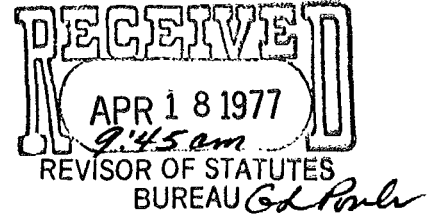


P 2 11

CERTIFICATE



STATE OF WISCONSIN)
) SS
 DEPARTMENT OF PUBLIC INSTRUCTION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, State Superintendent of the Department of Public Instruction and custodian of the official records of said department, do hereby certify that the annexed order adopting rules relating to the education of children with exceptional educational needs were duly approved and adopted by this department on the first day of the month following publication in the Wisconsin Administrative Register.

I further certify that said copy has been compared by me with the original on file in this department and the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 126 Langdon Street in the city of Madison, this 18th day of April, A.D., 1977.

Barbara Thompson
 Barbara Thompson
 State Superintendent
 State Department of Public Instruction

ORDER OF THE DEPARTMENT OF PUBLIC INSTRUCTION
ADOPTING RULES

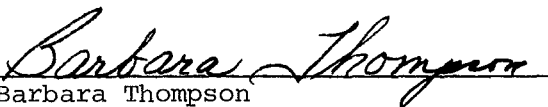
Pursuant to the authority vested in the Department of Public Instruction by subchapter IV, chapter 115, Wisconsin Statutes, the State of Wisconsin Department of Public Instruction hereby adopts rules as follows:

(see attached)

The rules contained herein shall be adopted as provided in Section 227.026 (1), Wis. Stats.

Dated this 18th day of April, 1977.

STATE OF WISCONSIN
DEPARTMENT OF PUBLIC INSTRUCTION


Barbara Thompson
State Superintendent

PI 11.28 of the Wis. Adm. Code is created to read:

Analysis by the Department of Public Instruction

The proposed creation of this section relating to non-complying school districts will provide remedies in those cases where districts are not providing equal educational opportunities for children with exceptional educational needs. This section describes a number of remedies which may be attempted to resolve a non-compliance situation.

1 PI 11.28 Non-complying districts. (1) Intent. The purpose of this section
2 is to ensure that districts will provide equal educational opportunities for children
3 with EEN and to provide remedies in those cases where districts are not providing
4 equal educational opportunities. PI 11.28 is intended to implement section 115.89,
5 Wis. Stats., which requires non-complying districts to remedy the denial of equal
6 educational opportunities.

7 (2) Complaints. The superintendent or designee shall receive and investigate
8 complaints and data substantiating complaints charging that a district is not
9 providing appropriate programs as required in section 115.85 (1) and (2), Wis. Stats.

10 (a) If the superintendent deems it necessary, the complainants shall submit,
11 within 10 days of receipt of a written request from the superintendent, data
12 clarifying and further substantiating the complaint.

13 (b) The district shall submit to the superintendent, within 10 days of
14 receipt of a written request from the superintendent, all additional information
15 not on file with the department relating to the district's implementation of
16 subchapter IV, chapter 115, Wis. Stats., any other information required by the
17 superintendent and a summary response to the specific complaint.

18 (3) Review. The superintendent shall review all data within 30 days following
19 receipt of data from the complainants and the district, and shall set a time, date
20 and place for holding a pre-hearing conference and shall send notice of such
21 conference to the parties to the complaint.

22 (a) The purpose of the pre-hearing conference is to identify or define issues
23 in dispute, obtain agreement on facts not in dispute, obtain any specific information

1 needed by the superintendent to determine whether a public hearing shall be held,
2 what evidentiary proceedings, if any, are necessary as well as procedures and
3 schedules for processing the appeal.

4 (b) The pre-hearing conference may be continued to a later date by the
5 superintendent.

6 (c) If after the pre-hearing conference the superintendent determines
7 that the district is in compliance with section 115.85 (1) and (2), Wis. Stats.,
8 a complete report of the issues raised by the complainants, as well as the
9 disposition of such issues and agreement of the parties thereto, shall be sent
10 to the parties to the complaint.

11 (4) Formal public hearing. (a) If after the pre-hearing conference the
12 superintendent determines that a public hearing is necessary, notice of
13 time, date and place and purposes of a public hearing to be held in the
14 district shall be sent to all parties and notice of the hearing shall be given in the
15 newspaper likely to give notice in the district.

16 1. An official record of the hearing shall be kept including a verbatim
17 record of the proceedings at the hearing together with all exhibits. The record
18 of the hearing may be a tape recording.

19 2. The complainants may present evidence relative to the complaint that
20 the district is not providing equal educational opportunities for children with EEN.

21 (b) The superintendent shall make findings within 10 days following the
22 public hearing in the district, including a finding that the district has denied
23 equal educational opportunities to children with EEN or a finding that the district
24 is in compliance relative to the specific complaints in the allegation.

25 (5) Remedial plan. After the superintendent has found that a district has
26 denied equal educational opportunities to children with EEN, the superintendent,
27 through the division, may make recommendations to the district to remedy the
28 denial of equal educational opportunities, and shall order development by the
29 district of a remedial plan and implementation of that plan within 3 months of

1 receipt of the order by the district.

2 (6) Inadequate implementation. If, following consultation with the board,
3 the superintendent finds that implementation of the plan has been inadequate to
4 remedy the denial of equal educational opportunities, the superintendent shall
5 request the attorney general to proceed against the district for its non-compliance
6 with the superintendent's order.

PI 11.29 of the Wis. Adm. Code is created to read:

Analysis by the Department of Public Instruction

The proposed creation of this section relating to special education program aides will provide school district personnel with criteria for use of special education program aides. This section describes eligibility criteria, exceptions to criteria, reimbursement requirements and supervision for LEA use of special education program aides as a support service within an instructional unit.

1 PI 11.29 Special education program aides. (1) Policy. To ensure that all
2 instructional units have adequate support services the LEA may utilize a special
3 education program aide when appropriate. It is not the department's intent that
4 all units are provided with a special education program aide.

5 (2) Eligibility. Eligibility for a special education program aide shall
6 be based on the following:

7 (a) Evidence of an enrollment increase beyond the recommended maximum in
8 the particular program type/level of program unit. (PI 11.21 (1) (c)).

9 1. Use of a special education program aide shall not be approved where the
10 enrollment has increased to a point where a second teacher should be employed.

11 (3) Exceptions. Exceptions shall be approved based on the following:

12 (a) Evidence that use of a special education program aide is necessary to
13 assist with certain children who might otherwise be difficult to manage or
14 difficult to educate.

15 (b) Evidence that use of a special education program aide is necessary on
16 school buses to assist in management control where there are reported problems
17 and the safety of the children is a factor.

18 (c) Evidence that a special education program aide is necessary to assist
19 a physically handicapped child to accommodate to a regular classroom situation.

20 (d) Exceptions covered under PI 11.29 (3) (a) (b) and (c) shall require
21 prior approval from the division.

22 (4) Reimbursement. The department shall reimburse the employing LEA for

1 the salary and fringe benefits of certified special education program aides at
2 70% (PI 11.35 (2) (a) 1.) when the following criteria are met:

3 (a) For the first year, a written plan shall be submitted by the LEA to
4 the program area supervisor. The program plan shall include the following elements:

- 5 1. Program rationale.
- 6 2. Clearly articulated need.
- 7 3. Aide role and function.
- 8 4. Work schedule.
- 9 5. Any other information requested by the division.

10 (b) Need for this position shall be reviewed yearly.

11 (c) Reimbursement for this position shall be contingent upon prior approval
12 of the program area supervisor.

13 (5) Special education program aide requirements. The individual shall
14 hold a 3 year license as a special education program aide.

15 (6) Supervision. In the classroom, special education program aides shall
16 be under the direct supervision of a certified special education teacher. In
17 cases where special education program aides are not functioning in the classroom,
18 they shall be under the supervision of a director or supervisor or both.

19 (a) Use of this position shall not reduce, remove or transfer the teacher's
20 authority or responsibility.

PI 11.31 of the Wis. Adm. Code is created to read:

Analysis by the Department of Public Instruction

The proposed creation of this section will provide a definition of relationships between the private sector and local school districts and the Department of Public Instruction. This section defines those evaluation activities and services permitted in the private sector.

1 PI 11.31 Relationships with private sector. (1) Intent. This section
2 shall define the relationships between the private sector, local districts and
3 the department consistent with subchapter IV, chapter 115, Wis. Stats., legal
4 opinions and the rules.

5 (a) For the purpose of this section, private schools shall mean any school
6 which is non-public. See PI 11.04 (1) (d).

7 (2) Services. LEAs shall provide only the EEN services as determined by
8 statutory and rule definition, section 115.80 (3), Wis. Stats., with the
9 following conditions:

10 (a) Evaluation. District staff may carry out M-team assessment activities
11 within private schools. If the district elects not to carry out M-team activities
12 within the private school, the district shall provide it within the public school.

13 (b) Instructional and therapy services. LEA-provided instructional services
14 or physical/occupational therapy services shall be permissible within the private
15 school only if the special education program is fully administered and operated
16 by an LEA.

17 (3) Transportation. General and special transportation to special education
18 services shall be provided by the district of the child's residence if the board
19 has requested, based on M-team findings, a private contract and the contract has
20 been approved by the superintendent. The special transportation required shall
21 be reimbursed at 70% of excess costs. See PI 11.35 (2) (a) 1.

22 (a) Where the board through the M-team recommendations and findings has made
23 a determination that a program exists in the LEA that meets the student's needs

1 but the parent chooses a private school placement, only the transportation
2 provisions of section 121.54 (2) (b) 1., Wis. Stats., apply.

3 (4) Pursuant to section 115.78 (2), Wis. Stats., private special education
4 schools shall submit to the division, on a form developed by the division, a
5 yearly report on enrollments, types and levels of service, licensure of personnel
6 and any other information required. This information is required by the division
7 for its annual development of a state directory of public/private EEN services.

PI 11.32 of the Wis. Adm. Code is created to read:

Analysis by the Department of Public Instruction

The proposed creation of this section relating to the M-team process will provide a delineation of multidisciplinary team responsibilities: determination of disability, handicapping condition and need for special education. This section specifies elements to be considered and documented, before a child may be designated as a child with exceptional educational needs.

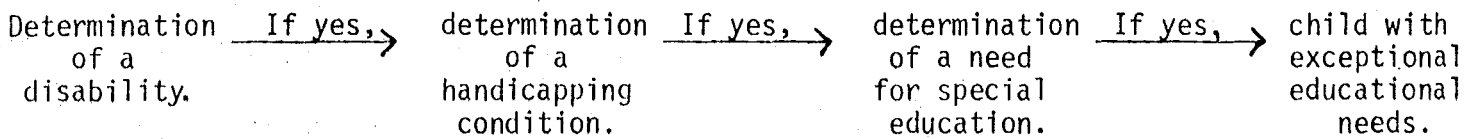
- 1 PI 11.32 M-team process. (1) Intent. Subchapter IV, chapter 115, Wis.
 2 Stats. was created to provide special education only for children with the
 3 handicapping conditions of mental retardation or other developmental disabilities,
 4 physically handicapped, pregnancy, visually handicapped, hearing handicapped,
 5 speech or language handicapped, learning disabilities, emotionally disturbed or
 6 any combination of conditions named by the superintendent as enumerated in
 7 section 115.76 (3) (a) through (i), Wis. Stats. Only those children determined
 8 to have an EEN shall be included within the parameters of the mandates of this law.
- 9 (2) M-team responsibility. Pursuant to PI 11.03 (1) the M-team shall
 10 determine, specify and document decisions relative to disability, handicapping
 11 condition and need for special education. A child shall not qualify as a child
 12 with EEN unless the handicapping condition requires special education. The
 13 director, supervisor or designee shall be responsible for the M-team process
 14 including determination of disability and handicapping condition, need for special
 15 education and M-team plan and shall approve the M-team evaluation process or may
 16 request additional information.
- 17 (a) Disability. The child shall have a mental, physical, emotional or
 18 learning disability as the initial point for determining if the child qualifies
 19 for special education pursuant to subchapter IV, chapter 115, Wis. Stats.
- 20 (b) Handicapping condition. If the child has a disability, the M-team shall
 21 determine if the child has a handicapping condition, pursuant to section 115.76
 22 (3) (a) through (i), Wis. Stats. and PI 11.34 (2).

1 (c) Need for special education. Existence of one of these conditions shall
 2 not, in and of itself, qualify a child for special education unless the child
 3 also has a need for special education.

4 (d) EEN. If the M-team determines that the child has a disability, a
 5 handicapping condition, and a need for special education, then the child is
 6 determined to be a child with EEN.

Table I.

Determination of EEN



7 (3) Disability and handicapping condition. In determining disability and
 8 handicapping condition:

9 (a) Designated M-team members shall be responsible for the collection or
 10 analysis or evaluation or a combination thereof of the referral data. The extent
 11 of the information gathering process shall vary with each individual child depending
 12 upon the referral behavior and availability of relevant information in each case.

13 1. Data collection and analysis shall include:

14 a. Complete written documentation from referral sources.

15 b. Report of educational performance, e.g., behavioral and academic, from
 16 the child's teacher or other referral agencies, or both.

17 c. A description and documentation of previous interventions, including
 18 educational, medical, social and any other interventions attempted to assist the
 19 child.

20 d. Social, emotional and behavioral factors and peer and adult interactions
 21 in school, home and community.

22 e. Age of onset of the condition, differentiating between initial occurrence
 23 and initial identification.

24 2. The chairperson of the M-team or any M-team member may request additional

1 information or evaluations any time during the evaluation process. The following
2 shall be included when requested, or when determined relevant and essential to a
3 determination of a handicapping condition:

4 a. Individual intellectual assessments and other individual psychological
5 procedures.

6 b. Medical evaluation.

7 c. Analysis of economic, social, cultural and language factors which may
8 have an effect on school functioning.

9 (b) Role of the special education teacher. The special education teacher
10 shall be responsible for a current written evaluation in the context of special
11 education. The teacher shall review, analyze and incorporate information,
12 contained in PI 11.32 (3) (a), from other M-team members. In addition the
13 teacher shall conduct and document any interviews, observations, informal and
14 formal, norm- and criterion-referenced tests required to reach educational
15 conclusions. The written evaluation shall include conclusions on the following:

16 1. The pupil's current behavioral, social and academic functioning.

17 2. The individual child's learning style and how specific concepts or
18 skills or both are acquired and utilized.

19 (c) Analysis and evaluation of data shall include a comparison of findings
20 of individual M-team members.

21 (4) Determination of need for special education. (a) Need. During the
22 final staffing to determine whether or not the child's handicapping condition
23 requires special education, the M-team shall:

24 1. Complete the summary of the individual written reports and findings
25 submitted by M-team members, or any which may be submitted by consultants or
26 parents and others.

27 2. Develop a documented, written statement of the child's needs, based on
28 PI 11.32 (4) (a) 1. and the following:

29 a. How the handicapping condition interferes with behavioral and academic

1 functioning in the present educational program.

2 b. The interventions or modifications that still may need to be attempted
3 in regular education.

4 c. A consideration of how the essential proposed educational elements will
5 differ from the current programs.

6 3. For children whose handicapping conditions do not require special education,
7 see PI 11.03 (4) (b) 3. a. b. and c.

8 (5) M-team plan for EEN children. Pursuant to section 115.80 (3) (e), Wis.
9 Stats., and PI 11.03 (5) (a) and (b), the M-team shall recommend in writing an
10 M-team plan to include elements in PI 11.32 (3) and (4), based upon the child's
11 needs. Input and involvement of the parent as well as from the child, whenever
12 appropriate, shall be allowed and encouraged in the development of the M-team plan.

13 (a) The M-team shall enumerate the following:

14 1. Statement of the child's needs, to include elements considered in
15 PI 11.32 (3) and (4).

16 2. Goal statements and general objectives to meet the child's needs in the
17 following areas as appropriate:

18 a. Specify the recommended academic or behavioral interventions, or both,
19 necessary in special education or regular education, or both.

20 b. Supportive and related services.

21 c. School/parent communications.

22 3. The provisions for regularly scheduled follow-up consultation between
23 special education and regular education staff, and when necessary with supportive
24 personnel to ensure appropriateness of programming.

25 (6) M-team report. Refer to PI 11.03 (8). All findings, reports, and
26 recommendations, as well as the M-team plan, shall become part of the M-team report.

PI 11.33 of the Wis. Adm. Code is created to read:

Analysis by the Department of Public Instruction

The proposed creation of this section relating to placement and student's individual educational programs will provide direction for the director of special education or program designee in the placement of children with exceptional educational needs. This section will also define an individual educational program, including the elements to be contained therein.

1 PI 11.33 Placement, student's individual educational program (IEP). (1) Place-
2 ment in special education.

3 (a) The director, supervisor or designee shall be responsible for the receipt
4 of the written M-team plan, may request additional information, and shall make the
5 placement offer to the parent.

6 (b) The placement decision made by the board's director or designee, pursuant
7 to PI 11.03 (7) and PI 11.11 (4) (b) 1., shall include a justification for the type
8 of educational placement, type and level of program, location, personnel involved
9 and elements from the M-team plan. This shall include:

10 1. Statement regarding anticipated duration of special education, including
11 the projected date of enrollment and general statement of amount of responsibility
12 to be assumed by special and regular education and supportive services programming.

13 (c) The director or designee shall be responsible for systematic followup,
14 monitoring and evaluation of the M-team plan and the IEP. This shall include
15 the process of annual review and updating of the IEP.

16 (2) The student's individual educational program (IEP). Each LEA shall
17 establish or revise an IEP for each exceptional child pursuant to section 115.80 (4),
18 Wis. Stats. This shall occur at an individual planning conference prior to the
19 beginning of each school term for continuing students or within 6 weeks of initial
20 placement for new students. Parents shall be informed in special cases where
21 this cannot be accomplished. The IEP shall be revised periodically but not less
22 than annually. The parent as well as the child whenever appropriate shall be
23 offered the opportunity for involvement in the development of the IEP.

Note: Pursuant to P.L. 94-142, the IEP shall be in place by October 1, 1977.

1 (a) The IEP shall include the following:

2 1. A statement of the present levels of educational performance of the child.

3 2. A statement of annual long and short-term objectives based on the goals
4 established by the M-team. Any other educational goals deemed appropriate may be
5 included.

6 a. The statement shall include performance criteria, method of measurement
7 and anticipated timeline for meeting criteria.

8 b. The statement shall include specific educational, supportive and related
9 services needed to meet the exceptional educational needs of the child including
10 the personnel responsible for the delivery of services and an estimate of the
11 percentage of time involved in regular education and special education.

12 c. The statement shall include an enumeration of anticipated interventions,
13 methods and materials to be employed.

14 d. The objectives shall be evaluated upon attainment of the objectives or
15 at the end of the school year.

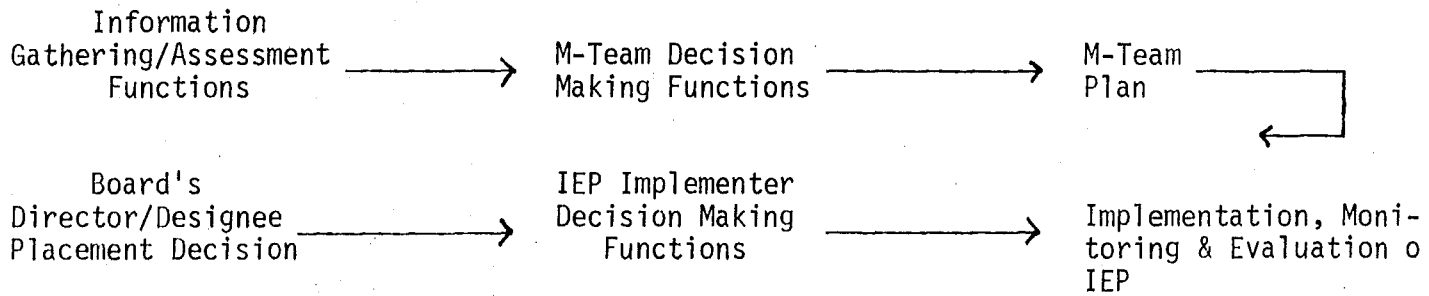
16 (b) The special education teacher designated as having primary responsibility
17 for the child's program shall be responsible for developing and revising the
18 child's IEP.

19 (c) Special and regular education teachers and supportive staff working with
20 the child shall assist in developing and revising the IEP.

21 (d) The IEP shall be a part of the student's behavioral records and shall
22 be available upon request by the operating LEA from the district of residence,
23 the teacher and the parent and the student if over 18 years.

24 (e) The rules in PI 11.32, PI 11.33 and PI 11.34 covering determination of
25 eligibility, placement procedures and development of an IEP are summarized in
26 Table I.

Table I.



The division recommends that whenever appropriate, the implementer of the IEP should also serve as an M-team member. This may result in shortening the time required to develop an IEP.

PI 11.34 of the Wis. Adm. Code is created to read:

Analysis by the Department of Public Instruction

The proposed creation of this section, relating to eligibility criteria, will define criteria for the determination of each handicapping condition enumerated in section 115.76 (3) (a) through (i), Wis. Stats.

1 PI 11.34 Eligibility criteria. (1) Standards. Children shall be determined
2 to have a handicapping condition who have been identified, evaluated and classified
3 as handicapped pursuant to PI 11.03, PI 11.32, PI 11.33 and PI 11.34. The minimum
4 criteria for the determination of handicapping condition and eligibility for special
5 education shall be consistent throughout the state.

6 (a) A transition period shall be provided for moving a child out of special
7 education who upon re-evaluation does not meet criteria in the rules.

8 (2) Handicapping condition. Educational needs resulting primarily from
9 poverty, neglect, delinquency, social maladjustment, cultural or linguistic
10 isolation or inappropriate instruction are not included under subchapter IV,
11 chapter 115, Wis. Stats.

12 (a) Mental retardation.

13 1. Mental retardation refers to significantly subaverage general intellectual
14 functioning existing concurrently with deficiencies in adaptive behavior manifested
15 during the developmental period. (AAMD definition--Grosman, 1973). (Standard
16 deviation (S.D.) is used to signify variability from the mean. The mean is an
17 average of the scores in a set; the standard deviation is an average of how
18 distant the individual scores in a distribution are removed from the mean).

Table I

Major considerations for determination of mental retardation

I. Measured intelligence

Mild -2 to -3 S.D. Moderate -3 to -4 S.D. Severe -4 to -5 S.D. Profound -6 S.D.

II. Adaptive functioning

A child is determined to be in the lower 2% of his or her age group on formal/informal criterions, scales and data in his or her ability to interact with others, manipulate objects and tools, move about in the environment and otherwise meet the demands and expectancies of the general society and environment. In addition, the child's adaptive abilities are in the lower 2% of his or her peer and age group on the reference criterion particular to his or her specific socio-cultural community.

III. Academic functioning

- | | |
|---------|---|
| Age 3-5 | 1.5 years behind on normative language, perception and motor development criterion. |
| 6-9 | 2 years or more below normal grade achievement expectancies in language, motor and basic skill subjects, e.g., reading and mathematics. |
| 10-14 | 3.5 years or more below normal grade achievement expectancies in language, motor and basic skill subjects, e.g., reading and mathematics. |
| 15-20 | 5th grade or below achievement in language, motor and basic skill subjects, e.g., reading and mathematics. |

1 2. Children who test between -1 and -2 S.D. on individual intelligence tests,
 2 e.g., borderline intelligence (AAMD definition) may be determined to be mentally
 3 retarded on a selective basis if they:

4 a. Exhibit pervasive depressed mental development similar in nature to
 5 children testing below -2 S.D. on the normal curve and if they:

6 i. Have concomitant lags in cognitive, adaptive and achievement abilities.

7 ii. Have exhibited mental retardation as documented from their developmental
 8 and school history.

9 iii. Are expected to have the condition indefinitely.

10 3. In determining mental retardation the evaluators shall identify those
 11 children who are mentally retarded in conjunction with depressing socio-cultural
 12 influences.

1 4. A child with suspected developmental disabilities other than mental
2 retardation shall be referred to an M-team for determination of other handicapping
3 conditions and EEN.

Note: For example, a child with the suspected condition of epilepsy may be determined to be physically handicapped.

4 (b) Physically handicapped. 1. A physically handicapped child is one who
5 has some physical defect such as affection of the joints or bones, disturbances
6 of the neuromuscular mechanism, congenital deformities, cardiac condition, spastic
7 and other acquired deformities. Such physical defects, organic diseases or
8 conditions may hinder the child's achievement of normal growth and development.

9 (c) Pregnancy. 1. Medical verification that a girl is pregnant shall establish
10 the disability and handicapping condition and the need for special education.

11 (d) Visually handicapped. A visual handicap is determined by functional
12 visual efficiency including visual fields, ocular motility, binocular vision and
13 accommodation. A visual handicap is determined by medical examination, e.g., by
14 an ophthalmologist or optometrist.

15 1. Visual fields. a. Moderately visually handicapped means distance visual
16 measurements of 20/70 and 20/200 in the better eye after correction. Near vision
17 measurements of 14/56, e.g., Jaeger 10, or near vision equivalents.

18 b. Severely visually handicapped means distance visual measurements of
19 20/200 to 20/400 in the better eye after correction. Near vision measurements
20 of 14/140, e.g., Jaeger 17, or near vision equivalents.

21 c. Profoundly visually handicapped means:

22 i. Distance visual measurements are 20/500 or less in the better eye after
23 correction.

24 ii. HM - the ability to perceive hand movement.

25 iii. PLL - perceives and localizes light in one or more quadrants.

26 d. Totally blind means:

27 i. LP - perceives but does not localize light.

1 ii. No LP - no light perception.

2 e. Peripheral field and central vision loss means peripheral field so
3 contracted that the widest diameter of such fields subtends an angular distance
4 no greater than 50 degrees.

5 2. Ocular motility means loss of vision efficiency in either eye, due to
6 double or binocular vision.

7 3. Lack of binocular vision means the inability to use the two eyes
8 simultaneously to focus on the same object and to fuse the two images into a
9 single image.

10 4. Lack of accommodation means the inability of the eye to hold a steady
11 fixation for seeing at various distances, especially near.

12 5. Also included shall be diagnosed physical disabilities or handicapping
13 conditions which may result in a visual handicap or affect visual functioning
14 in the future.

15 (e) Hearing handicapped. 1. An auditory handicap is determined by medical
16 (otologic) and audiologic evaluations. Examination shall be done by a physician
17 specializing in diseases of the ear and evaluation by a certified clinical
18 audiologist. The loss in hearing acuity affects the normal development of language
19 and is a medically irreversible condition for which all medical interventions have
20 been attempted. The hearing loss affects a child in varying degrees, depending on
21 the time the loss was sustained.

22 a. The hard of hearing child means a child who, with a hearing aid, can
23 develop a language system adequate to successful achievement and social growth.
24 Audiological assessment should indicate at least a 30 db loss in the better ear
25 in the speech range. Difficulty in understanding conversational speech as it
26 takes place in a group necessitates special considerations.

27 b. Severely handicapped hearing child means a child who, with or without a
28 hearing aid is unable to interpret adequately aural/oral communication.

29 Audiological assessment indicates a minimum loss of 70 db in the better ear.

1 Inability to discriminate all consonants and other difficulties appear as the
2 loss becomes greater.

3 2. Characteristics of hearing impairment may not be readily apparent.
4 Children react differently to similar losses and therefore an audiogram shall
5 not be the sole criterion of significant EEN. Neither is the use or non-use of
6 a hearing aid totally significant. Additional factors include inadequate,
7 hesitant or no verbal communication, speech abnormality and, at times, aggressiveness
8 due to misunderstanding. It is suggested that a continuing dialogue be maintained
9 with the certified clinical audiologist in anticipation of a program recommendation.

10 (f) Speech and language handicaps. 1. Speech and language handicaps are
11 characterized by a delay or deviance in the acquisition of prelinguistic skills, or
12 receptive skills or expressive skills or both of oral communication. The handi-
13 capping condition does not include speech and language problems resulting from
14 differences in paucity of or isolation from appropriate models.

15 a. Special considerations include:

16 i. Elective or selective mutism or school phobia shall not be included except
17 in cooperation with programming for the emotionally disturbed.

18 ii. Documentation of a physical disability resulting in a voice problem,
19 e.g., nodules, cleft palate, etc., or an expressive motor problem, e.g., cerebral
20 palsy, dysarthria, etc., shall not require the determination of a handicapping
21 condition in speech and language.

22 (g) Learning disabilities. 1. The handicapping condition of learning
23 disabilities denotes severe and unique learning problems due to a disorder existing
24 within the child which significantly interferes with the ability to acquire,
25 organize or express information. These problems are manifested in school functioning
26 in an impaired ability to read, write, spell or arithmetically reason or calculate.

27 2. Criteria for identification. The child shall meet the criteria in PI 11.34
28 (2) (g) 2. a. and b. to be considered as having the handicapping condition of
29 learning disabilities.

1 a. Academic functioning. A child whose primary handicapping condition is due
2 to learning disabilities shall exhibit a significant discrepancy between functional
3 achievement and expected achievement. A significant discrepancy is defined as
4 functional achievement at or below 50% (.5) of expected achievement.

5 i. The child when first identified, shall have a significant discrepancy in
6 functional achievement in 2 or more of the readiness or basic skill areas of math,
7 reading, spelling and written language. To determine a significant discrepancy
8 in the readiness areas the M-team shall consider the child's receptive and expressive
9 language and fine motor functioning. A significant discrepancy in the single area
10 of math, accompanied by less significant, yet demonstrable discrepancies in other
11 basic skill areas may satisfy the academic eligibility criteria.

12 ii. Functional achievement is defined as the child's instructional level in
13 readiness and basic skill areas. Determination of functional achievement shall be
14 based on a combination of formal and informal individualized tests, criterion-
15 referenced measures, observations and an analysis of classroom expectations in
16 basic skill areas.

17 iii. The following formula shall be used to determine expected achievement:
18 $I.Q. \times \text{years in school}$. Years in school is defined as the number of years of school
19 completed since enrollment in 5-year-old kindergarten. A child who entered first
20 grade without benefit of kindergarten should have a factor of one year added to
21 that child's total years in school for computational purposes.

22 iv. The following formula yields a grade score to which the child's
23 previously determined functional achievement level is compared. If the functional
24 achievement level is at or below the grade score derived from the formula a
25 significant discrepancy exists:

26 $I.Q. \times \text{Years in School} \times .5 = \text{Grade Score (50\% of expected achievement)}$.

27 This formula is inappropriate for children who have not completed 2 years in school.
28 Children entering kindergarten or first grade who are achieving in readiness areas
29 one or more years below expected achievement levels for their chronological age may

1 be considered as having a significant discrepancy between their functional and
2 expected achievement. See Appendix J for examples.

3 v. A child whose functional achievement approaches but is not at or below
4 50% of expected achievement may be considered to have met the academic functioning
5 criterion if the child demonstrates variable performance between the sub-skills
6 required for each of the areas of reading, writing, spelling, arithmetical reasoning
7 or calculation and if the child meets all the other criteria used to identify the
8 handicapping condition of learning disabilities. This determination shall be
9 based on the M-team's collective judgment and the rationale shall be documented
10 in the M-team report.

11 vi. In attendance centers where the number of children functioning at or
12 below 50% of expected achievement exceeds that which might be anticipated for the
13 general population, additional efforts shall be made to substantiate that the
14 child's functional achievement level is due to a disorder existing within the
15 child and not due to those conditions enumerated in PI 11.34 (2).

16 vii. Evidence shall exist that the learning disabilities are primarily
17 attributable to a deficit within the child's learning system. Such evidence
18 may include average or above average ability in some areas. In documenting this
19 in-child variability academic and non-academic behaviors shall be considered.

20 b. Intellectual functioning. Children whose primary handicapping condition
21 is due to learning disabilities shall exhibit normal or potential for normal
22 intellectual functioning.

23 i. This measure of intellectual functioning may be established by a score
24 above a minus one standard deviation on a single score intelligence instrument,
25 or by a verbal or performance quotient of 90 or above on a multiple score intelli-
26 gence instrument.

27 ii. The instrument used to establish this measure shall be recognized as
28 a valid and comprehensive individual measure of intellectual functioning.

1 iii. If there is reason to suspect the test results are not true indices of
2 a particular child's ability, then clarification of why the results are considered
3 invalid shall be provided. Previous experience, past performance and other
4 supportive data that intellectual functioning is average shall be present and
5 documented in written form.

6 iv. There may exist rare cases of severe language involvement which detri-
7 mentally affect the learning disabled child's ability to perform adequately on
8 intelligence tests given the language emphasis of these instruments. In these
9 rare situations the importance of the intellectual criteria may be reduced given
10 substantial evidence to indicate average ability.

11 3. Learning problems, when primarily due to the following, shall be excluded
12 from consideration as learning disabilities:

13 a. The other handicapping conditions specified in section 115.76 (3), Wis. Stats.

14 b. Learning problems resulting from extended absence, continuous inadequate
15 instruction, curriculum planning, or instructional strategies.

16 c. Discrepancies between ability and school achievement due to motivation.

17 d. Functioning at grade level but with potential for greater achievement.

18 (h) Emotional disturbance. 1. Classification of emotional disturbance as
19 a handicapping condition is determined through a current, comprehensive study of
20 a child, ages 0 through 20, by an M-team.

21 2. Emotional disturbance is characterized by emotional, social and behavioral
22 functioning that significantly interferes with the child's total educational program
23 and development including the acquisition or production, or both, of appropriate
24 academic skills, social interactions, interpersonal relationships or intrapersonal
25 adjustment. The condition denotes intraindividual and interindividual conflict or
26 variant or deviant behavior or any combination thereof, exhibited in the social systems
27 of school, home and community and may be recognized by the child or significant others.

28 3. All children may experience situational anxiety, stress and conflict or
29 demonstrate deviant behaviors at various times and to varying degrees. However,

1 the handicapping condition of emotional disturbance shall be considered only when
2 behaviors are characterized as severe, chronic or frequent and are manifested in 2
3 or more of the child's social systems, e.g., school, home or community. The M-team
4 shall determine the handicapping condition of emotional disturbance and further
5 shall determine if the handicapping condition requires special education. The
6 following behaviors, among others, may be indicative of emotional disturbance:

7 a. An inability to develop or maintain satisfactory interpersonal relationships.

8 b. Inappropriate affective or behavioral response to what is considered a
9 normal situational condition.

10 c. A general pervasive mood of unhappiness, depression or state of anxiety.

11 d. A tendency to develop physical symptoms, pains or fears associated with
12 personal or school problems.

13 e. A profound disorder in communication or socially responsive behavior,
14 e.g., autistic-like.

15 f. An inability to learn that cannot be explained by intellectual, sensory
16 or health factors.

17 g. Extreme withdrawal from social interaction or aggressiveness over an
18 extended period of time.

19 h. Inappropriate behaviors of such severity or chronicity that the child's
20 functioning significantly varies from children of similar age, ability, educational
21 experiences and opportunities, and adversely affects the child or others in regular
22 or special education programs.

23 4. The operational definition of the handicapping condition of emotional
24 disturbance does not postulate the cause of the handicapping condition in any
25 one aspect of the child's make-up or social systems.

26 5. The manifestations of the child's problems are likely to influence family
27 interactions, relationships and functioning or have an influence on specific
28 individual members of the family. It is strongly recommended that extensive family
29 involvement or assistance be considered in the evaluation and programming of the child.

1 6. The handicapping condition of emotional disturbance may be the result of
2 interaction with a variety of other handicapping conditions such as learning,
3 physical or mental disabilities or severe communication problems including speech
4 or language.

5 7. An M-team referral for suspected emotional disturbance may be indicated
6 when certain medical or psychiatric diagnostic statements have been used to describe
7 a child's behavior. Such diagnoses may include but not be limited to autism,
8 schizophrenia, psychoses, psychosomatic disorders, school phobia, suicidal behavior,
9 elective mutism or neurotic states of behavior. In addition, students may be
10 considered for a potential M-team evaluation when there is a suspected emotional
11 disturbance, who are also socially maladjusted, adjudged delinquent, dropouts,
12 drug abusers or students whose behavior or emotional problems are primarily
13 associated with factors including cultural deprivation, educational retardation,
14 family mobility or socio-economic circumstances, or suspected child abuse cases.

15 (i) Multiple handicapped. 1. A multiple handicapped child is one who has 2
16 or more handicapping conditions leading to EEN which may require programming
17 considerations and are determined by an M-team composed of specialists trained,
18 certified and experienced in the teaching of children with the EEN.

19 2. A multiple handicapped child shall have the right to any and all educational,
20 supportive and related services essential to a free appropriate public education
21 based on the individual needs of the child.

PI 11.35 of the Wis. Adm. Code is created to read:

Analysis by the Department of Public Instruction

The proposed creation of this section, relating to reimbursement, will define approval criteria for reimbursement for special education instructional/administrative costs, for related services, for board and lodging and other reimbursable items.

1 PI 11.35 Reimbursement. (1) Intent. Contingent upon prior receipt of the
2 appropriate annual plan of services for each respective area, and operation of
3 the program in accordance with section 115.88, Wis. Stats., and the rules, the
4 superintendent shall authorize reimbursement for costs involved in operating and
5 maintaining said program.

6 (a) The LEA shall submit, on appropriate financial claims for each program
7 area such information and data as required by the division, for fiscal review and
8 approval for reimbursement of the program through state general purpose revenue
9 categorical aids.

10 (b) If required, the LEA shall submit any other reports, including evidence
11 of compliance with the rules or federal and state statutes or both.

12 (2) Reimbursement for special education instructional/administrative costs.

13 (a) The rate of state aid reimbursement for each approved qualified licensed
14 special education teacher and special education program aide shall be 70% of
15 salary and fringe benefits pursuant to section 115.88 (1), Wis. Stats.

16 1. State categorical aids are currently on a sum certain basis, which means
17 that if total fiscal claims exceed the annual appropriation requested by the
18 department, proration shall take place.

19 2. The individual who spends less than full-time in special education
20 services shall be reimbursed on a pro rata basis.

21 (b) An exception to PI 11.35 (2) (a) relates to special education teachers
22 and special education program aides employed in hospitals or convalescent homes
23 for physically and other health impaired children, wherein the board of the
24 district in which the hospital or convalescent home is located shall be reimbursed

1 for 100% of the actual costs incurred for instruction, pursuant to section
2 115.88 (4), Wis. Stats.

3 (c) Reimbursement for directors/supervisors. See PI 11.11 (3), PI 11.35
4 (2) (a) 1.

5 (3) Reimbursement for supportive services personnel. (a) Supportive
6 services personnel shall include physical therapists, occupational therapists, and
7 therapy aides.

Note: No other health treatment service shall be reimbursable.

8 1. The LEA shall receive 70% reimbursement of salaries and fringe benefits
9 of these personnel. Refer to PI 11.35 (2) (a) 1.

10 2. See PI 11.19 (5) (d) Note for reimbursement for new program units. For
11 continuing program units operating outside orthopedic schools a maximum of \$400
12 per unit shall be allowed. Any exceptions to this limitation shall be negotiated
13 in advance with the division program area supervisor. No limitation shall apply
14 for orthopedic schools.

15 (4) Reimbursement for related services. (a) Related services means
16 transportation services or others designated by the superintendent.

17 (b) Pursuant to section 115.88 (2), Wis. Stats. the excess costs involved
18 in providing special additional transportation services required as part of the
19 individual educational program shall be reimbursed to the LEA at 70% of the
20 division approved claim after payment of general transportation aids.

21 1. Transportation, when required, to medical, vocational, or other community
22 supportive services related to the individual educational program, shall meet the
23 test of such additional or special transportation needs.

24 2. For EEN children, the 2 mile limitation for general transportation shall
25 not apply.

26 (c) Any child attending regular classes who, upon medical prescription, requires
27 special transportation shall receive such transportation. The LEA shall be reim-
28 bursed at 70% of the full cost after general transportation aids have been paid.

1 (5) Reimbursement for board and lodging. (a) Pursuant to section 115.88 (3),
2 Wis. Stats., where board and lodging from Monday through Friday is used in lieu of
3 transportation and transportation of non-resident children between the boarding
4 home and the special education program is required, 100% of prior-approved claims
5 shall be reimbursed to the operating district.

6 (6) Other reimbursable items. (a) Under the other expenses approved by
7 the superintendent, LEAs shall receive reimbursement for more expensive equipment
8 in those unique instances requiring special consideration.

9 (b) Approvals for reimbursement under this subsection shall be closely
10 monitored and limited in number. LEAs shall make a special appeal for approval
11 from the superintendent in these instances.

Note: State reimbursement of costs of tuition involved in private contracts is not authorized by statute at this time. Section 115.85 (2) (d), Wis. Stats., and chapter 39, laws of 1975, mandate that the district of residence shall pay tuition in these instances.

Appendix J

The formula used is a modification of a reading expectancy formula developed by Bond and Tinker (Bond, G. L. and Tinker, M. A., Reading Difficulties: Their Diagnosis and Correction (2nd ed.) New York, Appleton-Century-Crofts, 1967). The Bond & Tinker studies indicate that the predicted achievement scores derived from the original formula ($I.Q. \times \text{years in school} + 1.0 = \text{expected reading grade}$) closely approximate actual reading achievement. Because the components of the formula are general, i.e., number of "years in school", and intelligence, it is believed that this formula can be adapted and appropriately applied to all the academic areas specified in PI 11.34 (2) (g).

The Bond & Tinker formula did not include 5 year old kindergarten in "years in school" but in effect allowed for it by adding in a 1.0 factor. To simplify the formula and to ensure that the child is constantly compared to the same referent group, 5 year old kindergarten was added to the formula and the 1.0 factor deleted. This should ease computation without detracting from the accuracy of the formula.

Definition of factors in formula:

A. I.Q. - full scale score derived from an individual measure of intellectual functioning. I.Q. should be written as a decimal, for example 87 equals .87, 105 equals 1.05, etc.

B. years in school - number of years in school beginning with 5 year kindergarten.

The Bond & Tinker formula was weighted by a factor of .5 (50%) in order to indicate the level at or below which a child must function to exhibit a significant discrepancy. The full formula then is:

$(I.Q. \times \text{years in school}) \times .5 = \text{grade score (50\% of expected achievement)}$.

Examples utilizing this formula are:

A. A child beginning the fifth year of school (beginning fourth grade, e.g., 5 years in school) with a measured full scale I.Q. of 92 (.92) would have a grade score computed in the following manner:

$$(.92 \times 5) \times .5 = (4.60) \times .5 = 2.3$$

- B. A child in the 7th month of second grade, who is repeating second grade, with a measured full scale I.Q. of 101 (1.01) would have a grade score computed in the following manner:

$$(1.01 \times 3.7) \times .5 = (3.7) \times .5 = 1.9$$

- C. A child in the ninth year of school (8th grade) with an I.Q. of 113 (1.13), who is identified in January, would have a grade score computed in the following manner:

$$(1.13 \times 9.5) \times .5 = (10.7) \times .5 = 5.4$$

- D. A child entering kindergarten at 5 years of age with average ability and functioning at or below a 4 year level in 2 or more of the readiness areas will meet the academic criteria of eligibility. The formula for establishing grade score should not be used.

- E. A child entering third grade at the age of 8 who has not completed 3 years in school (no kindergarten) would have a factor of 1.0 added to the years in school for determining grade score (50% of expected achievement).

$$(I.Q. \times \text{years in school}) \times .5 = \text{grade score}$$

$$(1.00 \times 2 + 1) \times .5 =$$

$$(2.00 + 1) \times .5 =$$

$$3.0 \times .5 = 1.5$$

Therefore if this 8 year old child entering third grade is achieving at the 1.5 grade level or below in 2 or more of the readiness or basic skill areas, this child will meet the academic criteria of eligibility.

- F. A child entering first grade who has average ability and has completed 2 years in school (retained in kindergarten) would have the formula applied for establishing grade score.

$$(.90 \times 2) \times .5 = 1.80 \times .5 = .9$$