and guardians with information regarding their rights to access records regarding school employee discipline under subch. II of ch. 19.

(7) (a) By September 1, 2026, each school board, governing body of a private school, and governing board of a charter school established under s. 118.40 (2r) or (2x) shall adopt a policy on appropriate communication between an employee or volunteer, when acting in the individual's official capacity, and pupils enrolled in the applicable school district, private school, or charter school; pupils attending a school that is not under the control of the applicable school board, governing body, or governing board; and pupils attending a home-based private educational program. The school board, governing body of the private school, or governing board of the charter school established under s. 118.40 (2r) or (2x) shall include in the policy a range of consequences, the most serious of which is termination, for employees and volunteers who violate the policy. The school board, governing body of the private school, or governing board of the charter school established under s. 118.40 (2r) or (2x) shall specify that the policy applies to communications that occur during or outside of school hours and shall include in the policy standards for all of the following:

1. Appropriate content.

2. Appropriate methods of communication.

(b) Annually, beginning in the 2026-27 school year, each school board, governing body of a private school, and governing board of a charter school established under s. 118.40 (2r) or (2x) shall provide to its employees training in identifying, preventing, and reporting grooming and professional boundary violations. The department shall develop and make available to public and private schools, at no cost, a training in identifying, preventing, and reporting grooming and professional boundary violations. A school board, governing body of a private school, or governing board of a charter school established under s. 118.40 (2r) or (2x) may provide to its employees the training developed by the department under this paragraph or a different training that the school board, governing body of a private school, or governing board of a charter school determines is sufficient to ensure compliance with its policy under par. (a).

History: 1971 c. 164 s. 85; 1975 c. 39; 1981 c. 373; 1987 a. 27; 1995 a. 27 ss. 3938, 9116 (5); 2005 a. 220, 221; 2007 a. 79, 97; 2009 a. 28 ss. 2258m, 2258n, 2297n; 2009 a. 44, 302; 2009 a. 309 ss. 3, 4, 15; 2011 a. 32, 81; 2011 a. 260 s. 80; 2013 a. 237; 2017 a. 130, 143; 2019 a. 39; 2021 a. 109; 2021 a. 238 s. 45; 2023 a. 199; 2025 a. 57, 89; s. 35.17 correction in (6) (a) 1. b., 2. (intro.).

118.075 Indoor environmental quality in schools.

(1) DEFINITION. In this section, "task force" means the indoor environmental quality in schools task force established under sub. (2).

(2) TASK FORCE. (a) The state superintendent shall establish a special committee under s. 15.04 (1) (c) called the indoor environmental quality in schools task force. The task force shall consist of the following members:

1. The state superintendent or his or her designee.

2. The secretary of safety and professional services or his or her designee.

3. The secretary of health services or his or her designee.

4. One member who is a representative of the Wisconsin Association of School Boards.

5. One member who is a representative of the Wisconsin Association of School District Administrators.

6. Three members who are representatives of the Wisconsin Association of School Business Officials and who have expertise in indoor environmental quality in schools.

7. One member who is a representative of the Wisconsin Council of Religious and Independent Schools.

8. One member who is a representative of the Wisconsin Association of School Nurses.

9. One member who is a representative of the largest statewide labor organization representing teachers.

10. One member who is a representative of the largest statewide organization representing parents of pupils.

11. One member who is an occupational health physician or allergist and who has expertise in indoor environmental quality in schools.

12. One member who is registered as an architect under ch. 443 and who has expertise in school design and construction.

13. One member who is registered as a professional engineer under ch. 443 and who has expertise in the design of mechanical systems for schools.

14. Two members who are industrial hygienists certified by the American Board of Industrial Hygiene and who have expertise in indoor environmental quality in schools.

(b) The state superintendent shall appoint the members of the task force specified in par. (a) 4. to 14., shall appoint or determine the method of appointment of the officers of the task force, and shall call the first meeting of the task force.

(c) The department shall provide administrative support services to the task force. The task force may call upon any state agency or officer to assist the task force, and those agencies or officers shall cooperate with the task force to the fullest extent possible. The department may contract with professionals who are knowledgeable and experienced in indoor environmental quality management in schools to assist the task force in making its recommendations under par. (e) 1.

(d) The department of administration shall reimburse members of the task force for their actual and necessary expenses incurred in carrying out their functions from the appropriation account under s. 20.505 (1) (ka).

(e) The task force shall do all of the following:

1. Make recommendations to the department for the development of a model management plan for maintaining indoor environmental quality in public and private schools that reflects best management practices. The task force shall consider including in its recommendations all of the following components:

a. Designating a school district or private school employee as

the indoor environmental quality contact for the school district or private school.

b. Establishing an indoor environmental quality committee composed of school administrators, teachers, educational support professionals, and custodial and maintenance staff.

c. Developing a plan for communicating with school district or private school employees, pupils, and parents and guardians of pupils about indoor environmental quality problems, including test results, and proposed schedules for remediation.

d. Identifying procedures for handling complaints about indoor environmental quality.

e. Acknowledging that the school district or private school will continue to meet all health and safety laws or codes that apply to the school district or private school.

f. Developing a plan for addressing indoor environmental quality issues noted during an evaluation of building systems performed in accordance with department rules on safe and healthful facilities.

g. Providing for an annual review of the management plan by the indoor environmental quality contact and the school board or private school governing board.

2. Recommend indoor environmental quality training requirements for school district or private employees who are responsible for the operation and maintenance of schools.

3. Recommend educational materials relating to indoor environmental quality in schools.

4. Recommend model specifications for the design and construction of school facilities and for additions and structural alterations to school facilities that promote indoor environmental quality and that ensure that the building's systems are planned, designed, installed, tested, operated, and maintained to perform efficiently and to meet the school district's or private school's needs.

(f) Upon completing its duties under par. (e), the task force shall report its findings and recommendations to the appropriate standing committees of the legislature under s. 13.172 (3) and to the governor. The task force shall cease to exist on the date on which the department issues its model management plan under sub. (3).

(3) INDOOR ENVIRONMENTAL QUALITY IN SCHOOLS MODEL MANAGEMENT PLAN. By the first day of the 12th month beginning after the month in which the task force submits its report under sub. (2) (f), the department shall establish a model management plan and practices for maintaining indoor environmental quality in public and private schools. In developing the plan and practices, the department shall consider the recommendations of the task force.

(4) SCHOOL DISTRICT PLANS. (a) By the first day of the 3rd month beginning after the month in which the department establishes the model management plan and practices under sub. (3), each school board shall provide for the development of a plan for maintaining indoor environmental quality in its schools.

(b) By the first day of the 12th month beginning after the month in which the department establishes the model management plan and practices under sub. (3), each school board shall implement a plan for maintaining indoor environmental quality in its schools.

(c) Each school board shall provide a copy of the plan implemented under par. (b) to any person upon request.

History: 2009 a. 96; 2011 a. 32.

118.076 Lifesaving skills instruction. (1) In this section, "automatic external defibrillator" has the meaning given in s. 440.01 (1) (ad).

(3) Beginning in the 2017-18 school year and subject to sub. (4), each school board operating any grade from 7 to 12, the operator of each charter school established under s. 118.40 (2r) or (2x) that operates any grade from 7 to 12, and the governing body of each private school that operates any grade from 7 to 12 shall do all of the following:

(a) Provide instruction in cardiopulmonary resuscitation and cardiocerebral resuscitation in any health education course offered to pupils in grades 7 to 12. The school board, operator of the charter school, or governing body of the private school shall use either of the following, and shall incorporate into the instruction the psychomotor skills necessary to perform cardiopulmonary resuscitation and cardiocerebral resuscitation:

1. An instructional program developed by the American Red Cross or the American Heart Association.

2. Nationally recognized, evidence-based guidelines for cardiopulmonary resuscitation and cardiocerebral resuscitation.

(b) Provide instruction about automated external defibrillators to pupils enrolled in grades 7 to 12 in the school district, charter school, or private school.

(4) (a) In this subsection, a "virtual school" is a school in which all or a portion of the instruction is provided through means of the Internet, and the pupils enrolled in and instructional staff employed by the school are geographically remote from each other. "Virtual school" includes a virtual charter school.

(b) A virtual school need not provide any instruction required under sub. (3) in a manner that requires the pupils receiving the instruction and instructional staff providing the instruction to be together in the same geographical location. A virtual school may provide all of the instruction required under sub. (3) through the means of the Internet.

History: 2009 a. 273; 2015 a. 55, 390; 2017 a. 59.

118.08 School zones; crossings. (1) On any street or highway which borders the grounds of any public, private, or tribal 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); 2009 a. 302.

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 cooperate 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 the operator's vehicle is approaching and leaving the zone. The operator shall first alight before loading or unloading pupils at the zone, and while at stops on the operator's highway route to load and unload pupils, the operator shall exhibit the vehicle's stop sign.

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

History: 1993 a. 492.

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. 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.

History: 1997 a. 113.

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 Sale of goods and services at schools. (1) (a) Except as provided under par. (b), any person may sell or promote the sale of goods or services on school district or cooperative educational service agency property.

(b) A school board may adopt written resolutions governing the sale and promotion of goods and services on school district property. The board of control of a cooperative educational service agency may adopt written resolutions governing the sale and promotion of goods and services on agency property. The resolutions may prohibit, restrict or provide guidelines for such sales and promotions.

(2) (a) No school district employee may receive for his or her personal benefit anything of value from any person other than his or her employing school district to sell, promote the sale of or act as an agent or solicitor for the sale of any goods or services to any public school pupil while on the property of his or her employing school district or at an activity of his or her employing school district.

(b) No cooperative educational service agency employee may receive for his or her personal benefit anything of value from any person other than his or her employing agency to sell, promote the sale of or act as an agent or solicitor for the sale of any goods or services to any public school pupil while on the property or at an activity of his or her employing agency or while on the property or at an activity of a school district in the agency.

(3) Any person violating sub. (2) is subject to a forfeiture of not more than $200 for each offense.

(4) If a school board enters into a contract that grants to one vendor the exclusive right to sell soft drinks in one or more schools of the school district, the contract may not prohibit the sale of milk in any school and, to the maximum extent possible, the school board shall ensure that milk is available to pupils in each school covered by the contract.

(5) If a school board contracts with a person to provide photographs of 12th grade pupils for a school yearbook, the contract may not prohibit a pupil from supplying his or her own photograph for the yearbook, subject to the school board's reasonable specifications.

History: 1985 a. 214; 1997 a. 35; 2001 a. 109; 2003 a. 132.

118.123 Reports and records; forfeitures. (1) 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.

(2) 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; 1985 a. 214 s. 1; Stats. 1985 s. 118.123.

118.124 Statistics of crimes and other safety-related incidents. (1) In this section:

(a) "Participating private high school" means a private school participating in a parental choice program under s. 118.60 or 119.23 that operates high school grades.

(b) "Public high school" means a public school, including a charter school, that operates high school grades.

(2) (a) Subject to par. (b), beginning in the 2024-25 school year, a public high school and a participating private high school shall collect and maintain statistics of incidents of the following:

1. Homicide.
2. Sexual assault.
3. Burglary, robbery, or theft.
4. Battery, substantial battery, or aggravated battery under s. 940.60 or s. 940.19, 2023 stats.
5. Arson.
6. Use or possession of alcohol, a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m).
7. Possession of a firearm in violation of s. 948.605 (2).
8. A violation of a municipal ordinance relating to disorderly conduct.

(b) The requirement under par. (a) applies only to an incident that satisfies all of the following:

1. The incident occurred during one of the following:

a. School hours.

b. A school-sanctioned event that occurred before or after school hours.

c. The transportation of pupils to or from school.

2. The incident occurred on one of the following:

a. Property owned or leased by the school district in which the public high school is located, by the operator of the charter school, or by the governing body of the participating private high school.

b. Transportation, including all of the methods of transportation described in ss. 121.55 and 121.555, provided by the public high school, participating private high school, or school district.

3. The incident was reported to law enforcement, and, as a result of the incident, a charge was filed or a citation was issued.

(3) (a) Annually, each public high school in a school district other than a charter school established under s. 118.40 (2r) or (2x) shall report the statistics collected under sub. (2) to the school board. Annually, by July 31, each school board shall submit to the department a report that includes the statistics reported under this paragraph by each public high school in the school district and aggregate statistics collected under sub. (2) for all of the public high schools in the school district other than charter schools established under s. 118.40 (2r) or (2x).

(b) Annually, by July 31, each operator of a charter school established under s. 118.40 (2r) or (2x) that operates high school grades and the governing body of each participating private high school shall submit to the department the statistics the operator or governing body collected under sub. (2).

(c) No school board, operator of a charter school established under s. 118.40 (2r) or (2x), or governing body of a participating private high school may include the identity of a pupil in a report under this subsection.

(4) The department shall promulgate rules to administer this section, including a rule that requires public high schools, participating private high schools, and school districts to collect and report statistics of incidents under this section in accordance with the uniform crime reporting system of the department of justice.

(5) The department of justice shall cooperate with the department to develop a reporting system under this section that incorporates the uniform crime reporting system of the department of justice.

History: 2023 a. 12; 2025 a. 24 s. 93.

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

(a) "Behavioral records" means those pupil records that 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 other than his or her immunization records or any lead screening records required under s. 254.162, law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3., and any other pupil records that are not progress records.

(b) "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.

(be) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(bL) "Law enforcement unit" means any individual, office, department, division, or other component of a school district that is authorized or designated by the school board to do any of the following:

1. Enforce any law or ordinance, or refer to the appropriate authorities a matter for enforcement of any law or ordinance, against any person other than the school district.

2. Maintain the physical security and safety of a public school.

(bs) "Law enforcement unit records" means records maintained by a law enforcement unit that were created by that law enforcement unit for the purpose of law enforcement.

(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, the pupil's immunization records, any lead screening records required under s. 254.162 and records of the pupil's school extracurricular activities.

(cm) "Pupil physical health records" means those pupil records that include basic health information about a pupil, including the pupil's immunization records, an emergency medical card, a log of first aid and medicine administered to the pupil, an athletic permit card, a record concerning the pupil's ability to participate in an education program, any lead screening records required under s. 254.162, the results of any routine screening test, such as for hearing, vision or scoliosis, and any follow-up to such test, and any other basic health information, as determined by the state superintendent.

(d) "Pupil records" means all records relating to individual pupils maintained by a school but does not include any of the following:

1. Notes or records maintained for personal use by a teacher or other person who is required by the state superintendent under s. 115.28 (7) to hold a certificate, license, or permit if such records and notes are not available to others.

2. Records necessary for, and available only to persons involved in, the psychological treatment of a pupil.

3. Law enforcement unit records.

(e) "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

(2) CONFIDENTIALITY AND DISCLOSURE OF PUPIL RECORDS. All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to (q) and sub. (2m). The school board shall adopt policies to maintain the confidentiality of such records and may adopt policies to promote the disclosure of pupil records and information permitted by law for purposes of school safety.

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

2. Names of dropouts shall be provided to a court in response to an order under s. 118.163 (2m) (b).

(cg) The school district clerk or his or her designee shall provide a law enforcement agency with a copy of a pupil's attendance record if the law enforcement agency certifies in writing

that the pupil is under investigation for truancy or for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the pupil's attendance record except as permitted under s. 938.396 (1) (a). A school district clerk or designee who discloses a copy of a pupil's attendance record to a law enforcement agency for purposes of a truancy investigation shall notify the pupil's parent or guardian of that disclosure as soon as practicable after that disclosure.

(ch) The school district clerk or his or her designee shall provide a fire investigator under s. 165.55 (15) with a copy of a pupil's attendance record if the fire investigator certifies in writing that the pupil is under investigation under s. 165.55, that the pupil's attendance record is necessary for the fire investigator to pursue his or her investigation and that the fire investigator will use and further disclose the pupil's attendance record only for the purpose of pursuing that investigation.

(ck) The school district clerk or his or her designee shall make pupil records available for inspection or, upon request, disclose the contents of pupil records to authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the pupil records involve or relate to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it determines are appropriate concerning pupil records made available or disclosed under this paragraph. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this paragraph for any purpose consistent with any proceeding under ch. 980.

(cm) If school attendance is a condition of a child's dispositional order under s. 48.355 (2) (b) 7. or 938.355 (2) (b) 7., the school board shall notify the county department that is responsible for supervising the child within 5 days after any violation of the condition by the child.

(d) Pupil records shall be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a license, law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. Law enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made available as provided in s. 118.127. A school board member or an employee of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the member or employee acted with actual malice in failing to disclose the information. A school district may not be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton, or intentional misconduct in failing to disclose the information.

(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 the pupil's behavioral records as determined by the person authorizing the release. Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3. may not be made available under this paragraph unless specifically identified by the adult pupil or by the parent or guardian of a minor pupil in the written permission.

(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) 1. The school board may provide any public officer with any information required to be maintained under chs. 115 to 121.

2. Upon request by the department, the school board shall provide the department with any information contained in a pupil record that relates to an audit or evaluation of a federal or state-supported program or that is required to determine compliance with requirements under chs. 115 to 121.

(h) Information from a pupil's immunization records shall be made available to the department of health services to carry out the purposes of s. 252.04.

(hm) Information from any pupil lead screening records shall be made available to state and local health officials to carry out the purposes of ss. 254.11 to 254.178.

(i) Upon request, the school district clerk or his or her designee shall provide the names of pupils who have withdrawn from the public school prior to graduation under s. 118.15 (1) (c) to the technical college district board in which the public school is located or, for verification of eligibility for public assistance under ch. 49, to the department of health services, the department of children and families, or a county department under s. 46.215, 46.22, or 46.23.

(j) 1. Except as provided under subds. 2. and 3., directory data may be disclosed to any person, if the school has notified the parent, legal guardian or guardian ad litem of the categories of information which it has designated as directory data with respect to each pupil, has informed the parent, legal guardian or guardian ad litem of that pupil that he or she has 14 days 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 and has allowed 14 days for the parent, legal guardian or guardian ad litem of that 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.

2. If a school has notified the parent, legal guardian or guardian ad litem that a pupil's name and address has been designated as directory data, has informed the parent, legal guardian or guardian ad litem of the pupil that he or she has 14 days to inform the school that the pupil's name and address may not be released without the prior consent of the parent, legal guardian or guardian ad litem, has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to inform the school that the pupil's name and address may not be released without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk or his or her designee, upon request, shall provide a technical college district board with the name and address of each such pupil who is expected to graduate from high school in the current school year.

3. If a school has notified the parent, legal guardian or guardian ad litem of the information that it has designated as directory data with respect to any pupil, has informed the parent, legal guardian or guardian ad litem of the pupil that he or she has 14 days to inform the school that such information may not be released without the prior consent of the parent, legal guardian or guardian ad litem, has allowed 14 days for the parent, legal guardian or guardian ad litem of the pupil to inform the school that such information may not be released without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk or his or her designee, upon re-

quest, shall provide any representative of a law enforcement agency, district attorney, city attorney or corporation counsel, county department under s. 46.215, 46.22 or 46.23 or a court of record or municipal court with such information relating to any such pupil enrolled in the school district for the purpose of enforcing that pupil's school attendance, investigating alleged criminal or delinquent activity by the pupil or responding to a health or safety emergency.

(k) A school board may disclose personally identifiable information from the pupil records of an adult pupil to the parents or guardian of the adult pupil, without the written consent of the adult pupil, if the adult pupil is a dependent of his or her parents or guardian under 26 USC 152, unless the adult pupil has informed the school, in writing, that the information may not be disclosed.

(L) A school board shall disclose the pupil records of a pupil in compliance with a court order under s. 48.236 (4) (a), 48.345 (12) (b), 48.9795 (3) (c), 938.34 (7d) (b), 938.396 (1) (d), or 938.78 (2) (b) 2. after making a reasonable effort to notify the pupil's parent or legal guardian.

(m) A parent who has been denied periods of physical placement with a child under s. 767.41 (4) does not have the rights of a parent or guardian under pars. (a) to (j) with respect to that child's pupil records.

(n) For any purpose concerning the juvenile justice system and the system's ability to effectively serve a pupil, prior to adjudication:

1. A school board may disclose pupil records to a city attorney, corporation counsel, agency, as defined in s. 938.78 (1), intake worker under s. 48.067 or 938.067, court of record, municipal court, private school, or another school board if disclosure is pursuant to an interagency agreement and the person to whom the records are disclosed certifies in writing that the records will not be disclosed to any other person except as otherwise authorized by law. For the purpose of providing services to a pupil before adjudication, a school board may disclose pupil records to a tribal school if disclosure is pursuant to an agreement between the school board and the governing body of the tribal school and if the school board determines that enforceable protections are provided by a tribal school policy or tribal law that requires the tribal school official to whom the records are disclosed not to disclose the records to any other person except as permitted under this subsection.

2. A school board shall disclose pertinent pupil records to an investigating law enforcement agency or district attorney if the person to whom the records are disclosed certifies in writing that the records concern the juvenile justice system and the system's ability to effectively serve the pupil, relate to an ongoing investigation or pending delinquency petition, and will not be disclosed to any other person except as otherwise authorized by law.

(p) A school board may disclose pupil records to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of any individual.

(q) On request, a school board may disclose pupil records that are pertinent to addressing a pupil's educational needs to a caseworker or other representative of the department of children and families, a county department under s. 46.215, 46.22, or 46.23, or a tribal organization, as defined in 25 USC 450b (L), that is legally responsible for the care and protection of the pupil, if the caseworker or other representative is authorized by that department, county department, or tribal organization to access the pupil's case plan. A department, county department, or tribal organization that receives pupil records under this paragraph may not further disclose those pupil records or any personally identifiable information contained in those pupil records except as follows:

1. To a person who is engaged in addressing the pupil's educational needs, who is authorized by that department, county department, or tribal organization to receive that disclosure, and to whom that disclosure is authorized under this section or under a substantially similar tribal law.

2. Upon request, to any court of this state or of the United States that needs to review those records or that information for the purpose of addressing the educational needs of a pupil who is the subject of a proceeding in that court.

3. In response to an order of a court conducting proceedings under s. 48.135, 48.21, 938.135, 938.18, 938.183, or 938.21, proceedings related to a petition under s. 48.13, 48.133, 48.42, 938.12, or 938.13, or dispositional proceedings under subch. VI or VIII of ch. 48 or subch. VI of ch. 938 or in response to a subpoena issued in such a proceeding, to any person who is engaged in addressing the educational needs of the pupil and who is authorized to receive that disclosure under that order or subpoena. Except as provided in 20 USC 1232g (b) (2) (B), a department, county department, or tribal organization that is issued an order or subpoena described in this subdivision shall provide notice of the order or subpoena to the pupil's parent or guardian before complying with the order or subpoena.

(2m) CONFIDENTIALITY OF PUPIL PHYSICAL HEALTH RECORDS. (a) Except as provided in par. (b), any pupil record that relates to a pupil's physical health and that is not a pupil physical health record shall be treated as a patient health care record under ss. 146.81 to 146.84.

(b) Any pupil record that concerns the results of an HIV test, as defined in s. 252.01 (2m), shall be treated as provided under s. 252.15.

(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. No behavioral records may be maintained for more than one year after the pupil ceases to be enrolled in the school, unless the pupil specifies in writing that his or her behavioral records may be maintained for a longer period. A pupil's progress records shall be maintained for at least 5 years after the pupil ceases to be enrolled in the school. A school board may maintain the records on microfilm, on an optical disc, or in electronic format if authorized under s. 19.21 (4) (c), or in such other form as the school board deems appropriate. A school board shall maintain law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3. separately from a pupil's other pupil records. Rules adopted under this subsection shall be published by the school board as a class 1 notice under ch. 985.

(4) TRANSFER OF RECORDS. No later than the next working day, a school district, a private school participating in the program under s. 118.60 or in the program under s. 119.23, and the governing body of a private school that, pursuant to s. 115.999 (3), 119.33 (2) (c) 3., or 119.9002 (3) (c), is responsible for the operation and general management of a school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119 shall transfer to another school, including a private or tribal school, or school district all pupil records relating to a specific pupil if the transferring school district or private school 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 the pupil has been placed in a juvenile correctional facility, as defined in s. 938.02 (10p), or a secured residential care center for

children and youth, as defined in s. 938.02 (15g). In this subsection, "school" and "school district" include any juvenile correctional facility, secured residential care center for children and youth, adult correctional institution, mental health institute, or center for the developmentally disabled that provides an educational program for its residents instead of or in addition to that which is provided by public, private, and tribal schools.

(5) USE FOR SUSPENSION OR EXPULSION. (a) Except as provided in par. (b), nothing in this section prohibits a school district from using 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.

(b) Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3. and records of the court assigned to exercise jurisdiction under chs. 48 and 938 or of a municipal court obtained under s. 938.396 (2g) (m) may not be used by a school district as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action against a pupil, but may be used as the sole basis for taking action against a pupil under the school district's athletic code.

(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.

(7) DISCLOSURE OF LAW ENFORCEMENT UNIT RECORDS. A school board shall treat law enforcement unit records of juveniles in the same manner as a law enforcement agency is required to treat law enforcement officers' records of juveniles under s. 938.396 (1) (a).

History: 1973 c. 254; 1977 c. 418; 1979 c. 205; 1981 c. 20, 273; 1983 a. 189; 1985 a. 218; 1987 a. 27, 70, 206, 285, 337, 355; 1987 a. 399 s. 491r; 1987 a. 403 ss. 123, 124, 256; 1989 a. 31, 168; 1989 a. 201 s. 36; 1989 a. 336; 1991 a. 39, 189; 1993 a. 27, 172, 334, 377, 385, 399, 450, 491; 1995 a. 27 ss. 3939, 3940, 9126 (19), 9130 (4), 9145 (1); 1995 a. 77, 173, 225, 352; 1997 a. 3, 27, 205, 237, 239; 1999 a. 9, 149; 2003 a. 82, 292; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 2712, 9121 (6) (a); 2009 a. 11, 28, 209, 302, 309; 2011 a. 32, 105, 260; 2015 a. 55, 161, 196; 2017 a. 251; 2019 a. 109.

A public school student's interim grades are pupil records specifically exempted from disclosure under this section. A failure to specifically state reasons for denying an open records request for records that are specifically exempted from disclosure does not compel disclosure of those records. State ex rel. Blum v. Board of Education, 209 Wis. 2d 377, 565 N.W.2d 140 (Ct. App. 1997), 96-0758.

A court need not wait until trial to disclose pupil records under sub. (2) (f) and may instead base its decision on the review of deposition testimony. Sub. (2) (f) refers to an action, which is a much broader term than trial. A witness who has been deposed has testified in the action. S.P.A. v. Grinnell Mutual Reinsurance Co., 2011 WI App 31, 332 Wis. 2d 134, 796 N.W.2d 874, 09-1881.

A court may not disclose confidential records under sub. (2) (f) merely because they are relevant to a plaintiff's claim. The court's gatekeeper role is to protect the privacy of the pupil whose records are sought, releasing only those records that may concern a specific witness's credibility or competency. S.P.A. v. Grinnell Mutual Reinsurance Co., 2011 WI App 31, 332 Wis. 2d 134, 796 N.W.2d 874, 09-1881.

When neither defense counsel nor the school was familiar with the requirements of sub. (2) (f) and neither wholly complied with the statute during discovery when the school faxed the records directly to defense counsel upon defense counsel's request for records rather than provide them to the court for in camera inspection, the trial court was not correct to prohibit the defense from using the records. The trial court should have, upon receipt of the documents, conducted the in camera inspection required by the statute, while requiring the parties to keep the documents confidential. State v. Echols, 2013 WI App 58, 348 Wis. 2d 81, 831 N.W.2d 768, 12-0422.

Pupil information that local education agencies are required to release to the Department of Public Instruction under the reporting provisions of former 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.

"Pupil records" are "public records" under s. 19.32 (2) but are subject to special statutes that limit access and direct maximum and minimum periods of maintenance before destruction. 72 Atty. Gen. 169.

Access to Student Records in Wisconsin: A Comparative Analysis of the Family Educational Rights and Privacy Act of 1974 and Wisconsin Statute Section 118.125. Schmidt Splain. 1976 WLR 975.

118.126 Privileged communications. (1) A school psychologist, counselor, social worker and nurse, and any teacher or administrator designated by the school board who engages in alcohol or drug abuse program activities, shall keep confidential information received from a pupil that the pupil or another pupil is using or is experiencing problems resulting from the use of alcohol or other drugs unless:

(a) The pupil using or experiencing problems resulting from the use of alcohol or other drugs consents in writing to disclosure of the information;

(b) The school psychologist, counselor, social worker, nurse, teacher or administrator has reason to believe that there is serious and imminent danger to the health, safety or life of any person and that disclosure of the information to another person will alleviate the serious and imminent danger. No more information than is required to alleviate the serious and imminent danger may be disclosed; or

(c) The information is required to be reported under s. 48.981 or 175.32.

(2) A school psychologist, counselor, social worker, or nurse, or any teacher or administrator designated by the school board who engages in alcohol or drug abuse program activities, who in good faith discloses or fails to disclose information under sub. (1) is immune from civil liability for such acts or omissions. This subsection does not apply to information required to be reported under s. 48.981 or 175.32.

History: 1979 c. 331; 1985 a. 163; 1987 a. 188, 339; 2017 a. 143.

118.127 Law enforcement agency information. A school district, private school, or tribal school may disclose information from law enforcement officers' records obtained under s. 938.396 (1) (c) 3. only to persons employed by the school district who are required by the department under s. 115.28 (7) to hold a license, to persons employed by the private school or tribal school as teachers, and to other school district, private school, or tribal school officials who have been determined by the school board or governing body of the private school or tribal school to have legitimate educational interests, including safety interests, in that information. In addition, if that information relates to a pupil of the school district, private school, or tribal school, the school district, private school, or tribal school may also disclose that information to those employees of the school district, private school, or tribal school who have been designated by the school board or governing body of the private school or tribal school to receive that information for the purpose of providing treatment programs for pupils enrolled in the school district, private school, or tribal school. A school district may not use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for expelling or suspending a pupil or as the sole basis for taking any other disciplinary action against a pupil, but may use law enforcement officers' records obtained under s. 938.396 (1) (c) 3. as the sole basis for taking action against a pupil under the school district's athletic code.

History: 1991 a. 39; 1995 a. 77, 173, 352; 1997 a. 27, 205; 2005 a. 344; 2009 a. 302, 309; 2011 a. 165.

118.13 Pupil discrimination prohibited. (1) Except as provided in s. 120.13 (37m), no person may be denied admission to any public school or be denied participation in, be denied the benefits of or be discriminated against in any curricular, extracurricular, pupil services, recreational or other program or activity because of the person's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

(2) (a) Each school board shall develop written policies and procedures to implement this section and submit them to the state superintendent as a part of its 1986 annual report under s. 120.18. The policies and procedures shall provide for receiving and investigating complaints by residents of the school district regarding possible violations of this section, for making determinations as to whether this section has been violated and for ensuring compliance with this section.

(b) Any person who receives a negative determination under par. (a) may appeal the determination to the state superintendent.

(3) (a) The state superintendent shall:

1. Decide appeals made to him or her under sub. (2) (b). Decisions of the state superintendent under this subdivision are subject to judicial review under ch. 227.

2. Promulgate rules necessary to implement and administer this section.

3. Include in the department's biennial report under s. 15.04 (1) (d) information on the status of school district compliance with this section and school district progress toward providing reasonable equality of educational opportunity for all pupils in this state.

(b) The state superintendent may:

1. Periodically review school district programs, activities and services to determine whether the school boards are complying with this section.

2. Assist school boards to comply with this section by providing information and technical assistance upon request.

(4) Any public school official, employee or teacher who intentionally engages in conduct which discriminates against a person or causes a person to be denied rights, benefits or privileges, in violation of sub. (1), may be required to forfeit not more than $1,000.

History: 1985 a. 29; 1987 a. 332; 1991 a. 131; 1995 a. 27 s. 9145 (1); 1997 a. 27; 2005 a. 346; 2007 a. 97.

Cross-reference: See also ch. PI 9, Wis. adm. code.

When a school board pursued purposefully segregative practices with current, systemwide impact, systemwide remedy was appropriate. Columbus Board of Education v. Penick, 443 U.S. 449, 99 S. Ct. 2941, 61 L. Ed. 2d 666 (1979).

For a school system that was a dual system when *Brown I*, 347 U.S. 483 (1954), was decided in 1954, the measure of the school board's post-*Brown I* conduct under its unsatisfied duty to liquidate the dual system was the effectiveness, not the purpose, of its actions to desegregate the system. Dayton Board of Education v. Brinkman, 443 U.S. 526, 99 S. Ct. 2971, 61 L. Ed. 2d 720 (1979).

It is impermissible for a school district to rely upon an individual student's race in assigning that student to a particular school so that the racial balance at the school falls within a predetermined range based on the racial composition of the school district as a whole. Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701, 127 S. Ct. 2738, 168 L. Ed. 2d 508 (2007).

118.133 Participation in interscholastic athletics and extracurricular activities. (1) INTERSCHOLASTIC ATHLETICS. (a) A school board shall permit a pupil who resides in the school district and is enrolled in a home-based private educational program to participate in interscholastic athletics in the school district on the same basis and to the same extent that it permits pupils enrolled in the school district to participate.

(b) Upon request, the home-based educational program in which the pupil is enrolled shall provide the school board with a written statement that the pupil meets the school board's requirements for participation in interscholastic athletics based on age and academic and disciplinary records. No person may provide a false statement under this paragraph. The school board may not question the accuracy or validity of the statement or request additional information.

(2) EXTRACURRICULAR ACTIVITIES. A school board shall permit a pupil who resides in the school district and is enrolled in a home-based private educational program to participate in extracurricular activities in the school district on the same basis and to the same extent that it permits pupils enrolled in the school district to participate.

(3) PARTICIPATION FEES. A school board may charge a pupil who participates in interscholastic athletics or extracurricular activities as permitted under this section participation fees, including fees for uniforms, equipment, and musical instruments, on the same basis and to the same extent that it charges these fees to a pupil who is enrolled in the school district.

History: 2015 a. 55.

118.134 Race-based nicknames, logos, mascots, and team names. (1) Notwithstanding s. 118.13 and except as provided in sub. (3m), a school district resident may object to the use of a race-based nickname, logo, mascot, or team name by the school board of that school district by filing a complaint containing a number of signatures of school district electors equal to at least 10 percent of the school district's membership, as defined in s. 121.004 (5), with the state superintendent. A signature on a complaint is valid only if the signature is obtained within the 120-day period before the complaint is filed with the state superintendent. The state superintendent shall do all of the following:

(a) Notify the school board of the receipt of the complaint and direct the school board to submit, if applicable, any of the information under sub. (1m) (a).

(b) Except as provided in sub. (1m), refer the complaint to the division of hearings and appeals for a contested case hearing. The division of hearings and appeals shall schedule a hearing on the referred complaint with reasonable promptness.

(1m) (a) The state superintendent may determine that no contested case hearing is necessary if, no later than 10 days after being notified of the receipt of the complaint, the school board submits evidence to the state superintendent that demonstrates all of the following:

2. A federally recognized American Indian tribe that has historical ties to this state has entered into an agreement with the school board under which the tribe grants approval to the school board to refer to, depict, or portray the tribe or American Indians, in general, in a specific nickname, logo, or mascot or to use the name of the tribe or American Indians, in general, as a team name in the specific manner used by the school board.

3. The use of the nickname, logo, mascot, or team name that has been approved by a tribe under subd. 2. is the use to which the school district resident objects in the complaint filed under sub. (1).

(b) If the state superintendent determines that a contested case hearing is not necessary, the state superintendent shall notify the school district resident who filed the complaint under sub. (1) and the school board of his or her decision in writing. A decision under this paragraph is subject to judicial review under ch. 227.

(2) At the hearing, the school district resident who filed the complaint under sub. (1) has the burden of proving by clear and convincing evidence that the use of the race-based nickname, logo, mascot, or team name promotes discrimination, pupil harassment, or stereotyping, as defined by the state superintendent by rule.

(3) (a) The division of hearings and appeals shall issue a decision and order within 45 days after the hearing. If the division of hearings and appeals finds that the use of the race-based nickname, logo, mascot, or team name does not promote discrimination, pupil harassment, or stereotyping, the division of hearings and appeals shall dismiss the complaint. Except as provided in pars. (b) and (d), if the division of hearings and appeals finds that the use of the race-based nickname, logo, mascot, or team name promotes discrimination, pupil harassment, or stereotyping, the division of hearings and appeals shall order the school board to terminate its use of the race-based nickname, logo, mascot, or team name within 12 months after issuance of the order.

(b) 1. In this paragraph, "extenuating circumstances" includes circumstances in which the costs of compliance with an order issued under par. (a) pose an undue financial burden on the school district and circumstances in which the work or the requirements for bidding a contract to complete the work required to bring the school district into compliance with the order issued under par. (a) cannot be completed within 12 months after the issuance of the order.

2. a. If, at the hearing under sub. (2) or after a decision and order have been issued under par. (a), the school board presents evidence to the division of hearings and appeals that extenuating circumstances render full compliance with the decision and order within 12 months after the issuance of that decision and order impossible or impracticable, the division of hearings and appeals may issue an order to extend the time within which the school board must terminate its use of the race-based nickname, logo, mascot, or team name. Except as provided in subd. 2. b., the extension may not exceed 24 months and shall apply only to those portions of the decision and order to which extenuating circumstances apply.

b. The division of hearings and appeals may extend the time granted to a school board under subd. 2. a. if the school board presents evidence to the division of hearings and appeals that compliance with a portion of the decision and order issued under par. (a) may be accomplished through a regularly scheduled maintenance program and that the cost of compliance with that portion of the decision and order exceeds $5,000. The extension granted under this subd. 2. b. may not exceed 96 months and applies only to that portion of the decision and order with which compliance will be accomplished through the regularly scheduled maintenance program and that costs more than $5,000.

(c) Decisions under this subsection are subject to judicial review under ch. 227. The venue for a proceeding to review a decision under this section is the circuit court in any county in which territory of the school district is located.

(d) No school district is required to comply with a decision and order issued under this subsection before December 21, 2013, to terminate the use of a race-based nickname, logo, mascot, or team name.

(3m) A pupil attending a public school in a nonresident school district under s. 118.50 or 118.51 may not file a complaint under sub. (1) in which the pupil objects to the use of a race-based nickname, logo, mascot, or team name by the school board of the nonresident school district.

(3r) A school district may not be a member of an interscholastic athletic association that prohibits the use of a nickname, logo, mascot, or team name on the basis that the nickname, logo, mascot, or team name is race-based unless the use of the nickname, logo, mascot, or team name violates a decision and order issued under sub. (3) on or after December 21, 2013.

(4) (a) Except as provided in par. (b), the state superintendent shall promulgate rules necessary to implement and administer this section.

(b) The state superintendent may not promulgate a rule that creates a presumption that a nickname, logo, mascot, or team name is race-based or promotes discrimination, pupil harassment, or stereotyping.

(5) Any school board that uses a race-based nickname, logo, mascot, or team name in violation of sub. (3) shall forfeit not less than $100 nor more than $1,000. Each day of use of the race-based nickname, logo, mascot, or team name in violation of sub. (3) constitutes a separate violation. The state superintendent may not assess or collect a forfeiture under this subsection for a use that violates a decision and order issued under sub. (3) before December 21, 2013.

History: 2009 a. 250; 2011 a. 32; 2013 a. 115; 2013 a. 151 s. 28; 2015 a. 55; 2015 a. 197 s. 51.

Cross-reference: See also ch. PI 45, Wis. adm. code.

118.135 Eye examinations and evaluations. (1) Beginning in the 2002-03 school year, each school board and each charter school shall request each pupil entering kindergarten to provide evidence that the pupil has had his or her eyes examined by an optometrist licensed under ch. 449 or evaluated by a physician licensed under ch. 448.

(2) A pupil who complies with a request under sub. (1) shall provide evidence of an eye examination or evaluation by December 31 following the pupil's enrollment in kindergarten.

(3) To the extent feasible, the medical examining board and the optometry examining board shall encourage physicians and optometrists, for the purpose of this section, to conduct free eye examinations or evaluations of pupils who are in financial need and do not have insurance coverage for eye examinations or evaluations.

History: 2001 a. 16; 2011 a. 32; 2017 a. 329.

118.14 Age of pupils; phase in of 4-year-old kindergarten. (1) Except as provided in s. 120.12 (25):

(a) No child may be admitted to a 4-year-old kindergarten unless he or she is 4 years old on or before September 1 in the year that he or she proposes to enter school.

(b) No child may be admitted to a 5-year-old kindergarten unless he or she is 5 years old on or before September 1 in the year he or she proposes to enter school.

(c) 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.

(2) 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.

(3) (a) Except as provided in par. (b), if a school board establishes a 4-year-old kindergarten program, the program shall be available to all pupils eligible for the program under sub. (1) (a) or s. 120.12 (25).

(b) A school board that was operating a 4-year-old kindergarten program in the 2007-08 school year that did not comply with par. (a) shall make a 4-year-old kindergarten program available to all pupils eligible for the program under sub. (1) (a) or s. 120.12 (25) by the beginning of the 2013-14 school year.

History: 1977 c. 418, 429; 1983 a. 36; 1985 a. 29; 1997 a. 240; 2007 a. 226; 2025 a. 129.

118.145 Admission to high school. (1) The school board of a district operating high school grades shall determine 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 or of a tribal 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 or tribal 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.

(4) The school board of a school district operating high school grades shall allow a pupil enrolled in a private school or a pupil enrolled in a tribal school, who has met the standards for admission to high school under sub. (1), to take up to 2 courses during each school semester if the pupil resides in the school dis-

trict in which the public school is located and if the school board determines that there is sufficient space in the classroom.

History: 1975 c. 39, 199; 1995 a. 27 s. 9145 (1); 1997 a. 27, 240; 2009 a. 302; 2013 a. 20.

118.15 Compulsory school attendance. (1) (a) Except as provided under pars. (b) to (d) and (g) and sub. (4), unless the child is excused under sub. (3) 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, private, or tribal 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.

(am) Except as provided under par. (d), unless the child is excused under sub. (3), any person having under his or her control a child who is enrolled in 5-year-old kindergarten shall cause the child to attend school regularly, religious holidays excepted, during the full period and hours that kindergarten is in session at the public or private school in which the child is enrolled until the end of the school term.

(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 and a child at risk, as defined in s. 118.153 (1) (a), may attend, in lieu of high school or on a part-time basis, a technical college if the child and his or her parent or guardian agree, in writing, that the child will participate in a program leading to the child's high school graduation. The district board of the technical college district in which the child resides shall admit the child. Every technical college district board shall offer day class programs satisfactory to meet the requirements of this paragraph and s. 118.33 (3m) as a condition to the receipt of any state aid.

(c) 1. 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 may be excused by the school board from regular school attendance if the child and his or her parent or guardian agree, in writing, that the child will participate in a program or curriculum modification under par. (d) leading to the child's high school graduation.

2. Upon the child's request and with the written approval of the child's parent or guardian, any child who is 17 years of age or over may be excused by the school board from regular school attendance if the child and his or her parent or guardian agree, in writing, that the child will participate in a program or curriculum modification under par. (d) leading to the child's high school graduation or leading to a high school equivalency diploma under s. 115.29 (4).

3. Prior to a child's admission to a program leading to the child's high school graduation or a high school equivalency program under par. (b) or subd. 1. or 2., the child, his or her parent or guardian, the school board and a representative of the high school equivalency program or program leading to the child's high school graduation shall enter into a written agreement. The written agreement shall state the services to be provided, the time period needed to complete the high school equivalency program or program leading to the child's high school graduation and how the performance of the pupil will be monitored. The agreement shall be monitored by the school board on a regular basis, but in no case shall the agreement be monitored less frequently than once per semester. If the school board determines that a child is not complying with the agreement, the school board shall notify the child, his or her parent or guardian and the high school equivalency program or program leading to the child's high school graduation that the agreement may be modified or suspended in 30 days.

(cm) 1. Upon the child's request and with the approval of the child's parent or guardian, any child who is 17 years of age or over shall be excused by the school board from regular school attendance if the child began a program leading to a high school equivalency diploma in a juvenile correctional facility, as defined in s. 938.02 (10p), a secured residential care center for children and youth, as defined in s. 938.02 (15g), a juvenile detention facility, as defined in s. 938.02 (10r), or a juvenile portion of a county jail, and the child and his or her parent or guardian agree under subd. 2. that the child will continue to participate in such a program. For purposes of this subdivision, a child is considered to have begun a program leading to a high school equivalency diploma if the child has received a passing score on a minimum of one of the 5 content area tests given under the general educational development test or has demonstrated under a course of study meeting the standards established under s. 115.29 (4) for the granting of a declaration of equivalency to high school graduation a level of proficiency in a minimum of one of the 5 content areas specified in s. 118.33 (1) (a) 1. that is equivalent to the level of proficiency that he or she would have attained if he or she had satisfied the requirements under s. 118.33 (1) (a) 1.

2. Prior to the admission of a child under subd. 1. to a program leading to a high school equivalency diploma, the child, his or her parent or guardian, the school board and a representative of the agency providing the program shall enter into a written agreement. The agreement shall specify that the child is excused from regular school attendance while he or she is enrolled in the program and making progress toward completion of the program, or successfully completes the program. If the agency providing the program determines that the child is not making progress toward completion of the program, the agency shall notify the child and his or her parent or guardian that the agreement may be suspended within 30 days. If the agency suspends the agreement, the agency shall notify the child, his or her parent or guardian and the school board.

3. If the program that the child wishes to attend is provided by a technical college district, the technical college district board shall admit the child.

4. A child attending a program under this paragraph shall not be included in membership, as defined in s. 121.004 (5).

5. The state superintendent shall grant a high school equivalency diploma to a child under this paragraph who completes the general educational development test with a passing score, as determined by the state superintendent, and completes the additional requirements determined by the state superintendent under s. 115.29 (4).

(d) Any child's parent or guardian, or the child if the parent or guardian is notified, may request the school board, in writing, 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, or tribal school, 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 under s. 121.78 (5) that provides for the payment of the child's tuition by the school district.

5. Homebound 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.

(dm) The school board shall render its decision, in writing, within 90 days of a request under par. (d), except that if the request relates to a child who has been evaluated by an individualized education program team under s. 115.782 and has not been recommended for special education, the school board shall render its decision within 30 days of the request. If the school board denies the request, the school board shall give its reasons for the denial.

(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.

(f) At the beginning of each school term, the school board shall notify the pupils enrolled in the school district and their parents or guardians of the substance of pars. (d), (dm) and (e).

(g) Paragraph (a) does not apply to a person having under control a child who is enrolled in a virtual charter school.

(2) (a) If the determination is made under sub. (1) (b) for a child to attend a technical college, the district board governing the technical college shall establish appropriate vocational and technical courses in accordance with s. 118.33 (3m) and the school board shall pay the technical college district board an amount calculated as follows:

1. Divide the number of credit hours of instruction scheduled by the technical college district for the pupil by 30.

2. Multiply the quotient under subd. 1. by the statewide average instructional cost for general education programs in the technical college system in the previous school year, as determined by the technical college system board.

3. Multiply the quotient under subd. 1. by any additional costs associated with direct student support services, as determined jointly by the state superintendent and the state director of the technical college system.

4. Add the product under subd. 2. to the product under subd. 3.

(c) Pupils attending a technical college under this subsection may receive general education subjects at the technical college. Payments by the school district under par. (a) shall be deemed costs of operation and maintenance.

(d) Transportation, or board and lodging under s. 121.57 (1) (a), for pupils attending a technical college 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 a school program but who can be expected to return to a school 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, naturopathic doctor, dentist, chiropractor, optometrist, psychologist, physician assistant, or advanced practice registered nurse 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 by the school board in accordance with the school board's written attendance policy under s. 118.16 (4) and with the written approval of the child's parent or guardian. The child's truancy, discipline or school achievement problems or disabilities as described in s. 115.76 (5) may not be used as the reason for an excuse under this paragraph. The excuse shall be in writing and shall state the time period for which it is effective, not to extend beyond the end of the current school year.

(c) Any child excused in writing by his or her parent or guardian before the absence. The school board shall require a child excused under this paragraph to complete any course work missed during the absence. A child may not be excused for more than 10 days in a school year under this paragraph.

(d) Any child excused in writing by his or her parent or guardian and by the principal of the school that the child attends, or by the administrator of the home-based private educational program in which the child is enrolled, for the purpose of serving as an election official under s. 7.30 (2) (am). Except as provided in s. 7.30 (2) (am), a principal or administrator may not excuse a child under this paragraph unless the child has at least a 3.0 grade point average or the equivalent. The principal or administrator shall allow the child to take examinations and complete course work missed during the child's absences under this paragraph. The principal or administrator shall promptly notify the municipal clerk or the board of election commissioners of the municipality that appointed the child as an election official if the child ceases to be enrolled in school or in a home-based private educational program or if the child no longer has at least a 3.0 grade point average or the equivalent.

(4) Instruction in a home-based private educational program that meets all of the criteria under s. 118.165 (1) may be substituted for attendance at a public or private school.

(4m) No school board, board of control of a cooperative educational service agency or county children with disabilities education board, or person employed by a school board, cooperative educational service agency or county children with disabilities education board, may in any manner compel a pregnant girl to withdraw from her educational program.

(5) (a) 1. Except as provided under par. (b) or if a person has been found guilty of a misdemeanor under s. 948.45, whoever violates this section may be penalized as follows, if evidence has been provided by the school attendance officer that the activities under s. 118.16 (5) have been completed or were not required to be completed as provided in s. 118.16 (5m):

a. For the first offense, by a fine of not more than $500 or imprisonment for not more than 30 days or both.

b. For a 2nd or subsequent offense, by a fine of not more than $1,000 or imprisonment for not more than 90 days or both.

2. The court may require a person who is subject to subd. 1. to perform community service work for a public agency or a nonprofit charitable organization in lieu of the penalties specified under subd. 1. Any organization or agency to which a defendant is assigned pursuant to an order under this subdivision acting in good faith has immunity from any civil liability in excess of $25,000 for any act or omission by or impacting on the defendant.

(am) The court may order any person who violates this section to participate in counseling at the person's own expense or to attend school with his or her child, or both.

(b) 1. Paragraph (a) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.26 (1) (h).

2. In a prosecution under par. (a), if the defendant proves that he or she is unable to comply with the law because of the disobe-

dience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under chs. 48 and 938.

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; 1983 a. 512; 1985 a. 29; 1987 a. 36, 285, 399; 1989 a. 31, 336; 1991 a. 39; 1993 a. 223, 399; 1995 a. 27 s. 3945, 9145 (1); 1995 a. 77, 225; 1997 a. 27, 164, 205, 239; 2001 a. 109; 2005 a. 344; 2007 a. 222; 2009 a. 41, 302; 2011 a. 161; 2021 a. 34, 130; 2025 a. 17, 101.

Cross-reference: See also ch. TCS 9, Wis. adm. code.

Compelling Amish parents to send their children to high school infringed upon their religious liberties. State v. Yoder, 49 Wis. 2d 430, 182 N.W.2d 539 (1971). Affirmed. 406 U.S. 205, 92 S. Ct. 1526, 32 L. Ed. 2d 15 (1972).

Compulsory school attendance laws are not safety statutes. Riemer v. Crayton, 57 Wis. 2d 755 (1973).

Under the facts of this case, parents' refusal, on claimed religious grounds, to send children to school was a personal, philosophical choice by parents, rather than a protected religious expression. State v. Kasuboski, 87 Wis. 2d 407, 275 N.W.2d 101 (Ct. App. 1978).

This section permits vocational, technical, and adult education school [now technical college] instructors to teach a limited number of courses to public school students, under certain circumstances, without Department of Public Instruction certification. Green Bay Education Ass'n v. DPI, 154 Wis. 2d 655, 453 N.W.2d 915 (Ct. App. 1990).

This section is not unconstitutionally vague. State v. White, 180 Wis. 2d 203, 509 N.W.2d 434 (Ct. App. 1993).

A dispositional order, based solely upon habitual truancy, cannot endure beyond the school term during which the juvenile reaches 18 years of age. State v. Jeremiah C., 2003 WI App 40, 260 Wis. 2d 359, 659 N.W.2d 193, 02-1740.

The trial court erred in ruling that this section requires a conviction under sub. (5) (a) before sub. (5) (b) is triggered. The disobedience exception in sub. (5) (b) 2. was an affirmative defense to the charge here and should have been presented to the fact-finder during the trial for resolution. State v. McGee, 2005 WI App 97, 281 Wis. 2d 756, 698 N.W.2d 850, 04-1005.

The Amish and Compulsory School Attendance: Recent Developments. Prance. 1971 WLR 832.

118.153 Children at risk of not graduating from high school. (1) In this section:

(a) "Children at risk" means pupils in grades 5 to 12 who are at risk of not graduating from high school because they are dropouts or are 2 or more of the following:

1m. One or more years behind their age group in the number of high school credits attained.

2. Two or more years behind their age group in basic skill levels.

2m. Habitual truants, as defined in s. 118.16 (1) (a).

3. Parents.

4. Adjudicated delinquents.

5. Eighth grade pupils whose score in each subject area on the examination administered under s. 118.30 (1m) (am) 1. or 118.301 (3) was below the basic level, 8th grade pupils who failed the examination administered under s. 118.30 (1m) (am) 2. or 118.301 (3), and 8th grade pupils who failed to be promoted to the 9th grade.

(b) "Dropout" means a child who ceased to attend school, does not attend a public, private, or tribal school, technical college, or home-based private educational program on a full-time basis, has not graduated from high school, and does not have an acceptable excuse under s. 118.15 (1) (b) to (d) or (3).

(2) (a) Every school board shall identify the children at risk who are enrolled in the school district and annually by August 15 develop a plan describing how the school board will meet their needs.

(b) If in the previous school year a school district had 30 or more dropouts or a dropout rate exceeding 5 percent of its total high school enrollment, the school board may apply to the state superintendent for aid under this section.

(3) (a) 1. Every school board that applies for aid under sub. (2) (b) shall make available to the children at risk enrolled in the school district a program for children at risk.

2. Upon request of a pupil who is a child at risk or the pupil's parent or guardian, a school board described under subd. 1. shall enroll the pupil in the program for children at risk. If the school board makes available more than one program for children at risk, the school board shall enroll the pupil in the program selected by the pupil's parent or guardian if the pupil meets the prerequisites for that program. If there is no space in that program for the pupil, the school board of the school district operating under ch. 119 shall place the pupil's name on a waiting list for that program and offer the pupil another program for children at risk until space in the requested program becomes available.

(b) A program for children at risk shall be designed to allow the pupils enrolled to meet high school graduation requirements under s. 118.33. The school board of the school district operating under ch. 119 shall ensure that there are at least 30 pupils and no more than 250 pupils in each program and that a separate administrator or teacher is in charge of each program.

(c) 1. Each school board shall identify appropriate private, nonprofit, nonsectarian agencies located in the school district or within 5 miles of the boundaries of the school district to meet the requirements under pars. (a) and (b) for the children at risk enrolled in the school district.

2. The school board may contract with the agencies identified under subd. 1. for the children at risk enrolled in the school district if the school board determines that the agencies can adequately serve such children.

3. The school board shall pay each contracting agency, for each full-time equivalent pupil served by the agency, an amount equal to at least 80 percent of the average per pupil cost for the school district.

(4) (a) Annually in August, a school board that applied for aid under this section in the previous school year shall submit a report to the state superintendent. The report shall include only information about the pupils enrolled in a program for children at risk in the previous school year that is necessary for the state superintendent to determine the number of pupils who achieved each of the objectives under par. (c).

(b) Upon receipt of a school board's annual report under par. (a) the state superintendent shall pay to the school district from the appropriation under s. 20.255 (2) (bc), for each pupil enrolled in a program for children at risk who achieved at least 3 of the objectives under par. (c) in the previous school year, additional state aid in an amount equal to 10 percent of the school district's average per pupil aids provided under s. 20.835 (7) (a), 1991 stats., and s. 20.255 (2) (ac) in the previous school year.

(c) 1. The pupil's attendance rate was at least 70 percent.

2. The pupil remained in school.

3. The pupil, if a high school senior, received a high school diploma.

4. The pupil earned at least 4.5 academic credits or a prorated number of credits if the pupil was enrolled in the program for less than the entire school year.

5. The pupil has demonstrated, on standardized tests or other appropriate measures, a gain in reading and mathematics commensurate with the duration of his or her enrollment in the program.

(e) If the appropriation under s. 20.255 (2) (bc) in any fiscal year is insufficient to pay the full amount of aid under par. (b), state aid payments shall be prorated among the school districts entitled to such aid.

(5) (a) In this subsection:

1. "Alternative school" means a public school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and offers a nontraditional curriculum.

2. "School within a school" means a school that has at least 30 pupils and no more than 250 pupils, has a separate administra-

tor or teacher in charge of the school and is housed in a space specifically dedicated to it in a public school.

(b) Subject to sub. (3) (c) 3., a school board receiving funds under this section shall provide a specific sum to each program for children at risk in which pupils enrolled in the school district are enrolled based on the ability of the program to meet the objectives under sub. (4) (c).

(c) A school board receiving funds under this section shall give preference in allocating those funds to programs for children at risk provided by alternative schools, charter schools, schools within schools and agencies identified under sub. (3) (c) 1.

(7) The state superintendent shall promulgate rules to implement and administer this section. The rules shall not be overly restrictive in defining approved programs and shall not serve to exclude programs that have demonstrated success in meeting the needs of children at risk.

History: 1985 a. 29, 332; 1987 a. 27; 1989 a. 31, 336; 1991 a. 39, 196; 1993 a. 16, 341, 399, 491; 1995 a. 27 s. 9145 (1); 1997 a. 27, 113; 1999 a. 9, 123; 2003 a. 33; 2005 a. 25; 2009 a. 302; 2011 a. 32; 2013 a. 8; 2015 a. 55.

Cross-reference: See also ch. PI 25, Wis. adm. code.

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; 1995 a. 27 s. 9145 (1); 1997 a. 27.

The constitutionality of this section is upheld. State ex rel. Holt v. Thompson, 66 Wis. 2d 659, 225 N.W.2d 678 (1975).

118.16 School attendance enforcement. (1) In this section:

(a) "Habitual truant" means a pupil who is absent from school without an acceptable excuse under sub. (4) and s. 118.15 for part or all of 5 or more days on which school is held during a school semester.

(b) "School attendance officer" means an employee designated by the school board to deal with matters relating to school attendance and truancy. "School attendance officer" does not include an individual designated under sub. (2m) (a) to take into custody a child who is absent from school without an acceptable excuse under s. 118.15 unless that individual has also been designated by the school board to deal with matters relating to school attendance and truancy.

(c) "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.

(1m) The period during which a pupil is absent from school due to a suspension or expulsion under s. 120.13 or 119.25 is neither an absence without an acceptable excuse for the purposes of sub. (1) (a) nor an absence without legal cause for the purposes of sub. (1) (c).

(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.

(c) Except as provided under pars. (cg) and (cr), 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 shall be given before the end of the 2nd school day after receiving a report of an unexcused absence. The notice may be made by electronic communication, personal contact, 1st class mail, or telephone call of which a written record is kept. The school attendance officer shall attempt to give notice by personal contact, telephone call, or, unless the parent or guardian has refused to receive electronic communication, electronic communication before notice by 1st class mail may be given.

(cg) Shall notify the parent or guardian of a child who is a habitual truant, by registered or certified mail or by 1st class mail, when the child initially becomes a habitual truant. The school attendance officer may simultaneously notify the parent or guardian of the habitually truant child by an electronic communication. The notice shall include all of the following:

1. A statement of the parent's or guardian's responsibility, under s. 118.15 (1) (a) and (am), to cause the child to attend school regularly.

2. A statement that the parent, guardian or child may request program or curriculum modifications for the child under s. 118.15 (1) (d) and that the child may be eligible for enrollment in a program for children at risk under s. 118.153 (3).

3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place. The date for the meeting shall be within 5 school days after the date that the notice is sent, except that with the consent of the child's parent or guardian the date for the meeting may be extended for an additional 5 school days.

4. A statement of the penalties, under s. 118.15 (5), that may be imposed on the parent or guardian if he or she fails to cause the child to attend school regularly as required under s. 118.15 (1) (a) and (am).

(cr) After the notice required under par. (cg) has been given, shall notify the parent or guardian of a habitual truant of the habitual truant's unexcused absences as provided in the plan under s. 118.162 (4) (a). After the notice required under par. (cg) has been given, par. (c) does not apply.

(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 workforce development.

(e) Except as provided in par. (f), 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.

(f) Shall request information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school

district and who claims or is claimed to be in attendance at a tribal school, or who is not a resident of the school district and who claims or is claimed to be in attendance at a tribal school located in the school district.

(2m) (a) A school district administrator may designate any of the following individuals to take a child who resides in the school district and who is absent from school without an acceptable excuse under s. 118.15 into custody under s. 938.19 (1m):

1. An employee of the school district who is directly involved in the provision of educational programs to the truant child.

2. An employee of the school district who is directly involved in the provision of a modified program or curriculum under s. 118.15 (1) (d), a program for children at risk under s. 118.153 or an alternative educational program under s. 119.82 or any other alternative educational program to children who attend the school attended by the truant child, if the school district administrator believes that the program or curriculum may be appropriate for the truant child.

3. A school social worker employed by the school district who provides services to children attending the school attended by the truant child, if the school district administrator believes that the services provided by the social worker may be appropriate for the truant child.

4. An employee of a social services agency who is directly involved in the provision of social services to the truant child or the child's family.

5. A school attendance officer, but only if the school attendance officer meets the criteria specified in subds. 1., 2. or 3.

(b) A designation under par. (a) shall be in writing and shall specifically identify the child whom the individual is authorized to take into custody.

(c) A school district administrator may not designate an individual under par. (a) unless the individual agrees to the designation in writing.

(d) A school district administrator who makes a designation under par. (a) shall provide each individual so designated with an identification card of a form determined by the school board. The designee shall carry the identification card on his or her person at all times while the designee is on official duty under s. 938.19 (1m) and shall exhibit the identification card to any person to whom the designee represents himself or herself as a person authorized to take a child into custody under s. 938.19 (1m).

(e) A school district administrator who makes a designation under par. (a) or the individual designated under par. (a) shall immediately attempt to notify, by personal contact or telephone call, the child's parent, guardian and legal custodian that the designation has been made and that the child may be taken into custody under s. 938.19 (1m). The school district administrator, or the designee, is not required to notify a parent, guardian or legal custodian under this paragraph if the parent, guardian or legal custodian is the person who requested that the child be taken into custody under s. 938.19 (1m).

(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 forms supplied by the school attendance officer, the information required under ss. 115.30 (2) and 120.18 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) (a) 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.

(b) No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences or suspensions from school. The attendance policy under par. (a) shall specify the conditions under which a pupil may be permitted to take examinations missed during absences, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester or grading period examinations and complete any course work missed during a period of suspension.

(c) The school board may establish policies which provide that as a consequence of a pupil's truancy the pupil may be assigned to detention or to a supervised, directed study program. The program need not be held during the regular school day. The policies under this paragraph shall specify the conditions under which credit may be given for work completed during the period of detention or assignment to a supervised, directed study program. A pupil shall be permitted to take any examinations missed during a period of assignment to a supervised, directed study program.

(cm) 1. The school board may establish policies which provide that a pupil of an age eligible for high school enrollment in the school district, as determined by the school board, may be assigned to a period of assessment as a consequence of the pupil's truancy or upon the pupil's return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility or other out-of-school placement. The policies shall specify the conditions under which a pupil may participate in the assessment without being in violation of s. 118.15 and the maximum length of time that a pupil may be assigned to an assessment period.

2. A school board may not assign a pupil to an assessment period without the written approval of the pupil's parent or guardian. A school board may not assign a pupil to an assessment period for longer than the time necessary to complete the assessment and place the pupil in an appropriate education program or 8 weeks, whichever is less. A school board may not assign a pupil to an assessment period more than once and may not assign a pupil to an assessment period if the school district has an alternative education program, as defined in s. 115.28 (7) (e) 1., available for the pupil that is appropriate for the pupil's needs. An assessment need not be conducted during the regular school day.

3. The goals of an assessment period are to develop an educational plan for the pupil, implement an appropriate transitional plan and facilitate the pupil's placement in an education program in which the pupil will be able to succeed. The school board shall provide pupils who are assigned to an assessment period with information on other education programs that the school district or other community providers have available for the pupil. The assessment may include any of the following new or previously completed activities:

a. An assessment for problems with alcohol or other drugs.

b. An assessment of individual educational needs.

c. An assessment of whether the pupil is encountering problems in the community or at home that require intervention by a social worker.

d. A vocational assessment, which may include career counseling.

e. A medical assessment.

(d) The school board shall provide each pupil enrolled in the public schools in the district with a copy of the policies established under this subsection and shall file a copy of the policies in each school in the district. In addition, the school board shall make copies available upon request.

(e) Except as provided under s. 119.55, a school board may establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1) (d) 10. for being absent from school without an acceptable excuse under s. 118.15.

(5) Except as provided in sub. (5m), before any proceeding may be brought against a child under s. 938.13 (6) for habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15 for failure to cause the child to attend school regularly, 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, done all of the following:

(a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were 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, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

(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.

(5m) Subsection (5) (a) does not apply if a meeting under sub. (2) (cg) 3. is not held within 10 school days after the date that the notice under sub. (2) (cg) is sent. Subsection (5) (b), (c) and (d) does not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

(6) (a) If the school attendance officer receives evidence that activities under sub. (5) have been completed or were not required to be completed as provided in sub. (5m), the school attendance officer may do any of the following:

1. File information on any child who continues to be truant with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this subdivision does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

2. Refer the child to a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the child's county of residence and has authorized the school attendance officer to refer children to the teen court program and the school attendance officer determines that participation in the teen court program will likely benefit the child and the community.

b. The child and the child's parent, guardian and legal custodian consent to the child's participation in the teen court program.

c. The child has not successfully completed participation in a teen court program during the 2 years before the date on which the school attendance officer received evidence that activities under sub. (5) have been completed or were not completed due to the child's absence from school as provided in sub. (5m).

(b) If a child who is referred to a teen court program under par. (a) 2. is not eligible for participation in the teen court program or does not successfully complete participation in the teen court program, the person administering the teen court program shall file information on the child with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this paragraph 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; 1985 a. 211; 1987 a. 285; 1993 a. 16, 56, 334, 339, 491; 1995 a. 27 ss. 3947, 9130 (4), 9145 (1); 1995 a. 77; 1997 a. 3, 27, 205, 239; 1999 a. 9; 2001 a. 107; 2005 a. 122; 2009 a. 41, 302; 2015 a. 52; 2017 a. 59.

NOTE: 1993 Wis. Act 339, which created sub. (4) (cm), contains explanatory notes.

A court must consider evidence under sub. (5) prior to entering a finding of contempt based on truancy from school. T.J.N. v. Winnebago County Department of Social Services, 141 Wis. 2d 838, 416 N.W.2d 632 (Ct. App. 1987).

Sub. (5) does not limit a court's discretion in setting school attendance requirements in a dispositional order for a delinquent juvenile and in imposing sanctions if the order is violated. By its terms, sub. (5) is limited to children who are habitual truants and therefore in need of protection and services. State v. Jason R.N., 201 Wis. 2d 646, 549 N.W.2d 752 (Ct. App. 1996), 95-1728.

When under school board policy a suspension is not an excused absence, an absence as a result of the suspension is not an "acceptable excuse" under sub. (1) (a) or "legal cause" under sub. (1) (c) and may result in a finding of habitual truancy. State v. Isaac J.R., 220 Wis. 2d 251, 582 N.W.2d 476 (Ct. App. 1998), 97-1611.

118.162 Truancy committee and plan. (1) At least once every 4 years, in each county, the school district administrator of the school district which contains the county seat designated under s. 59.05, or his or her designee, shall convene a committee to review and make recommendations to the school boards of all of the school districts in the county on revisions to the school districts' truancy plans under sub. (4m). The committee shall consist of the following members:

(a) A representative from each school district in the county, designated by the school board of the school district that he or she represents, who may be a school board member, school administrator, teacher, pupil services professional or parent of a child enrolled in the school district. If the territory of a school district lies in more than one county, the school district shall have a representative on the committee for the county in which the largest portion of the school district's equalized valuation is located.

(am) A representative from each tribal school in the county, designated by the governing body of the tribal school that he or she represents, who may be a member of the tribal school governing body, school administrator, teacher, pupil services professional, or parent of a child enrolled in that tribal school.

(b) A representative of the office of the district attorney, designated by the district attorney.

(c) A representative of the sheriff's office, designated by the sheriff.

NOTE: Par. (c) is shown as amended eff. 1-4-27 by 2025 Wis. Act 196. Prior to 1-4-27 it reads:

(c) A representative of the sheriff's department, designated by the sheriff.

(d) A representative of the local law enforcement agency, other than the sheriff's office, with jurisdiction over the county seat, designated by the chief administrative officer of the law enforcement agency.

NOTE: Par. (d) is shown as amended eff. 1-4-27 by 2025 Wis. Act 196. Prior to 1-4-27 it reads:

(d) A representative of the local law enforcement agency, other than the sheriff's department, with jurisdiction over the county seat, designated by the chief administrative officer of the law enforcement agency.

(e) A representative of the circuit court for the county, designated by the chief judge of the judicial administrative district.

(f) A representative of the county department of social services under s. 46.22, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, a representative of the

county department of human services under s. 46.23, designated by the county human services director.

(g) A representative of the juvenile court intake unit, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, designated by the county human services director, or designated by the chief judge of the judicial administrative district.

(h) If a county department of human services has not been established under s. 46.23, a representative of a county department established under s. 51.42 or 51.437, designated by the director of the department established under s. 51.42 or 51.437.

(i) Any other member as determined by the committee.

(j) A parent of a pupil enrolled in a private school, who resides in a school district in the county, designated by the county board.

(k) A parent of a pupil enrolled in a public school, who resides in a school district in the county, designated by the county board.

(L) A parent of a pupil enrolled in a home-based private educational program, who resides in a school district in the county, designated by the county board.

(m) A parent of a pupil enrolled in a tribal school located in the county, who resides in the county, designated by the county board.

(2) The district attorney representative on the committee shall participate in reviewing and developing any recommendations regarding revisions to the portions of the school districts' plans under sub. (4) (e).

(3) The committee shall write a report to accompany the recommendations under sub. (1). The report shall include a description of the factors that contribute to truancy in the county and a description of any state statutes, municipal ordinances or school, social services, law enforcement, district attorney, court or other policies that contribute to or inhibit the response to truancy in the county. A copy of the report shall be submitted to each of the entities identified in sub. (1) (b) to (h) and any other entity designating members on the committee under sub. (1) (i).

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(a) Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants under s. 118.16 (2) (cr) and for meeting and conferring with such parents or guardians.

(b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.

(c) Methods to increase and maintain public awareness of and involvement in responding to truancy within the school district.

(d) The immediate response to be made by school personnel when a truant child is returned to school.

(e) The types of truancy cases to be referred to the district attorney for the filing of information under s. 938.24 or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.

(f) Plans and procedures to coordinate the responses to the problems of habitual truants, as defined under s. 118.16 (1) (a), with public and private social services agencies.

(g) Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy problem.

(4m) At least once every 2 years, each school board shall review and, if appropriate, revise the truancy plan adopted by the school board under sub. (4).

History: 1987 a. 285; 1995 a. 77, 201; 1997 a. 239; 2009 a. 302; 2025 a. 196.

118.163 Municipal truancy and school dropout ordinances. (1) In this section:

(a) "Dropout" has the meaning given in s. 118.153 (1) (b).

(b) "Habitual truant" has the meaning given in s. 118.16 (1) (a).

(c) "Operating privilege" has the meaning given in s. 340.01 (40).

(d) "Truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16 (4) for part or all of any day on which school is held during a school semester.

(1m) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) An order for the person to attend school.

(b) A forfeiture of not more than $50 plus costs for a first violation, or a forfeiture of not more than $100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than $500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(c) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1d) (c).

(2) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a habitual truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

(b) An order for the person to participate in counseling or a supervised work program or other community service work as described in s. 938.34 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of $25,000 for any act or omission by or impacting on that person.

(c) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(d) An order for the person to attend an educational program as described in s. 938.34 (7d).

(e) An order for the department of workforce development to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the person.

(f) An order for the person to be placed in a teen court program as described in s. 938.342 (1g) (f).

(g) An order for the person to attend school.

(h) A forfeiture of not more than $500 plus costs, subject to s. 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(i) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(j) An order placing the person under formal or informal supervision, as described in s. 938.34 (2), for up to one year.

(k) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(L) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1g) (k).

(2m) (a) A county, city, village or town may enact an ordinance permitting a court to suspend the operating privilege of a person who is at least 16 years of age but less than 18 years of age and is a dropout. The ordinance shall provide that the court may suspend the person's operating privilege until the person reaches the age of 18. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

(b) A court may order a school district to provide to the court a list of all persons who are known to the school district to be dropouts and who reside within the county in which the circuit court is located or the municipality in which the municipal court is located. Upon request, the department of transportation shall assist the court to determine which dropouts have operating privileges.

(3) An ordinance enacted by a county under sub. (1m), (2) or (2m) is applicable and may be enforced in that part of any city or village located in the county and in any town located in the county regardless of whether the city, village or town has enacted an ordinance under sub. (1m), (2) or (2m).

(4) A person who is under 17 years of age on the date of disposition is subject to s. 938.342.

History: 1987 a. 285; 1991 a. 39; 1993 a. 363; 1995 a. 27 s. 9130 (4); 1995 a. 77, 352; 1997 a. 3, 35, 239; 2001 a. 16; 2009 a. 103.

A circuit court judge hearing a municipal truancy case is acting as a juvenile court, and the case is governed by ch. 938. The court lacks statutory authority to order sanctions if the court never enters written dispositional orders that could serve as a basis for sanctions. Under s. 938.355 (6m) (ag), a court may sanction a juvenile who has been adjudicated truant if it finds by a preponderance of the evidence that the juvenile violated a condition of a dispositional order. Section 938.355 (2) (b) states that the dispositional order shall be in writing. A court's minutes sheet is not a court order. A court order must be signed by a judge. State v. Dylan S., 2012 WI App 25, 339 Wis. 2d 442, 813 N.W.2d 229, 11-1338.

118.164 Removal of pupils from the class. (1) In this section, "teacher" means a person holding a license or permit issued by the state superintendent whose employment by a school district requires that he or she hold that license or permit.

(2) Subject to 20 USC 1415 (k) and beginning August 1, 1999, a teacher may remove a pupil from the teacher's class if the pupil violates the code of classroom conduct adopted under s. 120.13 (1) (a) or is dangerous, unruly or disruptive or exhibits behavior that interferes with the ability of the teacher to teach effectively, as specified in the code of classroom conduct. The teacher shall send the pupil to the school principal or his or her designee and notify the school principal or his or her designee immediately of the reasons for the removal. In addition, the teacher shall provide to the principal or his or her designee within 24 hours after the pupil's removal from the class a written explanation of the reasons for the removal.

(3) (a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7) (e) 1.

2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.

3. Another instructional setting.

4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

(b) This subsection does not prohibit the teacher who removed the pupil from the class or the school board, school district administrator, school principal or their designees from disciplining the pupil.

History: 1997 a. 335.

118.165 Private schools. (1) An institution is a private school if its educational program meets all of the following criteria:

(a) The primary purpose of the program is to provide private or religious-based education.

(b) The program is privately controlled.

(c) The program provides at least 875 hours of instruction each school year.

(d) The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. This subsection does not require the program to include in its curriculum any concept, topic or practice in conflict with the program's religious doctrines or to exclude from its curriculum any concept, topic or practice consistent with the program's religious doctrines.

(e) The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 118.15 (1) (a) and (am).

(f) The pupils in the institution's educational program, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than 2 months of summer vacation, or the institution is licensed as a child welfare agency under s. 48.60 (1).

(2) An institution may request the state superintendent to approve the institution's educational program as a private school. The state superintendent shall base his or her approval solely on the criteria under sub. (1).

History: 1983 a. 512; 1989 a. 336; 1995 a. 27; 1997 a. 27; 2009 a. 41.

118.167 Private school determination by state superintendent. If an association that regulates or accredits private educational institutions in this state submits an affidavit to the state superintendent attesting that the institution meets or exceeds all of the criteria under s. 118.165 and the state superintendent finds that the institution does meet or exceed all of the criteria under s. 118.165, the state superintendent shall determine that the institution is a private school. If at any time the state superintendent finds that an institution determined to be a private school under this section no longer meets the criteria under s. 118.165, the state superintendent may withdraw the determination.

History: 1983 a. 512; 1995 a. 27; 1997 a. 27.

118.169 Pupil identification. (1) IDENTIFICATION NUM-

BERS. A school board, and the governing body of a private school, may assign to each pupil enrolled in the school district or private school a unique identification number. The school board or governing body may not assign to any pupil an identification number that is identical to or incorporates the pupil's social security number. This subsection does not prohibit a school board or governing body from requiring a pupil to disclose the pupil's social security number, nor from using a pupil's social security number if the use is required by a federal or state agency or private organization in order for the school district or private school to participate in a particular program.

(2) IDENTIFICATION CARDS. (a) If a school board or operator of a charter school under s. 118.40 (2r) or (2x) issues identification cards to pupils, the school board or operator shall include on each identification card issued to a pupil the telephone number for the National Suicide Prevention Lifeline or one of its affiliate crisis centers or, if the National Suicide Prevention Lifeline ceases operations, another national network of local crisis centers that provides free and confidential emotional support to individuals in suicidal crisis or emotional distress 24 hours a day and 7 days a week. The school board or operator may also include on the identification card any of the following information:

1. A statement that the text-based emotional support service of the Crisis Text Line may be accessed by texting HOPELINE to 741741 or, if applicable, by specifying any successor method.

2. Instructions for contacting a text-based state or national organization, other than the organization described under subd. 1., that provides free support to individuals in crisis 24 hours a day and 7 days a week.

3. The telephone number for a local suicide prevention hotline.

(b) A school board or operator of a charter school under s. 118.40 (2r) or (2x) may include the information described under par. (a) on pupil identification cards by printing the information on, or by affixing a sticker that contains the information to, the identification cards.

History: 1997 a. 128; 2019 a. 116.

118.17 Indigent children. The principal or teacher in charge of any public school shall report to the county department under s. 46.215, 46.22 or 46.23 for the county 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.

History: 1985 a. 29; 1995 a. 27.

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

118.175 Pupils without parents or guardians; report required. (1) This section does not apply to a pupil who has a legal custodian, as defined in s. 48.02 (11) or 938.02 (11), or who is cared for by a kinship care provider, as defined in s. 48.57 (3m) (a) 2.

(2) If a pupil is a child who is without a parent or guardian, any school teacher, school administrator, school counselor or school social worker who knows that the child is without a parent or guardian shall report that fact as soon as possible to the county department under s. 46.22 or 46.23 or, in a county having a population of 750,000 or more, to the department of health services.

History: 1999 a. 9, 133; 2007 a. 20 s. 9121 (6) (a); 2017 a. 207 s. 5; 2023 a. 119.

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; 1995 a. 27 s. 9145 (1); 1997 a. 27.

118.19 Teacher certificates and licenses; administrator and pupil services professional licenses. (1) Except as provided in subs. (1b) and (1c) and s. 118.40 (8) (b) 1. and 2., any person seeking to teach in a public school, including a charter school, or in a school or institution operated by a county or the state shall first procure a license or permit from the department.

(1b) An individual may teach an online course in a subject and level in a public school, including a charter school, without a license or permit from the department if the individual holds a valid license or permit to teach the subject and level in the state from which the online course is provided.

(1c) (a) In this subsection, "institution of higher education" means an institution or college campus within the University of Wisconsin System, a technical college under ch. 38, or any private, nonprofit postsecondary institution that is a member of the Wisconsin Association of Independent Colleges and Universities.

(b) A faculty member of an institution of higher education may teach in a public high school, including a charter school that operates only high school grades, without a license or permit from the department if the faculty member satisfies all of the following:

1. The faculty member is in good standing with the institution of higher education at which he or she is a member of the faculty.

2. The faculty member possesses a bachelor's degree.

3. The department conducts a background investigation of the faculty member and the results of the background investigation would not make the faculty member ineligible for a teaching license under sub. (4) or (10).

(1m) (a) The department of public instruction may not issue a license or permit or revalidate a license that has no expiration date unless the applicant provides the department of public instruction with his or her social security number. The department of public instruction may not disclose the social security number except to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

(b) The department of public instruction may not issue a license or permit or revalidate a license that has no expiration date if the department of revenue certifies under s. 73.0301 that the applicant is liable for delinquent taxes or if the department of workforce development certifies under s. 108.227 that the applicant is liable for delinquent unemployment insurance contributions.

(1r) (a) As provided in the memorandum of understanding under s. 49.857, the department of public instruction may not issue a license or permit or revalidate a license that has no expiration date unless the applicant provides the department of public instruction with his or her social security number. The department of public instruction may not disclose the social security number except to the department of children and families for the sole purpose of administering s. 49.22.

(b) As provided in the memorandum of understanding under s. 49.857, the department may not issue a license or permit or revalidate a license that has no expiration date if the applicant is delinquent in making court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or if the applicant fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and fami-

lies or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings.

(1s) (a) Notwithstanding subs. (1m) and (1r), if an applicant does not have a social security number, the applicant, as a condition of applying for, or applying to revalidate, a license under this section shall submit a statement made or subscribed under oath or affirmation to the department that the applicant does not have a social security number.

(b) The teaching license of a person who submits a false statement under par. (a) is invalid.

(3) (a) No 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) and ss. 115.28 (17) (a), 118.191, 118.1915, 118.192, 118.193, 118.194, and 118.197. Notwithstanding s. 36.11 (16), no teacher preparatory program in this state may be approved by the state superintendent under s. 115.28 (7) (a), unless each student in the program is required to complete student teaching consisting of full days for a full semester following the daily schedule and semester calendar of the cooperating school or the equivalent, as determined by the state superintendent. No license to teach in any public school may be granted to an applicant who completed a professional training program outside this state unless the applicant completed student teaching consisting of full days for a full semester following the daily schedule and semester calendar of the cooperating school or the equivalent, as determined by the state superintendent. The state superintendent may grant exceptions to the student teaching requirements under this paragraph when the midyear calendars of the institution offering the teacher preparatory program and the cooperating school differ from each other and would prevent students from attending classes at the institution in accordance with the institution's calendar. The state superintendent shall promulgate rules to implement this subsection. If for the purpose of granting a license to teach or for approving a teacher preparatory program the state superintendent requires that an institution of higher education be accredited, the state superintendent shall accept accreditation by a regional or national institutional accrediting agency recognized by the U.S. department of education or by a programmatic accrediting organization.

(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).

(4) (a) Notwithstanding subch. II of ch. 111, the state superintendent may not grant a license, for 6 years following the date of the conviction, to any person who has been convicted of any Class A, B, C, or D felony under ch. 940 or 948, except ss. 940.08, 940.62 (2) (c), and 947.016 (4) and s. 940.205, 2023 stats., or of an equivalent crime in another state or country, for a violation that occurs on or after September 12, 1991, or any Class E, F, G, or H felony under ch. 940 or 948, except ss. 940.08, 940.62 (2) (c), and 947.016 (4) and s. 940.205, 2023 stats., for a violation that occurs on or after February 1, 2003. The state superintendent may grant the license only if the person establishes by clear and convincing evidence that he or she is entitled to the license.

(b) Notwithstanding par. (a), the state superintendent shall grant a license to a person convicted of a crime described under par. (a), prior to the expiration of the 6-year period following the conviction, if the conviction is reversed, set aside or vacated.

(4m) The state superintendent may not issue a license to teach the visually impaired unless the applicant demonstrates, based on criteria established by the state superintendent by rule, that he or she is proficient in reading and writing braille and in teaching braille. In promulgating rules under this subsection, the state superintendent shall take into consideration the standard used by the librarian of congress for certifying braille transcribers.

(5) A person is not required to be licensed as an alternative education program teacher under s. 115.28 (7) (e) 2. to teach in an alternative education program, as defined in s. 115.28 (7) (e) 1.

(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) (a) 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.

(b) The state superintendent may issue a permit to teach industrial arts subjects if the applicant is certified by the technical college system board to teach an industrial arts or similar subject.

(7m) The state superintendent shall grant a substitute teacher permit to an individual who is eligible for licensure under subs. (4) and (10) and who satisfies any of the following:

(a) The individual has an associate degree and has successfully completed substitute teacher training.

(b) 1. All of the following apply to the individual:

a. The individual is at least 20 years of age.

b. The individual is enrolled in a teacher preparatory program approved by the state superintendent under s. 115.28 (7) (a).

c. If the teacher preparatory program in which the individual is enrolled awards a bachelor's degree, the individual has successfully completed the minimum number of course credits required for the individual to have achieved junior level status.

d. The individual has completed at least 15 hours of classroom observation.

2. If the individual is eligible for a substitute teacher permit under subd. 1., the state superintendent may not require the individual to complete substitute teacher training as a condition for receiving the permit.

(8) The state superintendent may not grant to any person a license to teach unless the person has received instruction in the study of minority group relations, including instruction in the history, culture and tribal sovereignty of the federally recognized American Indian tribes and bands located in this state.

(9) (a) Except as provided in par. (b), the state superintendent may not issue an initial teaching license, school district administrator's license or school administrator's license unless the applicant has demonstrated competency in all of the following:

1. Resolving conflicts between pupils and between pupils and school staff.

2. Assisting pupils in learning methods of resolving conflicts between pupils and between pupils and school staff, including training in the use of peer mediation to resolve conflicts between pupils.

3. Dealing with crises, including violent, disruptive, potentially violent or potentially disruptive situations, that may arise in school or at activities supervised by a school as a result of conflicts between pupils or between pupils and other persons.

(b) The state superintendent may waive the requirements under par. (a) if the applicant demonstrates competency in the sub-

jects under par. (a) 1. to 3. within 12 months after the date on which the license is issued.

(10) (a) In this subsection:

1. "Educational agency" has the meaning given in s. 115.31 (1) (b).

2. "Pupil services professional" has the meaning given in s. 118.257 (1) (c).

(b) With the assistance of the department of justice, the state superintendent shall do all of the following:

1. Conduct a background investigation of each applicant for issuance or renewal of a license or permit, including a license or permit issued to a pupil services professional, and for a faculty member seeking to teach in a public high school without a license or permit.

2. At least once every 5 years, conduct a background investigation of each person who satisfies all of the following:

a. The person holds a license issued by the state superintendent, including a license issued to a pupil services professional, that has no expiration date.

b. The person is employed by an educational agency or by a charter school established under s. 118.40 (2r) or (2x).

(c) If the person under par. (b) is a nonresident, or if the state superintendent determines that the person's employment, licensing or state court records provide a reasonable basis for further investigation, the state superintendent shall require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints, or by other technologies approved by law enforcement agencies. The department of justice may provide for the submission of the fingerprint cards or fingerprints by other technologies to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrest and conviction.

(d) Upon request, an educational agency shall provide the state superintendent with all of the following information about each person employed by the educational agency who holds a license, issued by the state superintendent, that has no expiration date:

1. The person's name.

2. The person's social security number or the license identification number given by the department when the person's original license was issued.

3. Other identifying information, including the person's birthdate, sex, race and any identifying physical characteristics.

(e) The state superintendent may issue a license or permit conditioned upon the receipt of a satisfactory background investigation.

(f) The state superintendent shall keep confidential all information received under this subsection from the department of justice or the federal bureau of investigation. Except as provided in par. (g), such information is not subject to inspection or copying under s. 19.35.

(g) At the request under s. 49.22 (2m) of the department of children and families or a county child support agency under s. 59.53 (5), the state superintendent shall release the name and address of the applicant or licensee, the name and address of the applicant's or licensee's employer and financial information, if any, related to the applicant or licensee obtained under this subsection to the department of children and families or the county child support agency.

(11) The department may promulgate rules establishing requirements for licensure as a school principal. A school principal license shall authorize the individual to serve as a school principal for any grade level.

(12) The department may not issue a license that authorizes the holder to teach reading or language arts to pupils in any prekindergarten class or in any of the grades from kindergarten to 6 unless the applicant has successfully completed instruction preparing the applicant to teach reading and language arts that satisfies all of the following:

(a) The instruction prepared the applicant to teach reading and language arts using science-based early reading instruction, as defined in s. 118.015 (1c) (b).

(b) For licenses issued on or after July 1, 2026, the instruction did not include 3-cueing, as defined in s. 118.015 (1c) (c), as a method to teach reading and language arts.

(14) (a) Except as provided in par. (b), the department may not issue an initial teaching license that authorizes the holder to teach in grades kindergarten to 5 or in special education, an initial license as a reading teacher, or an initial license as a reading specialist, unless the applicant has passed an examination identical to the Foundations of Reading test administered in 2012 as part of the Massachusetts Tests for Educator Licensure or identical to the most recent edition of that test. The department shall set the passing cut score on the examination at a level no lower than the level recommended by the developer of the test, based on this state's standards.

(b) The department shall waive the requirement under par. (a) for an applicant seeking an initial teaching license that authorizes the holder to teach in special education if the applicant demonstrates to the satisfaction of the department that the applicant has successfully completed a course of study that satisfies all of the following:

1. The course of study provides rigorous instruction in the teaching of phonemic awareness, phonics, vocabulary, reading comprehension, and fluency.

2. A student in the course of study receives feedback and coaching from an individual who is an expert of reading instruction.

3. A student in the course of study demonstrates competence in phonemic awareness, phonics, vocabulary, reading comprehension, and fluency by providing a portfolio of work.

(c) Any teacher who passes the examination under par. (a) shall notify the department, which shall add a notation to the teacher's license indicating that he or she passed the examination.

(16) The department shall ensure that teaching experience gained while a person held a license issued by the department under s. PI 34.028, Wis. Adm. Code, counts toward fulfillment of the teaching experience requirement under s. PI 34.040 (2) (d), Wis. Adm. Code, for a license based on experience, or the teaching experience requirement under s. PI 34.065 (4), Wis. Adm. Code, for a license in a school administrator category.

(18) (a) Beginning on September 23, 2017, and subject to ss. 115.31 and 115.315, an individual who is applying for an initial teaching license, an initial administrator license, or an initial pupil services professional license under this section shall be subject to the requirement of this paragraph. The department may issue a provisional license for a term of 3 years to an individual who applies for an initial license under this paragraph.

(bc) The department shall, subject to ss. 115.31 and 115.315, issue a provisional license to an individual who holds a valid and current initial teaching, administrator, or pupil services license on September 23, 2017.

(bd) Except as provided in par. (c), and subject to ss. 115.31 and 115.315, a professional or master teaching license, administrator license, or pupil services license that is valid and current on September 23, 2017, is a lifetime license and has no expiration date.

(bg) 1. The department may issue a lifetime license under this

subdivision to an individual who obtained a provisional license under par. (a) or (bc) if the individual has successfully completed 6 semesters of teaching, administrating, or pupil services experience, as defined by the department by rule.

2. An individual who does not successfully complete 6 semesters of teaching, administrating, or pupil services experience, as defined by the department by rule, within the 3-year term of a provisional license issued under par. (a) or (bc) may apply to renew the provisional license. There is no limit to the number of times an individual may renew a provisional license under par. (a) or (bc).

(c) If an individual who holds a lifetime license under par. (bd) or (bg) is not regularly employed in education, as defined by the department by rule, for 5 or more consecutive years, the department shall invalidate the lifetime license. An individual whose lifetime license has been invalidated under this paragraph may not revalidate the lifetime license until the individual applies for and obtains a provisional license under par. (a) and satisfies the requirements under par. (bg) for a lifetime license.

History: 1971 c. 154; 1975 c. 39, 95; 1979 c. 346; 1981 c. 314 s. 146; 1985 a. 29, 207; 1989 a. 31; 1991 a. 42, 108, 164, 315; 1993 a. 16, 334, 339, 454, 491; 1995 a. 27 ss. 3951m, 9145 (1); 1995 a. 299; 1997 a. 27, 113, 191, 237; 1999 a. 9; 2001 a. 109; 2005 a. 121; 2007 a. 20, 222; 2011 a. 166; 2013 a. 20, 36; 2015 a. 55; 2017 a. 59, 206; 2019 a. 44, 84; 2021 a. 214, 236; 2023 a. 20, 262; 2025 a. 24 s. 93; 2025 a. 136.

Cross-reference: See also ch. PI 34, Wis. adm. code.

118.191 Experience-based licensure for technical and vocational education subjects. (1) In this section:

(a) "Technical education subject" includes technology education and any technology related occupation.

(b) "Vocational education subject" includes agriculture, child services, clothing services, food services, housing and equipment services, family and consumer education, family and consumer services, home economics-related occupations, health care-related occupations, trade specialist, business education, business and office, and marketing education.

(2) (a) Notwithstanding s. 118.19 (7) to (9), the department shall grant an initial teaching license to teach a technical education subject to an individual who is eligible for licensure under s. 118.19 (4) and (10), who scores at least 100 points on the point system under sub. (5), of which at least 25 points are from sub. (5) (a) 1. and at least 25 points are from sub. (5) (a) 2., and who agrees to complete during the term of the license a curriculum determined by the school board of the school district in which the individual will teach.

(b) Notwithstanding s. 118.19 (7) to (9), the department shall grant an initial teaching license to teach a vocational education subject to an individual who is eligible for licensure under s. 118.19 (4) and (10), who scores at least 100 points on the point system under sub. (5m), of which at least 25 points are from sub. (5m) (a) 1. and at least 25 points are from sub. (5m) (a) 2., and who agrees to complete during the term of the license a curriculum determined by the school board of the school district in which the individual will teach.

(2m) An initial teaching license issued under sub. (2) authorizes an individual to teach only in the school district controlled by the school board that determined the curriculum the individual agreed to complete in order to qualify for the initial teaching license.

(3) An initial teaching license issued under sub. (2) is valid for 3 years. An initial teaching license issued under sub. (2) is void if the license holder ceases to be employed as a teacher in the school district in which the license holder is authorized to teach under sub. (2m).

(4) Upon the expiration of the 3-year term of an initial teaching license issued under sub. (2), the department shall issue to the license holder a professional teaching license to teach the technical education subject or vocational education subject if the individual successfully completed the curriculum that the individual agreed to under sub. (2), as determined by the school board of the school district that established the curriculum. The department shall indicate on a professional teaching license issued under this subsection that the license was obtained under the experience-based licensure program under this section.

(5) (a) The department shall use the following point system to evaluate an applicant for an initial teaching license to teach a technical education subject under sub. (2) (a):

1. The following for experience in a technical field:

a. For a bachelor's degree in any science, technology, engineering, or mathematics field and any teaching license or permit, 100 points.

b. For a bachelor's degree in any science, technology, engineering, or mathematics field, 75 points.

c. For a bachelor's degree in a field other than those described in subd. 1. a. or 2. a., 65 points.

d. For industry certification, 90 points.

e. For industry experience in a trade or technical field, 5 points per 40 hours worked up to a maximum of 90 points.

f. For an internship in a trade or technical field, 25 points.

g. For being mentored in a trade or technical skill by a colleague or a Wisconsin Technology Education Association approved mentor, 25 points.

h. For an apprenticeship in a trade or technical field, 5 points per 40 hours worked up to a maximum of 90 points.

2. The following for pedagogical experience:

a. For a bachelor's degree in technical or technology education, 100 points.

b. For a bachelor's degree in a field other than those described in subd. 1. a. or 2. a. and any teaching license or permit, 75 points.

c. For credit earned at an accredited institution of higher education or technical college, 3 points per credit up to a maximum of 75 points for technical or technology education courses and science, technology, engineering, or mathematics courses and 3 points per credit up to a maximum of 75 points for education and pedagogical courses.

d. For completing at least 100 hours of training in pedagogy, 5 points per 50 hours up to a maximum of 75 points.

(b) The department shall verify the information in par. (a) using only the following:

1. For par. (a) 1. a. to c. and 2. a. to c., the applicant's transcript for the applicable degree or credits.

2. For par. (a) 1. d., the applicant's industry certificate.

3. For par. (a) 1. e. to h., the signature of a supervisor, employer, or other reliable observer.

4. For par. (a) 2. d., verification by a course instructor, a transcript, or a certificate.

5. If the applicant is unable to provide the verification required under subds. 1. to 4., any other proof of the applicant's experience approved by the department.

(5m) (a) The department shall use the following point system to evaluate an applicant for an initial teaching license to teach a vocational education subject under sub. (2) (b):

1. The following for experience related to the vocational education subject that is the subject of the initial teaching license:

a. For a bachelor's degree in any science, technology, engineering, or mathematics field or in a field related to the vocational education subject and any teaching license or permit, 100 points.

b. For a bachelor's degree in any science, technology, engi-

neering, or mathematics field or in a field related to the vocational education subject, 75 points.

c. For a bachelor's degree in a field other than those described in subd. 1. a., 65 points.

d. For industry certification in the vocation, 90 points.

e. For experience in the vocation, 5 points per 40 hours worked up to a maximum of 90 points.

f. For an internship in the vocation, 25 points.

g. For being mentored in the vocation by a colleague or a mentor approved by a recognized vocational association, 25 points.

h. For an apprenticeship in the vocation, 5 points per 40 hours worked up to a maximum of 90 points.

2. The following for pedagogical experience:

a. For a bachelor's degree in any field and any teaching license or permit, 75 points.

b. For credit earned at an accredited institution of higher education or technical college, 3 points per credit up to a maximum of 75 points for courses in any science, technology, engineering, or mathematics field or in a field related to the vocational education subject and 3 points per credit up to a maximum of 75 points for education and pedagogical courses.

c. For completing at least 100 hours of training in pedagogy, 5 points per 50 hours up to a maximum of 75 points.

(b) The department shall verify the information in par. (a) using only the following:

1. For par. (a) 1. a. to c. and 2. a. and b., the applicant's transcript for the applicable degree or credits.

2. For par. (a) 1. d., the applicant's vocational certificate.

3. For par. (a) 1. e. to h., the signature of a supervisor, employer, or other reliable observer.

4. For par. (a) 2. c., verification by a course instructor, a transcript, or a certificate.

5. If the applicant is unable to provide the verification required under subds. 1. to 4., any other proof of the applicant's experience approved by the department.

(6) The department shall approve or deny an application for a license under sub. (2) no later than 45 business days after receipt of the application. If the department denies the application, it shall provide, in writing, the reason for the denial. If the department does not act within 45 business days of receiving an application for a license under sub. (2), the application shall be considered approved and the applicant considered a licensed teacher until the department approves or denies the application.

(7) Nothing in this section prohibits the department from granting a teaching license to teach a technical education subject or a vocational education subject under s. 118.19.

History: 2015 a. 55, 259.

118.1915 Licensure for Junior Reserve Officer Training Corps instructors. (1) Notwithstanding s. 118.19 (4m), (6) to (9), (12), and (14), the department shall grant a license to an individual to provide instruction to pupils enrolled in a Junior Reserve Officer Training Corps program offered in the high school grades if the individual is eligible for licensure under s. 118.19 (4) and (10) and the individual satisfies all of the following:

(a) Possesses a bachelor's degree.

(b) Successfully completed a Junior Reserve Officer Training Corps Instructor Certification program.

(2) A license under sub. (1) authorizes an individual to teach the courses for which the individual has successfully completed the Junior Reserve Officer Training Corps Instructor Certification process.

History: 2017 a. 59; 2025 a. 129.

118.192 Professional teaching permits. (1) The state superintendent shall establish an alternative teacher training program for music, art, foreign language, computer science, mathematics and science teachers. The program shall consist of approximately 100 hours of formal instruction.

(2) An individual who holds a bachelor's degree in engineering, music, art, foreign language, computer science, mathematics or science from an accredited institution of higher education, has at least 5 years of experience as a professional in the subject area in which his or her degree was awarded and demonstrates, to the satisfaction of the state superintendent, competency in that subject area that is current and compatible with modern curricula may apply to the state superintendent for enrollment in the alternative teacher training program. The state superintendent shall charge a fee sufficient to cover the costs of the program.

(3) The state superintendent shall grant a professional teaching permit to any person who satisfactorily completes the program under sub. (2). The permit authorizes the person to teach the subject area specified by the state superintendent in grades kindergarten to 12. The initial permit shall be valid for 2 years. During the initial permit period, the person shall be supervised by a person who holds a regular teaching license. The permit is renewable for 5-year periods.

(4) A school board that employs a person who holds a professional teaching permit shall ensure that no regularly licensed teacher is removed from his or her position as a result of the employment of persons holding permits.

History: 1991 a. 108; 1995 a. 27 ss. 3952, 9145 (1); 1997 a. 27, 237.

118.193 Licenses based on reciprocity. (1) In this section, an "administrator license" means a license in a school administrator category under subch. VIII of ch. PI 34, Wis. Adm. Code.

(2) Notwithstanding s. 118.19 (4m), (6) to (9), (12), and (14), the department shall issue a provisional license to teach for a term of 3 years to an individual who is eligible for licensure under s. 118.19 (4) and (10) and who satisfies all of the following:

(a) The individual holds a license to teach granted by the proper authority of another state and is in good standing with the proper authority of that state.

(b) The individual taught for at least any of the following:

1. One year under the license granted by another state.

2. Two semesters under a license or permit issued by the department or 2 semesters at a private school in this state while the individual held a license or permit issued by the department. To qualify under this subdivision, the school district, cooperative educational service agency, charter school, or private school that employed the individual while the individual taught in this state while the individual held a license or permit issued by the department shall notify the department that the individual successfully completed 2 semesters of teaching experience, as defined by the department by rule.

(3) Notwithstanding s. 118.19 (9) and (11), the department shall grant an initial administrator license to an individual who is eligible for licensure under s. 118.19 (4) and (10) and who satisfies all of the following:

(a) The individual holds a license granted by the proper authority of another state that is equivalent to an administrator license and the individual is in good standing with the proper authority of that state.

(b) The individual worked as an administrator under the license granted by another state for at least one year.

(4) (a) The department shall determine the subjects and grades that a license issued under sub. (2) authorizes an individual to teach based on the subjects and grades the individual is authorized to teach under his or her license granted by another state and the individual's teaching experience.

(b) The department shall determine the school administrator category under subch. VIII of ch. PI 34, Wis. Adm. Code, for a license issued under sub. (3) and the grades to which the license applies based on the individual's license granted by another state and the individual's experience as an administrator.

(5) The department shall issue a lifetime license to an individual who obtains a provisional license under sub. (2) if the individual successfully completes 6 semesters of teaching experience, as defined by the department by rule. An individual who does not successfully complete 6 semesters of teaching experience, as defined by the department by rule, within the 3-year term of a provisional license issued under sub. (2) may apply to renew the provisional license. There is no limit to the number of times an individual may renew a provisional license under this subsection.

History: 2015 a. 55; 2017 a. 59; 2019 a. 43; 2025 a. 129, 136.

118.194 Initial license to teach; Montessori. (1) Notwithstanding s. 118.19 (4m), (6) to (9), (12), and (14), the department shall grant an initial license to teach to an individual who is eligible for licensure under s. 118.19 (4) and (10) and who satisfies all of the following:

(a) Possesses a bachelor's degree.

(b) Successfully completed a teacher education program accredited by the Montessori Accreditation Council for Teacher Education or approved by the Association Montessori Internationale.

(c) Successfully completed an introductory course in special education for which the individual earned at least 3 postsecondary credits.

(d) Earned a passing score on any standardized examinations required by the state superintendent for a license to teach the same educational levels and subjects issued in accordance with s. 118.19 and on an examination identical to the Foundations of Reading test administered in 2012 as part of the Massachusetts Tests for Educator Licensure or identical to the most recent edition of that test.

(2) A license under sub. (1) authorizes an individual to teach the educational levels for which the individual has successfully completed a teacher education program described in sub. (1) (b) at a school that uses the Montessori method as its primary method of instruction. The department shall treat an initial license to teach granted under sub. (1) in the same manner the state superintendent treats an initial license to teach granted in accordance with s. 118.19.

History: 2015 a. 55; 2017 a. 106; 2021 a. 214; 2025 a. 129.

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 the person 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 the person seeks.

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

History: 1993 a. 492; 1995 a. 27 s. 9145 (1); 1997 a. 27.

118.196 Teacher development program. (1) A school board, governing body of a private school, or a charter management organization may apply to the department of workforce development for a grant under s. 106.272 to design and implement a teacher development program that satisfies the requirements under sub. (2) with an educator preparation program approved by the department and headquartered in this state.

(2) (a) The school board, governing body, or charter management organization and the educator preparation program under sub. (1) shall design the teacher development program to prepare employees of the school district, private school, or charter management organization who work closely with students to successfully complete the requirements for obtaining a permit under s. 118.192 or an initial teaching license under s. 118.19, including any standardized examination prescribed by the state superintendent as a condition for permitting or licensure.

(b) To implement the teacher development program designed under par. (a), the school board, governing body, and charter management organization shall allow employees who are enrolled in the program to satisfy student teaching requirements in a school in the school district, in the private school, or in the charter management organization, and the partnering entity under sub. (1) shall prepare and provide intensive coursework for participating employees.

(c) The school board, governing body, and charter management organization shall permit an individual who does not hold a bachelor's degree to enroll in a teacher development program developed and implemented under this section.

(3) Notwithstanding s. 118.19 (3) (a), the department may issue an initial teaching license to an individual who completes a teacher development program designed and implemented under this section.

History: 2017 a. 59.

118.197 Initial license to teach; alternative preparation programs. (1) Notwithstanding s. 118.19 (4m), (6) to (9), (12), and (14), the department shall grant an initial license to teach to an individual who is eligible for licensure under s. 118.19 (4) and (10) and who satisfies all of the following:

(a) The individual possesses a bachelor's degree.

(b) The individual successfully completed an alternative teacher certification program operated by an organization that satisfies all of the following criteria:

1. The organization operates in at least 5 states.

2. The organization has been operating an alternative teacher certification program for at least 10 years.

3. The organization requires candidates to pass a subject area exam and the pedagogy exam known as the Professional Teaching Knowledge exam to receive a certificate under the alternative teacher certification.

(2) A license under sub. (1) authorizes an individual to teach the subject and educational levels for which the individual has successfully completed an alternative teacher certification program. The department shall treat an initial license to teach granted under sub. (1) in the same manner the state superintendent treats an initial license to teach granted in accordance with s. 118.19.

History: 2017 a. 59; 2023 a. 197; 2025 a. 129.

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 employees or by teachers agencies or placement bureaus.

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

(3) If the state superintendent finds probable cause to believe that any discrimination prohibited by this section has been or is being practiced, the state superintendent shall immediately endeavor to eliminate the practice by conference, conciliation or persuasion. In case of failure to eliminate the discrimination, the state 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, employee, teacher agency or placement bureau named, hereinafter called the "respondent" to answer the complaint at a hearing before the state 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 state superintendent finds that the respondent has engaged in discrimination prohibited by this section the state 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 state superintendent finds that the respondent has not engaged in the alleged discrimination, the state superintendent shall serve a certified copy of the state superintendent's findings on the complainant together with an order dismissing the complaint.

(5) If any public school official, employee, teachers agency or placement bureau violates sub. (1) or fails or refuses to obey any lawful order made by the state 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 state superintendent under this section shall be subject to judicial review under ch. 227.

(6) Upon request of the state 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 state 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 state 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); 1993 a. 492; 1995 a. 27 ss. 3954, 3955, 9145 (1); 1997 a. 27.

This section is not the exclusive remedy of a wronged teacher; it is supplementary to the Fair Employment Act, ch. 111. Kurtz v. City of Waukesha, 91 Wis. 2d 103, 280 N.W.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, if any, 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 the teacher's wages, the whole or part of any time spent by the teacher 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.

History: 1979 c. 301; 1993 a. 492; 2017 a. 59.

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

A collective bargaining provision that releases only teacher members of a majority union from in-service days to attend, with pay, a state convention of the union is discriminatory, but the school board can deny compensation to minority union members who attend a regional convention of their union if they do so in good faith. Board of Education v. WERC, 52 Wis. 2d 625, 191 N.W.2d 242 (1971).

A teacher's lack of legal authority to teach assigned courses, although known to the school board at the time of hiring and subsequent assignments, was sufficient ground for dismissal despite the fact that the school superintendent repeatedly assured the teacher that the certification problem was an administrative omission that would be cured by the board. Grams v. Melrose-Mindoro Joint School District No. 1, 78 Wis. 2d 569, 254 N.W.2d 730 (1977).

An individual teacher's contract under this section and s. 118.22 is subservient to a collective bargaining contract under s. 111.70. 60 Atty. Gen. 342.

School boards have authority to contract with teachers to provide for an increment or sum in addition to their 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, the teacher was entitled to a due process hearing on other charges affecting the teacher's reputation as a teacher. Carpenter v. City of Greenfield School District No. 6, 358 F. Supp. 220 (1973).

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

(a) "Board" means a school board, technical college district board, board of control of a cooperative educational service agency or county children with disabilities education board, but does not include any board of school directors in a city of the 1st class.

(b) "Teacher" means any person who holds a teacher's certificate or license issued by the state superintendent or a classification status under the technical college system board 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.

(2) On or before May 15 of the school year during which a teacher holds a contract, the board by which the teacher is employed or an employee at the direction of the board shall give the teacher written notice of renewal or refusal to renew the teacher's contract for the ensuing school year. If no such notice is given on or before May 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 the teacher's contract for the ensuing school year on or before May 15, shall accept or reject in writing such contract not later than the following June 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 the teacher's contract.

History: 1971 c. 154; 1981 c. 223; 1983 a. 189; 1993 a. 399, 492; 1995 a. 27 s. 9145 (1); 1997 a. 27, 164; 2011 a. 10, 114.

Notice of intent not to renew that part of a contract providing extra pay for extra work as a coach is not necessary. Richards v. Board of Education, 58 Wis. 2d 444, 206 N.W.2d 597 (1973).

Under the facts of this case, the failure to timely provide notice of the right to a private conference under sub. (3) did not provide sufficient grounds to issue a writ of mandamus. Rawhouser v. Cooperative Educational Service Agency No. 4, 75 Wis. 2d 52, 248 N.W.2d 442 (1977).

In the absence of evidence of a school board's bias, the trial court had no jurisdiction to hold a de novo hearing regarding the competence of a teacher facing nonrenewal under sub. (3). Naus v. Joint School District No. 1, 76 Wis. 2d 104, 250 N.W.2d 725 (1977).

Arbitration was proper under a "discharge and nonrenewal" clause in a collective bargaining agreement when the school board did not offer a teacher a second contract after rejecting a contract that was signed and returned by the teacher with the title "probationary contract" crossed out. Joint School District No. 10 v. Jefferson Education Ass'n, 78 Wis. 2d 94, 253 N.W.2d 536 (1977).

Under sub. (2), a board has the exclusive right to hire and fire a teacher. Due process does not require that the board be an impartial decisionmaker. Hortonville Education Ass'n v. Hortonville Joint School District No. 1, 87 Wis. 2d 347, 274 N.W.2d 697 (1979).

An employment contract that recites that a teacher's employment will not be renewed cannot be construed as a waiver of rights granted by this section. There is a presumption of good faith applicable to a board's decisions. Faust v. Ladysmith-Hawkins School Systems, 88 Wis. 2d 525, 277 N.W.2d 303 (1979).

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

Arbitrators appointed pursuant to the grievance procedure contained in a collective bargaining agreement properly held a de novo factual hearing to determine whether just cause existed for the school board to terminate a teacher. Fortney v. School District, 108 Wis. 2d 167, 321 N.W.2d 225 (1982).

A teacher who forgot to accept an employment offer under sub. (2) and who was consequently terminated did not voluntarily terminate employment under s. 108.04 (7). Nelson v. LIRC, 123 Wis. 2d 221, 365 N.W.2d 629 (Ct. App. 1985).

Sub. (2) requires written notice of nonrenewal. A district must follow the explicit written notice requirement. Sterlinske v. School District, 211 Wis. 2d 608, 565 N.W.2d 273 (Ct. App. 1997), 96-2624.

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

Civil Rights—Academic Freedom—Refusal to Rehire a Nontenure Teacher for a Constitutionally Impermissible Reason. 1970 WLR 162.

Constitutional Law—Due Process—Fairness of a Hearing Before a School Board on Nonrenewal of a Teacher's Contract. 1971 WLR 354.

118.223 Collective bargaining. Except as provided under subch. IV of ch. 111, no school board may collectively bargain with its employees.

History: 2011 a. 10.

118.225 Teacher evaluations. A school board may use value-added analyses of scores on the examinations administered to pupils under s. 118.30 and 20 USC 6311 (b) (2) to evaluate teachers if the school board has developed a teacher evaluation plan that includes all of the following:

(1) A description of the evaluation process.

(2) Multiple criteria in addition to examination results.

(3) The rationale for using examination results to evaluate teachers.

(4) An explanation of how the school board intends to use the evaluations to improve pupil academic achievement.

History: 2009 a. 60; 2011 a. 105; 2017 a. 36.

118.227 Prohibited agreements and references; immoral conduct. (1) DEFINITIONS. In this section:

(a) "Education employer" means a school board, the governing board of a charter school, or the governing body of a private school participating in a program under s. 115.7915, 118.60, or 119.23.

(b) "Immoral conduct" has the meaning given in s. 115.31 (1) (c).

(2) PROHIBITED AGREEMENTS. Beginning on April 5, 2026, an education employer may not enter into an agreement, including an agreement for resignation or termination and a severance agreement, or other contract, or take any action that does any of the following:

(a) Has the effect of suppressing or destroying information relating to an investigation of alleged immoral conduct by a current or former employee.

(b) Affects the ability of the education employer or any of its employees to report suspected immoral conduct.

(c) Requires the education employer to expunge information about allegations or findings of immoral conduct from any documents maintained by the education employer, unless after investigation the allegations are found to be false or not substantiated.

(3) REFERENCES; IMMUNITY. An education employer who provides information about the conduct of a current or former employee, including information about allegations of immoral conduct, about a current or former employee, in response to a request for information from a prospective employer is immune from all civil liability that may result from providing the requested information. The immunity from civil liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.487.

History: 2025 a. 186; s. 35.17 correction in (1) (a).

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 750,000 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 1st class city; 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.

(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 the person's 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 willful 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 that the teacher 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.

(6) This section does not apply after December 21, 1995. Any person whose employment is permanent under sub. (3) on December 21, 1995, shall retain all of the rights and privileges of such permanent employment after that date.

History: 1971 c. 154; 1979 c. 89; 1981 c. 223; 1983 a. 391; 1993 a. 492; 1995 a. 111; 2011 a. 10; 2017 a. 207 s. 5.

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) A school board may employ a school district administrator, a business manager and school principals and assistants to such persons. The term of each employment contract may not exceed 2 years. A contract for a term of 2 years may provide for one or more extensions of one year each.

(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.

(f) The school district administrator shall ensure that the administrative and pupil service staff in the district cooperate with the county department 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 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 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 2 years. 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 school 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 school district to per-

form administrative duties only, may be employed for a term that does not exceed 2 years. A contract for a term of 2 years may provide for one or more extensions of one year each. 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.

(10) No principal or assistant principal may be granted tenure or permanent employment.

History: 1975 c. 379, 421; 1979 c. 331; 1983 a. 317; 1985 a. 176; 1993 a. 16; 1995 a. 27, 50; 2009 a. 215.

The school board and district under sub. (3) can require a principal to perform administrative responsibilities as long as their performance does not modify the terms of an employment contract. Kabes v. School District, 2004 WI App 55, 270 Wis. 2d 502, 677 N.W.2d 667, 03-0522.

Due process does not require that an outside decisionmaker conduct the hearing provided for under sub. (7). Beischel v. Stone Bank School District, 362 F.3d 430 (2004).

The statutes do not support the existence of a school principal's property interest in performing specific duties. Ulichny v. Merton Community School District, 93 F. Supp. 2d 1011 (2000).
Affirmed. 249 F.3d 686 (2001).

118.245 Referendum; increase in employee wages.

(1) If a school board wishes to increase the total base wages of its employees in an amount that exceeds the limit under s. 111.70 (4) (mb) 2., the school board shall adopt a resolution to that effect. The resolution shall specify the amount by which the proposed total base wages increase will exceed the limit under s. 111.70 (4) (mb) 2. The resolution may not take effect unless it is approved in a referendum called for that purpose. The referendum shall occur in April for collective bargaining agreements that begin in July of that year. The results of a referendum apply to the total base wages only in the next collective bargaining agreement.

(2) The question submitted in the referendum shall be substantially as follows: "Shall the employees in the .... [school district] receive a total increase on wages from $....[current total base wages] to $....[proposed total base wages], which is a percentage wage increase that is .... [x] percent higher than the percent of the consumer price index increase, for a total percentage increase in wages of .... [x]?"

History: 2011 a. 10.

This section does not violate the plaintiffs' associational rights. No matter the limitations or burdens a legislative enactment places on the collective bargaining process, collective bargaining remains a creation of legislative grace and not constitutional obligation. The restrictions attached to the statutory scheme of collective bargaining are irrelevant in regards to freedom of association because no condition is being placed on the decision to participate. If a general employee participates in collective bargaining under 2011 Wis. Act 10's statutory framework, that general employee has not relinquished a constitutional right. They have only acquired a benefit to which they were never constitutionally entitled. Madison Teachers, Inc. v. Walker, 2014 WI 99, 358 Wis. 2d 1, 851 N.W.2d 337, 12-2067.

118.25 Health examinations.

(1) In this section:

(a) "Practitioner" means a person licensed as a physician, naturopathic doctor, or physician assistant in any state or licensed as an advanced practice registered nurse or certified as an advanced practice registered nurse prescriber in any state. In this paragraph, "physician" has the meaning given in s. 448.01 (5).

(b) "School employee" 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) 1. Subject to par. (b), a school board shall, as a condition of employment, require a physical examination of every school employee of the school district. The school board shall ensure that the physical examination includes a screening questionnaire for tuberculosis approved by the department of health services and, if indicated, a test to determine the presence or absence of tuberculosis in a communicable form. Freedom from tuberculosis in a communicable form is a condition of employment. The school employee shall be examined by a practitioner in the employ of or under contract with the school district, but if a practitioner is not employed or under contract, the examination shall be made by a practitioner selected by the school employee.

2. The school board may require a school employee to complete additional health examinations, including physical examinations and an examination consisting of a screening questionnaire for tuberculosis approved by the department of health services, at intervals determined by the school board. A screening questionnaire administered as permitted under this subdivision may be administered by a school nurse or by a registered nurse who is selected by the school employee and who is licensed under s. 441.06 or holds a multistate license, as defined in s. 441.51 (2) (h), issued in a party state, as defined in s. 441.51 (2) (k).

(b) The school board may not require physical examinations of any school employee who files with the school board an affidavit setting forth that the employee 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 the employee is to the best of the employee's knowledge and belief in good health and that the employee claims exemption from health examination on these grounds. Notwithstanding the filing of such affidavit, if there is reasonable cause to believe that such employee is suffering from an illness detrimental to the health of the pupils, the school board may require a health examination of such school employee sufficient to indicate whether or not such school employee is suffering from such an illness. No school employee may be discriminated against by reason of the employee's filing such affidavit.

(c) 1. A practitioner performing a physical examination under par. (a) shall complete a report of the examination upon a standard form prepared by the department of health services. The practitioner shall retain a copy of the report in his or her files and shall make confidential recommendations therefrom to the school board and to the school employee on a form prepared by the department of health services. The recommendation form shall contain space for a certificate that the person examined by the practitioner appears to be free from tuberculosis in a communicable form.

2. A registered nurse or school nurse administering a screening questionnaire under par. (a) 2. shall provide a copy of the screening questionnaire to the school board and shall make confidential recommendations therefrom to the school board and to the school employee on a form prepared by the department of health services. The screening questionnaire shall contain space for a certificate that the person examined by the registered nurse or school nurse does not have risk factors for tuberculosis. If tuberculosis risk factors are identified on the screening questionnaire, the registered nurse or school nurse shall recommend that the person receive a test from a practitioner to determine the presence or absence of tuberculosis in a communicable form. If a test to determine the presence or absence of tuberculosis in a communicable form is recommended of the person, and if the test indicates the absence of tuberculosis in a communicable form, the practitioner who administers the test shall certify, on a form prepared by the department of health services, that the person appears to be free from tuberculosis in a communicable form.

3. The school board shall pay the cost of the examinations re-

quired under par. (a), including X-rays and tuberculin tests if needed, out of school district funds.

(3) In counties having a population of less than 750,000, the school board may require periodic health examinations of pupils by physicians, under the supervision of local health departments and the department of health services, and may pay the cost of the 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, cooperative 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 employees shall have physical examinations under sub. (2).

History: 1979 c. 221, 301; 1993 a. 27, 492; 1995 a. 27 ss. 9126 (19), 9145 (1); 1997 a. 27; 2007 a. 20 s. 9121 (6) (a); 2017 a. 107; 2017 a. 207 s. 5; 2017 a. 364 s. 49; 2021 a. 130, 238; 2025 a. 17.

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.

(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 children with disabilities education board provides physical or mental health treatment services to its pupils, it may also provide such services within the private school or tribal school facilities to those private school or tribal school pupils who are referred to the public school board, cooperative educational service agency, or county children with disabilities education board by the administrator of a private school or tribal 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 and tribal 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 the child's own school facilities, whether public, private, or tribal.

(b) A school board, cooperative educational service agency, or county children with disabilities education board providing services under this section may enter into agreements with the administrator of a private school or tribal 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 children with disabilities education board shall not pay any private school or tribal 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 children with disabilities education board.

(c) A school board, cooperative educational service agency, or county children with disabilities education board may provide health treatment services only within private school or tribal 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 children with disabilities education board maintaining health treatment services shall report annually to the department, 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, the state superintendent shall certify to the department of administration in favor of each school board, cooperative educational service agency and county children with disabilities education board maintaining such health treatment services, an amount equal to the amount expended for items listed in s. 115.88 (1m) by the school board, cooperative educational service agency and county children with disabilities education board during the preceding year for these health treatment services as costs eligible for reimbursement from the appropriation under s. 20.255 (2) (b).

History: 1973 c. 307; 1977 c. 83; 1981 c. 317; 1983 a. 27; 1983 a. 189 s. 329 (17m); 1983 a. 512; 1987 a. 27, 338; 1993 a. 492; 1995 a. 27; 1997 a. 27, 164; 1999 a. 9; 2009 a. 302.

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:

(a) "Controlled substance" has the meaning specified in s. 961.01 (4).

(am) "Controlled substance analog" has the meaning given in s. 961.01 (4m).

(at) "Delivery" has the meaning given in s. 961.01 (6).

(b) "Distribute" has the meaning specified in s. 961.01 (9).

(c) "Pupil services professional" means a school counselor, school social worker, school psychologist or school nurse.

(d) "School" means a public, parochial, private, or tribal 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, pupil services professional or teacher employed by a school board is not liable for referring a pupil enrolled in the school district 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, distribution, delivery or consumption of an alcohol beverage or a controlled substance or controlled substance analog.

History: 1979 c. 331; 1981 c. 79 s. 17; 1983 a. 373; 1987 a. 170; 1995 a. 448; 2009 a. 302.

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. This section does not apply to actions commenced under s. 19.37, 19.97 or 281.99.

History: 1977 c. 285; 1979 c. 323 s. 33; 1995 a. 158; 1997 a. 27.

Vocational, technical, and adult education [now technical college] districts are school districts under this section. Binder v. City of Madison, 72 Wis. 2d 613, 241 N.W.2d 613 (1976).

118.27 Gifts and grants. (1) In this section, "community foundation" means a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal

income tax under section 501 (a) of the Internal Revenue Code, dedicated to encouraging and assisting charitable activities and enterprises in a designated community in this state and having expertise in finance, fund development, and grantmaking.

(2) 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, or may, subject to sub. (3), transfer any such gift or grant to a community foundation. In the use, control, or investment of such gifts or grants, the school board may exercise the rights and powers generally conferred upon trustees.

(3) A school board may transfer a gift or grant to a community foundation only if the school board and the community foundation agree, in writing and at the time of the transfer of the gift or grant, to each of the following:

(a) The community foundation agrees to make disbursements from and of the gift or grant to the school board upon the written request of the school board.

(b) Subject to par. (bm), the school board retains control over the manner in which any disbursement made under par. (a) is used.

(bm) The school board's use of any disbursement made under par. (a) shall be consistent with the intent of the donor of the gift, bequest, or endowment and with the agreement between the school board and the community foundation.

(c) The school board exercises its rights over the use of each disbursement made under par. (a) in accordance with the law applicable to trust investments.

History: 2011 a. 163.

Except for moneys transferred under s. 66.30 (2m) (e) [now s. 36.11 (19) (e)], a district must act as trustee of moneys received under this section. 74 Atty. Gen. 45.

118.28 Community action agencies. The school board of a school district may appropriate funds for promoting and assisting any community action agency under s. 49.37, 1997 stats.

History: 1977 c. 29; 1983 a. 27 s. 2200 (20); 1995 a. 27; 1999 a. 185.

118.29 Administration of drugs and emergency care.

(1) DEFINITIONS. In this section:

(a) "Administer" means the direct application of a nonprescription drug product or prescription drug, whether by injection, ingestion or other means, to the human body.

(b) "Drug" means any substance recognized as a drug in the official U.S. pharmacopoeia and national formulary or official homeopathic pharmacopoeia of the United States or any supplement to either of them.

(bg) "Drug product" means a specific drug or drugs in a specific dosage form and strength from a known source of manufacture.

(br) "Epinephrine delivery system" means a device that is approved by the federal food and drug administration, that contains a premeasured dose of epinephrine, and that is used to administer epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

(c) "Health care professional" means a person licensed as an emergency medical services practitioner under s. 256.15, a person certified as an emergency medical responder under s. 256.15 (8) or any person licensed, certified, permitted or registered under chs. 441 or 446 to 449.

(d) "High degree of negligence" means criminal negligence, as defined in s. 939.25 (1).

(dm) "Nonprescription drug product" means any nonnarcotic drug product which may be sold without a prescription order and which is prepackaged for use by consumers and labeled in accordance with the requirements of state and federal law.

(dr) "Opioid antagonist" has the meaning given in s. 450.01 (13v).

(dt) "Opioid-related drug overdose" has the meaning given in s. 256.40 (1) (d).

(e) "Practitioner" means any physician, naturopathic doctor, dentist, optometrist, physician assistant, advanced practice registered nurse with prescribing authority, or podiatrist licensed in any state.

(f) "Prescription drug" has the meaning specified in s. 450.01 (20).

(2) AUTHORITY TO ADMINISTER DRUGS; CIVIL LIABILITY EXEMPTION. (a) Notwithstanding chs. 441, 447, 448, and 450, a school bus operator validly authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is operating, any school employee or volunteer, county children with disabilities education board employee or volunteer or cooperative educational service agency employee or volunteer authorized in writing by the administrator of the school district, the board or the agency, respectively, or by a school principal, any private school employee or volunteer authorized in writing by a private school administrator or private school principal, and any tribal school employee or volunteer authorized in writing by a tribal school administrator or tribal school principal:

1. a. Except as provided in subd. 1. b., may administer any nonprescription drug product which may lawfully be sold over the counter without a prescription to a pupil in compliance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents in writing. If the nonprescription drug product is supplied by the pupil's parent or guardian, the nonprescription drug product shall be supplied in the original manufacturer's package, and the package must list the ingredients and recommended therapeutic dose in a legible format.

b. May administer a nonprescription drug product to a pupil in a dosage other than the recommended therapeutic dose only if the request to do so is accompanied by the written approval of the pupil's practitioner.

2. May administer a prescription drug to a pupil in compliance with the written instructions of a practitioner if the pupil's parent or guardian consents in writing; the prescription drug is supplied in the original pharmacy-labeled package; and the package specifies the name of the pupil, the name of the prescriber, the name of the prescription drug, the dose, the effective date, and the directions in a legible format.

2g. May administer an opioid antagonist to any pupil or other person who appears to be undergoing an opioid-related drug overdose if, as soon as practicable, the school bus operator, employee, or volunteer reports the drug overdose by dialing the telephone number "911" or, in an area in which the telephone number "911" is not available, the telephone number for an emergency medical service provider.

2m. Except for epinephrine administered under subd. 2., may use an epinephrine delivery system to administer epinephrine to any pupil who appears to be experiencing a severe allergic reaction if, as soon as practicable, the school bus operator, employee or volunteer reports the allergic reaction by dialing the telephone number "911" or, in an area in which the telephone number "911"

is not available, the telephone number for an emergency medical service provider.

2r. Except for glucagon administered under subd. 2., may administer glucagon to any pupil who the school bus driver, employee, or volunteer knows is diabetic and who appears to be experiencing a severe low blood sugar event with altered consciousness if, as soon as practicable, the school bus operator, employee, or volunteer reports the event by dialing the telephone number "911" or, in an area in which the telephone number "911" is not available, the telephone number for an emergency medical service provider.

3. Subject to sub. (4m), is immune from civil liability for his or her acts or omissions in administering a nonprescription drug product or prescription drug to a pupil under subd. 1., 2., 2m., or 2r. or to a pupil or other person under subd. 2g. unless the act is in violation of sub. (6) or the act or omission constitutes a high degree of negligence. This subdivision does not apply to health care professionals.

(b) Subject to sub. (4m), any school district administrator, county children with disabilities education board administrator, cooperative educational service agency administrator, public, private, or tribal school principal, or private or tribal school administrator who authorizes an employee or volunteer to administer a nonprescription drug product or prescription drug to a pupil under par. (a) is immune from civil liability for the act of authorization unless it constitutes a high degree of negligence or the administrator or principal authorizes a person who has not received the required training under sub. (6) to administer a nonprescription drug product or prescription drug to a pupil.

(3) EMERGENCY CARE; CIVIL LIABILITY EXEMPTION. Any school bus operator validly authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is operating and any public, private, or tribal school employee or volunteer, county children with disabilities education board employee or volunteer, or cooperative educational service agency employee or volunteer, other than a health care professional, who in good faith renders emergency care to a pupil of a public, private, or tribal school is immune from civil liability for his or her acts or omissions in rendering such emergency care. The immunity from civil liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48 (1).

(4) WRITTEN POLICIES. Any school board, county children with disabilities education board, cooperative educational service agency or governing body of a private school whose employees or volunteers may be authorized to administer nonprescription drug products or prescription drugs to pupils under this section shall adopt a written policy governing the administration of nonprescription drug products and prescription drugs to pupils. In developing the policy, the school board, board, agency or governing body shall seek the assistance of one or more school nurses who are employees of the school board, board, agency or governing body or are providing services or consultation under s. 121.02 (1) (g). The policy shall include procedures for obtaining and filing in the school or other appropriate facility the written instructions and consent required under sub. (2) (a), for the periodic review of such written instructions by a registered nurse who is licensed under s. 441.06 or who holds a multistate license, as defined in s. 441.51 (2) (h), issued in a party state, as defined in s. 441.51 (2) (k), for the storing of nonprescription drug products and prescription drugs, and for record keeping, including documenting the administration of each dose, including errors.

(4m) APPLICABILITY TO TRIBAL SCHOOL EMPLOYEES. The immunity under sub. (2) applies to a tribal school employee, administrator, or volunteer only if the governing body of the tribal school has adopted a written policy that complies with sub. (4).

(5) EXEMPTION. No employee except a health care professional may be required to administer a nonprescription drug product or prescription drug to a pupil under this section by any means other than ingestion.

(6) TRAINING. (a) Notwithstanding sub. (2) (a) 1. to 2r., and subject to pars. (b) and (c), no school bus driver, employee, or volunteer may administer any of the following nonprescription drug products or prescription drugs unless he or she has received training, approved by the department, in administering these nonprescription drug products and prescription drugs:

1. A nonprescription drug product or prescription drug product that must be injected into a pupil.

2. A nonprescription drug product or prescription drug product that must be inhaled by a pupil.

3. A nonprescription drug product or prescription drug product that must be rectally administered to a pupil.

4. A nonprescription drug product or prescription drug product that must be administered into a nasogastric tube.

5. A nonprescription drug product or prescription drug product that must be administered into a gastrostomy tube.

6. A nonprescription drug product or prescription drug product that must be administered into a jejunostomy tube.

(b) This subsection does not apply to health care professionals.

(c) The training required under par. (a) need not be approved by the department when the training is completed by a school bus driver that transports only pupils enrolled in a private school, an employee of a private school, or a volunteer in or for a private school.

History: 1983 a. 334; 1985 a. 146 s. 8; 1985 a. 218; 1987 a. 14, 399; 1989 a. 56, 102, 105; 1991 a. 103; 1997 a. 164; 1999 a. 56, 126; 2001 a. 16, 83; 2007 a. 130; 2009 a. 160, 302; 2011 a. 86, 260; 2017 a. 12, 29, 135; 2021 a. 130, 218; 2023 a. 27; 2025 a. 17.

118.291 Asthmatic pupils; possession and use of inhalers.

(1g) In this section:

(a) "Asthma" means a chronic inflammatory disease of the airways, characterized by airway obstruction, which is at least partially reversible and which manifests as increased bronchial responsiveness to a variety of stimuli.

(b) "School" includes a public, private, and tribal school.

(1r) While in school, at a school-sponsored activity or under the supervision of a school authority, an asthmatic pupil may possess and use a metered dose inhaler or dry powder inhaler if all of the following are true:

(a) The pupil uses the inhaler before exercise to prevent the onset of asthmatic symptoms or uses the inhaler to alleviate asthmatic symptoms.

(b) The pupil has the written approval of the pupil's physician and, if the pupil is a minor, the written approval of the pupil's parent or guardian.

(c) The pupil has provided the school principal with a copy of the approval or approvals under par. (b).

(2) (a) No school district, school board or school district employee is civilly liable for injury to a pupil caused by a school district employee who prohibits a pupil from using an inhaler because of the employee's good faith belief that the requirements of sub. (1r) had not been satisfied or who allows a pupil to use an inhaler because of the employee's good faith belief that the requirements of sub. (1r) had been satisfied.

(b) No private school or private school employee is civilly liable for injury to a pupil caused by a private school employee who prohibits a pupil from using an inhaler because of the employee's good faith belief that the requirements of sub. (1r) had not been satisfied or who allows a pupil to use an inhaler because

of the employee's good faith belief that the requirements of sub. (1r) had been satisfied.

(c) No tribal school or tribal school employee is civilly liable for injury to a pupil caused by a tribal school employee who prohibits a pupil from using an inhaler because of the employee's good faith belief that the requirements of sub. (1r) had not been satisfied or who allows a pupil to use an inhaler because of the employee's good faith belief that the requirements of sub. (1r) had been satisfied.

History: 1997 a. 77; 2005 a. 398; 2009 a. 302.

118.2915 Asthma in schools; use of short-acting bronchodilators. (1) DEFINITIONS. In this section:

(a) "Advanced practice registered nurse" means an individual licensed under s. 441.09 who may issue prescription orders under s. 441.09 (2).

(b) "Asthma" means a chronic inflammatory disease of the airways, characterized by airway obstruction, which is at least partially reversible and which manifests as increased bronchial responsiveness to a variety of stimuli.

(c) "Designated school personnel" means employees, agents, or volunteers of a school, designated by the governing body of the school, who have completed the training specified in the plan adopted by the governing body of the school under sub. (2) (a).

(d) "Pharmacist" has the meaning given in s. 450.01 (15).

(e) "Physician" means a person licensed to practice medicine and surgery under ch. 448.

(f) "Physician assistant" means a person licensed under s. 448.974.

(g) "School" means a public, private, or tribal school.

(h) "Self-administer" means to administer a short-acting bronchodilator to one's own body.

(i) "Short-acting bronchodilator" means any beta-2 agonist, such as albuterol, used for the quick relief of asthma symptoms. "Short-acting bronchodilator" includes an orally inhaled medication that contains a premeasured single dose of albuterol or albuterol sulfate delivered by a nebulizer or by a pressurized metered-dose inhaler.

(2) SCHOOL PLAN. (a) The governing body of a school may adopt a plan for the management of pupils attending the school who have asthma. If the governing body of a school adopts a plan under this paragraph, it shall specify in the plan the training necessary to perform the activities under sub. (4). The governing body of a school may not adopt a plan under this paragraph unless the plan has been approved by a physician, an advanced practice registered nurse, or a physician assistant.

(b) The governing body of a school that has adopted a plan under par. (a) shall make the plan available on the governing body's website or the website of each school under its jurisdiction or, if such a website does not exist, give a copy of the plan to any person upon request.

(3) PRESCRIPTIONS AND SUPPLY. (a) A physician, an advanced practice registered nurse, or a physician assistant may provide a prescription or standing order for a short-acting bronchodilator or components in the name of a school that has adopted a plan under sub. (2) (a) to be maintained by the school for use under sub. (4).

(b) The governing body of a school that has a valid prescription under par. (a) may accept as a donation a short-acting bronchodilator or components if the donated short-acting bronchodilator or components are new, unexpired, manufacturer-sealed, not subject to recall, unadulterated, and in compliance with regulations promulgated by the federal food and drug administration.

(c) The governing body of a school that has adopted a plan under sub. (2) (a) may obtain a prescription or standing order for a short-acting bronchodilator or components and may acquire and maintain, in accordance with the manufacturer's instructions, a supply of short-acting bronchodilators and components.

(4) USE OF BRONCHODILATORS. The governing body of a school that has adopted a plan under sub. (2) (a) may authorize a school nurse or designated school personnel to do any of the following on school premises or at a school-sponsored activity:

(a) Provide a short-acting bronchodilator to a pupil to self-administer the short-acting bronchodilator in accordance with a prescription specific to the pupil that is on file with the school.

(b) Administer a short-acting bronchodilator to a pupil in accordance with a prescription specific to the pupil that is on file with the school.

(c) In accordance with a prescription or standing order from a physician, an advanced practice registered nurse, or a physician assistant, administer a short-acting bronchodilator to a pupil or other person who the school nurse or designated school personnel believes in good faith is experiencing respiratory distress, regardless of whether the pupil or other person has a prescription for a short-acting bronchodilator.

(5) INDEPENDENT AUTHORITY. (a) The authority to self-administer a short-acting bronchodilator under sub. (4) (a) is independent of the authorized possession and use of a metered-dose inhaler or dry-powder inhaler under s. 118.291 (1r).

(b) The authority to administer a short-acting bronchodilator under sub. (4) (b) and (c) is independent of the authority to administer a metered-dose inhaler or dry-powder inhaler under s. 118.29 (2) (a) 2.

(6) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF MEDICINE. (a) None of the following are liable for any injury that results from the administration or self-administration of a short-acting bronchodilator under this section, regardless of whether authorization was given by the pupil's parent or guardian or by the pupil's physician, physician assistant, or advanced practice registered nurse, unless the injury is the result of an act or omission that constitutes gross negligence or willful or wanton misconduct:

1. A school, its school nurse, and its designated school personnel.

2. A physician, advanced practice registered nurse, or physician assistant who provides a prescription or standing order for a short-acting bronchodilator or components to a school under sub. (3) (a).

3. A physician, advanced practice registered nurse, physician assistant, or pharmacist who dispenses a short-acting bronchodilator or components to a school in accordance with a prescription or standing order under sub. (3) (a).

(b) The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48.

(7) HEALTH CARE PROFESSIONALS. Nothing in this section prohibits a health care professional, as defined in s. 118.29 (1) (c), from acting within the scope of practice of the health care professional's license, certificate, permit, or registration.

History: 2023 a. 195; 2025 a. 17.

118.292 Possession and use of epinephrine. (1g) In this section:

(a) "Emergency situation" means a situation in which a pupil reasonably believes that he or she is experiencing a severe allergic reaction, including anaphylaxis, that requires the administration of epinephrine to avoid severe injury or death.

(bg) "Epinephrine delivery system" means a device that is approved by the federal food and drug administration, that contains

a premeasured dose of epinephrine, and that is used to administer epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

(c) "School" includes a public, private, and tribal school.

(1r) While in school, at a school-sponsored activity or under the supervision of a school authority, a pupil may possess and use an epinephrine delivery system if all of the following are true:

(a) The pupil uses the epinephrine delivery system to prevent the onset or alleviate the symptoms of an emergency situation.

(b) The pupil has the written approval of the pupil's physician and, if the pupil is a minor, the written approval of the pupil's parent or guardian.

(c) The pupil has provided the school principal with a copy of the approval or approvals under par. (b).

(2) No school board, school district, private school, or tribal school, or any employee of the foregoing, is civilly liable for an injury incurred by any of the following:

(a) A pupil as a result of using an epinephrine delivery system under sub. (1r).

(b) Any person as a result of a pupil possessing or using an epinephrine delivery system under sub. (1r).

History: 2011 a. 85; 2021 a. 218; 2023 a. 27.

118.2925 Life-threatening allergies in schools; use of epinephrine. (1) DEFINITIONS. In this section:

(a) "Administer" means the direct application of an epinephrine delivery system to a person's body.

(c) "Designated school personnel" means an employee, agent, or volunteer of a school, designated by the governing body of the school, who has completed the training specified in the plan adopted by the governing body of the school in sub. (2) (a).

(dm) "Epinephrine delivery system" means a device that is approved by the federal food and drug administration, that contains a premeasured dose of epinephrine, and that is used to administer epinephrine into the human body to prevent or treat a life-threatening allergic reaction.

(e) "Physician" means a person licensed to practice medicine and surgery under ch. 448.

(f) "Physician assistant" means a person who is licensed under subch. IX of ch. 448 or who holds a compact privilege under subch. XIII of ch. 448.

(g) "School" means a public, private, or tribal school.

(h) "Self-administer" means to administer an epinephrine delivery system to one's own body.

(2) SCHOOL PLAN. (a) The governing body of a school may adopt a plan for the management of pupils attending the school who have life-threatening allergies. If the governing body of a school does so, it shall specify in the plan the training necessary to perform the activities under sub. (4). The governing body of a school may not adopt a plan unless it has been approved by a physician.

(b) The governing body of a school that has adopted a plan under par. (a) shall make the plan available on the governing body's Internet site or the Internet site of each school under its jurisdiction or, if an Internet site does not exist, give a copy of the plan to any person upon request.

(3) PRESCRIPTIONS FOR SCHOOLS. A physician, an advanced practice registered nurse who may issue prescription orders under s. 441.09 (2), or a physician assistant may prescribe epinephrine delivery systems in the name of a school that has adopted a plan under sub. (2) (a), to be maintained by the school for use under sub. (4).

(4) USE OF EPINEPHRINE. The governing body of a school that has adopted a plan under sub. (2) (a) may authorize a school nurse or designated school personnel to do any of the following on school premises or at a school-sponsored activity:

(a) Provide an epinephrine delivery system to a pupil to self-administer the epinephrine delivery system in accordance with a prescription specific to the pupil that is on file with the school.

(b) Administer an epinephrine delivery system to a pupil in accordance with a prescription specific to the pupil that is on file with the school.

(c) Administer an epinephrine delivery system to a pupil or other person who the school nurse or designated school personnel in good faith believes is experiencing anaphylaxis in accordance with a standing protocol from a physician, an advanced practice registered nurse who may issue prescription orders under s. 441.09 (2), or a physician assistant, regardless of whether the pupil or other person has a prescription for an epinephrine delivery system. If the pupil or other person does not have a prescription for an epinephrine delivery system, or the person who administers the epinephrine delivery system does not know whether the pupil or other person has a prescription for an epinephrine delivery system, the person who administers the epinephrine delivery system shall, as soon as practicable, report the administration by dialing the telephone number "911" or, in an area in which the telephone number "911" is not available, the telephone number for an emergency medical service provider.

(4m) INDEPENDENT AUTHORITY. (a) The authority to self-administer an epinephrine delivery system under sub. (4) (a) is independent of the authorized possession and use of an epinephrine delivery system under s. 118.292 (1r).

(b) The authority to administer an epinephrine delivery system under sub. (4) (b) and (c) is independent of the authority to administer an epinephrine delivery system under s. 118.29 (2) (a) 2. and 2m.

(5) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF MEDICINE. A school and its designated school personnel, and a physician, an advanced practice registered nurse who may issue prescription orders under s. 441.09 (2), or a physician assistant who provides a prescription or standing protocol for school epinephrine delivery systems, are not liable for any injury that results from the administration or self-administration of an epinephrine delivery system under this section, regardless of whether authorization was given by the pupil's parent or guardian or by the pupil's physician, physician assistant, or advanced practice registered nurse, unless the injury is the result of an act or omission that constitutes gross negligence or willful or wanton misconduct. The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48.

(6m) HEALTH CARE PROFESSIONALS. Nothing in this section prohibits a health care professional, as defined in s. 118.29 (1) (c), from acting within the scope of practice of the health care professional's license, certificate, permit, or registration.

History: 2013 a. 239; 2021 a. 23, 218; 2023 a. 27, 81; 2025 a. 17, 127.

118.293 Concussion and head injury. (1) In this section:

(a) "Credential" means a license or certificate of certification issued by this state.

(am) "Health care provider" means a person to whom all of the following apply:

1. He or she holds a credential that authorizes the person to provide health care.

2. He or she is trained and has experience in evaluating and managing pediatric concussions and head injuries.

3. He or she is practicing within the scope of his or her credential.

(c) "Youth athletic activity" means an organized athletic ac-

tivity in which the participants, a majority of whom are under 19 years of age, are engaged in an athletic game or competition against another team, club, or entity, or in practice or preparation for an organized athletic game or competition against another team, club, or entity. "Youth athletic activity" does not include a college or university activity or an activity that is incidental to a nonathletic program.

(2) In consultation with the Wisconsin Interscholastic Athletic Association, the department shall develop guidelines and other information for the purpose of educating athletic coaches and pupil athletes and their parents or guardians about the nature and risk of concussion and head injury in youth athletic activities.

(3) (a) At the beginning of a season for a youth athletic activity, the person operating the youth athletic activity shall distribute a concussion and head injury information sheet to each person who will be coaching that youth athletic activity and to each person who wishes to participate in that youth athletic activity. No person may participate in a youth athletic activity unless the person returns the information sheet signed by the person and, if he or she is under the age of 19, by his or her parent or guardian.

(b) 1. Notwithstanding par. (a), a public or private school is not required to distribute an information sheet to a pupil enrolled in the school who wishes to participate in a youth athletic activity operated by the school during a school year, and a pupil enrolled in the school may participate in that youth athletic activity without returning an appropriately signed information sheet for that activity, if the pupil has returned an appropriately signed information sheet for another youth athletic activity operated by the school during the same school year.

2. Notwithstanding par. (a), a private club is not required to distribute an information sheet to a person who wishes to participate in a youth athletic activity operated by the private club, and a person may participate in that youth athletic activity without returning an appropriately signed information sheet for the activity, if the person has returned an appropriately signed information sheet to the club within the previous 365 days.

(4) (a) An athletic coach, or official involved in a youth athletic activity, or health care provider shall remove a person from the youth athletic activity if the coach, official, or health care provider determines that the person exhibits signs, symptoms, or behavior consistent with a concussion or head injury or the coach, official, or health care provider suspects the person has sustained a concussion or head injury.

(b) A person who has been removed from a youth athletic activity under par. (a) may not participate in a youth athletic activity until he or she is evaluated by a health care provider and receives a written clearance to participate in the activity from the health care provider.

(5) (a) Any athletic coach, official involved in an athletic activity, or volunteer who fails to remove a person from a youth athletic activity under sub. (4) (a) is immune from civil liability for any injury resulting from that omission unless it constitutes gross negligence or willful or wanton misconduct.

(b) Any volunteer who authorizes a person to participate in a youth athletic activity under sub. (4) (b) is immune from civil liability for any injury resulting from that act unless the act constitutes gross negligence or willful or wanton misconduct.

(6) This section does not create any liability for, or a cause of action against, any person.

History: 2011 a. 172; 2013 a. 93.

118.2935 Sudden cardiac arrest; youth athletic activities. (1) In this section, "youth athletic activity" has the meaning given in s. 118.293 (1) (c).

(2) In consultation with the Wisconsin Interscholastic Athletic Association and at least 2 pediatric cardiologists, one of whom is employed by the Medical College of Wisconsin and one of whom is employed by the University of Wisconsin-Madison Medical School, the department shall develop information for the purpose of educating athletic coaches and pupil athletes and their parents or guardians about the nature and risk of sudden cardiac arrest during youth athletic activities. The department shall include in the information developed under this subsection at least all of the following:

(a) Information about the risks associated with continuing to participate in a youth athletic activity after experiencing one or more symptoms of sudden cardiac arrest, including fainting, difficulty breathing, chest pains, dizziness, and abnormal racing heart rate.

(b) Information about electrocardiogram testing, including the potential risks, benefits, and evidentiary basis behind electrocardiogram testing.

(c) Information about how to request, from a pupil's health care provider, the administration of an electrocardiogram, in addition to a comprehensive physical examination required to participate in a youth athletic activity, at a cost to be incurred by the pupil's parent or guardian.

(3m) At the beginning of a season for a youth athletic activity offered to persons who are 12 years of age or older, the person operating the youth athletic activity shall ensure that the information developed under sub. (2) is included in the information sheet required to be distributed under s. 118.293 (3) (a).

(4) This section does not create any liability for, or a cause of action against, any person.

(5) This section does not apply after June 30, 2032.

History: 2021 a. 210.

118.294 Undesignated glucagon. (1) DEFINITIONS. In this section:

(am) "Advanced practice registered nurse" means an individual licensed under s. 441.09 who may issue prescription orders under s. 441.09 (2).

(b) "Diabetes medical management plan" means a document developed by the personal health care team of a pupil that sets out the health services needed by the pupil at school and at school-sponsored activities and is signed by the personal health care team and the parent or guardian of the pupil.

(bm) "Diabetes provider" means a physician, physician assistant, or advanced practice registered nurse who has primary responsibility for the treatment and care of a pupil's diabetes.

(c) "Physician" means a person licensed to practice medicine and surgery under ch. 448.

(d) "Physician assistant" means a person licensed under s. 448.974.

(f) "School" means a public school, including a charter school, or a private or tribal school.

(g) "School personnel" means an individual authorized under sub. (3) (b) to administer undesignated glucagon to a pupil.

(h) "Undesignated glucagon" means a glucagon approved by the federal food and drug administration for the treatment of severe hypoglycemia in a dosage form that can be rapidly administered to a patient with diabetes in a hypoglycemic emergency that is prescribed in the name of a school or school district.

(2) PRESCRIPTIONS FOR SCHOOLS. A physician, an advanced practice registered nurse, or a physician assistant may prescribe undesignated glucagon in the name of a school to be maintained by the school for use under sub. (3).

(3) UNDESIGNATED GLUCAGON IN SCHOOLS. (a) The governing body of a school may obtain a prescription for undesignated glucagon under sub. (2) and maintain a supply of undesignated

glucagon in any secure location that is immediately accessible to school personnel. The governing body of a school shall maintain any supply of undesignated glucagon in accordance with the manufacturer's instructions.

(b) If authorized in writing by the governing body of a school, a school principal or school administrator, or the administrator of a county children with disabilities education board or cooperative educational service agency, any of the following may administer, on school premises or at a school-sponsored activity, undesignated glucagon to a pupil in accordance with the pupil's diabetes medical management plan or the pupil's diabetes provider's order for glucagon if the pupil's prescribed glucagon is not available on-site or has expired:

1. A school bus operator validly authorized under ss. 343.12 and 343.17 (3) (c) to operate the school bus he or she is operating.

2. A school employee or volunteer.

3. A county children with disabilities education board employee or volunteer.

4. A cooperative educational service agency employee or volunteer.

(c) As soon as practicable after the administration of undesignated glucagon, school personnel shall report the administration by dialing the telephone number "911" or, in an area in which the telephone number "911" is not available, the telephone number for an emergency medical service provider and notify all of the following of the administration of undesignated glucagon to the pupil:

1. The school nurse, if an individual other than the school nurse administered the glucagon.

2. The pupil's parent, guardian, or emergency contact, if known.

3. The pupil's health care provider, if known.

(3m) INDEPENDENT AUTHORITY. The authority to administer undesignated glucagon under sub. (3) (b) is independent of the authority to administer glucagon under s. 118.29 (2) (a) 2. and 2r.

(4) IMMUNITY FROM CIVIL LIABILITY; EXEMPTION FROM PRACTICE OF MEDICINE. (a) A school and its school personnel, and a physician, an advanced practice registered nurse, or a physician assistant who provides a prescription or standing order for undesignated glucagon are not liable for any injury that results from the administration of undesignated glucagon under this section, regardless of whether authorization was given by the pupil's parent or guardian or by the pupil's diabetes provider, unless the injury is the result of an act or omission that constitutes gross negligence or willful or wanton misconduct. The immunity from liability provided under this paragraph is in addition to and not in lieu of that provided under s. 895.48.

(b) Nothing in this section creates or imposes any duty, obligation, or basis for liability on any governing body of a school, any school personnel, or any other employee or agent of a school or school board to acquire, make available, or administer undesignated glucagon.

(c) Nothing in this section creates or imposes any duty, obligation, or basis for liability on any employer or any other person to supervise or exercise control over an individual's provision or administration of undesignated glucagon if the employer or other person reasonably believes the individual is acting under authorization under sub. (3) (b).

(5) HEALTH CARE PROFESSIONALS. Nothing in this section prohibits a health care professional, as defined in s. 118.29 (1) (c), from acting within the scope of practice of the health care professional's license, certificate, permit, or registration.

History: 2023 a. 193; 2025 a. 17.

118.295 Suicide intervention; civil liability exemption. Any school board, private school, tribal school, county children with disabilities education board, or cooperative educational service agency, and any officer, employee, or volunteer thereof, who in good faith attempts to prevent suicide by a pupil is immune from civil liability for his or her acts or omissions in respect to the suicide or attempted suicide. The civil liability immunity provided in this section is in addition to and not in lieu of that provided under s. 895.48 (1).

History: 1985 a. 29; 1987 a. 14; 1997 a. 164; 2009 a. 302.

118.30 Pupil assessment. (1) The state superintendent shall adopt or approve examinations designed to measure pupil attainment of knowledge and concepts in the 4th, 8th, 9th, 10th, and 11th grades. Beginning in the 2015-16 school year, the state superintendent may not adopt or approve assessments developed by the Smarter Balanced Assessment Consortium.

(1g) (a) 1. By August 1, 1998, each school board shall adopt pupil academic standards in mathematics, science, reading and writing, geography, and history. The school board may adopt the pupil academic standards issued by the governor as executive order no. 326, dated January 13, 1998.

2. By January 1, 2000, or by January 1 of the 1st school year of operation, whichever is later, each operator of a charter school under s. 118.40 (2r) or (2x) shall adopt pupil academic standards in mathematics, science, reading and writing, geography and history. The operator of the charter school may adopt the pupil academic standards issued by the governor as executive order no. 326, dated January 13, 1998.

3. The governing body of each private school participating in the program under s. 119.23 and the governing body of a private school that, pursuant to s. 115.999 (3), 119.33 (2) (c) 3., or 119.9002 (3) (c), is responsible for the operation and general management of a school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119 shall adopt pupil academic standards in mathematics, science, reading and writing, geography, and history. The governing body of the private school may adopt the pupil academic standards issued by the governor as executive order no. 326, dated January 13, 1998.

4. The governing body of each private school participating in the program under s. 118.60 shall adopt pupil academic standards in mathematics, science, reading and writing, geography, and history. The governing body of the private school may adopt the pupil academic standards issued by the governor as executive order no. 326, dated January 13, 1998.

(c) Each school board operating elementary grades and each operator of a charter school under s. 118.40 (2r) or (2x) that operates elementary grades may develop or adopt its own examination designed to measure pupil attainment of knowledge and concepts in the 4th grade and may develop or adopt its own examination designed to measure pupil attainment of knowledge and concepts in the 8th grade. If the school board or operator of the charter school develops or adopts an examination under this paragraph, it shall notify the department.

(1m) Except as otherwise provided in this section, annually each school board shall do all of the following:

(a) 1. Except as provided in subs. (6) and (7), administer the 4th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils enrolled in the school district, including pupils enrolled in charter schools located in the school district, in the 4th grade.

2. Except as provided in sub. (7), if the school board has developed or adopted its own 4th grade examination, administer that examination to all pupils enrolled in the school district, including pupils enrolled in charter schools located in the school district, in the 4th grade.

(am) 1. Except as provided in subs. (6) and (7), administer the 8th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils enrolled in the school district, including pupils enrolled in charter schools located in the school district, in the 8th grade.

2. Except as provided in sub. (7), if the school board has developed or adopted its own 8th grade examination, administer that examination to all pupils enrolled in the school district, including pupils enrolled in charter schools located in the school district, in the 8th grade.

(ar) Except as provided in sub. (7), beginning in the 2014-15 school year, administer the 9th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils enrolled in the school district, including pupils enrolled in charter schools located in the school district, in the spring session of 9th grade.

(b) Except as provided in sub. (7), administer the 10th grade examination to all pupils enrolled in the school district, including pupils enrolled in charter schools located in the school district, in the spring session of the 10th grade.

(c) Except as provided in sub. (7), beginning in the 2014-15 school year, administer the 11th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils enrolled in the school district, including pupils enrolled in charter schools located in the school district, in the spring session of the 11th grade.

(d) If the school board maintains an Internet site for the school district, annually publish information on that Internet site about the examinations administered under this subsection to pupils in the school district.

(1r) Annually the operator of each charter school under s. 118.40 (2r) or (2x) shall do all of the following:

(a) 1. Except as provided in sub. (6), administer the 4th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils enrolled in the charter school in the 4th grade.

2. Beginning on July 1, 2002, if the operator of the charter school has developed or adopted its own 4th grade examination, administer that examination to all pupils enrolled in the charter school in the 4th grade.

(am) 1. Except as provided in sub. (6), administer the 8th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils enrolled in the charter school in the 8th grade.

2. Beginning on July 1, 2002, if the operator of the charter school has developed or adopted its own 8th grade examination, administer that examination to all pupils enrolled in the charter school in the 8th grade.

(ar) Beginning in the 2014-15 school year, administer the 9th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils enrolled in the charter school in spring session of the 9th grade.

(b) Administer the 10th grade examination to all pupils enrolled in the charter school in the spring session of the 10th grade.

(c) Beginning in the 2014-15 school year, administer the 11th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils enrolled in the charter school in the spring session of the 11th grade.

(d) If the operator of the charter school maintains an Internet site for the school, annually publish information on that Internet site about the examinations administered under this subsection to pupils in the school.

(1s) Annually, the governing body of each private school participating in the program under s. 119.23, other than a private school at which fewer than 20 pupils in grades 3 to 12 are attending the school under the program under s. 119.23, and the governing body of a private school that, pursuant to s. 115.999 (3), 119.33 (2) (c) 3., or 119.9002 (3) (c), is responsible for the operation and general management of a school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119 shall do all of the following:

(a) Administer the 4th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 4th grade in the private school under s. 119.23.

(b) Administer the 8th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 8th grade in the private school under s. 119.23.

(bm) Beginning in the 2014-15 school year, in the spring session administer the 9th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 9th grade in the private school under s. 119.23.

(c) In the spring session, administer the 10th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 10th grade in the private school under s. 119.23.

(cm) Beginning in the 2014-15 school year in the spring session administer the 11th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 11th grade in the private school under s. 119.23.

(d) Administer to pupils attending the private school under s. 119.23 all other examinations in reading, mathematics, and science that are required to be administered to public school pupils under 20 USC 6311 (b) (2).

(e) If the governing body of the private school maintains an Internet site for the school, annually publish information on that Internet site about the examinations administered under this subsection to pupils in the school.

(1t) Annually, the governing body of each private school participating in the program under s. 118.60, other than a private school at which fewer than 20 pupils in grades 3 to 12 are attending the school under the program under s. 118.60, shall do all of the following:

(a) Administer the 4th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 4th grade in the private school under s. 118.60.

(b) Administer the 8th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 8th grade in the private school under s. 118.60.

(bm) Beginning in the 2014-15 school year, in the spring session administer the 9th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 9th grade in the private school under s. 118.60.

(c) In the spring session, administer the 10th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 10th grade in the private school under s. 118.60.

(cm) Beginning in the 2014-15 school year, in the spring session administer the 11th grade examination adopted or approved by the state superintendent under sub. (1) to all pupils attending the 11th grade in the private school under s. 118.60.

(d) Administer to pupils attending the private school under s. 118.60 all other examinations in reading, mathematics, and science that are required to be administered to public school pupils under 20 USC 6311 (b) (2).

(e) If the governing body of the private school maintains an Internet site for the school, annually publish information on that Internet site about the examinations administered under this subsection to pupils in the school.

(2) (a) To the extent possible, all examinations under this section shall be free of bias.

(b) 1. If a pupil is enrolled in a special education program under subch. V of ch. 115, the school board, operator of the charter school under s. 118.40 (2r) or (2x), governing body of the private school participating in the program under s. 118.60, or governing body of the private school participating in the program under s. 119.23 shall comply with s. 115.77 (1m) (bg).

2. According to criteria established by the state superintendent by rule, the school board, operator of the charter school under s. 118.40 (2r) or (2x), governing body of the private school participating in the program under s. 118.60, or governing body of the private school participating in the program under s. 119.23 may determine not to administer an examination under this section to a limited-English speaking pupil, as defined under s. 115.955 (7), may permit the pupil to be examined in his or her native language, or may modify the format and administration of an examination for such pupils.

3. Upon the request of a pupil's parent or guardian, the school board shall excuse the pupil from taking an examination administered under sub. (1m) or s. 118.301 (3).

4. Upon the request of a pupil's parent or guardian, the operator of a charter school under s. 118.40 (2r) or (2x) shall excuse the pupil from taking an examination administered under sub. (1r) or s. 118.301 (3).

5. Upon the request of a pupil's parent or guardian, the governing body of a private school participating in the program under s. 119.23 shall excuse the pupil from taking an examination administered under sub. (1s) (a) to (cm) or s. 118.301 (3).

6. Upon the request of a pupil's parent or guardian, the governing body of a private school participating in the program under s. 118.60 shall excuse the pupil from taking an examination administered under sub. (1t) (a) to (cm) or s. 118.301 (3).

(c) The results of examinations administered under this section or under 20 USC 6311 (b) (2) to pupils enrolled in public schools, including charter schools, may not be used as the sole reason to discharge, suspend, or formally discipline a teacher or as the sole reason for the nonrenewal of a teacher's contract.

(d) The results of examinations under this section may not be used in determining general or categorical aids to school districts.

(3) If a person submits to the state superintendent a written request for practice examinations or sample items related to examinations required to be administered under this section, the state superintendent shall make practice examinations or sample items related to examinations required to be administered under this section available to the person. This subsection does not apply while an examination is being developed or validated.

(4) The department shall study the utility of administering technology-based performance assessments to pupils.

(5) Beginning in the 2014-15 school year, the department shall ensure that benchmark assessments are administered to pupils annually under this section prior to the administration of summative assessments under this section.

(5m) When determining the percentage of pupils participating in the program under s. 119.23 who performed at designated proficiency levels on the examinations administered as required under sub. (1s) or s. 118.301 (3), the department shall consider only the pupils participating in the program under s. 119.23 to whom the examinations were administered at each grade level, and shall exclude from consideration those pupils participating in the program under s. 119.23 who were excused from taking the examinations under sub. (2) (b) 5.

(6) A school board and an operator of a charter school under s. 118.40 (2r) or (2x) is not required to administer the 4th and 8th grade examinations adopted or approved by the state superintendent under sub. (1) or authorized under s. 118.301 (3) if the school board or the operator of the charter school administers its own 4th and 8th grade examinations, the school board or operator of the charter school submits the examination results to the University of Wisconsin-Madison Value-Added Research Center to conduct statistical correlations of those examinations with the examinations adopted or approved by the state superintendent under sub. (1), the University of Wisconsin-Madison Value-Added Research Center provides the statistical correlations to the state superintendent, and the federal department of education approves.

(7) If a school board enters into an agreement with a federally recognized American Indian tribe or band in this state to establish a charter school, that school board shall administer the examinations under sub. (1m) or s. 118.301 (3) regardless of the location of the charter school.

History: 1991 a. 269; 1993 a. 16, 367; 1995 a. 27 ss. 3971b to 3971yd, 9145 (1); 1997 a. 27, 164, 237; 1999 a. 9, 19, 32, 185, 186; 2001 a. 16, 109; 2003 a. 33; 2009 a. 28, 60; 2011 a. 32, 105; 2013 a. 20, 237; 2015 a. 55; 2017 a. 36, 335.

118.301 Alternative pupil assessments. (1) In this section, "research center" means the University of Wisconsin-Madison Value-Added Research Center.

(2) (a) Within 30 days after the release of funds under s. 115.28 (9m) (b), the department shall request from the research center a list of nationally recognized, norm-referenced alternative examinations determined by the research center to be acceptable for statistical comparison with examinations adopted or approved under s. 118.30 (1). Within 180 days of the release of funds under s. 115.28 (9m) (b), the research center shall evaluate and approve at least 3 and no more than 5 of the examinations and shall submit the list of approved examinations to the department. The research center shall submit under this paragraph only those examinations that are consistent with the following parameters:

1. The examination aligns sufficiently with content standards established for examinations adopted or approved under s. 118.30 (1).

2. The examination is comprised of a variety of testing methodologies, including multiple choice and short answer, to assess a range of student skills.

3. The examination includes accommodations or alternative assessments for students enrolled in a special education program under subch. V of ch. 115.

4. The examination provider makes available translations for limited-English proficient pupils, as defined in s. 115.955 (7).

5. The examination may be administered in a variety of modes, including with paper and pencil, in an online format, in a fixed form format, and in an adaptive format.

6. The examination has internal consistency reliability coefficients of at least 0.8.

(b) An examination approved under this subsection may be administered only by a school that notifies the department of its intent to administer the examination.

(3) (a) Notwithstanding s. 118.30 (1m), beginning in the first full school year following the date on which the research center submitted the list of approved examinations to the department under sub. (2) (a), a school board is not required to administer an examination adopted or approved by the state superintendent under s. 118.30 (1) in any grade for which an examination is required to be administered under s. 118.30 if the school board administers in that grade an alternative examination approved by the research center under sub. (2). If the school board elects to administer an alternative examination under this paragraph, the school board shall notify the department of its intent to adminis-

ter the examination and shall publish that fact and information about the examination on the school's Internet site.

(b) Notwithstanding s. 118.30 (1r), beginning in the first full school year following the date on which the research center submitted the list of approved examinations to the department under sub. (2) (a), an operator of a charter school under s. 118.40 (2r) or (2x) is not required to administer an examination adopted or approved by the state superintendent under s. 118.30 (1) in any grade for which an examination is required to be administered under s. 118.30 if the operator administers in that grade an alternative examination approved by the research center under sub. (2). If the operator of the charter school elects to administer an alternative examination under this paragraph, the operator shall notify the department of its intent to administer the examination and shall publish that fact and information about the examination on the school's Internet site.

(c) Notwithstanding s. 118.30 (1s), beginning in the first full school year following the date on which the research center submitted the list of approved examinations to the department under sub. (2) (a), the governing body of each private school participating in the program under s. 119.23 that is required to administer an examination under s. 118.30 (1s) is not required to administer an examination adopted or approved by the state superintendent under s. 118.30 (1) in any grade for which an examination is required to be administered under s. 118.30 if the governing body administers in that grade an alternative examination approved by the research center under sub. (2). If the governing body of the private school elects to administer an alternative examination under this paragraph, the governing body shall notify the department of its intent to administer the examination and shall publish that fact and information about the examination on the school's Internet site.

(d) Notwithstanding s. 118.30 (1t), beginning in the first full school year following the date on which the research center submitted the list of approved examinations to the department under sub. (2) (a), the governing body of a private school participating in a program under s. 118.60 that is required to administer an examination under s. 118.30 (1t) is not required to administer an examination adopted or approved by the state superintendent under s. 118.30 (1) in any grade for which an examination is required to be administered under s. 118.30 if the governing body administers in that grade an alternative examination approved by the research center under sub. (2). If the governing body of the private school elects to administer an alternative examination under this paragraph, the governing body shall notify the department of its intent to administer the examination and shall publish that fact and information about the examination on the school's Internet site.

(e) If a school administers an alternative examination in any grade under this subsection, and if the cost of the alternative examination exceeds the cost of the examination adopted or approved by the state superintendent for that grade, the school board, operator, or governing body of the school is responsible for the difference between the cost of the examination adopted or approved by the state superintendent for that grade and the cost of the alternative examination for that grade.

(4) (a) If a school board, an operator of a charter school under s. 118.40 (2r) or (2x), or the governing body of a private school participating in a program under s. 118.60 or 119.23 administers an alternative examination under sub. (3), the school board, operator, or governing body shall submit the examination results to the research center.

(b) The research center shall review all examination results received under par. (a) and statistically equate them to the pupil examinations required under s. 118.30. The research center shall provide the examination data, as statistically equated, to the school board, operator, or governing body and to the department. The department shall use data received under this subsection to determine a school's performance or school district's improvement under s. 115.385.

History: 2015 a. 55.

118.305 Use of seclusion and physical restraint. (1) DEFINITIONS. In this section:

(a) "Child" has the meaning given in s. 115.76 (3).

(b) "Child with a disability" has the meaning given in s. 115.76 (5).

(c) 1. "Covered individual" means all of the following, except as provided in subd. 2.:

a. An individual who is employed by a governing body, or under contract with a governing body as an independent contractor, to provide services for the benefit of the school governed by the governing body.

b. An individual who is employed by a person under contract with a governing body to provide services for the benefit of the school governed by the governing body.

c. An individual who is engaged in student teaching under the supervision of an individual described in subd. 1. a.

2. "Covered individual" does not include any of the following:

a. A member of a governing body.

b. A law enforcement officer who is authorized or designated by a governing body to perform any duty under s. 118.125 (1) (bL) 1. or 2. in a school governed by the governing body.

(d) "Governing body" means the governing body in charge of any of the following:

1. A school.

2. A private school at which an LEA placed pupil is placed by a local educational agency.

(dm) "Incident" means an occurrence of a covered individual or a law enforcement officer using seclusion or physical restraint on a pupil. It is considered one incident if immediately following the use of seclusion or physical restraint on a pupil, the pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others, and a covered individual or law enforcement officer resumes the use of seclusion or physical restraint.

(e) "Individualized education program" has the meaning given in s. 115.76 (9).

(ek) "LEA placed pupil" means all of the following:

1. A pupil placed at a private school by a local educational agency under s. 118.15 (1) (d) 4. or 119.235.

2. A child with a disability placed at a private school by a local educational agency to satisfy the requirements under subch. V of ch. 115 or applicable federal law.

(em) "Local educational agency" has the meaning given in s. 115.76 (10).

(f) "Parent" means a parent of a pupil, including a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

(g) "Physical restraint" means a restriction that immobilizes or reduces the ability of a pupil to freely move his or her torso, arms, legs, or head.

(h) "School" means a public school, including a charter school, and a private school participating in the program under s. 115.7915.

(i) "Seclusion" means the involuntary confinement of a pupil, apart from other pupils, in a room or area from which the pupil is physically prevented from leaving.

(2) SECLUSION; CONDITIONS FOR USE. A covered individual

may use seclusion on a pupil at school only if all of the following apply:

(a) The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.

(b) A covered individual maintains constant supervision of the pupil, either by remaining in the room or area with the pupil or by observing the pupil through a window that allows the covered individual to see the pupil at all times.

(c) The room or area in which the pupil is secluded is free of objects or fixtures that may injure the pupil.

(d) The pupil has adequate access to bathroom facilities, drinking water, necessary medication, and regularly scheduled meals.

(e) The duration of the seclusion is only as long as necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.

(f) No door connecting the room or area in which the pupil is secluded to other rooms or areas is capable of being locked or has a lock on it.

(3) PHYSICAL RESTRAINT; CONDITIONS FOR USE. A covered individual may use physical restraint on a pupil at school only if all of the following apply:

(a) The pupil's behavior presents a clear, present, and imminent risk to the physical safety of the pupil or others and it is the least restrictive intervention feasible.

(b) There are no medical contraindications to its use.

(c) The degree of force used and the duration of the physical restraint do not exceed the degree and duration that are reasonable and necessary to resolve the clear, present, and imminent risk to the physical safety of the pupil or others.

(d) None of the following maneuvers or techniques are used:

1. Those that do not give adequate attention and care to protecting the pupil's head.

2. Those that cause chest compression by placing pressure or weight on the pupil's chest, lungs, sternum, diaphragm, back, or abdomen.

3. Those that place pressure or weight on the pupil's neck or throat, on an artery, or on the back of the pupil's head or neck, or that otherwise obstruct the pupil's circulation or breathing.

4. Those that place the pupil in a prone position.

(e) It does not constitute corporal punishment, as defined in s. 118.31 (1).

(f) The covered individual does not use a mechanical or chemical restraint on the pupil. None of the following constitutes the use of a mechanical restraint:

1. The use of supportive equipment to properly align a pupil's body, assist a pupil to maintain balance, or assist a pupil's mobility, under the direction and oversight of appropriate medical or therapeutic staff.

2. The use of vehicle safety restraints when used as intended during the transport of a pupil in a moving vehicle.

(4) NOTIFICATION AND REPORTING FOLLOWING USE OF SECLUSION OR PHYSICAL RESTRAINT. (a) Whenever a covered individual or a law enforcement officer uses seclusion or physical restraint on a pupil at school, the school principal or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the pupil's parent of the incident and of the availability of the written report under subd. 2.

2. Within 2 business days after the incident and after consulting with the covered individuals and any law enforcement officers present during the incident, prepare a written report containing all of the following information:

a. The pupil's name.

b. The date, time, and duration of the use of seclusion or physical restraint.

c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.

d. The names and titles of the covered individuals and any law enforcement officers present during the incident.

3. Meet with the covered individuals who participated in the incident to discuss all of the following:

a. The events preceding, during, and following the use of the seclusion or physical restraint.

b. How to prevent the need for seclusion or physical restraint, including the factors that may have contributed to the escalation of behaviors; alternatives to physical restraint, such as de-escalation techniques and possible interventions; and other strategies that the school principal or designee determines are appropriate.

(b) The school principal or his or her designee shall retain a report prepared under par. (a) 2. and shall, within 3 business days of the incident, do one of the following:

1. Send the report to the pupil's parent by 1st class mail or by electronic transmission.

2. Hand deliver the report to the pupil's parent.

(c) Annually by October 1, the principal of each school or his or her designee shall submit to the governing body a report containing all of the following:

1. The number of incidents of seclusion in the school during the previous school year.

2. The total number of pupils who were involved in the incidents of seclusion reported under subd. 1.

3. The number of children with disabilities who were involved in the incidents of seclusion reported under subd. 1.

4. The number of incidents of physical restraint in the school during the previous school year.

5. The total number of pupils who were involved in the incidents of physical restraint reported under subd. 4.

6. The number of children with disabilities who were involved in the incidents of physical restraint reported under subd. 4.

(cm) Annually by December 1, each governing body that receives a report under par. (c) shall submit to the state superintendent a report that contains the information under par. (c) for each school under the governing body's charge.

(d) Whenever a covered individual or a law enforcement officer uses seclusion or physical restraint on an LEA placed pupil at a private school, the administrator of the private school or his or her designee shall do all of the following:

1. As soon as practicable, but no later than one business day after the incident, notify the LEA placed pupil's parent and the local educational agency of the incident and of the availability of the written report under subd. 2.

2. Within 2 business days after the incident and after consulting with the covered individuals and any law enforcement officers present during the incident, prepare a written report containing all of the following information:

a. The LEA placed pupil's name.

b. The date, time, and duration of the use of seclusion or physical restraint.

c. A description of the incident, including a description of the actions of the pupil before, during, and after the incident.

d. The names and titles of the covered individuals and any law enforcement officers who were present during the incident.

(e) An administrator of a private school or his or her designee shall retain a report prepared under par. (d) 2. and shall within 3 business days of the incident do one of the following:

1. Send the report by 1st class mail or by electronic transmission to the LEA placed pupil's parent and to the local educational agency.

2. Hand deliver the report to the LEA placed pupil's parent and to the local educational agency.

(5) CHILD WITH A DISABILITY. The 2nd time that seclusion or physical restraint is used on a child with a disability within the same school year, the child's individualized education program team shall convene in the manner provided in s. 115.787 (4) as soon as practicable after the incident but no later than 10 school days after the incident. The child's individualized education program team shall review the child's individualized education program and revise it as the individualized education program team determines necessary to ensure all of the following:

(a) The individualized education program includes appropriate positive behavioral interventions and supports and other strategies to address the behavior of concern.

(b) That the interventions, supports, and other strategies included in the individualized education program related to a behavior that resulted in the use of seclusion or physical restraint on the child are based on a functional behavioral assessment of that behavior.

(6) PHYSICAL RESTRAINT; TRAINING. (a) Except as provided in par. (c), no covered individual may use physical restraint on a pupil at school unless he or she has received training that includes all of the following components:

1f. Evidence-based instruction related to positive behavioral supports and interventions, safe physical escort, understanding antecedents, de-escalation, conflict prevention, and conflict management.

1m. Evidence-based techniques, including debriefing, that have been shown to prevent or reduce the use of physical restraint.

2. An identification and description of dangerous behavior that may indicate the need for physical restraint and methods of evaluating risk of harm in order to determine whether physical restraint is warranted.

4. Instruction regarding the effects of physical restraint on the person restrained, in monitoring signs of physical distress, and in obtaining medical assistance.

5. Instruction in documenting and reporting incidents of physical restraint.

6. A requirement that the trainee demonstrate his or her ability to identify prohibited techniques in administering physical restraint.

(b) The governing body shall ensure that all of the following apply in each school that it operates in which physical restraint is used:

1. At least one covered individual has received training under par. (a).

2. The school maintains a record of the training received by the covered individual under par. (a), including the period during which the training is considered valid by the entity that trained the covered individual.

(c) A covered individual who has not received training under par. (a) may use physical restraint on a pupil at school only in an emergency and only if a covered individual who has received training under par. (a) is not immediately available due to the unforeseen nature of the emergency.

(7) CONSTRUCTION. Nothing in this section prohibits a covered individual from doing any of the following at school if the pupil is not confined to an area from which he or she is physically prevented from leaving:

(a) Directing a pupil who is disruptive to temporarily separate himself or herself from the general activity in the classroom to allow the pupil to regain behavioral control and the covered individual to maintain or regain classroom order.

(b) Directing a pupil to temporarily remain in the classroom to complete tasks while other pupils participate in activities outside the classroom.

(c) Briefly touching or holding a pupil's hand, arm, shoulder, or back to calm, comfort, or redirect the pupil.

History: 2011 a. 125; 2013 a. 168 s. 20; 2015 a. 55; 2019 a. 118.

118.31 Corporal punishment. (1) In this section, "corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling, slapping or prolonged maintenance of physically painful positions, when used as a means of discipline. "Corporal punishment" does not include actions consistent with an individualized education program developed under s. 115.787 or reasonable physical activities associated with athletic training.

(2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.

(3) Subsection (2) does not prohibit an official, employee or agent of a school board from:

(a) Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person.

(b) Using reasonable and necessary force to obtain possession of a weapon or other dangerous object within a pupil's control.

(c) Using reasonable and necessary force for the purpose of self-defense or the defense of others under s. 939.48.

(d) Using reasonable and necessary force for the protection of property under s. 939.49.

(e) Using reasonable and necessary force to remove a disruptive pupil from a school premises or motor vehicle, as defined in s. 125.09 (2) (a) 1. and 4., or from school-sponsored activities.

(f) Using reasonable and necessary force to prevent a pupil from inflicting harm on himself or herself.

(g) Using reasonable and necessary force to protect the safety of others.

(h) Using incidental, minor or reasonable physical contact designed to maintain order and control.

(4) Each school board shall adopt a policy that allows any official, employee or agent of the school board to use reasonable and necessary force for the purposes of sub. (3) (a) to (h). In determining whether or not a person was acting within the exceptions in sub. (3), deference shall be given to reasonable, good faith judgments made by an official, employee or agent of a school board.

(5) Except as provided in s. 939.61 (1), this section does not create a separate basis for civil liability of a school board or their officials, employees or agents for damages arising out of claims involving allegations of improper or unnecessary use of force by school employees against students.

(6) Nothing in this section shall prohibit, permit or otherwise affect any action taken by an official, employee or agent of a school board with regard to a person who is not a pupil enrolled in the school district.

(7) Nothing in this section abrogates or restricts any statutory or common law defense to prosecution for any crime.

History: 1987 a. 303; 1989 a. 26; 1991 a. 164; 1993 a. 334; 1997 a. 164; 1999 a. 127.

NOTE: 1987 Wis. Act 303, which created this section, has "Legislative findings and purpose" in section 1.

118.32 Strip search by school employee. Any official, employee or agent of any school or school district is prohibited under s. 948.50 from conducting a strip search of any pupil.

History: 1983 a. 489; 1987 a. 332 s. 64.

118.325 Locker searches. An official, employee or agent of a school or school district may search a pupil's locker as determined necessary or appropriate without the consent of the pupil, without notifying the pupil and without obtaining a search warrant if the school board has adopted a written policy specifying that the school board retains ownership and possessory control of all pupil lockers and designating the positions of the officials, employees or agents who may conduct searches, and has distributed a copy of the policy to pupils enrolled in the school district.

History: 1997 a. 329.

118.33 High school graduation standards; criteria for promotion. (1) (a) Except as provided in pars. (d), (e), (em), and (es), a school board may not grant a high school diploma to any pupil unless the pupil satisfies the requirement under sub. (1m) (a) and has earned:

1. In the high school grades, all of the following:

a. At least 4 credits of English including writing composition.

b. At least 3 credits of social studies including state and local government.

c. At least 3 credits of mathematics. The school board shall award a pupil up to one mathematics credit for successfully completing in the high school grades a course in computer sciences that the department has determined qualifies as computer sciences according to criteria established by the department. The school board shall award a pupil up to one mathematics credit for successfully completing in the high school grades a career and technical education course that the school board determines satisfies a mathematics requirement, but may not award any credit for that course if the school board awards any credit for that same course under subd. 1. d.

d. At least 3 credits of science. The school board shall award a pupil a science credit for successfully completing in the high school grades each course in agriculture that the department has determined qualifies as science according to criteria established by the department. The school board shall award a pupil up to one science credit for successfully completing in the high school grades a career and technical education course that the school board determines satisfies a science requirement, but may not award any credit for that course if the school board awards any credit for that same course under subd. 1. c.

e. At least 1.5 credits of physical education.

f. At least 0.5 credit of personal financial literacy that includes financial mindset, education and employment, money management, saving and investing, credit and debt, and risk management and insurance. The school board shall award a pupil 0.5 credit of personal financial literacy for successfully completing in the high school grades a financial literacy program offered by a financial institution, as defined in s. 214.01 (1) (jn), through a branch that is located in a school if the school board determines that the financial literacy program satisfies the personal financial literacy requirement under this subd. 1. f. The school board shall award a pupil 0.5 credit of personal financial literacy for successfully completing in the high school grades an advanced placement course in business with personal finance.

2. In grades 7 to 12, at least 0.5 credit of health education.

(am) The state superintendent shall encourage school boards to require an additional 8.5 credits selected from any combination of vocational education, foreign languages, fine arts and other courses.

(b) Except as provided in par. (es), a school board may not grant a high school diploma to any pupil unless, during the high school grades, the pupil has been enrolled in a class or has participated in an activity approved by the school board during each class period of each school day, or the pupil has been enrolled in an alternative education program, as defined in s. 115.28 (7) (e) 1. Nothing in this paragraph prohibits a school board from establishing a program that allows a pupil enrolled in the high school grades who has demonstrated a high level of maturity and personal responsibility to leave the school premises for up to one class period each day if the pupil does not have a class scheduled during that class period.

(c) A school board may require a pupil to participate in community service activities in order to receive a high school diploma.

(d) A school board may grant a high school diploma to a pupil who has not satisfied the requirements under par. (a) if all of the following apply:

1. The pupil was enrolled in an alternative education program, as defined in s. 115.28 (7) (e) 1.

2. The school board determines that the pupil has demonstrated a level of proficiency in the subjects listed in par. (a) equivalent to that which he or she would have attained if he or she had satisfied the requirements under par. (a).

3. The pupil satisfies the requirement under sub. (1m) (a).

(e) A school board may allow a pupil who participates in sports or in another organized physical activity, as determined by the school board, to complete an additional 0.5 credit in English, social studies, mathematics, science, or health education in lieu of 0.5 credit in physical education.

(em) A school board may count a credit that a pupil earns in grade 7 or 8 towards the requirements under par. (a) 1. or (am) if all of the following are satisfied:

1. The pupil's performance on an examination under s. 118.30 or a similar examination approved by the school board demonstrates that the pupil is academically prepared for coursework that is offered in the high school grades.

2. The credit is earned in a course that is taught by a teacher who is licensed to teach the subject in the high school grades.

3. The credit is earned in a course that is taught using a curriculum and assessments that are equivalent to the curriculum and assessments used to teach the subject in the high school grades.

(es) 1. A school board may adopt a resolution to allow pupils in the high school grades to earn high school credits in a subject area by demonstrating a level of proficiency in that subject area or by creating a learning portfolio related to that subject area. If a school board adopts a resolution under this paragraph, the school board shall develop and implement written policies and procedures for awarding credits under this paragraph. The school board shall include in its policies and procedures the manner in which a pupil may qualify for high school credit under this paragraph. A pupil may earn not more than one-half of the total number of credits required for a high school diploma under this paragraph.

2. For a pupil who earns credit under this paragraph, a school board may waive the requirement under par. (b) that requires a pupil, during the high school grades, to be enrolled in a class or participate in an activity approved by the school board during each class period of each school day.

3. Nothing in this paragraph affects a school board's obligations to administer examinations under s. 118.30.

4. A nonprofit, for-profit, or public educational institution that provides an educational program for which it awards a bachelor's or higher degree, or provides a program that is acceptable for full credit toward such a degree or a program of training to prepare students for gainful employment in a recognized occupation, and admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate, shall treat a high school diploma awarded based, in part, on credits earned under this paragraph in the same manner as it treats a high school diploma awarded based on credits earned by enrolling in class.

(f) 1. Each school board operating high school grades shall develop and periodically review and revise a written policy specifying criteria for granting a high school diploma that are in addition to the requirements under par. (a). The criteria shall include the pupil's academic performance, successful completion of the civics test under sub. (1m) (a), and the recommendations of teachers. Except as provided in subds. 2. and 4., the criteria apply to pupils enrolled in charter schools located in the school district.

2. The operator of a charter school under s. 118.40 (2r) or (2x) that operates high school grades and an individual or group or a person that, pursuant to s. 115.999 (3), 119.33 (2) (c) 1. or 2., or 119.9002 (3) (a) or (b), is responsible for the operation and general management of a school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119 and that operates high school grades shall develop and periodically review and revise a policy specifying criteria for granting a high school diploma. The criteria shall include the pupil's academic performance, successful completion of the civics test under sub. (1m) (a), and the recommendations of teachers.

2m. The governing body of each private school participating in the program under s. 119.23 and the governing body of a private school that, pursuant to s. 115.999 (3), 119.33 (2) (c) 3., or 119.9002 (3) (c), is responsible for the operation and general management of a school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119 shall develop and periodically review and revise a policy specifying criteria for granting a high school diploma to pupils attending the private school under s. 119.23 or the school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119. The criteria shall include the pupil's academic performance, successful completion of the civics test under sub. (1m) (a), and the recommendations of teachers.

2r. The governing body of each private school participating in the program under s. 118.60 shall develop and periodically review and revise a policy specifying criteria for granting a high school diploma to pupils attending the private school under s. 118.60. The criteria shall include the pupil's academic performance, successful completion of the civics test under sub. (1m) (a), and the recommendations of teachers.

3. Neither a school board nor an operator of a charter school under s. 118.40 (2r) or (2x) nor an individual or group or person that, pursuant to s. 115.999 (3), 119.33 (2) (c) 1. or 2., or 119.9002 (3) (a) or (b), is responsible for the operation and general management of a school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119 may grant a high school diploma to any pupil unless the pupil has satisfied the criteria specified in the school board's or charter school's policy under subd. 1. or 2. Neither the governing body of a private school participating in the program under s. 119.23 nor a governing body of a private school that, pursuant to s. 115.999 (3), 119.33 (2) (c) 3., or 119.9002 (3) (c), is responsible for the operation and general management of a school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119 may grant a high school diploma to any pupil attending the private school under s. 119.23 or the school transferred to an opportunity schools and partnership program under s. 119.33, subch. IX of ch. 115, or subch. II of ch. 119 unless the pupil has satisfied the criteria specified in the governing body's policy under subd. 2m. The governing body of a private school participating in the program under s. 118.60 may not grant a high school diploma to any pupil attending the private school under s. 118.60 unless the pupil has satisfied the criteria specified in the governing body's policy under subd. 2r.

4. If a school board enters into an agreement with a federally recognized American Indian tribe or band in this state to establish a charter school, the criteria specified in the policy developed by that school board under subd. 1. apply to pupils enrolled in the charter school, regardless of the location of the charter school.

(g) 1. A school board may grant a technical education high school diploma to a pupil who does all of the following:

a. Satisfies the requirements under par. (a).

b. Earns in the high school grades the same total number of credits that the school board requires of other pupils for high school graduation.

c. Successfully completes a technical education program, established by the school board, in a subject or subjects.

d. Satisfies the requirement under sub. (1m) (a).

2. In establishing a technical education program under subd. 1. c., the school board may incorporate standards for industry-recognized certifications. Annually, the department shall provide to each school board operating high school grades a list of such certifications. The school board shall indicate on a pupil's technical education high school diploma the certifications attained by the pupil.

(1m) (a) 1. Beginning in the 2016-17 school year, no school board, operator of a charter school under s. 118.40 (2r) or (2x), or governing body of a private school participating in a program under s. 118.60 or 119.23 may, except as provided in subd. 2. and subject to the policies under sub. (2) (m), grant a high school diploma to any pupil unless the pupil takes, during the high school grades, a civics test comprised of 100 questions that are identical to the 100 questions that may be asked of an individual during the process of applying for U.S. citizenship by the United States Citizenship and Immigration Services and the pupil correctly answers at least 65 of those questions.

2. a. Except as provided in subd. 2. b., a school board, operator of a charter school under s. 118.40 (2r) or (2x), and governing body of a private school participating in a program under s. 118.60 or 119.23 shall require a pupil for whom an individualized education program under s. 115.787 is in effect and a parentally placed child with a disability, as defined in 34 CFR 300.130, to complete the civics test described under subd. 1. but may not condition graduation on the successful completion of the test.

b. If a pupil's individualized education program under s. 115.787 or a services plan, as defined in 34 CFR 300.37, includes a statement that it is not appropriate to administer the civics test under subd. 1. to the pupil, a school board, operator of a charter school under s. 118.40 (2r) or (2x), and governing body of a private school participating in a program under s. 118.60 or 119.23 may not make completion of the civics test described under subd. 1. a condition of graduation for that pupil.

3. A school board, operator of a charter school under s. 118.40 (2r) or (2x), and governing body of a private school participating in a program under s. 118.60 or 119.23 shall permit a limited-English proficient pupil, as defined in s. 115.955 (7), to take the civics test described under subd. 1. in the pupil's language of choice.

4. A pupil may retake the civics test described under subd. 1. until the pupil obtains the passing score required under subd. 1.

(b) A school board, operator of a charter school under s. 118.40 (2r) or (2x), and governing body of a private school participating in a program under s. 118.60 or 119.23 may determine the format of the civics test required under this subsection and when in the school year to administer the test.

(2) The state superintendent shall:

(c) Establish course requirements under sub. (1) (a) and approve any school board's high school graduation standards policy that is equivalent to the requirements under subs. (1) and (1m) (a).

(m) Adopt policies to accommodate pupils with exceptional educational interests, needs or requirements, not limited to children with disabilities, as defined under s. 115.76 (5).

(3) By September 1, 1986, each school board operating high school grades shall submit to the state superintendent a report describing the school board's policies and guidelines on high school graduation standards, including a list of courses required under sub. (1) (a) and the number of hours in each school term required to earn one credit under sub. (1) (a), and thereafter shall notify the state superintendent whenever changes are made in such policies or guidelines. The department shall make reasonable efforts to combine the reports required under this subsection with other required school board reports.

(3m) A course taken at a technical college by a child attending the school part-time or in lieu of high school under s. 118.15 (1) (b), or attending the school under s. 118.15 (1) (cm), does not fulfill any of the high school graduation requirements under sub. (1) (a) unless the state superintendent has approved the course for that purpose. If a pupil satisfies all of the high school graduation requirements under subs. (1) and (1m) (a), the school board shall grant a high school diploma to the pupil regardless of whether the pupil satisfied all or a portion of the requirements while attending an institution of higher education under s. 118.55 or a technical college.

(4) (a) The state superintendent shall establish procedures for school boards to certify to the state superintendent whether they are in compliance with the requirements under sub. (1) and the rules promulgated under sub. (2).

(b) The state superintendent may periodically review school district high school graduation standards and shall notify any school board not in compliance with the requirements under sub. (1) or the rules promulgated under sub. (2), identifying the changes necessary.

(5) The department shall include in its biennial report under s. 15.04 (1) (d) information on the status of statewide high school graduation standards.

(5m) By January 1, 2025, the department shall establish a model policy for promoting a pupil from the 3rd grade to the 4th grade. The department shall include in the model policy at least all of the following:

(a) A requirement that the school board or operator of the charter school under s. 118.40 (2r) or (2x) do all of the following for a pupil promoted to 4th grade who had a personal reading plan under s. 118.016 (5) (a) 1. during the 3rd grade and who is not considered to have completed the personal reading plan under s. 118.016 (5) (d):

1. Provide the pupil with intensive instructional services, progress monitoring, and supports to remediate the identified areas of deficiency.

2. Notify the pupil's parent or guardian, in writing, that the pupil did not complete the personal reading plan under s. 118.016 (5) (a) 1. and include a description of the intensive instructional services and supports that will be provided to the pupil to remediate the identified areas of reading deficiency.

3. Provide the pupil with an intensive summer reading program each summer until the pupil scores at grade-level in reading on a summative assessment.

(b) A good cause exception to the requirement under par. (a) for all of the following:

1. Limited-English proficient pupils, as defined in s. 115.955 (7).

2. A pupil who has an individual education plan that indicates that neither taking the examination under s. 121.02 (1) (r) nor taking the assessments under s. 118.016 (3) is appropriate for the pupil.

3. A pupil who scores as proficient in reading on an alternative standardized assessment approved by the department.

4. A pupil who has an individual education plan or a plan to provide accommodations or services under section 504 of the federal Rehabilitation Act of 1973 that indicates that the pupil has received intensive intervention in reading for more than 2 years if the pupil continues to demonstrate a deficiency in reading and was previously retained in kindergarten, 1st, 2nd, or 3rd grade.

5. A pupil who has received intensive intervention in reading for 2 or more school years, continues to demonstrate a deficiency in reading, and was previously retained in kindergarten, 1st, 2nd, or 3rd grade for a total of 2 years.

(6) (a) 1. Each school board shall adopt a written policy specifying the criteria for promoting a pupil from the 4th grade to the 5th grade and from the 8th grade to the 9th grade. The criteria shall include the pupil's score on the examination administered under s. 118.30 (1m) (a) or (am) or s. 118.301 (3), unless the pupil has been excused from taking the examination under s. 118.30 (2) (b); the pupil's academic performance; the recommendations of teachers, which shall be based solely on the pupil's academic performance; and any other academic criteria specified by the school board. Except as provided in par. (b) 1. and 3., the criteria apply to pupils enrolled in charter schools located in the school district.

2. Except as provided in par. (b) 2. and 3., a school board may not promote a 4th grade pupil enrolled in the school district, including a pupil enrolled in a charter school located in the school district, to the 5th grade, and may not promote an 8th grade pupil enrolled in the school district, including a pupil enrolled in a charter school located in the school district, to the 9th grade, unless the pupil satisfies the criteria for promotion specified in the school board's policy adopted under subd. 1.

3. By July 1, 2025, each school board shall adopt a written policy specifying the criteria for promoting a pupil from the 3rd grade to the 4th grade that includes at least all of the components under sub. (5m) (a) and (b). Beginning on September 1, 2027, a school board may not promote a 3rd grade pupil to the 4th grade unless the pupil satisfies the criteria for promotion specified in the school board's policy under this subdivision.

(b) 1. Each operator of a charter school under s. 118.40 (2r) or (2x) shall adopt a written policy specifying the criteria for promoting a pupil from the 4th grade to the 5th grade and from the 8th grade to the 9th grade. The criteria shall include the pupil's score on the examination administered under s. 118.30 (1r) (a) or (am) or s. 118.301 (3), unless the pupil has been excused from taking the examination under s. 118.30 (2) (b); the pupil's academic performance; the recommendations of teachers, which shall be based solely on the pupil's academic performance; and any other academic criteria specified by the operator of the charter school.

2. Beginning on September 1, 2002, an operator of a charter school under s. 118.40 (2r) or (2x) may not promote a 4th grade

pupil to the 5th grade, and may not promote an 8th grade pupil to the 9th grade, unless the pupil satisfies the criteria for promotion specified in the charter school operator's policy under subd. 1.

2m. By July 1, 2025, each operator of a charter school under s. 118.40 (2r) or (2x) shall adopt a written policy specifying the criteria for promoting a pupil from the 3rd grade to the 4th grade that includes at least all of the components under sub. (5m) (a) and (b). Beginning on September 1, 2027, an operator of a charter school under s. 118.40 (2r) or (2x) may not promote a 3rd grade pupil to the 4th grade unless the pupil satisfies the criteria for promotion specified in the charter school operator's policy under this subdivision.

3. If a school board enters into an agreement with a federally recognized American Indian tribe or band in this state to establish a charter school, the criteria specified in the policies adopted by that school board under par. (a) 1. and 3. apply to pupils enrolled in the charter school and that school board is subject to the prohibitions in par. (a) 2. and 3. with respect to pupils enrolled in the charter school, regardless of the location of the charter school.

(c) 1. The governing body of each private school participating in the program under s. 119.23 shall adopt a written policy specifying criteria for promoting a pupil who is attending the private school under s. 119.23 from the 4th grade to the 5th grade and from the 8th grade to the 9th grade. The criteria shall include the pupil's score on the examination administered under s. 118.30 (1s) (a) or (b) or s. 118.301 (3), unless the pupil has been excused from taking the examination under s. 118.30 (2) (b); the pupil's academic performance; the recommendations of teachers, which shall be based solely on the pupil's academic performance; and any other academic criteria specified by the governing body of the private school.

2. The governing body of a private school participating in the program under s. 119.23 may not promote a 4th grade pupil who is attending the private school under s. 119.23 to the 5th grade, and may not promote an 8th grade pupil who is attending the private school under s. 119.23 to the 9th grade, unless the pupil satisfies the criteria for promotion specified in the governing body's policy under subd. 1.

3. By July 1, 2025, the governing body of each private school participating in the program under s. 119.23 shall adopt a written policy specifying the criteria for promoting a pupil from the 3rd grade to the 4th grade that includes at least a requirement to provide to a pupil promoted to 4th grade who scored below grade-level in reading on the examination under s. 121.02 (1) (r) the services described in sub. (5m) (a) 1. to 3. and a good cause exception similar to the exception under sub. (5m) (b). Beginning on September 1, 2027, the governing body of a private school participating in the program under s. 119.23 may not promote a 3rd grade pupil to the 4th grade unless the pupil satisfies the criteria for promotion specified in the governing body's policy under this subdivision.

(cm) 1. Except as provided in subds. 2. and 3., beginning on September 1, 2011, a school board may not enroll a child in the first grade in a school in the school district, including in a charter school located in the school district, unless the child has completed 5-year-old kindergarten. Each school board that operates a 5-year-old kindergarten program shall adopt a written policy specifying the criteria for promoting a pupil from 5-year-old kindergarten to the first grade.

2. Each school board that operates a 5-year-old kindergarten program shall establish procedures, conditions, and standards for exempting a child from the requirement that the child complete kindergarten as a prerequisite to enrollment in the first grade and for reviewing the denial of an exemption upon the request of the pupil's parent or guardian.

3. A school board that operates a 5-year-old kindergarten program shall enroll in the first grade a child who has not completed kindergarten but who is otherwise eligible to be admitted to and to enroll in first grade as a new or continuing pupil at the time the child moves into this state if one of the following applies:

a. Before either commencing or completing first grade, the child moved into this state from a state, country, or territory in which completion of 5-year-old kindergarten is a prerequisite to entering first grade and the child was exempted from the requirement to complete 5-year-old kindergarten in the state, country, or territory from which the child moved.

b. Before either commencing or completing first grade the child moved into this state from a state, country, or territory in which completion of 5-year-old kindergarten is not a prerequisite to entering first grade.

4. Except as provided in subds. 5. and 6., beginning on September 1, 2011, the operator of a charter school under s. 118.40 (2r) or (2x) may not enroll a child in the first grade in the school unless the child has completed 5-year-old kindergarten. Each operator of a charter school under s. 118.40 (2r) or (2x) that operates a 5-year-old kindergarten program shall adopt a written policy specifying the criteria for promoting a pupil from 5-year-old kindergarten to the first grade.

5. Each operator of a charter school under s. 118.40 (2r) or (2x) that operates a 5-year-old kindergarten program shall establish procedures, conditions, and standards for exempting a child from the requirement that the child complete kindergarten as a prerequisite to enrollment in the first grade and for reviewing the denial of an exemption upon the request of the pupil's parent or guardian.

6. The operator of a charter school under s. 118.40 (2r) or (2x) that operates a 5-year-old kindergarten program shall enroll in the first grade a child who has not completed kindergarten but who is otherwise eligible to be admitted to and to enroll in first grade as a new or continuing pupil at the time the child moves into this state if one of the following applies:

a. Before either commencing or completing first grade, the child moved into this state from a state, country, or territory in which completion of 5-year-old kindergarten is a prerequisite to entering first grade and the child was exempted from the requirement to complete 5-year-old kindergarten in the state, country, or territory from which the child moved.

b. Before either commencing or completing first grade the child moved into this state from a state, country, or territory in which completion of 5-year-old kindergarten is not a prerequisite to entering first grade.

(cr) 1. The governing body of each private school participating in the program under s. 118.60 shall adopt a written policy specifying criteria for promoting a pupil who is attending the private school under s. 118.60 from the 4th grade to the 5th grade and from the 8th grade to the 9th grade. The criteria shall include the pupil's score on the examination administered under s. 118.30 (1t) (a) or (b) or s. 118.301 (3), unless the pupil has been excused from taking the examination under s. 118.30 (2) (b); the pupil's academic performance; the recommendations of teachers, which shall be based solely on the pupil's academic performance; and any other academic criteria specified by the governing body of the private school.

2. The governing body of a private school participating in the program under s. 118.60 may not promote a 4th grade pupil who is attending the private school under s. 118.60 to the 5th grade, and may not promote an 8th grade pupil who is attending the private school under s. 118.60 to the 9th grade, unless the pupil satisfies the criteria for promotion specified in the governing body's policy under subd. 1.

3. By July 1, 2025, the governing body of each private school participating in the program under s. 118.60 shall adopt a written policy specifying the criteria for promoting a pupil from the 3rd grade to the 4th grade that includes at least a requirement to provide to a pupil promoted to 4th grade who scored below grade-level in reading on the examination under s. 121.02 (1) (r) the services described in sub. (5m) (a) 1. to 3. and a good cause exception similar to the exception under sub. (5m) (b). Beginning on September 1, 2027, the governing body of a private school participating in the program under s. 118.60 may not promote a 3rd grade pupil to the 4th grade unless the pupil satisfies the criteria for promotion specified in the governing body's policy under this subdivision.

History: 1983 a. 411; 1985 a. 29; 1991 a. 39, 269; 1993 a. 223, 339, 340, 399, 491; 1995 a. 27 s. 9145 (1); 1997 a. 27, 113, 164; 1999 a. 9, 84, 185; 2001 a. 38, 109; 2003 a. 33; 2009 a. 28, 41, 114; 2011 a. 32, 105, 156; 2011 a. 260 s. 80; 2013 a. 63, 138, 237; 2015 a. 55, 212; 2017 a. 59; 2023 a. 20, 60; 2025 a. 223.

NOTE: 1983 Wis. Act 411, which created this section, has a "Legislative declaration" in section 1.

NOTE: 1993 Wis. Act 339, which created sub. (1) (d), contains explanatory notes.

Cross-reference: See also ch. PI 18, Wis. adm. code.

118.335 Tribal regalia at graduation ceremonies or school-sponsored events.

(1) In this section:

(a) "Traditional tribal regalia" means a tribe's traditional dress or recognized objects of religious or cultural significance, including tribal symbols, beads, and feathers.

(b) "Tribe" means a federally recognized American Indian tribe or band or an American Indian tribe or band that was previously a federally recognized American Indian tribe or band.

(2) No school board or charter school may prohibit a pupil who is any of the following from wearing traditional tribal regalia at a graduation ceremony or school-sponsored event:

(a) A member of a tribe.

(b) A descendant of a member of a tribe.

(c) Eligible to be enrolled as a member of a tribe.

History: 2025 a. 222.

118.34 Technical preparation programs.

(1) In cooperation with a technical college district board, each school board shall establish a technical preparation program in each public high school located in the school district. The program shall consist of a sequence of courses, approved by the technical college system board under s. 38.04 (26), designed to allow high school pupils to gain advanced standing in the technical college district's associate degree program upon graduation from high school.

(2) (a) The technical college district director shall appoint a technical preparation council to coordinate the establishment of the technical preparation programs. The council shall consist of 12 members.

(b) The technical college district board and the school boards of school districts that operate high schools located in the technical college district shall establish a consortium to implement the technical preparation programs.

(3) The department and the technical college system board shall provide technical assistance to school boards to develop technical preparation programs in each high school. Annually, the school board shall evaluate its program and report the results to the state superintendent and the technical college system board.

History: 1991 a. 39; 1993 a. 16, 399, 491; 1995 a. 27 s. 9145 (1); 1997 a. 27; 1999 a. 9; 2003 a. 33.

Cross-reference: See also ch. TCS 9, Wis. adm. code.

118.35 Programs for gifted and talented pupils.

(1) In this section, "gifted and talented pupils" means pupils enrolled in public schools who give evidence of high performance capability in intellectual, creative, artistic, leadership or specific academic areas and who need services or activities not ordinarily provided in a regular school program in order to fully develop such capabilities.

(2) The state superintendent shall by rule establish guidelines for the identification of gifted and talented pupils.

(3) Each school board shall ensure that all gifted and talented pupils enrolled in the school district have access to a program for gifted and talented pupils.

(4) From the appropriation under s. 20.255 (2) (fy), the department shall award grants to nonprofit organizations, cooperative educational service agencies, institutions within the University of Wisconsin System, and school districts for the purpose of providing to gifted and talented pupils those services and activities not ordinarily provided in a regular school program that allow such pupils to fully develop their capabilities.

History: 1985 a. 29; 1995 a. 27 s. 9145 (1); 1997 a. 27, 240; 2005 a. 25; 2007 a. 20; 2011 a. 32; 2017 a. 59.

118.38 Waivers of laws and rules.

(1) (a) A school board may request the department to waive any school board or school district requirement in chs. 115 to 121 or in the administrative rules promulgated by the department under the authority of those chapters, except for statutes or rules related to any of the following:

1. The health or safety of pupils.

2. Pupil discrimination under s. 118.13.

3. The pupil assessment program under s. 118.30 and the standardized reading test required under s. 121.02 (1) (r).

4. Pupil records under s. 118.125.

5. The collection of data by the department.

6. The uniform financial fund accounting system under ss. 115.28 (13) and 115.30 (1) and audits of school district accounts under s. 120.14.

7. Licensure or certification under s. 115.28 (7) or (7m) other than the licensure of the school district administrator or business manager.

8. The commencement of the school term under s. 118.045.

9. The requirements established for achievement guarantee contracts under s. 118.43 and for achievement gap reduction contracts under s. 118.44.

(b) Before requesting a waiver, the school board shall hold a public hearing in the school district on the request.

(1m) The school board shall specify in its request for a waiver its reason for requesting the waiver.

(2) (am) In determining whether to grant a waiver under sub. (1), the department shall consider all of the following factors and may consider additional factors:

1. Whether the requirement impedes progress toward achieving a local improvement plan developed under sec. 309 (a) (3) of P.L. 103-227.

2. If the school board has adopted educational goals for the school district, whether the requirement impedes progress toward achieving the goals.

(bm) The department shall promulgate rules establishing criteria for waiving the requirement to schedule at least the number of hours of direct pupil instruction specified under s. 121.02 (1) (f) if school is closed for a reason specified in s. 115.01 (10) (b) or (c).

(3) A waiver granted under sub. (2) is effective for 4 years. The department shall renew the waiver for additional 4-year periods if the school board has evaluated the educational and financial effects of the waiver over the previous 4-year period, except that the department is not required to renew a waiver if the de-

partment determines that the school district is not making adequate progress toward improving pupil academic performance.

(4) (a) Beginning on the first day of the public health emergency declared on March 12, 2020, by executive order 72, and ending on October 31, 2021, the department may do all of the following:

1. Waive any requirement in chs. 115 to 121 or the administrative rules promulgated by the department under the authority of those chapters, except as provided in par. (am), related to any of the following:

a. A program under s. 115.7915, 118.60, or 119.23.

b. A private school participating in a program under s. 115.7915, 118.60, or 119.23.

c. A charter school under s. 118.40 (2r) or (2x), including any requirement related to an authorizer, governing board, or operator of a charter school under s. 118.40 (2r) or (2x).

2. Establish an alternate deadline for any requirement related to a program under s. 115.7915, 118.60, or 119.23 in chs. 115 to 121 and any requirement related to a program under s. 115.7915, 118.60, or 119.23 in the administrative rules promulgated by the department under the authority of chs. 115 to 121 if the original deadline is any of the following:

a. A deadline that occurs during the period beginning on the first day of the public health emergency declared on March 12, 2020, by executive order 72, and ending on October 31, 2021.

b. A deadline for a requirement that affects a date during the period beginning on the first day of the public health emergency declared on March 12, 2020, by executive order 72, and ending on October 31, 2021.

(am) Paragraph (a) does not authorize the department to waive any requirement in chs. 115 to 121 or rules promulgated under the authority of those chapters related to any of the following:

1. The pupil assessment program under s. 118.30.

2. The standardized reading test developed by the department that is required to be administered to pupils enrolled in grade 3.

3. Pupil records, as defined in s. 118.125, including the requirements in ss. 118.60 (7) (b) 4. and 119.23 (7) (b) 4.

(b) 1. The department shall notify the legislative reference bureau of each waiver under par. (a) 1. and alternate deadline established under par. (a) 2. The legislative reference bureau shall publish a notice in the Wisconsin Administrative Register of the waiver or alternate deadline.

2. The department shall post each waiver under par. (a) 1. and alternate deadline established under par. (a) 2. on the department's Internet site.

(c) A waiver under par. (a) 1. may apply only to the 2019-20 school year, the 2020-21 school year, or both the 2019-20 and 2020-21 school years. In each waiver under par. (a) 1., the department shall specify the school year or school years to which the waiver applies.

History: 1995 a. 27; 1997 a. 27; 2001 a. 16; 2009 a. 42, 301; 2013 a. 257; 2015 a. 53; 2017 a. 143; 2019 a. 185; 2021 a. 56.

118.40 Charter schools. (1) NOTICE TO STATE SUPERINTENDENT. Whenever a school board intends to establish a charter school, it shall notify the state superintendent of its intention. Whenever one of the entities under sub. (2r) (b) or the director under sub. (2x) intends to establish a charter school, it shall notify the state superintendent of its intention by February 1 of the previous school year. A notice under this subsection shall include a description of the proposed school.

(1m) PETITION. (a) A written petition requesting the school board to establish a charter school under this section may be filed with the school district clerk. The petition shall be signed by at least 10 percent of the teachers employed by the school district or by at least 50 percent of the teachers employed at one school of the school district.

(b) The petition shall include all of the following:

1. The name of the person who is seeking to establish the charter school.

2. The name of the person who will be in charge of the charter school and the manner in which administrative services will be provided.

3. A description of the educational program of the school.

4. The methods the school will use to enable pupils to attain the educational goals under s. 118.01.

5. The method by which pupil progress in attaining the educational goals under s. 118.01 will be measured.

6. The governance structure of the school, including the method to be followed by the school to ensure parental involvement.

7. Subject to sub. (7) (a) and (am) and ss. 118.19 (1) and 121.02 (1) (a) 2., the qualifications that must be met by the individuals to be employed in the school.

8. The procedures that the school will follow to ensure the health and safety of the pupils.

9. The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the school district population.

10. The requirements for admission to the school.

11. The manner in which annual audits of the financial and programmatic operations of the school will be performed.

12. The procedures for disciplining pupils.

13. The public school alternatives for pupils who reside in the school district and do not wish to attend or are not admitted to the charter school.

14. A description of the school facilities and the types and limits of the liability insurance that the school will carry.

15. The effect of the establishment of the charter school on the liability of the school district.

(2) PUBLIC HEARING; GRANTING OF PETITION. (a) Within 30 days after receiving a petition under sub. (1m) the school board shall hold a public hearing on the petition. At the hearing, the school board shall consider the level of employee and parental support for the establishment of the charter school described in the petition and the fiscal impact of the establishment of the charter school on the school district. After the hearing, the school board may grant the petition.

(b) A school board may grant a petition that would result in the conversion of all of the public schools in the school district to charter schools if all of the following apply:

1. At least 50 percent of the teachers employed by the school district sign the petition.

2. The school board provides alternative public school attendance arrangements for pupils who do not wish to attend or are not admitted to a charter school.

(c) The school board of the school district operating under ch. 119 shall either grant or deny the petition within 30 days after the public hearing. If the school board of the school district operating under ch. 119 denies a petition, the person seeking to establish the charter school may, within 30 days after the denial, appeal the denial to the department. The department shall issue a decision within 30 days after receiving the appeal. The department's decision is final and not subject to judicial review under ch. 227.

(2m) SCHOOL BOARD INITIATIVE. (a) A school board may on its own initiative contract with a person to operate a school as a

charter school. The contract shall include all of the provisions specified under sub. (1m) (b) and may include other provisions agreed to by the parties.

(am) At least 30 days before entering in a contract under this subsection that would convert a private school to a charter school or that would establish a charter school that is not an instrumentality of the school district, the school board shall hold a public hearing on the contract. At the hearing, the school board shall consider the level of employee and parental support for the establishment of the charter school and the fiscal impact of the establishment of the charter school on the school district.

(b) A school board may not enter into a contract under par. (a) that would result in the conversion of all of the public schools in the school district to charter schools unless the school board complies with sub. (2) (b) 2.

(2r) OTHER INITIATIVES. (a) In this subsection:

1. "Instructional staff" has the meaning given in the rules promulgated by the department under s. 121.02 (1) (a) 2.

2. "Resident school board" means the school board of the school district in which a pupil resides.

(b) 1. All of the following entities may contract with a person to operate a charter school:

a. The common council of the city of Milwaukee.

b. The chancellor of the University of Wisconsin-Milwaukee.

c. The chancellor of the University of Wisconsin-Parkside.

d. The Milwaukee area technical college district board.

e. Each technical college district board other than the Milwaukee area technical college district board.

eg. The chancellor of any institution in the University of Wisconsin System other than the University of Wisconsin-Milwaukee and the University of Wisconsin-Parkside.

f. The county executive of Waukesha County.

g. The college of Menominee Nation.

h. The Lac Courte Oreilles Ojibwa community college.

2. A charter shall include all of the provisions specified under sub. (1m) (b) 3. to 14. A contract shall include all of the provisions specified under sub. (1m) (b) 1. to 14. and shall specify the effect of the establishment of the charter school on the liability of the contracting entity under this paragraph. The contract shall also include all of the following provisions and may include other provisions agreed to by the parties:

a. A requirement that the charter school governing board adhere to specified annual academic and operational performance standards developed in accordance with the performance framework of the entity with which it is contracting.

b. Provisions detailing the corrective measures the charter school governing board will take if the charter school fails to meet performance standards.

c. A provision allowing the governing board to open one or more additional charter schools if all of the charter schools operated by the governing board were assigned to one of the top 2 performance categories in the most recent school and school district accountability report published under s. 115.385. If the charter school governing board opens one or more additional charter schools, the existing contract applies to the new school or schools unless the parties agree to amend the existing contract or enter into a new contract.

d. The methodology that will be used by the charter school governing board to monitor and verify pupil enrollment, credit accrual, and course completion.

e. A requirement that the entity under subd. 1. have direct access to pupil data.

f. A description of the administrative relationship between the parties to the contract.

g. A requirement that the charter school governing board hold parent-teacher conferences at least annually.

h. A requirement that if more than one charter school is operated under the contract, the charter school governing board reports to the entity under subd. 1. on each charter school separately.

i. A requirement that the charter school governing board provide the data needed by the entity under subd. 1. for purposes of making the report required under sub. (3m) (f).

j. A requirement that the charter school governing board participate in any training provided by the entity under subd. 1.

k. A description of all fees that the entity under subd. 1. will charge the charter school governing board.

L. If the contract is for the operation of a charter school that includes a grade from 5 to 12, a requirement that the charter school's curriculum include the instruction required under s. 121.02 (1) (L) 8., so far as applicable.

2m. a. A charter or contract may include grounds for expelling a pupil from the charter school.

b. If the charter or contract includes grounds for expelling a pupil from the charter school as permitted under subd. 2m. a., the charter or contract shall include the procedures to be followed by the charter school prior to expelling a pupil.

3. If an entity specified in subd. 1. a. to d. was operating a charter school itself immediately prior to July 14, 2015, it may continue to do so.

4. No chartering or contracting entity under subd. 1. may establish or enter into a contract for the establishment of a virtual charter school.

(bm) The county executive of Waukesha County may contract for the establishment of a charter school located only in Waukesha County.

(cq) The sum of the number of charter schools operating under a contract with the college of Menominee Nation and the number of charter schools operating under a contract with the Lac Courte Oreilles Ojibwa community college may not exceed 6.

(d) The chartering or contracting entity under par. (b) shall do all of the following:

1. Ensure that all instructional staff of charter schools under this subsection hold a license or permit to teach issued by the department.

2. Administer the examinations under s. 118.30 (1r) or 118.301 (3) and s. 121.02 (1) (r) to pupils enrolled in charter schools under this subsection.

(dm) The operator of a charter school authorized under this subsection may provide transportation to pupils attending the charter school and may claim transportation aid under s. 121.58 for pupils so transported.

(e) 2m. In the 2013-14 school year, from the appropriation under s. 20.255 (2) (fm), the department shall pay to the operator of the charter school an amount equal to $7,925 multiplied by the number of pupils attending the charter school.

2n. In the 2014-15 school year, from the appropriation under s. 20.255 (2) (fm), the department shall pay to the operator of the charter school an amount equal to $8,075 multiplied by the number of pupils attending the charter school.

2p. In the 2015-16 school year and in each school year thereafter, for a pupil attending a charter school established by or under a contract with an entity under par. (b) 1., from the appropriation under s. 20.255 (2) (fm), the department shall pay to the operator of the charter school an amount equal to the sum of the

amount paid per pupil under this paragraph in the previous school year; the amount of the per pupil revenue limit adjustment under s. 121.91 (2m) for the current school year, if positive; the change in the revenue ceiling, as defined in s. 121.905 (1), between the previous school year and current school year, if positive; the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, if positive; and in the 2023-24 school year, 15.7 percent of the revenue ceiling, as defined in s. 121.905 (1), for that school year. The change in the statewide categorical aid per pupil shall be determined as follows:

a. Add the amounts appropriated in the current fiscal year under s. 20.255 (2), except s. 20.255 (2) (ac), (aw), (az), (bb), (dj), (du), (fc), (fm), (fp), (fq), (fr), (fu), (k), and (m); and s. 20.505 (4) (es); and the amount, as determined by the secretary of administration, of the appropriation under s. 20.505 (4) (s) allocated for payments to telecommunications providers under contracts with school districts and cooperative educational service agencies under s. 16.971 (13).

b. Add the amounts appropriated in the previous fiscal year under the sections specified in subd. 2p. a.

c. Subtract the sum under subd. 2p. b. from the sum under subd. 2p. a.

d. Divide the remainder under subd. 2p. c. by the average of the number of pupils enrolled statewide in the 3 previous school years. In this subd. 2p. d., "number of pupils enrolled" has the meaning given in s. 121.90 (1) (intro.) and includes 40 percent of the summer enrollment.

3m. The department shall pay 25 percent of the total amount in September, 25 percent in December, 25 percent in February, and 25 percent in June. The department shall send the check to the operator of the charter school. The department shall include the entire amount under par. (fm) 1. in the December installment, but the payment shall be made in a separate check from the payment under this paragraph.

(fh) Annually, on or before September 15, an operator of a charter school authorized under this subsection shall file with the department a report stating its summer daily attendance for each day of summer school for the purpose of par. (fm).

(fm) 1. Beginning in the 2018-19 school year, in addition to the payment under par. (e) and subject to subd. 3., for a pupil attending summer school at a charter school established by or under a contract with an entity under par. (b) 1., the department shall pay to the operator of the charter school, in the manner described in par. (e) 3m., an amount determined as follows:

a. Determine the per pupil amount under par. (e) for attending the charter school in the immediately preceding school term.

b. If the pupil attended summer school for at least 15 days of summer instruction at the charter school during that summer, multiply the amount under subd. 1. a. by 0.05.

c. If the pupil attended summer school for less than 15 days of summer instruction at the charter school during that summer, multiply the amount under subd. 1. a. by 0.05 by the quotient determined by dividing the number of days of summer instruction the pupil attended during that summer by 15.

3. An operator of a charter school may receive a per pupil payment under this paragraph if all of the following are satisfied:

a. The charter school offers no fewer than 19 summer days of instruction during that summer.

b. Each summer day of instruction offered by the charter school under subd. 3. a. is comprised of no fewer than 270 minutes of instruction.

(g) 1. Beginning in the 2016-17 school year, subject to s. 121.085 (1), the department shall decrease a school district's state aid payment under s. 121.08 by an amount calculated as follows:

a. Determine the number of pupils residing in the school district for whom a payment is made under par. (e) to an operator of a charter school established under contract with an entity under par. (b) 1. e. to h. in that school year.

b. Multiply the number of pupils under subd. 1. a. by the per pupil amount calculated under par. (e) 2p. for that school year.

bf. Identify the pupils residing in the school district for whom a payment is made under par. (fm) to an operator of a charter school established under contract with an entity under par. (b) 1. e. to h. in that school year.

bn. Sum the payments made under par. (fm) 1. for all of the pupils identified under subd. 1. bf. that school year.

e. Sum the amounts determined under subd. 1. b. and bn.

2. If a school district's state aid payment under s. 121.08 is insufficient to cover the reduction under subd. 1., as determined under s. 121.085 (2), the department shall decrease other state aid payments made by the department to the school district by the remaining amount.

3. The department shall ensure that the decrease under subd. 1. does not affect the amount determined to be received by a school district as state aid under s. 121.08 for any other purpose.

(h) A charter school established under this subsection is a local educational agency under 20 USC 6301 to 6578 and as such is eligible for funding as a local educational agency, and shall comply with all requirements of local educational agencies, under 20 USC 6301 to 6578.

(2x) OFFICE OF EDUCATIONAL OPPORTUNITY. (a) In this subsection:

1. "Director" means the special assistant to the president of the University of Wisconsin System appointed under s. 36.09 (2) (c).

2. "Instructional staff" has the meaning given in the rules promulgated by the department under s. 121.02 (1) (a) 2.

3. "Resident school board" means the school board of the school district in which a pupil resides.

(b) 1. The director may contract with a person to operate a charter school.

2. A contract to operate a charter school shall include all of the provisions specified under sub. (1m) (b) 1. to 14. and shall specify the effect of the establishment of the charter school on the liability of the University of Wisconsin System under this paragraph. The contract shall also include all of the following provisions and may include other provisions agreed to by the parties:

a. A requirement that the charter school governing board adhere to specified annual academic and operational performance standards developed in accordance with the performance framework of the person with which it is contracting.

b. Provisions detailing the corrective measures the charter school governing board will take if the charter school fails to meet performance standards.

d. The methodology that will be used by the charter school governing board to monitor and verify pupil enrollment, credit accrual and course completion.

e. A requirement that the director have direct access to pupil data.

f. A description of the administrative relationship between the parties to the contract.

g. A requirement that the charter school governing board hold parent-teacher conferences at least annually.

h. A requirement that if more than one charter school is oper-

ated under the contract, the charter school governing board reports to the director on each charter school separately.

i. A requirement that the charter school governing board provide the data needed by the director for purposes of making the report required under sub. (3m) (f).

j. A requirement that the charter school governing board participate in any training provided by the director.

k. A description of all fees that the director will charge the charter school governing board.

L. If the contract is for the operation of a charter school that includes a grade from 5 to 12, a requirement that the charter school's curriculum include the instruction required under s. 121.02 (1) (L) 8., so far as applicable.

3. a. A contract may include grounds for expelling a pupil from the charter school.

b. If the contract includes grounds for expelling a pupil from the charter school as permitted under subd. 3. a., the contract shall include the procedures to be followed by the charter school prior to expelling a pupil.

4. The director may not contract for the establishment of a virtual charter school.

(cm) Notwithstanding par. (b) 1., the director may enter into a contract to establish, as a pilot project, one recovery charter school, to be located in this state and that operates only high school grades, if the term of the contract is limited to 4 consecutive school years and the contract requires the charter school operator to do all of the following:

1. Provide an academic curriculum that satisfies the high school graduation requirements under s. 118.33.

2. Provide therapeutic programming and support for pupils in recovery from substance use disorder or dependency.

3. Require prospective pupils to apply to attend the charter school and condition eligibility for enrollment on all of the following:

a. That the applicant has begun treatment in a substance use disorder or dependency program.

b. That the applicant will have maintained sobriety for at least 30 days prior to attending the charter school.

c. That the applicant submit to a drug screening assessment and, if indicated, a drug test. An applicant who tests positive for the presence of a drug in his or her system may not be enrolled in the charter school.

4. Limit enrollment to no more than 15 pupils.

5. Require, as a condition of continuing enrollment, that an applicant receive counseling from substance use disorder or dependency counselors employed by the charter school while enrolled in the charter school.

6. Establish the following policies for pupils attending the charter school:

a. Suspension and expulsion policies for pupils. The operator shall provide for incremental and rehabilitative discipline in the policies under this subd. 6. a. The operator shall model expulsion procedures on the procedures for expulsion under s. 120.13 (1) (c) 3.

b. That a pupil attending the charter school may elect to unenroll from the charter school upon the completion of any treatment program required of the pupil.

7. Require, as a condition of continuing enrollment, that an applicant submit claims for coverage of therapeutic programming and support and counseling provided by the charter school to any health care plan, as defined in s. 628.36 (2) (a) 1., under which the applicant is covered for mental health services.

(d) The director shall do all of the following:

1. Ensure that all instructional staff of charter schools established under this subsection hold a license or permit to teach issued by the department.

2. Administer the examinations under ss. 118.30 (1r) and 121.02 (1) (r) to pupils enrolled in charter schools established under this subsection.

(e) 1. Beginning in the 2016-17 school year, from the appropriation under s. 20.255 (2) (fp), for each pupil attending a charter school established under this subsection, other than the charter school established under par. (cm), the department shall pay to the operator of a charter school established under this subsection an amount equal to the per pupil amount paid to an operator of a charter school under sub. (2r) (e) in that school year.

1m. Beginning in the 2017-18 school year, from the appropriation under s. 20.255 (2) (fq), for each pupil attending the charter school established under par. (cm), the department shall pay to the operator of the charter school an amount equal to the per pupil amount paid to an operator of a charter school under sub. (2r) (e) in that school year.

2. The department shall pay 25 percent of the total amount required to be paid under this paragraph in September, 25 percent in December, 25 percent in February, and 25 percent in June. The department shall send the check to the operator of the charter school. The state superintendent shall include the entire amount under par. (em) 1. in the December installment, but the payment shall be made in a separate check from the payment under this paragraph.

(eh) Annually, on or before September 15, an operator of a charter school authorized under this subsection shall file with the department a report stating its summer daily attendance for each day of summer school for the purpose of par. (em).

(em) 1. Beginning in the 2018-19 school year, in addition to the payment under par. (e) and subject to subd. 2., for a pupil attending summer school at a charter school established under this subsection, the state superintendent shall pay to the operator of the charter school, in the manner described in par. (e) 2., the amount determined under sub. (2r) (fm) 1. for the pupil.

2. An operator of a charter school may receive a per pupil payment under this paragraph if all of the following are satisfied:

a. The charter school offers no fewer than 19 summer days of instruction during that summer.

b. Each summer day of instruction offered by the charter school under subd. 2. a. is comprised of no fewer than 270 minutes of instruction.

(f) 1. Beginning in the 2016-17 school year, subject to s. 121.085 (1), the department shall decrease a school district's state aid payment under s. 121.08 by an amount calculated as follows:

a. Determine the number of pupils residing in the school district for whom a payment is made under par. (e) 1. in that school year.

b. Multiply the number of pupils under subd. 1. a. by the per pupil amount calculated under par. (e) 1. for that school year.

c. Identify the pupils residing in the school district for whom a payment is made under par. (em) 1. in that school year.

d. Sum the payments made under par. (em) 1. for all of the pupils identified under subd. 1. c. that school year.

e. Sum the amounts determined under subd. 1. b. and d.

2. If a school district's state aid payment under s. 121.08 is insufficient to cover the reduction under subd. 1., as determined under s. 121.085 (2), the department shall decrease other state aid payments made by the department to the school district by the remaining amount.

3. The department shall ensure that the decrease under subd.

1. does not affect the amount determined to be received by a school district as state aid under s. 121.08 for any other purpose.

(3) CONTRACT. (a) If the school board grants the petition under sub. (2), the school board shall contract with the person named in the petition under sub. (1m) (b) 1. to operate the school as a charter school under this section. The contract shall include all of the provisions specified in the petition and may include other provisions agreed to by the parties.

(b) A contract under par. (a) or under sub. (2m), (2r), or (2x) may be for any term not exceeding 5 school years and may be renewed for one or more terms not exceeding 5 school years. The contract shall specify the amount to be paid to the charter school during each school year of the contract.

(c) 1. A school board may not enter into a contract for the establishment of a charter school located outside the school district, except as follows:

a. If 2 or more school boards enter into an agreement under s. 66.0301 to establish a charter school, the charter school shall be located within one of the school districts.

b. If one or more school boards enter into an agreement with the board of control of a cooperative educational service agency to establish a charter school, the charter school shall be located within the boundaries of the cooperative educational service agency.

c. If a school board enters into an agreement with a federally recognized American Indian tribe or band in this state to establish a charter school, the charter school shall be located within the school district or within the boundaries of the tribe's or band's reservation.

1m. Subdivision 1. does not apply to the establishment of a virtual charter school.

2. A school board may not enter into a contract that would result in the conversion of a private, sectarian school to a charter school.

(f) 1. A contract with a school board, an entity under sub. (2r) (b) 1. a. to h., or the director under sub. (2x) may provide for the establishment of more than one charter school, and, except as provided in subd. 2., a charter school governing board may enter into more than one contract with a school board, an entity under sub. (2r) (b), or the director under sub. (2x).

2. The governing board of the charter school established under a contract with the director under sub. (2x) (cm) may not enter into more than one contract with the director.

(g) 1. Except as provided in subds. 2., 3., and 4. and sub. (4) (ar) 1., a contract with a school board, an entity under sub. (2r) (b), or the director under sub. (2x) shall require that if the capacity of the charter school is insufficient to accept all pupils who apply, the charter school shall accept pupils at random.

2. a. A charter school shall give preference in enrollment to pupils who were enrolled in the charter school in the previous school year.

b. A charter school other than the charter school established under a contract with the director under sub. (2x) (cm) shall give preference to siblings of pupils who are enrolled in the charter school.

3. A charter school may give preference in enrollment to the children of the charter school's founders, governing board members, and full-time employees, but the total number of such children given preference may constitute no more than 10 percent of the charter school's total enrollment.

4. A charter school established under a contract with a union high school district under sub. (2) or (2m) may give preference in enrollment to pupils who were enrolled during the previous school year in a charter school operating under a cooperative agreement with the charter school established under a contract with a union high school district.

(h) A school board, an entity under sub. (2r), or the director under sub. (2x) may contract for the establishment of a charter school that enrolls only one sex or that provides one or more courses that enroll only one sex if the school board, entity under sub. (2r), or the director under sub. (2x) makes available to the opposite sex, under the same policies and criteria of admission, schools or courses that are comparable to each such school or course.

(3m) AUTHORIZING ENTITY DUTIES. A school board, an entity under sub. (2r) (b), and the director under sub. (2x) shall do all of the following:

(a) Solicit and evaluate charter school applications.

(b) When contracting for the establishment of a charter school under this section, consider the principles and standards for quality charter schools established by the National Association of Charter School Authorizers.

(c) Give preference in awarding contracts for the operation of charter schools other than the charter school established under a contract with the director under sub. (2x) (cm) to those charter schools that serve children at risk, as defined in s. 118.153 (1) (a).

(d) Approve only high-quality charter school applications that meet identified educational needs and promote a diversity of educational choices.

(e) In accordance with the terms of each charter school contract, monitor the performance and compliance with this section of each charter school with which it contracts.

(f) Annually, submit to the state superintendent and to the legislature under s. 13.172 (2) a report that includes all of the following:

1. An identification of each charter school operating under contract with it, each charter school that operated under a contract with it but had its contract nonrenewed or revoked or that closed, and each charter school under contract with it that has not yet begun to operate.

2. The academic and financial performance of each charter school operated under contract with it.

3. The operating costs the school board, entity under sub. (2r) (b), or director under sub. (2x) incurred under pars. (a) to (e), detailed in an audited financial statement prepared in accordance with generally accepted accounting principles.

4. The services the school board, entity under sub. (2r) (b), or director under sub. (2x) provided to the charter schools under contract with it and an itemized accounting of the cost of the services.

(3o) REPORT OF THE DIRECTOR TO THE DEPARTMENT OF HEALTH SERVICES. The director shall, following the 3rd school year of the operation of the charter school established under sub. (2x) (cm), report, in writing, to the department of health services on the operation and effectiveness of the charter school. The director shall include in the report an evaluation of the effectiveness of the charter school on long-term student recovery outcomes.

(4) CHARTER SCHOOL GOVERNING BOARD; DUTIES, POWERS, AND RESTRICTIONS. (ag) *Governing board.* Each charter school shall be governed by a governing board that is a party to the contract with the authorizing entity. No more than a minority of the governing board's members may be employees of the charter school or employees or officers of the school district in which the charter school is located.

(ar) *Duties.* A charter school governing board shall do all of the following:

1. If the charter school replaces a public school in whole or in part, give preference in admission to any pupil who resides

within the attendance area or former attendance area of that public school.

2. Be nonsectarian in its programs, admissions policies, employment practices and all other operations.

(b) *Restrictions.* A charter school governing board may not do any of the following:

1. Charge tuition, except as otherwise provided in s. 121.83 (4).

2. Except as provided in sub. (3) (h), discriminate in admission or deny participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

(d) *Powers.* Subject to the terms of its contract, a charter school governing board has all the powers necessary to carry out the terms of its contract, including all of the following:

1. To receive and disburse funds for school purposes.

2. To secure appropriate insurance.

3. To enter into contracts, including contracts with a University of Wisconsin institution or college campus, technical college district board, or private college or university, for technical or financial assistance, academic support, curriculum review, or other services.

4. To incur debt in reasonable anticipation of the receipt of funds.

5. To pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit.

6. To solicit and accept gifts or grants for school purposes.

7. To acquire real property for its use.

8. To sue and be sued in its own name.

(5) CHARTER REVOCATION. A charter may be revoked by the school board, the entity under sub. (2r) (b), or the director under sub. (2x) that contracted with the charter school if the school board or, if applicable, the entity under sub. (2r) (b) or the director under sub. (2x) finds that any of the following occurred:

(a) The charter school violated its contract with the school board, the entity under sub. (2r) (b), or the director under sub. (2x).

(b) The pupils enrolled in the charter school failed to make sufficient progress toward attaining the educational goals under s. 118.01.

(c) The charter school failed to comply with generally accepted accounting standards of fiscal management.

(d) The charter school violated this section.

(6) PROGRAM VOLUNTARY. No pupil may be required to attend a charter school without his or her approval, if the pupil is an adult, or the approval of his or her parents or legal guardian, if the pupil is a minor.

(7) LEGAL STATUS; APPLICABILITY OF SCHOOL LAWS. (a) Except as provided in par. (am), the school board of the school district in which a charter school is located shall determine whether or not the charter school is an instrumentality of the school district. If the school board determines that the charter school is an instrumentality of the school district, the school board shall employ all personnel for the charter school. If the school board determines that the charter school is not an instrumentality of the school district, the school board may not employ any personnel for the charter school.

(am) 1. Except as provided in subds. 2. and 3., if a charter school is established under sub. (2m) and located in the school district operating under ch. 119, the school board of that school district shall determine whether or not the charter school is an instrumentality of the school district. If the school board determines that a charter school is an instrumentality of the school district, the school board shall employ all personnel for the charter school. If the school board determines that a charter school is not an instrumentality of the school district, the school board may not employ any personnel for the charter school.

2. A charter school established under sub. (2r) or (2x) or a private school located in the school district operating under ch. 119 that is converted to a charter school is not an instrumentality of any school district and no school board may employ any personnel for the charter school. If the chancellor of an institution in the University of Wisconsin System other than the University of Wisconsin Milwaukee contracts for the establishment of a charter school under sub. (2r), the board of regents of the University of Wisconsin System may employ instructional staff for the charter school. If a technical college district board other than the Milwaukee area technical college district board contracts for the establishment of a charter school under sub. (2r), the technical college may employ instructional staff for the charter school.

3. Notwithstanding subd. 2., if the city of Milwaukee contracts with an individual or group operating for profit to operate a school as a charter school, the charter school is an instrumentality of the school district operating under ch. 119 and the board of the school district operating under ch. 119 shall employ all personnel for the charter school.

4. If a school board enters into an agreement with a federally recognized American Indian tribe or band in this state to establish a charter school under sub. (3) (c) 1. c., that school board shall determine whether the charter school is an instrumentality of the school district regardless of the location of the charter school.

(ar) Nothing in this section affects the rights of personnel of a charter school that is an instrumentality of a school district to engage in collective bargaining pursuant to subch. IV of ch. 111.

(b) Except as otherwise explicitly provided, chs. 115 to 121 do not apply to charter schools.

(8) VIRTUAL CHARTER SCHOOLS. (a) *Location.* For the purposes of sub. (7) (a), (am), and (ar), a virtual charter school is considered to be located in the following school district:

1. If a school board contracts with a person to establish the virtual charter school, in the school district governed by that school board.

2. If 2 or more school boards enter into an agreement under s. 66.0301 to establish the virtual charter school, or if one or more school boards enter into an agreement with the board of control of a cooperative educational service agency to establish the virtual charter school, in the school district specified in the agreement.

(b) *Licensure.* 1. The governing body of a virtual charter school shall assign an appropriately licensed teacher for each online course offered by the virtual charter school. In this subsection, an individual who holds a license or permit to teach a subject and level in the state from which the online course is provided is appropriately licensed to teach the subject and level in this state.

1g. The governing body of a virtual charter school may not permit a person holding both a license to teach exclusively in a charter school and a license to teach in other public schools to teach, in the virtual charter school, a subject or at a level that is not authorized by the latter license.

1r. The governing body of a virtual charter school may not permit a person holding only a permit to teach exclusively in a charter school to teach in a virtual charter school.

2. If a pupil attends a virtual charter school, any person providing educational services to the pupil in the pupil's home, other than instructional staff of the virtual charter school, is not re-

quired to hold a license or permit to teach issued by the department.

3. The department may not require a person licensed as provided under subd. 1. to complete professional development not required of any other individual required to be licensed under s. 118.19.

(c) *Staff duties.* In a virtual charter school, an instructional staff member is responsible for all of the following for each pupil the instructional staff member teaches:

1. Improving learning by planned instruction.

2. Diagnosing learning needs.

3. Prescribing content delivery through class activities.

4. Assessing learning.

5. Reporting outcomes to administrators and parents and guardians.

6. Evaluating the effects of instruction.

(d) *Required days and hours.* A virtual charter school shall do all of the following:

1. Provide educational services to its pupils for at least 150 days each school year.

2. Ensure that its teachers are available to provide direct pupil instruction for at least the applicable number of hours specified in s. 121.02 (1) (f) each school year. No more than 10 hours in any 24-hour period may count toward the requirement under this subdivision.

3. Ensure that its teachers respond to inquiries from pupils and from parents or guardians of pupils by the end of the first school day following the day on which the inquiry is received.

(e) *Parent advisory council.* The governing body of a virtual charter school shall ensure that a parent advisory council is established for the school and that it meets on a regular basis. The governing body shall determine the selection process for members of the parent advisory council.

(f) *Required notices.* At the beginning of each school term, the governing body of a virtual charter school shall inform the parent or guardian of each pupil attending the virtual charter school, in writing, the name of, and how to contact, each of the following persons:

1. The members of the school board that contracted for the establishment of the virtual charter school and the administrators of that school district.

2. The members of the virtual charter school's governing body, if different than the persons under subd. 1.

3. The members of the virtual charter school's parent advisory council established under par. (e).

4. The staff of the virtual charter school.

(g) *Pupil's failure to participate.* 1. Whenever a pupil attending a virtual charter school fails to respond appropriately to a school assignment or directive from instructional staff within 5 school days, the governing body of the virtual charter school shall notify the pupil's parent or guardian.

2. Subject to subd. 2m., the third time in the same semester that a pupil attending a virtual charter school fails to respond appropriately to a school assignment or directive from instructional staff within 5 school days, the governing body of the virtual charter school shall also notify the school board that contracted for the establishment of the virtual charter school, the school board of the pupil's resident school district, and the department. The school board that contracted for the establishment of the virtual charter school may transfer the pupil to his or her resident school district. If the pupil is a resident of the school district that contracted for the establishment of the virtual charter school, the school board may assign the pupil to another school or program within that school district. If the school board transfers or assigns a pupil, it shall notify the pupil's parent or guardian and the department.

2m. If the parent or guardian of a pupil attending a virtual charter school notifies the virtual charter school in writing before a school assignment or directive is given that the pupil will not be available to respond to the assignment or directive during a specified period, the school days during that period do not count for purposes of subd. 2. The virtual charter school shall require the pupil to complete any assignment missed during the period. This subdivision applies to no more than 10 school days in a school year.

3. The parent or guardian of a pupil transferred to the pupil's resident school district under subd. 2. may appeal the transfer to the department within 30 days after receipt of the notice of transfer. The department shall affirm the school board's decision unless the department finds that the decision was arbitrary or unreasonable.

History: 1993 a. 16, 490; 1995 a. 27 ss. 3983m to 3992m, 9145 (1); 1997 a. 27, 238, 252; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 105; 2003 a. 33, 156; 2005 a. 25, 111, 346; 2007 a. 222; 2009 a. 28, 61, 276; 2011 a. 10, 32, 105; 2013 a. 20; 2013 a. 173 s. 33; 2013 a. 257; 2015 a. 55; 2017 a. 30, 59, 364; 2017 a. 365 s. 111; 2017 a. 366; 2019 a. 9, 83; 2021 a. 30, 219; 2021 a. 238 s. 45; 2021 a. 239 s. 74; 2021 a. 240 s. 30; 2023 a. 11; 2025 a. 15.

Sub. (4) (d) 8. grants a charter school governing board authority to sue its authorizing school district in order to enforce the terms of the parties' contract. Nothing in the contract at issue in this case limited the governing board's ability to sue the district. Friends of Maple Grove, Inc. v. Merrill Area Common Public School District, 2021 WI App 26, 397 Wis. 2d 139, 959 N.W.2d 362, 20-1179.

A public school district did not violate the equal protection clause of the U.S. Constitution by refusing to bus the students of a charter school created under sub. (2r) located within its geographical boundaries. Racine Charter One, Inc. v. Racine Unified School District, 424 F.3d 677 (2005).

118.42 Low-performing school districts and schools; state superintendent interventions.

(1) If the state superintendent determines that a school district has been in need of improvement for 4 consecutive school years, the school board shall do all of the following:

(a) Employ a standard, consistent, research-based curriculum that is aligned with the state's model academic standards, as determined by the state superintendent, and across grades in all schools.

(b) Use pupil academic performance data, including data indicating improvement in pupil academic achievement and English language acquisition, to differentiate instruction to meet individual pupil needs. To the extent practicable, the school board shall assess pupils in the language and form most likely to yield accurate data.

(c) Implement for all pupils a system of academic and behavioral supports and early interventions, including diagnostic assessments, instruction in core academic subjects, different instructional strategies for different pupils, and strategies to improve reading and mathematics instruction and promote positive behavior.

(d) Provide additional learning time to address the academic needs of pupils who are struggling academically, including pupils whose proficiency in English is limited. The additional learning time may include an extended school day, an extended school year, summer school, or intersession courses.

(2) If the state superintendent determines that a public school was in the lowest performing 5 percent of all public schools in the state in the previous school year and is located in a school district that has been in need of improvement for 4 consecutive school years, the school board shall do all of the following in the school:

(a) Use rigorous and equitable performance evaluation systems for teachers and principals that include all of the following:

1. Annual performance evaluations; multiple rating categories; multiple rating criteria, including improvement in pupil academic achievement as a significant factor; observation-based

performance assessments; and an up-to-date collection of professional practice materials. The school board shall ensure that improvement in pupil academic achievement is based on at least 2 measures.

2. A method of identifying mitigating factors, such as a high rate of pupil mobility, large class size, insufficient preparation time, insufficient paraprofessional support, insufficient professional development, and insufficient resources or support, that could affect a teacher's or principal's performance.

(b) Adopt a policy establishing criteria for evaluating whether the distribution of teachers and principals within the affected schools relative to the distribution of teachers and principals throughout the school district, based upon their qualifications and effectiveness, is equitable. Using the criteria, the school board shall determine whether the distribution of principals and teachers is equitable. If the school board determines that the distribution is inequitable, the school board shall do all of the following:

1. Perform a comprehensive review of current policies and constraints that prevent low-performing schools from recruiting, placing, and retaining effective teachers and principals, and implement strategies to eliminate those policies and constraints.

2. Provide additional support to teachers and principals, which may include professional development that is incorporated into their work and tuition reimbursement for courses related to their professional duties.

(c) Establish teacher and principal improvement programs that include all of the following:

1. Supplemental mentoring for those with emergency licenses or permits.

2. Opportunities to pursue other professional certifications, including certification by the National Board for Professional Teaching Standards.

3. Annually, at least 60 hours of professional development that is incorporated into their work. The school board shall consult with teachers and principals on the content of the professional development.

4. A joint labor-management program designed to objectively identify teachers and principals who demonstrate serious performance deficiencies and provide them with opportunities for improvement, including weekly observation, mentoring, ongoing conferences, modeling, and professional development. The school board shall offer career counseling and other career transition benefits to those teachers and principals who continue to demonstrate performance deficiencies.

(d) Adopt placement criteria for principals that include performance evaluations and measures of pupil academic achievement.

(3) (a) If the state superintendent determines that a school district has been in need of improvement for 4 consecutive school years, the state superintendent may, after consulting with the school board, the school district superintendent, and representatives of each labor organization representing school district employees, direct the school board to do one or more of the following in the school district:

1. Implement or modify activities described in sub. (1) (a) to (d).

2. Implement a new or modified instructional design, which may include expanded school hours or additional pupil supports and services.

3. Implement professional development programs that focus on improving pupil academic achievement.

4. Implement changes in administrative and personnel structures.

5. Adopt accountability measures to monitor the school district's finances or to monitor other interventions directed by the state superintendent under subds. 1. to 4.

(b) If the state superintendent determines that a public school is located in a school district that has been in need of improvement for 4 consecutive school years, and that the school has been in need of improvement for 5 consecutive school years or was among the lowest performing 5 percent of all public schools in the state in the previous school year, the state superintendent may, after consulting with the school board, the school district superintendent, and representatives of each labor organization representing school district employees, direct the school board to do one or more of the following in the school:

1. Implement a new or modified instructional design, which may include expanded school hours or additional pupil supports and services.

2. Create a school improvement council consisting of the state superintendent or his or her designee, the school district or school board president or his or her designee, the school district administrator or his or her designee, the school principal or his or her designee, and representatives of each labor organization representing school district employees, to make recommendations to the state superintendent regarding improving the school.

(c) 1. If the state superintendent issues a directive under par. (a) or (b), he or she shall do all of the following:

a. Notify the legislature's education committees under s. 13.172 (3) and each legislator whose legislative district includes any portion of the school district.

b. Provide a system of support and improvement, including technical assistance, to the school board.

2. If a school board receives a directive from the state superintendent under par. (a) or (b), the school board shall seek input from school district staff, parents, and community leaders on implementing the directive.

(4) The state superintendent shall promulgate rules establishing criteria and procedures for determining whether a school or school district is in need of improvement and whether a school is among the lowest performing 5 percent of all public schools in the state, for the purposes of this section.

(5) Nothing in this section alters or otherwise affects the rights or remedies afforded school districts and school district employees under federal or state law.

History: 2009 a. 215; 2011 a. 10.

Cross-reference: See also ch. PI 43, Wis. adm. code.

118.43 Achievement guarantee contracts; state aid.

(1) DEFINITIONS. In this section:

(a) "Class size" means the number of pupils assigned to a regular classroom teacher on the 3rd Friday of September.

(b) "Low income" means pupils who satisfy the income eligibility criteria under 42 USC 1758 (b) (1).

(2) ELIGIBILITY; APPLICATION. (a) The school board of any school district in which a school in the previous school year had an enrollment that was at least 50 percent low-income is eligible to participate in the program under this section, except that a school board is eligible to participate in the program under this section in the 2000-01 school year if in the 1998-99 school year a school in the school district had an enrollment that was at least 0 percent low-income.

(b) In the 1996-97 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one school in the school district if all of the following apply:

1. In the previous school year, the school had an enrollment that was at least 30 percent low-income.

2. The school board is not receiving a grant under the preschool to grade 5 program on behalf of the school under s. 115.45, 2009 stats.

(bg) In the 1998-99 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one school in the school district if all of the following apply:

1. In the previous school year, the school had an enrollment that was at least 30 percent low-income.

2. The school board is not receiving a grant under the preschool to grade 5 program on behalf of the school under s. 115.45, 2009 stats.

(br) In the 2000-01 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one or more schools in the school district if all of the following apply:

2. The school board is not receiving a grant under the preschool to grade 5 program on behalf of any of the schools under s. 115.45, 2009 stats.

3. The school board, if eligible to participate in the program under this section in the 1996-97 and 1998-99 school years, had participated in the program during either school year.

4. None of the schools is a beneficiary of a contract under this section.

(bt) In the 2010-11 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one or more schools in the school district if all of the following apply:

1. In the previous school year, each school had an enrollment that was at least 30 percent low income.

2. The school board is not receiving a grant under the preschool to grade 5 program on behalf of any of the schools under s. 115.45, 2009 stats.

3. None of the schools is a beneficiary of a contract under this section.

(bv) In the 2011-12 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one or more schools in the school district if, in the 2010-11 school year, the school board received a grant under the preschool to grade 5 program on behalf of the schools under s. 115.45, 2009 stats.

(c) Notwithstanding pars. (b) and (bg), the school board of the school district operating under ch. 119 may enter into an achievement guarantee contract on behalf of up to 10 schools under par. (b) and up to 10 schools under par. (bg).

(d) If an eligible school district has more than one school that qualifies under par. (b), the school board shall apply on behalf of the school with the largest number of low-income pupils in grades kindergarten and one.

(e) 1. If the school board of an eligible school district does not enter into an achievement guarantee contract with the department, a school board that has entered into such a contract, other than the school board of the school district operating under ch. 119, may apply to the department to enter into such a contract on behalf of one or more schools that meet the requirements under par. (b), (bg) or (br).

2. If more than one school board applies under subd. 1., the department shall determine which school board to contract with based on the number of low-income pupils in grades kindergarten and one enrolled in the schools and on the balance of rural and urban school districts currently participating in the program.

(f) The department and a school board may agree to extend an achievement guarantee contract entered into or renewed in the 2010-11 school year for one year under existing contract terms.

(g) The department may renew an achievement guarantee contract under pars. (b), (bg), (br), (bt), and (bv) for one or more terms of 5 school years. Except as provided in sub. (3m), as a condition of receiving payments under a renewal of an achievement guarantee contract, a school board shall maintain the reduction of class size achieved during the last school year of the original achievement guarantee contract for the grades specified for the last school year of the contract.

(3) CONTRACT REQUIREMENTS. Except as provided in pars. (am), (ar), (at), and (av) and sub. (3r), an achievement guarantee contract shall require the school board to do all of the following in each participating school:

(a) *Class size.* Reduce each class size to 15 in the following manner:

1. In the 1996-97 school year, in at least grades kindergarten and one.

2. In the 1997-98 school year, in at least grades kindergarten to 2.

3. In the 1998-99 to 2000-01 school years, in at least grades kindergarten to 3.

(am) *Class size; additional contracts.* For contracts that begin in the 1998-99 school year, reduce each class size to 15 in the following manner:

1. In the 1998-99 school year, in at least grades kindergarten and one.

2. In the 1999-2000 school year, in at least grades kindergarten to 2.

3. In the 2000-01 to 2002-03 school years, in at least grades kindergarten to 3.

(ar) *Class size; additional contracts.* For contracts that begin in the 2000-01 school year, reduce each class size to 15 in the following manner:

1. In the 2000-01 school year, in at least grades kindergarten and one.

2. In the 2001-02 school year, in at least grades kindergarten to 2.

3. In the 2002-03 to 2004-05 school years, in at least grades kindergarten to 3.

(at) *Class size; additional contracts.* For contracts that begin in the 2010-11 school year, reduce each class size to 18 in the following manner:

1. In the 2010-11 school year, in at least grades kindergarten and one.

2. In the 2011-12 school year, in at least grades kindergarten to 2.

3. In the 2012-13 to 2014-15 school years, in at least grades kindergarten to 3.

(av) *Class size; additional contracts.* For contracts that begin in the 2011-12 school year, reduce each class size to 18 in the following manner:

1. In the 2011-12 school year, in at least grades kindergarten and one.

2. In the 2012-13 school year, in at least grades kindergarten to 2.

3. In the 2013-14 to 2015-16 school years, in at least grades kindergarten to 3.

(b) *Education and human services.* 1. Keep the school open every day from early in the morning until late in the day, as specified in the contract.

2. Collaborate with community organizations to make educational and recreational opportunities, as well as a variety of community and social services, available in the school to all school district residents.

(c) *Curriculum.* 1. Provide a rigorous academic curriculum designed to improve pupil academic achievement.

2. In consultation with the department and with the participation of the school's teachers and administrators and school district residents, review the school's current curriculum to determine how well it promotes pupil academic achievement.

3. If necessary, outline any changes to the curriculum to improve pupil academic achievement.

(d) *Staff development and accountability.* 1. Develop a one-year program for all newly hired employees that helps them make the transition from their previous employment or school to their current employment.

2. Provide time for employees to collaborate and plan.

3. Require that each teacher and administrator submit to the school board a professional development plan that focuses on how the individual will help improve pupil academic achievement. The plan shall include a method by which the individual will receive evaluations on the success of his or her efforts from a variety of sources.

4. Regularly review staff development plans to determine if they are effective in helping to improve pupil academic achievement.

5. Establish an evaluation process for professional staff members that does all of the following:

a. Identifies individual strengths and weaknesses.

b. Clearly describes areas in need of improvement.

c. Includes a support plan that provides opportunities to learn and improve.

d. Systematically documents performance in accordance with the plan.

e. Allows professional staff members to comment on and contribute to revisions in the evaluation process.

f. Provides for the dismissal of professional staff members whose failure to learn and improve has been documented over a 2-year period.

(3m) ADJUSTMENT TO CLASS SIZE. (a) Beginning in the 2010-11 school year, notwithstanding sub. (3) (a), (am), and (ar), a school board operating under an achievement guarantee contract on May 27, 2010, may do any of the following:

1. Satisfy the class size limitation by reducing each class size in each school covered by the contract to no more than 18.

2. Combine 2 classes subject to the class size limitation in any school covered by the contract having at least 2 regular classroom teachers when the classes are combined if the combined class size is not greater than 30.

(b) A school board operating under an achievement guarantee contract entered into under sub. (3) (at) or (av) may combine 2 classes subject to the class size limitation in any school covered by the contract having at least 2 regular classroom teachers when the classes are combined if the combined class size is not greater than 30.

(3r) ADJUSTMENT TO PARTICIPATING GRADES. A school district that has entered into or renewed an achievement guarantee contract under this section may, in one or more years covered by the contract, choose not to comply with the requirement to reduce class size in grades 2 or 3, or both, in one or more schools in the district.

(4) OTHER CONTRACT PROVISIONS. Each achievement guarantee contract shall include all of the following:

(a) A description of how the school will implement each of the elements under sub. (3), including any alternative class configurations for specific educational activities that may be used to meet the class size requirement under sub. (3).

(b) A description of the method that the school district will use to evaluate the academic achievement of the pupils enrolled in the school.

(c) A description of the school's performance objectives for the academic achievement of the pupils enrolled in the school and the means that will be used to evaluate success in attaining the objectives. Performance objectives shall include all of the following:

1. Where applicable, improvement in the scores on the examination administered to pupils under s. 121.02 (1) (r).

2. The attainment of any educational goals adopted by the school board.

3. Professional development with the objective of improving pupil academic achievement.

4. Methods by which the school involves pupils, parents or guardians of pupils and other school district residents in decisions affecting the school.

(d) 1. Except as provided in subd. 2., a description of any statute or rule that is waived under s. 118.38 if the waiver is related to the contract.

2. No achievement guarantee contract entered into or renewed under sub. (2) may include a waiver of any requirement of or rule promulgated under the authority of this section.

(e) A description of the means by which the department will monitor compliance with the terms of the contract.

(5) ANNUAL REVIEW; NONCOMPLIANCE. (a) At the end of the 1996-97 school year, the department may terminate a contract if the department determines that the school board has failed to fully implement the provisions under sub. (3).

(b) Annually by June 30 through the 2003-04 school year, a committee consisting of the state superintendent, the chairpersons of the education committees in the senate and assembly and the individual chiefly responsible for the evaluation under sub. (7) shall review the progress made by each school for which an achievement guarantee contract has been entered into. The committee may recommend to the department that the department terminate a contract if the committee determines that the school board has violated the contract or if the school has made insufficient progress toward achieving its performance objectives under sub. (4) (c). The department may terminate the contract if it agrees with the committee's recommendation.

(6) STATE AID. (a) In this subsection, "amount appropriated" means the amount appropriated under s. 20.255 (2) (cu) in any fiscal year less $250,000.

(b) From the appropriation under s. 20.255 (2) (cu), the department shall pay to each school district that has entered into a contract with the department under this section an amount determined as follows:

1. In the 1996-97 school year, divide the amount appropriated by the number of low-income pupils enrolled in grades kindergarten and one in each school in this state covered by contracts under this section and multiply the quotient by the number of pupils enrolled in those grades in each school in the school district covered by contracts under this section.

2. In the 1997-98 school year, divide the amount appropriated by the number of low-income pupils enrolled in grades kindergarten to 2 in each school in this state covered by contracts under this section and multiply the quotient by the number of pupils enrolled in those grades in each school in the school district covered by contracts under this section.

3. In the 1998-99 school year, divide the amount appropriated by the sum of the number of low-income pupils enrolled in grades kindergarten to 3 in each school in this state covered by contracts under sub. (3) (a) and the number of low-income pupils

enrolled in grades kindergarten and one in each school in this state covered by contracts under sub. (3) (am) and multiply the quotient by the number of pupils enrolled in those grades in each school in the school district covered by contracts under this section.

4. In the 1999-2000 school year, divide the amount appropriated by the sum of the number of low-income pupils enrolled in grades kindergarten to 3 in each school in this state covered by contracts under sub. (3) (a) and the number of low-income pupils enrolled in grades kindergarten to 2 in each school in this state covered by contracts under sub. (3) (am) and multiply the quotient by the number of pupils enrolled in those grades in each school in the school district covered by contracts under this section.

6. In the 2000-01 school year, $2,000 multiplied by the number of low-income pupils enrolled in grades eligible for funding in each school in the school district covered by contracts under sub. (3) (a) and (am). After making these payments, the department shall pay school districts on behalf of schools that are covered by contracts under sub. (3) (ar) an amount equal to $2,000 multiplied by the number of low-income pupils enrolled in grades eligible for funding in each school in the school district covered by contracts under sub. (3) (ar). In making these payments, the department shall give priority to schools that have the highest percentage of low-income pupil enrollment and shall also ensure that it fully distributes the amount appropriated.

7. In the 2001-02 and 2002-03 school years, $2,000 multiplied by the number of low-income pupils enrolled in grades eligible for funding in each school in the school district covered by contracts under sub. (3) (am) and by renewals of contracts under sub. (2) (g). After making these payments, the department shall pay school districts on behalf of schools that are covered by contracts under sub. (3) (ar), an amount equal to $2,000 multiplied by the number of low-income pupils enrolled in grades eligible for funding in each school in the school district covered by contracts under sub. (3) (ar).

8. In the 2003-04 and 2004-05 school years, $2,000 multiplied by the number of low-income pupils enrolled in grades eligible for funding in each school in the school district covered by contracts under sub. (3) (ar) and by renewals of contracts under sub. (2) (g).

9. In the 2005-06 and 2006-07 school years, $2,000 multiplied by the number of low-income pupils enrolled in grades eligible for funding in each school in the school district covered by renewals of contracts under sub. (2) (g); and in the 2007-08, 2008-09, and 2009-10 school years, $2,250 multiplied by the number of low-income pupils enrolled in grades eligible for funding in each school in the school district covered by renewals of contracts under sub. (2) (g).

10. Beginning in the 2010-11 school year and ending in the 2015-16 school year, $2,250 multiplied by the number of low-income pupils enrolled in a grade eligible for funding, and in a class in which the class size has been reduced in the manner required under sub. (3) (a), (am), (ar), or (at) or permitted under sub. (3m), in each school in the school district covered by contracts under sub. (3) (at) and (av) and by renewals of contracts under sub. (2) (g).

11. For the 2016-17 school year and any subsequent school year, the amount determined under s. 118.44 (6) multiplied by the number of low-income pupils enrolled in a grade eligible for funding, and in a class in which the class size has been reduced in the manner required under sub. (3) (a), (am), (ar), or (at) or permitted under sub. (3m), in each school in the school district covered by renewals of contracts under sub. (2) (g).

(d) The school board shall use the aid under this section to satisfy the terms of the contract.

(e) The department shall cease payments under this section to any school district if the school board withdraws from the contract before the expiration of the contract.

(6m) RULES. The department shall promulgate rules to implement and administer the payment of state aid under sub. (6).

(7) EVALUATION. Beginning in the 1996-97 school year and ending in the 2014-15 school year, the department shall arrange for an evaluation of the program under this section and shall allocate from the appropriation under s. 20.255 (2) (cu) $250,000 for that purpose.

(8) STATE AID FOR DEBT SERVICE. (a) Beginning in the 2000-01 school year, a school district is eligible for aid under this subsection if it applies to the department for approval of the amount of bonds specified in the copy of the resolution under 1999 Wisconsin Act 9, section 9139 (2d). If the department approves the amount before June 30, 2001, the department shall, from the appropriation under s. 20.255 (2) (cs), pay each school district that issues bonds pursuant to a referendum under 1999 Wisconsin Act 9, section 9139 (2d), an amount equal to 20 percent of the annual debt service cost on the bonds. This subsection does not apply to the school district operating under ch. 119.

(b) The department shall promulgate rules to implement and administer this subsection.

(9) SUNSET. No contract may be entered into or renewed under this section after July 3, 2015.

History: 1995 a. 27; 1997 a. 27, 252; 1999 a. 9; 2001 a. 16; 2005 a. 25, 125; 2009 a. 301; 2011 a. 32, 105; 2013 a. 165; 2015 a. 53, 55.

Cross-reference: See also ch. PI 24, Wis. adm. code.

118.44 Achievement gap reduction; state aid.

(1) DEFINITIONS. In this section:

(a) "Achievement gap" means the difference between the academic performance of low-income pupils in a particular school in a particular grade in a particular subject area and the academic performance of all pupils enrolled in public schools statewide in that same grade level and in that same subject area.

(b) "Class size" means the number of pupils assigned to a regular classroom teacher on the 3rd Friday of September.

(c) "Low-income pupil" means a pupil who satisfies the income eligibility criteria under 42 USC 1758 (b) (1).

(d) "Participating grade" means grade 5-year-old kindergarten and grades 1 to 3 in a school subject to a contract under this section.

(e) "Participating school" means a school that has entered into a contract under this section.

(2) ELIGIBILITY. (a) *School districts.* The school board of any school district that has a contract under s. 118.43 on July 3, 2015, is eligible to enter into a contract with the department under sub. (3).

(b) *Individual schools.* A school is eligible to participate in the program under this section if the school is subject to a contract under s. 118.43 on July 3, 2015.

(3) CONTRACT. The school board of an eligible school district may enter into a 5-year contract with the department on behalf of one or more schools in the school district that are eligible under sub. (2) (b). No achievement gap reduction contract entered into under this section may include a waiver of any requirement of or rule promulgated under the authority of this section.

(4) CONTRACT REQUIREMENTS. The terms of a contract under sub. (3) shall require all of the following:

(a) *Strategies: class size; instructional coaching; tutoring.* The school board to implement one or more of the following

strategies in each class in each participating grade at each participating school:

1. Provide professional development related to small group instruction and reduce the class size to one of the following:

a. No more than 18.

b. No more than 30 in a combined classroom having at least 2 regular classroom teachers.

2. Provide data-driven instructional coaching for the class teachers. The instruction shall be provided by licensed teachers who possess appropriate content knowledge to assist classroom teachers in improving instruction in math or reading and possess expertise in reducing the achievement gap.

3. Provide data-informed, one-to-one tutoring to pupils in the class who are struggling with reading or mathematics or both subjects. Tutoring shall be provided during regular school hours by a licensed teacher using an instructional program found to be effective by the What Works Clearinghouse of the Institute of Education Sciences.

(b) *Annual reporting.* The school board to annually report all of the following to the department:

1. Before November 1 of each school year, a brief description of the strategies identified under par. (a) that the school board intends to implement in each participating grade in each participating school.

2. Before the last day of each school year, a brief description of the strategies identified under par. (a) that the school board did implement in each participating grade in each participating school.

(c) *Goals.* The school board to provide a description of the performance objectives for the academic achievement of the pupils enrolled in participating grades in each participating school and the formative and summative assessments that will be used to evaluate success in attaining those objectives. The school board and participating schools shall identify specific, measurable, and achievable performance objectives, including reducing the achievement gap in math and reading in each participating grade.

(d) *School board review.* Each participating school to present information regarding the school's implementation of the contract requirements under par. (a), its performance objectives under par. (c), and its success in attaining the objectives to the school board at the end of every semester of the contract.

(5) CONTRACT RENEWALS. (a) Except as provided in par. (b), a contract under this section may be renewed for one or more terms of 5 school years. No achievement gap reduction contract renewed under this section may include a waiver of any requirement of or rule promulgated under the authority of this section.

(b) The department may not renew a contract with a school district on behalf of a participating school if the department determines that the school board has failed to comply with the terms of the contract under sub. (4).

(6) STATE AID. (a) In this subsection, "amount appropriated" means the amount under s. 20.255 (2) (cu) in any fiscal year less $125,000.

(bm) From the appropriation under s. 20.255 (2) (cu), for each low-income pupil enrolled in a participating grade, the department shall pay to a school district that has entered into a contract with the department under this section an amount determined annually by the department as follows:

1. Determine the total number of low-income pupils enrolled in participating grades in all school districts that have entered into a contract with the department under this section and for which the department is required to make a payment under this subsection.

2. Add to the number of low-income pupils under subd. 1. the number of low-income pupils for whom the department is required to make a payment under s. 118.43.

3. Divide the amount appropriated by the sum of low-income pupils under subd. 2.

(c) The school board shall use the aid under this section to satisfy the terms of the contract.

(d) The department shall cease payments under this section to any school district if the school board withdraws from the contract before expiration of the contract.

(e) The department shall promulgate rules to implement and administer the payment of state aid under this subsection.

(f) *Limitations on payment.* If a school fails to implement the requirements under sub. (4) (a) in a participating grade for which the department has made payment, the school board of the district shall, upon the request of the department, reimburse the department the amount paid for the participating grade on the school's behalf for the school year in which the requirements were not implemented.

(7) EVALUATION. (a) Beginning in the 2018-19 school year, the department shall arrange for an annual evaluation of the program under this section and shall allocate from the appropriation under s. 20.255 (2) (cu) $125,000 for that purpose.

(b) The entity performing the evaluation under this subsection shall distribute each such evaluation to each school district that has entered into a contract under sub. (3).

History: 2015 a. 53, 71.

NOTE: 2015 Wis. Act 53, which created this section, contains extensive explanatory notes.

118.45 Tests for alcohol use. A school board employee or agent, or law enforcement officer, as defined in s. 102.475 (8) (c), authorized by a public school board may require a public school pupil, including a charter school pupil, to provide one or more samples of his or her breath for the purpose of determining the presence of alcohol in the pupil's breath whenever the authorized employee, agent or officer has reasonable suspicion that the pupil is under the influence of alcohol while the pupil is in any of the circumstances listed in s. 125.09 (2) (b) 1. to 3. The authorized employee, agent or officer shall use a breath screening device approved by the department of transportation for the purpose of determining the presence of alcohol in a person's breath to determine if alcohol is present in the pupil's breath. The results of the breath screening device or the fact that a pupil refused to submit to breath testing shall be made available for use in any hearing or proceeding regarding the discipline, suspension or expulsion of a student due to alcohol use. No school board may require a pupil to provide one or more samples of his or her breath for the purpose of determining the presence of alcohol in the pupil's breath until the school board has adopted written policies regarding disciplines or treatments that will result from being under the influence of alcohol while on school premises or from refusing to submit to breath testing to determine the presence of alcohol in the pupil's breath.

History: 1995 a. 327.

118.46 Policy on bullying. (1) By March 1, 2010, the department shall do all of the following:

(a) Develop a model school policy on bullying by pupils. The policy shall include all of the following:

1. A definition of bullying.

2. A prohibition on bullying.

3. A procedure for reporting bullying that allows reports to be made confidentially.

4. A prohibition against a pupil retaliating against another pupil for reporting an incident of bullying.

5. A procedure for investigating reports of bullying. The procedure shall identify the school district employee in each school who is responsible for conducting the investigation and require that the parent or guardian of each pupil involved in a bullying incident be notified.

6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.

7. A list of disciplinary alternatives for pupils that engage in bullying or who retaliate against a pupil who reports an incident of bullying.

8. An identification of the school-related events at which the policy applies.

9. An identification of the property owned, leased, or used by the school district on which the policy applies.

10. An identification of the vehicles used for pupil transportation on which the policy applies.

(b) Develop a model education and awareness program on bullying.

(c) Post the model policy under par. (a) and the model program under par. (b) on its Internet site.

(2) By August 15, 2010, each school board shall adopt a policy prohibiting bullying by pupils. The school board may adopt the model policy under sub. (1) (a). The school board shall provide a copy of the policy to any person who requests it. Annually, the school board shall distribute the policy to all pupils enrolled in the school district and to their parents or guardians.

History: 2009 a. 309.

118.50 Whole grade sharing. (1) AGREEMENT. The school boards of 2 or more school districts may enter into a whole grade sharing agreement that provides for all or a substantial portion of the pupils enrolled in one or more grades, including 4-year-old and 5-year-old kindergarten and prekindergarten classes, in any of the school districts to attend school in one or more of the other school districts for all or a substantial portion of a school day. School boards shall include in a whole grade sharing agreement all of the following:

(a) The term of the agreement, which shall be for one or more entire school years.

(am) The date by which each school board must notify the other participating school boards of its intent to renew the agreement.

(b) The grade levels in each school district that are subject to the agreement.

(c) Subject to sub. (2m), the annual amount that the school board of a pupil's resident school district pays to the school board of the school district that the pupil attends under the agreement.

(d) Which school board grants diplomas to pupils who, under the agreement, graduate from high school in a school district other than the pupil's resident school district.

(e) Which school board is responsible for pupil records, as defined in s. 118.125 (1) (d), for pupils, who under the agreement, attend school in a school district other than the pupil's resident school district.

(2) PROCEDURE. (a) A school board may not enter into, extend, or renew a whole grade sharing agreement after February 15 of the school year preceding the school year in which the agreement, extension, or renewal takes effect.

(b) At least 60 days before entering into, extending, or renewing a whole grade sharing agreement, the school board shall adopt a resolution stating its intention to do so. Within 10 days after adoption of the resolution, the school district clerk shall publish notice of the adoption of the resolution as a class 1 notice under ch. 985 in a newspaper published in the school district or post a notice of the adoption of the resolution as provided in s. 10.05.

(c) Within 30 days after publication or posting, a petition signed by at least 20 percent of the electors residing in the school district may be filed with the school board requesting a feasibility study of the agreement. Upon receiving the petition, the school board shall contract with an organization approved by the department to conduct the feasibility study. If a feasibility study is required under this paragraph, the school board may not enter into, extend, or renew a whole grade sharing agreement until it receives the results of the study. The school board shall post the results of the feasibility study on the school district's Internet site.

(d) At least 30 days before entering into, extending, or renewing a whole grade sharing agreement, the school board shall hold a public hearing in the school district at which the proposed agreement is described and at which any school district elector may comment on the proposed agreement. Two or more school boards that will be parties to the agreement may hold a joint public hearing in one of the school districts.

(e) No later than 10 days after entering into, extending, or renewing a whole grade sharing agreement, the school district clerk shall file with the state superintendent a certified copy of the whole grade sharing agreement.

(2m) PUPILS WITH DISABILITIES. (a) Under a whole grade sharing agreement, for each pupil with an individualized education program that is in effect, the school board of the school district in which the pupil resides shall pay the school board of the nonresident school district in which the pupil attends school under the whole grade sharing agreement the following amount:

1. In the 2016-17 school year, $12,000.

2. Beginning in the 2017-18 school year, the sum of the per pupil amount under this paragraph for the previous school year; the amount of the per pupil revenue limit adjustment under s. 121.91 (2m) for the current school year, if positive; and the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive.

(b) If a pupil with an individualized education program that is in effect attends school in a nonresident school district under a whole grade sharing agreement for less than a full school term, the resident school board shall prorate the payment amount under par. (a) based on the number of days that school is in session during that school term and number of days the pupil attends school in the nonresident school district during that school term.

(3) TRANSPORTATION. (a) A pupil's resident school board is responsible for transporting the pupil to and from the school the pupil attends during the school term under a whole grade sharing agreement, unless the whole grade sharing agreement provides otherwise.

(b) 1. Subject to subd. 2., a whole grade sharing agreement shall specify which participating school board is responsible for transporting pupils to attend summer school classes.

2. If a school board provides transportation to attend summer school classes in the school district to pupils who reside in the school district, the school board shall provide transportation to attend summer school classes in the school district to pupils who do not reside in the school district who are attending summer school classes in the school district under a whole grade sharing agreement.

(c) If, under a whole grade sharing agreement, a school board provides transportation for fewer than all pupils, there shall be reasonable uniformity in the minimum and maximum distances pupils are transported.

(4) ATTENDANCE AREAS. If a school board enters into a

whole grade sharing agreement that designates more than one school district for the attendance of its pupils, the school board shall establish attendance areas within the school district for determining the school districts of attendance of the pupils.

(5) RIGHTS AND PRIVILEGES OF NONRESIDENT PUPILS; PARTICIPATION IN PROGRAMS. (a) Except as provided in s. 118.134 (3m), a pupil attending a public school in a nonresident school district under this section has all of the rights and privileges of pupils residing in that school district and is subject to the same rules and regulations as pupils residing in that school district.

(b) A pupil attending a public school in a nonresident school district under this section is considered a resident of the nonresident school district for the purposes of participating in programs of a cooperative educational service agency or a county children with disabilities education board.

(6) FULL-TIME OPEN ENROLLMENT IN A PARTICIPATING NONRESIDENT SCHOOL DISTRICT. If a whole grade sharing agreement provides for a pupil to attend a grade in a nonresident school district in which the pupil is attending school under s. 118.51, the pupil's status as a pupil attending the nonresident school district under s. 118.51 is suspended for the school year the pupil is enrolled in the grade that is subject to the whole grade sharing agreement. This subsection does not prevent a pupil from continuing to attend the nonresident school district in succeeding school years without reapplying, as provided under s. 118.51 (3) (c).

(7) SCHOOL DISTRICT REORGANIZATION. A whole grade sharing agreement entered into under this section is not an order of school district reorganization under ch. 117.

(8) The department may promulgate rules to implement and administer this section.

History: 2015 a. 55; 2017 a. 59.

118.51 Full-time open enrollment. (1) DEFINITIONS. In this section:

(ad) "Charter school" excludes a school under contract with an entity under s. 118.40 (2r) (b) or the director under s. 118.40 (2x).

(ag) "Child with a disability" has the meaning given in s. 115.76 (5).

(aj) "Free appropriate public education" has the meaning given in s. 115.76 (7).

(am) "Habitual truant" has the meaning given in s. 118.16 (1) (a).

(b) "Nonresident school board" means the school board of a nonresident school district.

(c) "Nonresident school district" means a school district, other than a pupil's resident school district, that the pupil is attending or has applied to attend under this section.

(d) "Parent" includes a guardian.

(e) "Resident school board" means the school board of a resident school district.

(f) "Resident school district" means the school district in which a pupil resides.

(2) APPLICABILITY. Except as provided in s. 118.50 (6), a pupil may attend a public school, including a charter school, prekindergarten, 4-year-old kindergarten, or early childhood or school-operated child care program, in a nonresident school district under this section, except that a pupil may attend a prekindergarten, 4-year-old kindergarten, or early childhood or school-operated child care program in a nonresident school district only if the pupil's resident school district offers the same type of program that the pupil wishes to attend and the pupil is eligible to attend that program in his or her resident school district.

(3) APPLICATION PROCEDURES. Except as provided under sub. (3m), the following procedures govern pupil applications to attend a public school in a nonresident school district under this section:

(a) *Submission and acceptance or rejection.* 1. The parent of a pupil who wishes to attend a public school in a nonresident school district under this section shall submit an application, on a form provided by the department under sub. (15) (a), to the school board of the nonresident school district that the pupil wishes to attend, not earlier than the first Monday in February and not later than the last weekday in April of the school year immediately preceding the school year in which the pupil wishes to attend. Except as provided in subd. 1d., applications may be submitted to no more than 3 nonresident school boards in any school year. The nonresident school board shall send a copy of the application to the pupil's resident school board and the department by the end of the first weekday following the last weekday in April. The application may include a request to attend a specific school or program offered by the nonresident school district.

1d. For purposes of determining whether applications have been submitted to more than 3 nonresident school boards, the department may not count an application submitted to a nonresident school board for a pupil to attend a virtual charter school.

1m. By the first Friday following the first Monday in May, the resident school board shall send to the nonresident school district a copy of the individualized education program developed under s. 115.787 (2) for a child with a disability whose parent submitted an application under subd. 1.

2. A nonresident school board may not act on any application received under subd. 1. before May 1. If a nonresident school board receives more applications for a particular grade or program than there are spaces available in the grade or program, the nonresident school board shall determine which pupils to accept, including pupils accepted from a waiting list under sub. (5) (d), on a random basis, after giving preference to pupils and to siblings of pupils who are already attending the nonresident school district and, if the nonresident school district is a union high school district, to pupils who are attending an underlying elementary school district of the nonresident school district under this section. If a nonresident school board determines that space is not otherwise available for open enrollment pupils in the grade or program to which an individual has applied, the school board may nevertheless accept a pupil or the sibling of a pupil who is already attending the nonresident school district and, if the nonresident school district is a union high school district, a pupil who is attending an underlying elementary school district of the nonresident school district under this section.

3. Except as provided under sub. (5) (d) 1., on or before the first Friday following the first Monday in June following receipt of the application, the nonresident school board shall notify the applicant, in writing, whether it has accepted the application. If the nonresident school board has accepted the applicant, the school board shall identify the specific school or program that the applicant may attend in the following school year. If the nonresident school board rejects an application, it shall include in the notice the reason for the rejection.

4. On or before the 2nd Friday following the first Monday in June following receipt of a copy of the application, if a resident school board denies a pupil's enrollment in a nonresident school district, the resident school board shall notify the applicant and the nonresident school board, in writing, that the application has been denied and include in the notice the reason for the denial.

6. Except as provided in sub. (5) (d) 2., if an application is accepted, on or before the last Friday in June following receipt of a notice of acceptance, or within 10 days of receiving a notice of

acceptance if a pupil is selected from a waiting list under sub. (5) (d), the pupil's parent shall notify the nonresident school board of the pupil's intent to attend school in that school district in the following school year.

(b) *Notice to resident school district.* Annually by July 7, each nonresident school board that has accepted a pupil under this section for attendance in the following school year shall report the name of the pupil to the pupil's resident school board.

(c) *Subsequent reapplication; when required.* 1. If a pupil's parent notifies a nonresident school board, under par. (a) 6., that the pupil intends to attend school in that school district in the following school year, the pupil may attend that school district in the following school year and may continue to attend that school district in succeeding school years without reapplying, except that the nonresident school board may require that the pupil reapply, no more than once, when the pupil enters middle school, junior high school or high school.

2. If at any time a pupil who is attending school in a nonresident school district under this section wishes to attend school in a different nonresident school district under this section, the pupil's parent shall follow the application procedures under par. (a).

(3m) ALTERNATIVE APPLICATION PROCEDURES UNDER CERTAIN CIRCUMSTANCES. (a) Notwithstanding sub. (3), the parent of a pupil who wishes to attend a public school in a nonresident school district under this section may, in lieu of applying under sub. (3), submit an application under this subsection, on a form provided by the department under sub. (15) (a), to the school board of the nonresident school district that the pupil wants to attend if the pupil satisfies at least one of the criteria under par. (b). Applications may be submitted to no more than 3 nonresident school boards in any school year. For purposes of determining whether applications have been submitted to more than 3 nonresident school boards, the department may not count an application submitted to a nonresident school board for a pupil to attend a virtual charter school.

(b) The parent of a pupil may apply under this subsection only if the pupil meets one of the following criteria, and shall describe the criteria that the pupil meets in the application:

1. The resident school board determines that the pupil has been the victim of a violent criminal offense, as defined by the department by rule. An application made on the basis of this criteria is not valid unless the nonresident school board receives the application within 30 days after the determination of the resident school board.

2. The pupil is or has been a homeless pupil in the current or immediately preceding school year. In this subdivision, "homeless pupil" means an individual who is included in the category of homeless children and youths, as defined in 42 USC 11434a (2).

3. The pupil has been the victim of repeated bullying or harassment and all of the following apply:

a. The pupil's parent has reported the bullying or harassment to the resident school board.

b. Despite action taken under subd. 3. a., the repeated bullying and harassment continues.

4. The place of residence of the pupil's parent or guardian and of the pupil has changed as a result of military orders. An application made on the basis of this criteria is not valid unless the nonresident school board receives the application no later than 90 days after the date on which the military orders changing the place of residence were issued. For purposes of this subdivision, a military order includes an order from any branch of the U.S. armed forces, a reserve component of the U.S. armed forces, the state defense force, or the national guard of any state.

5. The pupil moved into this state. An application made on the basis of this criteria is not valid unless the nonresident school board receives the application no later than 30 days after moving into this state.

6. The place of residence of the pupil has changed as a result of a court order or custody agreement or because the pupil was placed in a foster home or with a person other than the pupil's parent, or removed from a foster home or from the home of a person other than the pupil's parent. An application made on the basis of this criteria is not valid unless the nonresident school board receives the application no later than 30 days after the pupil's change in residence.

7. The parent of the pupil, the resident school board, and the nonresident school board agree that attending school in the nonresident school district is in the best interests of the pupil.

8. The parent of the pupil and the nonresident school board agree that attending school in the nonresident school district is in the best interests of the pupil. If the resident school board notifies the parent of the pupil who applies under this subdivision that the pupil may not attend the nonresident school district, the parent may appeal the resident school district's decision to the department and must explain in the appeal why the pupil applied to attend school in the nonresident school district. The resident school district must respond to the appeal and provide an explanation for rejecting the pupil's transfer into the nonresident school district. If the department determines that the resident school district's decision to deny the pupil's transfer into the nonresident school district is not in the best interests of the pupil, the department shall notify the resident and nonresident school districts and the pupil's parent that the pupil may attend the nonresident school district. The department's determination under this subdivision is final.

(c) If a nonresident school board receives an application under par. (a), the nonresident school board shall immediately forward a copy of the application to the resident school board, and shall notify the applicant, in writing, whether it has accepted the application no later than 20 days after receiving the application. If the nonresident school board has accepted the application, the nonresident school board shall identify the specific school or program that the pupil may attend.

(d) A resident school district may notify an applicant under par. (a) that the pupil may not attend a school or program in the nonresident school district only if the resident school district determines that the criteria relied on by the applicant under par. (b) does not apply to the pupil.

(e) If an application is accepted by the nonresident school board under par. (c), the pupil may immediately begin attending the school or program in the nonresident school district and shall begin attending the school or program no later than the 15th day following receipt by the parent of the pupil of the notice of acceptance under par. (c). If the pupil has not enrolled in or attended school in the nonresident school district by the day specified in this paragraph, the nonresident school district may notify the pupil's parent, in writing, that the pupil is no longer authorized to attend the school or program in the nonresident school district.

(4) ADOPTION OF POLICIES AND CRITERIA. (a) By February 1, 1998, each school board shall adopt a resolution specifying all of the following:

1. Its reapplication requirements, if any, under sub. (3) (c) 1.

2. Its acceptance and rejection criteria under sub. (5) (a) and (b).

3. A statement of the preference required under sub. (3) (a) 2.

5. If the school district is eligible for aid under subch. VI of ch. 121, the limitation on transfers into or out of the school district imposed by the school board under sub. (7).

6. Whether it will provide transportation under s. 121.54 (10) for some or all of the pupils who reside in the school district

and attend school in a nonresident school district under this section or for some or all of the pupils who reside in other school districts and attend its schools under this section, and the means, under s. 121.55, by which it will provide such transportation.

(b) If the school board revises its criteria or policies under par. (a), it shall do so by resolution.

(5) NONRESIDENT SCHOOL DISTRICT ACCEPTANCE CRITERIA. (a) *Permissible criteria.* Except as provided in sub. (3) (a) 2., the criteria for accepting and rejecting applications from nonresident pupils under subs. (3) (a) and (3m) (a) may include only the following:

1. The availability of space in the schools, programs, classes, or grades within the nonresident school district. The nonresident school board shall determine the number of regular education and special education spaces available within the school district in the January meeting of the school board, except that for the 2011-12 school year the board shall determine the number of regular education and special education spaces available within the school district in the February meeting of the school board. In determining the availability of space, the nonresident school board may consider criteria such as class size limits, pupil-teacher ratios, or enrollment projections established by the nonresident school board and may include in its count of occupied spaces all of the following:

a. Pupils attending the school district for whom tuition is paid under s. 121.78 (1) (a).

b. Pupils and siblings of pupils who have applied under sub. (3) (a) or (3m) (a) and are already attending the nonresident school district.

c. If the nonresident school district is a union high school district, pupils who have applied under sub. (3) (a) or (3m) (a) and are currently attending an underlying elementary school district of the nonresident school district under this section.

2. Whether the pupil has been expelled from school by any school district during the current or 2 preceding school years for any of the following reasons or whether a disciplinary proceeding involving the pupil, which is based on any of the following reasons, is pending:

a. Conveying or causing to be conveyed any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy any school property by means of explosives.

b. Engaging in conduct while at school or while under supervision of a school authority that endangered the health, safety or property of others.

c. Engaging in conduct while not at school or while not under the supervision of a school authority that endangered the health, safety or property of others at school or under the supervision of a school authority or of any employee of the school district or member of the school board.

d. Possessing a dangerous weapon, as defined in s. 939.22 (10), while at school or while under the supervision of a school authority.

3. Whether the nonresident school board determined that the pupil was habitually truant from the nonresident school district during any semester of attendance at the nonresident school district in the current or previous school year.

4. Whether the special education or related services described in the child's individualized education program under s. 115.787 (2) are available in the nonresident school district or whether there is space available to provide the special education or related services identified in the child's individualized education program, including any class size limits, pupil-teacher ratios or enrollment projections established by the nonresident school board.

6. Whether the child has been referred to his or her resident school board under s. 115.777 (1) or identified by his or her resident school board under s. 115.77 (1m) (a) but not yet evaluated by an individualized education program team appointed by his or her resident school board under s. 115.78 (1).

(b) *Rejection after initial acceptance.* The criteria under par. (a) may provide that, notwithstanding the nonresident school board's acceptance of an application under sub. (3) (a) 3., at any time prior to the beginning of the school year in which the pupil will first attend school in the school district under this section, the school board may notify the pupil that he or she may not attend school in the school district if the school board determines that any of the criteria under par. (a) 2. are met.

(d) *Waiting list.* 1. The school board of a nonresident school district may create a waiting list of pupils whose applications were rejected under sub. (3) (a) 3. The nonresident school board may accept pupils from a waiting list created under this paragraph until the 3rd Thursday in September but only if the pupil will be in attendance at the school or program in the nonresident school district on the 3rd Friday in September. Notwithstanding sub. (3) (a) 6., if a pupil is accepted from a waiting list created under this paragraph after the start of the school term, the parent shall immediately notify the resident school district of the pupil's intent to attend school in the nonresident school district for the current school term.

2. A pupil accepted from a waiting list created under this paragraph may attend the school or program in the nonresident school district even if the pupil has attended a school or program in the pupil's resident school district in the current school term, but not if the pupil has attended a school or program in a nonresident school district in the current school term.

3. The department shall promulgate rules to implement and administer this paragraph.

(7) RACIAL BALANCE. The school board of a school district that receives applications for transfer into the school district under subch. VI of ch. 121 and this section may not accept applications made under this section until it has accepted or rejected all applications made under subch. VI of ch. 121.

(8) DISCIPLINARY RECORDS. Notwithstanding s. 118.125, for an application submitted under sub. (3) (a), by the first Friday following the first Monday in May, and within 10 days of receiving a copy of an application under sub. (3m) (c), the resident school board shall provide to the nonresident school board to which a pupil has applied under this section a copy of any expulsion findings and orders pertaining to the pupil, a copy of records of any pending disciplinary proceeding involving the pupil, a written explanation of the reasons for the expulsion or pending disciplinary proceeding and the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceeding.

(9) APPEAL OF REJECTION. If the nonresident school board rejects an application under sub. (3) (a) or (7), the resident school board prohibits a pupil from attending public school in a nonresident school district under sub. (3m) (d) or the nonresident school board prohibits a pupil from attending public school in the nonresident school district under sub. (11), the pupil's parent may appeal the decision to the department within 30 days after the decision. If the nonresident school board provides notice that the special education or related service is not available under sub. (12) (b), the pupil's parent may appeal the required transfer to the department within 30 days after receipt of the notice. The department shall affirm the school board's decision unless the department finds that the decision was arbitrary or unreasonable.

(10) PUPIL ASSIGNMENT. A nonresident school board may assign pupils accepted to attend public school in the school district under this section to a school or program within the school

district. The school board may give preference in attendance at a school, program, class or grade to residents of the school district who live outside the school's attendance area.

(11) HABITUAL TRUANCY. Notwithstanding subs. (3) (c) and (13), if a nonresident school board determines that a pupil attending the nonresident school district under this section is habitually truant from the nonresident school district during either semester in the current school year, the nonresident school board may prohibit the pupil from attending the nonresident school district under this section in the succeeding semester or school year.

(12) NONRESIDENT SCHOOL DISTRICT STATEMENT OF EDUCATIONAL COSTS; SPECIAL EDUCATION OR RELATED SERVICES. (a) Beginning in the 2018-19 school year, at the end of a school year in which a child with a disability who attends a nonresident school district under this section and receives special education or related services under subch. V of ch. 115 in the nonresident school district, the nonresident school board may submit to the department a financial statement that shows the actual costs the nonresident school board incurred to provide a free appropriate public education to the child during that school year. The department shall provide the resident school board with a copy of any financial statement it receives under this paragraph.

(b) If the individualized education program for a pupil, developed or revised under s. 115.787 after a child begins attending public school in a nonresident school district under this section, requires special education or related services that are not available in the nonresident school district or if there is no space available to provide the special education or related services identified in the child's individualized education program, including any class size limits, pupil-teacher ratios or enrollment projections established by the nonresident school board, the nonresident school board may notify the child's parent and the child's resident school board that the special education or related service is not available in the nonresident school district. If such notice is provided, the child shall be transferred to his or her resident school district, which shall provide an educational placement for the child under s. 115.79 (1) (b).

(13) RIGHTS AND PRIVILEGES OF NONRESIDENT PUPILS. Except as provided in s. 118.134 (3m), a pupil attending a public school in a nonresident school district under this section has all of the rights and privileges of pupils residing in that school district and is subject to the same rules and regulations as pupils residing in that school district.

(13m) PARTICIPATION IN CERTAIN PROGRAMS. A pupil attending a public school in a nonresident school district under this section shall be considered a resident of the nonresident school district for the purposes of participating in programs of a cooperative educational service agency or a county children with disabilities education board.

(14) TRANSPORTATION. (a) *Responsibility.* 1. Except as provided in subd. 2., the parent of a pupil attending public school in a nonresident school district under this section is responsible for transporting the pupil to and from school in the nonresident school district attended by the pupil.

2. If the pupil is a child with a disability and transportation of the pupil is required in the individualized education program developed for the child under s. 115.787 (2) or is required under s. 121.54 (3), the nonresident school district shall provide such transportation for the child.

(b) *Low-income assistance.* The parent of a pupil who satisfies the income eligibility criteria for a free or reduced-price lunch under 42 USC 1758 (b) (1) and who will be attending public school in a nonresident school district in the following school year under this section may apply to the department, on the form prepared under sub. (15) (a), for the reimbursement of costs incurred by the parent for the transportation of the pupil to and from the pupil's residence and the school that the pupil will be attending. The department shall determine the reimbursement amount and shall pay the amount from the appropriation under s. 20.255 (2) (cy). The reimbursement amount may not exceed the actual transportation costs incurred by the parent or 3 times the statewide average per pupil transportation costs, whichever is less. If the appropriation under s. 20.255 (2) (cy) in any one year is insufficient to pay the full amount of approved claims under this paragraph, payments shall be prorated among the parents entitled thereto. By the 2nd Friday following the first Monday in May following receipt of the parent's application under sub. (3) (a), the department shall provide to each parent requesting reimbursement under this paragraph an estimate of the amount of reimbursement that the parent will receive if the pupil attends public school in the nonresident school district in the following school year.

(15) DEPARTMENT DUTIES. The department shall do all of the following:

(a) *Application form.* Prepare, distribute to school districts, and make available to parents an application form to be used by parents under sub. (3) (a) and an application form to be used by parents under sub. (3m) (a). The form shall include provisions that permit a parent to apply for transportation reimbursement under sub. (14) (b). The form shall require an applicant who is applying to attend a virtual charter school to indicate that he or she is applying to attend a virtual charter school, the number of virtual charter schools to which he or she is applying, and whether he or she is a sibling of a pupil currently enrolled in a virtual charter school through the open enrollment program.

(b) *Information and assistance.* Develop and implement an outreach program to educate parents about the open enrollment program under this section, including activities specifically designed to educate low-income parents, and services to answer parents' questions about the program and assist them in exercising the open enrollment option provided under this section.

(c) *Annual report.* Annually submit a report to the governor and to the appropriate standing committees of the legislature under s. 13.172 (3). The report under this paragraph shall include all of the following information:

1. The number of pupils who applied to attend public school in a nonresident school district under this section.

2. The number of applications received under subs. (3) (a) and (3m) (a) and, for the applications received under sub. (3m) (a), the number of applications received under each of the criteria listed in sub. (3m) (b).

3. The number of applications denied and the bases for the denials.

4. The number of pupils attending public school in a nonresident school district under this section. The department shall specify, separately, the number of pupils attending public school in a nonresident school district whose applications were accepted under subs. (3) (a) 3. and (3m) (c), and, for the applications accepted under sub. (3m) (c), the number of pupils attending under each of the criteria listed in sub. (3m) (b).

(16) STATE AID ADJUSTMENTS. (a) Annually, the department shall determine all of the following:

1. For each school district, the number of nonresident pupils attending public school in the school district under this section, other than pupils for whom a payment is made under sub. (17) (a), (c), or (cm).

2. For each school district, the number of resident pupils attending public school in a nonresident school district under this section, other than pupils for whom a payment is made under sub. (17) (a), (c), or (cm).

3. a. For the amount in the 2013-14 and 2014-15 school years, the amount determined under this subdivision for the previous school year plus $150.

b. Beginning with the amount in the 2015-16 school year and, except as provided in subd. 3. c., in each school year thereafter, the sum of the amount determined under this subdivision for the previous school year; the amount of the per pupil revenue limit adjustment under s. 121.91 (2m) for the current school year, if positive; the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive; in the 2025-26 school year, $500; and in the 2026-27 school year, $500.

c. For the amount in the 2017-18 to 2020-21 school years, the amount determined under subd. 3. b. plus $100.

(b) 1. If the number determined in par. (a) 1. is greater than the number determined in par. (a) 2. for a school district, the department shall increase that school district's state aid payment under s. 121.08 by an amount equal to the difference multiplied by the amount determined under par. (a) 3.

2. If the number determined in par. (a) 1. is less than the number determined in par. (a) 2. for a school district, the department shall decrease that school district's state aid payment under s. 121.08 by an amount equal to the difference multiplied by the amount determined under par. (a) 3. If the state aid payment under s. 121.08 is insufficient to cover the reduction, the department shall decrease other state aid payments made by the department to the school district by the remaining amount. If the state aid payment under s. 121.08 and other state aid payments made by the department to the school district are insufficient to cover the reduction, the department shall use the moneys appropriated under s. 20.255 (2) (cg) to pay the balance to school districts under subd. 1.

(c) If a pupil attends public school in a nonresident school district under this section for less than a full school term, the department shall prorate the state aid adjustments under this subsection and sub. (17) (c) and (cm) based on the number of days that school is in session and the pupil attends public school in the nonresident school district.

(d) The department shall ensure that the aid adjustments under par. (b) and sub. (17) (c) and (cm) do not affect the amount determined to be received by a school district as state aid under s. 121.08 for any other purpose.

(17) PUPIL TRANSFER AMOUNT AND PAYMENTS TO A NONRESIDENT SCHOOL BOARD; CHILDREN WITH DISABILITIES. (a) In the 2015-16 school year, the resident school board shall pay to the nonresident school board, for each child who is attending public school in the nonresident school district under this section and is receiving special education or related services under subch. V of ch. 115, tuition calculated using the daily tuition rate under s. 121.83 for such children enrolled in the nonresident school district, or an amount agreed to by the school boards of the 2 school districts.

(b) 1. Beginning in the 2016-17 school year, the department shall determine all of the following:

a. For each school district, the number of nonresident pupils attending public school in the school district under this section who are receiving special education or related services under subch. V of ch. 115.

b. For each school district, the number of resident pupils attending public school in a nonresident school district under this section who are receiving special education or related services under subch. V of ch. 115 in the nonresident school district.

2. a. In the 2016-17 school year, the per pupil transfer amount is $12,000.

b. In the 2017-18 school year, the per pupil transfer amount is the sum of the per pupil transfer amount for the previous school year; the amount of the per pupil revenue limit adjustment under s. 121.91 (2m) for the current school year, if positive; and the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive.

c. Beginning in the 2018-19 school year, and subject to subd. 3., the per pupil transfer amount is the sum of the per pupil transfer amount for the previous school year; the amount of the per pupil revenue limit adjustment under s. 121.91 (2m) for the current school year, if positive; and the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive.

3. Beginning in the 2019-20 school year, if a nonresident school board submitted a financial statement for a child with a disability under sub. (12) (a) in the previous school year, the per pupil transfer amount for that child is the amount shown on the financial statement for that child for the previous school year, up to $30,000.

(bm) 1. Beginning in the 2019-20 school year, the department shall determine all of the following for each school district:

a. The number of nonresident pupils attending public school in the school district under this section who are receiving special education or related services under subch. V of ch. 115 and for whom no financial statement was submitted under sub. (12) (a) in that school year.

b. The amount shown on each financial statement submitted in that school year under sub. (12) (a) by the school board of that school district for a nonresident pupil who is attending public school in the school district under this section and receiving special education or related services under subch. V of ch. 115. If the amount shown on any financial statement described in this subd. 1. b. exceeds $30,000, for the purpose of subd. 2. b., the department shall identify the amount shown as $30,000.

c. The number of resident pupils attending public school in a nonresident school district under this section who are receiving special education or related services under subch. V of ch. 115 and for whom the nonresident school board did not submit a financial statement under sub. (12) (a) in that school year.

d. The amount shown on each financial statement submitted in that school year under sub. (12) (a) for a pupil who is a resident of the school district and who is attending public school in a nonresident school district under this section and receiving special education or related services under subch. V of ch. 115. If the amount shown on any financial statement described in this subd. 1. d. exceeds $30,000, for the purpose of subd. 2. e., the department shall identify the amount shown as $30,000.

2. Beginning in the 2019-20 school year, for each school district, the department shall do all of the following:

a. Multiply the number under subd. 1. a. by the per pupil transfer amount under par. (b) 2. c.

b. Determine the sum of the amounts shown on the financial statements submitted as described under subd. 1. b.

c. Determine the sum of the product under subd. 2. a. and the sum under subd. 2. b.

d. Multiply the number under subd. 1. c. by the per pupil transfer amount under par. (b) 2. c.

e. Determine the sum of the amounts shown on the financial statements submitted as described under subd. 1. d.

f. Determine the sum of the product under subd. 2. d. and the sum under subd. 2. e.

(c) 1. If the number determined in par. (b) 1. a. is greater than the number determined in par. (b) 1. b. for a school district, in the

2016-17, 2017-18, and 2018-19 school years, the department shall increase that school district's state aid payment under s. 121.08 by an amount equal to the difference multiplied by an amount under par. (b) 2. a., b., or c.

2. If the number determined in par. (b) 1. a. is less than the number determined in par. (b) 1. b. for a school district, in the 2016-17, 2017-18, and 2018-19 school years, the department shall decrease that school district's state aid payment under s. 121.08 by an amount equal to the difference multiplied by an amount under par. (b) 2. a., b., or c. If the state aid payment under s. 121.08 is insufficient to cover the reduction, the department shall decrease other state aid payments made by the department to the school district by the remaining amount. If the state aid payment under s. 121.08 and other state aid payments made by the department to the school district are insufficient to cover the reduction, the department shall use the moneys appropriated under s. 20.255 (2) (cg) to pay the balance to school districts under subd. 1.

(cm) 1. If the amount determined under par. (bm) 2. c. is greater than the amount determined under par. (bm) 2. f. for a school district, beginning in the 2019-20 school year, the department shall increase that school district's state aid payment under s. 121.08 by an amount equal to the difference.

2. If the amount determined under par. (bm) 2. c. is less than the amount determined under par. (bm) 2. f. for a school district, beginning in the 2019-20 school year, the department shall decrease that school district's state aid payment under s. 121.08 by an amount equal to the difference. If the state aid payment under s. 121.08 is insufficient to cover the reduction, the department shall decrease other state aid payments made by the department to the school district by the remaining amount. If the state aid payment under s. 121.08 and other state aid payments made by the department to the school district are insufficient to cover the reduction, the department shall use the moneys appropriated under s. 20.255 (2) (cg) to pay the balance to school districts under subd. 1.

(18) LOCATION OF VIRTUAL CHARTER SCHOOLS. For purposes of this section, a virtual charter school is located in the school district specified in s. 118.40 (8) (a).

History: 1997 a. 27, 41, 164; 1999 a. 117, 118; 2001 a. 16, 104; 2003 a. 55; 2005 a. 258; 2007 a. 222; 2009 a. 185, 250, 303, 304; 2011 a. 32, 114, 258; 2013 a. 20, 165; 2015 a. 55; 2017 a. 59, 143, 366; 2021 a. 19; 2025 a. 15, 204.

Cross-reference: See also ch. PI 36, Wis. adm. code.

Sub. (6) provides no authority to limit resident student transfers, or open enrollment, provided for in sub. (2) after the 2005-06 school year. Because there are no express provisions for any school year beyond 2005-06 and no indication that the application of the 2005-06 percentage limits would be ongoing, the application of the percentage limits must end in 2005-06. School District v. Evers, 2010 WI App 144, 330 Wis. 2d 80, 792 N.W.2d 615, 10-0829.

While this section imposes application requirements and some limitations, for example relating to racial balance and special education students under subs. (7) and (12) (b) 1., there are no restrictions on resident transfers based on the overall financial health of the resident district. School District v. Evers, 2010 WI App 144, 330 Wis. 2d 80, 792 N.W.2d 615, 10-0829.

The portion of sub. (7) (a) that requires a school district eligible for aid under subch. VI of ch. 121 to reject an open enrollment application if the requested transfer into or out of the district would increase the district's racial imbalance is inconsistent with the equal protection guarantees of the U.S. Constitution, as those guarantees were applied in *Seattle School District No. 1*, 551 U.S. 701 (2007). OAG 4-07. See also N.N. v. Madison Metropolitan School District, 670 F. Supp. 2d 927 (2009).

Differential treatment of special needs students doesn't make the open enrollment program unlawful. Federal law forbids discrimination based on stereotypes about a handicap, but it does not forbid decisions based on the actual attributes of the handicap. The program makes decisions based on the actual needs of students with disabilities, so it complies with the federal Americans with Disabilities Act, 42 USC 12132, and the federal Rehabilitation Act, 29 USC 794 (a). P.F. v. Taylor, 914 F.3d 467 (2019).

Open Enrollment: What's in the Best Interest of Wisconsin Students, Families, and Public Schools? Malugade. 97 MLR 813 (2014).

118.52 Part-time open enrollment. (1) DEFINITIONS. In this section:

(ar) "Nonresident school board" means the school board of a nonresident school district.

(b) "Nonresident school district" means a school district, other than a pupil's resident school district, in which the pupil is attending a course or has applied to attend a course under this section.

(c) "Parent" includes a guardian.

(d) "Resident school board" means the school board of a resident school district.

(e) "Resident school district" means the school district in which a pupil resides.

(2) APPLICABILITY. Beginning in the 2018-19 school year, a pupil enrolled in a public school in the high school grades may attend public school in a nonresident school district under this section for the purpose of taking a course offered by the nonresident school district. A pupil may attend no more than 2 courses at any time in nonresident school districts under this section.

(3) APPLICATION PROCEDURES. (a) The parent of a pupil who wishes to attend public school in a nonresident school district for the purpose of taking a course under this section shall submit an application, on a form provided by the department, to the school board of the nonresident school district in which the pupil wishes to attend a course not later than 6 weeks prior to the date on which the course is scheduled to commence. The application shall specify the course that the pupil wishes to attend and may specify the school or schools at which the pupil wishes to attend the course. The nonresident school board shall send a copy of the application to the pupil's resident school board, except that if the pupil is attending a school in a school district other than the pupil's resident school district pursuant to a whole grade sharing agreement under s. 118.50, the nonresident school district to which the pupil applies under this section shall send a copy of the application to the school board of the district in which the pupil is attending school pursuant to the whole grade sharing agreement.

(b) If a nonresident school board receives more applications for a particular course than there are spaces available in the course, the nonresident school board shall determine which pupils to accept on a random basis.

(c) No later than one week prior to the date on which the course is scheduled to commence, the nonresident school board shall notify the applicant and the resident school board, in writing, whether the application has been accepted and, if the application is accepted, the school at which the pupil may attend the course. If the applicant pupil is attending a school in a school district other than the pupil's resident school district pursuant to a whole grade sharing agreement under s. 118.50, the school board of the district to which the pupil applies under this section shall provide the notice required under this paragraph to the school board of the district in which the pupil is attending school pursuant to the whole grade sharing agreement. The acceptance applies only for the following semester, school year, or other session in which the course is offered. If the school board of the district to which the pupil applies under this section rejects an application, it shall include in the notice the reason for the rejection.

(d) No later than one week prior to the date on which the course is scheduled to commence, the resident school board, or, in the case of a pupil attending a school in a school district other than the pupil's resident school district pursuant to a whole grade sharing agreement under s. 118.50, the school board of the district in which the pupil is attending school, shall do all of the following:

1. If it denies an application to attend public school in a nonresident school district under sub. (6), notify the applicant and the nonresident school board, in writing, that the application has been denied and include in the notice the reason for the rejection.

2. If it determines that the course does not satisfy high school

graduation requirements under s. 118.33 in the resident school district, notify the applicant in writing.

(e) Following receipt of a notice of acceptance but prior to the date on which the course is scheduled to commence, the pupil's parent shall notify the resident school board, or, if the pupil is attending school in a school district other than the pupil's resident school district pursuant to a whole grade sharing agreement under s. 118.50, the school board of the district in which the pupil is attending school, and the school board of the district to which the pupil applies under this section of the pupil's intent to attend the course in the school district to which the pupil applies under this section.

(4) ADOPTION OF POLICIES AND CRITERIA. By February 1, 1998, each school board shall adopt a resolution specifying the criteria and policies described in subs. (5) and (6). If the school board wishes to revise the criteria or policies, it shall do so by resolution.

(5) NONRESIDENT SCHOOL DISTRICT ACCEPTANCE AND REJECTION CRITERIA. School board policies and criteria for accepting and rejecting applications under sub. (3) from pupils who reside in another school district shall be the same as the policies and criteria for entry into the course that apply to pupils who reside in the school district, except that the school board may give preference in attendance in a course to residents of the school district.

(6) RESIDENT SCHOOL DISTRICT REJECTION CRITERIA. (a) *Individualized education program requirements.* The school board of a pupil's resident school district, or, if the pupil is attending school in a school district other than the pupil's resident school district pursuant to a whole grade sharing agreement under s. 118.50, the school board of the district in which the pupil is attending school, shall reject a pupil's application to attend a course in a public school in a nonresident school district under this section if the resident school board or the school board of the district in which the pupil is attending school, respectively, determines that the course conflicts with the individualized education program for the pupil under s. 115.787 (2).

(b) *Undue financial burden.* The school board of a pupil's resident school district may reject an application to attend a course in a public school in a nonresident school district if the cost of the course would impose upon the resident school district an undue financial burden in light of the resident school district's total economic circumstances, including its revenue limit under subch. VII of ch. 121, its ability to pay tuition costs for the pupil, and the per pupil cost for children continuing to be served by the resident school district.

(8) APPEAL OF REJECTION. If an application is rejected under sub. (3) (c) or a pupil is prohibited from attending a course in a public school in a nonresident school district under sub. (6), the pupil's parent may appeal the decision to the department within 30 days after the decision. The department shall affirm the decision unless the department finds that the decision was arbitrary or unreasonable. The department's decision is final and is not subject to judicial review under subch. III of ch. 227.

(9) RIGHTS AND PRIVILEGES OF NONRESIDENT PUPILS. A pupil attending a course in a public school in a nonresident school district under this section has all of the rights and privileges of pupils residing in that school district and is subject to the same rules and regulations as pupils residing in that school district.

(10) DISCIPLINARY RECORDS. Notwithstanding s. 118.125, the resident school board shall provide to the nonresident school board to which a pupil has applied under this section, upon request by that school board, a copy of any expulsion findings and orders, a copy of records of any pending disciplinary proceeding involving the pupil, a written explanation of the reasons for the expulsion or pending disciplinary proceeding, and the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceeding.

(11) TRANSPORTATION. (a) *Responsibility.* The parent of a pupil attending a course in a public school in a nonresident school district under this section is responsible for transporting the pupil to and from the course that the pupil is attending.

(b) *Low-income assistance.* The parent of a pupil who is attending a course in a public school in a nonresident school district under this section may apply to the department for reimbursement of the costs incurred by the parent for the transportation of the pupil to and from the pupil's residence or school in which the pupil is enrolled and the school at which the pupil is attending the course if the pupil and parent are unable to pay the cost of such transportation. The department shall determine the reimbursement amount and shall pay the amount from the appropriation under s. 20.255 (2) (cy). The department shall give preference under this paragraph to those pupils who satisfy the income eligibility criteria for a free or reduced-price lunch under 42 USC 1758 (b) (1).

(12) TUITION. The resident school board shall pay to the nonresident school board, for each pupil attending a course in a public school in the nonresident school district under this section, an amount equal to the cost of providing the course to the pupil, calculated in a manner determined by the department.

History: 1997 a. 27, 41, 164.; 2001 a. 16; 2013 a. 20, 173; 2015 a. 55; 2017 a. 59.

Cross-reference: See also ch. PI 36, Wis. adm. code.

This section applies when a high school student attends an educational institution including the University of Wisconsin System (UWS) for the purpose of taking a course offered by the educational institution. Before the 2013 revision of this section, a high school student taking a concurrent enrollment course for college credit paid tuition to UWS, either directly or indirectly. Providing concurrent enrollment courses to high school students at no cost to the students is consistent with the legislative intent in revising this section. OAG 4-14.

118.53 Attendance by pupils enrolled in a home-based private educational program. (1) In this section, "course" means study which has the fundamental purposes of developing the knowledge, concepts, and skills in a subject.

(2) In addition to the standards for admission under ss. 118.14, 118.145 (1), and 120.12 (25), the school board of a district shall determine the minimum standards for admission to a course offered by the school district in grades kindergarten through 8.

(2m) A school board shall allow a pupil enrolled in a home-based private educational program who has not met the minimum standards for admission into high school under s. 118.145 (1) to attend up to 2 courses at a public school in the district during each school semester if the school board determines that the pupil qualifies for admission to those courses and if there is sufficient space in the classroom.

(3) A school board shall allow a pupil enrolled in a home-based private educational program, who has met the standards for admission under sub. (2), to attend up to 2 courses at a public school in the district during each school semester if the school board determines that there is sufficient space in the classroom.

(4) A pupil enrolled in a home-based private educational program and attending a public school under this section may attend one course in each of 2 school districts, but may not attend more than 2 courses in any semester.

History: 2013 a. 20, 211.

118.55 Early college credit program. (1) DEFINITIONS. In this section:

(b) "Governing body of a private school" means a board elected or appointed to govern a private school or, if no board is

appointed or elected to govern the school, any other person having direct charge of the private school.

(bm) "Institution of higher education" means all of the following:

1. An institution within the University of Wisconsin System or a tribally controlled college.

2. A private, nonprofit institution of higher education located in this state.

(c) "Participating private school" means a private school attended by a pupil who has applied to take or is taking a course under this section.

(2) ENROLLMENT IN INSTITUTION OF HIGHER EDUCATION; APPLICATION. Subject to sub. (7t) (c), any public high school pupil who is not attending a technical college under s. 38.12 (14) or 118.15 (1) (b) and any high school pupil attending a private school may enroll in an institution of higher education for the purpose of taking one or more nonsectarian courses at the institution of higher education, including during a summer semester or session. The pupil shall submit an application to the institution of higher education in the previous school semester. The pupil shall indicate on the application whether he or she will be taking the course or courses for high school credit or postsecondary credit or both, if applicable. The pupil shall also specify on the application that, if he or she is admitted, the institution of higher education may disclose the pupil's grades, the courses that he or she is taking, and his or her attendance record to the public or private school in which the pupil is enrolled.

(3) NOTIFICATION OF INTENT; DETERMINATION OF HIGH SCHOOL CREDIT; NOTIFICATION OF POSTSECONDARY CREDIT. (a) A public school pupil who intends to enroll in an institution of higher education under this section shall notify the school board of the school district in which he or she is enrolled or the governing board of the charter school under s. 118.40 (2r) or (2x) that he or she attends and a pupil attending a private school who intends to enroll in an institution of higher education under this section shall notify the governing body of the private school he or she attends of that intention no later than March 1 if the pupil intends to enroll in the fall semester, and no later than October 1 if the pupil intends to enroll in the spring semester. The notice shall include the titles of the courses in which the pupil intends to enroll and the number of credits of each course, and shall specify whether the pupil will be taking the courses for high school or postsecondary credit.

(b) If the public school pupil specifies in the notice under par. (a) that he or she intends to take a course at an institution of higher education for high school credit, the school board or governing board of the charter school under s. 118.40 (2r) or (2x) shall determine whether the course is comparable to a course offered in the school district or charter school, whether the course satisfies any high school graduation requirements, and the number of high school credits to award the pupil for the course, if any. If the pupil attending a private school specifies in the notice under par. (a) that he or she intends to take a course at an institution of higher education for high school credit, the governing body of the participating private school shall determine whether the course is comparable to a course offered at the private school, whether the course satisfies any requirements necessary for high school graduation, and the number of high school credits to award the pupil for the course, if any. In cooperation with institutions of higher education, the state superintendent shall develop guidelines to assist school boards, governing boards of charter schools under s. 118.40 (2r) or (2x), and participating private schools in making the determinations. The school board, governing board, or governing body shall notify the pupil of its determinations, in writing, before the beginning of the semester in which the pupil will be enrolled. If the public school pupil disagrees with the decision of a school board or governing board of a charter school under s. 118.40 (2r) or (2x) regarding comparability of courses, satisfaction of high school graduation requirements, or the number of high school credits to be awarded, the pupil may appeal the decision to the state superintendent within 30 days after the decision. The state superintendent's decision shall be final and is not subject to review under subch. III of ch. 227. If the pupil attending a participating private school disagrees with any decision of a governing body under this paragraph, the pupil may appeal the decision to the governing body within 30 days after the decision.

(c) If the pupil specifies in the notice under par. (a) that he or she intends to take a course for postsecondary credit at an institution of higher education that is within the University of Wisconsin System, the board of regents of the University of Wisconsin System shall notify the pupil whether credits earned for the course are transferable between and within institutions within the system.

(4) ADMISSION TO INSTITUTION OF HIGHER EDUCATION; NOTIFICATION. (a) An institution of higher education shall admit a pupil to attend a course under this section if all of the following apply:

1. The pupil meets the requirements and prerequisites of the course.

2. There is space available in the course.

(am) A pupil may attend an institution of higher education under this section only if the institution of higher education complies with s. 118.13 (1).

(b) If an institution of higher education admits a pupil, it shall notify the school board of the school district in which the pupil is enrolled, the governing board of the charter school under s. 118.40 (2r) or (2x) the pupil attends, or the governing body of the pupil's participating private school, in writing, within 30 days after the beginning of classes at the institution of higher education. The notification shall include the course or courses in which the pupil is enrolled.

(c) If a pupil is not admitted to attend the course that he or she specified in the notice under sub. (3) (a) but is admitted to attend a different course, the pupil shall immediately notify the school board of the school district in which he or she is enrolled, the governing board of the charter school under s. 118.40 (2r) or (2x) the pupil attends, or the governing body of the pupil's participating private school and the school board, governing board, or governing body shall inform the pupil of its determinations under sub. (3) (b) regarding the course to which the pupil was admitted as soon as practicable.

(5) RESPONSIBILITY FOR AND DETERMINATION OF COSTS; PAYMENT AND REIMBURSEMENT FOR CERTAIN COSTS. Subject to sub. (7t), the school board of the school district in which a pupil attending an institution of higher education under this section is enrolled, the governing board of the charter school under s. 118.40 (2r) or (2x) attended by a pupil who is attending an institution of higher education under this section, and the governing body of the participating private school attended by a pupil who is attending an institution of higher education under this section shall be responsible for the following amount:

(a) If the public high school pupil is taking a course for high school credit, regardless of whether the course is also taken for postsecondary credit, and if the course is not comparable to a course offered in the school district or at the charter school, 75 percent of the actual cost of tuition for the course, as determined under par. (d). If a private high school pupil attending a private school is taking a course for high school credit, regardless of whether the course is also taken for postsecondary credit, and if

the course is not comparable to a course offered by the participating private school, 75 percent of the actual cost of tuition for the course, as determined under par. (d). If the pupil takes a course described under this paragraph at a high school in a school district, at a charter school under s. 118.40 (2r) or (2x), or at a participating private school, the school board of the school district, the governing board of the charter school, or the governing body of the participating private school is responsible for the costs of books and other necessary materials for the course.

(b) If the pupil is taking a course for postsecondary credit and if the course is not comparable to a course offered in the school district, at the charter school under s. 118.40 (2r) or (2x), or at the participating private school, 25 percent of the actual cost of tuition for the course, as determined under par. (d).

(d) If a school board, the governing board of a charter school under s. 118.40 (2r) or (2x), or the governing body of a participating private school is required to pay tuition on behalf of a pupil under this subsection, the tuition charged for each credit assigned to the course may not exceed the following:

1. For an institution of higher education under sub. (1) (bm) 1., other than a University of Wisconsin college campus, as defined in s. 36.05 (6m), one-third of the amount that would be charged for each credit assigned to the course to an individual who is a resident of this state and who is enrolled in the educational institution as an undergraduate student. Subject to sub. (7t), neither the institution of higher education nor the school board, governing board, or governing body may charge any additional costs or fees to a pupil to attend a course under this section.

1m. For an institution of higher education under sub. (1) (bm) that is a University of Wisconsin college campus, as defined in s. 36.05 (6m), one-half of the amount that would be charged for each credit assigned to the course to an individual who is a resident of this state and who is enrolled in the college campus as an undergraduate student. Subject to sub. (7t), neither the college campus nor the school board or governing board may charge any additional costs or fees to a pupil to attend a course under this section.

2. For an institution of higher education under sub. (1) (bm) 2., one-third of the amount that would be charged for each credit assigned to a similar course offered by the University of Wisconsin-Madison to an individual who is a resident of this state and who is enrolled at the University of Wisconsin-Madison as an undergraduate student. Subject to sub. (7t), neither the institution of higher education nor the school board or governing board may charge any additional costs or fees to a pupil to attend a course under this section.

(e) 1. Subject to sub. (7t), within 30 days after the end of the semester, the school board of the school district in which a pupil who attended an institution of higher education under this section was enrolled, the governing board of the charter school under s. 118.40 (2r) or (2x) attended by a pupil who attended an institution of higher education under this section, and the governing body of a participating private school attended by a pupil who attended the institution of higher education under this section shall pay the institution, on behalf of the pupil, the amount determined under par. (d) and shall submit an itemized report to the department of the amounts paid under this subdivision.

2. Subject to subd. 3., from the appropriation under s. 20.445 (1) (d), the secretary of the department of workforce development shall, on behalf of the school board of a school district in which a pupil who attended an institution of higher education under this section was enrolled, on behalf of the governing board of the charter school under s. 118.40 (2r) or (2x) attended by a pupil who attended an institution of higher education under this section, and on behalf of the governing body of a participating private school and a pupil who attended the private school and who attended an institution of higher education under this section, pay to the department of public instruction the following amount:

a. For a pupil who took a course for high school credit, as described in par. (a), 25 percent of the actual cost of tuition for the course, as determined under par. (d). The department of public instruction shall reimburse the school board of the school district, governing board of the charter school, or the governing body of the private school the amount received from the department of workforce development under this subd. 2. a.

b. For a pupil who took a course for postsecondary credit, as described in par. (b), 50 percent of the actual cost of tuition for the course, as determined under par. (d). The department of public instruction shall reimburse the school board of the school district, governing board of the charter school, or the governing body of the private school the amount received from the department of workforce development under this subd. 2. b.

3. If the appropriation under s. 20.445 (1) (d) in any fiscal year is insufficient to reimburse all school districts, governing boards, and governing bodies eligible for the full amount of reimbursable tuition costs under subd. 2., the secretary of the department of workforce development shall notify the state superintendent, who shall prorate the amount of the payments under subd. 2. among eligible school districts, governing boards, and governing bodies.

(6) RESPONSIBILITY OF PUPIL FOR TUITION AND FEES; INSTITUTION OF HIGHER EDUCATION. (a) Subject to sub. (7t), a pupil taking a course at an institution of higher education for high school credit under this section is not responsible for any portion of the tuition and fees for the course if the school board, the governing board of a charter school under s. 118.40 (2r) or (2x), the state superintendent on appeal under sub. (3) (b), the governing body of the participating private school, or the governing body on appeal under sub. (3) (b) has determined that the course is not comparable to a course offered in the school district, at the charter school, or at the participating private school, whichever is applicable.

(b) A pupil taking a course at an institution of higher education for high school credit under this section is responsible for the tuition and fees for the course if the school board, the governing board of a charter school under s. 118.40 (2r) or (2x), or the governing body of the participating private school has determined that the course is comparable to a course offered in the school district, at the charter school, or at the participating private school, unless the state superintendent or the governing body reverses the decision of the school board, governing board, or governing body, respectively, on appeal under sub. (3) (b).

(c) 1. Except as provided in subd. 2., a pupil taking a course under this section at an institution of higher education only for postsecondary credit is responsible for 25 percent of the actual cost of tuition for the course, as determined under sub. (5) (d). The school board of the school district in which the pupil attending an institution under this section is enrolled, the governing board of the charter school under s. 118.40 (2r) or (2x) attended by a pupil attending an institution of higher education under this section, and the governing body of a participating private school attended by a pupil attending an institution of higher education under this section shall establish a written policy governing the timing and method for recovering from the pupil or the pupil's parent or guardian the pupil's share of tuition as specified in this subdivision.

2. The school board, governing board of the charter school under s. 118.40 (2r) or (2x), or the governing body of the participating private school shall waive the pupil's responsibility for costs under subd. 1. if the department determines that the cost of

the course would pose an undue financial burden on the pupil's family.

(7g) TRANSPORTATION. The parent or guardian of a pupil who is attending an institution of higher education or technical college under this section and is taking a course for high school credit may apply to the state superintendent for reimbursement of the cost of transporting the pupil between the high school or participating private school in which the pupil is enrolled and the institution of higher education or technical college that the pupil is attending if the pupil and the pupil's parent or guardian are unable to pay the cost of such transportation. The state superintendent shall determine the reimbursement amount and shall pay the amount from the appropriation under s. 20.255 (2) (cy). The state superintendent shall give preference under this subsection to those pupils who satisfy the income eligibility criteria for a free or reduced-price lunch under 42 USC 1758 (b) (1).

(7t) LIMITATIONS ON PARTICIPATION AND PAYMENT. (a) A school board, governing board of a charter school under s. 118.40 (2r) or (2x), or governing body of a participating private school may establish a written policy limiting the number of credits for which the school board, governing board, or governing body will pay under sub. (5) and s. 38.12 (14) (d) to the equivalent of 18 postsecondary semester credits per pupil.

(c) If a pupil receives a failing grade in a course, or fails to complete a course, at an institution of higher education or technical college for which the school board, governing board of a charter school under s. 118.40 (2r) or (2x), or governing body of a participating private school has made payment, the pupil's parent or guardian, or the pupil if he or she is an adult, shall reimburse the school board, governing board, or governing body the amount paid on the pupil's behalf upon the request of the school board, governing board, or governing body. If a school board, governing board, or governing body that requests reimbursement of a payment made under this section is not reimbursed as requested, the pupil on whose behalf the payment was made is ineligible for any further participation in the program under this section. For the purposes of this paragraph, a grade that constitutes a failing grade for a course offered in the school district, at the charter school under s. 118.40 (2r) or (2x), or at the participating private school constitutes a failing grade for a course taken at an institution of higher education or technical college under this section.

(8) PROGRAM INFORMATION; AGREEMENT. (a) Annually by October 1, each school board shall provide information about the program under this section to all pupils enrolled in the school district in the 8th, 9th, 10th, and 11th grades.

(b) A school board, governing board of a charter school under s. 118.40 (2r) or (2x), or the governing body of a participating private school may enter into an agreement with an institution of higher education to facilitate the early college credit program under this section.

(9) RULES. The state superintendent shall promulgate rules to implement and administer this section, including rules establishing criteria for determining reimbursement amounts under sub. (7g).

(10) INAPPLICABILITY. (a) In this subsection:

1. "Private, nonprofit institution" means a private, nonprofit postsecondary institution that is a member of the Wisconsin Association of Independent Colleges and Universities or any successor organization.

2. "University of Wisconsin System institution" means a 4-year institution in the University of Wisconsin System.

(b) This section does not apply to a course for which a public high school pupil may earn postsecondary credit if all of the following apply:

1. The school board of the school district and one of the following have entered into an agreement before, on, or after July 1, 2018, to provide a college credit in high school program to academically qualified pupils under which participating pupils may take the course for postsecondary credit:

a. The chancellor of a University of Wisconsin System institution.

b. The president of a private, nonprofit institution.

2. The instruction of pupils in the course takes place in a school building in the school district or a school district facility.

3. The individual who provides instruction in the course is any of the following:

a. For a course taught pursuant to an agreement under subd. 1. a., a high school teacher who is employed by the school district and certified or approved to provide the instruction by the participating University of Wisconsin System institution or a faculty member of the participating University of Wisconsin System institution.

b. For a course taught pursuant to an agreement under subd. 1. b., a high school teacher who is employed by the school district and certified or approved to provide the instruction by the participating private, nonprofit institution or a faculty member of the participating private, nonprofit institution.

(c) This section does not apply to a course for which a high school pupil attending a private school may earn postsecondary credit if all of the following apply:

1. The governing body of the private school and one of the following have entered into an agreement before, on, or after July 1, 2018, to provide a college credit in high school program to academically qualified pupils under which participating pupils may take the course for postsecondary credit:

a. The chancellor of a University of Wisconsin System institution.

b. The president of a private, nonprofit institution.

2. The instruction of pupils in the course takes place in the private school building.

3. The individual who provides instruction in the course is any of the following:

a. For a course taught pursuant to an agreement under subd. 1. a., a high school teacher who is employed by the governing body of the private school and certified or approved to provide the instruction by the participating University of Wisconsin System institution or a faculty member of the participating University of Wisconsin System institution.

b. For a course taught pursuant to an agreement under subd. 1. b., a high school teacher who is employed by the governing body of the private school and certified or approved to provide the instruction by the participating private, nonprofit institution or a faculty member of the participating private, nonprofit institution.

(d) This section does not apply to a course for which a high school pupil attending a charter school under s. 118.40 (2r) or (2x) may earn postsecondary credit if all of the following apply:

1. The governing board of the charter school and one of the following have entered into an agreement before, on, or after April 2, 2022, to provide a college credit in high school program to academically qualified pupils under which participating pupils may take the course for postsecondary credit:

a. The chancellor of a University of Wisconsin System institution.

b. The president of a private, nonprofit institution.

2. The instruction of pupils in the course takes place in the charter school building.

3. The individual who provides instruction in the course is any of the following:

a. For a course taught pursuant to an agreement under subd. 1. a., a high school teacher who is employed by the governing board of the charter school and certified or approved to provide the instruction by the participating University of Wisconsin System institution or a faculty member of the participating University of Wisconsin System institution.

b. For a course taught pursuant to an agreement under subd. 1. b., a high school teacher who is employed by the governing board of the charter school and certified or approved to provide the instruction by the participating private, nonprofit institution or a faculty member of the participating private, nonprofit institution.

History: 1991 a. 39, 269, 315; 1993 a. 399; 1995 a. 27 ss. 3979m, 9145 (1); 1997 a. 27 ss. 2816 to 2819, 2821 to 2827m, 2844, 2845; Stats. 1997 s. 118.55; 1997 a. 113, 164, 237; 1999 a. 9; 2003 a. 131; 2015 a. 55; 2017 a. 59, 307; 2017 a. 364 ss. 48, 49; 2021 a. 217; 2025 a. 129.

Cross-reference: See also chs. PI 38 and 40, Wis. adm. code.

118.56 Work based learning programs. A school board, a governing board of a charter school established under s. 118.40 (2r) or (2x), or a governing body of a private school may create a work based learning program for pupils in grades 9 to 12. A school board or governing body that creates a work based learning program under this section shall create the program to do all of the following:

(1) Require a pupil in the program to work at least 280 hours per school year for an employer that complies with sub. (3). Hours of instruction may not be used to satisfy the work requirements under this subsection. Hours that fulfill the work requirements under this subsection shall be counted as hours of direct pupil instruction, as provided under ss. 118.60 (2) (a) 8. and 119.23 (2) (a) 8.

(2) Require a pupil to complete the required work hours by working no fewer than 40 and no more than 50 days per school year, by working no fewer than 6 and no more than 8 hours per day, and by working no more than 2 days per week.

(3) Require that an employer who participates in the program do all of the following:

(a) Comply with state laws relating to the employment of minors and any applicable federal labor law requirements for age and immigration status.

(b) Provide each pupil with occupational training and work based learning experiences.

(c) Provide each pupil with at least 30 hours of training while employing the pupil.

(d) Provide each pupil with a mentor who supervises the pupil's work and provides the pupil with a year-end evaluation.

(e) Provide a year-end evaluation to the pupil.

(4) Provide transportation to and from the workplace at no cost to the pupil or the pupil's family.

(5) In determining eligibility for the program, allow the school board or governing body to require a pupil to demonstrate employability through an interview process, teacher recommendations, or previous work, internship, or volunteer experience.

(6) Require that a pupil who wishes to participate in the program enter into a signed agreement with the participating school and the pupil's parent or guardian.

History: 2013 a. 20; 2015 a. 55; 2017 a. 11, 36.

118.57 Notice of educational options; accountability report performance category; pupil assessments. (1) Annually, by January 31, each school board shall publish as a class 1 notice, under ch. 985, and post on its Internet site a description of the educational options available to children in the school district, including public schools, private schools participating in a parental choice program, charter schools, virtual schools, full-time or part-time open enrollment in a nonresident school district, the youth apprenticeship program under s. 106.13, and the early college credit program. A school board that does not operate high school grades is not required to include an educational option offered only to high school pupils in a description of educational options under this subsection.

(2) The school board shall include in the notice under sub. (1) the most recent performance category assigned under s. 115.385 (1) (b) to each school within the school district boundaries, including charter schools established under s. 118.40 (2r) or (2x) and private schools participating in a parental choice program under s. 118.60 or 119.23. The notice published by the school board shall inform parents that the full school and school district accountability report is available on the school board's Internet site.

History: 2015 a. 55; 2017 a. 59, 143; 2021 a. 83.

118.58 Class rankings. (1) In this section, "virtual private school" means a private school in which all or a portion of the instruction is provided through means of the Internet, and the pupils enrolled in and instructional staff employed by the school are geographically remote from each other.

(2) If a school board, operator of a charter school, or governing body of a private school or tribal school operates a high school that includes grades 11 and 12, the school board, charter school operator, or governing body shall, for each high school that includes grades 11 and 12, prepare a class ranking of pupils enrolled in the high school as of the class's completion of grade 11 if there are at least 15 pupils in the class. Pupils shall be ranked on the basis of academic achievement and the sole criterion for ranking pupils shall be the pupil's grade point average.

(3) (a) Subject to par. (b), each class ranking under sub. (2) shall identify those pupils who rank in the top 5 percent of their high school class and those pupils who rank in the top 10 percent of their high school class. The class ranking may also identify the class rank of pupils who do not rank in the top 10 percent of their high school class.

(b) If a high school's class enrollment is at least 15 but less than 20 pupils, the school board, operator of the charter school, or governing body of the private school or tribal school shall identify the highest ranked and 2nd highest ranked pupils in the class using the ranking method under sub. (2). For purposes of par. (a) and sub. (4) and s. 36.11 (3m), the highest ranked pupil shall be considered to be in the top 5 percent of the pupil's high school class and the 2nd highest ranked pupil shall be considered to be in the top 10 percent of the pupil's high school class.

(4) After completing the class ranking required under sub. (2), a school board, operator of a charter school, or governing body of a private school or tribal school shall do all of the following:

(a) Notify each pupil ranked in the top 10 percent of the pupil's high school class that the pupil is ranked, as applicable, in the top 5 percent or in the top 10 percent of the pupil's high school class.

(b) For each pupil notified under par. (a), include that the pupil is ranked, as applicable, in the top 5 percent or in the top 10 percent of the pupil's high school class on the pupil's high school transcript as of the pupil's completion of grade 11.

(5) This section does not apply to a virtual private school.

History: 2023 a. 95.

118.60 Parental choice program for eligible school districts and other school districts. (1) In this section:

(ab) "Accrediting entity" means Cognia, Inc., Wisconsin Religious and Independent Schools Accreditation, Independent Schools Association of the Central States, Wisconsin Evangelical

Lutheran Synod School Accreditation, National Lutheran School Accreditation, Wisconsin Association of Christian Schools, Christian Schools International, Association of Christian Schools International, the diocese or archdiocese within which a private school is located, and any other organization recognized by the National Council for Private School Accreditation.

(ad) "Administrator" means the superintendent, supervising principal, executive director, or other person who acts as the administrative head of a private school participating in the program under this section.

(af) "Disqualified organization" means an accrediting organization that is not an accrediting entity or a member of or otherwise sanctioned by an accrediting entity.

(ag) "Disqualified person" means a person who, when a private school was barred or terminated from participation in the program under this section by an order issued under sub. (10), satisfied at least one of the following:

1. Had a controlling ownership interest in, or was the administrator or an officer, director, or trustee of, the private school.

2. Was a person designated by the administrator of the private school to assist in processing pupil applications.

3. Was responsible for an action or circumstance that led to the private school being barred or terminated from participation in the program under this section.

(am) "Eligible school district" means the school district that was identified as an eligible school district under 2011 Wisconsin Act 32, section 9137 (3u).

(bn) 1. Except as provided in subd. 2., "new private school" means a school that qualifies as a private school under s. 115.001 (3r) and that satisfies either of the following:

a. The school has been in continuous operation in this state for less than 12 consecutive months.

b. The school provides education to fewer than 40 pupils divided into 2 or fewer grades.

2. "New private school" does not include a private school the governing body of which operates or manages a private school that is participating in the program under this section or under s. 119.23 if all of the following apply:

a. No payment has been withheld from any private school operated or managed by the governing body under sub. (10) (d) or s. 119.23 (10) (d) in the 3 immediately preceding school years.

b. No order barring any private school operated or managed by the governing body from participating in the program under this section or s. 119.23 has been issued under sub. (10) (a), (am), (ar), or (b) or under s. 119.23 (10) (a), (am), (ar), or (b) in the 3 immediately preceding school years.

(c) "Preaccreditation" means the review and approval of an educational plan. Review of an education plan includes consideration of whether the school submitting the plan meets the requirements under s. 118.165 (1). The fact that a private school has obtained preaccreditation does not require an accrediting entity to accredit the private school.

(cm) "Preaccrediting entity" means the Institute for the Transformation of Learning at Marquette University, Wisconsin North Central Association, Wisconsin Religious and Independent Schools Accreditation, Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, Wisconsin Association of Christian Schools, Christian Schools International, Association of Christian Schools International, and the diocese or archdiocese within which a private school is located.

(d) "Progress records" has the meaning given in s. 118.125 (1) (c).

(g) "Teacher" means a person who has primary responsibility for the academic instruction of pupils.

(2) (a) Subject to pars. (ag) and (ar), any pupil in grades kindergarten to 12 who resides within an eligible school district may attend any private school under this section and, subject to pars. (ag), (ar), (be), (bm), and (bs), any pupil in grades kindergarten to 12 who resides in a school district, other than an eligible school district or a 1st class city school district, may attend any private school under this section if all of the following apply:

1. a. Except as provided in par. (bm), the pupil is a member of a family that has a total family income that does not exceed an amount equal to 3.0 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget. In this subdivision and sub. (3m), family income includes income of the pupil's parents or legal guardians. Except as provided in subd. 1. c. and d., the family income of the pupil shall be verified as provided in subd. 1. b. A pupil attending a private school under this section whose family income increases may continue to attend a private school under this section.

b. The private school or the pupil's parent or guardian submits to the department of public instruction the names, addresses, social security numbers, and other state and federal tax identification numbers, if any, of the pupil's parents or legal guardians that reside in the same household as the pupil, whether and to whom the parents or legal guardians are married, the names of all of the other members of the pupil's family residing in the same household as the pupil, and the school year for which family income is being verified under this subd. 1. b. The department of revenue shall review the information submitted under this subd. 1. b. and shall verify the eligibility or ineligibility of the pupil to participate in the program under this section on the basis of family income. In this subdivision, "family income" means federal adjusted gross income of the parents or legal guardians residing in the same household as the pupil for the tax year preceding the school year for which family income is being verified under this subd. 1. b. or, if not available, for the tax year preceding the tax year preceding the school year for which family income is being verified under this subd. 1. b. Family income for a family in which the pupil's parents are married or in which the pupil's legal guardians are married shall be reduced by $7,000 before the verification is made under this subd. 1. b. The department of revenue may take no other action on the basis of the information submitted under this subd. 1. b. If the department of revenue is unable to verify family income or to verify whether the pupil is eligible or ineligible to participate in the program under this section on the basis of family income, the department of revenue shall notify the department of public instruction, the private school, and the pupil's parent or guardian of this fact and the department of public instruction shall utilize an alternative process, to be established by the department of public instruction, to determine whether the pupil is eligible to participate in the program under this section on the basis of family income. The department of public instruction may not request any additional verification of income from the family of a pupil once the department of revenue has verified that the pupil is eligible to participate in the program under this section on the basis of family income. The department of public instruction shall establish a procedure for determining family income eligibility for those pupils for whom no social security number or state or federal tax identification number has been provided.

c. The family income of a pupil does not need to be verified under subd. 1. b. for a pupil who attended a participating private school under this section or s. 119.23 in a school year and applies to attend a participating private school under this section in the following school year.

d. The family income of a pupil does not need to be verified under subd. 1. b. for a pupil who resided in a 1st class city school district in a school year, attended a participating private school in a 1st class city school district under the program under s. 119.23 in that school year, and applies to attend a participating private school in an eligible school district in the school year immediately following that school year.

2. Except as provided in par. (d), the pupil satisfies one or more of the following:

a. The pupil was enrolled in a public school in the previous school year.

b. The pupil was not enrolled in school in the previous school year.

c. The pupil attended a private school under this section or s. 119.23 in the previous school year.

d. The pupil is applying to attend kindergarten, first grade, or 9th grade in a private school participating in the program under this section.

e. The pupil attended a school in another state in the previous school year.

f. The pupil was on a waiting list to attend a private school under this section or s. 119.23 during the previous school year.

g. If the pupil resides in a school district, other than an eligible school district or a 1st class city school district, the pupil was on a waiting list under sub. (3) (ar) 4. in any previous school year.

3. a. Except as provided in subd. 3. b. and c. and par. (ag) 1., the private school notified the state superintendent of its intent to participate in the program under this section or in the program under s. 119.23, and paid the nonrefundable fee, set by the department as required under s. 119.23 (2) (a) 3., by January 10 of the previous school year. The notice shall specify the number of pupils participating in the program under this section and in the program under s. 119.23 for which the school has space.

b. For a private school that intends to participate in the program under this section in an eligible school district identified under 2011 Wisconsin Act 32, section 9137 (3u), the private school notified the state superintendent of its intent to participate, and paid the nonrefundable fee set by the department under subd. 3. a. by August 1, 2011. The notice shall specify the number of pupils participating in the program under this section for which the school has space.

c. For a private school that intends to participate in the program under this section and to accept pupils who reside in a school district, other than an eligible school district or a 1st class city school district, in the 2013-14 school year, the private school notified the state superintendent of its intent to participate and paid the nonrefundable fee set by the department as required under s. 119.23 (2) (a) 3. by July 26, 2013. The private school shall include an electronic mail address on the notice of intent to participate and shall specify the number of pupils who reside in a school district, other than an eligible school district or a 1st class city school district, for which the school has space. The department shall notify the private school that it has received the notice of intent to participate in writing and by electronic mail by July 31, 2013.

4. The private school complies with 42 USC 2000d.

5. The private school meets all health and safety laws or codes that apply to public schools.

6. a. Except as provided in subd. 6. c. and d., all of the private school's teachers have a teaching license issued by the department or a bachelor's degree or a degree or educational credential higher than a bachelor's degree, including a masters or doctorate, from a nationally or regionally accredited institution of higher education.

b. All of the private school's administrators have at least a bachelor's degree from a nationally or regionally accredited institution of higher education or a teaching license or administrator's license issued by the department.

c. Any teacher employed by the private school on July 1 of the first school year that begins after a school district is identified as an eligible school district, who has been teaching for at least the 5 consecutive years immediately preceding that July 1, and who does not satisfy the requirements under subd. 6. a. on that July 1, applies to the department on a form prepared by the department for a temporary, nonrenewable waiver from the requirements under subd. 6. a. The department shall promulgate rules to implement this subd. 6. c., including the form of the application and the process by which the waiver application will be reviewed. The application form shall require the applicant to submit a plan for satisfying the requirements under subd. 6. a., including the name of the accredited institution of higher education at which the teacher is pursuing or will pursue the bachelor's degree and the anticipated date on which the teacher expects to complete the bachelor's degree. No waiver granted under this subd. 6. c. is valid after July 31 of the 5th school year that begins after a school district was identified as an eligible school district.

d. Any teacher employed on July 1, 2013, by a private school that accepts pupils under the program who reside in a school district, other than an eligible school district or a 1st class city school district, who has been teaching for at least the 5 consecutive years immediately preceding that July 1, and who does not satisfy the requirements under subd. 6. a. on that July 1, applies to the department on a form prepared by the department for a temporary, nonrenewable waiver from the requirements under subd. 6. a. The department shall promulgate rules to implement this subd. 6. d., including the form of the application and the process by which the waiver application will be reviewed. The application form shall require the applicant to submit a plan for satisfying the requirements under subd. 6. a., including the name of the accredited institution of higher education at which the teacher is pursuing or will pursue the bachelor's degree and the anticipated date on which the teacher expects to complete the bachelor's degree. No waiver granted under this subd. 6. d. is valid after July 31 of the 5th school year that begins after July 1, 2013.

7. a. For a private school that was a first-time participant in the program under this section before April 10, 2014, and that is not accredited by an accrediting entity, the private school obtains accreditation from an accrediting entity by December 31 of the 3rd school year following the first school year in which the private school began participating in the program under this section. If the private school is accredited under this subd. 7. a., the private school is not required to obtain preaccreditation under subd. 7. b. as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

b. Each private school that begins participation in the program under this section on or after April 10, 2014, and that is not accredited by an accrediting entity, shall obtain preaccreditation by a preaccrediting entity by August 1 before the first school term in which the private school begins participation in the program under this section, or by May 1 if the private school begins participating in the program during summer school. In any school year, a private school to which this subd. 7. b. applies may apply for and seek to obtain preaccreditation from only one preaccrediting entity. A private school to which this subd. 7. b. applies that fails to obtain preaccreditation as required under this subd. 7. b. may not participate in the program under this section or under s. 119.23 until preaccreditation has been obtained, but the private school may apply for and seek to obtain preaccreditation from a preaccrediting entity for the following school year.

c. A private school to which subd. 7. b. applies shall apply for

accreditation by an accrediting entity by December 31 of the first school year that begins after April 10, 2014, in which the private school begins participation in the program under this section, and shall achieve accreditation by an accrediting entity by December 31 of the 3rd school year following the first school year in which the private school begins participation in the program under this section. If the private school is accredited under this subd. 7. c., the private school is not required to obtain preaccreditation under subd. 7. b. as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

8. Notwithstanding s. 118.165 (1) (c), the private school annually provides at least 1,050 hours of direct pupil instruction in grades 1 to 6 and at least 1,137 hours of direct pupil instruction in grades 7 to 12. Hours provided under this subdivision include recess and time for pupils to transfer between classes but do not include the lunch periods. Annually, no more than 140 hours of work under s. 118.56 may be counted as hours of direct pupil instruction.

9. If the private school operates any grade from 5 to 12, the private school includes in its curriculum the instruction required under s. 121.02 (1) (L) 8., so far as applicable.

(ag) The governing body of a new private school shall comply with all of the following before the new private school may participate in the program under this section:

1. By August 1 of the school year immediately preceding the school year in which the new private school intends to participate in the program under this section, complete and submit to the department the following on forms provided by the department:

a. A notice of intent to participate and agreement to comply with procedural requirements.

b. A complete anticipated budget for the first fiscal period of participation in the program under this section showing that the private school will have a positive cash flow in each month of the fiscal period and no operating deficit. The governing body shall include on the completed form anticipated enrollments for all pupils enrolled in the new private school and for pupils enrolled in the new private school under this section; estimated revenues and costs; a schedule of anticipated beginning and ending net choice program assets; and a schedule of monthly cash flow requirements. The governing body shall include in the budget contingent funding sources the new private school will use in the event that actual enrollments are less than expected.

c. The nonrefundable fee established by the department, as required under s. 119.23 (2) (a) 3., for the school year in which the fee is paid by the new private school. If the amount of the fee paid by the new private school under this subd. 1. c. increases for the school year in which the new private school will first participate in the program under this section, the new private school shall pay the difference between the fee paid and the fee due to the department. If the amount of the fee paid by the new private school under this subd. 1. c. decreases for the school year in which the new private school will first participate in the program under this section, the department shall refund the new private school the difference between the fee paid and the fee due to the department.

2. a. By August 1 of the school year immediately preceding the school year in which the new private school intends to participate in the program under this section, submit to the department the information under sub. (6p) (a) and (b).

b. If, at the time the new private school submits the information required under subd. 2. a., the new private school does not have a physical property within which the private school intends to operate, submit a mailing address of an administrator of the private school.

4. Notwithstanding the deadline to obtain preaccreditation under par. (a) 7. b., by December 15 of the school year immediately preceding the school year in which the new private school intends to participate in the program under this section, obtain preaccreditation from a preaccrediting entity.

5. By August 1 of the first school year in which the new private school intends to participate in the program under this section, demonstrate to the satisfaction of the department that the new private school has contracted with a 3rd-party payroll service that will remit federal and state payroll taxes for each employee of the new private school for the duration of the school year.

(ar) By December 31 of the school year immediately preceding the school year in which a new private school intends to participate in the program under this section, the department shall notify the new private school in writing whether it has satisfied those requirements under par. (ag) that must be satisfied before December 31. If the department determines that the new private school has not satisfied those requirements, the new private school may not participate in the program under this section in the following school year, but may reinitiate the process under par. (ag) for the next following school year.

(be) 1. In this paragraph:

a. "Applicable percentage" means, for the 2015-16 and 2016-17 school years, 1 percent, and for each school year beginning with the 2017-18 school year and ending with the 2025-26 school year, the applicable percentage for the previous school year plus one percentage point.

b. "Membership" has the meaning given in s. 121.004 (5).

c. "Pupil participation limit" means a school district's membership in the previous school year multiplied by the applicable percentage for the current school year.

2. Except as provided in subd. 2m., beginning with the 2015-16 school year and ending with the 2025-26 school year, the total number of pupils residing in a school district, other than an eligible school district or a 1st class city school district, who may attend a private school under this section during a school year may not exceed the school district's pupil participation limit for that school year.

2m. A pupil who resides in a school district, other than an eligible school district or a 1st class city school district, may attend a private school under this section if all of the following apply:

a. The pupil attended a private school under par. (bm) in the previous school year.

b. The department determines that the total number of applications from pupils residing in the pupil's resident school district exceeded the pupil's resident school district's pupil participation limit.

c. The pupil's application to attend a private school under this section was not accepted under the random process utilized by the department.

d. The private school to which the pupil applied to attend under this section has not exceeded its maximum general capacity or seating capacity.

3. Beginning with the 2026-27 school year, there is no limit on the number of pupils who may attend private schools under this section.

(bm) No pupil who resides in a school district, other than an eligible school district or a 1st class city school district, may attend a participating private school under this section unless the pupil is a member of a family that has a total family income that does not exceed an amount equal to 2.2 times the poverty level, determined in accordance with criteria established by the director of the federal office of management and budget. In this paragraph and sub. (3m), family income includes income of the

pupil's parents or legal guardians. Except as provided in par. (a) 1. c., the family income of the pupil shall be verified as provided in par. (a) 1. b. A pupil attending a private school under this section whose family income increases may continue to attend a private school under this section.

(bs) In the 2015-16 and 2016-17 school years, a private school may accept pupils who reside in a school district, other than an eligible school district or a 1st class city school district, under this section only if the private school has been continually operating as a private school since May 1, 2013.

(c) 1. Notwithstanding par. (a) 6., a teacher employed by a private school participating in the program under this section who teaches only courses in rabbinical studies is not required to have a bachelor's degree.

2. Notwithstanding par. (a) 6., an administrator of a private school participating in the program under this section that prepares and trains pupils attending the school in rabbinical studies is not required to have a bachelor's degree.

(d) 1. In this paragraph:

a. "Agreement year" means the first school year during which a combined private school and a private school participating in the program under this section are governed by the same governing body under a governing body agreement.

b. "Combined private school" means a private school that enters into a governing body agreement and did not participate in the program under this section in the school year preceding the agreement year.

c. "Governing body agreement" means an agreement to be governed by the same governing body that is entered into by a private school participating in the program under this section and a private school that is not participating in the program under this section.

2. If a combined private school participates in the program under this section during the agreement year or the school year following the agreement year, the requirements under par. (a) 2. do not apply to a pupil who applies to attend the combined private school under this section during the agreement year or the school year following the agreement year.

(3) (a) The pupil or the pupil's parent or guardian shall submit an application, on a form provided by the state superintendent, to the participating private school that the pupil wishes to attend. If more than one pupil from the same family applies to attend the same private school, the pupils may use a single application. No later than 60 days after the end of the application period during which an application is received and subject to par. (ar), the private school shall notify each applicant, in writing, whether his or her application has been accepted. If the private school rejects an application, the notice shall include the reason. Subject to par. (ar), a private school may reject an applicant only if it has reached its maximum general capacity or seating capacity. Except as provided in par. (ar), the state superintendent shall ensure that the private school determines which pupils to accept on a random basis, except that the private school may give preference to the following in accepting applications, in the order of preference listed:

1m. Pupils who attended the private school under this section or s. 119.23 during the previous school year.

2m. Siblings of pupils described in subd. 1m.

3. Pupils who attended a different private school under this section or s. 119.23 during the previous school year.

4. Siblings of pupils described under subd. 3.

5. Siblings of those pupils who have been randomly accepted to attend the private school under this section and who did not attend a private school under this section or s. 119.23 during the previous school year.

(ar) All of the following apply to applications to attend a private school under this section only if the limitation under sub. (2) (be) applies to the school year for which the application is made:

1. A private school that has submitted a notice of intent to participate under sub. (2) (a) 3. a. may accept applications for the following school year between the first weekday in February and the 3rd Thursday in April from pupils who reside in a school district, other than an eligible school district or a 1st class city school district.

2. By the first weekday in May immediately following the application period under subd. 1., each private school that received applications under subd. 1. shall report to the department the number of pupils who have applied under subd. 1. to attend the private school under this section and the names of those applicants who have siblings who have also applied under subd. 1. to attend the private school under this section.

3. Annually, upon receipt of the information under subd. 2., the department shall, for each school district, determine the sum of all applicants for pupils residing in that school district under this paragraph. In determining the sum, the department shall count a pupil who has applied to attend more than one private school under the program only once. After determining the sum of all applicants for pupils residing in a school district, the department shall determine which applications to accept on a random basis, except that the department shall give preference to the applications of pupils described in par. (a) 1m. to 5., in the order of preference listed in that paragraph.

4. For each school district in which private schools received applications under subd. 1. that exceeded the school district's pupil participation limit under sub. (2) (be), the department shall establish a waiting list in accordance with the preferences required under subd. 3.

5. A private school that has accepted a pupil who resides in a school district, other than an eligible school district or a 1st class city school district, under this paragraph shall notify the department whenever the private school determines that a pupil will not attend the private school under this paragraph. If, upon receiving notice under this subdivision, the department determines that the number of pupils attending private schools under this section falls below a school district's pupil participation limit under sub. (2) (be), the department shall fill any available slot in that school district with a pupil selected from the school district's waiting list established under subd. 4., if such a waiting list exists.

6. In the 2017-18 school year and any school year thereafter, between the first weekday in August and the 3rd Friday in August, the department may transfer a pupil's application to attend a private school under this section in the current school year to a private school that accepted applications from pupils under subd. 1. for the current school year, if all of the following apply:

a. A participating private school accepted an application from the pupil for the current school year under subd. 1. and verified that the pupil is eligible to attend a private school under this section.

b. The pupil's residence changed after the end of the application period under subd. 1. and on or before the 3rd Friday in August and the pupil continues to reside in a school district other than an eligible school district or a 1st class city school district.

c. The participating private school to which the pupil's application is transferred under this subdivision has space available in the pupil's grade.

d. The total number of pupils residing in the pupil's resident school district attending a private school under this section during

the current school year does not exceed the school district's pupil participation limit under sub. (2) (be).

(b) If a participating private school rejects an applicant who resides within an eligible school district because the private school has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant rejected under this paragraph may be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside within an eligible school district. The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.

(c) If a participating private school rejects an applicant who resides in a school district, other than an eligible school district or a 1st class city school district, because the private school has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant who is rejected under this paragraph or an applicant who is on the waiting list under par. (ar) 4. may, subject to sub. (2) (be), be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside in a school district other than an eligible school district or a 1st class city school district. The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.

(d) By the 3rd Friday in September, a pupil or a pupil's parent or guardian shall notify, using a form provided by the department, the department that the pupil is currently participating in the program under this section. The form provided by the department under this paragraph shall require a pupil or a pupil's parent or guardian to indicate the school year during which the pupil first began participating in the program under this section.

(3m) (a) A private school participating in the program under this section may not charge or receive any additional tuition payment for a pupil participating in the program under this section other than the payment the school receives under sub. (4) and, if applicable, sub. (4m), if either of the following applies:

1. The pupil is enrolled in a grade from kindergarten to 8.

2. The pupil is enrolled in a grade from 9 to 12 and the family income of the pupil, as determined under sub. (2) (a) 1., does not exceed an amount equal to 2.2 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget.

(am) 1. Beginning in the 2011-12 school year, a private school participating in the program under this section may recover the cost of providing the following to a pupil participating in the program under this section through reasonable fees in an amount determined by the private school and charged to the pupil, except that no participating private school may retroactively recover any uncollected costs incurred prior to November 19, 2011:

a. Personal use items, such as uniforms, gym clothes, and towels.

b. Social and extracurricular activities if not necessary to the private school's curriculum.

c. Musical instruments.

d. Meals consumed by pupils of the private school.

e. High school classes that are not required for graduation and for which no credits toward graduation are given.

f. Transportation.

g. Before-school and after-school child care.

h. Room and board at the private school.

2. A private school may not prohibit an eligible pupil from attending the private school, expel or otherwise discipline the pupil, or withhold or reduce the pupil's grades because the pupil or the pupil's parent or guardian cannot pay or has not paid fees charged under subd. 1.

(b) Beginning in the 2011-12 school year, a private school participating in the program under this section may, in addition to the payment it receives for a pupil under sub. (4) and, if applicable, sub. (4m), charge the pupil tuition in an amount determined by the school if both of the following apply:

1. The pupil is enrolled in a grade from 9 to 12.

2. The family income of the pupil, as determined under sub. (2) (a) 1., exceeds an amount equal to 2.2 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget.

(c) A private school participating in the program under this section shall determine whether the private school may charge additional tuition to a pupil on the basis of the pupil's family income as permitted under par. (b). The private school shall establish a process for accepting an appeal to the governing body of the private school of the determination made under this paragraph.

(4) (a) Annually, on or before September 15, a private school participating in the program under this section shall file with the department a report stating its summer daily attendance for each day of summer school for the purpose of sub. (4m).

(bg) 1. In the 2013-14 school year, upon receipt from the pupil's parent or guardian of proof of the pupil's enrollment in the private school during a school term, the state superintendent shall pay to the private school in which the pupil is enrolled on behalf of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fr), an amount equal to the private school's operating and debt service cost per pupil that is related to educational programming, as determined by the department, or $6,442, whichever is less.

2. Except as provided in subd. 4., in the 2014-15 school year, upon receipt from the pupil's parent or guardian of proof of the pupil's enrollment in the private school during a school term, the state superintendent shall pay to the private school in which the pupil is enrolled on behalf of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fr), the lesser of an amount equal to the private school's operating and debt service cost per pupil that is related to educational programming, as determined by the department, or an amount either of $7,210, if the pupil is enrolled in a grade from kindergarten to 8, or of $7,856, if the pupil is enrolled in a grade from 9 to 12.

3. In the 2015-16 school year and in each school year thereafter, upon receipt from the pupil's parent or guardian of proof of the pupil's enrollment in the private school during a school term, except as provided in subd. 5., the state superintendent shall pay to the private school in which the pupil is enrolled on behalf of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fr), an amount equal to the sum of the maximum amount per pupil the state superintendent paid a private school under this section in the previous school year for the grade in which the pupil is enrolled; in the 2023-24 school year, if the pupil is enrolled in a grade from kindergarten to 8, 10 percent of the revenue ceiling, as defined in s. 121.905 (1), for that school year; the amount of the per pupil revenue adjustment under s. 121.91 (2m) for the current school year, if positive; 90 percent of the change in the revenue ceiling, as defined in s. 121.905 (1), between the previous school year and current school year, if positive, if the pupil is enrolled in a grade from kindergarten to 8, or if the pupil is enrolled in a grade from 9 to 12, the change in the

revenue ceiling, as defined in s. 121.905 (1), between the previous school year and current school year, if positive; the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive; and in the 2023-24 school year, if the pupil is enrolled in a grade from 9 to 12, 26.8 percent of the revenue ceiling, as defined in s. 121.905 (1), for that school year.

4. If the pupil described in subd. 2. is enrolled in a private school that enrolls pupils under the program in any grade between kindergarten to 8 and also in any grade between 9 to 12, the state superintendent shall pay to the private school in which the pupil is enrolled on behalf of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fr), the lesser of an amount equal to the private school's operating and debt service cost per pupil that is related to educational programming, as determined by the department, or an amount determined as follows:

a. Multiply the number of pupils participating in the program under this section who are enrolled in the private school in any grade between kindergarten to 8 by $7,210.

b. Multiply the number of pupils participating in the program under this section who are enrolled in the private school in any grade between 9 to 12 by $7,856.

c. Add the amounts determined under subd. 4. a. and b.

d. Divide the amount determined under subd. 4. c. by the total number of pupils participating in the program under this section who are enrolled at the private school.

5. If the pupil described in subd. 3. is enrolled in a private school that enrolls pupils under the program in any grade between kindergarten to 8 and also in any grade between 9 to 12, the state superintendent shall substitute for the amount described in subd. 3. the amount determined under subd. 4. a. to d., with the following modifications:

a. Multiply the number of pupils participating in the program who are enrolled in the private school in any grade between kindergarten to 8 by the sum of the maximum amount per pupil the state superintendent paid a private school under this section in the previous school year for the grade in which the pupil is enrolled; the amount of the per pupil revenue adjustment under s. 121.91 (2m) for the current school year, if positive; 90 percent of the change in the revenue ceiling, as defined in s. 121.905 (1), between the previous school year and current school year, if positive; the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive; and in the 2023-24 school year, 10 percent of the revenue ceiling, as defined in s. 121.905 (1), for that school year.

b. Multiply the number of pupils participating in the program who are enrolled in the private school in any grade between 9 to 12 by the sum of the maximum amount per pupil the state superintendent paid a private school under this section in the previous school year for the grade in which the pupil is enrolled; the amount of the per pupil revenue adjustment under s. 121.91 (2m) for the current school year, if positive; the change in the revenue ceiling, as defined in s. 121.905 (1), between the previous school year and current school year, if positive; the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive; and in the 2023-24 school year, 26.8 percent of the revenue ceiling, as defined in s. 121.905 (1), for that school year.

(c) The state superintendent shall pay 25 percent of the total amount under this subsection in September, 25 percent in November, 25 percent in February, and 25 percent in May. Each installment may consist of a single check for all pupils attending the private school under this section. The state superintendent shall include the entire amount under sub. (4m) in the November installment, but the payment shall be made in a separate check from the payment under this subsection.

(4d) (a) In this subsection, "incoming choice pupil" means a pupil who resides in a school district, other than a 1st class city school district, who begins participating in the program under this section in the 2015-16 school year or any school year thereafter, and who is enrolled in a private school under this section.

(b) 1. Beginning in the 2015-16 school year, subject to s. 121.085 (1), the department shall decrease a school district's state aid payment under s. 121.08 by an amount calculated as follows:

a. Identify the incoming choice pupils residing in the school district for whom a payment is made under sub. (4) (bg) in that school year.

b. Sum the payments made under sub. (4) (bg) for all of the pupils identified under subd. 1. a. for that school year.

c. Identify the incoming choice pupils residing in the school district for whom a payment is made under sub. (4m) in that school year.

d. Sum the payments made under sub. (4m) (a) for all of the pupils identified under subd. 1. c. for that school year.

e. Sum the amounts calculated under subd. 1. b. and d.

2. If a school district's state aid payment under s. 121.08 is insufficient to cover the reduction under subd. 1., as determined under s. 121.085 (2), the department shall decrease other state aid payments made by the department to the school district by the remaining amount.

3. The department shall ensure that the aid adjustment under subd. 1. does not affect the amount determined to be received by a school district as state aid under s. 121.08 for any other purpose.

(4m) (a) In addition to the payment under sub. (4), the state superintendent shall, subject to par. (b), pay to each private school participating in the program under this section, on behalf of the parent or guardian of each pupil attending summer school in the private school under this section during a summer and in the manner described in sub. (4) (c), an amount determined as follows:

1. Determine the maximum amount that could have been paid, at the end of the immediately preceding school term, per pupil under sub. (4) (bg) for the grade in which the pupil is attending summer school under this section.

2. If the pupil attended summer school for at least 15 days of summer instruction at the private school during that summer, multiply the amount under subd. 1. by 0.05.

3. If the pupil attended summer school for less than 15 days of summer instruction at the private school during that summer, multiply the amount under subd. 1. by 0.05 by the quotient determined by dividing the number of days of summer instruction the pupil attended during that summer by 15.

(b) A participating private school may receive a per pupil payment under par. (a) if all of the following are satisfied:

1. The private school offers no fewer than 19 summer days of instruction during that summer.

2. Each summer day of instruction offered by the private school under subd. 1. is comprised of no fewer than 270 minutes of instruction.

(4r) If, after the 3rd Friday in September in any school year, a private school participating in the program under this section closes, for each installment under sub. (4) (c) that was not paid to the private school in that school year, the state superintendent shall pay to the board of the school district within which the pupil resides, from the appropriation under s. 20.255 (2) (fv), the

amount determined, for each pupil who had been attending the private school under this section in that school year and who enrolls in the school district within which the pupil resides in that school year, as follows:

(a) Multiply the amount determined under sub. (4) (bg) by 0.616.

(b) Multiply the product under par. (a) by 0.25.

(4s) Notwithstanding subs. (4), (4d), (4m), and (4r), a pupil attending a private school participating in the program under this section who is receiving a scholarship under s. 115.7915 shall not be counted as a pupil attending the private school under this section under sub. (4), (4d), (4m), or (4r).

(4v) (a) The department may consider a pupil enrolled in a private school participating in the program under this section who satisfies all of the following as a resident of an eligible school district who is enrolled in the private school under this section:

1. The pupil was a resident of a school district, other than an eligible school district or a 1st class city school district, when the pupil applied to participate in the program under this section.

2. The pupil accepted a space at a private school participating in the program under this section as a resident of a school district, other than an eligible school district or a 1st class city school district.

3. The pupil resides in an eligible school district on the 3rd Friday in September.

4. The private school the pupil is attending under this section accepts applications under this section from pupils who reside in an eligible school district.

(b) If the department considers a pupil as a resident of an eligible school district under par. (a), the department shall ensure that the pupil is not counted for purposes of determining whether a school district has exceeded its pupil participation limit under sub. (2) (be).

(5) The state superintendent shall ensure that pupils and parents and guardians of pupils who reside in this state are informed annually of the private schools participating in the program under this section and in the program under s. 119.23.

(6) The school board of a school district shall provide transportation to pupils attending a private school under this section if required under s. 121.54 and may claim transportation aid under s. 121.58 for pupils so transported.

(6m) Each private school participating in the program under this section shall do all of the following:

(a) Provide to each pupil, or the parent or guardian of each minor pupil, who applies to attend the private school all of the following:

1. The name, address, and telephone number of the private school and the name of one or more contact persons at the school.

2. A list of the names of the members of the private school's governing body and of the private school's shareholders, if any.

3. A notice stating whether the private school is an organization operated for profit or not for profit. If the private school is a nonprofit organization, the private school shall also provide the applicant with a copy of the certificate issued under section 501 (c) (3) of the Internal Revenue Code verifying that the private school is a nonprofit organization that is exempt from federal income tax.

4. A copy of the appeals process used if the private school rejects the applicant.

5. A copy of the policy developed by the private school under s. 118.33 (1) (f) 2r.

6. A copy of the nonharassment policy used by the private school, together with the procedures for reporting and obtaining relief from harassment.

7. A copy of the suspension and expulsion policies and procedures, including procedures for appealing a suspension or expulsion, used by the private school.

8. A copy of the policy used by the private school for accepting or denying the transfer of credits earned by a pupil attending the private school under this section for the satisfactory completion of coursework at another school.

9. A copy of the policy governing visitors and visits to the private school, developed as required under sub. (7) (b) 2m.

(b) Annually, by August 1, provide to the department for each of the previous 5 school years in which the private school has participated in the program under this section, to the extent permitted under 20 USC 1232g and 43 CFR part 99, pupil scores on all standardized tests administered under s. 118.30 (1t).

(bm) Upon request of the department, provide a copy of any policy described in par. (a) and the academic standards adopted under sub. (7) (b) 2.

(c) Upon an individual joining the private school's governing body, provide to the department a signed statement from the individual verifying that the individual is a member of the governing body.

(d) Upon request by any pupil, or the parent or guardian of any minor pupil, who is attending or who applies to attend the private school, provide the material specified in pars. (a) and (b).

(6p) In addition to the requirements under sub. (6m), a private school that is not a new private school and that did not participate in the program under this section or s. 119.23 in the previous school year shall submit to the department all of the following:

(a) By January 10 of the school year immediately preceding the school year in which the private school intends to participate in the program under this section, all of the following:

1. The information required under sub. (6m) (a).

2. A signed statement from each individual who is a member of the private school's governing body verifying that the individual is a member of the governing body.

(b) By August 1 of the school year in which the private school intends to participate in the program under this section, a copy of the academic standards adopted under sub. (7) (b) 2.

(7) (ad) 1. If a private school participating in the program under this section or s. 119.23 and accredited under sub. (2) (a) 7. to offer instruction in any elementary grade, but not any high school grade, seeks to offer instruction in any high school grade, the private school shall apply for and achieve accreditation to offer instruction in the additional grades in the manner established under sub. (2) (a) 7. c.

2. If a private school participating in the program under this section or s. 119.23 and accredited under sub. (2) (a) 7. to offer instruction in any high school grade, but not any elementary grade, seeks to offer instruction in any elementary grade, the private school shall apply for and achieve accreditation to offer instruction in the additional grades in the manner established under sub. (2) (a) 7. c.

3. The governing body of a private school participating in the program under this section and accredited as required under subds. 1. and 2. and sub. (2) (a) 7. shall ensure that the private school continuously maintains accreditation from an accrediting entity as long as the private school continues to participate in the program under this section.

(ag) If a participating private school learns that an accrediting organization with which the private school is maintaining accreditation, as required under par. (ad), is a disqualified organization,

the private school shall immediately notify the department in writing of this fact and shall obtain accreditation from an accrediting entity no later than 3 years from the date on which the private school learned that the accrediting organization is a disqualified organization.

(am) 1m. In this paragraph, "eligible education expenses" means all direct and indirect costs associated with a private school's educational programming for pupils enrolled in grades kindergarten to 12 that are reasonable for the private school to achieve its educational purposes, as determined by the governing body of the private school in a written policy and tested by an independent auditor. "Eligible education expenses" include expenses related to management, insurance, transportation, extracurricular programming and activities, facility and equipment costs, development expenses, and programming that provides child care services before school, after school, or both before and after school. A cost is not an "eligible education expense" if an independent auditor determines, after testing, that the cost is not a cost associated with the private school's educational programming for pupils enrolled in grades kindergarten to 12 that is reasonable for the private school to achieve its educational purposes, as determined by the governing body of the private school in a written policy.

2m. Each private school participating in the program under this section is subject to uniform financial accounting standards established by the department. Annually by October 15 following a school year in which a private school participated in the program under this section, the private school shall submit to the department all of the following:

a. An independent financial audit of the private school conducted by an independent certified public accountant, accompanied by the auditor's statement that the report is free of material misstatements and fairly presents the private school's eligible education expenses, and beginning in the 2nd school year a private school participates in the program under this section, a copy of a management letter prepared by the auditor. If the private school annually received a total of at least $100,000 under this section and ss. 115.7915 and 119.23 in any school year, the audit shall be prepared in accordance with generally accepted accounting principles with allowable modifications for long-term fixed assets. If the private school has not annually received a total of at least $100,000 under this section and ss. 115.7915 and 119.23 in any school year, the audit shall be prepared as prescribed by the department by rule. The audit shall include a calculation of the private school's net eligible education expenses and a calculation of the balance of the private school's fund for future eligible education expenses. The auditor shall conduct his or her audit, including determining sample sizes and evaluating financial viability, in accordance with the auditing standards established by the American Institute of Certified Public Accountants. The department may not require an auditor to comply with standards that exceed the scope of the standards established by the American Institute of Certified Public Accountants. If a private school participating in a program under this section is part of an organization and the private school and the organization share assets, liabilities, or eligible education expenses, the private school may submit an audit of the private school or of the organization of which it is a part. If a private school that is part of an organization with which it shares assets, liabilities, or eligible education expenses submits an audit of only the private school, the independent auditor shall use his or her professional judgment to allocate any shared assets, liabilities, and eligible education expenses between the organization and the private school. If a private school participating in the program under this section also accepts pupils under s. 115.7915 or 119.23, the private school may submit one comprehensive financial audit to satisfy the requirements of this subdivision and ss. 115.7915 (6) (e) and 119.23 (7) (am) 2m., whichever are applicable. The private school shall include in the comprehensive financial audit the information specified under s. 119.23 (7) (am) 2m.

b. Evidence of sound fiscal and internal control practices, as prescribed by the department by rule. An independent auditor engaged to evaluate the private school's fiscal and internal control practices shall conduct his or her evaluation, including determining sample sizes, in accordance with attestation standards established by the American Institute of Certified Public Accountants. The independent auditor engaged to evaluate the private school's fiscal and internal control practice shall also review any concerns raised in the private school's management letter submitted under subd. 2m. a. The fact that a private school reports a negative reserve balance alone is not evidence that the private school does not have the financial ability to continue operating or that the private school does not follow sound fiscal and internal control practices.

c. If an independent auditor engaged to evaluate the private school's fiscal and internal control practice determines that the governing body of the private school has not taken reasonable actions to remedy any concerns raised in the management letter submitted under subd. 2m. a. in the previous school year, a report prepared by the independent auditor that includes the auditor's findings related to the governing body's actions to remedy any concerns raised in the management letter for the previous school year.

3. a. By no later than February 15 or 120 days after the date on which the audit under subd. 2m. a. is received by the department, whichever is later, the department shall notify a private school participating in the program under this section whether or not additional information is required for the department to complete its review of the audit. Subject to subd. 3. b., the department may request that an auditor provide additional information if the request is related to the department reviewing the audit. The department shall determine whether a private school participating in the program under this section has provided the information and met the requirements required under subd. 2m. a. by April 1.

b. Before April 1, the department may contact the auditor who prepared the audit under subd. 2m. a. only regarding matters that may impact the private school's financial statement by an amount that is greater than 1 percent of the total amount the private school received under this section for the previous school year and any items or information the department determines are missing from the audit.

c. Notwithstanding subd. 3. a. and b., the department may communicate with an auditor as necessary for the purpose of assessing the financial viability of a private school participating in the program under this section.

d. An auditor who receives a written communication under this subdivision shall respond to the department within 10 school days of receiving the written communication.

(an) 1. A private school participating in the program under this section shall maintain a cash and investment balance that is at least equal to its reserve balance. If a private school does not maintain a cash and investment balance that is at least equal to its reserve balance, the private school shall refund the reserve balance to the department. This subdivision does not apply to a school year that occurs during the public health emergency declared on March 12, 2020, by executive order 72.

2. If a private school participating in the program under this section has a reserve balance that is greater than 50 percent of the total amount the private school received under this section in the previous school year, the governing body of the private school shall approve a plan for how it will use the amount of the reserve

balance that exceeds 50 percent of the total amount the private school received under this section in the previous school year.

3. If a private school ceases to participate in or is barred from the program under this section and s. 119.23 and the private school's reserve balance is positive, the private school shall refund the reserve balance to the department.

(b) Each private school participating in the program under this section shall do all of the following:

1. Administer to any pupils attending the 3rd grade in the private school under this section a standardized reading test developed by the department.

2. Adopt the pupil academic standards required under s. 118.30 (1g) (a) 4.

2m. Develop a written policy governing visitors and visits to the private school.

3. Ensure that any teacher's aide employed by the private school has graduated from high school, been granted a declaration of equivalency of high school graduation, been granted a high school diploma by the administrator of a home-based private educational program, or been issued a general educational development certificate of high school equivalency, or has obtained a degree or educational credential higher than a high school diploma, declaration of equivalency of high school graduation, or general educational development certificate of high school equivalency.

3m. Annually, schedule 2 meetings at which members of the governing body of the private school will be present and at which pupils, and the parents or guardians of pupils, applying to attend the private school or attending the private school may meet and communicate with the members of the governing body. The private school shall, within 30 days after the start of the school term, notify the department in writing of the scheduled meeting dates and shall, at least 30 days before the scheduled meeting date, notify in writing each pupil, or the parent or guardian of each minor pupil, applying to attend the private school or attending the private school of the meeting date, time, and place.

4. Maintain progress records for each pupil attending the private school under this section while the pupil attends the school and, except as provided under subd. 7., for at least 5 years after the pupil ceases to attend the school.

5. Upon request, provide a pupil or the parent or guardian of a minor pupil who is attending the private school under this section with a copy of the pupil's progress records.

6. Issue a high school diploma or certificate to each pupil who attends the private school under this section and satisfactorily completes the course of instruction and any other requirements necessary for high school graduation.

7. a. Except as provided in subd. 7. b., if the private school ceases operating as a private school, immediately transfer all of the progress records of each pupil who attended the school under this section to the school board of the school district within which the pupil resides. The private school shall send written notice to each pupil, or to the parent or guardian of a minor pupil, of the transfer of progress records under this subd. 7. a.

b. If the private school is affiliated with an organization that will maintain the progress records of each pupil who attended the school under this section for at least 5 years after the private school ceases operation as a private school, the private school may transfer a pupil's records to the organization if the pupil, or the parent or guardian of a minor pupil, consents in writing to the release of the progress records to the affiliated organization. The private school shall send to the department a copy of the consent form for each pupil who consents to the transfer of progress records under this subd. 7. b. The written notice shall be signed by the pupil, or the parent or guardian of a minor pupil, and shall include the name, phone number, mailing address, and other relevant contact information of the organization that will maintain the progress records, and a declaration by the affiliated organization that the organization agrees to maintain the progress records for at least 5 years after the private school ceases operation as a private school.

(c) A private school may not require a pupil attending the private school under this section to participate in any religious activity if the pupil's parent or guardian submits to the pupil's teacher or the private school's principal a written request that the pupil be exempt from such activities.

(d) By August 1 before the first school term of participation in the program that begins in the 2014-15 school year or any school year thereafter, or by May 1 if the private school begins participating in the program during summer school, each private school participating in the program under this section shall submit to the department all of the following:

1. a. In this subdivision, "municipality" has the meaning given in s. 5.02 (11).

b. A copy of the school's current certificate of occupancy issued by the municipality within which the school is located. If the private school moves to a new location, the private school shall submit a copy of the new certificate of occupancy issued by the municipality within which the school is located to the department before the attendance of pupils at the new location and before the next succeeding date specified in s. 121.05 (1) (a). If the municipality within which the private school is located does not issue certificates of occupancy, the private school may submit a certificate of occupancy issued by the local or regional governmental unit with authority to issue certificates of occupancy or a letter or form from the municipality within which the private school is located that explains that the municipality does not issue certificates of occupancy. A temporary certificate of occupancy does not meet the requirement of this subdivision. This subdivision applies only to a private school located in an eligible school district.

3. Proof that the private school's administrator has participated in a fiscal management training program approved by the department.

(dr) A private school participating in the program under this section may elect to maintain an electronic copy of any application submitted on behalf of and any correspondence to or about a pupil attending the private school under this section instead of a paper copy of the application and correspondence. The private school shall maintain electronic copies of pupil applications and correspondence for a period of at least 5 years.

(e) Each private school participating in the program under this section shall administer the examinations required under s. 118.30 (1t) or examinations permitted under s. 118.301 (3) to pupils attending the school under the program. The private school may administer additional standardized tests to such pupils.

(em) 1. The governing body of each private school participating in the program under this section shall, subject to subd. 2., annually, by August 1, provide the department with evidence demonstrating that the private school remains accredited for the current school year as required under par. (ad). The governing body shall include as evidence of accreditation a notice prepared by an accrediting entity that confirms that the private school is accredited by that entity as of the date of the notice.

2. The governing body shall immediately notify the department if its accreditation status changes.

(g) 1. By the first day of the 3rd month beginning after the month in which the department establishes the model management plan and practices for maintaining indoor environmental

quality in public and private schools under s. 118.075 (3), or by October 1 of a private school's first school year of participation in the program under this section, whichever is later, the private school shall provide for the development of a plan for maintaining indoor environmental quality in the private school.

2. By the first day of the 12th month beginning after the month in which the department establishes the model management plan and practices for maintaining indoor environmental quality in public and private schools under s. 118.075 (3), or by the beginning of the 2nd school year of participation in the program under this section, whichever is later, the private school shall implement a plan for maintaining indoor environmental quality in the private school.

3. Each private school participating in the program under this section shall provide a copy of the plan implemented under subd. 2. to any person upon request.

(h) Beginning in the 2018-19 school year, each private school participating in the program under this section shall conduct criminal background investigations of its employees and exclude from employment any person not permitted to hold a teaching license as the result of an offense and any person who might reasonably be believed to pose a threat to the safety of others.

(7m) (a) By May 1 before the first school term that a private school participates in the program under this section or s. 119.23, a private school shall submit to the department one of the following:

1. A surety bond payable to the state in an amount equal to 25 percent of the total amount of payments the private school expects to receive under this section and s. 119.23 during the first school year the private school participates in the program under this section.

2. A complete anticipated budget, on a form provided by the department, for the first fiscal period of participation in the program under this section and evidence of financial viability, as prescribed by the department by rule. The private school shall include in the budget the anticipated enrollments for all pupils enrolled in the private school and for pupils enrolled in the private school under this section; estimated revenues and costs; a schedule of anticipated beginning and ending net choice program assets; and a schedule of monthly cash flow requirements. The private school shall include in the budget contingent funding sources the private school will use in the event that actual enrollments are less than expected.

(b) 1. If a private school submits a surety bond under par. (a) 1., the private school shall annually provide, by May 1, a surety bond payable to the state until the private school submits all of the following to the department:

a. A financial audit prepared in accordance with generally accepted accounting principles with allowable modifications for long-term fixed assets that does not contain any indicators that the private school is not financially viable.

b. Evidence of sound fiscal and internal control practices under sub. (7) (am) 2m. b. for the school year in the financial audit submitted under subd. 1. a. and for the subsequent school year, neither of which indicates that the private school is not financially viable.

2. A private school shall provide a surety bond under this paragraph in an amount equal to 25 percent of the total amount of payments the private school expects to receive under this section and s. 119.23 during the following school year.

(c) If a private school submits a complete anticipated budget under par. (a) 2., the department shall determine whether the private school is financially viable by August 1. If the department determines that the private school is not financially viable, the private school is not eligible to participate in the program under this section or s. 119.23 in the current school year.

(9) If any accrediting or preaccrediting entity determines during the accrediting or preaccrediting process that a private school does not meet all of the requirements under s. 118.165 (1), it shall report that failure to the department.

(9m) Beginning in September 2016, and annually thereafter, the governing body of a private school participating in the program under this section that maintains an Internet site for the private school shall, if the private school is included in the most recent accountability report published under s. 115.385, within 30 days after the department publishes the accountability report, prominently link on the home page of that Internet site to the pages in that most recent accountability report concerning the private school.

(10) (a) The state superintendent may issue an order barring a private school from participating in the program under this section in the current school year if the state superintendent determines that the private school has done any of the following:

1. Intentionally or negligently misrepresented any information required under this section or any rule promulgated under this section.

2. Failed to provide the notice or pay the fee required under sub. (2) (a) 3., or provide the information required under sub. (7) (am) or (d), by the date or within the period specified.

3. Failed to refund to the state any overpayment made under sub. (4) or (4m) by the date specified by department rule.

5. Failed to provide the information required under sub. (6m) or (6p).

6. Failed to comply with the requirements under sub. (7) (b), (c), or (h) or (7m).

7. Violated sub. (7) (b) 4., 5., or 6.

8. Before the end of a 7-year period beginning on the date of an order issued by the state superintendent under this subsection, retained a disqualified person, for compensation or as a volunteer, as an owner, officer, director, trustee, administrator, person designated by the administrator to assist in processing pupil applications, or person responsible for administrative, financial, or pupil health and safety matters.

(am) If the state superintendent determines that any of the following have occurred, he or she may issue an order barring the private school from participating in the program under this section in the following school year:

1. The private school has not complied with the requirements under sub. (7) (em).

2. The private school's application for accreditation has been denied by the accrediting entity.

3. The private school has not achieved accreditation within the period allowed under sub. (2) (a) 7.

4. The private school intentionally or negligently misrepresented any information required under this section or any rule promulgated under this section.

(ar) 1. If the state superintendent determines that a private school has failed to continuously maintain accreditation as required under sub. (7) (ad), that the governing body of the private school has withdrawn the private school from the accreditation process, or that the private school's accreditation has been revoked, denied, or terminated by an accrediting entity, the state superintendent shall issue an order barring the private school's participation in the program under this section at the end of the current school year.

2. A private school whose participation in the program under this section is barred under subd. 1. may not participate in the program under this section or under s. 119.23 until the governing

body of the private school demonstrates to the satisfaction of the department that it has obtained accreditation from an accrediting entity, provided the accreditation is from an entity other than the entity with which the private school failed to continuously maintain accreditation or, if the private school's accreditation was revoked, denied, or terminated, other than the entity that revoked, denied, or terminated the private school's accreditation.

(b) The state superintendent may issue an order immediately terminating a private school's participation in the program under this section if he or she determines that conditions at the private school present an imminent threat to the health or safety of pupils.

(c) Whenever the state superintendent issues an order under par. (a), (am), (ar), or (b), he or she shall immediately notify the parent or guardian of each pupil attending the private school under this section.

(d) The state superintendent may withhold payment from a private school under subs. (4) and (4m) if the private school violates this section or s. 115.383 (3) (b).

(11) The department shall do all of the following:

(a) Promulgate rules to implement and administer this section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

(b) Notify each private school participating in the program under this section of any proposed changes to the program or to administrative rules governing the program, including changes to application or filing deadlines but not including changes to provisions governing health or safety, prior to the beginning of the school year in which the change takes effect.

(c) Within 10 days after receiving the information submitted as required under sub. (7) (em), notify the participating private school of receipt of accreditation status.

(d) When the department publicly releases data related to enrollment of, standardized test results for, applications submitted by, waiting lists for pupils participating in or seeking to participate in the program under this section, release the data all at the same time, uniformly, and completely.

(12) During the public health emergency declared on March 12, 2020, by executive order 72, if a private school participating in the program under this section is closed for at least 10 school days in a school year by a local health officer, as defined in s. 250.01 (5), or the department of health services, in the school year during which the school is closed and the following school year, the department may not withhold payment from the private school under sub. (10) (d) or bar the private school from participating in the program under sub. (10) (a), (am), or (ar) for failing to comply with a requirement under this section or a rule promulgated under this section if all of the following occur:

(a) The private school submits information to the department that explains how the school closure impacted the private school's ability to comply with the requirement and any action the private school took to mitigate the consequences of not complying with the requirement.

(b) The department determines that the private school's failure to comply with the requirement was caused by the closure.

History: 2011 a. 32, 47, 215; 2013 a. 20, 2013 a. 166 s. 77; 2013 a. 173 s. 33; 2013 a. 237, 256; 2015 a. 55, 72, 212, 297, 338; 2017 a. 36, 59; 2017 a. 364 ss. 48, 49; 2017 a. 366; 2019 a. 55, 185; 2021 a. 30, 238; 2021 a. 239 s. 74; 2023 a. 11.

Cross-reference: See also ch. PI 48, Wis. adm. code.