

COVID-19 Regulatory Flexibility Framework
Provisions for the 2020-21 School Year
08/24/20

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Attendance (08/24/20)

The Department of Public Instruction (DPI) will require school districts to record attendance this school year for in person, virtual, or remote instruction. The information below is meant to provide examples on how to address attendance in different formats.

In Person

Standard reporting practices and guidance apply. Attendance should be taken daily. Information on reporting attendance in this scenario can be found on the DPI website under [Attendance: WISEdata](#).

Virtual Instruction

There are multiple options for taking attendance in virtual (digital, analog, synchronous, asynchronous, or hybrid) instructional settings. Examples of how to do so may include:

- Learning Management System Records,
- Evidence of daily work,
- Submission or completion of assignment, module, exam,
- System log-in,
- Weekly progress reports,
- Attendance taken in synchronous event(s),
 - Student is present during event,
 - Educator collects evidence that student accessed the event (if recorded),
- Contact or activity logs,
- Pacing charts or adequate course progress,
- Daily check-in with student (virtual meeting, email connection, phone),
- Regular weekly check-ins with parents/guardians.

The DPI is also linking to the Wisconsin Digital Learning Collaborative [brief on online attendance](#) for schools seeking additional information on attendance in an online environment.

Schools that provide packets of work for virtual instruction may want to consider what information should accompany the work in order for students and parents to understand how much of the packet counts as a daily or weekly amount of work, along with how it will be collected or submitted for attendance purposes. These decisions should translate into what counts as attendance and when attendance reporting is updated in local student information system.

Attendance may be reported in half or full-day increments, depending upon local policy. This policy may differ by grade level or range. DPI recommends that schools enter attendance daily, providing corrections as appropriate on a weekly basis. If a school or district elects to report attendance in different intervals (weekly or longer), please note that WISEdash for Districts reports data updated on a nightly basis and may not be accurate if local reporting differs from the daily updates. DPI will capture official attendance data for 2020-21 in December 2021, as part of the Year End WISEdata snapshot.

Home-Based Private Educational Program (Homeschooling)

Statutes provide parents or guardians through October 15 [[Wis. Stats. 115.30 \(30\)](#)] to submit their [homeschool enrollment form](#). School districts may contact parents or guardians about their intent to enroll so they can fulfill attendance requirements and discuss child find activities, but there is no requirement in statute to provide this notification to school districts until October 15. School districts that are provided with an intent to enroll in home school should treat that as an official notification for attendance purposes until an official enrollment form is filed.

Wisconsin Statutes [115.001 \(3g\)](#) define a home-based private educational program as “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.”

State and federal special education law require districts to fulfill child find requirements, which involve locating, identifying, and evaluating all resident students with disabilities who have not graduated from high school with a regular high school diploma. School district staff who reasonably believe a student has a disability must refer the student for a special education evaluation. The child find obligation is an affirmative one. (34 CFR § 300.111[a][1][i]; Wis. Stat. § 115.77[1m][a]).

Drills – Fire, Tornado, Safety (08/24/20)

Under [Wisconsin Statutes 118.07](#) fire drills must be conducted at least once each month, tornado or other hazard drills twice per year, and school safety incidents twice per year.

Fire drills must be conducted at least once each month that the school is occupied with pupils. If all classes are virtual and there are no in-person classes, then drills do not have to be performed. This is similar to what occurs during the summer when classes are usually not being conducted.

If in-person classes are held, then drills must be conducted in accordance with the requirements. If there are concerns about having that many students in the hallways at one time, then drills may be conducted in phases so each classroom is eventually covered.

According to statute, schools must annually file a report pertaining to such drills, on a form furnished by the Department of Safety and Professional Services, with the chief of the fire department. When no fire drill is held during any month, or when only one or no tornado or other hazard drill is held in a year, the

person having direct charge of the school shall state the reasons in the report. This report is available at <https://dsps.wi.gov/Documents/Programs/FirePrevention/SBD11.pdf>.

Educator Effectiveness (08/24/20)

The Department of Public Instruction (DPI) published the [Educator Effectiveness System Policy Guide](#) in January 2020 to support implementation of educator effectiveness. This guide can help in examining what flexibilities your district may be able to utilize under the current system.

The six requirements for minimal implementation of the Educator Effectiveness System are:

1. Orientation for Summary Year Educators,
2. Evaluator certification and ongoing calibration,
3. Summary Year Self-Reviews,
4. Annual Student/School Learning Objective and Professional Practice Goal for all educators,
5. Beginning, Mid, and End of Year Conferences for Summary Year Educators, and
6. Conducting the minimum observations (6 minis or 1 full and 3 minis for Summary Year Educators, and 1 mini for all other educators).

If a school district is unable to fulfill the six minimal implementation requirements they can apply for a waiver through the [COVID-19 District Flexibility Application](#) for the 2020-21 school year. Applying for a waiver means the school district does not need to fulfill any of the statutory provisions approved by the DPI. There are two specific provisions listed in the flexibility application related to the Educator Effectiveness system, Educator Effectiveness and personnel evaluation. Applying to waive Educator Effectiveness would address how you evaluate teachers and principals. There is also a personnel evaluation waiver provision, which is a separate provision that may be waived specific to the requirement of evaluating every educator the first year and every third year.

Hours of Instruction (08/24/20)

[Wisconsin Statute 121.02\(1\)\(f\)](#) requires each school board to annually schedule at least 437 hours of direct pupil instruction in kindergarten, at least 1,050 hours of direct pupil instruction in grades 1 to 6 and at least 1,137 hours of direct pupil instruction in grades 7 to 12.

Provisions in administrative rule allow for virtual instruction to count as hours of instruction. Under administrative rule [PI 8.01 \(f\)](#) scheduled hours may include the hours of instructional programming offered through innovative instructional designs that apply to the entire school or grade level. PI 8.001(6g) defines innovative instructional design as an instructional program aligned to school district standards and used to improve student academic achievement through instruction offered outside of the normal school day, virtually, or in an alternative setting.

School districts planning virtual instruction (digital, analog, synchronous, asynchronous, or hybrid) or utilizing a combination of traditional in person instruction with virtual instruction, may use the provisions of innovative instructional design to count hours of instruction. Under this scenario, hours of instruction should be based on the time teachers are available to students and the school district's estimate of the amount of time needed to accomplish learning objectives each day. The Department of Public Instruction's (DPI) Teaching and Learning Team will soon publish examples at <https://dpi.wi.gov/cal> to help you think about how to approach counting time.

If necessary, the DPI has made available a COVID-19 Regulatory Flexibility Application that you may use to request a one-year waiver from the hours of instruction requirement.

Licensure (08/07/20)

Teaching Out of Area

Any teacher, administrator, or pupil services professional with a Tier II, III, or IV license (i.e., Provisional, Life/Lifetime, Master Educator) can serve as a short-term substitute teacher in any subject and at any grade level. Short term is defined in administrative rule as 45 consecutive school days.

Supervision of Students

In situations where students need to be supervised while the teacher of record provides instruction from a distance, no license is required for the person who is supervising a room of students.

Teacher Assistants/Para-Professionals/Para-Educators

Teacher assistants, paraprofessionals, and para-educators are allowed to provide support to individual students or groups of students. Support is the reinforcement of instruction, reinforcement for an intervention, or reinforcement for an additional challenge that has already been provided by the appropriately licensed teacher or reading specialist. Examples of support include:

- Assisting individuals or groups of students with independent practice work assigned by the teacher.
- Assisting classroom teachers during guided reading with monitoring/assisting students with independent reading assignments, while the teacher works with small group guided reading instruction
- Recording (audio or video) oral reading selections for later analysis by the Title I or classroom teacher (i.e., taped running records)
- Preparing instructional materials for students
- Supervising students who are being taught remotely by their teacher

Student Teachers

Student teachers can do all of the following:

- Planning, delivering, and evaluating instruction and learning to meet the diverse needs of students.
- Planning, creating, and developing accommodations for individual students or small groups.
- Delivering targeted, individualized instruction.
- Assessing student learning and providing feedback.
- Alternate teaching lessons with the cooperating teacher throughout the day or week.
- If the cooperating teacher becomes ill, take over the class during the teacher's absence provided that the school and the student teacher's preparation program agree on supervision and support.

Opportunities for Pre-Student Teacher Candidates to Assist Districts¹:

Pre-student teacher candidates have been accepted into their preparation program and have started taking classes. They usually have shorter placements semester so that they can put into practice what they are learning in class and to learn from the cooperating teacher. These candidates may:

- Develop short, content-focused videos on essential topics for review and to fill gaps during times spent in online instruction.
- Assist with locating and vetting online instructional materials (e.g., videos, worksheets, and other materials).
- Create support materials, such as scaffolded notes and graphic organizers.

¹ "Addressing Shortages of Educators in an Uncertain COVID-19 Landscape: Viewing Teacher Candidates as Assets," Loretta Mason-Williams, Michael Rosenberg, Lois Kimmel, and Paul Sindelar, American Association of Colleges of Teacher Education, accessed 8/4/2020, <https://cedar.education.ufl.edu/wp-content/uploads/2020/06/Addressing-Shortages-COVID-Landscape.pdf>

- Contribute to making materials more accessible by helping with closed captioning, narrating slide presentations, and reading text aloud.
- Monitor small groups, either in person or in breakout rooms.
- Post materials to online sites, such as Schoology, Google Classrooms, Blackboard, or other learning management system (LMS) apps.
- Teach small group lessons designed to assess prior learning.
- Create review materials and extension activities.
- Provide small group instruction to reteach or fill in gaps.
- Spend time with an assigned student or a small group for tutoring, remedial learning, or social-emotional learning activities.
- Work with individual students to provide feedback on work submitted virtually, such as short answer responses and leveling up on learning sites.
- Assist with screening and benchmarking activities, including reflecting on collected data to identify learning gaps and targeted plans for intervention.
- Continue assisting with making materials accessible, posting materials to a learning management system, and finding extension activities (for both in person and virtual learning).

In order to reduce risks of exposure to students and teachers, supervision of student teachers and teacher candidates can be done remotely by preparation program supervisors.

Open Enrollment (08/24/20)

Virtual Instruction

Under [Wisconsin Statutes 118.51\(13\)](#), a pupil open enrolled into a nonresident school district has all of the rights and privileges of resident pupils. If a school district offers a virtual instruction program in response to concerns under the current pandemic, either as one of several options or as the only option, the school district must offer the same program to open enrolled students.

Pupil Count Dates (08/07/20)

State law requires all Wisconsin school districts report their official enrollments to the Department of Public Instruction (DPI) on the third Friday of September and the second Friday of January. These enrollments are used to determine student membership for school finance purposes. Districts are already able to include in their enrollments students who attend existing virtual programs, placements required by individualized education programs (IEPs), and other non-traditional instructional settings. **There is no special flexibility required for districts to count students who are being served with virtual or blended instructional models on or around the count date.**

Under existing law and DPI guidance, a student may be included in a school district's September 2020 headcount for aid and revenue limit membership purposes if:

1. The student is enrolled and in attendance on Friday, September 18, 2020, **or**
2. The student is enrolled and in attendance for the 2020-21 school year on any day before September 18, 2020, and any day after September 18, 2020, with no change in residency or enrollment during that period (the "before and after" dates are not restricted to Thursday, September 17 and Monday, September 21).

In either case, the student may be counted regardless of the specific setting in which they are receiving instruction. Similarly, a student may be included in a district's January 2021 headcount for aid membership if they are enrolled and in attendance on Friday, January 8, 2021, or on any day before and any day after that with no change in residency and enrollment, regardless of the instructional setting then in use.

If a district implements policies on how teachers will take and record attendance in their student information system (SIS) for in-person, virtual, or blended instruction, then it should conduct its third Friday count process as usual. Otherwise, the district will need to define its attendance policies for the instructional settings that may be in use this year, and then determine alternative method(s) for documenting attendance used in the third Friday membership count. Districts selected for membership audits in 2020-21 as required by law will need to make their attendance policies and documentation used for their headcounts available to auditors, but DPI is not prescribing that policies or documentation must be in any particular format.

To the maximum extent allowed by law, DPI will hold independent charter and private choice schools to the same standard as school districts for their September 2020 counts.

General state aids for 2020-21 are based upon student membership data from 2019-20 that were reported before the COVID-19 public health emergency was declared. Revenue limits, which in combination with general state aids determine a district's maximum allowable tax levy (excluding referendum debt and community services), will incorporate September 2020 student count data into the three-year rolling average membership. Per-pupil payments to independent charter and private choice schools are based on current year counts.

School Day Milk Program (08/07/20)

School districts may request a waiver from the school day milk program's requirement to provide milk every day school is in session at <https://forms.gle/McjFC3BXbnYy7WqH9> or by adding this waiver request to the district's COVID-19 flexibility application.

School and Child Nutrition Programs (08/07/20)

Wisconsin has received 5 nationwide waivers from the US Department of Agriculture (USDA) for the 2020-21 school year.

- [Nationwide Waiver to Allow Non-congregate Feeding in the Child Nutrition Programs - EXTENSION #2](#) 6/25/20
- [Nationwide Waiver to Allow Meal Service Time Flexibility in the National School Lunch Program, School Breakfast Program, and Child and Adult Care Food Program - EXTENSION #2](#) 6/25/20
- [Nationwide Waiver to Allow Parents and Guardians to Pick Up Meals for Children - EXTENSION #2](#) 6/25/20
- [Nationwide Waiver to Allow Meal Pattern Flexibility in the Child Nutrition Programs - EXTENSION #4](#) 6/25/20
- [Nationwide Waiver to Allow Offer Versus Serve Flexibility for Senior High Schools in the National School Lunch Program for School Year 2020-2021](#) 6/25/20

The DPI has submitted several other waivers to USDA and will update participating schools if we receive any additional flexibility.

Transportation (08/07/20)

School buses and state aid for transportation in the coming school year have been common topics of concern since the beginning of the COVID-19 public health emergency. The DPI Student Services, Prevention & Wellness Team has released their interim [guidance](#) on mitigating the risks of COVID-19 spread for districts and other LEAs that plan to provide school bus transportation in the 2020-21 school year. This information is based on DHS and CDC communications and may be subject to change.

There have been a number of requests for flexibility with regard to [Pupil Transportation Aid](#) in 2020-21. As a reminder, aid paid this year will be based upon ridership data reported for 2019-20. Districts and independent charter schools have a great deal of flexibility in when and how they determine the number of pupils receiving transportation. For example:

- There is no requirement to have specific count dates for pupil transportation. The common practice of having two counts, one in the fall and one in the spring, is not specified in law.
- There is no requirement for the number of days a pupil must be transported in order to be counted.
- Pupils may be counted for aid whether transportation is provided with a traditional yellow school bus, contract with a parent or guardian, or other method allowed by [law](#).

Absent a statutory change, if a district does not transport a pupil at all in 2020-21, they may not be counted.

High Cost Pupil Transportation Aid paid this year is also based on 2019-20 data, in this case Fund 10 transportation costs reported in districts' PI-1505 Annual Reports. It is likely that aid eligibility under this program will fluctuate significantly over the next few years, as districts' varying responses to COVID-19 and the impact on their transportation spending will affect both the statewide average and districts' position relative to that average. School districts that fall out of eligibility because their costs declined significantly will be eligible for stop-gap payments based on their prior year eligibility.

Truancy (08/24/20)

Habitual truancy is defined under [Wisconsin Statutes 118.16](#) as when a pupil is absent from school without an acceptable excuse for part or all of 5 or more days on which school is held during a school semester. School district policy largely determines what counts as excused or unexcused absences as well as what counts as a partial day. Excused and unexcused absence policies should take into consideration new local definitions of absent in hybrid and virtual modes of instruction, including what constitutes a part or whole day absence in the learning context, with consideration of possible changes to service delivery throughout the school year.

Compulsory school attendance under [Wisconsin Statutes 118.15](#) remains in effect. Schools are encouraged to utilize culturally responsive trauma sensitive practices in implementing statutory provisions. As with in person educational delivery, schools using virtual instructional delivery models should examine attendance to help identify when additional supports and interventions are needed.