

2003 DRAFTING REQUEST

Bill

Received: 11/19/2003

Received By: pgrant

Wanted: As time permits

Identical to LRB:

For: Gwendolynne Moore (608) 266-5810

By/Representing: Rachel Roller

This file may be shown to any legislator: NO

Drafter: pgrant

May Contact:

Addl. Drafters:

Subject: **Education - MPS**
Education - state superintendent

Extra Copies: **MJL**

Submit via email: YES

Requester's email: **Sen.Moore@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Milwaukee Parental Choice Program; fiscal info, background checks, etc.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 11/21/2003	wjackson 11/21/2003		_____			S&L
/1	pgrant 11/24/2003	jdyer 11/24/2003	pgreensl 11/21/2003	_____	Inorthro 11/21/2003		S&L
/2			jfrantze	_____	lemery	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			11/24/2003 _____		11/24/2003	11/25/2003	
			_____			sbasford	
			_____			11/25/2003	

FE Sent For:

<END>

At
Intro.

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Bill

Received: **11/19/2003**

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Wanted: **As time permits**

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For: **Gwendolynne Moore (608) 266-5810**

By/Representing: **Rachel Roller**

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			11/24/2003 _____		11/24/2003		

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/?	pgrant 11/21/2003	wjackson 11/21/2003					S&L
/1		12/24 jld	pgreensl 11/21/2003		Inorthro 11/21/2003		

Handwritten signatures and dates: 12/24, 11/24

FE Sent For:

<END>

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Bill

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1?	pgrant	1 wj 11/21	11/21 pg	11/21 pg/gk			
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FE Sent For:

<END>

Grant, Peter

From: Grant, Peter
Sent: Friday, November 14, 2003 3:14 PM
To: Roller, Rachel
Subject: Instructional staff

Rachel, here's DPI's definition of "instructional staff."

PI 8.001(6m)

(6m) "Instructional staff" for the purposes of charter schools, means all professional employees who have as part of their responsibility direct contact with students or with the instructional program of the school. Instructional staff includes, but is not limited to, teachers, librarians, pupil services staff, and administrative staff who supervise licensed staff.

Peter Grant, Managing Attorney
Wisconsin Legislative Reference Bureau
608-267-3362
peter.grant@legis.state.wi.us

*public school
division of instruction
super*

*grant concerned
in
OS pd.*

sharon wendt - dpi *know 0*
→
someone in licensing?
Lauree Derse - C-2386 - chr 23 24
Julie Hagen - chr

*Tommy everett
Jennifer Cameron*

*11/19/03 FC from Rachel -
use dpi def. of "instructional staff"
to describe those that need background
check (can't be employed if convicted)*

Grant, Peter

From: Decker, Paula Crandall DPI
Sent: Friday, November 21, 2003 9:01 AM
To: Derse, Laurie M. DPI; Grant, Peter
Cc: Lind, Kathryn DPI; Kean, John DPI; Wendt, Sharon DPI
Subject: RE: Charter school instructional staff

Peter,

These phrases are key in your two sentences:

- 1) administrator who has direct contact with children or with the instructional program of the school would be "instructional staff"
- 2) he or she supervised professional employees who did have such contact

In either case this individual is making decisions that would directly impact the instruction of children. Thus in my mind's eye, there is no difference. Both roles as described fall under instructional staff.

Paula

Paula Crandall Decker
Charter School Consultant
Wisconsin Department of Public Instruction
125 S. Webster Street
Madison, Wisconsin 53707
paula.crandall.decker@dpi.state.wi.us
608-266-5728 direct line
1-888-245-2734 toll free

-----Original Message-----

From: Derse, Laurie M. DPI
Sent: Thursday, November 20, 2003 1:50 PM
To: Grant, Peter
Cc: Lind, Kathryn DPI; Kean, John DPI; Decker, Paula Crandall DPI
Subject: RE: Charter school instructional staff

Peter, I'm ccing Jack, Kathryn and Paula to be sure we are all on the same page with our response. I would respond yes due to the 'but not limited to' phrase. I anticipate you'll hear from them as well.

Laurie Derse
Consultant, Teacher Education, Professional Development and Licensing
phone (608)266-2386
fax (608) 264-9558
email: laurie.derse@dpi.state.wi.us

-----Original Message-----

From: Grant, Peter
Sent: Thursday, November 20, 2003 11:14 AM
To: Derse, Laurie M. DPI
Subject: Charter school instructional staff

Hi Laurie,

I spoke to you last week and I have one additional question for you. I'm trying to understand the department's definition of "instructional staff" for purposes of charter schools. The definition is in PI 8.001 (6m). It reads as follows:

PI 8.00 (6m) "Instructional staff" for the purposes of charter schools, means all professional employees who have as part of their responsibility direct contact with students or with the instructional program of the school. Instructional staff includes, but is not limited to, teachers, librarians, pupil services staff, and administrative staff who supervise licensed staff.

The phrase I'm having difficulty with is the highlighted one. Am I correct to conclude that an administrator who has direct contact with children or with the instructional program of the school would be "instructional staff" even if he or she did not "supervise licensed staff"? And that, conversely, an administrator who has no direct contact with children or with the instructional program of the school would still be "instructional staff" if he or she supervised professional employees who did have such contact?

Thanks for any help you can provide.

Peter Grant, Managing Attorney
Wisconsin Legislative Reference Bureau
608-267-3362
peter.grant@legis.state.wi.us

LRB-3779/1
PG: wj:

11 am
Today

2003 BILL

PA

Please copy contents
of LRB-3669 into
this file. Thanks -
PG

regenerate

1 AN ACT *to repeal* 119.23 (7) (b); *to renumber and amend* 119.23 (7) (am); and
2 *to create* 119.23 (7) (am) 2. and 3., 119.23 (7) (d), 119.23 (7) (e), 119.23 (10) and
3 119.23 (11) of the statutes; **relating to:** the Milwaukee Parental Choice
4 Program and granting rule-making authority.

all persons employed
as instructional
staff

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the Milwaukee Parental Choice Program (MPCP), under which certain low-income pupils who reside in the city of Milwaukee may attend participating private schools in the city at state expense. The changes include the following:

1. The bill requires a private school participating in the MPCP annually to conduct a criminal background check on ~~each employee~~
2. With certain exceptions, the bill prohibits a private school participating in the MPCP from employing a person who has been convicted of any of the specified felonies for six years following the conviction.
3. The bill requires a private school to submit to the Department of Public Instruction (DPI), before the school begins participating in the MPCP, a copy of the school's certificate of occupancy issued by the city of Milwaukee, evidence of financial viability, and proof that the administrator of the school participated in a fiscal management training program approved by DPI. Annually, a private school participating in the MPCP must submit to DPI evidence of sound fiscal practices.
4. The bill authorizes DPI to issue an order banning a private school from participating in the MPCP in the succeeding school year if DPI determines that the

A

BILL

private school misrepresented information provided to DPI, failed to provide information to DPI by the date or within the period required, failed to refund overpayments to the state by the date required, or failed to meet at least one of the currently required academic or other standards by the required date.

5. The bill authorizes DPI to issue an order immediately terminating a private school's participation in the MPCP if DPI determines that conditions at the private school present an imminent danger to the health or safety of pupils.

6. Finally, the bill authorizes DPI to withhold payment from a private school participating in the MPCP if the private school violates any law or administrative rule governing the MPCP.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

2-1 → 1 SECTION 1. 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (am) (intro.)

2 and amended to read:

3 119.23 (7) (am) (intro.) Each private school participating in the program under
4 this section is subject to uniform financial accounting standards established by the
5 department ~~and annually~~. Annually by September 1 following a school year in which
6 a private school participated in the program under this section, the private school
7 shall submit to the department ~~an~~ all of the following:

8 1. An independent financial audit of the private school conducted by a certified
9 public accountant, accompanied by the auditor's statement that the report is free of
10 material misstatements and fairly presents pupil costs under sub. (4) (b) 1.

11 SECTION 2. 119.23 (7) (am) 2. and 3. of the statutes are created to read:

12 119.23 (7) (am) 2. Evidence of sound fiscal practices, as prescribed by the
13 department by rule.

14 3. Certification by the auditor under subd. 1. that criminal background checks
15 of all ~~school employees~~ were conducted as specified under par. (d) 2.

instructional staff

BILL

1 **SECTION 3.** 119.23 (7) (b) of the statutes is repealed.

2 **SECTION 4.** 119.23 (7) (d) of the statutes is created to read:

3 119.23 (7) (d) Each private school participating in the program under this
4 section shall submit to the department all of the following:

5 1. By August 1 before the first school term of participation in the program, or
6 by May 1 if the private school begins participating in the program during summer
7 school, all of the following:

8 a. A copy of the school's current certificate of occupancy issued by the city. If
9 the private school moves to a new location, the private school shall submit a copy of
10 the new certificate of occupancy issued by the city to the department before the
11 attendance of pupils at the new location and before the next succeeding date specified
12 in s. 121.05 (1) (a). A temporary certificate of occupancy does not meet the
13 requirement of this subd. 1. a.

14 b. Evidence of financial viability, as prescribed by the department by rule.

15 c. Proof that the private school's administrator has participated in a fiscal
16 management training program approved by the department.

17 2. Annually by February 1, a notarized statement by a person legally
18 authorized to act on behalf of the private school that the private school will conduct
19 a criminal background check through the department of justice on each ^{individual} person who
20 will be employed by the private school in the following school year. If the ^{individual} person is
21 a nonresident, the department of justice may provide for the submission of
22 information to the federal bureau of investigation for the purposes of verifying the
23 identity of the ^{individual} person and obtaining records of his or her criminal arrest and
24 conviction.

25 **SECTION 5.** 119.23 (7) (e) of the statutes is created to read:

as instructional staff

BILL

SECTION 5

as instructional staff

1 119.23 (7) (e) 1. Notwithstanding subch. II of ch. 111, except as provided in
 2 subd. 2. a private school participating in the program under this section may not
 3 employ ~~a person~~ ^{an individual} convicted of any Class A, B, C, D, E, F, G, or H felony under ch. 940
 4 or 948, except ss. 940.08 and 940.205, or of any Class BC felony under ch. 940 or 948,
 5 1999 stats., for 6 years following the date of the conviction, and may employ such ~~a~~
 6 ~~person~~ ^{an individual} after 6 years only if the ~~person~~ ^{individual} establishes by clear and convincing evidence
 7 that he or she is entitled to be employed.

8 2. A private school participating in the program under this section may employ
 9 ~~a person~~ ^{an individual} convicted of a crime enumerated in subd. 1., prior to the expiration of the
 10 6-year period following the conviction, if the private school receives from the court
 11 in which the conviction occurred a certificate stating that the conviction has been
 12 reversed, set aside, or vacated.

SECTION 6. 119.23 (10) of the statutes is created to read:

14 119.23 (10) (a) The state superintendent may issue an order barring a private
 15 school from participating in the program under this section in the succeeding school
 16 year if the state superintendent determines that the private school has done any of
 17 the following:

- 18 1. Misrepresented information required under sub. (7) (d). ✓
- 19 2. Failed to provide the notice required under sub. (2) (a) 3., or the information
 20 required under sub. (7) (am) or (d), by the date or within the period specified.
- 21 3. Failed to refund to the state any overpayment made under sub. (4) (b) or (am)
 22 by the date specified by department rule.
- 23 4. Failed to meet at least one of the standards under sub. (7) (a) by the date
 24 specified by department rule.

BILL

1 (b) The state superintendent may issue an order immediately terminating a
2 private school's participation in the program under this section if he or she
3 determines that conditions at the private school present an imminent threat to the
4 health or safety of pupils.

5 (c) Whenever the state superintendent issues an order under par. (a) or (b), he
6 or she shall immediately notify the parent or guardian of each pupil attending the
7 private school under this section.

8 (d) The state superintendent may withhold payment from a parent or guardian
9 under subs. (4) and (4m) if the private school attended by the child of the parent or
10 guardian violates this section.

11 **SECTION 7.** 119.23 (11) of the statutes is created to read:

12 119.23 (11) The department shall promulgate rules to implement and
13 administer this section.

14 **SECTION 8. Nonstatutory provisions.**

15 (1) Notwithstanding section 119.23 (7) (d) 2. of the statutes, as created by this
16 act, if this subsection takes effect on or after January 1, 2004, the first notarized
17 statement required under that subdivision is due within 60 days after the effective
18 date of this subsection.

19 **SECTION 9. Initial applicability.**

20 (1) This act first applies to private schools that participate in the Milwaukee
21 Parental Choice Program under section 119.23 of the statutes in the 2004–05 school
22 year, except that the treatment of section 119.23 (7) (am) 3. of the statutes first
23 applies to ~~reports~~^{certifications} under that subdivision that are due by September 1, 2005.

24 (END)

2-1

SEC. # R.N. 119.23 (1) (a), 119.23 (1) (a)^{or}_{gr}

SEC. # CR. 119.23 (1) (am)

§ 119.23 (1) (a) ^(B) Instructional staff means

~~the~~ professional employees who have as part of their responsibilities direct contact with pupils ^{or} with the instructional program of the private school, and employees who supervise such employees

~~teachers, librarians, counselors, social workers, psychologists, and other administrators who supervise instructional staff.~~

~~professional employees who supervise ~~any~~ employees who have as part of his or her responsibility~~



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3779/1

PG:wlj:pg

Tubert

(PP-2 & 5)

JLD

2003 BILL

Regen

1 AN ACT *to repeal* 119.23 (7) (b); *to renumber* 119.23 (1) (a); *to renumber and*
2 *amend* 119.23 (7) (am); and *to create* 119.23 (1) (am), 119.23 (7) (am) 2. and
3 3., 119.23 (7) (d), 119.23 (7) (e), 119.23 (10) and 119.23 (11) of the statutes;
4 **relating to:** the Milwaukee Parental Choice Program and granting
5 rule-making authority.

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This bill makes a number of changes to the Milwaukee Parental Choice Program (MPCP), under which certain low-income pupils who reside in the city of Milwaukee may attend participating private schools in the city at state expense. The changes include the following:

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2. With certain exceptions, the bill prohibits a private school participating in the MPCP from employing a person who has been convicted of any of the specified felonies for six years following the conviction.
3. The bill requires a private school to submit to the Department of Public Instruction (DPI), before the school begins participating in the MPCP, a copy of the school's certificate of occupancy issued by the city of Milwaukee, evidence of financial viability, and proof that the administrator of the school participated in a fiscal management training program approved by DPI. Annually, a private school participating in the MPCP must submit to DPI evidence of sound fiscal practices.

BILL

4. The bill authorizes DPI to issue an order banning a private school from participating in the MPCP in the succeeding school year if DPI determines that the private school misrepresented information provided to DPI, failed to provide information to DPI by the date or within the period required, failed to refund overpayments to the state by the date required, or failed to meet at least one of the currently required academic or other standards by the required date.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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2 **SECTION 2.** 119.23 (1) (am) of the statutes is created to read:

3 119.23 (1) (am) "Instructional staff" means professional employees who have
4 as part of their responsibilities direct contact with pupils or with the instructional
5 program of the private school, and employees who supervise such employees.

6 **SECTION 3.** 119.23 (7) (am) of the statutes is renumbered 119.23 (7) (am) (intro.)
7 and amended to read:

8 119.23 (7) (am) (intro.) Each private school participating in the program under
9 this section is subject to uniform financial accounting standards established by the
10 department ~~and annually.~~ Annually by September 1 following a school year in which
11 a private school participated in the program under this section, the private school
12 shall submit to the department an all of the following:

(4B)

or that the private school failed to provide certain information to DPI by the date or within the period required.

BILL

1 **1. An independent financial audit of the private school conducted by a certified**
2 **public accountant, accompanied by the auditor's statement that the report is free of**
3 **material misstatements and fairly presents pupil costs under sub. (4) (b) 1.**

4 **SECTION 4. 119.23 (7) (am) 2. and 3. of the statutes are created to read:**

5 **119.23 (7) (am) 2. Evidence of sound fiscal practices, as prescribed by the**
6 **department by rule.**

7 **3. Certification by the auditor under subd. 1. that criminal background checks**
8 **of all instructional staff were conducted as specified under par. (d) 2.**

9 **SECTION 5. 119.23 (7) (b) of the statutes is repealed.**

10 **SECTION 6. 119.23 (7) (d) of the statutes is created to read:**

11 **119.23 (7) (d) Each private school participating in the program under this**
12 **section shall submit to the department all of the following:**

13 **1. By August 1 before the first school term of participation in the program, or**
14 **by May 1 if the private school begins participating in the program during summer**
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16 **a. A copy of the school's current certificate of occupancy issued by the city. If**
17 **the private school moves to a new location, the private school shall submit a copy of**
18 **the new certificate of occupancy issued by the city to the department before the**
19 **attendance of pupils at the new location and before the next succeeding date specified**
20 **in s. 121.05 (1) (a). A temporary certificate of occupancy does not meet the**
21 **requirement of this subd. 1. a.**

22 **b. Evidence of financial viability, as prescribed by the department by rule.**

23 **c. Proof that the private school's administrator has participated in a fiscal**
24 **management training program approved by the department.**

BILL

1 2. Annually by February 1, a notarized statement by a person legally
2 authorized to act on behalf of the private school that the private school will conduct
3 a criminal background check through the department of justice on each individual
4 who will be employed as instructional staff by the private school in the following
5 school year. If the individual is a nonresident, the department of justice may provide
6 for the submission of information to the federal bureau of investigation for the
7 purposes of verifying the identity of the individual and obtaining records of his or her
8 criminal arrest and conviction.

9 **SECTION 7.** 119.23 (7) (e) of the statutes is created to read:

10 119.23 (7) (e) 1. Notwithstanding subch. II of ch. 111, except as provided in
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12 employ as instructional staff an individual convicted of any Class A, B, C, D, E, F, G,
13 or H felony under ch. 940 or 948, except ss. 940.08 and 940.205, or of any Class BC
14 felony under ch. 940 or 948, 1999 stats., for 6 years following the date of the
15 conviction, and may employ as instructional staff such an individual after 6 years
16 only if the individual establishes by clear and convincing evidence that he or she is
17 entitled to be employed.

18 2. A private school participating in the program under this section may employ
19 as instructional staff an individual convicted of a crime enumerated in subd. 1., prior
20 to the expiration of the 6-year period following the conviction, if the private school
21 receives from the court in which the conviction occurred a certificate stating that the
22 conviction has been reversed, set aside, or vacated.

23 **SECTION 8.** 119.23 (10) of the statutes is created to read:

24 119.23 (10) (a) The state superintendent may issue an order barring a private
25 school from participating in the program under this section in the succeeding school

BILL

1 year if the state superintendent determines that the private school has done any of
2 the following:

- 3 1. Misrepresented information required under sub. (7) (d).
- 4 2. Failed to provide the notice required under sub. (2) (a) 3., or the information
5 required under sub. (7) (am) ~~or (4m)~~, by the date or within the period specified.
- 6 3. Failed to refund to the state any overpayment made under sub. (4) (b) or (4m)
7 by the date specified by department rule.
- 8 4. Failed to meet at least one of the standards under sub. (7) (a) by the date
9 specified by department rule.

10 (b) The state superintendent may issue an order immediately terminating a
11 private school's participation in the program under this section if he or she
12 determines that conditions at the private school present an imminent ^{sub.} threat to the
13 health or safety of pupils ^{or that the private school has failed to provide the}
^{information required under (7) (d) by the date or within}

14 (c) Whenever the state superintendent issues an order under par. (a) or (b), he ^{period}
15 or she shall immediately notify the parent or guardian of each pupil attending the ^{specifi}
16 private school under this section.

17 (d) The state superintendent may withhold payment from a parent or guardian
18 under subs. (4) and (4m) if the private school attended by the child of the parent or
19 guardian violates this section.

20 **SECTION 9.** 119.23 (11) of the statutes is created to read:

21 119.23 (11) The department shall promulgate rules to implement and
22 administer this section.

23 **SECTION 10. Nonstatutory provisions.**

24 (1) Notwithstanding section 119.23 (7) (d) 2. of the statutes, as created by this
25 act, if this subsection takes effect on or after January 1, 2004, the first notarized

BILL

1 statement required under that subdivision is due within 60 days after the effective
2 date of this subsection.

3 **SECTION 11. Initial applicability.**

4 (1) This act first applies to private schools that participate in the Milwaukee
5 Parental Choice Program under section 119.23 of the statutes in the 2004–05 school
6 year, except that the treatment of section 119.23 (7) (am) 3. of the statutes first
7 applies to certifications under that subdivision that are due by September 1, 2005.

8 (END)

Northrop, Lori

From: Roller, Rachel
Sent: Tuesday, November 25, 2003 11:50 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3779/2 Topic: Milwaukee Parental Choice Program; fiscal info, background checks, etc.

It has been requested by <Roller, Rachel> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-3779/2 Topic: Milwaukee Parental Choice Program; fiscal info, background checks, etc.