

Transportation to Private Schools - General information

[Link to State Statutes \(Folio search\) \(http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientid=2214755114&infobase=stats.nfo&zz=\)](http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientid=2214755114&infobase=stats.nfo&zz=)

According to Wisconsin law, a pupil attending a private elementary or high school, including four- and five-year-old kindergarten in Wisconsin is entitled to transportation provided by the public school district in which the student resides, if certain criteria are met.

The following information will discuss pupil eligibility for transportation services, private school attendance areas and allowable methods of providing transportation.

PUPIL ELIGIBILITY

Section 121.54(2)(b)1., Wis. Stats., specifies that in order to be eligible to receive transportation services from the school district in which the private school pupil resides, all of the following criteria must be met:

1. The pupil resides 2 miles or more from the private school he/she attends;
2. The pupil resides within the private school's approved attendance area; and
3. The private school is located within the boundaries of the pupil's resident school district or not more than 5 miles beyond the boundaries of the school district measured along the usually traveled route. In a union high school district, with underlying elementary districts, the 5 miles from the district's boundaries is measured from the union high school district boundaries, not from each of the elementary school district's boundaries.

Generally, a school district is required to provide transportation to private school pupils who meet all of the above criteria. However, certain school districts that contain all or part of a city may elect not to transport eligible public and private school pupils. This exception to the transportation requirement is discussed under "City Option" below.

The obligation to provide transportation to a pupil enrolled in a private school only applies to the school district in which the pupil resides. A school district is not required to provide transportation to a nonresident private school pupil, even if the private school the pupil attends is located within that school district.

Each private school is required to identify pupils who may qualify for transportation. Section 121.54(2)(b)4., Wis. Stats., states: "No later than May 15 in each year, each private school shall notify each school board of the names, grade levels and locations of all pupils, if any, eligible to have transportation provided by such school board . . . and planning to attend such private school during the forthcoming school term. The school board may extend the notification deadline." This process is intended to allow adequate time for the public school district to address budgetary considerations and ensure availability of transportation services for all eligible pupils.


PRIVATE SCHOOL ATTENDANCE AREA



Under s. 121.51(1), Wis. Stats., the private school attendance area is defined as "the geographic area designated by the governing body of a private school as the area from which its pupils attend and approved by the school board of the district in which the private school is located."

Private school administrators work with their respective governing bodies to establish their attendance areas. The structures of governing bodies of private schools may vary.

Section 121.51(1), Wis. Stats., further states: "The attendance areas of private schools affiliated with the same religious denomination shall not overlap unless one school limits its enrollment to pupils of the same sex and the other school limits its enrollment to pupils of the opposite sex or admits pupils of both sexes." The Wisconsin Supreme Court has ruled that this "non-overlapping" rule applies to all private schools, whether they are secular or religious in nature. (State ex rel. Vanko v. Kahl, 52 Wis. 2d 206.)

In approving an attendance area for a private school, it is the public school board's responsibility to ensure that the private school's attendance area does not overlap with the attendance area of another private school of the same religious denomination. Because attendance areas are approved by the school board of the district in which the private school is located, it is important for that school board to verify non-overlapping attendance boundaries in consultation with neighboring public school districts.

 Pursuant to s. 121.54(2)(b)(3), Wis. Stats., "[a]nnually, by April 1, each private school shall submit its proposed attendance area for the ensuing school year to the school board of each school district having territory within the proposed attendance area. If a proposal is not submitted by April 1, the existing attendance area shall remain in effect for the ensuing school year." Although the district in which the private school is located is responsible for approving the proposed attendance area, **each school board which has territory in the private school's designated attendance area** is to receive the information from the private school's governing body or administrator of the private school. Therefore, each public school board receiving proposed



attendance area designations should review the request to ensure there is no overlapping of private school attendance areas, as discussed above. Formal board action should be taken with regard to approval of a proposed attendance area.



Attendance areas commonly include a description and/or map of territory. The April 1 statutory timeline for submitting an attendance area is critical. If that deadline is not met, the existing attendance area remains in effect for the following school year.

It is recommended that the public school district(s) and the private schools involved with an overlapping attendance area make every effort to work out a solution. If a solution cannot be reached, s. 121.51(1), Wis. Stats., provides: "If the private school and the school board cannot agree on the attendance area, the state superintendent shall, upon the request of the private school and the board, make a final determination of the attendance area."

CITY OPTION

Section 121.54(1), Wis. Stats., specifies that the provisions of state law requiring school districts to provide transportation to eligible public and private school pupils "do not apply to pupils who reside in a school district that contains all or part of a city unless the school they attend is located outside the city but within the boundaries of the school district." This exemption from the transportation requirement is not permitted for school districts that contain all or part of a 1st, 2nd or 3rd class city with a population exceeding 40,000 unless transportation is available through a common carrier.

Some school districts have elected to invoke the city option only for pupils in certain grade levels. For example, a school district may provide transportation for pupils in grades K-8, but not for pupils in grades 9-12. A school district may not, however, use the city option to deny transportation to students attending private, but not public, schools.

SCHOOL BUS ROUTES AND SCHEDULES

Section 121.56, Wis. Stats., specifies that public school districts have statutory authority with regard to the establishment, administration and scheduling of school bus routes. However, the Department of Public Instruction encourages school districts and private schools to work cooperatively for the benefit of all pupils residing in the district, whether they attend public or private schools. The law specifies that "[t]he transportation of public and private school pupils shall be effectively coordinated to insure the safety and welfare of the pupils."

NON-REQUIRED TRANSPORTATION AND REASONABLE UNIFORMITY

School districts may choose to provide transportation to pupils for whom transportation is not required by law. Section 121.54(2)(c), Wis. Stats., specifies that "[a]n annual or special meeting of a common or union high school, or the school board of a unified school district, may elect to

provide transportation for pupils who are not required to be transported." If a school district chooses to provide transportation to some, but not all, such pupils, the law provides that "there shall be reasonable uniformity in the minimum distance that pupils attending public and private schools will be transported." For example, a school district that opts to provide transportation to pupils who live 1 mile or more from the nearest public school they are entitled to attend, must also provide transportation to private school pupils who live 1 mile or more from the school they attend and are otherwise eligible for transportation under s. 121.54(2)(b) 1., Wis. Stats.

In addition, s. 121.545(1), Wis. Stats., allows a school district to provide transportation to a pupil who attends a public or private school and is not required to be transported if the district receives a request from that pupil's parent or guardian. The school district may, but is not required to, provide transportation for such a pupil, and may charge a fee for the cost of providing the transportation. The school district may waive the fee, or any portion of it for any person who is unable to pay. The law specifies that the school district does not receive state categorical transportation aid for such transportation.

METHODS OF PROVIDING PUPIL TRANSPORTATION SERVICES

The Department of Public Instruction recognizes that the safest method of transporting pupils is in school buses. However, state law permits school districts to use a variety of methods to provide transportation services. Section 121.55(1), Wis. Stats., states that "[s]chool boards may provide transportation by any of the following methods:

- (a) By contract with a common carrier, a taxi company or other parties.
- (b) By contract with the parent or guardian of the pupil to be transported.
- (c) By contract with another school board, board of control of a cooperative educational service agency or the proper officials of any private school or private school association.
- (d) By contract between 2 or more school boards and an individual or a common carrier.
- (e) By the purchase and operation of a motor vehicle."


Therefore, pupil transportation services may be provided by the school district utilizing various methods including a yellow school bus or alternative vehicle, or a monetary payment pursuant to a contract with the child's parent/guardian. The method of transportation is determined by the school board, rather than by the parent/guardian of the student.

ALTERNATIVE VEHICLES

Section 121.555(1), Wis. Stats., permits school districts and private schools to provide pupil transportation services using "alternative vehicles," or vehicles **other than school buses**. Alternative vehicles fall into two categories:

1. A motor vehicle transporting 9 or less passengers in addition to the operator.
2. A motor vehicle transporting 10 or more passengers in addition to the operator and used **temporarily** to provide pupil transportation when the school board or governing body of the

private school requests the Secretary of Transportation to determine that an **emergency** exists because no regular transportation is available. Use of such a vehicle would require written approval of the Secretary of Transportation.

Section 121.555(2), Wis. Stats., requires alternative vehicles transporting 9 or less passengers to meet certain requirements relating to insurance and inspection. Drivers of alternative vehicles are not required to have a school bus endorsement on their operator's license. However, the driver must be at least 18 years old, possess a valid operator's license, and meet certain requirements relating to physical condition. In addition, the driver must not have been convicted of specified crimes relating to the operation of a motor vehicle. Additional information on requirements is available by clicking on the following link: [Requirements for Alternative Vehicle Drivers](#) .

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