Clearinghouse Rule 19-121

PROPOSED ORDER OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AMENDING PERMANENT RULES

The scope statement for this rule, SS 041-18, was published in Register No. 748A1, on April 2, 2018, and approved by State Superintendent Tony Evers on April 27, 2018.

The State Superintendent of Public Instruction hereby proposes to repeal s. PI 48.02 (2) and (14), 48.03 (4), (5) (a) 1., 2., (b) 1., 2., and (7) (c), 48.04 (1) (d), 48.06 (6) (b) 2. a. and b., 48.07 (3) (e), (h), (4) (b) 1., and 2., 48.08 (3) (b), (4) (a), (b), and (5) (Note), 48.10 (1) (e) 4., 48.13 (10), 48.14 (2), and 48.16 (6) and (7); to renumber s. PI 48.08 (3) (a) 1. and 3., and 48.14 (1) to (c); to renumber and amend s. PI 48.03 (5) (a) (intro.), (b) (intro.), (7) (b), (d), and (e), 48.06 (6) (b) 2. (intro.) and 4., 48.07 (4) (b) (intro.), 48.08 (3) (a) (intro.), 2., (4) (intro.), 48.10 (1) (b), (3) (a) 3., and (5) (a), 48.13 (4) (1), and 48.14 (1) (intro.); to amend s. PI 48.02 (10), (12) (a), (b) (intro.), and (15), 48.03 (3), (a) 1. b., 4., (b), (5) (b) (Note), (6) (intro.), (a) (intro.), 3., 4., (b), (c), (7) (a), and (8) (a), 48.04 (1) (c), (e), (2) (f), and (3), 48.05 (1) (a), (4) (a), (b) 2., (8) (a), and (c) (intro.), 48.06 (1) (a), (5), (7) (intro.), (b), (8) (intro.), (a) 1., and (b) 1., 48.07 (1) (intro.), (a), (b), (2), (3) (d) 2., (f), (k), (L), (n), and (4) (a), 48.08 (1), (2), and (5), 48.10 (1) (e) 1., (2), (3) (a) 1., 2., 4., (b) 1., (c) 1., (d) (intro.), 1., 4., and (6), 48.12 (5), 48.13 (2) (intro.), (b) (intro.), (4) (a), (8) (title), (9), (12), and (14) (b), 48.15 (1) (intro.), (a), (b), (f), (g), (h), (6) (title), (c), (d) 6., and (e), 48.16 (1) (d), 48.17 (1) and (2), 48.18 (intro.) and (1), and 49.19 (1) to (4); to repeal and recreate s. PI 48.09 (1); and to create s. PI 48.02 (14m), (22g), and (22r), 48.03 (3) (a) 2m., (7) (b) 1., (f), (9), and (10), 48.04 (1) (f) 6m. and (2) (bm), 48.06 (6) (b) 2m., 4. a., b., and (8) (a) 4., 48.07 (3) (r), 48.08 (6), 48.09 (3) to (5), 48.10 (1) (b) 1., 2., (e) 4m., (3) (a) 3. a., b., (c) 4., (5) (a) 1. to 3., and (b), 48.13 (2) (a) 7., (4) (c) 1. to 3., and (10m), 48.14 (1g), (3) (intro.), (a) 6m., and (4) to (11), and 48.19 (5), relating to changes to rules governing the Parental Choice Programs as a result of 2017 Wisconsin Acts 36 and 59 and other changes.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 118.60, Stats.

Statutory authority: s. 118.60 (11) (a), Stats.

Explanation of agency authority:

The Department must promulgate rules to implement and administer the Racine and Wisconsin parental choice programs, pursuant to s. 118.60 (11) (a), Stats.

Related statute or rule: ss. 115.7915 and 119.23, Stats., and ch. PI 35 and 49

Plain language analysis:

2017 Wisconsin Acts 36 and 59 made several changes to the statutes governing the state's parental choice programs, which include the Racine and Wisconsin parental choice programs. The Department is required by statute to promulgate rules in order to administer each program. Unless these modifications are in place, the Department may be prevented from efficiently implementing and administering the programs and schools and applicants may not have clear guidance on program requirements. The promulgation of emergency rules will help ensure implementation of each program remains consistent through the completion of the permanent rule making process. Key aspects of the rule include the following:

- Specifies the requirements for the modified financial audit and the standard financial audit.
- Specifies the background check requirements, including how the background check must be completed.
- Modifies certain due dates so the dates will not fall on a weekend.

- Specifies that the budgets required for the program must include the anticipated beginning and ending reserve balance.
- Clarifies that the financial audit used to ensure schools meet choice program financial requirements includes the financial audit under s. 115.7915, Stats. Also specifies the non financial viability indicators include the school having a net loss or negative change in net assets in the financial audit or the budget and cash flow.
- Modifies the full time equivalent determination so that it is based on the required number of hours for first grade pupils in the private school rather than first grade pupils in the public school district.
- Removes the requirement to use original classroom records when completing the procedures for choice program pupils for the enrollment audit. The procedures ensure the submitted pupil counts are accurate by comparing the school submitted pupil count reports to the official attendance records.
- Specifies that the identification of choice program pupils may be in a different report than the official attendance records.
- Removes summer school provisions already included in statute and modifies course eligibility provisions for summer school.
- Clarifies the requirements for including fixed assets in the financial audit.
- Specifies that leased right of use assets, which will be required in financial audits due to a change in generally accepted accounting principles, are not included in the required cash and investment balance calculation.
- Specifies how net eligible education expenses are calculated if the school is not eligible for all choice program payments.
- Specifies what is considered a management letter.
- Clarifies the school's responsibility for the financial requirements.
- Specifies the impact of the statement of actual cost on the reserve balance schedule calculations.
- Specifies the requirements for the governing body agreements.
- Modifies the hours of instruction requirement for continuing schools.
- Removes continuing eligibility requirements since they were removed from s. 118.60, Stats..
- Clarifies which schools are new private schools.
- Modifies the disclosure of information requirement based on changes in s. 118.60, Stats.
- Specifies the requirements for a school to indicate it would like an all student accountability report card.
- Modifies the auditor fee payment to allow for the amount to be paid using another guaranteed manner permitted by the department.
- Modifies the continuing pupil definition and who can complete a department of revenue income determination so that the requirements are consistent with changes in s. 118.60, Stats.
- Specifies the pupil count reports must include the waiting list pupils for the Racine parental choice program.
- Specifies that the Choice waiting lists and waiting list applications must be audited by the independent auditor as part of the enrollment audit.
- Clarifies that the preliminary enrollment report may not include a pupil that has withdrawn from the school.
- Clarifies the employee compensation documentation requirements, including specifying the requirements when schools notify employees of changes in compensation.
- Removes the requirement for the risk management and insurance evaluation requirement. All schools participating in the program are required to have a minimum amount of insurance unless a different amount is recommended by a risk or insurance consultant.
- Removes the requirements and audit procedures for teacher waivers since they are no longer permitted under s. 118.60, Stats.
- Specifies the surety bond requirements for schools that are new to the program.
- Specifies that schools new to the program must provide evidence that the school has the required insurance and fidelity bond.
- Revised the Wisconsin income limit to match the revised income limit in s. 118.60, Stats.

Summary of, and comparison with, existing or proposed federal regulations: N/A

Summary of any public comments and feedback on the statement of scope for the proposed rule that the agency received at a preliminary public hearing and comment period held and a description of how and to what extent the agency took those comments into account and drafting the proposed rule:

The Department held a preliminary public hearing and comment period on April 23rd, 2019, and did not receive any comments on the statement of scope for the proposed rule.

Comparison with rules in adjacent states:

- **Illinois:** Under the Invest in Kids Program, students are eligible to receive a scholarship to attend qualified, nonpublic schools in Illinois if their family is below 300% of the federal poverty level. Student scholarships cannot exceed the state's average operational expense per pupil, with exceptions and a $75 million credit cap for scholarship awards.
- **Iowa:** The School Tuition Organization Tax Credit provides that individuals, corporations, LLCs and other partnerships that donate to School Tuition Organizations (STOs) may receive a 65% tax credit, and STOs in turn give out funds as tuition grants to lower-income students to attend an accredited, nonpublic school.
- **Michigan:** There are no rules governing private school choice in Michigan.
- **Minnesota:** There are no rules governing private school choice in Minnesota.

Summary of factual data and analytical methodologies:

2015 Wisconsin Act 55, the 2015-17 biennial budget, significantly expanded the state's parental choice programs. The Department promulgated administrative rules, CR 16-006, relating to the parental choice program for eligible school districts and other school districts which is currently in effect. Since then, 2017 Wisconsin Act 36 and 2017 Wisconsin Act 59, the 2017-19 biennial budget, made several changes relating to the administration of the parental choice programs. As a result of recent changes in statute and items identified since the rules were implemented, modifications to PI 48 are needed to better assist participating schools and the Department in the administration of each program. Without a rule change, statute and rule will not be consistent and the Department may be prevented from efficiently administering the program.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: N/A

Anticipated costs incurred by private sector: N/A

Effect on small business:

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Agency contact person: (including email and telephone)

Carl Bryan
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Wisconsin Department of Public Instruction
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(608) 266-3275

Place where comments are to be submitted and deadline for submission:

Comments should be submitted to Carl Bryan, Department of Public Instruction, 125 S. Webster Street, P.O. Box 7841, Madison, WI 53707-7841 or at adminrules@dpi.wi.gov. The Department will publish a hearing notice in the *Administrative Register* which will provide information on the deadline for the submission of comments.

SECTION 1. PI 48.02 (2) is repealed.

SECTION 2. PI 48.02 (10), (12) (a), and (b) (intro.) are amended to read:

PI 48.02 (10) "Financial audit" means the modified financial audit ~~of a school~~standard financial audit, and includes the audit opinion and supplemental schedule, required under ~~s.~~ss. 118.60 (7) (am) ~~2m. a.~~and 119.23 (7) (am), Stats., ~~including the audit opinion~~and ss. PI 35.10 and 48.10.

(12) (a) The school did not participate in a program under s. 118.60 or 119.23, Stats., at the time the school ~~submitted~~filed a notice of intent to participate in the choice program with the department for the following school year.

(b) The school participated in a program under s. 118.60 or 119.23, Stats., at the time the school ~~submitted~~filed a notice of intent to participate in the choice program with the department for the following school year but one of the following occurred:

SECTION 3. PI 48.02 (14) is repealed.

SECTION 4. PI 48.02 (14m) is created to read:

PI 48.02 (14m) "Modified financial audit" means the audit required under ss. 118.60 (7) (am) and 119.23 (7) (am), Stats., for a school that received less than $100,000 under ss. 115.7915, 118.60, and 119.23, Stats., in any school year.

SECTION 5. PI 48.02 (15) is amended to read:

PI 48.02 (15) "New private school" ~~has the meaning given in~~means a private school that meets either of the requirements in s. 118.60 (1) (bn) 1. a. or b., Stats., for the 12 months immediately preceding either of the dates the school would be required to submit the information under s. PI 48.04 (1) and (2), except as provided under s. 118.60 (1) (bn) 2., Stats.

SECTION 6. PI 48.02 (22g) and (22r) are created to read:

PI 48.02 (22g) "Special needs scholarship program excluded expenses" means eligible education expenses included as primarily special needs scholarship program expenses under s. PI 49.09 (3) (a) and costs included as eligible in any statements provided under s. PI 49.13 (7) incurred in that school year.

(22r) "Standard financial audit" means the audit required under ss. 118.60 (7) (am) and 119.23 (7) (am), Stats., for a school that annually received a total of at least $100,000 under ss. 115.7915, 118.60, and 119.23, Stats., in any school year.

SECTION 7. PI 48.03 (3) and (a) 1. b. are amended to read:

PI 48.03 (3) NOTICE OF INTENT TO PARTICIPATE. Except as provided under s. PI 48.04 (1) for new private schools, annually by January 10, a school that intends to participate in the choice program in the following school year shall ~~submit to~~file with the department a notice of intent to participate.

(a) 1. b. A plan provided by the school and approved by the department. A school using this option shall ~~submit~~file the plan ~~to~~with the department for approval by January 10. If the school does not provide a plan by January 10 or the plan is not approved by the department by January 31, the school shall use the plan provided by the department. If the school makes a change to the plan in a subsequent school year, the school shall ~~submit~~file, with the school's notice of intent to participate, the revised plan ~~to the department~~ for approval.

SECTION 8. PI 48.03 (3) (a) 2m. is created to read:

PI 48.03 (3) (a) 2m. The expected number of choice program pupils that will participate in summer school under s. PI 48.08.

SECTION 9. PI 48.03 (3) (a) 4. and (b) are amended to read:

PI 48.03 (3) (a) 4. ~~The~~For first time participants, the name and location of the accredited institution of higher education from which the choice administrator received at least a bachelor's degree and the date the degree was received, the number

of the choice administrator's teaching or administrator license issued by the department, or an indication that the administrator is excluded from the requirement under s. 118.60 (2) (c) 2., Stats.

(b) A school only participating in the Wisconsin parental choice program is not required to ~~submit~~file the random selection plan under par. (a) 1. ~~in~~for the ~~2016-17 and 2017-18~~ school years in which the limitation under s. 118.60 (2) (be) 2., Stats., applies.

SECTION 10. PI 48.03 (4) is repealed.

SECTION 11. PI 48.03 (5) (a) (intro.) is renumbered PI 48.03 (5) (a) and amended to read:

PI 48.03 (5) (a) ~~Annually by August 1 of~~By January 10 prior to the school's initial school year in the choice program, a first time participant shall ~~submit to~~file with the department ~~all of the following:~~the information required under s. 118.60 (6p) (a), Stats., and the mailing addresses for each governing body member on a form provided by the department.

SECTION 12. PI 48.03 (5) (a) 1. and 2. are repealed.

SECTION 13. PI 48.03 (5) (b) (intro.) is renumbered PI 48.03 (5) (b) and amended to read:

PI 48.03 (5) (b) Annually by August 1, a school participating in the choice program that is not a first time participant shall ~~submit to the department all of the following:~~file with the department any changes to the school's governing body members, including signatures required under s. 118.60 (6m) (c), Stats., and the mailing addresses for each new governing body member on a form provided by the department.

SECTION 14. PI 48.03 (5) (b) 1. and 2. are repealed.

SECTION 15. PI 48.03 (5) (b) (Note), (6) (intro.), (a) (intro.), 3., 4., (b), (c), and (7) (a) are amended to read:

PI 48.03 (5) (b) (Note) The disclosure of information form and school update form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

(6) ACCREDITATION REQUIREMENTS. A school participating in the choice program shall be accredited by an accrediting agency under s. 118.60 (1) (ab), Stats. Annually by ~~January 15~~August 1, a school that is fully accredited under s. 118.60 (2) (a) 7., Stats., shall ~~provide to~~file with the department a ~~letter~~notice from the school's accrediting agency under s. 118.60 (1) (ab), Stats., stating ~~whether~~that the school is accredited as of the date of the ~~letter~~notice. The ~~letter~~notice shall meet all of the following requirements:

(a) The ~~letter~~notice shall include the following information:

3. The grades accredited by the agency.

4. ~~A statement~~Notification that the school is ~~or is not~~ accredited ~~as of~~at the ~~date of~~time the ~~letter~~notice is filed.

(b) The ~~letter~~notice shall be ~~dated~~filed no earlier than the beginning of the school year.

(c) The ~~letter~~notice shall be ~~signed~~completed by an authorized member of the accrediting agency.

(7) (a) Annually by the first weekday in May ~~1, a~~of the school ~~continuing~~year immediately preceding the first school year in which a first time participant intends to participate in the choice program, a first time participant shall ~~report to~~file with the department the hours of instruction for the upcoming school year on a form provided by the department. The hours of instruction shall comply with the requirements under s. 118.60 (2) (a) 8., Stats., and s. PI 48.06 (6).

SECTION 16. PI 48.03 (7) (b) is renumbered PI 48.03 (7) (b) (intro.) and amended to read:

PI 48.03 (7) (b) ~~Notwithstanding par. (a), by January 10 a first time participant school shall~~Annually by the last weekday in September, as part of the pupil count report~~ to the department the hours of instruction~~ for the ~~upcoming school year on a form provided~~third Friday in September required under s. PI 48.06 (8) or another manner perscribed by the department~~.~~, a school shall file all of the following with the department:

SECTION 17. PI 48.03 (7) (b) 1. is created to read:

PI 48.03 (7) (b) 1. The school's start and end date for the current school term.

SECTION 18. PI 48.03 (7) (c) is repealed.

SECTION 19. PI 48.03 (7) (d) is renumbered PI 48.03 (7) (b) 2. and amended to read:

PI 48.03 (7) (b) 2. ~~Annually by October 15, a school shall report the~~The dates of the two governing body meetings for the current school year required under s. 118.60 (7) (b) 3m., Stats.

SECTION 20. PI 48.03 (7) (e) is renumbered PI 48.03 (7) (b) 3. and amended to read:

PI 48.03 (7) (b) 3. ~~A school shall revise the reports in par. (a) or (b) if it changes its~~The hours of instruction~~. The school shall submit revisions to the department by May 15 of~~ for the current school~~ year. A school may not shorten its school~~ term ~~after the start of the school term without prior written approval from the department~~. The hours of instruction shall comply with the requirements under s. 118.60 (2) (a) 8., Stats., and s. PI 48.06 (6).

SECTION 21. PI 48.03 (7) (f) is created to read:

PI 48.03 (7) (f) Upon request by the department, a school shall provide documentation showing how the school meets the hours of instruction requirements under s. 118.60 (2) (a) 8., Stats., and s. PI 48.06 (6).

SECTION 22. PI 48.03 (8) (a) is amended to read:

PI 48.03 (8) (a) A school may not charge pupils participating in ~~a~~the choice program for a field trip if the trip is required for a class, is part of the school's curriculum, or is part of the hours of instruction.

SECTION 23. PI 48.03 (9) and (10) are created to read:

PI 48.03 (9) ALL STUDENT ACCOUNTABILITY REPORT. **(a)** By the first weekday in August of the school year in which a first time participant intends to participate in the choice program, a first time participant shall file a form with the department identifying whether the school will provide the data required under s. 115.385 (3) (b), Stats., to the department.

(b) Annually by the first weekday in August, a school may file a form with the department identifying changes to whether the school will provide the data required under s. 115.385 (3) (b), Stats., to the department. After the first weekday in August, the school may not make changes for that school year.
Note: The form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

(10) GOVERNING BODY AGREEMENT. (a) By January 10 of the school year immediately preceding the first school year in which a school intends to participate in the choice program, a school may file with the department a governing body agreement as permitted under s. 118.60 (2) (d) 1. c., Stats. The governing body agreement shall comply with all of the following:

1. The governing body agreement shall be between a school that intends to participate in the choice program and a school with a different governing body that is currently participating in the choice program.

2. The agreement shall list the governing body members of each school in subd. 1. as of the date of the agreement.

(b) The governing body president of each school in par. (a) 1. shall sign the agreement.

(c) The governing body members of the school that intends to participate in the choice program listed on the information filed under s. 118.60 (6p) (a) 2. and (6m) (a) 2., Stats., and sub. (5) (a) shall be the governing body members of the school that is currently participating in the choice program.

SECTION 24. PI 48.04 (1) (c) is amended to read:

PI 48.04 (1) (c) The governing body members' signatures required under s. 118.60 ~~(6m) (c)~~(6p) (a) 2., Stats., and the mailing addresses for each governing body member on a form provided by the department.

SECTION 25. PI 48.04 (1) (d) is repealed.

SECTION 26. PI 48.04 (1) (e) is amended to read:

PI 48.04 (1) (e) A cashier's check or another guaranteed manner permitted by the department for the auditor fee required under s. 118.60 (2) (ag) 1. c., Stats.

SECTION 27. PI 48.04 (1) (f) 6m. and (2) (bm) are created to read:

PI 48.04 (1) (f) 6m. Anticipated beginning and ending reserve balance.

(2) (bm) The expected number of choice program pupils that will participate in summer school under s. PI 48.08.

SECTION 28. PI 48.04 (2) (f) and (3) are amended to read:

PI 48.04 (2) (f) A school only participating in the Wisconsin parental choice program is not required to submit the random selection plan under ~~sub. (2)~~par. (a) ~~in~~for the ~~2016-17 and 2017-18~~ school years in which the limitation under s. 118.60 (2) (be) 2., Stats., applies.

(3) AUDITOR FEE PAYMENT INCREASES. If the amount of the auditor fee for the school year in which the school will first participate in the choice program is more than the amount paid in sub. (1) (e), the new private school shall pay the difference between the amount paid and the amount owed calculated under s. PI 48.17 (1) by January 10 of the school year immediately preceding the school year that the school intends to participate in the choice program. The school shall pay the difference with a cashier's check or another guaranteed manner permitted by the department.

SECTION 29. PI 48.05 (1) (a), (4) (a), (b) 2., (8) (a), and (c) (intro.) are amended to read:

PI 48.05 (1) (a) "Continuing pupil" means an applicant ~~to the Racine parental choice program~~ who participated in the ~~Racine parental~~ choice program ~~on the immediately preceding count date or participated in the Wisconsin parental choice program on one of the count dates~~or the program under s. 119.23, Stats., in the immediately preceding school year~~, or an applicant to the Wisconsin parental choice program who participated in the Wisconsin parental choice program on the immediately preceding count date~~.

(4) (a) If the parent uses the department of revenue income determination method under s. 118.60 (2) (a) 1. b., Stats., the school or parent shall input the parent's social security number into the online application system or parent application. If the department of revenue is unable to verify family income, the parent shall use the department of public instruction income determination method under par. (b).

(b) 2. A school shall determine whether a pupil is income eligible for the choice program they are applying to based on the family size and prior year family income.

(8) (a) The school shall correct an application by December 15 for applications received during an open application period prior to the third Friday in September and by ~~May 1~~the due date for the second Friday in January enrollment audit required under s. PI 48.07 (1) for applications received during an open application period after the third Friday in September. If the school does not correct the application as required in this subsection by the specified date, the application is ineligible.

(c) The school shall obtain a prior year tax transcript for each parent on the application showing that the family is income eligible for the choice program they are applying to based on the prior year income if both of the following apply:

SECTION 30. PI 48.06 (1) (a) and (5) are amended to read:

PI 48.06 (1) (a) The school has ~~submitted to~~filed with the department its notice of intent to participate for the following school year required under s. PI 48.03 (3) or a new private school has submitted the information required under s. PI 48.04 (2).

(5) SIMULTANEOUSLY ENROLLED PUPIL. A pupil participating in ~~a~~the choice program may not be simultaneously enrolled, in or out of Wisconsin, in another private school, a home-based private educational program, a charter school under s. 118.40 (2r) or (2x), Stats., or a public school district and receive a payment under s. 118.60, Stats. A pupil receiving a payment under s. 118.60, Stats., may not receive a payment under s. 115.7915 (4m) or 119.23, Stats.

SECTION 31. PI 48.06 (6) (b) 2. (intro.) is renumbered PI 48.06 (6) (b) 2. and amended to read:

PI 48.06 (6) (b) 2. ~~The full-time equivalent for a~~A pupil enrolled in a 5-year-old kindergarten program that requires full-day attendance by the pupil for ~~less than 5~~4 days a week, but not on any day of the week that pupils enrolled in other grades in the school do not attend school, for an entire school term shall be ~~calculated~~counted as ~~follows:~~a 0.8 full-time equivalent.

SECTION 32. PI 48.06 (6) (b) 2. a. and b. are repealed.

SECTION 33. PI 48.06 (6) (b) 2m. is created to read:

PI 48.06 (6) (b) 2m. A pupil enrolled in a 5-year-old kindergarten program requiring full-day attendance by the pupil for 3 days a week, but not on any day of the week that pupils enrolled in other grades in the school do not attend school, shall be counted as a 0.6 full-time equivalent.

SECTION 34. PI 48.06 (6) (b) 4. is renumbered PI 48.06 (6) (b) 4. (intro.) and amended to read:

PI 48.06 (6) (b) 4. For purposes of ~~subds. 1. and 2.~~this subsection, "full-day~~"~~" means the ~~length of the school day required for first grade pupils in the public school district in which a school is operating.~~following:

SECTION 35. PI 48.06 (6) (b) 4. a. and b. are created to read:

PI 48.06 (6) (b) 4. a. If the private school offers first grade, the length of the school day required to meet the total number of hours of instruction for first grade pupils under ss. 118.60 (2) (a) 8. and 119.23 (2) (a) 8., Stats.

b. If the private school does not offer first grade, the length of the school day required to meet the total number of hours of instruction for first grade pupils under s. 118.165 (1) (c), Stats.

SECTION 36. PI 48.06 (7) (intro.), (b), (8) (intro.), and (a) 1. are amended to read:

PI 48.06 (7) ~~SEPTEMBER 1~~PRELIMINARY APPLICATION AND CLASS LIST SUBMISSION. Annually by ~~September 1~~the last weekday in August, a school shall ~~submit to~~file with the department ~~in~~, using the online application system or other manner specified by the department, all of the following:

(b) A class list of all pupils enrolled in ~~each~~the choice program at the school by grade level. The class list may not include pupils that have withdrawn from the school.

(8) APPLICATION SUBMISSION AND PUPIL COUNT REPORTS. Annually by ~~October 1~~the last weekday in September and ~~February 1~~the last weekday in January, a school shall ~~submit to~~file with the department, using the online application system or other manner specified by the department, all of the following:

(a) 1. The grade of each pupil participating in ~~each~~the choice program on the immediately preceding count date. In order to be eligible for payment, a 4-year-old kindergarten pupil, 5-year-old kindergarten pupil, and first grade pupil shall attain the age specified in s. 118.14 (1), Stats.

SECTION 37. PI 48.06 (8) (a) 4. is created to read:

PI 48.06 (8) (a) 4. The pupils on the Racine parental choice program waiting list on the immediately preceding count date.

SECTION 38. PI 48.06 (8) (b) 1. is amended to read:

PI 48.06 (8) (b) 1. Obtain residency documentation for the new address that meets the requirements of s. PI 48.05 (2) and is dated between the third Friday in August and ~~October 1~~the last weekday in September.

SECTION 39. PI 48.07 (1) (intro.), (a), (b), (2), and (3) (d) 2. are amended to read:

PI 48.07 (1) REPORT COMPLETION AND SUBMISSION. A school shall engage an auditor to compile the enrollment audit using agreed upon procedures that identify ineligible pupils for whom the school has received payment under s. 118.60 (4) or (4m), Stats., pupils with incorrect data in the department's database, and additional eligible pupils qualifying the school for a payment. The report shall be prepared in accordance with professional standards and identify the procedures agreed upon by the auditor and the department that were used. A school shall ~~submit~~file an enrollment audit ~~to~~with the department for the following:

(a) The third Friday in September enrollment reported under s. PI 48.06 (8). A school shall ~~submit~~file its third Friday in September enrollment audit with the department by December 15.

(b) The second Friday in January enrollment reported under s. PI 48.06 (8). A school shall ~~submit~~file its second Friday in January enrollment audit with the department by the first weekday in May~~1~~.

(2) SCHOOL RECORDS. A school shall provide its auditor with the official attendance records and the original classroom records for the auditor's use in conducting the enrollment audit. The ~~official attendance records~~student information system shall identify pupils participating in the choice program. The school shall provide the auditor with official attendance records or another report from the student information system that identify which students are choice program pupils.

(3) (d) 2. A pupil enrollment software test plan developed by the auditor. The auditor shall annually ~~submit~~file the plan ~~to~~with the department for approval. The auditor shall not use the test plan until it is approved by the department.

SECTION 40. PI 48.07 (3) (e) is repealed.

SECTION 41. PI 48.07 (3) (f) is amended to read:

PI 48.07 (3) (f) Verify that the total number of pupils attending the school on the official attendance records match the total number of pupils based on the ~~original classroom records~~pupil count report under s. PI 48.06 (8) (a) for each grade category.

SECTION 42. PI 48.07 (3) (h) is repealed.

SECTION 43. PI 48.07 (3) (k), (L), and (n) are amended to read:

PI 48.07 (3) (k) Reconcile tuition revenues and pupils for whom tuition is waived with the school's ~~official attendance~~ records from the student information system that identify pupils who do not participate in the choice program. If the school charges a choice program pupil tuition, ensure the school obtained documentation indicating the pupil meets the requirements of s. 118.60 (3m) (b), Stats.

(L) Select a sample of at least 60 pupils not participating in the choice program from original classroom records and verify the school included the selected pupils in the ~~pupil count report under s. PI 48.06 (8)~~official attendance records. The sample shall include pupils from each classroom. If the pupils are in different classrooms during the day, the auditor may

select one period and select pupils from each classroom for that period. If the auditor identifies an auditing exception, the auditor shall increase the sample size in increments of 60 pupils until the auditor finds no additional exceptions or until the auditor verifies that all pupils have been properly included in reported enrollments. If the school has an enrollment of fewer than 60 pupils who did not participate in the choice program, the auditor shall examine records for all pupils who did not participate in the choice program.

(n) Verify that the applications for pupils participating in the choice program and pupils on a choice program waiting list meet the requirements of s. PI 48.05. If an applicant to the Wisconsin parental choice program moved, the auditor shall verify that the residency documentation obtained pursuant to s. PI 48.06 (8) (b) meets the requirements of that paragraph.

SECTION 44. PI 48.07 (3) (r) is created to read:

PI 48.07 (3) (r) Verify that the Racine parental choice program waiting list pupils reported on the pupil count report required under s. PI 48.06 (8) (a) 4. match the pupils on the school's Racine parental choice program waiting list.

SECTION 45. PI 48.07 (4) (a) is amended to read:

PI 48.07 (4) (a) Upon review of the enrollment audits, the department shall certify an amount due from a school ~~for payments made to the school for ineligible pupils~~ or an amount due to the school ~~for additional eligible pupils~~. If a school fails to ~~provide~~file an enrollment audit with the department, the department may determine that all choice pupils are ineligible.

SECTION 46. PI 48.07 (4) (b) (intro.) is renumbered PI 48.07 (4) (b) and amended to read:

PI 48.07 (4) (b) A school shall refund to the department the amount certified as due to the department as ~~follows:~~specified under s. PI 48.19 (5).

SECTION 47. PI 48.07 (4) (b) 1. and 2. are repealed.

SECTION 48. PI 48.08 (1) and (2) are amended to read:

PI 48.08 (1) DEFINITION. In this section, "academic purposes" means summer school learning experiences that are related to or similar to instruction the school offers during the regular school term or for which credit toward graduation is given.

(2) LIST OF CLASSES. Annually by the first weekday in May ~~1~~, a school shall ~~submit the list to~~file with the department a list of academic summer school classes and laboratory periods that the school will provide in the following summer. The department shall annually review the list to ensure the classes are for academic purposes.

SECTION 49. PI 48.08 (3) (a) (intro.) is renumbered PI 48.03 (3) (intro.) and amended to read:

PI 48.08 (3) PROGRAM REQUIREMENTS. **(a)** ~~To be eligible to receive a choice program summer school payment, a school shall offer no fewer than 19 summer days of instruction during the summer. Each summer day of instruction offered by the school shall be comprised of no fewer than 270 minutes of instruction for academic purposes.~~ A school may count any of the following as instruction for academic purposes:

SECTION 50. PI 48.08 (3) (a) 1. is renumbered PI 48.08 (3) (am).

SECTION 51. PI 48.08 (3) (a) 2. is renumbered PI 48.08 (3) (bm) and amended to read:

PI 48.08 (3) (bm) Swimming instruction programs, if taught or directed ~~on~~by a teacher at the ~~school~~ site of the instruction.

SECTION 52. PI 48.08 (3) (a) 3. is renumbered PI 48.08 (3) (cm).

SECTION 53. PI 48.08 (3) (b) is repealed.

SECTION 54. PI 48.08 (4) (intro.) is renumbered PI 48.08 (4) and amended to read:

PI 48.08 (4) PUPIL ATTENDANCE REQUIREMENTS. A school may include a pupil in its summer school report if ~~all of the following apply:~~the pupil was in the choice program in which the school participates on the second Friday in January during the school term immediately preceding the summer for which the school seeks payment, or the school has accepted the pupil's choice program application for the school term immediately following that summer.

SECTION 55. PI 48.08 (4) (a) and (b) are repealed.

SECTION 56. PI 48.08 (5) is amended to read:

PI 48.08 (5) REPORT. ~~Annually by October 1 immediately following summer school, a~~A school counting pupils for choice summer school payment purposes shall ~~submit to the department~~file a summer school report with the department, using the online application system or other manner specified by the department, listing the choice program pupils who attended summer school and the number of days the pupils attended. ~~The school shall report this information on a form provided by the department.~~

SECTION 57. PI 48.08 (5) (Note) is repealed.

SECTION 58. PI 48.08 (6) is created to read:

PI 48.08 (6) PAYMENT. A school may not receive a summer school payment under s. 119.23 (4m) or 115.7915 (4p), Stats., and a summer school payment under s. 118.60 (4m), Stats., for the same pupil in the same school year.

SECTION 59. PI 48.09 (1) is repealed and recreated to read:

PI 48.09 (1) FINANCIAL AUDIT REQUIREMENTS. Annually by October 15, a school shall submit a financial audit and financial audit supplemental schedule to the department. The financial audit shall comply with all of the following:

(a) The financial audit shall either include the school-only balances and activity or shall be prepared at the consolidated level as permitted by generally accepted accounting principles.

(b) A school may submit a financial audit that includes a modified audit opinion due to fixed assets purchased prior to the school's participation in a program under ss. 115.7915, 118.60, and 119.23, Stats., not being included in the financial audit.

(c) The school shall have support for the original purchase price for the fixed assets and evidence that the school paid for the fixed asset purchases in order for the depreciation expense to be an eligible education expense. If any fixed assets are included in the statement of financial position that do not meet these requirements, the financial audit shall include a footnote disclosure that includes the fixed asset amount, accumulated depreciation, and current year depreciation expense for the fixed assets that do not meet the requirements to be included as an eligible education expense.

(d) Except as provided under par. (b) and sub. (4) (b), a financial audit that includes a modified audit opinion does not meet the requirements under s. 118.60 (7) (am) 2m. a., Stats., and this chapter unless the modification is approved by the department.

SECTION 60. PI 48.09 (3), (4) and (5) is created to read:

PI 48.09 (3) STANDARD FINANCIAL AUDIT. **(a)** The standard financial audit shall be prepared in accordance with generally accepted accounting principles.

(b) Except as provided under par. (c), the standard financial audit shall include 2-year comparative financial statements containing all of the statements required by generally accepted accounting principles, including a statement of financial position, a statement of activities, and a statement of cash flows. Both years of the financial statements shall be audited.

(c) The first year a school completes a standard financial audit for the choice program, the statement of activities and statement of cash flows may only include the current school year.

(4) MODIFIED FINANCIAL AUDIT. **(a)** The modified financial audit shall include an audited one-year statement of financial position prepared as required by generally accepted accounting principles.

(b) A school may submit a modified financial audit that includes a modified audit opinion due to post-retirement benefits being excluded from the statement of financial position.

(5) MANAGEMENT LETTER. The management letter required under ss. 118.60 (7) (am) and 119.23 (7) (am), Stats., shall include all of the following if issued by the auditor:

(a) Any letter issued under the American Institute of Certified Public Accountants Statement on Auditing Standards 114;

(b) Any letter issued under the American Institute of Certified Public Accountants Statement on Auditing Standards 115; or

(c) Any other letter to management communicating significant deficiencies or material weaknesses in the internal controls.

SECTION 61. PI 48.10 (1) (b) is renumbered PI 48.10 (1) (b) (intro.) and amended to read:

PI 48.10 (1) (b) Eligible education expenses may only include ~~expenses that are in the statement of activities, except for the cost of land. The amount that the school paid for land shall be included in the first year the land is used for educational programming using an allocation method under par. (d), if applicable.~~the following:

SECTION 62. PI 48.10 (1) (b) 1. and 2. are created to read:

PI 48.10 (1) (b) 1. In a standard financial audit, expenses that are in the statement of activities, except for the cost of land. The amount that the school paid for land shall be included in the first year the land is used for educational programming using an allocation method under par. (d), if applicable.

2. In a modified financial audit, expenses that would be included in the statement of activities for the school year based on generally accepted accounting principles except for the following:
a. The amount that the school paid for land shall be included in the first year the land is used for educational programming using an allocation method under par. (d), if applicable.
b. Post-retirement benefits may be included as an eligible education expense based on the amount expended for the post-retirement benefits in the school year.

SECTION 63. PI 48.10 (1) (e) 1. is amended to read:

PI 48.10 (1) (e) 1. Contributed services, ~~capital~~fixed assets, or goods.

SECTION 64. PI 48.10 (1) (e) 4. is repealed.

SECTION 65. PI 48.10 (1) (e) 4m. is created to read:

PI 48.10 (1) (e) 4m. Special needs scholarship program excluded expenses.

SECTION 66. PI 48.10 (2), (3) (a) 1., and 2. are amended to read:

PI 48.10 (2) AUDITOR REVIEW OF ELIGIBLE EDUCATION EXPENSES. An auditor shall ensure the eligible education expenses a school included in the supplemental schedule comply with the requirements under sub. (1), s. PI 48.09 (1) (c), and the policy established under s. PI 48.13 (5) (h).

(3) (a) 1. Determine the amount of eligible education expenses~~, excluding eligible education expenses in s. PI 49.09 (3) (a)~~. This amount shall not include special needs scholarship program excluded expenses.

2. Subtract all government assistance revenues received for eligible education expenses~~, excluding eligible education expenses~~. This amount shall not include government assistance revenues subtracted in s. PI 49.09 (3) (a) 2. or in the statements provided under s. PI 49.13 (7).

SECTION 67. PI 48.10 (3) (a) 3. is renumbered PI 48.10 (3) (a) 3. (intro.) and amended to read:

PI 48.10 (3) (a) 3. Subtract ~~fundraising revenue, up to the non-administrative fundraising expenses in subd. 1. In this subdivision, administrative expenses include expenses for school personnel, copying, mailing, or capital assets used for other school purposes.~~the lesser of the following:

SECTION 68. PI 48.10 (3) (a) 3. a. and b. are created to read:

PI 48.10 (3) (a) 3. a. Fundraising revenue.

b. The non-administrative fundraising expenses included in the expenses in subd. 1. In this subdivision, administrative expenses include expenses for school personnel, copying, mailing, or fixed assets used for other school purposes.

SECTION 69. PI 48.10 (3) (a) 4., (b) 1., and (c) 1. are amended to read:

PI 48.10 (3) (a) 4. Subtract all insurance proceeds received for eligible education expenses~~, excluding eligible education expenses~~. This amount shall not include insurance proceeds subtracted in s. PI 49.09 (3) (a) 4.

(b) 1. Calculate the percentage of pupils at the school participating in a program under ss. 118.60 and 119.23, Stats., as the full-time equivalent for the pupils participating in a program under ss. 118.60 and 119.23, Stats., compared to the all pupil full-time equivalent. The full-time equivalents shall be based on the average of the full-time equivalents determined in the enrollment audits under ~~s.~~ss. PI 35.07 and 48.07.

(c) 1. Determine the total revenue received under ss. 118.60 and 119.23, Stats. Summer school revenue received under ss. 118.60 and 119.23, Stats., shall be included in the school year it is received.

SECTION 70. PI 48.10 (3) (c) 4. is created to read:

PI 48.10 (3) (c) 4. Subtract any reserve amount repaid to the department.

SECTION 71. PI 48.10 (3) (d) (intro.), 1., and (4) are amended to read:

PI 48.10 (3) (d) The school's cash and investment balance that shall be maintained under sub. ~~4~~(4) as follows:

1. Determine the sum of any remaining depreciation on fixed assets used by the school and any land purchases that have not yet been included in eligible cost under sub. (1) (b) that meet the requirements to be included as an eligible education expense. The depreciation under this subdivision shall not include depreciation for leased right of use assets.

(4) MAINTAIN RESERVE BALANCE. The school shall maintain the reserve balance, if positive, for future eligible education expenses for choice pupils. The school's cash and investment balance shall be at least as much as the amount calculated under sub. (3) (d), if positive. If the school is also participating in the program under s. 115.7915, Stats., the cash and investment balance shall be at least as much as the reserve calculated under this chapter and s. PI 49.09~~,~~ less the sum of any remaining depreciation on fixed assets used by the school and any land purchases that have not yet been included ~~as an~~in eligible cost under sub. (1) (b) that meet the requirements to be included as an eligible education expense. The depreciation under this subsection shall not include depreciation for leased right of use assets. If a school fails to maintain a sufficient cash and investment balance, it shall repay the reserve balance to the department as specified under s. PI 48.19 (5).

SECTION 72. PI 48.10 (5) (a) is renumbered PI 48.10 (5) (a) (intro.) and amended to read:

PI 48.10 (5) ~~FINAL~~ FINANCIAL AUDIT SUBMISSION. **(a)** If a school ceases to participate or is barred from participation in all of the programs the school is participating in under ss. 118.60 and 119.23, Stats., it shall submit to the department the financial audit required under s. 118.60 (7) (am) 2m. a., Stats., for the final school year in which it participated. ~~If a school~~

~~fails to submit the financial audit, the school's net eligible education expenses for the year shall be determined to be zero for purposes of determining the school's reserve balance.~~ The net eligible education expenses under sub. (3) (a) shall be multiplied by the percent of the school year the school participated in the choice program if the school was not eligible for all of the payments under s. PI 48.19. This percentage shall be calculated as follows:

SECTION 73. PI 48.10 (5) (a) 1. to 3. and (b) are created to read:

PI 48.10 (5) (a) 1. The net eligible education expenses shall be multiplied by 25 percent if the school was only eligible for the September payment.

2. The net eligible education expenses shall be multiplied by 50 percent if the school was only eligible for the September and November payments.

3. The net eligible education expenses shall be multiplied by 75 percent if the school was only eligible for the September, November, and February payments.

(b) If a school fails to submit the financial audit, the school's net eligible education expenses for the year shall be determined to be zero for purposes of determining the school's reserve balance.

SECTION 74. PI 48.10 (6) is amended to read:

PI 48.10 (6) REFUND OF THE RESERVE. If a school ceases to participate or is barred from participating in all of the programs the school is participating in under ss. 118.60 and 119.23, Stats., and the school's reserve is positive, the school shall refund the reserve balance to the department~~. The school shall make the refund within 30 days of the date of the closure payment letter sent to the school by the department~~ as specified under s. PI 48.19 (5).

SECTION 75. PI 48.11 (6) is amended to read:

PI 48.11 (6) SCHOOL RESPONSIBILITY. An auditor's failure to completely or properly perform the responsibilities set forth in s. 118.60, Stats., or this chapter is not a defense to any determination the department makes ~~that there is an amount due from a school or to a school under s. PI 48.07 (4) or 48.10 (6)~~under this chapter or s. 118.60, Stats.

SECTION 76. PI 48.12 (5) is amended to read:

PI 48.12 (5) AUDITOR PEER REVIEW ~~REPORTS~~REPORT. An auditor completing any of the audits and agreed upon procedure reports under s. 118.60, Stats., or this chapter shall ~~submit~~file the auditor's peer review required under s. 442.087, Stats., ~~to~~with the department within 30 days of the report's issuance.

SECTION 77. PI 48.13 (2) (intro.) is amended to read:

PI 48.13 (2) ~~CONTINUING~~ SCHOOL BUDGET. A school ~~that is not a first time participant~~ shall complete all of the following:

SECTION 78. PI 48.13 (2) (a) 7. is created to read:

PI 48.13 (2) (a) 7. Anticipated beginning and ending reserve balance.

SECTION 79. PI 48.13 (2) (b) (intro.) and (4) (a) are amended to read:

PI 48.13 (2) (b) If a school's actual third Friday in September enrollment for all pupils or for choice program pupils varies by ~~20%~~20 percent or 20 pupils, whichever is less, from the anticipated enrollments the school used in the budget required under par. (a), the school shall, annually by November 1, complete a revised budget containing all of the following:

(4) (a) Have a signed, written agreement for each employee stating the employee's compensation. The agreement shall be signed by the employee and a representative of the school before the school makes the first payment to the employee for the school year.

SECTION 80. PI 48.13 (4) (c) is renumbered PI 48.13 (4) (c) (intro.) and amended to read:

PI 48.13 (4) (c) Provide a written document to the employee specifying any changes to a document ~~required~~ under par. (a) or (b) before any change is effective. The written notification does not need to be signed. If the change is to the compensation for the employee, the written notification shall include all of the following:

SECTION 81. PI 48.13 (4) (c) 1. to 3. are created to read:

PI 48.13 (4) (c) 1. The dollar amount of the compensation change or how the compensation change will be calculated.

2. If the compensation change is a one time amount that will be paid to the employee, the written notification shall specify when the one time compensation payment will be paid.

3. If the compensation change is an ongoing change, the written notification shall specify the date the ongoing compensation change is effective.

SECTION 82. PI 48.13 (8) (title) and (9) are amended to read:

PI 48.13 (8) SCHOOL ~~BUSES~~BUS.

(9) ALTERNATIVE VEHICLE PUPIL TRANSPORTATION. Any motor vehicle, other than school buses, used by a school to provide pupil transportation shall comply with the conditions specified ~~under~~in s. 121.555, Stats.

SECTION 83. PI 48.13 (10) is repealed.

SECTION 84. PI 48.13 (10m) is created to read:

PI 48.13 (10m) BACKGROUND CHECKS. **(a)** In this subsection, "license" means a valid license issued by the department under ch. PI 34.

(b) Schools shall conduct criminal background investigations of all employees by completing one of the following:

1. Conduct a criminal background check prior to employing any individual at the school and every 5 years after the date of the previous background check.

2. Complete all of the following procedures for an individual with a license:
a. Obtain and retain a copy of the license.
b. Annually determine that the individual has a license in advance of the employee working for the school term.

(c) The requirements under par. (b) shall be completed for all individuals defined as employees under s. 108.02 (12), Stats., who are directly or indirectly related to educational programming. For the purposes of this paragraph, an individual shall be determined to be directly or indirectly related to educational programming if any of the following apply:

1. Any compensation for the individual is included as an eligible education expense in a financial audit submitted under ss. 115.7915, 118.60, or 119.23, Stats.

2. The individual interacts with pupils.

3. The individual performs financial, administrative, or academic duties for the school.

(d) A school may not employ any of the following individuals:

1. Individuals who have engaged in immoral conduct as defined under s. 115.31 (1) (c), Stats.

2. Individuals who are not eligible for a teaching license under s. 118.19 (4), Stats.

SECTION 85. PI 48.13 (12) and (14) (b) are amended to read:

PI 48.13 (12) EMPLOYEE EDUCATION. A school shall ensure all teachers, administrators, and teacher aides meet the requirements of s. 118.60 (2) (a) 6. and (7) (b) 3., Stats., and s. PI 48.16, unless a teacher or administrator is exempt under s. 118.60 (2) (c), Stats. ~~If the department has granted a waiver to a teacher under s. 118.60 (2) (a) 6. c. or d., Stats., the school shall ensure the teacher has submitted an updated waiver form to reflect any changes made to the five-year plan submitted to the department under s. PI 48.16 (6).~~

(14) (b) If the auditor determines that the school has not complied with the fiscal and internal control practices ~~required~~ in ~~this section~~subs. (1) to (12), the report shall include a letter from the school describing the reasons for noncompliance and the corrective action the school is taking.

SECTION 86. PI 48.14 (1g) is created to read:

PI 48.14 (1g) DEFINITIONS. In this section:

(a) "Initial expected payment" means a school's expected payment amount calculated as the total of the following:

1. The full-time equivalent for pupils participating in a program under ss. 118.60 and 119.23, Stats., multiplied by the per pupil payment amount determined under ss. 119.23 (4) and 118.60 (4), Stats. The full-time equivalent for the pupils in this subdivision shall be based on the available seats in each program under ss. 118.60 and 119.23, Stats., in a school's notice of intent to participate filed under ss. PI 35.03 (3) and PI 48.03 (3).

2. The expected summer school payment for pupils participating in a program under ss. 118.60 and 119.23, Stats., based on the expected number of choice program pupils that will participate in summer school identified in the school's notice of intent to participate filed under ss. PI 35.03 (3) and 48.03 (3).

(b) "Revised expected payment" means a school's expected payment amount calculated as the total of the following:

1. The full-time equivalent for pupils participating in a program under ss. 118.60 and 119.23, Stats., multiplied by the per pupil payment amount determined under ss. 119.23 (4) and 118.60 (4), Stats. The full-time equivalent for the pupils in this subdivision shall be based on the pupils participating in a program under ss. 118.60 and 119.23, Stats., reported in the school's pupil count report for the third Friday in September required under ss. PI 35.06 (8) and PI 48.06 (8).

2. The summer school payment based on the school's summer school count report filed under ss. 118.60 (4) (a) and 119.23 (4) (a), Stats.

SECTION 87. PI 48.14 (1) (intro.) is renumbered PI 48.14 (1r) and amended to read:

PI 48.14 (1r) MAY 1 REQUIREMENTS. By May 1 of the school year immediately preceding the first school year in which a first time participant ~~school~~ intends to participate in the choice program, a first time participant ~~school~~ shall participate in a fiscal management training program approved by the department and ~~submit to the department all of the following:~~provide the requirements under sub. (3) or (4).

SECTION 88. PI 48.14 (2) is repealed.

SECTION 89. PI 48.14 (3) (intro.) is created to read:

PI 48.14 (3) BUDGET REQUIREMENT. A school that selects the budget and cash flow report option shall submit to the department all of the following:

SECTION 90. PI 48.14 (1) (a) is renumbered PI 48.14 (3) (a).

SECTION 91. PI 48.14 (3) (a) 6m. is created to read:

PI 48.14 (3) (a) 6m. Anticipated beginning and ending reserve balance.

SECTION 92. PI 48.14 (1) (b) and (c) are renumbered PI 48.14 (3) (b) and (c).

SECTION 93. PI 48.14 (4) to (11) are created to read:

PI 48.14 (4) BOND REQUIREMENT. A school that selects the surety bond option shall annually submit a bond payable to the state of Wisconsin equal to 25 percent of the initial expected payment until the school meets all of the requirements in sub. (7).

(5) REVISED BOND. A school that submitted a bond under sub. (4) shall provide a revised bond if the difference between the initial expected payment and the revised expected payment is at least $50,000. The revised bond shall be equal to 25 percent of the revised expected payment. A school shall file the revised bond with the department by the first weekday in November.

(6) BOND CALL PROVISIONS. The department may call a bond submitted by a school under this section for any of the following reasons:

(a) The school failed to timely file a report required under s. 118.60 or 119.23, Stats., this chapter, or ch. PI 35.

(b) The school failed to timely refund the department any amount certified due from the school under ss. PI 35.07 (4) or PI 48.07 (4).

(c) The school failed to timely refund the department the reserve balance as prescribed under s. 118.60 or 119.23, Stats., this chapter, or ch. PI 35.

(d) The school failed to timely refund the department any other money owed to the department for any other reason under s. 118.60 or 119.23, Stats., this chapter, or ch. PI 35.

(7) BOND REMOVAL REQUIREMENTS. A school that selected the surety bond option the first year it participated in the choice program, must submit a bond by May 1 annually until all of the following apply:

(a) The school provides a standard financial audit prepared at the consolidated level as required by generally accepted accounting principles that meets all of the following requirements.

1. The financial statements are two-year comparative financial statements that include the audit of the full-year financial information for both school years.

2. The net asset balance for both years is positive.

3. The net current obligation for both years is positive.

4. The school meets one of the following requirements:
a. The change in net assets is positive for both years.
b. The change in net assets is greater than or equal to negative $25,000, the net asset balance is greater than $50,000, and the net current obligation is greater than $50,000.

5. The school's financial audit does not contain an emphasis of matter or an expression of the auditor's doubt as to the school's ability to continue as a going concern.

(b) The school's fiscal and internal control practices report for the most recent school year included in the financial audit in par. (a) and the subsequent school year, and any other information available to the department, indicates that the school has complied with all of the following:

1. The school paid all amounts owed to the U.S. internal revenue service, Wisconsin department of revenue, and Wisconsin department of workforce development on a timely basis. This requirement shall not be considered met if the school had either of the following for the years included in the financial audit in par. (a):
a. Any wage claims with the Wisconsin department of workforce development.
b. Any past due amounts, interest, and penalties with the U.S. internal revenue service, Wisconsin department of revenue, or Wisconsin department of workforce development.

2. The school has paid all vendors as required by ss. PI 35.13 (3) and PI 48.13 (3). An amount in dispute shall not be an indicator that the school does not meet the requirements to remove the bond if all of the following are true:
a. The school provided the department with written correspondence between the school and the vendor evidencing that the amount is in dispute.
b. The school has sufficient cash available to pay the amount in dispute.
c. The disputed amount is included in the financial audit as a current liability.

3. The school has paid all employees as required by ss. PI 35.13 (4) and PI 48.13 (4).

(8) An audit that only includes school-only balances and activity shall not be sufficient to meet the requirement in sub. (7) (a).

(9) The asset balance used for the determinations under sub. (7) (a) may only include pledge receivables or other receivables for which the school received cash payments within one year of the date pledged or within one year of the date the amount is included as a receivable.

(10) The revenue used for the determinations under sub. (7) (a) may only include revenue for which the school receives cash payments within one year of the date pledged or within one year of the date the school includes the amount as revenue.

(11) INSURANCE AND FIDELITY BOND EVIDENCE. A first time participant shall file with the department a certificate of insurance or other evidence of having obtained the required insurance under s. PI 48.13 (7) and the fidelity bond under s. PI 48.13 (11). A first time participant shall file the information required under this subsection with the department by the first weekday in August if the school does not provide summer school under this chapter or ch. PI 35. A first time participant shall file the information required under this subsection with the department by the first weekday in May of the school year immediately preceding the first school year in which a first time participant intends to participate in the choice program if the school provides summer school under this chapter or ch. PI 35.

SECTION 94. PI 48.15 (1) (intro.), (a), (b), (f), (g), (h), (6) (title), (c), (d) 6., and (e) are amended to read:

PI 48.15 (1) INDICATORS. Any of the following shall be indicators that a school does not have the ability to continue as a going concern or that the school does not meet the financial viability requirements under s. 118.60 (7) (am) 2m. b. or (7m) (c), Stats.:

(a) The budget and statement of cash flows required under s. PI 48.13 (2) or ~~PI~~ 48.14 (3) show the school has inadequate revenues and other financial resources to fund current operations, has negative cash flows, has a negative net asset balance, or has a net ~~operating~~ loss.

(b) The audit opinion statement included in the financial audit, or in a financial audit submitted under s. 115.7915, Stats., contains ~~a qualification as to~~an emphasis of matter regarding the school's ability to continue as a going concern.

(f) The school has a negative net asset balance in its financial audit or in a financial audit submitted under s. 115.7915, Stats.

(g) The school has a negative net current obligation in its financial audit, in a financial audit submitted under s. 115.7915, Stats., or in the budget and statement of cash flows required under s. PI 48.13 (2) or 48.14 (3). The net current obligation shall be calculated as the current assets less the current liabilities.

(h) The school has a net loss or negative change in net assets in its financial audit or in a financial audit submitted under s. 115.7915, Stats.

(6) FINANCIAL VIABILITY REVIEW AND SURETY BOND ~~REQUIREMENTS~~REQUIREMENT.

(c) The amount of the bond required under par. (b) shall be equal to ~~25%~~25 percent of the total current school year payment amount as determined under s. 118.60 (4) and (4m), Stats.

(d) 6. The school's financial audit does not contain ~~a qualified audit opinion~~an emphasis of matter or an expression of the auditor's doubt as to the school's ability to continue as a going concern for two consecutive years.

(e) If the school is unable to complete the requirements in par. (d) within 5 years from the date the department initially requires a surety bond or if the school's financial position worsens, the department may terminate the school from the choice program.

SECTION 95. PI 48.16 (1) (d) is amended to read:

PI 48.16 (1) (d) "Teacher aide" means any individual assisting with educational programming who is not a teacher or ~~a~~ volunteer.

SECTION 96. PI 48.16 (6) and (7) are repealed.

SECTION 97. PI 48.17 (1) and (2) are amended to read:

PI 48.17 (1) ~~Annually by October 1, the~~The department shall annually determine the amount of the nonrefundable fee a school shall pay to the department under s. 118.60 (2) (a) 3., Stats. The department shall calculate the amount of the auditor fee by dividing the cost of the auditor position and unfunded prior year auditor costs, as determined by the department, by the number of schools that are required to submit the information under s. PI 48.06 (8).

(2) Except as provided under s. PI 48.04 ~~(3)~~(1) (e), a school shall pay the auditor fee with a cashier's check or another guaranteed manner permitted by the department by January 10 of the year prior to the school year in which the school participates in the choice program.

SECTION 98. PI 48.18 (intro.) and (1) are amended to read:

PI 48.18 Income limit calculation. Annually by the first weekday in December ~~1~~, the state superintendent shall calculate the income and tuition limits for pupil participation in the choice program for the next school year as follows:

(1) Multiply the most recent federal poverty level available from the federal office of management and budget by ~~1.85~~2.20 for the Wisconsin parental choice program and by 3.00 for the Racine parental choice program to determine the income limit for pupils participating in each program in the next school year.

SECTION 99. PI 48.19 (1) to (4) are amended to read:

PI 48.19 (1) SEPTEMBER PAYMENT. The state superintendent shall calculate the September payment as the full-time equivalent for the choice program pupils multiplied by the per pupil payment amount determined under s. 118.60 (4), Stats., multiplied by ~~25%~~25 percent. The full-time equivalent for the choice program pupils at the school ~~as of September 1~~ shall be based on the report ~~submitted~~filed under s. PI 48.06 (7). The state superintendent may not make a September payment to a school that has ceased instruction prior to the payment date.

(2) NOVEMBER PAYMENT. The department shall calculate the November payment as the full-time equivalent for the choice program pupils multiplied by the per pupil payment amount determined under s. 118.60 (4), Stats., multiplied by ~~50%~~50 percent less the September payment received for the pupil. The full-time equivalent for the choice program pupils shall be based on the choice program pupils reported ~~by October 1~~ in the school's pupil count report for the third Friday in September required under s. PI 48.06 (8) unless a pupil is determined ineligible by the department. The November payment shall include any payments due to the school for summer school instruction of choice program pupils in the immediately preceding summer as indicated in the report ~~submitted~~filed under s. 118.60 (4) (a), Stats., unless otherwise determined ineligible by the department. The department may not make a November payment to a school that has ceased instruction prior to the payment date.

(3) FEBRUARY PAYMENT. The department shall calculate the February payment as the full-time equivalent for the choice program pupils multiplied by the per pupil payment amount determined under s. 118.60 (4), Stats., multiplied by ~~25%~~25 percent. The full-time equivalent for the choice program pupils shall be based on the choice program pupils reported in the school's pupil count report ~~required by February 1~~for the second Friday in January under s. PI 48.06 (8) unless a pupil is determined ineligible by the department. The department may not make a February payment to a school that has ceased instruction prior to the payment date.

(4) MAY PAYMENT. The department shall calculate the May payment as the full-time equivalent for the choice program pupils multiplied by the per pupil payment amount determined under s. 118.60 (4), Stats., multiplied by ~~25%~~25 percent. The full-time equivalent for the choice program pupils shall be based on the choice program pupils reported in the school's pupil count report ~~required by February 1~~for the second Friday in January under s. PI 48.06 (8) unless a pupil is determined ineligible by the department. The department may not make a May payment to a school that has ceased instruction prior to the end of its scheduled school term unless the school obtained prior written approval from the department to end the school term early.

SECTION 100. PI 48.19 (5) is created to read:

PI 48.19 (5) AMOUNT DUE TO DEPARTMENT. A school shall refund an amount due to the department under this chapter or s. 118.60, Stats., as follows:

(a) If the school is currently eligible to receive choice program payments, the department shall reduce the payments made under s. 118.60 (4) and (4m), Stats., by the amount owed. If reducing a payment made under s. 118.60 (4) and (4m), Stats., is insufficient to pay the amount owed, the school shall pay the remaining amount within 60 days of the date of the notice to the school of the amount due.

(b) If the school is not currently eligible to receive choice program payments, the school shall refund the department within 60 days of the date of the notice to the school of the amount due.

SECTION 101. EFFECTIVE DATE:

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this _____ day of _____, 2019

_____

Carolyn Stanford Taylor
State Superintendent