



2003 ASSEMBLY BILL 855

February 19, 2004 – Introduced by Representative SINICKI. Referred to Committee on Education Reform.

1 **AN ACT** *to renumber* 119.23 (2) (b); *to renumber and amend* 118.165 (1) (c),
2 119.23 (7) (am) and 119.23 (7) (c); *to amend* 118.13 (2) (b), 118.13 (3) (a) 3.,
3 118.13 (3) (b) 1., 118.13 (3) (b) 2., 118.13 (4), 118.30 (1g) (a) 1., 118.30 (1g) (c),
4 118.30 (2) (b) 1. and 2., 118.30 (6), 118.33 (1) (f) 3., 119.23 (7) (a) (intro.) and
5 119.23 (7) (b); and *to create* 118.13 (1m), 118.13 (2) (am), 118.165 (1) (c) 2.,
6 118.30 (1g) (a) 3., 118.30 (1s), 118.30 (2) (b) 5., 118.33 (1) (f) 2m., 118.33 (6) (c),
7 119.23 (2) (b) 2., 119.23 (6m), 119.23 (7) (d), 119.23 (7m) (b) to (d) and 119.23 (10)
8 of the statutes; **relating to:** the Milwaukee Parental Choice Program and
9 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes in the laws governing the Milwaukee Parental Choice Program (MPCP), under which a pupil who resides in the city of Milwaukee may attend a private school at state expense under certain conditions. The changes include the following:

Private school requirements

Currently, in order to qualify as a private school under the law, an institution's educational program must provide at least 875 hours of instruction each school year.

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This bill provides that if the program offers kindergarten it must provide at least 437 hours of instruction in kindergarten each school year.

The bill also provides that upon request of the Department of Public Instruction (DPI), which administers the MPCP, a private school must demonstrate to DPI's satisfaction that the private school's educational program meets all of the statutory criteria to be a private school. In addition to offering a specified number of hours of instruction each school year (as mentioned above), current law requires all of the following:

1. That the primary purpose of the educational program be to provide private or religious based instruction.
2. That the program be privately controlled.
3. That the program provide a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health.
4. That the program not be operated for the purpose of circumventing the compulsory school attendance law.
5. That the pupils in the program return annually to the homes of their parents or guardians for at least two months of summer vacation, or that the institution be licensed as a child welfare agency by the Department of Health and Family Services.

Standards and school requirements

Current law requires each private school participating in the MPCP to meet at least one of the following standards:

1. At least 70 percent of the pupils in the program must advance one grade level each year.
2. The private school's average attendance rate for pupils in the program must be at least 90 percent.
3. At least 80 percent of the pupils in the program must demonstrate significant academic progress.
4. At least 70 percent of the families of pupils in the program must meet parent-involvement criteria established by the private school.

This bill requires each private school participating in the program to meet at least three of the above standards and to annually submit to DPI, a report describing the school's status with respect to the fourth standard.

Pupil assessments

Current law requires each school board to adopt either its own academic standards or the academic standards contained in the governor's executive order issued on January 13, 1998, and to administer fourth, eighth, and tenth grade examinations to fourth, eighth, and tenth grade pupils enrolled in the school district, including pupils enrolled in charter schools (other than independent charter schools) located in the school district. Identical provisions exist under current law for independent charter schools.

Under current law, the fourth, eighth, and tenth grade examinations are not required to be administered to pupils participating in the MPCP.

This bill provides that the governing body of a private school participating in the MPCP must adopt academic standards and administer fourth, eighth, and tenth

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grade examinations to pupils enrolled in the private school. The governing body may either adopt the DPI examinations or develop its own.

Under current law, each school board must administer to all pupils enrolled in the school district in the third grade, including pupils enrolled in charter schools (other than independent charter schools) located in the school district, a standardized reading test developed by DPI. The independent charter schools are required to administer this test to their third grade pupils. Private schools participating in the MPCP are not required to administer this test. This bill imposes this requirement on these private schools.

High school diplomas; grade promotion

Under current law, each school board and the operator of each independent charter school must develop written policies specifying criteria for granting a high school diploma. Neither a school board nor the operator of an independent charter school may grant a high school diploma to any pupil unless the pupil has satisfied the criteria. Similarly, each school board and each independent charter school must adopt policies specifying criteria for promoting a pupil from the fourth grade to the fifth grade and from the eighth grade to the ninth grade. A pupil may not be promoted unless he or she satisfies the promotion criteria.

This bill imposes upon private schools participating in the MPCP the same prohibitions against graduation and promotion (for pupils attending the private school under the MPCP) that are imposed upon school boards and independent charter schools.

Religious activities

Current law prohibits a private school that is participating in the MPCP from requiring a pupil attending the private school under the program to participate in any religious activity if the pupil's parent or guardian requests that the pupil be exempt from the activity.

This bill requires each private school participating in the MPCP to adopt a policy implementing the requirement described above. The private school must include in the policy a list of the school activities that it has determined are religious activities for the purpose of the exemption requirement. The list must include religious worship, religious instruction, and any school activity that the private school has determined is sectarian, proselytizing, or religiously doctrinal in nature. The bill requires each MPCP school to provide a copy of its policy to each person who expresses an interest in attending the private school under the program and annually to DPI.

The bill directs each MPCP school to ensure that a pupil who is exempt from participating in a religious activity is not present in the room in which the activity occurs. The bill also directs each MPCP school to provide a pupil who is exempt from religious activities with a sufficient number of hours of instruction to meet the statutory requirement for all private schools (at least 875 hours of instruction each school year) and to enable the pupil to advance from grade to grade.

Nondiscrimination

Current law prohibits public schools from discriminating against pupils on the basis of sex, race, religion, national origin, ancestry, creed, pregnancy, marital or

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parental status, sexual orientation, or physical, mental, emotional, or learning disability. In addition, each school board must adopt policies and procedures implementing this nondiscrimination requirement.

This bill extends the nondiscrimination requirement to schools participating in the MPCP. The bill also requires each MPCP school to develop written policies and procedures to implement the nondiscrimination requirement and to provide each applicant to a school with all of the following: 1) a list of the names, addresses, and telephone numbers of the members of the governing body of the school; 2) a notice stating whether the school is an organization run for profit or not for profit, and, if the school is run not for profit, proof of its federal tax-exempt status; 3) a copy of the appeals process used if the school rejects an applicant for admission; 4) a statement that the school agrees to be subject to the open meetings and open records requirements applicable to public bodies; and 5) a copy of the school's nondiscrimination policies and procedures. In addition, upon request of any person, the school must provide the information above, as well as the number of pupils enrolled in the previous school year, pupil scores on standardized tests administered in the previous school year, and the number of pupils who were expelled or who failed to graduate in the previous school year.

Limitation on enrollment

The bill provides that no more than 65 percent of a private school's enrollment may consist of MPCP pupils.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 118.13 (1m) of the statutes is created to read:

2 118.13 (1m) No person who wishes to attend a private school under s. 119.23
3 may be denied admission to that school and no pupil who is attending a private school
4 under s. 119.23 may be denied participation in, be denied the benefits of, or be
5 discriminated against in any curricular, extracurricular, pupil services, recreational,
6 or other program or activity of that school because of the person's sex, race, religion,
7 national origin, ancestry, creed, pregnancy, marital or parental status, sexual
8 orientation, or physical, mental, emotional, or learning disability.

9 **SECTION 2.** 118.13 (2) (am) of the statutes is created to read:

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1 118.13 (2) (am) Each private school participating in the program under s.
2 119.23 shall develop written policies and procedures to implement this section and
3 submit them to the state superintendent. The policies and procedures shall provide
4 for receiving and investigating complaints regarding possible violations of this
5 section, for making determinations as to whether this section has been violated, and
6 for ensuring compliance with this section.

7 **SECTION 3.** 118.13 (2) (b) of the statutes is amended to read:

8 118.13 (2) (b) Any person who receives a negative determination under par. (a)
9 or (am) may appeal the determination to the state superintendent.

10 **SECTION 4.** 118.13 (3) (a) 3. of the statutes is amended to read:

11 118.13 (3) (a) 3. Include in the department's biennial report under s. 15.04 (1)
12 (d) information on the ~~status of school district~~ compliance of school districts and
13 private schools with this section and ~~school district~~ the progress made toward
14 providing reasonable equality of educational opportunity for all pupils in this state.

15 **SECTION 5.** 118.13 (3) (b) 1. of the statutes is amended to read:

16 118.13 (3) (b) 1. Periodically review school district and private school programs,
17 activities and services to determine whether the school boards and private schools
18 are complying with this section.

19 **SECTION 6.** 118.13 (3) (b) 2. of the statutes is amended to read:

20 118.13 (3) (b) 2. Assist school boards and private schools to comply with this
21 section by providing information and technical assistance upon request.

22 **SECTION 7.** 118.13 (4) of the statutes is amended to read:

23 118.13 (4) Any public school or private school official, employee or teacher who
24 intentionally engages in conduct which discriminates against a person or causes a

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1 person to be denied rights, benefits or privileges, in violation of sub. (1) or (1m), may
2 be required to forfeit not more than \$1,000.

3 **SECTION 8.** 118.165 (1) (c) of the statutes is renumbered 118.165 (1) (c) 1. and
4 amended to read:

5 118.165 (1) (c) 1. The Except as provided in subd. 2., the program provides at
6 least 875 hours of instruction each school year.

7 **SECTION 9.** 118.165 (1) (c) 2. of the statutes is created to read:

8 118.165 (1) (c) 2. If the program offers kindergarten, it provides at least 437
9 hours of instruction in kindergarten each school year.

10 **SECTION 10.** 118.30 (1g) (a) 1. of the statutes is amended to read:

11 118.30 (1g) (a) 1. By August 1, 1998, each school board shall adopt pupil
12 academic standards in mathematics, science, reading and writing, geography, and
13 history. ~~If the governor has issued~~ The school board may adopt the pupil academic
14 standards issued by the governor as an executive order under s. 14.23, the school
15 ~~board may adopt those standards~~ no. 326, dated January 13, 1998.

16 **SECTION 11.** 118.30 (1g) (a) 3. of the statutes is created to read:

17 118.30 (1g) (a) 3. The governing body of each private school participating in the
18 program under s. 119.23 shall adopt pupil academic standards in mathematics,
19 science, reading and writing, geography, and history. The governing body of the
20 private school may adopt the pupil academic standards issued by the governor as
21 executive order no. 326, dated January 13, 1998.

22 **SECTION 12.** 118.30 (1g) (c) of the statutes is amended to read:

23 118.30 (1g) (c) Each school board operating elementary grades ~~and,~~ each
24 operator of a charter school under s. 118.40 (2r) that operates elementary grades, and
25 the governing body of each private school participating in the program under s.

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1 119.23 that operates elementary grades may develop or adopt its own examination
2 designed to measure pupil attainment of knowledge and concepts in the 4th grade
3 and may develop or adopt its own examination designed to measure pupil attainment
4 of knowledge and concepts in the 8th grade. If the school board ~~or~~ operator of the
5 charter school, or governing body of the private school develops or adopts an
6 examination under this paragraph, it shall notify the department.

7 **SECTION 13.** 118.30 (1s) of the statutes is created to read:

8 118.30 (1s) Annually the governing body of each private school participating
9 in the program under s. 119.23 shall do all of the following:

10 (a) 1. Except as provided in sub. (6), administer the 4th grade examination
11 adopted or approved by the state superintendent under sub. (1) (a) to all pupils
12 attending the 4th grade in the private school under s. 119.23.

13 2. If the governing body of the private school has developed or adopted its own
14 4th grade examination, administer that examination to all pupils attending the 4th
15 grade in the private school under s. 119.23.

16 (am) 1. Except as provided in sub. (6), administer the 8th grade examination
17 adopted or approved by the state superintendent under sub. (1) (a) to all pupils
18 attending the 8th grade in the private school under s. 119.23.

19 2. If the governing body of the private school has developed or adopted its own
20 8th grade examination, administer that examination to all pupils attending the 8th
21 grade in the private school under s. 119.23.

22 (b) Administer the 10th grade examination to all pupils attending the 10th
23 grade in the private school under s. 119.23.

24 **SECTION 14.** 118.30 (2) (b) 1. and 2. of the statutes are amended to read:

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1 118.30 (2) (b) 1. If a pupil is enrolled in a special education program under
2 subch. V of ch. 115, the school board ~~or~~, operator of the charter school under s. 118.40
3 (2r), or governing body of the private school participating in the program under s.
4 119.23 shall comply with s. 115.77 (1m) (bg).

5 2. According to criteria established by the state superintendent by rule, the
6 school board ~~or~~, operator of the charter school under s. 118.40 (2r), or governing body
7 of the private school participating in the program under s. 119.23 may determine not
8 to administer an examination under this section to a limited-English speaking
9 pupil, as defined under s. 115.955 (7), may permit the pupil to be examined in his or
10 her native language or may modify the format and administration of an examination
11 for such pupils.

12 **SECTION 15.** 118.30 (2) (b) 5. of the statutes is created to read:

13 118.30 (2) (b) 5. Upon the request of a pupil's parent or guardian, the governing
14 body of a private school participating in the program under s. 119.23 shall excuse the
15 pupil from taking an examination administered under sub. (1s).

16 **SECTION 16.** 118.30 (6) of the statutes is amended to read:

17 118.30 (6) A school board ~~and~~, an operator of a charter school under s. 118.40
18 (2r), and the governing body of a private school participating in the program under
19 s. 119.23 is not required to administer the 4th and 8th grade examinations adopted
20 or approved by the state superintendent under sub. (1) if the school board ~~or~~, the
21 operator of the charter school, or the governing body of the private school administers
22 its own 4th and 8th grade examinations, the school board ~~or~~, operator of the charter
23 school, or governing body of the private school provides the state superintendent
24 with statistical correlations of those examinations with the examinations adopted or

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1 approved by the state superintendent under sub. (1), and the federal department of
2 education approves.

3 **SECTION 17.** 118.33 (1) (f) 2m. of the statutes is created to read:

4 118.33 (1) (f) 2m. The governing body of each private school participating in the
5 program under s. 119.23 shall develop a policy specifying criteria for granting a high
6 school diploma to pupils attending the private school under s. 119.23. The criteria
7 shall include the pupil's academic performance and the recommendations of
8 teachers.

9 **SECTION 18.** 118.33 (1) (f) 3. of the statutes is amended to read:

10 118.33 (1) (f) 3. Beginning on September 1, 2005, neither a school board nor an
11 operator of a charter school under s. 118.40 (2r) may grant a high school diploma to
12 any pupil unless the pupil has satisfied the criteria specified in the school board's or
13 charter school's policy under subd. 1. or 2. Beginning on September 1, 2005, the
14 governing body of a private school participating in the program under s. 119.23 may
15 not grant a high school diploma to any pupil attending the private school under s.
16 119.23 unless the pupil has satisfied the criteria specified in the governing body's
17 policy under subd. 2m.

18 **SECTION 19.** 118.33 (6) (c) of the statutes is created to read:

19 118.33 (6) (c) 1. The governing body of each private school participating in the
20 program under s. 119.23 shall adopt a written policy specifying criteria for promoting
21 a pupil who is attending the private school under s. 119.23 from the 4th grade to the
22 5th grade and from the 8th grade to the 9th grade. The criteria shall include the
23 pupil's score on the examination administered under s. 118.30 (1s) (a) or (am), unless
24 the pupil has been excused from taking the examination under s. 118.30 (2) (b); the
25 pupil's academic performance; the recommendations of teachers, which shall be

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1 based solely on the pupil's academic performance; and any other academic criteria
2 specified by the governing body of the private school.

3 2. Beginning on September 1, 2005, the governing body of a private school
4 participating in the program under s. 119.23 may not promote a 4th grade pupil who
5 is attending the private school under s. 119.23 to the 5th grade, and may not promote
6 an 8th grade pupil who is attending the private school under s. 119.23 to the 9th
7 grade, unless the pupil satisfies the criteria for promotion specified in the governing
8 body's policy under subd. 1.

9 **SECTION 20.** 119.23 (2) (b) of the statutes is renumbered 119.23 (2) (b) 1.

10 **SECTION 21.** 119.23 (2) (b) 2. of the statutes is created to read:

11 119.23 (2) (b) 2. No more than 65 percent of a private school's enrollment may
12 consist of pupils attending the private school under this section.

13 **SECTION 22.** 119.23 (6m) of the statutes is created to read:

14 119.23 (6m) Each private school participating in the program under this
15 section shall do all of the following:

16 (a) Provide to each person who applies to attend the private school all of the
17 following:

18 1. A list of the names, addresses, and telephone numbers of the members of the
19 private school's governing body and of the private school's shareholders, if any.

20 2. A notice stating whether the private school is an organization operated for
21 profit or not for profit. If the private school is a nonprofit organization, the private
22 school shall also provide the applicant with a copy of the certificate issued under
23 section 501 (c) (3) of the Internal Revenue Code verifying that the private school is
24 a nonprofit organization that is exempt from federal income tax.

25 3. A copy of the appeals process used if the private school rejects the applicant.

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1 4. A statement that the private school agrees to permit public inspection and
2 copying of any record, as defined in s. 19.32 (2), of the private school to the same
3 extent as required of, and subject to the same terms and enforcement provisions that
4 apply to, an authority under subch. II of ch. 19.

5 5. A statement that the private school agrees to provide public access to
6 meetings of the governing body of the private school to the same extent as is required
7 of, and subject to the same terms and enforcement provisions that apply to, a
8 governmental body under subch. V of ch. 19.

9 6. A copy of the private school's policies and procedures on nondiscrimination
10 adopted under s. 118.13 (2) (am).

11 (b) Upon request by any person, provide the material specified in par. (a) and
12 the number of pupils enrolled in the private school in the previous school year, pupil
13 scores on standardized tests administered in the previous school year, and the
14 number of pupils who were expelled or who failed to graduate in the previous school
15 year.

16 **SECTION 23.** 119.23 (7) (a) (intro.) of the statutes is amended to read:

17 119.23 (7) (a) (intro.) Each private school participating in the program under
18 this section shall meet at least ~~one~~ 3 of the following standards and annually submit
19 to the department a report describing the school's status with respect to the 4th
20 standard:

21 **SECTION 24.** 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (d) 4. and
22 amended to read:

23 119.23 (7) (d) 4. ~~Each private school participating in the program under this~~
24 ~~section is subject to~~ Comply with uniform financial accounting standards established

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1 by the department and annually shall submit to the department an independent
2 financial audit of the private school.

3 **SECTION 25.** 119.23 (7) (b) of the statutes is amended to read:

4 119.23 (7) (b) The state superintendent shall monitor the performance of the
5 pupils attending private schools under this section. If the state superintendent
6 determines in any school year that the private school is not meeting at least one ~~3~~
7 of the standards under par. (a), that private school may not participate in the
8 program under this section in the following school year.

9 **SECTION 26.** 119.23 (7) (c) of the statutes is renumbered 119.23 (7m) (a) and
10 amended to read:

11 119.23 (7m) (a) A private school may not require a pupil attending the private
12 school under this section to participate in any religious activity if the pupil's parent
13 or guardian submits to the pupil's teacher or the private school's principal a written
14 request that the pupil be exempt from ~~such activities~~ the activity. The private school
15 shall ensure that a pupil who is exempt from participating in a religious activity
16 under this paragraph is not present in the room in which the religious activity occurs.

17 **SECTION 27.** 119.23 (7) (d) of the statutes is created to read:

18 119.23 (7) (d) The governing body of each private school participating in the
19 program under this section shall do all of the following:

20 1. Permit public inspection and copying of any record, as defined in s. 19.32 (2),
21 of the private school to the same extent as is required of, and subject to the same
22 terms and enforcement provisions that apply to, an authority under subch. II of ch.
23 19.

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1 2. Provide public access to its meetings to the same extent as is required of, and
2 subject to the same terms and enforcement provisions that apply to, a governmental
3 body under subch. V of ch. 19.

4 3. Administer to the pupils attending the 3rd grade in the private school under
5 this section a standardized reading test developed by the department.

6 **SECTION 28.** 119.23 (7m) (b) to (d) of the statutes are created to read:

7 119.23 **(7m)** (b) Each private school participating in the program under this
8 section shall adopt a policy implementing par. (a) and provide a copy of the policy to
9 each person who expresses an interest in attending the private school under this
10 section and annually to the department with the notice under sub. (2) (a) 3. The
11 private school shall include in the policy a list of the school activities that it has
12 determined are religious activities for the purpose of par. (a). The list shall include
13 religious worship, religious instruction, and any school activity that the private
14 school has determined is sectarian, proselytizing, or religiously doctrinal in nature.

15 (c) Each private school participating in the program under this section shall
16 provide a pupil who is exempt from one or more religious activities under par. (a) with
17 a sufficient number of hours of instruction to meet the requirement under s. 118.165
18 (1) (c) and to enable the pupil to advance from grade to grade in the private school.

19 (d) The department shall promulgate rules to implement and administer this
20 subsection, including rules specifying the supervision required for pupils who are
21 exempt from religious activities under par. (a).

22 **SECTION 29.** 119.23 (10) of the statutes is created to read:

23 119.23 **(10)** Upon the department's request, a private school that has notified
24 the department of its intent to participate, or that is participating, in the program
25 under this section shall demonstrate to the department's satisfaction that its

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1 educational program meets all of the criteria under s. 118.165 (1). The department
2 may require the private school to submit documents for that purpose, including a
3 school calendar, a daily schedule indicating the school's hours of instruction, and
4 evidence showing that the school's educational program provides a sequentially
5 progressive curriculum of fundamental instruction in the subjects specified in s.
6 118.165 (1) (d).

7 **SECTION 30. Initial applicability.**

8 (1) Except as provided in subsection (2), this act first applies to private schools
9 participating in the program under section 119.23 of the statutes, and to pupils who
10 attend a private school under section 119.23 of the statutes, in the 2004–05 school
11 year.

12 (2) The treatment of sections 118.13 (1m) and 119.23 (6m) (a) and (7m) (b) of
13 the statutes first applies to persons who apply to attend a private school under
14 section 119.23 of the statutes in the 2004–05 school year.

15 (END)