

1987 Senate Bill 332

Date of enactment: April 23, 1988  
Date of publication: May 2, 1988

## 1987 Wisconsin Act 386

AN ACT to amend 119.04 (1); and to create 120.125 of the statutes, relating to day care in schools.

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

SECTION 1. 119.04 (1) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.03 (3) (c), 115.01 (1) and (2), 115.28 (15), 115.34, 115.343, 115.345, 118.01 to 118.04, 118.06, 118.07, 118.10, 118.12, 118.125 to 118.14, 118.15, 118.153, 118.16, 118.18, 118.19 (3) (b) and (7), 118.20, 118.24 (2) (c) to (f), 118.255, 118.30 to 118.35, 120.12 (15) and (17), 120.125 and 120.13 (1), (2) (b) to (f), (14), (17) to (19) and (26) are applicable to a 1st class city school district and board.

SECTION 2. 120.125 of the statutes is created to read:

**120.125 Before- and after-school day care.** (1) In this section, "before- and after-school day care program" means a program which provides day care services before school, after school or both before and after school.

(2) (a) A school board shall permit a day care provider who has submitted a request which meets all of the requirements under sub. (3) to administer a before- and after-school day care program in any elementary school within the school district unless:

1. There is a limitation of reasonably available space within the elementary school;
2. The school board has previously accepted a request which was submitted under this subsection;
3. Before- and after-school day care programs exist in the elementary school;
4. The school board intends to provide before- and after-school day care services in the elementary school;
5. The requirements under sub. (3) have not been met; or
6. Paragraph (b) applies.

(b) The school board may deny a request under par. (a) 6 if the school board intends to solicit day care providers to submit requests to provide before- and after-school day care programs in the elementary school for which a request under par. (a) was submitted. If a school board denies a request under this paragraph, the request submitted under par. (a) shall be

considered along with requests that are submitted as a result of the school board solicitation.

(c) If a school board denies a request under par. (a) or (b), the school board shall specify the reasons for denial, in writing, to the day care provider within 60 days after the date on which the request is received.

(3) (a) A request submitted to a school board under sub. (2) shall be in writing, name the elementary school in which the before- and after-school day care program is to be provided and shall specify the amount of space needed, the number and ages of the pupils to be served and the time the provider intends to operate the program. The request shall also contain all of the following assurances:

1. That the day care provider will be responsible for all actual incremental costs incurred by the school as a result of permitting the day care provider to provide a before- and after-school day care program in the school building.

2. That the day care provider will be liable to the school district for any damage to property in the operation of the before and after school day care program, that the day care provider shall hold the school district harmless from any liability, claim or damages caused by the acts or omissions of the day care provider, and that the day care provider will acquire adequate insurance coverage, as determined by the school district.

3. That the day care provider will not provide religious instruction or permit religious practices to be conducted during the before- and after-school day care program.

(b) A school board shall conditionally grant a request submitted by a day care provider if all the requirements under par. (a) are met and sub. (2) (a) 1 to 6 and (b) does not apply.

(4) If a request under sub. (3) is conditionally accepted by the school board, the school board shall enter into a written agreement with the day care provider that specifies the hours during the day in which the day care provider is to occupy the school premises and the rooms, facilities or equipment that are to be used by the day care provider. The agreement shall also provide all of the following:

(a) That the school board is not responsible for providing transportation to or from the before- and after-school day care program.

(b) That nothing in the agreement would prohibit the school board from permitting other day care providers to provide day care services to pupils in the same building during the same time and that nothing in the agreement would prohibit the school district from providing before- and after-school day care programs in the same building and during the same time in which the day care provider provides before- and after-school day care programs.

(c) That the agreement may be terminated by the school board at the end of a school year if the school board intends to provide day care for the pupils in the elementary school or intends to solicit other day care providers to provide services during the following school year.

(d) That the school board may review and terminate the agreement at any time, with 30 days' prior written notice to the day care provider, if any of the conditions in the agreement are violated by the day care provider.

(e) That the day care provider shall be responsible for all actual costs incurred by the school district as a result of the agreement, the costs of which shall be

paid to the school district at times specified by the school board in the agreement.

(f) That the day care provider shall be liable to the school district for any damage to property in the operation of the before- and after-school day care program, that the day care provider shall hold the school district harmless from any liability, claim or damages caused by the acts or omissions of the day care provider, and that the day care provider shall acquire adequate insurance, as determined by the school district, to be in effect beginning the first day on which the day care provider provides the before- and after-school day care program.

(g) That the day care provider shall not provide religious instruction or permit religious practices to be conducted during the before- and after-school day care program.

(h) That the day care provider shall meet the standards for licensed day care centers established by the department of health and social services.

**SECTION 3. Initial applicability.** This act applies to school day care programs on and after the first day of the 1987-88 school year.

---