

Chapter PI 35

MILWAUKEE PARENTAL CHOICE PROGRAM

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Note: Chapter PI 35 was created as an emergency rule effective September 20, 1991.

PI 35.01 Purpose. Under s. 119.23 (2) (a), Stats., any qualified pupil in grades kindergarten to 12 who resides within a city may attend, at no charge, any participating private school located in the city. Participation in the Milwaukee parental choice program is limited to 15% of the school district's membership as specified under s. 119.23 (2) (b), Stats. This chapter establishes approval criteria and requirements for private schools participating in the Milwaukee parental choice program and requirements for receipt of state aid for those private schools under s. 119.23 (4), Stats.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; am. Register, July, 1994, No. 463, eff. 8-1-94; emerg. am. eff. 8-5-98; am. Register, February, 1999, No. 518, eff. 3-1-99; emerg. am. eff. 1-28-02; **CR02-023; am. Register August 2002 No. 560, eff. 9-1-02.**

PI 35.02 Definitions. Except as specified in s. PI 35.043 (1) (b) and (c), in this chapter:

(1) "Accrual basis" means revenues are recorded when earned and expenditures are recorded as soon as they result in liabilities for benefits received, notwithstanding that the receipt of the revenue or the payment of the expenditure may take place, in whole or in part, in another accounting period.

(2) "Auditor" means a person licensed as a certified public accountant by the accounting examining board under ch. 442, Stats.

(2m) "Average attendance rate" means the rate obtained by dividing the aggregate number of full-time equivalent days of actual pupils' attendance, by the aggregate number of full-time equivalent days on which school was held.

(3) "Board" means the board of directors in charge of the schools of a school district of a city of the 1st class.

(4) "Capital outlay" means expenditures for items having a useful life greater than one year.

(5) "City" means a city of the 1st class.

(6) "Credit" means the credit given 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 private school.

(7) "Department" means the Wisconsin department of public instruction.

(8) (a) "Enrollment" or "pupils enrolled" means the total number of pupils, as expressed by official enrollments, except as provided in pars. (b) to (d). If such total contains a fraction, it shall be expressed as the nearest whole number.

(b) A first grade pupil may be counted only if the pupil attains the age required under s. 118.14, Stats., for first grade admission.

(c) 1. A pupil enrolled in kindergarten may be counted only if the pupil attains the age required under s. 118.14, Stats., for kindergarten admission. A kindergarten pupil shall be counted as one-half pupil except that:

a. 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 counted as one pupil.

b. A pupil enrolled in a 5-year-old kindergarten program requiring full-day attendance for less than 5 days a week for an entire school year shall be counted as the result obtained by multiplying the number of hours in each day in which the pupil is enrolled, and dividing the result by the product of the number of hours of attendance per day required of first grade pupils in the school district operating under ch. 119, Stats., multiplied by 180.

2. In subd. 1. a. and b., "full-day" means the length of the school day required of first grade pupils in the school district operating the 5-year-old kindergarten program under ch. 119, Stats.

(d) 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) 2., Stats., shall be counted as a 0.6 pupil if the program annually provides at least 87.5 additional hours of outreach activities.

(9) "Fiscal period" means the school year as defined under s. 115.001 (13), Stats.

(10) "Grade equivalent" means the scaled score determined by a test publisher which corresponds to a pupil's raw score on a standardized achievement test.

(11) "Membership" means the sum of the average number of pupils enrolled in the Milwaukee parental choice program as reported under s. PI 35.04 (6) (a) and the summer average daily membership equivalent as defined under s. PI 35.043 (1) (c).

(12) "Milwaukee parental choice program" or "choice program" means the program established under s. 119.23, Stats.

(13) "Offsetting revenue" means revenues that reduce school expenditures used for per pupil cost computations.

(14) "Parent" means a pupil's parent or guardian.

(15) "Private school" has the meaning given in s. 118.165, Stats.

(17) "Reasonable fees" means the fee charged does not exceed the actual cost to the private school of the materials supplied to pupils or activities engaged in by pupils.

(18) "School district" means a school district operating under ch. 119, Stats.

(19) "School term" has the meaning defined under s. 115.001 (12), Stats.

(20) "School year" means the period commencing with July 1 and ending with the next succeeding June 30.

(21) "Significant academic progress" means both of the following:

(a) The pupil demonstrates improvement in reading and mathematics in comparison to his or her performance level in the previous school year.

(b) The pupil demonstrates satisfactory performance on at least 50% of any new instructional concepts in reading and mathematics introduced during each of the current school year semesters, and the level of attainment is documented in a written record of performance at beginning, mid-point and ending of each semester.

(22) "Standardized achievement test" means a published, nationally normed test which provides a valid and reliable mea-

sure of a pupil's present achievement level in comparison with age or grade level cohorts.

(23) "State superintendent" means the state superintendent of public instruction.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; r. (6) (b), renum. (6) (c) and (d) to be (6) (b) and (c), Register, July, 1994, No. 463, eff. 8-1-94; correction in (6) (b) made under s. 13.93 (2m) (b) 6., Stats., Register, March, 1996, No. 483; cr. (12m), Register, May, 1996, No. 485, eff. 6-1-96; emerg. r. (2), (6) and (8), renum. (1), (3), (4), (5), (7), (9), (10) to (13) and (14) to (17) to be (3), (5), (6), (7), (10), (13), (14) to (18) and (20) to (23), cr. (1), (2), (4), (8), (9), (11), (12) and (19), eff. 8-5-98; r. (2), (6) and (8), renum. (1), (3), (4), (5), (7), (9), (10) to (13) and (14) to (17) to be (3), (5), (6), (7), (10), (13), (14) to (18) and (20) to (23), cr. (1), (2), (4), (8), (9), (11), (12) and (19), Register, February, 1999, No. 518, eff. 3-1-99; emerg. am. (8) and (11), eff. 1-4-00; am. (8) and (11), Register, July, 2000, No. 535, eff. 8-1-00; emerg. am. (8), (11) and (16), renum. (12) to (14) to be (13) to (15), r. (5), cr. (12), eff. 1-28-02; **CR02-023; am. (8) and (11) r. (15), renum. (12) to (14) to be (13) to (15) and (16) to be (2m) to be, cr. (12); Register August 2002 No. 560, eff. 9-1-02.**

PI 35.025 Pupil assignment council requirements.

The pupil assignment council created under s. 119.23 (8), Stats., shall meet annually by April 15 to designate a date by which all private schools in the choice program must have at least one open enrollment period for choice program applicants for the school year beginning the following September. The pupil assignment council shall also recommend to the state superintendent a method for ensuring that pupils will be accepted on a random basis.

History: Emerg. cr. eff. 8-5-98; cr. Register, February, 1999, No. 518, eff. 3-1-99; emerg. am. eff. 1-4-00; am. Register, July, 2000, No. 535, eff. 8-1-00; emerg. am. eff. 1-28-02; **CR02-023; am. Register August 2002 No. 560, eff. 9-1-02.**

PI 35.03 Private school requirements. (1) NOTICE OF INTENT TO PARTICIPATE. By February 1 each year a private school which intends to participate in the Milwaukee parental choice program the following school year shall submit to the state superintendent a notice of intent to participate. The notice of intent shall include all of the following:

(a) The private school's method for ensuring that, except for continuing pupils in the choice program at that private school and their siblings, pupils will be accepted on a random selection basis from a new pool of applicants each school year. Waiting lists from previous school years may not be carried over and used from one year to the next.

(b) The private school's agreement to adhere to the procedural requirements in sub. (2).

(c) The number of pupils participating in the choice program for which the private school has space.

Note: The Notice of School's Intent to Participate Form may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

(d) The open application periods during which the private school will accept Milwaukee parental choice program pupil applications.

(2) PROCEDURAL REQUIREMENTS. A private school that participates in the Milwaukee parental choice program shall do all of the following:

(a) Submit to the department by June 30 each school year information demonstrating compliance with s. 119.23 (7) (a), Stats.

(b) Appoint a representative to the pupil assignment council under s. 119.23 (8), Stats.

(c) Pay all costs incurred in the administration, scoring and reporting of results of the academic achievement tests if used to meet the requirement under s. 119.23 (7) (a) 3., Stats.

(d) Ensure that test security is maintained for all academic achievement tests administered under par. (c).

(e) Meet all of the requirements specified under ss. PI 35.03, 35.04, 35.043, 35.045 and 35.046.

(3) HEALTH AND SAFETY REQUIREMENTS. The administrator of a school in the Milwaukee parental choice program shall ensure that the school is meeting the requirements of s. 119.23 (2), Stats., regarding health and safety laws and codes for schools by filing with the department a copy of the private school's current certifi-

cate of occupancy issued by the city of Milwaukee. The administrator shall submit the certificate of occupancy under this subsection to the department no later than August 1 prior to the first school year of participation in the choice program, or by no later than May 1 if the school is beginning participation in the choice program with summer school. The administrator shall file subsequent certificates of occupancy as issued by the city of Milwaukee. An administrator that files a copy of a temporary certificate of occupancy issued by the city of Milwaukee will not meet the requirements of this subsection. A private school that fails to meet the requirements of this subsection may not participate in the choice program.

(5) CONTINUING ELIGIBILITY. (a) A private school participating in the Milwaukee parental choice program shall submit a report to the department by October 15 each school year indicating the criteria to be used in meeting the continuing eligibility standards specified under s. 119.23 (7) (a), Stats.

(b) A private school participating in the Milwaukee parental choice program shall submit a report to the department by June 30 each school year providing evidence that the school has in that school year met one of the following criteria:

1. At least 70% of the pupils in the Milwaukee parental choice program at least advance one grade level each year. For pupils attending a Milwaukee parental choice program in grades 9 through 12, "advance one grade level" means a successful completion of at least 4 credits or the equivalent as approved by the state superintendent during each school year. For pupils attending a Milwaukee parental choice program in grades kindergarten through 8, each participating private school shall ensure that each pupil in the choice program who is 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 which are introduced during each semester of the current school year. Under this subparagraph, a private school shall do all of the following: establish written objectives and performance standards for reading, mathematics and language arts for each grade level in which pupils are enrolled in the Milwaukee parental choice program; 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 3 years.

b. Achievement of at least .08 grade equivalent increase for each month between the spring or fall and spring administration of the standardized achievement test. Under this subparagraph, a private school shall do all of the following: report, by October 15, to the state superintendent 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 3 years.

2. The private school's average attendance rate for pupils in the Milwaukee parental choice program is at least 90%.

3. At least 80% of the pupils in the Milwaukee parental choice program demonstrate significant academic progress.

4. At least 70% of the families of pupils in the Milwaukee parental choice program meet parental involvement criteria established by the private school.

(6) FEES. (a) A private school participating in the Milwaukee parental choice program may only charge pupils participating under the program fees that may be charged by public schools to indigent pupils. A private school under this subsection may charge reasonable fees for the following:

1. Personal use items, such as towels, gym clothes, or uniforms.

2. Social and extra-curricular activities if not necessary to the private school's curriculum.

(b) A private school under this subsection may not charge fees for any of the following:

1. Instruction, registration or tuition.
2. Books.
3. Teacher salary.
4. Buildings, maintenance or equipment.
5. Courses credited for graduation.
6. Computers or microfilm readers.
7. Transportation required under s. 121.54 (8), Stats.

(c) A private school may not prohibit an eligible pupil from attending the private school, expel or otherwise discipline the pupil, or withhold or reduce the pupil's grades because the pupil or the pupil's family cannot pay or has not paid fees charged under par. (a).

Note: All pupils participating under the Milwaukee parental choice program are indigent by definition under s. 119.23 (2) (a) 1., Stats., since the program is targeted exclusively to low-income pupils whose total family income does not exceed an amount equal to 1.75 times the poverty level. One available remedy for collecting a valid nonpaid fee is small claims court.

(d) A school may not impose any sanctions on a parent or pupil participating in the program for failure to engage in fund raising.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; am. (1) (intro.) and (3) (b), Register, July, 1994, No. 463, eff. 8-1-94; am. (1) (a), cr. (6), Register, May, 1996, No. 485, eff. 6-1-96; emerg. am. (1) (a), r. and recr. (1) (c) and (2), r. (3) and (4), eff. 8-5-98; am. (1) (a), r. and recr. (1) (c) and (2), r. (3) and (4), Register, February, 1999, No. 518, eff. 3-1-99; emerg. am. (1) (a) and (2) (e), cr. (3), renum. (5) (intro.) to be (5) (a) and am., eff. 1-4-00; am. (1) (a) and (2) (e), cr. (3), renum. (5) (intro.) to (d) to be (5) (a) and (b) and am., Register, July, 2000, No. 535, eff. 8-1-00; emerg. am. (1) (intro.), (c), (2) (intro.), (3), (5), (6) (a) (intro.), cr. (1) (d), eff. 1-28-02; **CR02-023: am. (1) (intro.), (c), (2) (intro.), (3), (5), (6) (a) (intro.), cr. (1) (d); Register August 2002 No. 560, eff. 9-1-02.**

PI 35.04 School year enrollment. (1) A private school that participates in the Milwaukee parental choice program shall accept pupils on a random basis in accordance with the method submitted under s. PI 35.03 (1) (a) and approved under s. PI 35.05 (5). A private school may give preference to siblings of pupils already enrolled in or accepted into the choice program at that private school.

(2) A private school under this section shall select which of the open application periods listed on the notice of intent to participate form during which it will accept Milwaukee parental choice program pupil applications. A private school may not amend, after February 1, the open application periods selected on its notice of intent to participate form for the following school year.

(3) A private school under this section may not accept pupil applications until the school has met both of the following:

(a) The private school has submitted its notice of intent to participate form for the following school year to the department under s. PI 35.03 (1).

(b) The private school has received the department's approval under s. PI 35.05 (5) of the school's plan for randomly selecting children into the program.

(4) A private school under this section shall notify each applicant and the applicant's parent or guardian of acceptance or non-acceptance, in writing, within 60 days after receiving the application. The private school shall retain all notices given under this section and all original applications, both accepted and non-accepted, submitted under this chapter. The private school shall submit, with the continuing eligibility report under s. PI 35.03 (5) (b), the number of accepted and nonaccepted applications for the choice program for that school year.

(4m) Annually, by August 1, a private school under this section shall submit to the department a copy of the accepted pupil applications it received from February through July. The private school shall ensure the submitted pupil applications are complete, accurate and signed by the parent or guardian and the school administrator or his or her designee as proof of enrollment required under s. 119.23 (4), Stats.

(5) Annually, by September 1, a private school under this section shall do all of the following:

(a) Submit to the department a copy of the accepted applications it received during August. The private school shall ensure

the submitted applications are complete, accurate and signed by the parent or guardian and the school administrator or his or her designee as proof of enrollment required under s. 119.23 (4), Stats.

(b) Submit a class list of the choice program pupils, alphabetically by last name, and separated by grade level, that corresponds to the accepted applications submitted under sub. (4m) and par. (a).

(6) A private school under this section shall do all of the following:

(a) Annually by October 1 and February 1, submit to the department a membership report of the total number of pupils enrolled in the private school and the number of pupils enrolled in the Milwaukee parental choice program on the 3rd Friday of September and the 2nd Friday of January of the current school year. The membership report form shall be provided by the department.

(b) Submit to the department with the membership report under par. (a), a class list of the choice program pupils, alphabetically by last name, and separated by grade level. The class list shall correspond to the membership report under par. (a).

(c) Submit to the department with the membership report under par. (a), copies of any accepted applications for pupils included in the class list under par. (b) that were not previously reported under subs. (4m) and (5) (a). The private school shall ensure that the applications submitted under this paragraph are complete, accurate and signed by the parent or guardian and the school administrator or his or her designee as proof of enrollment required under s. 119.23 (4), Stats.

(7) (a) A private school may include a pupil on its membership report under sub. (6) (a) only if one of the following occurs:

1. The pupil is in attendance for instruction on the date specified.

2. The pupil is absent on the date specified but has attended for instruction at least one day during the school term prior to the date specified and attends for instruction at least one day after the date specified and has not enrolled in another private school or in a Wisconsin public school district during the period of absence.

(b) If a pupil who is eligible to be included in the official enrollment under par. (a) 2. returns following the filing of the membership report, an amended report shall be filed with the department.

Note: The pupil count report may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

(8) A private school under this section shall return to the department any checks received under s. 119.23 (4), Stats., for pupils that did not meet the requirements under sub. (7) (a) or that are not cashed within 45 days of their receipt at the school.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; emerg. r. and recr. eff. 8-5-98; r. and recr. Register, February, 1999, No. 518, eff. 3-1-99; emerg. am. (1), renum. (2) to (5) to be (4) to (7) and am. (4), (5) (intro.), (a) and (6) (c), cr. (2) (3) and (8), eff. 1-4-00; am. (1), renum. (2) to (5) to be (4) to (7) and am. (4), (5) (intro.), (a) and (6) (c), cr. (2), (3) and (8), Register, July, 2000, No. 535, eff. 8-1-00; corrections in (7) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 2000, No. 535; emerg. am. (1), (2), (5) (a) and (b), (6) (a) to (c), (7) (a) 2. and (8), eff. 1-28-02; **CR02-023: am. (1), (2), (5) (a) and (b), (6) (a) to (c), (7) (a) 2., and (8), cr. (4m); Register August 2002 No. 560, eff. 9-1-02.**

PI 35.043 Summer school enrollment and payment.

(1) In this section:

(a) "Academic purposes" means summer school learning experiences that are related or similar to instruction that is offered during the rest of the school year or for which credit toward graduation is given.

(b) "Enrollment" or "pupils enrolled" in summer school means the sum of the first day of attendance, last day of attendance and the days in between the pupil was either in attendance or had an excused absence but was still enrolled in the program.

(c) "Membership" for summer school payments means the school's total minutes of enrollment of eligible choice program pupils in academic summer classes or laboratory periods necessary for academic purposes.

(2) A private school under this chapter may count pupils for aid membership that are enrolled in those academic summer classes or laboratory periods that are necessary for academic purposes as defined under sub. (1) (a). A private school counting pupils for aid membership under this section, shall annually, by no later than October 15 following summer school, submit to the department a summer school membership report listing the choice program pupils that were enrolled in summer school and the daily minutes each of those pupils were enrolled. The department shall provide the membership form.

(3) A private school under this chapter may include a pupil in its membership report required under sub. (2) if either of the following applies:

(a) The pupil was enrolled in the Milwaukee parental choice program on the 2nd Friday of January in the school term immediately preceding that summer.

(b) The pupil's application has been accepted into the Milwaukee parental choice program at that private school in the school term immediately following that summer.

(4) The summer school payment due to the private school shall be calculated according to s. 119.23 (4m), Stats. To determine payment, the private school shall divide the school's total summer school minutes of enrollment for their choice program pupils by 48,600; round that quotient to the nearest whole number; multiply the resulting whole number by the voucher amount calculated under s. 119.23 (4) (b) 2., Stats., for the school year immediately following the summer school; and multiply the result by 40%.

(5) Summer school courses necessary for academic purposes include all of the following:

(a) Music programs, lessons, sections or clinics.

(b) Swimming instruction programs, if taught or directed on-site.

(c) Up to 270 minutes of instructional time per pupil, per day, including field trips if accompanied by a teacher and if all pupils have equal access to field trips regardless of their ability to pay.

(6) Summer school courses necessary for academic purposes do not include any of the following:

(a) Travel time to events, including field trips.

(b) Performances, including band, orchestra, parades and plays.

(c) Recreational programs and team sports.

(d) Participation in fairs or expositions by pupil organizations, such as future farmers of America.

(e) Any offering not provided by or directed on-site by a teacher.

Note: The pupil count report and summer school membership report may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

History: Emerg. cr., eff. 4-1-00; cr., Register, July, 2000, No. 535, eff. 8-1-00. emerg. am. (1) (c), (3) (a) and (b) and (4), eff. 1-28-02; **CR02-023: am. (1) (c), (3) (a) and (b) and (4), Register August 2002 No. 560, eff. 9-1-02.**

PI 35.045 Financial reporting requirements and determining costs. (1) Annually, by September 1 following a school year of operation under this program, a private school participating in the Milwaukee parental choice program shall submit, on a form provided by the department, a financial audit report accompanied by the auditor's opinion required under s. PI 35.046 (1) (a) containing the following information for the previous school year:

(a) Revenues and expenditures for all programs of the private school and the amount attributable to kindergarten through grade 12 educational programs.

(b) Asset and liability balances at the start and end of the school year.

(c) Enrollment and full-time equivalent membership for all pupils and for pupils participating in the Milwaukee parental choice program.

(d) Per pupil cost related to kindergarten through grade 12 educational programming computed on a full-time equivalent membership basis.

(e) The payment adjustment amount resulting from the private school's participation in the Milwaukee parental choice program during the previous school year. The payment adjustment amount shall be determined as follows:

1. The private school's educational programming cost shall be reduced by the following offsetting revenues:

a. Fees charged pupils for books and supplies used in classes and programs.

b. Rentals for school buildings.

c. Food service revenues.

d. Governmental financial assistance revenues.

e. Interest earnings and other income resulting from investment of debt proceeds.

2. The private school's per pupil cost shall be determined by dividing the net eligible educational programming cost determined under subd. 1. by the membership for all pupils enrolled in kindergarten through grade 12 educational programs.

3. The private school's membership of pupils participating in the Milwaukee parental choice program shall be multiplied by the lesser of the amount determined under s. 119.23 (4) (b) 2., Stats., or the private school's per pupil cost under s. 119.23 (4) (b) 1., Stats. If the result is greater than the amount of the choice program payments retained by the school, an adjustment payment shall be made to the private school within 60 days of the financial audit report certified by the department. If the result is less than the amount of the choice program payments retained by the private school, the private school shall refund the amount of any overpayment to the department within 60 days of notification.

Note: The Financial Reporting Form may be obtained at no charge from the Department of Public Instruction, Milwaukee Parental Choice Program, P.O. Box 7841, Madison, WI 53707-7841.

(2) The accrual basis of accounting shall be used in reporting the information required under this section except as follows:

(a) Debt proceeds are included in revenue when received.

(b) Long-term debt principal and interest payments are included in expenditures when payments are due.

(c) Summer school program revenues and expenditures are reported in the fiscal year corresponding to the pupil membership used for program payment purposes.

(d) Withdrawals as salary compensation by individuals with a proprietary interest in the private school shall be included in expenditures only when identified as such on the private school's records and made by check on or before June 30.

(e) Acquisition of capital outlay items are reported in expenditures when acquired.

(3) (a) Costs requiring allocation between kindergarten through grade 12 educational programming and other programs of the private school shall be made using one or more of the following allocation bases the private school considers most appropriate:

1. Instruction costs may be allocated based on either pupil full-time equivalency or time spent.

2. Student support service costs may be allocated based on either pupil full-time equivalency or time spent.

3. Administration costs may be allocated based on direct program expenditures, time spent, or full-time equivalent employees.

4. Accounting costs may be allocated based on either the number of transactions or time spent.

5. Facility operation and maintenance costs may be allocated based on floor space operated, space occupied over time, or labor hours.

6. Pupil transportation costs may be allocated based on miles driven, pupil miles driven or driver hours.

(b) The following may not be included in kindergarten through grade 12 educational programming cost:

1. Contributed services.
2. Fund raising.

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

4. Debt principal and interest payments to the private school's owners, sponsoring organization, or as a result of internal financing from other funds of the school. Borrowing from an endowment fund or from individuals serving on a board of directors or in an advisory capacity who do not have a proprietary interest in the school are not subject to the requirements under this subdivision. The interest rate on such borrowings may not exceed the published prime rate on the borrowing date.

(4) (a) The private school shall, for the purpose of computing per pupil cost, charge off non-debt financed capital outlay expenditures as follows:

1. The private school shall annually make an irrevocable election to either charge off all expenditures in each of the following categories entirely as a school year cost or amortize the expenditure over future periods as follows:

a. Media may be amortized over 5 years or 20% annually. Under this subd. 1. a., media includes consumable instructional and administrative items that are expected to serve their principal purposes for more than a year and includes text and reference books, audio-visual materials, and computer software.

b. Equipment and furnishings may be amortized over 5 years or 20% annually. Under this subd. 1. b., furnishings includes desks, chairs, and freestanding lockers. Only the additional cost difference between the allowance granted for equipment traded in and the value of new equipment acquired shall be eligible for inclusion in cost calculation.

c. Buildings, sites and improvements may be amortized over 16 years or 6.25% annually. Under this subparagraph improvements include sidewalks, installed playground equipment, landscaping and building components such as lighting fixtures, built-in lockers, heating, ventilating and wiring systems. Only the difference between the amount previously included in cost and the value of the new building acquired shall be eligible for inclusion in cost calculation, if buildings are replaced.

d. Leasehold improvements may be amortized over the remaining lease period.

2. A private school may elect to charge off in accordance with par. (a), the fair market value of existing items in each category as of July 1, 1996, or at the date first participating in the program or re-entering the program. The value of items not so elected to be charged off as a cost may not be eligible for inclusion in cost in future fiscal periods.

(b) Capital outlay items previously included in cost computations may not again be included as a cost by successor ownership of the school, nor upon purchase by or transfer to other private schools participating in the Milwaukee parental choice program.

(c) The private school shall maintain, indefinitely, documentation regarding capital outlay values, expenditures and their use in per pupil cost computation.

(5) A private school participating in the Milwaukee parental choice program for the first time may include in cost calculations start-up costs incurred prior to the start of the fiscal period.

History: Emerg. cr. eff. 8-5-98; cr. Register, February, 1999, No. 518, eff. 3-1-99; emerg. am. (1) (e) 3., eff. 1-4-00; am. (1) (e) 3., Register, July, 2000, No. 535, eff. 8-1-00; reprinted to correct error in (1) (e) (intro.), Register, January, 2001,

No. 541; emerg. am. (1) (intro.), (c), (e) (intro.) and 3., (4) (b) and (5), eff. 1-28-02; CR 02-023: am. (1) (b), (2) (b) 2., 3., 4., and 6., Register August 2002 No. 560, eff. 9-1-02.

PI 35.046 Financial audit requirements. (1) A private school under this chapter shall provide and pay for an independent auditor's opinion regarding the information required under s. PI 35.045 as follows:

(a) Employ an auditor to provide an audit opinion stating that the private school's financial report is free from material misstatement and the private school's per pupil cost and any payment adjustment is fairly presented.

(b) Provide the auditor with a listing of all kindergarten through grade 12 pupils enrolled in the school by grade level and classroom. The listing provided under this paragraph shall identify pupils participating in the Milwaukee parental choice program.

(c) Deposit all receipts and pay all disbursements from a public depository account or accounts maintained solely for the private school's purposes unless the operating organization's financial accounting system provides for separate identification of the school's revenue and expenditure transactions.

(d) Maintain a record of all receipts using a sequential numbering system.

(e) Furnish all other financial and pupil records the auditor considers necessary to provide the audit opinion.

(2) (a) The auditor employed sub. (1) shall develop a written audit program identifying the steps and procedures followed in conducting the audit. The audit program shall include all the procedures specified in pars. (b) and (c) and such other procedures the auditor considers necessary to fulfill professional responsibilities. The auditor shall retain working papers relating to the audit under this subsection for at least 3 years from the date specified under s. PI 35.045 (1) (intro.).

(b) The auditor shall perform the following procedures in auditing the private school's enrollment:

1. Verify totals used to compile reported enrollments and tracing totals to classroom records.

2. Verify enrollment reported on the membership report under s. PI 35.04 for all Milwaukee parental choice program pupils against the private school's official attendance records.

3. Select a sample of at least 60 choice program pupils included on the private school's official enrollment records and verification against classroom records. The sample shall include records from each classroom. If the private school has a Milwaukee parental choice program enrollment of less than 60 pupils, all such pupil records shall be tested. If an exception is identified the auditor shall extend the sample test in increments of 60 records until no additional exceptions are found or the official enrollment records for all choice program pupils have been verified against classroom records.

4. Select a sample of at least 60 other pupils identified as not participating in the Milwaukee parental choice program from classroom records and determine that selected pupils were included in reported membership enrollments under s. PI 35.04. The sample shall include records from each classroom. If an exception is identified the auditor shall extend the sample test in increments of 60 records until no additional exceptions are found or all classroom records have been verified as properly included in reported enrollments.

5. If the private school is reporting pupils enrolled in a 4-year-old kindergarten program as permitted by s. 121.004 (7) (cm), Stats., verify that the 4-year-old kindergarten program included at least 87.5 hours of outreach activities as documented by teacher logs.

6. Reconcile tuition revenues and tuition waiver pupils against listings of pupils identified as not participating in the Milwaukee parental choice program.

7. If the private school has operated a summer school program, the auditor shall review for clerical accuracy documentation maintained by the school supporting summer school membership reports filed with the department.

(c) The auditor shall perform the following procedures in auditing the private school's financial records:

1. Ensure that the financial report is free from material misstatement by performing procedures as required under subd. 2. and such other procedures, that in the auditor's judgment, provide reasonable assurance that the report does not contain misapplications of accounting requirements, departures from fact, or other errors or omissions, that in the aggregate, would result in reported net eligible educational programming cost under s. PI 35.045 (1) (e) 1. exceeding the following acceptable variance limitations:

a. For costs less than \$100,000, the variance limitation shall be 4% of the reported costs.

b. For costs of at least \$100,000 but less than \$1,000,000, the variance limitation shall be 2% of the reported costs.

c. For costs of at least \$1,000,000 but less than \$3,000,000, the variance limitation shall be 1.5% of the reported costs.

d. For costs of at least \$3,000,000 but less than \$5,000,000, the variance limitation shall be 1% of the reported costs.

e. For costs of at least \$5,000,000 but less than \$10,000,000, the variance limitation shall be .7% of the reported costs.

f. For costs at least \$10,000,000, the variance limitation shall be .5% of the reported costs.

2. Consider account balances equal to at least 75% and individual transactions equal to at least 20% of the variance limitation amount determined under subd. 1. as being significant and shall perform procedures considered necessary to conclude such items do not contain misstatements whose effect, when aggregated with misstatements in other balances and transactions, would exceed the variance limitation amount.

3. Determine that fees charged pupils are allowed as specified under s. PI 35.03 (6) (a).

4. Confirm the private school's cash and investment account balances with depositories.

5. Prepare or obtain and examine a reconciliation of confirmed cash and investment account balances to the private school's accounting records. The reconciliation shall include the following:

a. Depository balances at the beginning of the fiscal period reconciled to the private school's accounting records.

b. Receipts per depository statements reconciled to the private school's accounting records.

c. Disbursements per depository statements reconciled to the private school's accounting records.

d. Depository balances at the end of the fiscal period reconciled to the private school's accounting records.

6. Prepare or obtain and examine a reconciliation of payroll withholdings to remittances to authorized agencies or taxing authorities.

(d) The auditor shall respond directly to inquiries from the department concerning information accompanying the auditor's opinion and permit the department, upon request, to review audit workpapers. The auditor shall notify the private school of any such inquiries or requests and the auditor's response thereto.

History: Emerg. cr. eff. 8-5-98; cr. Register, February, 1999, No. 518, eff. 3-1-99; emerg. am. (1) (b), (2) (b) 2. to 4. and 6., eff. 1-28-02; **CR02-023: am. (1) (b), (2) (b) 2., 3., 4. and 6., Register August 2002 No. 560, eff. 9-1-02.**

PI 35.05 State superintendent's responsibility.

(1) Under s. 119.23 (7) (b), Stats., the state superintendent shall monitor the performance of the pupils attending private schools under this chapter. The state superintendent shall notify any private school which he or she determines in any school year is not meeting at least one of the requirements under s. PI 35.03 (5), that

the private school may not participate in the program under this chapter in the following school year.

(2) The department shall collect audits under s. PI 35.046, including membership eligibility of any or all of the private schools participating under this chapter.

(3) The state superintendent shall make payment to the private schools as specified in s. 119.23 (4) and (5), Stats., and as follows:

(a) The number of pupils for which the private school shall receive payment shall be determined by ss. PI 35.02 (8) and 35.043 (1) (c).

(b) The amount per pupil to be paid to the private school shall be determined as specified in s. 119.23 (4), Stats. No aid may be paid to a private school for a pupil unless the private school has met the requirements under ss. PI 35.03, 35.04, 35.043, 35.045 and 35.046. The payment schedule is as follows:

1. The September payment shall be based on the number of pupils receiving instruction at the beginning of the school year as indicated on the class list and the accepted, eligible applications for those pupils submitted under s. PI 35.04 (5) and the amount per pupil determined under s. 119.23 (4), Stats., multiplied by 25%.

2. The November payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on October 1 under s. PI 35.04 (6) and the amount per pupil determined under s. 119.23 (4), Stats., multiplied by 50%, less the September payment. The November payment shall include any payments from the state for summer school instruction for choice program pupils at the school in the immediately preceding summer, as calculated under s. PI 35.043, divided by the number of pupils reported on the October 1 membership report.

3. The February payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on February 1 under s. PI 35.04 (6) and the amount per pupil as determined under s. 119.23 (4), Stats., multiplied by 25%.

4. The May payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on February 1 under s. PI 35.04 (6) and the amount per pupil as determined under s. 119.23 (4), Stats., multiplied by 25%.

5. Any payment adjustment shall be made as specified under s. PI 35.045 (1) (e) after the department has received and reviewed the audit opinion under s. PI 35.046 (1) (a).

(4) The state superintendent shall annually inform the pupils and parents who reside in the city of the private schools participating under this chapter. The state superintendent shall, by no later than January 1 prior to the following school year, make available the notice of school's intent to participate form, an informational brochure for parents, and the choice program pupil application form.

(5) The state superintendent shall, prior to the first school year that a private school participates in the program under this section, review and approve the proposal submitted under s. PI 35.03 (1) (a) to ensure that pupils are accepted on a random basis. After the first school year of a private school's participation, the state superintendent shall review and approve any changes to the proposal submitted under s. PI 35.03 (1) (a).

(6) In accordance with s. 119.23 (2) (a) 1., Stats., the state superintendent shall, by no later than December 1, calculate the income limits for pupil participation in the program for the school year beginning the next September. The limits shall be calculated as follows:

(a) Increase the most recent federal poverty level available from the federal office of management and budget by the increase in the urban consumer price index between January 1 and October 31 of the current calendar year.

(b) Multiply the amount determined under par. (a) by 1.75.

(7) The state superintendent shall ensure that test security is maintained if any achievement tests are administered under s. 119.23 (7) (a) 3, Stats.

(8) The state superintendent shall ensure that pupil confidentiality is maintained at all times.

(9) The state superintendent shall annually review academic summer classes or laboratory periods that are necessary for academic purposes at private schools under this chapter, for payment under s. PI 35.043.

History: Cr. Register, May, 1991, No. 425, eff. 6-1-91; emerg. r. and recr. (2) and (3) (b), r. (6), am. (7), eff. 8-5-98; r. and recr. (2) and (3) (b), r. (6), am. (7), Register, February, 1999, No. 518, eff. 3-1-99; emerg. am. (3) (b) (intro.) 1. to 4., (4), (5), cr. (6) and (9), eff. 1-4-00; am. (3) (b) (intro.) and 1. to 4., (4), and (5), cr. (6) and (9), Register, July, 2000, No. 535, eff. 8-1-00; emerg. am. (3) (a) and (b) 1., eff. 1-28-02; **CR02-023: am. (3) (a), Register August 2002 No. 560, eff. 9-1-02.**

PI 35.06 Transportation. (1) The board shall provide

transportation to pupils attending a private school under this chapter as specified under s. 121.54 (2) (b) 1., Stats.

(2) Each private school requesting that transportation of pupils be provided shall notify the board of the names, grade levels and locations of all pupils eligible to have transportation provided by the board and planning to attend such private school as specified under s. 121.54 (2) (b) 4., Stats.

(3) If a pupil is not required to have transportation provided as specified under s. 121.54, Stats., the parent or guardian may contract with the board for such transportation. The board may provide transportation under this subsection to a pupil not required to be transported under s. 121.54, Stats., if requested to do so by the parent or guardian of the pupil and if the parent or guardian agrees to pay to the board a fee sufficient to reimburse the board for the costs incurred in providing such transportation.

History: Cr. Register, May, 1996, No. 485, eff. 6-1-96.