

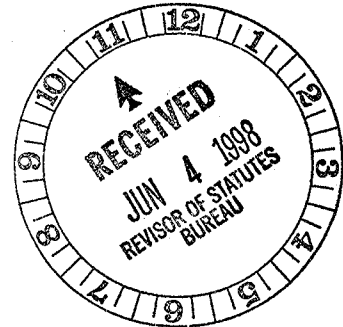
Clearinghouse Rule 98-010

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF PUBLIC INSTRUCTION)

I, State Superintendent of the Department of Public Instruction and custodian of the official records of said Department, do hereby certify that the annexed rule relating to full-time and part-time open enrollment was duly approved and adopted by this Department on the first day of the month following publication in the Wisconsin Administrative Register.

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



IN TESTIMONY WHEREOF, I hereunto set my hand and affixed the official seal of the Department at General Executive Facility (GEF) 3, 125 South Webster Street, P. O. Box 7841, in the city of Madison, this 4th day of June, 1998.

John T. Benson

John T. Benson
State Superintendent
State Department of Public Instruction

**ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
CREATING RULES**

The state superintendent of public instruction hereby creates chapter PI 36, relating to full-time and part-time open enrollment.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: s. 227.11(2)(a) and (b), Stats.

Statutes interpreted: ss. 118.51, 118.52, and 121.05(1)(a), Stats.

Sections 118.51 and 118.52 Stats., create a full-time and part-time inter-district open enrollment program. Under the full-time open enrollment program, pupils may attend school in any school district in the state, if space is available and subject to certain other limitations. Under the part-time open enrollment program, high school pupils may take up to 2 courses in nonresident school districts, if space is available and subject to certain other limitations.

This chapter clarifies that "kindergarten" refers to both 4-year-old and 5-year-old kindergarten and defines "sibling" to include step-siblings who reside in the same household.

The chapter specifies parent and pupil responsibilities under the full-time open enrollment program, including the following:

- **Application and Notification Procedures**
 - Specifies that the application form must be actually received in the school district office no earlier than the first day of the application period and no later than 4:00 p.m. on the last day of the application period. A postmark does not constitute timely submission.
 - Provides that deliberately providing false or misleading information on the application form may result in the application being denied or the pupil being required to return to his or her resident school district.
 - Requires both parents to sign the application, if they are divorced or separated and have joint custody.
 - Provides that the parent's signature on the form grants permission for the nonresident school district to request information related to special education from the resident school district.
 - Provides that a pupil enrolled in a private or home-based education program may, during the February application period, apply for full-time open enrollment for the following school year, but that the pupil must enroll in the resident school district prior to attending the nonresident school district.
 - Specifies that if a parent does not notify a nonresident school district by the first Monday in June of the pupil's intent to attend the nonresident school district in the following school year, the nonresident school district shall determine that the pupil does not intend to enroll. Specifies that the parent's notice must be actually received in the school district office no later than 4:00 p.m. on the first Monday in June.
- **Transportation:**
 - Establishes a deadline of April 1 for low-income parents to apply for transportation reimbursement and be guaranteed transportation reimbursement, if eligible. Provides that if a parent submits an application after April 1, the parent may receive transportation reimbursement only if funds remain after payment of claims to parents who submitted applications before April 1.
 - Specifies that the approval of eligibility and the estimate of transportation reimbursement provided to the parent by the department in May is preliminary and that the parent will have to submit verification of continued eligibility and actual costs in filing the claims for reimbursement in the following school year.
 - Provides that if the mode of transportation is a family vehicle, the reimbursement for mileage will be equal to the state turn-down rate (currently 19 cents/mile). Provide that if the mode of transportation is other than a family

vehicle, the reimbursement will be equal to the actual cost of the transportation. As required by statute, provide that the maximum reimbursement will be equal to 3 times the state average per pupil transportation cost.

- Change of Address, Return to Resident school district:
 - Provides that a parent who changes her/his mind about the pupil attending a nonresident school district the following year must notify both school districts in writing. Also provides that if a pupil begins attending a nonresident school district and wants to return to the resident school district, the parent must notify both school districts in writing. Provides that this notification is final.
 - Requires a parent to notify both school districts if the pupil moves to a different resident school district.

The chapter specifies nonresident school board responsibilities under the full-time open enrollment program, including the following:

- Requires the nonresident school board to return to the parent any application received before the first day of the application period or after 4:00 p.m. on the last day of the application period. Require the school board to notify the parent of the reason for returning the application and, if the application was submitted early, to notify the parents of the dates of the application period.
- Requires the school board to determine the method of random selection.
- Provides that, if in the random selection process one child from a family is selected, that any other children in that family who applied at the same time would then receive sibling preference.
- Requires the nonresident school board to notify the resident school board by March 15 of the estimated tuition cost for a special education program, including the transportation cost if transportation is required by the IEP.
- Provides that the notices required by the nonresident school board will be considered timely if they are postmarked on or before the required notification date. Provide that if a nonresident school board does not make timely notification of approval or disapproval, the application shall be considered approved.
- If the nonresident school board rejects an application, requires the board to include information about appealing the denial to the department with the notice of rejection.
- Permits a nonresident school district, once an application is approved, to require the parent to sign a release for the request of the pupil's records from the resident school board.
- Require the nonresident school board to send a copy of each finalized application (at the time of notice of denial, if denied; or after the parent notifies of intent to attend or not attend in June, if approved) to the department.
- Requires the nonresident school board to maintain all completed applications for a period of 3 years.
- Requires the nonresident school board to provide such information as the department determines is needed to comply with statutory reporting requirements and such information as the legislative audit bureau determines is needed to carry out the statutorily-required evaluation.

The chapter specifies resident school board responsibilities under the full-time open enrollment program, including the following:

- Provides that, if the resident school board has adopted a policy to limit enrollment to the percent allowed by statute, that the enrollment used will be the prior third Friday in September enrollment (head count).
- Requires the school board to determine the method of random selection.
- Provides that, if in the random selection process one child from a family is selected, that any other children in that family who applied at the same time would then receive sibling preference.
- Provides that the notices required by the resident school board will be considered timely if they are postmarked on or before the required notification date. Provides that if a resident school board does not make timely notification of approval or disapproval, the application shall be considered approved.
- Requires the resident school board to establish procedures for enrolling students who were enrolled in private or home-based education at the time they applied for open enrollment.

- Requires the nonresident school board to provide such information as the department determines is needed to comply with statutory reporting requirements and such information as the legislative audit bureau determines is needed to carry out the statutorily-required evaluation.

The chapter specifies parent and pupil responsibilities under the part-time open enrollment program, including the following:

- Application and Notification Procedures:
 - Specifies that the application must be actually received in the school district no later than 4:00 p.m. on the last day of the application period. A postmark does not constitute timely submission.
 - Provides that deliberately providing false or misleading information on the application form may result in the application being denied or the pupil being required to return to his or her resident school district.
 - Provides that the parent's signature grants permission for the nonresident school board to request from the resident school board any pupil records that are necessary to determine whether the pupil meets the entrance criteria for the course.
 - Clarifies that a pupil who is enrolled in a private school or a home-based private education program is not eligible to take a course or courses in a nonresident school district under the part-time open enrollment program.
- Transportation:
 - Provides that if the mode of transportation is a family vehicle, the reimbursement for mileage will be equal to the state turnaround rate (currently 19 cents/mile). Provide that if the mode of transportation is other than a family vehicle, the reimbursement will be equal to the actual cost of the transportation.

The chapter specifies nonresident school board responsibilities under the part-time open enrollment program, including the following:

- Requires the nonresident school board to establish a starting date for each course and to provide this information to parents and pupils upon request.
- Requires the nonresident school board to send a copy of the pupil's application to the resident school board within 3 days of receiving the application.
- Provides that the nonresident school board may request from the resident school board any pupil records that are necessary to determine whether the pupil meets the entrance criteria for the course.
- Requires the nonresident school board to give preference in attendance at a course to residents of the school district who are enrolled in private schools or home-based education programs who have applied to take a course or courses under s. 118.145 (4), Stats., provided that the applicant applied for the course no later than one week before the scheduled start of the course or a date established by the nonresident school board that is not earlier than 6 weeks before the start of the course nor later than one week before the start of the course.
- Requires the school board to determine the method of random selection.
- Requires the nonresident school board to make an effort to ensure that the parent receives the notice required under s. 118.52 (3) (c), Stats., no later than one week prior to the start of the course. Specifies that the notice shall be considered timely if it is postmarked at least 3 days before the date on which the notice is required to be received by the parent.
- If the nonresident school board rejects an application, requires the board to include information about appealing the denial to the department with the notice of rejection.

The chapter specifies nonresident school board responsibilities under the part-time open enrollment program, including the following:

- Requires the resident school board to make an effort to ensure that the parent receives the notice required under s. 118.52 (3) (c), Stats., no later than one week prior to the start of the course. Specifies that the notice shall be considered timely if it is postmarked at least 3 days before the date on which the notice is required to be received by the parent.
- If the resident school board rejects an application, requires the board to include information about appealing the denial to the department with the notice of rejection.

The chapter provides that the tuition for part-time open enrollment shall be determined by multiplying the length of the class period in minutes by the number of the days the pupil was enrolled; then dividing this amount by 48,600, and multiplying this amount by the per pupil transfer amount determined for full-time open enrollment.

APPEALS

- Requires appeals to be in writing and to include a notice of the denial and to specify what decision is being appealed, the reasons for the appeal, including why the appellant believes that the school board's decision was arbitrary or unreasonable
- Provides that the appellant bears the burden of proving that the school board's decision was arbitrary or unreasonable.
- Permits the state superintendent to use any of the following which he or she determines to be appropriate:
 - Provide technical assistance and information and attempt to resolve the matter informally.
 - Conduct an investigation.
 - Issue a decision based on a review of the record, argument from the parties and any other matter the state superintendent deems appropriate.

SECTION 1. Chapter PI 36 is created to read:

CHAPTER PI 36
SUBCHAPTER I
GENERAL PROVISIONS

PI 36.01 AUTHORITY AND INTENT. (1) This chapter is adopted under s. 227.11 (2) (a) and (b), Stats., and interprets ss. 118.51, 118.52, and 121.05(1)(a), Stats.

(2) (a) Under s. 118.51, Stats., beginning in the 1998-99 school year, a pupil in grades kindergarten to twelve may attend a public school in a nonresident school district under the full-time open enrollment program. A pupil may attend a prekindergarten, early childhood or school-operated day care program in a nonresident school district only if the pupil's resident school district offers the same type of program that the pupil wishes to attend and the pupil is eligible to attend that program in his or her resident school district.

(b) Under s. 118.52, Stats., beginning in the 1998-99 school year, a pupil enrolled in a public school in the high school grades may attend public school in a nonresident school district under the part-time open enrollment program for the purpose of taking a course offered by the nonresident school district. A pupil may attend no more than 2 courses at any time in nonresident school districts under the part-time open enrollment program.

(3) This chapter establishes procedures and requirements relating to applying for the full-time and part-time open enrollment programs, timely notification to school boards, parents and the department as required in the statutes, accepting and rejecting applications, and filing and deciding appeals.

PI 36.02 DEFINITIONS. In this chapter:

- (1) "Child with exceptional educational needs" has the meaning given in s. 115.76 (3), Stats.
- (2) "Department" means the Wisconsin department of public instruction.
- (3) "Full-time open enrollment program" means the program under s. 118.51, Stats. and subch. II.

- (4) "Kindergarten" includes both 4-year-old and 5-year-old kindergarten, as described under s. 115.01 (2), Stats.
- (5) "Nonresident school board" has the meaning given in s. 118.51 (1) (b), Stats., when referring to the full-time open enrollment program, or the meaning given in s. 118.52(1)(a), Stats., when referring to the part-time open enrollment program.
- (6) "Nonresident school district" has the meaning given in s. 118.51 (1) (c), Stats.
- (7) "Parent" includes a guardian. A pupil age 18 years of age or older acting on the pupil's own behalf, may take any action authorized to or required of a parent.
- (8) "Part-time open enrollment program" means the program under s. 118.52, Stats., and subch. III.
- (9) "Resident school board" has the meaning given in s. 118.51 (1) (e), Stats.
- (10) "Resident school district" has the meaning given in s. 118.51(1) (f), Stats.
- (11) "School year" has the meaning given in s. 115.001 (13), Stats.
- (12) "Sibling" includes step-siblings who reside in the same household.

SUBCHAPTER II

FULL-TIME OPEN ENROLLMENT

PI 36.03 PARENT AND PUPIL RESPONSIBILITIES. (1) APPLICATION AND NOTIFICATION

PROCEDURES.

- (a) The parent of a pupil who wishes to attend a public school in a nonresident school district under the full-time open enrollment program shall apply on the form developed by the department. The application shall be submitted to the nonresident school board and shall be received in the nonresident school district office no earlier than the first Monday in February and no later than 4:00 p.m. on the third Friday in February. A postmark does not constitute timely submission.
- (b) A separate application form shall be submitted for each pupil applying. A separate application form shall be submitted to the board of each nonresident school district to which the pupil is applying.
- (c) The parent shall answer all applicable questions on the application form accurately to the best of her or his ability. Deliberately providing false or misleading information may result in the application being denied or the pupil being required to return to the resident school district, if the false or misleading information is discovered after the pupil is admitted to the nonresident school district.
- (d) The parent shall sign the application. If the pupil's parents are separated or divorced and if the parents have joint custody of the pupil, the application shall be signed either by both parents or by the parent who has been given sole power to make major decisions under s. 767.24(6)(am), Stats.
- (e) 1. The signature of a parent on the application form grants permission until May 15 of the year in which the application is completed for the nonresident school board to request the following information from the resident school board:
 - a. Information about whether the pupil has been screened for exceptional educational needs.
 - b. Information about whether the pupil has been referred for a multi-disciplinary evaluation.

c. Whether the pupil has been found to have an exceptional educational need and, if so, a copy of the pupil's individualized education program.

2. The signature of a parent on the application provides acknowledgment that the parent has been notified that under s. 118.51 (8), Stats., the resident school board shall provide to the nonresident school board to which a pupil has applied under this section, upon request by that school board, a copy of any expulsion findings and orders pertaining to the pupil, a copy of records of any pending disciplinary proceeding involving the pupil, a written explanation of the reasons for the expulsion or pending disciplinary proceeding and the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceeding.

(f) The parent of a pupil who is enrolled in a private school or a home-based private education program may apply for the pupil to attend a nonresident school district under the full-time open enrollment program in the following school year. If the application is accepted by the nonresident school board and is not denied by the resident school board and if the parent notifies the nonresident school board that the pupil will attend the nonresident school district in the following school year, the parent shall ensure that, prior to attending school in the nonresident school district, the pupil enrolls in the resident school district according to procedures established by the resident school board under s. PI 36.05(10).

(g) The parent of a pupil who has moved or who plans to move from the resident school district during a school year may apply for the pupil to return to the resident school district as a nonresident pupil in the following school year.

(h) If the application is accepted by the nonresident school board and is not denied by the resident school board, the parent shall notify the nonresident school board no later than the first Monday in June of the pupil's intent to attend school in that district in the following school year. If the nonresident school board does not receive the notification under this paragraph by 4:00 p.m. on the first Monday in June, the nonresident school board shall determine that the pupil does not intend to attend school in that district the following school year. A postmark does not constitute timely submission.

(i) If the application is denied by either the resident or the nonresident school board, the parent may appeal to the department within 30 days of receipt of the notice of denial as provided under subch. IV.

NOTE: PI 9410, Full-Time Public School Open Enrollment Application Form, may be obtained at no charge from any school district or by writing to the Wisconsin Department of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707-7841.

(2) **TRANSPORTATION.** (a) Except as specified in s. 118.51 (14) (a) 2., Stats., the parent is responsible for transporting the pupil to and from school in the nonresident school district.

(b) The parent of a pupil who is eligible for a free or reduced-price meal under 42 USC 1758 (b) may apply for reimbursement of costs incurred by the parent for transportation of the pupil to and from the pupil's residence or a designated stop in the nonresident school district and the school the pupil will be attending. The parent shall apply on the form developed by the department in order to apply for transportation assistance and receive an estimate of transportation reimbursement under s. 118.51 (14) (b), Stats. The parent shall submit the form to the nonresident school board with the

application for the full-time open enrollment program under sub. (1) or to the department postmarked no later than April 1. If a parent submits an application for transportation reimbursement after April 1, the parent may receive transportation reimbursement only if funds remain after payment of transportation claims to parents who submitted applications on or before April 1.

(c) The estimate of transportation reimbursement under s. 118.51 (14) (b), Stats., shall be based on the information submitted on the application and shall be a preliminary determination of whether the parent or guardian is eligible for transportation reimbursement and an estimate of the amount of transportation reimbursement the parent may receive. If the application is approved and if the pupil attends school in a nonresident school district, the parent shall submit a claim for reimbursement during the school year of attendance and shall provide information, including actual transportation cost and mileage and verification of the family's monthly income. If the family's monthly income at the time of submitting the claim exceeds the income threshold for eligibility, the claim shall be denied.

(d) The reimbursement shall be equal to the lesser of the following amounts:

1. If the mode of transportation is a family vehicle, the amount determined by multiplying the total miles round trip by the actual number of round trips made during the semester or school year to which the claim applies and multiplying the product of this calculation by the rate specified under s. 20.916 (4), Stats. If the mode of transportation is other than a family vehicle, the actual cost of the transportation.

2. Three times the statewide average per pupil transportation cost.

NOTE: PI 9411, Full-Time Public School Open Enrollment Transportation Reimbursement Application Form, may be obtained at no charge from any school district or by writing to the Wisconsin Department of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707-7841.

(3) CHANGE OF ADDRESS, RETURN TO RESIDENT SCHOOL DISTRICT. (a) If, after notifying the nonresident school board by the first Monday in June that the pupil will attend the nonresident school district in the following school year, the parent decides that the pupil will not attend the nonresident school district in the following school year, the parent shall notify both the resident and nonresident school boards in writing. The parent may not later notify the resident and nonresident school boards that the child will attend school in the nonresident school district the following school year.

(b) If the pupil attends the nonresident school district and, during the school year, the parent wishes the pupil to return to the resident school district, the parent shall notify both the resident and nonresident school boards in writing. This notification shall be final and the pupil may not return to the nonresident school district under the full-time open enrollment program during that school year. If the parent wishes the pupil to attend the nonresident school district during the following school year, the parent shall again follow the application procedures specified in s. 118.51, Stats., and this chapter.

(c) If, after notifying the nonresident school board by the first Monday in June that the pupil will attend the nonresident school district in the following school year, the pupil's resident school district changes from the resident school district indicated on the application form under sub. (1) or if, after beginning school in the nonresident school district, the

pupil's resident school district changes, the parent shall notify the former resident school board, the nonresident school board and the new resident school board in writing

PI 36.04 NONRESIDENT SCHOOL BOARD RESPONSIBILITIES (1) The nonresident school board shall, upon request of a parent or pupil, provide the full-time open enrollment program application form and the application form for transportation reimbursement.

(2) The nonresident school board shall establish a procedure to receive and date applications that are received during the application period specified in s. 118.51 (3) (a) 1., Stats. The nonresident school board shall return to the parent any application received prior to the first Monday in February or after 4:00 p.m. on the third Friday in February. The nonresident school board shall notify the parent of the reason for returning the application and of the dates of the application period.

(3) On the fourth Monday in February, the nonresident school board shall send copies of the open enrollment program application form to the resident school board or boards whose pupils have applied under the open enrollment program and to the department. The nonresident school board shall also send the original application form for transportation reimbursement to the department.

(4) Except as provided in sub. (6), after the third Friday in February, the nonresident school board shall act on the applications received using the criteria in its policies developed under s. 118.51 (4) (a) 1. to 3. and 5., Stats. If the nonresident school board receives more applications for a particular grade or program than there are spaces available in the grade or program, the nonresident school board shall determine which pupils to accept on a random basis, using a method approved by the board.

(5) Except as provided in sub. (6), if the application submitted by the parent is incomplete, the nonresident school board shall make an effort to obtain the missing information. The nonresident school board may not request any information in addition to the information on the application form except that the nonresident school board may request the information authorized under s. 118.51 (8), Stats., and under s. PI 36.03 (1) (e).

(6)(a) The nonresident school board shall give preference in accepting applications to pupils and to siblings of pupils who are already attending public school in the nonresident school district, including the following pupils:

1. Pupils who are currently attending the nonresident school district under the full-time open enrollment program.
2. Pupils for whom tuition is paid to the nonresident school district under subch. V of ch. 121, Stats.
3. Pupils who currently reside in the nonresident school district but plan to move prior to the beginning of the following school year.
4. Pupils who moved out of the nonresident school district during the current school year but have remained in public school in the nonresident school district under s. 121.84 (1) (a), Stats.

(b) If, in the random selection process one pupil from a family is chosen, the nonresident school board shall give preference to the remaining siblings in the family for whom the parent applied at the same time.

(7) For each applicant who is a child with exceptional educational needs, on or before March 15, the nonresident school board shall notify the resident school board of the estimated tuition cost for the special education program required by a pupil's individualized education program, including the estimated cost for transportation, if transportation is required by the pupil's individualized education program.

(8) The notification of acceptance or rejection required under s. 118.51 (3) (a) 3., Stats., shall be made on the application form created by the department under s. 118.51 (15) (a), Stats. If the notification of acceptance or rejection is postmarked on or before the first Friday following the first Monday in April following receipt of the application, it shall be considered timely. If the board does not make timely notification that the application is rejected, the application shall be considered approved.

(9) If the application is rejected by the nonresident school board, the nonresident school board shall:

(a) Include information about appealing the decision to the department with the notice of denial.

(b) Send a copy of the application, including the notice of denial, to the department.

(10) If the application is approved by the nonresident school board, the nonresident school board may require the parent to provide or sign a release for the nonresident school board to request the pupil's records from the resident school board as specified under s. 118.125 (4), Stats.

(11) If the application is approved, the notification of placement required under s. 118.51 (3) (a) 5., Stats., shall be made on the application form created by the department under s. 118.51 (15) (a), Stats. If the notification of placement is postmarked on or before the second Friday following the first Monday in May following receipt of the application, it shall be considered timely.

(12) Following receipt of the notice required under s. 118.51 (3) (c), Stats., the nonresident school board shall send a copy of the application form, including the notifications of acceptance and placement and the parent's notification of intent, to the department. If the nonresident school board does not receive the notification under this paragraph by 4:00 p.m. on the first Monday in June, the nonresident school board shall determine that the pupil does not intend to attend school in that district the following school year and shall note this fact on the form and send a copy of the form to the department.

(13) If, after notifying the nonresident school board that the pupil will attend school in the nonresident school district the following school year, the parent notifies the nonresident school board that the pupil will not attend the nonresident school district the following school year, the nonresident school board shall notify the resident school board and the department. If a pupil begins to attend school in the nonresident school district and the parent notifies the nonresident school board that the pupil will return to the resident school district, the nonresident school board shall notify the department.

(14) On or before June 30, the nonresident school board shall report the name of each pupil who will attend the nonresident school district in the following school year, including pupils continuing from the previous school year, to the pupil's resident school board and to the department.

(15) The nonresident school board shall maintain all completed application forms for a period of 3 years.

(16) For each child with exceptional educational needs that is accepted for full-time open enrollment by the nonresident school district and is not prevented from attending the nonresident school district by the resident school board, the nonresident school board and the resident school board shall either determine that the amount of payment shall be calculated using the daily tuition rate under s. 121.83, Stats., or shall jointly agree to a different amount.

(17) The nonresident school board shall provide such information as the department determines is needed to comply with s. 118.51 (15) (c), Stats., and such information as the legislative audit bureau determines is needed to comply with s. 13.94 (11), Stats.

PI 36.05 RESIDENT SCHOOL BOARD RESPONSIBILITIES. (1) The resident school board shall, upon request of a parent or pupil, provide the full-time open enrollment program application form and the application form for transportation reimbursement.

(2) If the resident school board has adopted a policy to limit the number of pupils transferring to nonresident school districts as permitted under s. 118.51 (6), Stats., the number of pupils permitted to transfer shall be determined by multiplying the resident school district's enrollment for the preceding third Friday in September by the percent allowed under s. 118.51 (6), Stats., or the percent specified in the resident school board policy, whichever is greater.

(3) Upon request of the nonresident school board, the resident school board shall promptly provide the disciplinary records specified under s. 118.51 (8), Stats., and the records related to a pupil with exceptional educational needs as specified under s. PI 36.03 (1) (e).

(4) Upon request of the nonresident school board, the resident school board shall provide the pupil records specified under s. PI 36.04 (10) within 5 working days.

(5) After receipt of the application forms from the nonresident school board under s. 118.51(3)(a)1., Stats., the resident school board shall act on the applications received using the criteria in its policies developed under s. 118.51 (4) (a) 3. to 5., Stats. If more than the maximum allowable number of resident pupils apply to attend public school in nonresident school districts in any school year under this section as specified under s. 118.51(6), Stats., the resident school board shall determine which pupils will be allowed to attend public school in other districts on a random basis, using a method approved by the resident school board.

(6) (a) The resident school board shall give preference in accepting applications to pupils and to siblings of pupils who are already attending public school in the nonresident school district, including the following pupils:

1. Pupils who are currently attending the nonresident school district under the full-time open enrollment program.
2. Pupils for whom tuition is paid to the nonresident school district under subch. V of ch. 121, Stats.
3. Pupils who currently reside in the nonresident school district but plan to move prior to the beginning of the following school year.
4. Pupils who moved out of the nonresident school district during the current school year but have remained in public school in the nonresident school district under s. 121.84 (1) (a), Stats.

(b) If, in the random selection process one pupil from a family is chosen, the resident school board shall give preference to the remaining siblings in the family for whom the parent applied at the same time to attend the same nonresident school district.

(7) The notification of rejection required under s. 118.51 (3) (a) 4., Stats., shall be made on the application form created by the department under s. 118.51 (15) (a), Stats. If the notification of rejection is postmarked on or before the first Friday following the first Monday in April following receipt of the application, it shall be considered timely. If the board does not make timely notification that the application is rejected, the application shall be considered approved.

(8) If the application is rejected, the resident school board shall:

(a) Provide notice to the parent that the decision may be appealed to the department within 30 days, and

(b) Send a copy of the application, including the notice of denial, to the department and to the nonresident school board.

(9) If, after notifying the nonresident school board that the pupil will attend school in the nonresident school district the following school year, the parent notifies the resident school board that the pupil will not attend the nonresident school district the following school year, the resident school board shall notify the nonresident school board and the department. If a pupil begins to attend school in the nonresident school district and the parent notifies the resident school board that the pupil will return to the resident school district, the resident school district shall notify the department.

(10) The resident school board shall establish procedures for pupils who were enrolled in a private school or home-based educational program or who did not reside in the resident school district at the time of applying for full-time open enrollment in a nonresident school district to enroll in the resident school district so that the resident school district may include the pupils in the report required under s. 121.05 (1) (a) 11., Stats.

(11) The resident school board shall provide such information as the department determines is needed to comply with s. 118.51 (15) (c), Stats., and such information as the legislative audit bureau determines is needed to comply with s. 13.94 (11), Stats.

(12) For each child with exceptional educational needs that is accepted for full-time open enrollment by the nonresident school board and is not prevented from attending the nonresident school district by the resident school board, the resident school board and the nonresident school board shall either determine that the amount of payment shall be calculated using the daily tuition rate under s. 121.83, Stats., or shall jointly agree to a different amount. The resident school board shall pay the amount agreed upon according to a schedule that is agreed upon by the two boards.

SUBCHAPTER III

PART-TIME OPEN ENROLLMENT

PI 36.06 PARENT AND PUPIL RESPONSIBILITIES. (1) APPLICATION AND NOTIFICATION

PROCEDURES. (a) The parent of a pupil who wishes to attend a public school in a nonresident school district under the part-time open enrollment program shall apply on the form developed by the department. The application shall be submitted

to the nonresident school board and not later than 6 weeks prior to the date on which the course is scheduled to commence. The parent shall obtain the date on which the course is scheduled to commence as specified under s. PI 36.07(1) and the application form shall be received in the school district office no later than 4:00 p.m. on the last day on which the parent may apply. A postmark does not constitute timely submission.

(b) A separate application form shall be submitted for each pupil applying and for each course for which the pupil is applying. A separate application form shall be submitted to the school board of each nonresident school district to which the pupil is applying.

(c) The parent shall answer all applicable questions on the application form accurately to the best of her or his ability. Deliberately providing false or misleading information may result in the application being denied or the pupil being required to return to the resident school district, if the false or misleading information is discovered after the pupil begins taking the course in the nonresident school district.

(d) The parent shall sign the application. The signature of a parent on the application grants permission for the nonresident school board to request from the resident school board any pupil records that are necessary to determine whether the pupil meets the entrance criteria for the course. The signature of a parent on the application provides acknowledgment that the parent has been notified that under s. 118.52(10), Stats., the resident school board shall provide to the nonresident school board to which a pupil has applied under this section, upon request by that school board, a copy of any expulsion findings and orders pertaining to the pupil, a copy of records of any pending disciplinary proceeding involving the pupil, a written explanation of the reasons for the expulsion or pending disciplinary proceeding and the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceeding.

(e) A pupil who is enrolled in a private school or a home-based private education program is not eligible to take a course or courses in a nonresident school district under the part-time open enrollment program.

(f) If the application is accepted by the nonresident school board and is not denied by the resident school board, the parent shall notify the resident school board and the nonresident school board in writing no later than the last week day, excluding state holidays, preceding the date the course is scheduled to commence of the pupil's intent to attend the course in the nonresident school district. A postmark does not constitute timely submission.

(g) If the application is denied by either the resident school board or the nonresident school board, the parent may appeal to the department within 30 days of receipt of the notice of denial as provided under subch. IV.

NOTE: The Part-Time Public School Open Enrollment Application Form, may be obtained at no charge from any school district or by writing to the Wisconsin Department of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707-7841.

(2) TRANSPORTATION. (a) The parent is responsible for transporting the pupil to and from the course in the nonresident school district that the pupil is attending.

(b) 1. The parent of a pupil who is attending a course under the part-time open enrollment program may apply for reimbursement of costs incurred by the parent for transportation of the pupil to and from the pupil's residence or school in which the pupil is enrolled if the pupil and parent are unable to pay the cost of such transportation.

2. The parent shall submit a claim developed by the department no later than 30 days after the end of the school semester to which the reimbursement claim pertains.

3. The state superintendent shall use the guidelines developed under s. PI 40.06 (4) (d) to determine eligibility of those applicants who are unable to pay under this section.

4. The state superintendent shall give preference for reimbursement under this subsection to pupils who are eligible for a free or reduced-price lunch under 42 USC 1758 (b). Except as specified in subd. 4., the state superintendent shall reimburse claims made under this subdivision at a rate per mile in accordance with s. 20.916 (4), Stats., or the actual cost of the transportation, whichever is less.

5. If adequate funds are not available under s. 20.255 (2) (cw), Stats., to reimburse all transportation claims under this chapter and under s. PI 40.06 (4), the state superintendent shall prorate the available funds among only those applicants eligible for free or reduced-price lunch under 42 USC 1758 (b).

6. Any funds provided under s. 20.255 (2) (cw), Stats., that remain after payment has been made to reimburse claims under subd. 3. and under s. PI 40.06 (4) (a), shall be prorated to reimburse claims submitted by other applicants under this paragraph and under s. PI 40.06 (4) who are unable to pay for transportation.

NOTE: The Part-Time Public School Open Enrollment Transportation Reimbursement Application Form, may be obtained at no charge from any school district or by writing to the Wisconsin Department of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707-7841.

PI 36.07 NONRESIDENT SCHOOL BOARD RESPONSIBILITIES. (1) The nonresident school board shall establish a starting date for each course and shall, upon request of a parent or pupil, provide the starting date, the deadline date for applying for the course, the part-time open enrollment application form and the application form for reimbursement of transportation costs.

(2) The nonresident school board shall, within 3 working days of receiving an application to attend a course from a nonresident pupil, send a copy of the application form to the resident school district.

(3) Upon receipt of a signed application form, the nonresident school board may request from the resident school board any pupil records that are necessary to determine whether the pupil meets the entrance criteria for the course.

(4) If the nonresident school board has adopted a policy under s. 118.52 (5), Stats., to give preference in attendance in a course to residents of the school district, the preference may apply to any resident of the school district that is eligible to take the course including the following pupils:

(a) Pupils taking the course who are enrolled in a school in the school district other than the one in which the course is taken.

(b) Pupils who are enrolled in private schools or home-based educational programs who are taking a course in the school district other than under s. 118.145 (4), Stats., or who are taking a non-core course in addition to any courses taken under s. 118.145 (4), Stats.

(c) Pupils over 20 years of age who are admitted to school under s. 118.14 (2), Stats.

(5) The nonresident school board shall give preference in attendance at a course to residents of the school district who apply to take courses under s. 118.145 (4), Stats., provided that the applicant under s. 118.145 (4), Stats., applied for the course prior to one week before the scheduled start of the course or a date established by the nonresident school board that is not earlier than six weeks before the start of the course nor later than one week before the scheduled start of the course.

(6) If the nonresident school board receives more applications for a course than there are spaces available in the course, the nonresident school board shall determine which pupils to accept on a random basis, using a method approved by the school board.

(7) The nonresident school board shall make an effort to ensure that the notice required under s. 118.52 (3) (c), Stats., is received by the parent no later than one week prior to the date on which the course is scheduled to commence. If the notice is postmarked at least 3 days before the date on which the notice is required to be received by the parent, this shall constitute timely notification.

(8) If the application is rejected, the nonresident school board shall:

(a) Provide notice to the parent that the decision may be appealed to the department within 30 days, and

(b) Send a copy of the application, including the notice of denial, to the department and to the resident school board.

(9) If, after the parent has notified the nonresident school district that the pupil will attend the course, the parent notifies the nonresident school district that the pupil will not attend the course, or if the pupil fails to attend the course, the nonresident school district shall promptly notify the resident school district.

PI 36.08 RESIDENT SCHOOL BOARD RESPONSIBILITIES. (1) The resident school board shall, upon request of a parent or pupil, provide the part-time open enrollment program application form and the application form for transportation reimbursement.

(2) The resident school board shall make an effort to ensure that the notice required under s. 118.52 (3) (d), Stats., is received by the parent no later than one week prior to the date on which the course is scheduled to commence. If the notice is postmarked at least 3 days before the date on which the notice is required to be received by the parent, this shall constitute timely notification.

(3) If the application is rejected under s. 118.52 (6), Stats., the resident school board shall:

(a) Provide notice to the parent that the decision may be appealed to the department within 30 days, and

(b) Send a copy of the application, including the notice of denial, to the department and to the nonresident school board.

(4) If, after the parent has notified the nonresident school district that the pupil will attend the course, the parent notifies the nonresident school district that the pupil will not attend the course, or if the pupil fails to attend the course, the nonresident school district shall promptly notify the resident school district.

PI 36.09 TUITION. The tuition under s. 118.52 (12), Stats., shall be calculated as follows:

- (1) Multiply the length of the class period in minutes by the number of days the pupil was enrolled.
- (2) Divide the amount under sub. (1) by 48,600.
- (3) Multiply the amount under sub. (2) by the regular daily tuition rate for the school district, as defined and calculated in s. 121.83(1), Stats.

SUBCHAPTER IV

APPEALS

PI 36.10 APPEALS. (1) **DEFINITIONS.** In this subchapter, "school board" means either the resident school board that denied an application under s. 118.51 (6), (7) or (12) (b), Stats., or under s. 118.52 (6), Stats., or the nonresident school board that denied an application under s. 118.51 (3) (a) or (7), Stats., or under s. 118.52 (5), Stats.

(2) **RECEIPT AND FILING OF APPEALS.** (a) The parent of a pupil whose application for open enrollment has been denied by a school board may file an appeal of this decision to the state superintendent within 30 days after receiving the decision. Upon receipt of the appeal, the department shall send a copy of the appeal to the resident and nonresident school boards.

(b) The appeal shall be in writing and shall include a copy of the notice of denial. The appeal shall specify what decision is being appealed, the specific reasons for the appeal, including why the appellant believes that the decision was arbitrary or unreasonable, and any other facts relevant to the appeal. The appeal shall be signed by the appellant or the representative of the appellant.

(c) If the appeal is filed by the representative under par (b), the representative shall file a notice of representation with the state superintendent that includes the written consent of the appellant.

(d) Failure of the appellant to file an appeal within 30 days of receiving the notice of denial shall deprive the state superintendent of jurisdiction in this matter.

(3) **PROCEDURES.** (a) As soon as possible, upon receipt of a written appeal filed under sub. (1), the state superintendent shall acknowledge receipt of the appeal in writing to the appellant and the resident and nonresident school boards. Upon receipt of the notice of appeal from the state superintendent, the school board whose decision is the subject of the appeal shall deliver to the department a copy of the school board's policy under s. 118.51(4) or 118.52 (4), Stats., the official record of the school board's decision under s. 118.51(3)(a), (5), (6), (7) or (12) or s. 118.52 (3) (b), (5), or (6), Stats., and an explanation of the specific reasons for the decision.

(b) The state superintendent shall affirm the school board's decision unless the state superintendent finds that the decision was arbitrary and unreasonable. The appellant bears the burden of proving that the school board's decision was arbitrary or unreasonable.

(c) The state superintendent may use any or all of the following procedures which he or she determines to be appropriate in the appeal process:

1. Provide technical assistance and information and attempt to resolve the matter informally.
2. Conduct an investigation. If the state superintendent decides to conduct an investigation, the investigation may include an on-site review or any other activity which the state superintendent deems appropriate.
3. Issue a decision based on a review of the record of the school board, argument from the parties and any other matter the state superintendent deems appropriate.

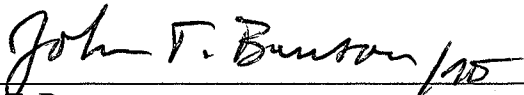
(4) **DECISION.** (a) The decision of the state superintendent shall be in writing stating separate findings of fact and conclusions of law. Decisions shall be served on all parties by mailing a copy to each party's last known address by certified mail.

(b) The state superintendent's decision on an appeal of a school board decision on full-time open enrollment may be appealed to the circuit court in which the appellant resides by filing a petition for review within 30 days of service of the state superintendent's decision, pursuant to s. 227.53, Stats. The decision of the state superintendent on an appeal of a school board decision on part-time open enrollment shall be final and is not subject to judicial review under subch. III of ch. 227.

(5) **WITHDRAWAL.** At any time prior to the issuance of a final decision, the appellant may withdraw the appeal in writing. Upon receiving such a request, the state superintendent shall issue an order dismissing the matter. If the request for withdrawal is received within 30 days of the school board's decision issued under s. 118.51(3)(a), (5), (6), (7), or (12), or s. 118.52 (5), Stats., the dismissal shall be without prejudice. If the request to withdraw is received more than 30 days after the school board's decision is issued under s. 118.51(3)(a), (5), (6), (7), or (12), or s. 118.52 (5), Stats., the dismissal shall be with prejudice.

The 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.

Dated this 4th day of June, 1998



John T. Benson
State Superintendent

