

PI 35 - SCHOOL CHOICE - MILWAU
98-112

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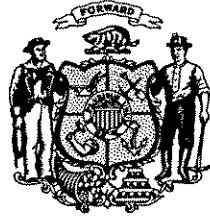
WISCONSIN LEGISLATIVE COUNCIL STAFF

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FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-112

AN ORDER to repeal PI 35.02 (2), (6) and (8), 35.03 (3) and (4) and 35.05 (6); to renumber PI 35.02 (1), (3), (4), (5), (7), (9), (10) to (13) and (14) to (17); to amend PI 35.01, 35.03 (1) (a) and 35.05 (7); to repeal and recreate PI 35.03 (1) (c) and (2), 35.04 and 35.05 (2) and (3) (b); and to create PI 35.025, 35.02 (1), (2), (4), (8), (9), (11), (12) and (19), 35.045 and 35.046, relating to the Milwaukee parental school choice program.

Submitted by **DEPARTMENT OF PUBLIC INSTRUCTION**

08-12-98 RECEIVED BY LEGISLATIVE COUNCIL.

09-10-98 REPORT SENT TO AGENCY.

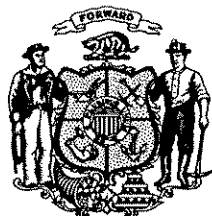
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CLEARINGHOUSE RULE 98-112

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. In s. PI 35.03 (2) (c), the subdivision number should be followed by a period.
- b. In ss. PI 35.03 (2) (e) and 35.05 (3) (b), only one "PI" is needed in the enumeration of rules. For example, in s. PI 35.03 (2) (e), "ss. PI 35.04, 35.045 and 35.046" should replace "ss. PI 35.04, PI 35.045 and PI 35.046."
- c. In several parts of s. PI 35.04, "A" or "a" should replace "The" or "the."
- d. In s. PI 35.04 (5) (a) 1., a period should replace ", or".

4. Adequacy of References to Related Statutes, Rules and Forms

In s. PI 35.045 (4) (a) 1. a., "this subd. 1. a." should replace "this subparagraph." Similar changes should be made in subd. 1. b. and c. [See s. 1.07 (2), Manual.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In s. PI 35.01, it appears that in the second sentence, specific reference should be made to the 15% limit contained in s. 119.23 (2) (b), Stats., or the reference should be to the "enrollment limits" in s. 119.23 (2) (b), Stats. The reference to the "membership" is unclear.

b. In s. PI 35.02 (1), “notwithstanding” should be one word.

c. In s. PI 35.04 (5) (a), the intended meaning is not clear. For example, how is a student to be counted if the student attends one day before the date specified and one day after, but enrolls in a private school that is not participating in the private school choice program? This section should be reviewed to assure that it adequately addresses all possible circumstances.

d. Under s. PI 35.045 (1), it is not clear how a school would proceed if it is in its initial year of operation. Would the department accept estimated figures in lieu of prior year data? This should be clarified.

e. In s. PI 35.045 (1) (e) 3., is there a need to specify the time in which a refund amount is paid to the department?

f. Under the cost accounting provisions in s. PI 35.045 (3) (a), is it assumed that the auditor will indicate on the report the option chosen to allocate individual costs? Also, are schools required to adhere to those options in subsequent years or can they opt for a different basis?

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

The state superintendent of public instruction hereby proposes to repeal PI 35.02(2), (6) and (8), PI 35.03(3) and (4), and PI 35.05(6), to renumber PI 35.02(1), (3), (4), (5), (7), (9), (10) to (13) and (14) to (17), to amend PI 35.01, PI 35.03(1)(a), PI 35.05(7), to repeal and recreate PI 35.03(1)(c), PI 35.03(2), PI 35.04, PI 35.05(2), and PI 35.05(3)(b) and to create PI 35.025, PI 35.02(1), (2), (4), (8), (9), (11), (12) and (19), PI 35.045, and PI 35.046, relating to the Milwaukee parental school choice program.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: s. 227.11(2)(a), Stats.

Statute interpreted: s. 119.23, Stats.

1995 Wisconsin Act 27 made several modifications to the Milwaukee parental school choice program, including

- Allowing private religious schools to participate in the program.
- Expanding participation to 15% of the Milwaukee school district's membership.
- Allowing siblings of pupils accepted on a random basis to be given preference in accepting applications.
- Requiring quarterly payments to be made by check to parents rather than made to the private schools.
- Requiring the participating private schools to be subject to uniform financial accounting standards established by the department and to annually submit to the department an independent financial audit of the private school.
- Forbidding a private school from requiring that a pupil participate in any religious activity if the pupil's parent or guardian submits a written request that the pupil be exempt from such activities.
- Eliminating the requirement that no more than 65% of the private school's enrollment consist of pupils attending under the private school choice program.
- Eliminating the reporting of comparable data by the school district and the participating private schools.
- Eliminating the financial or performance evaluation audits, as required by the state superintendent.

On June 10, 1998, the Wisconsin Supreme Court found constitutional the revisions made under 1995 Wisconsin Act 27. Therefore, the department is promulgating rules to implement the provisions under the Act. These rules were promulgated as emergency rules effective August 5, 1998.

The proposed permanent rules make several modifications to the Milwaukee private school choice program, including:

- Allowing private religious schools to participate in the program.
- Requiring the pupil assignment council to meet annually by April 15 to designate a date by which random selection of pupils will be determined for those private schools that receive more applications than spaces available for enrollment.
- Developing private school financial reporting requirements.
- Determining costs allowed to be claimed by private schools and reimbursed by the department.
- Developing private school financial audit requirements.
- Developing payment adjustments to be made at the end of the school year by the private schools or the department.
- Eliminating the reporting of comparable data by the school district and the participating private schools relating to pupils' daily attendance, drop out rates, suspensions and expulsions.
- Eliminating specific parental involvement activities to be included in a private school's parental involvement plan.
- Eliminating specific parental involvement activities to be reported by the school district.

- Eliminating the requirement that private schools administer specific achievement tests to pupils and report the results of those achievement tests to the department.

Finally, several pre-existing requirements have been repealed and recreated in different sections reorganizing the rule to align it with the new provisions under the Act.

SECTION 1. PI 35.01 is amended to read:

PI 35.01 PURPOSE. Under s. 119.23(2)(a), Stats., any qualified pupil in grades kindergarten to 12 who resides within a city may attend, at no charge, any participating nonsectarian private school located in the city. Participation in the private school choice program is limited to ~~4.5%~~ 5% of the school district's membership as specified under s. 119.23(2)(b), Stats. This chapter establishes approval criteria and requirements for private schools participating in the private school choice program, requirements for receipt of state aid for those private schools under s. 119.23(4), Stats., and requirements for schools operating under ch. 119, Stats.

SECTION 2. PI 35.025 is created to read:

PI 35.025 PUPIL ASSIGNMENT COUNCIL REQUIREMENTS. The pupil assignment council created under s. 119.23(8), Stats., shall meet annually by April 15 to designate a date by which random selection of pupils will be determined for those private schools that receive more applications than spaces available for enrollment. The pupil assignment council shall also recommend to the state superintendent a method for ensuring that pupils will be accepted on a random basis.

SECTION 3. PI 35.02 (2), (6) and (8) are repealed.

SECTION 4. PI 35.02(1), (3), (4), (5), (7), (9), (10) to (13), and (14) to (17) are renumbered PI 35.02(3), (5), (6), (7), (10), (13), (14) to (18) and (20) to (23), respectively.

SECTION 5. PI 35.02(1), (2), (4), (8), (9), (11), (12), and (19) are created to read:

PI 35.02(1) "Accrual basis" means revenues are recorded when earned and expenditures are recorded as soon as they result in liabilities for benefits received, ^{not} withstanding that the receipt of the revenue or the payment of the expenditure may take place, in whole or in part, in another accounting period.

(2) "Auditor" means a person licensed as a certified public accountant by the accounting examining board under ch. 442, Stats.

(4) "Capital outlay" means expenditures for items having a useful life greater than one year.

(8) "Enrollment" or "pupils enrolled" has the meaning defined under s. 121.004(7)(a) to (cm), Stats.

(9) "Fiscal period" means the school year as defined under s. 115.001(13), Stats.

(11) "Membership" has the meaning defined under s. 121.004(5), Stats.

(12) "Offsetting revenue" means revenues that reduce school expenditures used for per pupil cost computations.

(19) "School term" has the meaning defined under s. 115.001(12), Stats.

SECTION 6. PI 35.03(1)(a) is amended to read:

PI 35.03(1)(a) The private school's proposed method for ensuring that pupils will be accepted on a random basis which ensures that, except for continuing pupils and their siblings, pupils will be accepted on a random selection shall be taken basis from a new pool of applicants each school year. Waiting lists from previous school years may not be carried over and used from one year to the next.

SECTION 7. PI 35.03(1)(c) is repealed and recreated to read:

PI 35.03(1)(c) The number of pupils participating in the private school choice program for which the private school has space.

SECTION 8. PI 35.03(2) is repealed and recreated to read:

PI 35.03(2) **PROCEDURAL REQUIREMENTS.** A private school that participates in the private school choice program shall do all of the following:

- (a) Submit to the department by June 30 each school year information demonstrating compliance with s. 119.23(7)(a), Stats.
- (b) Appoint a representative to the pupil assignment council under s. 119.23(8), Stats.
- (c) Pay all costs incurred in the administration, scoring and reporting of results of the academic achievement tests if used to meet the requirement under s. 119.23(7)(a)3, Stats.
- (d) Ensure that test security is maintained for all academic achievement tests administered under par. (c).
- (e) Meet all of the requirements specified under ss. PI 35.04, ~~PI~~ 35.045 and ~~PI~~ 35.046.

SECTION 9. PI 35.03(3) and (4) are repealed.

SECTION 10. PI 35.04 is repealed and recreated to read:

PI 35.04 ENROLLMENT. (1) ^aThe private school that participates in the private school choice program shall accept pupils on a random basis in accordance with the method reviewed under s. PI 35.03(1)(a). The private school may give preference to siblings of pupils accepted on a random basis.

(2) ^aThe private school under this section shall notify each applicant and the applicant's parent or guardian of acceptance or nonacceptance, in writing, within 60 days after receiving the application. The private school shall retain all notices given under this section and all original applications, both accepted and nonaccepted, submitted under this chapter.

(3) Annually, by September 1 or within 5 days after classes begin, the private school under this section shall do all of the following:

(a) Submit to the department a copy of the accepted applications that correspond to the class list submitted under par. (b). The private school shall ensure the submitted applications are complete, accurate and signed by the parent or guardian as proof of enrollment required under s. 119.23(4), Stats.

(b) Submit a class list of the private school choice pupils, alphabetically by last name, and separated by grade level, that corresponds to the accepted applications submitted under par. (a).

(4) The private school under this section shall do all of the following:

(a) Annually by October 1 and February 1, submit to the department a membership report of the total number of pupils enrolled in the private school and the number of pupils enrolled in the private school choice program on the 3rd Friday of September and the 2nd Friday of January of the current school year. The membership report form shall be provided by the department.

(b) Submit to the department with the membership report under par. (a), a class list of the private school choice pupils, alphabetically by last name, and separated by grade level. The class list shall correspond to the membership report under par. (a).

(c) Submit to the department with the membership report under par. (a), copies of any accepted applications for pupils included in the class list under par. (b) that were not previously reported under sub. (3)(a). The private school shall ensure that the applications submitted under this paragraph are complete, accurate and signed by the parent or guardian as proof of enrollment required under s. 119.23(4), Stats.

(5)(a) The private school may include a pupil on its membership report under sub. (4)(a) only if one of the following occurs:

1. The pupil is in attendance for instruction on the date specified ^{or}.
2. The pupil is absent on the date specified but has attended at least one day during the school term prior to the date specified and attends at least one day after the date specified and has not enrolled in another private school participating in the private school choice program or in a Wisconsin public school district during the period of absence.

(b) If a pupil who is eligible to be included in the official enrollment under sub. (5)(a)2. returns following the filing of the membership report, an amended report shall be filed with the department.

NOTE: The pupil count report may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Private School Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

SECTION 11. PI 35.045 and 35.046 are created to read:

PI 35.045 FINANCIAL REPORTING REQUIREMENTS AND DETERMINING COSTS. (1) Annually, by September 1, a private school participating in the private school choice program shall submit, on a form provided by the department, a financial audit report accompanied by the auditor's opinion required under s. PI 35.046(1)(a) containing the following information for the previous school year:

- (a) Revenues and expenditures for all programs of the private school and the amount attributable to kindergarten through grade 12 educational programs.
- (b) Asset and liability balances at the start and end of the school year.
- (c) Enrollment and full-time equivalent membership for all pupils and for pupils participating in the private school choice program.
- (d) Per pupil cost related to kindergarten through grade 12 educational programming computed on a full-time equivalent membership basis.

(e) The payment adjustment amount resulting from the private school's participation in the private school choice program during the previous school year. The payment adjustment amount shall be determined as follows:

1. The private school's educational programming cost shall be reduced by the following offsetting revenues:
 - a. Fees charged pupils for books and supplies used in classes and programs.
 - b. Rentals for school buildings.
 - c. Food service revenues.
 - d. Governmental financial assistance revenues.
 - e. Interest earnings and other income resulting from investment of debt proceeds.

2. The private school's per pupil cost shall be determined by dividing the net eligible educational programming cost determined under subd. 1. by the membership for all pupils enrolled in kindergarten through grade 12 educational programs.

3. The private school's membership of pupils participating in the private school choice program shall be multiplied by the lesser of the school district's per pupil aid eligibility or the private school's per pupil cost. If the result is greater than the amount of the private school choice payments retained by the school, an adjustment payment shall be made to the private school. If the result is less than the amount of the private school choice payments retained by the private school, the private school shall refund the amount of any overpayment to the department.

Note: The Financial Reporting Form may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Private School Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

(2) The accrual basis of accounting shall be used in reporting the information required under this section except as follows:

- (a) Debt proceeds are included in revenue when received.
- (b) Long-term debt principal and interest payments are included in expenditures when payments are due.
- (c) Summer school program revenues and expenditures are reported in the fiscal year corresponding to the pupil membership used for program payment purposes.

(d) Withdrawals as salary compensation by individuals with a proprietary interest in the private school shall be included in expenditures only when identified as such on the private school's records and made by check on or before June 30.

- (e) Acquisition of capital outlay items are reported in expenditures when acquired.

(3)(a) Costs requiring allocation between kindergarten through grade 12 educational programming and other programs of the private school shall be made using one or more of the following allocation bases the private school considers most appropriate:

1. Instruction costs may be allocated based on either pupil full-time equivalency or time spent.
2. Student support service costs may be allocated based on either pupil full-time equivalency or time spent.

3. Administration costs may be allocated based on direct program expenditures, time spent, or full-time equivalent employees.

4. Accounting costs may be allocated based on either the number of transactions or time spent.

5. Facility operation and maintenance costs may be allocated based on floor space operated, space occupied over time, or labor hours.

6. Pupil transportation costs may be allocated based on miles driven, pupil miles driven or driver hours.

(b) The following may not be included in kindergarten through grade 12 educational programming cost:

1. Contributed services.

2. Fund raising.

3. Scholarship awards and financial support for pupils to attend the private school, including payments to parents or others on behalf of pupils.

4. Debt principal and interest payments to the private school's owners, sponsoring organization, or as a result of internal financing from other funds of the school. Borrowing from an endowment fund or from individuals serving on a board of directors or in an advisory capacity who do not have a proprietary interest in the school are not subject to the requirements under this subdivision. The interest rate on such borrowings may not exceed the published prime rate on the borrowing date.

(4)(a) The private school shall, for the purpose of computing per pupil cost, charge off non-debt financed capital outlay expenditures as follows:

1. The private school shall annually make an irrevocable election to either charge off all expenditures in each of the following categories entirely as a school year cost or amortize the expenditure over future periods as follows:

a. Media may be amortized over 5 years or 20% annually. Under this subparagraph, media includes consumable instructional and administrative items that are expected to serve their principal purposes for more than a year and includes text and reference books, audio-visual materials, and computer software.

b. Equipment and furnishings may be amortized over 5 years or 20% annually. Under this subparagraph, furnishings includes desks, chairs, and freestanding lockers. Only the additional cost difference between the allowance granted for equipment traded in and the value of new equipment acquired shall be eligible for inclusion in cost calculation.

c. Buildings, sites and improvements may be amortized over 16 years or 6.25% annually. Under this subparagraph improvements include sidewalks, installed playground equipment, landscaping and building components such as lighting fixtures, built-in lockers, heating, ventilating and wiring systems. Only the difference between the amount previously included in cost and the value of the new building acquired shall be eligible for inclusion in cost calculation, if buildings are replaced.

d. Leasehold improvements may be amortized over the remaining lease period.

2. A private school may elect to charge off in accordance with par. (a), the fair market value of existing items in each category as of July 1, 1996, or at the date first participating in the program or re-entering the program. The value of items not so elected to be charged off as a cost may not be eligible for inclusion in cost in future fiscal periods.

(b) Capital outlay items previously included in cost computations may not again be included as a cost by successor ownership of the school, nor upon purchase by or transfer to other private schools participating in the private school choice program.

(c) The private school shall maintain, indefinitely, documentation regarding capital outlay values, expenditures and their use in per pupil cost computation.

(5) A private school participating in the private school choice program for the first time may include in cost calculations start-up costs incurred prior to the start of the fiscal period.

PI 35.046 FINANCIAL AUDIT REQUIREMENTS. (1) A private school under this chapter shall provide and pay for an independent auditor's opinion regarding the information required under s. PI 35.045 as follows:

(a) Employ an auditor to provide an audit opinion stating that the private school's financial report is free from material misstatement and the private school's per pupil cost and any payment adjustment is fairly presented.

(b) Provide the auditor with a listing of all kindergarten through grade 12 pupils enrolled in the school by grade level and classroom. The listing provided under this paragraph shall identify pupils participating in the private school choice program.

(c) Deposit all receipts and pay all disbursements from a public depository account or accounts maintained solely for the private school's purposes unless the operating organization's financial accounting system provides for separate identification of the school's revenue and expenditure transactions.

(d) Maintain a record of all receipts using a sequential numbering system.

(e) Furnish all other financial and pupil records the auditor considers necessary to provide the audit opinion.

(2)(a) The auditor employed sub. (1) shall develop a written audit program identifying the steps and procedures followed in conducting the audit. The audit program shall include all the procedures specified in paragraphs (b) and (c) and such other procedures the auditor considers necessary to fulfill professional responsibilities. The auditor shall retain working papers relating to the audit under this subsection for at least 3 years from the date specified under s. PI 35.045(1)(intro.).

(b) The auditor shall perform the following procedures in auditing the private school's enrollment:

1. Verify totals used to compile reported enrollments and tracing totals to classroom records.
2. Verify enrollment reported on the membership report under s. PI 35.04 for all private school choice program pupils against the private school's official attendance records.

3. Select a sample of at least 60 private school choice pupils included on the private school's official enrollment records and verification against classroom records. The sample shall include records from each classroom. If the private school has a private school choice program enrollment of less than 60 pupils, all such pupil records shall be tested. If an

exception is identified the auditor shall extend the sample test in increments of 60 records until no additional exceptions are found or the official enrollment records for all private school choice pupils have been verified against classroom records.

4. Select a sample of at least 60 other pupils identified as not participating in the private school choice program from classroom records and determine that selected pupils were included in reported membership enrollments under s. PI 35.04. The sample shall include records from each classroom. If an exception is identified, the auditor shall extend the sample test in increments of 60 records until no additional exceptions are found or all classroom records have been verified as properly included in reported enrollments.

5. If the private school is reporting pupils enrolled in a 4-year-old kindergarten program as permitted by s. 121.004(7)(cm), Stats., verify that the 4-year-old kindergarten program included at least 87.5 hours of outreach activities as documented by teacher logs.

6. Reconcile tuition revenues and tuition waiver pupils against listings of pupils identified as not participating in the private school choice program.

7. If the private school has operated a summer school program, the auditor shall review for clerical accuracy documentation maintained by the school supporting summer school membership reports filed with the department.

(c) The auditor shall perform the following procedures in auditing the private school's financial records:

1. Ensure that the financial report is free from material misstatement by performing procedures as required under subd. 2. and such other procedures, that in the auditor's judgment, provide reasonable assurance that the report does not contain misapplications of accounting requirements, departures from fact, or other errors or omissions, that in the aggregate, would result in reported net eligible educational programming cost under s. PI 35.045(1)(e)1 exceeding the following acceptable variance limitations:

a. For costs less than \$100,000, the variance limitation shall be 4% of the reported costs.

b. For costs of at least \$100,000 but less than \$1,000,000, the variance limitation shall be 2% of the reported costs.

c. For costs of at least \$1,000,000 but less than \$3,000,000, the variance limitation shall be 1.5% of the reported costs.

d. For costs of at least \$3,000,000 but less than \$5,000,000, the variance limitation shall be 1% of the reported costs.

e. For costs of at least \$5,000,000 but less than \$10,000,000, the variance limitation shall be .7% of the reported costs.

f. For costs at least \$10,000,000, the variance limitation shall be .5% of the reported costs.

2. Consider account balances equal to at least 75% and individual transactions equal to at least 20% of the variance limitation amount determined under subd. 1. as being significant and shall perform procedures considered necessary to conclude such items do not contain misstatements whose effect, when aggregated with misstatements in other balances and transactions, would exceed the variance limitation amount.

3. Determine that fees charged pupils are allowed as specified under s. PI 35.03(6)(a).
4. Confirm the private school's cash and investment account balances with depositories.
5. Prepare or obtain and examine a reconciliation of confirmed cash and investment account balances to the private school's accounting records. The reconciliation shall include the following:
 - a. Depository balances at the beginning of the fiscal period reconciled to the private school's accounting records.
 - b. Receipts per depository statements reconciled to the private school's accounting records.
 - c. Disbursements per depository statements reconciled to the private school's accounting records.
 - d. Depository balances at the end of the fiscal period reconciled to the private school's accounting records.
4. Prepare or obtain and examine a reconciliation of payroll withholdings to remittances to authorized agencies or taxing authorities.

(d) The auditor shall respond directly to inquiries from the department concerning information accompanying the auditor's opinion and permit the department, upon request, to review audit workpapers. The auditor shall notify the private school of any such inquiries or requests and the auditor's response thereto.

SECTION 12. PI 35.05(2) is repealed and recreated to read:

PI 35.05(2) The department shall collect audits under s. PI 35.046, including membership eligibility of any or all of the private schools participating under this chapter.

SECTION 13. PI 35.05(3)(b) is repealed and recreated to read:

PI 35.05(3)(b) The amount per pupil to be paid to the private school shall be determined as specified in s. 119.23(5)(a), Stats. No aid may be paid to a private school for a pupil unless the private school has provided the information required under ss. PI 35.03(1), ~~PI~~ 35.04, ~~PI~~ 35.045 and ~~PI~~ 35.046. The payment schedule is as follows:

1. The September payment shall be based on the number of pupils receiving instruction at the beginning of the school year as indicated on the class list submitted under s. PI 35.04(3)(b) and the July 1 estimated amount per pupil as determined under s. 121.15(4), Stats., multiplied by 25%.

2. The November payment shall be based on the number of pupils reported on the membership report submitted on October 1 under s. PI 35.04(4)(a) and the October 15 amount per pupil as determined under s. 121.15(4), Stats., that the school district will receive in the current school year, multiplied by 50%, less the September payment.

3. The February payment shall be based on the number of pupils reported on the membership report submitted on February 1 under s. PI 35.04(4)(a) and the October 15 amount per pupil as determined under s. 121.15(4), Stats., that the school district will receive in the current school year, multiplied by 25%.

4. The May payment shall be based on the number of pupils reported on the membership report submitted on February 1 under s. PI 35.04(4)(a) and the October 15 amount per pupil as determined under s. 121.15(4), Stats., that the school district will receive in the current school year, multiplied by 25%.

5. Any payment adjustment shall be made as specified under s. PI 35.045(1)(e) after the department has received and reviewed the audit opinion under s. PI 35.046(1)(a).

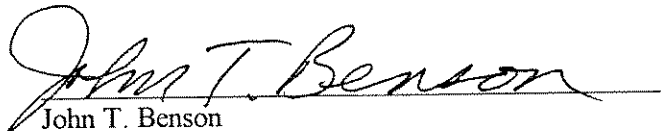
SECTION 14. PI 35.05(6) is repealed.

SECTION 15. PI 35.05(7) is amended to read:

PI 35.05(7) The state superintendent shall ensure that test security is maintained ~~on all school district achievement tests administered under sub. (6)~~ if any achievement tests are administered under s. 119.23(7)(a)3.

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 12th day of August, 1998


John T. Benson
State Superintendent

FISCAL ESTIMATE

ORIGINAL UPDATED

LRB or Bill No./Adm. Rule No.
Chapter PI 35

DOA-2048 (R10/92)

CORRECTED SUPPLEMENTAL

Amendment No. If Applicable

Subject: Milwaukee Private School Choice Program

Fiscal Effect (See attached)

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

- Increase Costs-May be possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs (See attached)

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts VTAE Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rules make several modifications to the Milwaukee private school choice program. These revisions were made due to program revisions included under 1995 Wisconsin Act 27. The rule modifications which may have a fiscal effect include:

- Allowing private religious schools to participate in the program.
- Developing private school financial reporting requirements.
- Determining costs allowed to be claimed by private schools and reimbursed by the department.
- Developing private school financial audit requirements.
- Developing payment adjustments to be made at the end of the school year by the private schools or the department.
- Eliminating the reporting of comparable data by the school district and the participating private schools relating to daily attendance rates, drop out rates, suspensions and expulsions of pupils.
- Eliminating specific parental involvement activities to be included in a private school's parental involvement plan.
- Eliminating specific parental involvement activities to be reported by the school district.
- Eliminating the requirement that private schools administer specific achievement tests to pupils and report the results of those achievement tests to the department.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Department of Public Instruction

Lori Slauson (608) 267-9127

Authorized Signature/Telephone No.

Gina Frank-Reece
Gina Frank-Reece (608) 266-2804

Date

7/27/98

State Costs:

In the 1997-98 school year, 23 private schools participated in the program. In the 1998-99 school year 110 private schools have sent letters of intent to participate in the program serving potentially 15,000 pupils.

Major activities related to administration at more sites include answering questions related to the program, verification of membership on the count days, making payment adjustments at the end of the school year and collecting information to determine if each school has met one of the four criteria for continuing eligibility in the program.

1995 Wisconsin Act 27 requires that the check paying private school tuition must be made out to the parent. Currently, checks are made out to the private schools and checks are sent four times annually. In the 1997-98 school year, a total of 92 checks were made to 23 private schools. When the checks are made out to parents beginning in the 1998-99 school year, as many as 75,000 checks may be processed annually.

To administer the program effectively, the department will be requesting 2 FTE positions in its 1999-2001 biennial budget.

Public School Costs:

The proposed rules are not expected to have a fiscal effect on the Milwaukee public schools.

Private School Costs:

It is anticipated that the private school financial audit requirements will have a fiscal effect since many of the schools participating in the 1998-99 school year currently have no audit procedures in place. Auditing costs for small public school districts range from \$2,000 - \$5,000, annually. It is assumed that auditing costs to participating private schools will fall within the lower end of the \$2,000 - \$5,000 range due to private schools' processing of fewer transactions than public schools. The actual costs will vary depending on the number of financial transactions and expertise of the private school's accounting staff. The status of the financial records maintained by the private school staff will directly affect the time involved in auditing those records.



MILWAUKEE PARENTAL CHOICE PROGRAM
NOTICE OF SCHOOL'S INTENT TO PARTICIPATE
(119.23 Wisconsin Statute)
1998-1999 School Year

Type or Print

School Name	
Street Address	
Administrator Name	Telephone Area/No.

This notice is divided into two sections: specific requirements and student rights. A representative of the school is to sign at the end of each section and also at the end of the entire application.

I. SPECIFIC REQUIREMENTS

This section provides an overview of the requirements of Wisconsin Statute 119.23. If the school agrees to comply with all of the items listed, the administrator of the school should sign on the appropriate line at the end of the section.

The School shall:

1. Submit a proposal to the Department of Public Instruction with this notice stating how pupils will be accepted on a random basis. This proposal must be reviewed and approved by DPI.
2. Instruction must be free to all pupils enrolled in the Milwaukee Parental Choice Program. Private schools participating in the program may only charge pupils participating under the program fees that may be charged by public schools to indigent pupils. See PI 35.03(6) Wisconsin Administrative Code.
3. Have a representative on the Pupil Assignment Council.
4. Notify each applicant of acceptance or nonacceptance, in writing, within 60 days after receiving the application. A copy of the letter shall be sent to DPI.
5. Within 14 days after the random selection, submit to the DPI, an alphabetical listing, categorized by grade of the names of students enrolled under this program. Copies of applications shall be included with the alphabetical list. Copies of applications for students placed on waiting lists or otherwise not accepted shall also be identified and submitted to the department.
6. Submit to the DPI, an alphabetical listing, categorized by grade of the names of students enrolled and in attendance on the first day of instruction.
7. Submit a membership report on forms furnished by the DPI showing the number of pupils in this program and the total number of pupils enrolled in the school on the third Friday in September and the Second Friday in January. Along with the membership report, submit to the DPI, in writing, an alphabetical list by grade of the names of students enrolled and counted for membership for each count date under this program.
8. Submit to the DPI, financial and membership audits, as required by Wisconsin Statutes, and Administrative Rules.
9. Comply with statute 119.23 and Administrative Rules Chapter PI 35. (See attached).

The School shall guarantee that:

At least one of the following standards needs to be met in the 1998-99 school year if the school wishes to continue in this program. Submit documentation by June 30, 1999, verifying that the standard has been met.

- a. At least 70 percent of the pupils in this program advance one grade level.
- b. The schools average attendance rate for pupils in the program is at least 90 percent.
- c. At least 80 percent of the pupils in the program demonstrate significant academic progress.
- d. At least 70 percent of the families of pupils in the program meet parent involvement criteria established by the school.

The School shall guarantee compliance with:

- 1. Title VI of the Civil Rights Act of 1964 as amended , 42 U.S.C. 2000d et. seq., which prohibits discrimination on the basis of race, color or national origin.
- 2. Wisconsin state statutes regarding private schools, s. 118.165 or s. 118.167 which require in part, schools to provide at least 875 hours of instruction each school year and provide instruction in a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health.
- 3. All health and safety laws or codes that apply to the public school which includes in part, subchapters I and IV of ch. 101 and ch. 145 Wis. Stats., and s. 115.33 Wis. Stats., including the Aging Schools Legislation.

I have read the section and guarantee that the school will comply with all the provisions of this section.

School Name	
Administrator Signature →	Date Signed
Administrator Name	Telephone Area/No.

The school agrees that compliance with these Assurances constitute a condition of receipt of funds under the above referenced program, and that it is binding upon the school, its successors, transferees, and assignees for the period during which the school is a participant in the program. The school further assures that all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to its students in connection with this program are not in violation of the stated statutes, regulations, guidelines, and standards. In the event of failure to comply, the school understands that its participation in the program can be terminated.

Please note that the provisions listed are subject to statutory and administrative rule change.

I have read the notice and guarantee that the school will comply with all its provisions.

School Name	
Administrator Signature →	Date Signed
Administrator Name	Telephone Area/No.

Please Provide the following estimates for the 1998-99 school year:

Anticipated 1998-99 Enrollment (All Students)	Anticipated 1998-99 Enrollment (Choice Students)	Grade Levels Served

Submit completed and signed form to:

Wisconsin Department of Public Instruction
 Milwaukee Parental Choice Program
 P.O. Box 7841
 Madison WI 53707-7841

Alberta Darling
Wisconsin State Senator



V 0 6 1998

ROUTE TO:

BOB _____ BF _____

LW _____ ML _____

FILE _____ FOSS _____

RETURN _____

DATE: November 6, 1998

TO: Members - Senate Committee on Education and
Financial Institutions

FROM: Senator Alberta Darling, Chairperson

RE: Clearinghouse Rule Senate 98-112 and 98-113

The following Clearinghouse Rules have been referred to the Committee on Education and Financial Institutions:

Clearinghouse Rule 98-112: An ORDER . . . relating to the Milwaukee parental school choice program.

And

Clearinghouse Rule 98-113: An ORDER to create chapter PI 38, relating to grants for peer review and mentoring.

If you would like a copy of the rule, please contact my office.

The rules were referred to the Committee on November 4, 1998. If you would like to request a hearing on either of the rules, please contact me prior to November 13, 1998.

Committees: Education and Financial Institutions, Chair • Judiciary • Business, Economic Development and Urban Affairs • Administrative Rules

Capitol Office:

P.O. Box 7882
Madison, Wisconsin, 53707-7882
Phone: 608-266-5830
Fax: 608-267-0588
Toll-free: 1-800-863-1113



Printed on Recycled Paper

District Office:

6373 North Jean Nicolet Road
Glendale, WI 53217
Phone: 414-352-7877
Fax: 414-352-7898



State of Wisconsin
Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent



October 29, 1998

The Honorable Brian Rude
President, Wisconsin Senate
Room 102
Martin Luther King Jr. Boulevard
Madison, WI 53708

The Honorable Scott Jensen
Speaker, Wisconsin Assembly
Room 211 West State Capitol
Madison, WI 53702

Dear Gentlemen:

The following rule is in final draft form and is submitted to you for referral to the appropriate standing committees:

CHR 98-112

Sincerely,

A handwritten signature in cursive script that reads "John T. Benson".

John T. Benson
State Superintendent

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

The state superintendent of public instruction hereby proposes to repeal PI 35.02(2), (6) and (8), PI 35.03(3) and (4), and PI 35.05(6), to renumber PI 35.02(1), (3), (4), (5), (7), (9), (10) to (13) and (14) to (17), to amend PI 35.01, PI 35.03(1)(a), PI 35.05(7), to repeal and recreate PI 35.03(1)(c), PI 35.03(2), PI 35.04, PI 35.05(2), and PI 35.05(3)(b) and to create PI 35.025, PI 35.02(1), (2), (4), (8), (9), (11), (12) and (19), PI 35.045, and PI 35.046, relating to the Milwaukee parental school choice program.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statutory authority: s. 227.11(2)(a), Stats.

Statute interpreted: s. 119.23, Stats.

1995 Wisconsin Act 27 made several modifications to the Milwaukee parental school choice program, including

- Allowing private religious schools to participate in the program.
- Expanding participation to 15% of the Milwaukee school district's membership.
- Allowing siblings of pupils accepted on a random basis to be given preference in accepting applications.
- Requiring quarterly payments to be made by check to parents rather than made to the private schools.
- Requiring the participating private schools to be subject to uniform financial accounting standards established by the department and to annually submit to the department an independent financial audit of the private school.
- Forbidding a private school from requiring that a pupil participate in any religious activity if the pupil's parent or guardian submits a written request that the pupil be exempt from such activities.
- Eliminating the requirement that no more than 65% of the private school's enrollment consist of pupils attending under the private school choice program.
- Eliminating the reporting of comparable data by the school district and the participating private schools.
- Eliminating the financial or performance evaluation audits, as required by the state superintendent.

On June 10, 1998, the Wisconsin Supreme Court found constitutional the revisions made under 1995 Wisconsin Act 27. Therefore, the department is promulgating rules to implement the provisions under the Act. These rules were promulgated as emergency rules effective August 5, 1998.

The proposed permanent rules make several modifications to the Milwaukee private school choice program, including:

- Allowing private religious schools to participate in the program.
- Requiring the pupil assignment council to meet annually by April 15 to designate a date by which random selection of pupils will be determined for those private schools that receive more applications than spaces available for enrollment.
- Developing private school financial reporting requirements.
- Determining costs allowed to be claimed by private schools and reimbursed by the department.
- Developing private school financial audit requirements.
- Developing payment adjustments to be made at the end of the school year by the private schools or the department.
- Eliminating the reporting of comparable data by the school district and the participating private schools relating to pupils' daily attendance, drop out rates, suspensions and expulsions.
- Eliminating specific parental involvement activities to be included in a private school's parental involvement plan.
- Eliminating specific parental involvement activities to be reported by the school district.

- Eliminating the requirement that private schools administer specific achievement tests to pupils and report the results of those achievement tests to the department.

Finally, several pre-existing requirements have been repealed and recreated in different sections reorganizing the rule to align it with the new provisions under the Act.

SECTION 1. PI 35.01 is amended to read:

PI 35.01 PURPOSE. Under s. 119.23(2)(a), Stats., any qualified pupil in grades kindergarten to 12 who resides within a city may attend, at no charge, any participating nonsectarian private school located in the city. Participation in the private school choice program is limited to ~~4.5%~~ 15% of the school district's membership as specified under s. 119.23(2)(b), Stats. This chapter establishes approval criteria and requirements for private schools participating in the private school choice program, requirements for receipt of state aid for those private schools under s. 119.23(4), Stats., and requirements for schools operating under ch. 119, Stats.

SECTION 2. PI 35.025 is created to read:

PI 35.025 PUPIL ASSIGNMENT COUNCIL REQUIREMENTS. The pupil assignment council created under s. 119.23(8), Stats., shall meet annually by April 15 to designate a date by which random selection of pupils will be determined for those private schools that receive more applications than spaces available for enrollment. The pupil assignment council shall also recommend to the state superintendent a method for ensuring that pupils will be accepted on a random basis.

SECTION 3. PI 35.02 (2), (6) and (8) are repealed.

SECTION 4. PI 35.02(1), (3), (4), (5), (7), (9), (10) to (13), and (14) to (17) are renumbered PI 35.02(3), (5), (6), (7), (10), (13), (14) to (18) and (20) to (23), respectively.

SECTION 5. PI 35.02(1), (2), (4), (8), (9), (11), (12), and (19) are created to read:

PI 35.02(1) "Accrual basis" means revenues are recorded when earned and expenditures are recorded as soon as they result in liabilities for benefits received, notwithstanding that the receipt of the revenue or the payment of the expenditure may take place, in whole or in part, in another accounting period.

(2) "Auditor" means a person licensed as a certified public accountant by the accounting examining board under ch. 442, Stats.

(4) "Capital outlay" means expenditures for items having a useful life greater than one year.

(8) "Enrollment" or "pupils enrolled" has the meaning defined under s. 121.004(7)(a) to (cm), Stats.

(9) "Fiscal period" means the school year as defined under s. 115.001(13), Stats.

(11) "Membership" has the meaning defined under s. 121.004(5), Stats.

(12) "Offsetting revenue" means revenues that reduce school expenditures used for per pupil cost computations.

(19) "School term" has the meaning defined under s. 115.001(12), Stats.

SECTION 6. PI 35.03(1)(a) is amended to read:

PI 35.03(1)(a) The private school's ~~proposed~~ method for ensuring that ~~pupils will be accepted on a random basis~~ ~~which ensures that, except for continuing pupils and their siblings, pupils will be accepted on a random selection shall be~~ ~~taken basis~~ from a new pool of applicants each school year. Waiting lists from previous school years may not be carried over and used from one year to the next.

SECTION 7. PI 35.03(1)(c) is repealed and recreated to read:

PI 35.03(1)(c) The number of pupils participating in the private school choice program for which the private school has space.

SECTION 8. PI 35.03(2) is repealed and recreated to read:

PI 35.03(2) **PROCEDURAL REQUIREMENTS.** A private school that participates in the private school choice program shall do all of the following:

(a) Submit to the department by June 30 each school year information demonstrating compliance with s. 119.23(7)(a), Stats.

(b) Appoint a representative to the pupil assignment council under s. 119.23(8), Stats.

(c) Pay all costs incurred in the administration, scoring and reporting of results of the academic achievement tests if used to meet the requirement under s. 119.23(7)(a)3., Stats.

(d) Ensure that test security is maintained for all academic achievement tests administered under par. (c).

(e) Meet all of the requirements specified under ss. PI 35.04, 35.045 and 35.046.

SECTION 9. PI 35.03(3) and (4) are repealed.

SECTION 10. PI 35.04 is repealed and recreated to read:

PI 35.04 ENROLLMENT. (1) A private school that participates in the private school choice program shall accept pupils on a random basis in accordance with the method reviewed under s. PI 35.03(1)(a). A private school may give preference to siblings of pupils accepted on a random basis.

(2) A private school under this section shall notify each applicant and the applicant's parent or guardian of acceptance or nonacceptance, in writing, within 60 days after receiving the application. The private school shall retain all notices given under this section and all original applications, both accepted and nonaccepted, submitted under this chapter.

(3) Annually, by September 1 or within 5 days after classes begin, a private school under this section shall do all of the following:

(a) Submit to the department a copy of the accepted applications that correspond to the class list submitted under par. (b). The private school shall ensure the submitted applications are complete, accurate and signed by the parent or guardian as proof of enrollment required under s. 119.23(4), Stats.

(b) Submit a class list of the private school choice pupils, alphabetically by last name, and separated by grade level, that corresponds to the accepted applications submitted under par. (a).

(4) A private school under this section shall do all of the following:

(a) Annually by October 1 and February 1, submit to the department a membership report of the total number of pupils enrolled in the private school and the number of pupils enrolled in the private school choice program on the 3rd Friday of September and the 2nd Friday of January of the current school year. The membership report form shall be provided by the department.

(b) Submit to the department with the membership report under par. (a), a class list of the private school choice pupils, alphabetically by last name, and separated by grade level. The class list shall correspond to the membership report under par. (a).

(c) Submit to the department with the membership report under par. (a), copies of any accepted applications for pupils included in the class list under par. (b) that were not previously reported under sub. (3)(a). The private school shall ensure that the applications submitted under this paragraph are complete, accurate and signed by the parent or guardian as proof of enrollment required under s. 119.23(4), Stats.

(5)(a) A private school may include a pupil on its membership report under sub. (4)(a) only if one of the following occurs:

1. The pupil is in attendance for instruction on the date specified.
2. The pupil is absent on the date specified but has attended at least one day during the school term prior to the date specified and attends at least one day after the date specified and has not enrolled in another private school or in a Wisconsin public school district during the period of absence.

(b) If a pupil who is eligible to be included in the official enrollment under sub. (5)(a)2. returns following the filing of the membership report, an amended report shall be filed with the department.

NOTE: The pupil count report may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Private School Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

SECTION 11. PI 35.045 and 35.046 are created to read:

PI 35.045 FINANCIAL REPORTING REQUIREMENTS AND DETERMINING COSTS. (1) Annually, by September 1 following a school year of operation under this program, a private school participating in the private school choice program shall submit, on a form provided by the department, a financial audit report accompanied by the auditor's opinion required under s. PI 35.046(1)(a) containing the following information for the previous school year:

(a) Revenues and expenditures for all programs of the private school and the amount attributable to kindergarten through grade 12 educational programs.

(b) Asset and liability balances at the start and end of the school year.

(c) Enrollment and full-time equivalent membership for all pupils and for pupils participating in the private school choice program.

(d) Per pupil cost related to kindergarten through grade 12 educational programming computed on a full-time equivalent membership basis.

(e) The payment adjustment amount resulting from the private school's participation in the private school choice program during the previous school year. The payment adjustment amount shall be determined as follows:

1. The private school's educational programming cost shall be reduced by the following offsetting revenues:

a. Fees charged pupils for books and supplies used in classes and programs.

b. Rentals for school buildings.

c. Food service revenues.

d. Governmental financial assistance revenues.

e. Interest earnings and other income resulting from investment of debt proceeds.

2. The private school's per pupil cost shall be determined by dividing the net eligible educational programming cost determined under subd. 1. by the membership for all pupils enrolled in kindergarten through grade 12 educational programs.

3. The private school's membership of pupils participating in the private school choice program shall be multiplied by the lesser of the school district's per pupil aid eligibility or the private school's per pupil cost. If the result is greater than the amount of the private school choice payments retained by the school, an adjustment payment shall be made to the private school. If the result is less than the amount of the private school choice payments retained by the private school, the private school shall refund the amount of any overpayment to the department within 60 days of notification.

Note: The Financial Reporting Form may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Private School Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

(2) The accrual basis of accounting shall be used in reporting the information required under this section except as follows:

(a) Debt proceeds are included in revenue when received.

(b) Long-term debt principal and interest payments are included in expenditures when payments are due.

(c) Summer school program revenues and expenditures are reported in the fiscal year corresponding to the pupil membership used for program payment purposes.

(d) Withdrawals as salary compensation by individuals with a proprietary interest in the private school shall be included in expenditures only when identified as such on the private school's records and made by check on or before June 30.

(e) Acquisition of capital outlay items are reported in expenditures when acquired.

(3)(a) Costs requiring allocation between kindergarten through grade 12 educational programming and other programs of the private school shall be made using one or more of the following allocation bases the private school considers most appropriate:

1. Instruction costs may be allocated based on either pupil full-time equivalency or time spent.

2. Student support service costs may be allocated based on either pupil full-time equivalency or time spent.

3. Administration costs may be allocated based on direct program expenditures, time spent, or full-time equivalent employees.

4. Accounting costs may be allocated based on either the number of transactions or time spent.

5. Facility operation and maintenance costs may be allocated based on floor space operated, space occupied over time, or labor hours.

6. Pupil transportation costs may be allocated based on miles driven, pupil miles driven or driver hours.

(b) The following may not be included in kindergarten through grade 12 educational programming cost:

1. Contributed services.

2. Fund raising.

3. Scholarship awards and financial support for pupils to attend the private school, including payments to parents or others on behalf of pupils.

4. Debt principal and interest payments to the private school's owners, sponsoring organization, or as a result of internal financing from other funds of the school. Borrowing from an endowment fund or from individuals serving on a board of directors or in an advisory capacity who do not have a proprietary interest in the school are not subject to the requirements under this subdivision. The interest rate on such borrowings may not exceed the published prime rate on the borrowing date.

(4)(a) The private school shall, for the purpose of computing per pupil cost, charge off non-debt financed capital outlay expenditures as follows:

1. The private school shall annually make an irrevocable election to either charge off all expenditures in each of the following categories entirely as a school year cost or amortize the expenditure over future periods as follows:

a. Media may be amortized over 5 years or 20% annually. Under this subd. 1.a., media includes consumable instructional and administrative items that are expected to serve their principal purposes for more than a year and includes text and reference books, audio-visual materials, and computer software.

b. Equipment and furnishings may be amortized over 5 years or 20% annually. Under this subd. 1.b., furnishings includes desks, chairs, and freestanding lockers. Only the additional cost difference between the allowance granted for equipment traded in and the value of new equipment acquired shall be eligible for inclusion in cost calculation.

c. Buildings, sites and improvements may be amortized over 16 years or 6.25% annually. Under this subparagraph improvements include sidewalks, installed playground equipment, landscaping and building components such as lighting fixtures, built-in lockers, heating, ventilating and wiring systems. Only the difference between the amount previously included in cost and the value of the new building acquired shall be eligible for inclusion in cost calculation, if buildings are replaced.

d. Leasehold improvements may be amortized over the remaining lease period.

2. A private school may elect to charge off in accordance with par. (a), the fair market value of existing items in each category as of July 1, 1996, or at the date first participating in the program or re-entering the program. The value of items not so elected to be charged off as a cost may not be eligible for inclusion in cost in future fiscal periods.

(b) Capital outlay items previously included in cost computations may not again be included as a cost by successor ownership of the school, nor upon purchase by or transfer to other private schools participating in the private school choice program.

(c) The private school shall maintain, indefinitely, documentation regarding capital outlay values, expenditures and their use in per pupil cost computation.

(5) A private school participating in the private school choice program for the first time may include in cost calculations start-up costs incurred prior to the start of the fiscal period.

PI 35.046 FINANCIAL AUDIT REQUIREMENTS. (1) A private school under this chapter shall provide and pay for an independent auditor's opinion regarding the information required under s. PI 35.045 as follows:

(a) Employ an auditor to provide an audit opinion stating that the private school's financial report is free from material misstatement and the private school's per pupil cost and any payment adjustment is fairly presented.

(b) Provide the auditor with a listing of all kindergarten through grade 12 pupils enrolled in the school by grade level and classroom. The listing provided under this paragraph shall identify pupils participating in the private school choice program.

(c) Deposit all receipts and pay all disbursements from a public depository account or accounts maintained solely for the private school's purposes unless the operating organization's financial accounting system provides for separate identification of the school's revenue and expenditure transactions.

(d) Maintain a record of all receipts using a sequential numbering system.

(e) Furnish all other financial and pupil records the auditor considers necessary to provide the audit opinion.

(2)(a) The auditor employed sub. (1) shall develop a written audit program identifying the steps and procedures followed in conducting the audit. The audit program shall include all the procedures specified in paragraphs (b) and (c) and such other procedures the auditor considers necessary to fulfill professional responsibilities. The auditor shall retain working papers relating to the audit under this subsection for at least 3 years from the date specified under s. PI 35.045(1)(intro.).

(b) The auditor shall perform the following procedures in auditing the private school's enrollment:

1. Verify totals used to compile reported enrollments and tracing totals to classroom records.
2. Verify enrollment reported on the membership report under s. PI 35.04 for all private school choice program pupils against the private school's official attendance records.

3. Select a sample of at least 60 private school choice pupils included on the private school's official enrollment records and verification against classroom records. The sample shall include records from each classroom. If the private school has a private school choice program enrollment of less than 60 pupils, all such pupil records shall be tested. If an

exception is identified the auditor shall extend the sample test in increments of 60 records until no additional exceptions are found or the official enrollment records for all private school choice pupils have been verified against classroom records.

4. Select a sample of at least 60 other pupils identified as not participating in the private school choice program from classroom records and determine that selected pupils were included in reported membership enrollments under s. PI 35.04. The sample shall include records from each classroom. If an exception is identified the auditor shall extend the sample test in increments of 60 records until no additional exceptions are found or all classroom records have been verified as properly included in reported enrollments.

5. If the private school is reporting pupils enrolled in a 4-year-old kindergarten program as permitted by s. 121.004(7)(cm), Stats., verify that the 4-year-old kindergarten program included at least 87.5 hours of outreach activities as documented by teacher logs.

6. Reconcile tuition revenues and tuition waiver pupils against listings of pupils identified as not participating in the private school choice program.

7. If the private school has operated a summer school program, the auditor shall review for clerical accuracy documentation maintained by the school supporting summer school membership reports filed with the department.

(c) The auditor shall perform the following procedures in auditing the private school's financial records:

1. Ensure that the financial report is free from material misstatement by performing procedures as required under subd. 2. and such other procedures, that in the auditor's judgment, provide reasonable assurance that the report does not contain misapplications of accounting requirements, departures from fact, or other errors or omissions, that in the aggregate, would result in reported net eligible educational programming cost under s. PI 35.045(1)(e)1 exceeding the following acceptable variance limitations:

a. For costs less than \$100,000, the variance limitation shall be 4% of the reported costs.

b. For costs of at least \$100,000 but less than \$1,000,000, the variance limitation shall be 2% of the reported costs.

c. For costs of at least \$1,000,000 but less than \$3,000,000, the variance limitation shall be 1.5% of the reported costs.

d. For costs of at least \$3,000,000 but less than \$5,000,000, the variance limitation shall be 1% of the reported costs.

e. For costs of at least \$5,000,000 but less than \$10,000,000, the variance limitation shall be .7% of the reported costs.

f. For costs at least \$10,000,000, the variance limitation shall be .5% of the reported costs.

2. Consider account balances equal to at least 75% and individual transactions equal to at least 20% of the variance limitation amount determined under subd. 1. as being significant and shall perform procedures considered necessary to conclude such items do not contain misstatements whose effect, when aggregated with misstatements in other balances and transactions, would exceed the variance limitation amount.

3. Determine that fees charged pupils are allowed as specified under s. PI 35.03(6)(a).
4. Confirm the private school's cash and investment account balances with depositories.
5. Prepare or obtain and examine a reconciliation of confirmed cash and investment account balances to the private school's accounting records. The reconciliation shall include the following:
 - a. Depository balances at the beginning of the fiscal period reconciled to the private school's accounting records.
 - b. Receipts per depository statements reconciled to the private school's accounting records.
 - c. Disbursements per depository statements reconciled to the private school's accounting records.
 - d. Depository balances at the end of the fiscal period reconciled to the private school's accounting records.
4. Prepare or obtain and examine a reconciliation of payroll withholdings to remittances to authorized agencies or taxing authorities.

(d) The auditor shall respond directly to inquiries from the department concerning information accompanying the auditor's opinion and permit the department, upon request, to review audit workpapers. The auditor shall notify the private school of any such inquiries or requests and the auditor's response thereto.

SECTION 12. PI 35.05(2) is repealed and recreated to read:

PI 35.05(2) The department shall collect audits under s. PI 35.046, including membership eligibility of any or all of the private schools participating under this chapter.

SECTION 13. PI 35.05(3)(b) is repealed and recreated to read:

PI 35.05(3)(b) The amount per pupil to be paid to the private school shall be determined as specified in s. 119.23(5)(a), Stats. No aid may be paid to a private school for a pupil unless the private school has provided the information required under ss. PI 35.03(1), 35.04, 35.045 and 35.046. The payment schedule is as follows:

1. The September payment shall be based on the number of pupils receiving instruction at the beginning of the school year as indicated on the class list submitted under s. PI 35.04(3)(b) and the July 1 estimated amount per pupil as determined under s. 121.15(4), Stats., multiplied by 25%.
2. The November payment shall be based on the number of pupils reported on the membership report submitted on October 1 under s. PI 35.04(4)(a) and the October 15 amount per pupil as determined under s. 121.15(4), Stats., that the school district will receive in the current school year, multiplied by 50%, less the September payment.
3. The February payment shall be based on the number of pupils reported on the membership report submitted on February 1 under s. PI 35.04(4)(a) and the October 15 amount per pupil as determined under s. 121.15(4), Stats., that the school district will receive in the current school year, multiplied by 25%.
4. The May payment shall be based on the number of pupils reported on the membership report submitted on February 1 under s. PI 35.04(4)(a) and the October 15 amount per pupil as determined under s. 121.15(4), Stats., that the school district will receive in the current school year, multiplied by 25%.

5. Any payment adjustment shall be made as specified under s. PI 35.045(1)(e) after the department has received and reviewed the audit opinion under s. PI 35.046(1)(a).


SECTION 14. PI 35.05(6) is repealed.

SECTION 15. PI 35.05(7) is amended to read:

PI 35.05(7) The state superintendent shall ensure that test security is maintained ~~on all school district achievement tests administered under sub. (6) if any achievement tests are administered under s. 119.23(7)(a)3.~~

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 29th day of October, 1998



John T. Benson
State Superintendent



MILWAUKEE PARENTAL CHOICE PROGRAM NOTICE OF SCHOOL'S INTENT TO PARTICIPATE

(119.23 Wisconsin Statute)
1998-1999 School Year

Type or Print

School Name	
Street Address	
Administrator Name	Telephone Area/No.

This notice is divided into two sections: specific requirements and student rights. A representative of the school is to sign at the end of each section and also at the end of the entire application.

I. SPECIFIC REQUIREMENTS

This section provides an overview of the requirements of Wisconsin Statute 119.23. If the school agrees to comply with all of the items listed, the administrator of the school should sign on the appropriate line at the end of the section.

The School shall:

1. Submit a proposal to the Department of Public Instruction with this notice stating how pupils will be accepted on a random basis. This proposal must be reviewed and approved by DPI.
2. Instruction must be free to all pupils enrolled in the Milwaukee Parental Choice Program. Private schools participating in the program may only charge pupils participating under the program fees that may be charged by public schools to indigent pupils. See PI 35.03(6) Wisconsin Administrative Code.
3. Have a representative on the Pupil Assignment Council.
4. Notify each applicant of acceptance or nonacceptance, in writing, within 60 days after receiving the application. A copy of the letter shall be sent to DPI.
5. Within 14 days after the random selection, submit to the DPI, an alphabetical listing, categorized by grade of the names of students enrolled under this program. Copies of applications shall be included with the alphabetical list. Copies of applications for students placed on waiting lists or otherwise not accepted shall also be identified and submitted to the department.
6. Submit to the DPI, an alphabetical listing, categorized by grade of the names of students enrolled and in attendance on the first day of instruction.
7. Submit a membership report on forms furnished by the DPI showing the number of pupils in this program and the total number of pupils enrolled in the school on the third Friday in September and the Second Friday in January. Along with the membership report, submit to the DPI, in writing, an alphabetical list by grade of the names of students enrolled and counted for membership for each count date under this program.
8. Submit to the DPI, financial and membership audits, as required by Wisconsin Statutes, and Administrative Rules.
9. Comply with statute 119.23 and Administrative Rules Chapter PI 35. (See attached).

The School shall guarantee that:

At least one of the following standards needs to be met in the 1998-99 school year if the school wishes to continue in this program. Submit documentation by June 30, 1999, verifying that the standard has been met.

- a. At least 70 percent of the pupils in this program advance one grade level.
- b. The schools average attendance rate for pupils in the program is at least 90 percent.
- c. At least 80 percent of the pupils in the program demonstrate significant academic progress.
- d. At least 70 percent of the families of pupils in the program meet parent involvement criteria established by the school.

The School shall guarantee compliance with:

1. Title VI of the Civil Rights Act of 1964 as amended , 42 U.S.C. 2000d et. seq., which prohibits discrimination on the basis of race, color or national origin.
2. Wisconsin state statutes regarding private schools, s. 118.165 or s. 118.167 which require in part, schools to provide at least 875 hours of instruction each school year and provide instruction in a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health.
3. All health and safety laws or codes that apply to the public school which includes in part, subchapters I and IV of ch. 101 and ch. 145 Wis. Stats., and s. 115.33 Wis. Stats., including the Aging Schools Legislation.

I have read the section and guarantee that the school will comply with all the provisions of this section.

School Name	
Administrator Signature ➡	Date Signed
Administrator Name	Telephone Area/No.

The school agrees that compliance with these Assurances constitute a condition of receipt of funds under the above referenced program, and that it is binding upon the school, its successors, transferees, and assignees for the period during which the school is a participant in the program. The school further assures that all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to its students in connection with this program are not in violation of the stated statutes, regulations, guidelines, and standards. In the event of failure to comply, the school understands that its participation in the program can be terminated.

Please note that the provisions listed are subject to statutory and administrative rule change.

I have read the notice and guarantee that the school will comply with all its provisions.

School Name	
Administrator Signature →	Date Signed
Administrator Name	Telephone Area/No.

Please Provide the following estimates for the 1998-99 school year:

Anticipated 1998-99 Enrollment (All Students)	Anticipated 1998-99 Enrollment (Choice Students)	Grade Levels Served

Submit completed and signed form to:

Wisconsin Department of Public Instruction
 Milwaukee Parental Choice Program
 P.O. Box 7841
 Madison WI 53707-7841

FISCAL ESTIMATE ORIGINAL UPDATED)

LRB or Bill No./Adm. Rule No.
Chapter PI 35

DOA-2048 (R10/92) CORRECTED SUPPLEMENTAL

Amendment No. If Applicable

Subject: Milwaukee Private School Choice Program

Fiscal Effect (See attached)

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs-May be possible to Absorb
 Within Agency's Budget Yes No
 Decrease Costs

Local: No local government costs (See attached)

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts VTAE Districts

Fund Sources Affected
 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

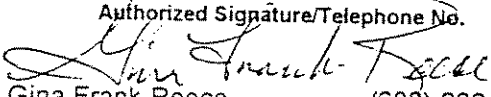
Assumptions Used in Arriving at Fiscal Estimate

The proposed rules make several modifications to the Milwaukee private school choice program. These revisions were made due to program revisions included under 1995 Wisconsin Act 27. The rule modifications which may have a fiscal effect include:

- Allowing private religious schools to participate in the program.
- Developing private school financial reporting requirements.
- Determining costs allowed to be claimed by private schools and reimbursed by the department.
- Developing private school financial audit requirements.
- Developing payment adjustments to be made at the end of the school year by the private schools or the department.
- Eliminating the reporting of comparable data by the school district and the participating private schools relating to daily attendance rates, drop out rates, suspensions and expulsions of pupils.
- Eliminating specific parental involvement activities to be included in a private school's parental involvement plan.
- Eliminating specific parental involvement activities to be reported by the school district.
- Eliminating the requirement that private schools administer specific achievement tests to pupils and report the results of those achievement tests to the department.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
 Department of Public Instruction
 Lori Slauson (608) 267-9127

Authorized Signature/Telephone No.

 Gina Frank-Reece (608) 266-2804

Date
 7/27/98

State Costs:

In the 1997-98 school year, 23 private schools participated in the program. In the 1998-99 school year 110 private schools have sent letters of intent to participate in the program serving potentially 15,000 pupils.

Major activities related to administration at more sites include answering questions related to the program, verification of membership on the count days, making payment adjustments at the end of the school year and collecting information to determine if each school has met one of the four criteria for continuing eligibility in the program.

1995 Wisconsin Act 27 requires that the check paying private school tuition must be made out to the parent. Currently, checks are made out to the private schools and checks are sent four times annually. In the 1997-98 school year, a total of 92 checks were made to 23 private schools. When the checks are made out to parents beginning in the 1998-99 school year, as many as 75,000 checks may be processed annually.

To administer the program effectively, the department will be requesting 2 FTE positions in its 1999-2001 biennial budget.

Public School Costs:

The proposed rules are not expected to have a fiscal effect on the Milwaukee public schools.

Private School Costs:

It is anticipated that the private school financial audit requirements will have a fiscal effect since many of the schools participating in the 1998-99 school year currently have no audit procedures in place. Auditing costs for small public school districts range from \$2,000 - \$5,000, annually. It is assumed that auditing costs to participating private schools will fall within the lower end of the \$2,000 - \$5,000 range due to private schools' processing of fewer transactions than public schools. The actual costs will vary depending on the number of financial transactions and expertise of the private school's accounting staff. The status of the financial records maintained by the private school staff will directly affect the time involved in auditing those records.

FINAL REPORT
CLEARINGHOUSE RULE 98-112
CHAPTER PI 35
- MILWAUKEE PARENTAL SCHOOL CHOICE PROGRAM -

Analysis by the Department of Public Instruction

Statutory authority: 227.11(2)(a), Stats.

Statute interpreted: s. 119.23, Stats.

1995 Wisconsin Act 27 made several modifications to the Milwaukee parental school choice program, including

- Allowing private religious schools to participate in the program.
- Expanding participation to 15% of the Milwaukee school district's membership.
- Allowing siblings of pupils accepted on a random basis to be given preference in accepting applications.
- Requiring quarterly payments to be made by check to parents rather than made to the private schools.
- Requiring the participating private schools to be subject to uniform financial accounting standards established by the department and to annually submit to the department an independent financial audit of the private school.
- Forbidding a private school from requiring that a pupil participate in any religious activity if the pupil's parent or guardian submits a written request that the pupil be exempt from such activities.
- Eliminating the requirement that no more than 65% of the private school's enrollment consist of pupils attending under the private school choice program.
- Eliminating the reporting of comparable data by the school district and the participating private schools.
- Eliminating the financial or performance evaluation audits, as required by the state superintendent.

On June 10, 1998, the Wisconsin Supreme Court found constitutional the revisions made under 1995 Wisconsin Act 27. Therefore, the department is promulgating rules to implement the provisions under the Act. These rules were promulgated as emergency rules effective August 5, 1998.

The proposed permanent rules make several modifications to the Milwaukee private school choice program, including:

- Allowing private religious schools to participate in the program.
- Requiring the pupil assignment council to meet annually by April 15 to designate a date by which random selection of pupils will be determined for those private schools that receive more applications than spaces available for enrollment.
- Developing private school financial reporting requirements.
- Determining costs allowed to be claimed by private schools and reimbursed by the department.
- Developing private school financial audit requirements.
- Developing payment adjustments to be made at the end of the school year by the private schools or the department.
- Eliminating the reporting of comparable data by the school district and the participating private schools relating to pupils' daily attendance, drop out rates, suspensions and expulsions.
- Eliminating specific parental involvement activities to be included in a private school's parental involvement plan.
- Eliminating specific parental involvement activities to be reported by the school district.
- Eliminating the requirement that private schools administer specific achievement tests to pupils and report the results of those achievement tests to the department.

Finally, several pre-existing requirements have been repealed and recreated in different sections reorganizing the rule to align it with the new provisions under the Act.

A public hearing to consider the emergency and proposed rule was conducted by the department on October 13, 1998, in Milwaukee. Persons were asked to register in favor, generally in favor (except for . . .), against, generally against (except for . . .), or for information only.

Milwaukee Hearing, October 13, 1998

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Christopher Ahmuty	ACLU of Wisconsin		X	
Mickey Beil	Milwaukee Public Schools			X
Sr. Joan Brede	St. Lawrence	X		
S. Lucille Coughlin	Notre Dame Middle School	X		
Carolyn Ertlie	St. Barbara/Holy Spirit Schools	X		
Robert Gottschalk	Messmer High School	X		
Linda Gaston-Mounger	Milwaukee Teachers' Ed. Assoc.		X	
Dan McKinley	PAVE	X		
John Norris	Archdiocese of Milwaukee	X		
Bob Peterson	Self		X	
Sr. Callista Robinson	Harambee Community School	X		
Eugene Schoessow	St. Martini Lutheran School	X		
Carolyn Trawitski	St. Josaphat	X		
Susan L. Wing	Woodlands School	X		
Sr. Marilyn Winkel	St. Matthew School	X		

The following persons submitted written testimony:

NAME	ORGANIZATION	IN FAVOR OR GENERALLY IN FAVOR	OPPOSED OR GENERALLY OPPOSED	OTHER
Jennifer A. Kammerud	School Administrators Alliance			X
Carole Shield Elliot M. Mindberg	People for the American Way			X

Changes made as a result of oral or written testimony: None

Responses to Clearinghouse Report:

2. Form, Style and Placement in Administrative Code:

- a. Recommendation accepted, change made.
- b. Recommendation accepted, changes made.
- c. Recommendation accepted, changes made.
- d. Recommendation accepted, changes made.

4. Adequacy of Reference to Related Statutes, Rules and Forms:

Recommendation accepted, changes made.

5. Clarity, Grammar, Punctuation and Plainness:

- a. Recommendation accepted. The reference to 15% has been added to the rule draft.
- b. Recommendation accepted, changes made.
- c. Under s. PI 35.04(5)(a), the phrase “participating in the private school choice program” has been removed to clarify that a pupil may be counted as long as he or she does not leave the private school to attend another private school or public school.
- d. Section PI 35.045(1)(intro.) has been modified to read “Annually, by September 1 following a school year of operation under this program, a private school . . . This change has been made to clarify that a school in its initial year of operation as a choice school must submit the financial audit report by September 1 following that year.
- e. Section PI 35.045(1)(e)3. has been modified to read “. . . the private school shall refund the amount of any overpayment to the department within 60 days of notification.”
- f. Yes. It is assumed that the auditor will indicate on the report the option chosen to allocate individual costs. Schools are not required to adhere to those options in subsequent years.

FINAL REGULATORY FLEXIBILITY ANALYSES

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.