



New Law Addresses Attendance Requirement and State Aid for Summer and Interim Sessions

The Wisconsin Legislature recently enacted 2013 Wisconsin Act 257 (Act 257). This new law made significant changes related to the requirement that school boards hold school for at least 180 days each year. In addition, the new law made certain changes related to state aid for classes offered during summer and interim sessions. This FYI will review these changes and address some of the impact of these changes.

Act 257 Repeals 180 Day Attendance Requirement

Act 257 repealed the requirement that school boards hold school for at least 180 days each year. This portion of Act 257 took effect on April 10, 2014. This change allowed school districts struggling to make up days lost to weather during the 2013-14 school year to meet the minimum hours of direct instruction requirement by adding instructional time to scheduled school days.

No Change to Required Minimum Number of Hours of Direct Instruction

The new law makes no change in the minimum number of hours of direct instruction required at each level. Those requirements are:

- Kindergarten - 437 hours
- Grades 1 to 6 - 1,050 hours
- Grades 7 to 12 - 1,137 hours

The new law expressly states that school boards may count hours of instruction scheduled on Saturdays toward the minimum number of hours of direct instruction. Previously, Wis. Stat. § 115.01(1)(b) limited the number of Saturdays that could be counted as school days to no more than five per school year. That provision was removed by Act 257. This gives school boards the flexibility to schedule the makeup of hours of instruction lost to weather on Saturdays.

Students With Disabilities Must Receive an Equivalent School Day

The Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (ADA) all require a school district to provide the same amount of instruction time for students with disabilities as is provided for students without disabilities. The Office of Special Education Programs (OSEP) has made it clear that school districts must start with the idea that a student with disabilities will receive a school day equal in length to that of students without disabilities. Loss of time of even a few minutes per day has been found to be a violation.



Schools in violation of Section 504 due to improperly shortened school days for students with disabilities may be required by the Office of Civil Rights (OCR) to enter into voluntary corrective action agreements or become subject to administrative proceedings to terminate federal aid. OCR may also refer a case to the Department of Justice for judicial proceedings. In addition, a student or parent may bring a complaint under IDEA, Section 504, and/or ADA in various forums (e.g., Department of Public Instruction (DPI), due process hearing, federal law suit) seeking various remedies, including compensatory education, other compensatory damages, expert witness fees, and attorney fees.

A school district may not reduce the school day of a student with disabilities unless the school district can demonstrate that the student's Section 504 or Individualized Education Program (IEP) Team has determined that the student's educational needs, including health concerns, require a reduced school day. It is clear under the law that a school district may not reduce a disabled student's school day because of transportation scheduling issues, unavailability of teachers or other staff, a student's behavior, or any other reason not based on the student's own educational needs. School districts should train staff as to the presumption that all students with disabilities will have the same length of school day as nondisabled students, unless the IEP or Section 504 team has determined that the student requires a shortened day.

State Aid Available for "Interim Session" Classes and Laboratory Periods

The new law also provides state aid for certain interim session classes and laboratory periods. Specifically, the new law adds the term "interim session" and allows a school district providing year-round school to receive state aid for classes and laboratory periods offered during an "interim session," provided that the classes and laboratory periods are for "necessary academic purposes," as defined by the state superintendent. "Interim session" means "a period of time in a school year when school is held ... to provide hours of direct pupil instruction in addition to the hours of instruction provided by the school district" to meet the minimum required hours of direct pupil instruction under Wis. Stat § 120.02(1)(f). The provisions of the law that provide for state aid for interim session classes and laboratory periods first apply to state aid paid for interim session classes and laboratory periods in the 2014 2015 school year.

This change in the law allows year-round schools to receive state aid in the same fashion that schools using a standard school year receive state aid for summer school. Other provisions of state law applicable to summer school, such as the inability to charge tuition when the district receives state aid, also apply to interim sessions.

State Aid Available For Online Classes Taken During Summer or Interim Sessions

Finally, the new law provides state aid for online courses taken as summer classes or interim session classes by students in grades 7 through 12, if certain conditions are met. Specifically, the new law makes clear that online classes offered by a school district in summer or during an interim session qualify for state aid, provided:

- a high school student receives a credit for the class, and a 7th or 8th grade student successfully completes the class; and,
- the school board has determined that the online class fulfills a requirement for high school graduation under Wis. Stat. § 118.33(1)(a)1, or as established by the school board under the authority of the DPI.

The change in the law regarding state aid for summer or interim session online courses first applies to state aid paid for online courses taken as summer classes or interim session classes in the 2014 2015 school year. The law also amends the definition of "summer enrollment" for the purposes of revenue limits to include interim session classes and online summer and interim session classes. This change takes effect beginning with the determination of a school district's revenue limit in the 2014-2015 school year.

Conclusion

Districts should make note of these changes which give school districts more flexibility in scheduling the school year and making up missed instructional time. In addition, school districts holding year-round school should determine whether they are able to take advantage of changes in the law which provide state aid for classes and laboratory periods offered during interim sessions. All school districts should determine whether online courses offered during summer or interim sessions qualify for state aid under the new provisions. Finally, school districts should review policies and procedures to ensure that all students, including students with disabilities, are receiving the required amount of direct pupil instruction.

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