



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.
330 E. Kilbourn Ave., Suite 725, Milwaukee, WI 53202-3141
414-727-WILL
Fax 414-727-6385
www.will-law.org

Model Policy: Promotion or Retention Decisions for Students with Personal Reading Plans — Private Schools Participating in Parental Choice Programs

Why adopt this policy?

Wisconsin schools participating in the Milwaukee Parental Choice Program¹, the Racine Parental Choice Program², and the Wisconsin Parental Choice Program³, play a vital role in addressing Wisconsin's literacy crisis and ensuring every student reads proficiently by the end of third grade—a critical transition from *learning to read* to *reading to learn*.

Since the enactment of the No Child Left Behind Act in 2001⁴, many states have adopted retention policies to reinforce reading proficiency and emphasize standardized assessments. While some critics argue these policies may have adverse socioemotional impacts, retention requirements remain in effect in 26 states, with 13—including the District of Columbia—mandating retention for students who did not meet reading benchmarks.⁵

2023 Wisconsin Act 20 establishes new requirements for private choice schools to adopt a structured approach to early literacy. While Act 20 does *not* mandate automatic retention for students who are not reading at grade level, it requires schools to adopt policies governing promotion decisions that include specific statutory components.

While retention is heavily critiqued by the DPI, emerging research suggests that when retention is combined with targeted interventions and structured support—

¹ Wis. Stat. § 119.23

² Wis. Stat. § 118.60

³ *Id.*

⁴ No Child Left Behind Act of 2001, Pub. L. No. 107-110 (2002) (available at: <https://www.congress.gov/bill/107th-congress/house-bill/1>).

⁵ Lexia Learning, *Third Grade Retention Laws: How Data Reporting Brings Needed Interventions to Students in Earlier Grades*, September 15, 2022 (available at: <https://www.lexialearning.com/blog/Third-Grade-Retention-Laws-How-Data-Reporting-Brings-Needed-Interventions-to-Students-in-Earlier-Grades>).

such as individualized reading plans and summer programs—it can result in measurable academic gains.⁶ In fact, some Wisconsin school districts with higher retention rates have reported improved test scores without evidence of long-term socioemotional harm.⁷

For private schools participating in a parental choice program, adopting a clear promotion and retention policy is not only a legal requirement under Act 20, but also a critical step in ensuring that every student receives the intensive reading instruction and support they need to succeed.⁸

This policy is not meant to increase retention rates. In fact, the hope is that with personal reading plans, monitoring, communication with parents, and summer reading programs, retention will not be necessary. However, both parents and schools need to have access to all the tools in their belt, including retention, when needed to support a child’s long-term success.

This comprehensive policy includes all required elements under Act 20, such as definitions, timelines, individualized reading plans, parental involvement, objective promotion criteria, and dispute resolution processes. It is designed to provide schools with a clear, legally compliant framework to support early literacy and improve student outcomes.

Policy

Intent

It is the intent of this School to ensure students who are promoted to fourth grade have the necessary skills to become proficient readers in the fourth grade and beyond. This policy outlines this School’s guidelines for promotion to fourth grade using a Multi-Tiered System of Support (“MTSS”) framework to provide effective instruction and intervention to at-risk students.

Definitions

⁶ Thomas B. Fordham Institute, *Mississippi Reading Model Continues to Shine*, February 26, 2023 (available at (<https://fordhaminstitute.org/national/commentary/mississippi-reading-model-continues-shine>)).

⁷ Will Flanders, *Holding Back Kids to Push Them Forward: An Analysis of Retention Policy in Wisconsin*, Wisconsin Institute for Law & Liberty, March 2023 (available at: <https://will-law.org/wp-content/uploads/2023/03/Retention-FINAL.pdf>).

⁸ National Center for Education Statistics, *NAEP State Profile: Wisconsin*, U.S. Department of Education, 2024 (available at: https://www.nationsreportcard.gov/profiles/stateprofile/overview/WI?chort=1&sub=MAT&st=MN&year=2024R3&sfj=NP&cti=PgTab_OT&sj=WI).

Student is “**At Risk**” after scoring below grade-level in reading on a standardized reading test developed by the department and administered to any student in the 3rd grade in accordance with Wis. Stat. § 118.60(7)(b)1. or Wis. Stat. § 119.23(7)(b)1.

A Reading Plan is “**Completed**” when the student’s parent(s) and the School agree that the student has met the goals outlined in the personal reading plan and the student scores at grade-level in reading on a summative assessment in accordance with Wis. Stat. § 118.016(5)(d).

“**Inadequate rate of progress**” is when it is determined a student is not likely to demonstrate grade-level skills by the end of the school year. For a student in 3rd grade, the grade-level skill being assessed is oral reading fluency (the ability to read connected text aloud accurately, quickly, and with expression, without noticeable effort in decoding words).

“**Intervention**” means instruction that is:

1. Explicit (such that concepts are explained step by step through teacher modeling and many examples, and includes a high level of teacher/student interaction);
2. Direct (such that a teacher defines and teaches a concept, models the learning process, guides students through its application, and arranges for extended guided practice until mastery is achieved);
3. Systematic (such that lessons are broken into sequential, manageable steps that progress from more simple to more complex concepts and skills);
4. Sequential (such that lessons are presented in a structured, logical order that build upon prior knowledge);
5. Cumulative (such that the instruction emphasizes building upon what students already know to make learning more effective);
6. Follows a logical plan of presenting the area of deficit that targets the specific needs of the student without presuming prior skills or knowledge of the student;
7. Individualized to meet the specific needs of a student;
8. In a setting that uses intensive highly concentrated instruction methods and materials that maximizes student engagement;
9. Incorporates the simultaneous use of 2 or more sensory pathways during teacher presentations and student practice.

“**Multi-Tiered Systems of Support**” or MTSS is a framework that uses a layered approach to provide students with the support they need to succeed in their reading development.

Tier 1 provides high-quality, core reading instruction to all students.

Tier 2 offers targeted small-group interventions for students identified as “at risk,” in addition to Tier 1 instruction, and is aligned to the student’s Personal Reading Plan (PRP). Progress shall be reviewed after 10 weeks to determine next steps.

Tier 3 delivers intensive, individualized interventions for students who do not make adequate progress in Tier 2. This includes possible placement in a summer reading program if retention is recommended.

The term “**Parent(s)**” refers to the student’s biological parents, legal guardian or other person who is legally responsible for the welfare of the child and can make educational decisions on their behalf.

“**Personal Reading Plan**” or PRP means a reading plan provided to each student enrolled in 5-year-old kindergarten through 3rd grade who has been identified as “at risk” under this policy.

This personal reading plan shall do at least all of the following:

1. Identify the student’s specific early literacy skill deficiencies based on the applicable assessment;
2. Create goals and benchmarks for the student’s progress towards grade-level literacy skills;
3. Determine how the student’s progress will be monitored, including:
 - a. Monitor student progress at least weekly using the method described in the student’s personal reading plan;
 - b. Use weekly progress monitoring to determine whether the student demonstrates an inadequate rate of progress;
4. Provide a description of the interventions and any additional instructional services that will be provided to the student to address the student’s early literacy skill deficiencies (phonemic awareness, decoding skills, alphabet knowledge, letter sound knowledge, and oral vocabulary);
5. Determine which program the student’s teacher will be using to provide reading instruction to the student;
6. Provide strategies the student’s parents are encouraged to use to help the student achieve grade-level literacy skills;
7. Descriptions of any additional services available and appropriate to accelerate the student’s early literacy skills;
8. Provide the interventions described in the Personal Reading Plan as soon as practicable;
9. Provide a copy of the student’s personal reading plan to the parents and obtain a signature of the parent;
10. Notify the student’s parents of the student’s progress after providing the interventions described for ten (10) weeks.

“Relevant School Staff” includes, but is not limited to, the current student’s teacher, the student’s potential teacher(s) for the subsequent grade, or any staff member who has provided interventions or additional instructional services to the student.

Timeline

1. Parent Notification of Reading Plan

Once the “at-risk” student has been given a reading plan, the parent(s) or must receive a copy of the reading plan within three (3) school days of the plan being finalized.

2. 10-Week Intervention Checkpoint

After 10 weeks of implementing the interventions in the PRP, the school must (a) notify the parent(s) of the student’s progress and (b) determine whether the student should remain in Tier 2 or be moved to Tier 3.

3. Tier 3 Placement Deadline

By April 15, if the student fails to make adequate progress such that it is likely he or she will complete his or her PRP by the end of the school year, the student shall be moved to Tier 3.

4. Initial Promotion/Retention Meeting

In May or as soon as the 3rd grade standardized reading test scores are available, the school must schedule a meeting between relevant school staff and the student’s parent(s) and make an initial recommendation about whether the student regarding promotion or retention.

5. Parent Receipt of Recommendation

The initial recommendation must be provided to the parent(s) at least one week prior to the last day of school and must include all of the evaluation criteria listed in this policy.

6. Summer Reading Program

If the initial recommendation is to retain a student in the 3rd grade, the student must be put on a summer reading program with structured intervention to begin after the last day of school, but before the end of June.

7. Re-Evaluation Deadline

If the student is placed in a summer reading program, the student shall be re-evaluated by August 1 to assess reading progress and PRP completion.

8. Final Promotion/Retention Decision

Within two weeks of the re-evaluation, the school must hold a final meeting with the parent(s) and relevant staff to make a final determination about whether to promote the student to 4th grade or retain the student in 3rd grade.

The School shall provide at least two scheduled opportunities during the school year for parent(s) to meet with relevant staff to review the student’s PRP and discuss intervention progress.

All communications with the student's parent(s) related to the student's reading readiness, interventions, and promotion status shall be documented in the student's official school record.

Promotion Review Process for Students with Reading Plans

If a student has not completed their PRP by the end of the school year, a decision must be made about whether to promote the student to 4th grade or retain them.

This decision will be made by a team that must include the student's parent(s) and relevant school staff.

The decision by this team will be made based on the following criteria:

A. Standardized Reading Test Scores

- a. An evaluation of the student's 3rd grade standardized reading test scores and factors contributing to the scores.
- b. Whether the student scored in the lowest level of proficiency on the Forward Exam (if applicable).

B. Progress Toward PRP Goals

- a. Which PRP goals or benchmarks the student did not meet.
- b. Whether promotion could be beneficial or detrimental to meeting those goals or benchmarks.
- c. Any data showing the student's progress toward the PRP goals.

C. Interventions and Instructional Services

- a. How long the student has been receiving interventions and any additional instructional services described in the PRP.
- b. How the student has responded to those interventions.
- c. Whether those supports would continue if the student is promoted.

D. Academic and Teacher Input

- a. The student's overall academic performance.
- b. Teacher recommendations, based solely on academic performance.

E. Parent Input and Other Factors

- a. The opinion and wishes of the student's parent(s).
- b. Whether the student qualifies for a **good cause exemption** under this policy.
- c. What, if any, potential alternatives to retention are available to the student.
- d. Any other relevant information that would assist in making a thoughtful and well-informed decision.

Good Cause Exceptions

A student who has not completed their PRP by the end of their 3rd grade may still be promoted to the 4th grade if they fall into one of the following good cause exceptions, in accordance with Wis. Stat. § 118.33(5m)(b):

- A. The student has an IEP that indicates that participation in one or more of the required reading assessments is not appropriate;
- B. The student has received a score considered “proficient” on an alternative standardized assessment approved by the DPI;
- C. The student is a Limited–English Proficient student as defined in Wis. Stat. § 115.955(7);
- D. The student has an IEP or 504 Plan, has received intensive reading intervention for more than two (2) years, continues to show a reading deficiency, and has already been retained in kindergarten, 1st, 2nd, or 3rd grade;

Decision to Promote

If, based on the above criteria or good cause exception, the team determines that promotion is appropriate, one of the relevant school staff must document the decision in writing with a thorough explanation of how each criterion was considered in support of promoting the student.

For a promoted student who has not yet met grade-level reading standards, the school must do all of the following:

1. Continue to provide Tier 2 or Tier 3 reading interventions until the student meets grade-level expectations;
2. Provide the student with intensive instructional service, progress, monitoring, and supports as appropriate to the student’s identified needs;
3. Provide the student with access to an intensive summer reading program each summer until the student scores at grade level on the summative assessment;
4. Regularly monitor the student’s progress and adjust instruction accordingly.

Decision to Retain

If, based on the above criteria or good cause exception, the team determines that retention is appropriate, the recommendations must be put in writing with a thorough explanation addressing each of the above listed criteria and individual justification for retention as an instructional intervention.

A retained student must receive:

1. Assignment to a teacher rated effective or highly effective in literacy instruction and trained in evidence-based reading practices aligned to the science of reading;
2. Small-group or individualized reading interventions at least 3 times per week;
3. Weekly progress monitoring;
4. A revised PRP with adjusted goals and strategies;
5. Regular family engagement and progress updates at least once every 4 weeks;
6. Any other supports listed in the student's PRP.

See Promotion or Retention Decision Matrix attached at Exhibit A.

Transfer Students

If a student enrolls in the school as a 3rd grader and there is no documentation of a PRP from the student's previous school, and the student has not been identified as "at-risk" on any assessment available to the school, the student shall not be subject to retention under this policy and shall be promoted to the 4th grade.

Appeal of Recommendation to Promote or Retain a Student

If the parent(s) of a student disagree with the team's recommendation on promotion or retention, the parent has an opportunity to request the Board to review.

The Board shall consider the concerns raised by the parent(s), review the written recommendation from the team, and hear from the relevant school staff involved in the student's instruction and intervention. The parent(s) may also submit a portfolio of student work and/or request an alternative assessment to demonstrate the student's reading proficiency.

The Board shall make a final decision about retention within fourteen (14) days of receiving the request to review from the parent(s).

The Board shall defer to the professional judgement of the student's instructional team and shall not override the team's decision unless there is clear evidence that (a) School policy was not followed, **or** (b) the student has demonstrated grade-level proficiency through a Board-approved alternative assessment or portfolio review.

Legal Analysis — Wisconsin

Beginning in the 2024–25 school year, no private school participating in the school choice program may provide instruction that incorporates 3-cueing in the core reading curriculum for grades kindergarten to 3 or in supplemental materials, including materials used for reading intervention. Wis. Stat. § 118.015(5).

By July 1, 2025, the governing body of each private school participating in the parental choice program must adopt a written policy specifying the criteria for promoting a student from the 3rd grade to the 4th grade. Wis. Stat. § 118.33(6)(cr)3.; Wis. Stat. § 118.33(6)(c)3. The policy also must specify that students who scored below grade-level on the required 3rd grade reading exam be provided, intensive services, progress monitoring, and supports to remediate the identified areas of deficiency, notice to parents, and an intensive summer reading program each summer until the student scores at grade level on a summative assessment. Wis. Stat. § 118.33(6)(cr)3.; Wis. Stat. § 118.33(6)(c)3.

Beginning on September 1, 2027, private schools may not promote a student from the 3rd grade to the 4th grade unless the student satisfies the criteria promotion or qualifies for one of the good cause exceptions. Wis. Stat. § 118.33(6)(cr)3.; Wis. Stat. § 118.33(6)(c)3.

For private schools participating in parental choice programs, “at-risk” means a student who scores “below-grade level” on the required 3rd grade reading assessment. Wis. Stat. § 118.33(6)(cr)3.; Wis. Stat. § 118.33(6)(c)3.

If a student is identified as “at-risk” the School must put them on a “personal reading plan.” Wis. Stat. § 118.016(5). The deadlines for when the at-risk student must be put on the personal reading plan are based on Wis. Stat. § 118.016(5)(b). Wisconsin Statute § 118.016(5)(c) defines “inadequate rate of progress.” Wisconsin Statute § 118.016(1)(i) defines “intervention.” Wisconsin Statute § 118.016(5)(d) defines Personal Reading Plan completion. Placing students on Personal Reading Plans is required for private schools. Wis. Stat. § 118.33(6)(cr)3.; Wis. Stat. § 118.33(6)(c)3.

Students who fall into one of the “good cause exceptions” defined in Wisconsin Statute § 118.33(5m)(b) may be promoted to 4th grade even if the Personal Reading Plan was not completed. Wisconsin Statute § 118.33(5m)(a) applies to private schools participating in parental choice programs. Wis. Stat. § 118.33(6)(cr)3.; Wis. Stat. § 118.33(6)(c)3.

Schools participating in parental choice programs are required to administer a standardized reading test developed by the DPI to any students attending the 3rd grade in the private school as part of the parental choice program. Wis. Stat. § 118.60(7)(b)1.; Wis. Stat. § 119.23(7)(b)1.

Exhibit A: Promotion or Retention Decision Matrix

This matrix is designed to help school teams make a decision regarding whether a student with a Personal Reading Plan (PRP) should be promoted or retained. Teams should review each criterion listed below and indicate whether the evidence supports promotion or retention. Use the comments section to provide supporting details.

Criteria	In Favor of Promotion (✓)	In Favor of Retention (✓)	Comments
3 rd grade reading standardized test score			
Forward Exam proficiency (if applicable)			
PRP benchmark goals met			
Progress towards PRP goals			
PRP goals better served by promotion or retention			
Time on interventions			
Responses to interventions			
Continued interventions			
Overall academic performance			
Teacher recommendations			
Parent input			
Other relevant factors			
Good cause exceptions			
Summer reading program (if applicable)			
Alternatives to retention			