



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2009 Wisconsin Act 309
[2009 Senate Bill 154]

School Safety

This Act addresses issues related to school safety.

School Safety Plans

Under current law, school boards of common or union high school districts must have in place a school safety plan. Wisconsin law does not provide specific details as to what components should be in the school safety plan. Wisconsin law does not have minimum standards for the plan's training or practice drills. The statutes also do not direct school boards to create or review plans with any specific party.

Current law also requires public schools, as well as private schools, to conduct fire and tornado or other hazard drills. There is no requirement for either public or private schools to practice school safety plans. Only public schools are required, however, to have safety plans.

This Act expands current statutory requirements by providing specific details regarding school safety plans. The Act requires both public and private schools to do all of the following:

1. Create a school safety plan with active participation from appropriate parties such as local law enforcement officers, fire fighters, school administrators, teachers, pupil service professionals, and mental health professionals.
2. Specify the process for reviewing the plan.
3. Include general guidelines specifying procedures for emergency prevention and mitigation, preparedness, response, and recovery as well as methods for conducting drills required to comply with the plan.
4. Determine who shall receive the school safety plan training, which is based upon the school district's prioritized needs, risks, and vulnerabilities.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

5. Drill school safety plan procedures twice a year or substitute a school safety drill for a fire, tornado, or other hazard drill.

6. Have the school safety plan in place within three years after this Act goes into effect and review it at least once every three years following implementation.

School Bullying

The Act requires the Department of Public Instruction (DPI) by 2010 to develop a model school policy on bullying by pupils. The policy must include all of the following:

1. A definition of bullying.
2. A prohibition on bullying.
3. A procedure for reporting bullying that permits reports to be made confidentially.
4. A prohibition against pupil retaliation against another pupil for reporting an incident of bullying.
5. A procedure for investigating reports of bullying.
6. A requirement that school district officials and employees report incidents of bullying and identify the persons to whom the reports must be made.
7. A list of disciplinary alternatives for pupils that engage in bullying.
8. An identification of the school-related events to which the policy applies.
9. An identification of the property owned, leased, or used by the school district on which the policy applies.
10. An identification of the vehicles used for pupil transportation on which the policy applies.

DPI is also directed to develop a model education and awareness program on bullying and to post the model policy and the model program on its Internet site. The Act further directs each school board, by August 15, 2010, to adopt a policy prohibiting bullying by pupils. The Act permits the school board to adopt the model policy developed by the department. The school board, under the Act, must provide a copy of the policy to any person who requests it and annually distribute the policy to all pupils enrolled in the school district and their parents and guardians.

The Act also designates Wednesday of the fourth week in September as Bullying Awareness Day for purposes of school recognition. Finally, the Act includes a section to make the provisions of the Act applicable to a first-class city school district and board.

Pupil Records

The Act includes a series of provisions dealing with the confidentiality and disclosure of pupil records. The following provisions are included in the Act:

1. The Act retains current law, which requires school boards to adopt regulations maintaining the confidentiality of pupil records. However, it adds the additional authority for school boards to adopt

regulations designed to promote the disclosure of pupil records and information permitted by law for school safety purposes.

2. The Act amends the statutes to require that pupil records be made available to law enforcement officers on the same basis as other school employees or officials, provided that law enforcement officers are individually designated by the school board and assigned to the school district.

3. The Act contains a provision relating to the release of pupil records by school districts for juvenile justice purposes. The Act amends current law to require school boards to disclose pertinent pupil records to an investigating law enforcement agency or district attorney. Disclosure shall be made only if the requesting person certifies in writing that the records concern the juvenile justice system and the system's ability to serve the pupil, relate to an ongoing investigation or pending delinquency petition and will not be disclosed to any other person except as otherwise authorized by law.

4. The Act repeals a statute currently requiring a school district administrator or private school administrator who receives information regarding a law enforcement action to notify any pupil named in the information and the pupil's parent or guardian of any minor pupil named in the information of that information. The repeal is designed to encourage law enforcement agencies to share information with schools in situations where they might otherwise withhold information out of concern that notification could undermine an investigation. The repeal does not preclude a school district from notifying students and parents when it is deemed appropriate.

5. The Act repeals s. 118.128, Stats. Current statutes require all pupil records to be made available to teachers and other designated school officials who have legitimate educational interests, including safety interests. However, s. 118.128, Stats., implies that school districts may not share information that a student is a physical risk to others with teachers and law enforcement units within schools, unless the school district has "reasonable cause" to believe, based only on past acts, that the student presents a physical risk of harming others. Section 118.128, Stats., also limits the use and disclosure of such information. By repealing s. 118.128, Stats., the school district can continue to disclose records under s. 118.125 (2) (d), Stats. When information is shared, school personnel can better assess risk and the educational needs of both students presenting a risk of harm to others and to other children.

6. The Act requires that a district attorney issuing criminal charges against a pupil make a reasonable attempt to notify the pupil's school that criminal charges have been filed and the final disposition of those charges. A similar requirement currently applies to noncriminal juvenile cases but notification is currently not required when a juvenile attends an independent charter school, or where the pupil is either charged as an adult or waived into adult court. The Act would require the district attorney to notify the school district, private school or independent charter school whenever a pupil is criminally charged as an adult and the district attorney reasonably believes the person charged is an enrolled pupil.

Effective date: The Act takes effect on May 27, 2010.

Prepared by: Russ Whitesel, Senior Staff Attorney

May 18, 2010

RW:ty;jal