

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Senate Committee on
Education(SC-Ed)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ **

➤ Miscellaneous ... Misc

➤ 97hr_SC-Ed_Misc_pt26

➤ Record of Comm. Proceedings ... RCP

➤ **



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone (608) 266-1304
Fax (608) 266-3830

DATE: September 9, 1997

TO: SENATOR RICHARD GROBSCHMIDT AND OTHER INTERESTED
LEGISLATORS

FROM: Russ Whitesel, Senior Staff Attorney

SUBJECT: 1997 Senate Bill 188, Relating to Contracts Between the Milwaukee Public
Schools Board of School Directors and Nonsectarian Private Schools or
Agencies to Provide Educational Services and the Prohibition Against
Collective Bargaining With Respect to Such Contracts

This memorandum describes the provisions of 1997 Senate Bill 188, relating to contracts between the Milwaukee Public Schools Board of School Directors (MPS Board) and nonsectarian private schools or agencies to provide educational services and the prohibition against collective bargaining with respect to such contracts. The memorandum also provides a description of a proposed substitute amendment (LRBs0184/1) to the original Bill. Finally, a brief description is provided of a proposal contained in the budget amendments adopted by the Assembly Republican Caucus.

A. 1997 SENATE BILL 188

Under current law, the MPS Board of School Directors is authorized to contract with any nonsectarian private school or agency located in the City of Milwaukee to provide educational programs for pupils enrolled in MPS. [s. 119.235, Stats.] The MPS Board, under the statutes, is prohibited from bargaining collectively with respect to a decision of the MPS Board to contract with a nonsectarian private school or agency to provide these educational programs or with respect to the impact of such a decision on the wages, hours or conditions of employment of the municipal employees who perform services for the MPS Board. The current statutes also specify the obligations of a private school or agency that contracts with the MPS Board to provide services.

In August of 1996, the Milwaukee Teachers' Education Association (MTEA) initiated a suit against the MPS Board alleging, among other things, that the statutes authorizing these MPS contracts and prohibiting collective bargaining with respect to these contracts are "private or local laws." The suit alleged that enactment of the provision as part of 1995 Wisconsin Act 27

(the 1995-97 Biennial Budget Act) violates Wis. Const. art. IV, s. 18. That section provides that no private or local bill that is passed by the Legislature may embrace more than one subject. This challenge was ultimately upheld by the circuit court in Milwaukee in a decision issued on June 2, 1997 by Circuit Court Judge Frank T. Crivello. [*Milwaukee Teachers' Education Association v. Milwaukee Board of School Directors*, Case No. 96-CV-005849.]

Senate Bill 188 repeals and recreates the relevant statutes without change. It should also be noted that the original package of legislation also authorized the Superintendent of the Milwaukee Schools to close any failing school and to reassign teachers from those schools. Those provisions were also challenged in the lawsuit and found to be enacted in violation of Wis. Const. art. IV, s. 18, but are *not* recreated in Senate Bill 188.

B. SENATE SUBSTITUTE AMENDMENT-- (LRB-0184/1)

The substitute amendment makes the following changes in the original legislation:

1. The MPS Board's authority to contract with any nonsectarian private school or private agency is modified to require that the school also be a *nonprofit* school or private agency. [See s. 119.235 (1), Stats.]
2. The MPS Board is authorized to enter into contracts under a phase-in program as follows:
 - a. In the 1997-98 school year, contracts may be entered into to provide programs only for four-year olds and five-year olds who are residents of the city and for first grade pupils who are enrolled in the school district operating under ch. 119.
 - b. In the 1998-99 school year, the MPS Board is authorized to provide educational programs for pupils described in item a. *and* for second grade pupils who are enrolled in the school district.
 - c. In the 1999-2000 school year, the MPS Board is authorized to provide educational programs for those children specified under item b. *and* for third grade pupils.
 - d. In the 2000-01 school year, the MPS Board is authorized to provide additional educational programs for fourth grade pupils in addition to those described in item c.

Under the original legislation, there were no restrictions on the age or grade level for contracts.

3. Modifies the requirements placed on any private school or agency under contract with the board with regard to parental involvement. The original legislation required schools to offer "diverse opportunities for parents to participate in the school's programs." The substitute amendment expands the requirement to require the following:

3. Private schools and agencies contracting with a school board under the program would have to: (a) offer a full school year educational program; (b) participate in the school board's parent information program; (c) offer diverse opportunities for parents that participate in the school's program; (d) meet insurance and financial requirements established by the school board; (e) develop a pupil recruitment enrollment plan that incorporates a good faith effort to achieve racial balance, a pupil selection process that gives preference to the siblings of enrolled pupils and that gives no other preference except those approved by the school board and a statement describing how the plan would serve the needs of low-income achievers and pupils from low-income families; and (f) report to the school board any information requested by the board.

4. Any pupil enrolled in the school district under the program would be entitled to attend the private school or agency, at no charge, subject to space availability.

5. Participating school boards would have to establish appropriate, quantifiable performance standards for pupils at each private school or agency with which they contract in such areas as attendance, reading achievement, pupil retention, pupil promotion, parent surveys, credits earned and grade point average.

6. Under the program, participating school boards would have to annually monitor the performance of the program and submit their findings to the State Superintendent of Public Instruction. School boards would be permitted to use the results of standardized basic education skills tests to monitor pupil performance.

No contract could extend beyond June 30, 2002.

The Fiscal Bureau noted that under s. 119.235, Stats., MPS is authorized to engage in a nearly identical program which would be repealed under the proposed budget amendment. On June 2, 1997, as noted above, the Wisconsin Circuit Court in Milwaukee County declared the MPS program unconstitutional, due to a violation of the procedural requirements for local law legislation under the Wisconsin Constitution.

Although the eligibility to enter into the contracts is somewhat different, the scope of the authority contained in this proposal is nearly identical to that contained in s. 119.235. It can be assumed that the inclusion of this provision in the budget could be subject to the same legal challenge as the earlier inclusion in the state budget. Based on the precedent set in the *Milwaukee Teachers' Education Association* case (cited above), the inclusion in the 1997-99 Biennial Budget would likely be found to be unconstitutional. It should be noted that if there is no challenge to the inclusion of the proposal, the enactment would be presumed to be constitutional.

If you have any further questions on this matter, please feel free to contact me directly at the Legislative Council Staff offices.

RW:jt:rv;ksm

- a. Direct involvement in decision-making in program planning and analysis.
- b. Participation in classroom and program activities.
- c. Participation in training session on child growth and development.
- d. Participation in activities that support and enhance the parents' role in their child's education and development.

These requirements are similar to the parental involvement requirements contained in s. 119.72, Stats., relating to early childhood education contracts with day care centers.

4. Record and periodically report to the board, pupil attendance data and parental involvement activities as enumerated in the Bill.

5. Require that at each program site at least one person be employed or utilized who is appropriately licensed by the department and represented by a collective bargaining unit consisting of school district professional employees performing services for a school district operating under ch. 119. The original legislation did not contain any requirement with regard to license status or presence at the program site.

6. Provides that the authority to contract under these provisions will not apply after *July 1, 2001*.

The substitute amendment, in all other respects, is the same as the original legislation, Senate Bill 188.

C. PROPOSED BUDGET AMENDMENT

The Assembly Republican Caucus has adopted a proposed budget modification to the 1997-99 State Budget as included in Assembly Substitute Amendment 1 to Assembly Bill 100. This proposal, as described by the Legislative Fiscal Bureau, provides that school districts that have more than 1,000 dropouts from high school in the previous school year and more than 300 third grade pupils that did not meet the state minimum standards for reading proficiency in the previous year could contract with nonsectarian schools and agencies for educational services. Based on 1996-97 school district statistics, only the MPS would be eligible to participate in the program. The provision specifies that the following would apply:

1. Participation of a school district in the program would be a prohibited subject of collective bargaining starting the day the current collective bargaining agreement expires or is extended, modified or renewed, whichever occurs first.

2. Private schools and agencies participating in the program would have to conform with the state law governing confidentiality of pupil records and the prohibition of pupil discrimination as well as meet all health and safety laws and rules that apply to public school districts. In addition, the provision specifies that federal laws governing pupil records, privacy and non-discrimination would apply.



MILWAUKEE PUBLIC SCHOOLS

OFFICE OF GOVERNMENTAL RELATIONS

Central Services Building
5225 West Vliet Street
P O Box 2181
Milwaukee, Wisconsin 53201-2181
Phone: 414-475-8731
Fax: 414-475-8270

April 30, 1997

Senator Kevin Shibilski
PO Box 7882
Madison, WI 53707-7882

Dear Senator Shibilski:

Re: Senate Bill 188, Contracts With Nonsectarian Schools and Agencies

Senate Bill 188 would reenact the 1995 budget provisions which authorize MPS to contract with nonsectarian schools and agencies in the City for educational programs. For 1997-98, MPS expects to have sufficient contracts with nonsectarian schools and agencies in the City to provide educational services for 1200 Milwaukee children.

MPS use of this contracting authority has been challenged and the issue is currently pending in Milwaukee County Circuit Court. The basis of the challenge is that this authority is a "local" or "private" bill which was unconstitutionally enacted as part of a comprehensive state budget bill.

Continued use of this authority is critical to the operation of MPS as MPS needs to provide classroom space for every child. With enrollment growth now taking every available classroom and a failed school facility referendum, MPS needs to contract with partner schools simply to provide classrooms for all students. MPS enrollment has increased by more than 3100 students since the facility referendum failed in 1993, and another 1500 are expected in the fall of 1997. That four-year enrollment increase of about 4600 exceeds total enrollment in 400 Wisconsin school districts.

The uncertain outcome of the current litigation has created some concern among the partner schools about the status of their current and future contracts with MPS. Some have simply expressed a hesitancy to make additional investments in their educational program until they are sure that a contract with MPS would be valid and binding. As a result, program planning for the 1997-98 school year is not as clear and straight forward as it should be at this stage. And many parents are becoming concerned about the possibility that a court decision may prevent renewal of the MPS contract with the partner school attended by their children. The invalidation of the contracts currently in litigation could force about 1,200 children out of their school in 1997-98 unless their tuition was paid in another way.

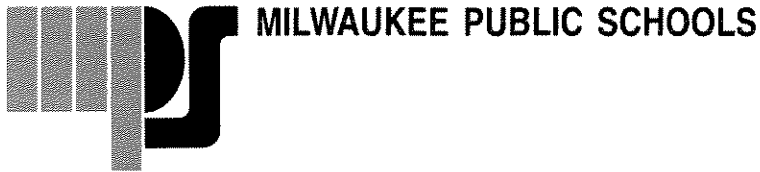
The best solution is to reenact the 1995 contracting legislation as a separate bill (SB 188) which would apply only to MPS. Several partner schools have joined MPS as co-requesters. Prompt action on the bill will remove the major uncertainty we face in our contracts for 1997-98 and beyond. Therefore, I am asking for your support of SB 188 in the legislative process this spring. If you would like any further information on the bill, please let me know and I will be pleased to provide it.

Sincerely yours,



Doug Haselow
Chief Lobbyist

C: Senator Grobschmidt
Senator Darling
Senator Potter



OFFICE OF GOVERNMENTAL RELATIONS

Central Services Building
5225 West Vliet Street
P O Box 2181
Milwaukee, Wisconsin 53201-2181
Phone: 414-475-8731
Fax: 414-475-8270

April 16, 1997

Senator Calvin Potter
PO Box 7882
Madison, WI 53708-7882

Dear Cal:

Re: LRB 2757 Alternative Methods of Operating Schools in Milwaukee

Thanks for taking the time to discuss the need for new contracting legislation to validate the 1995 authority now being litigated.

As you know, the 1995 state budget included three specific grants of authority to assist MPS in its reform efforts: authority to close and reopen low performing schools; authority to convert private schools to nonsectarian charter schools; and authority to contract with private nonsectarian schools and agencies in the city for educational programs.

MPS has used all of this authority. Effective for 1996-97, MPS has closed and reopened six of its lowest performing schools and 5,487 children are currently enrolled at those six schools. Effective for 1996-97, MPS has converted the Highland Community School to a charter school and 54 children are now enrolled there. The conversion of a second charter school is expected for 1997-98. Effective for 1996-97, MPS has contracted with four community schools for kindergarten and elementary educational programs to serve 518 children. The number of children to be served by MPS contracts is expected to exceed 1,200 in 1997-98.

MPS use of all those grants of authority has been challenged and the issue is currently pending in Milwaukee County Circuit Court. The basis of the challenge is that each grant of authority is a "local" or "private" bill which was unconstitutionally enacted as part of a comprehensive state budget bill.

Continued use of this authority is critical to the improvement of MPS. MPS needs to close and reconstitute low-performing schools as circumstances require. MPS also needs to give parents a choice of quality schools to attend. And MPS needs to provide classroom space for every child. With continued enrollment growth now taking every available classroom and a failed school facility referendum, MPS needs to contract with partner schools simply to provide classrooms for all students. MPS enrollment has increased by more than 3,100 students since the facility referendum failed in 1993, and another 1,500 are expected in the fall of 1997. That four-year enrollment increase of about 4,600 exceeds total enrollment in 400 Wisconsin school districts.

Senator Calvin Potter
April 15, 1997
Page 2

The uncertain outcome of the current litigation has created some concern among the partner schools about the status of their current and future contracts with MPS. Some have simply expressed a hesitancy to make additional investments in their educational program until they are sure that a contract with MPS would be valid and binding. As a result, program planning for the 1997-98 school year is not as clear and straight forward as it should be at this stage. And many parents are becoming concerned about the possibility that a court decision may prevent renewal of the MPS contract with the partner school attended by their children. The invalidation of the contracts currently in litigation could force about 1,200 children out of their school in 1997-98 unless their tuition was paid in another way.

The best solution is to reenact the 1995 legislation as a separate bill which would apply only to MPS, and I understand Rick Grobschmidt will take the lead on that. However, his bill will only address the MPS contracting authority; and the other two issues will not be addressed. Prompt action on the bill will remove the major uncertainty we face in our contracts for 1997-98 and beyond. Your support and cooperation in this process are greatly appreciated.

Sincerely yours,



Doug Haselow
Chief Lobbyist

DH/dz

C: Senator Grobschmidt
Senator Burke

EARLY CHILDHOOD CONTRACT

AGREEMENT BETWEEN THE MILWAUKEE PUBLIC SCHOOLS AND

AGREEMENT made on this _____ day of _____ 1997, by and between the Milwaukee Board of School Directors (hereinafter, "MPS"), 5225 West Vliet Street, P.O. Box 2181, Milwaukee, WI, 53201-2181, and _____ (hereinafter, "Contractor"), located at _____.

_____ WHEREAS, MPS is desirous of entering into an agreement to contract with private, nonprofit, nonsectarian agencies located in the city of Milwaukee to provide early childhood education to four-year-olds and five-year-olds who are residents of the city for the 1997-1998 school year; and

_____ WHEREAS, MPS is authorized by sec. 118.001, Stats., to take any school board action that is within the comprehensive meaning of the terms of the duties and powers of a school board so long as the action is not prohibited by the state or federal law;

_____ NOW THEREFORE, the parties do hereby agree:

I. CONTRACTOR RESPONSIBILITIES:

A. Program Operations. Contractor shall provide a Program for Early Childhood pupils as follows:

1. Contractor shall provide a full day instructional program on site for four-year-old kindergarten and/or five-year-old kindergarten students and for the number of days annually and for the number of hours annually required by the school district standards set forth in sec. 121.02, Stats.
2. The Program for Early Childhood pupils shall be carried in accordance with the Early Childhood Program Description attached hereto as Appendix A and incorporated herein by reference. The Contractor Program Description will address achievement of the goals identified in "Four Year Old Kindergarten Expectations" and Skills for Five Year Old Kindergarten Pupils", attached hereto as Appendix B and C respectively.
3. Contractor shall provide an Early Childhood Education Program through age 6. (Children enrolled in the four-year-old kindergarten must be four years old on or before September 1, 1997. Children enrolled in the five-year-old kindergarten program must be five years old on or before September 1, 1997.

4. Contractor shall provide a total of _____ FTE seats for pupils in K4 and K5, _____ seats for pupils in grades 1-8, and _____ seats for pupils in grade 1-8 assigned by the Division of Bilingual Multicultural Education Lau Compliance Office. Contractor expressly understands that under no circumstances shall MPS be obligated to make payment for more than said number of pupils. Contractor shall fill all of these seats by the Third Friday enrollment count in September. If contractor fails to fill all of these seats by said date, MPS shall reduce the payment provided for below in paragraph II.A.3. accordingly. Contractor may submit a written request to MPS that the required enrollment figure be modified. MPS shall unilaterally reduce the number of the seats allocated to Contractor, and may reallocate those seats to another Contractor. Contractor further understands that MPS shall only be responsible for making payment for pupils enrolled by MPS and in attendance in the MPS program.
 5. Other than for students placed by the Division of Bilingual Multicultural Education Lau Compliance Office, Contractor shall be responsible for enrollment of students into the program, recruitment and promotion of the program necessary to ensure that the required number of eligible students, as set forth in sec. I above, are enrolled. Contractor shall provide adequate staff to perform these duties. Any transportation arrangements, if necessary are the responsibility of the Contractor. 11. Contractor shall place all students for enrolled under this agreement at a site where the MPS teacher(s) are located.
 6. Contractor shall adhere to all of the discipline policies and procedures of MPS provided in the MPS Parent/Student Handbook On Rights, Responsibilities, And Discipline which is attached hereto as Appendix D and incorporated herein by reference, and as said policy of MPS may be amended from time to time. Contractor explicitly understands that no pupil may be suspended or expelled from school due to poor attendance. Contractor further understands that no pupil may be suspended or expelled from the Program for Early Childhood pupils without the involvement and approval of the MPS Division of Parent and Student Services.
 7. Contractor shall maintain a pupil to adult staff ratio of 13 to 1.
 8. Contractor shall comply with the following monitoring and supervision requirements; a) Provide information relative to the racial composition of the children in the program, b) Accommodate monitoring site visits, c) Administer all standardized and formal tests designated by MPS, and d) Provide a manning chart identifying the program's Chain of Command.
 9. Contractor shall provide the Division of Bilingual Multicultural Education Lau Compliance Office by January 30 1998, with a list identifying those students who will not be returning to the Contractor's Early Childhood Program for the fall of the following school year. Contractor shall obtain completed School Selection applications from all parents of students not returning in the fall.
 10. Contractor shall notify the Division of Bilingual Multicultural Education Lau Compliance Office whenever a student suspected of Limited English Language Proficiency is enrolled so as to enable proper assessment and placement of the student according to the procedures established by MPS.
- B. Program Performance Measures. Unless otherwise negotiated and agreed to by the parties in writing, Contractor shall establish to the satisfaction of MPS on an annual basis that Contractor has evaluated how children are performing in the program in the following

areas:

1. Language Arts
2. Active Learning
3. Math and Logical Reasoning
4. Social/Emotional
5. Science/Social Studies/Health

Pupil growth in these areas will be assessed by means of the assessment checklists attached hereto as Appendix E for K4 pupils and K5 pupils.

These measures, along with the the results of a parent survey, attached hereto as Appendix F will be used by MPS in evaluating the performance of Contractor under this Agreement and in determining whether MPS will enter into future agreements with Contractor as well as determining whether MPS will continue or terminate this Agreement with Contractor under paragraph III.B.3. The decision of MPS shall be final.

C. Program Reporting. Contractor shall provide reports as required by MPS to fulfill its obligations as a public school district, as well as academic, financial and other program records and reports as requested by MPS for program accreditation, monitoring, payment, and auditing. Those reports shall include, but not be limited to the following:

1. Attendance. Contractor shall maintain daily/monthly attendance and enrollment and provide all information regarding pupil attendance requested on the Attendance Report provided by MPS and attached hereto as Appendix G and incorporated herein by reference.
2. Adds and Drops. Contractor shall give written notice to the MPS Alternative Programs Information Center whenever a student enrolls or withdraws from the Early Childhood Program. Said notice shall include the name of the student, the date of the enrollment or withdrawal, and said notice shall be given within three (3) days of the enrollment or withdrawal. _____
3. Financial. Contractor shall provide all financial information requested on the Annual Budget and the Annual and Semi-Annual Budget Expenditure Report provided by MPS and attached hereto as Appendices H and I and incorporated herein by reference.

D. Staffing. Contractor shall adhere to MPS' Livable Wage policy which requires all contractors to pay their employees a minimum wage of \$7.70 per hour. Contractor shall provide sufficient staff to operate the Early Childhood Education Program, including sufficient staff during the summer months to enroll pupils for the upcoming school year. Contractor shall ensure that all instruction and pupil support services provided in the Early Childhood Educational Program component are provided by one of the following:

1. Professional staff members as described in sec. 121.02(1) (a), Stats., i.e., teachers, supervisors, administrators and professional staff members who hold a certificate, license or permit to teach issued by the Wisconsin Department of Public Instruction before entering on duties for such position. Copies of said credentials shall be provided to MPS.

- 2. Adhere to the contract between MPS and the Milwaukee Teachers Education Association (MTEA) in all dealings with the Early Childhood MPS teacher located at each Contractor's site. Among these being compliance with the MTEA contract provisions associated with the Teacher Day, Negotiated Yearly Calendar, Teacher Travel, Duty Free Lunch, and the assignment of Non-teaching Administrative Duties. The MPS teacher can only teach the pupils assigned to and enrolled in this program. Contractor will provide a separate room for teacher preparation when extended care is held in instructional rooms. Contractor shall provide easily assessable telephones for teacher use to conduct school business during the contracted school day. Contractor acknowledges that a copy of said contract has been provided and explained to Contractor.
- E. Tuition and Fees. Contractor shall not charge tuition to pupils enrolled in the Early Childhood Educational Program. Contractor may assess pupil activity fees under the same circumstances and under the same regulations that MPS applies to all MPS pupils.
- F. Nondiscrimination. Contractor shall not discriminate in admissions or deny participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability. Specifically, Contractor shall comply with the following state and federal laws and regulations:
1. 42 U.S.C. 2000d et seq., Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, national origin, and color).
 2. All health and safety laws or rules that apply to public schools.
 3. Sec. 118.13, Stats., Pupil Nondiscrimination.
 4. Title IX of the Education Amendments of 1972, 20 U.S.C. secs. 1681 et seq. (prohibiting discrimination on the basis of sex).
 5. The Age Discrimination Act of 1985, 42 U.S.C. secs. 6101 et seq. (prohibiting discrimination on the basis of age).
 6. Sec. 504 of the Rehabilitation Act of 1973, 29 U.S.C. sec. 794 (prohibition, a discrimination on the basis of handicap) and the Americans with Disabilities Act.
 7. Family Education Rights and Privacy Act, 20 U.S.C. sec- 1232g and sec. 118.125, Stats., (regarding protection of pupil records).
 8. The Drug Free School and Communities Act of 1986, 20 U.S.C. secs. 3171 et. seq,
 9. All federal and state constitutional guarantees protecting the rights and liberties of individuals, including, freedom of religion, expression, association, against unreasonable search and seizure, equal protection, and due process.
- G. Immunization. Contractor shall adhere to all MPS policies with regard to health and safety standards. Contractor shall ensure that all of its pupils shall comply with all Wisconsin Immunization records.

H. **Facilities.** Contractor shall provide a safe and healthy facilities. Contractor shall comply with all health and safety laws or codes that apply to public schools. Specifically, Contractor shall comply with the following MPS Facilities Standards:

1. Contractor shall obtain an occupancy permit for school usage prior to the start of the first day of pupil attendance. Failure to obtain the necessary permit by the date could result in termination of this Agreement and MPS shall have the absolute and unqualified right to recover all funds advanced to Contractor under this Agreement.
2. Contractor shall complete an Asbestos Hazard Emergency Response Management Plan prior to the start of the first day of pupil attendance. Failure to complete an Asbestos Hazard Emergency Response Management Plan by that date shall result in termination of this Agreement and MPS shall have the absolute and unqualified right to recover all funds advanced to Contractor under this Agreement. Upon completion of the management plan, the Contractor shall take immediate steps to implement the management plan.

I. **Indemnification Agreement.** Contractor shall indemnify and hold MPS, its agency, board members, and employees, harmless against any and all claims and demands, actions, and causes of action, damages and claims for bodily injuries, personal injuries or damages of any kind, except those caused solely by the negligence of MPS employees or agents. This indemnification obligation shall not be reduced in any way by the existence or nonexistence, limitation, amount or type of damages, compensation or benefits payable under worker's compensation laws or other insurance provisions. Under no circumstances is MPS' recovery limited due to the fact that it is named as an additional insured under any of the Contractor's insurance policies.

J. **Insurance.** Contractor shall obtain insurance coverage as described below:

Fidelity Bond

Bond Coverage in an amount not less than fifty percent (50%) of the total annual Program costs of all of Contractor's employees and all employees of Contractor, subcontractors, responsible for financial decisions, including the CEO and CFO and Board Members of the Contractor and all subcontractors.

Worker's Compensation

Worker's Compensation - Statutory Coverage
Employer's Liability Limits

Bodily Injury by Accident	\$100,000 each accident	
Bodily Injury by Disease	\$100,000 each employee	

B

Commercial General Liability

Each Occurrence Limit	\$1,000,000	
Personal	&	Advertising
Injury Limit	\$1,000,000	
General Aggregate	\$2,000,000	
Products-Completed		
Operations Aggregate	\$2,000,000	
Medical Expense	\$10,000	

Auto

Combined Single Limit	\$1,000,000 each accident	
-----------------------	---------------------------	--

Liability

Umbrella

Each Occurrence Limit	\$5,000,000
General Aggregate Limit	\$5,000,000

The Umbrella shall provide excess employer's liability, general liability and auto liability coverage

School Leaders Errors & Omissions

Aggregate Limit	\$1,000,000
-----------------	-------------

All policies, with the exception of the School Leaders Errors & Omissions policy, shall be written on an occurrence form.

MPS shall be named as an additional insured under the Commercial General Liability, Auto Liability and Umbrella policies.

Contractor's insurers shall provide MPS with a 30 day notice prior to any material change, termination or cancellation of any policy.

Contractor shall provide certificates of insurance to MPS as evidence of the above coverage within 10 days after the payment made under II. A. 1.

K. Background Screening. Contractor shall perform an initial one time background screening through the Wisconsin Department of Justice or the MPS Department of Human Resources on all part-time and full-time employees and volunteers of Contractor and all entities, including but not limited to the County of Milwaukee, involved in providing services in connection with the Early Childhood Educational Program component of Contractor shall not assign and shall ensure that none of the entities that contract with Contractor assign any employee or volunteer to teach or work with MPS pupils until Contractor investigates and determines that there is nothing in the background of the employee or volunteer which would render the employee or volunteer unfit to teach or work with MPS pupils, including, but not limited to, conviction of a criminal offense or pending charges which substantially relates to the duties and responsibilities assigned to the employee and/or volunteer.

L. Fiscal Requirements. Contractor should comply with all fiscal requirements set forth below:

1. Expend and account for funds in a manner consistent with the provisions of this Agreement, the Contractor Annual Budget set forth in Appendix H, and for allowable costs as defined in 14 CFR, 34 CFR, Part 80.22 - OMB Circular A-87. Contractor shall obtain written approval from MPS before any change is made to the Annual Budget set forth in Appendix H.
2. Complete and provide MPS with one copy of the annual single audit report performed according to the statutory requirements and provisions required by P.L. - 98-502 and in accordance to the requirements of Federal Circular A-128 and A-110, 133, regardless of the portion of federal funds received from MPS. Contractor shall also provide MPS with a copy of the annual audited financial statements.
3. Maintain adequate source records, including, but not limited to, invoices, payroll records, time sheets, and receipts.
4. Use appropriate cash management procedures, so that the public funds dispersed under this Agreement are discernible from other funds. Maintain cash disbursement

obligations directly associated with this Agreement in a segregated account documented by ledger entries.

5. Complete and provide MPS with a Request for Funds Form attached hereto and incorporated by reference as Appendix J in order to claim payment for services performed in operating the Early Childhood Educational Program in accordance with the Agreement payment schedule under II.A.1. of this Agreement.
6. Deliver to MPS a semi-annual financial report, covering the period from July 1, 1997 through December 31, 1997 showing budgeted expenses vs. actual expenses in the format set forth in Appendix F, no later than January 31, 1998.
7. Deliver to MPS an annual final financial report covering the period from July 1, 1997 through June 30, 1998 showing budgeted expenses vs. actual expenses in the format set forth in Appendix K, no later than July 31, 1998.
8. Expend a minimum of 80% of funds provided under this Agreement on direct educational costs associated with direct student support and a maximum of 20% of program funds on indirect costs, as defined in 34 CFR, Part 74, Subpart Q, App D - OMB Circular A-87.
9. Provide MPS with a budget that identifies any other sources from which Contractor receives funds.
10. Incur all costs associated with this Agreement within the applicable term of this Agreement and make payment for such costs no later than October 1, 1998.
11. Assume liability for any costs disallowed to MPS because of violations of provisions in applicable federal and state laws, regulations, and rules. MPS reserves the right to withhold payment under this Agreement and/or to terminate this Agreement if the Contractor fails to comply with the provisions of this Agreement. MPS reserves the right to reduce any amount otherwise due under this agreement or under any future agreement that the parties may enter into for costs that MPS determines are not allowable under this agreement.
12. Grant MPS or any authorized MPS representative the right to review the financial and audit records of Contractor and any entities contracting with Contractor for a period of up to three years following the expiration of this Agreement. If Contractor fails to allow a full and complete financial and compliance audit, this Agreement shall become null and void and all funds advanced under this Agreement shall be due and owing from Contractor to MPS. If the audit by MPS identifies costs as inappropriate, MPS shall be entitled to recover any payments to Contractor made under this Agreement for such costs.
13. Provide appropriate funding for field trips.
14. Purchase appropriate and quality instructional resources, supplies, and equipment for quality program implementation. Milwaukee Public Schools reserves the right to withhold payment of costs from this contract to purchase said items and/or to terminate this agreement if the Contractor fails to comply with the provisions of this agreement.

M. School Community Relations

~~Contractors shall provide opportunities for parents to visit classrooms and observe the work of the schools in accordance with MPS Admin. Policy 9.09, attached hereto as Appendix L, and Parent Empowerment policy attached hereto as Appendix M.~~

MILWAUKEE PUBLIC SCHOOL RESPONSIBILITIES

II. MPS RESPONSIBILITIES:

- A. MPS shall make payment to Contractor for program costs not to exceed \$4,300 per K4-K5 pupil and/or \$4,450 per Grades 1-8 pupil, or \$_____ total in accordance with the following payment schedule.
1. Twenty five percent (25%) of total or \$_____ upon the execution of this Agreement by Contractor and upon receipt by MPS of all the following: 1. proof of a valid occupancy permit for school usage has been obtained, 2. completion of Asbestos Emergency Response Management Plan, 3. copies of valid teacher license/certification for Contractor staff, and 4. evidence of contractor's non profit status.
 2. _____ Twenty five percent (25%) of total or \$_____ upon receipt and approval by the Division of Alternative Programs of: 1. Contractor School Pupil Schedule, 2. Contractor School Teacher Schedule, and 3. Contractor School Annual Calendar, 4. Contractor staff job descriptions, and 5. Qualifications of Non MPS Early Childhood program personnel.
 3. Forty percent (40%) of total upon receipt and approval by MPS of the-Semi-Annual Budget Expenditure Report in Appendix I covering the period of July 1, 1997 through December 31, 1997.
 4. Final ten percent (10%) of total by May 15, 1998.
- B. MPS shall not make payment for pupils who are not placed in the Early Childhood Educational Program in accordance with this Agreement, nor for any costs not specifically authorized by this Agreement. Specifically, MPS shall:
1. Disallow payment for any pupil claimed under this Agreement by Contractor who is also claimed by Contractor under another tuition reimbursement program, including, but not limited to the Milwaukee Parental School Choice Program.
 2. Disallow any costs unauthorized under this Agreement. MPS shall have the right to recover any payments made for costs unauthorized under this Agreement.
 3. Suspend any payments otherwise due under this Agreement if Contractor is in violation of any provisions of this Agreement or the regulations governing this Agreement until such time as Contractor has remedied said violation(s).
 4. Recover any funds paid by MPS to Contractor which are not expended in a manner consistent by this Agreement and the Annual Budget set forth in Appendix E.
- C. MPS shall assign an Early Childhood MPS teacher(s) at each school site, who shall provide instruction and support services to MPS students enrolled and in attendance in the Early Childhood Program. The teacher shall work cooperatively with other staff members

within the guidelines of the approved curriculum or the Early Childhood Program. The teacher shall be under the supervision of MPS. The program coordinator shall supervise staff members providing instruction and support services to pupils in the program. Such supervision shall include observing the activities of the staff and providing any necessary direction and assistance to ensure the staff is providing services consistent with MPS educational standards and policies for the program.

- D. MPS shall provide and score any standardized achievement tests required to be given to MPS pupils participating in the Early Childhood Educational Program.
- E. MPS shall provide transportation to pupils enrolled in the Early Childhood Educational Program in accordance with the Pupil Transportation Policy of MPS.
- F. In the event Contractor is unable to fill its enrollment as required, and another Contractor is able and willing to fill those seats, each Contractor may submit a written request to MPS for reallocation of the seats. MPS shall evaluate the requests and determine whether a reallocation will be allowed. Upon approval by MPS, any such reallocations shall be in writing as amendments to the contracts. If a reallocation is allowed under this paragraph, the required enrollment figures and monthly reimbursement figures in each contract the number of seat allocated reduce shall be adjusted. In no event shall the Contractor receive reimbursement for months that a student was not enrolled and/or was not in attendance in its center.

MPS reserves the right to unilaterally reduce the number of seats allocated to Contractor when contractor fails to fill all of allocated seats

III. TERM AND TERMINATION

- A. The term of this Agreement is March 1, 1997 to June 30, 2000; contingent upon program evaluation and recommendation. This Agreement shall automatically terminate in the event the Milwaukee board of School Directors fails to appropriate sufficient funds to continue this Agreement.
- B. This Agreement may be terminated before expiration of its term upon any of the following circumstances:
 - 1. Both parties agree in writing to the termination.
 - 2. MPS determines that Contractor, or any of the entities, contracting with Contractor have violated the provisions of this Agreement or the regulations governing it;
 - 3. MPS determines that the performance of Contractor or the entities contracting with Contractor does not warrant continuation of this Agreement;
 - 4. MPS determines that the quality of the administration or providing of services in the Early Childhood Educational Program component of Contractor's program falls below the standards outlined in this Agreement;
- C. In the event that termination action is to be taken, written notice that lists the reason(s) for termination and the effective date of the termination shall be given.
- D. In the event that this Agreement shall be terminated, MPS shall recover all funds advanced to Contractor for which Contractor has not yet performed services. Such recovery shall be

made on a pro rate basis based on the length of the term of this Agreement and the length of time services were performed by Contractor. This recovery by MPS shall not be affected by whether Contractor has already spent the funds advanced by MPS. The decision of MPS shall be final.

E. This Agreement is contingent on the approval of the Milwaukee Board of School Directors and may be amended only upon the written Agreement of MPS and Contractor with the approval of the Milwaukee Board of School Directors.

APPENDICES

IV. The following documents are hereby made part of this Agreement and the Contractor agrees to abide by all the terms and conditions therein:

- Appendix A Contractor Program Description attached
- Appendix B Four Year Old Kindergarten Expectations
- Appendix C Skills for Five Year Old Kindergarten Pupils
- Appendix D MPS Parent/Student Handbook On Rights, Responsibilities, And Discipline
- Appendix E Assessment Checklists for K4 pupils and K5 pupils
- Appendix F Parent Survey
- Appendix G Attendance Report
- Appendix H Contractor Annual Budget
- Appendix I Semi-Annual Budget Expenditure Report
- Appendix J Request for Funds Form
- Appendix K Budgeted expenses vs. actual expenses
- Appendix L Policy 9.09
- Appendix M Parent Empowerment Policy

Approved:
CONTRACTOR

Approved:
MILWAUKEE PUBLIC SCHOOLS

Signature of Authorized Official

Signature of Authorized Official

Name of Authorized Official

Name of Authorized Official

Date

Date