

## Clearinghouse Rule 17-054

### ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION ADOPTING PERMANENT RULES

The scope statement for this rule, SS 126-15, was published in Register No. 719A2, on November 9, 2015, and approved by State Superintendent Tony Evers, on November 24, 2015. Pursuant to *Coyne v. Walker*, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope for this rule. *Coyne v. Walker*, 368 Wis.2d 444.

The State Superintendent of Public Instruction hereby creates ch. PI 33, relating to whole grade sharing.

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#### ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

**Statute interpreted:** s. 118.50, Stats.

**Statutory authority:** s. 118.50 (8), Stats.

**Explanation of agency authority:**

Under s. 118.50 (8), Stats., the Department is allowed to promulgate rules to implement and administer s. 118.50, Stats., the statute related to whole grade sharing.

**Related statute or rule:** N/A

**Plain language analysis:**

2015 Wisconsin Act 55 provided that the school boards of two or more school districts may enter into a whole grade sharing agreement that provides for all or a substantial portion of the pupils enrolled in one or more grades, including 4-year-old and 5-year-old kindergarten and prekindergarten classes, in any of the school districts to attend school in one or more of the other school districts for all or a substantial portion of a school day. This rule proposes to create a new rule chapter to implement and administer procedures for two or more school districts entering into a whole grade sharing agreement. The rule proposes to ensure consistency in the implementation of whole grade by establishing procedures on pupil record sharing, pupil assessments, the payment of state aid, habitual truancy and expulsion, and approvals to conduct feasibility studies.

**Summary of, and comparison with, existing or proposed federal regulations:** N/A

**Comparison with rules in adjacent states:** N/A

**Summary of factual data and analytical methodologies:**

This proposed rule change is needed to implement whole grade sharing provided under s. 118.50, Stats., created as a result of the 2015-17 budget, 2015 Wisconsin Act 55.

**Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:** N/A

**Anticipated costs incurred by private sector:** N/A

**Effect on small business:**

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

**Agency contact person:** (including email and telephone)

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Place where comments are to be submitted and deadline for submission:

Comments should be submitted by July 20, 2017, to Carl Bryan at the Department of Public Instruction, 125 S. Webster Street, P.O. Box 7841, Madison, WI 53707-7841 or at [adminrules@dpi.wi.gov](mailto:adminrules@dpi.wi.gov). The Department will publish a hearing notice in the *Administrative Register* that will provide information on the deadline for the submission of comments.

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## **SECTION 1. Ch. PI 33 is created to read:**

### CHAPTER PI 33 WHOLE GRADE SHARING

**PI 33.01 Purpose.** This chapter establishes procedures and requirements for 2 or more school districts to enter into a whole grade sharing agreement under s. 118.50, Stats.

**PI 33.02 Definitions.** In this chapter:

- (1) "Department" means the Wisconsin department of public instruction.
- (2) "District of attendance" means a school district, other than a pupil's district of residence, that the pupil is attending under a whole grade sharing agreement.
- (3) "District of residence" means the school district in which a pupil resides.
- (4) "Participating pupil" means a pupil attending a district of attendance under a whole grade sharing agreement.
- (5) "Pupil records" has the meaning given in s. 118.125 (1) (d), Stats.
- (6) "School board" has the meaning given in s. 115.001 (7), Stats.
- (7) "School district" has the meaning given in s. 115.01 (3), Stats.
- (8) "School year" has the meaning given in s. 115.001 (13), Stats.
- (9) "Whole grade sharing agreement" means an agreement under s. 118.50, Stats., entered into between 2 or more school districts.

**PI 33.03 Substantial enrollment.** In order to meet the requirement to enroll a substantial portion of the pupils in one or more grades for a substantial portion of a school day under s. 118.50 (1) (intro.), Stats., a whole grade sharing agreement shall provide for at least 20 percent of the pupils enrolled in each affected grade of a district of residence to attend a district of attendance for at least 20 percent of a school day.

**PI 33.04 Pupil records.**

- (1) **RECORD SHARING.** A whole grade sharing agreement shall specify the pupil records that will be shared between the district of attendance and district of residence. In the absence of parental consent, the district of residence may only share those pupil records in which the district of attendance has a legitimate educational interest, including safety interests.
- (2) **TERMINATION.** If a whole grade sharing agreement provides that the district of attendance maintains some or all pupil records for participating pupils, the district of attendance shall return a copy of the pupil records held by the district of attendance to the district of residence within 5 days of the occurrence of any of the following:
  - (a) Termination of the whole grade sharing agreement.
  - (b) Termination of the participating pupil's enrollment in the district of attendance.
  - (c) Graduation of the participating pupil.

**PI 33.05 Pupil assessments.**

- (1) **ASSESSMENT RESULTS.** The department shall report the results of any assessment required for participating pupils under ss. 118.016 and 118.30, Stats., and 20 USC 6311 (b) (3), to the district of residence.

(2) DISTRICT ACCOUNTABILITY REPORT. The department shall include participating pupils in the district of residence's accountability report required under s. 115.385, Stats.

**PI 33.06 State aid.**

(1) INITIAL TERM. The department may not pay a school district participating in a whole grade sharing agreement additional aid under s. 121.105 (4), Stats., beyond the 7th year after the whole grade sharing agreement first takes effect.

(2) TERMINATION. If a whole grade sharing agreement terminates less than 7 years after it first takes effect, the department may not pay the school districts participating in the whole grade sharing agreement additional aid under s. 121.105 (4), Stats., in the school year following the termination or any school year thereafter.

(3) ADDITIONAL AID. Notwithstanding subs. (1) and (2), a school district may receive additional aid under s. 121.105 (4), Stats., if the school district enters into a new whole grade sharing agreement that does not involve any grade covered by a previous whole grade sharing agreement entered into by the school district, including any previously terminated whole grade sharing agreement.

**PI 33.07 Habitual truancy and expulsion.**

(1) EXPULSION. If a district of attendance issues an order under s. 120.13 (1), Stats., to expel a participating pupil, it shall immediately notify the district of residence.

(2) HABITUAL TRUANCY. The district of attendance shall notify the district of residence if a participating pupil is a habitual truant.

**PI 33.08 Approval of organizations conducting feasibility studies.** An organization may seek the approval of the department to conduct a feasibility study under s. 118.50 (2) (c), Stats., by submitting an application to the department on a form provided by the department. The department shall base its approval on one or more of the following criteria:

(1) Whether the organization has knowledge and experience conducting feasibility studies.

(2) Whether the organization has knowledge and experience with school district finances.

(3) Whether the organization has knowledge and experience conducting reorganization studies.

(4) Other factors that the department determines are relevant.

**SECTION 2. EFFECTIVE DATE:**

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.