

CHAPTER 115

**DEPARTMENT OF EDUCATION; GENERAL CLASSIFICATIONS AND DEFINITIONS;
HANDICAPPED CHILDREN**

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NOTE: Chapter 115 (title) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

**STATE SUPERINTENDENT; GENERAL CLASSIFICATIONS
AND DEFINITIONS; HANDICAPPED CHILDREN**

SUBCHAPTER I

GENERAL CLASSIFICATIONS AND DEFINITIONS

115.001 Definitions. In chs. 115 to 121:

(1) **CHARTER SCHOOL.** “Charter school” means a school under contract with a school board under s. 118.40.

(2) **DEPARTMENT.** “Department” means the department of education.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) **DEPARTMENT.** “Department” means the department of public instruction.

(3) **ENERGY EMERGENCY.** “Energy emergency” means a period of disruption of energy supplies which poses a serious risk to the economic well-being, health or welfare of the citizens of this state, as certified by executive order of the governor.

(3g) **HOME–BASED PRIVATE EDUCATIONAL PROGRAM.** “Home–based private educational program” means a program of educational instruction provided to a child by the child’s parent or guardian or by a person designated by the parent or guardian. An instructional program provided to more than one family unit does not constitute a home–based private educational program.

(3r) **PRIVATE SCHOOL.** “Private school” means an institution with a private educational program that meets all of the criteria under s. 118.165 (1) or is determined to be a private school by the department under s. 118.167.

NOTE: Sub. (3r) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(3r) **PRIVATE SCHOOL.** “Private school” means an institution with a private educational program that meets all of the criteria under s. 118.165 (1) or is determined to be a private school by the state superintendent under s. 118.167.

(7) **SCHOOL BOARD.** “School board” means the school board or board of school directors in charge of the schools of a school district.

(8) **SCHOOL DISTRICT ADMINISTRATOR.** “School district administrator” means the school district superintendent, supervising principal or other person who acts as the administrative head of a school district.

(10) SCHOOL DISTRICT CLERK. “School district clerk” means the school district clerk of a 3–member school board elected by the electors in a common or union high school district, the school district clerk elected by the school board in a unified, common or union high school district having a school board of more than 3 members and the clerk designated by the school board in a 1st class city school district.

(11) SCHOOL NURSE. “School nurse” means a registered nurse licensed under ch. 441 who is also certified by the department as being qualified to perform professional nursing services in a public school.

(12) SCHOOL TERM. “School term” means the time commencing with the first school day and ending with the last school day that the schools of a school district are in operation for attendance of pupils in a school year, other than for the operation of summer classes.

(13) SCHOOL YEAR. “School year” means the time commencing with July 1 and ending with the next succeeding June 30.

(13m) SECRETARY. “Secretary” means the secretary of education.

NOTE: Sub. (13m) is created eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA.

(14) SESSION. “Session” means the time during a school term that the schools of a school district are operated for the attendance of pupils.

History: 1983 a. 189 ss. 172, 173, 175 to 177; 1983 a. 512; 1985 a. 225; 1985 a. 332 s. 151; 1987 a. 264; 1989 a. 114; 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 3846, 9145 (1).

115.01 Classifications. In chs. 115 to 121:

(1) PUBLIC SCHOOLS. Public schools are the elementary and high schools supported by public taxation.

(2) GRADES. The educational work of the public schools is divided into 12 grades, besides kindergarten, which are numbered from one to 12 beginning with the lowest. The first 8 grades are the elementary grades. Where reference is made to “elementary grades”, the reference includes kindergarten, where applicable. Where reference is made to “kindergarten”, the reference includes both 4–year–old and 5–year–old kindergarten, except as otherwise specifically provided. The last 4 grades are the high school grades. A middle school is a school in which grades 5 to 8 are taught. A junior high school is a school in which grades 7 to 9 are taught. A senior high school is a school in which grades 10 to 12 are taught. This classification is not a limitation of the character of work or the studies that may be carried on in either the elementary or the high schools.

(3) SCHOOL DISTRICTS. The school district is the territorial unit for school administration. School districts are classified as common, union high, unified and 1st class city school districts. A joint school district is one the territory of which is not wholly in one municipality.

(5) NAME. (a) Except as provided under par. (b):

1. Each school district shall be known by the designation “School District of” followed by the name of the municipalities in which any high schools operated by the district lie.

2. A school district which does not operate a high school shall be known by number and by the name of the municipalities in which it lies.

(b) A school board may by resolution designate a different name for the school district if the revised name contains the words “school district”.

(10) SCHOOL DAY. (a) School days are days on which school is actually taught and the following days on which school is not taught:

1. Days on which school is closed by order of the school district administrator because of inclement weather and days on which parent–teacher conferences are held, not to exceed 5 days during the school term.

2. Days on which school is closed by order of a local health officer, as defined in s. 250.01 (5).

(b) Not to exceed 5 Saturdays may be counted as school days in any school year when school is taught thereon with the consent of the school board.

(12) DISTANCE. The distance between home and school shall be measured from building to building along the usually traveled route.

(13) ELECTORS. (a) Whenever an action may be taken by a percentage of electors in an area, that percentage shall be based on the number of electors who voted for governor at the last general election in that area.

(b) If the area does not coincide with a municipality or part thereof for which election statistics are kept, the number of electors shall be determined as follows:

1. The area of the school district in square miles shall be divided by the area of the municipality in square miles in which it lies.

2. The vote for governor at the last general election in the municipality within which the school district lies shall be multiplied by the quotient determined under subd. 1. to determine the required number of electors.

(c) If a school district is in more than one municipality, the method of determination under par. (b) shall be used for each part of the school district which constitutes only a fractional part of any area for which election statistics are kept.

History: 1973 c. 90; 1975 c. 115, 189; 1977 c. 29, 206; 1979 c. 89, 301; 1983 a. 27, 189; 1985 a. 29, 225, 332; 1987 a. 46; 1993 a. 27.

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

SUBCHAPTER II

DEPARTMENT OF EDUCATION

NOTE: Subchapter II (title) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

115.28 General duties. The department shall:

NOTE: Sec. 115.28 (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.28 General duties. The state superintendent shall:

(1) GENERAL SUPERVISION. Ascertain the condition of the public schools, stimulate interest in education and spread as widely as possible a knowledge of the means and methods which may be employed to improve the schools.

(2) SECTARIANISM. Exclude all sectarian books and instruction from the public schools.

(3) SUPERVISION OF SCHOOLS. Supervise and inspect the public schools and day schools for handicapped children, advise the principals and local authorities thereof and give assistance in organizing such schools.

(3m) SUPERVISION OF COOPERATIVE EDUCATIONAL SERVICE AGENCIES; RULES. (a) Supervise and audit the receipts and expenditures of the cooperative educational service agencies, conduct program review of the agencies, approve agency evaluations, supervise boundary reorganization where necessary, advise the administrators of the agencies and provide assistance in organizing the agencies throughout the state.

(b) Promulgate rules establishing procedures for the reorganization of cooperative educational service agencies and boundary appeals.

(c) Every 3rd year as scheduled by the department, report to the appropriate standing committees of the legislature under s. 13.172 (3) on all cooperative educational service agency programs and services. The report shall include information on the efficiency and effectiveness of the programs and services.

NOTE: Sub. (3m) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27, it read:

(3m) SUPERVISION OF COOPERATIVE EDUCATIONAL SERVICE AGENCIES; RULES. Supervise and audit the receipts and expenditures of the cooperative educational service agencies, conduct program review of the agencies, approve agency evaluations, supervise boundary reorganization where necessary, advise the administrators of the agencies and provide assistance in organizing the agencies throughout the state. The state superintendent shall adopt rules establishing procedures for the reorganization of cooperative educational service agencies and boundary appeals.

(4) PUBLIC INFORMATION. By reports, bulletins, circulars, correspondence and public addresses, give the public information upon the different methods of school organization and management and the subject of education generally.

(5) APPEALS. Examine and determine all appeals which by law are made to the department and prescribe rules of practice in respect thereto, not inconsistent with law.

NOTE: Sub. (5) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(5) APPEALS. Examine and determine all appeals which by law are made to the state superintendent and prescribe rules of practice in respect thereto, not inconsistent with law.

(6) ANNUAL CONVENTIONS. Annually, hold conventions of school district administrators, supervisors and agency coordinators.

(7) LICENSING OF TEACHERS. (a) License all teachers for the public schools of the state, make rules establishing standards of attainment and procedures for the examination and licensing of teachers within the limits prescribed in ss. 118.19 (2) and (3), 118.192 and 118.195, prescribe by rule standards and procedures for the approval of teacher preparatory programs leading to licensure, file in the secretary's office all papers relating to state teachers' licenses and register each such license.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) License all teachers for the public schools of the state, make rules establishing standards of attainment and procedures for the examination and licensing of teachers within the limits prescribed in ss. 118.19 (2) and (3), 118.192 and 118.195, prescribe by rule standards and procedures for the approval of teacher preparatory programs leading to licensure, file in his or her office all papers relating to state teachers' licenses and register each such license.

(b) Subject to the same rules and laws concerning qualifications of applicants and granting and revocation of licenses or certificates under par. (a), the department shall grant certificates and licenses to teachers in private schools, except that teaching experience requirements for such certificates and licenses may be fulfilled by teaching experience in either public or private schools. An applicant is not eligible for a license or certificate unless the department finds that the private school in which the applicant taught offered an adequate educational program during the period of the applicant's teaching therein. Private schools are not obligated to employ only licensed or certified teachers.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Subject to the same rules and laws concerning qualifications of applicants and granting and revocation of licenses or certificates under par. (a), the state superintendent shall grant certificates and licenses to teachers in private schools, except that teaching experience requirements for such certificates and licenses may be fulfilled by teaching experience in either public or private schools. An applicant is not eligible for a license or certificate unless the state superintendent finds that the private school in which the applicant taught offered an adequate educational program during the period of the applicant's teaching therein. Private schools are not obligated to employ only licensed or certified teachers.

(c) Subject to s. 118.19 (4m), license and make rules for the examination and licensing of persons, including teachers, employed by special education programs, as defined in s. 115.76 (10).

(d) Annually, establish fees for the certification or licensure of school and public library personnel sufficient to fund certification and licensing administrative costs.

(e) 1. In this paragraph, "alternative education program" means an instructional program, approved by the school board, that utilizes successful alternative or adaptive school structures and teaching techniques and that is incorporated into existing, traditional classrooms or regularly scheduled curricular programs or that is offered in place of regularly scheduled curricular programs. "Alternative educational program" does not include a private school or a home-based private educational program.

2. Promulgate rules establishing requirements for licensure as an alternative education program teacher and for the approval of teacher education programs leading to licensure as an alternative education program teacher. The rules shall encompass the teaching of multiple subjects or grade levels or both, as determined by the department. The rules may require teacher education programs to grant credit towards licensure as an alternative education program teacher for relevant experience or demonstrated proficiency in relevant skills and knowledge.

NOTE: Subd. 2. is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

2. Promulgate rules establishing requirements for licensure as an alternative education program teacher and for the approval of teacher education programs leading to licensure as an alternative education program teacher. The rules shall encompass the teaching of multiple subjects or grade levels or both, as determined by the state superintendent. The rules may require teacher education programs to grant credit towards licensure as an alternative education program teacher for relevant experience or demonstrated proficiency in relevant skills and knowledge.

(7m) CERTIFICATION OF SCHOOL NURSES. Certify school nurses, make rules for the examination and certification of school nurses and file in the secretary's office all papers relating to school nurses certification and register each such certification.

NOTE: Sub. (7m) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(7m) CERTIFICATION OF SCHOOL NURSES. Certify school nurses, make rules for the examination and certification of school nurses and file in the superintendent's office all papers relating to school nurses certification and register each such certification.

(8) ADMISSIONS TO KINDERGARTEN AND FIRST GRADE. Prescribe procedures, conditions and standards under which admissions to kindergarten and first grade may be made at ages earlier than those specified in s. 118.14 in exceptional cases.

(9) FEDERAL AIDS. Accept federal funds for any function over which the department has jurisdiction and act as the agent for the receipt and disbursement of such funds.

NOTE: Sub. (9) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(9) FEDERAL AIDS. Accept federal funds for any function over which the state superintendent has jurisdiction and act as the agent for the receipt and disbursement of such funds.

(10) EDUCATIONAL ASSESSMENT. Develop an educational assessment program to measure objectively the adequacy and efficiency of educational programs offered by public schools in this state. The program shall include methods by which pupil achievement in reading, mathematics, writing, science, social science and other areas of instruction commonly offered by public schools will be objectively measured each year. Assessment shall be undertaken at several grade levels on a uniform, statewide basis.

(11) DRIVER EDUCATION COURSES. Approve driver education courses offered by school districts, county handicapped children's education boards and technical college districts for the purposes of ss. 121.41 (1) and 343.16 (1) (c) 1. and establish minimum standards for driver education courses offered in private schools for the purposes of s. 343.16 (1) (c) 3. All driver education courses approved or for which standards are established under this subsection shall acquaint each student with the hazards posed by farm machinery and animals on highways and shall provide instruction in safely dealing with such hazards.

(13) UNIFORM FINANCIAL FUND ACCOUNTING. Prescribe a uniform financial fund accounting system, applicable to all school

districts and county handicapped children's education boards, which provides for the recording of all financial transactions inherent in the management of schools and county handicapped children's education board programs and the administration of the state's school aid programs.

(14) MINORITY GROUP PUPIL CENSUS. Establish procedures under which school districts report annually the number of minority group pupils, as defined in s. 121.845 (2), residing in the school district and attending public schools in the district so as to be able to classify school districts under s. 121.85 (2).

(15) BILINGUAL-BICULTURAL EDUCATION. (a) Establish, by rule, standards for the approval of the abilities of certified teachers and counselors and their aides participating in bilingual-bicultural education programs under subch. VII to read, write and speak a non-English language and to possess knowledge of the culture of limited-English speaking pupils.

(b) Establish, by rule, minimum standards for bilingual-bicultural education programs under subch. VII.

(16) ALCOHOL AND OTHER DRUG ABUSE PREVENTION PLAN. Cooperate with the department of health and family services in the preparation of a joint alcohol and other drug abuse prevention, intervention, treatment and rehabilitation plan under s. 46.974.

(17) AMERICAN INDIAN LANGUAGE AND CULTURE EDUCATION. (a) Establish by rule, in coordination with the American Indian language and culture education board, standards for certifying the abilities of teachers participating in American Indian language and culture education programs under subch. IV to read and write or speak an American Indian language and to possess knowledge of American Indian history and culture.

(b) Establish by rule, in coordination with the American Indian language and culture education board, standards for certifying the abilities of home school coordinators, counselors and aides participating in American Indian language and culture education programs under subch. IV to possess knowledge of American Indian history and culture.

(c) Promulgate rules, in coordination with the American Indian language and culture education board, which further define "American Indian" under s. 115.71 (2) (d).

(d) In coordination with the American Indian language and culture education board, develop a curriculum for grades 4 to 12 on the Chippewa Indians' treaty-based, off-reservation rights to hunt, fish and gather.

(18) PUPIL MEMBERSHIP AUDITS. Annually require at least 25% of school boards to audit the number of pupils reported for membership purposes under s. 120.14 (1).

(19) FEDERAL DISCRETIONARY FUNDS. (a) Continue to award federal aid received under 20 USC 1411 (c) (1) (A) to any school district which received such funds in the 1982–83 school year in order to fund the educational costs associated with the transfer of handicapped pupils from a state institution. This paragraph does not apply after July 1, 1992.

(b) Ensure that federal aid received under 20 USC 1411 (c) (1) (A) after July 1, 1992, is not used to supplant or replace funding available from other sources.

(20) COUNCIL FOR MILWAUKEE PUBLIC SCHOOLS GRANT PROGRAMS. Appoint a council under s. 15.04 (1) (c) composed of residents of the school district established under ch. 119 who are selected to reflect the pluralistic nature of the school district. The council shall:

(a) Advise the secretary on funding criteria and evaluation plans for grant programs for the school district operating under ch. 119.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) Advise the state superintendent on funding criteria and evaluation plans for grant programs for the school district operating under ch. 119.

(b) Advise the secretary on the programs that meet or do not meet the funding criteria.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Advise the state superintendent on the programs that meet or do not meet the funding criteria.

(c) Assist the secretary in monitoring the progress of funded programs.

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) Assist the state superintendent in monitoring the progress of funded programs.

(d) Recommend to the secretary needed changes in statutes or rules relating to grant programs.

NOTE: Par. (d) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(d) Recommend to the state superintendent needed changes in statutes or rules relating to grant programs.

(e) Submit to the secretary an annual report detailing the council's activities, accomplishments and projected needs.

NOTE: Par. (e) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(e) Submit to the state superintendent an annual report detailing the council's activities, accomplishments and projected needs.

(f) Assist in ensuring that various grant programs operate compatibly.

(21) YOUTH INITIATIVES PROGRAM. Administer grants to local community organizations for standardized assessment and programs for instruction in basic skills and work experience under the youth initiatives program. The department may require a school board to provide matching funds at any percentage. The match may be in the form of money or in-kind services or both. The department shall establish, by rule, performance standards for the youth initiatives program and shall monitor performances by grantees. This subsection does not apply after June 30, 1996.

NOTE: Sub. (21) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27, s. 9145 (1). The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(21) YOUTH INITIATIVES PROGRAM. Administer grants to local community organizations for standardized assessment and programs for instruction in basic skills and work experience under the youth initiatives program. The state superintendent may require a school board to provide matching funds at any percentage. The match may be in the form of money or in-kind services or both. The state superintendent shall establish, by rule, performance standards for the youth initiatives program and shall monitor performances by grantees. This subsection does not apply after June 30, 1996.

(22) INFORMATION FOR TAX BILLS. By November 1, provide to the department of revenue the information about school aids distributed to each school district that will enable that department to furnish to taxation districts the information required under s. 73.03 (31).

(23) WISCONSIN EDUCATIONAL OPPORTUNITY PROGRAMS. Administer Wisconsin educational opportunity programs on a statewide basis to assist minority and economically disadvantaged youth and adults in pursuing higher education opportunities. The statewide programs shall consist of all of the following:

(a) A talent search program which shall provide information to youths and adults about postsecondary education and counseling to aid pupils in defining educational goals, applying and enrolling in postsecondary institutions and obtaining financial aid.

(b) A talent incentive program which shall provide supplemental aid to financially needy pupils to promote attendance at postsecondary institutions.

(c) An early identification program which shall provide services to pupils under s. 115.44.

(d) The minority group pupil scholarship program under s. 115.43.

(24) PRIORITY IN AWARDING GRANTS. Give priority in awarding grants to local community organizations under sub. (21) and to school boards under ss. 115.36 and 115.362, and in awarding grants from federal funds received under 20 USC 2301 to 2471, 20 USC 4601 to 4665 and 29 USC 1602 (b) (1), to programs that

provide more than one of the educational services specified under sub. (21), s. 115.36, 115.362, 115.915, 118.01 (2) (d) 7. or 8. or 118.153 or 20 USC 2301 to 2471, 20 USC 4601 to 4665 or 29 USC 1602 (b) (1).

(27) WISCONSIN GEOGRAPHY ALLIANCE. Annually allocate the amount in the appropriation under s. 20.255 (3) (ec) to the Wisconsin geography alliance to train teachers and develop curricula for primary and secondary education in geography. This subsection does not apply after June 30, 1996.

(30) VOCATIONAL STUDENT ORGANIZATIONS. (a) Give priority to assisting school boards to operate vocational student organizations for pupils pursuing related instruction.

(b) Provide in the department the following vocational education consultants and administrative, leadership and vocational student organization educational consultants:

1. Two full-time consultants in agriculture education.
2. Two full-time consultants in business education.
3. Two full-time consultants in technical education.
4. Two full-time consultants in family and consumer education.

5. One full-time consultant and one half-time consultant in marketing education.

(c) Provide in the department one full-time educational consultant in apprenticeship education within the office of school-to-work transition.

(d) Provide in the department, within the integrated and applied curricula team, a vocational education and vocational student organizations subteam consisting of those educational consultants specified in par. (b).

(31) ACCOMMODATION OF RELIGIOUS BELIEFS. Promulgate rules providing for the reasonable accommodation of a pupil's sincerely held religious beliefs with regard to all examinations and other academic requirements.

(32) PUPIL TRANSCRIPT. By July 1, 1993, develop a uniform pupil transcript that may be used by school districts beginning in the 1993–94 school year.

(33) CONSOLIDATION PLANNING GRANT. From the appropriation under s. 20.255 (1) (a), award a grant of \$25,000 in the 1991–92 school year to the school boards of any 2 school districts, for the purpose of supporting their consolidation planning efforts, if at least one of the school districts received no state aid under s. 121.08 in the 1990–91 school year and the 2 school boards established a committee to study the feasibility of consolidating the 2 school districts prior to June 1, 1991.

(34) EXCHANGE TEACHERS. Coordinate and publicize the exchange of teachers under s. 119.18 (13) and the exchange of teachers and administrators under s. 120.13 (7).

(35) GRANTS FOR COLLABORATIVE PROJECTS. From the appropriation under s. 20.255 (2) (ef), award a \$300,000 grant to a rural school district, a suburban school district and an urban school district, other than the school district operating under ch. 119, for projects, conducted in collaboration with the county social services department or the county human services department, that integrate social services and school responsibilities as they relate to pupils and their parents. One-third of the total grant amount shall be paid in each of 3 consecutive school years. The department shall give preference in awarding grants to projects that provide for the delivery of services in a single location. No grant may be awarded under this subsection after June 30, 1996.

NOTE: Sub. (35) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27, s. 9145 (1). The treatment by Act 27, s. 9145 (1), was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to the treatment by Act 27, s. 9145 (1), it read:

(35) GRANTS FOR COLLABORATIVE PROJECTS. From the appropriation under s. 20.255 (2) (ef), award a \$300,000 grant to a rural school district, a suburban school district and an urban school district, other than the school district operating under ch. 119, for projects, conducted in collaboration with the county social services department or the county human services department, that integrate social services and school responsibilities as they relate to pupils and their parents. One-third of the total grant amount shall be paid in each of 3 consecutive school years. The state superintendent shall give preference in awarding grants

to projects that provide for the delivery of services in a single location. No grant may be awarded under this subsection after June 30, 1996.

(36) REPORT ON GOALS. Report to the governor and to the appropriate standing committees of the legislature under s. 13.172 (3) the progress made by school districts toward attaining state educational goals and the state vision for education.

(37) TRAINING OF HEALTH PROFESSIONALS. Promote public awareness of, access to and training of health professionals for rural and underserved urban areas.

(38) REPORTING OF PUPILS ATTENDING TECHNICAL COLLEGES. In consultation with the technical college system board, promulgate rules establishing a uniform format for school boards to use in reporting the number of pupils attending technical college districts under ss. 118.15 (1) (b), (cm) and (d) and 118.37 and in reporting pupil participation in technical preparation programs under s. 118.34, including the number of courses taken for advanced standing in a technical college district's associate degree program and for technical college credit. The format shall be identical to the format established by the technical college system board under s. 38.04 (11) (a) 2.

History: 1971 c. 40, 125; 1973 c. 89, 90; 1975 c. 39, 115, 199, 220, 224, 395, 422; 1977 c. 26, 29, 203, 418, 429; 1979 c. 28, 331; 1979 c. 346 ss. 10, 15; 1979 c. 355; 1981 c. 20, 241; 1983 a. 27, 412; 1985 a. 12; 1985 a. 29 ss. 1686m, 1689, 3202 (43); 1987 a. 27, 159; 1989 a. 31, 56, 297, 336, 359; 1991 a. 39, 93, 108, 164, 227, 250, 269, 315; 1993 a. 16, 27, 213, 223, 335, 339, 437, 455, 492; 1995 a. 27 ss. 3847g to 3858, 9126 (19), 9145 (1); 1995 a. 225.

NOTE: 1993 Wis. Act 339, which created sub. (7) (e), contains explanatory notes.

See note to Art. I, sec. 18, citing 63 Atty. Gen. 473, concerning school lunch programs in private schools.

115.29 General powers. The secretary may:

NOTE: Sec. 115.29 (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.29 General powers. The state superintendent may:

(1) DESIGNATE REPRESENTATIVE. Designate the deputy secretary or another employe of the department as the secretary's representative on any body on which the secretary is required to serve, except the board of regents of the university of Wisconsin system.

NOTE: Sub. (1) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) DESIGNATE REPRESENTATIVE. Designate the deputy state superintendent or another employe of the department as the state superintendent's representative on any body on which the state superintendent is required to serve, except the board of regents of the university of Wisconsin system.

(2) EDUCATIONAL MEETINGS. Attend such educational meetings and make such investigations as the secretary deems important and as will acquaint the secretary with the different systems of public schools in the United States.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) EDUCATIONAL MEETINGS. Attend such educational meetings and make such investigations as the state superintendent deems important and as will acquaint the state superintendent with the different systems of public schools in the United States.

(3) AUXILIARY INSTRUCTIONAL EMPLOYEES. By order, establish classes of auxiliary instructional employes and authorize their employment in the instructional program of the elementary and high schools for specific purposes and their reimbursement from the instructional budget. Auxiliary instructional employes shall not be covered as teachers as defined in s. 40.02 (55) or under s. 118.21, [118.215], 118.22 or 121.006 (2) but shall be eligible under the public employe trust fund as participating employes as defined in s. 40.02 (46), if it is made applicable, other than through s. 40.21 (3), to the school district employing them.

NOTE: The bracketed language indicates a cross-reference to a provision which was repealed by 1995 Wis. Act 66. Corrective legislation is pending.

(4) HIGH SCHOOL GRADUATION EQUIVALENCY. Grant declarations of equivalency of high school graduation to persons, if in the secretary's judgment they have presented satisfactory evidence of having completed a recognized high school course of study or its equivalent. The secretary may establish the standards by which high school graduation equivalency is determined. Such stan-

dards may consist of evidence of high school courses completed in high schools recognized by the proper authorities as accredited, results of examinations given by or at the request of the secretary, successful completion of correspondence study courses given by acceptable correspondence study schools, a general educational development certificate of high school equivalency issued by an agency of the U.S. government, course credits received in schools meeting the approval of the secretary or other standards established by the secretary.

NOTE: Sub. (4) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) HIGH SCHOOL GRADUATION EQUIVALENCY. Grant declarations of equivalency of high school graduation to persons, if in the state superintendent's judgment they have presented satisfactory evidence of having completed a recognized high school course of study or its equivalent. The state superintendent may establish the standards by which high school graduation equivalency is determined. Such standards may consist of evidence of high school courses completed in high schools recognized by the proper authorities as accredited, results of examinations given by or at the request of the state superintendent, successful completion of correspondence study courses given by acceptable correspondence study schools, a general educational development certificate of high school equivalency issued by an agency of the U.S. government, course credits received in schools meeting the approval of the state superintendent or other standards established by the state superintendent.

(5) TEACHER SUPPLY, INFORMATION AND ANALYSIS. Assist school boards, cooperative educational service agencies and county handicapped children's education boards to locate qualified professional school personnel, assist qualified professional school personnel to locate vacant positions and provide information and analysis of the professional school personnel supply.

History: 1971 c. 100 s. 23; 1971 c. 125, 211; 1977 c. 29; 1979 c. 32, 301; 1981 c. 96; 1983 a. 27; 1993 a. 492; 1995 a. 27, 111.

115.30 Forms and reports. (1) The department shall prepare for the use of school officers suitable forms for making reports, and suitable outlines as aids in conducting school meetings. With the exception of changes due to statute or rule revision, the department shall give school districts a one-year advance notice of any changes to be made to the forms and reports. School district officers and employees shall maintain a uniform recording of accounting as prescribed by the department and make such reports to the department as will enable it to distribute state school fund appropriations and state educational appropriations to the schools and persons entitled thereto, and to properly discharge the other duties of the department.

(2) The department may require all school boards to report to it, on forms provided, the name of the school and its location, the name and address of the teachers, the number of months of school maintained during the year, the opening and closing dates, the names and ages of all pupils enrolled between the ages of 6 and 18, the names and post-office addresses and places of residence of the parents of such pupils, the number of the school district and the distance such pupils reside from the schoolhouse, the number of days each pupil was present during each month and any other information requested by it.

(3) On or before each October 15, each administrator of a public or private school system or a home-based private educational program shall submit, on forms provided by the department, a statement of the enrollment on the 3rd Friday of September in the elementary and high school grades under his or her jurisdiction to the department which shall prepare such reports as will enable the public and private schools and home-based private educational programs to make projections regarding school buildings, teacher supply and funds required. The administrator of each private school system and home-based private educational program shall indicate in his or her report whether the system or program meets all of the criteria under s. 118.165 (1).

(4) In the biennial report under s. 15.04 (1) (d), the department also shall report:

NOTE: Sub. (4) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) In the biennial report under s. 15.04 (1) (d), the state superintendent also shall report:

(a) The condition of all schools under the department's supervision.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) The condition of all schools under the state superintendent's supervision.

(b) An abstract of the public school reports made to the department.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) An abstract of the public school reports made to the state superintendent.

(c) The secretary's visits to educational institutions.

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) The state superintendent's visits to educational institutions.

(d) The work done by the department in the performance of its duties.

(e) Plans for improving the schools and advancing education.

(f) A summary of the receipts and disbursements of all schools under the department's jurisdiction.

NOTE: Par. (f) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(f) A summary of the receipts and disbursements of all schools under the state superintendent's jurisdiction.

(g) Such other matters as the department deems appropriate.

NOTE: Par. (g) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(g) Such other matters as the state superintendent deems appropriate.

(5) The department shall make certified copies, when required, of any papers deposited or filed or records kept in the department, and of any act or decision made by it. The fee therefor shall be 15 cents per page.

History: 1975 c. 224; 1977 c. 196 s. 131; 1977 c. 273; 1981 c. 314; 1983 a. 512; 1993 a. 492; 1995 a. 27 ss. 3864 to 3866, 9145 (1).

115.31 License revocation; reports; investigation.

(1) In this section:

(a) "Administrator" means the chief administrative officer of an educational agency. If the chief administrative officer is the subject of a report under this section, "administrator" means the presiding officer of the governing board of the educational agency or the secretary of the department in which the educational agency is located.

(b) "Educational agency" means a school district, cooperative educational service agency, state correctional institution under s. 302.01, secured correctional facility, as defined in s. 938.02 (15m), secured child caring institution, as defined in s. 938.02 (15g), the Wisconsin school for the visually handicapped, the Wisconsin school for the deaf, the Mendota mental health institute, the Winnebago mental health institute, a state center for the developmentally disabled, a private school or a private, nonprofit, nonsectarian agency under contract with a school board under s. 118.153 (3) (c).

(c) "Immoral conduct" means conduct or behavior that is contrary to commonly accepted moral or ethical standards and that endangers the health, safety, welfare or education of any pupil.

(2) Except as provided under sub. (2g), after written notice of the charges and of an opportunity for defense, any license granted by the department may be revoked by the department for incompetency or immoral conduct on the part of the licensee.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) Except as provided under sub. (2g), after written notice of the charges and of an opportunity for defense, any license granted by the state superintendent may be revoked by the state superintendent for incompetency or immoral conduct on the part of the licensee.

(2g) Notwithstanding subch. II of ch. 111, the department shall revoke a license granted by the department, without a hearing, if the licensee is convicted of any Class A, B, C or D felony under ch. 940 or 948, except ss. 940.08 and 940.205, for a violation that occurs on or after September 12, 1991.

NOTE: Sub. (2g) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2g) Notwithstanding subch. II of ch. 111, the state superintendent shall revoke a license granted by the state superintendent, without a hearing, if the licensee is convicted of any Class A, B, C or D felony under ch. 940 or 948, except ss. 940.08 and 940.205, for a violation that occurs on or after September 12, 1991.

(2r) (a) Except as provided under par. (b), the department may not reinstate a license revoked under sub. (2g) for 6 years following the date of the conviction, and may reinstate a license revoked under sub. (2g) only if the licensee establishes by clear and convincing evidence that he or she is entitled to reinstatement.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2r) (a) Except as provided under par. (b), the state superintendent may not reinstate a license revoked under sub. (2g) for 6 years following the date of the conviction, and may reinstate a license revoked under sub. (2g) only if the licensee establishes by clear and convincing evidence that he or she is entitled to reinstatement.

(b) The department shall reinstate a license revoked under sub. (2g), prior to the expiration of the 6–year period following the conviction, if he or she receives from the court in which the conviction occurred a certificate stating that the conviction has been reversed, set aside or vacated.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) The state superintendent shall reinstate a license revoked under sub. (2g), prior to the expiration of the 6–year period following the conviction, if he or she receives from the court in which the conviction occurred a certificate stating that the conviction has been reversed, set aside or vacated.

(3) An administrator shall do all of the following:

(a) Report to the department the name of any person employed by the educational agency and licensed by the department if any of the following occurs:

NOTE: Par. (a) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) Report to the state superintendent the name of any person employed by the educational agency and licensed by the state superintendent if any of the following occurs:

1. The person is charged with a crime under ch. 948, including a crime specified under s. 948.015, a felony with a maximum term of imprisonment of at least 5 years or a crime in which the victim was a child.

2. The person is convicted of a crime described under subd. 1. or of 4th degree sexual assault under s. 940.225 (3m).

3. The person is dismissed, or his or her contract is not renewed, by the employer based in whole or in part on evidence that the person engaged in immoral conduct.

4. The person resigns and the administrator has a reasonable suspicion that the resignation relates to the person having engaged in immoral conduct.

(b) Report to the department the name of any person employed by the educational agency who is not licensed by the department if the person is convicted of a crime described under par. (a) 1. or of 4th degree sexual assault under s. 940.225 (3m).

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Report to the state superintendent the name of any person employed by the educational agency who is not licensed by the state superintendent if the person is convicted of a crime described under par. (a) 1. or of 4th degree sexual assault under s. 940.225 (3m).

(c) Send a copy of any report that is made to the department under par. (a) or (b) to the person who is the subject of the report.

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) Send a copy of any report that is made to the state superintendent under par. (a) or (b) to the person who is the subject of the report.

(4) If an administrator requests a person who is employed by an educational agency and licensed by the department to resign, and the administrator has a reasonable suspicion that the person engaged in immoral conduct, the administrator shall inform the person of the duty to report to the department under sub. (3) (a) 4.

NOTE: Sub. (4) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) If an administrator requests a person who is employed by an educational agency and licensed by the state superintendent to resign, and the administrator has a reasonable suspicion that the person engaged in immoral conduct, the administrator shall inform the person of the duty to report to the state superintendent under sub. (3) (a) 4.

(5) (a) A report under sub. (3) shall be made within 15 days after the administrator becomes aware of the charge, conviction, dismissal, nonrenewal or resignation.

(b) Any administrator who in good faith reports or fails to report information under sub. (3), and any other person who reports information under sub. (3) to the department, is immune from civil liability for such acts or omissions.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Any administrator who in good faith reports or fails to report information under sub. (3), and any other person who reports information under sub. (3) to the state superintendent, is immune from civil liability for such acts or omissions.

(6) (a) Upon receiving a report under sub. (3) (a) 2. or (b) indicating that a person was convicted of a crime, the department shall verify the conviction.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(6) (a) Upon receiving a report under sub. (3) (a) 2. or (b) indicating that a person was convicted of a crime, the state superintendent shall verify the conviction.

(b) Upon receiving a report under sub. (3) relating to a person licensed by the department, the department shall investigate to determine whether to initiate revocation proceedings. During the investigation, the department shall keep confidential all information pertaining to the investigation except the fact that an investigation is being conducted and the date of the revocation hearing.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Upon receiving a report under sub. (3) relating to a person licensed by the state superintendent, the state superintendent shall investigate to determine whether to initiate revocation proceedings. During the investigation, the department shall keep confidential all information pertaining to the investigation except the fact that an investigation is being conducted and the date of the revocation hearing.

(c) Notwithstanding s. 16.61 (4), the department shall destroy all information pertaining to an investigation or a revocation proceeding, other than the fact that a person was convicted of a crime described under sub. (3) (a) 1., 3 years from the date on which the investigation is terminated or a final decision denying revocation of the person's license is issued, whichever is later.

(7) Any person who intentionally fails to report as required under this section may be fined not more than \$1,000 or imprisoned for not more than 6 months or both.

(8) The department shall promulgate rules to implement and administer this section.

NOTE: Sub. (8) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(8) The state superintendent shall promulgate rules to implement and administer this section.

History: 1991 a. 42 ss. 1 to 3, 4r; 1993 a. 16, 98; 1995 a. 27 s. 9145 (1); 1995 a. 77.

115.33 Inspection of school buildings. (1) In this section:

(a) "In compliance" means in compliance with subchs. I and IV of ch. 101, ch. 145 and ss. 254.11 to 254.178 and the rules pro-

mulgated under subchs. I and IV of ch. 101, ch. 145 and ss. 254.11 to 254.178.

(b) “Proposed use” means a function that the school board has indicated by resolution that it intends to pursue within the current school year or the next 2 succeeding school years.

(2) (a) The department may request the department of commerce to inspect a public school if any of the following occurs:

NOTE: Par. (a) (intro.) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27 s. 9145 (1) was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Par (a) (intro.), as not affected by 1995 Wis. Act 27 s. 9145 (1), reads as follows:

(a) The state superintendent may request the department of commerce to inspect a public school if any of the following occurs:

1. Any elector in the school district complains in writing to the department that the school is inadequate or is otherwise unfit for school purposes.

NOTE: Subd. 1. is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

1. Any elector in the school district complains in writing to the state superintendent that the school is inadequate or is otherwise unfit for school purposes.

2. The school board of the school district in which the school is located requests the department to do so. The school board may also request an opinion as to whether the school is adequate for a proposed use.

NOTE: Subd. 2. is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

2. The school board of the school district in which the school is located requests the state superintendent to do so. The school board may also request an opinion as to whether the school is adequate for a proposed use.

3. The department determines there is significant evidence that the school is not in compliance.

NOTE: Subd. 3. is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

3. The state superintendent determines there is significant evidence that the school is not in compliance.

(b) The department of commerce shall inspect the school within 30 days after receiving a request from the department under par. (a).

NOTE: Par. (b) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27 s. 9145 (1) was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Par (b), as not affected by 1995 Wis. Act 27 s. 9145 (1), reads as follows:

(b) The department of commerce shall inspect the school within 30 days after receiving a request from the state superintendent under par. (a).

(3) (a) If the department determines that a school is not in compliance, and the department of commerce, based on its inspection of the school, concurs in the determination, the department may order the school board to repair, improve, remodel or close the school by a stated date. An order issued under this paragraph constitutes a preliminary finding of noncompliance with the standard under s. 121.02 (1) (i).

NOTE: Par. (a) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27 s. 9145 (1) was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Par (a), as not affected by 1995 Wis. Act 27 s. 9145 (1), reads as follows:

(a) If the state superintendent determines that a school is not in compliance, and the department of commerce, based on its inspection of the school, concurs in the determination, the state superintendent may order the school board to repair, improve, remodel or close the school by a stated date. An order issued under this paragraph constitutes a preliminary finding of noncompliance with the standard under s. 121.02 (1) (i).

(b) 1. If the department determines that a school is not in compliance and is not worth repairing, and the department of commerce, based on its inspection of the school, concurs in the determination, the department may order the school board to develop a plan that describes how the school board will achieve compliance with the standard under s. 121.02 (1) (i). The plan shall specify the time within which compliance with the standard under s. 121.02 (1) (i) shall be achieved. The department shall hold a public hearing on the plan in the school district and may, as a result of the hearing, recommend changes to the plan. The department may withhold up to 25% of the school district’s state aid if the

school district fails to achieve compliance with the standard under s. 121.02 (1) (i) within the period specified in the plan.

NOTE: Subd. 1. is shown as amended by 1995 Wis. Act 27. The treatment by Act 27 s. 9145 (1) was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Subd. 1., as not affected by 1995 Wis. Act 27 s. 9145 (1), reads as follows:

1. If the state superintendent determines that a school is not in compliance and is not worth repairing, and the department of commerce, based on its inspection of the school, concurs in the determination, the state superintendent may order the school board to develop a plan that describes how the school board will achieve compliance with the standard under s. 121.02 (1) (i). The plan shall specify the time within which compliance with the standard under s. 121.02 (1) (i) shall be achieved. The state superintendent shall hold a public hearing on the plan in the school district and may, as a result of the hearing, recommend changes to the plan. The state superintendent may withhold up to 25% of the school district’s state aid if the school district fails to achieve compliance with the standard under s. 121.02 (1) (i) within the period specified in the plan.

2. Section 121.02 (3) does not apply to determinations under subd. 1. or to orders issued under subd. 1.

History: 1989 a. 31; 1993 a. 450; 1995 a. 27 ss. 3867 to 3870, 9116 (5) and 9145 (1).

See note to 50.50, citing 65 Atty. Gen. 54.

115.34 School lunch program. (1) The department may contract for the operation and maintenance of school lunch programs and for the distribution, transportation, warehousing, processing and insuring of food products provided by the federal government. The form and specifications of such contracts shall be determined by the department. Amounts remaining unpaid for 60 days or more after they become payable under the terms of such contracts shall be deemed past due and shall be certified to the department of administration on October 1 of each year and included in the next apportionment of state special charges to local units of government as special charges against the school districts and municipalities charged therewith.

(2) The department shall make payments to school districts and to private schools for school lunches served to children in the prior year as determined by the department from the appropriation under s. 20.255 (2) (cn). Payments to school districts and to private schools shall equal the state’s matching obligation under 42 USC 1751 et seq. Payments in the current year shall be determined by prorating the state’s matching obligation based on the number of school lunches served to children in the prior year. In this subsection, “private school” means any school defined in s. 115.001 (3r) which complies with the requirements of 42 USC 2000d.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) The department shall make payments to school districts and to private schools for school lunches served to children in the prior year as determined by the state superintendent from the appropriation under s. 20.255 (2) (cn). Payments to school districts and to private schools shall equal the state’s matching obligation under 42 USC 1751 et seq. Payments in the current year shall be determined by prorating the state’s matching obligation based on the number of school lunches served to children in the prior year. In this subsection, “private school” means any school defined in s. 115.001 (3r) which complies with the requirements of 42 USC 2000d.

History: 1971 c. 125, 215; 1975 c. 39, 224; 1977 c. 29; 1979 c. 221 ss. 584m, 2200 (43); 1983 a. 27; 1983 a. 189 s. 329 (17m); 1983 a. 512 s. 8; 1995 a. 27 s. 9145 (1).

United States and Wisconsin Constitutions do not prohibit state from disbursing state matching funds under National School Lunch Act to private as well as public schools. 69 Atty. Gen. 109.

115.341 School breakfast program. (1) A school board or governing body of a private school may apply to the department for a grant to assist in establishing a school breakfast program. Beginning in the 1994–95 school year, the department shall award grants from the appropriation under s. 20.255 (2) (cm). The department may award a grant of up to \$10,000 to a school board or governing body of a private school under this section only if all of the following apply:

NOTE: Sub. (1) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) A school board or governing body of a private school may apply to the state superintendent for a grant to assist in establishing a school breakfast pro-

gram. Beginning in the 1994–95 school year, the state superintendent shall award grants from the appropriation under s. 20.255 (2) (cm). The state superintendent may award a grant of up to \$10,000 to a school board or governing body of a private school under this section only if all of the following apply:

(a) The school board or governing body agrees to operate a school breakfast program for at least 3 school years.

(b) The funds will be used for programs in schools in which at least 20% of the pupils enrolled are eligible for free or reduced-price lunches under 42 USC 1758 (b).

(c) The school board or governing body has adopted a plan to maximize the participation in the program of pupils who are eligible for free or reduced-price lunches under 42 USC 1758 (b).

(2) Notwithstanding sub. (1) (intro.), a school board or governing body of a private school that received a grant under this section to establish a school breakfast program may apply in successive school years for a grant under this section to expand the program to additional schools.

(3) A grant awarded under this section may be used only for nonrecurring costs, including site improvement, the purchase of equipment, the costs of training necessary to establish a school breakfast program and the costs of publicizing new programs. A grant may not be used for recurring costs, including food, supplies and support for permanent positions, or to reimburse for services or equipment that has already been contracted for or purchased.

(4) The department shall promulgate rules to implement and administer this section.

NOTE: Sub. (4) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) The state superintendent shall promulgate rules to implement and administer this section.

History: 1993 a. 168; 1995 a. 27 s. 9145 (1).

115.343 Wisconsin morning milk program. (1) The department shall establish a morning milk program. A school participating in the program shall offer each eligible child a half-pint of Wisconsin-produced whole milk, 2% milk, 1.5% milk, one percent milk, 0.5% milk, skim milk or chocolate milk on each day in which school is in session. If a child is allergic to milk or has metabolic disorders or other conditions which prohibit him or her from drinking milk, the child shall be offered juice as a substitute. Any school that participates in the program is encouraged to consider bids from local milk suppliers. The school shall keep all information related to the identity of the pupils who receive a beverage under the program confidential. In this subsection, “Wisconsin-produced” means that all or part of the raw milk used by the milk processor was produced in this state.

(2) A child who is enrolled in a school in prekindergarten classes to grade 5 is eligible to receive a beverage specified in sub. (1) if all of the following apply:

(a) The child does not receive the beverage through the federal special milk program under 42 USC 1772 (b).

(b) The child meets the income eligibility standard for a free or reduced-price lunch in the federal school lunch program under 42 USC 1758 (b).

(3) The department shall pay each participating school the full cost of beverages under sub. (1) served to children eligible under sub. (2) in the prior school year from the appropriation under s. 20.255 (2) (cp).

(4) If the appropriation under s. 20.255 (2) (cp) in any fiscal year is insufficient to pay the full amount of aid under this section, state aid payments shall be prorated among the schools entitled to such aid.

(5) The department shall maintain a count of the number of children who are served beverages under this section.

History: 1987 a. 27, 399; 1991 a. 39.

115.345 Nutritional improvement for elderly. (1) Any school district approved by the department may establish a system to provide the opportunity for authorized elderly persons to participate in its school lunch program. If a school board desires to

establish such a service, it shall develop a plan for the provision of food services for elderly persons and submit the plan to the department. Upon petition of 5% of the voters in the school district who voted in the last school board election, the school board shall formulate a food services plan, provided that hot food service facilities are available to school children in the district.

NOTE: Sub. (1) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) Any school district approved by the superintendent may establish a system to provide the opportunity for authorized elderly persons to participate in its school lunch program. If a school board desires to establish such a service, it shall develop a plan for the provision of food services for elderly persons and submit the plan to the superintendent. Upon petition of 5% of the voters in the school district who voted in the last school board election, the school board shall formulate a food services plan, provided that hot food service facilities are available to school children in the district.

(2) Each plan shall provide at least one meal per day for each day that school is in regular session. The school board may provide additional service at other times in its discretion, if the number of eligible persons in the district or adjacent districts is of sufficient size, in the opinion of the department, so that unwarranted production expense is not incurred.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) Each plan shall provide at least one meal per day for each day that school is in regular session. The school board may provide additional service at other times in its discretion, if the number of eligible persons in the district or adjacent districts is of sufficient size, in the opinion of the superintendent, so that unwarranted production expense is not incurred.

(3) Any school board which operates a food services plan for elderly persons under this section shall make facilities available for service to elderly persons at every high school and junior high school in the district which provides hot food service to its students. Upon application, the department may grant exceptions from compliance with this subsection for reasons of safety, convenience or insufficient interest in a given neighborhood. The school board may, in addition, provide service at elementary schools if desired.

NOTE: Sub. (3) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(3) Any school board which operates a food services plan for elderly persons under this section shall make facilities available for service to elderly persons at every high school and junior high school in the district which provides hot food service to its students. Upon application, the superintendent may grant exceptions from compliance with this subsection for reasons of safety, convenience or insufficient interest in a given neighborhood. The school board may, in addition, provide service at elementary schools if desired.

(4) Meals may be served at schools where they are served to students or at any site more convenient to the majority of authorized elderly persons interested in the service. Food may be transported to authorized elderly persons who are unable to leave their homes or distributed to nonprofit organizations for such purposes. However, no state funds under this section may be used for food delivery to individual homes. The department may require consolidation of programs between districts and between schools if such a procedure will be convenient and economical.

NOTE: Sub. (4) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) Meals may be served at schools where they are served to students or at any site more convenient to the majority of authorized elderly persons interested in the service. Food may be transported to authorized elderly persons who are unable to leave their homes or distributed to nonprofit organizations for such purposes. However, no state funds under this section may be used for food delivery to individual homes. The superintendent may require consolidation of programs between districts and between schools if such a procedure will be convenient and economical.

(5) The school board may file a claim with the department for reimbursement for reasonable expenses incurred, excluding capital equipment costs, but not to exceed 15% of the cost of the meal or 50 cents per meal, whichever is less. Any cost in excess of the lesser amount may be charged to participants. If the department approves the claim, it shall certify that payment is due and the state treasurer shall pay the claim from the appropriation under s. 20.255 (2) (cn).

(6) All meals served must meet the approval of the department which shall establish minimum nutritional standards not inconsistent with federal standards and reasonable expenditure limits such that the average cost per meal is not excessive. The department shall give special consideration to dietary problems of elderly persons in formulating a nutritional plan. However, no school board shall be required to provide special foods for individual persons with allergies or medical disorders.

NOTE: Sub. (6) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(6) All meals served must meet the approval of the superintendent who shall establish minimum nutritional standards not inconsistent with federal standards and reasonable expenditure limits such that the average cost per meal is not excessive. The superintendent shall give special consideration to dietary problems of elderly persons in formulating a nutritional plan. However, no school board shall be required to provide special foods for individual persons with allergies or medical disorders.

(7) Participants in a program under this section may be required to document their Wisconsin residency in a manner approved by the department. The department may issue identification cards to such persons if necessary.

NOTE: Sub. (7) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(7) Participants in a program under this section may be required to document their Wisconsin residency in a manner approved by the department. The superintendent may issue identification cards to such persons if necessary.

(7m) A private school may establish a food services plan for elderly persons. If the plan meets all of the requirements of this section and is approved by the department, the private school is eligible for reimbursement in the same manner as school districts under sub. (5).

NOTE: Sub. (7m) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(7m) A private school may establish a food services plan for elderly persons. If the plan meets all of the requirements of this section and is approved by the state superintendent, the private school is eligible for reimbursement in the same manner as school districts under sub. (5).

(8) The department shall adopt reasonable rules necessary to implement this section.

NOTE: Sub. (8) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(8) The superintendent shall adopt reasonable rules necessary to implement this section.

(9) In this section, “authorized elderly person” means any resident of the state who is 60 years of age or more, or the spouse of any such person. A school board may admit nonresident persons who would otherwise qualify into its program except that no state funds under this section may be used to subsidize any portion of the meals served to such persons.

History: 1973 c. 190; 1987 a. 241; 1989 a. 269; 1995 a. 27.

115.347 Direct certification of eligibility for school nutrition programs. (1) Beginning in the 1994–95 school year, a school board may submit enrollment data to the department of industry, labor and job development for the purpose of directly certifying children as eligible for free or reduced-price meals under the federal school nutrition programs. The department of industry, labor and job development shall prescribe a format for the report.

(2) Whenever a school district that is located in whole or in part in a county that has converted to the client assistance for reemployment and economic support data system submits a report under sub. (1) in the prescribed format, the department of industry, labor and job development shall determine which children enrolled in the school district are members of Wisconsin works groups participating under s. 49.147 (3) to (5) or of families receiving aid to families with dependent children or food stamps and shall provide the information to the school board as soon thereafter as possible. The school board shall use the information to directly certify children as eligible for free or reduced-price meals served by the school district under federal school nutrition programs, pursuant to 42 USC 1758 (b) (2) (C) (ii) and (iii).

(3) The department shall assist school boards in developing a method for submitting enrollment data to the department of industry, labor and job development under sub. (1).

NOTE: Sub. (3) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27, s. 9145 (1), was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Sub. (3), as not affected by 1995 Wis. Act 27 s. 9145 (1), reads as follows:

(3) The state superintendent shall assist school boards in developing a method for submitting enrollment data to the department of industry, labor and job development under sub. (1).

History: 1993 a. 168; 1995 a. 27 ss. 3872, 9130 (4), 9145 (1); 1995 a. 289.

115.35 Health problems education program. (1) A critical health problems education program is established in the department. The program shall be a systematic and integrated program designed to provide appropriate learning experiences based on scientific knowledge of the human organism as it functions within its environment and designed to favorably influence the health, understanding, attitudes and practices of the individual child which will enable him or her to adapt to changing health problems of our society. The program shall be designed to educate youth with regard to critical health problems and shall include, but not be limited to, the following topics as the basis for comprehensive education curricula in all elementary and secondary schools: controlled substances, as defined in s. 961.01 (4); controlled substance analogs, as defined in s. 961.01 (4m); alcohol; tobacco; mental health; sexually transmitted diseases, including acquired immunodeficiency syndrome; human growth and development; and related health and safety topics. Participation in the human growth and development topic of the curricula shall be entirely voluntary. The department may not require a school board to use a specific human growth and development curriculum.

(2) In carrying out this section, the department may, without limitation because of enumeration:

NOTE: Sub. (2) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) In carrying out this section, the state superintendent may, without limitation because of enumeration:

(a) Establish guidelines to help school districts develop comprehensive health education programs.

(b) Establish special in-service programs to provide professional preparation in health education for teachers throughout the state.

(c) Provide leadership institutions of higher education to develop and extend curricula in health education for professional preparation in both in-service and preservice programs.

(d) Develop cooperative programs between school districts and institutions of higher education whereby the appropriate health personnel of such institutions would be available to guide the continuing professional preparation of teachers and the development of curricula for local programs.

(e) Assist in the development of plans and procedures for the evaluation of health education curricula.

(3) The department may appoint a council consisting of representatives from universities and colleges, law enforcement, the various fields of education, the voluntary health agencies, the department of health and family services, the professional health associations and other groups or agencies it deems appropriate to advise it on the implementation of this section, including teachers, administrators and local school boards.

(4) The department shall cooperate with agencies of the federal government and receive and use federal funds for the purposes of this section.

(5) In each report under s. 15.04 (1) (d), the department shall include information:

NOTE: Sub. (5) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(5) In each report under s. 15.04 (1) (d), the state superintendent shall include information:

(a) As to the scope and nature of programs undertaken under this section.

(b) As to the degree and nature of cooperation being maintained with other state and local agencies.

(c) As to the department's recommendations to improve such programs and cooperation.

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) As to the state superintendent's recommendations to improve such programs and cooperation.

History: 1971 c. 219; 1977 c. 196 s. 131; 1977 c. 418; 1981 c. 291; 1985 a. 56; 1989 a. 203; 1993 a. 492; 1995 a. 27 ss. 3873, 9126 (19), 9145 (1); 1995 a. 448.

115.36 Assistance to schools for alcohol and other drug abuse programs. (1) The purpose of this section is to enable and encourage public and private schools to develop comprehensive programs to prevent or ameliorate alcohol and other drug abuse among minors.

(2) The department shall:

(a) Develop and conduct training programs for the professional staff of public and private schools in alcohol and other drug abuse prevention, intervention and instruction programs.

(b) Provide consultation and technical assistance to public and private schools for the development and implementation of alcohol and other drug abuse prevention, intervention and instruction programs.

(c) Provide fellowship grants to support advanced training or education in comprehensive school health and alcohol and other drug abuse education.

(d) Provide access to informational resources for alcohol and other drug abuse education programs and services including, but not limited to:

1. The screening, revision and evaluation of available information resources.

2. The establishment of a central depository and loan program for high cost informational resources.

3. The systematic dissemination of information concerning available resources to appropriate public and private school staff.

(e) Create a council under s. 15.04 (1) (c) to advise the department concerning the administration of this section.

(3) (a) The department shall, from the appropriation under s. 20.255 (2) (g), fund school district projects designed to assist minors experiencing problems resulting from the use of alcohol or other drugs or to prevent alcohol or other drug abuse by minors. The department shall:

1. Administer grant application and disbursement of funds.

2. Monitor program implementation.

3. Assist in and ensure evaluation of projects.

4. Report biennially in its report under s. 15.04 (1) (d) on program progress and project evaluation.

5. Promulgate necessary rules for the implementation of this subsection.

(b) Grants under this subsection may not be used to replace funding available from other sources.

(c) Grants under this subsection may be made only where there is a matching fund contribution from the local area in which a program is designed to operate of 20% of the amount of the grant obtained under this subsection. Private funds and in-kind contribution may be applied to meet the requirement of this paragraph.

(d) A school district applying for aid under this subsection shall submit a copy of the application to the county department under s. 51.42 for its advisory review. The county department under s. 51.42 may, and the council established under sub. (2) (e) shall, submit an advisory recommendation with respect to the

application to the department prior to the approval or denial of the application.

History: 1979 c. 331; 1981 c. 20 s. 2202 (42) (b); 1983 a. 27 s. 2202 (42); 1983 a. 524; 1985 a. 176; 1989 a. 31, 122.

115.361 Early alcohol and other drug abuse prevention and intervention programs. (2) DRUG ABUSE RESISTANCE EDUCATION. (a) In this subsection:

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

2. "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(am) A school board may contract with a city or county to provide drug abuse resistance education to pupils enrolled in grades 3 to 9. Instruction shall be provided by law enforcement officers employed by the county or city who have been specially trained to provide such instruction. The law enforcement officers may use guest lecturers and others to assist them in providing instruction.

(b) A school board contracting under par. (am) may apply to the department for a grant to help fund the costs of the program. The department shall review the applications and determine which of the applicants will receive grants. A grant shall fund 100% of the cost of the classroom materials for the program and 80% of the costs of the contract, except that no grant may exceed \$50,000. Grants shall be awarded from the appropriation under s. 20.255 (2) (dm).

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) A school board contracting under par. (am) may apply to the state superintendent for a grant to help fund the costs of the program. The state superintendent shall review the applications and determine which of the applicants will receive grants. A grant shall fund 100% of the cost of the classroom materials for the program and 80% of the costs of the contract, except that no grant may exceed \$50,000. Grants shall be awarded from the appropriation under s. 20.255 (2) (dm).

(bm) Beginning January 1, 1991, law enforcement agencies shall use the sheriff's department of a county having a population of 500,000 or more, or a program that provides comparable training, to train law enforcement officers for the program under this subsection.

(c) The department shall promulgate rules to implement and administer this subsection, including rules establishing criteria for selecting grant recipients under par. (b).

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) The state superintendent shall promulgate rules to implement and administer this subsection, including rules establishing criteria for selecting grant recipients under par. (b).

(3) GRANTS FOR FAMILIES AND SCHOOLS TOGETHER PROGRAMS.

(a) A school board may apply to the department for a grant to fund a families and schools together program designed to identify pupils who are 6 to 11 years of age who have a high risk of dropping out of school, experiencing alcohol and other drug abuse problems or being adjudged delinquent. The program shall provide prevention and early intervention activities involving joint school, family and community participation, including mental health and alcohol and other drug abuse program specialists.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) A school board may apply to the state superintendent for a grant to fund a families and schools together program designed to identify pupils who are 6 to 11 years of age who have a high risk of dropping out of school, experiencing alcohol and other drug abuse problems or being adjudged delinquent. The program shall provide prevention and early intervention activities involving joint school, family and community participation, including mental health and alcohol and other drug abuse program specialists.

(b) Beginning in the 1990–91 school year and annually thereafter, the department may award grants of up to \$50,000 to school districts with small and medium memberships and grants of up to

\$70,000 to school districts with large memberships. Grants shall be awarded from the appropriation under s. 20.255 (2) (dm). In this paragraph, “membership” has the meaning given in s. 121.004 (5).

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Beginning in the 1990–91 school year and annually thereafter, the state superintendent may award grants of up to \$50,000 to school districts with small and medium memberships and grants of up to \$70,000 to school districts with large memberships. Grants shall be awarded from the appropriation under s. 20.255 (2) (dm). In this paragraph, “membership” has the meaning given in s. 121.004 (5).

(c) A school board may contract with a private, nonprofit organization for the program under this subsection.

(4) GRANTS FOR PUPIL ALCOHOL AND OTHER DRUG ABUSE PROGRAM PROJECTS. (a) The department may award grants of up to \$1,000 to a participating school district for alcohol and other drug abuse education, prevention or intervention programs designed by the pupils enrolled in the school district. The school district shall use the funds for the costs of the projects.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) The state superintendent may award grants of up to \$1,000 to a participating school district for alcohol and other drug abuse education, prevention or intervention programs designed by the pupils enrolled in the school district. The school district shall use the funds for the costs of the projects.

(b) Grants under this subsection shall be awarded from the appropriation under s. 20.255 (2) (dm). To the extent possible, the department shall ensure that grants are equally distributed on a statewide basis.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Grants under this subsection shall be awarded from the appropriation under s. 20.255 (2) (dm). To the extent possible, the state superintendent shall ensure that grants are equally distributed on a statewide basis.

(5) GRANTS FOR AFTER-SCHOOL AND SUMMER SCHOOL PROGRAMS. (a) A school board, with the cooperation and support of a community-based organization, may apply to the department for a grant of up to \$30,000 to fund an after-school or summer school program for pupils in grades 1 to 9.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) A school board, with the cooperation and support of a community-based organization, may apply to the state superintendent for a grant of up to \$30,000 to fund an after-school or summer school program for pupils in grades 1 to 9.

(b) The department shall award grants under this subsection from the appropriation under s. 20.255 (2) (dm). The amount of a grant may not exceed 80% of the cost of the program, including in-kind contributions. The department may award a grant to a school board under this subsection only if all of the following apply:

NOTE: Par. (b) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) The state superintendent shall award grants under this subsection from the appropriation under s. 20.255 (2) (dm). The amount of a grant may not exceed 80% of the cost of the program, including in-kind contributions. The state superintendent may award a grant to a school board under this subsection only if all of the following apply:

1. The program identifies the special skills and interests of individual pupils and helps them develop those skills and interests.

2. The program is coordinated with the school district’s program for children at risk under s. 118.153 and the school district’s alcohol and drug abuse prevention program.

3. The program includes a school tutoring program operated by the school board or the community-based organization for pupils in grades 1 to 9 who are one or more years behind their age group in reading, writing or mathematics or who exhibit other significant academic deficiencies, including poor school attendance or school work completion problems. The department may con-

sider whether any of the following applies to the program in determining whether to award a grant:

NOTE: Subd. 3. (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

3. The program includes a school tutoring program operated by the school board or the community-based organization for pupils in grades 1 to 9 who are one or more years behind their age group in reading, writing or mathematics or who exhibit other significant academic deficiencies, including poor school attendance or school work completion problems. The state superintendent may consider whether any of the following applies to the program in determining whether to award a grant:

a. The tutoring program provides at least one instructor for every 6 pupils.

b. The school district supplies the instructional materials.

c. The tutoring program serves at least 18 pupils each week.

4. No more than 7% of the amount awarded will be used for program administration by the school district.

(c) The department shall:

NOTE: Par. (c) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) The state superintendent shall:

1. Ensure that grants are awarded to school districts that have a higher than average dropout rate.

2. Give preference in awarding grants to programs that use retired teachers.

3. Annually by July 1, evaluate the programs funded under this subsection and submit a report describing its conclusions and recommendations to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3).

NOTE: Subd. 3. is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

3. Annually by July 1, evaluate the programs funded under this subsection and submit a report describing his or her conclusions and recommendations to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3).

4. Promulgate rules to implement and administer this subsection.

(7) TRANSFERS; REPORT. (a) Of the amount in the appropriation under s. 20.255 (2) (dm), annually the department shall allocate the following amounts for the following programs:

NOTE: Par. (a) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) Of the amount in the appropriation under s. 20.255 (2) (dm), annually the state superintendent shall allocate the following amounts for the following programs:

2. For drug abuse resistance education grants under sub. (2), \$895,000 in the 1993–94 fiscal year and \$995,000 annually thereafter.

3. For grants for families and schools together programs under sub. (3), \$1,000,000.

4. For grants for pupil alcohol and other drug abuse program projects under sub. (4), \$300,000.

5. For grants for after-school and summer school programs under sub. (5), \$425,000.

(b) Annually, the department shall determine whether the amount allocated for each program under par. (a) will be fully utilized based upon the applications received that meet the specified criteria for each program. If an amount will not be fully utilized, the department may transfer the unutilized funds to programs for which qualified applications exceed the amounts allocated. The transfer shall be made by November 1 of each school year, except that in any school year in which a biennial budget act takes effect, the transfer shall be made by November 1 or within 120 days after the effective date of the biennial budget act, whichever is later. Annually, the department shall submit a report to the joint committee on finance describing all transfers under this paragraph.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Annually, the state superintendent shall determine whether the amount allocated for each program under par. (a) will be fully utilized based upon the applications received that meet the specified criteria for each program. If an amount will not be fully utilized, the state superintendent may transfer the unutilized funds to programs for which qualified applications exceed the amounts allocated. The transfer shall be made by November 1 of each school year, except that in any school year in which a biennial budget act takes effect, the transfer shall be made by November 1 or within 120 days after the effective date of the biennial budget act, whichever is later. Annually, the state superintendent shall submit a report to the joint committee on finance describing all transfers under this paragraph.

(c) The department shall collect and analyze information about the programs funded under this section, evaluate their effectiveness and submit a report of the evaluation to the appropriate standing committees of the legislature under s. 13.172 (3) and to the governor by July 1, 1994, and biennially by July 1 thereafter.

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) The state superintendent shall collect and analyze information about the programs funded under this section, evaluate their effectiveness and submit a report of the evaluation to the appropriate standing committees of the legislature under s. 13.172 (3) and to the governor by July 1, 1994, and biennially by July 1 thereafter.

History: 1989 a. 122 ss. 53c to 53e; 1991 a. 39, 269 s. 614g; 1993 a. 16, 98; 1995 a. 27 ss. 3874, 9145 (1).

115.3615 Head start supplement. From the appropriation under s. 20.255 (2) (eh), the department shall distribute funds to agencies determined by the department to be eligible for designation as head start agencies under 42 USC 9836 to provide comprehensive health, educational, nutritional, social and other services to economically disadvantaged children and their families. The department shall distribute the funds in a manner consistent with 42 USC 9831 to 9852 except that there is no matching fund requirement. The department shall give preference in funding under this section to an agency that is receiving federal funds under 42 USC 9831 to 9852. Funds distributed under this section may be used to match available federal funds under 42 USC 9831 to 9852 only if the funds are used to secure additional federal funds for the purposes under this section.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.3615 Head start supplement. From the appropriation under s. 20.255 (2) (eh), the state superintendent shall distribute funds to agencies determined by the state superintendent to be eligible for designation as head start agencies under 42 USC 9836 to provide comprehensive health, educational, nutritional, social and other services to economically disadvantaged children and their families. The state superintendent shall distribute the funds in a manner consistent with 42 USC 9831 to 9852 except that there is no matching fund requirement. The state superintendent shall give preference in funding under this section to an agency that is receiving federal funds under 42 USC 9831 to 9852. Funds distributed under this section may be used to match available federal funds under 42 USC 9831 to 9852 only if the funds are used to secure additional federal funds for the purposes under this section.

History: 1989 a. 122 ss. 53c to 53e; 1991 a. 39, 269 s. 614g; Stats. 1991 s. 115.3615; 1995 a. 27 s. 9145 (1).

115.362 Youth alcohol and other drug abuse programs. (1) The department shall make grants to school districts for alcohol and other drug abuse prevention, intervention and instruction programs. The department shall award at least 30 grants each school year.

(2) (a) The department shall award grants from the appropriation under s. 20.255 (2) (fy) to school districts for any of the following:

1. The development or expansion of a school district–wide, kindergarten to grade 12 curriculum in the prevention of and intervention in alcohol and other drug abuse.

2. If a school district has a curriculum described under subd. 1., the development or expansion of an alcohol and other drug abuse prevention and intervention program.

(b) The department shall award grants under sub. (1) from the appropriation under s. 20.255 (2) (k) only for alcohol and other drug abuse intervention programs.

(3) Except for grants under sub. (2) (a), no school district may receive more than one grant under this section. Grants awarded under sub. (2) (a) shall not be used to supplant or replace funds otherwise available for the program.

(4) (a) Each school board receiving a grant under sub. (2) (a) 2. shall ensure that its program meets standards established by the department by rule. The school board may establish the program individually or on a cooperative basis with one or more school districts, cooperative educational service agencies or county handicapped children's education boards.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) (a) Each school board receiving a grant under sub. (2) (a) 2. shall ensure that its program meets standards established by the state superintendent by rule. The school board may establish the program individually or on a cooperative basis with one or more school districts, cooperative educational service agencies or county handicapped children's education boards.

(b) As part of its alcohol and other drug abuse prevention and intervention program, the school board shall do all of the following:

1. Train teachers and other school staff members in the prevention of alcohol and other drug abuse.

2. Provide a pupil assistance program to intervene in the abuse of alcohol and other drugs by pupils.

3. Develop and implement an alcohol and other drug abuse curriculum for grades kindergarten to 12.

4. Provide instruction to pupils in communication, problem solving and decision making, dealing effectively with peer pressure, critical thinking, stress reduction, self–improvement and positive self–esteem.

5. Release teachers from other duties in order to enable them to participate in training programs under subd. 1. and s. 115.36 (2) (a) and in pupil assistance programs under subd. 2.

(c) The school board shall coordinate its alcohol and other drug abuse prevention and intervention program with other such programs available in the school district and to the greatest extent possible shall involve pupils, parents, professional school staff, treatment professionals, law enforcement officers and court personnel in the development and implementation of the program.

(5) The department shall promulgate rules establishing criteria for the awarding of grants under sub. (2) (a). The rules shall require that the department give priority in awarding grants to school districts in which no pupil assistance program is available.

NOTE: Sub. (5) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(5) The state superintendent shall promulgate rules establishing criteria for the awarding of grants under sub. (2) (a). The rules shall require that the state superintendent give priority in awarding grants to school districts in which no pupil assistance program is available.

History: 1987 a. 339; 1987 a. 403 ss. 119, 256; 1989 a. 31; 1991 a. 39; 1995 a. 27 ss. 3874g, 3874r, 9145 (1).

115.365 Assistance to schools for suicide prevention programs. (1) The purpose of this section is to enable and encourage public and private schools to develop programs designed to prevent suicide among minors.

(2) The department, in conjunction with the department of health and family services, shall:

(a) Develop and conduct training programs in suicide prevention for the professional staff of public and private schools and county departments under ss. 46.215, 46.22 and 51.42. The programs shall include information on how to assist minors in the positive emotional development which will help prevent suicidal tendencies; the detection, by minors, school staff and parents, of conditions which indicate suicidal tendencies; the proper action to take when there is reason to believe that a minor has suicidal ten-

dencies or is contemplating suicide; and the coordination of school suicide prevention programs and activities with the suicide prevention and intervention programs and activities of other state and local agencies. Persons other than the professional staff of public and private schools and county departments under ss. 46.215, 46.22 and 51.42 may attend the training programs. The department may charge such persons a fee sufficient to cover the increased costs to the department of their participation in the programs.

(b) Provide consultation and technical assistance to public and private schools for the development and implementation of suicide prevention programs and the coordination of those programs with the suicide prevention and intervention programs of other state and local agencies.

History: 1985 a. 29, 176; 1987 a. 403; 1995 a. 27 s. 9126 (19).

115.368 Assistance to schools for protective behaviors programs. (1) The purpose of this section is to enable and encourage public and private schools to develop protective behaviors programs and anti-offender behavior programs designed to assist minors and their parents or guardians in recognizing, avoiding, preventing and halting physically or psychologically intrusive or abusive situations that may be harmful to minors.

(2) The department, in conjunction with the department of health and family services, and after consulting with established organizations providing services with a focus on children of risk, shall:

(a) Develop and conduct protective behaviors training programs for the professional staff of public and private schools and counties under ss. 46.034, 46.215, 46.22, 46.23, 51.42 and 51.437. The training programs shall include information on how to assist a minor and his or her parent or guardian in recognizing, avoiding, preventing and halting physically or psychologically intrusive or abusive situations that may be harmful to the minor, including child abuse, sexual abuse and child enticement. The training programs shall emphasize how to help minors to develop positive psychological, emotional and problem-solving responses to such situations, and to avoid relying on negative, fearful or solely reactive methods of dealing with such situations. The training programs shall also include information on the detection, by other minors, their parents or guardians and school staff, of conditions that indicate that a minor is being or has been subjected to such situations; the proper action to take when there is reason to believe that a minor is being or has been subjected to such situations; and the coordination of school protective behaviors programs and activities with programs and activities of other state and local agencies. Persons other than the professional staff of public and private schools and counties under ss. 46.034, 46.215, 46.22, 46.23, 51.42 and 51.437 may attend the training programs. The department may charge such persons a fee sufficient to cover the increased costs of materials, but not personnel cost, to the department of their participation in the programs. The department may not deny any resident of Wisconsin the opportunity to participate in a program if the person is unable to pay any fee.

(b) Provide consultation and technical assistance to public and private schools for the development and implementation of protective behaviors programs and the coordination of those programs with programs of other state and local agencies.

History: 1985 a. 213; 1985 a. 332 ss. 153, 253; 1995 a. 27 s. 9126 (19).

115.37 Council on the education of the blind. The council on the education of the blind shall make recommendations as to procedures and policies affecting any problem of the visually handicapped before the department. The council shall advise on such services, activities, programs, investigations and researches as in its judgment will contribute to the welfare of visually handicapped persons. The department shall seek the advice of and consult with the council on problems and policy changes affecting the visually handicapped in the department's jurisdiction, and the council may initiate consultations with the department. Notwithstanding any provision to the contrary, the council shall have

access to files, records and statistics kept in the department which relate to matters concerning the visually handicapped.

NOTE: This section is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

115.37 Council on the education of the blind. The council on the education of the blind shall make recommendations as to procedures and policies affecting any problem of the visually handicapped before the department. The council shall advise on such services, activities, programs, investigations and researches as in its judgment will contribute to the welfare of visually handicapped persons. The state superintendent shall seek the advice of and consult with the council on problems and policy changes affecting the visually handicapped in the department's jurisdiction, and the council may initiate consultations with the department. Notwithstanding any provision to the contrary, the council shall have access to files, records and statistics kept in the department which relate to matters concerning the visually handicapped.

History: 1971 c. 292; 1995 a. 27 s. 9145 (1).

115.375 Environmental education board and grants.

(1) (a) The environmental education board shall consult with the department in identifying needs and establishing priorities for environmental education in public schools, including needs for teacher training, curriculum development and the development and dissemination of curriculum materials. The department shall seek the advice of the board in carrying out these activities.

NOTE: Par. (a) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(a) The environmental education board shall consult with the state superintendent in identifying needs and establishing priorities for environmental education in public schools, including needs for teacher training, curriculum development and the development and dissemination of curriculum materials. The state superintendent shall seek the advice of the board in carrying out these activities.

(b) The board shall consult with other state agencies, including the university of Wisconsin—extension, conservation and environmental groups, youth organizations and nature and environmental centers in identifying needs and establishing priorities for environmental education.

(2) (a) In this subsection:

1. "Corporation" means a nonstock, nonprofit corporation organized under ch. 181.

1m. "Lake sanitary district" has the meaning given in s. 30.50 (4q).

2. "Public agency" means a county, city, village, town, public inland lake protection and rehabilitation district, lake sanitary district or school district or an agency of this state or of a county, city, village, town, public inland lake protection and rehabilitation district, lake sanitary district or school district.

(b) From the appropriations under s. 20.255 (1) (jr) and (2) (ee) and (ra), the board shall award grants to corporations and public agencies for the development, dissemination and presentation of environmental education programs. Programs shall be funded on an 18-month basis. The board may not award a grant unless the grant recipient matches at least 25% of the amount of the grant. Private funds and in-kind contributions may be applied to meet the matching requirement. Grants under this paragraph may not be used to replace funding available from other sources.

(c) The board shall promulgate rules establishing the criteria and procedures for the awarding of grants for programs and projects under par. (b). The board shall use the priorities established under sub. (1) for awarding grants if the amount in the appropriations under s. 20.255 (1) (jr) and (2) (ee) and (ra) in any fiscal year is insufficient to fund all applications under this subsection. The department shall assist the board in administering this section.

(d) The board shall seek private funds for the purpose of the grants under this subsection.

(e) No more than one-third of the total amount awarded in grants under par. (b) in any fiscal year may be awarded to state agencies.

History: 1989 a. 299; 1991 a. 39; 1993 a. 16, 458; 1995 a. 27 ss. 3878m to 3880 and 9145 (1); 1995 a. 349.

115.38 School performance report; educational program review. (1) The department shall develop a school and

school district performance report for use by school districts under sub. (2). The report shall include all of the following by school and by school district:

NOTE: Sub. (1) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) The state superintendent shall develop a school and school district performance report for use by school districts under sub. (2). The report shall include all of the following by school and by school district:

(a) Indicators of academic achievement, including the performance of pupils on the tests administered under s. 121.02 (1) (r) and statewide assessment examinations.

(b) Other indicators of school and school district performance, including dropout, attendance, retention in grade and graduation rates; numbers of suspensions and expulsions; percentage of habitual truants, as defined in s. 118.16 (1) (a); percentage of pupils participating in extracurricular and community activities and advanced placement courses; percentage of graduates enrolled in postsecondary educational programs; and percentage of graduates entering the workforce.

(c) Staffing and financial data information, as determined by the department, not to exceed 10 items. The department may not request a school board to provide information solely for the purpose of including the information in the report under this paragraph.

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) Staffing and financial data information, as determined by the state superintendent, not to exceed 10 items. The state superintendent may not request a school board to provide information solely for the purpose of including the information in the report under this paragraph.

(2) By January 1, 1993, and annually thereafter by January 1, each school board shall distribute to the parent or guardian of each pupil enrolled in the school district, including pupils enrolled in charter schools located in the school district, or give to each pupil to bring home to his or her parent or guardian, a school and school district performance report that includes the information specified by the department under sub. (1).

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) By January 1, 1993, and annually thereafter by January 1, each school board shall distribute to the parent or guardian of each pupil enrolled in the school district, including pupils enrolled in charter schools located in the school district, or give to each pupil to bring home to his or her parent or guardian, a school and school district performance report that includes the information specified by the state superintendent under sub. (1).

(3) Annually, the department shall publish and distribute to the legislature under s. 13.172 (2) a summary of the reports under sub. (2).

NOTE: Sub. (3) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(3) Annually, the state superintendent shall publish and distribute to the legislature under s. 13.172 (2) a summary of the reports under sub. (2).

(4) Beginning in the 1993–94 school year and annually thereafter, the department shall identify those school districts that are low in performance and those schools in which there are pupils enrolled who do not meet the state minimum performance standards on the examinations administered under s. 118.30. The department shall make recommendations regarding how the programs and operations of the identified school districts and schools may be improved and periodically assess school district implementation of the recommendations.

NOTE: Sub. (4) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) Beginning in the 1993–94 school year and annually thereafter, the state superintendent shall identify those school districts that are low in performance and those schools in which there are pupils enrolled who do not meet the state minimum performance standards on the examinations administered under s. 118.30. The state superintendent shall make recommendations regarding how the programs and operations of the identified school districts and schools may

be improved and periodically assess school district implementation of the recommendations.

History: 1991 a. 39, 269; 1993 a. 16; 1995 a. 27 s. 9145 (1).

115.39 Administrative leadership academy. The department may establish and maintain an administrative leadership academy to enhance the knowledge and skills of mid-career school district administrators and principals. The department shall establish and charge a fee for participation in the administrative leadership academy. The moneys from the fee payments shall be credited to the appropriation under s. 20.255 (1) (hf).

History: 1987 a. 27.

115.40 Grants for collaborative service programs.

(1) In this section “collaborative service program” means a program developed by a school board and one or more public agencies or private, nonprofit, community-based organizations that is designed to improve the academic achievement of pupils participating in the program, to increase efficiency in the delivery of services by reducing duplication of services and to foster cooperation among one or more schools, service providers, families and pupils.

(2) (a) A school board, in conjunction with one or more public agencies or private, nonprofit, community-based organizations, may submit an application to the department for a 3-year grant to develop and implement a collaborative service program for preschool or elementary-grade pupils, or both, and their families.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) (a) A school board, in conjunction with one or more public agencies or private, nonprofit, community-based organizations, may submit an application to the state superintendent for a 3-year grant to develop and implement a collaborative service program for preschool or elementary-grade pupils, or both, and their families.

(b) A public agency or a private, nonprofit, community-based organization, in conjunction with a school board, may submit an application to the department for a 3-year grant to develop and implement a collaborative service program for preschool or elementary-grade pupils, or both, and their families.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) A public agency or a private, nonprofit, community-based organization, in conjunction with a school board, may submit an application to the state superintendent for a 3-year grant to develop and implement a collaborative service program for preschool or elementary-grade pupils, or both, and their families.

(3) The application shall include all of the following:

(a) Evidence of the need for a collaborative service program.

(b) A plan for improving the academic achievement of the pupils participating in the program through more effective coordination of support services, staff development and parental involvement.

(c) The anticipated improvement in academic achievement among the pupils participating in the program.

(d) A method of evaluating the improvement in academic achievement of the pupils participating in the program.

(e) A description of the capacity of the program to be replicated by other school districts and to provide continuity of service to the pupils as they enter the high school grades.

(f) Evidence that an implementation team consisting of the director of each participating agency and organization, or his or her designee, the principal from each participating school, or his or her designee, at least one staff member from each participating school whose responsibilities include working with community-based organizations, parent representatives, pupils and other residents of the school district participated in the development of the application.

(g) An estimate of the costs associated with planning the program and an estimate of the amount that will be spent on providing direct services under the program.

(h) Copies of the agreements between the participating agencies and organizations specifying the duties of each.

(4) (a) The secretary and the secretary of health and family services shall provide technical assistance to and consult with applicants regarding the preparation of their applications.

NOTE: Par. (a) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27, s. 3882, was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Par. (a), as not affected by 1995 Wis. Act 27 s. 3882, reads as follows:

(a) The state superintendent and the secretary of health and family services shall provide technical assistance to and consult with applicants regarding the preparation of their applications.

(b) The secretary and the secretary of health and family services shall review the applications and jointly determine the grant recipients and the amount of each grant. A grant may not be awarded to a school board, agency or organization unless the percentage of the participating school district's membership in the previous school year for whom aid to families with dependent children was being received under s. 49.19, or who were members of a Wisconsin works group, as defined in s. 49.141 (1) (s), with a member who participated under s. 49.147 (3) to (5), was greater than 5%. In this paragraph, "membership" has the meaning given in s. 121.004 (5).

NOTE: Par. (b) is shown as amended by 1995 Wis. Acts 27 and 289. The treatment by Act 27, s. 3883, was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Par. (b), as not affected by 1995 Wis. Act 27 s. 3883, reads as follows:

(b) The state superintendent and the secretary of health and family services shall review the applications and jointly determine the grant recipients and the amount of each grant. A grant may not be awarded to a school board, agency or organization unless the percentage of the participating school district's membership in the previous school year for whom aid to families with dependent children was being received under s. 49.19, or who were members of a Wisconsin works group, as defined in s. 49.141 (1) (s), with a member who participated under s. 49.147 (3) to (5), was greater than 5%. In this paragraph, "membership" has the meaning given in s. 121.004 (5).

(c) The secretary and the secretary of health and family services shall give preference in awarding grants under this section to all of the following:

NOTE: Par. (c) (intro.) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27, s. 3884, was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Par. (c), as not affected by 1995 Wis. Act 27 s. 3884, reads as follows:

(c) The state superintendent and the secretary of health and family services shall give preference in awarding grants under this section to all of the following:

1. Programs that involve a school district that, in the previous school year, had a high proportion of pupils for whom aid to families with dependent children was being received under s. 49.19, a high proportion of pupils who were members of a Wisconsin works group, as defined in s. 49.141 (1) (s), with a member who participated under s. 49.147 (3) to (5), a high proportion of pupils who were children at risk, as defined under s. 118.153 (1) (a), or a high proportion of dropouts, as defined under s. 118.153 (1) (b).

2. Programs that involve more than 2 agencies or organizations.

3. Programs that provide cooperative case management services.

(d) Grants under this section shall be paid from the appropriation under s. 20.255 (2) (eg). A grant shall constitute no more than 50% of the costs of the program and may not be used to supplant funds otherwise available for the program.

(5) (a) A recipient of a grant under this section shall use the funds to develop and implement a collaborative service program for pupils and their families. The program may not supplant existing educational and support services provided by school district staff and shall be integrated with existing school district educational and support services. The grant recipient may use no more than 30% of the funds for planning the program. The program shall be designed to provide pupils and their families with greater access to community-based support services, such as health and mental health services, counseling, alcohol and other drug abuse prevention and intervention programs, extracurricular enrichment programs, before-school and after-school day care, tutoring, recreation, parent education and involvement activities and

job training and placement. The recipient may employ staff to perform such services or contract for such services.

(b) A collaborative service program may also be designed to do one or more of the following:

1. Improve communication and the sharing of information between the school district and other local agencies.

2. Design, implement and evaluate unified procedures to determine eligibility for various services.

3. Provide staff development.

4. Provide pupils and their families with a variety of services at one location.

(6) The department shall include in the department's biennial report under s. 15.04 (1) (d) information on the programs funded under this section.

NOTE: Sub. (6) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(6) The state superintendent shall include in the department's biennial report under s. 15.04 (1) (d) information on the programs funded under this section.

(7) No grant may be awarded under this section after June 30, 1996.

History: 1991 a. 269; 1995 a. 27 ss. 3882 to 3884m, 9126 (19), 9145 (1); 1995 a. 289.

115.41 Teacher improvement program. The department shall operate a program to provide prospective teachers with one-semester internships under the supervision of licensed teachers. The program may also fund in-service activities and professional staff development research projects. The department shall charge school districts fees for participation in the program. Program costs shall be paid from the appropriation under s. 20.255 (1) (hg).

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.41 Teacher improvement program. The state superintendent shall operate a program to provide prospective teachers with one-semester internships under the supervision of licensed teachers. The program may also fund in-service activities and professional staff development research projects. The state superintendent shall charge school districts fees for participation in the program. Program costs shall be paid from the appropriation under s. 20.255 (1) (hg).

History: 1987 a. 27; 1995 a. 27 s. 9145 (1).

115.43 Minority group pupil scholarships. (1) DEFINITION. In this section, "minority group pupil" means a pupil who is a Black American, an American Indian, a Spanish-surnamed American or an Oriental American.

(2) SCHOLARSHIPS. The department shall:

NOTE: Sub. (2) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27, s. 9145 (1), changing "state superintendent" to "department" was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) SCHOLARSHIPS. The state superintendent shall:

(a) Annually set goals relating to increasing the percentages of minority group pupils who graduate from high school and are prepared for postsecondary school education.

(b) From the appropriation under s. 20.255 (3) (fz), award pre-college scholarships, on a competitive basis, to minority group pupils who enroll in a technical college or in college or university classes or programs designed to improve academic skills that are essential for success in postsecondary school education. The department shall give preference to minority group pupils who are inadequately represented in the technical college and university of Wisconsin systems.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27, ss. 3885 and 9145 (1). The treatment by Act 27, s. 9145 (1), changing "state superintendent" to "department" was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. The treatment by Act 27, s. 3885 changing the cross-reference to "s. 20.255 (3) (fz)" to "s. 20.255 (1) (fz)" is not affected by the *Thompson v. Craney* ruling. Prior to Act 27 it read:

(b) From the appropriation under s. 20.255 (3) (fz), award precollege scholarships, on a competitive basis, to minority group pupils who enroll in a technical college or in college or university classes or programs designed to improve academic skills that are essential for success in postsecondary school education. The state superintendent shall give preference to minority group pupils who are

inadequately represented in the technical college and university of Wisconsin systems.

(c) In consultation with postsecondary educational institutions, promulgate rules establishing criteria for the review and approval of applications for scholarships under par. (b).

History: 1985 a. 29; 1991 a. 39; 1993 a. 399; 1995 a. 27 ss. 3885, 9145 (1).

115.44 Early identification program. (1) The department shall establish an early identification program as part of the Wisconsin educational opportunity program under s. 115.28 (23). Early identification program costs shall be paid from the appropriation under s. 20.255 (1) (a). The early identification program shall assist minority and economically disadvantaged pupils in grades 8 to 12 in pursuing higher educational opportunities by providing direction toward attainment of career goals.

NOTE: Sub. (1) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) The state superintendent shall establish an early identification program as part of the Wisconsin educational opportunity program under s. 115.28 (23). Early identification program costs shall be paid from the appropriation under s. 20.255 (1) (a). The early identification program shall assist minority and economically disadvantaged pupils in grades 8 to 12 in pursuing higher educational opportunities by providing direction toward attainment of career goals.

(2) Biennially, the department shall provide the governor and any appropriate standing committee of the legislature information on the performance of the early identification program and the postsecondary educational progress of the pupils who were enrolled in the program. The information shall include the number and ethnic backgrounds of the pupils who were enrolled in the program and college acceptance, retention and graduation rates of the pupils.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) Biennially, the state superintendent shall provide the governor and any appropriate standing committee of the legislature information on the performance of the early identification program and the postsecondary educational progress of the pupils who were enrolled in the program. The information shall include the number and ethnic backgrounds of the pupils who were enrolled in the program and college acceptance, retention and graduation rates of the pupils.

History: 1987 a. 27; 1991 a. 39; 1995 a. 27 s. 9145 (1).

115.45 Grants for preschool to grade 5 programs. (2)

(a) Annually by September 15, the school board, on its own initiative or upon receipt of an application from the principal of an elementary school located in the school district, may apply to the department for a grant under this section. The application shall include a plan specifying how the school board intends to meet the requirements under sub. (4), explaining the school board's selection process for individual schools and private service providers and identifying the schools in the school district, or the private service providers certified by the school board as providing the services under sub. (4) (b), to which the grant funds will be applied.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) Annually by September 15, the school board, on its own initiative or upon receipt of an application from the principal of an elementary school located in the school district, may apply to the state superintendent for a grant under this section. The application shall include a plan specifying how the school board intends to meet the requirements under sub. (4), explaining the school board's selection process for individual schools and private service providers and identifying the schools in the school district, or the private service providers certified by the school board as providing the services under sub. (4) (b), to which the grant funds will be applied.

(b) The council for Milwaukee public schools grant programs under s. 115.28 (20) shall review the applications submitted under par. (a) and make recommendations to the secretary regarding the schools to be selected and amounts of the grants to be awarded. The council's recommendations shall be based upon and include information regarding the degree to which the proposed projects will effectively meet the requirements under sub. (4).

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) The council for Milwaukee public schools grant programs under s. 115.28 (20) shall review the applications submitted under par. (a) and make recommendations to the state superintendent regarding the schools to be selected and amounts of the grants to be awarded. The council's recommendations shall be based upon and include information regarding the degree to which the proposed projects will effectively meet the requirements under sub. (4).

(3) The department shall determine the amount of the grant, if any, to be awarded a school board submitting an application under sub. (2) (a). Amounts awarded shall be paid from the appropriation under s. 20.255 (2) (do). Amounts awarded shall be used by the school board to supplement existing elementary school programs and not to supplant or replace funds otherwise available for such programs.

NOTE: Sub. (3) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(3) The state superintendent shall determine the amount of the grant, if any, to be awarded a school board submitting an application under sub. (2) (a). Amounts awarded shall be paid from the appropriation under s. 20.255 (2) (do). Amounts awarded shall be used by the school board to supplement existing elementary school programs and not to supplant or replace funds otherwise available for such programs.

(3m) (a) In this subsection:

1. "Dropout" has the meaning given in s. 118.153 (1) (b).
2. "Low-income pupil" means a pupil for whom aid to families with dependent children is being received under s. 49.19 or a pupil who is a member of a Wisconsin works group, as defined in s. 49.141 (1) (s), with a member who is participating in Wisconsin works under s. 49.147 (3) to (5).

(b) The department shall give priority in awarding grants under this section to all of the following programs:

NOTE: Par. (b) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) The state superintendent shall give priority in awarding grants under this section to all of the following programs:

1. Programs in existence on August 9, 1989, that have proven successful.
2. Programs established in school districts with a high number of dropouts and low-income pupils.
3. Programs in existence on July 1, 1991.

(4) The school board receiving an award under this section shall ensure that the schools or private service providers identified under sub. (2) (a) comply with all of the following requirements:

(a) Each identified school or private service provider shall provide structured educational experiences for 4-year-old pupils. The structured educational experiences shall focus on the needs of low-income pupils and shall include activities that encourage early skill development.

(b) Each identified school or private service provider shall annually test the pupils enrolled in grades 1 to 5 in reading, language arts and mathematics using tests approved by the department.

(c) Each identified school or private service provider shall implement a multidisciplinary team approach to the identification and remediation of problems of pupils with significant needs.

(d) Each identified school or private service provider shall restrict class size in all grades below the 6th grade to no more than 25 pupils for each teacher.

(e) The principal of each identified school and the administrator of each identified private service provider shall annually prepare a written performance evaluation of each staff member providing services under this subsection.

(f) All administrative and instructional staff in the elementary grades of each identified school or private service provider shall participate in in-service training that focuses on educational practices and policies identified by the department as effective in improving pupil achievement.

(g) Each identified school shall:

1. Establish a council composed of teachers, parents of pupils enrolled in the school district, school board members and community leaders to monitor and make recommendations to the school board concerning the school's educational programs.

2. Develop plans to encourage and increase parental involvement in efforts to improve the quality of education.

(h) Annually, each identified school or private service provider shall report to the department all of the following:

NOTE: Par. (h) (intro.) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(h) Annually, each identified school or private service provider shall report to the state superintendent all of the following:

1. The results of the tests under par. (b).
2. The number and content of in-service training activities under par. (f).
3. The number and content of parental involvement activities and the number of parents attending each activity.

(5) Beginning in the 1987-88 school year, amounts awarded under this section should be awarded on the basis of improvements in academic performance.

(6) The department shall:

NOTE: Sub. (6) (intro.) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(6) The state superintendent shall:

(a) Establish criteria for measuring and evaluating improvements in academic performance for the purpose of sub. (5).

(b) By March 1, 1986, and annually thereafter, submit to the joint committee on finance and the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), a budget report detailing the grants the department intends to award under this section in the next fiscal year. The report shall provide summary data on the results of the annual testing required under sub. (4) (b) and include a description of the guidelines used to determine the individual schools and private service providers that will receive funds under this section and the types of expenditures eligible for such funds.

NOTE: Par. (b) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(b) By March 1, 1986, and annually thereafter, submit to the joint committee on finance and the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), a budget report detailing the grants he or she intends to award under this section in the next fiscal year. The report shall provide summary data on the results of the annual testing required under sub. (4) (b) and include a description of the guidelines used to determine the individual schools and private service providers that will receive funds under this section and the types of expenditures eligible for such funds.

(c) Annually submit to the legislature under s. 13.172 (2) a report on the academic progress made by pupils enrolled in pre-school to grade 5 programs under this section.

(7) The joint committee on finance may review the budget report.

(9) (a) If a pupil attending a school receiving a grant under this section moves from the attendance area for that school to another attendance area after the 3rd Friday in September during any school term, the school board may offer the pupil the opportunity to continue to attend school for the remainder of the school term at the school he or she was originally attending.

(b) The department may authorize a school district to use up to 8% of a grant to pay the costs of transporting pupils under par. (a).

NOTE: Par. (b) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(b) The state superintendent may authorize a school district to use up to 8% of a grant to pay the costs of transporting pupils under par. (a).

(c) The school districts receiving funds under par. (b) shall give first priority under par. (a) to first grade students.

(10) Grants under this section shall be awarded for a 3-year period. The department and the grant recipient shall jointly establish performance objectives for each proposed project and criteria for evaluating whether the project meets the objectives. At the end of the 3-year period, the department shall determine whether the project met its objectives. A grant may not be renewed unless the department determines that the project met its objectives.

NOTE: Sub. (10) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(10) Grants under this section shall be awarded for a 3-year period. The state superintendent and the grant recipient shall jointly establish performance objectives for each proposed project and criteria for evaluating whether the project meets the objectives. At the end of the 3-year period, the state superintendent shall determine whether the project met its objectives. A grant may not be renewed unless the state superintendent determines that the project met its objectives.

History: 1985 a. 29, 120, 224; 1987 a. 27 s. 1762m; Stats. 1987 s. 115.45; 1987 a. 186; 1989 a. 31; 1991 a. 39, 157, 269; 1995 a. 27 ss. 3886, 3887, 9145 (1); 1995 a. 289.

115.46 Interstate agreement on qualification of educational personnel. The interstate agreement on qualification of educational personnel is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

INTERSTATE AGREEMENT ON QUALIFICATION OF EDUCATIONAL PERSONNEL

(1) **ARTICLE I - PURPOSE, FINDINGS, AND POLICY.** (a) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(b) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

(2) **ARTICLE II - DEFINITIONS.** As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

(a) "Accept", or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(b) "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of that state, contracts pursuant to this agreement.

(c) "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(d) "Originating state" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools

is acceptable in accordance with the terms of a contract made pursuant to sub. (3).

(e) “Receiving state” means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to sub. (3).

(f) “State” means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

(3) ARTICLE III – INTERSTATE EDUCATIONAL PERSONNEL CONTRACTS. (a) The designated state official of a party state may make one or more contracts on behalf of the official’s state with one or more party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this subsection only with states in which the official finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in the official’s own state.

(b) Any such contract shall provide for:

1. Its duration.
2. The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.
3. Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.
4. Any other necessary matters.

(c) No contract made pursuant to this agreement shall be for a term longer than 5 years but any such contract may be renewed for like or lesser periods.

(d) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(e) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(f) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

(4) ARTICLE IV – APPROVED AND ACCEPTED PROGRAMS. (a) Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(b) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

(5) ARTICLE V – INTERSTATE COOPERATION. The party states agree that:

(a) They will, so far as practicable, prefer the making of multi-lateral contracts under sub. (3).

(b) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

(6) ARTICLE VI – AGREEMENT EVALUATION. The designated state officials of any party states may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes.

(7) ARTICLE VII – OTHER ARRANGEMENTS. Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

(8) ARTICLE VIII – EFFECT AND WITHDRAWAL. (a) This agreement shall become effective when enacted into law by 2 states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

(b) Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(c) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

(9) ARTICLE IX – CONSTRUCTION AND SEVERABILITY. This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

History: 1981 c. 390; 1983 a. 189; 1993 a. 492.

115.47 Designated state official under agreement. The “designated state official” for this state under s. 115.46 shall be the secretary.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.47 Designated state official under agreement. The “designated state official” for this state under s. 115.46 shall be the state superintendent of public instruction.

History: 1995 a. 27 s. 9145.

115.48 Contracts under agreement. True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the department and in the office of the secretary of state. The department shall publish all such contracts in convenient form.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.48 Contracts under agreement. True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the department of public instruction and in the office of the secretary of state. The department of public instruction shall publish all such contracts in convenient form.

History: 1995 a. 27

SUBCHAPTER III

STATE SCHOOLS AND SCHOLARSHIPS FOR THE
HANDICAPPED**115.51 Definitions.** In this subchapter:

(1) “Blind” includes persons visually handicapped, as determined by competent medical authority with the approval of the department.

NOTE: Sub. (1) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) “Blind” includes persons visually handicapped, as determined by competent medical authority with the approval of the state superintendent.

(2) “Deaf” includes persons who because of some pathological or functional cause cannot attain proficiency in speech without special instruction and training.

History: 1995 a. 27 s. 9145 (1).

115.52 Wisconsin schools for the visually handicapped and the deaf. (1) The object of the Wisconsin school for the visually handicapped and the Wisconsin school for the deaf is to afford the visually handicapped and the deaf a practical education and physical rehabilitation which may aid them to make a living, discharge their duties as citizens and secure to them all possible happiness.

(2) The department shall maintain and govern the school for the visually handicapped and the school for the deaf. The department may fix the period of the school year at the schools at not less than 38 weeks, prescribe the school terms and confer diplomas upon meritorious pupils who have completed the prescribed curricula.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) The state superintendent shall maintain and govern the school for the visually handicapped and the school for the deaf. The state superintendent may fix the period of the school year at the schools at not less than 38 weeks, prescribe the school terms and confer diplomas upon meritorious pupils who have completed the prescribed curricula.

(3) All the blind and the deaf residents of this state 6 to 20 years old, and for the duration of a school term all the blind or deaf residents of this state who become 21 years old during that school term, who are capable of receiving instruction shall be received and taught in the schools free of charge. Like nonresident pupils also may be received upon payment in advance of the fees fixed by the department at an amount not less than \$75 per month, but no nonresident shall be received to the exclusion of a resident pupil. The department also may admit pupils who are 21 years of age or older prior to the beginning of a school term upon the payment of fees fixed by the superintendent and upon the recommendation of the secretary of health and family services, the director of the technical college system or the superintendent of the school to which the pupil will be assigned. All pupils shall equally and freely enjoy the benefits and privileges of the schools and have the use of the library and books of instruction and receive board, lodging and laundry, without discrimination. The schools may provide transportation for resident pupils.

NOTE: Sub. (3) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27, s. 9145 (1), was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Sub. (3), as not affected by 1995 Wis. Act 27, s. 9145 (1), reads as follows:

(3) All the blind and the deaf residents of this state 6 to 20 years old, and for the duration of a school term all the blind or deaf residents of this state who become 21 years old during that school term, who are capable of receiving instruction shall be received and taught in the schools free of charge. Like nonresident pupils also may be received upon payment in advance of the fees fixed by the state superintendent at an amount not less than \$75 per month, but no nonresident shall be received to the exclusion of a resident pupil. The state superintendent also may admit pupils who are 21 years of age or older prior to the beginning of a school term upon the payment of fees fixed by the superintendent and upon the recommendation of the secretary of health and family services, the director of the technical college system or the superintendent of the school to which the pupil will be assigned. All pupils shall equally and freely enjoy the benefits and privileges of the schools and have the use of the library and

books of instruction and receive board, lodging and laundry, without discrimination. The schools may provide transportation for resident pupils.

(5) The department may grant approval for the maintenance of a summer school at the school for the deaf whenever it will be to the advantage of deaf persons and may grant approval for the maintenance of a summer school at the school for the visually handicapped whenever it will be to the advantage of visually handicapped minors. There shall be a summer school each year at the school for the visually handicapped for visually handicapped adults.

NOTE: Sub. (5) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27, s. 9145 (1). The treatment by Act 27, s. 9145 (1), was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27, s. 9145 (1) it read:

(5) The state superintendent may grant approval for the maintenance of a summer school at the school for the deaf whenever it will be to the advantage of deaf persons and may grant approval for the maintenance of a summer school at the school for the visually handicapped whenever it will be to the advantage of visually handicapped minors. There shall be a summer school each year at the school for the visually handicapped for visually handicapped adults.

(6) The department may make charges for meals, living quarters, laundry and other services furnished to employes of the schools and their families. The department also may make charges for services furnished to visitors at the schools and participants in training programs and institutes.

NOTE: Sub. (6) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(6) The state superintendent may make charges for meals, living quarters, laundry and other services furnished to employes of the schools and their families. The state superintendent also may make charges for services furnished to visitors at the schools and participants in training programs and institutes.

(7) The Wisconsin school for the deaf may provide instruction for preschool deaf children and their parents. The Wisconsin school for the visually handicapped may provide instruction for preschool visually handicapped children and their parents. Such instruction or treatment shall be subject to the approval of, and shall comply with requirements established by, the department.

History: 1971 c. 164; 1973 c. 89; 1977 c. 29; 1983 a. 27; 1993 a. 399, 492; 1995 a. 27 ss. 3890, 9126 (19), 9145 (1).

115.53 Department; powers. The department may:

NOTE: Sec. 115.53 (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.53 State superintendent; powers. The state superintendent may:

(2) Arrange for vocational, trade or academic training for any pupil in either state school qualified to take such training advantageously, in either a public school or technical college or a private business establishment in Janesville or Delavan. The public school and the technical college shall be paid the regular tuition for full-time attendance and proportionally for part-time attendance by the school district responsible for the pupil’s placement in an appropriate program under s. 115.85 (1).

(3) Arrange for otological or ophthalmic examination of any pupil or prospective pupil of the schools. The examination shall be paid for from the appropriation in s. 20.255 (1) (b).

(4) Apply to the board of directors of the University of Wisconsin Hospitals and Clinics Authority for admission to the University of Wisconsin Hospitals and Clinics of any pupil in the state schools.

(a) The application shall be accompanied by the report of a physician appointed by the appropriate school superintendent and shall be in the same form as reports of other physicians for admission of patients to such hospital.

(b) The net cost of hospital treatment shall be at the rate established under s. 233.40 (1) and shall be chargeable to the appropriation for operating the patient’s school. The department likewise may authorize payment for the expense of transporting patients to and from the hospital. The department shall make payments for the treatment to the University of Wisconsin Hospitals and Clinics Authority. Funds collected by the department on account of the hospitalization shall be deposited in the appropriation under s. 20.255 (1) (b) for the school concerned.

NOTE: Par. (b) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27 s. 9145 (1) was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Par. (b), as not affected by 1995 Wis. Act s. 9145 (1), reads as follows:

(b) The net cost of hospital treatment shall be at the rate established under s. 233.40 (1) and shall be chargeable to the appropriation for operating the patient's school. The state superintendent likewise may authorize payment for the expense of transporting patients to and from the hospital. The state superintendent shall make payments for the treatment to the University of Wisconsin Hospitals and Clinics Authority. Funds collected by the state superintendent on account of the hospitalization shall be deposited in the appropriation under s. 20.255 (1) (b) for the school concerned.

(5) Arrange for visits by members of the staff of either school to other public schools or to families of blind or deaf children, whenever it appears to the department that such visits will be of advantage to blind or deaf children.

NOTE: Sub. (5) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(5) Arrange for visits by members of the staff of either school to other public schools or to families of blind or deaf children, whenever it appears to the state superintendent that such visits will be of advantage to blind or deaf children.

(6) Charge the school district responsible for a pupil's placement in a school under this subchapter for the costs of transporting the pupil to and from the pupil's home on weekends. All fees received under this subsection shall be deposited in the appropriation under s. 20.255 (1) (gt).

History: 1971 c. 100 s. 23; 1971 c. 125 s. 522 (1); 1973 c. 90; 1973 c. 243 ss. 50, 82; 1977 c. 29; 1977 c. 418 s. 924 (50); 1977 c. 447 s. 206; 1979 c. 34 s. 2102 (43) (a); 1979 c. 110 s. 60 (12); 1981 c. 20; 1983 a. 27 ss. 1424, 2202 (42); 1985 a. 29; 1987 a. 27; 1993 a. 399, 492; 1995 a. 27 ss. 3891, 3892, 9145 (1).

The state superintendent does not have the authority to determine whether public schools are segregated or the authority to take enforceable action to desegregate public schools. 65 Atty. Gen. 282.

115.54 Compulsory education. If it appears, by affidavit, to any circuit judge that any blind or deaf child between the ages of 6 and 21 is deprived of a suitable education by the failure of the person having the care and custody of the child to provide a suitable education, the judge shall order the person to bring the child before the judge. If the material allegations of the affidavit are denied, the judge shall subpoena witnesses and hear testimony. If the allegations are admitted or established, the judge may order the child sent to the school for the visually handicapped or for the deaf or to some class or other school for instruction, but the order shall not make a direct charge for the class or school against any county.

History: 1977 c. 449.

115.55 Library for the blind and visually handicapped. Embossed, clear type or large type text books acquired by the school for the visually handicapped shall constitute a circulating collection for the blind and visually handicapped. The collection shall be kept at the school and be under the supervision of its superintendent. All blind and visually handicapped school age children of the state may use such books upon compliance with rules made by the superintendent and approved by the department.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.55 Library for the blind and visually handicapped. Embossed, clear type or large type text books acquired by the school for the visually handicapped shall constitute a circulating collection for the blind and visually handicapped. The collection shall be kept at the school and be under the supervision of its superintendent. All blind and visually handicapped school age children of the state may use such books upon compliance with rules made by the superintendent and approved by the state superintendent.

History: 1975 c. 189; 1995 a. 27 s. 9145 (1).

115.58 Park grounds. The department may permit the city of Janesville to use portions of the grounds of the state school for the visually handicapped at Janesville, which abut on the Rock river, for purposes of operating a city park. Any construction on such grounds is subject to prior approval by the department. Any agreement pursuant hereto shall be cancelable at the option of either party without liability. Any such grounds so used by the city

of Janesville shall be supervised by the city and shall be subject to the ordinances of the city of Janesville applicable to city parks.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.58 Park grounds. The state superintendent may permit the city of Janesville to use portions of the grounds of the state school for the visually handicapped at Janesville, which abut on the Rock river, for purposes of operating a city park. Any construction on such grounds is subject to prior approval by the state superintendent. Any agreement pursuant hereto shall be cancelable at the option of either party without liability. Any such grounds so used by the city of Janesville shall be supervised by the city and shall be subject to the ordinances of the city of Janesville applicable to city parks.

History: 1995 a. 27 s. 9145 (1).

SUBCHAPTER IV

AMERICAN INDIAN LANGUAGE AND CULTURE EDUCATION PROGRAM

115.71 Definitions. In this subchapter:

(1) "Alternative school" means any nonsectarian private school or tribally operated school in this state which complies with the requirements of 42 USC 2000d and in which at least 75% of the pupils enrolled are American Indians.

(2) "American Indian" means any person who is:

(a) A member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940, or who is a descendant in the first or 2nd degree of any such member;

(b) Considered by the federal government, on May 22, 1980, to be an Indian for any purpose;

(c) An Eskimo, Aleut or other Alaska native; or

(d) Determined to be an Indian under rules promulgated by the department in coordination with the board under s. 115.28 (17) (c).

NOTE: Par. (d) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(d) Determined to be an Indian under rules promulgated by the state superintendent in coordination with the board under s. 115.28 (17) (c).

(3) "Board" means the American Indian language and culture education board.

(4) "Home school coordinator" means a person employed by the school district to promote communication between the school and the American Indian community.

(5) "Tribal education authority" means the educational authority of a tribe, band or other organized group of American Indians, which may be vested in a tribal department or division of education, a tribal school board, a tribal education committee or any similar body.

History: 1979 c. 346; 1981 c. 314 s. 146; 1995 a. 27 s. 9145 (1).

115.72 Establishment of programs. (1) Any school district enrolling American Indian pupils, or alternative school, may establish, on a voluntary basis, an American Indian language and culture education program. The program shall be designed to:

(a) Make the school curriculum more relevant to the needs, interests and cultural heritage of American Indian pupils.

(b) Provide reinforcement of the positive self-image of American Indian pupils.

(c) Develop intercultural awareness among pupils, parents and staff.

(2) The American Indian language and culture education program may include:

(a) Instruction in American Indian language, literature, history and culture.

(b) In-service training and technical assistance for staff in regard to methods of teaching American Indian pupils.

(c) Vocational education and counseling for American Indian pupils.

(d) Modification of curriculum, instructional methods and administrative procedures to meet the needs of American Indian pupils.

(e) Tests of the academic achievement of the American Indian pupils enrolled.

(f) Identification of the educational needs of the American Indian pupils enrolled.

(g) Classification of American Indian pupils enrolled by grade, level of education, age and achievement.

(3) The school board of a district establishing an American Indian language and culture education program may designate the school or schools in which the program shall be offered. The parent or guardian of an American Indian pupil may transfer the pupil to the school in which the program is offered, if it is in the same district, in order for the pupil to participate in the program.

(4) American Indian language and culture education programs established under this subchapter shall be located in school facilities in which regular classes in a variety of subjects are offered on a daily basis.

History: 1979 c. 346.

115.73 Program requirements. **(1)** Each school district and alternative school, before establishing a program under this subchapter, shall develop a plan which:

(a) Identifies the activities, methods and programs to be used to meet the identified educational needs of the pupils to be enrolled in the program.

(b) Describes how the program will be organized, staffed, coordinated and evaluated.

(c) Estimates the costs of the program.

(2) Each school district and alternative school operating a program under this subchapter shall maintain records concerning the number of American Indian pupils enrolled in the program and of all sums expended in connection with the program. The school district or alternative school shall make affirmative efforts to encourage participation of American Indian pupils in the program by providing for meetings with parents and guardians of American Indian pupils to explain the nature of the program.

History: 1979 c. 346.

115.735 Parent advisory committee. **(1)** Each school district and alternative school which establishes a program under this subchapter shall establish an American Indian parent advisory committee, appointed by the school board, to afford parents and educators of American Indian pupils the opportunity to advise the school board of their views and to ensure that a program is planned, operated and evaluated with their involvement and consultation. If there is a local tribal education authority, the school board shall appoint committee members from recommendations submitted by the authority.

(2) The committee shall be composed of parents or guardians of American Indian pupils enrolled in the program, teachers, aides and counselors involved in the program and representatives of local tribal education authorities, but a majority of the members of each committee shall be parents or guardians of American Indian pupils enrolled in the program.

(3) If an advisory committee exists which meets the requirements of sub. (2), it may serve as the parent advisory committee. If the school board consists solely of parents or guardians of American Indian pupils, it may serve as the parent advisory committee.

History: 1979 c. 346.

115.74 Assessment of needs and evaluation of resources. **(1)** On or before July 1 in every even-numbered year, the department, in coordination with the board, shall:

(a) Conduct a statewide assessment of the need for American Indian language and culture education programs. The assessment shall include information on:

1. Numbers, ages, location and tribal affiliation of American Indian pupils.

2. Concentration of American Indian pupils in attendance areas, as defined in s. 121.845 (1), within each school district by tribal affiliation.

3. Placement rates of American Indian children in classes for handicapped pupils in comparison with statewide and district-wide placement rates.

4. Advancement, achievement levels and dropout rates of American Indian pupils in comparison with average advancement and dropout rates.

5. Participant response to the program.

(b) Evaluate the American Indian language and culture education programs established under this subchapter. Alternative school programs shall be evaluated under this paragraph only with the permission of the school.

(2) Annually, on or before July 1, the department, in coordination with the board, shall evaluate all available resources and programs which are or could be directed toward meeting the educational needs of American Indian pupils. The evaluation shall include information on:

(a) Numbers, locations and qualifications of teachers, administrators, counselors and others from American Indian backgrounds who are interested in working in American Indian language and culture education programs.

(b) Programs in this state designed for the preparation of American Indian language and culture education teachers.

(c) The effectiveness of programs for American Indian pupils in this state other than programs established under this subchapter.

(d) The effectiveness of preservice and in-service programs for staffs of American Indian language and culture education programs.

(e) The tests, criteria, procedures and methods used to identify, test, assess and classify American Indian pupils.

(3) The assessment of needs under sub. (1) (a) and the evaluation of resources under sub. (2) shall be performed on Indian reservations and in other Indian communities recognized by the federal government only in conjunction with, or with the permission of, the respective tribal governments.

(4) The department, in coordination with the board, shall prepare a biennial report which shall be included as an addendum to the department's biennial report under s. 15.04 (1) (d). The report shall include the results of the most recent assessment of needs and evaluation of programs under sub. (1), the evaluation of resources under sub. (2) and recommendations for legislation in the area of American Indian language and culture education.

History: 1979 c. 346; 1983 a. 189 s. 329 (17m); 1983 a. 524; 1985 a. 29 s. 3202 (43); 1989 a. 56.

115.745 Home school coordinators. **(1)** (a) In this subsection, "membership" has the meaning given in s. 121.004 (5).

(b) Beginning in the 1990–91 school year, from the appropriation under s. 20.255 (2) (cs), the state superintendent annually shall award a grant to support the costs of 2.0 full-time equivalent home school coordinators to a school district in which at least 50% of the membership in the previous school year was American Indian pupils. The home school coordinators shall work with pupils and their families to address problems that adversely affect the pupils' success in school.

(2) The state superintendent shall not award a grant under sub. (1) unless he or she determines that all of the following conditions have been met:

(a) The application for the grant describes how the home school coordinators will be used to improve communication

between the school district and parents or guardians and to promote parental involvement in the school district.

(b) The award will not supplant funds otherwise available for home school coordinators.

(3) The state superintendent shall promulgate rules to implement and administer this section.

NOTE: This section was repealed eff. 7–29–95 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA.

History: 1989 a. 336; 1995 a. 27.

115.75 Aid to alternative schools. (1) (a) Subject to the requirements of par. (b), each alternative school operating an American Indian language and culture education program under this subchapter shall receive state aid, from the appropriation under s. 20.255 (2) (ci), in an amount equal to \$185 for each pupil who has completed the fall semester in the program.

(b) No alternative school may receive state aid under this section unless the department:

NOTE: Par. (b) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) No alternative school may receive state aid under this section unless the state superintendent:

1. Determines that the alternative school has adequate management and accounting capacity and that the school agrees that its accounts related to the program may be audited.

2. Certifies that the alternative school has met the requirements of ss. 115.73 and 115.735 and has submitted a report to the department which includes a description of all expenditures made in the prior year in connection with the program, a budget for the current year for the program and the number of pupils who have completed the fall semester in the program.

NOTE: Subd. 2. is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

2. Certifies that the alternative school has met the requirements of ss. 115.73 and 115.735 and has submitted a report to the state superintendent which includes a description of all expenditures made in the prior year in connection with the program, a budget for the current year for the program and the number of pupils who have completed the fall semester in the program.

(2) State aid under this section shall be paid in April of each year. In no case may such aid supplant federal aid received by the alternative school and utilized for American Indian language and culture education programs in the prior year.

(3) If the appropriation under s. 20.255 (2) (ci) in any year is insufficient to pay the full amount of aid under this section, state aid payments shall be prorated among the alternative schools entitled to such aid.

History: 1979 c. 346; 1981 c. 20 s. 2202 (42) (c); 1983 a. 27 s. 2202 (42); 1987 a. 27; 1989 a. 336; 1993 a. 16; 1995 a. 27 s. 9145 (1).

SUBCHAPTER V

CHILDREN WITH EXCEPTIONAL EDUCATIONAL NEEDS

115.76 Definitions. In this subchapter:

(1) “Administrator” means the administrator of the division.

(2) “Child” means any person under the age of 21 years and, for the duration of a school term, any person who becomes 21 years old during that school term, except as otherwise provided.

(2q) “Child caring institution” means a child welfare agency that regularly provides care and maintenance for children residing in the agency’s facility.

(2r) “Child welfare agency” means an agency licensed under s. 48.60.

(3) “Child with exceptional educational needs” means a child with any of the following conditions, or such other conditions as the department determines, who may require educational services to supplement or replace regular education:

NOTE: Sub. (3) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(3) “Child with exceptional educational needs” means a child with any of the following conditions, or such other conditions as the state superintendent determines, who may require educational services to supplement or replace regular education:

(a) Orthopedic impairment.

(b) Cognitive disability or other developmental disability.

(c) Hearing handicap.

(d) Visual handicap.

(e) Speech or language handicap.

(f) Emotional disturbance.

(g) Learning disability.

(h) Autism.

(j) Traumatic brain injury.

(k) For children who are 3, 4 or 5 years old, significant developmental delay.

(L) Other health impairment.

(m) Any combination of conditions named by the department or enumerated in pars. (a) to (L).

NOTE: Par. (m) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(m) Any combination of conditions named by the state superintendent or enumerated in pars. (a) to (L).

(4) “Division” means the division for learning support, equity and advocacy.

(5m) “Hearing officer” means an independent examiner chosen to conduct hearings under s. 115.81.

(5r) “Institutional resident” means a child with exceptional educational needs who has been admitted to and is domiciled or cared for in or by a special purpose residential care center which specializes in the care and treatment of children described under sub. (3).

(6) “Parent” includes a guardian.

(7) “Part of a program” means that portion of a program in which a child with a particular type of exceptional educational need participates.

(8) “Reduced program” means any program which has decreased its educational services, facilities or staff in the manner and degree specified in written standards issued by the department.

NOTE: Sub. (8) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(8) “Reduced program” means any program which has decreased its educational services, facilities or staff in the manner and degree specified in written standards issued by the state superintendent.

(9) “Regular education” means the educational program provided by a public or private school for children who do not have exceptional educational needs.

(10) “Special education” means specially designed instruction, at no cost to a child or the child’s parents, to meet the unique needs of a child with exceptional educational needs, including all of the following:

(a) Instruction in physical education.

(b) Instruction conducted in a classroom, at home, in hospitals and institutions or in any other setting.

(12) “State or county residential facility” means a state residential facility operated by the department of health and family services, or a county residential facility operated by a county board.

History: 1973 c. 89, 333; 1977 c. 29, 83, 418; 1983 a. 27 ss. 1425, 2200 (42); 1983 a. 189; 1983 a. 374 ss. 3, 12; 1989 a. 26; 1991 a. 15; 1993 a. 14, 15, 335; 1995 a. 27 ss. 9126 (19), 9145 (1); 1995 a. 298.

NOTE: 1991 Wis. Act 15 substitutes “cognitive disability” for “mental retardation” in sub. (3) (b). The legislature intends the substitution solely to reflect its determination that the former term is a less pejorative means of referring to the same condition.

115.77 Division for learning support, equity and advocacy. (1) APPOINTMENT OF ADMINISTRATOR. The secretary shall appoint the administrator.

NOTE: Sub. (1) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) APPOINTMENT OF ADMINISTRATOR. The state superintendent shall appoint the administrator.

(2) DUTIES OF ADMINISTRATOR. Subject to the direction of the secretary, the administrator:

NOTE: Sub. (2) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) DUTIES OF ADMINISTRATOR. Subject to the direction of the state superintendent, the administrator:

(a) Shall appoint qualified personnel necessary to perform the duties required of the division.

(b) Shall audit expenditures incurred for children with exceptional educational needs.

(3) SPECIAL EDUCATION RESPONSIBILITIES. The division shall be responsible for:

(a) Services for children with exceptional educational needs who are under the jurisdiction of the department and for the Wisconsin school for the deaf and the Wisconsin school for the visually handicapped.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) Services for children with exceptional educational needs who are under the jurisdiction of the state superintendent and for the Wisconsin school for the deaf and the Wisconsin school for the visually handicapped.

(am) Monitoring special education in this state and enforcing this subchapter.

(c) Services provided to children with exceptional educational needs by special education programs under s. 115.85 (2).

(d) Supervision of the education of all children who have exceptional educational needs and who reside in a child caring institution pursuant to a placement under s. 115.815 (4), who reside in any facility operated by the state or a county or who attend county residential facilities or day care centers of a county department under s. 51.42. Such supervision shall include:

1. The power to require the submission of reports relating to educational services provided or planned.

2. Advising the superintendent of each state or county facility.

3. Recommending to the department standards for certification of personnel whom the department determines to be involved in the education of children described in this paragraph.

NOTE: Subd. 3 is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

3. Recommending to the state superintendent standards for certification of personnel whom the state superintendent determines to be involved in the education of children described in this paragraph.

(e) Making or approving arrangements for transportation to and from the child's home to the special education program, or, on school days for board, lodging and transportation to and from the child's boarding home to the special education program, if the child's parents reside outside the school district, cooperative educational service agency or county in which the child receives special education.

(4) DIVISION DUTIES. The division shall:

(a) Coordinate the development of all special education programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency, state or county residential facility or day care center of a county department under s. 51.42 for children who have exceptional educational needs, and coordinate the development of all special education programs operated by a child caring institution under s. 115.815 (4).

(b) Before the program receives any state funds, approve all special education programs operated by a school board, county handicapped children's education board, board of control of a cooperative educational service agency, state or county residential facility or day care center of a county department under s. 51.42 for children with exceptional educational needs, and approve all special education programs operated by a child caring institution under s. 115.815 (4).

(c) Before a discontinuance or reduction of program becomes effective, approve all plans to discontinue or reduce programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency, state or county residential facility or day care center of a county department under s. 51.42 for children who have exceptional educational needs.

(d) Maintain current information on all public and private special education programs within the state and make this information public.

(e) Whenever an individual's report is made under s. 115.80 (1) (a), inform the person who made the report and the child's parent of the procedure for obtaining an evaluation of the child by a multidisciplinary team under s. 115.80 (3).

(f) Develop a program for the preparation, recruitment and in-service training of personnel in special education and related fields, including participation, as appropriate, by institutions of higher education, state and local agencies and other public and private organizations. A plan for the development of this program, including statements of duties and responsibilities of personnel to be trained, shall be made and implemented.

(5) RECEIPT OF FEDERAL AID. Any federal aid which is made available for special education programs shall be granted the division for carrying out plans approved by the federal agency having supervision of the aid program.

History: 1973 c. 89; 1977 c. 83 ss. 16, 26; 1977 c. 418; 1983 a. 27 s. 2200 (42); 1985 a. 176; 1989 a. 26, 56; 1991 a. 39; 1993 a. 14, 335; 1995 a. 27 ss. 3894, 3895, 9145 (1).

115.78 State exceptional educational needs plan. The department shall annually issue and make public a state plan for the education of children with exceptional educational needs. The state plan shall include:

NOTE: Sec. 115.78 (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.78 State exceptional educational needs plan. The state superintendent shall annually issue and make public a state plan for the education of children with exceptional educational needs. The state plan shall include:

(1) The number and geographic distribution of all children who reside in this state and who have exceptional educational needs.

(2) A listing of all public and private special education programs available in this state, the number of children attending each special education program pursuant to s. 115.85 (2) or supervised under s. 115.77 (3) (d) and the state aid given to each program so attended or supervised.

(3) A statement of the personnel and facilities available through public and private special education programs to provide instruction and other services for children with exceptional educational needs.

(4) An analysis of the present distribution of responsibility for special education between the state, school districts and other governmental units.

(5) Identification of the specific goals of each type of special education program in which children are enrolled pursuant to s. 115.85 (2) or provided by a state or county facility supervised under s. 115.77 (3) (d).

(6) Standards for the screening, identification and educational program for children with exceptional educational needs.

(7) A 5–year projection of the special education needs of children who reside in this state.

(8) Recommendations for changes in the law and administrative procedures to meet the special education needs stated in the plan.

History: 1973 c. 89; 1995 a. 27 s. 9145 (1).

115.781 Reports of service to handicapped children.

The department shall report to the governor, the joint committee on finance and the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), the state's progress toward achieving full service to handicapped children under the education for all handicapped children act of 1975 (P.L. 94–142). The department shall submit reports under this section within 45 days of the collection of data for the submission of the report of handicapped children receiving special education and related services, or its successor forms, as required under P.L. 94–142.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.781 Reports of service to handicapped children. The state superintendent shall report to the governor, the joint committee on finance and the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), the state's progress toward achieving full service to handicapped children under the education for all handicapped children act of 1975 (P.L. 94–142). The state superintendent shall submit reports under this section within 45 days of the collection of data for the submission of the report of handicapped children receiving special education and related services, or its successor forms, as required under P.L. 94–142

History: 1977 c. 418; 1987 a. 186; 1995 a. 27 s. 9145 (1).

115.79 Council on exceptional education. (1) The secretary shall consult with the council on exceptional education concerning:

NOTE: Sub. (1) (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(1) The state superintendent shall consult with the council on exceptional education concerning:

(a) All proposed department or division policies and rules relating to the education of children with exceptional educational needs.

(b) New special education programs, expansions, reductions or terminations of existing special education programs under s. 115.77 (4) (b) and (c).

(c) The state plan required under s. 115.78.

(d) Any other matters upon which the secretary wishes the council's opinion.

NOTE: Par. (d) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(d) Any other matters upon which the state superintendent wishes the council's opinion.

(2) The council may submit a report biennially to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), on the progress made by special education programs and planning in the state and any other information it deems desirable.

(3) The council shall have access to reports and statistics kept by the department relating to matters concerning children with exceptional educational needs.

History: 1973 c. 89; 1977 c. 29; 1987 a. 186; 1995 a. 27 ss. 3896, 3897 and 9145 (1).

115.80 Identifying and providing special education to children with exceptional educational needs. (1) INDIVIDUAL'S REPORT.

(a) A parent or a physician, nurse, teacher at a state or county residential facility, psychologist, social worker or administrator of a social agency who has reasonable cause to believe that a child brought to him or her for services has exceptional educational needs shall report the name of the child and any other information required to the school board for the district or

governing body of a state or county residential facility in which the child resides or to the division, except as provided in par. (b).

(b) A person who is required to be certified or licensed under s. 115.28 (7), who is employed by the school district in which a child attends public school and who has reasonable cause to believe a child has exceptional educational needs shall report such child and any other information required to the school board.

(c) Before any report is made under this subsection, the person making the report shall inform the child's parent that the report will be made.

(2) SCHOOL DISTRICT SCREENING. Each school board is responsible for screening each child who resides in the school district and has not graduated from high school to determine if there is reasonable cause to believe that the child is a child with exceptional educational needs.

(3) MULTIDISCIPLINARY TEAM. (a) The school board shall appoint a multidisciplinary team for each child reported to it under sub. (1) who resides in the school district and has not graduated from high school and for each child identified under sub. (2). A multidisciplinary team shall be composed of 2 or more persons who are skilled in assessing the exceptional educational needs that a child may have and who are skilled in programming for children with exceptional educational needs. The department shall determine the method of appointing members to the team and may require that there be additional members. The number and specialties of additional members may depend on the exceptional educational needs that the particular child is believed to have. Before a child is sent from a state or county residential facility to a school district, the department may require that the team for the school district to which the child may be sent include or consult with persons appointed by the governing body of the residential facility. For the evaluation of a child who resides and is receiving education only at a state or county residential facility, the multidisciplinary team shall be appointed by and make recommendations under pars. (c) and (d) to the governing body of the residential facility in which the child resides.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) The school board shall appoint a multidisciplinary team for each child reported to it under sub. (1) who resides in the school district and has not graduated from high school and for each child identified under sub. (2). A multidisciplinary team shall be composed of 2 or more persons who are skilled in assessing the exceptional educational needs that a child may have and who are skilled in programming for children with exceptional educational needs. The state superintendent shall determine the method of appointing members to the team and may require that there be additional members. The number and specialties of additional members may depend on the exceptional educational needs that the particular child is believed to have. Before a child is sent from a state or county residential facility to a school district, the state superintendent may require that the team for the school district to which the child may be sent include or consult with persons appointed by the governing body of the residential facility. For the evaluation of a child who resides and is receiving education only at a state or county residential facility, the multidisciplinary team shall be appointed by and make recommendations under pars. (c) and (d) to the governing body of the residential facility in which the child resides.

(b) Except as provided under s. 115.81 (1) (b), the multidisciplinary team appointed under par. (a) shall, upon written parental consent, evaluate each child reported to the school board under sub. (1) who resides in the school district and has not graduated from high school and each child identified under sub. (2).

(c) The multidisciplinary team shall consult with the child's parent prior to recommending a child for a special education program.

(d) The multidisciplinary team shall recommend a child to the school board for special education if it determines that the child is a child with exceptional educational needs.

(4) INDIVIDUALIZED EDUCATION PROGRAM. (a) A school board shall appoint staff to develop an individualized education program for each child recommended to it for special education under sub. (3) (d) who is 3 years of age or older. An individualized education program establishes the education program to be provided a child with exceptional educational needs. School board staff shall

review each child's individualized education program at least annually.

(b) The individualized education program of each child with exceptional educational needs as a result of a visual handicap shall indicate whether the child needs to be taught braille. If the individualized education program indicates that the child does not need to be taught braille, it shall also indicate the reason.

(4m) EDUCATIONAL PLACEMENT. A school board shall provide an educational placement under s. 115.85 (2) for each child with exceptional educational needs to implement the child's individualized education program. Except as provided in s. 115.81 (1) (b), a school board may not provide an educational placement for a child without the consent of the child's parent.

(5) REEVALUATION. (a) Each child who is receiving special education shall be reevaluated by a multidisciplinary team at least once every 3 years.

(b) 1. Upon reevaluation by a multidisciplinary team, the child may not continue to receive special education except upon the recommendation of the multidisciplinary team to the school board.

2. If, upon recommendation of the multidisciplinary team under subd. 1., the school board determines that a child is no longer in need of special education services, it shall place such child in an appropriate educational program. The board may delegate this responsibility in such manner and to such persons as it deems appropriate, including the multidisciplinary team.

3. This paragraph does not impair a parent's right to a hearing under s. 115.81 (1) (a).

History: 1973 c. 89; 1977 c. 29, 418; 1983 a. 374; 1989 a. 26, 359; 1991 a. 164; 1995 a. 27 s. 9145 (1); 1995 a. 431.

Department of Health and Social Services has no authority to appoint surrogate parent when child's parent cannot be located or refuses EEN services, and must utilize alternative procedures under 48.13 and 880.15. 71 *Atty. Gen.* 28.

115.81 Procedural safeguards. (1) RIGHT TO HEARING. (a) A parent may file a written request with the department for a hearing whenever the school board proposes or refuses to initiate or change his or her child's multidisciplinary team evaluation, individualized education program, educational placement or the provision of an appropriate special education program.

(b) A school board may file a written request with the department for a hearing to override a parent's refusal to grant consent or a parent's revocation of his or her consent for a multidisciplinary team evaluation or educational placement or to contest the payment of an independent evaluation.

(2) NOTICES. A school board shall fully inform the parent of any action it plans to take regarding the parent's child and of all procedural safeguards available to the parent.

(3) STATUS DURING HEARING AND COURT PROCEEDING. The school board may not change the educational placement of a child with exceptional educational needs who is the subject of a hearing or court proceeding conducted under this subchapter during the pendency of the hearing or court proceeding unless the change is made with the written consent of the child's parent. If the health or safety of the child or of other persons would be endangered by delaying the change in assignment, the change may be made earlier, upon order of the school board, but without prejudice to any rights that the child or parent may have.

(4) RIGHTS AT HEARING. A parent shall have access to any reports, records, clinical evaluations or other materials upon which a decision relating to his or her child was wholly or partially based or which could reasonably have a bearing on the correctness of the decision. At any hearing held under this section, the parent may determine whether the hearing shall be public or private. The parties to a hearing may examine and cross-examine witnesses, introduce evidence, appear in person and be represented by an advocate. The hearing officer shall prepare a full record of the proceedings. A complete record of the proceedings shall be given to the parent, if requested. The hearing officer shall inform the parents of their right to a complete record of the proceedings.

(4m) HEARING OFFICERS. The department shall maintain a listing of qualified hearing officers who are not employed by or under contract with a school board to serve as hearing officers in hearings under this section.

(5) INDEPENDENT EVALUATION. If a parent believes that a school board's multidisciplinary team evaluation of his or her child as shown in the reports or records made available to the parent under sub. (4) is in error, he or she may obtain an independent evaluation of the child and have the report considered by the school board and presented as evidence in the hearing. The school board shall pay the costs of the independent evaluation unless the parent refuses to give the school board a copy of the independent evaluation or it is found at a hearing that the school board's multidisciplinary team evaluation is appropriate or that the independent evaluation does not meet standards set by the department.

(6) HEARING AND DECISION. Upon receipt of a written request for a hearing under sub. (1), the department shall appoint an impartial hearing officer who is not otherwise employed by the department from the list maintained under sub. (4m). The hearing officer shall conduct the hearing and shall issue a decision within 45 days of the receipt of the request for the hearing under sub. (1). The hearing officer may issue subpoenas, order an independent evaluation at school board expense and grant specific extensions of time for cause at the request of either party. If the hearing officer grants an extension of time, he or she shall include that extension and the reason for the extension in the record of the proceedings. The school board shall pay the cost of the hearing officer. Sections 227.44 to 227.50 do not apply to hearings conducted under this subsection.

(7m) RESIDENTS OF STATE OR COUNTY FACILITY. For a child who resides, and is receiving special education, only in a state or county residential facility, the governing body of the facility shall be considered a school board for the purposes of this section.

(8) APPEAL TO COURT. Within 45 days after the decision of the hearing officer appointed by the department under sub. (6), either party may appeal the decision to the circuit court for the county in which the child resides.

(9) SURROGATE PARENTS. (a) A school board shall appoint a surrogate parent for a child with exceptional educational needs who resides in the school district if any of the following applies:

1. The child's parents are not known.

2. The child's parents are not available.

3. The child is a ward of or in the legal custody of a public agency, or a child welfare agency, that has the authority to make educational decisions for the child.

(b) The school board may not appoint as a surrogate parent for a child any employe of a public agency, or a child welfare agency, who is involved in the education or care of the child.

(c) Notwithstanding ss. 48.345, 48.363, 48.427 (3), 767.24 (3), 880.12, 880.15, 938.183, 938.34 (4), (4h), (4m) and (4n), 938.345 and 938.363, a surrogate parent has the authority to act as the child's parent in all matters relating to this subchapter.

History: 1973 c. 89; 1977 c. 29, 354, 418, 449; 1979 c. 221; 1989 a. 26; 1993 a. 14; 1995 a. 27 ss. 3898, 3899, 9145 (1); 1995 a. 77, 431.

Enforcement of state and federal special education laws discussed. *M. R. v. Milwaukee Public Schools*, 495 F Supp. 864 (1980).

115.815 Children in child caring institutions. (1) DEFINITIONS. In this section:

(a) "County department" means a county department under s. 46.215, 46.22 or 46.23.

(b) "Originating school district" means the school district where the child resided prior to the placement of the child in a child caring institution.

(2) ESTABLISHMENT OF PROGRAM. Subject to s. 115.77 (4) (b), a child caring institution may establish and maintain a special education program for children with exceptional educational needs.

(3) REFERRAL. (a) Whenever a county department recommends to a court that a child be placed in a child caring institution or whenever a state agency anticipates placing a child in a child caring institution, the county department or state agency shall notify the school board of the originating school district.

(b) For each child identified in a notice under par. (a), the school board of the originating school district or state agency, as specified in rules promulgated by the department, shall do all of the following:

1. If the child is a child with exceptional educational needs, as soon as reasonably possible, the school board, after consulting with a county department or a state agency, as appropriate, shall appoint staff to review and revise, if necessary, the child's individualized education program and the school board shall appoint a group to develop an educational placement offer.

2. If the child has not been identified as a child with exceptional educational needs:

a. The school board or state agency, as specified in rules promulgated by the department, shall appoint staff to review the child's education records and develop a status report for the child. The school board shall send a copy of the report to the county department within 30 days after receiving the notice under par. (a) and the state agency shall send a copy of the report to the school board of the originating school district within 30 days after providing the notice under par. (a).

b. If the school board determines that there is reasonable cause to believe that the child is a child with exceptional educational needs, the school board shall appoint a multidisciplinary team to conduct an evaluation of the child under s. 115.80 (3). The school board may include appropriately licensed staff of the child caring institution in the multidisciplinary team if that staff is available. The multidisciplinary team shall conduct the evaluation. If the multidisciplinary team determines that the child is a child with exceptional educational needs, the school board, after consulting with a county department or a state agency, as appropriate, shall appoint staff to develop an individualized education program and the school board shall appoint a group to develop an educational placement offer.

(4) RESPONSIBILITY FOR EDUCATIONAL PLACEMENT. Whenever the school board of the originating school district offers an educational placement in a child caring institution under sub. (3) (b) 1. or 2. b., all of the following apply:

(a) The school board of the originating school district shall do all of the following:

1. Ensure that the child receives a free appropriate public education.

2. Ensure that the child's treatment and security needs are considered when determining the least restrictive environment for the child.

3. While the child resides at a child caring institution, assign staff to conduct reevaluations of the child in the manner provided under s. 115.80 (5).

4. While the child resides at a child caring institution, after consulting with the child caring institution and a county department or a state agency, as appropriate, refer the child to another school district if the school board of the originating school district determines that the child's exceptional educational needs may be appropriately served in a less restrictive setting in the other school district.

5. If the child is leaving the child caring institution, assign a transition team to develop a transition plan for the child in cooperation with a county department and staff of the child caring institution.

(b) The county department or state agency, as specified in rules promulgated by the department, shall do all of the following:

1. Consider the child's educational needs when selecting a child caring institution for the child.

2. In cooperation with the originating school district and staff of the child caring institution, participate in the multidisciplinary team evaluation of the child and the development of the individualized education program for the child.

3. Notify the school board of the school district in which the child will reside whenever the county department or state agency anticipates removing the child from the child caring institution.

4. In cooperation with the originating school district and staff of the child caring institution, develop a transition plan for the child if the child is leaving the child caring institution.

5. Pay all of the child caring institution related costs of educating the child while the child resides in the child caring institution.

(c) Whenever a school board receives a referral under par. (a) 4., the school board shall assign staff to determine whether the child can appropriately be placed in a special education program operated by the school district. If the assigned staff determines that the child can appropriately be placed in a special education program operated by the school district, the school board shall provide an education program for the child and is eligible for state tuition payments under s. 121.79 (1) (a). If the assigned staff determines that the child cannot appropriately be placed in a special education program operated by the school district, the school board shall keep a written record of the reasons for that determination. If there is a dispute regarding the placement of a child under this paragraph between the school board of the originating school district and the school board receiving the referral, the department shall resolve the dispute under s. 115.85 (2m).

NOTE: Par. (c) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) Whenever a school board receives a referral under par. (a) 4., the school board shall assign staff to determine whether the child can appropriately be placed in a special education program operated by the school district. If the assigned staff determines that the child can appropriately be placed in a special education program operated by the school district, the school board shall provide an education program for the child and is eligible for state tuition payments under s. 121.79 (1) (a). If the assigned staff determines that the child cannot appropriately be placed in a special education program operated by the school district, the school board shall keep a written record of the reasons for that determination. If there is a dispute regarding the placement of a child under this paragraph between the school board of the originating school district and the school board receiving the referral, the state superintendent shall resolve the dispute under s. 115.85 (2m).

(5) RULES. The department shall promulgate rules to implement and administer this section.

NOTE: Sub. (5) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(5) RULES. The state superintendent shall promulgate rules to implement and administer this section.

History: 1993 a. 14; 1995 a. 27 s. 9145 (1).

115.82 Compulsory attendance. The provisions of s. 118.15 relating to compulsory school attendance apply during the school term to children with exceptional educational needs and may be satisfied by attendance at special education programs operated by a school district, county handicapped children's education board, board of control of a cooperative educational service agency, state or county residential facility or private special education service.

History: 1973 c. 89.

Parents who unilaterally remove child from exceptional educational needs placement violate compulsory education statute. 79 Atty. Gen. 105.

115.83 Authorization of special education programs and services. (1) A school board, board of control of a cooperative educational service agency or, upon authorization of the county board, a county handicapped children's education board may:

(a) Subject to approval by the division under s. 115.77 (4) (b) and (c), establish, maintain, expand, reduce or discontinue a special education program, including special physical or occupational therapy services, for children with exceptional educational needs. The board may contract with private or public agencies for

physical or occupational therapy services on the basis of demonstrated need.

(b) Employ, for a special education program, either full- or part-time licensed teachers, licensed coordinators of special education, licensed school social workers, licensed school psychologists, paraprofessionals, licensed consulting teachers to work with any teacher of regular education programs who has a child with exceptional educational needs in a class and any other personnel approved by the department.

(c) Provide in-service training for any teacher who has a child with exceptional educational needs in a class and any other services approved by the department.

(2) A special education program may consist of such special education programs for children as to allow them to attend regular education programs, one or more special schools or preschools, special sections within a school or preschool, special instruction centers, special instruction at the home or residence of the child or at any other location or any other special education program approved by the department.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) A special education program may consist of such special education programs for children as to allow them to attend regular education programs, one or more special schools or preschools, special sections within a school or preschool, special instruction centers, special instruction at the home or residence of the child or at any other location or any other special education program approved by the state superintendent.

(3) A special education program may be supplemented by family guidance or counseling services to train other members of the child's family to assist in the child's education.

(4) A special education program may be for the school term, may include a summer program or may be for the school year.

(5) The courses, qualifications of teachers, coordinators, social workers and school psychologists and plan of organizing and maintaining special education programs and other services shall comply with requirements established by the department.

NOTE: Sub. (5) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(5) The courses, qualifications of teachers, coordinators, social workers and school psychologists and plan of organizing and maintaining special education programs and other services shall comply with requirements established by the state superintendent.

History: 1973 c. 89; 1977 c. 418; 1993 a. 15; 1995 a. 27 s. 9145 (1).

Public school board was liable for cost of child's transportation to and from, and tuition at, private school during transition period. *Anderson v. Thompson*, 495 F Supp. 1256 (1980).

115.84 Local report. The school board, board of control or county handicapped children's education board maintaining special education programs or other services shall report annually to the department, and at such other times as it directs, such information as it requires. The report shall include the number of pupils instructed or provided service, their residence and the period of time each was instructed or otherwise served during the school year. Annually, on or before August 15, each board shall submit to the department an itemized statement on oath of all revenues and expenditures on account of such special education programs or other services during the preceding school year.

History: 1973 c. 89; 1975 c. 189, 224; 1991 a. 39.

115.85 School district. (1) RESPONSIBILITY TO MAKE PROGRAMS AVAILABLE. (a) Each school board shall ensure that appropriate special education programs and related services are available to children with exceptional educational needs who have attained the age of 3, who have not graduated from high school and who reside in the school district, or who reside in a state or county residential facility located in the school district and receive special education full- or part-time in the school district. Each state or county residential facility shall ensure that such programs and services are available to such other children who reside in the facility. Each school board shall ensure that to the maximum extent appropriate, a child with exceptional educational needs is

educated with children who are not children with exceptional educational needs and that special classes, separate schooling or other removal from the regular educational environment occurs only when the nature or severity of the child's handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. The school board shall ensure that a continuum of alternative placements is available to meet the needs of children with exceptional educational needs.

(b) A school district may provide special education for preschool children under the age of 3 years and instruction for their parents. Such special education shall be subject to the approval of and shall comply with requirements established by the department.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) A school district may provide special education for preschool children under the age of 3 years and instruction for their parents. Such special education shall be subject to the approval of and shall comply with requirements established by the state superintendent.

(c) The school board shall submit to the division any information it requires concerning special education in state or county facilities supervised by the division under s. 115.77 (3) (d) and shall advise the superintendent of each such facility.

(d) Beginning in the 1995–96 school year, no child with exceptional educational needs as a result of a visual handicap may be denied the opportunity to receive instruction in reading and writing braille.

(2) PLACEMENT IN APPROPRIATE PROGRAM. The school board shall provide an appropriate educational placement for a child with exceptional educational needs. The school board may delegate this responsibility. The governing body of a state or county residential facility shall place in an appropriate special education program a child who resides and is receiving special education only in the facility.

(a) If the school district, the county in which the child resides or the cooperative educational service agency for the school district in which the child resides operates an appropriate special education program, the child shall be placed in such program.

(am) If an agency enumerated in par. (a) does not operate a special education program which is appropriate for the child's needs, or if requested by the child's parents and recommended by the staff who developed the child's educational placement, the child may be placed in a model school special education program established under s. 36.25 (19). If the school board utilizes this placement option, the school district of residence shall pay any tuition charges for the child.

(b) If an agency enumerated in par. (a) does not operate a special education program which is appropriate for the child's needs, the child shall be placed in a program operated in this state by a public agency as near as possible to the place where the child resides, except as provided under pars. (c) and (d). If the local school board utilizes the placement option under this paragraph, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

(c) 1. Upon the approval of the department, the child may be placed in a public special education program located in another state.

NOTE: Subd. 1. is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(c) 1. Upon the approval of the state superintendent, the child may be placed in a public special education program located in another state.

2. The department shall approve a placement in a public special education program located in another state if the department determines that the program is appropriate to meet the child's exceptional educational needs and that:

NOTE: Subd. 2. (intro.) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

2. The state superintendent shall approve a placement in a public special education program located in another state if he or she determines that it is appropriate to meet the child's exceptional educational needs and that:

a. There is no appropriate program available in this state without the use of a boarding home or residential placement and the proposed placement will enable the child to reside at home and receive daily transportation to and from the placement; or

b. The proposed placement will result in a significant reduction in daily transportation costs or the child's time in transit to the program while the child resides at home.

3. If the local school board utilizes a placement option under this paragraph, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

(d) To provide a special education program which is appropriate to the child's needs, the school board may, upon approval of the department and if no equivalent public program is available, contract with a private special education service if the placement is warranted on the basis of a less restrictive environment alternative. Private special education services provided under this subchapter may not include religious or sectarian teachings or instruction. If the local school board utilizes the placement option under this paragraph, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

NOTE: Par. (d) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(d) To provide a special education program which is appropriate to the child's needs, the school board may, upon approval of the state superintendent and if no equivalent public program is available, contract with a private special education service if the placement is warranted on the basis of a less restrictive environment alternative. Private special education services provided under this subchapter may not include religious or sectarian teachings or instruction. If the local school board utilizes the placement option under this paragraph, the school district of residence and not the county of residence shall pay tuition charges for exceptional children.

(e) The school board may place a child with exceptional educational needs in a special education program at the home, residence or other location of the child only if there is a physician's statement in writing that the child is unable to attend school.

(2m) PLACEMENT DISPUTES. If a dispute arises between the school board and the department of health and family services, the department of corrections or a county department under s. 46.215, 46.22 or 46.23, or between school boards under s. 115.815 (4) (c), over the placement of a child in an appropriate program under sub. (2), the department shall resolve the dispute. This subsection applies only to placements in nonresidential educational programs made under s. [48.48 (4)], 48.57 (1) (c), 938.48 (4) or 938.57 (1) (c) and to placements in child caring institutions made under s. 115.815.

NOTE: Sub. (2m) is shown as amended by 1995 Wis. Act 27. The treatment by Act 27, s. 9145 (1), was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Sub. (2m), as not affected by 1995 Wis. Act 27 s. 9145 (1), reads as shown below. The bracketed language indicates a cross-reference to a provision which was repealed by 1995 Wis. Act 27. Corrective legislation is pending.

(2m) PLACEMENT DISPUTES. If a dispute arises between the school board and the department of health and family services, the department of corrections or a county department under s. 46.215, 46.22 or 46.23, or between school boards under s. 115.815 (4) (c), over the placement of a child in an appropriate program under sub. (2), the state superintendent shall resolve the dispute. This subsection applies only to placements in nonresidential educational programs made under s. [48.48 (4)], 48.57 (1) (c), 938.48 (4) or 938.57 (1) (c) and to placements in child caring institutions made under s. 115.815.

(3) SCHOOL DISTRICT PLAN. Annually, on or before August 15, each school board shall report to the department such information as it requires, including the following:

(a) The total number of children who reside in the district and who have been placed in special education programs under s. 115.85 (2), the exceptional educational needs of each such child and the school attended or special education received by each such child. The report shall also specify the number of children with exceptional educational needs who are known to the school district and who are under the age of 3 years and the exceptional educational needs of each such child.

(b) A description of the screening process for exceptional educational needs provided under s. 115.80 (2) to each child who enters public school in the district.

(c) A description of the special education programs in which children who reside in the district have been placed under sub. (2), the number of persons attending each pursuant to sub. (2) and the qualifications of the staff of each such special education program.

(d) An evaluation, in terms of the goals identified under s. 115.78 (5), of the progress made by each special education program in which children who reside in the district are placed under sub. (2).

(e) An evaluation of the progress made by each child who resides in a facility operated by the state or a county, who has attained the age of 3 years and whose parent resides in the district and a statement of the expected duration of the child's stay in such facility.

(f) Plans for new, expanded, or reduced public school special education programs or for discontinuation of any such program or part of such program.

(4) SCHOOL BOARD REFERRALS. Annually, on or before August 15, each school board shall report to the appropriate county departments under ss. 51.42 and 51.437 the names of children who reside in the school district, are at least 16 years of age, are not expected to be enrolled in an educational program 2 years from the date of the report and may require services described under s. 51.42 or 51.437 (1). This subsection does not affect a school district's responsibility under sub. (1) to make programs available to children with exceptional educational needs who are under the age of 21.

(5) COLLABORATIVE AGREEMENTS. (a) A school board, cooperative educational service agency and county handicapped children's education board may enter into an agreement with a county administrative agency, as defined in s. HSS 90.03 (10), Wis. adm. code, to allow the employes of the school board, agency or county handicapped children's education board to participate in the performance of multidisciplinary evaluations and the development of individualized family service plans under s. 51.44.

(b) A school board, cooperative educational service agency and county handicapped children's education board may enter into an agreement with a county administrative agency, as defined in s. HSS 90.03 (10), Wis. adm. code, a head start agency under 42 USC 9836 or a tribal school affiliated with the bureau of Indian affairs to allow the individuals employed by or under contract with any of the latter agencies to participate as team members in the performance of multidisciplinary team evaluations under s. 115.80 (3) (b) and in the development of individualized education programs under s. 115.80 (4).

History: 1971 c. 125 ss. 449, 522 (1); 1973 c. 89, 90, 333, 336; 1975 c. 39; 1977 c. 29, 418; 1979 c. 34; 1981 c. 251; 1983 a. 375; 1985 a. 29 s. 3202 (56); 1985 a. 176; 1989 a. 26, 31, 107; 1991 a. 164; 1993 a. 14, 283; 1995 a. 27 ss. 3902, 9126 (19) and 9145 (1); 1995 a. 77.

Sub. (2) (d), Stats. 1973, is constitutional. See note to art. I, sec. 18, citing *State ex rel. Warren v. Nusbaum*, 64 W (2d) 314, 219 NW (2d) 577.

Requirement of DPI that the options under (2) are to be considered sequentially and not alternatively, is a rational one. Though the state must provide each child with an equal educational opportunity, it is not necessarily required to do so in the context of a neighborhood or conveniently accessible setting. *Panitch v. State of Wisconsin*, 390 F Supp. 611.

115.86 Handicapped children's education board.

(1) DEFINITIONS. In this section "board" means the county handicapped children's education board.

(2) ESTABLISHMENT. (a) Any county board of supervisors may determine to establish a special education program for children with exceptional educational needs, for school districts in the county.

(b) The program may provide for one or more special schools, classes, treatment or instruction centers or any other service authorized under s. 115.83 for children with one or more types of exceptional educational needs.

(c) A school district shall be included under such county program only to the extent approved by formal action of the school

board. Each school district that participates in the county program for any of the handicaps under s. 115.76 (3), or subdivisions thereof under s. 115.76 (3) (b) based upon the severity of the handicap, must subscribe to all of the services offered by the board for each of the handicaps or subdivisions thereof under s. 115.76 (3) (b), for which the school board has resolved to participate. A school board may, however, arrange with the board for such necessary support or intervention services to primary programs subscribed to. A board created under this section shall be known as the “Handicapped Children’s Education Board”.

(3) ORGANIZATION. (a) The board shall consist of 3 or more persons, as determined by the county board of supervisors, elected by the county board or appointed by the chairperson of the county board, as the rules of the county board direct. Board members shall be electors selected from that part of the county participating in the program and shall be representative of the area the board serves. The board may include school board members, members of the county board of supervisors and other electors. Board members shall hold office for a term of 3 years, except that the terms of office of members of the first board shall be 3 years, 2 years and one year. Board members shall receive compensation and reimbursement for mileage in an amount fixed by the county board of supervisors, but not more than that of county board members.

(b) The board annually shall select one member as chairperson and one as secretary. The county treasurer shall serve as board treasurer but shall not be a member of the board.

(c) The board shall appoint an advisory committee whose membership includes school district administrators representative of the area the board serves.

(4) APPLICATION. Upon authorization of the county board, application for the establishment of a program or any part thereof shall be made by the board to the division. The application shall state whether the program or part will be available in the county at large or only to certain school districts.

(5) BOARD DUTIES. (a) The board shall have charge of all matters pertaining to the organization, equipment, operation and maintenance of such programs and may do all things necessary to perform its functions, including, without restriction because of enumeration, the authority to erect buildings subject to county board approval and employ teachers and other personnel. The board shall prepare an annual budget, which shall be subject to approval of the county board under s. 65.90 unless a resolution is adopted under sub. (9) (c), and shall include funds for the hiring of staff, the purchase of materials, supplies and equipment and the operation and maintenance of buildings or classrooms.

(b) 1. At the close of each fiscal year, the board shall employ a licensed accountant to audit its accounts and certify the audit. The cost of the audit shall be paid from board funds.

3. The department shall establish by rule a standard contract and minimum standards for audits performed under this paragraph.

(c) If the county board of supervisors establishes an integrated service program for children with severe disabilities under s. 59.53 (7), the county handicapped children’s education board shall participate in an integrated service program for children with severe disabilities under s. 59.53 (7), and may enter into written interagency agreements or contracts under the program.

(d) Annually by October 1, the board and the school boards of the school districts participating in the county program shall submit a report to the department that specifies the portion of each school day that each pupil enrolled in the county program who is also enrolled in the school district of the pupil’s residence spent in county program classes in the previous school year and the portion of the school day that the pupil spent in school district classes in the previous school year. The department shall develop guidelines for a full-time equivalency methodology. The department is not required to promulgate the guidelines as rules.

NOTE: Par. (d) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(d) Annually by October 1, the board and the school boards of the school districts participating in the county program shall submit a report to the state superintendent that specifies the portion of each school day that each pupil enrolled in the county program who is also enrolled in the school district of the pupil’s residence spent in county program classes in the previous school year and the portion of the school day that the pupil spent in school district classes in the previous school year. The state superintendent shall develop guidelines for a full-time equivalency methodology. The state superintendent is not required to promulgate the guidelines as rules.

(6) ASSIGNMENT OF FUNCTIONS. (a) The board may not assign by resolution or by contract the full administrative or instructional services of the board.

(b) The ability of the board to contract with the board of control of a cooperative educational service agency, a board of a school district or other public agency in the county for a portion of administrative or instructional services or for any of the purposes enumerated in s. 115.83 is not prohibited by par. (a). The board shall be responsible for all programs contracted under this paragraph.

(7) WITHDRAWAL AND DISSOLUTION. (a) The school board of any district which is included under the administration of a board may withdraw from participation in any part of the program only with the approval of the department after conference with the board and a determination by the department that such withdrawal is in the interest of the program in the county and the school district affected. Such withdrawal shall be effective only if the school board has the approval of the division to establish an equivalent part of a program. Such withdrawal shall be effective either December 31 or June 30 provided that 12 months’ notice has been given to the board. The withdrawing school district shall be liable for its proportionate share of all operating costs until its withdrawal becomes effective, shall continue to be liable for its share of debt incurred while it was a participant and shall receive no share in the assets.

NOTE: Par. (a) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(a) The school board of any district which is included under the administration of a board may withdraw from participation in any part of the program only with the approval of the state superintendent after conference with the board and a determination by the state superintendent that such withdrawal is in the interest of the program in the county and the school district affected. Such withdrawal shall be effective only if the school board has the approval of the division to establish an equivalent part of a program. Such withdrawal shall be effective either December 31 or June 30 provided that 12 months’ notice has been given to the board. The withdrawing school district shall be liable for its proportionate share of all operating costs until its withdrawal becomes effective, shall continue to be liable for its share of debt incurred while it was a participant and shall receive no share in the assets.

(b) A program established under this section may be dissolved by action of the county board, but such dissolution shall not take place until the end of the school term in which the action was taken. When a program is dissolved, assets and liabilities shall be distributed under s. 66.03 to all units which participated in the program.

(8) TRANSPORTATION. The board may promulgate a plan for the transportation at county expense of children who are participating in special education programs under this section, special education programs operated at day care centers or special education programs operated by a private organization within whose attendance area the child resides and which is situated not more than 5 miles beyond the boundaries of the area the board serves, as measured along the usually traveled route. The plan, upon approval of the department, shall govern the transportation of such children. Any such plan for transportation during the school term supersedes ss. 115.88 and 121.54 (3).

NOTE: Sub. (8) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(8) TRANSPORTATION. The board may promulgate a plan for the transportation at county expense of children who are participating in special education programs under this section, special education programs operated at day care centers or special education programs operated by a private organization within whose attendance area the child resides and which is situated not more than 5 miles beyond the boundaries of the area the board serves, as measured along the usually traveled route. The plan, upon approval of the state superintendent, shall govern the transportation of such children. Any such plan for transportation during the school term supersedes ss. 115.88 and 121.54 (3).

(9) AREA TAXED. (a) The tax for the operation and maintenance of each part of a special education program and for the transportation of children under sub. (8) shall be levied against the area of the county participating in the part of the program.

(b) Beginning July 1, 1981, no board, except a board which has constructed or acquired building facilities, may continue to operate under this section if the area taxed under par. (a) constitutes less than 50% of the full value of taxable property within the county.

(c) Upon the adoption of a resolution by a majority of the school boards that are located in whole or in part in the county and are participating in the county program under sub. (2) (c), this subsection shall not apply commencing on the effective date of the resolution. A resolution adopted under this paragraph between January 1 and June 30 in any year shall be effective on January 1 of the year commencing after its adoption. A resolution adopted under this paragraph between July 1 and December 31 in any year shall be effective on January 1 of the 2nd year commencing after its adoption. In the year in which the resolution is effective, the county budget under s. 59.60 or 65.90 shall include a line item for the special education program.

(10) STATE AIDS. (a) The board may apply for and receive the state aid under ss. 115.88 and 121.41 (1) for the transportation, board and lodging, treatment and instruction of children participating in programs under this section.

(b) The board may apply for and receive the state aid under ss. 121.135 and 121.14. This paragraph does not apply beginning on the effective date of a resolution adopted under sub. (9) (c).

(c) All state aid shall be paid to the county treasurer and credited to the fund of the board.

(11) VIOLATIONS. The department shall withhold aid from any board that is in violation of this section.

NOTE: Sub. (11) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(11) VIOLATIONS. The state superintendent shall withhold aid from any board that is in violation of this section.

History: 1973 c. 89; 1977 c. 29; 1983 a. 22 s. 6; 1983 a. 27; 1983 a. 192 ss. 184, 303 (2); 1983 a. 301, 538; 1985 a. 29; 1989 a. 26, 31; 1991 a. 39; 1993 a. 184; 1995 a. 27 s. 9145 (1); 1995 a. 201.

Administration of county school office under this section discussed. 77 Atty. Gen. 196.

115.87 Admission, tuition and transportation. (1) A cooperative educational service agency, county handicapped children's education board or school district which operates a special education program shall admit a nonresident if the program is appropriate for the child's exceptional educational needs. Refusal to admit a child does not relieve the school district in which the child resides of its responsibilities under s. 115.85 (1).

(7) In addition to the requirements of s. 121.54 (3), when board and lodging are not furnished to nonresident children with exceptional educational needs the school district in which the child resides or, if there is a plan of transportation under s. 115.86 (8), the county handicapped children's education board shall provide transportation.

(8) Upon the advance approval of the department, the school board of any district may place a child in a special education program outside this state in accordance with s. 115.85 (2) (c) or a special education program operated by a private, nonsectarian special education service either within or outside the state in accordance with s. 115.85 (2) (d). The school district of residence shall pay the tuition and transportation in accordance with the procedure established for the payment of tuition by the school district under s. 121.78.

NOTE: Sub. (8) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(8) Upon the advance approval of the state superintendent, the school board of any district may place a child in a special education program outside this state in accordance with s. 115.85 (2) (c) or a special education program operated by a private, nonsectarian special education service either within or outside the state in accordance with s. 115.85 (2) (d). The school district of residence shall

pay the tuition and transportation in accordance with the procedure established for the payment of tuition by the school district under s. 121.78.

History: 1973 c. 89, 243, 258, 333; 1975 c. 39; 1977 c. 29; 1985 a. 29 ss. 1703, 3202 (43); 1989 a. 26; 1995 a. 27 s. 9145 (1).

115.88 State aid. (1) PROGRAM AID. (am) If, upon receipt of the report under s. 115.84, the department is satisfied that the special education program has been maintained during the preceding school year in accordance with law, the department shall certify to the department of administration in favor of each county, cooperative educational service agency and school district maintaining such special education program a sum equal to 63% of the amount expended by the county, agency and school district during the preceding year for salaries of personnel enumerated in s. 115.83 (1), including the salary portion of any authorized contract for physical or occupational therapy services, except as provided in par. (b), and other expenses approved by the department. The department of administration shall pay such amounts to the county, agency and school district from the appropriation under s. 20.255 (2) (b).

NOTE: Par. (am) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(am) If, upon receipt of the report under s. 115.84, the state superintendent is satisfied that the special education 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 county, cooperative educational service agency and school district maintaining such special education program a sum equal to 63% of the amount expended by the county, agency and school district during the preceding year for salaries of personnel enumerated in s. 115.83 (1), including the salary portion of any authorized contract for physical or occupational therapy services, except as provided in par. (b), and other expenses approved by the state superintendent. The department of administration shall pay such amounts to the county, agency and school district from the appropriation under s. 20.255 (2) (b).

(b) Salaries of licensed school psychologists and licensed school social workers shall be reimbursed at 51% without regard to whether they are employed in a program for handicapped children. The school district, county handicapped children's education board or cooperative educational service agency shall include in the report under s. 115.84 any information required by the department relating to use of a school psychologist or school social worker.

NOTE: Par. (b) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(b) Salaries of licensed school psychologists and licensed school social workers shall be reimbursed at 51% without regard to whether they are employed in a program for handicapped children. The school district, county handicapped children's education board or cooperative educational service agency shall include in the report under s. 115.84 any information required by the state superintendent relating to use of a school psychologist or school social worker.

(2) TRANSPORTATION AID. If upon receipt of the report under s. 115.84 the department is satisfied that the transportation of children with exceptional educational needs has been maintained during the preceding year in accordance with the law, the department shall certify to the department of administration in favor of each county, cooperative educational service agency or school district transporting such pupils 63% of the amount expended for such transportation. Pupils for whom aid is paid under this subsection shall not be eligible for aid under s. 121.58 (2) or (4). The department of administration shall pay such amounts to the county, agency or school district from the appropriations under s. 20.255 (2) (b) and (u). This subsection applies to any child with exceptional educational needs who requires special assistance in transportation, including any such child attending regular classes who requires special or additional transportation. This subsection does not apply to any child with exceptional educational needs attending regular or special classes who does not require any special or additional transportation.

NOTE: Sub. (2) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(2) TRANSPORTATION AID. If upon receipt of the report under s. 115.84 the state superintendent is satisfied that the transportation of children with exceptional educational needs has been maintained during the preceding year in accordance with the law, the state superintendent shall certify to the department of administration in favor of each county, cooperative educational service

agency or school district transporting such pupils 63% of the amount expended for such transportation. Pupils for whom aid is paid under this subsection shall not be eligible for aid under s. 121.58 (2) or (4). The department of administration shall pay such amounts to the county, agency or school district from the appropriations under s. 20.255 (2) (b) and (u). This subsection applies to any child with exceptional educational needs who requires special assistance in transportation, including any such child attending regular classes who requires special or additional transportation. This subsection does not apply to any child with exceptional educational needs attending regular or special classes who does not require any special or additional transportation.

(3) BOARD AND LODGING AID. There shall be paid the amount expended for board and lodging and transportation between the boarding home and the special education program of nonresident children enrolled under s. 115.85 (2) in the special education program. The department shall certify the full amount to the department of administration which shall pay such amount from the appropriation under s. 20.255 (2) (b) to the school district, cooperative educational service agency, county handicapped children's education board, state agency of another state or private, nonsectarian special education service which operates the special education program while providing board, lodging and transportation.

(4) HOSPITALS AND CONVALESCENT HOME AID. The full cost of special education for children in hospitals and convalescent homes for orthopedically disabled children shall be paid from the appropriation under s. 20.255 (2) (b). The supervision of such instruction shall be under the department and the school board of the school district in which the hospital or convalescent home is located. The school board of the district in which the hospital or convalescent home is located shall submit to the department an itemized statement of all revenues and expenditures for the actual cost of such instruction and any other information it requires.

(6) AID FOR INSTRUCTION OUTSIDE OF DISTRICT. From the appropriation under s. 20.255 (2) (b) there shall be paid the full cost of salary and travel expenses, in amounts determined in advance by the department, to school districts for providing special education outside the school district of employment.

NOTE: Sub. (6) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(6) AID FOR INSTRUCTION OUTSIDE OF DISTRICT. From the appropriation under s. 20.255 (2) (b) there shall be paid the full cost of salary and travel expenses, in amounts determined in advance by the state superintendent, to school districts for providing special education outside the school district of employment.

(7) OFFSETTING RECEIPTS. In any school year, the following revenues shall be deducted from costs aidable under this section before aids are calculated under this section:

(a) Any federal operational revenues expended on costs aidable under this section.

(b) That portion of state tuition payments attributable to the special annual tuition rate under s. 121.83 (1) (c), regardless of the school year in which the services were provided. The tuition revenues shall be allocated to the most appropriate part of a program.

(8) ENROLLMENT OUT OF STATE. If a child with exceptional educational needs is enrolled in a public special education program under s. 115.85 (2) (c) 2. and the department is satisfied that the program in which the child is enrolled complies with this subchapter, the department shall certify to the department of administration in favor of the school district of residence a sum equal to the percentage of the approved costs under subs. (1) and (2) of the amount expended by the school district during the preceding year for the additional costs associated with the child's special education program. The department of administration shall pay the amount to the school district from the appropriation under s. 20.255 (2) (b).

NOTE: Sub. (8) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(8) ENROLLMENT OUT OF STATE. If a child with exceptional educational needs is enrolled in a public special education program under s. 115.85 (2) (c) 2. and the state superintendent is satisfied that the program in which the child is enrolled complies with this subchapter, the state superintendent shall certify to the department of administration in favor of the school district of residence a sum equal to the percentage of the approved costs under subs. (1) and (2) of the

amount expended by the school district during the preceding year for the additional costs associated with the child's special education program. The department of administration shall pay the amount to the school district from the appropriation under s. 20.255 (2) (b).

(9) DISTRIBUTION SCHEDULE. Beginning with payments made in the 1985–86 school year, each county, cooperative educational service agency and school district entitled to state aid under this section shall receive 15% of its total aid entitlement in each month from November to March and 25% of its total entitlement in June.

History: 1973 c. 89, 333; 1975 c. 224; 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 418; 1979 c. 34 ss. 953p, 2102 (43) (a); 1979 c. 221 s. 2200 (43); 1981 c. 20, 251, 317; 1983 a. 27 ss. 1428, 2202 (42); 1985 a. 29; 1987 a. 27, 338; 1989 a. 26; 1991 a. 39, 269; 1993 a. 15; 1995 a. 27 s. 9145 (1).

115.882 Proration of state aid. If the sum of the appropriations under s. 20.255 (2) (b) and (u) in any one year is insufficient to pay the full amount of aid under ss. 115.88 and 118.255, state aid payments shall be prorated among the counties, school districts and cooperative educational service agencies entitled thereto.

History: 1987 a. 338; 1991 a. 269.

115.89 Noncomplying school district; remedies.

(1) If, after a public hearing in the school district or as the result of a monitoring procedure or a complaint investigation, the department finds that a school board has violated this subchapter or the rules promulgated under this subchapter, the department may make recommendations to the school board to remedy the violation and may require the school board to submit a remedial plan incorporating such recommendations.

(3) If, after consultation with the school board, the department finds that the remedial plan has not incorporated the department's recommendations, or that its implementation has been inadequate to ensure compliance with this subchapter and the rules promulgated under this subchapter, the department shall request the attorney general to proceed against the school district for injunctive or other appropriate relief.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.89 Noncomplying school district; remedies. (1) If, after a public hearing in the school district or as the result of a monitoring procedure or a complaint investigation, the state superintendent finds that a school board has violated this subchapter or the rules promulgated under this subchapter, he or she may make recommendations to the school board to remedy the violation and may require the school board to submit a remedial plan incorporating such recommendations.

(3) If, after consultation with the school board, the state superintendent finds that the remedial plan has not incorporated his or her recommendations, or that its implementation has been inadequate to ensure compliance with this subchapter and the rules promulgated under this subchapter, he or she shall request the attorney general to proceed against the school district for injunctive or other appropriate relief.

History: 1973 c. 89; 1989 a. 26; 1995 a. 27.

SUBCHAPTER VI

EDUCATION FOR SCHOOL AGE PARENTS

115.91 Definition. In this subchapter, "school age parent" means any person under the age of 21 who is not a high school graduate and is a parent, an expectant parent or a person who has been pregnant within the immediately preceding 120 days.

History: 1983 a. 374; 1985 a. 29, 56; 1991 a. 269.

115.915 Availability of program services and modifications. Each school board shall make available to any school age parent who is a resident of the school district program modifications and services that will enable the pupil to continue his or her education.

History: 1985 a. 29 s. 1712; 1985 a. 56; Stats. 1985 s. 115.915.

115.92 Establishment of programs; rules. (1) Any school board may establish a program for school age parents who are residents of the school district. The program shall be designed

to provide services and instruction to meet the needs of school age parents, including education on the skills required of a parent; family planning, including natural family planning; and information on adoption services. The program shall be coordinated with existing vocational and job training programs in the school district.

(2) (a) Annually, and at such other times as the department requires, every school board that establishes a program under this subchapter shall submit a written report to the department. The report shall specify the number of school age parents instructed or provided service, their school district of residence and the period of time each was instructed or otherwise served during the school year.

(b) Annually, on or before August 15, each school board maintaining a program under this subchapter shall submit to the department an itemized statement on oath of all revenues and expenditures related to the program during the preceding school year.

(3) The department shall by rule establish criteria for the approval of programs established under this subchapter for the purpose of determining those programs eligible for aid under s. 115.93.

NOTE: Sub. (3) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(3) The state superintendent shall by rule establish criteria for the approval of programs established under this subchapter for the purpose of determining those programs eligible for aid under s. 115.93.

History: 1983 a. 374; 1985 a. 56; 1987 a. 158; 1991 a. 39; 1995 a. 27 s. 9145 (1).

115.93 State aid. (1) Except as provided under sub. (2), if upon receipt of the reports under s. 115.92 (2) the department is satisfied that the school age parents program has been maintained during the preceding school year in accordance with the rules under s. 115.92 (3), the department shall certify to the department of administration in favor of each school district maintaining the program a sum equal to 63% of the amount expended by the school district during the preceding school year for salaries of teachers and instructional aides, special transportation and other expenses approved by the department. The department of administration shall pay such amounts to the school district from the appropriation under s. 20.255 (2) (b).

(2) If the appropriation under s. 20.255 (2) (b) in any year is insufficient to pay the full amount of aid under sub. (1), state aid payments shall be prorated among the entitled school districts.

History: 1983 a. 374; 1985 a. 29 ss. 1707s, 3202 (43); 1985 a. 56; 1987 a. 27, 338; 1989 a. 31; 1991 a. 269; 1995 a. 27.

SUBCHAPTER VII

BILINGUAL–BICULTURAL EDUCATION

115.95 Legislative findings and declaration of policy.

(1) The legislature finds that:

(a) There are pupils in this state who enter elementary and secondary school with limited or nonexistent English speaking ability due to the use of another language in their family or in their daily, nonschool environment.

(b) Classes conducted in English do not always provide adequate instruction for children whose English language abilities are limited or nonexistent.

(c) It is beneficial to pupils from bicultural and monocultural backgrounds to participate in bilingual–bicultural programs where such programs are available in order to instill respect for non–English languages and cultures in all pupils.

(2) It is the policy of this state to provide equal educational opportunities by ensuring that necessary programs are available for limited–English speaking pupils while allowing each school district maximum flexibility in establishing programs suited to its particular needs. To this end, this subchapter establishes bilingual–bicultural education programs for pupils in school dis-

tricts with specified concentrations of limited–English speaking pupils in the attendance areas of particular schools.

(3) It is the policy of this state to reimburse school districts, in substantial part, for the added costs of providing the programs established under this subchapter.

(4) It is the policy of this state that a limited–English speaking pupil participate in a bilingual–bicultural education program only until such time as the pupil is able to perform ordinary classwork in English.

(5) It is the policy of this state that fundamental courses may be taught in the pupil’s non–English language to support the understanding of concepts, while the ultimate objective shall be to provide a proficiency in those courses in the English language in order that the pupil will be able to participate fully in a society whose language is English.

(6) Furthermore, it is the policy of this state to encourage reform, innovation and improvement in graduate education, in the structure of the academic profession and in the recruitment and retention of higher education and graduate school faculties, as related to bilingual–bicultural education, and to give special recognition to persons who possess a reading ability and speaking fluency in a non–English language and an understanding of another culture.

History: 1975 c. 395; 1987 a. 159.

115.955 Definitions. In this subchapter:

(2) “Bilingual–bicultural education program” means a program designed to improve the comprehension and the speaking, reading and writing ability of a limited–English speaking pupil in the English language, so that the pupil will be able to perform ordinary classwork in English.

(3) “Bilingual counselor” means a certified school counselor approved by the department under s. 115.28 (15) (a).

NOTE: Sub. (3) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(3) “Bilingual counselor” means a certified school counselor approved by the state superintendent under s. 115.28 (15) (a).

(4) “Bilingual counselor’s aide” means a person who is employed to assist a counselor and who is approved by the department under s. 115.28 (15) (a).

NOTE: Sub. (4) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(4) “Bilingual counselor’s aide” means a person who is employed to assist a counselor and who is approved by the state superintendent under s. 115.28 (15) (a).

(5) “Bilingual teacher” means a certified teacher approved by the department under s. 115.28 (15) (a).

NOTE: Sub. (5) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(5) “Bilingual teacher” means a certified teacher approved by the state superintendent under s. 115.28 (15) (a).

(6) “Bilingual teacher’s aide” means a person who is employed to assist a teacher and who is approved by the department under s. 115.28 (15) (a).

NOTE: Sub. (6) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(6) “Bilingual teacher’s aide” means a person who is employed to assist a teacher and who is approved by the state superintendent under s. 115.28 (15) (a).

(7) “Limited–English speaking pupil” means a pupil whose ability to use the English language is limited because of the use of a non–English language in his or her family or in his or her daily, nonschool surroundings, and who has difficulty, as defined by rule by the department, in performing ordinary classwork in English as a result of such limited English language ability.

NOTE: Sub. (7) is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

(7) “Limited–English speaking pupil” means a pupil whose ability to use the English language is limited because of the use of a non–English language in his or her family or in his or her daily, nonschool surroundings, and who has diffi-

culty, as defined by rule by the state superintendent, in performing ordinary classwork in English as a result of such limited English language ability.

History: 1975 c. 395; 1977 c. 203 s. 106; 1983 a. 189; 1987 a. 159; 1995 a. 27 s. 9145 (1).

115.96 Establishment of programs. (1) COUNT OF LIMITED-ENGLISH SPEAKING PUPILS. Annually, on or before March 1, each school board shall conduct a count of the limited-English speaking pupils in the public schools of the district, assess the language proficiency of such pupils and classify such pupils by language group, grade level, age and English language proficiency.

(2) NOTIFICATION. Annually, on or before April 1, a school board which may be required to offer a bilingual-bicultural education program shall send to the parent, legal custodian or guardian of every limited-English speaking pupil identified under sub. (1) who is eligible for participation in such a program, a notice which states that a bilingual-bicultural education program may be instituted, contains information on the procedures for registering a pupil in such a program, and provides notice of the consent required under sub. (3). The notice shall be in English and in the non-English language of the limited-English speaking pupil.

(3) PARENTAL CONSENT. On or before May 1, any parent or legal custodian desiring that their child be placed in a bilingual-bicultural education program shall give written consent to such child's placement.

(4) PROGRAM ESTABLISHED. Annually, on or before July 1, the school board shall establish a bilingual-bicultural education program, if required under s. 115.97. A bilingual-bicultural education program established under this subchapter shall provide all of the following:

(a) Instruction in reading, writing and speaking the English language.

(b) Through the use of the native language of the limited-English speaking pupil, instruction in the subjects necessary to permit the pupil to progress effectively through the educational system.

(5) PLACEMENT; APPEAL. (a) By the commencement of the school term, the school board shall place, with the parent's or legal custodian's written consent, each limited-English speaking pupil in the appropriate bilingual-bicultural education program established under this subchapter. If a limited-English speaking pupil is identified after March 1 or the parent or legal custodian of such child gives consent after May 1, the school board shall place the pupil, with the written consent of the pupil's parent or legal custodian, in an appropriate program where feasible.

(b) A parent or legal custodian may appeal the school board's failure to place the pupil in the bilingual-bicultural education program established for the pupil in the pupil's language group by filing a notice of appeal with the clerk of the school district within 10 days after the commencement of the school term. The school board shall provide for a hearing on the question of placement within 20 days after receipt of the notice of appeal and shall take a written record of the proceedings. The cost of taking the record shall be the responsibility of the school board. The parent or legal custodian may request a public or private hearing. Within 10 days after the hearing, the school board shall make a decision on the question of placement. If the parent or legal custodian is not satisfied with the decision of the school board, the parent or legal custodian may, within 10 days after the school board's decision, file a notice of appeal with the department. If the parent or legal custodian appeals, the parent or legal custodian shall assume the cost of transcribing the record. Within 10 days after receipt of the notice of appeal from the determination of the school board, the department shall issue a decision based on the hearing record. If the parent or legal custodian prevails, the school board shall reimburse the parent or legal custodian for the cost of transcribing the record.

NOTE: Par. (b) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(b) A parent or legal custodian may appeal the school board's failure to place the pupil in the bilingual-bicultural education program established for the pupil in the pupil's language group by filing a notice of appeal with the clerk of the school district within 10 days after the commencement of the school term. The school board shall provide for a hearing on the question of placement within 20 days after receipt of the notice of appeal and shall take a written record of the proceedings. The cost of taking the record shall be the responsibility of the school board. The parent or legal custodian may request a public or private hearing. Within 10 days after the hearing, the school board shall make a decision on the question of placement. If the parent or legal custodian is not satisfied with the decision of the school board, the parent or legal custodian may, within 10 days after the school board's decision, file a notice of appeal with the state superintendent. If the parent or legal custodian appeals, the parent or legal custodian shall assume the cost of transcribing the record. Within 10 days after receipt of the notice of appeal from the determination of the school board, the state superintendent shall issue a decision based on the hearing record. If the parent or legal custodian prevails, the school board shall reimburse the parent or legal custodian for the cost of transcribing the record.

History: 1975 c. 395; 1979 c. 301; 1987 a. 159; 1995 a. 27 s. 9145 (1).

115.97 Bilingual-bicultural education programs required.

(1) A school board may combine pupils in attendance at separate schools in its bilingual-bicultural education program. The school board shall be eligible for state aids under s. 115.995 if the number of limited-English speaking pupils served from the combined schools meets the requirements under sub. (2), (3) or (4). A pupil shall be eligible for a bilingual-bicultural education program only until he or she is able to perform ordinary classwork in English. The bilingual-bicultural education program shall be designed to provide intensive instruction to meet this objective. Nothing in this subchapter shall be construed to authorize isolation of children of limited-English speaking ability or ethnic background for a substantial portion of the school day. Pupils who are not limited-English speaking pupils may participate in a bilingual-bicultural education program, except that a school board shall give preference to limited-English speaking pupils in admitting pupils to such a program.

(2) If, in a language group under s. 115.96 (1), there are 10 or more limited-English speaking pupils in kindergarten to grade 3 in attendance at a particular elementary school and whose parents or legal custodians give written consent to such pupils' placement under s. 115.96 (3), the school board shall establish a bilingual-bicultural education program for such pupils during the school term. Such program shall be taught by a bilingual teacher.

(3) If, in a language group under s. 115.96 (1), there are 20 or more limited-English speaking pupils in grades 4 to 8 in attendance at a particular elementary, middle or junior high school and whose parents or legal custodians give written consent to such pupils' placement under s. 115.96 (3), the school board shall establish a bilingual-bicultural education program for such pupils during the school term. Such program shall be taught by a bilingual teacher.

(4) If, in a language group under s. 115.96 (1), there are 20 or more limited-English speaking pupils in grades 9 to 12 in attendance at a particular high school and whose parents or legal custodians give written consent to the pupils' placement under s. 115.96 (3), the school board shall establish a bilingual-bicultural education program. The program shall be taught by a bilingual teacher. Bilingual counselors shall be made available.

(5) (a) Except as provided under par. (b), if a school board is required to establish a bilingual-bicultural education program under sub. (2), (3) or (4), but bilingual teachers for the language groups are unavailable, the program may be taught by certified teachers of English as a 2nd language upon receipt of approval of the department. The department may approve a program under this paragraph only if the school board demonstrates all of the following:

NOTE: Par. (a) (intro.) is shown as amended eff. 1-1-96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95-2168-OA. Prior to Act 27 it read:

(5) (a) Except as provided under par. (b), if a school board is required to establish a bilingual-bicultural education program under sub. (2), (3) or (4), but bilingual teachers for the language groups are unavailable, the program may be taught by certified teachers of English as a 2nd language upon receipt of

approval of the state superintendent. The state superintendent may approve a program under this paragraph only if the school board demonstrates all of the following:

1. Compliance with all other requirements of this subchapter.
2. A good faith, continuing effort to recruit bilingual teachers for the language group.
3. Employment of at least one bilingual teacher's aide in the program.

(b) Paragraph (a) does not apply to a program for Spanish-speaking pupils.

History: 1975 c. 395; 1987 a. 159; 1995 a. 27 s. 9145 (1).

115.977 Contracting; continued eligibility. (2) A school district may establish bilingual–bicultural education programs by contracting with other school districts or with a cooperative educational service agency. If 10 or more pupils in kindergarten to grade 3, 20 or more in grades 4 to 8 or 20 or more in a high school program are enrolled in a program under a contract pursuant to this subsection, the school district offering the program is eligible for reimbursement under s. 115.995.

(3) The school board shall give any limited–English speaking pupil who has begun a bilingual–bicultural education program in the 3rd grade the opportunity to continue his or her bilingual–bicultural education program in the 4th grade regardless of the number of limited–English speaking pupils in grades 4 to 8. However, if there are not a sufficient number of limited–English speaking pupils in grades 4 to 8 to require a bilingual–bicultural education program under sub. (2), the school board may offer such pupil the opportunity to continue a bilingual–bicultural education program with a program established for limited–English speaking pupils in kindergarten to grade 3. A 4th grade pupil so enrolled may be counted for purposes of determining if there are a sufficient number of pupils for a kindergarten to grade 3 bilingual–bicultural education program.

History: 1975 c. 395.

115.98 Bilingual–bicultural advisory committee. In each school district which establishes a bilingual–bicultural education program under this subchapter, the school board may appoint a bilingual–bicultural advisory committee to afford parents and educators of limited–English speaking pupils the opportunity to advise the school board of their views and to ensure that a program is planned, operated and evaluated with their involvement and consultation. The committee shall assist the school board in informing educators, parents and legal custodians of limited–English speaking pupils that a program exists. The committee shall be composed of parents of limited–English speaking pupils enrolled in the bilingual–bicultural education program, bilingual and other teachers, bilingual teacher's aides, bilingual and other counselors and bilingual counselor's aides in the district, at least one representative from the community and a representative of the school district administration.

History: 1975 c. 395.

115.99 Preschool and summer school programs. A school board may establish a full–time or part–time preschool or summer bilingual–bicultural education program according to rules established by the department.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.99 Preschool and summer school programs. A school board may establish a full–time or part–time preschool or summer bilingual–bicultural education program according to rules established by the state superintendent.

History: 1975 c. 395; 1995 a. 27 s. 9145 (1).

115.991 Training programs. The school board may institute preservice or in–service programs designed to improve the skills of bilingual teachers, bilingual teacher's aides, bilingual counselors, bilingual counselor's aides or other personnel participating in,

or preparing to participate in, a bilingual–bicultural education program.

History: 1975 c. 395.

115.993 Report on bilingual–bicultural education.

Annually, on or before August 15, the school board of a district operating a bilingual–bicultural education program under this subchapter shall report to the department the number of pupils, including both limited–English speaking pupils and other pupils, instructed the previous school year in bilingual–bicultural education programs, an itemized statement on oath of all disbursements on account of the bilingual–bicultural education program operated during the previous school year and a copy of the estimated budget for that program for the current school year.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.993 Report on bilingual–bicultural education. Annually, on or before August 15, the school board of a district operating a bilingual–bicultural education program under this subchapter shall report to the state superintendent the number of pupils, including both limited–English speaking pupils and other pupils, instructed the previous school year in bilingual–bicultural education programs, an itemized statement on oath of all disbursements on account of the bilingual–bicultural education program operated during the previous school year and a copy of the estimated budget for that program for the current school year.

History: 1975 c. 395; 1995 a. 27 s. 9145 (1).

115.995 State aids. Upon receipt of the report under s. 115.993, if the department is satisfied that the bilingual–bicultural education program for the previous school year was maintained in accordance with this subchapter, the department shall certify to the department of administration in favor of the school district a sum equal to a percentage of the amount expended on limited–English speaking pupils by the school district during the preceding year for salaries of personnel participating in and attributable to bilingual–bicultural education programs under this subchapter, special books and equipment used in the bilingual–bicultural programs and other expenses approved by the department. The percentage shall be determined by dividing the amount in the appropriation under s. 20.255 (2) (cc) in the current school year by the total amount of aidable costs in the previous school year.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the Supreme Court in *Thompson v. Craney*, case no. 95–2168–OA. Prior to Act 27 it read:

115.995 State aids. Upon receipt of the report under s. 115.993, if the state superintendent is satisfied that the bilingual–bicultural education program for the previous school year was maintained in accordance with this subchapter, the state superintendent shall certify to the department of administration in favor of the school district a sum equal to a percentage of the amount expended on limited–English speaking pupils by the school district during the preceding year for salaries of personnel participating in and attributable to bilingual–bicultural education programs under this subchapter, special books and equipment used in the bilingual–bicultural programs and other expenses approved by the state superintendent. The percentage shall be determined by dividing the amount in the appropriation under s. 20.255 (2) (cc) in the current school year by the total amount of aidable costs in the previous school year.

History: 1975 c. 395; 1985 a. 29; 1991 a. 39; 1995 a. 27 s. 9145 (1).

115.996 Report to the legislature. Annually, on or before December 31, the department shall submit a report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), on the status of bilingual–bicultural education programs established under this subchapter. The report shall include the number of pupils served in bilingual–bicultural education programs for each language group in each school district in which such programs are offered and the cost of the program per pupil for each school district, language group and program type. The department shall also provide the number of pupils in each school district and language group who as a result of participation in a bilingual–bicultural education program improved their English language ability to such an extent that the program is no longer necessary for such pupils.

NOTE: This section is shown as amended eff. 1–1–96 by 1995 Wis. Act 27. The treatment by Act 27 was held unconstitutional and declared void by the

Supreme Court in *Thompson v. Craney*, case no. [95–2168–OA](#). Prior to Act 27 it read:

115.996 Report to the legislature. Annually, on or before December 31, the state superintendent shall submit a report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), on the status of bilingual–bicultural education programs established under this subchapter. The report shall include the number of pupils served in bilingual–bicultural education programs for each language group in each school district in which

such programs are offered and the cost of the program per pupil for each school district, language group and program type. The department shall also provide the number of pupils in each school district and language group who as a result of participation in a bilingual–bicultural education program improved their English language ability to such an extent that the program is no longer necessary for such pupils.

History: [1975 c. 395](#); [1987 a. 159, 186, 403](#); [1995 a. 27 s. 9145 \(1\)](#).