

State of Wisconsin



2011 Senate Bill 234

Date of enactment: **November 4, 2011**
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2011 WISCONSIN ACT 47

AN ACT to amend 118.60 (2) (a) 1. a., 118.60 (2) (a) 1. b., 118.60 (2) (a) 7., 118.60 (3) (b), 118.60 (3m) (a) (intro.), 118.60 (3m) (b) (intro.), 118.60 (3m) (c), 118.60 (7) (d) 1. b., 119.23 (2) (a) 1. a., 119.23 (2) (a) 1. b., 119.23 (2) (a) 7. a., 119.23 (2) (a) 7. b., 119.23 (3) (b), 119.23 (3m) (a) (intro.), 119.23 (3m) (b) (intro.), 119.23 (3m) (c), 119.23 (7) (d) 1. b. and 119.23 (9); and **to create** 118.60 (1) (ag), 118.60 (3m) (am), 118.60 (10) (a) 8., 119.23 (1) (ag), 119.23 (2) (a) 7. d., 119.23 (3m) (am) and 119.23 (10) (a) 8. of the statutes; **relating to:** preaccreditation and accreditation of private schools participating in the Milwaukee Parental Choice Program and the choice program for eligible school districts, certificates of occupancy for participating private school buildings, verification of income eligibility for pupils to participate in the programs, fees and tuition charged to pupils attending participating private schools, and standards of conduct for administrators of participating private schools.

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

SECTION 1. 118.60 (1) (ag) of the statutes is created to read:

118.60 (1) (ag) "Disqualified person" means a person who, when a private school was barred or terminated from participation in the program under this section by an order issued under sub. (10), satisfied at least one of the following:

1. Had a controlling ownership interest in, or was the administrator or an officer, director, or trustee of, the private school.
2. Was a person designated by the administrator of the private school to assist in processing pupil applications.
3. Was responsible for an action or circumstance that led to the private school being barred or terminated from participation in the program under this section.

SECTION 2. 118.60 (2) (a) 1. a. of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

118.60 (2) (a) 1. a. The pupil is a member of a family that has a total family income that does not exceed an amount equal to 3.0 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget. In this subdivision and sub. (3m), family income includes income of the pupil's parents or legal guardians. The family income of the pupil shall be ~~determined~~ verified as provided in subd. 1. b. A pupil attending a private school under this section whose family income increases may continue to attend a private school under this section.

SECTION 3. 118.60 (2) (a) 1. b. of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

118.60 (2) (a) 1. b. The private school submits to the department of public instruction the names, addresses, social security numbers, and other state and federal tax identification numbers, if any, of the pupil's parents or legal guardians that reside in the same household as the pupil, whether and to whom the parents or legal guardians are married, the names of all of the other members of the pupil's family residing in the same household as the

* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

pupil, and the school year for which family income is being verified under this subd. 1. b. The department of revenue shall review the information submitted under this subd. 1. b. and shall determine whether the pupil is eligible to participate in the program under this section on the basis of family income ~~verify the eligibility or ineligibility of the pupil to participate in the program under this section on the basis of family income.~~ In this subdivision, “family income” means federal adjusted gross income of the parents or legal guardians residing in the same household as the pupil for the tax year preceding the school year for which family income is being verified under this subd. 1. b. or, if not available, for the tax year preceding the tax year preceding the school year for which family income is being verified under this subd. 1. b. Family income for a family in which the pupil’s parents are married or in which the pupil’s legal guardians are married shall be reduced by \$7,000 before the ~~determination~~ verification is made under this subd. 1. b. The department of revenue may take no other action on the basis of the information submitted under this subd. 1. b. ~~If the department of revenue is unable to verify family income or to verify whether the pupil is eligible or ineligible to participate in the program under this section on the basis of family income, the department of revenue shall notify the department of public instruction of this fact and the department of public instruction shall utilize an alternative process, to be established by the department of public instruction, to determine whether the pupil is eligible to participate in the program under this section on the basis of family income.~~ The department of public instruction may not request any additional verification of income from the family of a pupil once the department of revenue has ~~determined whether~~ verified that the pupil is eligible to participate in the program under this section on the basis of family income. The department of public instruction shall establish a procedure for determining family income eligibility for those pupils for whom no social security number or state or federal tax identification number has been provided.

SECTION 4. 118.60 (2) (a) 7. of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

118.60 (2) (a) 7. For a private school that is a first-time participant in the program under this section, and that is not accredited by the Wisconsin North Central Association, the Wisconsin Religious and Independent School Accreditation, the Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, the diocese or archdiocese within which the private school is located, or by any other organization recognized by the National Council for Private Schools Accreditation, the private school obtains preaccreditation by the Institute for the Transformation of Learning at Marquette University, the Wisconsin North Central Association, the Wisconsin

Religious and Independent Schools Accreditation, the Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, or the diocese or archdiocese within which the private school is located, or any other organization recognized by the National Council for Private School Accreditation by September 1 before the first school term of participation in the program under this section that begins after August 31, 2011; by August 1 before the first school term of participation in the program under this section that begins in the first school year that begins after a school district is identified as an eligible school district under sub. (1m); or by May 1 if the private school begins participation in the program under this section during summer school. In any school year, a private school may apply for and seek to obtain preaccreditation from only one of the entities enumerated in this subdivision. A private school that fails to obtain accreditation in a school year may apply for and seek to obtain preaccreditation from one of the entities enumerated in this subdivision in the following school year. The private school shall achieve accreditation by the Wisconsin North Central Association, the Wisconsin Religious and Independent Schools Accreditation, the Independent Schools Association of the Central States, ~~or Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation,~~ the diocese or archdiocese within which the private school is located, or any other organization recognized by the National Council for Private School Accreditation, by December 31 of the 3rd school year following the first school year in which the private school begins participation in the program under this section. If the private school is accredited under this subdivision, the private school is not required to obtain preaccreditation as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

SECTION 5. 118.60 (3) (b) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

118.60 (3) (b) If the private school rejects an applicant because it has too few available spaces, the pupil applicant may transfer his or her application to a participating private school that has space available. An applicant rejected under this paragraph may be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside within an eligible school district. The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.

SECTION 6. 118.60 (3m) (a) (intro.) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

118.60 (3m) (a) (intro.) A private school participating in the program under this section may not charge or receive any additional tuition payment for a pupil participating in the program under this section other than the payment the school receives under sub. (4) and, if applicable, sub. (4m), if either of the following applies:

SECTION 7. 118.60 (3m) (am) of the statutes is created to read:

118.60 (3m) (am) 1. Beginning in the 2011–12 school year, a private school participating in the program under this section may recover the cost of providing the following to a pupil participating in the program under this section through reasonable fees in an amount determined by the private school and charged to the pupil, except that no participating private school may retroactively recover any uncollected costs incurred prior to the effective date of this subdivision [LRB inserts date]:

- a. Personal use items, such as uniforms, gym clothes, and towels.
 - b. Social and extracurricular activities if not necessary to the private school’s curriculum.
 - c. Musical instruments.
 - d. Meals consumed by pupils of the private school.
 - e. High school classes that are not required for graduation and for which no credits toward graduation are given.
 - f. Transportation.
 - g. Before–school and after–school child care.
2. A private school may not prohibit an eligible pupil from attending the private school, expel or otherwise discipline the pupil, or withhold or reduce the pupil’s grades because the pupil or the pupil’s parent or guardian cannot pay or has not paid fees charged under subd. 1.

SECTION 8. 118.60 (3m) (b) (intro.) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

118.60 (3m) (b) (intro.) ~~A-~~ Beginning in the 2011–12 school year, a private school participating in the program under this section may, in addition to the payment it receives for a pupil under sub. (4) and, if applicable, sub. (4m), charge the pupil tuition ~~and fees~~ in an amount determined by the school if both of the following apply:

SECTION 9. 118.60 (3m) (c) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

118.60 (3m) (c) A private school participating in the program under this section shall determine whether the private school may charge additional tuition ~~and fees~~ to a pupil on the basis of the pupil’s family income as permitted under par. (b). The private school shall establish a process for accepting an appeal to the governing body of the private school of the determination made under this paragraph.

SECTION 10. 118.60 (7) (d) 1. b. of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

118.60 (7) (d) 1. b. A copy of the school’s current certificate of occupancy issued by the municipality within which the school is located. If the private school moves

to a new location, the private school shall submit a copy of the new certificate of occupancy issued by the municipality within which the school is located to the department before the attendance of pupils at the new location and before the next succeeding date specified in s. 121.05 (1) (a). If the municipality within which the private school is located does not issue certificates of occupancy, the private school may submit a certificate of occupancy issued by the local or regional governmental unit with authority to issue certificates of occupancy. A temporary certificate of occupancy does not meet the requirement of this subdivision.

SECTION 11. 118.60 (10) (a) 8. of the statutes is created to read:

118.60 (10) (a) 8. Before the end of a 7–year period beginning on the date of an order issued by the state superintendent under this subsection, retained a disqualified person, for compensation or as a volunteer, as an owner, officer, director, trustee, administrator, person designated by the administrator to assist in processing pupil applications, or person responsible for administrative, financial, or pupil health and safety matters.

SECTION 12. 119.23 (1) (ag) of the statutes is created to read:

119.23 (1) (ag) “Disqualified person” means a person who, when a private school was barred or terminated from participation in the program under this section by an order issued under sub. (10), satisfied at least one of the following:

1. Had a controlling ownership interest in, or was the administrator or an officer, director, or trustee of, the private school.
2. Was a person designated by the administrator of the private school to assist in processing pupil applications.
3. Was responsible for an action or circumstance that led to the private school being barred or terminated from participation in the program under this section.

SECTION 13. 119.23 (2) (a) 1. a. of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

119.23 (2) (a) 1. a. The pupil is a member of a family that has a total family income that does not exceed an amount equal to 3.0 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget. In this subdivision and sub. (3m), family income includes income of the pupil’s parents or legal guardians. The family income of the pupil shall be determined as provided in subd. 1. b. A pupil attending a private school under this section whose family income increases, including a pupil who attended a private school under this section in the 2010–11 school year and whose family income has increased, may continue to attend a private school under this section.

SECTION 14. 119.23 (2) (a) 1. a. of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

119.23 (2) (a) 1. a. The pupil is a member of a family that has a total family income that does not exceed an amount equal to 3.0 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget. In this subdivision and sub. (3m), family income includes income of the pupil's parents or legal guardians. The family income of the pupil shall be ~~determined~~ verified as provided in subd. 1. b. A pupil attending a private school under this section whose family income increases may continue to attend a private school under this section.

SECTION 15. 119.23 (2) (a) 1. b. of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

119.23 (2) (a) 1. b. The private school submits to the department of public instruction the names, addresses, social security numbers, and other state and federal tax identification numbers, if any, of the pupil's parents or legal guardians that reside in the same household as the pupil, whether and to whom the parents or legal guardians are married, the names of all of the other members of the pupil's family residing in the same household as the pupil, and the school year for which family income is being verified under this subd. 1. b. The department of revenue shall review the information submitted under this subd. 1. b. and shall ~~determine whether the pupil is eligible to participate in the program under this section on the basis of family income~~ verify the eligibility or ineligibility of the pupil to participate in the program under this section on the basis of family income. In this subdivision, "family income" means federal adjusted gross income of the parents or legal guardians residing in the same household as the pupil for the tax year preceding the school year for which family income is being verified under this subd. 1. b. or, if not available, for the tax year preceding the tax year preceding the school year for which family income is being verified under this subd. 1. b. Family income for a family in which the pupil's parents are married or in which the pupil's legal guardians are married shall be reduced by \$7,000 before the ~~determination~~ verification is made under this subd. 1. b. The department of revenue may take no other action on the basis of the information submitted under this subd. 1. b. If the department of revenue is unable to verify family income or to verify whether the pupil is eligible or ineligible to participate in the program under this section on the basis of family income, the department of revenue shall notify the department of public instruction of this fact and the department of public instruction shall utilize an alternative process, to be established by the department of public instruction, to determine whether the pupil is eligible to participate in the program under this section on the basis of family income. The department of public instruction may not request any additional verification of income from the family of a pupil once the department of revenue has ~~determined whether~~ verified that the pupil is eligible to participate in the program under this section on the

basis of family income. The department of public instruction shall establish a procedure for determining family income eligibility for those pupils for whom no social security number or state or federal tax identification number has been provided.

SECTION 16. 119.23 (2) (a) 7. a. of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

119.23 (2) (a) 7. a. Subject to subd. 7. c. and d., for a private school participating in the program under this section on July 1, 2009, the private school achieves accreditation by ~~the Wisconsin North Central Association, the Wisconsin Religious and Independent Schools Accreditation, the Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, the Archdiocese of Milwaukee diocese or archdiocese within which the private school is located,~~ or any other organization recognized by the National Council for Private School Accreditation, by December 31 of the 3rd school year following the first school year that begins after June 30, 2006, in which it participates in the program under this section, ~~or the private school was approved for scholarship funding for the 2005-06 school year by Partners Advancing Values in Education.~~ If the private school is accredited as provided under this subd. 7. a., the private school is not required to obtain preaccreditation under subd. 7. b. as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

SECTION 17. 119.23 (2) (a) 7. b. of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

119.23 (2) (a) 7. b. Subject to subd. 7. c. and d., for a private school that is a first-time participant in the program under this section on or after July 1, 2009, and that is not accredited as provided under subd. 7. a., the private school obtains preaccreditation by the Institute for the Transformation of Learning at Marquette University, ~~the Wisconsin North Central Association, the Wisconsin Religious and Independent Schools Accreditation, the Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, or the Archdiocese of Milwaukee, or any other organization recognized by the National Council for Private School Accreditation~~ diocese or archdiocese within which the private school is located by August 1 before the first school term of participation in the program under this section that begins after July 1, 2009, or by May 1 if the private school begins participating in the program during summer school, ~~and achieves.~~ In any school year, a private school may apply for and seek to obtain preaccreditation from only one of the entities enumerated in this subd. 7. b. A private school that fails to obtain accreditation in a school year may apply for and seek to obtain preaccreditation from one of the entities enumerated in this subd. 7. b. in the following school year. The private

school shall achieve accreditation by the Wisconsin North Central Association, the Wisconsin Religious and Independent Schools Accreditation, the Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, the Archdiocese of Milwaukee diocese or archdiocese within which the private school is located, or any other organization recognized by the National Council for Private School Accreditation, by December 31 of the 3rd school year following the first school year that begins after July 1, 2009, in which it participates in the program under this section. If the private school is accredited under this subd. 7. b., the private school is not required to obtain preaccreditation as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

SECTION 18. 119.23 (2) (a) 7. d. of the statutes is created to read:

119.23 (2) (a) 7. d. For a private school that was approved for scholarship funding for the 2005–06 school year by Partners Advancing Values in Education and is participating in the program under this section on the effective date of this subd. 7. d. [LRB inserts date], the private school achieves accreditation by Wisconsin North Central Association, Wisconsin Religious and Independent Schools Accreditation, Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, the diocese or archdiocese within which the private school is located, or any other organization recognized by the National Council for Private School Accreditation, by December 31, 2015. If the private school is accredited as provided under this subd. 7. d., the private school is not required to obtain preaccreditation under subd. 7. b. as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

SECTION 19. 119.23 (3) (b) of the statutes is amended to read:

119.23 (3) (b) If the private school rejects an applicant because it has too few available spaces, the pupil applicant may transfer his or her application to a participating private school that has space available. An applicant rejected under this paragraph may be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside within the city. The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.

SECTION 20. 119.23 (3m) (a) (intro.) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

119.23 (3m) (a) (intro.) A private school participating in the program under this section may not charge or receive any additional tuition payment for a pupil participating in the program under this section other than the payment the school receives under sub. (4) and, if applicable, sub. (4m), if either of the following applies:

SECTION 21. 119.23 (3m) (am) of the statutes is created to read:

119.23 (3m) (am) 1. Beginning in the 2011–12 school year, a private school participating in the program under this section may recover the cost of providing the following to a pupil participating in the program under this section through reasonable fees in an amount determined by the private school and charged to the pupil, except that no participating private school may retroactively recover any uncollected costs incurred prior to the effective date of this subdivision [LRB inserts date]:

- a. Personal use items, such as uniforms, gym clothes, and towels.
- b. Social and extracurricular activities if not necessary to the private school's curriculum.
- c. Musical instruments.
- d. Meals consumed by pupils of the private school.
- e. High school classes that are not required for graduation and for which no credits toward graduation are given.
- f. Transportation.
- g. Before–school and after–school child care.

2. A private school may not prohibit an eligible pupil from attending the private school, expel or otherwise discipline the pupil, or withhold or reduce the pupil's grades because the pupil or the pupil's parent or guardian cannot pay or has not paid fees charged under subd. 1.

SECTION 22. 119.23 (3m) (b) (intro.) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

119.23 (3m) (b) (intro.) A Beginning in the 2011–12 school year, a private school participating in the program under this section may, in addition to the payment it receives for a pupil under sub. (4) and, if applicable, sub. (4m), charge the pupil tuition and fees in an amount determined by the school if both of the following apply:

SECTION 23. 119.23 (3m) (c) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

119.23 (3m) (c) A private school participating in the program under this section shall determine whether the private school may charge additional tuition and fees to a pupil on the basis of the pupil's family income as permitted under par. (b). The private school shall establish a process for accepting an appeal to the governing body of the private school of the determination made under this paragraph.

SECTION 24. 119.23 (7) (d) 1. b. of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

119.23 (7) (d) 1. b. A copy of the school's current certificate of occupancy issued by the municipality within

which the school is located. If the private school moves to a new location, the private school shall submit a copy of the new certificate of occupancy issued by the municipality within which the school is located to the department before the attendance of pupils at the new location and before the next succeeding date specified in s. 121.05 (1) (a). If the municipality within which the private school is located does not issue certificates of occupancy, the private school may submit a certificate of occupancy issued by the local or regional governmental unit with authority to issue certificates of occupancy. A temporary certificate of occupancy does not meet the requirement of this subdivision.

SECTION 25. 119.23 (9) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

119.23 (9) If any accrediting agency specified under sub. (2) (a) 7. a. ~~or~~ b. or d. determines during the accrediting or preaccrediting process that a private school does not meet all of the requirements under s. 118.165 (1), it shall report that failure to the department.

SECTION 26. 119.23 (10) (a) 8. of the statutes is created to read:

119.23 (10) (a) 8. Before the end of a 7-year period beginning on the date of an order issued by the state superintendent under this subsection, retained a disqualified person, for compensation or as a volunteer, as an owner, officer, director, trustee, administrator, person designated by the administrator to assist in processing pupil applications, or person responsible for administrative, financial, or pupil health and safety matters.