

CHAPTER 118

GENERAL SCHOOL OPERATIONS

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118.01 Educational goals and expectations. (1) PURPOSE. Public education is a fundamental responsibility of the state. The constitution vests in the state superintendent the supervision of public instruction and directs the legislature to provide for the establishment of district schools. The effective operation of the public schools is dependent upon a common understanding of what public schools should be and do. Establishing such goals and expectations is a necessary and proper complement to the state's financial contribution to education. Each school board should provide curriculum, course requirements and instruction consistent with the goals and expectations established under sub. (2). Parents and guardians of pupils enrolled in the school district share with the state and school board the responsibility for pupils meeting the goals and expectations under sub. (2).

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

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

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

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

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

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

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

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

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

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

4. Positive work attitudes and habits.

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

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

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

3. The skills to participate in political life.

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

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

6. Knowledge of state, national and world history.

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

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

1. The skills needed to cope with social change.

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

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

b. Knowledge of the true and comparative vitamin content of food and food and health values of dairy products and their importance for the human diet; and

c. Knowledge of physiology and hygiene, sanitation, the effects of controlled substances under ch. 161 and alcohol upon the human system, symptoms of disease and the proper care of the body. No pupil may be required to take instruction in these subjects if his or her parent files with the teacher a written objection thereto. Instruction in physiology and hygiene shall include instruction on sexually transmitted diseases and shall be offered in every high school.

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

4. The ability to construct personal ethics and goals.

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

6. Knowledge of the prevention of accidents and promotion of safety on the public highways, including instruction on the relationship between highway safety and the use of alcohol and controlled substances under ch. 161.

7. The skills needed to make sound decisions, knowledge of the conditions which may cause and the signs of suicidal tendencies, knowledge of the relationship between youth suicide and the use of alcohol and controlled substances under ch. 161 and knowledge of the available community youth suicide prevention and intervention services. Instruction shall be designed to help prevent suicides by pupils by promoting the positive emotional development of pupils.

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

History: 1983 a. 412; 1985 a. 29, 213.

NOTE: Sub. (2) (d) 7 and 8 are created eff. 7-1-88.

118.015 Reading instruction. (1) PURPOSE AND INTENT. It is the purpose and intent of this section to provide for a developmental reading program for pupils at all grade levels.

(2) EMPLOYMENT OF READING SPECIALISTS. Each school district shall employ a reading specialist certified by the department to develop and coordinate a comprehensive reading curriculum in grades kindergarten to 12. At the discretion of the state superintendent, a school district may contract with other school districts or cooperative educational service agencies to employ a certified reading specialist on a cooperative basis.

(3) DUTIES OF READING SPECIALIST. The reading specialist shall:

(a) Develop and implement a reading curriculum in grades kindergarten to 12.

(b) Act as a resource person to classroom teachers to implement the reading curriculum.

(c) Work with administrators to support and implement the reading curriculum.

(d) Conduct an annual evaluation of the reading curriculum.

(e) Coordinate the reading curriculum with other reading programs and other support services within the school district.

(4) SCHOOL BOARD DUTIES. The school board shall:

(a) Develop a program of reading goals for the district for grades kindergarten to 12.

(b) Make an assessment of existing reading needs in grades kindergarten to 12 in the district based on the reading goals established under par. (a).

(c) Make an annual evaluation of the reading curriculum of the school district.

History: 1977 c. 29.

118.017 Foreign language instruction. All instruction shall be in the English language, except:

(1) Those programs established under subch. VII of ch. 115 where instruction shall be in the English language and in the non-English language of the bilingual-bicultural education program.

(2) The school board may cause any foreign language to be taught to pupils who desire it.

(3) The school board may cause any course to be taught in a foreign language if the purpose is to facilitate the instruction of English speaking pupils in that language.

History: 1983 a. 412 ss. 4, 5.

118.019 Human growth and development instruction. (1) PURPOSE. The purpose of this section is to encourage all school boards to make available to pupils instruction in topics related to human growth and development in order to promote accurate and comprehensive knowledge in this area and responsible decision making and to support and enhance the efforts of parents to provide moral guidance to their children.

(2) SUBJECTS. A school board may provide an instructional program in human growth and development in grades kindergarten to 12. If provided, the program shall offer information and instruction appropriate to each grade level and the age and level of maturity of the pupils. The program may include instruction in any of the following areas:

(a) Self-esteem, responsible decision making and personal responsibility.

(b) Interpersonal relationships.

(c) Discouragement of adolescent sexual activity.

(d) Family life and skills required of a parent.

(e) Human sexuality; reproduction; contraception, including natural family planning; prenatal development; childbirth; adoption; available prenatal and postnatal support; and male responsibility.

(f) Sex stereotypes and protective behavior.

(3) DISTRIBUTION OF CURRICULUM TO PARENTS. Each school board that provides an instructional program in human growth and development shall annually provide the parents of each pupil enrolled in the school district with an outline of the human growth and development curriculum used in the pupil's grade level and information regarding how the parent may inspect the complete curriculum and instructional materials. The school board shall make the complete human growth and development curriculum and all instructional materials available upon request for inspection at any time, including prior to their use in the classroom.

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

(5) ADVISORY COMMITTEE. Each school board shall appoint an advisory committee composed of parents, teachers, school administrators, pupils, health care professionals, members of the clergy and other residents of the school district. The advisory committee shall develop a human growth and

development curriculum and advise the school board on the design, review and implementation of the advisory committee's human growth and development curriculum. The advisory committee shall review the curriculum at least every 3 years and shall file a written report with the department indicating it has done so.

(6) GRANTS. (a) From the appropriation under s. 20.255 (1) (fm), the department may award grants to any of the following:

1. A school board, to assist the board in developing or improving a human growth and development curriculum.

2. A cooperative educational service agency, to enable the agency to provide technical assistance to a school board to develop or improve a human growth and development curriculum.

(b) Notwithstanding sub. (2) (intro.), no grant may be awarded under par. (a) unless the school board receiving a grant under par. (a) 1 or being assisted by a cooperative educational service agency receiving a grant under par. (a) 2 first agrees to include instruction in all of the areas specified under sub. (2) (a) to (f).

History: 1985 a. 56.

118.02 Special observance days. On the following days when school is held the day shall be appropriately observed: January 15, Dr. Martin Luther King, Jr. Day; February 12; February 15, Susan B. Anthony's birthday; February 22; April 13, American Creed Day; September 16, Mildred Fish Harnack Day; September 28, Frances Willard Day; October 9, Leif Erikson Day; October 12; and November 11. If any such day falls on a Saturday or Sunday, the observance shall be on a school day immediately preceding or following. If school is held on June 14, that day shall be appropriately observed as Robert M. La Follette, Sr. Day. If the governor by proclamation sets apart one day to be designated as Arbor and Bird Day, under s. 14.16 (1), that day shall be appropriately observed; otherwise, the last Friday in April shall be observed as Arbor Day.

History: 1975 c. 204, 219, 398, 422; 1979 c. 214, 301, 355; 1985 a. 232.

118.025 Arbor day observance. A school principal may request one free tree provided from state forest nurseries by the department of natural resources under s. 28.06 for each 4th grade pupil in the school for planting in conjunction with an annual observance and celebration of arbor day.

History: 1981 c. 59.

118.03 Textbooks. (1) The school board shall adopt all the textbooks necessary for use in the schools under its charge. The list of the adopted books shall be filed with the school district clerk.

(2) The school board may purchase textbooks and sell them to the pupils at cost or it may designate agents of the school district to sell the textbooks to the pupils. The agents, at stated times, shall make settlement with the school district for books sold. The agents may add a selling commission which shall not exceed 10% of the net price.

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

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

History: 1983 a. 412.

118.04 Summer classes. Any school board may elect to operate summer classes or to permit pupils to attend summer classes operated by another school district on a tuition basis if the school district of operation will accept them. Sections

118.15 and 118.16 shall not apply to summer classes. Every school board electing to operate summer classes:

(1) Shall make rules governing attendance and cause them to be spread on the school board minutes.

(2) May accord to children living in the school district during the summer session the status of residents of the school district for the purpose of attendance at summer classes, even though the children were not regular residents of the school district during the preceding regular school session, but any such children who are not legal residents of the state shall not be counted in computing the state aid to which the school district is entitled.

(3) May permit children from another school district to attend summer classes upon payment of nonresident tuition.

(4) Shall not charge tuition for attendance at summer classes of pupils who are residents of the school district if the school board receives aid for such classes under s. 121.14. The school board may establish and collect reasonable fees for social, recreational or extracurricular summer classes and programs which are neither credited toward graduation nor aided under s. 121.14.

History: 1983 a. 27.

118.05 School conservation camps. (1) To promote an understanding of geology, geography, conservation, nature study and other aspects of general knowledge which are learned best by actual contact with nature itself, any school district may establish, operate and maintain and levy taxes to support individually or in co-operation with other school districts or municipalities a school conservation camp. The camp need not be within the school district.

(2) The school board of any such district may operate, contribute to the operation of, participate in the joint operation of, pay or charge fees for the operation of the school conservation camp. The school board may admit nonresident pupils as well as resident pupils of the school district. The school board shall determine age and other entrance requirements and the program to be offered. The camp may be operated in summer or at any other time that the school board determines.

(3) The school board may acquire, rent or accept the free use of facilities and equipment to operate the camp and may accept private contributions of any kind.

(4) The school board may conduct the camp on property under the custody of other municipal, state or federal agencies when permission is granted or on private property with consent of the owner.

(5) Every state agency shall co-operate in making their staff and facilities available to further the objectives of this program.

118.06 Flag and pledge of allegiance. (1) Every school board and the governing body of every private school shall cause the U.S. flag to be displayed in the schoolroom or from a flagstaff on each school ground during the school hours of each school day.

(2) Every public and private school shall offer the pledge of allegiance in grades one to 8 at the beginning of school at least one day per week. No student shall be compelled, against his objections or those of his parents or guardian, to recite the pledge.

118.07 Safety requirements. (1) Every school board and the governing body of every private school shall provide a standard first aid kit for use in cases of emergency.

(2) (a) Once each month, without previous warning, the person having direct charge of any public or private school shall drill all pupils in the proper method of departure from

the building as if in case of fire, except when the person having direct charge deems that the health of the pupils may be endangered by inclement weather conditions.

(b) Annually the person having direct charge of any public or private school shall file a report pertaining to such drills on forms furnished by the department of industry, labor and human relations. Such reports shall be made to the department of industry, labor and human relations and, in each community having a recognized fire department, to the chief of the fire department. When no fire drill is held during any month, the person having direct charge of the school shall state the reasons therefor in the report.

(3) Within 30 days after its occurrence, every accident involving a pupil in a physical education class or during physical education or playground activities which results in the pupil's absence from school for 3 or more consecutive days shall be reported to the school board. The school board shall make an annual report to the state superintendent, who shall maintain records of the frequency and nature of such accidents.

History: 1971 c. 164 s. 85; 1975 c. 39; 1981 c. 373.

118.08 School zones; crossings. (1) On any street or highway which borders the grounds of any public or private school in which school is held for a term of not less than 6 months, the authority in charge of the maintenance of the street or highway shall erect black and yellow "school" warning signs. The authority may also designate school crossings across any street or highway, whether or not the street or highway borders on the grounds of a school.

(2) All signs required by this section and their installation shall comply with standards adopted by the department of transportation.

History: 1973 c. 90; 1975 c. 48; 1977 c. 29 s. 1654 (8) (g).

118.09 Safety zones. (1) Every school district maintaining a school outside the corporate limits of a city or village shall provide at the school site a zone which will provide safety for pupils from vehicular traffic during loading and unloading of pupils at the school. The zone may consist of a widening toward or into the schoolyard of the traveled portion of the adjacent highway so as to permit a vehicle to stop in the extended area completely clear of such traveled portion or may be constructed wholly within the schoolyard with connecting roads to the adjacent highway. The zone and approaches from the highway for use of vehicles shall be graveled or hard-surfaced.

(2) The school district shall co-operate with the agency of the town, county or state having jurisdiction of the highway to the end that matters pertaining to the highway will be properly protected. Contracts for the necessary materials and construction and maintenance, including snow removal, of zones may be entered into with the county or town or with private persons. If the contracting party does not have jurisdiction over the highway, the contract shall be approved by the agency of the state, county or town having jurisdiction over the highway before any work is commenced thereunder.

(3) All loading and unloading of pupils at the school, whether transported by a public or private vehicle, shall take place in the safety zone. The operator of a vehicle under contract to transport pupils to the school shall have necessary police powers so that pupils will be properly safeguarded in loading and unloading at the zone and while his vehicle is approaching and leaving the zone. He shall first alight before loading or unloading pupils at the zone, and while at stops on his highway route to load and unload pupils, he shall exhibit the vehicle's stop sign.

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

118.10 School safety patrols. Any school board may organize school safety patrols and, with the permission of the parents, appoint pupils as members thereof for the purpose of influencing and encouraging the other pupils to refrain from crossing public highways at points other than at regular crossings and for the purpose of directing pupils not to cross highways at times when the presence of traffic would render such crossing unsafe. Nothing in this section authorizes or permits the use of any safety patrol member for the purpose of directing vehicular traffic, nor may any safety patrol member be stationed in that portion of the highway intended for the use of vehicular traffic, but this section shall not affect any plan in operation on July 11, 1939, under which a junior police patrol directs traffic under the authorization, supervision and control of either the sheriff's department or of the chief of police or traffic department of the police department of any city, town or village. No liability shall attach to the school district or any individual, school board member, school district administrator, teacher or other school authority by virtue of the organization, maintenance or operation of a school safety patrol organized, maintained and operated under this section.

118.105 Control of traffic on school premises. (1) Any school board may request local authorities to control motor vehicle and pedestrian traffic on off-highway school premises located within the jurisdiction of such local authorities.

(2) If the governing body of any town, city or village by ordinance regulates the operation and parking of motor vehicles on off-highway public school premises, school drives or parking lots or pedestrian traffic on any such drives or parking lots, the school board may enter into written agreements with such governing body for reimbursement of the cost of enforcing such ordinance.

(3) Nothing in this section shall preclude the governing body of any town, city or village from repealing ordinances regulating the operation or parking of motor vehicles on off-highway public school premises, drives or parking lots or regulating pedestrian traffic on such drives or parking lots without prior consent of a school board which requested enactment of such ordinance.

History: 1975 c. 251.

118.11 School fences. The school district shall erect and maintain all the fence necessary to enclose the school site or grounds without any financial burden on the holders of adjoining properties.

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

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

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

his or her employing school district or at an activity of his or her employing school district.

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

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

History: 1985 a. 214

118.123 Reports and records; forfeitures. (1) Any officer or teacher who fails or neglects to make the reports or who fails to keep the records required by chs. 115 to 121 shall forfeit not less than \$5 nor more than \$25 for each such failure or neglect.

(2) If any person designated in chs. 115 to 121 to prosecute an action for a forfeiture or neglect of duty fails to prosecute the action within 10 days after being requested in writing by an elector of the school district to do so, any elector of the school district may prosecute the action.

History: 1979 c. 89, 301; 1985 a. 214 s. 1.

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

(a) "Behavioral records" means those pupil records which include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records and any other pupil records which are not progress records.

(b) "Directory data" means those pupil records which include the pupil's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, photographs, degrees and awards received and the name of the school most recently previously attended by the pupil.

(c) "Progress records" means those pupil records which include the pupil's grades, a statement of the courses the pupil has taken, the pupil's attendance record and records of the pupil's school extracurricular activities.

(d) "Pupil records" means all records relating to individual pupils maintained by an elementary or high school but does not include notes or records maintained for personal use by a teacher or other person who is required by the department under s. 115.28 (7) to hold a certificate, license or permit if such records and notes are not available to others nor does it include records necessary for, and available only to persons involved in, the psychological treatment of a pupil.

(2) **CONFIDENTIALITY.** All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to (j). The school board shall adopt regulations to maintain the confidentiality of such records.

(a) A pupil, or the parent or guardian of a minor pupil, shall, upon request, be shown and provided with a copy of the pupil's progress records.

(b) An adult pupil or the parent or guardian of a minor pupil shall, upon request, be shown, in the presence of a person qualified to explain and interpret the records, the pupil's behavioral records. Such pupil or parent or guardian shall, upon request, be provided with a copy of the behavioral records.

(c) The judge of any court of this state or of the United States shall, upon request, be provided by the school district

clerk with a copy of all progress records of a pupil who is the subject of any proceeding in such court.

(d) Pupil records may be made available to persons employed by the school district which the pupil attends who are required by the department under s. 115.28 (7) to hold a certificate, license or permit and other school district officials who have been determined by the school board to have legitimate educational interests.

(e) Upon the written permission of an adult pupil, or the parent or guardian of a minor pupil, the school shall make available to the person named in the permission the pupil's progress records or such portions of his behavioral records as determined by the person authorizing the release.

(f) Pupil records shall be provided to a court in response to subpoena by parties to an action for in camera inspection, to be used only for purposes of impeachment of any witness who has testified in the action. The court may turn said records or parts thereof over to parties in the action or their attorneys if said records would be relevant and material to a witness's credibility or competency.

(g) The school board may provide the department or any public officer with any information required under chs. 115 to 121.

(h) Information from school health records shall be made available to state and local health officials to carry out the purposes of s. 140.05 (16).

(i) The district board of the vocational, technical and adult education district in which the public school is located shall, upon request, be provided by the school district clerk with the names of pupils who have withdrawn from the public school prior to graduation under s. 118.15 (1) (c).

(j) 1. Except as provided under subd. 2, directory data may be disclosed to any person, if the school has given public notice of the categories of information which it has designated as directory data with respect to each pupil and has allowed a reasonable time thereafter for the parent, legal guardian or guardian ad litem of any pupil to inform the school that all or any part of the directory data may not be released without the prior consent of the parent, legal guardian or guardian ad litem.

2. If a school has given public notice that a pupil's name and address has been designated as directory data, has allowed a reasonable time thereafter for the parent, legal guardian or guardian ad litem of the pupil to inform the school that the pupil's name and address may not be released without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk, upon request, shall provide a vocational, technical and adult education district board with the name and address of each such pupil who is expected to graduate from high school in the current school year.

(3) **MAINTENANCE OF RECORDS.** Each school board shall adopt rules in writing specifying the content of pupil records and the time during which pupil records shall be maintained, except that no behavioral records may be maintained for more than one year after the date upon which the pupil graduated from or last attended the school, unless the pupil specifies in writing that individual behavioral records may be maintained. Rules adopted under this subsection shall be published by the school board as a class 1 notice under ch. 985. Pupils records need not be maintained for a period of longer than 5 years after the pupil ceases to be enrolled in the school. School districts may maintain such records on microfilm or in such form as the board deems appropriate.

(4) **TRANSFER OF RECORDS.** Within 5 working days, a school district shall transfer to another school or school district all

pupil records relating to a specific pupil if the transferring school district has received written notice from the pupil if he or she is an adult or his or her parent or guardian if the pupil is a minor that the pupil intends to enroll in the other school or school district or written notice from the other school or school district that the pupil has enrolled or from a court that legal custody of the pupil has been transferred to the department of health and social services for placement in a juvenile correctional facility. In this subsection "school" and "school district" include any state juvenile correctional facility which provides an educational program for its residents instead of or in addition to that which is provided by public and private schools.

(5) **USE FOR SUSPENSION OR EXPULSION.** Nothing in this section prohibits the use of a pupil's records in connection with the suspension or expulsion of the pupil or the use of such records by a multidisciplinary team under ch. 115.

(6) **APPLICATION TO EXISTING RECORDS.** Any records existing on June 9, 1974 need not be revised for the purpose of deleting information from pupil records to comply with this section.

History: 1973 c. 254; 1977 c. 418; 1979 c. 205; 1981 c. 20, 273; 1983 a. 189; 1985 a. 218.

Legislative Council Note, 1979: Sub. (4) is amended to make it clear that the phrases "school" or "school district" in that subsection include state juvenile correctional facilities which provide educational programs to their residents. Current sub. (4) spells out the circumstances under which a school district is required to transfer pupil records. This bill would add the requirement that records be transferred on written notice from a court that legal custody of the pupil has been transferred to the department of health and social services for placement in a juvenile correctional facility. The bill imposes a time limit of 5 working days on all required transfers of pupil records. [Bill 659-A]

See note to 19.21, citing 63 Atty. Gen. 272.

Pupil information which local education agencies are required to release to the department of public instruction under the reporting provisions of ch. 89, laws of 1973, may be provided, with or without permission, without violation of the state or federal confidentiality statutes. 65 Atty. Gen. 1.

Secondary schools may not provide a vocational, technical and adult education district with names of dropout students. 67 Atty. Gen. 254.

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

Access to student records in Wisconsin. 1976 WLR 975.

118.126 Privileged communications. (1) A school psychologist, counselor, social worker or nurse shall keep confidential information received from a pupil that the pupil or another pupil is using or is experiencing problems resulting from the use of alcohol or other drugs unless:

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

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

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

(2) A school psychologist, counselor, social worker or nurse who in good faith discloses or fails to disclose information under sub. (1) is immune from civil liability for such acts or omissions. This subsection does not apply to information required to be reported under s. 48.981.

History: 1979 c. 331; 1985 a. 163.

118.13 Pupil discrimination prohibited. (1) No person may be denied admission to any public school or be denied participation in, be denied the benefits of or be discriminated against in any curricular, extracurricular, pupil services, recreational or other program or activity because of the person's sex, race, national origin, ancestry, creed, preg-

nancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

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

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

(3) (a) The state superintendent shall:

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

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

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

(b) The state superintendent may:

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

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

History: 1985 a. 29.

Where Columbus, Ohio school board pursued purposefully segregative practices with current, systemwide impact, systemwide remedy was appropriate. Columbus Board of Education v. Penick, 443 US 449 (1979).

Where Dayton, Ohio school system was dual system when Brown I was decided in 1954, measure of school board's post-Brown I conduct under unsatisfied duty to liquidate dual system is effectiveness, not purpose, of actions to desegregate system. Dayton Board of Education v. Brinkman, 443 US 526 (1979).

118.14 Age of pupils. (1) Except as provided in s. 115.28 (8):

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

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

(c) No child may be admitted to the 1st grade unless he or she is 6 years old, on or before September 1 in the year he or she proposes to enter school.

(2) A resident over 20 years of age may be admitted to school when in the judgment of the school board the resident will not interfere with the pupils of school age.

History: 1977 c. 418, 429; 1983 a. 36; 1985 a. 29.

118.145 Admission to high school. (1) The school board of a district operating high school grades shall determine, with the advice and consent of the state superintendent, the minimum standards for admission to high school.

(2) A certificate or diploma or other written evidence issued by a school board showing that the pupil has completed the course of study in the elementary grades of the school district in which the pupil resides shall entitle the pupil to admission to high school. Such certificate or diploma or a certified copy thereof or a certified copy of a list of graduates shall be filed with the school district clerk of the school district operating the high school.

(3) If the superintendent of a private school files with the department the course of study for elementary grades prescribed by such school and if such course of study is substan-

tially equivalent to the course of study prepared for elementary grades by the department, a certificate or diploma or other written evidence issued by the superintendent of the private school showing that the pupil has completed such course of study shall entitle the pupil to admission to a public high school. The certificate or diploma or a certified copy thereof or a certified copy of a list of graduates shall be filed with the school district clerk of the school district operating the high school.

History: 1975 c. 39, 199

118.15 Compulsory school attendance. (1) (a) Except as provided under pars. (b) to (d) and sub. (4), unless the child is excused under sub. (3) or has graduated from high school, any person having under control a child who is between the ages of 6 and 18 years shall cause the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age.

(b) Upon the child's request of the school board and with the written approval of the child's parent or guardian, any child who is 16 years of age or over may attend, in lieu of high school or on a part-time basis, a vocational, technical and adult education school. Where such a request is made and approved by the school board, the district board of the vocational, technical and adult education district in which the child resides must admit the child and must enter into the contract specified in sub. (2). Every district board must offer day class programs satisfactory to meet the requirements of this paragraph and sub. (2) as a condition to the receipt of any state aid.

(c) Upon the child's request and with the written approval of the child's parent or guardian, any child who is 16 years of age or over may be excused by the school board from school attendance. The school board may not excuse a child from school attendance under this paragraph unless the school board makes available to the child the program modification specified under par. (d) 3 and the child and his or her parent or guardian rejects that modification. A child who is excused from school attendance under this paragraph shall be informed by the school board of the availability of programs within the vocational, technical and adult education system and of the child's right to be readmitted to school upon request. The school board may specify when the child will be excused or readmitted after being excused from school attendance.

(d) Any child's parent or guardian, or the child if the parent or guardian is notified, may request the school board to provide the child with program or curriculum modifications, including but not limited to:

1. Modifications within the child's current academic program.
2. A school work training or work study program.
3. Enrollment in any alternative public school or program located in the school district in which the child resides.
4. Enrollment in any nonsectarian private school or program, located in the school district in which the child resides, which complies with the requirements of 42 USC 2000d. Enrollment of a child under this subdivision shall be pursuant to a contractual agreement which provides for the payment of the child's tuition by the school district.
5. Homebound study, including nonsectarian correspondence courses or other courses of study approved by the school board or nonsectarian tutoring provided by the school in which the child is enrolled.

6. Enrollment in any public educational program located outside the school district in which the child resides. Enrollment of a child under this subdivision may be pursuant to a contractual agreement between school districts.

(e) Any decision made by a school board or a designee of the school board in response to a request for program or curriculum modifications under par. (d) shall be reviewed by the school board upon request of the child's parent or guardian. The school board shall render its determination upon review in writing, if the child's parent or guardian so requests.

(2) (a) If the determination is made under sub. (1) (b) for a child to attend a vocational, technical and adult education school, the district board governing the vocational, technical and adult education school shall establish appropriate vocational and technical courses in accordance with par. (b) 1 and the school board of the district and the district board governing the vocational, technical and adult education school shall enter into a contract for such attendance.

(b) The contract shall set forth:

1. The courses at the vocational, technical and adult education school which are approved by the state superintendent as being courses for which credit will be given to meet high school graduation requirements.

2. The amount per student class hour of instruction, not including any debt retirement cost, which the school board shall pay to the district board of the vocational, technical and adult education school for pupils attending such school. If either board sends written notice to the state superintendent or the director of the board of vocational, technical and adult education that the boards are unable to reach an agreement on the amount to be paid, the state superintendent and the director shall determine the amount within 15 days of receipt of such notice.

(c) Pupils attending a vocational, technical and adult education school under this subsection may receive general education subjects at the vocational, technical and adult education school and shall be counted as pupils enrolled in the high school for all purposes including computing state aid for the school district and contractual payments therefor by the school district shall be deemed costs of operation and maintenance. No state aid may be paid to the vocational, technical and adult education district for pupils attending the vocational, technical and adult education school under this subsection.

(d) Transportation, or board and lodging under s. 121.57 (1) (a), for pupils attending a vocational, technical and adult education school under this subsection shall be provided by the school district, and state aids shall be paid therefor, on the same basis as is transportation for pupils attending high school.

(3) This section does not apply to:

(a) Any child who is excused by the school board because the child is temporarily not in proper physical or mental condition to attend school or an educational program under s. 115.85 (2), but who can be expected to return to school or the program upon termination or abatement of the illness or condition. The school attendance officer may request the parent or guardian of the child to obtain a written statement from a licensed physician, dentist, chiropractor, optometrist or psychologist or Christian Science practitioner living and residing in this state, who is listed in the Christian Science Journal, as sufficient proof of the physical or mental condition of the child. An excuse under this paragraph shall be in writing and shall state the time period for which it is valid, not to exceed 30 days.

(b) Any child excused for good cause by the school board of the district in which the child resides, with the written approval of the child's parent or guardian, except that good cause may not be based upon the child's exceptional educational needs as described in s. 115.76 (3). An excuse under this paragraph shall be in writing and shall state the time period for which it is effective, not to exceed one year.

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

(4m) No school board, school board member, multidisciplinary team under s. 115.80 or person employed by a school board or cooperative educational service agency may in any manner compel a pregnant girl to withdraw from her regular education program.

(5) Whoever violates this section may be fined not less than \$5 nor more than \$50 or imprisoned not more than 3 months or both, after evidence has been provided by the school attendance officer that the activities under s. 118.16 (5) have been completed. In a prosecution under this subsection, if the defendant proves that he or she is unable to comply with the law because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under ch. 48.

History: 1971 c. 40, 125, 154; 1973 c. 89, 243, 319, 332; 1975 c. 39, 199; 1979 c. 221, 298, 300, 355; 1981 c. 20; 1983 a. 512; 1985 a. 29.

Compelling Amish parents to send their children to high school infringes upon their religious liberties. *State v. Yoder*, 49 W (2d) 430, 182 NW (2d) 539; aff'd, 406 U.S. 205.

A city is not liable for failure to enforce the school attendance laws for damages resulting from an assault by truants. *Riemer v. Crayton*, 57 W (2d) 755.

See note to Art. I, sec. 18, citing *State v. Kasuboski*, 87 W (2d) 407, 275 NW (2d) 101 (Ct. App. 1978).

See note to 785.02, citing *In Interest of D.L.D.* 110 W (2d) 168, 327 NW (2d) 682 (1983).

The Amish and compulsory school attendance. 1971 WLR 832

118.153 Children at risk. (1) In this section:

(a) "Children at risk" means dropouts, pupils who have been absent from school without acceptable excuses under s. 118.15 (1) (b) to (d) or (3), pupils who are parents and pupils who have been adjudicated delinquent, who are one or more years behind their age group in the number of credits attained or in basic skill levels.

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

(2) (a) By August 15, 1986, and annually thereafter, every school board shall identify the children at risk who are enrolled in the school district and develop a plan describing how the school board will meet the needs of such children through curriculum modifications and alternative programs that meet the high school graduation requirements under s. 118.33. The plan shall also describe how remedial instruction, parental involvement and pupil and community support services will be used to meet the needs of the children at risk.

(b) If in the previous school year a school district had 50 or more dropouts or a dropout rate exceeding 5% of its total high school enrollment, the school board shall submit the plan developed under par. (a) to the state superintendent for his or her approval.

(3) (a) Beginning in the 1986-87 school year:

1. Every school board shall make available to the children at risk enrolled in the school district a program for children at risk.

2. Upon request of a pupil who is a child at risk or the pupil's parent or guardian, the school board shall enroll the pupil in the program for children at risk.

(b) Programs for children at risk shall be designed to allow the pupils enrolled to meet high school graduation requirements under s. 118.33.

(c) 1. The school board of a school district operating under ch. 119 shall determine appropriate private, nonprofit, nonsectarian agencies located in the school district to meet the requirements under pars. (a) and (b) for the children at risk enrolled in the school district.

2. The school board may contract with the agencies described under subd. 1 for 30% of the children at risk enrolled in the school district if the school board determines that the agencies can adequately serve 30% of such children.

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

(4) (a) Beginning in August 1987, and annually thereafter, the school board of every school district whose plan was approved under sub. (2) (b) in the previous school year shall submit a report to the state superintendent. The report shall include information on the school district's attendance, retention and high school graduation rates for pupils enrolled in a program for children at risk and the percentage of pupils enrolled in a program for children at risk who received academic credit in the previous school year.

(b) If upon receipt of a school board's annual report under par. (a) the state superintendent determines that any 3 of the conditions listed under par. (c) existed in the school district in the previous school year, the school district shall receive from the appropriation under s. 20.255 (2) (ac), for each pupil enrolled in the school district's program for children at risk, additional state aid in an amount equal to 10% of the school district's average per pupil aids provided under s. 20.255 (2) (ac) and (an) in the previous school year.

(c) 1. The school district's average attendance rate for pupils enrolled in the school district's program for children at risk was at least 70%.

2. The school district's retention rate for pupils enrolled in the school district's program for children at risk was at least 70%.

3. At least 70% of the pupils enrolled in the school district's program for children at risk as high school seniors received a high school diploma.

4. At least 70% of the pupils enrolled in the school district's program for children at risk received academic credit.

5. The school district's program for children at risk can show, on average, at least one month of improvement in reading and mathematics performance for each month of instruction.

(5) The school board of a school district receiving additional state aid under sub. (4) (b) shall use the additional funds received for meeting the requirements under subs. (2) (a) and (3).

(6) Annually, the legislative audit bureau shall audit school district eligibility, performance criteria and state aid payments under this section.

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

History: 1985 a. 29, 332.

118.155 Released time for religious instruction. (1) Any school board shall, without approval of the state superintendent, permit pupils with written permission of a parent or guardian to be absent from school at least 60 minutes but not more than 180 minutes per week to obtain religious instruction outside the school during the required school period. The supervisor of such religious instruction shall report monthly, to the principal of the school regularly attended, the names of the pupils who attended such weekly religious instruction. The school board may deny the privilege of released time to pupils who absent themselves from such religious instruction after requesting the privilege. The time period, or periods, allotted for the pupil to be absent from school for the purpose of religious instruction shall be determined by the school board.

(2) Any transportation to religious instruction or from religious instruction to the public school shall be the responsibility of the parents or of the organization sponsoring the religious instruction.

(3) The school district shall be released from all liability for a pupil who is absent from school in accordance with sub. (1).

History: 1973 c. 161.
Constitutionality upheld. State ex rel. Holt v. Thompson, 66 W (2d) 659, 225 NW (2d) 678.

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

(a) "School attendance officer" means an employe designated by the school board to deal with matters relating to school attendance and truancy.

(b) "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of s. 118.15.

(2) The school attendance officer:

(a) Shall determine daily which pupils enrolled in the school district are absent from school and whether that absence is excused under s. 118.15.

(b) Annually, on or before August 1, shall determine how many pupils enrolled in the school district were absent in the previous year and whether the absences were excused under s. 118.15 and shall notify the state superintendent of the determination.

(c) Shall notify the parent or guardian of a child who has been truant of the child's truancy and direct the parent or guardian to return the child to school no later than the next day on which school is in session or to provide an excuse under s. 118.15. The notice under this paragraph must be given before the end of the 2nd school day after receiving a report of an unexcused absence and may be made by personal service, mail or telephone call of which a written record is kept.

(d) May visit any place of employment in the school district to ascertain whether any minors are employed there contrary to law. The officer shall require that school certificates and lists of minors who are employed there be produced for inspection, and shall report all cases of illegal employment to the proper school authorities and to the department of industry, labor and human relations.

(e) Shall have access to information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at a private school located in the school district.

(3) All private schools shall keep a record containing the information required under ss. 115.30 (2) and 120.18. The record shall be open to the inspection of school attendance officers at all reasonable times. When called upon by any

school attendance officer, the school shall furnish, on blanks supplied by the school attendance officer, such information in regard to any child between the ages of 6 and 18 who is a resident of the school district or who claims or is claimed to be in attendance at the school.

(4) (a) The school board shall establish a written attendance policy specifying the reasons for which pupils may be permitted to be absent from a public school under s. 118.15 and shall require the teachers employed in the school district to submit to the school attendance officer daily attendance reports on all pupils under their charge.

(b) No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences from school. The attendance policy under par. (a) shall specify the conditions under which a pupil may be permitted to take examinations missed during absences.

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

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

(5) Prior to any proceeding being brought against a child under s. 48.13 (6) or against the child's parent or guardian under s. 118.15, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred:

(a) Met with the child's parent or guardian to discuss the child's truancy or have attempted to meet with the child's parent or guardian and been refused.

(b) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under s. 118.15 (1) (d).

(c) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems.

(d) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

(6) Following receipt of evidence that activities under sub. (5) have been completed, the school attendance officer may file information on any child who continues to be truant with the court assigned to exercise jurisdiction under ch. 48 in accordance with s. 48.24. Filing information on a child under this subsection does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

(7) Any school district administrator, principal, teacher or school attendance officer who violates this section shall forfeit not less than \$5 nor more than \$25.

History: 1971 c. 164 s. 85; 1975 c. 39; 1979 c. 221, 298; 1985 a. 211.

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

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

(b) The program is privately controlled.

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

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

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

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

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

History: 1983 a. 512

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

History: 1983 a. 512

118.17 Indigent children. The principal or teacher in charge of any public school shall report to the authority administering general relief for the county wherein the school is situated the name and address of any child in the school whose parent, guardian or other person having control, charge or custody of the child is without sufficient means to furnish the child with food or clothing necessary to enable the child to attend school.

History: 1985 a. 29

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

118.18 Teacher reports. Every teacher shall record the names, ages and studies of all pupils under his or her charge and their daily attendance and such other facts or matters relating to the school as the state superintendent or school board requires.

History: 1979 c. 301

118.19 Teacher certificates and licenses. (1) Any person seeking to teach in a public school or in a school or institution operated by a county or the state shall first procure a certificate or license from the department.

(2) Until the end of the 1971-1972 school year, no certificate or license to teach in any public school may be issued unless the applicant has completed, beyond the work of the high school, 2 years of school work which were devoted to pedagogical instruction and training. Any teacher who has taught in any public school in the 1937-1938 school year or

prior thereto may continue to teach in the public schools without complying with this subsection.

(3) (a) No certificate or license to teach in any public school may be issued unless the applicant possesses a bachelor's degree including such professional training as the department by rule requires, except as permitted under s. 115.28 (17) (a) and par. (b). Notwithstanding s. 36.11 (16), beginning August 31, 1990, no teacher preparatory program in this state may be approved by the state superintendent under s. 115.28 (7) (a), unless each student in the program is required to complete student teaching consisting of full days for a full semester following the daily schedule and semester calendar of the cooperating school. Beginning August 31, 1990, no certificate or license to teach in any public school may be granted to an applicant who completed a professional training program outside this state unless the applicant completed student teaching consisting of full days for a full semester following the daily schedule and semester calendar of the cooperating school or the equivalent, as determined by the state superintendent. The state superintendent may grant exceptions to the student teaching requirements under this paragraph when the midyear calendars of the institution offering the teacher preparatory program and the cooperating school differ from each other and would prevent students from attending classes at the institution in accordance with the institution's calendar. The state superintendent shall promulgate rules to implement this subsection.

(b) The state superintendent shall permanently certify any applicant to teach Wisconsin native American languages and culture who has successfully completed the university of Wisconsin-Milwaukee school of education approved Wisconsin native American languages and culture project certification program at any time between January 1, 1974, and December 31, 1977. School districts shall not assign individuals certified under this paragraph to teach courses other than Wisconsin native American languages and culture, unless they qualify under par. (a).

(5) After written notice of the charges and of an opportunity for defense, any certificate or license to teach issued by the department may be revoked by the state superintendent for incompetency or immoral conduct on the part of the holder.

(6) In granting certificates or licenses for the teaching of courses in economics, social studies or agriculture, adequate instruction in cooperative marketing and consumers' cooperatives shall be required. In granting certificates or licenses for the teaching of courses in science or social studies, adequate instruction in the conservation of natural resources shall be required.

(7) No certificate or license to teach industrial arts subjects may be issued unless the applicant has had 3 years of practical experience beyond apprenticeship or 4 years of institutional training in such subjects. For purposes of salary schedules and promotion, any person teaching an industrial arts subject on January 1, 1936, who had 5 years of practical or teaching experience in such subject shall be deemed to have the equivalent of a bachelor's degree.

History: 1971 c. 154; 1975 c. 39, 95; 1979 c. 346; 1981 c. 314 s. 146; 1985 a. 29, 207.

Superintendent must follow criteria of this section in approving vocational teachers for high school students. 68 Atty Gen. 248.

118.195 Discrimination against handicapped teachers prohibited. (1) No person otherwise qualified may be denied a certificate or license from the state superintendent under s. 118.19 (1) because he is totally or partially blind, deaf or physically handicapped nor may any school district refuse to employ a teacher on such grounds, if such handicapped

teacher is able to carry out the duties of the position which he seeks.

(2) Any school board may request the state superintendent for advice and assistance in interpreting this section.

118.20 Teacher discrimination prohibited. (1) No discrimination because of sex, except where sex is a bona fide occupational qualification as defined in s. 111.36 (2), race, nationality or political or religious affiliation may be practiced in the employment of teachers or administrative personnel in public schools or in their assignment or reassignment. No questions of any nature or form relative to sex, except where sex is a bona fide occupational qualification as defined in s. 111.36 (2), race, nationality or political or religious affiliation may be asked applicants for teaching or administrative positions in the public schools either by public school officials or employes or by teachers agencies or placement bureaus.

(2) The state superintendent or a person designated by the superintendent may receive and investigate complaints charging discrimination in employment, assignment or reassignment of teachers or administrative personnel in the public schools and the superintendent or designee may hold hearings, subpoena witnesses and take testimony to effectuate the purposes of this section.

(3) If the superintendent finds probable cause to believe that any discrimination prohibited by this section has been or is being practiced, he shall immediately endeavor to eliminate the practice by conference, conciliation or persuasion. In case of failure to eliminate the discrimination, the superintendent shall issue and serve a written notice of hearing, specifying the nature of the discrimination which appears to have been committed, and requiring the public school official, employe, teacher agency or placement bureau named, hereinafter called the "respondent" to answer the complaint at a hearing before the superintendent. The notice shall specify a time of hearing not less than 10 days after service of the complaint, and a place of hearing within the county in which the discrimination is alleged to have occurred.

(4) After hearing, if the superintendent finds that the respondent has engaged in discrimination prohibited by this section the superintendent shall make written findings and recommend such action by the respondent as shall satisfy the purposes of this section and shall serve a certified copy of the findings and recommendations on the respondent together with an order requiring the respondent to comply with the recommendations. Any person aggrieved by noncompliance with the order shall be entitled to have the order enforced specifically by suit in equity. If the superintendent finds that the respondent has not engaged in the alleged discrimination, he shall serve a certified copy of his findings on the complainant together with an order dismissing the complaint.

(5) If any public school official, employe, teachers agency or placement bureau violates sub. (1) or fails or refuses to obey any lawful order made by the superintendent pursuant to this section, such person shall forfeit and pay into the state treasury not less than \$25 nor more than \$50, or be imprisoned not less than 5 nor more than 30 days. Such violation or failure or refusal to obey an order shall be grounds for the removal of any school district administrator, member of a school board or other public school official. Findings and orders of the superintendent under this section shall be subject to judicial review under ch. 227.

(6) Upon request of the superintendent, the attorney general or district attorney of the county in which any investigation, hearing or trial under this section is pending, shall aid and prosecute under supervision of the superintendent,

all necessary actions or proceedings for the enforcement of this section and for the punishment of all violations thereof.

(7) In administering this section the superintendent shall have authority to make, amend and rescind rules necessary to carry out the purposes of this section.

History: 1975 c. 94; 1977 c. 286 s. 4; 1981 c. 334 s. 25 (2).

See note to 111.31, citing *Kurtz v. City of Waukesha*, 91 W (2d) 103, 280 NW (2d) 757 (1979).

118.21 Teacher contracts. (1) The school board shall contract in writing with qualified teachers. The contract, with a copy of the teacher's authority to teach attached, shall be filed with the school district clerk. Such contract, in addition to fixing the teacher's wage, may provide for compensating the teacher for necessary travel expense. A teaching contract with any person not legally authorized to teach the named subject or at the named school shall be void. All teaching contracts shall terminate if, and when, the authority to teach terminates.

(2) Any person who contracts to teach in any public school shall file in the office of the school district administrator, within 10 days after entering into such contract, a statement showing the date of expiration and the grade and character of certificate or license held. In any school district not having a school district administrator, the statement shall be filed with the school district clerk. Teachers employed by a cooperative educational service agency shall file the statement in the office of the agency coordinator. No order or warrant may be issued by the school district clerk in payment of the salary of any teacher, unless the teacher has complied with this subsection.

(3) School boards may provide in the contracts of teachers of agricultural and homemaking courses for payment out of school district funds for services performed outside the school district and connected with the performance of their regular teaching duties, and for travel expenses connected with such services.

(4) School boards may give to any teacher, without deduction from his wages, the whole or part of any time spent by him in attending a teachers' educational convention, upon the teacher's filing with the school district clerk a certificate of attendance at the convention, signed by the person or secretary of the association conducting the convention.

History: 1979 c. 301.

Cross Reference: See 118.22 (2) for requirement that majority vote of full board membership is required for employment of a teacher.

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

Teacher's lack of legal authority to teach assigned courses, although known to school board at time of hiring and subsequent assignments, was sufficient ground for dismissal despite fact that school superintendent repeatedly assured teacher that the certification problem was an administrative omission which would be cured by the board. *Grams v. Melrose-Mindoro Jt. School Dist. No. 1*, 78 W (2d) 569, 254 NW (2d) 730.

Individual teacher's contract under 118.21 and 118.22 is subservient to collective bargaining contract under 111.70. 60 Atty. Gen. 342.

School boards have authority to contract with teachers to provide for an increment or sum in addition to the regular salary in return for the teacher choosing an early retirement option. 63 Atty. Gen. 16.

Even though a teacher was properly dismissed for an admitted violation of school rules, she is entitled to a due process hearing on other charges affecting her reputation as a teacher. *Carpenter v. Greenfield School Dist. No. 6*, 358 F Supp. 220.

118.215 Energy emergency and school operations. If an energy emergency results in the reduction of fuel supplies that may require curtailment of the operations of public elementary and high schools, the determination as to how to meet such crises shall be made locally by each school system or district. Changes in terms and conditions of employment proposed to meet such crises, other than salaries and wages, shall be negotiated between the school board and the bargaining representative of the employes, if any. Employes of any

school system or district in which school operations are curtailed or in which schools are closed due to an energy emergency shall receive full payment of salary or wages under their employment contracts or arrangements as if there had been no such curtailment or closing.

History: 1973 c. 157; 1977 c. 29, 203, 418.

118.22 Renewal of teacher contracts. (1) In this section:

(a) "Board" means a school board, vocational, technical and adult education district board, board of control of a cooperative educational service agency or county handicapped children's education board, but does not include any board of school directors in a city of the 1st class.

(b) "Teacher" means any person who holds a teacher's certificate or license issued by the state superintendent or a classification status under the board of vocational, technical and adult education and whose legal employment requires such certificate, license or classification status, but does not include part-time teachers or teachers employed by any board of school directors in a city of the 1st class.

(2) On or before March 15 of the school year during which a teacher holds a contract, the board by which the teacher is employed or an employe at the direction of the board shall give the teacher written notice of renewal or refusal to renew his contract for the ensuing school year. If no such notice is given on or before March 15, the contract then in force shall continue for the ensuing school year. A teacher who receives a notice of renewal of contract for the ensuing school year, or a teacher who does not receive a notice of renewal or refusal to renew his contract for the ensuing school year on or before March 15, shall accept or reject in writing such contract not later than the following April 15. No teacher may be employed or dismissed except by a majority vote of the full membership of the board. Nothing in this section prevents the modification or termination of a contract by mutual agreement of the teacher and the board. No such board may enter into a contract of employment with a teacher for any period of time as to which the teacher is then under a contract of employment with another board.

(3) At least 15 days prior to giving written notice of refusal to renew a teacher's contract for the ensuing school year, the employing board shall inform the teacher by preliminary notice in writing that the board is considering nonrenewal of the teacher's contract and that, if the teacher files a request therefor with the board within 5 days after receiving the preliminary notice, the teacher has the right to a private conference with the board prior to being given written notice of refusal to renew his contract.

(4) A collective bargaining agreement may modify, waive or replace any of the provisions of this section as they apply to teachers in the collective bargaining unit, but neither the employer nor the bargaining agent for the employes is required to bargain such modification, waiver or replacement.

History: 1971 c. 154; 1981 c. 223; 1983 a. 189.

See note to 118.26, citing *Veith v. Joint School Dist. No. 6*, 54 W (2d) 501, 196 NW (2d) 714.

Notice of intent not to renew that part of a contract which provided extra pay for extra work as a coach is not necessary. *Richards v. Board of Education*, 58 W (2d) 444, 206 NW (2d) 597.

Dual purpose of hearing under (3) is to persuade board to renew contract or, failing that, to voluntarily resign. *Rawhouser v. CESA No. 4*, 75 W (2d) 52, 248 NW (2d) 442.

In absence of evidence of bias or high probability of bias of school board, trial court had no jurisdiction to hold de novo hearing as to competence of teacher facing nonrenewal under (3). *Naus v. Jt. Sch. Dist. No. 1 Sheboygan Falls*, 76 W (2d) 104, 250 NW (2d) 725.

See note to 788.10, citing *Jt. School Dist. No. 10 v. Jefferson Ed. Asso. 78 W (2d) 94*, 253 NW (2d) 536.

Under (2), board has exclusive right to hire and fire a teacher. Due process does not require that board be an impartial decisionmaker. *Hortonville Ed. Asso. v. Joint Sch. Dist. No. 1*, 87 W (2d) 347, 274 NW (2d) 697 (1979).

Employment contract which recites that teacher's employment will not be renewed cannot be construed as a waiver of rights granted by this section. Presumption of board's good faith discussed. *Faust v. Ladysmith-Hawkins School Systems*, 88 W (2d) 525, 277 NW (2d) 303, 281 NW (2d) 611 (1979).

Layoff of teacher is not equivalent of "refusal to renew" when collective bargaining agreement under 111.70 contains layoff provisions incorporated in teacher's contract. *Mack v. Joint School District No. 3*, 92 W (2d) 476, 285 NW (2d) 604 (1979).

See note to 111.70, citing *Arbitration Between West Salem & Fortney*, 108 W (2d) 167, 321 NW (2d) 255 (1982).

See note to 108.04, citing *Nelson v. LIRC*, 123 W (2d) 221, 365 NW (2d) 629 (Ct. App. 1985).

"Private conference" under 118.22 (3), on nonrenewal of teacher's contract is a "meeting" within 19.82 (2). 66 Atty. Gen. 211.

Civil rights; academic freedom; refusal to hire a nontenure teacher for a constitutionally impermissible reason. 1970 WLR 162.

Fairness of a hearing before a school board on nonrenewal of a teacher's contract. 1971 WLR 354.

118.23 Populous counties; teacher tenure. (1) In this section "teacher" means any person who holds a teacher's certificate or license and whose legal employment requires such certificate or license, who is employed full time and meets the minimum requirements prescribed by the governing body employing such person and who is employed by a school board, board of trustees or governing body of any school operating under chs. 115 to 121 and lying entirely and exclusively in a county having a population of 500,000 or more. "Teacher" does not include any superintendent or assistant superintendent; any teacher having civil service status under ss. 63.01 to 63.17; any teacher in a public school in a 1st class city; or any person who is employed by a school board during time of war as a substitute for a teacher on leave while on full-time duty in the U.S. armed forces or any reserve or auxiliary thereof and who is notified in writing at the time of employment that the position is of a temporary nature.

(2) All teachers shall be employed on probation, but after continuous and successful probation for 3 years and the gaining of the 4th contract in the same school system or school, their employment shall be permanent except as provided in sub. (3). All principals shall be employed on probation, but after continuous and successful probation for 3 years and the gaining of a 4th contract in the same school system or school, their employment shall be permanent except as provided in sub. (3). Upon accepting employment in another school system or school to which this section applies, a teacher who has acquired permanent employment under this section shall be on probation therein for 2 years. After continuous and successful probation for 2 years and gaining the 3rd contract in such school system or school, employment therein shall be permanent except as provided in sub. (3). A person who acquired tenure as a teacher under this section shall not be deprived of tenure as a teacher by reason of his employment as a principal.

(3) No teacher who has become permanently employed under this section may be refused employment, dismissed, removed or discharged, except for inefficiency or immorality, for wilful and persistent violation of reasonable regulations of the governing body of the school system or school or for other good cause, upon written charges based on fact preferred by the governing body or other proper officer of the school system or school in which the teacher is employed. Upon the teacher's written request and no less than 10 nor more than 30 days after receipt of notice by the teacher, the charges shall be heard and determined by the governing body of the school system or school by which the teacher is employed. Hearings shall be public when requested by the teacher and all proceedings thereat shall be taken by a court reporter. All parties shall be entitled to be represented by counsel at the hearing. The action of the governing body is final.

(4) If necessary to decrease the number of permanently employed teachers by reason of a substantial decrease of

pupil population within the school district, the governing body of the school system or school may lay off the necessary number of teachers, but only in the inverse order of the appointment of such teachers. No permanently employed teacher may be prevented from securing other employment during the period he is laid off under this subsection. Such teachers shall be reinstated in inverse order of their being laid off, if qualified to fill the vacancies. Such reinstatement shall not result in a loss of credit for previous years of service. No new permanent or substitute appointments may be made while there are laid off permanent teachers available who are qualified to fill the vacancies.

(5) A collective bargaining agreement may modify, waive or replace any of the provisions of this section as they apply to teachers in the collective bargaining unit, but neither the employer nor the bargaining agent for the employees is required to bargain such modification, waiver or replacement.

History: 1971 c. 154; 1979 c. 89; 1981 c. 223; 1983 a. 391.

Layoff and reinstatement provisions in this section are to be applied separately to classroom teachers and principals. 70 Atty. Gen. 6.

118.235 Lunch period for teachers. Every school board shall grant daily a duty-free lunch period to each of its teachers, except that a school district may contract with any teacher employed by it for services during such period. Such period shall be not less than 30 minutes and shall be provided at or near the time of the regular school lunch period.

118.24 School district administrator. (1) A school board may employ a school district administrator, a business manager and school principals and assistants to such persons. Persons certificated for such positions may be employed for a period of not more than 3 years. After 3 years of continuous employment in the same administrative position, a contract renewed for the same administrative position shall be for a term of not less than 2 years, except as provided under sub. (1m).

(1m) (a) Except as provided under par. (c), a school board may renew, for a term of one year, the employment contract of any person described under sub. (1) who has been continuously employed in the same administrative position for at least 3 years if, prior to giving notice of renewal of the person's contract for a one-year term under par. (b), the school board gives the person preliminary notice in writing by registered mail at least 5 months prior to the expiration of such contract that the school board is considering renewal of the person's contract for a one-year term. If the person files a written request with the school board within 7 days after receiving the notice, the person has a right to a hearing before the school board prior to being given written notice of renewal of the contract for a one-year term under par. (b). The written request for a hearing shall include a statement requesting either a private hearing or a public hearing before the school board. If a hearing concerning renewal of the contract for a one-year term is requested, the reasons upon which the school board is considering renewal of the contract for a one-year term may also be requested and the school board shall furnish the reasons, in writing, before the hearing.

(b) At least 4 months prior to the expiration of the person's contract, the school board may give notice in writing that it is renewing the person's contract for a one-year term if the school board has complied with the requirements under par. (a). If no notice of renewal under this paragraph and no notice of renewal or refusal to renew under sub. (6) is given to any person described under sub. (1) who has been continuously employed in the same administrative position for at least 3 years, the contract then in force shall continue in force

for 2 additional years. Any such person who receives notice of renewal of the contract for a term of one year under this paragraph at least 4 months before the contract expiration shall accept or reject the contract in writing on or before a date 3 months prior to the contract expiration.

(c) The procedure under this subsection may not be used to renew a contract in consecutive years.

(2) (a) Under the direction of the employing school board, the school district administrator shall have general supervision and management of the professional work of the schools and the promotion of pupils.

(b) The school district administrator shall not be a member of the school board and shall not engage in any pursuit which interferes with the proper discharge of the duties.

(c) The school district administrator shall make written recommendations to the school board on teachers, courses of study, discipline and such other matters as the administrator thinks advisable and shall perform such other duties as the school board requires.

(d) The school district administrator may act as principal or teacher in any school under the administrator's supervision.

(e) The school district administrator shall attend annually one convention called by the state superintendent for the purpose of consultation upon matters pertaining to the supervision and management of the schools. The administrator shall be reimbursed for actual and necessary expenses incurred for travel, board and lodging because of attendance at such convention. Bills for such expenses shall be audited and allowed by the school board upon presentation of an itemized statement of expense accompanied by a certificate of attendance signed by the state superintendent.

(f) The school district administrator shall ensure that the administrative and pupil service staff in the district cooperate with the county department under s. 51.42 in the dissemination of information regarding the availability of alcohol and drug abuse services and to jointly establish procedures for the referral to appropriate agencies of students experiencing problems resulting from the use of alcohol or other drugs.

(3) The principal shall perform such administrative and instructional leadership responsibilities as are assigned by the district administrator under the rules and regulations of the school board.

(4) A business administrator shall perform such fiscal and business management and other administrative duties as are assigned by the district administrator subject to the rules, regulations and approval of the school board.

(5) School principals and business administrators, and assistants thereto, may, upon authorization from the school board or district administrator, attend conventions for the purpose of promoting and stimulating their professional growth and for improving the schools of the district and the state. For such approved attendance they may be reimbursed for actual and necessary expenses incurred for travel, board, lodging and attendance at such conventions upon proper filing of proof of attendance and of such necessary expenditures.

(6) The employment contract of any person described under sub. (1) shall be in writing and filed with the school district clerk. At least 4 months prior to the expiration of the employment contract, the employing school board shall give notice in writing of either renewal of the contract for a period not to exceed 3 years or of refusal to renew such person's contract. If no such notice is given, the contract then in force shall continue in force for one additional year, except as provided under sub. (1m). Any such person who receives notice of renewal or who does not receive notice of renewal or

refusal to renew the person's contract at least 4 months before the contract expiration shall accept or reject the contract in writing on or before a date 3 months prior to the contract expiration. No such person may be employed or dismissed except by a majority vote of the full membership of the school board. Nothing in this section prevents the modification or termination of an employment contract by mutual agreement of the parties. No school board may enter into a contract of employment with any such person for a period of time as to which such person is then under a contract of employment with another school board.

(7) Prior to giving notice of refusal to renew the contract of any person described under sub. (1), the employing board shall give such person preliminary notice in writing by registered mail at least 5 months prior to the expiration of such contract that the board is considering nonrenewal of the contract, and that if such person files a written request with the board within 7 days after receiving such notice, the person has the right to a hearing before the board prior to being given written notice of refusal to renew the contract. The written request for a hearing shall include a statement requesting either a private hearing or a public hearing before the board. Section 118.22 does not apply to such a proceeding. If a hearing concerning nonrenewal of the contract is requested, the reasons upon which the board is considering nonrenewal may also be requested and the board shall furnish such reasons before the hearing in writing.

(8) Personnel administrators and supervisors, curriculum administrators and assistants to such administrative personnel, when employed by the school board of any district to perform administrative duties only, may be employed for a period of not more than 3 years. Subsections (5) to (7) are applicable to such persons when they are employed to perform administrative duties only.

(9) Nothing in this section shall be construed:

(a) To prohibit the school board of any district from hiring part-time administrative personnel; or

(b) To prohibit the employment relations commission from making a determination that persons hired as part-time administrative personnel shall be included in the collective bargaining unit of persons hired as teachers and shall be covered by the terms of a collective bargaining agreement which exists pursuant to s. 111.70.

History: 1975 c. 379, 421; 1979 c. 331; 1983 a. 317; 1985 a. 176.

118.25 Health examinations. (1) In this section "school employe" means a person employed by a school board who comes in contact with children or who handles or prepares food for children while they are under the supervision of school authorities.

(2) (a) As a condition of employment, the school board, except in 1st class cities, shall require a physical examination, including a chest X-ray or tuberculin test, of every school employe of the school district. Freedom from tuberculosis in a communicable form is a condition of employment. In the case of a new school employe, the school board may permit the school employe to submit proof of an examination, chest X-ray or tuberculin test complying with this section which was taken within the past 90 days in lieu of requiring such examination, X-ray or test. If the reaction to the tuberculin test is positive, a chest X-ray shall be required. Additional physical examinations shall be required thereafter at intervals determined by the school board. The school employe shall be examined by a physician in the employ of or under contract with the school district, but if a physician is not employed or under contract, the examination shall be made by a physician selected by the school employe.

(b) Such physical examinations, chest X-rays or tuberculin tests shall not be required of any school employe who files with the school board an affidavit setting forth that he depends exclusively upon prayer or spiritual means for healing in accordance with the teachings of a bona fide religious sect, denomination or organization and that he is to the best of his knowledge and belief in good health and that he claims exemption from health examination on these grounds. Notwithstanding the filing of such affidavit, if there is reasonable cause to believe that such employe is suffering from an illness detrimental to the health of the pupils, the school board may require a health examination of such school employe sufficient to indicate whether or not such school employe is suffering from such an illness. No school employe may be discriminated against by reason of his filing such affidavit.

(c) The physician making a physical examination shall prepare a report of his examination upon a standard form prepared by the department of health and social services and the department. Such report shall be retained in the physician's files and he shall make confidential recommendations therefrom to the school board and to the school employe on a form prepared by the department of health and social services and the department. The recommendation form shall contain space for a certificate that the person is free from tuberculosis in a communicable form. The cost of such examinations, including X-rays and tuberculin tests, shall be paid out of school district funds.

(3) In counties having a population of less than 500,000, the school board may require periodic health examinations of pupils by physicians, under the supervision of local boards of health and the department of health and social services, and may pay the cost of such examinations out of school district funds.

(4) If a health or physical examination made under this section includes the testing of vision, such test may be made by an optometrist. Forms used for reporting such vision tests shall so indicate.

(5) As a condition of employment, special teachers, school psychologists, school social workers, co-operative educational service agency personnel and other personnel working in public schools shall have physical examinations under sub. (2). The employing school district or agency shall pay the cost of such examinations.

(6) As a condition of employment, employes of the state superintendent whose work brings them into contact with school children or with school employes shall have physical examinations under sub. (2).

History: 1979 c. 221, 301

118.255 Health treatment services for children with special physical or mental health treatment needs. (1) (a) Under this section "physical or mental health treatment services" means treatment for physical or orthopedic disability, developmental disability, emotional disturbance, hearing impairment, visual disability, speech or language disability; and includes itinerant services such as evaluative and diagnostic services.

(b) Words and phrases used in this section which are identical to words and phrases defined in s. 115.76 shall be given the meaning contained in s. 115.76.

(2) (a) If a school board, cooperative educational service agency or county handicapped children's education board provides physical or mental health treatment services to its pupils, it may also provide such services within the private school facilities to those private school pupils who are referred to the public school board, cooperative educational service agency or county handicapped children's education

board by the administrator of a private school for evaluation for possible servicing. There shall be no charge for health treatment services provided to any pupils unless public school students or their parents are charged for similar services. For purposes of state aid, as it is provided under s. 115.88 to the public school district, for the health treatment service program, private school pupils receiving such health treatment services shall be counted among the pupils of the public school district receiving such services, although each child may receive health treatment services within his own school facilities, whether public or private.

(b) A school board, cooperative educational service agency, or county handicapped children's education board providing services under this section may enter into agreements with the administrator of a private school on the scheduling, space and other necessary arrangements for performance of such health treatment services. A school board, cooperative educational service agency or county handicapped children's education board shall not pay any private school for any services or facilities provided under this section. Control of the health treatment services program shall rest with the public school board, cooperative educational service agency or county handicapped children's education board.

(c) A school board cooperative educational service agency or county handicapped children's education board may provide health treatment services only within private school facilities located within the boundaries of the school district, cooperative educational service agency or county.

(3) The school board, cooperative educational service agency or county handicapped children's education board maintaining health treatment services shall report annually to the department of public instruction, and at such other times as the department directs, such information as the department requires.

(4) If the state superintendent is satisfied that the health treatment services program has been maintained during the preceding school year in accordance with law he or she shall certify to the department of administration in favor of each school board, cooperative educational service agency and county handicapped children's education board maintaining such health treatment services, an amount equal to 63% of the amount expended for items listed in s. 115.88 (1) by the school board, cooperative educational service agency and county handicapped children's education board during the preceding year for these health treatment services. The department of administration, upon such certification shall distribute the amounts to the appropriate school board, cooperative educational service agency and county handicapped children's education board.

History: 1973 c. 307; 1977 c. 83; 1981 c. 317; 1983 a. 27; 1983 a. 189 s. 329 (17m); 1983 a. 512.

This section authorizes local school districts to provide health and welfare services, but not educational services, to students attending private schools; it may be unconstitutional to the extent that any of the services authorized thereby are rendered in church-affiliated private schools. 64 Atty. Gen. 75.

118.257 Liability for referral to police. (1) In this section:

(a) "Controlled substance" has the meaning specified in s. 161.01 (4).

(b) "Distribute" has the meaning specified in s. 161.01 (9).

(c) "School" means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

(2) A school administrator, principal or teacher employed by a school is not liable solely for referring a pupil of the school to law enforcement authorities, or for removing a

pupil from the school premises or from participation in a school-sponsored activity, for suspicion of possession, distribution or consumption of an alcohol beverage or a controlled substance.

History: 1979 c. 331; 1981 c. 79 s. 17; 1983 a. 373.

118.26 Claim against school district. No action may be brought or maintained against a school district upon a claim or cause of action unless the claimant complies with s. 893.80.

History: 1977 c. 285; 1979 c. 323 s. 33.

VTAE districts are school districts under this section. *Binder v. Madison*, 72 W (2d) 613, 241 NW (2d) 613.

118.27 Gifts and grants. The school board of a district may receive, accept and use gifts or grants of furniture, books, equipment, supplies, moneys, securities or other property, real or personal, used or useful for school research and educational purposes. All moneys received as gifts or grants shall be placed in the school district treasury but shall be considered segregated trust funds. Whenever a school board receives gifts or grants under this section, it shall make such use thereof, or invest the same in the case of moneys, as the donor or grantor specifies. In the absence of any specific direction as to the use of such gifts or grants by a donor or grantor, the school board may determine the use of or invest the same in accordance with the law applicable to trust investments. In the use, control or investment of such gifts or grants, the school board may exercise the rights and powers generally conferred upon trustees.

If moneys are accepted under this section, district must act as trustee of the moneys, except under circumstances in 66.30 (2m). 74 Atty. Gen. 45.

118.28 Community action agencies. The school board of a school district may appropriate funds for promoting and assisting any community action agency under s. 46.30.

History: 1977 c. 29; 1983 a. 27 s. 2200 (20).

118.29 Administration of drugs to pupils and emergency care. (1) DEFINITIONS. In this section:

(a) "Administer" means the direct application of a drug or prescription drug, whether by injection, ingestion or other means, to the human body.

(b) "Drug" has the meaning specified in s. 450.01 (10).

(c) "Health care professional" means a person licensed as an ambulance attendant under s. 146.50 or any person licensed, certified, permitted or registered under s. 146.35 or chs. 441 or 446 to 449.

(d) "High degree of negligence" means conduct which demonstrates ordinary negligence to a high degree, consisting of an act which the person should realize creates a situation of unreasonable risk and high probability of death or great bodily harm to another.

(e) "Practitioner" means any physician, dentist or podiatrist licensed in any state.

(f) "Prescription drug" has the meaning specified in s. 450.01 (20).

(g) "Private school" has the meaning specified in s. 121.51 (3).

(2) AUTHORITY TO ADMINISTER DRUGS; CIVIL LIABILITY EXEMPTION. (a) Notwithstanding chs. 441, 447, 448 and 450, a school bus operator licensed under s. 343.12, any school employe or volunteer, county handicapped children's education board employe or volunteer or cooperative educational service agency employe or volunteer authorized in writing by the administrator of the school district, the board or the agency, respectively, or by a school principal, and any private school employe or volunteer authorized in writing by a private school administrator or private school principal:

1. May administer any drug which may lawfully be sold over the counter without a prescription to a pupil in compli-

ance with the written instructions of the pupil's parent or guardian if the pupil's parent or guardian consents in writing.

2. May administer a prescription drug to a pupil in compliance with the written instructions of a practitioner if the pupil's parent or guardian consents in writing.

3. Is immune from civil liability for his or her acts or omissions in administering a drug or prescription drug to a pupil under subd. 1 or 2 unless the act or omission constitutes a high degree of negligence. This subdivision does not apply to health care professionals.

(b) Any school district administrator, county handicapped children's education board administrator, cooperative educational service agency administrator, public or private school principal or private school administrator who authorizes an employe or volunteer to administer a drug or prescription drug to a pupil under par. (a) is immune from civil liability for the act of authorization unless it constitutes a high degree of negligence.

(3) EMERGENCY CARE; CIVIL LIABILITY EXEMPTION. Any school bus operator licensed under s. 343.12 and any public or private school employe or volunteer, county handicapped children's education board employe or volunteer or cooperative educational service agency employe or volunteer, other than a health care professional, who in good faith renders emergency care to a pupil of a public or private school is immune from civil liability for his or her acts or omissions in rendering such emergency care. The immunity from civil liability provided under this subsection is in addition to and not in lieu of that provided under s. 895.48.

(4) WRITTEN POLICIES. Any school board, county handicapped children's education board, cooperative educational service agency or governing body of a private school whose employes or volunteers may be authorized to administer drugs or prescription drugs to pupils under this section shall adopt a written policy governing the administration of drugs and prescription drugs to pupils. The policy shall include procedures for obtaining and filing in the school or other appropriate facility the written instructions and consent required under sub. (2) (a), for the periodic review of such written instructions, for the storing of drugs and prescription drugs, for record keeping and for the appropriate instruction of persons who may be authorized to administer drugs or prescription drugs to pupils under this section.

(5) EXEMPTION. No employe except a health care professional may be required to administer a drug or prescription drug to a pupil under this section by any means other than ingestion.

History: 1983 a. 334; 1985 a. 146 s. 8; 1985 a. 218.

118.295 Suicide intervention; civil liability exemption. Any school board, private school, county handicapped children's education board or cooperative educational service agency, and any officer, employe or volunteer thereof, who in good faith attempts to prevent suicide by a pupil is immune from civil liability for his or her acts or omissions in respect to the suicide or attempted suicide. The civil liability immunity provided in this section is in addition to and not in lieu of that provided under s. 895.48.

History: 1985 a. 29.

118.30 Pupil minimum competency tests. (1) A school board may participate in the pupil minimum competency testing program under this section by notifying the state superintendent. Any school board that has elected to participate in the minimum competency testing program may withdraw from the program at any time by notifying the state superintendent.

(2) (a) By July 1, 1985, with the active involvement of school district administrators, teachers and parents, every school board that is participating in this minimum competency testing program shall adopt objective-referenced pupil minimum competency tests consisting of test items which reflect the school district's curriculum and the school district's minimum standards of proficiency in reading, language arts and mathematics. The department shall provide technical assistance, at no charge, to school boards which request it. The tests shall be designed to assess individual pupil progress in reading, language arts and mathematics and to identify competency deficiencies. To the extent possible, the tests and test items shall be free of bias.

(b) The school board may adopt the tests under par. (a) from any of the following sources:

1. Locally developed tests.
2. Locally developed tests using test items developed by the state superintendent under s. 115.28 (10) (b).
3. Commercially developed tests.
4. Tests developed by the state superintendent under s. 115.28 (10) (b).

(c) After July 1, 1985, a school board that is participating in this minimum competency testing program may not administer the objective-referenced pupil minimum competency test in reading, language arts or mathematics unless the test is approved by the state superintendent. The school board shall submit the test, along with the methodology used to determine the psychometric validity of the test, to the state superintendent for approval. The state superintendent shall approve the test, at no charge, if he or she determines that it is psychometrically valid and that it complies with the requirements under par. (a) and the criteria established by the state superintendent by rule for the approval of submitted tests. If the state superintendent does not approve the test, he or she shall notify the school board, in writing, of the disapproval and the reasons for the disapproval.

(3) (a) Using the tests adopted or approved under sub. (2), every school board that is participating in the minimum competency testing program shall test all of the pupils enrolled in the school district once in grades kindergarten to 5, once in grades 6 to 8, and once in grades 9 to 11 to assess minimum competency in reading, language arts and mathematics, except as provided under par. (b).

(b) 1. The school board may determine not to test a pupil enrolled in a special education program under subch. V of ch. 115. The school board may modify the format and administration of the tests for a pupil enrolled in such a program.

2. According to criteria established by the state superintendent by rule, the school board may determine not to test a limited-English speaking pupil, as defined under s. 115.955 (7), may permit the pupil to be tested in his or her native language or may modify the format and administration of the tests for such pupils.

(c) Beginning in the 1985-86 school year, upon request of a school board that has elected to participate in this minimum competency testing program:

1. The department shall pay the cost of printing the tests required under par. (a), but payments may not exceed the cost of printing the tests developed under s. 115.28 (10) (b).

2. The department shall pay the cost of machine-scoring the tests required under par. (a) if the tests are constructed so that they may be machine-scored, but payments may not exceed the cost of machine-scoring the tests developed under s. 115.28 (10) (b).

(4) (a) A school board that has elected to participate in this minimum competency testing program shall provide remedial services, and shall be the sole judge in determining the

sufficiency of such remedial services, to any pupil whose performance on the minimum competency tests does not meet the school district's minimum standards of proficiency in the skill areas tested. A pupil shall be allowed to retake the test in any skill area in which the pupil demonstrates deficiencies.

(b) A school board that has elected to participate in this minimum competency testing program shall provide a written report of each pupil's test results to the pupil's parent or guardian when the test results are available. The report shall be in plain language. If a pupil does not meet the test's minimum standards of proficiency in the skill areas tested, the report shall suggest a conference between the parent or guardian, an administrator designated by the school board and one or more teachers to discuss the test results and the school district's recommendations to provide remedial services.

(c) Any school board that has elected to participate in this minimum competency testing program may consider the results of the tests required under sub. (3) (a) as a requirement for high school graduation.

(4m) The test scores included in the reports under sub. (4) (b) may be used to evaluate teacher performance but they may not be used to discharge, suspend or formally discipline a teacher nor as the reason for the nonrenewal of a teacher's contract.

(5) By January 1, 1987, the school district administrator of every school district that has elected to participate in this minimum competency testing program shall report each school's test results to the school board and recommend to the school board any changes in the school district's educational program, including plans that would address pupil reading, language arts and mathematics deficiencies indicated by the reports under sub. (4) (b). Upon receipt of the report, the school board shall establish a basic skills improvement plan which includes a written response to each of the school district administrator's recommendations.

(6) The test results shall not be used in determining general or categorical aids to school districts.

History: 1981 c. 241; 1983 a. 189 s. 329 (17m); 1985 a. 228.

118.32 Strip search by school employe. Any official, employe or agent of any school or school district is prohibited under s. 942.02 from conducting a strip search of any pupil.

History: 1983 a. 489.

118.33 High school graduation standards. (1) (a) Beginning September 1, 1988, a school board may not grant a high school diploma to any pupil unless the pupil has earned:

1. In the high school grades, at least 4 credits of English including writing composition, 3 credits of social studies including state and local government, 2 credits of mathematics, 2 credits of science and 1.5 credits of physical education.

2. In grades 7 to 12, at least 0.5 credit of health education.

(am) The state superintendent shall encourage school boards to require an additional 8.5 credits selected from any combination of vocational education, foreign languages, fine arts and other courses.

(b) Beginning September 1, 1988, a school board may not grant a high school diploma to any pupil unless, during the high school grades, the pupil has been enrolled in a class or has participated in an activity approved by the school board during each class period of each school day.

(2) The state superintendent shall:

(c) Establish course requirements under sub. (1) and approve any school board's high school graduation standards policy that is equivalent to the requirements under sub. (1).

(m) Adopt policies to accommodate pupils with exceptional educational interests, needs or requirements, not limited to children with exceptional educational needs, as defined under s. 115.76 (3).

(3) By September 1, 1986, each school board operating high school grades shall submit to the state superintendent a report describing the school board's policies and guidelines on high school graduation standards, including a list of courses required under sub. (1) (a) and the number of hours in each school term required to earn one credit under sub. (1) (a), and thereafter shall notify the state superintendent whenever changes are made in such policies or guidelines. The department shall make reasonable efforts to combine the reports required under this subsection with other required school board reports.

(4) (a) The state superintendent shall establish procedures for school boards to certify to the state superintendent whether they are in compliance with the requirements under sub. (1) and the rules promulgated under sub. (2).

(b) The state superintendent may periodically review school district high school graduation standards and shall notify any school board not in compliance with the requirements under sub. (1) or the rules promulgated under sub. (2), identifying the changes necessary.

(5) The department shall include in its biennial report under s. 15.04 (1) (d) information on the status of statewide high school graduation standards.

History: 1983 a. 411; 1985 a. 29.

NOTE: 1983 Wisconsin Act 411, which created this section, has "Legislative declaration" in section 1.

118.35 Programs for gifted and talented pupils. (1) In this section, "gifted and talented pupils" means pupils enrolled in public schools who give evidence of high performance capability in intellectual, creative, artistic, leadership or specific academic areas and who need services or activities not ordinarily provided in a regular school program in order to fully develop such capabilities.

(2) The state superintendent shall by rule establish guidelines for the identification of gifted and talented pupils.

(3) Each school board shall:

(a) Ensure that all gifted and talented pupils enrolled in the school district have access to a program for gifted and talented pupils.

(b) Annually by August 15, report to the state superintendent the number of gifted and talented pupils who participated in a program under par. (a) in the previous school year and such other information as the state superintendent requests.

History: 1985 a. 29.