Clearinghouse Rule 16-006

PROPOSED ORDER OF THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
CREATING PERMANENT RULES

The scope statement for this rule, SS 073-15, was published in Register No. 716A2, on August 10, 2015, and approved by State Superintendent Tony Evers on August 24, 2015, and modifies SS 087-13, which was published in Register No. 691 on July 13, 2013 and approved by State Superintendent Tony Evers on August 13, 2013. Pursuant to *Coyne v. Walker*, the Department of Public Instruction is not required to obtain the Governor's approval for the statement of scope for this rule. Coyne v. Walker, No. 2013AP416, 2015 WL 686178 (Wis. Ct. App. Feb. 19, 2015).

The State Superintendent of Public Instruction hereby proposes to create PI 48 relating to the parental choice program for eligible school districts and other school districts.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: 118.60, Stats.

Statutory authority: 118.60 (11) (a), Stats.

Explanation of agency authority:

The DPI is explicitly required by statute to create a rule to implement and administer s. 118.60, Stats. Specifically, s. 118.60 (11) (a) provides:

118.60 Parental choice program for eligible school districts and other school districts.
(11) The department shall do all of the following:
(a) Promulgate rules to implement and administer this section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

Related statute or rule: N/A

Plain language analysis:

The 2011-13 budget, 2011 Wisconsin Act 32, created the Parental Choice Programs for Eligible School Districts under s. 118.60, Stats. The 2013-15 budget, 2013 Wisconsin Act 20, significantly modified s. 118.60, Stats., including creating the Parental Choice Program for Eligible School Districts and Other School Districts. The 2015-17 budget, 2015 Wisconsin Act 55, further modified s. 118.60, Stats., and included a new funding mechanism for how choice pupils are counted and aided. The DPI is proposing to create a rule to govern the implementation and administration of both programs.

Summary of, and comparison with, existing or proposed federal regulations: N/A

Comparison with rules in adjacent states: N/A

Summary of factual data and analytical methodologies:

The DPI is proposing to create a rule, PI 48, to implement and administer the Parental Choice Program for Eligible School Districts and Other School Districts based on s. 118.60, Stats. Without a rule, the DPI will not be able to provide transparency in how it is implementing and administering these programs.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: N/A

Anticipated costs incurred by private sector: N/A

Effect on small business:

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

Agency contact person: (including email and telephone)

Carl Bryan
Budget and Policy Analyst
Wisconsin Department of Public Instruction
Carl.Bryan@dpi.wi.gov
(608) 267-9127

Place where comments are to be submitted and deadline for submission:
Comments should be submitted to Carl Bryan, Department of Public Instruction, 125 S. Webster Street, P.O. Box 7841, Madison, WI 53707-7841 or at Carl.Bryan@dpi.wi.gov. The department will publish a hearing notice in the *Administrative Register* that will provide information on the deadline for the submission of comments.

SECTION 1. PI 48 is created to read:

CHAPTER PI 48
RACINE AND WISCONSIN PARENTAL CHOICE PROGRAMS

PI 48.01 Purpose. Any qualified pupil in grades kindergarten to 12 who meets the requirements under s. 118.60 (2) (a), Stats., may attend any school participating in the Racine parental choice program or Wisconsin parental choice program under s. 118.60, Stats. This chapter establishes approval criteria and requirements for schools participating in the choice programs under s. 118.60, Stats., and requirements for receipt of state aid under s. 118.60 (4) and (4m), Stats.

PI 48.02 Definitions. In this chapter:

(1) "Average attendance rate" means the rate obtained by dividing the aggregate number of full-time equivalent days of a pupil's actual attendance by the aggregate number of full-time equivalent days the pupil was enrolled.
(2) "Choice administrator" means the person signing the notice of intent to participate form s. PI 48.03 (3) or (4).
(3) "Choice program" means the Racine parental choice program or the Wisconsin parental choice program, or both.
(4) "Classroom records" means teacher-recorded test scores, teacher-originated report cards and progress reports, and teacher-originated attendance records. **(5)** "Count date" means the third Friday in September and the second Friday in January except as provided under s. 121.05 (3m), Stats.
(6) "Credit" means the credit given to pupils in grades 9 through 12 for successful completion of a school term of study in one course that meets daily for a normal class period or the equivalent established by the board or the governing body or entity of any school.
(7) "Department" means the Wisconsin department of public instruction.
(8) "Eligible education expenses" has the meaning given in s. 118.60 (7) (am) 1m., Stats.
(9) "Financial audit" means the audit of a school required under s. 118.60 (7) (am) 2m. a., Stats.
(10) "Financially viable" or "financial viability" means the ability of the school to pay for goods and services, make debt service payments, and pay other obligations as they become due.
(11) "First time participant" means a school that meets one the following:
(a) The school did not participate in the private school choice programs in the preceding school year.
(b) The school participated in the private school choice programs in the preceding school year but voluntarily withdrew from participation during the preceding or current school year.
(c) The school participated in the private school choice programs in the preceding school year but was issued an order from the state superintendent terminating or barring the school's participation in the program during the preceding or current school year.
(12) "4-year-old kindergarten outreach activities" means the direct services a school provides to 4-year-old kindergarten parents, legal guardians, and primary caregivers that has an educational component that fulfills the requirements of s. 121.004 (7) (cm), Stats.
(13) "Generally accepted auditing standards" means the auditing standards prescribed by the accounting examining board under s. Accy 1.202.
(14) "Grade equivalent" means the scaled score that corresponds to a pupil's raw score on a standardized achievement test, as determined by the test's publisher.
(15) "New private school" has the meaning given in s. 118.60 (1) (bn), Stats.
(16) "Official attendance records" means a listing of all kindergarten through grade 12 pupils enrolled in the school by grade level from the student information system required under s. 115.383 (3) (b), Stats.
(17) "Parent" means a parent listed on the application who is the pupil's biological parent, legal guardian, parent by adoption or step-parent who resides in the same household as the pupil applicant. A parent on military duty is considered to be residing in the household.
(18) "Private school choice programs" means the programs established under ss. 119.23 and 118.60, Stats.
(19) "Professional standards" means both of the following:
(a) Standards established by the accounting examining board under ch. 442, Stats.
(b) Standards issued by the comptroller general of the United States for engagements in which the use of generally accepted governmental auditing standards is required.
(20) "Racine parental choice program" means the program established under s. 118.60, Stats., for pupils residing in Racine Unified School District.
(21) "Reserve" means the difference between the revenue received under ss. 118.60 and 119.23, Stats., and the amount of net eligible education expenses for private school choice program pupils.
(22) "School term" has the meaning given in s. 115.001 (12), Stats.

(23) "School year" has the meaning given in s. 115.001 (13), Stats.
(24) "Significant academic progress" means a pupil demonstrates the following:
(a) Improvement in reading and mathematics in comparison to the pupil's performance level in the previous school year.
(b) Satisfactory performance on at least 50% of any new instructional concepts in reading and mathematics the school introduced during each of the current school year semesters, and the level of attainment is documented in a written record of performance at the beginning, mid-point and end of each semester.
(25) "Standardized achievement test" means a published, nationally normed test that provides a valid and reliable measure of a pupil's present achievement level in comparison with age or grade level cohorts.
(26) "State superintendent" means the state superintendent of public instruction.
(27) "Wisconsin parental choice program" means the program established under s. 118.60 Stats., for pupils who reside in Wisconsin but do not reside in the Racine Unified School District or in the city of Milwaukee.

PI 48.03 School requirements.
(1) PRIVATE SCHOOL. A school participating in the choice program shall be a private school as defined in s. 118.165, Stats.
(2) CHOICE ADMINISTRATOR. The Choice administrator shall be one of the following:
(a) An owner of the school.
(b) An individual appointed as the school's choice administrator by the governing body of the organization operating the school.
(3) NOTICE OF INTENT TO PARTICIPATE. Annually by January 10, a school that intends to participate in the private school choice programs in the following school year shall submit to the department a notice of intent to participate.
(a) The notice shall include all of the following:
1. Except as provided in par. (b), the school's plan for ensuring it will select pupils on a random basis as required under s. 118.60 (3) (a), Stats., from a new pool of applicants each school year. The school's plan shall be one of the following:
a. The plan provided by the department.
b. The plan provided by the school and approved by the state superintendent. If the school makes a change to the random selection plan in a subsequent school year, the school shall submit, with the school's notice of intent to participate, the revised plan to the state superintendent for approval.
2. The number of spaces the school has available for pupils participating in each private school choice program in which the school participates.
3. The open application periods during which the school will accept private school choice program pupil applications. After January 10, a school may not amend the open application periods it selects.
4. The name and location of the accredited institution of higher education from which the choice administrator received at least a bachelor's degree and the date the degree was received, the number of the choice administrator's teaching or administrator license issued by the department, or an indication that the administrator is excluded from the requirement under s. 118.60 (2) (c) 2., Stats.
5. The signature and mailing address of the choice administrator.
(b) A school only participating in the Wisconsin parental choice program is not required to submit the random selection plan in par. (a) 1. in the 2016-17 and 2017-18 school years.

(4) NEW PRIVATE SCHOOLS NOTICE OF INTENT TO PARTICIPATE. A new private school shall submit to the department a new private school's notice of intent to participate no later than August 1 of the school year

immediately preceding the school year that the school intends to participate in the private school choice programs. The notice shall include all of the following:
(a) The mailing address of the choice administrator of the school, if the school does not have a physical property where the school plans to operate.
(b) The name and location of the accredited institution of higher education from which the choice administrator received at least a bachelor's degree and the date the degree was received, the number of the choice administrator's teaching or administrator license issued by the department, or an indication that the administrator is excluded from the requirement under s. 118.60 (2) (c) 2., Stats.
(c) The signature and mailing address of the choice administrator.

Note: The Notice of School's Intent to Participate forms may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

(5) CONTINUING ELIGIBILITY.
(a) Annually by August 1 of the school year immediately preceding the school year in which the school intends to participate, a new private school shall submit a statement to the department in the manner prescribed by the department stating which standard under s. 118.60 (7) (a), Stats., the school intends to meet.
(b) Annually by October 15, a school participating in the choice program shall submit a report to the department for each choice program in which it participates that states which of the following standards the school intends to meet and the criteria the school will use to meet the continuing eligibility standards specified under s. 118.60 (7) (a), Stats.,:
1. At least 70% of the choice program pupils attending the school advance one grade level each school year. In this subdivision, "advance one grade level" means successful completion of at least four credits or the equivalent as approved by the state superintendent during each school year. For pupils in grades kindergarten through 8, the participating school shall ensure each pupil who has advanced one grade level has met one of the following criteria:
a. Achievement of 70% of the instructional objectives specific to each grade level in reading, mathematics and language arts that are introduced during each semester of the current school year. A school using this criterion shall do all of the following: establish written objectives and performance standards for reading, mathematics and language arts for each grade level in which choice program pupils are enrolled; document written criteria and methodology for evaluating pupil performance for each objective and document each pupil's performance using the evaluation method specified in this subparagraph in a written record; and maintain these records for 5 years.
b. Achievement of at least .08 grade equivalent increase for each month between the spring or fall and the spring administration of the standardized achievement test. A school using this criterion shall do all of the following: report, by October 15, to the department the tests to be administered and the dates on which they will be administered and maintain each pupil's answer sheets and score information for 5 years.
2. The school's average attendance rate for choice program pupils is at least 90%. The school shall use the official attendance records to determine attendance.
3. At least 80% of choice program pupils demonstrate significant academic progress.
4. At least 70% of the families of choice program pupils meet parental involvement criteria established by the school.
(c) Annually by June 30, a school participating in the choice program shall submit a report to the department for each program in which it participates that establishes the school has met the standard selected in par. (b) using the criteria submitted in par. (b) during that school year.

(d) A school shall ensure that test security is maintained and pay all costs of administering, scoring, ensuring test security, and reporting results of academic achievement tests if the school uses the results to meet the requirement under s. 118.60 (7) (a) 3., Stats.

(6) DISCLOSURE OF INFORMATION.
(a) Annually by August 1 of the school year immediately preceding the school year in which a school intends to participate in the private schools choice programs, a new private school shall submit to the department the information specified under s. 118.60 (6m) (a), Stats., and the form specified under par. (d).
(b) Annually by August 1 of the school's initial school year in the private schools choice programs, a first time participant shall submit to the department the information specified under ss. 118.60 (6m) (a) and (6m) (b) 4., Stats., and the form specified under par. (d).
(c) Annually by August 1, a school participating in the choice program that is not a first time participant shall submit to the department updates to any of the information submitted under s. 118.60 (6m) (a) or (6m) (b) 4., Stats. Also, the school shall submit to the department the form specified in par. (d).
(d) The board signatures required under s. 118.60 (6m) (c), Stats., and the mailing addresses of board members shall be submitted to the department on a form provided by the department.

Note: The disclosure of information form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

(7) ACCREDITATION REQUIREMENTS. Annually by January 15, a school that is fully accredited under s. 118.60 (2) (a) 7., Stats., shall provide to the department a letter from the school's accrediting agency stating whether the school is accredited as of the date of the letter. The letter shall meet all of the following requirements:
(a) The letter shall include the following information:
1. The school's name.
2. The school's address for each location included in the accreditation.
3. The grades accredited.
4. A statement that the school is or is not accredited as of the date of the letter.
(b) The letter shall be dated no earlier than the beginning of the school year.
(c) The letter shall be signed by an authorized member of the accrediting agency.

(8) HOURS OF INSTRUCTION AND ANNUAL SCHOOL BOARD MEETINGS.
(a) Annually by May 1, a school continuing in the private school choice programs shall report to the department the hours of instruction for the upcoming school year on a form provided by the department.
(b) Notwithstanding par. (a), by January 10 of the school year immediately preceding a school's first year of participation in the private school choice programs, a school shall report to the department the hours of instruction for the upcoming school year on a form provided by the department.
(c) Annually by October 15, a school shall report to the department the first and last dates of its current school term.
(d) Annually by October 15, a school shall report the dates of the two school board meetings for the current school year required under s. 118.60 (7) (b) 3m., Stats.
(e) A school shall revise the reports in pars. (a) to (d) if it changes its hours of instruction. The school shall submit revisions to the department by May 15 of the current school year. A school may not shorten its school term after the start of the school term.

Note: The hours of instruction form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

PI 48.04 School Fees.
(1) A school may not charge pupils participating in a choice program for field trips if the school requires the trip for a class, is a part of the school's curriculum, or is part of the hours of instruction.
(2) A school may have a written policy indicating it will charge a fine for lost, damaged, or unreturned school property. The amount of the fine may not exceed the cost of the item.
(3) A school may not impose any fee or other sanction on a parent or pupil for failure to engage in fund raising.

PI 48.05 Pupil application requirements.
(1) DEFINITIONS. In this section:
(a) "Continuing pupil" means an applicant to the Racine parental choice program who participated in the Racine parental choice program on the immediately preceding count date or participated in the Wisconsin parental choice program on one of the count dates in the immediately preceding school year, or an applicant to the Wisconsin parental choice program who participated in the Wisconsin parental choice program on the immediately preceding count date.
(b) "Prior year" means the calendar year prior to the school year for which the applicant is applying.
(c) "Family Size" means the number of people who reside together as part of the same household and who are related by birth, marriage, or adoption. Family size includes parents, pupil applicants, and other children who share at least one parent by birth, adoption or by a parent's current marriage. A parent on military duty is considered to be residing in the household.
(d) "Family income" means the federal adjusted gross income of the parents included in the family size.
(e) "Designee" has the meaning in s. 118.60 (1) (ag) (2), Stats.
(2) RESIDENCY ELIGIBILITY. A school shall obtain one of the residency documents specified by the department from an applicant's parent that shows the applicant resides at the address on the application at the time of application. The residency document shall be dated no earlier than three months prior to the start of the open application period in which an applicant applies. If a school receives a lease agreement as a residency document, the lease term shall include the date the application was received. The document shall contain the parent name and match the address on the application.
(3) ADDRESS VERIFICATION. A school shall verify an applicant's address listed on the residency documentation under sub. (2) as follows:
(a) If a pupil is applying to the Racine parental choice program, the school shall verify that the address on the application is in the Racine Unified School District using the Racine Unified School District's transportation information, the state of Wisconsin's Statewide Voter Registration System or another manner permitted by the department.
(b) If a pupil is applying to the Wisconsin parental choice program, the school shall verify that the address on the application is in the Wisconsin school district listed on the application but not in the Racine Unified School District or City of Milwaukee using the state of Wisconsin's Statewide Voter Registration System or another manner permitted by the department.
(4) INCOME ELIGIBILITY. A continuing pupil or a pupil on a choice program waiting list in the preceding school year in the same choice program they are apply to is not subject to the income requirements for the choice programs. A school shall determine if all other applicants meet the income eligibility requirements under s. 118.60(2)(a), Stats., as follows:

(a) A school shall obtain the income documentation required by the parent application from the parent. The school shall ensure the information on the income documentation matches the information provided in the online parent application.
(b) A school shall determine whether a pupil is income eligible for the program based on the family size and prior year family income.
(c) A pupil shall be determined ineligible if the application indicates the parent did not receive any income and the application does not contain a sufficient explanation of how basic needs are met.
(d) A pupil shall be determined ineligible if the explanation of how basic needs are met states that income or government assistance was received, but the application states the parent listed on the application did not receive income or participate in government assistance programs.
(5) AGE REQUIREMENT. In order to be eligible for the choice program, a 4-year-old kindergarten pupil, 5-year-old kindergarten pupil, and a first grade pupil shall attain the ages specified in s. 118.14, Stats.
(6) APPLICATION RECEIPT. A school may only receive an application during an open application period selected by the school under s. PI 48.03 (3) (a) 3. The school shall receive all documentation, including the documentation required under subs. (2) and (4), during the same open application period in which the school receives the application.
(7) INELIGIBLE APPLICATIONS. An application shall be determined ineligible if any of the following apply:
(a) The application does not comply with this section or s. 118.60, Stats., and a correction of the application under sub. (8) is not allowable.
(b) The application contains contradictory information.
(8) CORRECTING APPLICATIONS. A school shall correct an application in the following circumstances and manner:
(a) The school shall correct an application by December 15 for applications received during an open application period prior to the third Friday in September and by May 1 for applications received during an open application period after the third Friday in September. If the school does not correct the application as required in this subsection by the specified date, the application is ineligible.
(b) The school shall obtain additional residency documentation after the open application period in which the application was received that meets the requirements in sub. (2) if all of the following apply:
1. The school received residency documentation from the parent during the open application period in which the application was received and the residency documentation contained an address and the name of the parent, even if the parent's name is misspelled or is a different legal name for the parent.
2. The additional residency documentation is in the parent's name, contains the parent's correct address, and meets the requirements in sub. (3).
(c) The school shall obtain a tax transcript for each parent on the application showing that the family is income eligible for the program if both of the following apply:
1. The application indicates the parent on the application received income.
2. The income documentation provided by the parent during the open application period in which the application was received is not for the correct year or is not the required document for the type of income included on the application.
(d) The school shall obtain a tax transcript for each parent on the application showing a verification of non-filing and support that the parent received the government assistance identified on the application, or a tax transcript showing the parent did not receive any income if both of the following apply:
1. The application indicates the parent on the application did not receive income but participated in government assistance programs.

2. The government assistance programs documentation provided by the parent during the open application period in which the application was received is not for the correct year or is not the required document for the type of government assistance included on the application.
(e) The school shall obtain documentation showing that the pupil participated in kinship or foster care if the application indicates the pupil participated in the kinship or foster care program but the school did not receive documentation that complies with the requirements in sub. (4).

Note: The alternative residency form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

PI 48.06 School year enrollment.
(1) APPLICATION ACCEPTANCE. A school may not accept pupil applications until the school has completed all of the following:
(a) The school has submitted to the department its notice of intent to participate for the following school year.
(b) The department has approved the school's plan for randomly selecting pupils to participate in the school's program or the school has adopted the random selection agreement provided by the department as set forth under s. PI 48.03 (3) (a).
(c) The school has paid the nonrefundable auditor fee required under s. 118.60 (2) (a) 3., Stats.
(2) APPLICATION ELIGIBILITY & VERIFICATION DETERMINATION.
(a) A school participating in the Racine parental choice program shall make application eligibility determinations based on the requirements in s. PI 48.05 prior to random selection, prior to the next application period, within 60 days after the school receives the application, or prior to the next count date, whichever occurs first. Applications determined eligible shall also be verified in the online application system within 60 days after the school receives the application or prior to the next count date, whichever occurs first.
(b) Within the time period specified under s. 118.60 (3) (ar) 2., Stats., a school participating in the Wisconsin parental choice program shall determine and verify in the online application system if an application meets the eligibility requirements in s. PI 48.05.
(3) RANDOM SELECTION. A school participating in the Racine parental choice program shall accept pupils on a random basis in accordance with the method submitted to the department and approved under s. PI 48.03 (3) (a) 1. Except as provided in s. 118.60 (3) (ar), Stats., a school participating in a Wisconsin parental choice program shall accept pupils on a random basis in accordance with the method submitted and approved under s. PI 48.03 (3) (a) 1.
(4) APPLICATION RETENTION. A school shall retain the following records for at least 5 years from the end of the school year in which the pupil applied to the school unless the department or a law enforcement agency requires the school to retain the records for a longer period:
(a) Electronic or paper copies of pupil paper applications and supporting income and residency documentation required under s. PI 48.05 (2) and (4) for all accepted and non-accepted choice pupils who have submitted applications to the school.
(b) Copies of all notices to a pupil or pupil's parent regarding acceptance and non-acceptance.
(c) Any other correspondence related to a pupil.
(5) SIMULTANEOUSLY ENROLLED PUPIL. A pupil participating in a private school choice program may not be simultaneously enrolled, in or out of Wisconsin, in another private school, a home-based private educational program, a charter school under s. 118.40 (2r) or (2x), Stats., or a public school district and receive a private school choice program payment under s. 118.60, Stats. A pupil receiving a payment under s. 118.60, Stats., may not receive a payment under s. 115.7915 (4m), Stats.

(6) FULL-TIME EQUIVALENT. The amount paid by the department to a school under s. 118.60 (4), Stats., shall be based on the full-time equivalent for each pupil times the payment amount in s. 118.60 (4), Stats. The full-time equivalent shall be determined as follows:

(a) Pupils in grades one through 12 shall be one full-time equivalent.

(b) A kindergarten pupil shall be one-half full-time equivalent except as follows:

1. A pupil enrolled in a 5-year-old kindergarten program requiring full-day attendance for 5 days a week for an entire school year shall be one full-time equivalent.

2. The full-time equivalent for a pupil enrolled in a 5-year-old kindergarten program requiring full-day attendance for fewer than 5 days a week for an entire school year shall be calculated as follows:

a. Multiply the number of hours in each day in which the pupil is enrolled by the total number of days for which the pupil is enrolled.

b. Divide the result under subd. 2. a. by the product of the number of hours of attendance per day required of first grade pupils in the public school district in which the school is located.

c. Multiply the result under subd. 2. b. by 180.

d. Round the result under subd. 2. c. to one decimal point.

3. A school may count a pupil enrolled in a 4-year-old kindergarten program that provides the required number of hours of direct pupil instruction under s. 121.02 (1) (f), Stats., as a 0.6 pupil if the program also annually provides at least 87.5 additional hours of 4-year-old kindergarten outreach activities.

4. For purposes of subds. 1. and 2., "full-day" means the length of the school day required for first grade pupils in the public school district in which a school is operating.

(7) SEPTEMBER 1 APPLICATION AND CLASS LIST SUBMISSION. Annually by September 1, a school shall submit to the department in the online application system or other manner specified by the department all of the following:

(a) All accepted applications.

(b) A class list of all pupils participating in each choice program enrolled in the school.

(c) A pupil count report stating the number of pupils participating in each choice program by grade level.

(8) APPLICATION SUBMISSION AND PUPIL COUNT REPORTS. Annually by October 1 and February 1, a school shall submit to the department, using the online application system or other manner specified by the department, all of the following:

(a) A pupil count report stating all of the following:

1. The grade of each pupil participating in each choice program on the immediately preceding count date. In order to be eligible for payment, a 4-year-old kindergarten pupil, 5-year-old kindergarten pupil, and first grade pupil shall attain the age specified in s. 118.14, Stats.

2. Whether each choice program pupil meets the requirements under sub. (9).

3. The total number of pupils in the school on the immediately preceding count date that meet the requirements under sub. (9).

(b) As part of the pupil count report for the third Friday in September, a school participating in the Wisconsin parental choice program shall determine the address of a pupil on the third Friday in September for all incoming choice pupils as defined in s. 118.60 (4d) (a), Stats. If an incoming choice pupil has moved, the school shall do all of the following:

1. Obtain residency documentation for the new address that meets the requirements of s. PI 48.05 (2) and is dated between the third Friday in August and October 1.

2. Determine the resident school district for the new address as prescribed under s. PI 48.05 (3).

(c) All accepted applications the school received that were not previously reported under sub. (7).

(9) COUNT REQUIREMENTS. A school may include a pupil on its pupil count report under sub. (8) (a) only if one of following applies:

(a) The pupil is in attendance for instruction on the count date.
(b) The pupil is absent on the count date but attended the school for instruction at least one day during the school term prior to the count date and at least one day after the count date, and the pupil was not enrolled in another school in or out of Wisconsin, including another private school, a home-based educational program, a charter school under s. 118.40 (2r) or (2x), Stats., or a public school district, during the period of absence from the school.

PI 48.07 Enrollment audits.
(1) REPORT COMPLETION AND SUBMISSION. A school shall engage an auditor to complete the enrollment audit for the school's enrollment reported under s. PI 48.06 (8). The auditor shall compile the enrollment audit using agreed upon procedures that identify ineligible pupils for whom the school has received payment under s. 118.60 (4) or (4m), Stats., and additional eligible pupils qualifying the school for a payment. The school shall submit its third Friday in September enrollment audit to the department by December 15. The school shall submit its second Friday in January enrollment audit to the department by May 1.
(2) SCHOOL RECORDS. A school shall provide its auditor with the official attendance records and the original classroom records for the auditor's use in conducting the enrollment audit. The official attendance records shall identify pupils participating in the choice program.
(3) REQUIRED PROCEDURES. An auditor shall complete the procedures specified in the department's audit guide, including all of the following:
(a) Determine the school's process for preparing attendance records and accepting and reviewing applications.
(b) Verify that any 4-year-old kindergarten program under s. 121.004 (7) (cm), Stats., includes at least 87.5 hours of 4-year-old kindergarten outreach activities as documented by teacher logs.
(c) Complete a fraud risk assessment.
(d) Complete testing of the pupil enrollment software. If the auditor does not use the test plan provided by the department, the auditor shall annually submit the plan to the department for approval.
(e) Verify that the total number of pupils participating in the choice programs and the total number of pupils attending the school on the official attendance records match the total number of pupils based on the original classroom records for each grade.
(f) Verify the enrollment for all choice program pupils reported on the pupil count report under s. PI 48.06 (8) (a) using the school's official attendance records.
(g) Verify that all choice program pupils the school includes on its official attendance records are also included on the original classroom records. Also verify that all choice program pupils the school includes on the school's original classroom records are also included on the official attendance records.
(h) Verify that the choice program pupils meet the requirements of s. PI 48.06 (9).
(i) Verify that the school did not receive a payment under s. 118.60 (4) or (4m), Stats., for any of the following:
1. Pupils for whom the school is receiving a childcare payment for all day care.
2. Pupils who are enrolled in a partnership or contract school of a public school district.
3. Pupils participating in the program under s. 115.7915, Stats.
(j) Reconcile tuition revenues and pupils for whom tuition is waived with the school's official attendance records that identify pupils who do not participate in the choice program. If the school charges a choice program pupil tuition, ensure the school obtained documentation indicating the pupil meets the requirements of s. 118.60 (3m) (b), Stats.
(k) Select a sample of at least 60 pupils not participating in the choice program from original classroom records and verify the school included the selected pupils in the pupil count report under s. PI 48.06 (8). The sample shall include pupils from each classroom. If the pupils are in different classrooms during the day, the auditor may

select one period and select pupils from each classroom for that period. If the auditor identifies an auditing exception, the auditor shall increase the sample size in increments of 60 pupils until the auditor finds no additional exceptions or until the auditor verifies that all pupils have been properly included in reported enrollments. If the school has an enrollment of fewer than 60 pupils who did not participate in the choice program, the auditor shall examine records for all pupils who did not participate in the choice program.
(L) Reconcile the enrollment the school reported to the department under s. 115.30 (3), Stats., with the official attendance records of the school.
(m) Verify that the applications for pupils participating in the choice program meet the requirements of s. PI 48.05. If an applicant to the Wisconsin parental choice program moved, the auditor shall verify that the residency documentation obtained pursuant to s. PI 48.06 (8) (b) meets the requirements of that paragraph.
(n) Verify that any pupils in 4-year-old kindergarten, 5-year-old kindergarten or first grade meet the age requirements in s. 118.14, Stats.
(o) If the school operated a summer school program, review all school documentation to support the summer school report the school filed with the department. The review shall be part of the third Friday in September enrollment audit.
(p) Perform other auditing procedures as agreed upon by the auditor and the department.
(4) CERTIFICATIONS.
(a) Upon review of the enrollment audits, the department shall certify an amount due from a school for payments made to the school for ineligible pupils or an amount due to the school for additional eligible pupils. If a school fails to provide an enrollment audit, the department shall determine that all choice pupils are ineligible.
(b) The school shall refund to the department the amount certified as due to the department. If the school is currently eligible to receive choice program payments, the department shall reduce the payments made under s. 118.60 (4) and (4m), Stats., by the amount owed. If the school is not currently eligible to receive choice program payments, the school shall refund the department within 30 days of the date of the certification letter.
(c) The department shall pay any additional amount due to the school for qualifying pupils within 60 days of the date of the certification letter.

Note: The Enrollment Audit may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

PI 48.08 Summer school attendance and payment.
(1) DEFINITION. In this section, "academic purposes" means summer school learning experiences that are related or similar to instruction the school offers during the regular school year or for which credit toward graduation is given.
(2) LIST OF CLASSES. Annually by May 1, a school shall submit the list to the department of academic summer school classes and laboratory periods. The department shall annually review the list to ensure the classes are for academic purposes.
(3) PROGRAM REQUIREMENTS.
(a) To be eligible to receive a choice program summer school payment, a school shall offer no fewer than nineteen summer days of instruction during the summer. Each summer day of instruction offered by the school shall be comprised of no fewer than 270 minutes of instruction for academic purposes. A school may count any of the following as instruction for academic purposes:
1. Music programs, lessons, sections or clinics.
2. Swimming instruction programs, if taught or directed on the school site.

3. Field trips if accompanied by a teacher and if all pupils have equal access to the field trips regardless of a pupil's ability to pay.
(b) A school may not count any of the following as instruction for academic purposes:
1. Travel time to events, including field trips.
2. Performances, including band, orchestra, choir, parades and theatrical performances.
3. Recreational programs and team sports.
4. Participation in fairs or expositions by career and technical student organizations.
5. Classes taught by a teacher that is funded through Title I of the elementary and secondary education act.
6. Any offering not provided by a teacher.
(4) PUPIL ATTENDANCE REQUIREMENTS. A school may include a pupil in its summer school report if all of the following apply:
(a) The pupil was in a choice program in which the school participates on the 2nd Friday in January during the school term immediately preceding the summer for which the school seeks payment, or the school has accepted the pupil's choice program application for the school term immediately following that summer.
(b) The pupil attends summer school instruction for academic purposes for at least fifteen days.
(5) REPORT. Annually by October 1 immediately following summer school, a school counting pupils for choice summer school payment purposes shall submit to the department a summer school report listing the choice program pupils who attended summer school and the number of days the pupils attended. The school shall report this information on a form provided by the department.

Note: A summer school report form may be obtained at no charge from the Wisconsin Department of Public Instruction's website at http://dpi.wi.gov/sms/choice-programs.

PI 48.09 Financial audit.
(1) FINANCIAL AUDIT REQUIREMENT. Annually by October 15, a school shall provide a financial audit and financial audit supplemental schedule to the department. The financial audit shall be prepared in accordance with generally accepted accounting principles and shall comply with all of the following:
(a) Except as provided under par. (b), the financial audit shall include 2 year comparative financial statements containing all of the statements required by generally accepted accounting principles, including a statement of financial position, a statement of activities and a statement of cash flows.
(b) The first year a school completes a financial audit for the private school choice programs, the statement of activities and statement of cash flows may only include the current school year.
(c) The financial audit shall include either the school-only balances and activity or shall be prepared at the consolidated level as permitted by generally accepted accounting principles.
(d) A school may provide a financial audit that includes a modified audit opinion due to fixed assets purchased in previous years not being included in the financial audit. A financial audit that includes a modified audit opinion for any other reason does not meet the requirements under s. 118.60 (7) (am) 2m. a., Stats., unless the modification is approved by the department.
(2) COMPLIANCE WITH AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS REQUIREMENTS. As provided under s. 118.60 (7) (am) 2m. a., Stats., an auditor engaged by a school to provide the audit opinion in this section shall comply with the auditing standards established by the American Institute of Certified Public Accountants including all of the following:
(a) The auditor shall develop written audit programs identifying the steps and procedures to be followed in conducting the audit, including establishing the planning materiality that the auditor will use for the audit.
(b) The auditor shall trace all entries on the financial audit to the trial balance provided by the school.

(c) The auditor shall obtain sufficient appropriate audit evidence to conclude that the financial statements do not contain misstatements the effect of which, when aggregated with misstatements in other accounts and transactions, exceeds the planning materiality and result in a material misstatement in the financial statements or in the school's net eligible education expenses. The auditor shall determine sufficient appropriate audit evidence based on the requirements of the American Institute of Certified Public Accountants.

PI 48.10 Financial audit supplemental schedule.

(1) ELIGIBLE EDUCATION EXPENSES. The eligible education expenses included in the financial audit supplement schedule shall comply with all of the following:

(a) Eligible education expenses may only include those expenses that already have or will result in a cash disbursement.

(b) Eligible education expenses may only include expenses that are in the statement of activities, except for the cost of land. The amount that the school paid for land shall be included in the first year the land is used for educational programming.

(c) An expense may only be included as an eligible education expense one time.

(d) The following may not be included in kindergarten through grade 12 eligible education expenses:

1. Contributed services, capital assets, or goods.

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

3. Daycare expenses except expenses for before or after school care for kindergarten through grade 12 pupils that are enrolled in educational programming at the school.

4. Expenses that are fully included as eligible education expenses under s. PI 49.09 (6).

(2) AUDITOR REVIEW OF ELIGIBLE EDUCATION EXPENSES. An auditor shall ensure the eligible education expenses a school included in the supplemental schedule comply with sub. (1) and the policy established under s. PI 48.13 (5) (h).

(3) SUPPLEMENTAL SCHEDULE CALCULATIONS. The supplemental schedule shall calculate all of the following:

(a) Net eligible education expenses for all pupils as follows:

1. Determine the amount of eligible education expenses, excluding eligible education expenses in s. PI 49.09 (3) (a).

2. Subtract government assistance revenues.

(b) The net eligible education expenses for private school choice program pupils as follows:

1. Calculate the percentage of pupils at the school participating in the private school choice programs as the full-time equivalent for the private school choice programs pupils compared to the all pupil full-time equivalent. The full-time equivalents shall be based on the average of the full-time equivalents determined in the enrollment audits under s. PI 48.07.

2. Multiply the amount calculated under par. (a) by the percentage under subd. 1.

(d) The reserve balance as follows:

1. Determine the total private school choice programs revenue received.

2. Add the prior year reserve balance, if any.

3. Subtract the net eligible education expenses for private school choice program pupils determined under par. (b).

(e) The school's cash and investment balance that shall be maintained as follows:

1. Determine the sum of any remaining depreciation on fixed assets used by the school and any land purchases that have not yet been included in eligible cost under sub. (1) (b).

2. Subtract the amount under subd. 1. from the amount under par. (d).

(4) MAINTAIN RESERVE BALANCE. The school shall maintain the reserve balance, if positive, for future eligible education expenses for choice pupils. The school's cash and investment balance shall be at least as much as the amount calculated under sub. (3) (e), if positive. If the school is also participating in the program under s. 115.7915, Stats., the cash and investment balance shall be at least as much as the total required under this chapter and s. PI 49.09.

(5) FINAL FINANCIAL AUDIT. If a school ceases to participate or is barred from participation in all of the programs the school is participating in under ss. 118.60 and 119.23, Stats., it shall submit to the department the financial audit required under s. 118.60 (7) (am) 2m. a., Stats., for the final school year in which it participated. If a school fails to submit the financial audit, the school's net eligible education expenses for the year shall be determined to be zero for purposes of determining the school's reserve balance.
(6) REFUND OF THE RESERVE. If a school ceases to participate or is barred from participating in all of the programs the school is participating under ss. 118.60 and 119.23, Stats., and the school's reserve is positive, the school shall refund the reserve balance to the department. The school shall make the refund within 30 days of the date of the closure payment letter sent to the school by the department.

PI 48.11 School financial requirements.
(1) ENGAGEMENT LETTER. A school shall have a written engagement letter with each auditor providing services required by this chapter. The school or auditor shall provide a copy of the engagement letter to the department upon request. The written engagement letter shall contain all of the following:

(a) A statement that the auditor shall comply with generally accepted auditing standards and the requirements of this chapter.
(b) A statement that the auditor shall comply with generally accepted governmental auditing standards if other governmental agencies providing funds to the school require it.
(c) The responsibilities of the school and the auditor in meeting the requirements of this chapter.

(d) The services the auditor provides to the school that are in addition to those audit and attestation services required under this chapter.

(e) The auditor's acknowledgement that the department will rely on the auditor's work to fulfill the department's responsibilities under s. 118.60, Stats., and this chapter.

(f) The auditor's compensation for the services the auditor provides to the school.

(2) FINANCIAL ACCOUNTING SYSTEM. A school shall balance the financial accounting system required under s. PI 48.13 (1) and provide the auditor with a trial balance of the account balances.
(3) ADJUSTING ENTRIES. A school shall approve adjusting entries recommended by an auditor before the entries are recorded in the school's financial accounting system.
(4) RECORDS RETENTION. A school shall retain all financial and pupil records relating to the enrollment audits under s. PI 48.07, the financial audit under ss. PI 48.09 or PI 48.10, and the report on fiscal and internal control practices under s. PI 48.13 for at least 5 years from the due date of the financial audit, unless the department or a law enforcement agency requests the school retain the records for more than 5 years.
(5) RECORDS AVAILABILITY. A school shall furnish all financial and pupil records the auditor considers necessary to provide the audit opinion or agreed upon procedure reports. Upon request by the department, a school shall provide the department access and copies to the records referenced in the auditor's working papers.
(6) SCHOOL RESPONSIBILITY. An auditor's failure to completely or properly perform the responsibilities set forth in s. 118.60, Stats., or this chapter is not a defense to any determination the department makes that there is an amount due from a school or to a school under s. PI 48.07 (4) or PI 48.10 (6).
(7) AUDITOR BAR. A school participating in the private school choice program may not engage an auditor who fails to timely and properly fulfill the auditing and reporting requirements of this chapter, s. PI 35, s. 118.60 or 119.23, Stats., until such time as the auditor provides evidence acceptable to the department that the auditor has made procedural changes and has successfully completed professional development training that enables the auditor to comply with the requirements of this chapter.

PI 48.12 Auditor requirements.

(1) INDEPENDENCE REQUIREMENTS. An auditor engaged by a school shall comply with the standards of the American Institute of Certified Public Accountants, including all of following:
(a) An auditor shall comply with the requirements of s. Accy 1.101.
(b) An auditor shall obtain the school's trial balance required under s. PI 48.13 (1) if the auditor is completing compilation or review services.
(c) Except as provided in par. (d), an auditor may not post or prepare for posting typical reoccurring financial transactions to the school's general ledger, including cash receipts and disbursements, invoices or billings for services, billings from vendors and suppliers, and payroll activity.
(d) An auditor shall obtain written approval of the school's management prior to posting adjusting, correcting, and closing journal entries to the school's general ledger. An auditor's working papers shall document evidence of management approval for all such entries resulting from a financial statement compilation, review, or audit.
(e) If an auditor assists in the preparation of a school's budget, the auditor shall do all of the following:
1. Comply with s. Accy 1.201 regarding forecasts.
2. Identify that such assistance was provided, if required by the department.
(2) INQUIRIES. An auditor shall promptly respond to inquiries or requests made by the department. The auditor shall notify the school of any inquiries or requests made by the department and the auditor's response.
(3) WORKPAPER RETENTION. An auditor shall retain working papers relating to the enrollment audits under s. PI 48.07, the financial audit under s. PI 48.09 or PI 48.10, and the report on fiscal and internal control practices under s. PI 48.13 for at least 5 years from the due date of the financial audit, unless the department or a law enforcement agency requests the auditor to retain working papers for more than 5 years.
(4) WORKPAPER REVIEW. An auditor shall permit the department to review audit working papers prepared in support of the enrollment audits under s. PI 48.07, the financial audit under s. PI 48.09 or PI 48.10, and the report on fiscal and internal control practices under s. PI 48.13. The auditor shall promptly provide copies of working papers the department requests.
(5) AUDITOR PEER REVIEW REPORTS. An auditor completing any of the audits and agreed upon procedure reports under s. 118.60, Stats., and this chapter shall submit the auditor's peer review to the department within 30 days of report's issuance.
(6) LICENSE REQUIREMENT. An auditor completing the audits and agreed upon procedure reports under this chapter or s. 118.60, Stats., shall be a firm licensed as a certified public accounting firm by the accounting examining board under ch. 442, Stats. An individual auditor who accepts the engagement shall be a licensed certified public accountant.
(7) AUDITOR BAR. An auditor who fails to timely and properly fulfill the auditing and reporting requirements of this chapter, s. PI 35, s. 118.60 or 119.23, Stats., shall not complete accounting, auditing, or other reporting requirements for any school participating in the private school choice programs until such time as the auditor submits to the department evidence acceptable to the department that the auditor has made procedural changes to the manner in which the auditor conducts an audit and has successfully completed professional development training that will enable the auditor to comply with the requirements of this chapter and ss. 118.60 and 119.23, Stats.

PI 48.13 Fiscal and internal control practices.
(1) FINANCIAL ACCOUNTING SYSTEM. A school participating in the choice program shall use a double entry financial accounting system organized in a manner that enables preparation of the financial audit under ss. PI 48.09 and PI 48.10 and contains any other information necessary to fiscally manage the school. The accounting system shall identify all sources of funding a school uses in the school's operation. The accounting system shall identify all of the following if the school receives revenue from the specified source:
(a) Revenue from pupils participating in the choice program.

(b) Revenue from parents or other privately paid tuition pupils.
(c) Revenue from the school district in which the school is located for instruction of pupils enrolled in the school.
(d) Revenue from the school district in which the school is located for transportation of the school's pupils.
(e) Revenue from federal, state and local governments.

(2) CONTINUING SCHOOL BUDGET. A school that is not a first time participant shall complete all of the following:

(a) Annually by June 30, a budget for the following school year that contains all of the following:

1. Anticipated enrollments for all pupils enrolled in the school.
2. Anticipated enrollments for private school choice programs pupils.
3. Estimated total revenues and costs.
4. Estimated private school choice programs revenues and costs.
5. A schedule of anticipated beginning and ending net program assets.
6. Identification of the contingent funding sources the school will use should actual enrollments be less than expected.

(b) Annually by November 1, a revised budget containing the information required in par. (a) that reflects revenues resulting from the school's actual third Friday in September enrollment and related, required budget changes if the actual third Friday in September enrollment for all pupils or for choice program pupils varies by 20% or 20 pupils, whichever is less, from the anticipated enrollments the school used in the budget required under par. (a).

(3) EXPENSE PAYMENT. A school shall pay in full all of the following as required by the written agreement or, if there is no written agreement, within 90 days of the receipt of the invoice or payment request:

(a) Amounts owed to vendors.
(b) Reimbursements to employees and other persons for expenses incurred on behalf of the school. A school may only reimburse an employee or other person if the employee or other person submits receipts supporting the reimbursement to the school and the request for reimbursement is made within the time period specified in the school's written policy for reimbursement. The school shall retain a record of all reimbursements, including supporting receipts.

(4) EMPLOYEE COMPENSATION. A school shall have a written document stating employee's compensation and dates for payment. The school shall provide a copy of this document to the employee before the school makes the first payment required by the document. Any changes to the written document shall be in writing and provided to the employee before any change is effective.

(5) FINANCIAL INTERNAL CONTROL SYSTEM. A school shall have an adequate system of financial internal controls which requires a school to do all the following:

(a) Deposit all receipts and pay all disbursements from a depository account maintained solely for the school's purposes unless the operating organization's financial accounting system separately identifies the school's transactions and account balances. The depository account the school or its operating organization uses for school purposes shall be located in the state of Wisconsin.
(b) Maintain documentation as to the nature and source of all cash receipts.
(c) Use pre-numbered checks for all non-electronic school disbursements except those from a petty cash fund.
(d) Maintain invoices and payment requests supporting disbursements.
(e) Ensure that no checks or other withdrawals were denied due to insufficient funds.
(f) Authorize electronic fund transfers by the school in accordance with a policy established by the school.
(g) Reconcile the school's bank accounts on a monthly basis.
(h) Establish a policy indicating what expenses will be included in eligible education expenses and the methods that will be used to allocate any expenses that are related to eligible education expenses and other activities.

(6) GOVERNMENT AGENCY FILINGS AND PAYMENTS. A school shall be current with all of the following:

(a) Filing, payments, and withholdings payment requirements of the U.S. internal revenue service.

(b) Filing, payments, and withholdings payment requirements of the Wisconsin department of revenue.

(c) Filing and payment requirements of the Wisconsin department of workforce development.

(d) Filing and payment requirements of the Wisconsin department of financial institutions.

(e) Filing requirements of the Wisconsin department of safety and professional services.

(f) Auditing requirements of federal, state, and local government entities. The school shall submit to the department a copy of audit reports issued or revisions of such reports within 30 days of submission to the requiring government agency.

(7) LIABILITY INSURANCE. A school shall have insurance coverage provided by an insurance company licensed to do business in the state of Wisconsin or by a non-profit, tax exempt mutual protective organization covering risks of schools of, and controlled by, a religious denomination. All coverage shall be on an occurrence form or a claims made basis. A school's minimum insurance coverage shall be as follows:

(a) Worker's compensation insurance as specified in ch. 102, Stats.

(b) Commercial general liability insurance in the following amounts unless the coverage amounts are based on a written recommendation of a risk or insurance consultant.

1. For each occurrence, minimum coverage in the amount of $1,000,000.
2. Personal injury coverage of not less than $1,000,000.

(c) Umbrella excess liability insurance with an aggregate limit minimum coverage of $5,000,000, unless the coverage amount is based on a written recommendation of a risk or insurance consultant.

(d) Auto liability insurance with a combined single limit minimum coverage of $1,000,000 for each accident unless the coverage amount is based on a written recommendation of a risk or insurance consultant.

(e) Errors and omissions insurance for school management with an aggregate limit minimum coverage of $1,000,000 unless the coverage amount is based on a written recommendation of a risk or insurance consultant.

(f) Sexual misconduct liability insurance with an aggregate limit minimum coverage of $1,000,000 unless the coverage amount is based on a written recommendation of a risk or insurance consultant.

(8) SCHOOL BUS. If a school operates or contracts for the operation of school buses with an organization other than a Wisconsin school district, the school or the contracted operator shall have school bus insurance as required under s. 121.53, Stats., and complete the inspections required under s. TRANS 300.87. The school may not contract for the school bus operation with an organization other than a Wisconsin school district unless the operator has provided the school with a certificate of insurance meeting the requirements of s. 121.53, Stats., and has completed the inspection report required under s. TRANS 300.87.

(9) ALTERNATIVE VEHICLE PUPIL TRANSPORTATION. If a school is providing or contracting for pupil transportation in vehicles other than school buses as permitted by s. 121.555, Stats., the school shall determine that any motor vehicle so used complies with the conditions specified in s. 121.555, Stats.

(10) RISK MANAGEMENT AND INSURANCE EVALUATION. A school shall have a written risk management and insurance evaluation completed by a risk or insurance consultant at least once every 3 years.

(11) FIDELITY BOND. A school shall have a fidelity bond indemnifying the school against loss resulting from dishonesty, malfeasance, or neglect by owners, officers, and employees.

(12) EMPLOYEE EDUCATION. A school shall ensure all teachers, administrators, and teacher aides meet the requirements of ss. 118.60 (2) (a) 6. and 118.60 (7) (b) 3., Stats., and s. PI 48.16, unless a teacher or administrator is exempt under s. 118.60 (2) (c), Stats. If the department has granted a waiver to a teacher under s. 118.60 (2) (a) 6. c. or (2) (a) 6. d., Stats., the school shall ensure the teacher has submitted an updated waiver form to reflect any changes made to the five-year plan submitted to the department under s. PI 48.16 (3).

(13) MANAGEMENT LETTER REVIEW. An auditor shall review the management letter required under s. 118.60 (7) (am) 2m. a., Stats., and determine whether a school has properly remediated any concerns raised by the auditor in the letter. If the auditor determines a concern has not been properly remediated by the school, the auditor shall include the following in the report:

(a) The concern that has not been properly remediated.

(b) The action the school has taken to remediate the concern.

(c) The potential impact of not resolving the concern.

(d) Recommendations for resolving the concern.

(14) FISCAL AND INTERNAL CONTROL PRACTICES REPORT. A school shall engage an auditor to submit a report to the department by December 15 attesting to the school's compliance or non-compliance with the fiscal and internal control practices required in this section. The report shall meet all of the following requirements:

(a) The report shall be prepared in accordance with professional standards and identify the procedures agreed upon by the auditor and the department that were used in determining compliance or non-compliance. In making such a determination, the auditor shall not rely on oral or written representations of the school's management or staff.

(b) If the auditor determines that the school has not complied with the fiscal and internal control practices required in this section, the report shall include a letter from the school describing the reasons for noncompliance and the corrective action the school is taking.

Note: The Fiscal and Internal Control Practices Report may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

PI 48.14 First time participant financial requirements.

(1) NEW PRIVATE SCHOOL AUGUST 1 BUDGET. By August 1 of the school year immediately preceding the first school year in which a new private school intends to participate in the private school choice programs, a new private school shall participate in a fiscal management training program approved by the department and submit to the department the budget and related documents specified under sub. (3).

(2) FIRST TIME PARTICIPANT MAY 1 REQUIREMENTS. By May 1 of the school year immediately preceding the first school year in which a first time participant school intends to participate in the private school choice programs, a first time participant school shall participate in a fiscal management training program approved by the department and submit to the department the budget and related documents specified under sub. (3).

(3) BUDGET AND RELATED DOCUMENTS REQUIREMENTS. The budget and related documents submitted under subs. (1) and (2) shall include all of the following:

(a) A budget and cash flow report, on a form provided by the department, for the ensuing school year that contains all of the following:

a. Anticipated enrollments for all pupils enrolled in the school.

b. Anticipated enrollments for private school choice program pupils.

c. Estimated total revenues and costs.

d. Estimated private school choice programs revenues and costs.

e. A schedule of anticipated beginning and ending net program assets.

f. A schedule of monthly cash flows.

(b) The contingent funding sources the school will use if actual enrollments are less than expected and evidence of the availability of the funding sources.

(c) Examples of each type of written document used to satisfy the requirements under s. PI 48.13 (4).

(d) A statement of whether the school has any past due amounts, interest, or penalties due to the U.S. internal revenue service, the Wisconsin department of workforce development, or the Wisconsin department of revenue. An amount must be disclosed even if it is in dispute. If a school has past due amounts, interest, or penalties due to a government entity, the school shall do all of the following:
a. Disclose to the department the outstanding amount owed.
b. Submit to the department statements or other correspondence from the government entity stating the amount the government entity claims is due, the amount in dispute, and nature of the amount due.
(e) A schedule of the pay dates for the school.
(4) THIRD PARTY PAYROLL PROVIDER. By August 1 of the first school year in which a new private school intends to participate in the private school choice program, a new private school shall submit to the department an executed contract with a third-party payroll service showing that the payroll service will remit federal and state payroll taxes for each employee of the school.
(5) FIRST TIME PARTICIPANT UPDATED BUDGET. By November 1 of a first time participant's first year of participation, a first time participant school shall revise and submit to the department the information required in sub. (3) (a) to reflect the school's actual third Friday in September enrollments and any related changes in revenues, costs, and monthly cash flow requirements.

Note: A Budget and Cash Flow Report form may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

PI 48.15 Lack of financial viability and going concern determinations.
(1) INDICATORS. Any of the following shall be indicators that a school does not have the ability to continue as a going concern or does not meet the requirements of s. 118.60 (7) (am) 2m. b. or 118.60 (7) (d) 2., Stats., because it is not financially viable:
(a) The budget and statement of cash flows required under s. PI 48.13 (2) or PI 48.14 show the school has inadequate revenues and other financial resources to fund current operations, has negative cash flows, has a negative net asset balance or has a net operating loss.
(b) The audit opinion statement included in the financial audit contains a qualification as to the school's ability to continue as a going concern.
(c) The school failed to make payments as required under s. PI 48.13 (3) or (4).
(d)The school failed to be current with filings, payments or withholdings payments required under s. PI 48.13 (6).
(e) The audit reports required under s. PI 48.13 (6) (f) contain questioned costs or compliance findings that may affect the school's ability to continue.
(f) The school has a negative net asset balance in its financial audit.
(g) The school has a negative net current obligation in its financial audit. The net current obligation shall be calculated as the current assets less the current liabilities.
(h) The school has a net loss in its financial audit.
(2) INFORMATION TO BE SUBMITTED. A school shall submit to the department any information the department requires to determine the ability of the school to continue financially, including an audit of the financial statements of the school's legal operating organization. The audit shall be conducted in accordance with generally accepted accounting principles. The school shall provide the department authority to speak directly to the U.S. internal revenue service, the Wisconsin department of revenue or the Wisconsin department of workforce development to determine the school's compliance with the requirements under PI 48.13 (6).

(3) NOTIFICATION OF FINANCIAL IMPAIRMENTS. The school shall promptly notify the department in writing of impairments in the school's ability to finance its operations.
(4) NOTIFICATION OF CEASING OPERATIONS. A school participating in the choice program shall notify the department immediately of a decision to cease educational program operations.
(5) TRAINING. Upon the request of the department, a school that has one or more of the indicators in sub. (1) shall attend a fiscal management training approved by the department.
(6) FINANCIAL VIABILITY REVIEW AND SURETY BOND REQUIREMENT.
(a) The state superintendent shall review information submitted under s. 118.60, Stats., and this chapter and determine whether a school is financially viable.
(b) If the state superintendent determines that a school is not financially viable, the state superintendent may require a school to immediately obtain a surety bond. The surety bond shall be made payable to the State of Wisconsin. The purpose of the bond shall be to protect the department and the taxpayers of Wisconsin against loss in the event of any of the following:
1. The school fails to timely file the reports required under s. PI 48.07 (1) or s. 118.60 (7) (am) 2m. a., Stats.
2. The school fails to timely refund any amount certified due from the school under s. PI 48.07 (4).
3. The school fails to timely repay the reserve balance under s. PI 48.10.
(c) The amount of the bond required under par. (b) shall be equal to 25% of the total current school year payment amount as determined under s. 118.60 (4) and (4m), Stats.
(d) The bond shall remain in force until all of the following occur:
1. The school has a positive net asset balance for two consecutive school years, as indicated in the school's financial audit. The net asset balance used for this determination may only include pledge receivables or other receivables for which the school receives cash payments within one year of the date pledged or within one year of the date the amount is included as a receivable.
2. The school has a positive net current obligation for two consecutive school years, as shown by the school's financial audit. The net current obligation shall be calculated as the current assets less the current liabilities. The asset balance used for this determination may only include pledge receivables or other receivables for which the school received cash payments within one year of the date pledged or within one year of the date the amount is included as a receivable.
3. The school has net income for two consecutive school years, as indicated in the school's financial audit. The net income used for this determination may only include revenue for which the school receives cash payments within one year of the date pledged or within one year of the date the school includes the amount as revenue.
4. The school pays all amounts owed to the U.S. internal revenue service, Wisconsin department of revenue, and Wisconsin department of workforce development on a timely basis for two consecutive years, including full payment of any wage claims and past due amounts, interest and penalties. The school shall submit to the department a letter from each of these entities indicating compliance with this requirement and provide the department the authority necessary to speak directly to these agencies to confirm compliance.
5. The school has paid all vendors and employees as required by s. PI 48.13 (3) and (4) for two consecutive years.
6. The school's financial audit does not contain a qualified audit opinion or an expression of the auditor's doubt as to the school's ability to continue as a going concern for two consecutive years.
7. If the school's financial audit does not include all revenues, expenditures, assets, and liabilities of the legal operating organization of the school, the school shall submit to the department financial statements for the school's legal operating organization prepared in accordance with generally accepted accounting principles that do not contain a qualified audit opinion or an expression of the auditor's doubt as to the organization's ability to continue as a going concern. The financial statements shall be two-year comparative financial statements that include the audit of the full-year financial information for the school years in which the requirements in subds. 1. to 6. are satisfied.

(e) If the school is unable to complete the requirements in par. (d) within 5 years from the date the department initially requires a surety bond or if the school's financial position worsens, the department may terminate the school from the program.
(f) Upon the request of the department, a school that is required to provide a surety bond under par. (b) shall do all of the following:
1. Attend fiscal management trainings.
2. Submit to the department budget and cash flow reports and turnaround plans as prescribed by the department.

PI 48.16 Administrator, teacher and teacher aide requirements.
(1) DEFINITIONS. In this section:
(a) "Accredited institution of higher education" means an institution that is listed on the U.S. Department of Education Database of Accredited Postsecondary Institutions and Programs.
(b) "Administrator" has the meaning given in s. 118.60 (1) (ad), Stats.
(c) "Teacher" has the meaning given in s. 118.60 (1) (g), Stats.
(d) "Teacher aide" means any individual serving in the classroom who is not a teacher.
(2) ADMINISTRATOR AND TEACHER REQUIREMENTS. Except as provided under s. 118.60 (2) (c), Stats., all administrators and teachers at a school shall comply with the requirements under s. 118.60 (2) (a) 6., Stats., whether they are a paid employee, substitute, independent contractor or uncompensated volunteer.
(3) TEACHER AIDE REQUIREMENTS. All teacher aides at the school shall comply with the requirements under s. 118.60 (7) (b) 3., Stats., whether they are a paid employee, substitute, independent contractor or uncompensated volunteer.
(4) FOREIGN DEGREE TRANSCRIPT EVALUATION. If an individual requires a bachelor's degree under s. 118.60 (2) (a) 6., Stats., and has a degree or educational credential from a foreign institution, the individual shall have the degree or educational credential, transcripts, and pattern of training evaluated by one of the following professional evaluation services to determine if the degree or credential is equivalent to a bachelor's degree from an accredited institution of higher education in the United States:
(a) Educational Credential Evaluators, Inc.
(b) Academic and Credential Records Evaluation and Verification Service.
(c) American Association of Collegiate Registrars and Admissions Officers.
(d) Any other organization members of the National Association of Credential Evaluation Services or the Association of International Credentials Evaluators.
(5) REQUIRED DOCUMENTATION. A school shall obtain and retain all of the following documentation that each administrator, teacher, and teacher aide has the credentials required under ss. 118.60 (2) (a) 6. a. and (7) (b) 3., Stats.,:
(a) A copy of the degree or diploma or an official transcript that states the month and year the degree was earned.
(b) If the administrator, teacher, or teacher aide has a degree or educational credential from a foreign institution, the school shall obtain a copy of the evaluation report required under sub. (4) and ensure it indicates the individual has the equivalent of a bachelor's degree from an accredited institution of higher education in the United States.
(6) TEACHER WAVIER UPDATES. The teacher waiver update form required under ss. 118.60 (2) (a) 6. c. and (2) (a) 6. d., Stats., shall be updated annually and submitted to the department by October 15.
(7) REVOKED TEACHER WAIVER. If the department determines the information provided in the application for a teacher waiver or in the teacher waiver update form under s. 118.60 (2) (a) 6. c. or 118.60 (2) (a) 6. d., Stats., is false, the department shall revoke the waiver.

Note: The Racine or Wisconsin parental choice program Teacher Waiver Update form, may be obtained at no charge from the Wisconsin department of public instruction's webpage at http://dpi.wi.gov/sms/choice-programs.

PI 48.17 Auditor fee.
(1) Annually by October 1, the department shall determine the amount of the nonrefundable fee a school shall pay to the department under s. 118.60 (2) (a) 3., Stats. The department shall calculate the amount of the auditor fee by dividing the cost of the auditor position and unfunded prior year auditor costs, as determined by the department, by the number of schools that are required to submit the information under s. PI 48.06 (8).
(2) Except as provided under sub. (3), a school shall pay the auditor fee payment with a cashier's check by January 10 of the year prior to the school year in which the school participates in the private school choice programs.
(3) A new private school shall pay the auditor fee payment with a cashier's check by August 1 of the school year immediately preceding the school year in which the new private school intends to participate in the private school choice programs.

PI 48.18 Income limit calculation. Annually by December 1, the state superintendent shall calculate the income and tuition limits for pupil participation in the program for the next school year as follows:
(1) Multiply the most recent federal poverty level available from the federal office of management and budget by 1.85 for the Wisconsin parental choice program and by 3.00 for the Racine parental choice program to determine the income limit for pupils participating in each program in the next school year.
(2) Multiply the most recent federal poverty level available from the federal office of management and budget by 2.20 to determine the income limit above which a school may charge tuition to choice pupils who are in grades 9 to 12.

PI 48.19 State aid payment calculation. The state superintendent shall make the payments under ss. 118.60 (4) and (4m), Stats., to schools as follows:
(1) SEPTEMBER PAYMENT. The state superintendent shall calculate the September payment as the full-time equivalent for the choice programs pupils multiplied by the per pupil payment amount determined under s. 118.60 (4), Stats., multiplied by 25%. The full-time equivalent for the choice program pupils at the school as of September 1 shall be based on the report submitted under s. PI 48.06 (7). The state superintendent may not make a September payment to a school that has ceased instruction prior to the payment date.
(2) NOVEMBER PAYMENT. The department shall calculate the November payment as the full-time equivalent for the choice programs pupils multiplied by the per pupil payment amount determined under s. 118.60 (4), Stats., multiplied by 50% less the September payment received for the pupil. The full-time equivalent for the choice programs pupils shall be based on the choice pupils reported by October 1 in the school's pupil count report required under s. PI 48.06 (8) unless a pupil is determined ineligible by the department. The November payment shall include any payments due to the school for summer school instruction of choice program pupils in the immediately preceding summer as indicated in the report submitted under s. 118.60 (4) (a), Stats., unless otherwise determined ineligible by the department. The department may not make a November payment to a school that has ceased instruction prior to the payment date.
(3) FEBRUARY PAYMENT. The department shall calculate the February payment as the full-time equivalent for the choice programs pupils multiplied by the per pupil payment amount determined under s. 118.60 (4), Stats., multiplied by 25%. The full-time equivalent for the choice programs pupils shall be based on the choice program pupils reported in the school's pupil count report required by February 1 under s. PI 48.06 (8) unless a pupil is determined ineligible by the department. The department may not make a February payment to a school that has ceased instruction prior to the payment date.

(4) MAY PAYMENT. The department shall calculate the May payment as the full-time equivalent for the choice programs pupils multiplied by the per pupil payment amount determined under s. 118.60 (4), Stats., multiplied by 25%. The full-time equivalent for the choice programs pupils shall be based on the choice program pupils reported in the school's pupil count report required by February 1 under s. PI 48.06 (8) unless a pupil is determined ineligible by the department. The department may not make a May payment to a school that has ceased instruction prior to the end of its scheduled school term.

PI 48.20 Department authority.
(1) INQUIRIES. Except as provided under s. 118.60, Stats., the department may make inquiries to ascertain the accuracy and completeness of information contained in audits or reports required under s. 118.60, Stats., or this chapter. Schools and auditors shall promptly respond to inquiries made by the department.
(2) TRAINING. The department may provide training to school staff and auditors. The department may charge a reasonable fee for providing training under this subsection.
(3) DISQUALIFIED PERSON. The department may disqualify a person under s. 118.60 (1) (ag), Stats., whether the individual is compensated or uncompensated.
(4) PUPIL CONFIDENTIALITY. The department shall maintain pupil confidentiality at all times.

PI 48.21 Request for a hearing on department action.
(1) WHO MAY REQUEST. A person or school adversely affected by an action of the department under this chapter may request a contested case hearing on that action. A request for a contested case hearing shall be filed with the office of legal services within 14 days of the date of the department's action.

Note: See s. 227.42, Stats. A request for a contested case hearing may be filed with the office of legal services at the following address:

Office of Legal Services
Wisconsin Department of Public Instruction
125 S. Webster St.
PO Box 7841
Madison, WI 53707-7841

(2) REQUEST FORM.
(a) A request for a contested case hearing under sub. (1) shall be in writing and shall describe all of the following:
1. The department action on which a hearing is requested.
2. The requester's substantial interest claimed to be adversely affected.
3. How the department's action adversely affected the requester's substantial interest.
4. The grounds for the hearing request, including each of the specific material facts or legal issues that are in dispute. Any material fact or legal issue that is not disputed shall be deemed admitted.
5. The relief sought.
(b) Upon the request of the department, the person or school who filed a request for a hearing under sub. (1) shall provide the department with any additional clarifying information the department determines is necessary to decide whether to grant or deny a hearing request.
(3) GRANTING OR DENYING REQUEST.
(a) The department shall grant or deny a request for a contested case hearing under sub. (1) within 20 days after a request is filed, unless the person or school requesting the hearing agrees to an extension of time. The department

may grant a request for a contested case hearing if, upon preliminary review, it appears that all of the following apply:
1. The department has jurisdiction over the matter.
2. The request for a hearing complies with the requirements under subs. (1) and (2).
3. The requestor is entitled to a hearing under s. 227.42, Stats.
(b) Any action taken by the department which is contested under sub. (1) shall remain in effect until the state superintendent issues a final decision and order under s. 227.47, Stats.

SECTION 2. EFFECTIVE DATE:

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided under s. 227.22(2) (intro.), Stats.

Dated this _____ day of _____, 2016

_____
Tony Evers, PhD
State Superintendent