

Five-year-old Kindergarten Attendance and First Grade Admission Act 41

[SUMMARY OF 2009 WISCONSIN ACT 41](#) [Then enter *118.15(1)(am)*] in the specific Statute search box.)

2009 Wisconsin Act 41 creates Wis. Stat. Sec. 118.15(1)(am), which requires the parent or guardian of “a child who is enrolled in 5-year-old kindergarten (5K) at a public or private school, and has not been excused from school, to cause the child to attend school regularly during the full period and hours that kindergarten is in session until the end of the school term.”

Because no change was made in the law that provides for compulsory school attendance beginning at the age of 6 [Wis. Stat. Sec. 118.15(1)], there is no requirement for parents or guardians to enroll their 5-year-old child in 5-year-old kindergarten. However, the new law establishes completion of 5-year-old kindergarten as a prerequisite to enrollment in first grade in a public school unless certain exemptions apply. [Wis. Stat. Sec. 118.33(6)(cm)]

Beginning with the 2011-12 school year, 118.33(6)(cm) prohibits a school board or an independent charter school under Wis. Stat. Sec. 118.40(2r) from enrolling a child in first grade unless the child has completed 5-year-old kindergarten or has received an exemption. Further, each school board or independent charter school must establish procedures, conditions and standards for exempting a child from the requirement that a child complete kindergarten as a prerequisite to enrollment in first grade. Each school board and independent charter school must also establish procedures for reviewing the denial of an exemption upon request of the child’s parent or guardian [Wis. Stat. Sec. 118.33(6)(cm)1, 2, 4, and 5] Each school board and independent charter school also must “adopt a written policy specifying the criteria it will use for promoting a student from 5-year-old kindergarten to first grade. “ [Wis. Stat. Sec. 118.33(6)(cm)1, and 4]

If a child is age eligible to enroll in first grade, has not completed kindergarten and has moved from another state, country or territory where completion of kindergarten is not a prerequisite to enrolling in first grade or has received an exemption from the requirement to complete kindergarten in the state, country or territory from which he/she moved, the school board or independent charter school must enroll the child in first grade.

QUESTIONS AND ANSWERS RELATED TO ACT 41

Five-Year-Old Kindergarten (5K) Admission and Attendance

1. Did the new law change the beginning age of compulsory school attendance?

No. Compulsory attendance still begins at 6 years of age.

2. Are parents required to enroll their 5-year-old children in 5K programs?

No. The new law does not require parents to enroll their 5-year-old children in 5-year-old kindergarten. However, Act 41 does prohibit a school board from enrolling a child in first grade unless the child has completed 5-year-old kindergarten or has received an exemption.

3. If a child is enrolled in 5K, does the new law require the child to attend all the time?

Yes. This law requires a child who is enrolled in 5-year-old kindergarten in a public or private school to regularly attend kindergarten during the school year.

4. Does the new law apply to all 5K programs no matter how many hours they operate per day?

Yes. The law does not make a distinction in the type of 5K program. Districts may still offer full-day, part-day, or both full and part-day 5K programs. Attendance is mandatory for whatever program the child is enrolled in.

5. Do any special exceptions to compulsory school attendance apply to enrolled 5K students?

The same exceptions to compulsory school attendance under Wis. Stat. Sec. 118.15(3) which apply to older students now also apply to 5K students. More information is available in the DPI Publication Answers to Frequently Asked Compulsory School Attendance Questions at <http://www.dpi.wi.gov/sspw/pdf/schlattendqa.pdf>. The exemptions under Wis. Stat. Sec. 118.15(3) can be seen on line at: <http://www.legis.state.wi.us/rsb/stats.html>. Enter the statute number in the search box to review that section.

Compulsory School Attendance Enforcement and Reporting

6. May a parent withdraw a 5-year-old enrolled in 5K from school?

The statute does not specifically address whether a parent may withdraw the student and/or whether truancy procedures would then apply. Districts may attempt to enforce truancy provisions and the courts would determine whether those provisions apply. Local Truancy Committees (Wis. Stat. Sec. 118.162) may make recommendations on truancy enforcement for 5-year-olds.

7. Are district truancy notices to parents required for 5-year-old 5K students who do not attend or are withdrawn?

Districts are required to notify parents or legal guardians if their 5-year old 5K student is absent without an acceptable or legal excuse following the same procedures as other students for truancy and habitual truancy. Beyond notice, truancy enforcement steps are controlled by local board polices. [Wis. Stat. Sec. 118.15(1)(am)]

8. Do compulsory school attendance enforcement steps apply to 5-year-old 5K students?

The statute does not specifically address whether truancy enforcement procedures would apply. Districts may attempt to enforce truancy provisions, and the courts would determine whether those provisions apply. Local Truancy Committees (Wis. Stat. Sec. 118.162) may make recommendations on truancy enforcement for 5-year-olds.

9. Are school districts to report 5K students who are habitual truants?

Yes. A student enrolled in 5K who is a habitual truant should be reported to the DPI as any other habitual truant would be.

First Grade Admission

10. At what age may a child enter first grade?

State law, Wis. Stat. Sec. 118.14(1)(c), states no child may be admitted to the first grade unless he or she is 6 years old, on or before September 1 of the year he or she proposes to enter school. However, school board policy may permit exceptions. Under Wis. Stat. Sec. 120.12(25) school boards must prescribe procedures, conditions, and standards for early admission to first grade.

11. Does the new law require students to complete kindergarten before they may enroll in first grade?

Yes. With certain exceptions, this new law requires a child to complete 5-year-old kindergarten as a prerequisite to being admitted to first grade in a public school.

12. What is the district or independent charter school responsibility when a parent wants to enroll a child in first grade who has not completed 5K?

Each school board and independent charter school that operates a 5-year-old kindergarten must establish procedures, conditions, and standards for exempting a child from the requirement that the child complete kindergarten as a prerequisite to enrollment in the first grade and for reviewing a denial of an exemption upon the request of the pupil's parent or guardian. These local policies may include exemptions in addition to the mandatory exemptions related to a move discussed below. Additionally, each school board and independent charter school that operates a 5-year-old kindergarten must adopt a written policy specifying the criteria for promoting a pupil from 5K to the first grade.

Further, if a child is age eligible to enroll in first grade, has not completed kindergarten and has moved from another state, country or territory where completion of kindergarten is not a prerequisite to enrolling in first grade or has received an exemption from the requirement to complete kindergarten in the state, country or territory from which he/she moved, the school board or independent charter school must enroll the child in first grade.

13. What happens when a parent has chosen to keep his/her child home from 5-year-old kindergarten and wants to enroll the child in a public school for first grade in the following school year?

At the time the parent wishes to enroll the child in first grade, the parent would need to submit a request to the school district for an exemption from the requirement that the child complete a kindergarten program prior to entering first grade. Act 41 requires each school board to establish procedures, conditions, and standards for exempting a child from the requirement that the child complete kindergarten as a prerequisite to enrollment in the first grade.

14. What is the final appeal authority for exemptions and exceptions?

Local school boards are required to establish procedures, conditions, and standards for exempting a child from completing kindergarten as a prerequisite to enrollment in the first grade and for reviewing the denial of an exemption upon the request of the pupil's parent or guardian. (Wis. Stat. Sec. 118.33(6)1)

Home Schooling

15. May a parent home school his/her child for 5-year-old kindergarten instead of enrolling the child in a public or private school?

A home-based private educational program, commonly referred to as home schooling, is an alternative to attendance at a public or private school under the compulsory school attendance law. Because the compulsory school attendance law is applicable only to children between the ages of 6 and 18, parents are not required to register their children in a home-based program if they are under age six. If a parent does not want his/her child to attend a kindergarten program in a public or private school, and the child will not reach age 6 before September 1, the parent may choose to keep the child at home. This would not be considered home schooling and there is no form or application for the parent to file. Local policy would determine whether the child could be enrolled in first grade in public school the following year without having completed 5K.

For more information on:

- Admissions/Enrollment: <http://www.dpi.wi.gov/ec/ec-entr-admiss.html>
- Truancy: <http://www.dpi.wi.gov/sspw/compulattnd.html>
- Home Schooling: <http://dpi.wi.gov/sms/homeb.html>