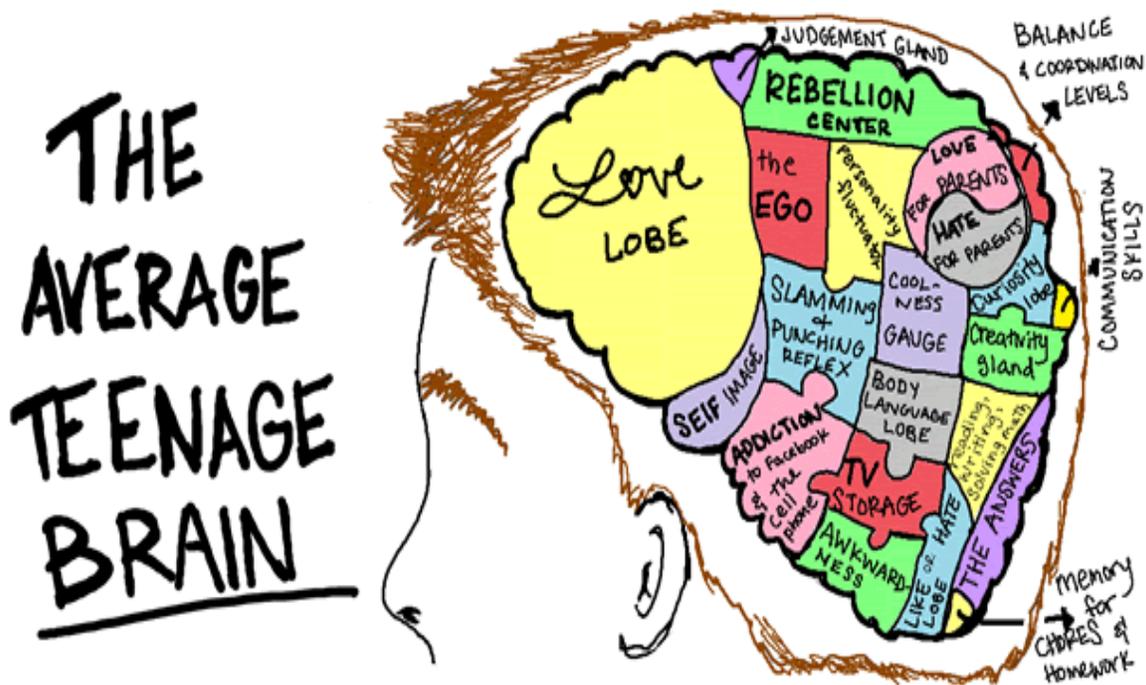


Crawford County

School Truancy Handbook



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Table of Contents

I.	Truancy Laws	[Pages 3 -25]
	A. Wis. Stats.	
	§118.15 Compulsory school attendance [4 – 18]	
	§118.16 School attendance enforcement	
	§118.162 Truancy committee and plan	
	§118.163 Municipal truancy and school dropout ordinances	
	§118.164 Removal of pupils from class	
	§118.165 Private schools	
	B. Crawford County Ordinances	
	§9.05 Truancy and habitual truancy [19 - 22]	
	§9.06 Contribution to truancy	
	C. Prairie du Chien Ordinances	
	§9.23 Truancy and habitual truancy [23 - 25]	
	prohibited	
	§9.24 Contributing to truancy	
II.	Truancy Policy and Advice	[Pages 26 - 73]
	A. Crawford County Juvenile Court Truancy Guidelines/ Flow Chart [27 – 31]	
	B. Crawford County Teen Court Flow Chart [29]	
	C. Crawford County Truancy Plan 2015 [32 – 37]	
	D. DPI: Answers to Frequently Asked Compulsory School Attendance Questions [38 – 56]	
	E. DPI: Answers to Frequently Asked School Discipline Questions [57 – 73]	
III.	Confidentiality Issues	[Pages 74 – 106]
	A. DPI: Sharing Information Across Systems January 2013	
IV.	Home Based Private Educational Program (Homeschooling)	[Pages 107- 115]
V.	Forms and Samples	[Pages 116 – 149]
	A. Attendance Notices [117 - 123]	
	Habitual Truancy Notices	
	18 Year Old Contracts	
	B. School Referral for Citation [124 – 135]	
	Habitual Truancy Meeting Documentation	
	Court Referral (Non Law Enforcement)	
	Court Referral (Law Enforcement)	
	2012 Juvenile Forfeiture Schedule	
	Penalty Guidelines – Underage Possession/ Consumption – Alcoholic Beverages	
	C. Dispositional Order – Civil Law Violation Procedure and Form [136 – 149]	
	Juvenile Community Service Information	
	Dispositional Order – Delinquent Procedure and Forms	
	Conditions of Supervision	

I.

TRUANCY

LAWS

WISCONSIN STATUTE §118.15

§118.15 COMPULSORY SCHOOL ATTENDANCE

§118.16 SCHOOL ATTENDANCE ENFORCEMENT

§118.162 TRUANCY COMMITTEE AND PLAN

**§118.163 MUNICIPAL TRUANCY AND SCHOOL
DROPOUT ORDINANCES**

§118.164 REMOVAL OF PUPILS FROM THE CLASS

§118.165 PRIVATE SCHOOLS

118.15 Compulsory school attendance. (1) (a) Except as provided under pars. (b) to (d) and (g) 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, private, or tribal 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.

(am) Except as provided under par. (d), unless the child is excused under sub. (3), any person having under his or her control a child who is enrolled in 5-year-old kindergarten shall cause the child to attend school regularly, religious holidays excepted, during the full period and hours that kindergarten is in session at the public or private school in which the child is enrolled until the end of the school term.

(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 and a child at risk, as defined in s. 118.153 (1) (a), may attend, in lieu of high school or on a part-time basis, a technical college if the child and his or her parent or guardian agree, in writing, that the child will participate in a program leading to the child's high school graduation. The district board of the technical college district in which the child resides shall admit the child. Every technical college district board shall offer day class programs satisfactory to meet the requirements of this paragraph and s. 118.33 (3m) as a condition to the receipt of any state aid.

(c) 1. 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 may be excused by the school board from regular school attendance if the child and his or her parent or guardian agree, in writing, that the child will participate in a program or curriculum modification under par. (d) leading to the child's high school graduation.

2. Upon the child's request and with the written approval of the child's parent or guardian, any child who is 17 years of age or over may be excused by the school board from regular school attendance if the child and his or her parent or guardian agree, in writing, that the child will participate in a program or curriculum modification under par. (d) leading to the child's high school graduation or leading to a high school equivalency diploma under s. 115.29 (4).

3. Prior to a child's admission to a program leading to the child's high school graduation or a high school equivalency program under par. (b) or subd. 1. or 2., the child, his or her parent or guardian, the school board and a representative of the high school equivalency program or program leading to the child's high school graduation shall enter into a written agreement. The written agreement shall state the services to be provided, the time period needed to complete the high school equivalency program or program leading to the child's high school graduation and how the performance of the pupil will be monitored. The agreement shall be monitored by the school board on a regular basis, but in no case shall the agreement be monitored less frequently than once per semester. If the school board determines that a child is not complying with the agreement, the school board shall notify the child, his or her parent or guardian and the high school equivalency program or program leading to the child's high school graduation that the agreement may be modified or suspended in 30 days.

(cm) 1. Upon the child's request and with the approval of the child's parent or guardian, any child who is 17 years of age or over shall be excused by the school board from regular school attendance if the child began a program leading to a high school equivalency diploma in a juvenile correctional facility, as defined in s. 938.02 (10p), a secured residential care center for children and youth, as defined in s. 938.02 (15g), a juvenile detention facility, as defined in s. 938.02 (10r), or a juvenile portion of a county jail, and the child and his or her parent or guardian agree under subd. 2. that the child will continue to participate in such a program. For purposes of this subdivision, a child is considered to have begun a program leading to a high school equivalency diploma if the child has received a passing score on a minimum of one of the 5 content area tests given under the general educational development test or has demonstrated

under a course of study meeting the standards established under s. 115.29 (4) for the granting of a declaration of equivalency to high school graduation a level of proficiency in a minimum of one of the 5 content areas specified in s. 118.33 (1) (a) 1. that is equivalent to the level of proficiency that he or she would have attained if he or she had satisfied the requirements under s. 118.33 (1) (a) 1.

2. Prior to the admission of a child under subd. 1. to a program leading to a high school equivalency diploma, the child, his or her parent or guardian, the school board and a representative of the agency providing the program shall enter into a written agreement. The agreement shall specify that the child is excused from regular school attendance while he or she is enrolled in the program and making progress toward completion of the program, or successfully completes the program. If the agency providing the program determines that the child is not making progress toward completion of the program, the agency shall notify the child and his or her parent or guardian that the agreement may be suspended within 30 days. If the agency suspends the agreement, the agency shall notify the child, his or her parent or guardian and the school board.

3. If the program that the child wishes to attend is provided by a technical college district, the technical college district board shall admit the child.

4. A child attending a program under this paragraph shall not be included in membership, as defined in s. 121.004 (5).

5. The state superintendent shall grant a high school equivalency diploma to a child under this paragraph who completes the general educational development test with a passing score, as determined by the state superintendent, and completes the additional requirements determined by the state superintendent under s. 115.29 (4).

(d) Any child's parent or guardian, or the child if the parent or guardian is notified, may request the school board, in writing, 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, or tribal school, 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 under s. 121.78 (5) that 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.

(dm) The school board shall render its decision, in writing, within 90 days of a request under par. (d), except that if the request relates to a child who has been evaluated by an individualized education program team under s. 115.782 and has not been recommended for special education, the school board shall render its decision within 30 days of the request. If the school board denies the request, the school board shall give its reasons for the denial.

(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.

(f) At the beginning of each school term, the school board shall notify the pupils enrolled in the school district and their parents or guardians of the substance of pars. (d), (dm) and (e).

(g) Paragraph (a) does not apply to a person having under control a child who is enrolled in a virtual charter school.

(2) (a) If the determination is made under sub. (1) (b) for a child to attend a technical college, the district board governing the technical college shall establish appropriate vocational and technical courses in accordance with s. 118.33 (3m) and the school board shall pay the technical college district board an amount calculated as follows:

1. Divide the number of credit hours of instruction scheduled by the technical college district for the pupil by 30.

2. Multiply the quotient under subd. 1. by the statewide average instructional cost for general education programs in the technical college system in the previous school year, as determined by the technical college system board.

3. Multiply the quotient under subd. 1. by any additional costs associated with direct student support services, as determined jointly by the state superintendent and the state director of the technical college system.

4. Add the product under subd. 2. to the product under subd. 3.

(c) Pupils attending a technical college under this subsection may receive general education subjects at the technical college. Payments by the school district under par. (a) shall be deemed costs of operation and maintenance.

(d) Transportation, or board and lodging under s. 121.57 (1) (a), for pupils attending a technical college 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 a school program but who can be expected to return to a school 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, psychologist, physician assistant, or nurse practitioner, as defined in s. 255.06 (1) (d), or certified advanced practice nurse prescriber 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 by the school board in accordance with the school board's written attendance policy under s. 118.16 (4) and with the written approval of the child's parent or guardian. The child's truancy, discipline or school achievement problems or disabilities as described in s. 115.76 (5) may not be used as the reason for an excuse under this paragraph. The excuse shall be in writing and shall state the time period for which it is effective, not to extend beyond the end of the current school year.

(c) Any child excused in writing by his or her parent or guardian before the absence. The school board shall require a child excused under this paragraph to complete any course work missed during the absence. A child may not be excused for more than 10 days in a school year under this paragraph.

(d) Any child excused in writing by his or her parent or guardian and by the principal of the school that the child attends for the purpose of serving as an election official under s. 7.30 (2) (am). A principal may not excuse a child under this paragraph unless the child has at least a 3.0 grade point average or the equivalent. The principal shall allow the child to take examinations and complete course work missed during the child's absences under this paragraph. The principal shall promptly notify the municipal clerk or the board of election commissioners of the municipality that appointed the child as an election official if the child ceases to be enrolled in school or if the child no longer has at least a 3.0 grade point average or the equivalent.

(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, board of control of a cooperative educational service agency or county children with disabilities education board, or person employed by a school board, cooperative educational service agency or county children with disabilities education board, may in any manner compel a pregnant girl to withdraw from her educational program.

(5) (a) 1. Except as provided under par. (b) or if a person has been found guilty of a misdemeanor under s. 948.45, whoever violates this section may be penalized as follows, if evidence has been provided by the school attendance officer that the activities under s. 118.16 (5) have been completed or were not required to be completed as provided in s. 118.16 (5m):

a. For the first offense, by a fine of not more than \$500 or imprisonment for not more than 30 days or both.

b. For a 2nd or subsequent offense, by a fine of not more than \$1,000 or imprisonment for not more than 90 days or both.

2. The court may require a person who is subject to subd. 1. to perform community service work for a public agency or a nonprofit charitable organization in lieu of the penalties specified under subd. 1. Any organization or agency to which a defendant is assigned pursuant to an order under this subdivision acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on the defendant.

(am) The court may order any person who violates this section to participate in counseling at the person's own expense or to attend school with his or her child, or both.

(b) 1. Paragraph (a) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.26 (1) (h).

2. In a prosecution under par. (a), 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 chs. 48 and 938.

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; 1987 a. 36, 285, 399; 1989 a. 31, 336; 1991 a. 39; 1993 a. 223, 399; 1995 a. 27 s. 3945, 9145 (1); 1995 a. 77, 225; 1997 a. 27, 164, 205, 239; 2001 a. 109; 2005 a. 344; 2007 a. 222; 2009 a. 41, 302; 2011 a. 161.

Cross-reference: See also ch. TCS 9, Wis. adm. code.

Compelling Amish parents to send their children to high school infringed upon their religious liberties. *State v. Yoder*, 49 Wis. 2d 430, 182 N.W.2d 539 (1971).

Affirmed. 406 U.S. 205 (1972).

Compulsory school attendance laws are not safety statutes. *Riemer v. Crayton*, 57 Wis. 2d 755 (1973).

A refusal, on religious grounds, to send children to school was a personal, philosophical choice by parents, rather than a protected religious expression. *State v. Kasuboski*, 87 Wis. 2d 407, 275 N.W.2d 101 (Ct. App. 1978).

This section permits VTAE [now technical college] instructors to teach a limited number of courses to public school students, under certain circumstances, without department of public instruction certification. *Green Bay Education Association v. DPI*, 154 Wis. 2d 655, 453 N.W.2d 915 (Ct. App. 1990).

This section is not unconstitutionally vague. *State v. White*, 180 Wis. 2d 203, 509 N.W.2d 434 (Ct. App. 1993).

A dispositional order, based solely upon habitual truancy, cannot endure beyond the school term during which the juvenile reaches 18 years of age. *State v. Jeremiah C.* 2003 WI App 40, 260 Wis. 2d 359, 659 N.W.2d 193, 02-1740.

The trial court erred in ruling that this section requires a conviction under sub. (5) (a) before sub. (5) (b) is triggered.

The disobedience exception in sub. (5) (b) 2. was an affirmative defense to the charge here and should have been presented to the fact-finder during the trial for resolution. *State v. McGee*, 2005 WI App 97, 281 Wis. 2d 756, 698 N.W.2d 850, 04-1005.

The Amish and compulsory school attendance. 1971 WLR 832.

118.153 Children at risk of not graduating from high school.

(1) In this section:

(a) "Children at risk" means pupils in grades 5 to 12 who are at risk of not graduating from high school because they are dropouts or are 2 or more of the following:

1m. One or more years behind their age group in the number of high school credits attained.

2. Two or more years behind their age group in basic skill levels.

2m. Habitual truants, as defined in s. 118.16 (1) (a).

3. Parents.

4. Adjudicated delinquents.

5. Eighth grade pupils whose score in each subject area on the examination administered under s. 118.30 (1m) (am) 1. or 118.301 (3) was below the basic level, 8th grade pupils who failed the examination administered under s. 118.30 (1m) (am) 2. or 118.301 (3), and 8th grade pupils who failed to be promoted to the 9th grade.

(b) "Dropout" means a child who ceased to attend school, does not attend a public, private, or tribal school, technical college, 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) Every school board shall identify the children at risk who are enrolled in the school district and annually by August 15 develop a plan describing how the school board will meet their needs.

(b) If in the previous school year a school district had 30 or more dropouts or a dropout rate exceeding 5 percent of its total high school enrollment, the school board may apply to the state superintendent for aid under this section.

(3) (a) 1. Every school board that applies for aid under sub. (2) (b) 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, a school board described under subd. 1. shall enroll the pupil in the program for children at risk. If the school board makes available more than one program for children at risk, the school board shall enroll the pupil in the program selected by the pupil's parent or guardian if the pupil meets the prerequisites for that program. If there is no space in that program for the pupil, the school board of the school district operating under ch. 119 shall place the pupil's name on a waiting list for that program and offer the pupil another program for children at risk until space in the requested program becomes available.

(b) A program for children at risk shall be designed to allow the pupils enrolled to meet high school graduation requirements under s. 118.33. The school board of the school district operating under ch. 119 shall ensure that there are at least 30 pupils and no more than 250 pupils in each program and that a separate administrator or teacher is in charge of each program.

(c) 1. Each school board shall identify appropriate private, nonprofit, nonsectarian agencies located in the school district or within 5 miles of the boundaries of 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 identified under subd. 1. for the children at risk enrolled in the school district if the school board determines that the agencies can adequately serve 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 percent of the average per pupil cost for the school district.

(4) (a) Annually in August, a school board that applied for aid under this section in the previous school year shall submit a report to the state superintendent. The report shall include only information about the pupils enrolled in a program for children at risk in the previous school year that is necessary for the state superintendent to determine the number of pupils who achieved each of the objectives under par. (c).

(b) Upon receipt of a school board's annual report under par. (a) the state superintendent shall pay to the school district from the appropriation under s. 20.255 (2) (bc), for each pupil enrolled in a program for children at risk who achieved at least 3 of the objectives under par. (c) in the previous school year, additional state aid in an amount equal to 10 percent of the school district's average per pupil aids provided under s. 20.835 (7) (a), 1991 stats., and s. 20.255 (2) (ac) in the previous school year.

(c) 1. The pupil's attendance rate was at least 70 percent.

2. The pupil remained in school.

3. The pupil, if a high school senior, received a high school diploma.

4. The pupil earned at least 4.5 academic credits or a prorated number of credits if the pupil was enrolled in the program for less than the entire school year.

5. The pupil has demonstrated, on standardized tests or other appropriate measures, a gain in reading and mathematics commensurate with the duration of his or her enrollment in the program.

(e) If the appropriation under s. 20.255 (2) (bc) in any fiscal year is insufficient to pay the full amount of aid under par. (b), state aid payments shall be prorated among the school districts entitled to such aid.

(5) (a) In this subsection:

1. "Alternative school" means a public school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and offers a nontraditional curriculum.

2. "School within a school" means a school that has at least 30 pupils and no more than 250 pupils, has a separate administrator or teacher in charge of the school and is housed in a space specifically dedicated to it in a public school.

(b) Subject to sub. (3) (c) 3., a school board receiving funds under this section shall provide a specific sum to each program for children at risk in which pupils enrolled in the school district are enrolled based on the ability of the program to meet the objectives under sub. (4) (c).

(c) A school board receiving funds under this section shall give preference in allocating those funds to programs for children at risk provided by alternative schools, charter schools, schools within schools and agencies identified under sub. (3) (c) 1.

(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; 1987 a. 27; 1989 a. 31, 336; 1991 a. 39, 196; 1993 a. 16, 341, 399, 491; 1995 a. 27 s. 9145 (1); 1997 a. 27, 113; 1999 a. 9, 123; 2003 a. 33; 2005 a. 25; 2009 a. 302; 2011 a. 32; 2013 a. 8; 2015 a. 55.

Cross-reference: See also ch. PI 25, Wis. adm. code.

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; 1995 a. 27 s. 9145 (1); 1997 a. 27.

The constitutionality of this section is upheld. *Holt v. Thompson*, 66 Wis. 2d 659, 225 N.W.2d 678 (1975).

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

(a) "Habitual truant" means a pupil who is absent from school without an acceptable excuse under sub. (4) and s. 118.15 for part or all of 5 or more days on which school is held during a school semester.

(b) "School attendance officer" means an employee designated by the school board to deal with matters relating to school attendance and truancy. "School attendance officer" does not

include an individual designated under sub. (2m) (a) to take into custody a child who is absent from school without an acceptable excuse under s. 118.15 unless that individual has also been designated by the school board to deal with matters relating to school attendance and truancy.

(c) "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.

(1m) The period during which a pupil is absent from school due to a suspension or expulsion under s. 120.13 or 119.25 is neither an absence without an acceptable excuse for the purposes of sub. (1) (a) nor an absence without legal cause for the purposes of sub. (1) (c).

(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.

(c) Except as provided under pars. (cg) and (cr), 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 shall be given before the end of the 2nd school day after receiving a report of an unexcused absence. The notice may be made by personal contact, 1st class mail, or telephone call of which a written record is kept, except that notice by personal contact or telephone call shall be attempted before notice by 1st class mail may be given.

(cg) Shall notify the parent or guardian of a child who is a habitual truant, by registered or certified mail or by 1st class mail, when the child initially becomes a habitual truant. The school attendance officer may simultaneously notify the parent or guardian of the habitually truant child by an electronic communication. The notice shall include all of the following:

1. A statement of the parent's or guardian's responsibility, under s. 118.15 (1) (a) and (am), to cause the child to attend school regularly.

2. A statement that the parent, guardian or child may request program or curriculum modifications for the child under s. 118.15 (1) (d) and that the child may be eligible for enrollment in a program for children at risk under s. 118.153 (3).

3. A request that the parent or guardian meet with appropriate school personnel to discuss the child's truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time and place for the meeting and the name, address and telephone number of a person to contact to arrange a different date, time or place. The date for the meeting shall be within 5 school days after the date that the notice is sent, except that with the consent of the child's parent or guardian the date for the meeting may be extended for an additional 5 school days.

4. A statement of the penalties, under s. 118.15 (5), that may be imposed on the parent or guardian if he or she fails to cause the child to attend school regularly as required under s. 118.15 (1) (a) and (am).

(cr) After the notice required under par. (cg) has been given, shall notify the parent or guardian of a habitual truant of the habitual truant's unexcused absences as provided in the plan under s. 118.162 (4) (a). After the notice required under par. (cg) has been given, par. (c) does not apply.

(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 workforce development.

(e) Except as provided in par. (f), 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.

(f) Shall request information regarding the attendance of any child between the ages of 6 and 18 who is a resident of the school district and who claims or is claimed to be in attendance at a tribal school, or who is not a resident of the school district and who claims or is claimed to be in attendance at a tribal school located in the school district.

(2m) (a) A school district administrator may designate any of the following individuals to take a child who resides in the school district and who is absent from school without an acceptable excuse under s. 118.15 into custody under s. 938.19 (1m):

1. An employee of the school district who is directly involved in the provision of educational programs to the truant child.

2. An employee of the school district who is directly involved in the provision of a modified program or curriculum under s. 118.15 (1) (d), a program for children at risk under s. 118.153 or an alternative educational program under s. 119.82 or any other alternative educational program to children who attend the school attended by the truant child, if the school district administrator believes that the program or curriculum may be appropriate for the truant child.

3. A school social worker employed by the school district who provides services to children attending the school attended by the truant child, if the school district administrator believes that the services provided by the social worker may be appropriate for the truant child.

4. An employee of a social services agency who is directly involved in the provision of social services to the truant child or the child's family.

5. A school attendance officer, but only if the school attendance officer meets the criteria specified in subs. 1., 2. or 3.

(b) A designation under par. (a) shall be in writing and shall specifically identify the child whom the individual is authorized to take into custody.

(c) A school district administrator may not designate an individual under par. (a) unless the individual agrees to the designation in writing.

(d) A school district administrator who makes a designation under par. (a) shall provide each individual so designated with an identification card of a form determined by the school board. The designee shall carry the identification card on his or her person at all times while the designee is on official duty under s. 938.19 (1m) and shall exhibit the identification card to any person to whom the designee represents himself or herself as a person authorized to take a child into custody under s. 938.19 (1m).

(e) A school district administrator who makes a designation under par. (a) or the individual designated under par. (a) shall immediately attempt to notify, by personal contact or telephone call, the child's parent, guardian and legal custodian that the designation has been made and that the child may be taken into custody under s. 938.19 (1m). The school district administrator, or the designee, is not required to notify a parent, guardian or legal custodian under this paragraph if the parent, guardian or legal custodian is the person who requested that the child be taken into custody under s. 938.19 (1m).

(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 forms supplied by the school attendance officer, the information required under ss. 115.30 (2) and 120.18 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 or suspensions 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, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester or grading period examinations and complete any course work missed during a period of suspension.

(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.

(cm) 1. The school board may establish policies which provide that a pupil of an age eligible for high school enrollment in the school district, as determined by the school board, may be assigned to a period of assessment as a consequence of the pupil's truancy or upon the pupil's return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility or other out-of-school placement. The policies shall specify the conditions under which a pupil may participate in the assessment without being in violation of s. 118.15 and the maximum length of time that a pupil may be assigned to an assessment period.

2. A school board may not assign a pupil to an assessment period without the written approval of the pupil's parent or guardian. A school board may not assign a pupil to an assessment period for longer than the time necessary to complete the assessment and place the pupil in an appropriate education program or 8 weeks, whichever is less. A school board may not assign a pupil to an assessment period more than once and may not assign a pupil to an assessment period if the school district has an alternative education program, as defined in s. 115.28 (7) (e) 1., available for the pupil that is appropriate for the pupil's needs. An assessment need not be conducted during the regular school day.

3. The goals of an assessment period are to develop an educational plan for the pupil, implement an appropriate transitional plan and facilitate the pupil's placement in an education program in which the pupil will be able to succeed. The school board shall provide pupils who are assigned to an assessment period with information on other education programs that the school district or other community providers have available for the pupil. The assessment may include any of the following new or previously completed activities:

- a. An assessment for problems with alcohol or other drugs.
- b. An assessment of individual educational needs.
- c. An assessment of whether the pupil is encountering problems in the community or at home that require intervention by a social worker.
- d. A vocational assessment, which may include career counseling.
- e. A medical assessment.

(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.

(e) Except as provided under s. 119.55, a school board may establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1) (d) 10. for being absent from school without an acceptable excuse under s. 118.15.

(5) Except as provided in sub. (5m), before any proceeding may be brought against a child under s. 938.13 (6) for habitual truancy or under s. 938.125 (2) or 938.17 (2) for a violation of an ordinance enacted under s. 118.163 (2) or against the child's parent or guardian under s. 118.15 for failure to cause the child to attend school regularly, 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, done all of the following:

(a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were 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, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

(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.

(5m) Subsection (5) (a) does not apply if a meeting under sub. (2) (cg) 3. is not held within 10 school days after the date that the notice under sub. (2) (cg) is sent. Subsection (5) (b), (c) and (d) does not apply if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

(6) (a) If the school attendance officer receives evidence that activities under sub. (5) have been completed or were not required to be completed as provided in sub. (5m), the school attendance officer may do any of the following:

1. File information on any child who continues to be truant with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this subdivision does not preclude concurrent prosecution of the child's parent or guardian under s. 118.15 (5).

2. Refer the child to a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the child's county of residence and has authorized the school attendance officer to refer children to the teen court program and the school attendance officer determines that participation in the teen court program will likely benefit the child and the community.

b. The child and the child's parent, guardian and legal custodian consent to the child's participation in the teen court program.

c. The child has not successfully completed participation in a teen court program during the 2 years before the date on which the school attendance officer received evidence that activities under sub. (5) have been completed or were not completed due to the child's absence from school as provided in sub. (5m).

(b) If a child who is referred to a teen court program under par. (a) 2. is not eligible for participation in the teen court program or does not successfully complete participation in the teen court program, the person administering the teen court program shall file information on the child with the court assigned to exercise jurisdiction under chs. 48 and 938 in accordance with s. 938.24. Filing information on a child under this paragraph 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; 1987 a. 285; 1993 a. 16, 56, 334, 339, 491; 1995 a. 27 ss. 3947, 9130 (4), 9145 (1); 1995 a. 77; 1997 a. 3, 27, 205, 239; 1999 a. 9; 2001 a. 107; 2005 a. 122; 2009 a. 41, 302; 2015 a. 52.

NOTE: 1993 Wis. Act 339, **which created sub. (4) (cm), contains explanatory notes.**

A court must consider evidence under sub. (5) prior to entering a finding of contempt based on truancy from school. *T. J. N. v. Winnebago County Social Services Dept.* 141 Wis. 2d 838, 416 N.W.2d 632 (Ct. App. 1987).

Sub. (5) does not limit a court's discretion in setting school attendance requirements in a dispositional order for a delinquent juvenile and in imposing sanctions if the order is violated. By its terms, sub. (5) is limited to children who are habitual truants and therefore in need of protection and services. *State v. Jason R.N.* 201 Wis. 2d 646, 549 N.W.2d 752 (Ct. App. 1996), 95-1728.

When under school board policy a suspension is not an excused absence, an absence as a result of the suspension is not an "acceptable excuse" under sub. (1) (a) or "legal cause" under sub. (1) (c) and may result in a finding of habitual truancy. *State v. Isaac*, 220 Wis. 2d 251, 582 N.W.2d 476 (Ct. App. 1998), 97-1611.

118.162 Truancy committee and plan. (1) At least once every 4 years, in each county, the school district administrator of the school district which contains the county seat designated under s. 59.05, or his or her designee, shall convene a committee to review and make recommendations to the school boards of all of the school districts in the county on revisions to the school districts' truancy plans under sub. (4m). The committee shall consist of the following members:

(a) A representative from each school district in the county, designated by the school board of the school district that he or she represents, who may be a school board member, school administrator, teacher, pupil services professional or parent of a child enrolled in the school district. If the territory of a school district lies in more than one county, the school district shall have a representative on the committee for the county in which the largest portion of the school district's equalized valuation is located.

(am) A representative from each tribal school in the county, designated by the governing body of the tribal school that he or she represents, who may be a member of the tribal school governing body, school administrator, teacher, pupil services professional, or parent of a child enrolled in that tribal school.

(b) A representative of the office of the district attorney, designated by the district attorney.

(c) A representative of the sheriff's department, designated by the sheriff.

(d) A representative of the local law enforcement agency, other than the sheriff's department, with jurisdiction over the county seat, designated by the chief administrative officer of the law enforcement agency.

(e) A representative of the circuit court for the county, designated by the chief judge of the judicial administrative district.

(f) A representative of the county department of social services under s. 46.22, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, a representative of the county department of human services under s. 46.23, designated by the county human services director.

(g) A representative of the juvenile court intake unit, designated by the county social services director, or, if the duties of the department under s. 46.22 have been transferred to a department under s. 46.23, designated by the county human services director, or designated by the chief judge of the judicial administrative district.

(h) If a county department of human services has not been established under s. 46.23, a representative of a county department established under s. 51.42 or 51.437, designated by the director of the department established under s. 51.42 or 51.437.

(i) Any other member as determined by the committee.

(j) A parent of a pupil enrolled in a private school, who resides in a school district in the county, designated by the county board.

(k) A parent of a pupil enrolled in a public school, who resides in a school district in the county, designated by the county board.

(L) A parent of a pupil enrolled in a home-based private educational program, who resides in a school district in the county, designated by the county board.

(m) A parent of a pupil enrolled in a tribal school located in the county, who resides in the county, designated by the county board.

(2) The district attorney representative on the committee shall participate in reviewing and developing any recommendations regarding revisions to the portions of the school districts' plans under sub. (4) (e).

(3) The committee shall write a report to accompany the recommendations under sub. (1). The report shall include a description of the factors that contribute to truancy in the county and a description of any state statutes, municipal ordinances or school, social services, law enforcement, district attorney, court or other policies that contribute to or inhibit the response to

truancy in the county. A copy of the report shall be submitted to each of the entities identified in sub. (1) (b) to (h) and any other entity designating members on the committee under sub. (1) (i).

(4) Not later than September 1, 1989, each school board shall adopt a truancy plan which shall include all of the following:

(a) Procedures to be followed for notifying the parents or guardians of the unexcused absences of habitual truants under s. 118.16 (2) (cr) and for meeting and conferring with such parents or guardians.

(b) Plans and procedures for identifying truant children of all ages and returning them to school, including the identity of school personnel to whom a truant child shall be returned.

(c) Methods to increase and maintain public awareness of and involvement in responding to truancy within the school district.

(d) The immediate response to be made by school personnel when a truant child is returned to school.

(e) The types of truancy cases to be referred to the district attorney for the filing of information under s. 938.24 or prosecution under s. 118.15 (5) and the time periods within which the district attorney will respond to and take action on the referrals.

(f) Plans and procedures to coordinate the responses to the problems of habitual truants, as defined under s. 118.16 (1) (a), with public and private social services agencies.

(g) Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy problem.

(4m) At least once every 2 years, each school board shall review and, if appropriate, revise the truancy plan adopted by the school board under sub. (4).

History: 1987 a. 285; 1995 a. 77, 201; 1997 a. 239; 2009 a. 302.

118.163 Municipal truancy and school dropout ordinances. (1) In this section:

(a) "Dropout" has the meaning given in s. 118.153 (1) (b).

(b) "Habitual truant" has the meaning given in s. 118.16 (1) (a).

(c) "Operating privilege" has the meaning given in s. 340.01 (40).

(d) "Truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16 (4) for part or all of any day on which school is held during a school semester.

(1m) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) An order for the person to attend school.

(b) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both

(c) An order for the person to report to a youth report center after school, in the evening, on weekends, on other non-school days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1d) (c).

(2) A county, city, village or town may enact an ordinance prohibiting a person under 18 years of age from being a habitual truant. The ordinance shall provide which of the following dispositions are available to the court:

(a) Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

(b) An order for the person to participate in counseling or a supervised work program or other community service work as described in s. 938.34 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

(c) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(d) An order for the person to attend an educational program as described in s. 938.34 (7d).

(e) An order for the department of workforce development to revoke, under s. 103.72, a permit under s. 103.70 authorizing the employment of the person.

(f) An order for the person to be placed in a teen court program as described in s. 938.342 (1g) (f).

(g) An order for the person to attend school.

(h) A forfeiture of not more than \$500 plus costs, subject to s. 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(i) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(j) An order placing the person under formal or informal supervision, as described in s. 938.34 (2), for up to one year.

(k) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(L) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342 (1g) (k).

(2m) (a) A county, city, village or town may enact an ordinance permitting a court to suspend the operating privilege of a person who is at least 16 years of age but less than 18 years of age and is a dropout. The ordinance shall provide that the court may suspend the person's operating privilege until the person reaches the age of 18. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the department of transportation a notice stating the reason for and the duration of the suspension.

(b) A court may order a school district to provide to the court a list of all persons who are known to the school district to be dropouts and who reside within the county in which the circuit court is located or the municipality in which the municipal court is located. Upon request, the department of transportation shall assist the court to determine which dropouts have operating privileges.

(3) An ordinance enacted by a county under sub. (1m), (2) or (2m) is applicable and may be enforced in that part of any city or village located in the county and in any town located in the county regardless of whether the city, village or town has enacted an ordinance under sub. (1m), (2) or (2m).

(4) A person who is under 17 years of age on the date of disposition is subject to s. 938.342.

History: 1987 a. 285; 1991 a. 39; 1993 a. 363; 1995 a. 27 s. 9130 (4); 1995 a. 77, 352; 1997 a. 3, 35, 239; 2001 a. 16; 2009 a. 103.

A circuit court judge hearing a municipal truancy case is acting as a juvenile court and the case is governed by ch. 938. The court lacks statutory authority to order sanctions if the court never enters written dispositional orders that could serve as a basis for sanctions. Under s. 938.355 (6m) (ag) a court may sanction a juvenile who has been adjudicated truant if it finds by a preponderance of the evidence that the juvenile violated a condition of a dispositional order. Section 938.355 (2) (b) states that the dispositional order shall be in writing. A court's minutes sheet is not a court order. A court order must be signed by a judge. *State v. Dylan S.* 2012 WI App 25, 339 Wis. 2d 442, 813 N.W.2d 229, 11-1338.

118.164 Removal of pupils from the class. (1) In this section, "teacher" means a person holding a license or permit issued by the state superintendent whose employment by a school district requires that he or she hold that license or permit.

(2) Subject to 20 USC 1415 (k) and beginning August 1, 1999, a teacher may remove a pupil from the teacher's class if the pupil violates the code of classroom conduct adopted under s. 120.13 (1) (a) or is dangerous, unruly or disruptive or exhibits behavior that interferes with the ability of the teacher to teach effectively, as specified in the code of classroom conduct. The teacher shall send the pupil to the school principal or his or her designee and notify the school principal or his or her designee immediately of the reasons for the removal. In addition, the teacher shall provide to the principal or his or her designee within 24 hours after the pupil's removal from the class a written explanation of the reasons for the removal.

(3) (a) The school principal or his or her designee shall place the pupil in one of the following:

1. An alternative education program, as defined in s. 115.28 (7) (e) 1.
2. Another class in the school or another appropriate place in the school, as determined by the school principal or his or her designee.
3. Another instructional setting.
4. The class from which the pupil was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his or her designee determines that readmission to the class is the best or only alternative.

(b) This subsection does not prohibit the teacher who removed the pupil from the class or the school board, school district administrator, school principal or their designees from disciplining the pupil.

History: 1997 a. 335.

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) and (am).
 - (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 welfare agency 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; 1989 a. 336; 1995 a. 27; 1997 a. 27; 2009 a. 41.

CRAWFORD COUNTY

ORDINANCES

**§9.05 TRUANCY AND HABITUAL
TRUANCY**

**§9.06 CONTRIBUTION TO
TRUANCY**

9.05 - TRUANCY AND HABITUAL TRUANCY. (Rep. & recr. #91-98)

(1)

DEFINITIONS

(a)

"Truancy" has the meaning given in Chapter 118 Wis. Stats.

(b)

"Habitual Truancy" has the meaning given in Chapter 118 Wis. Stats.

(c)

"Operating Privilege" has the meaning given in Chapter 340 Wis. Stats.

(2)

TRUANCY PROHIBITED. No person under age 18 who is required to attend school shall be truant from school.

(3)

TRUANCY PENALTIES. Any one or more of the following dispositions are available to the Court for a truant person:

(a)

An order to attend school.

(b)

A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to Section 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person or both.

(4)

HABITUAL TRUANCY PROHIBITED. No person under age 18 who is required to attend school shall be habitually truant from school.

(5)

HABITUAL TRUANCY PENALTIES. Any one or more of the following dispositions are available to the Court for a habitually truant person:

(a)

Suspension of the person's operating privilege for not less than 30 days nor more than one year.

(b)

An order for the person to participate in counseling or a supervised work program or other community service work as described in Section 938.34(5g) Wis. Stats. The costs of any such counseling, supervised work program or

other community service work may be assessed against the person, the parents or guardian of the person or both.

(c)

An order for the person to remain at home, except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(d)

An order for the person to attend an educational program as described in Section #938.34 (7d) Wis. Stats.

(e)

An order for the Department of Industry, Labor and Human Relations to revoke a permit authorizing the employment of the person.

(f)

An order for the person to be placed in a teen court program as described in Section 938.342 (1g) (f).

(g)

An order for the person to attend school.

(h)

A forfeiture of not more than \$500 plus costs, subject to §938.37 Wis. Stats. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person or both.

(i)

Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(j)

An order placing the person under formal or informal supervision, as described in §938.34(2) Wis. Stats., for up to one year.

(k)

An order for the persons parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense, or to attend school with the person, or both.

9.06 - CONTRIBUTION TO TRUANCY. (Rep. & recr. #91-98)

(1)

Except as provided in sub.(2), any person 17 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy, as defined under §118.16(1)(c), Wis. Stats., as may be amended from time to time, of a person 17 years of age or under is guilty of a violation of this section.

(2)

Subsection (1) does not apply to a person who has under his control a child who has been sanctioned under §49.26 (1)(h), Wis. Stats., as may be amended from time to time.

(3)

An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

PRAIRIE DU CHIEN

ORDINANCES

**§9.23 TRUANCY AND HABITUAL
TRUANCY PROHIBITED**

**§9.24 CONTRIBUTING TO
TRUANCY**

9.23 (TRUANCY AND HABITUAL TRUANCY PROHIBITED)

(1) DEFINITIONS.

- (a) "Truancy" has the meaning given in Chapter 118, Wisc. Stats., now in effect or hereafter amended.
- (b) "Habitual Truancy" has the meaning given in Chapter 118, Wis. Stats., now in effect or hereafter amended.
- (c) "Operating Privilege" has the meaning given in Chapter 340, Wis. Stats., now in effect or hereafter amended.

(2) TRUANCY PROHIBITED. No person under age 18 who is required to attend school shall be truant from school.

(3) TRUANCY PENALTIES. Any one or more of the following dispositions are available to the court for a truant person:

- (a) An order for the person to attend school.
- (b) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for an 2nd or subsequent violation committed within 12 months of a previous violation, subject to Sec. 938.37, Wis. Stats., now in effect or hereafter amended, and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(4) HABITUAL TRUANCY PROHIBITED. No person under age 18 who is required to attend school shall be habitually truant from school.

(5) HABITUAL TRUANCY PENALTIES. Any one or more of the following dispositions are available to the court for a habitually truant person:

- (a) Suspension of the person's operating privileges for not less than 30 days nor more than one year.

The court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with a notice stating the reason for the duration of the suspension.

- (b) An order for the person to participate in counseling or a supervised work program or other community service work as described in Sec. 938.34(5g), Wis. Stats., now in effect or hereafter amended. The costs of any such counseling, supervised work program, or other community service work may be assessed against the person, the parents or guardian of the person, or both.

(c) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(d) An order for the person to attend an educational program as described in Sec. 938.34(7d), Wisc. Stats., now in effect or hereafter amended.

(e) An order for the Department of Industry, Labor and Human Relations to revoke under Sec. 103.72, Wis. Stats., now in effect or hereafter amended, a permit under Sec. 103.70, Wis. Stats., now in effect or hereafter amended, authorizing the employment of the person.

(f) An order for the person to be placed in a teen court program as described in Sec. 938.342(1)(f), Wis. Stats., now in effect or hereafter amended.

(g) An order for the person to attend school.

(h) A forfeiture of not more than \$500 plus costs, subject to Sec. 938.37, Wis. Stats., now in effect or hereafter amended. All or part of the forfeiture plus costs may be assessed against the person, the parents, or guardian of the person, or both.

(i) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises, and restrictions on associating with other children or adults.

(j) An order placing the person under formal or informal supervision, as described in Sec. 938.34(2), Wis. Stats., now in effect or hereafter amended, for up to one year.

(k) An order for the person's parent, guardian, or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

9.24 (CONTRIBUTING TO TRUANCY)

(1) Except as provided in sub. (2), any person 17 years of age or older who, by any act of omission, knowingly encourages or contributes to the truancy, as defined under Sec. 118.16 (1)(c), Wis. Stats., now in effect or hereafter amended, of a person 17 years of age or under is guilty of a violation of this section.

(2) Subsection (1) does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50 (7)(h), Wis. Stats., now in effect or hereafter amended.

(3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

(4) A person adjudicated to have violated this ordinance shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00.

15 Chapter 9.22 – Amended by Ordinance 810

16 Chapter 9.23 – Amended by Ordinance 98-18

II.

TRUANCY

POLICY

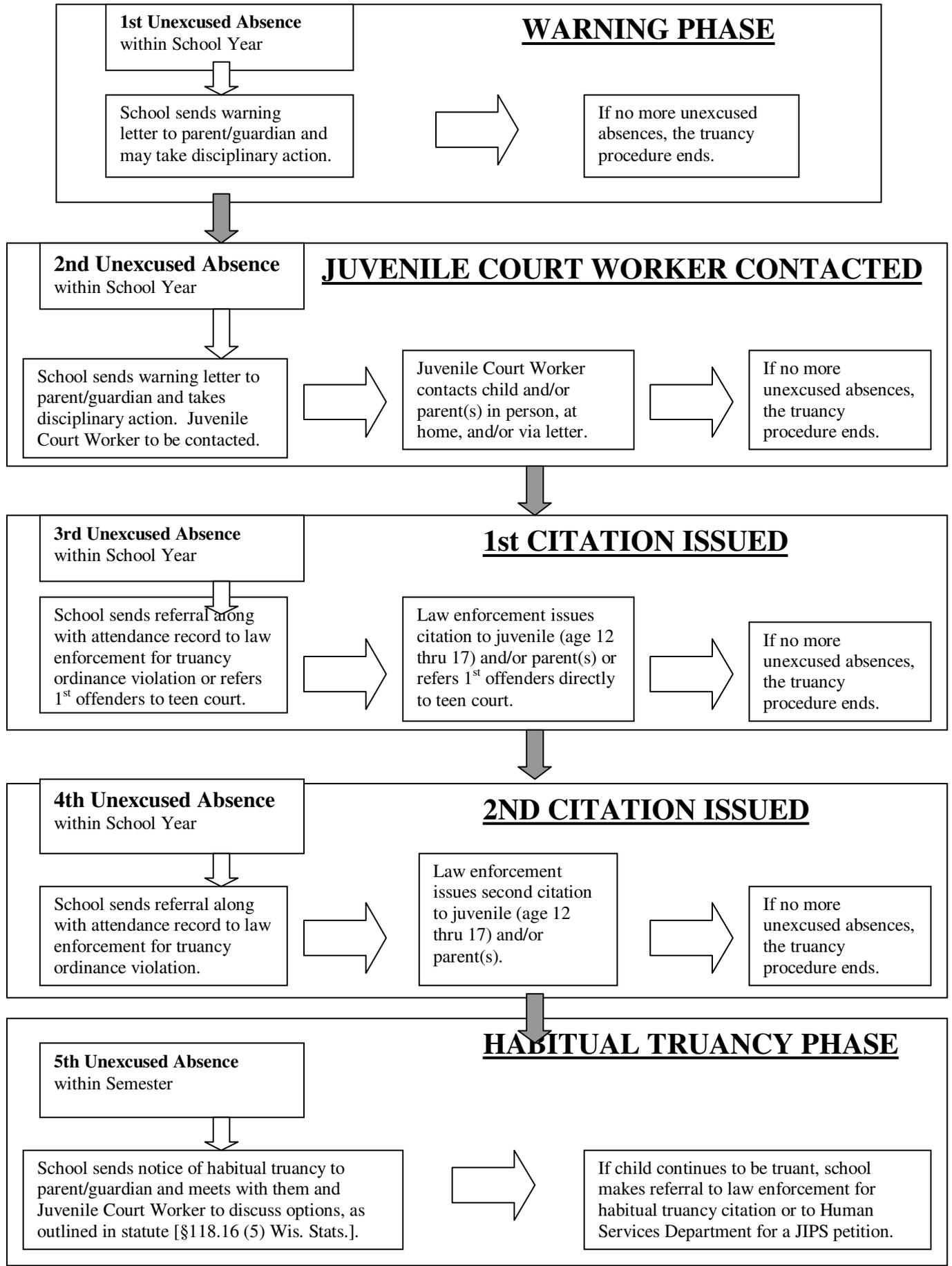
AND

ADVICE

**CRAWFORD COUNTY
JUVENILE COURT
TRUANCY GUIDELINES/
FLOW CHART**

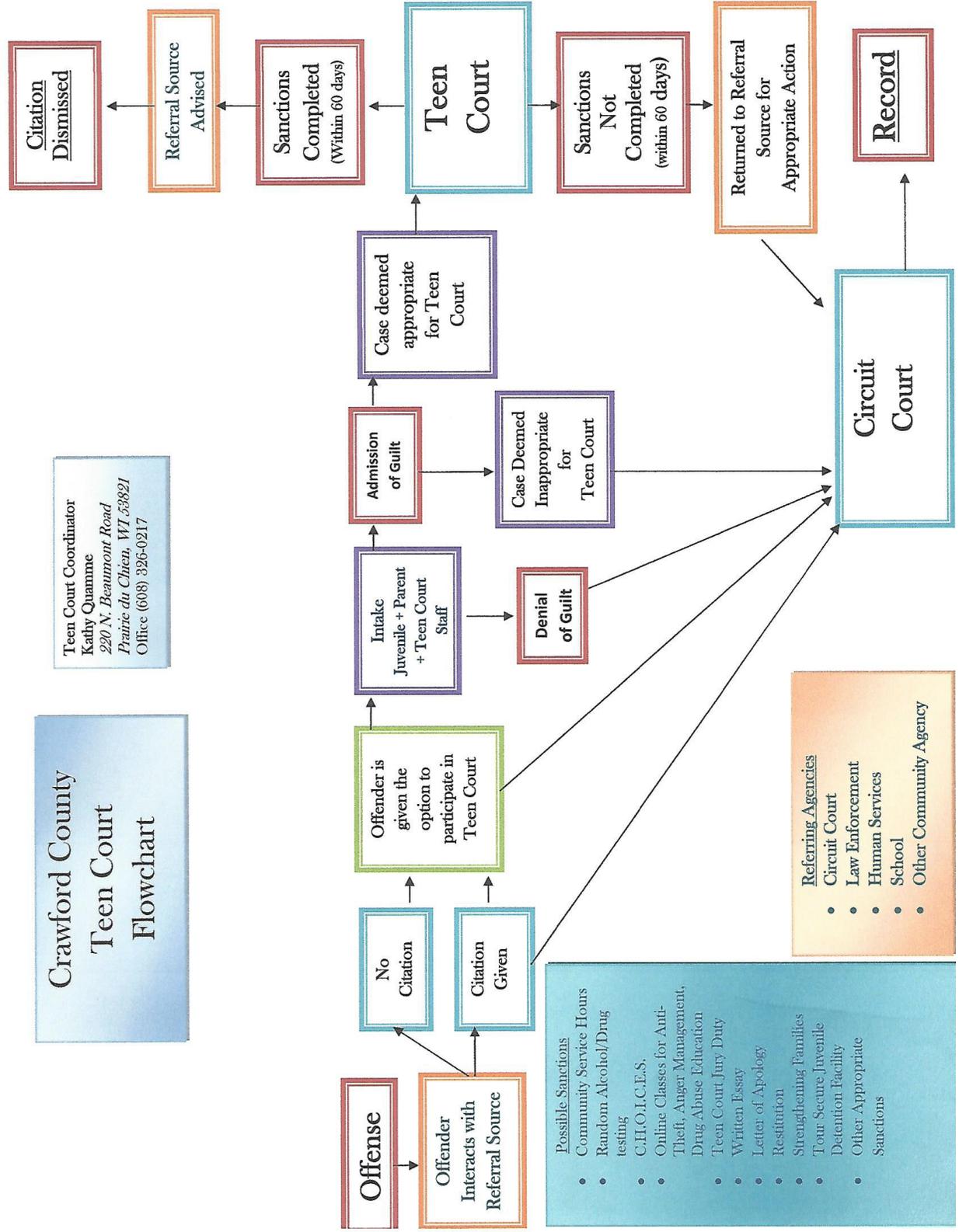
**CRAWFORD COUNTY
TEEN COURT FLOW
CHART**

CRAWFORD COUNTY TRUANCY PROCEDURE



Crawford County Teen Court Flowchart

Teen Court Coordinator
 Kathy Quamme
 220 N. Beaumont Road
 Prairie du Chien, WI 53821
 Office (608) 326-0217



- Possible Sanctions**
- Community Service Hours
 - Random Alcohol/Drug testing
 - C.H.O.I.C.E.S.
 - Online Classes for Anti-Theft, Anger Management, Drug Abuse Education
 - Teen Court Jury Duty
 - Written Essay
 - Letter of Apology
 - Restitution
 - Strengthening Families
 - Tour Secure Juvenile Detention Facility
 - Other Appropriate Sanctions

- Referring Agencies**
- Circuit Court
 - Law Enforcement
 - Human Services
 - School
 - Other Community Agency

CRAWFORD COUNTY TRUANCY PROCEDURE

The Principal or Designee will serve as the Student Attendance Officer for each school in the district and deal with all matters relating to school attendance and truancy.

Each school will determine daily which students enrolled in the school are absent from school and whether that absence is excused in accordance with Board Policy and established procedures.

Annually, on or before June 15, the School Attendance Officer shall determine how many students enrolled in each school in the district were absent in the previous year and whether the absences were excused. This information will be submitted to the District Administrator who shall notify the State Superintendent of Public Instruction of the determination.

The School Attendance Officer, or Designee, 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. This notice of the 1st unexcused absence must be given before the end of the second school day after receiving a report of such absence. Notice may be made by personal service or telephone call of which a written record is kept and should be followed by a warning letter stating possible disciplinary action. If no additional unexcused absences occur within the school year, the truancy procedure ends.

At the time of a 2nd unexcused absence of a student within the school year, the School Attendance Officer shall send a warning letter to parent or guardian and may take disciplinary action. The Juvenile Court Worker is notified of the truancy and contacts the student and parent(s) in person and/or by warning letter. If no more unexcused absences are incurred, the truancy procedure ends.

If a 3rd unexcused absence of a student occurs within the school year, the School Attendance Officer will send a referral and attendance record to law enforcement for a truancy ordinance violation or will make a direct referral to teen court for 1st time offenders. Law enforcement will issue a citation to the juvenile and/or parent(s) for the truancy violation or will make a direct referral to teen court for 1st time offenders.

If a 4th unexcused absence of a student occurs within the school year, the School Attendance Officer will send a referral and attendance record to law enforcement for a truancy ordinance violation. Law enforcement will issue a citation to the juvenile and/or parent(s) for the violation.

If a 5th unexcused absence occurs within a semester, the School Attendance Officer will send a notice via registered or certified mail of habitual truancy to the parent**

or guardian of the student and will schedule a timely meeting to discuss the student's options per Wis. Stats. § 118.16 (5). The Juvenile Court Worker may be invited to this meeting. Any additional unexcused absence of the student will result in a referral by the school to law enforcement for the issuance of a habitual truancy citation or to Crawford County Human Services Department for a *JIPS* petition.

***Truancy means any absence of part or all of one or more school days during which the School Attendance Officer or Teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent student, and also means intermittent attendance carried on for the purpose of defeating the intent of the compulsory attendance law.**

****Habitual Truancy means an absence from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester.**

CRAWFORD COUNTY

TRUANCY PLAN

Approved April 2015

In accordance with Wis. Statute §118.162 (3), the Crawford County Truancy Sub-Committee developed the following report on factors that contribute to truancy in this county as well as protective factors that may address this important issue.

FACTORS CONTRIBUTING TO TRUANCY IN CRAWFORD COUNTY

The Crawford County Truancy Committee identified the leading risk factors that contribute to truancy. They are listed in one of four domains to include Family, Student, School, and Community:

Family

- Lack of parental support for consistent attendance
- Lack of parent control
- Drug and/or alcohol abuse in household
- Mental health issues
- Family struggles and pressures, including socio-economic factors
- Home responsibilities that conflict with school day
- Housing instability and/or frequent mobility
- Limited access to reliable transportation

Student

- Peer pressure
- Poor self-esteem
- Lack of positive role models
- Disengagement with school, both academically and extracurricular
- Learning difficulties
- Drug and/or alcohol abuse
- Mental health issues
- Pregnancy and/or parenting
- Over-commitment to job or excessive job requirements

School

- Lack of alternative educational opportunities and settings
- Funding limitations for existing alternative programs
- Difficulty in addressing complex needs of at-risk students
- Rigid traditional school structures and curriculum

Community

- Limited alcohol and drug abuse treatment options
- Lack of community supports or opportunities for youth to develop, enhance, or utilize strengths and skills
- Limited housing for low socio-economic families
- Lack of mental health treatment facilities

FACTORS ADDRESSING TRUANCY IN CRAWFORD COUNTY

The Crawford County Truancy Committee also identified protective factors that address the truancy issue. When truancy occurs, there is a greater likelihood that the student's behavior will be redirected toward attendance if protective factors exist or can be put in place.

Family:

- Strong support at home for school attendance and performance
- Family stability and management skills
- Positive role models within the family
- Family involvement in school activities (i.e. parent-teacher communications)

Student

- Healthy peer relationships with attending students
- Positive self-esteem
- Good physical health and/or mental health
- Success in school, both in academics and extracurricular activities

School

- Positive and safe school climates
- Multiple opportunities for student participation
- Monthly interagency meetings to identify truant students, with action plans developed as the result of shared information (Prairie High School)
- Parental access to daily attendance records, grades, and homework assignments via secure internet connections

Community

- Crawford County recognizes the importance of addressing truancy. To that effort, the Juvenile Court Worker has been specifically designated to assist schools, parents, and law enforcement agencies on truancy matters
- County and City of Prairie du Chien Ordinances that address truancy and contribution to truancy
- Designated court time for hearing juvenile cases (every Monday at 3:00 p.m.)
- Crawford County Teen Court to hear 1st time truancy offenders that have been directly referred to teen court from schools, law enforcement, human services, etc. or through the juvenile court; the 3rd Monday of each month, at 6:00 p.m. is designated court time.
- Positive parenting and family strengthening programs offered by UW-Extension throughout the county
- Coordinated Services Team (CST) as county-wide resource for youth and families
- Spirit of cooperation with Crawford County Human Services, Probation and Parole, Juvenile Court Worker/Teen Court Coordinator when addressing truancy issues of students on supervision

CRAWFORD COUNTY TRUANCY POLICY

Approved by Truancy Committee April 2015

The school districts of Crawford County recognize the statutory requirements for school attendance and the overwhelming public need for an educated society. *Wis. Statute §118.15 and Crawford County Ordinances §9.05 state that any child between the age of six (6) and eighteen (18) years must attend school regularly during the full period and hours school is in session until the end of the school term, quarter, or semester of the school year in which the child becomes 18.*

The exceptions to this compulsory attendance law are:

1. The student is temporarily not in proper physical or mental condition to attend school. The school may require the parent/guardian to obtain a written medical excuse stating the period of time for which it is valid, but not to exceed 30 days.
2. The student is excused in writing by his/her parent/guardian **before the absence**, but not to exceed more than 10 days in a school year.
3. The student is excused in writing by his/her parent/guardian and by his/her school principal to serve as an election official, provided the student has at least a 3.0 grade point average.
4. The student is excused if instructed in a home-based private education program that meets the criteria of §118.165 (1).
5. The student is excused by the school board in accordance with the school board's written policy under §118.16 (4).

Each school in the county will ensure that the School Principal or Designee will serve as the School Attendance Officer.

The School Attendance Officer responsibilities:

1. Handle all matters relating to school attendance and *truancy, determining daily which students are absent from school and whether that absence is excused, in accordance with the countywide truancy policy. ***Please note that truancy is defined as follows:**

Truancy or simple truancy means any absence of **part or all of one or more** school days without an acceptable cause. Absence is further defined as missing more than ten minutes of school at the start or ending of a school day.

Habitual Truancy means an absence from school without an acceptable excuse for **part or all of five or more days** on which school is held during a school semester.

2. The School Attendance Officer, or Designee, 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. This notice of the 1st unexcused absence must be given before the end of the second school day after receiving a report of such absence. Notice may be made by personal service or telephone call of which a written record is kept and will be followed by a warning letter stating possible disciplinary action. If the child is returned to the school's principal or designated administrative staff person and if no additional unexcused absences occur within the school year, the truancy procedure ends.
3. At the time of a 2nd unexcused absence of a student within the school year, the School Attendance Officer shall send a warning letter to parent or guardian and will take disciplinary action. The Juvenile Court Worker is notified of the truancy and contacts the student and parent(s) in person and/or by warning letter. If no more unexcused absences are incurred, the truancy procedure ends.
4. If a 3rd unexcused absence of a student occurs within the school year, the School Attendance Officer will send a referral and attendance record to law enforcement for a truancy ordinance violation or make a direct referral to Crawford County Teen Court for 1st time youthful offenders. Law enforcement will issue a citation to the juvenile and/or parent(s) for each of the violations or make a direct referral to Crawford County Teen Court for 1st time youthful offenders. If no more unexcused absences are incurred, the truancy procedure ends.
5. If a 4th unexcused absence of a student occurs within the school year, the School Attendance Officer will send a referral and attendance record to law enforcement for a truancy ordinance violation. Law enforcement will issue a citation to the juvenile and/or parent(s) for each of the violations. If no more unexcused absences are incurred, the truancy procedure ends.
6. If a 5th unexcused absence occurs within a semester, the School Attendance Officer will send a notice via registered or certified mail of habitual truancy to the parent or guardian of the student and will schedule a timely meeting to discuss the student's options per Wis. Stats. § 118.16 (5). The Juvenile Court Worker may be invited to this meeting. Any additional unexcused absence of the student will result in a referral by the school to law enforcement for the issuance of a habitual truancy citation or to Crawford County Human Services Department for a *JIPS (Juvenile in Need of Protective Services)* petition.

Please refer to Crawford County Truancy Procedure Flow Chart.

Parent(s)/ guardian responsibilities:

It is the responsibility of the parent(s)/guardian to ensure regular school attendance by their child. They are expected to provide a written explanation of the student's absence at

the time the child returns to school, or in the care of prearranged absences, in advance of the absence.

Student responsibilities:

1. Students are required to attend all classes on their daily schedule, unless they have obtained approval by the building principal or principal's designee and/or have parental permission.
2. Students must make appropriate arrangements with teacher(s) according to established guidelines for making up homework assignments.

Teacher responsibilities:

1. Teachers are required to submit daily attendance reports to the **School Attendance Officer** on all students in their charge.
2. Teachers are to emphasize the importance and necessity of good attendance. They are to develop classroom procedures and grading requirements which reflect the effect class attendance has on student progress; however, no student shall be denied credit in a course or subject solely because of the pupil's unexcused absences or suspensions from school.

In a concerted effort to inform parents and students of attendance guidelines, each school shall provide student/parent handbooks to all students as regular attendance is a responsibility shared by parents/guardians, students, and the school. Additionally, school newsletters and electronic communication will be tools used to inform parents/guardians and students of modifications to the attendance guidelines or to provide clarification.

DEPARTMENT OF PUBLIC

INSTRUCTION:

ANSWERS TO

FREQUENTLY ASKED

COMPULSORY SCHOOL

ATTENDANCE QUESTIONS

April 2016

Contents

Introduction

Table of Contents

Compulsory Attendance

1. Are students required to stay in school until age 18?
2. When can students leave school even though they have not graduated?
3. When may a student be excused from school attendance? (Updated June 2012)
4. Aside from excused absences, what are the alternatives to regular, full-time school attendance?
5. When must a parent/guardian file a PI-1206 Home-Based Private Educational Program enrollment form with the Department of Public Instruction?
6. Does a parent need to file a PI-1206 Home-Based Private Educational Program registration form if the parent's child will be enrolled in a correspondence or virtual school offered by a private company or a public institution outside Wisconsin?
7. Does a parent need to file a PI-1206 Home-Based Private Educational Program registration form if the parent's child will be enrolled in a Wisconsin-based virtual charter school?
8. Can a school district refuse to enroll a resident student in school? (Updated April 2016)
9. Must a school district provide educational services immediately to a student transferring from another school, district, or state?
10. Often, a new student's pupil records are not transferred from the previous school district for some days after the new student enrolls in school. Can the school district postpone beginning instruction until the records arrive, in order to adequately plan the student's educational program?
11. Must an adult who has a school-age child under his/her control still comply with the compulsory education law even if the child has been expelled?
12. Are technical colleges required to enroll students who are expelled?

Compulsory School Attendance Enforcement

13. At what age is compulsory attendance enforced?
14. Who determines if an absence is excused?
15. Is there a limit to how many days a student may be excused from school because of illness? (Updated June 2012)
16. What are the strategies for promotion of attendance when a student has frequent absences due to a chronic health care concern?
17. What is truancy and habitual truancy?
18. How is “part of a day” defined?
19. What must the school do if a student is truant?
20. What must the school do when a student becomes habitually truant? (Updated October 2015)
21. What steps must schools take to provide educational services to habitually truant children before the case is referred to the courts?
22. What could happen to parents if their children do not attend school?
23. What could happen to a student who doesn't attend school and is referred to juvenile or municipal court?
24. When may a school district stop enforcing the truancy provisions as to a particular student?
25. Do students have the right to make up exams missed because of an unexcused absence or work missed because of a suspension?
26. May districts lower students' grades because of unexcused absences?
27. May districts fail students who have several unexcused absences?
28. What happens if the district attorney, municipal attorney, or corporation counsel does not choose to proceed with a truancy case?
29. What can concerned citizens do if they see students who are clearly under the age of compulsory attendance out of school?
30. What is a truancy plan?

Dropouts

31. When can a student drop out of school?

32. What is the definition of a dropout?

33. How are dropouts accounted for and reported? (Updated April 2016)

Appendix A

Links to Additional Information

Compulsory Attendance

1. Are students required to stay in school until age 18?

Yes, students are required to stay in school until they graduate or until the end of the school term, quarter, or semester during which they turn 18 years of age, Wis. Stat. sec. [118.15\(1\)\(a\)](#). Instruction in a home-based private educational program (home schooling) that meets the criteria in Wis. Stat. sec. [118.165\(1\)](#), may be substituted for attendance at a public or private school, Wis. Stat. sec. [118.15\(4\)](#).

Note: Special provisions apply for five-year-old kindergarten compulsory school attendance and first grade admission. See [Appendix A](#) for a link to more information.

2. When can students leave school even though they have not graduated?

Students may leave school at the end of the school term, quarter, or semester during which they turn 18 years of age, Wis. Stat. sec. [118.15\(1\)\(a\)](#). Because there is juvenile court jurisdiction under the Wisconsin Statutes only until age 18, it is unlikely that a student leaving on his/her 18th birthday (if it occurs before the end of the term) can be referred to court.

3. When may a student be excused from school attendance?

Pupils attending public school may be excused by the school board under the following circumstances. Local policy should be consulted to determine how these provisions are implemented at the school district.

Under Wis. Stat. sec. [118.15\(3\)](#), exceptions to compulsory school attendance include:

- Any child who is excused by the school board because the child is temporarily not in proper physical or mental condition to attend a school program but who can be expected to return to a school 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, psychologist, physician assistant, or nurse practitioner, as defined in Wis. Stat. sec. [255.06\(1\)\(d\)](#), or certified advanced practice nurse prescriber, 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.
- Any child excused by the school board in accordance with the school board's written attendance policy under Wis. Stat. sec. [118.16\(4\)](#), and with the written approval of the child's parent or guardian. The child's truancy, discipline or school achievement problems or disabilities as described in Wis. Stat. sec.

[115.76\(5\)](#), may not be used as the reason for an excuse under this paragraph. The excuse shall be in writing and shall state the time period for which it is effective, not to extend beyond the end of the current school year.

- Any child excused in writing by his or her parent or guardian before the absence. The school board shall require a child excused under this paragraph to complete any course work missed during the absence. A child may not be excused for more than 10 days in a school year under this paragraph.
- Any child excused in writing by his or her parent or guardian and by the principal of the school that the child attends for the purpose of serving as an election official under Wis. Stat. sec. [7.30\(2\)\(am\)](#). A principal may not excuse a child under this paragraph unless the child has at least a 3.0 grade point average or the equivalent. The principal shall allow the child to take examinations and complete course work missed during the child's absences under this paragraph. The principal shall promptly notify the municipal clerk or the board of election commissioners of the municipality that appointed the child as an election official if the child ceases to be enrolled in school or if the child no longer has at least a 3.0 grade point average or the equivalent.

Under Wis. Stat. sec. [118.15\(4\)](#), instruction in a home-based private educational program that meets all of the criteria under Wis. Stat. sec. [118.165\(1\)](#), may be substituted for attendance at a public or private school.

4. Aside from excused absences, what are the alternatives to regular, full-time school attendance?

For children identified as at risk of not graduating high school under Wis. Stat. sec. [118.153](#), there are exceptions to the regular school attendance, specifically:

- A student who is 16 years of age or older and a child at risk as defined in Wis. Stat. sec. [118.153](#), may request and a school board is required to allow that student to attend, in lieu of high school or on a part-time basis, a technical college if the student is working toward a high school diploma, Wis. Stat. sec. [118.15\(1\)\(b\)](#). Written parental permission is required.
- A student who is 16 years of age or older may be excused by the school board from regular school attendance if the student and his/her parent or guardian agree, in writing, that the child will participate in a program or curriculum modification as listed under Wis. Stat. sec. [118.15\(1\)\(d\)](#), leading to the child's high school graduation, Wis. Stat. sec. [118.15\(1\)\(c\)](#).
- A student who is 17 years of age or older may, with the written permission of his/her parents, be excused by the school board from regular attendance to participate in a program or curriculum modification leading to the student's high school graduation or to a high school equivalency diploma under Wis. Stat. sec. [115.29\(4\)](#) and [118.15\(1\)\(c\)2](#).
- A student who is 17 years of age or older and who began a program leading to a high school equivalency diploma in a secured correctional facility, juvenile

detention center, or county jail may request and the school board shall allow the student to continue to participate in such program, Wis. Stat. sec. [118.15\(1\)\(cm\)](#).

A curriculum modification request may be made to the school board under Wis. Stat. sec. [118.15\(1\)\(d\)](#):

- Any child's parent or guardian, or the child if the parent or guardian is notified, may request the school board, in writing, to provide the child with program or curriculum modifications, including but not limited to:
 - Modifications within the child's current academic program.
 - A school work training or work study program.
 - Enrollment in any alternative public school or program located in the school or district in which the child resides.
 - Enrollment in any nonsectarian private school or program located in the school or 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.
 - Home-bound 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.
 - 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

The school board must send the parent a decision in writing within 90 days of the request and, if it denies the request, the reason for denial must be provided.

5. When must a parent/guardian file a PI-1206 Home-Based Private Educational Program enrollment form with the Department of Public Instruction?

Wis. Stat. sec. [115.30\(3\)](#), requires parents/guardians to file form PI-1206 annually, on or before October 15. Parents may file form PI-1206 at any time during the school term. If the student is withdrawn from a public or private school after October 15, the PI-1206 form should be received by the Department of Public Instruction on or before the date the student ceases to attend the school. Additional information relating to home-based private educational programs is available on the Department of Public Instruction's web site at <http://dpi.wi.gov/sms/homeb.html> or by calling toll-free, 1-888-245-2732, extension 1.

6. Does a parent need to file a PI-1206 Home-Based Private Educational Program registration form if the parent's child will be enrolled in a correspondence or virtual school offered by a private company or a public institution outside Wisconsin?

Yes. If the child is receiving home-based instruction through a non-Wisconsin public or private school or program, the child's parent/guardian should file form PI-1206.

7. Does a parent need to file a PI-1206 Home-Based Private Educational Program registration form if the parent's child will be enrolled in a Wisconsin-based virtual charter school?

No. Wisconsin charter schools are public schools and all children enrolled in these schools are public school students.

8. Can a school district refuse to enroll a resident student in school?

In general, no. The Wisconsin Constitution guarantees a free education for children ages 4 through 20 who have not graduated from high school. The requirement of the local school district to provide free public elementary and secondary education to resident children is stated in Wis. Stat. sec. [121.77\(1\)](#), as follows: "Every elementary school and high school shall be free to all pupils who reside in the district." For school attendance purposes, a child is a resident of the district where he or she lives, regardless of where his or her parent lives, unless he is there "for the sole purpose of having the privileges of the public school of the district to which he may be transferred." *State Ex Rel. School-District Board V. Thayer, State Superintendent*, 74 Wis. 48, 41 N.W. 1014, 1017 (1889). This rule has been consistently followed by the courts. See *State Ex Rel. Smith V. Board Of Education of City Of Eau Claire*, 96 Wis. 95, 71 N.W. 123 (1897) and *Kidd V. Joint School Dist. No. 2, City Of Richland Center And Town Of Richland*, 194 Wis. 353, 216 N.W. 499 (1927). Contrary to some beliefs, no case or state statute has imposed a requirement that the pupil intends to remain in the district for any particular time.

A school district may deny education services only if a student is not a resident of the district (as described above) or if a student is currently expelled from another Wisconsin public school district, Wis. Stat. sec. [119.25](#) and [120.13\(1\)\(f\)](#). No school board is required to enroll a pupil during the term of his/her expulsion from a public school in another state or from a charter school established under s. 118.40 (2r), Wis. Stats., if the school board determines the conduct giving rise to the pupil's expulsion would have been grounds for expulsion under state law, s. 120.13 (1) (f) 2 and 3, Wis. Stats.

If the currently expelled student is a child with a disability, the resident district continues to have FAPE responsibility. Under federal and state law, LEAs must locate, identify, evaluate, and provide a free appropriate public education to all children with disabilities, including children who have been expelled from school. A school district cannot refuse an IEP team evaluation because a child has been expelled from another school district. A school district cannot refuse to provide a free appropriate public education to a child with a disability expelled from another school district. However, the school board may provide the services to the child in a setting other than one of the district's schools, as determined by the IEP team.

9. Must a school district provide educational services immediately to a student transferring from another school, district, or state?

A school district must enroll and serve a resident student immediately. If the board's written attendance policy permits and with parental agreement, enrollment of a high school student may include a period of assessment if the absence from school was a consequence of the student's truancy or upon the student's return to school from placement in a correctional facility, mental health treatment facility, alcohol and other drug abuse treatment facility, or other out-of-school placement. See Wis. Stat. sec. [118.16\(4\)\(cm\)1.](#), for conditions and limitations.

10. Often, a new student's pupil records are not transferred from the previous school district for some days after the new student enrolls in school. Can the school district postpone beginning instruction until the records arrive, in order to adequately plan the student's educational program?

No, there is no provision in law to permit a delay in educational services in this circumstance. Parents and students may be able to share what classes and services the student was enrolled in previously. More information can also be obtained by contacting the previous school district. These strategies may help guide initial placement in classes and activities until the pupil records arrive.

If the student has an Individual Education Plan (IEP), the district must provide FAPE, including services comparable to those described in the child's IEP until either the district adopts the IEP or develops a new IEP. If the student is transferring from a public agency in another state within the same school year, the district must provide FAPE, including services comparable to those described in the child's IEP from out of state, and conduct an evaluation to determine eligibility and develop, adopt, and implement a new IEP if appropriate.

If a school district enrolls a student without an IEP and then, subsequently, learns from the student's records that the student is currently expelled from another Wisconsin public school district, consistent with Wis. Stat. sec. [120.13\(1\)\(f\)](#), the school district may, consistent with the board's policy, elect not to provide educational services to the student. This provision only applies to expulsions from Wisconsin public schools. See the Wisconsin Attorney General's opinion that a school district may not refuse to enroll a pupil merely because he or she has been expelled from a private school or public school in another state. OAG 5-08.

If the district enrolls a student with an IEP and, subsequently, learns from the student's records that the student is currently expelled from a Wisconsin public school district, the district continues to have FAPE responsibility. Under federal and state law, LEAs must locate, identify, evaluate, and provide a free appropriate public education to all children with disabilities, including children who have been expelled from school. A school district cannot refuse an IEP team evaluation because a child has been expelled from another school district. A school district cannot refuse to provide a free appropriate public education to a child with a disability expelled from another school district.

However, the school board may provide the services to the child in a setting other than one of the district's schools, as determined by the IEP team.

11. Must an adult who has a school-age child under his/her control still comply with the compulsory education law even if the child has been expelled?

A child who has been expelled is still required to attend school under Wis. Stat. sec. [118.15\(1\)\(a\)](#). Alternative options include enrollment in a private school, correspondence school, technical college, or home-based private educational program.

12. Are technical colleges required to enroll students who are expelled?

No, however attendance is permitted under Wis. Stat. sec. [38.22\(1\)](#) and [\(1s\)](#), subject to approval of the local technical college. For additional information, please see Contracting with Technical Colleges at http://dpi.wi.gov/alternativeed/pdf/contracting_techcolleges.pdf.

Compulsory School Attendance Enforcement

13. At what age is compulsory attendance enforced?

Any person having under his/her control a child who is between the ages of 6 and 18 years and has not graduated from high school 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, Wis. Stat. sec. [118.15\(1\)\(a\)](#).

14. Who determines if an absence is excused?

The school board must establish a written policy specifying the reasons for which pupils may be permitted to be absent from school, Wis. Stat. sec. [118.16\(4\)\(a\)](#).

However, parents may excuse their child's absence in writing before the absence. A child may not be excused for more than 10 days in a school year under this provision, Wis. Stat. sec. [118.15\(3\)\(c\)](#).

The board may excuse children who are temporarily not in proper physical or mental condition to attend school but can be expected to return to school upon termination or abatement of the illness or condition, Wis. Stat. sec. [118.15\(3\)\(a\)](#). 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.

15. Is there a limit to how many days a student may be excused from school because of illness?

No. There is no limit in state law regarding how many days a student may be excused from school because of illness. A school district defines excused and unexcused absences within its local attendance policy, typically shared with parents in the form of a student handbook. While a physician's statement or excuse is not required, 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, psychologist, physician assistant, nurse practitioner, as defined in Wis. Stat. sec. [255.06\(1\)\(d\)](#), certified advanced practice nurse practitioner, 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. Any excuse is to be in writing and state the time period for which it is valid, not to exceed 30 days, Wis. Stat. sec. [118.15\(3\)\(a\)](#).

Student absences due to illnesses or injury of a student not identified as a child with a disability may require referral and assessment for special education services. For students with an IEP, if an extended or recurring absence is anticipated, an IEP meeting should be held to address how and what services should be provided during or following the absences. Furthermore, for a student with an IEP, the department recommends that an IEP team meeting should be held prior to the 11th consecutive date of absence.

16. What are the strategies for promotion of attendance when a student has frequent absences due to a chronic health care concern?

When a student is sick with chronic health problems, it can be difficult to know how to improve that child's attendance. Here are some possible strategies which may be helpful.

School staff (school nurse, public health nurse, social worker, etc.) may, with parental consent, communicate with the student's medical provider. This strategy can help the school district's staff understand what medications, procedures, and preventative measures that the school may need to have in place during the school day to accommodate the student's health care needs. Before the school staff contact the medical provider, it is required that you obtain a release of medical information from the parent or guardian. Patient health care information has a higher level of protection than pupil records. More information on needed documentation in a release of medical information is available at <http://dpi.wi.gov/sspw/srconfid03.html>.

For students and families that are uninsured, school staff may provide families information about public insurance benefits, such as Medicaid and BadgerCare Plus. They may also be able to refer the student to low-cost or free medical clinics in the area. More information is available at <http://dhs.wisconsin.gov/badgercareplus/>, Covering Kids and Families Wisconsin at <http://www.ckfwi.org>, and Wisconsin Department of Health Services, Forward Health at <http://dhs.wisconsin.gov/ForwardHealth>.

17. What is truancy and habitual truancy?

A student is considered truant if he/she is absent without an acceptable excuse for all or part of one or more days during which school is held. A student qualifies to be habitually truant when he/she is absent without an acceptable excuse all or part of five or more days in a school semester, Wis. Stat. sec. [118.16\(1\)\(a\)](#) and [\(c\)](#).

18. How is “part of a day” defined?

Each school district determines what constitutes “part of a day.” For instance, a district might define “part of a day” as a few minutes tardy, missing one hour, or missing half of a day.

19. What must the school do if a student is truant?

The school attendance officer must notify the parent(s) and direct the parent to return the child to school or provide an excuse. Notification must occur by the end of the second school day after receiving a report of the unexcused absence. The notice may be made by personal contact, mail, or telephone call of which a written record is kept, except that notice by personal contact or telephone call shall be attempted before notice by mail may be given, Wis. Stat. sec. [118.16\(2\)\(c\)](#).

If a student misses part or all of five (5) or more days without an acceptable excuse in a school semester, the student is “habitually truant” and a truancy referral may be made by the school against the student under Wis. Stat. sec. [118.16\(5\)](#), to the juvenile court intake worker or municipal court.

20. What must the school do when a student becomes habitually truant?

The school attendance officer shall notify the parent or guardian of a child who is a habitual truant, by registered, certified, or first class mail, when the child initially becomes a habitual truant. The notice shall include all of the following:

- A statement of the parent’s or guardian’s responsibility, under Wis. Stat. sec. [118.15\(1\)\(a\)](#), to cause the child to attend school regularly.
- A statement that the parent, guardian, or child may request program or curriculum modifications for the child under Wis. Stat. sec. [118.15\(1\)\(d\)](#), and that the child may be eligible for enrollment in a program for children at risk under Wis. Stat. sec. [118.153\(3\)](#).
- A request that the parent or guardian meet with appropriate school personnel to discuss the child’s truancy. The notice shall include the name of the school personnel with whom the parent or guardian should meet, a date, time, and place for the meeting and the name, address, and telephone number of a person to contact to arrange a different date, time, or place. The date for the meeting shall be within five (5) school days after the date that the notice is sent, except that with the consent of the child’s parent or guardian the date for the meeting may be extended for an additional five (5) school days.

- A statement of the penalties, under Wis. Stat. sec. 118.15(5), that may be imposed on the parent or guardian if he or she fails to cause the child to attend school regularly as required under Wis. Stat. sec. 118.15(1)(a) and 118.16(2)(cg).

21. What steps must schools take to provide educational services to habitually truant children before the case is referred to the courts?

If a student misses part or all of five or more days without an acceptable excuse, the student is “habitually truant” and truancy proceedings may be started by the school under Wis. Stat. sec. 118.16(6). Prior to referring the matter to juvenile, municipal, or teen court under Wis. Stat. sec. 938.13(6), 118.16(6), or 118.163(1m), the school must document that it has done all of the following within the school year during which the truancy occurred:

- a) Met with the student’s parent or guardian to discuss the student’s truancy or have attempted to meet with the student’s parent or guardian and received no response or were refused, Wis. Stat. sec. 118.16(5)(a).
- b) Provided an opportunity for educational counseling to the student to determine whether a change in the student’s curriculum would resolve the student’s truancy and have considered curriculum modifications under Wis. Stat. sec. 118.15(1)(d) and 118.16(5)(b).
- c) Evaluated the student to determine whether learning problems may be a cause of the student’s truancy and, if so, have taken steps to overcome the learning problems.
Evaluation is not necessary if tests administered within the last year indicate that the student is performing at grade level, Wis. Stat. sec. 118.16(5)(c).
- d) Conducted an evaluation to determine whether social problems may be a cause of the student’s truancy and, if so, have taken appropriate action or made appropriate referrals, Wis. Stat. sec. 118.16(5)(d).

If the parent does not attend a meeting under Wis. Stat. sec. 118.16(cg)3, then (a) above does not apply. In lieu of meeting the requirements in (b)-(d), the school attendance officer may provide evidence that the appropriate school personnel were unable, due to the student’s absences from school, to conduct the evaluation and counseling described in (b)-(d) above.

22. What could happen to parents if their children do not attend school?

Parents or guardians can be found guilty of a misdemeanor under Wis. Stat. sec. 948.45. For the first offense they could be fined up to \$500 or imprisoned 30 days, Wis. Stat. sec. 118.15(5)(a)1.a. For the second and subsequent offense, the fine cannot exceed \$1,000 and/or imprisonment for 90 days. They could be required to perform community service in lieu of these penalties, Wis. Stat. sec. 118.15(5)(a)2. (They can also be ordered to participate in counseling at the person's own expense or to attend school with his or her child, or both, Wis. Stat. sec. 118.15(5)(am).)

In addition, parents or guardians whose children have been found guilty of violating a truancy ordinance, can be ordered to participate in counseling at the parent or guardian's own expense and/or attend school with the truant child, Wis. Stat. sec. [118.163\(2\)\(k\)](#) and [938.342\(1m\)\(a\)](#). Parents and guardians can also be held responsible for any fines that their child receives under Wis. Stat. sec. [118.163\(1m\)\(b\)](#) and [938.342\(1d\)\(b\)](#), and for the cost of any counseling or for supervised work ordered under Wis. Stat. sec. [118.163\(2\)\(b\)](#) and [938.342\(1g\)\(b\)](#).

Also, any adult who knowingly contributes to truancy can be found guilty of a Class C misdemeanor under Wis. Stat. sec. [948.45](#). Some exceptions exist for parents or guardians of a child who has been sanctioned under Wis. Stat. sec. [49.26\(1\)\(h\)](#).

23. What could happen to a student who doesn't attend school and is referred to juvenile or municipal court?

Municipal courts (in cities, villages, towns, or counties) may order the following if the child is determined, by the court, to be habitually truant:

- Suspension of the student's drivers license for not less than 30 days nor more than one year, Wis. Stat. sec. [118.163\(2\)\(a\)](#) and [938.342\(1g\)\(a\)](#).
- Participation in counseling or supervised work (community service) program, Wis. Stat. sec. [118.163\(2\)\(b\)](#) and [938.342\(1g\)\(b\)](#).
- Home detention during specific hours, Wis. Stat. sec. [118.163\(2\)\(c\)](#) and [938.342\(1g\)\(c\)](#).
- Attendance in an education program as described in Wis. Stat. sec. [938.34\(7d\)](#), [118.163\(2\)\(d\)](#), and [938.342\(1g\)\(d\)](#).
- (Department of Workforce Development) Revocation of the student's work permit, Wis. Stat. sec. [118.163\(2\)\(e\)](#) and [938.342\(1g\)\(e\)](#).
- Participation in a teen court program, Wis. Stat. sec. [118.163\(2\)\(f\)](#) and [938.342\(1g\)\(f\)](#).
- Court ordered school attendance, Wis. Stat. sec. [118.163\(2\)\(g\)](#) and [938.342\(1g\)\(g\)](#).
- A forfeiture (fine) of not more than \$500 plus court costs, Wis. Stat. sec. [118.163\(2\)\(h\)](#) and [938.342\(1g\)\(h\)](#).
- Any other reasonable conditions, including a curfew, restrictions as to places the student may be, or restrictions on associating with other children or adults, Wis. Stat. sec. [118.163\(2\)\(i\)](#) and [938.342\(1g\)\(i\)](#).
- Placement of the student on formal or informal supervision, Wis. Stat. sec. [118.163\(2\)\(j\)](#) and [938.342\(1g\)\(j\)](#).
- The student's parent, guardian, or legal custodian can be ordered to participate in counseling at their own expense or to attend school with the student, or both, Wis. Stat. sec. [118.163\(2\)\(k\)](#) and [938.342\(1m\)\(a\)](#).
- An order for the person to report to a youth report center after school, in the evening, on weekends, on other non-school days, or at any other time that the person is not under immediate adult supervision, for participation in the social,

behavioral, academic, community service, and other programming of the center, Wis. Stat. sec. [118.163\(2\)\(L\)](#).

The juvenile court may order the following if the child is determined, by the court, to be habitually truant:

- Counseling of the student, the parent, guardian, or legal custodian, Wis. Stat. sec. [938.34\(1\)](#)
- Placement of the student on formal supervision, including supervision and home detention for not more than 30 days under rules of supervision, Wis. Stat. sec. [938.34\(2\)](#).
- Participation in a teen court program, Wis. Stat. sec. [938.34\(2m\)](#).
- Place the student in the home of the parent or relative, with a non-relative for up to 30 days, in a foster home, treatment foster home, group home, or child caring institution, Wis. Stat. sec. [938.34\(3\)](#).
- Electronic monitoring, Wis. Stat. sec. [938.34\(3g\)](#).
- Transfer the student's legal custody from the parent to a relative, to the county department, or to a licensed child welfare agency, Wis. Stat. sec. [938.34\(4\)](#).
- Participation in a supervised work or community service program, Wis. Stat. sec. [938.34\(5g\)](#).
- Participation in a community service (youth corps) work program, Wis. Stat. sec. [938.34\(5m\)](#).
- Provision of special treatment or care as identified in an evaluation under Wis. Stat. sec. [938.295](#) and [938.34\(6\)](#).
- Development and implementation of an integrated service plan under Wis. Stat. sec. [46.56](#) and [938.34\(6m\)](#).
- Outpatient alcohol or drug treatment or education, Wis. Stat. sec. [938.34\(6r\)](#).
- Drug testing, Wis. Stat. sec. [938.34\(6s\)](#).
- Attendance in an educational program including disclosure of the pupil's records to the supervising agency, Wis. Stat. sec. [938.34\(7d\)](#).
- Participation in a wilderness challenge program or other experiential education program, Wis. Stat. sec. [938.34\(7g\)](#).
- Participation in a juvenile offender education program, Wis. Stat. sec. [938.34\(7n\)](#).
- Vocational assessment, counseling, or training, Wis. Stat. sec. [938.34\(7r\)](#).
- Participation in a day treatment program, Wis. Stat. sec. [938.34\(7w\)](#).
- Any of the above items stayed and held in abeyance pending successful completion of other requirements, Wis. Stat. sec. [938.34\(16\)](#). For example, the court might stay an order of out-of-home placement on the condition that the student attend school every day.
- An order for the person to report to a youth report center after school, in the evening, on weekends, on other non-school days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center, Wis. Stat. sec. [938.342\(1g\)\(k\)](#).

If the juvenile court finds that the student's truancy is intentional, the juvenile court may, instead of or in addition to these options, order all of the options listed for the municipal court, Wis. Stat. sec. [938.345\(2\)](#).

24. When may a school district stop enforcing the truancy provisions as to a particular student?

- a. At the end of the term, quarter, or semester in which the student turns 18 years old.
- b. When the district receives documentation that the student no longer resides in the district or has enrolled in another public school, private school, or home-based education program.

25. Do students have the right to make up exams missed because of an unexcused absence or work missed because of a suspension?

Yes. No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences or suspensions from school. The school's attendance policy shall specify the conditions under which a pupil may be permitted to take examinations missed during absences, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester, or grading period examinations and complete any course work missed during a period of suspension, Wis. Stat. sec. [118.16\(4\)\(b\)](#).

26. May districts lower students' grades because of unexcused absences?

It is important for schools to have a clear policy with objective criteria for reducing grades. Credit cannot be denied on the basis of unexcused absences only. The school's attendance policy shall specify the conditions under which a pupil may be permitted to take examinations missed during absences, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester, or grading period examinations and complete any course work missed during a period of suspension, Wis. Stat. sec. [118.16\(4\)\(b\)](#).

Also, 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, Wis. Stat. sec. [118.16\(4\)\(c\)](#).

27. May districts fail students who have several unexcused absences?

No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences or suspensions from school. The attendance policy shall

specify the conditions under which a pupil may be permitted to take examinations missed during absences, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester, or grading period examinations and complete any course work missed during a period of suspension, Wis. Stat. sec. [118.16\(4\)\(b\)](#).

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, Wis. Stat. sec. [118.16\(4\)\(c\)](#).

28. What happens if the district attorney, municipal attorney, or corporation counsel does not choose to proceed with a truancy case?

Nothing. The district attorney, municipal attorney, or corporation counsel has the legal authority to determine if the case will proceed or not, Wis. Stat. sec. [938.25\(1\)](#).

29. What can concerned citizens do if they see students who are clearly under the age of compulsory attendance out of school?

They may contact the school or law enforcement.

30. What is a truancy plan?

At least once every four years, the school district administrator of the school district which contains the county seat is required to convene a committee to review and make recommendations to the school boards of all of the school districts in the county on the school districts' truancy plan. The committee is required to consist of certain members including representatives of each of the county's school districts, law enforcement, office of the district attorney, the circuit court, the county department of social/human services, juvenile court intake, parents and community members. The committee shall write a report that addresses factors that contribute to truancy in the county and a description of any state statutes, municipal ordinances or school, social services, law enforcement, district attorney, court, or other policies that contribute to or inhibit the response to truancy in the county.

Each school board is required to adopt a truancy plan that includes:

- Procedures to be followed for notifying the parents or guardians of the unexcused absence.
- Plans and procedures for identifying truant children of all ages and returning them to school.
- Methods to increase awareness and involvement of the public in truancy.

- The immediate response to be made by school personnel when a truant child is returned to school.
- The types of truancy cases to be referred to the district attorney and the time periods for response from the district attorney.
- Plans and procedures to coordinate the responses to the problem of habitual truants with public and private social service agencies.
- Methods to involve the truant child's parent or guardian in dealing with and solving the child's truancy.

At least once every 2 years, each school board shall review and, if appropriate, revise the truancy plan, Wis. Stat. sec. [118.162\(4m\)](#).

Dropouts

31. When can a student drop out of school?

Students must attend school until the end of the school term, quarter or semester of the school year in which the student becomes 18 years of age, Wis. Stat. sec. [118.15\(1\)\(a\)](#).

32. What is the definition of a dropout?

Under Wis. Stat. sec. [118.153\(1\)\(b\)](#), "dropout" means a child who ceased to attend school, does not attend a public or private school, technical college 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 Wis. Stat. sec. [118.15\(1\)\(b\)-\(d\)](#) or [\(3\)](#).

33. How are dropouts accounted for and reported?

Dropouts are accounted for at the individual student level using data collected from school districts in the Wisconsin Student Locator System (WSLS), and the Individual Student Enrollment System (ISES). For ISES purposes, a dropout for the reported school term is a student who was enrolled in school at some time during that school term, was not enrolled at the beginning of the next school term (third Friday in September), has not completed high school, and does not meet any of the following exclusionary conditions: transfer to another public school district, private school, or state- or district-approved educational program; temporary absence due to expulsion, suspension or school-approved illness; or death. Students who completed the reported school term but who did not return as expected for the next school term are counted as dropouts for the next school term. Dropouts are publicly reported through Wisconsin Information System for Education Data Dashboard (WISEdash) at <http://wisedash.dpi.wi.gov/Dashboard/portalHome.jsp>.

Appendix A

Links to Additional Information

Five-year-old kindergarten attendance and first grade admission:

<http://dpi.wi.gov/early-childhood/kind/admission>

Wisconsin Department of Public Instruction Student Services/Prevention and Wellness Resources: <http://dpi.wi.gov/sspw/resources>

Wisconsin Statutes: <http://legis.wisconsin.gov/rsb/Stat.html>

GED/HSED Contracting with Technical Colleges:

http://dpi.wi.gov/sites/default/files/imce/alternative-education/pdf/contracting_techcolleges.pdf

Educating Incarcerated Youth: http://dpi.wi.gov/sites/default/files/imce/alternative-education/pdf/jail_dententioneducation.pdf

Home-Based Private Education Program (Home Schooling):

<http://dpi.wi.gov/sms/home-based>

Open Enrollment: <http://dpi.wi.gov/open-enrollment>

Virtual Schools: <http://dpi.wi.gov/imt/digital-learning/virtual-schools>

National Center on School Engagement: <http://schoolengagement.org/>

National Dropout Prevention Network: <http://www.dropoutprevention.org/>

National Education Association: <http://nea.org/home/DropoutPrevention.html>

Pupil Transportation: <http://dpi.wi.gov/sms/transportation>

Special Education Transportation:

<http://dpi.wi.gov/sites/default/files/imce/sped/pdf/bul109-02.pdf>

School Graduation Resources: <http://dpi.wi.gov/graduation/resources>

DEPARTMENT OF PUBLIC

INSTRUCTION:

ANSWERS TO FREQUENTLY

ASKED

SCHOOL DISCIPLINE

QUESTIONS

JANUARY 2012

Table of Contents

Introduction

Suspension

1. What is the school district's authority to suspend a pupil?
2. What notifications must a school district make as part of suspending a student?
3. For how long may a student be suspended from school?
4. May a suspension be appealed?
5. May students who are suspended make up work missed during the suspension?

Removal from Classroom

6. May a student be removed from a particular class without being expelled or suspended from school?
7. What is the classroom code of conduct?
8. If a teacher removes a student from class, what procedures must the teacher follow?
9. If a student is removed from class by a teacher, does the student have a right to educational services?

Expulsion

10. What is the school district's authority to expel a student?
11. What standards are to be met in order for a school board to expel a student?
12. When is an expulsion required by state statute or federal law?
13. Must a district provide notice of an expulsion hearing?
14. Is an expulsion hearing closed to the public?
15. How may a student or parent challenge a proposed expulsion?
16. If a student withdraws from the district before the expulsion proceedings are completed by the school board, may the expulsion proceedings continue?

17. May a school board expel a student for a period of time and then let the student return early if certain conditions are met?
18. What is conditional enrollment?
19. What procedures must be followed regarding conditional enrollment?
20. May the expulsion be appealed to the state superintendent?
21. On appeal, while the state superintendent reviews the expulsion, is the expelling school district required to re-enroll the expelled student?
22. What aspects of the expulsion decision are reviewed by the state superintendent?
23. What aspects of the expulsion decision are NOT reviewed by the state superintendent?
24. Is the state superintendent's decision always final?
25. If a pupil is expelled from one district, may he/she relocate and attend school in another district?
26. If a student is expelled from a private school, may he or she enroll in his or her resident public school district?
27. Can Wisconsin school districts deny enrollment of a resident student because the student was or is currently being expelled by a school in another state?
28. If a student is expelled from a district and enrolls in a private school, does he/she have a right to transportation to the private school?
29. Does a pupil have a right to educational services from the school district during a period of expulsion?
30. If a school district elects to provide post-expulsion services to non-disabled expelled students, can the district claim state aids for the student?
31. Are there resources available to assist schools in exploring alternatives to suspension and expulsion?
32. Must an adult who has a school-age child under his/her control still comply with the compulsory attendance education law even if the child has been expelled?

Appendixes

A. U.S. Code Definition of a Firearm

B. Links to Additional Information

Introduction

This document outlines the rights and responsibilities related to school discipline in Wisconsin public schools. It outlines the provisions under which students' rights to attend public schools may be denied.

This document organizes the above information in a question and answer (Q and A) format. The answers provided are formulated through reviews of case law, Attorneys General's opinions, and DPI policies and procedures. The statutory citations found in School Board Powers related to suspension and expulsion of students from public schools are located in ss. 120.13 and 119.25, Wis. Stats., and those related to the removal of pupils from class are located in s. 118.164, Wis. Stats. Finally, the reference to free public education is located in article X, section 3, of the Wisconsin Constitution, and s. 121.77, Wis. Stats.

We hope that this document can provide answers to the questions the reader has related to student discipline. It is not uncommon for the interpretation of statutes and the application of those same laws to be viewed quite differently by interested parties. When that occurs, it is necessary to attempt to achieve resolution of those disputes at the local level. Both constitutional and statutory powers of the state superintendent and the department are extremely limited in serving as an avenue of appeal for student discipline cases. This is due in large part to our state's strong reliance on a system of "local control". While department staff can attempt to clarify options available, ultimately parties will need to attempt negotiation of disputes through local channels. The Department of Public Instruction frequently receives questions about various issues pertaining to educating students. It is the purpose of this bulletin to answer questions frequently asked. The answers given are not intended to serve as legal advice and cannot substitute for legal guidance in specific cases. The citations are to the Wisconsin Statutes that are available at any public library. Additional resources, including websites of interest, are referenced in the appendices.

Suspension

1. What is the school district's authority to suspend a pupil?

The authority of a school district to suspend a pupil is found under s. 120.13 (1) (b), Wis. Stats. The law permits a school district administrator, any principal, or teacher designated by the school district administrator to suspend a pupil:

- a. For disobeying school rules.
- b. For conveying any threat or false information concerning an attempt or alleged attempt being made or to be made to destroy school property by explosives.
- c. For conduct while at school, or under the supervision of a school authority, which endangers the property, health or safety of others.
- d. For conduct while not at school, or while not under the supervision of school authority, which endangers the property, health or safety of others at school or under the supervision of a school authority or endangers the property, health or safety of any employee or school board member in the pupil's district. Conduct that endangers a person or property includes making a threat to the health or safety of a person or making a threat to damage property.
- e. The law *requires* suspension if the student possessed a firearm while at school or under the supervision of the school authority, s. 120.13 (1) (bm), Wis. Stats.

2. What notifications must a school district make as part of suspending a student?

Prior to suspending a student, the student must be told the reason for the proposed suspension. The parent or guardian of a suspended minor student must be given prompt notice of the suspension and the reason for the suspension, s. 120.13 (1) (b) 3, Wis. Stats.

3. For how long may a student be suspended from school?

A student may be suspended for up to five school days. However, if a notice of an expulsion hearing has been sent, the pupil may be suspended for up to 15 consecutive school days, s. 120.13 (1) (b), Wis. Stats.

Note: Special provisions apply when the student is a child with a disability. For review of these provisions, see the federal special education regulations, 34 CFR 300.530 - 300.537 and the Information Update Bulletin 06.02 available on the special education website at <http://dpi.wi.gov/sped/bul06-02.html>.

4. May a suspension be appealed?

A parent or pupil may, within five school days following the commencement of a suspension, have a conference with the school district administrator or his/her designee. The designee may not be the principal, an administrator, or a teacher in the child's school. If the school district administrator or his/her designee finds that the child

was suspended unfairly or unjustly, or the suspension was inappropriate given the nature of the offense, or the child suffered undue consequences or penalties as a result of the suspension, reference to the suspension must be removed from the child's records. The finding must be made within 15 days of the conference, s. 120.13 (1) (b), Wis. Stats. The State Superintendent of Public Instruction does not have authority to review suspensions; see *Madison Metropolitan School District (Lenny G.) v. Wis. DPI.*, 199 Wis. 2d 1, 543 N.W. 2d 843 (1995).

1. May students who are suspended make up work missed during the suspension?

Yes. No public school may deny a pupil credit in a course or subject solely because of the pupil's unexcused absences or suspensions from school. The school's attendance policy shall specify the conditions under which a pupil may be permitted to take examinations missed during absences, other than suspensions, and the conditions under which a pupil shall be permitted to take any quarterly, semester or grading period examinations and complete any course work missed during a period of suspension, ss. 118.16 (4) (b) and 120.13 (1) (b), Wis. Stats.

Removal from Classroom

2. May a student be removed from a particular class without being expelled or suspended from school?

Yes, a teacher may remove a pupil from the teacher's class if the pupil violates the code of classroom conduct adopted by the school board under s. 120.13 (1) (a), Wis. Stats. The teacher may also remove the pupil from his or her classroom if the pupil is dangerous, unruly or disruptive, or exhibits behavior that interferes with the ability of the teacher to teach effectively, as specified in the code of classroom conduct, s. 118.164 (2), Wis. Stats.

Note: Special provisions apply when the student is a child with a disability. For review of these provisions, see the federal special education regulations, 34 CFR 300.530 - 300.537 and the Information Update Bulletin 06.02 available on the special education website at <http://dpi.wi.gov/sped/bul06-02.html>.

3. What is the classroom code of conduct?

School boards are required to adopt a code of classroom conduct, s. 120.13 (1) (a), Wis. Stats. The code of conduct is to be developed in consultation with a committee of school district residents that consists of parents, pupils, members of the school board, school administrators, teachers, pupil service professionals, and other residents of the district appointed by the school district. The code of conduct may provide different standards of conduct for different schools and must include:

- A specification of what constitutes dangerous, disruptive and unruly behavior or behavior that interferes with the ability of the teacher to teach effectively.
- Any additional grounds for removal of a pupil from class.

- The procedure for determining the appropriate educational placement of a pupil who has been removed from class.
- A procedure for notifying the parent and guardian that their child has been removed from class.

8. If a teacher removes a student from class, what procedures must the teacher follow?

The teacher shall send the pupil to the school principal or his/her designee and notify the school principal or his/her designee immediately of the reasons for the removal. The teacher shall provide the principal or his/her designee, within 24 hours of the pupil's removal, a written explanation of the reasons for the removal, s. 118.164 (2), Wis. Stats.

9. If a student is removed from class by a teacher, does the student have a right to educational services?

Yes, the principal has four placement options under s. 118.164 (3) (a), Wis. Stats., for the student who has been removed from class:

- a. The student may be placed in an alternative education program under s. 115.28 (7) (e) 1, Wis. Stats.
- b. The student may be placed in another class in the school or another appropriate place in the school, as determined by the principal or his/her designee.
- c. The pupil may be placed in another instructional setting.
- d. The pupil may be placed back in the classroom from which he/she was removed if, after weighing the interests of the removed pupil, the other pupils in the class and the teacher, the school principal or his/her designee determines that re-admission to the class is the best or only alternative.

Note: A teacher, school board, school district administrator or their designee is not prohibited from further disciplining a pupil who has been removed from class using this procedure, s. 118.164 (3) (b), Wis. Stats.

Expulsion

10. What is the school district's authority to expel a child?

The authority of a school district to expel a pupil is found under ss. 120.13 (1) (c) and 119.25, Wis. Stats. A pupil may be expelled from school:

- If the school board finds the pupil guilty of repeated refusal or neglect to obey school rules.
- For threatening to destroy school property by explosives.
- For engaging in conduct while at school or under the supervision of a school authority which endangered the property, health or safety of others.
- For conduct while not at school or while not under the supervision of school authority which endangered the property, health or safety of others at school or under the

supervision of a school authority or endangered the property, health or safety of any employee or school board member in the pupil's district.

- For conduct that endangers a person or property, including making a threat to the health or safety of a person or making a threat to damage property.

In addition, the school board may expel from school a pupil who is at least 16 years of age or older if the school board finds that the pupil repeatedly engaged in conduct while at school, or while under the supervision of school authorities, that disrupted the ability of school authorities to maintain order or an educational atmosphere at school or at an activity supervised by a school authority. Finally, a school board *shall* commence proceedings and expel a pupil for at least one year for possession of firearms on school property. The board may, however, modify this requirement on a case-by-case basis, ss. 119.25 (2) (a) 2 and 120.13 (1) (g), Wis. Stats.

Note: Special provisions apply when the student is a child with a disability. For review of these provisions, see the federal special education regulations, 34 CFR 300.530 - 300.537 and the Information Update Bulletin 06.02 available on the special education website <http://dpi.wi.gov/sped/bul06-02.html>.

11. What standards are to be met in order for a school board to expel a student?

There must be evidence presented to the board to establish that the facts alleged in the notice of expulsion hearing are true; that since the grounds for expulsion listed in the notice of hearing are met and that the board is "satisfied that the interest of the school demands the pupil's expulsion," s. 120.13 (1) (c) 1, Wis. Stats. In determining whether the interest of the school demands expulsion, the board may want to consider the following:

- Are consequences other than expulsion available (through the school or the community)?
- Other educational alternatives available that will maintain a safe, learning environment.
- The severity of the misconduct.
- Availability of community resources to address the misconduct.
- The effect the misconduct had on the school environment.
- Whether expulsion is necessary to counter this effect.

12. When is an expulsion required by state statute or federal law?

State law requires expulsion for only one type of violation, whenever a student possesses a firearm at school or while under the supervision of a school authority, s. 120.13 (1) (c) 2m, Wis. Stats. Note that this requirement does not apply while legally hunting in a school forest if allowed under s. 120.13 (38), Wis. Stats. While the law requires a one year expulsion for firearms that meet the federal definition, school boards may modify the order on a case-by-case basis, s. 120.13 (1) (g), Wis. Stats. The federal requirement calls for states to adopt the legislative language referenced above in order to remain eligible to receive federal funds under the Elementary and Secondary Education Act (ESEA). This law requires state legislatures to use the U.S. Code definition of "firearm" when implementing its Gun Free Schools Act provisions in state

statutes. The definition is included in Appendix A. Under the U.S. Code definition of “firearm,” handguns, rifles, and shotguns are included, but other types of “weapons,” including knives, and BB guns are not included, and, therefore, do not require school boards to expel students that are in possession of them. While local policy may dictate that students with other such “weapons” be subject to expulsion, the law does not require it. Many school districts have adopted so-called “zero tolerance” policies which require expulsion for a range of behaviors and violations. Please note that this approach is a philosophy and not a required approach to student discipline, with the exception of firearm possession. Zero tolerance could be used to say that these behaviors will not be tolerated and will be immediately dealt with using a range of options designed to stop the behaviors, prevent future violations and protect the safety of the school environment.

13. Must a district provide notice of an expulsion hearing?

Yes. The school district must send a written notice to the parent and to the pupil at least five calendar days prior to an expulsion hearing. The notice must specify the particulars of the pupil’s alleged conduct warranting expulsion, must state the time and place of the hearing, and must state that the hearing may result in the pupil’s expulsion. The notice must also include other specific rights, including the places in the state statutes where the pupil expulsion laws are found, ss. 119.25 and 120.13 (1) (c), Wis. Stats.

14. Is an expulsion hearing closed to the public?

Upon the request of the pupil and, if the pupil is a minor, the pupil’s parent or guardian, the hearing shall be closed. In addition, in the absence of pupil or parent request to close the hearing to the public, a school board may determine to conduct a closed hearing based on rules governing the conduct of a school board meeting. There is no right to an open hearing.

15. How may a student or parent challenge a proposed expulsion?

The pupil and, if the pupil is a minor, the pupil’s parents or guardian may be represented at the hearing by counsel. With or without an attorney, the pupil and parent have a right to question witnesses, to call witnesses and to offer other evidence or arguments of their own.

16. If a student withdraws from the district before the expulsion proceedings are completed by the school board, may the expulsion proceedings continue?

Yes, a school board may complete the expulsion proceedings even if the pupil withdraws from the school. If the school board does not complete the expulsion, s. 120.13 (1) (f), Wis. Stats., does not apply.

17. May a school board expel a student for a period of time and then let the student return early if certain conditions are met?

Yes. Sections 119.25 (2) (d) and 120.13 (1) (h), Wis. Stats., authorize a school board to make expulsion decisions and to impose one or more early reinstatement conditions under which a pupil who is expelled from school may be reinstated to school before the end of the term of his/her expulsion. An early reinstatement condition may be: 1) a condition that a pupil is required to meet before he/she may be granted early reinstatement; or 2) a condition that a pupil is required to meet after his/her early reinstatement, but before the end of the term of the expulsion specified in the pupil's expulsion order. The early reinstatement conditions must be related to the reasons for the pupil's expulsion and must be specified in the expulsion order. The determination by an independent hearing panel, or independent hearing officer, regarding whether a reinstatement condition is related to the reasons for the pupil's expulsion may be appealed to the school board. The school board's decision regarding that determination is final. If the school district administrator or his/her designee, who must be someone other than a principal, administrator, or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he/she must meet before being granted early reinstatement, the school district administrator or designee may grant the pupil early reinstatement. The determination of the school district administrator or designee is final. If a pupil violates an early reinstatement condition that applies after his/her early reinstatement but before the end of the term of expulsion, the school district administrator, or a principal or teacher designated by the school district administrator, may revoke the pupil's early reinstatement. Before revoking the pupil's early reinstatement, the school district administrator or his/her designee must advise the pupil of the reason for the proposed revocation, including the early reinstatement condition alleged to have been violated, provide the pupil an opportunity to present his/her explanation of the alleged violation, and make a determination that the pupil violated the early reinstatement condition and that revocation of the pupil's early reinstatement is appropriate. If the school district administrator or designee revokes the pupil's early reinstatement, the school district administrator or designee must give prompt written notice of the revocation and the reason for the revocation, including the early reinstatement condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, s. 120.13 (1) (h) 4, Wis. Stats. If the pupil's early reinstatement is revoked, the pupil's expulsion continues to the end of the expulsion term specified in the expulsion order, unless the pupil, or, if the pupil is a minor, the pupil's parent or guardian and the school board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order. The decision to revoke early reinstatement may not be appealed to the state superintendent. A student electing not to complete the conditions for early return would be permitted to return at the end of the expulsion period without conditions.

18. What is conditional enrollment?

"Conditional enrollment" means enrollment of an expelled pupil in a school district other than the school district or out-of-state public school that expelled the pupil before the expiration of the term of expulsion specified in the pupil's expulsion order issued under

Wisconsin state law or by the out-of-state public school, s. 120.13 (1) (h) 1.ag, Wis. Stats.

"Enrollment condition" means a condition that a pupil is required to meet before he/she may be granted conditional enrollment or a condition that a pupil is required to meet after his/her conditional enrollment but before the expiration of the term of expulsion specified in the pupil's expulsion order issued under state law or by the out-of-state public school, s. 120.13 (1) (h) 1, Wis. Stats.

19. What procedures must be followed regarding conditional enrollment?

A school board other than the school board or out-of-state public school that expelled a pupil may specify in a written order one or more enrollment conditions. These enrollment conditions may be instead of, or in addition to, the early reinstatement conditions, if any, imposed by the school board, or independent hearing panel or independent hearing officer that expelled the pupil instead of, or in addition to, any conditions imposed, if any, by the out-of-state public school that expelled the pupil. Any enrollment conditions established under this subdivision shall relate to the reasons for the pupil's expulsion and may not extend the term of expulsion specified in the expulsion order issued under Wisconsin state law or by the out-of-state public school. The school district clerk of the school district other than the school district from which the pupil was expelled must mail two copies of the order to the pupil or, if the pupil is a minor, to the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian must sign and return one copy of the order to the school board other than the school board that expelled the pupil. Within 15 days after the date on which the order is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an enrollment condition specified in the order is related to the reasons for the pupil's expulsion to the school board that specified the enrollment condition. The decision of the school board regarding that determination is final and not subject to appeal, s. 120.13 (1) (h) 2m, Wis. Stats. If the school district administrator, or his/her designee, of a school district other than the school district or out-of-state public school from which a pupil was expelled determines that the pupil has met the enrollment conditions established in a written order, the school district administrator or designee may grant the pupil conditional enrollment in a school in the school district. The determination of the school district administrator or designee under this subdivision is final, s. 120.13 (1) (h) 3m, Wis. Stats. If a pupil granted conditional enrollment violates an enrollment condition that the pupil was required to meet after his/her conditional enrollment but before the expiration of the term of expulsion, the school district administrator of the school district in which the pupil is enrolled, or a principal or teacher designated by the school district administrator, may revoke the pupil's conditional enrollment. Before revoking the pupil's conditional enrollment, the school district administrator or his/her designee shall advise the pupil of the reason for the proposed revocation, including the enrollment condition alleged to have been violated, provide the pupil an opportunity to present his/her explanation of the alleged violation, and make a determination that the pupil violated the enrollment condition and that revocation of the pupil's conditional enrollment is appropriate. If the school district administrator or designee revokes the pupil's conditional enrollment, the

school district administrator or designee shall give prompt written notice of the revocation and the reason for the revocation, including the enrollment condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian, s. 120.13 (1) (h) 4m, Wis. Stats. Except as described below, if a pupil's conditional enrollment is revoked, the pupil's expulsion shall continue to the expiration of the term of the expulsion specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board that expelled the pupil, or the independent hearing panel or independent hearing officer, or the out-of-state public school, agree, in writing, to modify the expulsion order, s. 120.13 (1) (h) 5m, Wis. Stats.

Within five school days after the revocation of a pupil's conditional enrollment, the pupil or, if the pupil is a minor, the pupil's parent or guardian, may request a conference with the administrator of the school district in which the pupil is enrolled, or his/her designee, who shall be someone other than a principal, administrator, or teacher in the pupil's school. If a conference is requested, it shall be held within five school days following the request. If, after the conference, the school district administrator or his/her designee finds that the pupil did not violate an enrollment condition or that the revocation was inappropriate, the pupil shall be enrolled in school under the same enrollment conditions as in the original conditional enrollment order, and the conditional enrollment revocation shall be expunged from the pupil's record. If the school district administrator or his/her designee finds that the pupil violated an enrollment condition and that the revocation was appropriate, he/she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the school district administrator or his/her designee is final, s. 120.13 (1) (h) 6m, Wis. Stats.

20. May the expulsion be appealed to the state superintendent?

Yes. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the state superintendent, who must review the board's decision within 60 days after receiving the appeal. To begin such an appeal, a parent or pupil must send a letter to the state superintendent at:

Department of Public Instruction
P.O. Box 7841
Madison, WI 53707-7841

The letter should include the name of the pupil who was expelled, the name of the school district, the date of the expulsion order, and the reasons for the appeal.

21. On appeal, while the state superintendent reviews the expulsion, is the expelling school district required to re-enroll the expelled student?

No. By state law, the school board's expulsion decision continues in effect during the state superintendent's review of an expulsion from a Wisconsin public school district, s. 120.13 (1) (e) 4.L, Wis. Stats.

22. What aspects of the expulsion decision are reviewed by the state superintendent?

In general, the state superintendent reviews the record of the expulsion proceeding to ensure that all procedural requirements have been followed.

23. What aspects of the expulsion decision are NOT reviewed by the state superintendent?

In general, the state superintendent will not review whether the board should have expelled for the specified conduct in a particular case or whether the length of the expulsion is unduly harsh. Also, the state superintendent will not review whether the evidence supporting the expulsion outweighed evidence on the pupil's behalf, as long as the record contains some evidence supporting the board's decision.

24. Is the state superintendent's decision always final?

No. The state superintendent's decision may be appealed within 30 days to the circuit court in the county in which the school is located.

25. If a pupil is expelled from one district, may he/she relocate and attend school in another district?

An expelled student may be home-schooled, and/or apply for enrollment in a private or another public school, but admission to other schools is at the option of the private or other public schools.

A school district is not required to enroll a student during the term of his/her expulsion from another Wisconsin school district. Upon request, the school district that expelled the pupil shall send the requesting district a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled and the length of the term of the expulsion, s. 120.13 (1) (f), Wis. Stats. A school district has the authority to choose to enroll a student expelled by another Wisconsin school district. If the currently expelled student is a child with a disability, the resident district continues to have FAPE responsibility. Under federal and state law, LEAs must locate, identify, evaluate, and provide a free appropriate public education to all children with disabilities, including children who have been expelled from school. A school district cannot refuse an individualized education plan (IEP) team evaluation because a child has been expelled from another school district. A school district cannot refuse to provide a free appropriate public education to a child with a disability expelled from another school district. However, the school board may provide the services to the child in a setting other than one of the district's schools, as determined by the IEP team. Please review the federal special education regulations, 34 CFR 300.530 - 300.537 and the Information Update Bulletin 06.02 available on the special education website at <http://dpi.wi.gov/sped/bul06-02.html> for further information.

26. If a student is expelled from a private school, may he or she enroll in his or her resident public school district?

Yes. A public school may not refuse to enroll a pupil residing in the district based upon the pupil's expulsion from a private school.

27. Can Wisconsin school districts deny enrollment of a resident student because the student was or is currently being expelled by a school in another state or a non-instrumentality charter school in Wisconsin?

Yes, in some cases. No school board is required to enroll a pupil during the term of his/her expulsion from a public school in another state or from a charter school established under s. 118.40 (2r), Wis. Stats., if the school board determines the conduct giving rise to the pupil's expulsion would have been grounds for expulsion under state law, s. 120.13 (1) (f) 2 and 3, Wis. Stats. If a pupil who has been expelled from a non-instrumentality charter school established under state law, s. 118.40 (2r), Wis. Stats., seeks to enroll in a school district during the term of his/her expulsion, upon request of the pupil or, if the pupil is a minor, the pupil's parent or guardian, the governing body of the charter school shall provide the school board of the school district with a copy of the expulsion findings and order, a written explanation of the reasons why the pupil was expelled, and the term of the expulsion.

28. If a student is expelled from a district and enrolls in a private school, does he/she have a right to transportation to the private school?

The school district would be required to transport the pupil under the requirements governing the transportation of other private school pupils in the district. In general, a district must transport a pupil to a private school if the private school is two or more miles from the pupil's residence and is located within the district or not more than five miles beyond the boundaries of the district.

29. Does a pupil have a right to educational services from the school district during a period of expulsion?

In general, expulsion from a Wisconsin public school district removes a pupil's right to receive a free public education from any Wisconsin public school district. Many districts choose to offer some type of educational services during periods of expulsion. If the currently expelled student is a child with a disability, the resident district continues to have FAPE responsibility. Under federal and state law, LEAs must locate, identify, evaluate, and provide a free appropriate public education to all children with disabilities, including children who have been expelled from school. A school district cannot refuse an IEP team evaluation because a child has been expelled from another school district. A school district cannot refuse to provide a free appropriate public education to a child with a disability expelled from another school district. However, the school board may provide the services to the child in a setting other than one of the district's schools, as determined by the IEP team. Please review the federal special education regulations, 34 CFR 300.530 - 300.537 and the Information Update Bulletin 06.02 available on the special education website at <http://dpi.wi.gov/sped/bul06-02.html> for further information.

30. If a school district elects to provide post-expulsion services to non-disabled expelled students, can the district claim state aids for the student?

Yes. Adding membership on the third Friday in the September Pupil Count Report generates additional dollars which the district can use for educational programming. However, the district must have the pupils in a program on or before the count date. Therefore, students served through a regular or alternate setting within the district, enrolled in another district through a tuition agreement, a Youth Options program, or through a contract under s. 118.15, Wis. Stats., may all be included in the Pupil Count Report, and generate aid for the district. Mandating services through one or more of these options ensures both the continued generation of revenue, as well as the provision of educational services for the expelled student.

31. Are there resources available to assist schools in exploring alternatives to suspension and expulsion?

Yes. For example, the Wisconsin Association of School Boards provides consultation and examples of school discipline policies, including those that provide alternatives to suspension and expulsion. The DPI Student Services/Prevention and Wellness Team and Special Education Team provide consultation on alternative practices and referrals to national resources such as the National Association of School Psychologists and federal office of Special Education Programs' technical assistance center on positive behavior supports.

32. Must an adult who has a school-age child under his/her control still comply with the compulsory education law even if the child has been expelled?

A child who has been expelled is still required to attend school under s. 118.15 (1) (a), Wis. Stats. Alternative options include enrollment in a private school, correspondence school, technical college, or home-based private educational program.

Appendix A

U.S. Code Definition of a Firearm:

Firearms include handguns, rifles, or shotguns. Firearms other than handguns, rifles, or shotguns are defined in 18 USC 921 as follows. According to Section 921, the following are included within the definition (note this definition does not apply to items such as toy guns, cap guns, BB guns, and pellet guns):

- Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of any explosive;
- The frame or receiver of any weapon described above;
- Any firearm muffler or firearm silencer;
- Any destructive device, which includes:

A. Any explosive, incendiary, or poison gas

- 1) Bomb;
- 2) Grenade;
- 3) Rocket having a propellant charge of more than four ounces;
- 4) Missile having an explosive or incendiary charge of more than one-quarter ounce;
- 5) Mine; or
- 6) Similar device.

B. Any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter.

C. Any combination or parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled.

Appendix B

Links to Additional Information

Student Services/Health and Safety Resources: <http://dpi.wi.gov/sspw/tadocs.html>

Wisconsin Statutes: <http://www.legis.wisconsin.gov/rsb/stats.html>

Wisconsin's GED/HSED program: http://dpi.wi.gov/ged_hsed/gedhsed.html

Education of incarcerated students:

http://dpi.wi.gov/alternativeed/doc/jail_dententioneducation.doc

III.

CONFIDENTIALITY

ISSUES

**DEPARTMENT OF
PUBLIC
INSTRUCTION:
SHARING
INFORMATION
ACROSS SYSTEMS**

January 2013

Introduction

Each day professionals who serve youth attempt to work closely with their community partners to meet the needs of the youth they jointly serve. This dedication requires being able to determine when information may be disclosed without violating a youth's and family's rights to privacy by having an understanding of the various state and federal laws that govern the sharing of information. In general, confidential information may only be shared under one of three conditions:

- 1) a signed authorization that consents to the release of information,
- 2) a court order, or
- 3) authorization of statute.

This publication focuses on the third of these three conditions and is designed for educators, law enforcement personnel, juvenile justice and human service professionals, and community leaders who are interested in understanding the scope and parameters of the confidentiality laws that apply to the exchange of information between Wisconsin schools and other community systems. It identifies specific circumstances where statutes authorize one community system to share confidential information with another community system (e.g., schools, law enforcement, human services). Some of the statutes cited allow disclosure while others require it, typically for reasons related to health and/or safety. Each specific circumstance includes what information may (or must) be shared and with whom, the provisions for disclosure, examples, and authorizing statutes. The body of this guide is divided into two primary sections. The first identifies circumstances authorized in statute under which public schools may (or must) share information with other community systems. The second section, likewise, identifies circumstances authorized in statute under which other community systems may (or must) share information with public schools. Utilization of this document does not preclude the need to discuss the issues that information sharing raises. It is designed to be used as a resource to facilitate discussions within schools and with community partners. This document can be used as a tool to guide practice, but it cannot replace personal review of the referenced statutes or the advice of legal counsel. As state and federal laws and policies change, the department will update this publication to keep it current. The value of this document is enhanced when utilized in conjunction with local policy. Careful review can be made of existing policy to ascertain compliance with current law. It is important to remember that, when releasing confidential information, the burden of proof falls on the person and organization disclosing the information to justify the release, not on the person or organization asking for the information. *Please note that links in the electronic version of this publication are current as of January 2012.*

Questions regarding this publication can be directed to Nic Dibble, Education Consultant, School Social Work Services, at (608) 266-0963 or nic.dibble@dpi.wi.gov.

Contents

Introduction

Contents

Schools Sharing Information with Other Community Systems

Information from Schools to Human Services

1. Reports of Suspected Child Abuse or Neglect
2. Attendance Records for Students Under Court Supervision
3. Indigent Children
4. Students without Parents or Guardians (Updated April 2012)
5. Referral of Special Education Students Who May Require Mental Health or AODA Services

Information from Schools to Courts

6. School Attendance Enforcement
7. Reports for Dispositional Hearings (New April 2012)

Information from Schools to Law Enforcement & District Attorney

8. Reports of Suspected Child Abuse or Neglect
9. Attendance Records and Directory Data as Part of Formal Investigations
10. Referral of Information Related to Crimes Committed by Students with Disabilities to Law Enforcement and Judicial Authorities
11. Pupil Records (New December 2010)

Information from School-Based Health Care Providers to Others

12. Patient Health Care Records

Information from Schools to Public Health Officials

13. Lead Screening Records
14. Immunization Records (Updated August 2008)
15. Communicable Disease Records

Information from Schools to Others

16. Privileged Communication Related to Alcohol and Other Drug Issues
17. Privileged Communication Related to Health Care Services
18. Armed Forces Recruiter Access to Students and Student Recruiting Information
19. Health and Safety Emergencies

20. Disclosure of Pupil Records to Provide Services (Updated April 2012)

Other Community Systems Sharing Information with Schools

Information from Human Services to Schools

- 21. Information Regarding a Child in the Care or Legal Custody of the County or a Licensed Foster Care Agency
- 22. Actions Taken Following a Child Abuse or Neglect Investigation
- 23. Reports and Records Related to Child Abuse and Neglect
- 24. Referral of Children to be Placed in Residential Care Centers (Updated August 2008)
- 25. Notification of New Foster Homes (Updated August 2008)
- 26. Notification of Children Placed in Foster and Group Homes
- 27. Notification of Licensure of a Group Home (Updated August 2008)
- 28. Birth to 3 Early Intervention Programs—Referral of Children with Disabilities for Special Education (Updated December 2010)
- 29. Law Enforcement Information (Updated December 2010)

Information from Law Enforcement & District Attorney to Schools

- 30. Notification of Registered Sex Offenders Moving into the Community
- 31. Information to be Provided by District Attorneys to Schools in Criminal Cases (Updated December 2010)

Information from the Courts to Schools

- 32. Petition Alleging a Felony
- 33. Finding of Delinquency
- 34. Court Records
- 35. Referral of Children to be Placed in Residential Care Centers

Definitions

Resources

How to Access Referenced Statutes

Introduction

Each day professionals who serve youth attempt to work closely with their community partners to meet the needs of the youth they share. This dedication requires being able to determine when information may be disclosed without violating a youth's and family's rights to privacy by having an understanding of the various state and federal laws that govern the sharing of information.

In general, confidential information can only be shared under three conditions:

1. a signed authorization that consents to the release of information,
2. a court order, or
3. authorization of statute.

This guide focuses on the third of these three conditions and is designed for educators, law enforcement personnel, juvenile justice and human service professionals, and community leaders who are interested in understanding the scope and parameters of the confidentiality laws that apply to the exchange of information between Wisconsin schools and other community systems. It identifies specific circumstances where statutes authorize one community system to share confidential information with another community system, e.g., schools, law enforcement, human services. Some of the statutes cited allow disclosure while others require it, typically for reasons related to health and/or safety. Each specific circumstance includes what information can (or must) be shared and with whom, the provisions for disclosure, examples, and authorizing statutes.

The body of this guide is divided into two primary sections. The first identifies circumstances authorized in statute under which public schools can share information with other community systems. The second section likewise identifies circumstances authorized in statute under which other community systems can share information with public schools.

Utilization of this document does not preclude the need to discuss the issues that information sharing raises. It is imperative that this guide is used as a resource to facilitate discussions within schools and with community partners, i.e., human service, law enforcement, and juvenile justice.

It has been said, statute guides policy and policy guides practice. The value of this document is enhanced when utilized in conjunction with local policy. Careful review should be made of existing policy to ascertain compliance with current law.

It is important to remember laws do change. This document can be used as a tool to guide practice, but it cannot replace personal review of the referenced statutes or the advice of legal counsel. As statutes change and become available electronically, the Department of Public Instruction will update the statute summary within this publication on the Student Services/Prevention and Wellness Team (SSPW) home page.

Finally, when releasing confidential information, the burden of proof falls on the person and organization disclosing the information to justify the release, not on the person or organization asking for the information.

Schools Sharing Information with Other Community Systems

Confidentiality from a School Perspective

In Wisconsin, passage of § 118.125 in 1974 and the enactment of the Family Educational Rights and Privacy Act (FERPA, 20 UCS 1232g) later in 1974, have had an enormous effect on how schools treat and think about school records (see Definitions for behavioral records, directory data, education records, patient health care records, personal notes, progress records, pupil physical health records, and pupil records). These laws have two major features: they limit who can see student records without a parent's consent, and they provide for a parent's right to see a child's school records. When a child turns 18, the rights that were previously available to the child's parents become available to the 18-year-old. Wisconsin law creates more rights for parents and children. In addition, Wisconsin schools that receive federal education funding must comply with the FERPA requirements.

The guiding principle for release of student records under FERPA is parental consent. The law broadly defines "educational records" and, with limited exceptions, prohibits a school from disclosing those records without written consent. The limited exceptions generally involve release to other school officials or for other education-related purposes.

Under FERPA, there is a narrow category of information called "directory information" that a school can release without written consent. Under federal law, directory information includes a student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, dates of attendance, photographs, and degrees and awards received, as well as the weight and height of members of athletic teams. Directory information is considered information that would not generally be considered harmful or an invasion of privacy if disclosed. A parent may object to release of any part or all of the directory information related to his/her child.

Under Wisconsin law, the parallel concept is "directory data." After the school has informed parents of what information it has designated as directory data, the parents must be given at least 14 days to inform the school it may not disclose this information without written consent.

More information is can be obtained in *Student Records and Confidentiality*, which is available at <http://www.dpi.wi.gov/sspw/srconfid03.html> or contact the Student Services/Prevention and Wellness Team at (608) 266-8960. Additional information on student records and privacy is available at <http://dpi.wi.gov/lbstat/dataprivacy.html>.

As was mentioned in the introduction, one clear way to release information is in compliance with a court order. In addition to granting authority to law enforcement officials and fire inspectors to access school attendance records of students under investigation, Wisconsin statute specifically identifies the court order as an option for law enforcement and the fire inspectors to more broadly review pupil records, Wis. Stats. § 938.396 (1m), § 118.125(2)(cg) and (h), and § 165.55. In addition, three items for court access are also delineated in statute:

1. progress records, § 118.125 (2) (c);
2. names of students who have dropped out of school, § 118.125 (2)(c)2. and § 118.163(2m)(b); and
3. pupil records, § 118.125(2)(L), § 48.345(12)(b), § 938.34(7d)(b), § 938.396 (1m)(c) or (d), and § (938.78(2)(b)2., Stats. Under the statutes cited in this third item, the school must make a reasonable effort to notify the parent prior to disclosure.

The circumstances above are delineated here to acknowledge their existence in statute and prevent redundancy within this section.

Excerpted, in part, from *Confidentiality and Collaboration: Information Sharing in Interagency Efforts*

Information from Schools to Human Services

Reports of Suspected Child Abuse or Neglect

Context: Wisconsin Statutes Chapter 48 requires any mandated reporter (which includes all licensed school staff) who has reasonable cause to suspect that a child seen in the course of his/her professional duties has been abused or neglected or threatened with abuse or neglect to report that information to either the county department of social services or law enforcement. Additional information is available in the Department of Public Instruction publication *School's Role in Preventing Child Abuse and Neglect* at <http://www.dpi.wi.gov/sspw/doc/sswchildabuse.doc>.

Provisions for Disclosure: Under the Family Educational Rights and Privacy Act (FERPA), personally identifiable information may be disclosed if it is necessary to protect the health or safety of the student or other individuals [34 CFR, § 99.36 FERPA regulation]. Clearly, the health and/or safety of the student is a concern if a school employee is considering a report for suspected abuse or neglect. The county department and law enforcement agency are prohibited from revealing the source of the report, except under very limited circumstances [Wis. Stats. § 48.981(7)]. Anyone who reports suspected child abuse or neglect in good faith is immune from any civil or criminal liability. [§ 48.981(4)]

Example: A teacher suspects that a child's black eye may be the result of child abuse rather than running into a door. The teacher reports the child's injury to the county child protective services unit, including the awkwardness with which the child explained how the injury occurred.

Statutes: § 48.981(2-4), (7); 34 CFR, § 99.36 FERPA regulation

Attendance Records for Students Under Court Supervision

Context: Youth who are under court supervision commonly have school attendance as one of the conditions of their dispositional orders. Wisconsin law 1) specifies the court will notify the school district of what constitutes a violation of the school attendance condition, and 2) requires a school board to notify the county department responsible for supervising the youth of any violations.

[§ 118.125(2)(cm), § 48.355(2)(b)7, § 938.355(2)(b)7]

Provisions for Disclosure: The school district must report this information within five days of the violation. There is no express authority to redisclose or not redisclose this information provided for in statute.

Example: A student under court supervision with the county social service department is required to attend school daily without absences. The student misses school for one day. The school notifies the student's social worker by the end of the week.

Statutes: § 118.125(2)(cm), § 48.355(2)(b)7, § 938.355(2)(b)7

Indigent Children

Context: When a public school becomes aware of a child in the school whose parent, guardian, or other person having control, charge or custody of the child does not have sufficient means to furnish the child with food or clothing necessary to enable the child to attend school, the school is to report the name and address of the child to the county department of social or human services. There is no uniform standard for determining indigency or "sufficient means" under this provision. School district boards should adopt a policy with a standard and a method of applying it uniformly.

Provisions for Disclosure: Out of courtesy to families, school boards should consider having the policy require a personal notification to the parents that the school is about to give their name to county officials.

Example: An economically disadvantaged family loses its home to a fire. They have no renter's insurance and lose everything. The school organizes a drive for donations of clothing and household items. The school contacts the parents about the required report to the county and ensure them that this notification is just to help them access services for which they may be eligible, i.e., the report is not for suspected neglect.

Statutes: § 118.17, § 46.215, § 46.22, § 46.23

Students without Parents or Guardians

Context: When a public school becomes aware that a pupil is without a parent or guardian, the school is to notify the county department of social or human services. This requirement does not apply to any pupil who has a legal custodian or is cared for by a kinship care relative, as defined in state statute.

Provisions for Disclosure: Out of courtesy to the student, school boards should consider having their policy require a personal notification to the student that the school is about to give his/her name to county officials.

Example: The school becomes aware that a 16-year old high school student is now living with a friend's family. The student's father has left the community and his whereabouts cannot be determined. The mother is deceased. The school contacts the parents of the student's friend and learns that they have not been awarded custody or guardianship. As a result, the school discusses the notification requirement with the student and then contacts the county department of social services about the student's circumstances.

Statutes: § 118.175, § 48.02(11), § 938.02(11), § 45.57(3m)(a)2.

Referral of Special Education Students Who May Require Mental Health or AODA Services

Context: State statute requires each school district to report, on or before August 15th, to the appropriate county department(s) under s. 51.42 and 51.437 the names of youth who 1) reside in the school district, 2) are at least 16 years old, 3) are enrolled in or are eligible to be enrolled in a special education program, 4) are not expected to be enrolled in an educational program in two years, and 5) may require alcohol or other drug or mental health services described under s. 51.42 or 51.437(1). This referral does not in any way affect a school district's responsibility to provide services to a student with a disability. Before filing this report, consent must be obtained. A school district may wish to consult with its respective 51.42 Board to help determine what local standard will be established for referral under this statute.

Provisions for Disclosure: Information shared may not be based upon confidential pupil records without consent or court order. While it is possible to read this specific directive of conveying confidential information from the school district to the county mental health or drug treatment facility as an additional exception to state law pupil record confidentiality, such information does not fall within one of the thirteen enumerated exceptions in FERPA for permitted (not mandated) disclosure without the parent or pupil's consent under federal law. Districts must comply with both state and federal law. Accordingly, it is suggested that school districts, after identifying the students who fit the profile in the statute and the standard for referral established in conjunction with the local 51.42 Board, contact the parents of the 16-year-olds identified to obtain informed consent. The contact should explain the purpose of the statute and the advance referral. If the school district's belief that a student may require alcohol or other drug services is based upon the self-disclosure of the student, an additional consideration is another state law that requires pupil services and other staff designated by the school board to 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. This law allows disclosure only with the student's written permission. [There are two other exceptions, not applicable here, which allow or require disclosure without the pupil's consent.] The problems previously disclosed by the student may or may not reach the standard determined by the school district necessitating a referral to the county for alcohol or other drug or mental health services. This state law is consistent with FERPA and because these laws calling for consent are more restrictive or protective of pupil rights, they control. Reading the three laws together, the report to the county can only include the names of pupils for whom proper consent has been obtained. The district's written pupil confidentiality policy should be clear on this point and decisions applying the policy should be noted in the pupil's record as they occur.

Example: A school district annually convenes a work group in early August made up of administrators and special education staff to determine which students meet the standard for referral under s. 115.812(2). The work group examines a current enrollment list of special education students who will be at least 16 years old as of August 15th. Students who qualified for special education but are not enrolled, e.g., dropouts, parents declined

special education placement, and are at least 16 years old are also noted. Any of these youth who are anticipated not to be enrolled in an educational program in two years and who meet the previously established standard for referral based upon consultation with the county 51.42 Board agency are identified. A pupil services staff member from the high school contacts the parents personally to explain the reason for referral and that no information can be shared without the parents' informed consent. A letter summarizing this same information is also delivered to the parents of the identified students. The school notes the parents' decision in the students' respective records and forwards directory data, i.e., student name, address, and telephone number, as well as the parents' names and contact information only if the parents have provided written permission for disclosure with the county 51.42 board agency.

Statute: § 115.812(2), § 118.126, 20 US § 1232g(b)(1), 34 CFR § 99.31(a)

Information from Schools to Courts

School Attendance Enforcement

Context: Wisconsin law allows a school attendance officer of a school district to file information with the court on any child who is habitually truant, if the truancy continues once the school has provided services specified in statute intended to alleviate the truancy. In addition, a habitually truant student may be referred to a teen court program, if one is available. Habitual truant means a pupil who is absent from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester.

Provisions for Disclosure: Prior to filing information with the court of jurisdiction or the teen court, the school attendance officer must provide evidence that all of the following were completed or were not required to be completed:

1.
Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.
2.
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).
3.
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, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level.
4.
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.

In addition to the four conditions listed above, in order to refer a habitually truant child to a teen court, the school attendance officer must 1) be authorized to do so by the chief judge of the judicial administrative district that approved the teen court, 2) believe that

participation in the teen court will likely benefit the child and the community, 3) obtain the consent of the child and the child's parent, guardian and legal custodian for participation in the teen court, and 4) determine the child has not successfully completed participation in a teen court program during the two years before the date on which the school attendance officer received the evidence referred to in this and the previous paragraph.

Circumstances which could specifically allow disclosure of pupil records as part of this referral are shared in the section on Disclosure of Pupil Records to Provide Services.

Example #1: A middle school student new to the school district has missed part or all of several days without an excuse. The student's mother is very concerned about the absences and has spoken to the school attendance officer on numerous occasions, but monitoring her child's attendance has been challenging because of the mother's daily work schedule, i.e., 7:00 AM – 3:00 PM, Monday – Friday. The student has avoided opportunities for educational and social-emotional counseling. The building consultation team has reviewed standardized achievement test results available on this student and gathered information from the student's teachers regarding academic functioning. A variety of instructional modifications have been suggested and attempted with little impact on improving attendance. School staff have not observed any social difficulties, but have noticed this student has chosen friends that also have some unexcused absences. The mother is concerned about possible use of illicit drugs and is scheduling an appointment for an assessment at the local adolescent health center. The school attendance officer talks to the mother about the county's teen court and both agree that this experience might help improve the student's attendance. The school attendance officer makes the referral, documenting that all necessary preliminary conditions in the law have been completed.

Example #2: A high school freshman student attends classes irregularly, i.e., has frequently missed 1-2 class periods daily without an allowable excuse. The parents have been largely unresponsive to the school's attempts to work with them on this matter, including not being available for a home visit. An IEP Team evaluation late last school year found no educational disabilities or social difficulties, but did result in enrollment this year in an alternative program within the high school in an attempt to provide a more flexible instructional environment for the student. The school attendance officer files a report with the court, documenting that all necessary preliminary conditions in the law have been completed or attempted.

Statutes: Wis. Stat. 118.16(5), (6)

Information from Schools to Law Enforcement

Reports of Suspected Child Abuse or Neglect

See *Reports of Suspected Child Abuse and Neglect* under Information from Schools to Human Services

Attendance Records and Directory Data as Part of Formal Investigations

Context #1: Wisconsin law requires school districts to share the attendance record of any student that is the subject of an investigation for truancy, arson or a criminal or delinquent act. Specifically, the attendance record must be provided 1) to law enforcement officials for investigations of truancy or a criminal or delinquent act, and 2) to a fire investigator for investigations of arson. [Wis. Stats. § 118.125(2)(cg), (ch)]

Provisions for Disclosure: Prior to disclosure of the attendance record, the law enforcement agency or fire investigator must certify in writing that the student is under investigation and that the information will not be further disclosed unless specifically allowed by law. The school district must notify the parents or legal guardian of the disclosure as soon as is practicable after the disclosure.

Example: A police officer is investigating a daytime burglary and wants to know if one of the suspects was in school that day. He provides the high school with written notification of the student's involvement in the investigation. The high school office staff checks the attendance record and provides the police officer with written copy of the student's attendance record. The school staff telephones the student's mother at work to notify her of the release of information and the purpose.

Statutes: § 118.125(2)(cg), (ch); § 938.396(1-1x)

Context #2: Wisconsin law requires a school district to provide any directory data to a law enforcement official, the district attorney, city attorney, county corporation counsel, municipal court or circuit court relating to any student for the purpose of enforcing the student's school attendance, investigating alleged criminal or delinquent activity by the student, or responding to a health or safety emergency [§ 118.125(2)(j) 3]. Directory data may include the student'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 attended by the student. Please note that dates of attendance refers to the period of time over which a student was enrolled in a school, not the specific days that a student attended school or was absent from school, which is a progress record. [s. 118.125(1)(c)] Within its local policy, a school district may limit what it chooses to classify as directory data, beyond the statutory definition. For instance, for reasons of safety and privacy, some school districts have chosen not to include home addresses and phone numbers in their local definitions of directory data. More information about student records is available in *Student Records and Confidentiality* at <http://dpi.wi.gov/sspw/srconfid03.html>.

Provisions for Disclosure: The school district cannot release directory data without having first 1) notified the parent as to what information it has designated as directory data for the student, and 2) allowing the parent at least 14 days to notify the school district the information may not be released without the parent's prior consent. There is no provision on the disclosure by these various public agencies under this section, but each agency may be limited by restrictions on confidentiality in its own statutes and policies. FERPA requires a record be kept by the school district of all disclosures.

Example: A school district routinely notifies all parents at the beginning of each school year of 1) what school records it has designated as directory information and 2) the school district's authority to disclose this information upon request unless the parent

notifies the school district within 14 days not to disclose the information without prior consent. The local police officer requests photographs of three students under investigation for a series of daytime robberies in the neighborhood. The school checks to make sure none of the parents of the three students notified the school not to share this information prior to giving the photographs to the police officer.

Statute: §118.125(2)(j)3; 34 CFR, § 99.36 FERPA regulation

Referral of Information Related to Crimes Committed by Students with Disabilities to Law Enforcement and Judicial Authorities

Context: Neither federal nor state law require a school district to provide otherwise confidential pupil record information to local law enforcement when a pupil commits a crime. However, IDEA regulations state that if a school district chooses to report a crime committed by a child with a disability to law enforcement, the school district must send copies of the special education and disciplinary records of the child for consideration by the law enforcement agency receiving the report. However, the school district is limited by FERPA, i.e., it may only transmit copies of records to the extent allowed by FERPA. Further, current Wisconsin pupil records law does not allow a school district to disclose pupil records, other than directory data, to law enforcement in these circumstances. Disclosure is only allowed pursuant to a court order or informed consent.

Provisions for Disclosure: While it is clear a school district may not unilaterally share special education and discipline records of a pupil with a disability who is suspected of committing a crime with law enforcement authorities, the school district must attempt to comply with IDEA regulations by contacting the parents to ask for informed consent to release these records. Absent such consent, a court order or other exception, nothing other than directory data may be disclosed.

Example: A high school student with a disability is found in possession of illicit drugs and is suspected of having intent to deliver. The police-school liaison is contacted who makes an arrest. The building principal contacts one of the parents at work and notifies her of the incident and the federal requirement to share copies of the student's special education and discipline records with law enforcement, but only if the parent consents. After some discussion, the parent tells the principal she wishes to discuss the decision with her husband and their attorney. Two days later the mother comes to school and signs the appropriate release form to have part of her child's special education records released. Specifically, she consents to have the portion of the record released that documents the student's immaturity, poor impulse control, and lack of understanding of the relationship between personal actions and consequences. Permission is not given to share any other records, including discipline records.

Statute: §118.125(2)(c), (e), (j)3., and (L), 938.396(1m), (c) and (d) and 938.78(2)(b)2., 20 USC §1232g(b)(1)(E)(ii)(II), 34 CFR § 99.31(a)(5)(i)(B), (10) and (11), 99.36(a), 99.37, and 20 USC s.1415(k)(9), 34 CFR § 300.529

Information from School-Based Health Care Providers to Others

Patient Health Care Records

Context: Wisconsin law allows health care professionals, both community- and school-based, to share information from patient health care records with others under the following circumstances:

1.
The person is rendering health care assistance to the student.
2.
The person is being consulted regarding the health of the student and the consultation is necessary to make appropriate decisions about the student.
3.
The life or health of the student appears to be in danger and the information contained in the patient health care records may aid the person in rendering assistance.
4.
The person prepares or stores health care records.
5.
To the extent that the records are needed for billing, collection or payment of claims.
6.
The information is needed to carry out specific duties relating to identification, evaluation, placement, and provision of a free, appropriate public education to a child with a disability [Wis. Stats. § 146.82(2)(a)2, 3].

Health care providers are defined in § 146.81(1); within schools they include nurses licensed under Chapter 441; audiologists, and speech and language clinicians licensed under Chapter 459 or by the Department of Public Instruction; psychologists licensed under Chapter 455; and both social workers and counselors licensed under Chapter 457. A school counselor, school social worker, or school psychologist holding only DPI certification does not meet the statutory definition of a health care provider.

Provisions for Disclosure: Under #2 above, no release of actual records would be made, and in general, a student's name would not be disclosed. Under #4 and #6 above, the disclosure would be to school employees who need the information to perform their respective jobs. Under #5 above, the disclosure would be to Medicaid or other third party payers. Patient health care records must be maintained separately from other school records with monitored and limited access. Redisclosure is not authorized except under specific circumstances cited in § 146.82(2)(b) and (c). For each release of patient health care records, the health care provider is to record the name of the person and agency to which the records were released, the date and time of the release and the identification of the records released.

Example #1: An ambulance is called to school following a serious accident. The school nurse informs the emergency medical technician the injured student has a history of epilepsy and asthma.

Example #2: A school nurse seeks out and receives clinical consultation from a pediatric neurologist regarding symptoms being exhibited by a medically fragile student with a past history of seizures.

Example #3: A secretary for the school district completes the clerical activities, e.g., typing, filing, etc., for the school nurse.

Example #4: The school district pupil services secretary completes and forwards the necessary documentation in order to seek reimbursement from Medicaid for eligible services provided.

Example #5: The school nurse tells a student's teacher, aide and bus driver that the student is a diabetic and describes what symptoms to watch for and what action to take to ensure the student's safety.

Statutes: § 146.81(1), § 146.82-84

Information from Schools to Public Health Officials

Lead Screening Records

Context: Wisconsin law requires that any person screening a child under age six (6) for lead exposure and any nurse or health officer who has verified information of an individual with a positive lead test, regardless of the person's age, shall report the findings to public health officials for the purposes of carrying out the activities in § 254.11 through § 254.178. These activities include school-based programs serving children under 6 years of age, including kindergarten, special education and related services for children with disabilities, as defined in § 115.76 (5), and other early childhood programs.

Provisions for Disclosure: Results of general, i.e., all students, lead screening is a progress record and can include the student's name, address, date of birth and a positive or negative result; this information is subject to release under the noted statutes. There is no express authority to redisclose or not redisclose this information provided for in statute. Any additional health-related information regarding the lead screening results would be considered a patient health care record and remain confidential.

Example #1: A school completes an annual lead screening for all entering kindergarten students and determines a child tested positive for lead. The school nurse reports the child's name and the positive test result, as required, within 48 hours to the local health department.

Example #2: The school nurse reviews records from a 5th grade student's physical exam and sees a recent blood test result indicating lead exposure. The physician's office staff that conducted the test are uncertain if the physician has reported the findings. The school nurse calls the local health department to report the positive test.

Statutes: §118.125(1)(a), (1)(c) and (1)(cm)

Immunization Records

Context: Wisconsin law allows schools, upon request, to release information from immunization records to the Department of Health Services to determine if students have been immunized consistent with §252.04. [§ 118.125(2)(h), § 252.04]

Provisions for Disclosure: The name of the student, immunizations(s) and date(s) given, and if the student has a waiver of immunization are all part of a student's progress records and subject to release under the noted statutes. There is no express authority to redisclose this information provided for in statute. Expanded information about the

reason for a medical waiver and communication among health care providers regarding immunization status is part of the student's patient health care record and is subject to the restrictions of § 146.82.

Example: The Department of Health Services conducts a random audit of immunization compliance. The agency requests the school district's immunization records. The school district shares the names of the students, immunizations received by each student, and the dates given.

Statutes: § 118.125(2)(h), § 252.04

Communicable Disease Records

Context: Any person licensed under Chapters 441 or 448 must report the suspicion of a communicable disease, including the individual's name, sex, age, residence, and the disease in question to the local health officer.

Provisions for Disclosure: Reports and records of communicable disease must be treated as patient health care records and are confidential. See Provisions for Disclosure under Patient Health Care Records section.

Example: A physical therapist working with an early childhood student notices a pinpoint red rash on the student's abdomen. The child is warm to the touch, and has watery eyes. The school nurse is not available, so the therapist calls the local health department for advice and referral.

Statute: § 252.05(1)

Information from Schools to Others

Privileged Communication Related to Alcohol and Other Drug Issues for Designated School Staff

Context: Wisconsin law prohibits a school psychologist, counselor, social worker, nurse, or any teacher or administrator who is designated by the school board to engage in alcohol and other drug program activities from sharing information received from a student that the student or another student is using or experiencing problems resulting from the use of alcohol or other drugs. [§ 118.126]

Provisions for Disclosure: This information may be disclosed if the student consents in writing; there is a reason to believe there is serious and imminent danger to the health, safety or life of any person; or the information is required to be reported as suspected child abuse or neglect. In order to disclose information related to serious and imminent danger, it is necessary the disclosure will alleviate the danger and no more information may be disclosed than is necessary to alleviate the danger. It is not specified in statute with whom this information may be shared, but it is presumably only those people who have the ability and/or authority to alleviate the danger.

Example: Through the course of counseling, a school counselor learns that a student regularly drinks to intoxication and serves as a "chauffeur" for her circle of friends while she is in that state. The school counselor later learns at the end of the school day on a Friday that this group plans to engage in this activity that night. The counselor makes the

decision to contact the parents of the students so they can take steps to prevent their children from driving drunk or riding with a drinking driver.

Statute: § 118.126

Privileged Communication Related to Health Care Services

Context: An exception to Wisconsin law that requires licensed school staff to report suspected cases of child abuse and neglect, i.e., sexual intercourse or sexual contact involving a child, is intended to allow children to obtain confidential health care services. A physician, as defined under § 448.01(5), a physician assistant, as defined under § 448.01(6), or a nurse holding a certificate of registration under § 441.06(1) or a license under § 441.10(3), who provides any health care service to a child is not required to report as suspected or threatened abuse, sexual intercourse or sexual contact involving a child. In addition, any person who obtains information about a child who is receiving or has received health care services from a health care provider is also not required to report as suspected or threatened abuse, sexual intercourse or sexual contact involving a child.

Provisions for Disclosure: Sexual intercourse or sexual contact involving a child *must still be reported* as suspected or threatened abuse by a health care provider or any person required to report under Wisconsin law who obtains information about a child who is receiving or has received health care services if any of the following circumstances may be true:

- The sexual activity occurred or is likely to occur with a caregiver.
- The child is incapable of understanding the consequences of his or her actions or the nature of sexual contact or sexual intercourse; this lack of understanding may be due to mental illness or deficiency, age or immaturity.
- The child was not able to communicate unwillingness during the sexual intercourse or contact.
- The other participant in the sexual contact was or is exploiting the child.
- The health care provider (or person who has obtained information about a child who is or has received health care services) has some doubt as to the voluntariness of the child's participation in the sexual intercourse or contact.

Example #1: A high school sophomore, age 15, asks the school nurse if a symptom she is experiencing might be from a sexually transmitted disease. The girl states that she and her 16-year old boyfriend willingly had intercourse. The nurse provides information and referral to a health department clinic, documents the visit in the student's patient health care record, but does not report the information further.

Example #2: A high school sophomore, age 15, approaches the school social worker because she just received a positive pregnancy test result from a medical clinic. The student states she and her 20-year old boyfriend are in love and are going to get married. Even though the student has accessed health care services, the school social worker

informs the student of the need to report the situation to the county child protective services unit, because of the possibility of exploitation and/or manipulation by a sexual partner who is significantly older than her, i.e., 5 years.

Statute: § 48.981(2) and (2m)

Note: The circumstances under which a mandated reporter must or must not report a sexually active adolescent for possible sexual abuse are complex. More information may be obtained from *Reporting Requirements for Sexually Active Adolescents*; see the section on Resources for information on how to obtain a copy.

Armed Forces Recruiter Access to Students and Student Recruiting Information

Context: The federal Elementary and Secondary Education Act (ESEA) requires schools receiving assistance through ESEA to provide, upon request from military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings. The same access to students, e.g., career days, recruiting, etc., is to be provided to military recruiters as is provided to post secondary educational institutions or to prospective employers of those students.

Provisions for Disclosure: A secondary school student or the parent of a secondary school student may request that the student's name, address, and telephone listing not be released without prior written consent, and the school must comply with the request.

Example: A high school includes in its student handbook a summary of the requirement the school disclose students' names, addresses and telephone listings upon request to military recruiters and representatives from institutions of higher education, unless the student or the student's parent notifies the school not to share this information. The student handbook is given to all students and their parents at the beginning of each school year.

Statute: Sec. 9528, ESEA

Health and Safety Emergencies

Context: Wisconsin law allows a school district to disclose pupil records to appropriate parties in connection with an emergency, if knowledge of the information is necessary to protect the health or safety of any individual.

Provisions for Disclosure: A similar provision in the Family Educational Rights and Privacy Act (FERPA) requires this language to be construed narrowly. The statute does not define "emergency," but the term could be considered to mean immediate intervention is or may be necessary to protect the health or safety of an individual. "Appropriate parties" would presumably be limited to only those individuals or organizations that have the capacity to protect the person(s) whose health or safety is in jeopardy. Only that information from pupil records that is necessary to protect the health and safety of the individual may be disclosed. The term "individual" could apply to any person, i.e., not just a student or school staff member.

Example #1: Law enforcement authorities have been notified that an unidentified male adult has taken control of a 4th grade classroom and is armed with a knife. Before the

police take steps to secure the classroom, the building principal notifies the officers that there is a cognitively delayed child in the classroom that may not comprehend instructions they give, shares the child's name, what he looks like, and where the child sits in the classroom.

Example #2: At the end of the school day, a student reports to one of the high school assistant principals that he overheard a conversation in which another student states the intent to kill a third student later that night. The threatening student has a history of severe, physical fights and the assistant principal believes he may be capable of carrying out this threat. Because both the potential assailant and potential victim have already left school, the assistant principal notifies the threatened student's parents and local law enforcement authorities of the threat. He discloses to the law enforcement officer the threatening student's history of excessive violence, in order to convey the appropriate level of concern.

Statutes: s. 118.125(2)(p); 34 CFR99.31 & 36; 20 U.S.C. 1232g(a)(5)(A), (b)(1), (b)(2), (b)(4)(B), (f) and (h)

Disclosure of Pupil Records to Provide Services

Context: A school district may disclose pupil records to a law enforcement agency, district attorney, city attorney, corporation counsel, county social services agency, child welfare or juvenile justice intake worker, court of record, municipal court, private school or another school district, if: 1) a school district has entered into an interagency agreement, 2) the organization or individual requesting the pupil records is party to that interagency agreement, 3) the purpose of the request is to provide services before adjudication, and 4) the requesting party certifies in writing that the records will not be redisclosed to anyone except as permitted under s. 118.125(2)(n).

Provisions for Disclosure: The interagency agreement would presumably be signed by the authorized representatives of any school district(s) and agencies that are party to that agreement. The statute does not define "services" and this term could be construed broadly. One could prudently interpret "before adjudication" as commencing with an investigation of a particular event and concluding with adjudication. That is, pupil records could be shared under this provision prior to a minor being adjudicated delinquent or in need of protection and services, but not afterwards. Any post-adjudication disclosures would have to be authorized by another statute, informed consent or court order. The disclosure of pupil records should be limited to student(s) identified as being under investigation. That is, broad requests for pupil records on multiple students without specifying names, e.g., provision of a list of students not in school on a specific date, would likely not be considered to be authorized by this statute.

Example #1: A student has been arrested for shoplifting at a local department store. The investigator contacts the school's assistant principal to discuss her educational and behavioral performance in school as part of determining the student's suitability for a community service diversion program.

Example #2: A middle school student has been referred by the school to the juvenile court for habitual truancy. The court requests specific information regarding circumstances surrounding the truancy, other absences that may have been excused, and

any disciplinary referrals or issues as part of determining what services or interventions may be most appropriate.

Example #3: The county child protective services (CPS) unit has received a report of suspected neglect of a 2nd grade child from a community source. The CPS investigator contacts the school and wants to 1) interview any staff members who have regular contact with the students, and 2) examine the child's pupil records as part of the investigation. The building principal identifies the appropriate staff members, i.e., teachers, aides, kitchen and office staff, and provides a small conference room for the interviews. Because many of the contents of the pupil records are not germane to the investigation, the building principal directs the school social worker to meet with the CPS investigator and answer all questions relevant to the investigation, using the pupil records as a reference.

Note: In all 3 examples, the person requesting pupil records would have to provide written notification to the school that the information would not be redisclosed.

Statutes: s. 118.125(2)(n)

Other Community Systems Sharing Information with Schools

Information from Human Services to Schools

Confidentiality from a Child Welfare or Social Service Perspective

Child welfare and social service records contain some of the most private and personal information the government can maintain on a family. Federal and state laws generally regulate access to child welfare records, making the records confidential and restricting release without the client's written consent. The Federal Child Abuse and Prevention and Treatment Act (42 USC § 5101 *et seq*) seeks to protect the rights of the child and of the child's parents or guardians by making federal funding contingent on a state's providing "by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense." A state may, however, "authorize by statute disclosure to any or all" of certain specifically named persons and agencies "under limitation and procedures the state determines" [45 CFR, § 1340.14(i)]. In Wisconsin the exceptions listed under Wis. Stats. § 48.981 (7), primarily include persons involved in investigations or service delivery related to abuse and neglect. The regulations do not provide for access to the general public, the parent's employer or others without a valid need for information in order to assist the child or family. Additional persons or agencies may receive access with the client's written consent or with a court order.

In addition to the rights of the child and family, the confidentiality rights of the individual making a good faith report of suspected child abuse or neglect must be protected. Unless the reporter consents to release, his or her name is to be kept confidential from everyone, including the child and family who are the subjects of the report.

Excerpted, in part, from *Confidentiality and Collaboration: Information Sharing in Interagency Efforts*

Information Regarding a Child in the Care or Legal Custody of the County or a Licensed Foster Care Agency

Context: Wisconsin law allows the confidential transfer of information regarding a child in the care or legal custody of the county or a licensed child welfare agency with another child welfare agency, the child's school, a law enforcement agency, and other organizations. [§ 48.78(2)(b), § 938.78(2)(b)1.] However, § 118.125 prohibits reciprocity in the exchange of information because it does not authorize the sharing of school records with the county department.

Provisions for Disclosure: The school must keep the information received confidential as required under § 118.125(1)(d) and (2).

Example: A county social worker talks with the teacher regarding a youth under supervision with the county department. The social worker shares the youth's case plan and progress, but the teacher is not able to respond to the social worker's inquiry about the student's progress in special education without informed consent.

Statutes: § 48.78(2)(b), § 938.78(2)(b)1, § 118.125(1)(d) and (2)

Actions Taken Following a Child Abuse/Neglect Investigation

Context: Wisconsin law requires professional school staff to report suspected child abuse or neglect. Likewise, Wisconsin law requires the county social service agency to inform the mandated reporter of what action, if any, was taken to protect the health and welfare of the child who was reported for suspected child abuse or neglect. This notification to the reporter must be made within 60 days after the county receives the report from the school professional [§ 48.981(3)(c)6.].

Provisions for Disclosure: Actual disclosure of whether the report was substantiated or not is not permitted. § 48.981(7)(e) prohibits redisclosure of confidential information by any person or agency authorized to receive it.

Example #1: A classroom teacher reports suspected physical abuse to the county child protective services unit. Subsequent to the investigation, the teacher is informed the family has been offered services.

Example #2: A school counselor reports suspected abuse to the county child protective services unit. Subsequent to the investigation, the school counselor is informed the child was removed from the home and both a CHIPS petition and criminal charges will be filed.

Statute: § 48.981(3)(c)6. and (7)(e)

Reports and Records Related to Child Abuse and Neglect

Context: Wisconsin law allows a county to recognize a multidisciplinary child abuse and neglect team. Team members may include educators, social service and mental health professionals, law enforcement and medical personnel. A team may be established for prevention and/or treatment of child abuse and neglect or to address a particular case or investigation. Reports and records governed by Wisconsin Chapter 48 may be shared

with the members of this team; the county department of social or human services maintains this information. [§ 48.981(7)(a)6m.]

Provisions for Disclosure: Presumably, the multidisciplinary team would have to be recognized by the county prior to any disclosure of records or reports and only those records and reports specifically related to the task(s) of the multidisciplinary team. Rediscovery is not authorized, except under specific circumstances in § 48.981(7)(a) and (e).

Example #1: The county establishes a team to meet monthly to discuss cases of suspected child abuse and neglect and improve the child protective services system, i.e., communication, reporting, and investigations, services for families, etc. The team includes representatives from schools, law enforcement, county child protective services, mental health, hospitals and medical clinics.

Example #2: A number of students are suspected of having been sexually abused by a teacher's aide. A team is formed to look into the situation, including the building principal, law enforcement, and child protective services staff.

Statute: § 48.981(7)(a)6m. and (e)

Referral of Children to be Placed in Residential Care Centers (formerly Child Caring Institutions)

Context: When 1) a county department of social services recommends to a court or 2) the State Department of Health Services (DHS) or the State Department of Corrections (DOC) anticipates a child will be placed in a residential care center (RCC), under state law the agency must notify the responsible school district. For students currently receiving educational services through a school district, the responsible school district is the school district in which the student resides. For a child or youth presently in a facility operated by DHS or DOC, the responsible school district is the school district in which the RCC (where the child or youth will be placed) is located. Dependent upon the child's situation, i.e., the child is a child with a disability, the child does not have a disability, or the school district has reason to believe the child may be a child with a disability, the school district must follow one of the processes explained below. For a child with a disability, the responsible school district must appoint an IEP Team to review, and if necessary, revise the child's IEP and develop a placement offer. The responsible school district must consider the child's treatment and security needs in deciding the educational placement. The educational placement may be full-time in the RCC, in the responsible school district, in another school district, or part-time in the RCC and a school district, dependent upon the child's educational needs, including treatment and security needs, as determined by the IEP Team. Administrative rule requires RCCs to have procedures for 1) referring students to public schools, 2) identifying schools responsible for resident education, and 3) complying with state education statutes relating to RCCs and cooperating with the Department of Public Instruction (DPI) in the provision of regular and special education.

Provisions for Disclosure: Disclosure is limited to education records, i.e., treatment records are not included under this statutory provision. When a local education agency (LEA) receives a transfer student and the LEA does not receive the student's education

records, the new LEA must request the records from the LEA the student last attended. Local educational agencies include DHS and DOC. The LEA the student last attended must transfer the records to the new LEA within five working days of receipt of the notice.

Example #1: The Child Has a Disability—DHS plans to place a child currently served in one of its facilities in a RCC and notifies the school district in which the RCC is located. The school district makes a written request to the DHS facility for the youth’s education records, consults with the state agency and appoints an IEP Team to review, and if necessary revise, the child’s IEP and to develop an educational placement offer.

Example #2: The Child Does Not Have a Disability—A county department of social services is recommending to a juvenile court that a child not then in a DOC or DHS facility, be placed in a RCC and notifies the school district in which the child resides. The school appoints staff to review the child’s education records (and determines there is no reason to believe the student may have a disability) and develops a status report for the child and sends it to the county agency within 30 days of the notification.

Example #3: The School Has Reason to Believe that the Child Has a Disability—DOC plans to place a youth currently placed in one of its facilities in a RCC and notifies the school district in which the RCC is located. The school district makes a written request to the DOC facility for the youth’s education records and, following a review of the records, believes the youth may have a disability. The school appoints an IEP Team and invites appropriately licensed staff from the RCC to participate in the evaluation. The IEP Team finds that the child is eligible for special education, consults with the DOC representatives, and then develops an IEP and an education placement offer.

Statutes and Codes: § 115.81(1)(b) and (3); § 118.125 (4); HFS 52.41(1)(b); Wis. Admin. Code PI 11.07(2)

Notification of New Foster Homes

Context: When the Department of Children and Family Services, a county department of social services, or a child welfare agency issues a license to operate a foster home in a school district, the licensing agency is to notify the clerk of the school district.

Provisions for Disclosure: Although the release of this information is to be made to the clerk of the school district, the responsibility to receive this information may be delegated to one or more school district employees.

Example: The county department of social services issues a license for a new foster home and contacts the school district administration office to relate the address and the number and age range of the children eligible to be placed in the foster home.

Statute: § 48.62(3)

Notification of Children Placed in Foster and Group Homes

Context: When an agency places a school-age child in a foster home or a group home in a school district, the agency is to notify the clerk of the school district. The agency may choose to assist the school district in the enrollment of the child in the school district, e.g., facilitate the transfer of the child’s school records.

Provisions for Disclosure: Although the release of this information is to be made to the clerk of the school district, the responsibility to receive this information may be delegated to one or more school district employees.

Example: A licensed child welfare agency places a 7th grade student in a group home in a school district. An agency representative notifies the middle school of the placement and brings the child to school to register for attendance. The agency representative shares the name and address of the school the child previously attended, so the new school can request the school records be transferred.

Statute: § 48.64(1r)

Notification of Licensure of a Group Home

Context: When the Department of Children and Family Services licenses a group home in a school district, the agency is to notify the clerk of the school district.

Provisions for Disclosure: Although the release of this information is to be made to the clerk of the school district, the responsibility to receive this information may be delegated to one or more school district employees.

Example: The Department of Children and Family Services licenses a group home that is authorized to serve up to six female adolescents. A DCFS employee contacts the school district administration office with this information, which is passed on to the school district clerk and the affected middle school and high school.

Statute: § 48.625(2m)

Birth to 3 Early Intervention Programs—Referral of Children with Disabilities for Special Education

Context: In Wisconsin, approximately 75 percent of the children that exit county-based Birth to 3 Programs at the age of three transition into public school special education services. In order to ensure a smooth transition, federal and state laws guide the process in which the Birth to 3 Program 1) convenes a transition planning conference and 2) shares records for referral and IEP Team process. The goal of the transition process is to ensure that the school district develops and implements an Individual Education Program (IEP) by the child's third birthday. The transition planning conference must be held at least 90 days or up to six months before the child turns three years of age. If invited to the transition planning conference, the school district is required to attend the conference. From the date of the written referral, the school district has 90 days to conduct an IEP Team evaluation and offer placement. The transition planning, referral and IEP team processes are specific to each child and their family. The Department of Public Instruction Information Update Bulletins 98.09 and 99.09 discuss this process in detail.

Provisions for Disclosure: For the purposes of child find, Birth to 3 Programs notify school districts annually by sharing nonidentifiable information about the number of children being served. The Birth to 3 Program must obtain parental permission to 1) invite the school district to the transition planning conference and 2) obtain parental

consent to release Birth to 3 Program reports and records to the school district. The school district is required to obtain parental consent to begin the IEP process.

Example: At least 90 days before a specific child turns three years of age, the Birth to 3 Program develops a transition plan with the parent. Based on the parent's understanding of the process and interest in referral, the tasks and timelines are identified. If the parent agrees to invite the school to a transition planning conference, the Birth to 3 Program invites the school district representative. The written referral may occur before, during, or after the transition planning conference. Once the referral is made the school district begins the IEP Team process. The special education and related services begin by the time the child turns three years of age.

Statutes and Authorities: IDEA Sec. 637(a)(8); Wis. Adm. Code Chapter HFS 90.07 and 90.10(5); § 115.77(1m)(c) and § 115.782(1)(b); DPI Information Update Bulletins 98.09 and 99.09

Confidentiality from a Law Enforcement and Court Perspective

Under Wisconsin's public records law Wis. Stats., § 19.31, there is a presumption that records created and kept by government will be made accessible to members of the public upon request. Statutory exceptions to the public records law provide confidentiality for certain categories of records or information [§ 19.36(1)]. Wisconsin's Juvenile Justice Code, Chapter 938, Stats., requires that law enforcement officers' records of juveniles are kept separate from records of adults and, generally, these records may not be open to inspection or their contents disclosed, § 938.396 (1). A similar provision applies to law enforcement records maintained under the Wisconsin Children's Code, Chapter 48, Wis. Stats., which contains statutes related to the protection of children [§ 48.396(1)].

The 1996 change in the Wisconsin Juvenile Code opened up the confidentiality of records relating to the misconduct of certain juveniles. For example, the law enforcement or court records of a 17 year old who is alleged to have violated the law, are not protected from disclosure as juvenile records because the youth is considered an adult for criminal purposes. This example also extends to youth as young as 10 years old that have been involved in certain types of alleged criminal behavior (murder, attempted murder, etc.).

The 1996 changes also eased the general prohibitions, under the Juvenile Justice Code and the Children's Code, against inspection or disclosure of law enforcement officers' records of juveniles. Currently, under § 48.396 (1) and § 938.396 (1), Stats., the "confidential exchange" of information is permitted between schools, law enforcement and social services, that seek to meet the needs of the youth or to protect the public. As a result, more generalized "sharing" of information was authorized by the juvenile code. However, as is indicated earlier, the reciprocity implied in "exchange" is not currently authorized in the statutes pertaining to school records, thus prohibiting the school from sharing information without a specific exception in the pupil records laws or by informed consent or court order.

Excerpted, in part, from *Safe Schools Legal Resource Manual*

Information from Law Enforcement to Schools

Law Enforcement Information

Context: Wisconsin law allows law enforcement agencies to share information in records related to a juvenile with school officials where the youth attends school, specifically including:

- the use, possession or distribution of alcohol, controlled substance or a controlled substance analog;
- the illegal possession by a juvenile of a dangerous weapon as defined in § 939.22(10);
- an act for which the juvenile was taken into custody based upon a law enforcement officer's belief that the juvenile was committing or had committed a violation of any state or federal criminal law; and
- an act for which the student has been adjudged delinquent.

Provisions for Disclosure: Release of this information is subject to the policy of the local law enforcement agency. The law enforcement agency may release this information on its own initiative or at the request of the school district administrator. When the school receives information from law enforcement under § 48.396(1) or 938.396(1) or (1m), the school must notify the student and the student's parents of the receipt of this information. The school may share the information only with school district employees who have a legitimate educational interest, including safety. The school district may not use information from law enforcement as the *sole* basis for discipline, including suspension, expulsion and athletic code violation. However, the school may use the information to offer services to the student.

Example #1: A district administrator hears that a student has been arrested (outside the school district grounds) for allegedly dealing drugs. He contacts the law enforcement agency to confirm the arrest and then notifies the student's building principal, assistant principal and teachers to be on the alert for any suspicious activity.

Example #2: As a matter of policy, the local police department notifies the school district administrator of any police arrests for juvenile drinking. Each time the district administrator asks the building principal to notify the school's student assistance program about possible referrals for these students.

NOTE: In both of these examples, the school district would notify both the student and the student's parents of the receipt of this information.

Statutes: § 48.396(1), § 118.127, § 938.34(4h)(a), § 938.396(1) or (1m), § 939.22(10).

Notification of Registered Sex Offenders Moving into the Community

Context: When a person is registered with the Department of Corrections (DOC) as a sex offender, DOC is to immediately notify the police chief of the community and sheriff of the county in which the person is residing, is employed or is attending school. The police chief or sheriff may provide this information to any organization or entity statutorily entitled to request this information, including schools.

Provisions for Disclosure: In order to disclose the information, the police chief or sheriff must believe disclosure of the information is necessary to protect the public.

Example: The Department of Corrections notifies the police chief in a community that a registered 23-year old sex offender has moved into the community into an apartment

across from the high school. This individual had been convicted of sexual assault of a 14-year old girl. The police department notifies the school and holds a public meeting in the neighborhood to ensure the community is aware of the potential danger.

Statute: §301.45, §301.46

From the Courts to Schools

Petition Alleging a Felony

Context: Wisconsin law requires the clerk of courts notify the school board of the youth's school district if a petition alleging the youth committed a felony has been filed. In addition, the nature of the crime must also be shared. [Wis. Stats. § 938.396(7)(a) and (c)]

Provisions for Disclosure: The school may share the information only with school district employees who have a legitimate educational interest, including safety. The information may not be redisclosed to anyone else. The school district may not use information from law enforcement as the *sole* basis for discipline, including suspension, expulsion and athletic code violation. However, the school may use the information to offer services to the student. If the proceeding on the petition is later closed, dismissed or otherwise terminated without a finding that the juvenile has committed a delinquent act, the school is to be notified once again.

Example: A petition has been filed alleging a youth was party to the crime of battery. The court notifies the youth's building principal, who in turn notifies school employees who have contact with the student.

Statutes: § 938.396(7)(a) and (c)

Finding of Delinquency

Context: Wisconsin law requires the clerk of courts notify the school board of the youth's school district if a juvenile has been found delinquent. In addition, the nature of the crime and the disposition imposed must be shared. If school attendance is a condition of the disposition or if the juvenile was found delinquent for a felony crime that was for the benefit of a criminal gang, the school must be notified. If the juvenile is placed in a new school district, the new school is also to be notified whether the student has previously been adjudicated delinquent by that court, the nature of any previous crimes and the dispositions. [§ 938.396(7)(am), (b), (bm), and (c)]

Provisions for Disclosure: The court clerk is required to make the notification within five days after the court order is entered. The school may share the information only with school district employees who have a legitimate educational interest, including safety. The information may not be redisclosed to anyone else. The school district may not use information from law enforcement as the *sole* basis for discipline, including suspension, expulsion and athletic code violation. However, the school may use the information to offer services to the student.

Example: A juvenile is found delinquent for being party to the crime of battery. The juvenile is ordered to attend school daily and have no contact with three other students involved in the incident. Placement at a juvenile correction facility is held in abeyance. The court notifies the youth's building principal, who in turn notifies school employees who have contact with the student.

Statutes: § 938.396(7)(am), (b), (bm), and (c)

Court Records

Context: Wisconsin law allows anyone to request the court records of any juvenile who 1) has been found delinquent for committing a serious juvenile offense as specified § 938.34(4h)(a), or 2) is alleged to have committed a crime that would be a felony if committed by an adult and has been previously found to be delinquent in the past and that finding remains of record and unreversed. Reports under § 938.295 or § 938.33, or other records that deal with sensitive personal information of the juvenile and the juvenile's family are not included [§ 938.396(2m)(a)].

Provisions for Disclosure: This information may be redisclosed to anyone.

Example: A school district believes that a student has been found delinquent of being party to the crime of first degree sexual assault. The school requests the court records of this youth because it wants to know the details of the incident, so as to be aware of any possible security concerns. The court shares the information with the youth's building principal, who in turn notifies school employees who have contact with the student.

Statutes: § 938.396(2m)(a), § 938.34(4h)(a)

Referral of Children to be Placed in Residential Care Centers (formerly Child Caring Institutions)

See *Referral of Children to be Placed in Residential Care Centers* on page 16.

Definitions:

Behavioral Records

"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 other than immunization records or lead screening records required under Wis. Stats. § 254.162, law enforcement officers' records obtained under § 48.396(1) or § 938.396(1m), Stats. and any other pupil records that are not progress records [§ 118.125 (1) (a)].

Court

"Court" when used without further qualification, generally means the court assigned to exercise jurisdiction over a particular matter. For the purposes of this document, that

could include the family court, children's court, juvenile court, municipal court, or circuit court. The term may also refer to the judge and the court staff, i.e., court clerk, court secretary. The term "court" does not include officers of the court: prosecutors, defense attorneys, public defenders, or juvenile court intake workers unless specifically articulated by court policy.

Dangerous Weapon

"Dangerous weapon" means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon, as defined in § 941.295(4); or any other device or instrumentality which, in the manner it is used or intended to be used is calculated or likely to produce death or great bodily harm.

Directory Data

"Directory data" means pupil records that 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. These are data that may be disclosed to any person provided the proper notice and opportunity to object to release is provided [§ 118.125 (1)(b) and (2)(j)].

Education Records

The term "education records" is a term used in FERPA, a federal statute, to identify records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. In Wisconsin that would include behavioral records, directory data, progress records, pupil physical health records, and pupil records. It does not include oral statements not put in writing.

FERPA

"FERPA" is an acronym for the Family Educational Rights and Privacy Act of 1974, as amended, which was enacted as section 444 of the General Education Provisions Act. It is found in the U.S. Code at 20 USC 1232g. FERPA is a complex federal law that protects the privacy interests of parents and students with regard to education records.

Firearm

For the purposes of gun-free schools, federal law defines a "firearm," under 18 USC 921 (a) (3) as: any weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

- the frame or receiver of any weapon described above;
- any firearm muffler or firearm silencer;
- any explosive, incendiary or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;

- any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and
- any combination of parts either designed or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled.

Health Care Provider

Health care providers are defined under § 146.81, Stats. and include, but are not limited to, the following licensed or certified personnel: nurse, dentist, physician, physician assistant, physical therapist, occupational therapist or assistant, dietitian, psychologist, social worker, marriage and family therapist or professional counselor, speech-language pathologist, audiologist, a partnership or corporation of health care providers.

Human Services

Social Services has been used interchangeably to refer to county departments of social services and human services as defined in § 46.215, § 46.22 and § 46.23, Stats. unless the context requires otherwise.

Informed Consent

People must give their informed consent prior to any significant intrusion of their person or privacy. The three key elements of informed consent are that it must be knowing, competent and voluntary. The person seeking consent must make a good faith effort to disclose enough information to the person from whom consent is sought that the individual can make an informed choice [§ 146.81(2)].

Mandated Reporters

Mandated reporters are those persons who are required to report suspected child abuse or neglect if they have reason to believe that a child seen in the course of their professional duties has been abused or neglected or that a child has been threatened with abuse or neglect. The statute lists the following persons as mandated reporters: a physician, coroner, medical examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or mental health professional, social worker, marriage and family therapist, professional counselor, public assistance worker, including a financial and employment planner, school teacher, administrator or counselor, mediator, child care worker in a day care center or child caring institution, day care provider, alcohol or other drug abuse counselor, member of the treatment staff employed under contract by a county department, physical therapist, occupational therapist, dietitian, speech-language pathologist, audiologist, emergency medical technician or police or law enforcement officer [§ 48.981(2)].

Patient Health Care Records

“Patient health-care records” are those records relating to the health of a student that are authored by or under the supervision of a health care provider, as defined under § 146.81(1), Stats., except for records containing basic health information included in the definition of pupil physical health records.

Personal Notes

“Personal notes” are those records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the records.

Progress Records

"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; the pupil's immunization records; any lead screening records required under § 254.162; and the records of the pupil's extracurricular activities [§ 118.125 (1)(c)].

Public School

Public schools are defined as the elementary and high schools supported by public taxation. The phrase includes charter schools and Milwaukee Public Schools “contract schools.” The phrase generally does not apply to the technical college or UW Systems, but certain K-12 pupil rights may follow them under youth options or other shared programs [§ 115.01(1)].

Pupil Physical Health Records

"Pupil physical health records" are pupil records that include basic health information about a child. These records are subject to the requirements governing records classified as "behavioral records." Pupil physical health records include immunization records; an emergency medical card; a log of first aid and medicine administered to the pupil; an athletic permit card; a record concerning the pupil's ability to participate in an education program; any lead screening records; the results of any routine screening test, such as for hearing, vision, or scoliosis, and any follow-up to such test; and any other basic health information, as determined by the state superintendent. Such basic health information includes a log of services, such as physical or occupational therapy, provided under the authority of the school district, but does not include records that contain such information as diagnoses, opinions, and judgments concerning the child's health [§ 118.125 (1)(cm)].

Pupil Records

All records directly related to a student and maintained by the school district are pupil records. Pupil records include records maintained in any way including, but not limited to, computer storage media, video and audio tape, film, microfilm, and microfiche. Records maintained for personal use by a teacher and others required to hold a license under § 115.28(7) and not available to others, and records available only to persons involved in the psychological treatment of a student are not pupil records [§ 118.125 (1)(d)].

Resources

Child Protective Services Access and Initial Assessment Standards. Wisconsin Department Children and Family Services.

http://dcf.wisconsin.gov/memos/num_memos/2007/2007-11Standards.pdf

Glossary for the Standards can be found at

http://dcf.wisconsin.gov/memos/num_memos/2007/2007-11appen.pdf.

Information Update Bulletins from the Department of Public Instruction can be obtained electronically at <http://www.dpi.wi.gov/sped/bulindex.html>.

Reporting Requirements for Sexually Active Adolescents. Wisconsin Department of Public Instruction. August 2008. Available at <http://www.dpi.wi.gov/sspw/pdf/rrfsaa.pdf>.

Safe Schools Legal Resource Manual. Wisconsin Department of Justice, 2007. Available at <http://www.doj.state.wi.us/docs/SafeSchoolManual.pdf>.

Student Records and Confidentiality. Wisconsin Department of Public Instruction. August 2008. Available at <http://www.dpi.wi.gov/sspw/srconfid03.html>.

IV.

Home Based Private Educational Program (Homeschooling)

Frequently Asked Questions

September 2015

Topics

- I. General Information about Homeschooling**
- II. Homeschool Enrollment Report (Form PI-1206)**
- III. Curricula and Materials**
- IV. Online Schools**
- V. Attendance and Accountability**
- VI. Participation in Sports and Other Activities**
- VII. Testing**
- VIII. Special Education**
- IX. High School Diplomas and Applying to College**
- X. Privacy**
- XI. Financial Assistance**
- XII. Withdrawing from Homeschooling**
- XIII. Resources**

I. General Information about Homeschooling

1. What is a home-based private educational program?

Under Wisconsin Statute 118.15(4), a parent or guardian has the right to select a home-based private educational program, commonly referred to as homeschooling, for his or her child or children, in order to comply with the compulsory school attendance law. If this option is chosen, the parent or guardian is required to complete the online PI-1206 Homeschool Enrollment Report.

Wisconsin Statute 115.001(3g) states, "Home-based private educational program means a program of educational instruction provided to a child by the child's parent or guardian or by a person designated by the parent or guardian. An instructional program provided to more than one family unit does not constitute a home-based private educational program."

2. Can I enroll my child in homeschooling instead of a public or private school?

Yes. Homeschooling is an alternative to attendance at a public or private school under Wisconsin's compulsory school attendance law, s. 118.15(1)(a), Wis. Stats. The compulsory school attendance law requires that, "... 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." Wisconsin Statute 118.15(4) states, "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."

3. What are the requirements for a homeschooling program?

Wisconsin Statute 118.165(1) specifies that a home-based private educational program must provide "... at least 875 hours of instruction each school year." In addition, the program must provide a "... sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health." The statutes contain no express authority for any agency or school district to monitor home-based private educational programs or to verify the hours of instruction provided or the use of a sequential curriculum. However, it is recommended that homeschooling parents maintain records of the instruction provided as this information may be used by prospective employers, including the military, and any post-secondary institutions to which the student may apply in the future.

4. Who provides the instruction in a home-based private educational program?

When a parent chooses to homeschool his/her child, it is the parent's responsibility to ensure that the child's educational program meets the requirements above. The parent is also responsible for obtaining educational materials to use for instruction. A homeschool parent may provide the instruction or designate someone else to do so. Parents also have the option of enrolling their children, at the parent's expense, in an out-of-state and/or privately operated correspondence or virtual school. Parents who choose this option are responsible for ensuring that their child's educational program meets the requirements for a home-based private educational program in Wisconsin. The DPI does not provide instruction or curricula for home-based private educational programs. For additional information on curricula and materials, see Section III, Curricula and Materials.

5. Are there any educational or training requirements for parents who enroll their children in a home-based private educational program?

Under Wisconsin law, there are no minimum educational requirements for parents who provide a home-based private educational program. Nor are homeschooling parents required to hold a teaching certificate or license.

II. Homeschool Enrollment Report (Form PI-1206)

6. How do I report enrollment of my child in a homeschooling program?

Wisconsin Statute 115.30(3) requires the child's parent or guardian to file the online PI-1206 homeschool enrollment report, which is available online from the Department of Public Instruction's website at: http://sms.dpi.wi.gov/sms_homeb.

7. When must I submit form PI-1206?

Under current law, homeschooling parents are required to file the online PI-1206 homeschool form **annually**, on or before October 15. However, the PI-1206 form is available at any time during the school year. If you withdraw your child from a public or private school after October 15, your online PI-1206 form should be submitted or updated on or before the date your child ceases to attend the school.

If you withdraw your child from the public or private school prior to completing the online PI-1206 form, your resident school district may consider your child to be truant.

8. How do I find out if my PI-1206 form has been approved?

The PI-1206 form is not an application and neither the DPI nor your school district has authority to approve or deny a parent's homeschool program. Submittal of the PI-1206 form serves to notify the state and the child's resident school district that the child's parent has enrolled the child in a homeschool program. If all web pages are not fully completed or you have not clicked the "Submit Enrollment Data" button at the end of the form, the state and your child's resident district will not receive notification of your child's enrollment in a homeschooling program. Once you have successfully submitted your PI-1206 form, you will be able to print a paper copy of your form for your records. Your copy of your PI-1206 form includes your confirmation number and serves as your acknowledgement that you have enrolled your child(ren) in a homeschool program.

9. How does my school district find out that I am homeschooling my child?

Authorized staff members in your child's school district of residence have online access to the data on your PI-1206 form as soon as it is electronically submitted. School district staff do not have access to the password you created to submit the form. If you have submitted your PI-1206 form and your child's school does not have record of your form, you may refer your school's personnel to the school district administrative office. Contact information for all public school districts is available on the department's website at:

<http://apps4.dpi.wi.gov/SchoolDirectory/Search/PublicDistrictsSearch>.

10. How often do I need to submit the online PI-1206 form?

The online PI-1206 Homeschool Report must be completed **each year** you wish to enroll your child(ren) in a homeschool program. You should also update your online PI-1206 form if you move to a different school district, or if you want to change the number of children enrolled in your homeschool program. On your PI-1206 form, you should indicate **only** the children you are homeschooling.

11. How do I correct or change information for the online PI-1206 form that I already submitted?

Only the parent(s) or guardian(s) is allowed to change their homeschooling information. In order to correct or change information, you will need to go to <https://apps4.dpi.wi.gov/HomeSchoolParent> sign in with the login id and password

you used when you originally entered the information. Once signed in, you will be able to make changes and/or corrections. Please be sure to go through all the steps until you reach and click on the Submit button. If you do not click “Submit,” your changes will not be saved and your school district will not have access to your changes and/or corrections.

After submission, you will have a chance to view and print a PDF document with your updated data. If you used an email address as the login id, you will also be sent a confirmation email with a new confirmation number. This does not mean that you have submitted an additional form, but rather, it is a confirmation that new information was submitted. We recommend keeping this information in your records. The school district that you live in will have immediate access to your new information.

12. How can I enroll my child in homeschooling for kindergarten?

Under Wisconsin law, enrollment in a home-based private educational program is a substitute for attendance at a public or private school under the compulsory school attendance law, which begins at age six. Since children under age six are not subject to the compulsory school attendance law, it is not possible to enroll a child in a homeschool program for four- or five-year-old kindergarten. If your child will not reach age six on or before September 1, it is not necessary for you to submit form PI-1206 to enroll him/her in a homeschool program for that school year.

Under recently passed legislation, completion of five-year-old kindergarten is a prerequisite for enrollment in a **public school** for first grade. If you choose not to enroll your child in a public or private school for kindergarten, then wish to enroll him/her in a public school for first grade, you will need to request an exemption from this requirement. Requests for exemptions must be made to the school district in which you wish to enroll your child. Additional information on this topic is available on the department’s website at http://ec.dpi.wi.gov/ec_ec-entr-admiss.

III. Curricula and Materials

13. When I enroll my child in a home-based private educational program, does the state or my school district provide the curriculum and textbooks?

No. If you choose to enroll your child in homeschooling, you will be assuming all responsibilities for providing your child’s education, including determining how you will provide instruction in the required subject areas and where you will obtain any curriculum and materials you will use.

14. Where can I get a curriculum and textbooks?

There are many different types of homeschooling curricula available for purchase through private publishers and other organizations. You can learn more about curricula vendors by searching the internet or visiting bookstores or public libraries.

Although local school districts are not obligated to provide materials to homeschooling families, you may contact your school district to determine if they can be of assistance.

15. Does DPI recommend and/or approve any homeschooling curricula?

No. The DPI has no authority to approve homeschooling curricula and does not make recommendations to parents regarding curricula or online schools. It is the responsibility of the parent or guardian to determine the curriculum that is most appropriate for his/her child.

16. Can my child take courses at a public school while he/she is enrolled in homeschooling?

The part-time attendance law, s.118.53, Wis. Stats., allows homeschooled students to attend a public school on a part-time basis. A school district is required, space permitting, to allow pupils who are enrolled in a homeschool program to take up to two courses per semester at any public school. Students must satisfy the minimum standards for admission to a course offered by the school district.

To register for courses, please contact the school district office you are interested in attending.

17. Can my child take courses in another school district under the part-time attendance law?

Yes. Under the part-time attendance law, a homeschooled student may take up to two courses at any public school in Wisconsin.

18. If my child is enrolled in a public school, can I homeschool him/her for only one or two courses?

No. Wisconsin law does not provide for "dual enrollment" in a public school and homeschooling. While the part-time attendance law described above permits a student who is enrolled in a homeschool program to attend a public school for up to two courses per semester, there is no comparable law that permits a student enrolled in a public school to take one or more courses in a homeschool program.

Under the compulsory school attendance law, any parent may request the school board, in writing, to provide their child with program or curriculum modifications and you are free to provide any supplemental instruction to your child beyond his/her public school curriculum.

IV. Online Schools

19. How can I enroll my child in an online school?

In Wisconsin, there are essentially two types of "virtual" or online programs in which a child can enroll: 1) a program offered by a private company that may be based anywhere in the country; and, 2) a program offered by a public Wisconsin charter school.

If you enroll your child in a program offered by an out-of-state school or private company, he/she would be considered enrolled in a homeschooling program. You will need to submit form PI-1206 and pay tuition to that entity. As the parent/guardian of a homeschooled student, you would be responsible for ensuring that the program in which you enroll your child meets the requirements of Wisconsin state law. The state does not approve or accredit any home-based private educational programs, including those offered by private online or correspondence companies. Such companies may or may not award a diploma or certificate upon completion of certain courses.

The second option is to enroll your child in one of the Wisconsin public school districts that offers a "virtual charter school." Although children who are enrolled in a virtual charter school receive instruction at home, each virtual charter school is "located" in a particular school district. If the school district in which you live (your "resident school district") does not operate a virtual charter school, or you wish to enroll your child in a virtual charter school offered by another school district, you would need to apply for open enrollment. The public school open enrollment program permits a parent to apply for their child to attend a public school, which can be a virtual charter school, in a school district other than the parent's resident district, without having to pay nonresident tuition. Information on applying for open enrollment is available on the department's open enrollment website at: http://sms.dpi.wi.gov/sms_psctoc.

20. What is the difference between homeschooling and enrolling my child in an online or virtual school?

Virtual charter schools are public schools. If your child is enrolled in a virtual charter school, he/she is considered to be a public school student and you should not submit form PI-1206.

If your child is enrolled in a private or out-of-state online school, your child is considered to be homeschooled and you are required to submit form PI-1206.

If you are unsure as to whether the virtual school in which your child will be enrolled is a Wisconsin virtual charter school, please contact the school.

V. Attendance and Accountability

21. I submitted the online form PI-1206, but my child's former school says they have no record of his/her enrollment in a homeschool program. What can I do?

Only school district staff members who have been specifically authorized by the school district administrator have access to the names of parents who have submitted PI-1206 forms to enroll children in homeschooling. It is possible that the staff member who contacted you is not authorized to view this information. You may refer that person to the district administrative office for confirmation that your PI-1206 form has been submitted.

In addition, you may want to verify that you entered the correct resident district on your PI-1206 form. If the wrong resident district is listed, it could be one of the reasons why the former school would contact the parent.

22. What if I have filed form PI-1206 and someone alleges that I am not providing, and/or am incapable of providing, the required hours of instruction in the required subject areas and am, therefore, avoiding or circumventing the compulsory school attendance law?

The legislature intended to provide parents the option of homeschooling their children with minimal interference from state and local officials. As the law is currently written, neither the Department of Public Instruction nor the local

education agencies (public school districts) have specific statutory authority to monitor or regulate home-based private educational programs.

On the other hand, school districts are not specifically prohibited from monitoring, regulating, or investigating homeschooling families. A school district may have implied authority to investigate a complaint alleging that a particular home-based private educational program does not meet the criteria under s. 118.165(1), Wis. Stats. As a result of such a complaint, the school district could invite you to a meeting in an attempt to document and verify the hours of instruction and curricula used in the required subject areas.

23. What is the role of the DPI in the Home-Based Private Educational Program?

The Department of Public Instruction's role is to provide form PI-1206 to parents and respond to questions relating to Wisconsin's homeschooling laws and procedures. The DPI's role **does not** include providing personal consultation or technical assistance regarding home-based private educational programs. The home-based private educational program telephone numbers, (608) 267-9248 or toll free (888) 245-2732, extension 6, are available for additional general home-based private educational program information.

VI. Participation in Sports and Other Activities

24. Can my child participate in sports in my local school district?

2015 Act 55 requires a school board to permit resident pupils enrolled in a home-based private education program to participate in interscholastic athletics on the same basis and to the same extent as pupils enrolled in the district. The home-based program must provide the school board with a written statement that the pupil meets the requirements for participation, based on age and on the pupil's academic and disciplinary records. The school district may not question the accuracy or validity of the statement and could not request additional information. A school board may charge a homeschool pupil who participates in interscholastic athletics participation fees, including fees for uniforms and equipment, on the same basis and to the same extent that it charges these fees to a pupil who is enrolled in the school district.

Questions regarding sports participation in your resident school district should be directed to the district's athletic director or to the Wisconsin Interscholastic Athletic Association (www.wiaawi.org).

25. Can my child participate in extracurricular activities and clubs offered by a public school?

Homeschool pupils may attend a school district part-time (as described in Section III) and may also participate in interscholastic athletics (as described in question #24) or extracurricular activities in their resident school district on the same basis and to the same extent as pupils enrolled in the district. A school board may charge a homeschool pupil who participates in extracurricular activities participation fees, including fees for uniforms, equipment, and musical instruments, on the same basis and to the same extent that it charges these fees to a pupil who is enrolled in the school district.

Please contact the school district directly to inquire about its policies.

VII. Testing

26. Are there any assessment or testing requirements for students enrolled in a home-based private educational program?

No. Wisconsin's homeschooling laws do not require any form of testing or assessment. If you wish to have your child tested or assessed periodically to determine their level of progress, you would be responsible for obtaining such tests.

While school districts are not obligated to provide testing services, you may contact your local school district regarding possible testing using local district tests. A fee may be imposed for any services rendered. Public school districts in Wisconsin are not allowed to administer the Wisconsin Knowledge and Concepts Examinations, which are required for public school students in grades 3 through 8 and grade 10, to students enrolled in home-based private educational programs

VIII. Special Education

27. Is my school district required to provide special education and related services for my child while he/she is enrolled in a home-based private educational program?

No, school districts are not required to provide special education and related services to children with disabilities enrolled in home-based private educational programs.

However, since neither federal nor state law prohibits districts from providing special education services to home-schooled children, school districts may provide any special education and related services to these children that they deem appropriate. If a public school district chooses to provide these services, the costs are not aided by DPI under federal or state categorical aids.

Public school districts are required to provide the service of identifying and evaluating all children in the district who may have a disability. If a child is found to have a disability, the district must offer a placement that would provide the child a free appropriate public education. Generally, this placement means the child would be enrolled in a public school.

If you suspect that your child may have a disability, you can request that he/she be evaluated by the public school. The district will then perform a publicly-funded evaluation and, if your child is found to have a disability, offer your child a placement to meet his/her educational needs.

IX. Diplomas and Applying for College

28. How will my homeschooled child receive a high school diploma?

In Wisconsin, high school diplomas are issued by public and private schools. A home-based private educational program does not lead to a traditional Wisconsin high school diploma.

Some homeschooling families do create a diploma upon completion of their home-based private educational program. Although these home-issued diplomas are not traditional high school diplomas, the Wisconsin Parents Association has indicated these home-issued diplomas are widely accepted by potential employers, colleges, and universities for admission and financial aid.

A student who is enrolled in a home-based private educational program may wish to pursue the requirements for a General Educational Development (GED) certificate and/or a High School Equivalency Diploma (HSED). Additional information about obtaining a GED or HSED is available on the department's website at: <http://ged-hsed.dpi.wi.gov>.

Also, private companies and schools (including universities) offer distance learning programs and some of them grant high school diplomas upon completion of certain requirements.

29. Will my child be able to apply to a college or university after completing a home-based private educational program?

Most institutions of higher education use alternative admissions processes for students who do not have a traditional high school background. These institutions may use any documentation that you might have available in addition to your child's scores on the ACT and/or SAT tests in determining whether he/she is qualified for admission.

You should contact each postsecondary institution your child is interested in attending for information on its admissions policies. You may need to provide the institution with copies of the PI-1206 forms you have filed with the DPI as well as records relating to the number of hours of instruction provided, the curriculum, and your child's academic progress.

X. Privacy

30. Will the Department of Public Instruction release my name and address to outside organizations or individuals?

Consistent with the state's public records law and the federal Family Educational Rights and Privacy Act (FERPA), the Department of Public Instruction does not release the names of families who have enrolled their children in homeschool programs.

31. Will the Department of Public Instruction provide information to my child's non-custodial parent relating to his/her enrollment in a homeschool program?

Under Wisconsin's pupil records law, a parent or guardian must be granted access to his or her child's pupil records unless he or she has been denied access by a court order or other legally binding document that specifically revokes these rights 7 C.F.R. § 99.4.

In order to ensure compliance with the state's public records law and federal FERPA, it is the policy of the DPI to notify the parent who filed an online PI-1206 homeschool enrollment report prior to the release of any information to the requesting parent.

If you receive such notification, you will have 14 days in which to notify the DPI if the requesting parent has been denied access to the child's pupil records and provide copies of the court order or other legally binding document to DPI. If no such notification is received by DPI, a copy of the data from the online PI-1206 homeschool enrollment report is provided to the requesting parent.

XI. Financial Assistance

32. Is there any financial assistance available for homeschooling families?

No. There is no publicly-funded financial assistance for homeschooling families available from either the local school district or from the state.

33. What happens to the funding my school district receives for my child?

In Wisconsin, public school districts receive most of their funding from state aid and the property tax. State equalization aid is distributed to school districts based, in part, on the number of students enrolled in the public schools on certain dates during the school year. Since a homeschooled student is not enrolled in a public school, the child's resident school district is not permitted to include him/her in its membership count for purposes of claiming state aid. Thus, there are no state funds allocated to your school district on behalf of your child. The same is true of property taxes to support school districts

XII. Withdrawing from Homeschooling

34. What if I decide to enroll my child in a public or private school after submitting the PI-1206 form?

If you submit an online PI-1206 form and later decide to enroll or re-enroll your child in a public or private school later in the same school year, you will need to return to the online PI-1206 form at http://sms.dpi.wi.gov/sms_homeb and sign in to your form using the ID and password you created. You will then need to scroll through the form to the "enrollment" page and change the number of students enrolled in the homeschool program as appropriate. The changes will not take effect until you click continue and "submit."

35. Will the credits my child earned while homeschooling transfer to the public or private school?

When a student who was previously enrolled in a homeschool enrolls in a public or private school, that school district or private school has discretion regarding grade level placement and the number of credits, if any, that it will grant the student for courses completed in the homeschool program. You may wish to contact the school or school district where your child will enroll to inquire about its policies.

XIII. Resources

36. Are there any parent organizations that can help?

There are many home-based parent associations you may wish to contact for further information about homeschooling. In Wisconsin, two of the largest are:

1. Wisconsin Parents Association, P.O. Box 2502 Madison, WI 53701-2502 (608) 283-3131 (voice mail)
<http://www.homeschooling-wpa.org/>

2. Wisconsin Christian Home Educators Association, P.O. Box 320458 Franklin, WI 53132 (414) 425-6324
<http://www.wisconsinchea.com>

*Please note that the Department of Public Instruction is not responsible for any information that may be provided by these organizations, nor does their inclusion on this website imply any type of endorsement by the DPI.

Contact Us

If you have questions about the PI-1206 Homeschool Enrollment Report, please contact Diane Sullivan at (608) 267-9248 or toll-free at (888) 245-2732, extension 6, or send an email to homeschooling@dpi.wi.gov.

V.

FORMS

AND

SAMPLES

[ATTENDANCE LETTER USED BY WAUZKA-STEUBEN SCHOOLS]

[Date]

[Parent's/Guardian's Name and Address]

Dear [Parent/Guardian]:

REGARDING THE ATTENDANCE OF: [Student's Name]

This letter is to remind you of the Wauzeka-Steuben School District's attendance policy and procedure. Examples of excused absences include:

- Physician's or other licensed person under §118.15 (3) (a)
- Medical appointment – written verification from medical facility/clinic
- Religious holiday
- Illness excused by parent/guardian (up to 10 days per year)
- Special leave

Because education is essential to every child's future and attendance plays a key role in school success, Wisconsin law states:

*...any person having under his/ her control a child between the ages of 6 and 18 shall require the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school is in session or until the end of the school term, quarter or semester of the school year in which the student becomes 18 years of age.
[Wisconsin Statute §118.15]*

To keep you informed of your child's attendance record, this letter summarizes [his/her] attendance to date. **Please note marked area(s) below:**

____ At this time, [Child's First Name] has had _ parental excused days and _ medical excused days. We want to remind you that after 10 parental excused absences per year, a physician's note will be required for further absences to be excused.

____ At this time, [Child's First Name] has been tardy _ times. At five tardies, a detention will be enforced.

____ At this time, [Child's First Name] has _ unexcused absences (late to school more than ten minutes). According to Wis. Statute §118.16 (1) (a), *a student who is absent from school without an acceptable excuse for part or all of 5 or more days during a school semester is considered a habitual truant.* A penalty or penalties may be imposed by the courts on the parent or guardian of a habitual truant if he/she fails to cause the child to attend school regularly.

Please review the enclosed attendance record of excused and unexcused absences and contact Shelly Mainwaring, Attendance Clerk, at (608) 875-5311, ext. 228, with any questions or concerns you may have. We believe that the success of your child in school is directly related to [his/her] attendance and the working relationship between home and school. Thank you for your support in this matter.

Sincerely,

Robert Sailer, Principal

NORTH CRAWFORD SCHOOL DISTRICT

**47050 COUNTY ROAD X
SOLDIERS GROVE, WI 54655-8551**

**Daniel M. Davies
District Administrator/Principal
High School Office
Room 214
608-735-4311
Fax 608-624-6269**

**District Office
608-735-4318
Fax: 608-735-4317**

**Brandon Munson
Principal
Elementary/Junior High
Room 232
608-624-5201
Fax 608-624-6269**

November 4, 2016

Re: Notice of Unexcused Absences

This letter and attached unexcused attendance sheet is to notify you that your child/student was absent or tardy first hour from North Crawford School without an acceptable excuse.

A student with five unexcused absences for all or part of the day during a semester is considered a "habitual" truant.

According to the Compulsory School Attendance Law 118.12 any person having control of a child who is between the ages of six and eighteen years shall cause the child to attend school regularly during the full period and hours.

Parents have 5 school days from the date of the unexcused absence letter to provide a written excuse for an unexcused absence. For the unexcused absences which occur at the end of the second semester, parents will have 5 working days from the date of the unexcused absence letter to provide a written excuse for an unexcused absence.

The success of your child in school is directly related to his/her attendance and the working relationship between home and school.

Sincerely,

Toby Tripalin

Middle School /High School Principal

NORTH CRAWFORD SCHOOL DISTRICT

47050 COUNTY ROAD X
SOLDIERS GROVE, WI 54655-8551

Daniel M. Davies
District Administrator/Principal
High School Office
Room 214
608-735-4311
Fax 608-624-6269

District Office
608-735-4318
Fax: 608-735-4317

Brandon Munson
Principal
Elementary/Junior High
Room 232
608-624-5201
Fax 608-624-6269

November 4, 2016

Re: Notice of 10 or More Parental Illness Absences

Your son/daughter has equaled and/or exceeded the number (10) of designated parental illness excuses. As stated on the second page of the Student Handbook, for the remainder of the school year, you will need to provide a written doctor's excuse for any absences. Any illness related absence, which is not verified with a written doctor's excuse, will be classified as an unexcused absence.

(Handbook policy effective as of September 2008 "All medical appointments without a doctor's slip will count towards sickness absences.")

Sincerely,

Toby Tripalin
Middle School /High School Principal

CRAWFORD COUNTY CIRCUIT COURT

Kathy Quamme
Juvenile Court Worker
Ph: (608) 326-0217

220 N. Beaumont Road
Prairie du Chien, WI 53821
Fax: (608) 326-0288

kquamme@crawfordcountywi.org

[Date]

[Parent's Name and Address]

Dear Parent/Guardian:

As the Crawford County Juvenile Court Worker, it is my duty to advise you that I have received notice from (Name of School) of unexcused absences of your child, (Name of Student), on part or all of the following dates:

1. (Date)
2. (Date)

Because education is essential to every child's future and attendance plays a key role in school success, Wisconsin law requires:

“...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 or until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age.” [Wisconsin Statute §118.15]

As a result of the above-mentioned unexcused absences, your child is considered truant. This letter is a warning to you that one additional unexcused absence of your child may result in the issuance of a law enforcement citation for simple truancy. Such a citation will require payment of a fine and will order your child to attend school.

In order to avoid the simple truancy citation, you are obligated to insure that your child is in attendance at (Name of School), without further unexcused absences.

If you have any questions about this letter, please contact me at (608) 326-0217. Thank you for your attention to this important matter.

Sincerely,

Kathy Quamme
Juvenile Court Worker

HABITUAL TRUANCY NOTICE USED BY NORTH CRAWFORD

[DATE]

[PARENT'S NAME]

[ADDRESS]

Dear [PARENT'S NAME],

I am writing this letter to formally notify you that [STUDENT'S NAME] has established a truancy pattern, habitual in nature.

As required by law, I must inform you of your responsibility as a parent or guardian to cause your child to attend school. Under Sec. 118.15, Compulsory School Attendance, 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 in which school is in session. Whoever violates this section may be fined not more than \$500.00 or imprisoned not more than 30 days.

I am also required by law to meet with you to discuss your child's truancy and address program or curriculum modifications, as well as At- Risk Programming.

A meeting has been scheduled for [STUDENT'S NAME] for [DAY, DATE, AND TIME] in the high school office to address these issues.

The success of your child in school is directly related to his/her attendance and the working relationship between the home and school. Should you have any questions or problems with this date and time, please call me for assistance.

Sincerely,

Toby Tripalin
Middle School/ High School Principal

HABITUAL TRUANCY NOTICE USED BY PRAIRIE DU CHIEN HIGH SCHOOL

DATE

NAME

ADDRESS

Prairie du Chien WI 53821

Dear PARENT,

I am writing to formally notify you that STUDENT has established a habitual truancy pattern.

I must inform you of your responsibility as a guardian to make sure STUDENT is attending school. **Under Sec. 118.15, Compulsory School Attendance, any person having a child who is between the ages of six and eighteen years of age, is responsible for that child attending school regularly during the full periods and hours in which school is in session.** Whoever violates this section may be fined not more than \$500.00 or imprisoned not more than thirty days.

School officials and representatives of the court are required by law to meet with you to discuss truancy and address programs or curriculum modifications, as well as At-Risk programming. A meeting has been scheduled for **DATE AND TIME OF MEETING** to address these issues.

The success of your child in school is directly related to his/her attendance and the working relationship between the home and school. The meeting will be in my office at the Prairie du Chien High School office. Please contact me at 326-8437 ext. 4160 if there is a conflict with this scheduled date and time.

Sincerely,

Assistant Principal

18 YEAR OLD CONTRACT USED BY DE SOTO HIGH SCHOOL

AGE OF MAJORITY ADULT CONTRACT OF UNDERSTANDING

I, _____, am an emancipated adult. Date of birth: _____
Print Student's Full Name

My official residence is:

Street Address City State Phone Number

I understand that reaching the "Age of Majority" does not imply any specific rights to ignore, avoid or in any way not follow the rules and regulations as described in the Parent & Student Handbook. I therefore agree not to be in violation of the policies and rules as they apply to students of De Soto Area Schools for the remainder of my high school career at De Soto High School.

1. Must attend school every day that school is in session, with zero skips and tardies of classes. All absences must be in compliance with state attendance laws as they apply to 17 and under students. Ten (10) excused absences are allowed by law and are described in the Student Handbook.
2. The De Soto School District Alcohol and Drug Policy will be followed.
3. Assigned work must be completed at a passing level.
4. All teachers and staff will be given the respect they are due. Teachers and staff will be spoken to in an appropriate manner.
5. Directives given by teachers will be followed without inappropriate comments or actions.
6. All policies, rules, and regulations found in the De Soto Parent & Student Handbook regarding student conduct will be followed.
7. It is also understood that being 18 years old, the laws of the state of Wisconsin, as they pertain to an adult, are enforced.

Noncompliance with school board rules and policies as stated above can result in suspension and/or other disciplinary measures. Continual/habitual or malicious noncompliance can result in non-graduation or expulsion.

The following signatures demonstrate that the student has read and understands the District's attendance policy and behavior expectations as outlined in the Student Handbook.

Signatures:

Student: _____ Date: _____

Parent/Guardian: _____ Date: _____

Principal: _____ Date: _____

**SCHOOL REFERRAL FOR
CITATION**

**HABITUAL TRUANCY MEETING
DOCUMENTATION**

**COURT REFERRAL – CHILD/JUVENILE
(NON-LAW ENFORCEMENT)**

**COURT REFERRAL – CHILD/JUVENILE
(LAW ENFORCEMENT)**

2012 JUVENILE FORFEITURE SCHEDULE

**PENALTY GUIDELINES – UNDERAGE POSSESSION OR
CONSUMPTION OF ALCOHOL**

WHICH COURT FOR CITATIONS?

SCHOOL REFERRAL FOR CITATION

TO: Crawford County Sheriff's Dept.
224 N. Beaumont Road
Prairie du Chien, WI 53821
Attn: Sgt. Steve Wagner
Phone: 326-8414 Fax: 326-4782

FROM: _____ Title: _____
Name
_____ Phone: _____
School District
_____ Fax: _____
Address
_____ E-mail: _____
City, State, Zip

RE: Truancy (Simple) Underage Alcohol
 Habitual Truancy Tobacco Products
 Contributing to Truancy Motor Vehicle Violation
 Disorderly Conduct Other: _____

Student Name: _____

OFFENSE INFORMATION

WHO: The person to be charged is a Student (age _____) Parent/guardian for student Other

Defendant Name – Last:	First:	MI:	
Street Address:	Post Office:	State:	Zip Code:
Driver License Number (if vehicle involved):	State:	Exp. Yr.:	
Date of Birth:	Sex:	Race:	Height:
		Weight:	Hair:
			Eyes:

WHAT: Describe the incident/offense in detail. Attach the relevant reports, records or statements.

Check here if attachments are provided with this referral.

WHEN

And

WHERE:

Weekday	Month, day, year	Time: <input type="checkbox"/> a.m.	At: _____
_____	_____	<input type="checkbox"/> p.m.	County: _____

Note: If referred for Habitual Truancy, write "1st semester" or "2nd semester" and year

WHO SAYS SO:

The names and address of witnesses who have personal knowledge of the offense (including those in possession of school records)

Name:	Title:	Phone No:
_____	_____	_____
_____	_____	_____
_____	_____	_____

OTHER INFORMATION

Parent/guardian:

_____	_____
Mother's Name	Father's Name
_____	_____
Address	Address
_____	_____
Phone: _____	Phone: _____
Home Work	Home Work

Residence of Juvenile: County of _____

Prior record pertinent to this incident: _____

SIGN: _____
Signature of referring person Title Date

FOR LAW ENFORCEMENT USE ONLY

Received referral: _____ Case No. Assigned: _____

Action taken: _____

Officer signature Department Date

HABITUAL TRUANCY DOCUMENTATION

Juvenile's Name: _____ DOB: _____

Parents'/Guardian Names:

The undersigned School Attendance Officer hereby informs the Crawford County Juvenile Court regarding the habitual truancy of the above-named juvenile:

- 1) The pupil has been absent from school without an acceptable excuse for part or all of five or more days on which school has been held during the same school semester (attendance records are attached).
- 2) Appropriate school personnel in the school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

a) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet and received no response or were refused.

Date(s) of truancy meeting(s): _____

Persons present (names and titles): _____

Parental attendance or refusal _____

Comments: _____

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.

Comments: _____

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.

Comments: _____

OR (check if appropriate)

Learning problems not evaluated because tests administered to the child within the previous year indicate that the child is performing at his or her grade level.

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.

Comments: _____

OR (check if appropriate)

Subsections (b), (c) and (d) do not apply because school personnel were unable to carry out these activities due to the child's absences from school.

3) After the activities listed above were completed or were not required to be completed, the child continued to be truant.

Dated: _____

School Attendance Officer

School District

Phone No. _____

Instructions:

- Attach school attendance records for the child covering the current school year, which clearly show the unexcused absences.
- Attach any other information, which will be helpful to the Court in making a disposition.
- If referring for a citation (age 12 or older), complete "School Referral for Citation" form and forward to law enforcement agency for use in Juvenile Court.
- If referring for a J.I.P.S. Petition (potential out of home placement), also fill out the Non-Law Enforcement Referral Form and mail or fax to:

Crawford County Juvenile Court
220 North Beaumont Road
Prairie du Chien, WI 53821
Phone: (608) 326-0206
FAX: (608) 326-0288

1. Intake Case Number		Court Referral – Child/Juvenile (Law Enforcement Referral)			2. Court Case Number	
3. Child's/Juvenile's Name (Last, First, Middle)			4. Alias/Nickname	5. Age	6. Date of Birth	7. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female
8. Child's/Juvenile's Street Address		City	State	Zip Code	9. County of Residence	10. Race 1. African American 2. Asian or Pacific Islander 3. American Indian or Alaskan Native 4. Hispanic 5. Caucasian 6. Unknown 7. Other
11. Home Telephone	12. School Attended/Place of Employment				13. Grade/Occupation	
14. Legal Father's Name		Address		Marital Status	T E L E P H O N E	Work: _____
15. Legal Mother's Name		Address		Marital Status		Home: _____
16. Guardian/Legal Custodian/Supervising Agency Address				Marital Status		Work: _____
						Home: _____

17. Name of Referring Agency		18. Office Telephone		19. File/Case Number	
20. Prior Record with Referring Agency: <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, describe manner of handling: <input type="checkbox"/> Additional information attached.			21. Name of Referring Officer		
22. Alleged Offenses: <input type="checkbox"/> Additional information attached. Date(s) Statute Number(s) Offense					
23. Name of Accomplice(s) Address Sex Birth Date Referred to Court/Cited Mo/Day/Yr <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> Yes <input type="checkbox"/> No					
24. Name of Victim and Address			25. Parent(s) Notified: <input type="checkbox"/> No <input type="checkbox"/> Yes		26. Date of Referral to Intake Office
			27. Property loss or medical bills: <input type="checkbox"/> No <input type="checkbox"/> Yes Estimate \$ _____		

INTAKE INQUIRY RECOMMENDATION			28. Date Received		
29. Interview Date and Time:		30. Present at Interview:			
31. Custody Authorization: <input type="checkbox"/> Released <input type="checkbox"/> Detained Date: _____ Time: _____ <input type="checkbox"/> Nonsecure: _____ <input type="checkbox"/> Secure: _____		32. Prior Referrals to Intake: <input type="checkbox"/> No <input type="checkbox"/> Yes How Many? _____ If juvenile alleged "Delinquent" under §938.12, attach prior referrals/disposition report to D.A.'s copy.			
33. Intake Recommendation - Check all appropriate boxes.					
A. Case Closed <input type="checkbox"/> Dismissed - lacks jurisdiction <input type="checkbox"/> Counseled <input type="checkbox"/> Referred to Other County <input type="checkbox"/> Other: (Specify) _____		B. Deferred Prosecution/Informal Disposition Agreement Expires: _____ <input type="checkbox"/> Restitution: \$ _____ <input type="checkbox"/> Supervised Work Program: _____ hrs. <input type="checkbox"/> Informal Supervision <input type="checkbox"/> Other: (Specify) _____		C. Formal Petition Requested <input type="checkbox"/> Ordinance Violation - Civil <input type="checkbox"/> Traffic Offense <input type="checkbox"/> Delinquency <input type="checkbox"/> Waiver <input type="checkbox"/> In Need of Protection/Services under ch. 48 <input type="checkbox"/> In Need of Protection/Services under ch. 938	
34. Comments:					
35. Name of Intake Worker/Agency		36. Signature		37. Telephone	38. Date Recommended

FORM SUMMARY

Name of Form:	Court Referral – Child/Juvenile (Non-Law Enforcement Referral)
Form Number:	JD-1702
Statutory Reference:	§§48.24 and 938.24, Wisconsin Statutes
Benchbook Reference:	JV 2
Purpose of Form:	To refer a child/juvenile to intake, who may be in need of protection or services, and to record the decision of the intake worker.
Who Completes It:	Top portion completed by referring non-law enforcement agency or person and bottom portion completed by intake worker.
Distribution of Form:	Original to intake file, copies to district attorney/corporation council and referring agency or person.
Accompanying Forms:	Supporting documentation.
New Form/Modification:	Modification, last update 9/96.
Modifications:	Added a statement on the bottom indicating that the form shall not be modified.
Comments:	None
About this Form:	This form was developed by the Wisconsin Juvenile Court Intake Forms Committee. It has been approved by the Wisconsin Records Management Committee, a committee of the Director of State Courts Office and a mandate of the Wisconsin Judicial Conference.

If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.

Date: 05/31/00

FORM SUMMARY

Name of Form:	Court Referral – Child/Juvenile (Law Enforcement Referral)
Form Number:	JD-1701
Statutory Reference:	§§48.24 and 938.24, Wisconsin Statutes
Benchbook Reference:	JV 2
Purpose of Form:	To refer a child/juvenile to intake, who may be delinquent, in need of protection or services or in violation of a civil law or ordinance, and to record the decision of the intake worker.
Who Completes It:	Top portion completed by law enforcement and bottom portion completed by intake worker.
Distribution of Form:	Original to intake file, copies to district attorney/corporation council and referring agency.
Accompanying Forms:	Police report (including all accompanying statements), warrants/capias, restitution information, supporting documentation.
New Form/Modification:	Modification, last update 5/00.
Modifications:	Changed the race codes to match CCAP codes.
Comments:	None
About this Form:	This form was developed by the Wisconsin Juvenile Court Intake Forms Committee. It has been approved by the Wisconsin Records Management Committee, a committee of the Director of State Courts Office and a mandate of the Wisconsin Judicial Conference.

If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.

Date: 08/07/2007

2015 Juvenile Forfeiture Schedule

Curfew/ Loitering	\$175.30
Disorderly Conduct	\$173.50
False Identification	\$175.30
Loitering	\$175.30
Marijuana (possession/use/delivery)	\$175.30
Meddling	\$175.30
Retail Theft/Shoplifting	\$175.30 + Restitution
Shooting/Throwing Missiles	\$175.30
Truancy - Contributing to	\$263.50
Truancy - Habitual (12 thru 17 years of age)	\$515.50
Truancy - Simple	\$169.00
Underage Alcohol	(See Separate Explanation)
Underage Tobacco	\$143.80

Motor Vehicle Forfeiture Schedule:

Absolute Sobriety (16 thru 20 years of age)	\$389.50 + 4 points + 90 day license suspension
Operate w/o Valid Driver's License	\$200.50 + 3 points
Open Intoxicant in Motor Vehicle	\$263.50 (no points)
Seatbelt Violation	\$10.00

**CRAWFORD COUNTY PENALTY GUIDELINES
UNDERAGE POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES**

	AGES 12 AND 13	AGES 14, 15, AND 16	AGES 17, 18, 19, AND 20
FIRST OFFENSE	Forfeit \$50 and 40 hours C.S.W.	Forfeit \$200.50 and 60-day D.L. Suspension and 50 hours C.S.W.	Forfeit \$263.50 and 90-day D.L. Suspension
FIRST OFFENSE ALTERNATIVE	Juvenile: “Change It Up” and Parents: “Parent to Parent”	Juvenile: “Change It Up” and Parents: “Parent to Parent”	Forfeit \$200.50 and “Change It Up”
SECOND OFFENSE	Forfeit \$50 and 40 hours C.S.W.	Forfeit \$200.50 and 90-day D.L. Suspension and 50 hours C.S.W.	Forfeit \$263.50 and 90-day D.L. Suspension
SECOND OFFENSE WITHIN ONE YEAR	Forfeit \$100 and 40 hours C.S.W.	Forfeit \$263.50 and One-year D.L. Suspension and 50 hours C.S.W.	Forfeit \$389.50 and One-year D.L. Suspension
SECOND OFFENSE ALTERNATIVE	Juvenile: Alcohol Assessment + “REAL” and Parents: “Parent to Parent”	Juvenile: Alcohol Assessment + “REAL” and 30-day D.L. Suspension and 25 hours C.S.W.	Alcohol Assessment + “REAL” and 30-day D.L. Suspension
THIRD OFFENSE WITHIN ONE YEAR	Forfeit \$400 and 40 hours C.S.W.	Forfeit \$515.50 and Two-year D.L. Suspension and 50 hours C.S.W.	Forfeit \$515.50 and Two-year D.L. Suspension

Which Court for Citations?

Offense	Juvenile Court	Adult Court
Traffic, Boating, Snowmobile, ATV	Age 12 thru 15	Age 16 and over
Simple and Habitual Truancy	Age 12 thru 17	(None)
All other Forfeitures	Age 12 thru 16	Age 17 and over
Appearances	<u>Mandatory</u> for Juvenile and Parent on <u>ALL</u> citations	<u>Mandatory only</u> for OMVI-BAC and traffic crimes
Court Dates	Every Monday at 3:00 p.m.	1st + 3rd Mondays at 9:00 a.m.
Contact Person	Nancy Dowling Juvenile Court Clerk 326-0206	Sue Koresh Deputy Clerk of Court 326-0210

**DISPOSITIONAL ORDER – CIVIL
LAW/ORDINANCE VIOLATION PROCEDURE
AND FORM**

**JUVENILE COMMUNITY SERVICE
INFORMATION**

**DISPOSITIONAL ORDER – DELINQUENT
PROCEDURE AND FORMS**

CONDITIONS OF SUPERVISION

\

Dispositional Order – Civil Law/Ordinance Violation

1. The Juvenile is issued a citation.
2. Mandatory appearance for the Juvenile and a parent. Court expects citation to be written for 3:00 p.m. the following Monday or on the 2nd Monday if citation received on a Friday or over the weekend.
3. If found not guilty, the citation is dismissed.
4. If the Court finds the Juvenile guilty of the offense, a penalty is assessed. (Penalty may be a forfeiture, community service hours, driver license suspension, educational program, or other penalty or combination thereof as ordered by the Court.) (Exception would be for habitual truancy – Juvenile may be placed on supervision and/or assessed a significant forfeiture.)
5. The Order of the Court is signed, a copy sent to the Juvenile, the parent, the prosecuting attorney, (as well as the caseworker if the Juvenile is on supervision), and the school if school attendance is a condition of the order.
6. If all is complied with, there is no further action of the Court.
7. If conditions and/or payment of forfeiture per the Court Order have not been complied with, another court hearing with mandatory appearance by the Juvenile and parent(s) is scheduled.

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

**For Official
Use**

IN THE INTEREST OF

**Dispositional Order -
Civil Law/
Ordinance Violation**

Name

Case No. _____

Date of Birth

THE COURT FINDS:

- 1. A dispositional hearing was held on (Date) _____
- 2. The child has violated a civil law or ordinance: _____

- 3a. The child alone is financially able to pay restitution of \$ _____ and/or a forfeiture of \$ _____.
- 3b. The child is physically able to perform services for the victim and the victim agrees to accept such services.
- 3c. The custodial parent is financially able to pay reasonable restitution of \$ _____ and/or forfeiture of \$ _____.
- 4. The violation is related to the use or abuse of alcoholic beverages or controlled substances:

- 5. Other: _____

THE COURT ORDERS AS A DISPOSITION IN THIS MATTER THE FOLLOWING:

- 1. Counseling: _____
- 2. Restitution:
 - \$ _____, to be paid: _____ See restitution supplement.
 - Make repairs or provide services agreeable to the victim:

- 3. Forfeiture of \$ _____ to be paid: _____
- 4. Costs of (age 14 and over) \$ _____, to be paid: _____
 - Failure to pay forfeiture/costs shall result in a suspension of the following license for _____

Motor vehicle operating privilege

DNR, Ch. 29 license

5. Supervised work program: _____

6. Safety course or program: _____

7. DNR, Ch. 29 license suspension for: _____

8. Alcohol/drug abuse (AODA) dispositions:

AODA assessment and, if recommended, an outpatient AODA program.

Facility: _____

Date completed by: _____

AODA education program by: _____

9. Truancy disposition (in addition to any of the above):

Operating privilege suspension: _____ days _____

Community service: _____

Supervised work program: _____

Home detention: _____

10. Other: _____

• Person/agency responsible for services: _____

• Order effective date of hearing; expiration date: _____

THIS IS A FINAL ORDER FOR PURPOSES OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.

BY THE COURT:

 Circuit Court Judge Circuit Court Commissioner

Name Printed or Typed

Date

COMMUNITY SERVICE WORK BROCHURE

TO THE JUVENILE:

What is community service? You have been ordered to perform community service work. Community service is unpaid work for a unit of government, a nonprofit organization, or a needy person.

Why community service? You have been ordered to perform this work both as a consequence for your violation of the law and as an opportunity to make amends and give back to your community. In many cases, it is a more constructive alternative than a forfeiture of money, driver license suspension, or secure detention.

Show up...You **must** report for work unless you are personally excused or told to report some other place or time by a representative of the court.

When do you show? Every Saturday from now until your hours of work are satisfactorily completed.

Where do you show up and at what time?

- [] Lobby of Sheriff's Department
Prairie du Chien
Saturdays at 8:45 a.m.

Excuses...To be excused from any work or to leave early from work, you **must** get prior approval from the Clerk of Juvenile Court (Nancy or Joan) by calling 326-0206 Monday through Friday, 8:00 a.m. to 4:30 p.m. Do not leave a message; you must speak to the Clerk yourself.

Getting to work...It is **your** responsibility, along with that of your parent(s), to find transportation to and from the place to report for work.

Be prepared....You **must** be properly dressed for outside work and bring your lunch.

Be responsible, accountable & dependable...Be ready to work, be on time, and follow the instructions of the work supervisor. Only time spent working and the allowed breaks will be counted towards your hours.

Consequences...If you do not show up and have not been excused by the Court, you must then appear in Court at 3:00 p.m. on the Monday following your absence from community service work. A parent must come with you. The Court will hold a hearing to review your community service. You may then be required to come in for a review hearing every week. If you do not show up in Court, a *capias* (warrant) may be issued.

TO THE PARENT:

Please carefully read these directions from the Court and know what is required of you and your child.

Please see to it that your child has transportation to and from his/her community service work site.

Requests to be excused from work must be made by the juvenile, not the parent. You may wish to verify or follow up on his/her request.

If a review hearing of community service work is required, at least one parent must accompany the child to Court.

CRAWFORD COUNTY JUVENILE COURT

Community Service Assignment Rules

- 1) The Juvenile must find his own means of transportation to and from the service site unless other arrangements are made with the Supervisor.
- 2) The Juvenile shall be treated as a regular employee as to work expectations and compliance with OSHA safety guidelines, as well as receiving breaks & a lunchtime.
- 3) Juveniles will not receive any monetary reimbursement.
- 4) If a Juvenile does not comply with expectations or show up at the assigned site, they may be given a warning and a second chance or immediately referred back to the Court, depending upon the infraction. (If the Juvenile is working off a forfeiture, he/she may lose that opportunity if referred back to the Court.)
- 5) The intent of the Community Service Program and the opportunity offered to you is a way for you to earn respect by offering something you have to give. No one can give this to you, but you can gain this through your work ethic and positive humanitarian efforts. This program is a means to act constructively and a challenge to become accountable.
- 6) If you have any problems or questions, please feel free to contact the Juvenile Court Clerk at 326-0206.
- 7) Additional site rules according to worksite.

Juvenile Signature

Worksite Signature

CS Supervisor Signature

Date: _____

Dispositional Order – Delinquent

1. A law enforcement (or non-law enforcement) referral is completed and filed with the Juvenile Court; then sent to DHS for intake; DHS may dismiss, handle informally, or refer to the D.A. for charges. If referred to the D.A., the D.A. files a petition with the Court, which states the charges and the facts of the allegation(s). *In addition, the D.A. may also initiate a petition for a CHIPS (child in need of protective services) or a JIPS (juvenile in need of protective services), but the following explanation addresses delinquency petitions.*

2. Upon the filing of the petition, a plea hearing is scheduled (usually within 10 – 14 days, but no more than 30 days); mandatory appearance of the juvenile and parent(s) is required. (If the juvenile is being charged with a felony, a notice of such is sent to each school/school board in care of the principal or administrator.) Pending a request of the juvenile, the age of the juvenile, or if the juvenile has been placed out of the home, defense counsel and/or a guardian ad litem may be appointed.

3. If the Juvenile pleads not guilty, a court trial is scheduled. If the Juvenile pleads guilty, a social study may be ordered before the dispositional hearing is held.

4. After a finding of delinquency and after the Dispo Hearing, the **Dispositional Order-Delinquent** is completed stating the Court's findings and orders. The section stating the court orders will address placement, expiration date of the order, any assessments ordered, as well as programs, supervision, and other services offered or coordinated with DJS that the Juvenile and/or parent(s) are required to comply with . A list of conditions for the Juvenile and/or the parent(s) may also be attached to this Order.

5. As a rule, dispositional orders are reviewed about every six months in court with the family and caseworker, and foster parents and attorneys (when applicable). If no request is made for extension, the order will expire on the expiration date. If there is an order for extension, all parties (including the school), are sent a copy of that order. If the order is allowed to expire before the expiration date, an order terminating the dispositional order is sent to all parties (including the school).

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

For Official Use

IN THE INTEREST OF

**Dispositional Order -
Delinquent**

Name

Case No. _____

Date of Birth

A petition was filed with the court.

This dispositional hearing was held on (Date) _____, which is the effective date of this order.

THE COURT FINDS:

1. The juvenile is delinquent because:

Ct	Description	Wisconsin Statutes	Plea	Date of Offense

2. The juvenile committed an act that

- a. would be punishable by a sentence of 6 months or more if committed by an adult, the juvenile is a danger to the public and in need of restrictive custodial treatment, and placement in the serious juvenile offender program is not appropriate.
- b. would be a misdemeanor if committed by an adult and the juvenile has not successfully completed a Teen Court program in the 2 years before the date of the violation.
- c. would be subject to a penalty enhancement, if committed by an adult.
- d. made the juvenile eligible for placement in the serious juvenile offender program.

3. The juvenile is placed out of the home.

a. Placement in the home at this time is is not contrary to the welfare of the juvenile and the community.

b. Reasonable efforts to prevent removal were (Complete one of the following.)

made by the department or agency responsible for providing services.

made by the department or agency responsible for providing services, although an emergency situation resulted in immediate removal of the juvenile from the home.

required, but the department or agency responsible for providing services failed to make reasonable efforts.

c. Reasonable efforts to place the juvenile in a placement that enables the sibling group to remain together were

made.

not required because the juvenile does not have siblings in out-of-home care.

not required because it would be contrary to the safety or well being of the juvenile or any of the siblings.

d. Permanency plan

was not filed.

was filed and reasonable efforts to achieve the goal(s) of the permanency plan, including through an out-of-state placement if appropriate, were: *(Complete one of the following only if a permanency plan was filed.)*

made by the department or agency responsible for providing services.

not made by the department or agency responsible for providing services.

e. The parent(s) who appeared in court have been orally advised of the applicable grounds for termination of parental rights (TPR) and the conditions that are necessary for a safe return to the home or a restoration of visitation rights. Written TPR Warnings are attached.

f. The mother father was present and was asked to provide the names and other identifying information of three adult relatives of the juvenile or other adult individuals whose home the parent requests the court to consider as placements for the juvenile, unless that information was previously provided.

4. As to the department or agency recommendation:

a. The placement location recommended by the department or agency is adopted.

OR

b. After giving bona fide consideration to the recommendations of the department or agency and all parties, the placement location recommended is not adopted.

5. The rehabilitation and treatment/care of the juvenile cannot be accomplished by means of voluntary consent of the parent(s)/guardian, and a transfer of legal custody is necessary.

6. Restitution:

a. The juvenile alone is financially able to pay restitution of \$ _____ and/or a forfeiture of \$ _____

b. The juvenile is physically able to perform services for the victim (under age 14, 40 hour limit) and the victim agrees to accept such services.

c. The custodial parent is financially able to pay reasonable restitution of \$ _____ and/or a forfeiture of \$ _____.

7. Other: _____

THE COURT ORDERS:

1. The juvenile is placed under court jurisdiction.

2. Placement:

- In-home at _____
Expiration date of this order (Not to exceed 1 year) _____.
- Out-of-home at _____
and into the placement and care responsibility of the
 - _____ county department, which has primary responsibility for providing services.
 - Department of Children and Families, which has primary responsibility for providing services.
 - Bureau of Milwaukee Child Welfare, which has primary responsibility for providing services.

Expiration date of this order shall be the later of:

- One year from the date of this order, or
- The date the juvenile reaches his or her 18th birthday, or
- The date the juvenile reaches his or her 19th birthday if the juvenile is enrolled full-time in a secondary school or vocational or technical equivalent and reasonably expected to complete the program prior to age 19.

OR

Expiration date of this order _____.

- Juvenile Corrections. Expiration date of this order (Not to exceed 2 years) _____.
- Serious juvenile offender program. Expiration date of this order (Not to exceed 5 years) _____.
- Type 2 residential care center for children and youth. Expiration date of this order (Not to exceed 2 years) _____.

- 3. The juvenile has siblings in out-of-home care and the juvenile is not placed with those siblings.
 - The department or agency shall make reasonable efforts to provide frequent visitation or other ongoing interaction between the juvenile and any siblings.
 - The department or agency is not required to provide for frequent visitation or other ongoing interaction because it would be contrary to the safety or well being of the juvenile or any siblings.

- 4. This is an out-of-home placement and the department or agency shall conduct a diligent search in order to locate and provide notice as required by §938.355(2)(cm) to all adult relatives of the juvenile, including the three adult relatives provided by the parents under §938.335(6), no later than 30 days from the date of the juvenile's removal from the home, unless the search was previously conducted and notice provided.

5. This is an out-of-home placement and the permanency plan shall be filed by (Date) _____.
(No later than 60 days from the date of the juvenile's removal from the home.)

6. Total restitution is \$ _____, and
 \$ _____ (under age 14, \$250 limit), to be paid: **See restitution supplement**

Make repairs or provide services agreeable to the victim (under age 14, 40 hour limit):

The juvenile is in an out-of-home placement and receiving income; the juvenile shall pay _____% of that income for restitution.

7. Forfeiture of \$ _____, to be paid: _____

8. Supervised work program/community service: _____ hours _____

9. Mandatory victim/witness fee of \$20 per case, to be paid immediately. _____

10. Legal custody transferred to
 County Department of Human/Social Services.
 Wisconsin Department of Children and Families.
 Bureau of Milwaukee Child Welfare.
 Other: _____

11. Conditions of supervision and/or return: **See attached**

12. If the juvenile is placed outside of the home, the parent(s) shall provide a statement of income, assets, debts, and living expenses of the household, to the county department or agency.

a. The parent(s)/guardian shall contribute toward the expenses of custody/services in the amount of:
 \$ _____.
 to be determined by (Agency): _____

b. The amount of support to be paid by the parent(s), guardian or trustee for the out-of-home placement is:
 \$ _____ or _____% of gross income payable by wage assessment.
 to be set by the child support agency.

The support obligation begins on the date of placement.

13. Driver's license: suspension: revocation: restriction:

14. Specific services to be provided to juvenile and family: See attached

15. DNA testing.

16. Sex offender registration. _____

17. Other: _____

The juvenile was advised of possible sanctions for violations of the conditions of this order.

THIS IS A FINAL ORDER FOR PURPOSES OF APPEAL.

DISTRIBUTION:

- 1. Original to Court
- 2. Juvenile
- 3. Juvenile's Parent(s)/ Guardian/Legal Custodian/Trustee
- 4. Juvenile's Attorney
- 5. District Attorney
- 6. School
- 7. Social Worker
- 8. Other: _____

BY THE COURT:

Circuit Court Judge

Name Printed or Typed

Date

CONDITIONS OF SUPERVISION

For Delinquents and Juveniles in Need of Protection or Services

The following rules of conduct are designed and ordered by the Court for your physical, mental, and moral well-being and behavior:

- 1) **OBEY THE LAW.** You shall avoid all conduct which violates State or municipal laws. You are to follow the rules of your home(s) and caseworker restrictions on appearance, dress, firearms, motor vehicles, computers, TV and video games.
- 2) **REPORT AS DIRECTED.** You shall meet with your caseworker as directed for scheduled and unscheduled appointments. Report all contacts with law enforcement officers within 72 hours.
- 3) **TELL THE TRUTH.** You shall provide true and correct information verbally and in writing in response to questions by your caseworker.
- 4) **OBTAIN YOUR EDUCATION.** You shall participate and cooperate in the education program provided by the school district. You shall attend each and every class or session unless you have a written medical excuse. You shall make satisfactory grades or progress in accordance with your ability. You shall be respectful of, and accept discipline from school authorities.
- 5) **BE INVOLVED IN THE COMMUNITY.** You shall actively participate on a regular basis in at least two approved school or community group activities. Examples include Scouting, 4H, church groups and after school activities such as sports or clubs.
- 6) **GET COUNSELING.** You shall attend, participate and cooperate in individual and/or family counseling, support groups or mediation, as directed by your caseworker. This includes evaluation, treatment and education in the areas of mental health, alcohol and drug abuse, corrective thinking, victim offender mediation and Attention Deficit Disorder.
- 7) **PERFORM VOLUNTEER WORK.** You shall perform community service work as assigned by the judge or by your caseworker. All work shall be performed in a satisfactory manner at such times and places as directed by the work supervisor.
- 8) **BE ALCOHOL AND DRUG FREE.** You shall not possess or consume alcohol beverages or controlled substances. In addition, you may not even be present where there is underage drinking or where drugs are being consumed. You shall submit to alcohol and drug testing when requested by your caseworker.
- 9) **KEEP YOUR CURFEW.** You shall remain in your residence during the curfew set for you by your caseworker. Your caseworker may allow exceptions to your regular curfew. Your caseworker may place you on electronic monitoring at any time.
- 10) **STAY AWAY FROM BAD COMPANY.** You shall not associate with any person who has been convicted of a crime or adjudicated delinquent. Your caseworker may allow exceptions to this rule. In addition, your caseworker may designate other persons with whom you are to have no contact.

**ORDER APPLICABLE TO PARENTS
of Delinquents and Juveniles in Need of Protection or Services**

The Court orders the juvenile's parent, guardian, or legal custodian to comply with the following conditions determined by the Court to be necessary for the juvenile's welfare:

- 1) You shall meet with the caseworker as requested for scheduled and unscheduled appointments. You shall report the juvenile's contacts with law enforcement officers within 72 hours of becoming aware of them. Runaways shall be immediately reported to the caseworker.
- 2) You shall sign a release of information form and provide information as requested by the caseworker.
- 3) During the first two weeks of supervision, you shall consult with the caseworker and establish written rules of the home for the juvenile.
- 4) You shall participate and cooperate in the education program provided by the school district. You shall cause the juvenile to attend every class or session unless he/she has a written medical excuse. You shall attend all parent-teacher conferences. You shall provide any special help for the juvenile, such as tutoring or the After Hours Program, as requested by the caseworker.
- 5) You shall attend, participate and cooperate in individual and/or family counseling, support groups, or mediation, as requested by the caseworker. This includes, but is not limited to, evaluation, treatment, and education in the areas of mental health, alcohol and drug abuse, corrective thinking, victim offender mediation, and Attention Deficit Disorder.
- 6) You shall attend, participate, and complete parenting activities and/or education as recommended by the caseworker.
- 7) You shall provide or arrange for any transportation, which is necessary in order for your child to comply with the conditions of supervision.
- 8) You are responsible to contribute to the cost of services to the juvenile in an amount set by the Court, payable to the Juvenile Court Clerk, due on the first day of each month that the juvenile is on supervision. You may receive a separate billing for public defender fees, guardian ad litem fees, victim/witness fees, and secure/nonsecure detention costs.
- 9) You are also responsible to pay any restitution or forfeiture ordered by the Court if you are a parent with custody rights. This shall be in accordance with your ability to pay; you may request a hearing on this matter.
- 10) You shall not change your child's residence from Crawford County without Court approval.

ANY PERSON WHO FAILS TO COMPLY WITH THIS ORDER MAY BE PROCEEDED AGAINST FOR CONTEMPT OF COURT. Sec. 938.45 Wis. Stats.

