

State of Wisconsin



2021 Assembly Bill 446

Date of enactment:
Date of publication*:

2021 WISCONSIN ACT

AN ACT to amend 115.38 (1) (a) and 121.02 (1) (c) 3.; to repeal and recreate 118.016; and to create 119.44 (2) (bm) of the statutes; relating to: reading readiness assessments, allocating federal American Rescue Plan Act of 2021 funding, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 115.38 (1) (a) of the statutes is amended to read:

115.38 (1) (a) Indicators of academic achievement, including the performance of pupils on the tests administered under s. 121.02 (1) (r), the performance of pupils on assessments required under s. 118.016 (3), and the performance of pupils, by subject area, on the statewide assessment examinations administered under s. 118.30.

SECTION 2. 118.016 of the statutes is repealed and recreated to read:

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

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

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

1. An assessment that evaluates a pupil's skill in the areas listed in par. (n) 1. to 5., rapid naming, phonological awareness, word recognition, spelling, vocabulary, listening comprehension, and, when developmentally appropriate for the pupil, oral reading fluency and reading comprehension.

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

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

1. Neurobiological in origin.

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

3. Often unexpected in relation to other cognitive abilities.

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

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

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

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

(g) “Independent charter school” means a charter school established under s. 118.40 (2r) or (2x).

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

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

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

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

(L) “Parent” has the meaning given in s. 115.76 (12) (a).

(m) “Reading readiness assessment” means a fundamental skills screening assessment, universal screening assessment, or diagnostic assessment.

(n) “Universal screening assessment” means an assessment that evaluates a pupil’s skill in all of the following areas:

1. Phonemic awareness.
2. Decoding skills.
4. Alphabet knowledge.
5. Letter sound knowledge.
6. Oral vocabulary.

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

(3) **EARLY LITERACY ASSESSMENTS; 5-YEAR-OLD KINDERGARTEN TO 2ND GRADE.** Each school board and the operator of each independent charter school shall annually assess the early literacy skills of each pupil enrolled in 5-year-old kindergarten to 2nd grade in the school district or in the independent charter school as follows:

(a) *Universal screenings.* Screen the pupil at least 3 times during the school year using a universal screening assessment. The school board or operator of the indepen-

dent charter school shall ensure that the universal screening assessments are administered at the following times during the school year:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) *Early literacy remediation plan; availability.* A school board or operator of an independent charter school shall post its early literacy remediation plan on the school district's or independent charter school's Internet site.

(5) INTERVENTIONS; AT-RISK PUPILS. (a) *Personal reading plans.* If a pupil enrolled in 5-year-old kindergarten to 2nd grade is identified as at-risk based on a universal screening assessment or diagnostic assessment, the school board of the school district or operator of the independent charter school in which the pupil is enrolled shall do all of the following:

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

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

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

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

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

f. The evidence-based reading instructional programming that the pupil's teacher will use to provide reading instruction to the pupil, addressing the areas of phonemic awareness, phonics, fluency, vocabulary, and comprehension.

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

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

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

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

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

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

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

1. If the pupil is identified as at-risk based on a universal screening assessment administered under sub. (3) (a) 1. or based on a diagnostic assessment administered under sub. (3) (bm) 1., no later than the 2nd Friday of November.

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

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

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

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

(6) EARLY LITERACY REMEDIATION PLAN; SCHOOL DISTRICT OR INDEPENDENT CHARTER SCHOOL. A school board or operator of an independent charter school shall establish an early literacy remediation plan for grades 5-year-old kindergarten to 2 that includes all of the following:

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

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

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

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

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

(7) REPORTING ASSESSMENT DATA. By no later than July 15, 2023, and each July 15 thereafter, a school board shall report for each school and for the school district, and the operator of an independent charter school shall report for the independent charter school, all of the following to the department:

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

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

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

(e) The names of the reading readiness assessments used to assess pupils under subs. (2) and (3) in the previous school year.

(f) The number of pupils enrolled in 5-year-old kindergarten to 2nd grade who began receiving interventions during the previous school year, by grade.

(g) The total number of pupils enrolled in 5-year-old kindergarten to 2nd grade who received interventions under a personal reading plan during the previous school year.

(8) DEPARTMENT; DUTIES. (a) *Approved reading readiness assessments.* 1. By no later than July 15, 2022, the department shall establish and maintain a list of each of the following that are approved by the department for use under this section:

- a. Fundamental skills screening assessments.
- b. Universal screening assessments.
- cm. Diagnostic assessments.

2. The department shall publish each list of approved assessments under subd. 1. on its Internet site and submit the lists of approved reading readiness assessments to the appropriate standing committees of the legislature under s. 13.172 (3). If the department modifies a list under subd. 1., the department shall submit the modified list to the appropriate standing committees of the legislature under s. 13.172 (3).

3. The department may include a universal screening assessment on the list under subd. 1. b. and may include a diagnostic assessment on the list under subd. 1. cm. only if the assessment meets all of the following criteria:

a. The assessment is aligned with the model academic standards in reading and language arts, including foundational reading skills.

b. The assessment has a sensitivity rate of at least 70 percent and a specificity rate of at least 80 percent.

(b) *Reports to the legislature.* By November 30, 2023, and by each November 30 thereafter, the department shall compile the information it receives under sub. (7) and submit a report to the appropriate standing committees of the legislature under s. 13.172 (3) that includes the number of pupils identified as at-risk in the previous school year, by school and by school district.

(9) STATE AID. (a) *Payment for costs.* The department shall pay a school board or operator of an independent charter school the per pupil cost of each reading readiness assessment required to be administered under sub. (2) or (3). Beginning in the 2023-24 school year, the department may pay a school board or operator of an indepen-

dent charter school under this paragraph only if the school board or operator of the independent charter school does all of the following:

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

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

(b) *Proration.* If there are insufficient funds, the department shall prorate state aid payments among the school boards and operators of independent charter schools entitled to the aid.

(10) RULES. The department shall promulgate rules to implement and administer this section, including establishing a process under which a school board or operator of an independent charter school may request that the department include a reading readiness assessment on a list of approved assessments under sub. (8) (a).

SECTION 3. 119.44 (2) (bm) of the statutes is created to read:

119.44 (2) (bm) The performance of pupils on the assessments administered during the prior school year under s. 118.016 (3), categorized by school, gender, and ethnicity.

SECTION 4. 121.02 (1) (c) 3. of the statutes is amended to read:

121.02 (1) (c) 3. The pupil's ~~reading assessment performance on an assessment~~ under s. 118.016 (3) indicates that the pupil is ~~at risk of reading difficulty at-risk, as defined in s. 118.016 (1) (a).~~ If this subdivision applies, the interventions or services provided the pupil shall be ~~scientifically based evidence-based~~ and shall address all areas in which the pupil is deficient in a manner consistent with the state standards in reading and language arts.

SECTION 5. Nonstatutory provisions.

(2) **GRANTS FOR TEACHER DEVELOPMENT AND IMPLEMENTATION COSTS.** Of the moneys the governor accepts from the federal government under s. 16.54 pursuant to section 602 of the federal Social Security Act as amended by the federal American Rescue Plan Act of 2021, P.L. 117-2, the governor shall allocate at least \$5,000,000 to the department of public instruction for grants to school boards and operators of independent charter schools, as defined in s. 118.016 (1) (g), for teacher professional development and implementation costs related to providing the assessments and interventions required under s. 118.016.

SECTION 6m. Effective dates. This act takes effect on July 1, 2022, except as follows:

(1) SECTION 5 (2) of this act takes effect on the day after publication.