

Chapter PI 11

CHILDREN WITH EXCEP~~TIONAL~~ EDUCATIONAL NEEDS

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PI 11.01 Purpose. (1) LEGISLATIVE INTENT. The legislature recognized that many children and youth, 3 to 21 years of age, have not experienced appropriate educational opportunities because comprehensive services were not available through all public schools which were commensurate with their EEN. Subchapter V, ch. 115, Stats., was enacted to ensure the identification of such needs and the development of services for children to appropriately serve these needs. School districts shall provide children with EEN who have attained the age of 3 with a free appropriate public education in accordance with this chapter.

(2) BASIC TENETS. (a) All children and youth in the public and private sectors, who are in need of special education services, shall be identified. The legislature has specified that the identification process shall include screening, referral and M-team procedures.

(c) Children and youth with no EEN who require alternative educational programming shall not be included within the parameters of s. 115.76 (3), Stats. EEN excludes conditions described as special educational needs (SEN) resulting primarily from poverty, neglect, delinquency or cultural or linguistic isolation from the community at large.

(d) The department shall utilize the U.S. office of education incidence rate of 10–12% of the district population as having EEN since this rate is comparable to experience with incidence findings in Wisconsin. The division shall continue to utilize this estimate for program and fiscal planning and for monitoring attainment of legislative goals. Exceptions to this overall incidence limitation and to incidence rates for individual program areas shall require local district provision of M-team evidence which clearly demonstrates incidence rates which exceed state and national norms. This may be accomplished by department staff conducting an on-site review. This evidence shall be submitted and approved by the division prior to program expansion in excess of state norms.

(e) The broad process of referrals, obtaining parental approvals, the M-team action and board placement recommendations shall be included in the district's plan (s. 115.85 (3), Stats.). This plan and procedures for its implementation shall include timelines for mass screening, parental approvals, referral, the M-team process and board recommendations on placement.

History: Cr. Register, December, 1975, No. 240, eff. 1–1–76; am. (1), Register, February, 1983, No. 326, eff. 3–1–83; am. (2) (b), Register, September, 1986, No. 369, eff. 10–1–86; am. (1), r. (2) (b) and (f) (intro.) and 27., renum. (2) (f) 1. to 26. and 28. to 32. to be PI 11.02, Register, May, 1990, No. 413, eff. 6–1–90.

PI 11.02 Definitions. In this chapter:

(1) "Administrator" means school district administrator.

(1m) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with EEN.

(1s) "Assistive technology service" means any service that directly assists a child with EEN in the selection, acquisition, or use of an assistive technology device. The term includes the following:

(a) The evaluation of the needs of a child with EEN, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with EEN;

(c) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with EEN or, if appropriate, that child's family; and

(f) Training or technical assistance for professionals, including individuals providing education or rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with EEN.

(2) "Behavioral records" has the meaning given in s. 118.125 (1) (a), Stats.

(3) "Board" means school board as defined in s. 115.001 (7), Stats.

(4) "Boarding home" means homes operated by an LEA operating special education programs or services, or both, and used 5 days a week to care for non-resident children being served in that program or service.

(5) "CESA" means cooperative educational service agency created in ch. 116, Stats.

(6) "CHCEB" means county handicapped children's education board established under s. 115.86, Stats.

(7) "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.

(8) "Child advocate" means any person representing the parent during the M-team process and at a board hearing.

(9) "Child study team" and "pupil services team" means a team, other than the M-team, of professional support personnel in the district.

(10) "Child with exceptional educational needs" or "child with EEN" means a child who has a handicapping condition and who because of the handicapping condition needs special education.

(11) "Cooperative agreement" or "66.30" means special education programs operated by 2 or more districts or CHCEBs under a cooperative agreement as provided in s. 66.30, Stats.

(12) "Days" means calendar days unless otherwise specified.

(13) "Department" means the Wisconsin department of public instruction.

(14) "Director" means a person who is licensed under s. PI 3.63 and who has been appointed by a board as a director of special education.

(15) "District" or "school district" has the meaning specified in s. 115.01 (3), Stats.

(16) "Division" means the division for handicapped children and pupil services which is established under s. 15.373 (1), Stats., and which has the authority granted under s. 115.77, Stats.

(17) "EEN" means exceptional educational needs as defined in s. 115.76 (3), Stats.

(18) "Exceptional educational needs referral" or "EEN referral" means a written statement submitted to a board under s. PI 11.03 (2) (a).

(19) "Exceptional educational needs transfer pupil" or "EEN transfer pupil" means a child with EEN whose residence changed from one Wisconsin district to another Wisconsin district.

(20) "Free appropriate public education" or "FAPE" means special education and related services which:

(a) Are provided at public expense, under public supervision and direction, and without charge;

(b) Meet the statutes and rules enforced by the department; and,

(c) Are provided in conformity with a child's IEP.

(21) "Full-time" means that the person is employed for a full day of employment, 5 days a week.

(22) "Half-time" means that the person works half-time in terms of hours.

(23) "Handicapping condition" means one or more of the following:

(a) Cognitive disability as specified in s. PI 11.35.

(b) Physically handicapped as specified in s. PI 11.35.

(c) Visually handicapped as specified in s. PI 11.35.

(d) Hearing handicapped as specified in s. PI 11.35.

(e) Speech and language handicap as specified in s. PI 11.35.

(f) Learning disabilities as specified in s. PI 11.35.

(g) Emotional disturbance as specified in s. PI 11.35.

(24) "Hearing" means an official private or public proceeding conducted by a board. It shall be conducted according to the procedures contained in s. PI 11.10.

(25) "Hearing officer" means a person who is selected under s. PI 11.10 (3) (a) to conduct a hearing under s. PI 11.10.

(26) "Independent educational evaluation" means an examination of a child conducted pursuant to s. PI 11.08 by a qualified person or persons not employed by any board involved in the direct provision of educational services to the child, in order to determine whether the child is a child with EEN.

(27) "Individualized education program" or "IEP" means a document developed under s. PI 11.05 (4).

(28) "LEA" means a local educational agency, including a district, CESA or CHCEB operated by public schools.

(29) "Level A license" means a Wisconsin special education administrative license issued under s. PI 3.63.

(30) "Level B license" means a Wisconsin special education administrative license issued under s. PI 3.62.

(31) "Local," in terms of program placement, means not only the resident district, but programs in adjoining districts, CESAs, CHCEBs and the state residential schools.

(32) "Multidisciplinary team" or "M-team" means a group of people appointed under s. PI 11.04 (2).

(33) "M-team evaluation" means an examination of a child conducted under s. PI 11.04 to determine whether the child is a child with EEN.

(34) "Non-EEN" or "non-exceptional educational needs" means needs which are not exceptional as defined in s. 115.76 (3), Stats.

(35) "Notice" means written notice sent by mail which shall be complete upon mailing.

(36) "Parent" means a biological parent, a husband who has consented to the artificial insemination of his wife under s. 891.40, Stats., a male who is presumed to be the father under s. 891.41, Stats., or has been adjudicated the child's father either under s. 767.51, Stats., or by final order or judgment of a court of competent jurisdiction in another state, an adoptive parent, a guardian, a person acting as a parent of a child, a person appointed as a sustaining parent under s. 48.428, Stats., or a surrogate parent. The term does not include any person whose parental rights have been terminated, or the state or a county or a child welfare agency if a child was made a ward of the state or a county or child welfare agency under ch. 880, Stats., or if a child has been placed in the legal custody of the state or a county or a child welfare agency under ch. 48 or ch. 767, Stats.

(37) "Person acting as a parent of a child" means relatives of the child or private individuals allowed to act as parents of a child by the child's biological or adoptive parents or guardian. The phrase includes such people as grandparents, neighbors, friends or private individuals caring for the child with the explicit or tacit approval of the child's biological or adoptive parents or guardian. The phrase does not include any person or agency that receives public funds to care for the child.

(38) "Personnel/program criteria" means those criteria utilized by the department and required for reimbursement.

(39) "Placement offer" means a document developed under s. PI 11.06.

(40) "Private school" has the meaning specified in s. 115.001 (3r), Stats.

(41) "Program designee" means the person designated by the board to administer and coordinate elements of programs and services for children with EEN. This chapter does not enable a program designee to carry out any duties not permitted by the department license held by the program designee.

(42) "Program unit" means a certified special education teacher with an enrollment list of children having EEN as defined in s. 115.76 (3), Stats.

(43) "Public agency" means any political subdivision of the state which is responsible for providing education to children with EEN.

(44) "Reevaluation" means an M-team evaluation conducted after the child has received special education.

(45) "Related services" as defined in 34 CFR 300.16 (a) means transportation, and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school health ser-

vices, social work services in schools, parent counseling and training, and rehabilitation counseling services.

(46) "Reviewing officer" means a person who is selected under s. PI 11.11 (3) (b) to conduct an appeal under s. PI 11.11.

(47) "School term" has the meaning given in s. 115.001 (12), Stats.

(48) "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 a handicapping condition, including classroom instruction, instruction in physical education and instruction at home and in hospitals and institutions.

(49) "Special education screening" is a process used to determine whether there is reasonable cause to believe that a child is a child with EEN.

(50) "State superintendent" means the Wisconsin superintendent of public instruction.

(51) "Supervisor" means a person who has a level A or level B special education administrative license.

(52) "Surrogate parent" means a person who has been appointed in accordance with s. PI 11.14 to act as the child's parent in all matters relating to this chapter and subch. V of ch. 115, Stats.

(52m) "Transition services" means a coordinated set of activities for a child, designed with an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

(53) "Wisconsin school for the deaf" means the Wisconsin school for the deaf maintained and governed by the state superintendent under s. 115.52, Stats.

(54) "Wisconsin school for the visually handicapped" means the Wisconsin school for the visually handicapped maintained and governed by the state superintendent under s. 115.52, Stats.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; am. (1) (b) 5., Register, February, 1983, No. 326, eff. 3-1-83; am. (2) (c), Register, September, 1986, No. 369, eff. 10-1-86; r. and recr. (1) to (6), (8), (9), (11) to (17), (21), (22), (24), (25), (28) to (32), (34), (35), (38), (41), (42), (50) and (51) renum. from PI 11.01 (2) (f) and am., Register, May, 1990, No. 413, eff. 6-1-90; am. (45), cr. (1m), (1s) and (52m), Register, July, 1993, No. 451, eff. 8-1-93.

PI 11.03 Special education screening and EEN referrals. (1) **SPECIAL EDUCATION SCREENING.** (a) A board shall have an ongoing special education screening program to locate and screen all children who are residents of the school district and who have not graduated from high school. A board may coordinate its special education screening program with other educational, medical and social service agencies' screening programs conducted within the district such as those for the early and periodic screening, diagnosis and treatment program in 42 CFR 441.50 to 441.62, day care agencies, perinatal clinics and mental health facilities.

(b) The director or program designee shall be responsible for developing and administering the board's special education screening program.

(c) As part of its special education screening program a board shall have policies and procedures for locating and screening each of the following groups:

1. Children below school-entry age.
2. Children entering school for the first time.
3. Children currently enrolled in public and private schools.
4. All transfer pupils.
5. School-age children who are eligible to attend school but who are not attending school and who are residents of the district.

(d) A board shall upon request screen any child.

(e) A board shall provide information and inservice opportunities to all of its licensed staff to familiarize them with behavioral descriptors which, in terms of frequency, chronicity or severity might indicate an EEN.

(f) At least once a year, a board shall publicize the special education screening program and the educational opportunities available in the community for children with EEN through such means as public announcements, notices or paid advertisements.

(g) A board shall ensure that an EEN referral is submitted for every child for whom, as a result of the board's special education screening program, it is determined that there is reasonable cause to believe that the child is a child with EEN.

(2) **EEN REFERRALS.** (a) Any person who has reasonable cause to believe that a child is a child with EEN may submit an EEN referral to a school board. An EEN referral shall be in writing and it shall include the reasons why the person believes that the child is a child with EEN.

(b) A board shall establish written procedures for accepting and processing EEN referrals. A board shall document and date the receipt of each EEN referral.

(c) A board shall provide information and inservice opportunities to all of its licensed staff to familiarize them with the board's EEN referral procedures.

(d) At least annually, a board shall inform persons required to make EEN referrals under s. 115.80 (1) (a), Stats., about the board's EEN referral and M-team evaluation procedures. This may be accomplished through the use of means such as public announcements, notices or paid advertisements.

(e) Prior to submitting an EEN referral to a board, a person required to make EEN referrals under s. 115.80 (1) (a) or (b), Stats., shall inform the child's parent that he or she is going to submit the EEN referral. The person shall document the manner in which he or she informed the parent.

(f) A board shall accept and process all EEN referrals submitted to it regarding children who are residents of the school district and who have not graduated from high school.

(g) Whenever a board receives an EEN referral for a child, it shall send a written notice to the child's parent of the EEN referral. The notice shall be sent as soon as possible after receiving the EEN referral and it shall meet the requirements under s. PI 11.09 (1). The notice shall also state the date of receipt of the EEN referral and that in accordance with s. PI 11.06 (5) (a), the board is required to send to the parent a copy of the child's placement offer within 90 days of the date the board received the EEN referral.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; am. (5) (intro.) and cr. (6) (c) 1, Register, November, 1976, No. 251, eff. 12-1-76; cr. (3) (e), Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.04 Multidisciplinary teams. (1) **CONSENT AND NOTICE FOR THE M-TEAM EVALUATION PROCESS.** (a) 1. Except as provided in subd. 3, a board may not conduct an M-team evaluation of a child without the parent's written consent. The consent obtained by the board shall meet the requirements under s. PI 11.09 (2) (a) and, if the child is determined to be a child with EEN, the consent shall continue in effect and thereby grant consent for subsequent reevaluations until the parent revokes his or her consent in writing.

2. Except as provided in subd. 3., a board may not conduct a reevaluation of a child if the child's parent has revoked his or her consent for an M-team evaluation unless the parent grants consent again.

3. If a parent refuses or revokes his or her consent for an M-team evaluation, a board may initiate a hearing under s. PI 11.10 to determine whether the board shall conduct an M-team evaluation of a child without the child's parent's written consent.

(b) Whenever a board proposes or refuses to initiate or change the M-team evaluation process, it shall send a written notice to the child's parent of its intent to so propose or refuse. The notice shall be sent within a reasonable period of time before the proposed action or before the refusal to take action and shall meet the requirements under s. PI 11.09 (1).

(2) APPOINTMENT AND COMPOSITION. (a) 1. Whenever a board receives an EEN referral for a child who is a resident of the district and who has not graduated from high school, the board shall appoint an M-team to conduct an M-team evaluation of the child to determine whether the child is a child with EEN. The board shall select the members of an M-team for their expertise in the handicapping condition the child is suspected to have.

2. Except as provided in subd. 3., all members of an M-team shall be employes of the board; a CESA or CHCEB serving the district; a board that is a participant in a 66.30 agreement entered into by the board; a district that has entered into an agreement under s. 121.85, Stats., with the board; a board within the district's CESA, if the employes are serving the district through a CESA program; the Wisconsin school for the visually handicapped; or, the Wisconsin school for the deaf. An employe of the Wisconsin school for the visually handicapped or of the Wisconsin school for the deaf may not be appointed to an M-team unless he or she is licensed under subch. VII of ch. PI 3, is not management personnel, and has been designated by the superintendent of his or her school as being available to participate on an M-team. The professional recommendations made by staff members of the Wisconsin school for the visually handicapped and the Wisconsin school for the deaf, when serving as members of an M-team, shall not be construed to be those of the department. For purposes of this paragraph, a person is an employe of the board even if the only function that he or she is employed to perform is to serve as a member of an M-team.

3. A board, CESA or CHCEB may enter into an agreement with a county administrative agency as defined in s. HSS 90.03 (10), a head start agency under 42 USC 9836 or a tribal school affiliated with the bureau of Indian affairs to allow individuals employed by or under contract with any of the specified agencies to participate as team members in the performance of M-team evaluations under s. 115.80 (3), Stats.

(b) An M-team shall include all of the following:

1. An employe of the board.

2. At least 2 persons who are skilled in assessing children and programming for children with handicapping conditions. At least one of these 2 persons shall be a teacher who is licensed to teach in the handicapping condition that the child is suspected to have. If a child is suspected to have or is currently identified as having more than one handicapping condition, there shall be a teacher or teachers on the M-team who is or are licensed to teach in all of the child's suspected and currently identified handicapping conditions.

3. If a child is suspected of having a learning disability, the child's regular education teacher, if the child has one. If the child does not have a regular education teacher, a regular education teacher licensed to teach a child of his or her age.

4. Other individuals as needed to evaluate and determine the needs of the child.

5. If a child is suspected of needing occupational therapy, an occupational therapist.

6. If a child is suspected of needing physical therapy, a physical therapist.

(3) M-TEAM EVALUATION. (a) The M-team shall examine all relevant available data concerning the child including the following:

1. Records concerning the child's previous and current educational performance, health and social behavior.

2. Records of previous interventions and special education programs provided to the child and the effects of the interventions and programs.

3. Records of the child's ability to acquire information via different media such as oral presentations, written documents and visual displays.

(b) If the child is suspected to be or is currently identified as being learning disabled, at least one member of the M-team, other than the child's regular teacher, shall observe the child's performance in the regular classroom. If the child is of less than school age or is out of school, the M-team member shall observe the child in an environment appropriate for a child his or her age.

(c) The parent shall be involved and consulted throughout the entire M-team process.

(d) The M-team shall use evaluation materials and procedures as needed to assess the child in all areas related to the suspected handicapping condition. If tests and other evaluation materials and procedures are used they shall meet the following requirements:

1. They shall be provided and administered to the child in the child's native language or other mode of communication, unless it is clearly not feasible to do so.

2. They may not be racially or culturally discriminatory.

3. They shall be validated for the specific purpose for which they are used.

4. They shall be administered by trained personnel in accordance with the instructions provided by their producer.

5. They shall be tailored to assess specific areas of educational need and not simply to provide a single general intelligence quotient.

6. Tests shall be selected to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, except where those skills are the factors which the test purports to measure.

(e) Any member of the M-team may request additional information or conduct additional tests at any time during the evaluation process.

(f) An M-team shall comply with pars. (a) to (d) prior to the M-team meeting under sub. (4).

(g) Each member of the M-team shall prepare a written report of the evaluations he or she conducted and the findings. The members shall submit their reports to the director or program designee with the proposed M-team report or reports under sub. (5) (d) 1., unless the parent asks to have the individual reports available at the M-team meeting. The members shall have their individual reports available at the M-team meeting if the parent requests that in writing within 10 days of the date the board sent the notice of the M-team evaluation under sub. (1) (b).

(h) An M-team may consult with persons other than employes of the board if it is needed to appropriately assess whether a child is a child with EEN. Individuals other than employes of the board may not be appointed official members of an M-team.

(4) MEETING. (a) The board shall set a date for the M-team to meet and discuss the members' evaluations and findings and all the information obtained under sub. (3).

(b) The board shall notify the parent of the meeting within a reasonable amount of time prior to the meeting. The notice shall include all of the following:

1. The date, time and location of the meeting.

2. Information that the purpose of the meeting is to determine whether the child is a child with EEN.

3. The names and titles of the members of the M-team and any additional people who may be attending.

4. Information that the parent may attend the meeting and may bring an advocate.

5. If the child is a member of a minority, information that a member of that minority may attend the meeting and have input into the M-team's decision-making process.

(c) Each member of the M-team shall attend the meeting or shall be represented by a person who is knowledgeable about the child and the member's evaluations and findings. More than half of the members of the M-team shall be present at the meeting.

(d) At the meeting the M-team shall discuss and consider all of the information received under sub. (3) and it shall discuss and compare the evaluations and findings of each of the members. Based upon its evaluations and findings the M-team shall, using the criteria established in s. PI 11.35, determine if the child has a handicapping condition. An M-team may not find that a child has a handicapping condition based upon a single evaluation procedure. If the child is found to have a handicapping condition, the M-team shall determine whether as a result of the handicapping condition the child needs special education. The M-team shall reach a conclusion regarding whether the child is a child with EEN. If the M-team concludes that a child is a child with EEN, the M-team shall consider and make recommendations regarding what related services the child may need. If a need for occupational or physical therapy has been considered by the M-team, the M-team shall reach a conclusion regarding such need. An M-team may not reach a conclusion regarding the need for occupational or physical therapy unless an appropriate therapist is a member of the M-team.

(5) M-TEAM REPORT. (a) As a result of the M-team meeting, the M-team shall write an M-team report which shall include at least the following:

1. A list of the handicapping conditions that the M-team found the child to have using the criteria in s. PI 11.35.
2. The M-team's conclusions regarding whether the child needs special education because of a handicapping condition.
3. If the child's need for occupational or physical therapy was considered, the M-team's conclusions regarding such need.
4. A statement that documents the reasons for each of the M-team's findings and conclusions listed in subs. 1. to 3.
5. Recommendations regarding what related services the child may need.

(b) If an M-team finds that a child is not a child with EEN the M-team report shall also include the following:

1. An identification of the child's non-exceptional educational needs.
2. A referral to any programs, other than special education programs, offered by the board from which the child may benefit.
3. Information about any programs and services other than those offered by the board that the M-team is aware of that may provide a benefit to the child.

(c) If there is unanimous agreement among the M-team members about the information, findings and conclusions required in pars. (a) and (b), the M-team shall write one proposed M-team report which is signed by all of the members and which indicates the team's unanimity. If there is not unanimity among the M-team members, members of the M-team shall write separate proposed M-team reports that meet the requirements under pars. (a) and (b). M-team members may write a separate proposed M-team report individually or with other members. Each member of the M-team shall sign a proposed M-team report with which he or she agrees.

(d) 1. After completing a proposed M-team report or reports under par. (c), the M-team shall send a copy of the proposed M-team report or reports to the director or program designee for his or her approval.

2. Subject to subs. 3. and 4., the director or program designee may approve as the M-team report for a child, the unanimously proposed M-team report or one of the separately proposed M-team reports submitted by the M-team under subd. 1.

3. If the director or program designee approves as the M-team report either a unanimously proposed M-team report, or a separately proposed M-team report that is signed by a majority of the M-team members, the director or program designee shall send to

the board and to the child's parent, a copy of the approved M-team report and all of the separately proposed M-team reports submitted. The director or program designee shall indicate which is the approved M-team report and shall state in writing why that report was selected. If the director or program designee intends to approve as the M-team report, a separately proposed M-team report that is signed by a minority of the M-team members, the director or program designee shall proceed as provided in subd. 4.

4. a. The director or program designee may approve as the M-team report, a separately proposed M-team report that is signed by a minority of the M-team members, if the director or program designee attended the M-team meeting that resulted in the proposed M-team reports. The director or program designee shall send to the board and to the child's parent, a copy of all of the separately proposed M-team reports submitted and the director or program designee shall indicate which is the approved M-team report and shall state in writing why that report was selected.

b. If the director or program designee intends to approve as the M-team report, a separately proposed M-team report that is signed by a minority of the M-team members, and the director or program designee did not attend the M-team meeting which resulted in the proposed M-team reports, the director or program designee shall set a date for the director or program designee to meet with the M-team and to discuss the proposed M-team reports. The director or program designee shall notify the parent of the meeting within a reasonable amount of time prior to the meeting and the notice shall include the information listed in sub. (4) (b). Each member of the M-team shall attend the meeting or shall be represented by a person who is knowledgeable about the child and the member's evaluations and findings. More than half of the members of the M-team shall be present at the meeting. At the meeting the M-team and the director or program designee shall discuss the members' evaluations and findings and the separately proposed M-team reports. Any member of the M-team may amend his or her proposed M-team report as a result of the meeting. After the meeting the director or program designee may approve as the M-team report any one of the separately proposed M-team reports submitted by the M-team. If the director or program designee approves one of the separately proposed M-team reports as the M-team report, the director or program designee shall send to the board and to the child's parent, a copy of all of the separately proposed M-team reports submitted and the director or program designee shall indicate which is the approved M-team report and shall state in writing why that report was selected.

5. If the child's parent was unable to attend the most recent M-team meeting, the director or program designee shall send with the approved M-team report and any separately proposed M-team reports, a notice informing the parent that the parent may request a conference with the director or program designee to discuss any proposed M-team report and the approved M-team report and that an advocate may accompany the parent.

6. a. If the director or program designee does not accept the unanimously proposed M-team report or any of the separately proposed M-team reports as the M-team report, he or she shall send the proposed report or reports back to the M-team with a list of questions that the director or program designee wants the M-team to consider. The director or program designee may appoint additional members to the M-team. The new members shall comply with sub. (3) (a) to (e) prior to a new M-team meeting.

b. When the director or program designee does not accept a proposed M-team report, the director or program designee shall set a date for the M-team to meet and discuss the director's or program designee's concerns. The M-team shall notify the parent of the meeting within a reasonable amount of time prior to the meeting and the notice shall include the information listed in sub. (4) (b).

c. Each member of the M-team shall attend the meeting or shall be represented by a person who is knowledgeable about the

child and the member's evaluations and findings. More than half of the members of the M-team shall be present at the meeting. At the meeting the M-team shall address the questions and issues raised by the director or program designee. Any member of the M-team may amend his or her proposed M-team report as a result of the meeting.

d. After the meeting in subd. 6. a., the M-team shall send a copy of the unanimously proposed M-team report or all of the separately proposed M-team reports to the director or program designee for his or her approval.

e. After receiving the proposed M-team report or reports, the director or program designee shall approve an M-team report. If the director or program designee approves as the M-team report a unanimously proposed M-team report or a separately proposed M-team report that is signed by a majority of the M-team members, the director or program designee shall comply with subds. 3. and 5. If the director or program designee intends to approve a separately proposed report that is signed by a minority of the M-team members, the director or program designee shall comply with subds. 4. and 5.

(6) Reevaluation. (a) A board shall initiate a reevaluation for each child who is receiving special education as follows:

1. No later than 3 years from the date the last M-team report completed on the child was approved under sub. (5) (d).

2. Whenever the board has reason to believe that the child is no longer a child with EEN;

3. Whenever the board has reason to believe that the child no longer has a previously identified handicapping condition;

4. Whenever the board has reason to believe that the child has a handicapping condition that has not been identified; and

5. Whenever a child's parent or teacher requests a reevaluation.

(b) Any board and M-team that is conducting a reevaluation shall comply with the requirements under this section.

(c) Except as otherwise provided by law, a board may not stop providing special education to a child unless, as a result of a reevaluation, an M-team determines that the child is no longer a child with EEN.

(d) A board may not identify or cease to identify a child as having a handicapping condition unless that is a determination made by an M-team as a result of an M-team evaluation.

(7) NOTICE FOR IDENTIFICATION PURPOSES. Whenever a board proposes or refuses to initiate or change the identification of a child as a child with EEN it shall send a written notice to the child's parent of its intent to so propose or refuse. The notice shall be sent within a reasonable period of time before the proposed action or before the refusal to take action and shall meet the requirements under s. PI 11.09 (1).

(8) HEARING RIGHTS. A parent may initiate a hearing under s. PI 11.10 whenever a board proposes or refuses to initiate or change the M-team evaluation process or the identification of a child as a child with EEN.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; reprinted to correct error in (1) (b), Register, April, 1983, No. 328; r. and recr. Register, May, 1990 No. 413, eff. 6-1-90; am. (2) (a), Register, December, 1995, No. 480, eff. 1-1-96.

PI 11.05 Individualized education program. (1) APPOINTMENT OF STAFF. When an M-team report is approved under s. PI 11.04 (5) (d) indicating that a child who is 3 years of age or older, a resident of the school district and who has not graduated from high school, is a child with EEN, a board shall appoint staff to develop an IEP for the child. The staff appointed by the board shall include a person who is knowledgeable about the child, the type of evaluation data available on the child and the program options.

(2) IEP MEETING. (a) The board shall set a date for a meeting to discuss the special education program and related services needs of the child and to develop an IEP for the child. The meeting shall

be held within 30 days after an M-team report is approved under s. PI 11.04 (5) (d) indicating that the child is a child with EEN. The time and location of the meeting shall be agreed upon by the board and the child's parent. The board shall ensure that the reports required under s. PI 11.04 (5) (c) and (d) are completed and in writing prior to the IEP meeting. These reports shall be available to the parent prior to the IEP meeting.

(b) The board shall ensure that each IEP meeting includes the following participants:

1. A representative of the board, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

2. The child's teacher.

3. One or both of the child's parents, subject to sub. (3).

4. The child, if appropriate.

5. If the IEP process is initiated because of an initial eligibility determination of a child:

a. A member of the M-team that evaluated the child; or

b. A person who is knowledgeable about the evaluation procedures used with the child and is familiar with the report issued under s. PI 11.04 (5).

5m. If a purpose of the IEP meeting is the consideration of transition services for a child, the board shall invite the following:

a. The child. If the child does not attend, the board shall take other steps to ensure that the child's preferences and interests are considered.

b. A representative of any other agency that is likely to be responsible for providing or paying for transition services. If a representative under this subparagraph does not attend, the board shall take other steps to obtain participation of the other agency in the planning of any transition services.

6. If a child is enrolled in a private school and receives or is eligible to receive special education from the board, a representative of the private school. If the private school representative cannot attend the meeting the board shall ensure the school's participation by some other means such as individual or conference telephone calls.

7. If a board is considering placing the child in a private school, a representative of the private school. If the private school representative cannot attend the meeting the board shall ensure the school's participation by some other means such as individual or conference telephone calls.

8. Persons other than those specified in subds. 1. to 7. may attend the meeting at the discretion of the parent or the board.

(c) The participants at the IEP meeting shall review the child's M-team report written in accordance with s. PI 11.04 (5) and shall consider the M-team's recommendations regarding related services.

(3) PARENT PARTICIPATION. (a) The board shall send a written notice to the parents within a reasonable amount of time prior to the IEP meeting. The notice shall meet the requirements under s. PI 11.09 (1) unless a notice meeting the requirements of s. PI 11.09 (1) has been provided within the previous 30 days. The notice under this subsection shall include the following:

1. The date, time, and location of the meeting and information that the meeting must be scheduled at a time and place agreed upon by the board and the child's parents.

2. The purpose of the meeting.

3. The names and titles of the persons who will be attending the meeting.

4. Information that the parent may bring other people to the meeting.

(am) If a purpose of the meeting is the consideration of transition services for a child, the notice shall include the following:

1. The purpose;

2. That the board will invite the child;

3. Identification of any other agency that will be invited to send a representative.

(b) If no parent is able to attend the meeting the board shall ensure the parent's participation by some other means such as individual or conference telephone calls.

(c) If no parent can attend the meeting or participate by other means, the board shall maintain a record of its attempts to have the parent attend or participate in the meeting. Notes from any contact made with the parent such as telephone calls or visits to the home or workplace and any correspondence with the parent shall be retained as part of the record.

(d) The board shall take the necessary steps to ensure that the parent understands what is said at the IEP meeting, including arranging for an interpreter if the parent is deaf or if the parent's primary language is other than English.

(4) THE IEP. (a) The IEP for each child shall include:

1. A statement of the child's present levels of educational performance.

2. A statement of annual goals, including short term instructional objectives.

3. The extent to which the child will be able to participate in regular educational programs.

4. A statement of the specific special education and related services including assistive technology services or devices, if appropriate, to be provided to the child.

5. The projected dates for initiation of services and the anticipated duration of the services.

6. Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

7. Beginning no later than age 16 and at a younger age, if appropriate, an annual statement of the needed transition services which includes a coordinated set of activities to be provided to the child, including, if appropriate, a statement of the board's, each public agency's, and each participating agency's responsibilities or linkages, or both, before the child leaves the school setting. The coordinated set of activities under this subdivision shall meet the following requirements:

a. Be based on the individual child's needs, taking into account the child's preferences and interests;

b. Include instruction; community experiences; the development of employment and other post-school adult living objectives; and

c. If appropriate, include acquisition of daily living skills and functional vocational evaluation.

8. If a child does not need transition services in one or more of the areas under subd. 7. b., a statement to that effect and the basis upon which the determination was made.

9. If a child has a visual handicap, a statement indicating whether the child needs to be taught braille. If the child does not need to be taught braille, a statement to that effect and the basis upon which the determination was made.

(b) A child's IEP may not include occupational or physical therapy unless the M-team has concluded that the child needs such therapy.

(c) Within the time period specified under s. PI 11.06 (4), a board shall develop and implement a placement offer to carry out a child's IEP.

(5) REVIEW OF THE IEP. (a) At least annually a board shall review the IEP of each child with EEN who is a resident of the district. Whenever a board conducts a review of a child's IEP or wants to change a child's IEP it shall comply with this section.

(b) If a child is attending a private school and the private school is providing special education services to the child, the private school may conduct reviews of a child's IEP at the discretion of the board. A private school that conducts a review or that wants

to change a child's IEP shall comply with the requirements under this section. The board shall ensure that at any IEP meeting held by a private school, the parent and the board are represented and are involved in any decision made about the child's IEP. No changes may be made to the child's IEP unless they are approved by the parent and the board.

(c) A parent may request a board to conduct a review of his or her child's IEP. If a board agrees to conduct a review based on a parent's request, it shall comply with the requirements under this section.

(d) If a participating agency fails to provide agreed-upon transition services contained in the IEP of a child with EEN, the board shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the child's IEP.

(6) PURPOSE OF AN IEP. (a) A board shall provide special education and related services to a child consistent with the child's current IEP. A board may not provide special education and related services to a child unless the child has a current IEP.

(b) An IEP is a commitment of resources to a child by a board. An IEP is not a guarantee that the goals and objectives found in the IEP will be achieved.

(7) NOTICE AND HEARINGS. (a) Whenever a board refuses to initiate or change an IEP it shall send a written notice to the child's parent of its intent to refuse. The notice shall be sent within a reasonable period of time before the refusal to take action and shall meet the requirements under s. PI 11.09 (1).

(b) A parent may initiate a hearing under s. PI 11.10 whenever a board proposes or refuses to initiate or change his or her child's IEP.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (2) (a), (b) 4., (3) (a) (intro.) and (4) (a) 4., cr. (2) (b) 5m., (3) (am), (4) (a) 7. to 9. and (5) (d), Register, July, 1993, No. 451, eff. 8-1-93.

PI 11.06 Placement offer. (1) DEVELOPMENT OF A PLACEMENT OFFER. (a) When an IEP has been completed for a child, the board shall have the director or program designee develop a placement offer for the child. The placement offer shall be based upon and carry out the child's IEP and it shall consist of 2 parts. The director or program designee shall appoint a group to develop the first part of the placement offer and shall ensure that the members of the group are knowledgeable about the child and the type of evaluation data available on the child. The members of the group shall also be familiar with existing special education placement options.

(b) The first part of the placement offer shall specify the delivery model to be used and the level at which each of the services will be provided to implement the child's IEP. In arriving at these decisions the group shall consider and shall document that they considered the requirements in subds. 1. to 4. and any potential harmful effect on the child or on the quality of services which he or she needs.

1. To the maximum extent appropriate, a child with EEN shall be educated with children who are not children with EEN.

2. Special classes, separate schooling, or any other program that would remove a child with EEN from the regular educational environment may only be included when the nature or severity of a child's handicapping condition is such that education in regular classes with the use of supplementary aids and services, including assistive technology services or devices, cannot be achieved satisfactorily.

3. Alternative programs that are needed to implement the child's IEP shall be available.

4. Appropriate nonacademic and extracurricular services and activities shall be provided.

(c) The second part of the placement offer shall be completed by a group appointed by the director or program designee. The group shall include the director or program designee. The members of the group shall be knowledgeable about the child and the

type of evaluation data available on the child. The members of the group shall also be familiar with existing special education placement options. The second part of the placement offer shall specify the location at which services will be provided to implement the child's IEP in conformance with the first part of the placement offer. In completing the second part of the placement offer, the group shall comply with sub. (2) and shall consider and document that the group considered all of the following requirements:

1. Unless the IEP of a child with EEN requires a different arrangement, the child shall be educated in the school which he or she would attend if he or she were not a child with EEN.

2. Special education and related services shall be provided as close as possible to the child's home.

3. A child with EEN may be placed in a special education program at the child's home or at a hospital, only if there is a physician's statement in writing that the child is unable to attend school.

(2) LOCATING A PLACEMENT. (a) If the board for which the director or program designee works, the county in which the child resides, or the CESA for the district in which the child resides operates or can immediately establish an appropriate special education placement as specified in the IEP and in the first part of the placement offer, the director or program designee shall put the child in that placement.

(b) If an appropriate special education placement is not available under par. (a), the director or program designee may consult with the division to determine whether an appropriate special education placement as specified in the IEP and in the first part of the placement offer is available that is offered by a different board or a public agency in Wisconsin. If more than one such placement exists, the director or program designee shall put the child in a placement as near as possible to the place where the child resides.

(c) Upon the approval of the state superintendent, the director or program designee may put the child in a placement offered by a public agency in another state. The state superintendent shall approve such a placement if he or she determines that it is an appropriate special education placement, that par. (d) 2. and 3. are complied with, and that one of the following is true:

1. There is no appropriate placement available in Wisconsin 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,

2. The proposed placement will result in a significant reduction in daily transportation costs or in the child's time in transit to the placement while the child resides at home.

(d) 1. If the director or program designee finds that no board or public agency in Wisconsin can provide an appropriate special education placement as specified in the IEP and in the first part of the placement offer, the director or program designee shall consult with the division to determine whether an appropriate special education placement is offered by a private nonsectarian school in or outside of Wisconsin or by a public agency in another state. A director or program designee may not enroll a child with EEN in a private nonsectarian school in or outside of Wisconsin or in any placement that is offered by a public agency in another state without the state superintendent's approval.

2. To obtain the state superintendent's approval, the director or program designee shall submit a written report to the state superintendent which shall include the following:

a. A record of the steps taken by the director or program designee in attempting to locate an appropriate placement for the child.

b. Information about the private or out-of-state public placement standards for instructional and supportive staff certification and placement approval criteria.

c. Any additional information requested by the state superintendent.

3. The state superintendent may approve such an enrollment if he or she finds all of the following:

a. The director or program designee has complied with this subsection.

b. The private program or out-of-state public program meets instructional and supportive staff certification standards under ch. PI 3, program approval criteria under this chapter and school district standards under s. 121.02, Stats., and ch. PI 8.

(3) COPIES AND REVIEW OF A PLACEMENT OFFER. (a) The director or program designee shall send a copy of a child's placement offer to the child's parent each time the child's placement offer is developed or changed. The director or program designee shall send a copy of the placement offer within a reasonable period of time before implementing the placement offer and the director or program designee shall include a notice that meets the requirements under s. PI 11.09 (1).

(b) The director or program designee shall review a child's placement offer as needed and each time the child's IEP is changed. Whenever a director or program designee reviews a placement offer he or she shall comply with this section.

(4) IMPLEMENTATION OF THE PLACEMENT OFFER. Except as provided in sub. (6) (a), a board shall implement a child's placement offer as soon as possible after the IEP meeting under s. PI 11.05 (2).

(5) TIMELINE (a) The board shall send a copy of a child's placement offer to the parent within 90 days of the date the board received an EEN referral or initiated a reevaluation for the child. If a board needs an extension of that 90-day period, the board shall first inform the child's parent of the need and reasons for an extension and shall ask the parent to agree in writing to a specific extension of time beyond the 90-day period. If the parent will not agree to an extension the board may request an extension from the division. The board shall inform the division of the reasons for the request. The division may grant a specific extension of time beyond the 90-day period if the board shows that it has acted in good faith and that there is good cause to grant the extension. If the division grants an extension it shall notify the parent of the extension and the reasons for granting it.

(b) A board may not implement a child's placement offer until a reasonable amount of time has lapsed since it provided the parent with a copy of the placement offer.

(6) CONSENT, NOTICE AND HEARINGS. (a) 1. Except as provided in subd. 3, a board may not implement a placement offer for a child without the parent's consent. The consent obtained by the board shall meet the requirements under s. PI 11.09 (2) (a) and it shall continue in effect and thereby grant consent for subsequent placement offers until the parent revokes his or her consent in writing.

2. Except as provided in subd. 3., a board may not continue a child's placement offer if the child's parent has revoked his or her consent for a placement offer unless the parent grants consent again.

3. If a parent refuses or revokes his or her consent for a placement offer, a board may initiate a hearing under s. PI 11.10 to determine whether the board shall implement a placement offer for the child without the parent's consent.

(b) Whenever a board refuses to initiate or change a placement offer it shall send a written notice to the child's parent of its intent to refuse. The notice shall be sent within a reasonable period of time before the refusal to take action and shall meet the requirements under s. PI 11.09 (1).

(c) A parent may initiate a hearing under s. PI 11.10 whenever a board proposes to initiate or change or refuses to initiate or change his or her child's placement offer.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; r. and recr. Register, May, 1990, No. 413, eff. 6-1-90; am. (1) (b) 2., r. and recr. (1) (c) (intro.), Register, July, 1993, No. 451, eff. 8-1-93.

PI 11.07 Transfer pupils. (1) **EEN TRANSFER PUPILS.** (a) In this section "board" includes a facility operated by the department of health and social services under ss. 46.03 (6) (d), 51.05 (5), and 51.06 (2), Stats., and "EEN transfer pupil" includes children with

EEN whose residence has changed from a Wisconsin school district to such a facility or from such a facility to a Wisconsin school district.

(b) When a board receives an EEN transfer pupil, the receiving board shall develop a placement offer to implement the child's IEP from the sending board. The IEP from the sending board shall remain in effect until the receiving board has its own IEP. The receiving board shall conduct a new M-team evaluation or adopt the one of the sending board and it shall develop a new IEP or adopt the IEP of the sending board. The receiving board may not adopt the M-team evaluation or the IEP of the sending board if it does not meet state and federal requirements.

(c) When a school district or a facility operated by the department of health and social services under s. 46.03 (6) (d), Stats., receives an EEN transfer pupil, and does not receive the pupil's records, the school district or facility shall request in writing the pupil's records from the sending school district or facility. The sending school district or facility shall transfer the pupil's records within 5 working days of receipt of the written notice as required under s. 118.125 (4), Stats.

(d) If a hearing is initiated under s. PI 11.10 while the child's IEP from the sending board and the receiving board's placement offer is in effect, for purposes of s. PI 11.13, the child's current educational placement is the child's IEP from the sending board and the placement offer of the receiving board, unless the hearing officer determines otherwise.

(2) TRANSFER PUPILS FROM OUTSIDE WISCONSIN. When a board receives a transfer pupil from outside Wisconsin who was receiving special education in the sending state, the board shall treat the child as a new pupil. The board shall conduct an M-team evaluation and develop an IEP and placement offer for the child in accordance with ss. PI 11.04, 11.05 and 11.06 within 90 days after the child enrolls in the receiving board's school.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; r. and recr. Register, December, 1995, No. 480, eff. 1-1-96.

PI 11.08 Independent educational evaluation. (1)

RIGHT TO AN INDEPENDENT EDUCATIONAL EVALUATION. (a) A parent of a child who has been evaluated under s. PI 11.04 has the right to obtain an independent educational evaluation of the child if he or she disagrees with the M-team evaluation conducted by a board. The parent has the right to select the person to conduct the independent educational evaluation and to request payment for the independent educational evaluation from the board. A parent's request for payment for an independent educational evaluation shall be in writing. The board shall pay the costs of the independent educational evaluation unless the parent refuses to give the board a complete copy of the independent educational evaluation or it is found at a hearing that the board's M-team evaluation is appropriate or that the independent educational evaluation does not meet the requirements under sub. (2).

(b) If a parent requests information from a board about an independent educational evaluation, the board shall provide the parent with information about where an independent educational evaluation may be obtained by people who meet the requirements under sub. (2) (b).

(c) Prior to obtaining an independent educational evaluation a parent may ask the board whether the board believes that the person the parent has selected to conduct the independent educational evaluation meets the requirements under sub. (2) (b). If the board finds that the person does not meet the requirements under sub. (2) (b), the board shall inform the parent of that finding and shall also inform the parent about whether the board would request a hearing to challenge the payment or provision of an independent educational evaluation that is conducted by that person as provided under sub. (3). A board may not refuse to pay for or otherwise provide an independent educational evaluation because a parent did not obtain the board's prior approval under this paragraph.

(2) REQUIREMENTS OF AN INDEPENDENT EDUCATIONAL EVALUATION. An independent educational evaluation paid for by a board must meet all of the following requirements:

(a) The independent educational evaluation shall address each portion of the M-team evaluation that is in dispute.

(b) Each portion of the independent educational evaluation shall be conducted by a person whose professional qualifications exceed or are equivalent to those required by the board for a person to be able to conduct for the board the type of evaluation that is in dispute.

(c) The independent educational evaluation shall be conducted in accordance with the requirements under ss. PI 11.04 (3) (d) and 11.35 and shall address the question of whether the child is a child with EEN.

(3) HEARING REGARDING A BOARD'S RESPONSIBILITY TO PAY FOR OR OTHERWISE PROVIDE FOR AN INDEPENDENT EDUCATIONAL EVALUATION. If a parent obtains an independent educational evaluation and the board believes that its M-team evaluation is appropriate or that the independent educational evaluation does not meet the requirements under sub. (2), the board may initiate a hearing under s. PI 11.10 to determine whether the board is required to pay for or otherwise provide the independent educational evaluation. If the hearing officer finds either that the board's M-team evaluation is appropriate or that the independent educational evaluation does not meet the requirements under sub. (2), the board is not required to pay for or otherwise provide the independent educational evaluation.

(4) Board's right to a copy of the independent educational evaluation. A board is not required to pay for or otherwise provide for an independent educational evaluation if the parent refuses to allow the board to obtain a complete copy of the independent educational evaluation and to make it part of the child's records.

(5) The effect of a parent initiated independent educational evaluation. If a parent has obtained an independent educational evaluation at public or private expense, the results of the independent educational evaluation:

(a) Shall be considered by the board when making any decision regarding the child's M-team evaluation, IEP, or educational placement or regarding the provision of a free appropriate education for the child; and,

(b) May be presented as evidence at a hearing conducted under s. PI 11.10.

(6) HEARING AND REVIEWING OFFICERS MAY ORDER AN INDEPENDENT EDUCATIONAL EVALUATION. A hearing officer may order that an independent educational evaluation of a child be conducted as provided under s. PI 11.10 (7) A reviewing officer may order that an independent educational evaluation be conducted as provided under s. PI 11.11 (7).

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.09 Notice and consent. (1) NOTICE (a) A notice shall be written in language that is understandable to the general public and it shall be written in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(b) If the native language or other mode of communication of the parent is not a written language the board shall take steps to ensure that the notice is translated to the parent either orally or in the other mode of communication used by the parent. The board shall also ensure that the parent understands the content of the notice. The board shall document the actions it has taken to comply with this paragraph.

(c) The notice shall clearly state whether a parent has given consent for an M-team evaluation and for a placement offer, the date the parent gave consent and whether the consent is currently in effect. The notice shall also clearly inform the parent of all of the following:

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- 1. The fact that consent by the parent is voluntary.
- 2. When consent is needed by a board and what it enables a board to do.
- 3. The fact that a consent continues in effect until revoked in writing by the parent.
- 4. The parent's right to revoke his or her consent at any time.
- 5. The effect of revoking consent.
- 6. The board's right to initiate a hearing to attempt to override a parent's refusal to grant consent and the board's right to initiate a hearing to override a parent's revocation of consent.

(d) A notice shall contain all of the following:

1. A description of the action proposed or refused by the board, an explanation of why the board proposes or refuses to take the action, and a description of any options the board considered and the reasons why those options were rejected.

2. A description of each evaluation procedure, test, record, or report the board used as a basis for proposing or refusing to take an action.

3. A description of any other factor which is relevant to the board's proposing or refusing to take an action.

4. A full explanation of all of the following:

a. The right to an independent educational evaluation under s. PI 11.08.

b. The right to have specialists on the M-team and to have the standards followed that are provided under s. PI 11.04 (3) (d).

c. The right to know about and be present and represented at an M-team meeting as provided under s. PI 11.04 (4) (b) and (5) (d) 4. b. and 6. b., and the right to receive a copy of the M-team report and to request a conference to discuss the report under s. PI 11.04 (5) (d) 5.

d. The right to have M-team members' individual reports available at the M-team meeting as provided under s. PI 11.04 (3) (g).

e. The right to know about and be present and represented at IEP meetings as provided under s. PI 11.05 (2) (a) and (3).

f. The right to have the child educated in the least restrictive appropriate environment as provided under s. PI 11.06 (1) (b) and (c).

g. The requirements to provide notice under ss. PI 11.03 (2) (g), 11.04 (1) (b) and (7), 11.05 (3) (a) and (7) (a) and 11.06 (3) (a) and (6) (b) and the notice requirements under this subsection.

h. The consent requirements under sub. (2) and ss. PI 11.04 (1) (a) and 11.06 (6) (a).

i. The right to inspect pupil records.

j. The right to hearings under ss. PI 11.04 (8), 11.05 (7) (b), 11.06 (6) (c) and 11.10 (1).

k. The right to be informed of free or low-cost legal or other relevant services as provided under s. PI 11.10 (3) (a).

l. The rights in the hearing process under s. PI 11.10 (4) (a) and (b), (5) and (10).

m. The right to appeal a hearing decision under s. PI 11.11 (1).

n. The rights on appeal under s. PI 11.11 (4) (a) and (b), (5), (6) and (9).

o. The right to file a complaint under s. PI 11.15.

p. The right to impartial hearing and reviewing officers under s. PI 11.12 (1).

q. The right to bring a civil action under s. PI 11.11 (10).

r. The provisions for the educational placement of a child during hearings and appeals under s. PI 11.13.

s. The provisions for the selection of a surrogate parent under s. PI 11.14 and the rights of a surrogate parent under s. PI 11.14 (1) (c) and (4).

t. The right to receive attorneys' fees as provided under 20 USC 1415 (e) (4).

(2) CONSENT (a) A board has obtained the consent of a parent if the board meets and documents that it has met all of the following requirements:

1. The board shall fully inform the parent of all information relevant to the activity for which consent is sought. The board shall communicate this information in the parent's native language or other mode of communication.

2. The board shall obtain the written agreement of the parent to allow the board to carry out its proposed activity. The agreement shall indicate that the parent understands what the board proposes to do and shall contain a description of the proposed activity and a list of any records that will be released and of the persons to whom they will be released.

3. The board shall explain to the parent that consent by the parent is voluntary and may be revoked in writing at any time. The board shall also explain the effects of a parent's refusal to grant consent and a parent's revocation of consent and it shall explain the board's rights to attempt to override a parent's refusal to grant consent and a parent's revocation of consent by requesting a hearing as provided under ss. PI 11.04 (1) (a) 3. and 11.06 (6) (a) 3.

(b) Except as provided in s. PI 11.04 (1) (a) for an M-team evaluation and in s. PI 11.06 (6) (a) for a placement offer, a board may not be required to obtain parental consent as a condition of providing or performing any service or function required of a board under this chapter.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.10 Hearings. (1) RIGHT TO A HEARING. (a) A parent may initiate a hearing under sub. (2) as provided under ss. PI 11.04 (8), 11.05 (7) (b) and 11.06 (6) (c). A parent may also initiate a hearing under sub. (2) whenever a board proposes or refuses to initiate or change his or her child's free appropriate public education.

(b) A surrogate parent may initiate a hearing under sub. (2) as provided under s. PI 11.14 (1) (c) 2.

(c) A board may initiate a hearing under sub. (2) as provided under ss. PI 11.04 (1) (a) 3., 11.06 (6) (a) 3. and 11.08 (3).

(2) INITIATING A HEARING. (a) A parent may initiate a hearing by sending a letter to a board requesting a hearing. The letter shall state the specific reasons for the request.

(b) A board may initiate a hearing by sending a letter to a parent stating that the board is initiating a hearing. The letter shall state the specific reasons for the hearing.

(3) BOARD RESPONSIBILITY. (a) After a board has sent a letter initiating a hearing or received a request for a hearing under sub. (2), the board shall select a hearing officer in accordance with s. PI 11.12 (2) (c). After the board has selected a hearing officer the board shall send to the division a copy of the letter that initiated the hearing and the name and address of the hearing officer who was selected. The board shall also inform the other party in writing of the name and address of the hearing officer selected and of any free or low-cost legal and other relevant services available in the area.

(b) The board shall be responsible for payment of the costs of the hearing which shall include the hearing officer's and stenographer's salaries.

(c) When a request for a hearing is settled or withdrawn before a decision is issued by the hearing officer, the board shall inform the division of the settlement or withdrawal, and it shall indicate how the issues were resolved.

(4) HEARING OFFICER RESPONSIBILITY. (a) The hearing officer who is selected under sub. (3) shall set a time and place for a hearing which is agreeable to both parties and which is reasonably convenient for the parents and child. The hearing officer shall, within a reasonable period of time prior to the date set for the hearing, send the parties a written notice stating the time and place of the hearing and explaining the parties' rights at the hearing. The hearing officer shall make arrangements for a stenographer to re-

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cord the hearing and to make a written transcript of the hearing as soon as possible after the completion of the hearing.

(b) The hearing officer shall conduct the hearing, issue a decision in the hearing, and mail a copy of the decision and a notice explaining the appeal rights under s. PI 11.11 to the parties within 45 days after the board either sent the letter initiating the hearing or received the request for hearing under sub. (2). The hearing officer may grant specific extensions of time beyond the 45-day time period at the request of either party.

(c) As soon as practical after a decision has been issued under par. (b), the hearing officer shall deliver to the division a copy of the hearing officer's decision.

(d) The hearing officer shall give to the board the official record of the hearing, as specified in sub. (9), as soon as he or she has completed his or her responsibilities and the record is complete.

(5) HEARING RIGHTS. (a) The parties to a hearing have a right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training of children with EEN.
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses.
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 days before the hearing.
4. Receive from the other party a free copy of each document offered into evidence or submitted to the hearing officer by the other party.

5. Obtain a written verbatim record of the hearing at no charge to a parent. The board may charge a reasonable fee for a copy of the transcript to all other parties.

6. Obtain a written decision which includes findings of fact and conclusions of law.

7. Have access to any reports, records or clinical evaluations on which a decision was based or which could have a bearing on the correctness of the decision.

(b) Parents have a right to:

1. Have the child who is the subject of the hearing present.
2. Open the hearing to the public.

(6) CONDUCT OF A HEARING. (a) A hearing officer may:

1. Administer oaths and affirmations.
2. Issue subpoenas and enforce subpoenas under ss. 885.01 (4) and 885.12, Stats.
3. Regulate the course of the hearing.
4. Hold conferences for the settlement or simplification of the issues.

(b) The hearing officer shall not be bound by common law or statutory rules of evidence. The hearing officer shall admit all testimony having a reasonable probative value, but shall exclude immaterial, irrelevant, or unduly repetitious testimony. The hearing officer shall give effect to the rules of privilege recognized by law.

(7) INDEPENDENT EDUCATIONAL EVALUATION. A hearing officer may order an independent educational evaluation of a child as part of a hearing. The independent educational evaluation shall meet the requirements in s. PI 11.08 (2) and shall be paid for by the board that is a party to the hearing.

(8) HEARING OFFICER'S AUTHORITY. Except as otherwise provided by law, a hearing officer has the authority to issue an order consistent with subch. V of ch. 115, Stats., and this chapter, and to order whatever remedy is reasonably necessary to bring the parties into compliance with subch. V of ch. 115, Stats., and this chapter.

(9) RECORD OF A HEARING. The hearing officer shall keep an official record of the hearing which shall contain all of the following:

- (a) A copy of the letter that initiated the hearing.

(b) A written transcript of the proceedings.

(c) All notices relevant to the hearing that were sent to the parent, board, or hearing officer.

(d) All evidence received or considered, stipulations and admissions.

(e) All exhibits introduced at the hearing.

(f) All correspondence related to the case.

(g) All briefs and papers submitted by either party.

(h) Any proposed findings and decisions and any interim decisions and orders.

(i) A copy of the hearing officer's decision.

(10) DECISION. A hearing officer's decision shall consist of findings of fact and conclusions of law and shall be based upon a preponderance of the evidence. The findings of fact shall be based solely upon the evidence received at the hearing. A decision is final unless a party to the hearing appeals the decision under s. PI 11.11 (1). A final decision is enforceable by an order of a circuit court.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (5) (a) 5., Register, July, 1993, No. 451, eff. 8-1-93.

PI 11.11 Appeals. (1) REQUESTING AN APPEAL. A parent or board may appeal a decision issued under s. PI 11.10 (10) by sending a letter to the state superintendent within 45 days after the date the decision was mailed under s. PI 11.10 (4) (b). The letter shall identify what decision is being appealed and the specific reasons for the appeal.

Note: Any information or document that is required to be sent to the state superintendent should be sent to the Wisconsin Department of Public Instruction, Division for Handicapped Children and Pupil Services, 125 South Webster Street, P.O. Box 7841, Madison, Wisconsin 53707.

(2) BOARD RESPONSIBILITY. As soon as possible after a board has sent an appeal letter under sub. (1) or received notice of an appeal under sub. (3), the board shall deliver the official record of the hearing to the division.

(3) STATE SUPERINTENDENT RESPONSIBILITY. (a) As soon as possible after receiving an appeal letter under sub. (1) the state superintendent shall send a copy of the appeal letter to the other party to the appeal.

(b) After receiving an appeal letter under sub. (1), the state superintendent shall select a reviewing officer in accordance with s. PI 11.12.

(c) Immediately after selecting a reviewing officer the state superintendent shall provide the reviewing officer with a copy of the appeal letter and the hearing officer's decision. The state superintendent shall provide a copy of all other parts of the official hearing record to the reviewing officer as the state superintendent receives them.

(d) After receiving a brief submitted under sub. (5) (a), the state superintendent shall send a copy of the brief to the reviewing officer.

(e) The state superintendent shall be responsible for payment of the costs of the appeal which shall include the reviewing officer's salary.

(4) REVIEWING OFFICER RESPONSIBILITY. (a) The reviewing officer shall conduct an impartial review of the hearing and the hearing officer's decision. The reviewing officer shall examine the entire hearing record, ensure that the procedures at the hearing were consistent with the requirements of due process, consider all of the underlying issues on appeal and make an independent decision on completion of the review.

(b) The reviewing officer shall issue a decision in the appeal and mail a copy of that decision to the parties and to the state superintendent within 30 days after the state superintendent received the appeal letter. The reviewing officer may grant specific extensions of time beyond the 30-day time period at the request of either party.

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(c) The reviewing officer shall give to the state superintendent the official record of the appeal, as specified in sub. (8), as soon as he or she has completed his or her responsibilities and the record is complete.

(5) APPEAL RIGHTS. (a) The parties to the appeal have a right to submit to the reviewing officer a legal brief to support their case. A party submitting a brief shall send a copy of the brief to the other party and shall send the reviewing officer's copy to the division.

(b) If additional testimony is sought under sub. (6) (a), the parties have the rights provided under s. PI 11.10 (5).

(c) If additional testimony is taken, the parties at no charge to a parent have a right to obtain a copy of the written transcript from the state superintendent. The state superintendent may charge a reasonable fee for a copy of the transcript to all other parties.

(d) The parties to the appeal have a right to receive from the other party a free copy of each document offered into evidence or submitted to the reviewing officer by the other party.

(6) CONDUCT OF AN APPEAL. (a) The reviewing officer may:

1. Seek additional evidence if he or she finds that it is necessary.
2. Afford the parties an opportunity for oral argument.
3. Establish guidelines governing the conduct of the appeal.
4. Hold conferences for the settlement or simplification of the issues.

(b) If additional testimony is sought under par. (a) 1. the reviewing officer has the authority granted to the hearing officer under s. PI 11.10 (6). The reviewing officer shall make arrangements for a stenographer to record the testimony and to make a written transcript of the testimony as soon as possible after it is completed.

(c) If additional testimony is sought or oral arguments allowed under par. (a) 2., the time and place where it is heard shall be reasonably convenient to the parent and child involved.

(d) The reviewing officer shall make an independent decision upon completion of his or her review of the entire record.

(7) INDEPENDENT EDUCATIONAL EVALUATION. A reviewing officer may order an independent educational evaluation of a child as part of an appeal. The independent educational evaluation shall meet the requirements in s. PI 11.08 (2) and shall be paid for by the state superintendent.

(8) RECORD. The reviewing officer shall keep an official record of the appeal which shall contain all of the following:

- (a) A copy of the letter requesting the appeal.
- (b) A copy of the official record of the hearing as specified under s. PI 11.10 (9).
- (c) A written transcript of the proceedings, if additional testimony is sought under sub. (6) (a) 1.
- (d) All evidence received or considered, stipulations and admissions.
- (e) All correspondence related to the case.
- (f) All briefs and papers submitted by either party.
- (g) Any proposed findings and decisions and any interim decisions and orders.
- (h) A copy of the reviewing officer's decision.

(9) DECISION. A reviewing officer's decision shall be based upon a preponderance of the evidence. The decision shall be based solely upon the record and evidence received on appeal. A decision is final unless a party appeals the decision under sub. (10). A final decision is enforceable by an order of a circuit court.

(10) APPEAL TO CIRCUIT COURT. A party aggrieved by the decision under sub. (9) may appeal that decision to the circuit court for the county in which the child resides within 45 days after the date the decision was mailed under sub. (4) (b).

(11) NOTICE OF THE APPEAL TO CIRCUIT COURT. The state superintendent shall notify the parent or school board who is not a party

to the appeal to the circuit court of that appeal and any reasons for the appeal that have been specified.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90; am. (5) (c) and (9), Register, July, 1993, No. 451, eff. 8-1-93.

PI 11.12 Hearing and reviewing officers. (1) IMPARTIALITY. No person may be selected as a hearing officer or as a reviewing officer if that person:

(a) Is an employe of a public agency that is involved in the education or care of the child who is the subject of the hearing or appeal.

(b) Is an employe of or under contract to a board, CESA or CHCEB. For purposes of this paragraph, a person is eligible to serve as a hearing or reviewing officer if the only function that he or she is employed or under contract to perform for any board, CESA or CHCEB, is to conduct a hearing or appeal; or,

(c) Has a personal or professional interest which would conflict with his or her objectivity in the hearing or appeal.

(2) HEARING OFFICERS; LISTS AND SELECTION. (a) Each board shall keep a list of persons who are willing to serve as hearing officers. The list shall include a statement of the qualifications of each person.

(b) 1. The department shall maintain and make available to boards a list of persons who are available to serve as hearing officers. The department may not put a person's name on the list unless:

a. The person either is an attorney licensed to practice law in Wisconsin or is licensed as a teacher under subch. VII of ch. PI 3 or meets the teacher licensing requirements under subch. VII of ch. PI 3; and,

b. The person has completed the hearing officer training approved by the department as described in subd. 2.

2. Before a person's name may initially be put on the list in subd. 1 he or she shall attend an initial training program approved by the department. The training shall include instruction on how to conduct a hearing, state and federal laws concerning the education of children with EEN, and relevant resources that are available to a hearing officer. Annually thereafter each person shall attend a refresher course approved by the department. The department may charge fees of persons attending the training courses.

(c) 1. A board shall select a hearing officer with the written consent of the parent involved in the hearing. A board shall propose a hearing officer to the parent in writing. If the parent does not accept or reject the person proposed within 7 days after the parent received the written proposal, the person proposed by the board shall be deemed accepted and consented to by the parent and shall be the hearing officer.

2. If the board and parent cannot agree on a hearing officer, the board shall ask the department for the names of 3 hearing officers from the department's list under par. (b) 1. The parent shall reject one of the 3 names and the board shall then reject one of the 2 remaining names. The person whose name remains shall be employed by the board as the hearing officer.

(3) REVIEWING OFFICERS; QUALIFICATIONS. The state superintendent may not select a person to act as a reviewing officer under s. PI 11.11 unless the person is an attorney licensed to practice law in Wisconsin.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.13 Educational placement of a child during hearings and appeals. (1) During the pendency of a hearing under s. PI 11.10, an appeal under s. PI 11.11, or a court proceeding arising from s. PI 11.11, unless the board and the parent agree otherwise, the child who is the subject of the hearing, appeal or proceeding shall remain in his or her current educational placement.

(2) If a hearing, appeal, or proceeding specified in sub. (1) involves an application for initial admission to a public school dis-

trict in which the child does not have a current educational placement, the child, with the consent of the parent, shall be placed in a public school program until the completion of the hearing, appeal, or proceeding.

(3) Notwithstanding subs. (1) and (2), a board may change an educational placement of a child for not more than a total of 10 consecutive school days pending the outcome of a hearing, appeal, or proceeding specified in sub. (1), if the health or safety of the child or of other persons would be endangered by allowing the child to remain in his or her current educational placement. The time period of a suspension under s. 120.13 (1) (b), Stats., shall be included when calculating the 10-day period in which a change of educational placement may occur under this subsection.

(4) Under this subsection, "firearm" means a firearm as defined in 18 USC 921. If a child with exceptional educational needs is determined by a board to have brought a firearm to a school under the board's jurisdiction, then the child may be placed in an interim alternative educational setting for not more than 45 days as follows:

(a) The interim alternative educational setting shall be decided by individuals described in s. PI 11.05(2)(b), pursuant to the notice requirements in ss. PI 11.05(3) and 11.09(1).

(b) The board shall send the parent a notice informing the parent of the interim alternative educational setting decided under par. (a). The notice shall meet the requirements of s. PI 11.09(1).

(5) Notwithstanding subs. (1), (2) and (3), if a hearing, appeal or proceedings specified in sub. (1) involves a child placed pursuant to sub. (4) in an interim alternative educational setting, then the child shall remain in the interim alternative educational setting during the pendency of any such hearing, appeal or proceeding, unless the parents and the board agree otherwise.

Note: Under 18 USC 921, the term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(4) The term "destructive device" means -

- (A) any explosive, incendiary, or poison gas -
 - (i) bomb,
 - (ii) grenade,
 - (iii) rocket having a propellant charge of more than four ounces,
 - (iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (v) mine, or
 - (vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

(7) The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

History: Cr Register, May, 1990, No. 413, eff. 6-1-90; emerg. cr. (4) and (5), eff. 8-21-95; cr. (4) and (5), Register, March, 1996, No. 483, eff. 4-1-96.

PI 11.14 Surrogate parents. (1) BOARD DUTIES. (a) A board shall ensure that the rights of all children who are or who are sus-

pected to be children with EEN, who are residents of the district, are protected and it shall appoint a surrogate parent as provided under this section whenever one of the following occurs:

1. The board cannot identify a parent of a child.

2. The board is unable to discover the whereabouts of a parent after the board has made reasonable efforts to locate a parent.

3. The child was made a ward of the state or a county or a child welfare agency under ch. 880, Stats., or has been placed in the legal custody of the state or a county or a child welfare agency under ch. 48 or 767, Stats., and the state, county, or child welfare agency has the authority to make educational decisions for the child.

(b) At least annually a board shall review the appointment of each surrogate parent it has appointed. The board shall consider whether there is still a need for a surrogate parent, whether the surrogate parent continues to meet the requirements under sub. (2), whether the surrogate parent has carried out his or her responsibilities as a surrogate parent and whether the surrogate parent has acted in the interest of the child he or she was appointed to represent. A board shall terminate and may only terminate an appointment if it finds one of the following:

1. There is no longer a need for a surrogate parent.

2. The surrogate parent no longer meets the requirements under sub. (2).

3. The surrogate parent has failed to carry out his or her responsibilities.

4. The surrogate parent's actions threaten the well being of the child he or she was appointed to represent.

(c) 1. Whenever a board intends to terminate the appointment of a surrogate parent it shall send a notice to the surrogate parent of its intent. The notice shall be sent to the surrogate parent at least 10 days before the termination becomes effective. The notice shall inform the surrogate parent of the reasons for the termination, the date the termination will be effective and the surrogate parent's right to request a hearing under s. PI 11.10.

2. A surrogate parent may request a hearing under s. PI 11.10 to challenge the termination of his or her appointment. If a surrogate parent sends a request for a hearing before the effective date of the termination, a board shall continue the surrogate parent's appointment during the pendency of a hearing under s. PI 11.10, an appeal under s. PI 11.11 or a court proceeding arising from s. PI 11.11, unless the board and the surrogate parent agree otherwise.

(d) A board shall notify the division when it sends a termination notice under par. (c) 1. and when it receives notice of a resignation under sub. (3) (b).

(e) A board shall establish and be responsible for carrying out policies and procedures in accordance with this section for all of the following:

1. Identifying children who have been referred to a board under s. PI 11.03 (2) and children with EEN who need to have a surrogate parent appointed.

2. Identifying people who are willing and qualified to act as surrogate parents.

3. Appointing people to act as surrogate parents.

4. Conducting reviews of surrogate parents.

5. Ensuring that surrogate parents are allowed to function independently from, and are not subject to the influence of, the board and any of its staff.

(f) A board may contract for the recruitment and training of surrogate parents.

(2) QUALIFICATIONS OF A SURROGATE PARENT. A parent may not serve as a surrogate parent unless the person:

(a) Has no interest that conflicts with the interests of the child the surrogate parent represents;

(b) Has knowledge and skills that enable him or her to provide adequate representation for the child;

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(c) Is committed to acquaint himself or herself with the child and the child's educational needs;

(d) Is of the same cultural background as the child or is sensitive to the factors in the child's background that might affect the child's educational experience;

(e) Is familiar with the educational options available;

(f) Is 18 years of age or older;

(g) Is not an employe of a board, CESA, CHCEB, the department or of an agency that is responsible for the care or education of the child; and

(h) Does not serve as a surrogate parent as part of a job for a public agency.

(3) TERMS OF AN APPOINTMENT. (a) A surrogate parent shall be appointed for an indefinite period of time and shall continue to serve until the surrogate parent resigns, the appointment is terminated or the child is no longer eligible for school.

(b) A surrogate parent that wishes to resign shall notify the appointing board of the resignation at least 30 days before the resignation takes effect.

(c) A surrogate parent may not receive any payment for time spent acting as a surrogate parent.

(d) A person may not be appointed as a surrogate parent for more than 4 children at any one time.

(5) LIABILITY. Neither a surrogate parent nor the board that appointed the surrogate parent nor the department may be found liable for the actions of the surrogate parent unless such actions constitute willful or wanton misconduct.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.15 Monitoring and complaint procedures. (1) MONITORING PROCEDURES. The department shall monitor school districts for compliance with subch. V of ch. 115, Stats., and this chapter. If the state superintendent finds that a board has violated subch. V of ch. 115, Stats., or this chapter, the state superintendent shall proceed under sub. (3).

(2) COMPLAINT PROCEDURES. (a) 1. Any person may file a written complaint with the state superintendent alleging that the department or a board has violated a state law under subch. V of ch. 115, Stats., or this chapter.

2. A complaint shall contain the name of the person submitting it and shall be signed. A complaint shall also contain a statement alleging that the department or board violated a state law cited in subd. 1. and it must set forth the facts on which the allegation is based.

3. A complaint shall be filed with the state superintendent within 3 years of the alleged violation.

(b) 1. Within a reasonable amount of time after receiving a complaint against a board, the state superintendent shall send a letter informing the board of the complaint. The letter shall tell the board who filed the complaint and what the complaint alleges and it shall describe the department's responsibility to investigate the complaint.

2. Within 60 days after receipt of a complaint under par. (a), the state superintendent shall:

a. Carry out an independent investigation and, if the state superintendent finds it necessary, carry out an independent on-site investigation; and

b. Either dismiss the complaint if no violations are found or, if violations are found, have a plan developed under sub. (3) (a) for resolution of the complaint.

3. The time limit under subd. 2. may be extended by the state superintendent when exceptional circumstances exist regarding a particular complaint.

4. If the state superintendent finds it necessary he or she may request additional information from the complainant to clarify or further substantiate the complaint. The complainant shall provide

the state superintendent with the additional information within 10 days of receipt of a written request.

5. If the state superintendent finds that there is not sufficient information on file relating to a board's implementation of subch. V, ch. 115, Stats., or of this chapter, the state superintendent may request whatever information is needed from the board. The board shall provide the state superintendent with the information within 10 days of receipt of a written request.

6. If the state superintendent finds that the department or a board is in compliance with subch. V of ch. 115, Stats., and this chapter, the state superintendent shall send to the parties to the complaint a report of the issues raised in the complaint, the disposition of the issues and any agreement reached by the parties.

7. If the state superintendent finds that the department or a board has violated subch. V of ch. 115, Stats., or this chapter the state superintendent shall proceed under sub. (3).

(3) PLAN OF CORRECTION. (a) If as a result of conducting a monitoring procedure or of investigating a complaint, the state superintendent finds that the department or a board has violated subch. V of ch. 115, Stats., or this chapter the state superintendent shall require the department or the board to develop a plan of correction. The plan shall specify the time period within which compliance will be achieved. The plan must be approved by the state superintendent.

(b) If a board fails to comply with the plan under par. (a) the state superintendent may take appropriate action under s. 115.89, Stats.

Note: Any information or document that is required to be sent to the state superintendent should be sent to the Wisconsin Department of Public Instruction, Division for Handicapped Children and Pupil Services, P.O. Box 7841, Madison, Wisconsin 53707.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.16 Rights at adulthood. (1) RIGHTS ACCRUE TO THE CHILD. Except as provided in sub. (2), when a child with EEN attains the age of 18 years he or she shall have all the rights and responsibilities that were formerly provided to his or her parents under this chapter.

(2) RIGHTS ACCRUE TO A GUARDIAN. If a child with EEN who has attained the age of 18 years has a guardian appointed under ch. 880, Stats., the rights and responsibilities provided to parents under this chapter shall accrue to the child's guardian unless specifically otherwise provided in the guardianship proceeding.

History: Cr. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.17 Director. (1) POLICY. To ensure that all children with EEN receive appropriate special education services, the LEA may organize special education services into an administrative structure under a level A-certified director. Special education programs shall be implemented through one or more of the following administrative structures:

(a) *District.* Special education programs operated by a district and administered by a director directly employed by the district.

(b) *District.* Special education programs operated by districts and administered by a director employed by the CESA and contracted by the district. The director shall be considered a district director for each district. Subsection (4) (a) shall be applicable to this section.

(c) *CHCEB.* Special education programs operated by a CHCEB and administered by a director employed by the CHCEB.

(d) *Cooperative agreement (66.30).* Special education programs operated by 2 or more districts or CHCEBs through a 66.30 cooperative and administered by a director employed under the 66.30 cooperative agreement.

(e) *CESA.* Special education programs operated by a CESA and administered by a director employed by the CESA.

(2) ELIGIBILITY. The services of a full or part-time director may be utilized when the LEA becomes eligible for reimbursement according to the following:

(a) A district operating special education programs attains the necessary personnel/programs required for state reimbursement of special education leadership personnel (Table 1 following s. PI 11.17).

(b) A district attains the necessary personnel/program criteria located within the district but operated by a combination of LEAs. Units shall not be duplicated for count for directors.

(c) An LEA operating the program shall obtain the necessary personnel/program units required for state reimbursement of special education leadership personnel (sub.(3)).

(d) In areas of potential program unit growth based on incidence, a director shall be considered for approval by the division for program development for one calendar year.

(3) REIMBURSEMENT. The department shall reimburse the employing LEA for the salary and fringe benefits of full-time special education leadership personnel at 70% when the program/personnel criteria are met and the director has assumed the responsibilities as enumerated in sub. (4) (a) and (b). Operation of 10 program units or employment of 20 reimbursable special education staff shall qualify an LEA for reimbursement at the 70% level by the department.

(a) Reimbursement to the employing LEA for half-time directors shall be 70% of the 50% portion of time allocated to administering programs/services for children with EEN.

(4) ROLE OF THE DIRECTOR. The function of the director shall be to provide within legal and recognized professional standards an organizational framework in which efficient and appropriate special education leadership can be provided to plan, develop, implement and evaluate appropriate special education offerings to children with EEN. The director shall be the identified administrative leader responsible for all special educational services.

(a) *General responsibilities.* The director shall be responsible and accountable for the special education administrative structure to the administrator(s) or CHCEB, or both, and shall have requisite authority for budget preparation, administration and supervision of special education services staff; shall be responsible for development, placement, implementation and evaluation of programs and services for children with EEN and shall articulate special education with regular education.

(b) *Specific responsibilities.* A state-funded director shall be responsible and accountable for the development, implementation and evaluation of the following:

1. Placement decision, admission, programming, termination and follow-up for individual children with EEN served by special education programs.

2. Administration, supervision and coordination of special education instructional and ancillary personnel for all aspects of programs and services for children with EEN.

a. The development, administration and operation of the M-team(s) and reports on children with EEN.

3. A comprehensive continuum of coordinated programs and services for children with EEN including communication channels for the interface between special and regular education, parents and liaison with other agencies.

4. Staff development including inservice and continuing education programs for special education instructional and ancillary personnel, regular education personnel, other district personnel, parents and other community personnel.

5. Appropriate facilities, special transportation and resources for pupils, staff, programs and services.

6. Budget preparation, implementation and fiscal accountability.

7. All special education report forms and district plans as required by the department and the division.

8. The screening, identification and referral of children with suspected EEN; the director shall have input into these processes and procedures.

(5) DISTRICT RESPONSIBILITY. The district shall be responsible for assessing local needs in determining the nature of special education leadership resources necessary for appropriate special education program planning, implementation and evaluation.

(a) A written plan for the position shall include goals, roles, responsibilities and accountability procedures related to program planning, implementation and evaluation and shall be submitted to the division for approval prior to employment of the individual.

(b) The services of special education administrative personnel shall be annually evaluated by the employing agency for effectiveness and efficiency. The evaluation shall include the adequacy of personnel resources in relation to local special education program management needs.

Table 1

Criteria for reimbursement of directors

Any LEA interested in employing or utilizing a director shall seek consultation with the division to determine the appropriateness and eligibility for such a position. LEAs shall be reimbursed at 70%, commensurate with other handicapped children fiscal aids, of the salaries and fringe benefits of full or part-time directors if the services of the director encompass one or more of the criteria listed below.

1. Reimbursable staff.

Directly accountable to director. Includes special education teachers, handicapped children's aides, school psychologists, school social workers, physical therapists, physical therapy aides, occupational therapists and any other approved special staff.

Full-time (currently 70% of salary)—20 reimbursable staff

Part-time (currently 70% of part-time employment)—10 reimbursable staff.

Leadership staff may be employed by another fiscal agent, e.g., CHCEB, CESA.

2. Program units. Operation.

(a) Reimbursable program units operated by the district. Program unit count does not include ancillary personnel.

10 units. Language units count the same as other disability units.

5 units. Language units count the same as other disability units.

(b) Program units located within a district but operated by district, CHCEB, CESA or 66.30 or any combination. Units may not be duplicated for count for directors.

10 units actually located within district.

5 units located within district.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.11, Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.18 Assistant director. (1) POLICY. One option which may be utilized in the employment of additional special education administrative personnel is the employment of an assistant direc-

tor(s) through a variety of administrative structures (s. PI 11.17 (1)).

(2) ELIGIBILITY. Consideration may be given to employment of a full-time assistant director when the LEA is eligible for reimbursement according to the following:

(a) The assistant director shall hold the licensure of a level A director.

(b) Prior to the employment of an assistant director, the LEA shall have employed or contracted with a director.

(c) The LEA operating the special education program(s) shall have attained the 15 additional program units beyond those required for the director for state reimbursement of an assistant director (s. PI 11.17 (3)).

(d) Determining eligibility. See s. PI 11.17 (2).

(e) A written plan. See s. PI 11.17 (5) (a).

(3) REIMBURSEMENT. See s. PI 11.17 (3).

(4) ROLE OF THE ASSISTANT DIRECTOR. The function of the assistant director shall be to carry out the responsibilities as enumerated in s. PI 11.17 (4) as delegated by the director.

Note: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.12, and am. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.19 Program supervisor—level A. (1) POLICY. An option which may be utilized in the employment of additional special education administrative personnel is the employment of a level A program supervisor(s) through various administrative structures (s. PI 11.17 (1)).

(2) ELIGIBILITY. Consideration may be given to employment of a full-time or half-time level A supervisor when the LEA is eligible for reimbursement according to the following:

(a) An individual considered for this position shall hold a level A license in the appropriate program area(s) and shall have completed 3 years of successful teaching as evaluated by the employing LEA in the special education program area to be supervised.

(b) To be eligible for reimbursement of a program supervisor, the LEA shall have employed or contracted with a director as specified in s. PI 11.17.

(c) Program designees shall not be used in lieu of a director in obtaining administrative and supervisory personnel.

(d) The LEA operating the special education programs shall meet the necessary program unit requirements for state reimbursement (s. PI 11.17 (3)).

(e) Determining eligibility. See s. PI 11.17 (2).

(f) The LEA shall be eligible for reimbursement of a half-time and full-time level A program supervisor with 5 and 10 program units, respectively.

(g) A written plan. See s. PI 11.17 (5) (a).

(h) Districts operating programs in low prevalence disability areas, e.g., deaf, vision, physical handicapped, may request the division to consider possible exception(s) to the unit count to be eligible for reimbursement of a supervisor's salary.

(i) In areas of potential program unit growth based on incidence, a supervisor shall be considered for approval by the division for program development for one calendar year.

(3) REIMBURSEMENT. See s. PI 11.17 (3).

(4) ROLE OF PROGRAM SUPERVISOR. A level A program supervisor shall provide expert leadership of the administrative and supervisory functions related to program planning, implementation and evaluation in the specific program area(s).

(a) *General responsibilities.* A level A program supervisor shall be under the authority of and accountable to the director or assistant director, or both, and shall be responsible for programs and services for identified children with EEN, special education teachers and ancillary staff in a program area.

(b) *Specific responsibilities.* Specific responsibilities which shall be assigned in a program area include:

1. Development of new and expanded educational opportunities within program areas.

2. Development of appropriate program goals, objectives, program evaluation criteria and tools.

3. Periodic needs assessment of program area and preparation of reports for the director.

4. Assumption of other program accountability reporting and liaison activities as assigned by the director.

5. Responsibility for M-team(s).

6. Review of M-team recommendations for purposes of assisting teachers in designing and implementing the most appropriate instructional approach.

7. Responsibility for maximizing teachers' effectiveness in designing and implementing the most appropriate instructional approach.

8. Responsibility for improvement of teacher competencies in instruction of children assigned to the program area.

9. Monitoring of the performances of teachers assigned to program area.

10. Designing and directing inservice training sessions for regular and special education teachers working with children with EEN in the specific program area.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.13 and am. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.20 Program supervisor—level B. (1) POLICY. An option which may be utilized in the employment of additional special education administrative personnel is the employment of a level B-certified program supervisor(s) through various administrative structures (s. PI 11.17 (1)).

(2) ELIGIBILITY. Consideration may be given to employment of a full-time or half-time level B program supervisor when the LEA becomes eligible for reimbursement according to the following:

(a) Evidence that a level A-certified and qualified supervisor is not available for employment.

(b) An individual considered for this position shall hold a level B supervisory license in the appropriate program area(s) and shall have completed 3 years of successful teaching, as evaluated by the employing LEA in the special education program area to be supervised.

(c) Prior to the employment of a level B program supervisor, the LEA shall have employed or contracted with a director.

(d) Program units. See s. PI 11.19 (2) (f).

(e) No more than one level B program supervisor shall be approved until there is an approved full-time level A supervisor employed in that special education program area.

(f) Determining eligibility. See s. PI 11.17 (2).

(g) A written plan. See s. PI 11.17 (5) (a).

(h) Districts operating programs in low prevalence disability areas. See s. PI 11.19 (2) (h).

(i) Potential program unit growth. See s. PI 11.19 (2) (i).

(3) REIMBURSEMENT. See s. PI 11.17 (3). An individual serving in this position shall be reimbursed for only 3 school-calendar years at which point a level A licensure must be in effect for a continuation of reimbursement as a program supervisor.

(4) ROLE OF LEVEL B PROGRAM SUPERVISOR. The role of the level B program supervisor shall be to provide coordinative and supportive services to improve the instructional programming for children in special education program areas. The level B program supervisor shall function in a liaison role between instructional staff and other administrative/supervisory personnel. The level B program supervisor shall be responsible and accountable to the director or the assistant director or the level A program supervisor, or any combination thereof.

(a) *General responsibilities.* General responsibilities which shall be assigned to a level B program supervisor shall be the same as the general responsibilities of a level A program supervisor (s. PI 11.19 (4) (a)).

(b) *Specific responsibilities.* Specific responsibilities which shall be assigned to a level B program supervisor are the same as the specific responsibilities of a level A program supervisor (s. PI 11.19 (4) (b)).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.14 and am., Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.21 Program support teacher. (1) POLICY. To ensure that all instructional units have adequate support services, the LEA may utilize a program support teacher as a leadership option when appropriate within a special education program area. Utilization of a program support teacher(s) in a specific program area(s) shall be contingent upon prior employment or contract of a director in the LEA operating the special education program. Support teacher services may be implemented through a variety of administrative structures (s. PI 11.17 (1)).

(2) **ELIGIBILITY** Eligibility for a program support teacher shall be based on current full-time LEA administered/supervised teaching positions in the specific program area. To qualify for this position, the following program criteria shall be met:

(a) To be eligible for a program support teacher, the LEA operating the special education program shall have employed/contracted for the services of a level A director when the total number of programs reaches the requirements established by the division (Table 1, following s. PI 11.17).

(b) Only approved full-time program units shall be included in the count. The program unit count shall not include diagnostic, ancillary, support or itinerant personnel.

(c) Program units. See s. PI 11.19 (2) (f).

(d) Half-time and full-time program support teachers shall be required to provide direct services to children with EEN as part of their overall role and function. This assistance shall be documented (sub. (3) (a) 4. and 5.).

(e) When there are 15 or more units in the program area, no more than one program support teacher for that program area shall be reimbursed unless a level A or level B program supervisor is employed for that program area.

(f) A minimum of 5 program units for half-time and 10 program units for full-time within a specific program area shall be required for each additional program support teacher.

(3) **REIMBURSEMENT.** See s. PI 11.17 (3).

(a) A written plan for this position shall be annually submitted by the LEA to the division through the program area supervisor for item review. The program plan shall include the following elements:

1. Program rationale.
2. Clearly articulated need.
3. Number of program units.
4. Teacher role and function.
5. Case load.
6. Work schedule.
7. Position evaluation.
8. Any other information requested by the division.

(b) Reimbursement for this position shall be contingent upon prior approval of the division and shall begin on the date of supervisory and review committee approval.

(4) **PROGRAM SUPPORT TEACHER REQUIREMENTS.** The program support teacher shall meet all of the following requirements:

(a) A 3-year license in one or more areas of specialization, one area of which is specific to that program to be supported.

(b) A minimum of 3 years of successful teaching experience, as evaluated by the employing agency, after the issuance of the 3-year license in the area of specialization.

(c) Evidence of competencies in classroom management, individual and group management, educational diagnosis and evaluation, parent training, curriculum development, instructional mate-

rials development, program evaluation and relationships with other teachers.

(d) Advanced course work in educational diagnosis and evaluation, classroom management techniques, curriculum development, learning theory and remedial/developmental techniques.

(e) Candidate role and function shall be negotiated by the LEA director, the division review committee and program area supervisor.

(5) **ROLE OF THE PROGRAM SUPPORT TEACHER.** The role of the program support teacher shall be to provide for implementation of direct services to children with EEN as contrasted to administrative decision-making or supervision of teaching personnel. The purpose of this position is to assist the special education administrative/instructional personnel in the development, implementation and evaluation of programs and services in the program area. Pursuant to s. 115.83 (1) (b), Stats., the program support teacher shall also provide consulting services to the regular education teacher for those children with EEN enrolled in regular education classrooms. The program support teacher(s) shall be responsible to the director or program supervisor, or both.

(a) *General responsibilities.* The primary responsibility shall focus upon services to children with EEN and to special education and regular education teachers in the areas of diagnosis and intervention procedures, classroom management, curriculum development, instructional methods, educational diagnosis and instructional materials and equipment.

(b) *Specific responsibilities.* Specific responsibilities shall include the following:

1. Assist in educational evaluations as part of the M-team.
2. Review, with the special education or regular education teachers, or both, the M-team recommendations.
3. Assist the special education or regular education teachers, or both, in providing quality and comprehensive instruction for the children assigned to the program area.
4. Serve as a liaison between special or regular education teachers, or both, and supervisors in the special education administrative structure.
5. Participate in parent conferences and training.
6. Provide inservice training for regular and special education personnel, other district personnel, parents and community personnel.
7. Serve as a liaison with other agencies involved in programming for individual children with EEN.
8. Any duties considered appropriate for the program support teacher shall be negotiated with and approved by the division.
9. Provide services to children with EEN who are returned full or part-time to regular classes.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; am. (4) (c), Register, November, 1976, No. 251, eff. 12-1-76; (3) (a), Register, November, No. 275, eff. 12-1-78; renum. from PI 11.15 and am., Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.22 School psychological services. (1) CONTRACTING. School districts may utilize the services of certified school psychologists through a variety of administrative arrangements.

(a) School district employment

(b) Contract with a cooperative educational service agency (CESA)

(c) Purchase of service through contract with another school district

(d) Cooperative agreement by 2 or more school districts under s. 66.30 Stats.

(e) Assignment to the district by a county handicapped children's education board (CHCEB)

(f) Contract with a county handicapped children's education board (CHCEB)

(2) **ANNUAL PLAN OF SCHOOL PSYCHOLOGICAL SERVICES.** Annually, on or before February 1, preceding the beginning of the fiscal

year (July 1 – June 30) during which the plan is to take effect, each school district, combination of districts under a s. 66.30, Stats., agreement, CESA, or CHCEB shall submit to the department (division for instructional services) an annual plan of school psychological services for the district. However, only those portions of the plan which represent changes or modifications of previously approved annual plans of the district need be submitted annually.

(a) The annual plan shall contain a narrative portion which describes all school psychological services (senior and junior level, paraprofessionals, psychologists in training) provided by the employing agency.

(b) The annual plan of school psychological services shall include form PI-IS-13, school psychologist's plan and report, completed by each school psychological services staff member and form PI-IS-11, the financial plan and claim form. If staff members or their assignments are unknown by the February 1 filing date, the form PI-IS-13 may be submitted when the staff member and the assignment are known, but not later than September 15 of the fiscal year. Accounting is by the fiscal year; estimated approved costs to be paid from July 1 to the following June 30 shall be reported on form PI-IS-11. CESA, CHCEB, and s. 66.30, Stats., employed school psychologists serving more than one district, shall complete a separate form PI-IS-13 for each district served. CESA's, pursuant to s. 116.08 (4), Stats., shall submit for approval all contracts involving school psychological services staff as soon as the contracts are available and before funds are paid out under them.

(c) The annual plan of school psychological services shall be reviewed and approved by the department (division for instructional services) and returned to the employing agency preceding the beginning of the fiscal year.

(3) **YEAR-END REPORT.** By July 15, following the fiscal year, each district, combination of districts under a s. 66.30, Stats., agreement, CESA, or CHCEB, employing school psychological services personnel shall submit a year-end report, including the claim for reimbursement of approved costs. Claims postmarked after August 15 shall not be honored, unless exceptions are approved by the state superintendent. Form PI-IS-11 shall be signed by the district (CESA, CHCEB) administrator after having verified the accuracy of the statements on both forms. A form PI-IS-13 shall be submitted for each approved school psychological services staff member for each district attesting to the individual staff member's services provided to or on behalf of exceptional and non-exceptional children. In addition, an evaluation of the services by the agency's designated administrator in terms of progress toward the goals established for these staff members shall be included in the year-end report. Such year-end reports are subject to audit by the state department of public instruction.

(4) **REIMBURSEMENT OF APPROVED COSTS FOR SCHOOL PSYCHOLOGICAL SERVICES.** (a) The reimbursement of school psychological services personnel under this chapter is contingent upon meeting the department's approval of:

1. Annual plan of school psychological services, including forms PI-IS-11 and PI-IS-13 and s. 66.30, Stats., agreements (see sub. (2)).
2. Approved costs (see sub. (5)).
3. Approved personnel (see sub. (6)).
4. Approved services (see subs. (7) (9)).
5. Year-end report (see sub. (3)).
6. Submission of other reports, including evidence of compliance with other rules and regulations pursuant to federal and state statutes, as required by the department (division for instructional services).

(b) The rate of state aid reimbursement for each senior level school psychologist under this program shall be in conformity with applicable legislative and budgetary mandates contained in

s. 115.88 (1) (b), Stats. The amount of state aids under this program is computed on the basis of the year-end report.

(c) If the employing agency applies for funding for school psychologists under any other federal or state funding program, it should also file a plan under this program. Combined federal and state funds may not exceed the approved costs for these services. All sources of funding for these services shall be noted in the annual plan and year-end report.

(d) Part-time senior level school psychologists are eligible for reimbursement under this program if they are under contract to the district, CESA, or CHCEB on at least a one-half time basis during the period of their contract, unless exceptions are submitted for consideration and approval by the state superintendent.

(e) One full-time school psychologist or equivalent may be funded under this program for each 1,500 pupils served by the school district, except where a demonstrated need exists and where approval has been granted in advance by the department. Smaller districts may be funded on a pro rata basis. County handicapped children's education boards, cooperative educational service agencies, and combinations of local school districts meeting the pupil population requirements of this paragraph are eligible to participate. School psychologists may provide services to or on behalf of children with actual or potential exceptional educational needs and other children from pre-school to age 21.

(5) **APPROVED COSTS.** All approved costs shall be included on form PI-IS-11 in the annual plan (estimated costs) and in the year-end claim (actual costs) for reimbursement, against which the appropriate reimbursement rate shall be applied. Approved costs consist of the senior level school psychologist's salary and board approved fringe benefits, which may include insurance, retirement, and social security costs.

(6) **APPROVED PERSONNEL.** Approved school psychological services personnel, full or part-time, may consist of the following:

(a) *Certified senior level school psychologists.* The reimbursed school psychologist shall hold a current Wisconsin certificate as a senior level school psychologist. The school psychologist I (position code 57) certificate confers eligibility for reimbursement for 2 years only. Only those certified senior level school psychologists who serve as school psychologists, directors or supervisors of pupil services or school psychological services shall be eligible for state aids under subch. V of ch. 115, Stats., unless exceptions are approved in advance by the department.

(b) *Certified junior level school psychologists.* The junior level school psychologist shall hold a current certificate as a provisional school psychologist (position code 56), or as a school psychometrist (position code 60). Certification as a junior level school psychologist confers no eligibility for reimbursement under this state program, although such personnel may be funded in part or full by various federal and other state funding programs.

(c) *Paraprofessionals.* Paraprofessionals may be employed to assist school psychologists. Unless approved for funding as a handicapped aide, such paraprofessionals are not eligible for state funding under this program.

(7) **APPROVED SERVICES.** Approved services by school psychological services personnel are those approved by the state superintendent.

(8) **EVALUATION.** Evaluation of and inservice for school psychologists shall be provided by the employing agency.

(9) **ROLE OF THE SCHOOL PSYCHOLOGIST.** The function of the school psychologist shall be to provide within legal and recognized professional standards an organizational and service framework within which efficient and appropriate school psychological services are provided to children, parents, and school staff.

(a) *General responsibilities.* The school psychologist shall be responsible and accountable for school psychological services delivered to the administration of all programs served; shall be responsible for development, implementation, professional super-

vision, and articulation of psychological services to the programs of the agency, and shall report to the designated agency administrator regarding the organization and effectiveness of the services. School psychologists providing services for children with suspected or verified EEN's may be included in the count of personnel to determine eligibility of a director of special education for reimbursement, whether or not such staff are placed administratively under that director.

(b) *Specific responsibilities.* A state funded school psychologist shall be responsible and accountable for the development, implementation, and evaluation of the following:

1. A comprehensive continuum of coordinated psychological services for children who are experiencing extraordinary educational problems, including those with suspected or identified EEN and others whose needs can best be met through special provisions within regular education, through parent consultation, and the utilization of community based resources.

2. School psychological services as a part of a comprehensive M-team assessment and program planning procedure for children with suspected EEN, when indicated, or for alternative planning when it is determined that the child does not have an EEN.

3. Non-biased intellectual, personality, and adaptive assessment of children utilizing individually administered informal and standardized assessment techniques.

4. Psychological intervention and consultation for children, parents, and staff with regard to the educational, social, emotional, and behavioral needs of children.

5. Specialized resources to meet the identified needs of children.

6. Inservice education and staff development activities with respect to identification, non-discriminatory evaluation, programming, screening, and other procedures relevant to children with and without EEN.

7. Liaison with appropriate community agencies with regard to children whose special needs require such community agency assistance.

8. Other service and program obligations consistent with state and federal laws, rules, and regulations.

9. Evaluation and research with regard to the effectiveness of services.

10. All psychological services, plans and report forms as required by the department and federal programs.

(10) **PROGRAM ADMINISTRATION.** Further questions regarding this program as well as annual plans and reports shall be directed to: supervisor-school psychological services, department of public instruction.

History: Cr. Register, September, 1977, No. 261, eff. 10-1-77; am. (6) (a), Register, February, 1983, No. 326, eff. 3-1-83; renum. from PI 11.16, Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.23 School social work services. (1) CONTRACTING. School districts may utilize the services of certified school social workers through a variety of administrative arrangements. See s. PI 11.22 (1).

(2) **ANNUAL PLAN OF SCHOOL SOCIAL WORK SERVICES.** Annually, on or before February 1, preceding the beginning of the fiscal year (July 1 - June 30) during which the plan is to take effect, each school district, combination of districts under s. 66.30, Stats., agreement, CESA, or CHCEB shall submit to the department (division for instructional services) an annual plan of school social work services for the district. However, only those portions of the plan which represent changes or modifications of previously approved annual plans of the district need be submitted annually.

(a) The annual plan shall contain a narrative portion which describes all school social work services provided by the employing agency.

(b) The annual plan of school social work services shall include form PI-IS-12, school social worker's plan and report, completed

by each school social work services staff member and form PI-IS-61, the financial plan and claim form. If staff members or their assignments are unknown by the February 1 filing date, the form PI-IS-12 may be submitted when the staff member and the assignment are known, but not later than September 15 of the fiscal year. Accounting is by the fiscal year; estimated approved costs to be paid from July 1 to the following June 30 shall be reported on form PI-IS-61. CESA, CHCEB, and s. 66.30, Stats., employed school social workers serving more than one district, shall complete a separate form PI-IS-12 for each district served. CESA's, pursuant to s. 116.08 (4), Stats., shall submit for approval all contracts involving school social work services staff as soon as the contracts are available and before funds are paid out under them.

(c) The annual plan of school social work services shall be reviewed and approved by the department (division for instructional services) and returned to the employing agency preceding the beginning of the fiscal year.

(3) **YEAR-END REPORT.** By July 15, following the fiscal year, each district, combination of districts under a s. 66.30, Stats., agreement, CESA, or CHCEB, employing school social work services personnel shall submit a year-end report, including the claim for reimbursement of approved costs. Claims postmarked after August 15 shall not be honored, unless exceptions are approved by the state superintendent. Form PI-IS-61 shall be signed by the district (CESA, CHCEB) administrator after having verified the accuracy of the statements on both forms. A form PI-IS-12 shall be submitted for each approved school social work services staff member for each district served attesting to the individual staff member's services provided to or on behalf of exceptional and non-exceptional children. In addition, an evaluation of the services by the agency's designated administrator in terms of progress toward the goals established for these staff members shall be included in the year-end report. Such year-end reports are subject to audit by the state department of public instruction.

(4) **REIMBURSEMENT OF APPROVED COSTS FOR SCHOOL SOCIAL WORK SERVICES.** (a) The reimbursement of school social work services personnel under this chapter is contingent under the department's approval of:

1. Annual plan of school social work services, including forms PI-IS-61 and PI-IS-12 and section 66.30, Stats., agreements (see sub. (2)).

2. Approved costs (see sub. (5)).

3. Approved personnel (see sub. (6)).

4. Approved services (see subs. (7) and (9)).

5. Year-end report (see sub. (3)).

6. Submission of other reports, including evidence of compliance with other rules and regulations pursuant to federal and state statutes, as required by the department (division for instructional services).

(b) The rate of state aid reimbursement for each school social worker under this program shall be in conformity with applicable legislative and budgetary mandates contained in this s. 115.88 (1) (b), Stats. The amount of state aids under this program is computed on the basis of the year-end report.

(c) If the employing agency applies for funding for school social workers under any other federal or state funding program, it should also file a plan under this program. Combined federal and state funds may not exceed the approved costs for these services. All sources of funding for these services shall be noted in the annual plan and year-end report.

(d) Part-time school social workers are eligible for reimbursement under this program if they are under contract to the district, CESA, or CHCEB on at least a one-half time basis during the period of their contract, unless exceptions are submitted for consideration and approval by the state superintendent.

(e) One full-time school social worker or equivalent may be funded under this program for each 1,500 pupils served by the

school district. Smaller districts may be funded on a pro rata basis. County handicapped children's education boards, cooperative educational service agencies, and combinations of local school districts meeting the pupil population requirements of this paragraph are eligible to participate. School social workers may provide services to or on behalf of children with actual or potential exceptional education needs and other children from pre-school to age 21.

(5) **APPROVED COSTS.** All approved costs shall be included on form PI-IS-61 in the annual plan (estimated costs) and in the year-end claim (actual costs) for reimbursement, against which the appropriate reimbursement rate shall be applied: Approved costs consist of the social worker's salary and board approved fringe benefits, which may include insurance, retirement, and social security costs.

(6) **APPROVED PERSONNEL.** The reimbursed school social worker shall hold a current Wisconsin certificate as a school social worker (see s. PI 3.54). Only certified school social workers who serve as school social workers, directors or supervisors of pupil services or school social work services shall be eligible for state aids under subch. V of ch. 115, Stats., unless exceptions are approved in advance by the department.

(7) **APPROVED SERVICES.** Approved services by school social work services personnel are those approved by the state superintendent.

(8) **EVALUATION.** Evaluation of and inservice for school social workers shall be provided by the employing agency.

(9) **ROLE OF THE SCHOOL SOCIAL WORKER.** The role of the school social worker shall be to provide for the adaptive, social-emotional, behavioral, personal, family and community liaison needs of exceptional education children and other children.

(a) *Specific responsibilities.* Among the job services for which a state funded school social worker providing EEN services under sub. (9) is responsible are the following:

1. Provide individual evaluations based on adaptive behaviors (including administering adaptive behavior scales), socio-cultural adjustments, and family background as part of the multidisciplinary team when indicated.

2. Assist in the smooth transition of exceptional educational needs children as they pass from special education to regular education and vice versa.

3. As required to meet student needs, coordinate school and community services such as those provided by headstart, day-care centers, work-orientation centers, county welfare agencies, family service agencies, community action programs and other human services organizations.

4. Collaborate with other professionals in classroom management with specific regard to aspects of the curriculum concerned with social and emotional developments, family cooperation, and adaptive behaviors as they relate to cultural background and experiences and linguistic variables.

5. Coordinate (recruit, evaluate, and supervise) boarding home programs for children with exceptional educational needs, and carry out any other responsibilities as may be outlined in the Policy and Procedure Manual, Boarding Home Program, Division for Handicapped Children.

6. Provide supportive services (interpretation and clarification) to families in facilitating their understanding of the broad ranges of educational, professional and technical language as it is utilized in service definitions, program titles and diagnostic statements.

7. Inservice to school personnel and parents as it relates to any and all procedures relevant to children with exceptional educational needs.

8. Research, develop and evaluate school social work programs relating to children with exceptional educational needs.

9. Other service and program obligations consistent with state and federal laws, rules, and regulations.

(10) **PROGRAM ADMINISTRATION.** Further questions regarding this program as well as annual plans and claims shall be directed to: Supervisor-School Social Work Services, Department of Public Instruction.

History: Cr. Register, September, 1977, No. 261, eff. 10-1-77; am. (6), Register, February, 1983, No. 326, eff. 3-1-83; renum. from PI 11.17 and am. Register, May, 1990, No. 413, eff. 6-1-90.

Note: See ch. PI 19 for rules on education for school age parents.

PI 11.24 Related service: physical and occupational therapy. (1) **LEGISLATIVE INTENT.** Subchapter V, ch. 115, Stats., gives an LEA the authority to establish physical therapy and occupational therapy services. The authority contained in s. 115.83

(1) (a), Stats., is limited to approving special physical or occupational therapy services for children with EEN.

(2) **PLAN OF SERVICE.** The LEA shall develop a plan of service for providing physical therapy or occupational therapy or both when required, as a related service to the special education program. The plan shall be submitted to the division for approval.

Note: <note> Form PI-2200, Plan of Service, may be obtained at no charge by writing to the Wisconsin Department of Public Instruction, Bureau for Exceptional Children, P.O. Box 7841, Madison, WI 53707-7841.

(3) **M-TEAM.** The formation and functioning of the M-team for children who appear to require physical therapy or occupational therapy or both shall be organized and function pursuant to s. PI 11.04. The M-team shall determine whether occupational therapy, physical therapy or both are required to assist a child with EEN to benefit from the special education program.

(4) **IEP MEETING.** The participants in the IEP meeting may include physical therapy or occupational therapy or both in a child's IEP if the M-team has concluded the child needs the therapy. The participants in the IEP meeting may delete physical therapy or occupational therapy or both from a child's IEP.

(5) **RESPONSIBILITY OF DIRECTOR OR PROGRAM DESIGNEE.** (a) The director shall be responsible for the supervision and evaluation of personnel providing physical and occupational therapy under this section.

(b) The director or the program designee shall be responsible for the administration of physical and occupational therapy provided under this section.

(6) **DIVISION AND DEPARTMENT RESPONSIBILITIES.** (a) The division shall notify the LEA of the approval or disapproval of the LEA's plan of service submitted under sub. (2).

(b) The department shall reimburse the LEA for the salaries and fringe benefits of personnel under this section and for the transportation of children for the purpose of receiving physical therapy or occupational therapy as specified under ss. 115.88 and 115.882, Stats.

(7) **PHYSICAL THERAPISTS' LICENSURE AND SERVICE REQUIREMENTS.** (a) *Licensure.* A school physical therapist shall be licensed by the department under s. PI 3.37.

(b) *Caseload.* 1. Except as specified under subds. 2. and 3., the caseload for a full-time school physical therapist shall be as follows:

a. A minimum of 15 children.

b. A maximum of 30 children.

c. A maximum of 45 children with one or more school physical therapist assistants.

2. The caseload for a part-time school physical therapist may be pro-rated based on the specifications under subd. 1.

3. A caseload may vary from the specifications under subd. 1. or 2., if approved in the LEA's plan of service under sub. (2). The following shall be considered in determining whether the variance may be approved:

a. Frequency and duration of physical therapy as specified in the child's IEP.

- b. Travel time.
- c. Number of evaluations.
- d. Preparation time.
- e. Student related activities.

(c) *Medical information.* The school physical therapist shall have medical information from a licensed physician regarding a child before the child receives physical therapy.

(d) *Delegation and supervision of physical therapy.* 1. The school physical therapist may delegate to a school physical therapist assistant only those portions of a child's physical therapy which are consistent with the school physical therapist assistant's education, training and experience.

2. The school physical therapist shall supervise the physical therapy provided by a school physical therapist assistant. The school physical therapist shall develop a written policy and procedure for written and oral communication to the physical therapist assistant. The policy and procedure shall include a specific description of the supervisory activities undertaken for the school physical therapist assistant which shall include either of the following levels of supervision:

a. The school physical therapist shall have daily, direct contact on the premises with the school physical therapist assistant.

b. The school physical therapist shall have direct, face-to-face contact with the school physical therapist assistant at least once every 14 calendar days. Between direct contacts, the physical therapist shall be available by telecommunication. The school physical therapist providing general supervision under this subdivision shall provide an on-site reevaluation of each child's physical therapy a minimum of one time per calendar month or every tenth day of physical therapy, whichever is sooner, and adjust the physical therapy as appropriate.

3. A full-time school physical therapist may supervise no more than 2 full-time equivalent physical therapist assistant positions which may include no more than 3 physical therapist assistants.

4. Notwithstanding the provisions under this paragraph, the act undertaken by a school physical therapist assistant shall be considered the act of the supervising physical therapist who has delegated the act.

(e) *Responsibility of school physical therapist.* A school physical therapist under this subsection shall conduct all physical therapy evaluations and reevaluations of a child, participate in the development of the child's IEP, and develop physical therapy treatment plans for the child. A school physical therapist may not be represented by a school physical therapist assistant at an M-team meeting.

(8) SCHOOL PHYSICAL THERAPIST ASSISTANTS' QUALIFICATIONS AND SUPERVISION OF PHYSICAL THERAPY. (a) *Licensure.* A school physical therapist assistant shall be licensed by the department under s. PI 3.375.

(b) *Supervision.* The school physical therapist assistant providing physical therapy to a child under this section, shall be supervised by a school physical therapist as specified under sub. (7) (d).

(9) OCCUPATIONAL THERAPISTS' LICENSURE AND SERVICE REQUIREMENTS. (a) *Licensure.* The school occupational therapist shall be licensed by the department under s. PI 3.36.

(b) *Caseload.* 1. Except as specified under subs. 2. and 3., the caseload for a full-time school occupational therapist shall be as follows:

- a. A minimum of 15 children.
- b. A maximum of 30 children.
- c. A maximum of 45 children with one or more occupational therapy assistants.

2. The caseload for a part-time school occupational therapist may be pro-rated based on the specifications under subd. 1.

3. A caseload may vary from the specifications under subd. 1. or 2., if approved in the LEA's plan of service under sub. (2). The following shall be considered in determining whether the variance may be approved:

a. Frequency and duration of occupational therapy as specified in the child's IEP.

b. Travel time.

c. Number of evaluations.

d. Preparation time.

e. Student related activities.

(c) *Medical information.* The school occupational therapist shall have medical information and medical referral from a licensed physician before a child is evaluated for occupational therapy.

(d) *Delegation and supervision of occupational therapy.* 1. The school occupational therapist may delegate to a school occupational therapy assistant only those portions of a child's occupational therapy which are consistent with the school occupational therapy assistant's education, training and experience.

2. The school occupational therapist shall supervise the occupational therapy provided by a school occupational therapy assistant. The school occupational therapist shall develop a written policy and procedure for written and oral communication to the occupational therapist assistant. The policy and procedure shall include a specific description of the supervisory activities undertaken for the school occupational therapist assistant which shall include either of the following levels of supervision:

a. The school occupational therapist shall have daily, direct contact on the premises with the school occupational therapy assistant.

b. The school occupational therapist shall have direct, face-to-face contact with the school occupational therapy assistant at least once every 14 calendar days. Between direct contacts, the occupational therapist shall be available by telecommunication. The school occupational therapist providing general supervision under this subdivision shall provide an on-site reevaluation of each child's occupational therapy a minimum of one time per calendar month or every tenth day of occupational therapy, whichever is sooner, and adjust the occupational therapy as appropriate.

3. A full-time school occupational therapist may supervise no more than 2 full-time equivalent occupational therapy assistant positions which may include no more than 3 occupational therapy assistants.

4. Notwithstanding the provisions under this paragraph, the act undertaken by a school occupational therapy assistant shall be considered the act of the supervising occupational therapist who has delegated the act.

(e) *Responsibility of school occupational therapist.* A school occupational therapist under this subsection shall conduct all occupational therapy evaluations and reevaluations of a child, participate in the development of the child's IEP, and develop occupational therapy treatment plans for the child. A school occupational therapist may not be represented by a school occupational therapy assistant at an M-team meeting.

(10) SCHOOL OCCUPATIONAL THERAPY ASSISTANTS' QUALIFICATIONS AND SUPERVISION. (a) *Licensure.* A school occupational therapy assistant shall be licensed by the department under s. PI 3.365.

(b) *Supervision.* The school occupational therapy assistant providing occupational therapy to a child under this section shall be supervised by a school occupational therapist as specified under sub. (8) (d).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; am. (7) (b) 1 and (8) (b) 1, Register, February, 1976, No. 242, eff. 3-1-76; am. (7) (b) 4 and (8) (b) 2, Register, November, 1976, No. 251, eff. 12-1-76; am. (1) and (8) (b) 4, Register, February, 1983, No. 326, eff. 3-1-83; r. (11) (b) and (c), renum. (11) (a) to be (11), Register, September, 1986, No. 369, eff. 10-1-86; renum. from PI 11.19, Register, May, 1990, No. 413, eff. 6-1-90; am. (7) (b) 4, Register, October, 1990, No. 418, eff. 11-1-90; am. (7) (a) and (8) (a), Register, March, 1992, No. 435, eff. 4-1-92; am. (1), (2) (in-

tro.) and (3) (intro.), r. (2) (a) to (d), (3) (a), (b) and (11), r. and recr. (4) to (10), Register, July, 1993, No. 451, eff. 8-1-93.

PI 11.25 Diagnostic teacher. (1) POLICY To assist LEAs, the division shall, under certain circumstances, approve the employment of a diagnostic teacher. Utilization of a diagnostic teacher shall be contingent upon prior employment or contract with a director in the LEA operating special education programs. A diagnostic teacher may be employed through a variety of administrative structures (s. PI 11.17 (1)).

(2) ELIGIBILITY In order to qualify for reimbursement of the position, the LEA shall meet the following requirements:

(a) To be eligible for a diagnostic teacher, the LEA operating the special education program shall have employed/contracted for the services of a level A director when the total number of programs reaches the requirements established by the division (Table 1, following s. PI 11.17).

(b) The position shall be reimbursed on a half-time or full-time basis in an LEA.

(c) Teachers employed in this position shall spend 100% of their time with children with suspected and identified EEN in appropriate program areas.

(d) The district shall submit data to the division regarding the backlog of M-team referrals in specific program areas.

(e) This position shall not be used in lieu of the development of other special education program types.

(f) See s. PI 11.21 (2) (f).

(3) REIMBURSEMENT. See s. PI 11.17 (3).

(a) Written plan. Refer to s. PI 11.21 (3) (a).

(b) Prior approval. See s. PI 11.21 (3) (b).

(4) DIAGNOSTIC TEACHER REQUIREMENTS. The diagnostic teacher shall meet the requirements stated in s. PI 11.21 (4).

(5) ROLE OF THE DIAGNOSTIC TEACHER. The role of the diagnostic teacher shall be to provide for implementation of direct diagnostic/consultative services to children with suspected and identified EEN as contrasted to administrative decision-making or supervision of teaching personnel. The purpose of this position shall be to assist the special education administrative/instructional personnel and regular education teaching staff in the evaluation and instructional planning for children with suspected and identified EEN.

(a) General responsibilities shall focus upon providing diagnostic services to children with suspected and identified EEN. Another responsibility shall be to provide consultative services as stated in s. PI 11.21 (5) (a).

(b) Specific responsibilities shall include those responsibilities stated in s. PI 11.21 (5) (b) 1. through 8.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; cr. (2) (f), Register, November, 1976, No. 251, eff. 12-1-76; renum. from PI 11.20 and am. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.26 Self-contained complete program type. DEFINITION. A self-contained complete program is an educational program type operated by the public school which serves students with EEN in all instructional areas. This program type provides for maximum control of the educational and environmental intervention variables and is designed to serve children with severe EEN.

(1) This program type shall have a minimum of one certified special education teacher within a particular program area assigned to a designated number of students. Teacher aides shall be considered for special approval for this program type. Requests for aides shall receive prior approval from the division. Funding for this position shall be initiated on the date of approval.

(2) The enrollment for this program type may vary with a minimum of 5 children. Variation to the minimum enrollment shall require prior consultation with the division. The maximum enroll-

ment variation shall be subject to review or negotiation, or both, between the LEA and the division.

(3) For each year subsequent to publication of these rules, the division shall publish, based on field experience and input, minimum/maximum ranges for each program type and level to be used as a basis for negotiating program approval.

(4) A program plan for this program type shall be submitted to the division for approval prior to the initiation of the program.

(5) The facility shall provide for maximum control of the educational and environmental intervention variables.

(6) The facility shall meet all prescribed standards in the school building codes and shall be determined to be appropriate for the regular and exceptional needs of the children to be served and appropriate to implement the curriculum of the program area. This determination shall be made by the department.

(7) The responsibility and accountability for this program type shall rest with the director or the program designee.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.21, Register, May, 1990, No. 413, eff. 6-1-90; correction made under s. 13.93 (2m) (b) 1., Stats., Register, March, 1996, No. 483.

PI 11.27 Self-contained modified program type. (1)

DEFINITION. A self-contained modified program is a special education program type located in the regular or special school building which serves students with EEN in all instructional areas, but in which the entire class may go to a different teacher or the teacher may come to the special classroom for instruction in specific curriculum areas. This program type provides for a high degree of control of the educational and environmental intervention variables and is designed to serve children with moderate to severe EEN.

(a) **Staff.** This program type shall have a minimum of one certified special education teacher within a particular program area assigned to a designated number of students. Subject area specialists serving this program type shall meet the certification standards of their particular subject area and level. If this program type is operated within a special school, subject area specialists shall be duly certified in both special and regular education per standards of the department. Teacher aides shall be considered for special approval for this program type. Requests for aides shall receive prior approval from the division. Funding for this position shall be initiated on the date of approval.

(b) **Enrollment.** The enrollment for this program type may vary with a minimum of 7 children. Variation to the minimum enrollment shall require prior consultation with the division. The maximum enrollment variation shall be subject to review or negotiation, or both, between the LEA and the division.

(c) **Ranges.** See s. PI 11.26 (3).

(d) **Program plan.** See s. PI 11.26 (4).

(e) **Facility.** The facility shall provide for a high degree of control of the educational and environmental intervention variables and shall meet the requirements stated in s. PI 11.26 (6).

(f) **Responsibility/accountability.** See s. PI 11.26 (7).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.22 and am. Register, May, 1990, No. 413, eff. 6-1-90; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1996, No. 483.

PI 11.28 Self-contained integrated program type. (1)

DEFINITION. A self-contained integrated program is a special education program type located in a regular or special school which serves students with EEN in the majority of instructional areas, but in which individual pupils are integrated into other regular, or special, or both education programs. The teacher of the self-contained program type provides consulting services (s. 115.83 (1) (b), Stats.) to regular education personnel, or special education personnel, or both. This program type provides for control of the educational and environmental intervention variables based on the individual child's needs. The program operates 5 days a week on a full-time basis.

(a) *Staff.* This program type shall have a minimum of one certified special education teacher within a particular program area assigned to a designated number of students. Teacher aides shall be considered for special approval for this program type. Requests for aides shall receive prior approval from the division. Funding for this position shall be initiated on the date of approval.

(b) *Enrollment.* The enrollment for this program type may vary with a minimum of 9 children. Variation to the minimum enrollment shall require prior consultation with the division. The maximum enrollment variation shall be subject to review, or negotiation, or both between the LEA and the division.

(c) *Ranges.* See s. PI 11.26 (3).

(d) *Program plan.* See s. PI 11.26 (4).

(e) *Facility.* Control of the educational and environmental intervention variables shall be determined by individual children's needs based on the principle of the least restrictive alternative (appendix H). The facility shall also meet the requirements stated in s. PI 11.26 (6).

(f) *Responsibility/accountability.* See s. PI 11.26 (7).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.23 and am. Register, May, 1990, No. 413, eff. 6-1-90; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1996.

PI 11.29 Resource room program type. (1) DEFINITION. A resource room program is a special education program type located in a regular school, where the teacher provides for instruction in specific skill areas and the children with EEN enrolled in this program are integrated into the regular academic programs. The resource room teacher provides consulting services (s. 115.83 (1) (b), Stats.) and provides supplemental curriculum to the regular education program and regular education staff. This program type provides for a minimum control of the educational and environmental intervention variables and operates 5 days a week on a full-time or part-time basis.

(a) *Staff.* This program type shall have a minimum of one certified special education teacher within a particular program area assigned to a designated number of students. The program may include supportive staff. Teacher aides shall be considered for special approval for this program type. Requests for aides shall receive prior approval from the division. Funding for this position shall be initiated on the date of approval.

(b) *Enrollment.* The enrollment for this program type may vary with a minimum of 15 children. Variation to the minimum enrollment shall require prior consultation with the division. The maximum enrollment variation shall be subject to review, or negotiation, or both between the LEA and the division.

(c) *Ranges.* See s. PI 11.26 (3).

(d) *Program plan.* See s. PI 11.26 (4).

(e) *Facility.* See s. PI 11.28 (5) and (6).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.24 and am. Register, May, 1990, No. 413, eff. 6-1-90; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1996.

PI 11.30 Itinerant program type. (1) DEFINITION. An itinerant program is a special education program in which the teacher serves students in several schools. This program operates 5 days a week. The itinerant teacher serves as a consulting teacher (s. 115.83 (1) (b), Stats.) to regular and special education personnel.

(a) *Staff.* This program type shall have a minimum of one certified special education teacher within a particular program area assigned to a designated number of students. The itinerant teacher shall be assigned administratively to a specific public school but the itinerant teacher shall provide services to students with EEN attending other public schools. Speech and language are itinerant programs, except for established classroom speech and language types. The itinerant program shall not be eligible for teacher aides.

(b) *Enrollment.* The enrollment for this program type may vary with a minimum of 15 children. Variation to the minimum enrollment shall require prior consultation with the division. The maxi-

mum enrollment variation shall be subject to review, or negotiation, or both between the LEA and the division.

(c) *Ranges.* See s. PI 11.26 (3).

(d) *Program plan.* See s. PI 11.26 (4).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.25 and am. Register, May, 1990, No. 413, eff. 6-1-90; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1996.

PI 11.31 Homebound instruction program type. (1)

DEFINITION. A homebound instruction program is a special education program in which a teacher serves children with EEN in the home, a hospital, a sanitarium or a convalescent home. The program may include not only direct teaching services but also correspondence courses and telephone instruction. The operation of the program shall be based on the number of children with EEN who require such services.

(a) *Staff.* This program type shall require a teacher to hold a valid Wisconsin teacher's license. The division strongly recommends that a teacher hold licensure in a specific program area if serving a child who is representative of a particular disability. The itinerant homebound program shall not be eligible for teacher aides, although group instruction programs in a hospital, a sanitarium or a convalescent home shall be.

(b) *Enrollment.* Enrollment within this program type shall require all of the following:

1. A physician's statement on a prescribed form from the division shall be submitted declaring the child physically or emotionally unable to attend school.

2. The physical or emotional incapacity to attend school shall be anticipated as continuous over 30 days.

3. The M-team shall recommend that homebound instruction is the most appropriate program to meet a child's EEN.

4. No child shall be eligible whose primary disability is defective vision, defective hearing, defective speech or other physical handicaps when special education programs and services are available unless the nature of the physical disability prevents attendance in such programs.

5. The child with EEN shall be formally enrolled in the public school system during the period of instruction in the homebound program.

(c) *Ranges.* See s. PI 11.26 (3).

(d) *Responsibility/accountability.* See s. PI 11.26 (7).

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.26 and am. Register, May, 1990, No. 413, eff. 6-1-90; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1996.

PI 11.32 Program levels. (1) Consideration shall be given to the chronological age range of 3 to 21, as described in ss. 115.76 (2) and 115.77 (4) (a), Stats., and a grade range of early childhood through grade 12. Each of these program levels shall be considered within the 6 program types described in ss. PI 11.26 through 11.31. Program levels are defined in terms of the chronological age range and grade range.

(a) *Early childhood.* This program level shall include a chronological age range of 0 through 5 years—11 months. This program level shall correspond to the regular school grade range of prekindergarten through kindergarten.

(b) *Primary.* This program level shall include a chronological age range of 6-0 through 8-11 and shall correspond to the regular education program grade range of kindergarten through third grade.

(c) *Intermediate.* This program level shall include a chronological age range of 9-0 through 11-11 and shall correspond to the regular education grade range of fourth through sixth grade.

(d) *Elementary wide range.* This program level shall include a chronological age range of 6-0 through 11-11 and shall correspond to the regular education grade range of first through sixth.

(e) *Middle school/junior high.* This program level shall include a chronological age range of 11-0 through 14-11 and correspond

to the regular education grade range of sixth through ninth. The middle school/junior high program level may include a variation to this chronological and grade range according to the local district's organization of educational programs.

(f) *Senior high.* This program level shall include a chronological age range of 15-0 through 20-11 and shall correspond to the regular grade range of ninth through twelfth. The senior high school program level may include a variation to the chronological and grade range according to the local district's organization of senior high school.

(g) *Secondary wide range.* This program level shall include a chronological age range of 12-0 through 20-11 and correspond to the regular education grade range of seventh through twelfth. A secondary wide range program level shall incorporate the middle school/junior high and senior high program levels described above.

Note: The development of the program levels in pars. (a), (d) and (g) shall require prior consultation with the division, pursuant to ss. 115.77 (4) (b) and (c) and 115.83 (1) (a), Stats.

Program levels—chronological age and grade**		
Program levels	Chronological range	Usual grade range
L-1 Early childhood	0-5	—
L-2 Primary	6-8	1-3
L-3 Intermediate	9-11	4-6
L-4 Elementary (wide range)	6-11	1-6
L-5 Middle/junior high	11-14	6-9
L-6 Senior high	15-20	9-12
L-7 Secondary (wide range)	12-20	7-12

**These program levels shall not preclude the flexibility of placement of a youngster outside these levels due to reasons concerning the severity of the child's EEN.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; renum. from PI 11.27 and am. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.33 Special education program aides. (1) POLICY. To ensure that all instructional units have adequate support services the LEA may utilize a special education program aide when appropriate. It is not the department's intent that all units are provided with a special education program aide.

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

(a) Evidence of an enrollment increase beyond the recommended maximum in the particular program type/level of program unit. (s. PI 11.26 (3)).

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

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

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

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

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

(d) Exceptions covered under pars. (a), (b) and (c) shall require prior approval from the division.

(4) **REIMBURSEMENT.** The department shall reimburse the employing LEA for the salary and fringe benefits of certified special education program aides at 70% (s. PI 11.36 (2) (a) 1.) when the following criteria are met:

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

1. Program rationale.
2. Clearly articulated need.

3. Aide role and function.

4. Work schedule.

5. Any other information requested by the division.

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

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

(5) **SPECIAL EDUCATION PROGRAM AIDE REQUIREMENTS.** The individual shall hold a 5 year license as a special education program aide. An individual holding a license to teach in regular or special education shall not be required to obtain a license as a special education program aide.

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

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

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77; am. (5), Register, November, 1978, No. 275, eff. 12-1-78; renum. from PI 11.29 and am. Register, May, 1990, No. 413, eff. 6-1-90; am. (5), Register, March, 1992, No. 435, eff. 4-1-92.

PI 11.34 Relationships with private sector. (1) INTENT. This section shall define the relationships between the private sector, local districts and the department consistent with subch. V, ch. 115, Stats., legal opinions and the rules.

(a) For the purpose of this section, private schools shall mean any school which is non-public. See s. PI 11.02 (40).

(2) **SERVICES.** LEAs shall provide only the EEN services as determined by statutory and rule definition, s. 115.80 (3), Stats., with the following conditions:

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

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

(3) **TRANSPORTATION.** General and special transportation to special education services shall be provided by the district of the child's residence if the board has requested, based on M-team findings, a private contract and the contract has been approved by the superintendent. The special transportation required shall be reimbursed at 70% of excess costs. See s. PI 11.36 (2) (a) 1.

(a) Where the board through the M-team recommendations and findings has made a determination that a program exists in the LEA that meets the student's needs but the parent chooses a private school placement, only the transportation provisions of s. 121.54 (2) (b) 1., Stats., apply.

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

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77; am. (1) (intro.), Register, February, 1983, No. 326, eff. 3-1-83; renum. from PI 11.31 and am. Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.35 Eligibility criteria. (1) STANDARDS. Children shall be determined to have a handicapping condition who have been identified, evaluated and classified as handicapped pursuant to s. PI 11.04 and this section. The minimum criteria for the determination of handicapping condition and eligibility for special education shall be consistent throughout the state.

(1m) **RE-EVALUATION.** A transition period shall be provided for moving a child out of special education who upon re-evaluation does not meet criteria in the rules.

(2) **HANDICAPPING CONDITION.** Educational needs resulting primarily from poverty, neglect, delinquency, social maladjustment, cultural or linguistic isolation or inappropriate instruction are not included under subch. V, ch. 115, Stats.

(a) **Cognitive disability.** Cognitive disability refers to significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior manifested during the developmental period. (AAMD definition—Grosman, 1973). (Standard deviation (S.D.) is used to signify variability from the mean. The mean is an average of the scores in a set; the standard deviation is an average of how distant the individual scores in a distribution are removed from the mean).

Table 1

Major considerations for determination of cognitive disability

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 criteria, 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.

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

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

a. Have concomitant lags in cognitive, adaptive and achievement abilities.

b. Have exhibited cognitive disability as documented from their developmental and school history.

c. Are expected to have the condition indefinitely.

2. In determining cognitive disability the evaluators shall identify those children who are mentally retarded in conjunction with depressing socio-cultural influences.

3. A child with suspected developmental disabilities other than cognitive disability shall be referred to an M-team for determination of other handicapping conditions and EEN.

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

(b) **Orthopedic impairment.** Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes, but is not limited to, impairments caused by congenital anomaly, such as a clubfoot or absence of some member; impairments caused by disease, such as poliomyelitis or bone tuberculosis; and impairments from other

causes, such as cerebral palsy, amputations, and fractures or burns that cause contractures.

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

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

1e. Severely visually handicapped means distance visual measurements of 20/200 to 20/400 in the better eye after correction. Near vision measurements of 14/140, e.g., Jaeger 17, or near vision equivalents.

1g. Profoundly visually handicapped means:

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

b. HM - the ability to perceive hand movement.

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

1m. Totally blind means:

a. LP - perceives but does not localize light.

b. No LP - no light perception.

1t. Peripheral field and central vision loss means peripheral field so contracted that the widest diameter of such fields subtends an angular distance no greater than 50'.

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

3. Lack of binocular vision means the inability to use the 2 eyes simultaneously to focus on the same object and to fuse the 2 images into a single image.

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

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

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

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

b. Severely handicapped hearing child means a child who, with or without a hearing aid is unable to interpret adequately aural/oral communication. Audiological assessment indicates a minimum loss of 70 db in the better ear. Inability to discriminate all consonants and other difficulties appear as the loss becomes greater.

2. Characteristics of hearing impairment may not be readily apparent. Children react differently to similar losses and therefore an audiogram shall not be the sole criterion of significant EEN. Neither is the use or non-use of a hearing aid totally significant. Additional factors include inadequate, hesitant or no verbal communication, speech abnormality and, at times, aggressiveness due to misunderstanding. It is suggested that a continuing dialogue be

maintained with the certified clinical audiologist in anticipation of a program recommendation.

(e) *Speech and language handicaps.* 1. Speech and language handicaps are characterized by a delay or deviance in the acquisition of prelinguistic skills, or receptive skills or expressive skills or both of oral communication. The handicapping condition does not include speech and language problems resulting from differences in paucity of or isolation from appropriate models.

2. Special considerations include:

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

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

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

2. The child shall meet the criteria in subs. 2., 2m. and 2x. to be considered as having the handicapping condition of learning disabilities.

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

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

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

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

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

e. $I.Q. \times \text{Years in School} \times .5 = \text{Grade Score}$ (50% of expected achievement). This formula is inappropriate for children who have not completed 2 years in school. Children entering kindergarten or first grade who are achieving in readiness areas one or more years below expected achievement levels for their chronological age may be considered as having a significant discrepancy between their functional and expected achievement. See Appendix J for examples.

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

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

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

2x. Children whose primary handicapping condition is due to learning disabilities shall exhibit normal or potential for normal intellectual functioning.

a. This measure of intellectual functioning may be established by a score above a minus one standard deviation on a single score intelligence instrument, or by a verbal or performance quotient of 90 or above on a multiple score intelligence instrument.

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

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

d. There may exist rare cases of severe language involvement which detrimentally affect the learning disabled child's ability to perform adequately on intelligence tests given the language emphasis of these instruments. In these rare situations the importance of the intellectual criteria may be reduced given substantial evidence to indicate average ability.

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

a. The other handicapping conditions specified in s. 115.76 (3), Stats.

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

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

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

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

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

community and may be recognized by the child or significant others.

3. All children may experience situational anxiety, stress and conflict or demonstrate deviant behaviors at various times and to varying degrees. However, the handicapping condition of emotional disturbance shall be considered only when behaviors are characterized as severe, chronic or frequent and are manifested in 2 or more of the child's social systems, e.g., school, home or community. The M-team shall determine the handicapping condition of emotional disturbance and further shall determine if the handicapping condition requires special education. The following behaviors, among others, may be indicative of emotional disturbance:

- a. An inability to develop or maintain satisfactory interpersonal relationships.
- b. Inappropriate affective or behavioral response to what is considered a normal situational condition.
- c. A general pervasive mood of unhappiness, depression or state of anxiety.
- d. A tendency to develop physical symptoms, pains or fears associated with personal or school problems.
- e. A profound disorder in communication or socially responsive behavior, e.g., autistic-like.
- f. An inability to learn that cannot be explained by intellectual, sensory or health factors.
- g. Extreme withdrawal from social interaction or aggressiveness over an extended period of time.
- h. Inappropriate behaviors of such severity or chronicity that the child's functioning significantly varies from children of similar age, ability, educational experiences and opportunities, and adversely affects the child or others in regular or special education programs.

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

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

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

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

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

2. A multiple handicapped child shall have the right to any and all educational, supportive and related services essential to a free

appropriate public education based on the individual needs of the child.

(i) *Autism*. 1. Autism means a developmental disability significantly affecting a child's social interaction and verbal and nonverbal communication, generally evident before age 3, that adversely affects learning and educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance, as defined in par. (g).

2. The results of standardized or norm-referenced instruments used to evaluate and identify a child under this paragraph may not be reliable or valid. Therefore, alternative means of evaluation, such as criterion-referenced assessments, achievement assessments, observation, and work samples, shall be considered to identify a child under this paragraph. Augmentative communication strategies, such as facilitated communication, picture boards, or signing shall be considered when evaluating a child under this paragraph. To identify a child under this paragraph, the criteria under subd. 2. a. and b. and one or more criteria under subd. 2. c. through f. shall be met.

a. The child displays difficulties or differences or both in interacting with people and events. The child may be unable to establish and maintain reciprocal relationships with people. The child may seek consistency in environmental events to the point of exhibiting rigidity in routines.

b. The child displays problems which extend beyond speech and language to other aspects of social communication, both receptively and expressively. The child's verbal language may be absent or, if present, lacks the usual communicative form which may involve deviance or delay or both. The child may have a speech or language disorder or both in addition to communication difficulties associated with autism.

c. The child exhibits delays, arrests, or regressions in motor, sensory, social or learning skills. The child may exhibit precocious or advanced skill development, while other skills may develop at normal or extremely depressed rates. The child may not follow normal developmental patterns in the acquisition of skills.

d. The child exhibits abnormalities in the thinking process and in generalizing. The child exhibits strengths in concrete thinking while difficulties are demonstrated in abstract thinking, awareness and judgment. Perseverant thinking and impaired ability to process symbolic information may be present.

e. The child exhibits unusual, inconsistent, repetitive or unconventional responses to sounds, sights, smells, tastes, touch or movement. The child may have a visual or hearing impairment or both in addition to sensory processing difficulties associated with autism.

f. The child displays marked distress over changes, insistence on following routines, and a persistent preoccupation with or attachment to objects. The child's capacity to use objects in an age-appropriate or functional manner may be absent, arrested or delayed. The child may have difficulty displaying a range of interests or imaginative activities or both. The child may exhibit stereotyped body movements.

(j) *Traumatic brain injury*. 1. Traumatic brain injury means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; speech and language; memory; attention; reasoning; abstract thinking; communication; judgment; problem solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and executive functions, such

as organizing, evaluating and carrying out goal-directed activities. The term does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

2. Children whose educational performance is adversely affected as a result of acquired injuries to the brain caused by internal occurrences, such as vascular accidents, infections, anoxia, tumors, metabolic disorders and the effects of toxic substances or degenerative conditions may meet the criteria of one of the other handicapping conditions under this section, such as other health impairment, learning disability, or multiple handicapped.

3. The results of standardized and norm-referenced instruments used to evaluate and identify a child under this paragraph may not be reliable or valid. Therefore, alternative means of evaluation, such as criterion-referenced assessment, achievement assessment, observation, work samples, and neuropsychological assessment data, shall be considered to identify a child who exhibits total or partial functional disability or psychosocial impairment in one or more of the areas described under subd. 1.

4. Before a child may be identified under this paragraph, available medical information from a licensed physician shall be considered.

(k) *Other health impairment.* Other health impairment means having limited strength, vitality or alertness, due to chronic or acute health problems. The term includes but is not limited to a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, or acquired injuries to the brain caused by internal occurrences or degenerative conditions, which adversely affects a child's educational performance.

Note: With respect to the eligibility criteria under s. PI 11.35, in September 1991 the U.S. department of education issued a memorandum clarifying state and local responsibilities for addressing the educational needs of children with attention deficit disorder (ADD) (See 18 IDELR 116). As a condition of receipt of federal funds under the Individuals with Disabilities Act (IDEA), the state and local school districts are bound to comply with the federal policy outlined in that memo. (See e.g. *Metropolitan School District of Wayne Township, Marion County, Indiana v. Davila*, 969 F.2d 485 (7th cir. 1992)).

Pursuant to that federal policy memo, a child with ADD is neither automatically eligible nor ineligible for special education and related services under ch. 115, Stats. In considering eligibility, a multidisciplinary team (M-team) must determine whether the child diagnosed with ADD has one or more handicapping conditions under ch. 115, Stats., and a need for special education. For example, pursuant to the federal policy memo, a child with ADD may be eligible for special education and related services under ch. 115, Stats., if the child meets the eligibility criteria for "other health impaired" or any other condition enumerated in ch. 115, Stats. A copy of the federal policy may be obtained by writing the Exceptional Education Mission Team, Division for Learning Support: Equity and Advocacy, Department of Public Instruction, P.O. Box 7841, Madison, WI 53707-7841.

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77; am. (2) (intro.), Register, February, 1983, No. 326, eff. 3-1-83; r. (2) (c), renum. (2) (d) to (i) to be (2) (c) to (h), Register, September, 1986, No. 369, eff. 10-1-86; renum. from PI 11.34, Register, May, 1990, No. 413, eff. 6-1-90; r. and rec. (2) (b), cr. (2) (i) to (k), Register, April, 1995, No. 472, eff. 5-1-95; corrections made under s. 13.93 (2m) (b) 1., Stats., Register, March, 1996, No. 483.

PI 11.36 Reimbursement. (1) **INTENT.** Contingent upon prior receipt of the appropriate annual plan of services for each respective area, and operation of the program in accordance with s. 115.88, Stats., and the rules, the superintendent shall authorize reimbursement for costs involved in operating and maintaining said program.

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

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

(2) **REIMBURSEMENT FOR SPECIAL EDUCATION INSTRUCTIONAL/ ADMINISTRATIVE COSTS.** (a) The rate of state aid reimbursement for each approved qualified licensed special education teacher and special education program aide shall be 70% of salary and fringe benefits pursuant to s. 115.88 (1), Stats.

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

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

(b) An exception to par. (a) relates to special education teachers and special education program aides employed in hospitals or convalescent homes for physically and other health impaired children, wherein the board of the district in which the hospital or convalescent home is located shall be reimbursed for 100% of the actual costs incurred for instruction, pursuant to s. 115.88 (4), Stats.

(c) Reimbursement for directors/supervisors. See s. PI 11.17 (3) and par. (a) 1.

(3) **REIMBURSEMENT FOR SUPPORTIVE SERVICES PERSONNEL.** (a) Supportive services personnel shall include physical therapists, occupational therapists, and therapy aides.

Note: No other health treatment service shall be reimbursable.

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

2. See s. PI 11.24 (5) (d) note for reimbursement for new program units. For continuing program units operating outside orthopedic schools a maximum of \$400 per unit shall be allowed. Any exceptions to this limitation shall be negotiated in advance with the division program area supervisor. No limitation shall apply for orthopedic schools.

(4) **REIMBURSEMENT FOR RELATED SERVICES.** (a) Related services means transportation services or others designated by the superintendent.

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

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

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

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

(5) **REIMBURSEMENT FOR BOARD AND LODGING.** (a) Pursuant to s. 115.88 (3), Stats., where board and lodging from Monday through Friday is used in lieu of transportation and transportation of non-resident children between the boarding home and the special education program is required, 100% of prior-approved claims shall be reimbursed to the operating district.

(6) **OTHER REIMBURSABLE ITEMS.** (a) Under the other expenses approved by the superintendent, LEAs shall receive reimbursement for more expensive equipment in those unique instances requiring special consideration.

(b) Approvals for reimbursement under this subsection shall be closely monitored and limited in number. LEAs shall make a special appeal for approval 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), Stats., and chapter 39, laws of 1975, mandate that the district of residence shall pay tuition in these instances.

History: Cr. Register, May, 1977, No. 257, eff. 6-1-77; renum. from PI 11.35, Register, May, 1990, No. 413, eff. 6-1-90.

PI 11.37 Exceptional education children records. (1) **INTENT.** The department shall collect, maintain and disseminate student records as required by the Family Educational Rights and Privacy Act of 1974. Section II (i) of such policy states: "The Division for Handicapped Children of the Department of Public

Emergency
(2)(L)
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Instruction will adopt rules and regulations to be followed by local multidisciplinary teams to ensure parental authorizations for release of relevant pupil records required by the Division for Handicapped Children to fulfill its mandated roles/functions under subch. V, ch. 115, Stats. Where parental authorization is not received, student data on enrollment and transportation reports shall be submitted accompanied by an identification number meaningful only to the Local Education Agency for student identification purposes."

(2) COLLECTION, MAINTENANCE AND DISSEMINATION OF STUDENT RECORDS. The division, in order to carry out its responsibilities as mandated in subch. V, ch. 115, Stats., shall receive exceptional education pupil records pursuant to the following conditions:

(a) *Parental consent.* The district in its M-team placement and service processes shall indicate to the parent of a child with EEN that the services of the division may be or are needed for immediate or long range consultative, program planning and service purposes as outlined in par. (f). The parent shall be encouraged and afforded the opportunity of giving written consent for the district to make their child's records available to the division. The parent shall be given such opportunity under the circumstances enumerated in pars. (c), (d) and (f). A suggested parental consent form is available from the department for duplication or modification by the district if desired.

(b) *Identification numbers.* If the parent fails to give consent for release of pupil records with the child's name, districts shall supply the requested records deleting the child's name but identifying such records with an appropriate identification number. The district shall utilize the identification number system provided by the division for assigning individual identification numbers (appendix B).

(c) *Enrollment reports.* LEAs operating special education instructional units for children with EEN shall report selected information on the individual pupils enrolled in such units by name or identification number. The same information shall be reported to the division on children enrolled after the due date of such enrollment reports.

(d) *Transportation reports.* LEAs requesting approval and reimbursement for the transportation of students with EEN receiving special service shall report the individual pupils by name or identification number.

(e) *District responsibility and concomitant accountability for individual's records.* In addition to any required student records, districts shall maintain as part of the EEN child's record the following:

1. Parental consent for district action pursuant to subch. V, ch. 115, Stats.
2. Any data utilized by the M-team to reach decisions, e.g., evaluations, reports, pupil records.
3. The findings and recommendations of the M-team.
4. The placement decision of the board, director or program designee.
5. The individual educational plans prescribed for the child with EEN.

6. All records called for in subch. V, ch. 115, Stats., and by any rules or regulations promulgated by the department to implement its role and function under this chapter.

7. Medical prescriptions required to substantiate any health treatment services provided under s. 115.85 (2) (e), Stats.

8. Medical evaluations, if used to substantiate determination of disability. The division strongly recommends the continuing involvement of medical personnel in the evaluation of children with EEN, since commonly accepted professional practices require the utilization of qualified medical personnel to determine mental, physical, emotional or learning disabilities.

(f) *Individual pupil records.* When students' educational programs fall within the following situations, their records shall be immediately forwarded to the division pursuant to conditions described in pars. (a) and (b):

1. Students who are being considered for enrollment in special education services outside the district of residence. In those cases where the districts have made cooperative arrangements with a CESA or are included in a CHCEB or have entered into a 66.30 cooperative agreement, the children so enrolled shall be considered as resident students.

2. Students being considered for enrollment in the Wisconsin school for the visually handicapped and the Wisconsin school for the deaf, or those facilities operated or supported by the department of health and social services.

3. Students for whom the superintendent has received a formal parental appeal request under the provisions of s. 115.81, Stats. Information submitted to the department shall include the local hearing records.

4. Students with EEN who are either being considered for placement in state or county institutions or residents of such institutions being returned to LEA services.

5. Students for whom a request is made for state tuition support under s. 121.79 (1) (c), Stats.

6. Students for whom districts are requesting the superintendent's approval to place in an appropriate program in another state pursuant to s. 115.85 (2) (c), Stats., or to contract with a private school for the child's education under the provisions of s. 115.85 (2) (d), Stats. When the request for complete pupil records emanates from the division pursuant to subs. 7. and 8., such records shall be forwarded to the division within 10 days following receipt of a request from the division. The records shall include data as called for in par. (e).

7. Students upon whom an official inquiry request, e.g., from a district of residence, parent, guardian, child advocate, legislator or state agency, for state consultation or state legal action has been received.

8. Any child for whom the division requires case data to carry out its functions as called for in s. 115.84, Stats.

(g) *Records.* The division shall not require the submission of complete individual pupil records on resident children enrolled in programs operated individually or cooperatively by the district of residence, except as indicated in par. (f).

History: Cr Register, December, 1975, No. 240, eff. 1-1-76; am. (2) (c) 9, Register, November, 1976, No. 251, eff. 12-1-76; am. (2), (intro.), (e) 1. and 6., Register, February, 1983, No. 326, eff. 3-1-83; r. (2) (e) 8. and renum. (2) (e) 9 to be 8., Register, September, 1986, No. 369, eff. 10-1-86; renum. from PI 11.05, Register, May, 1990, No. 413, eff. 6-1-90.