

School Integration (Chapter 220) Aid



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The integration aid program was enacted by Chapter 220, Laws of 1975, and first went into effect in the 1976-77 school year. The stated purpose of Chapter 220 is "to facilitate the transfer of students between schools and school districts to promote cultural and racial integration in education where students and their parents desire such transfer and where schools and school districts determine such transfers serve educational interests." One of the major goals of Chapter 220 was to achieve racial balance on a voluntary basis and at no cost to local taxpayers. The program provides state funds, in the form of unrestricted aids, as an incentive to school districts to desegregate their schools.

Initially, state funding for integration aid was provided through a separate, sum sufficient appropriation. However, Chapter 34, Laws of 1979, deleted the sum sufficient appropriation and provided that funding for the program be distributed through the general equalization aids appropriation. During the program's history, integration aid payments have grown from \$8.3 million in 1976-77 to a high of \$84.3 million in 2000-01. Payments in 2002-03 are estimated to be \$82.4 million. It is the fourth largest form of state school aid after equalization aid, special education aid, and student achievement guarantee in education (SAGE) program aid.

During the 1970s, the issue of school integration within Wisconsin's public schools was addressed not only by the Legislature but by the federal courts. The U.S. District Court for the Eastern District of Wisconsin found that the Milwaukee School Board had administered the school system

with segregative intent and ordered that a desegregation plan be developed. In 1979, a settlement agreement was reached which required the Milwaukee Public Schools (MPS) to ensure that at least 75% of all students within the district would be enrolled in racially balanced schools (defined by the Court as having between 20 and 60 percent black enrollment at the high school level and between 25 and 60 percent black enrollment at the middle and elementary school level; only 9% of MPS schools met this standard in 1976). The settlement agreement remained in effect for five years (until July 1, 1984).

During this period of litigation, the Legislature enacted Chapter 220 which was considered to be landmark legislation because it represented a major effort by a state government to encourage integration in its public schools. Although passage of Chapter 220 was closely associated with the situation in the Milwaukee metropolitan area, the law does not preclude school districts outside the Milwaukee area from participating in the program provided certain eligibility criteria are met.

In 1984, the issue of school integration in Milwaukee was again before the federal courts. The MPS School Board filed a lawsuit against 24 suburban school districts and the state charging that the public schools within the metropolitan Milwaukee area were segregated. The parties involved in the action (commonly referred to as the Milwaukee School Desegregation Case) eventually reached a settlement agreement which was approved by the federal District Court in October, 1987. This agreement was primarily dependent on the Chapter 220 program to facilitate and finance

increases in the number of voluntary pupil transfers between MPS and suburban Milwaukee school districts. Although the original agreement expired on June 30, 1993, MPS and the suburban districts extended the agreement to June 30, 1995. Since the expiration of the agreement, MPS has negotiated individual transfer agreements with the participating suburban school districts.

The purpose of this paper is to provide background information on the integration aid program. The first section discusses how a school district becomes eligible for Chapter 220 payments. The second section describes the formulas used to calculate these payments. The third section summarizes state aid payments and school district participation in Chapter 220 since 1993-94. The fourth provides a brief summary of the terms of the 1987 settlement agreement and the current status of the MPS agreements with the suburban school districts. The last section summarizes the conclusions of the Legislative Audit Bureau (LAB) audit of the Chapter 220 program issued in November, 1994.

Over the years, the integration aid program has been known by a variety of names. Statutorily, it is referred to as the "special transfer aid" program under Subchapter VI of Chapter 121 of the statutes. It has also been called the "racial balance transfer" program. But, it is most commonly referred to as "Chapter 220" after the 1975 session law. In this paper, the terms "integration aid" and "Chapter 220" will be used interchangeably.

Aid Eligibility

In order to qualify for integration aid, a school district must transfer pupils between school "attendance areas" with certain concentrations of minority or nonminority pupil populations. The statutes define "attendance area" as the geographical area within a school district

established by the school board for the purpose of designating the elementary, middle, high or other school which pupils residing in the area would normally attend. A "minority group" pupil is defined as a pupil who is Black or African American, Hispanic, American Indian, an Alaskan native, or a person of Asian or Pacific Island origin.

State aid is provided for each minority group pupil who is transferred from an attendance area where minority group pupils comprise 30% or more of the population to an attendance area which has less than a 30% minority pupil population. In addition, aid is paid for each nonminority group pupil who transfers from a nonminority attendance area (less than 30% minority) to a minority attendance area (30% or more minority). In order to be eligible for state aid, pupils must be four years old on or before September 1 of the year they enter school.

Under the original provisions of Chapter 220, only transfers between attendance areas could be aided. However, this requirement has undergone several modifications:

1. Chapter 418, Laws of 1977, provided that pupils attending schools serving the entire school district would be aided, beginning in the 1978-79 school year. This change recognized the existence of "magnet" or "specialty" schools in Milwaukee and Racine which have citywide attendance areas.

2. Aid eligibility was extended to school districts with merged attendance area (school pairing) plans in 1985 Act 29. Under such a plan, the attendance area for two or more schools are combined and all the pupils enrolled in certain grade levels attend only one of these schools. The number of pupils eligible for aid is determined through a method of calculation which incorporates the 30% minority/nonminority threshold of the regular Chapter 220 program for use in a situation in which pupils would not be transferring between existing attendance areas. This provision recognized the integration plan

employed by the Madison Metropolitan School District. For one year (1993-94), Wausau operated a merged attendance area plan, but changed to a transfer between attendance areas plan beginning in 1994-95.

3. The provisions of 1985 Act 29 also clarified that Racine’s desegregation program was eligible for integration aid. Prior to the enactment of Chapter 220, Racine had implemented its desegregation plan by redrawing its attendance area boundaries. Beginning in 1976-77, the Department of Public Instruction (DPI) determined Racine’s aid eligibility by comparing the racial balance of the school and attendance area which the pupil attends with the racial balance of the school which the pupil would have attended under the preintegration attendance area boundaries. In 1984, the Legislative Audit Bureau questioned Racine’s aid eligibility, arguing that the statutes did not make reference to the use of historical attendance areas in determining aid eligibility. Act 29 provided that any desegregation plan established prior to enactment of Chapter 220 was eligible for integration aid if the plan was approved by the State Superintendent.

pupil received by the district under the equalization aid formula. The goal of this formula is to equalize the tax bases of school districts. School districts with low property valuations per pupil receive a larger share of their costs through the equalization aid formula than districts with high property valuations per pupil.

Intradistrict transfer aid is calculated by multiplying the number of eligible transfer pupils by 0.25 and, then, multiplying this product by the district’s current year equalization aid payment per pupil. Stated another way, a school district receives an additional one-quarter of its equalization aid per pupil for each intradistrict transfer. In part, this weighting factor is used to address the school district’s transportation costs associated with the program. As an example of this provision, if a district had 500 intradistrict transfers and received \$4,000 per pupil in equalization aid, its integration aid payment would be calculated as follows:

Intradistrict transfers		500
Weighting factor	x	.25
Weighted pupils	=	125
Equalization aid per pupil	x	\$4,000
Integration aid	=	\$500,000

Formulas Used to Calculate Integration Aid

Integration aid is calculated through two different formulas depending upon whether a pupil is transferred within a school district (**intradistrict**) or from one school district to another (**interdistrict**). Under both formulas, school districts receive state aid based on the number of pupils transferred in the prior school year. For example, integration aid paid in fiscal year 2002-03 reflects pupil transfers in the 2001-02 school year.

Intradistrict Transfer Aid

General Provisions. State aid for intradistrict transfers is based on a certain percentage of aid per

Prior to 1996-97, the weighting factor used to determine the intradistrict transfer payment was 0.325 (instead of 0.25). State aid for merged attendance area plans is calculated according to the same formula as intradistrict transfer aid. In 2002-03, five districts are operating intradistrict transfer programs (Beloit, Madison, Milwaukee, Racine and Wausau). Madison also receives aid for its merged attendance area plans.

Milwaukee Public Schools. Under 1999 Act 9 (the 1999-01 budget act), portions of the intradistrict transfer program were restructured for MPS only. Act 9 contained provisions, commonly referred to as the "neighborhood schools initiative," designed to assist MPS in the renovation and construction of school facilities and in the delivery of educational services for children in that district so as to reduce

the number of pupils who are transported outside of their neighborhood under the intradistrict transfer program.

Act 9 authorized the issuance of up to \$170 million of bonding, without going to local referendum, by the Redevelopment Authority of the City of Milwaukee for MPS to finance the construction or renovation of public schools in Milwaukee. The issuance of the bonding was conditional upon the approval of the neighborhood schools initiative report by the Joint Committee on Finance. In September, 2000, the Committee approved the report and authorized the issuance of no more than \$100 million of the available bonding, excluding any bonds issued to make a deposit into a debt service reserve fund, or for a capitalized interest fund, an original issuance discount, the costs of credit assurance, or to pay issuance costs. Additional bonds from the total authorization of \$170 million can be issued with subsequent Committee approval at a meeting under s. 13.10 of the statutes.

Under Act 9, MPS is required to obtain the written consent of a pupil's parent or guardian to transfer the pupil under the intradistrict transfer program. Certain percentage thresholds are established for the number of pupils for which MPS is required to receive written consent as a condition of the receipt of aid. MPS's intradistrict transfer aid will be reduced by the amount of aid generated for pupils who exceed the following percentage thresholds for each school year: (a) 75% in 2000-01; (b) 80% in 2001-02; (c) 90% in 2002-03; (d) 95% in 2003-04; and (e) 100% in 2004-05 and each year thereafter. MPS may not receive state categorical transportation aid or state equalization aid for the transportation costs relating to those pupils short of the thresholds. Annually, by May 1, MPS is required to collect and report to the Legislature the number and percentage of pupils transferred outside of their attendance area without their parents' or guardians' written consent.

Act 9 also established a "hold harmless" on the amount of intradistrict aid MPS receives in order to ensure sufficient funding to make debt service payments to the Authority and to pay the costs related to the continued busing of intradistrict transfer pupils. Annually, the MPS intradistrict aid will be the greater of: (a) the 1998-99 aid amount (\$32.9 million), less any aid reduction due to a failure to reach the percentage thresholds described above; or (b) the actual aid entitlement under the intradistrict aid program, less any aid reduction due to a failure to reach the percentage thresholds described above. This hold harmless provision will apply until the Authority bonds are paid off.

Through December, 2002, a total of \$33.3 million in bonds have been issued related to the neighborhood schools initiative. This funding was budgeted to complete or begin 36 projects, including construction of four new schools, additions to 16 schools, renovations to 12 facilities, and leases for four schools.

Interdistrict Transfer Aid

For pupils who transfer across district lines, the state provides a financial incentive to both the district which accepts the transfers (the "receiving" district) and the district from which the transfers came (the "sending" district).

The receiving district is paid an amount equal to its average net cost per pupil multiplied by the number of transfer pupils accepted by the district. A district's net cost equals its total operating and debt service costs funded through property taxes and state general and integration aids

The sending district may count a portion of its pupil transfers in its membership, which is commonly referred to as "sender" aid. The purpose of sender aid is to remove a potential disincentive (that is, the loss of general school aid) for a district to send pupils to another district. A separate aid payment is not calculated for a sending district;

instead, the district receives these funds as part of its general school aid payment.

Prior to 1999 Act 9, the sending district was able to count the pupil transfers as 1.0 pupil for membership purposes even though the district no longer serves them. Under the provisions of Act 9, the sending district can count pupil transfers as 0.75 pupil for membership purposes beginning in 2000-01.

Since 1977-78, interdistrict transfer payments have exclusively been made to school districts within the Milwaukee metropolitan area. Chapter 220 required that each of the 17 suburban school districts in Milwaukee County organize a planning council with MPS to facilitate transfers between the city and the suburbs. Based on the recommendations of the planning councils, each suburban school board was to determine the extent to which its district would participate in the transfer program. School districts outside of Milwaukee County were not required to organize planning councils, but the legislation granted them the discretion to participate in the transfer program if they so choose.

Minority Census Tract Aid

A third category of integration aid was established in 1985 Act 29 as an incentive for MPS to increase school enrollments in minority-populated areas of the city. Under this provision, pupils attending nonspecialty public schools located in census tracts that have nonwhite populations of 20% or more (according to the most recent federal census), who are in excess of the enrollment in those schools in the 1984-85 school year, would each be counted as an additional 0.2 pupil under the general equalization aid formula. This provision only applies to MPS which was to be eligible for "minority census tract" aid beginning in 1986-87. In 1987-88, a small amount of

equalization aid (\$19,200) was paid to MPS under this provision. No aid has been paid since.

Relationship to Open Enrollment Program

A nonresident school district that receives applications for transfer into the school district under both Chapter 220 and the open enrollment program must accept or reject all Chapter 220 applications before it accepts or rejects open enrollment applications.

Program Costs and Participation

Table 1 summarizes ten years of state aid payments and pupil transfers under the Chapter 220 program. Not included in these amounts are the equalization aid payments that school districts continue to receive for pupils sent to other districts under the interdistrict transfer program. As noted, separate payments to sending school districts are not made by the state. The aid amounts shown include reductions made to fund the Milwaukee parental choice program and the Milwaukee-Racine charter school program under the statutory provisions that applied in the particular year.

Table 2 provides a breakdown by school district of interdistrict transfers and aid payments since 2000-01. All 18 of the school districts in Milwaukee County and six districts outside Milwaukee County participate to varying degrees in the program.

Table 3 displays pupil transfers and state aid amounts since 1993-94 for the five school districts participating in the intradistrict component of Chapter 220. The decline in intradistrict transfer aid in 1996-97 is largely attributable to the change in the payment percentage from 32.5% to 25%.

Table 1: Integration Aid Payments

Fiscal Year	Intradistrict Transfer Aid				Interdistrict Transfer Aid				Total Integration Aid	Percent Change
	Pupils	Percent Change	Aid Amount	Percent Change	Pupils	Percent Change	Aid Amount	Percent Change		
1993-94	30,991	-0.3%	\$28,099,200	8.2%	6,503	0.9%	\$47,067,300	7.9%	\$75,166,500	8.0%
1994-95	31,535	1.8	30,999,700	10.3	6,457	-0.7	48,145,700	2.3	79,145,400	5.3
1995-96	31,835	1.0	35,764,000	15.4	6,193	-4.1	47,356,700	-1.6	83,120,700	5.0
1996-97	31,660	-0.5	33,486,300	-6.4	5,661	-8.6	39,121,800	-17.4	72,608,100	-12.6
1997-98	32,660	3.2	37,005,600	10.5	5,473	-3.3	39,584,600	1.2	76,590,200	5.5
1998-99	32,828	0.5	39,010,900	5.4	5,442	-0.6	40,963,500	3.5	79,974,400	4.4
1999-00	33,204	1.1	41,192,700	5.6	5,494	1.0	42,094,900	2.8	83,287,600	4.1
2000-01	31,920	-3.9	40,879,200	-0.8	5,457	-0.7	43,463,800	3.3	84,343,000	1.3
2001-02	31,424	-1.6	41,545,500	1.6	5,199	-4.7	42,329,800	-2.6	83,875,300	-0.6
2002-03*	30,220	-3.8	41,213,800	-0.8	4,846	-6.8	41,223,700	-2.6	82,437,500	-1.7

*Estimated payments.

Table 2: Interdistrict Transfer Payments

	2000-01		2001-02		2002-03*	
	Pupils	Amount	Pupils	Amount	Pupils	Amount
Brown Deer	142	\$1,208,981	130	\$1,096,477	107	\$976,465
Cudahy	194	1,509,658	174	1,350,348	162	1,397,788
Elmbrook	332	2,871,159	318	2,806,560	305	2,902,536
Fox Point J2	123	1,191,278	114	1,132,020	99	1,122,123
Franklin Public	353	2,970,330	334	2,934,262	322	2,977,177
Germantown	39	314,256	35	287,182	34	301,474
Glendale - River Hills	98	910,836	91	869,690	73	730,001
Greendale	121	1,002,985	100	873,881	77	688,078
Greenfield	189	1,395,300	170	1,309,829	150	1,216,311
Hamilton	92	747,259	94	734,982	93	778,268
Maple Dale - Indian Hill	75	873,668	66	810,733	66	818,376
Menomonee Falls	323	2,621,913	310	2,615,909	292	2,569,115
Mequon-Thiensville	174	1,660,489	166	1,474,367	168	1,459,569
Milwaukee	595	3,872,000	583	3,919,290	576	4,041,400
New Berlin	106	896,258	99	900,035	94	873,519
Nicolet UHS	129	1,448,767	129	1,487,762	115	1,387,188
Oak Creek - Franklin	95	661,344	101	724,484	126	977,852
Saint Francis	153	1,159,124	142	1,115,271	168	1,306,105
Shorewood	294	2,516,220	268	2,409,475	241	2,271,371
South Milwaukee	275	1,954,306	268	1,933,776	230	1,824,714
Wauwatosa	774	5,485,984	737	5,292,697	661	4,790,356
West Allis	260	2,014,469	283	2,119,067	246	1,952,507
Whitefish Bay	335	2,693,080	313	2,665,151	287	2,524,070
Whitnall	186	1,484,167	174	1,466,515	154	1,337,309
TOTAL	5,457	\$43,463,831	5,199	\$42,329,763	4,846	\$41,223,672

*Estimated

Table 3: Intradistrict Transfer Payments

	Beloit	Madison*	Milwaukee	Racine	Wausau	Total
1993-94						
Pupil Transfers	151	818	25,237	4,785	0	30,991
Aid Payment	\$189,575	\$0	\$24,480,181	\$3,429,444	\$0	\$28,099,200
Aid per Pupil	\$1,255	\$0	\$970	\$717	\$0	\$907
1994-95						
Pupil Transfers	188	815	25,175	4,677	680	31,535
Aid Payment	\$258,046	\$0	\$26,256,202	\$3,905,640	\$579,838	\$30,999,726
Aid per Pupil	\$1,373	\$0	\$1,043	\$835	\$853	\$983
1995-96						
Pupil Transfers	206	831	25,662	4,582	554	31,835
Aid Payment	\$309,634	\$44,950	\$30,582,363	\$4,293,308	\$533,786	\$35,764,041
Aid per Pupil	\$1,503	\$54	\$1,192	\$937	\$964	\$1,123
1996-97						
Pupil Transfers	116	836	25,476	4,640	592	31,660
Aid Payment	\$151,283	\$306,958	\$27,872,909	\$4,564,786	\$590,372	\$33,486,308
Aid per Pupil	\$1,304	\$367	\$1,094	\$984	\$997	\$1,058
1997-98						
Pupil Transfers	60	804	26,748	4,480	568	32,660
Aid Payment	\$80,273	\$336,275	\$31,419,271	\$4,582,693	\$587,130	\$37,005,642
Aid per Pupil	\$1,338	\$418	\$1,175	\$1,023	\$1,034	\$1,133
1998-99						
Pupil Transfers	36	768	26,928	4,492	604	32,828
Aid Payment	\$49,981	\$378,684	\$32,990,233	\$4,931,834	\$660,163	\$39,010,895
Aid per Pupil	\$1,388	\$493	\$1,225	\$1,098	\$1,093	\$1,188
1999-00						
Pupil Transfers	52	800	27,288	4,464	600	33,204
Aid Payment	\$74,711	\$420,808	\$34,920,176	\$5,087,028	\$689,960	\$41,192,683
Aid per Pupil	\$1,437	\$526	\$1,280	\$1,140	\$1,150	\$1,241
2000-01						
Pupil Transfers	60	844	26,140	4,328	548	31,920
Aid Payment	\$89,963	\$480,510	\$34,556,070	\$5,103,844	\$648,773	\$40,879,160
Aid per Pupil	\$1,499	\$569	\$1,322	\$1,179	\$1,184	\$1,281
2001-02						
Pupil Transfers	76	872	25,584	4,436	456	31,424
Aid Payment	\$114,940	\$516,959	\$34,912,097	\$5,443,416	\$558,076	\$41,545,488
Aid per Pupil	\$1,152	\$593	\$1,365	\$1,227	\$1,224	\$1,322
2002-03 (Estimated)						
Pupil Transfers	84	904	24,696	4,148	388	30,220
Aid Payment	\$133,105	\$506,508	\$34,675,898	\$5,405,245	\$493,046	\$41,213,802
Aid per Pupil	\$1,585	\$560	\$1,404	\$1,303	\$1,271	\$1,364

* Prior to 1991-92, Madison was eligible for a minimum guaranteed payment, but from 1991-92 through 1994-95 did not receive aid because of its zero-aid status under the equalization formula.

Table 4 provides a breakdown by school district of estimated 2002-03 interdistrict transfer aid in total and per transfer. The table shows that while estimated payments per transfer averaged \$8,508, they ranged from a low of \$7,011 (Milwaukee) to a high of \$12,325 (Maple Dale-Indian Hill).

Table 4: 2002-03 Estimated Interdistrict Transfer Payments

	Pupil Transfers	Total Aid	Aid Per Transfer
Brown Deer	106.50	\$976,465	\$9,169
Cudahy	162.32	1,397,788	8,611
Elmbrook	305.50	2,902,536	9,501
Fox Point 2	99.40	1,122,123	11,289
Franklin Public	322.25	2,977,177	9,239
Germantown	34.00	301,474	8,867
Glendale - River Hills	72.50	730,001	10,069
Greendale	77.00	688,078	8,936
Greenfield	149.72	1,216,311	8,124
Hamilton	92.50	778,268	8,414
Maple Dale - Indian Hill	66.40	818,376	12,325
Menomonee Falls	291.65	2,569,115	8,809
Mequon - Thiensville	167.50	1,459,569	8,714
Milwaukee	576.42	4,041,400	7,011
New Berlin	93.50	873,519	9,342
Nicolet UHS	114.50	1,387,188	12,115
Oak Creek - Franklin	125.50	977,852	7,792
Saint Francis	168.20	1,306,105	7,765
Shorewood	241.00	2,271,371	9,425
South Milwaukee	230.50	1,824,714	7,916
Wauwatosa	661.00	4,790,356	7,247
West Allis	246.50	1,952,507	7,921
Whitefish Bay	287.20	2,524,070	8,789
Whitnall	<u>154.00</u>	<u>1,337,309</u>	8,684
TOTAL	4,845.56	\$41,223,672	\$8,508

As noted previously, sending districts do not receive separate "sender" aid payments. The primary beneficiary of the sender aid provision is Milwaukee. In the 2001-02 school year, 88% of the 4,846 interdistrict transfer pupils were MPS residents. The 4,269 pupils who transferred from MPS to the suburban school districts represent 4.3% of Milwaukee's 2001-02 membership.

All school districts that receive integration aid are required to submit an annual report to the State Superintendent. The report is to include informa-

tion on: (a) the number of pupils transferred to, from and within the school district for which the district received integration aid; (b) the number of pupil transfers who are eligible for free or reduced-price lunches under the federal school lunch program; (c) a detailed description of how the district used its integration aid, including information on expenditures unrelated to the transfer program; (d) the additional costs incurred by the district for pupils who transferred to the district, including costs for additional teachers, counseling, remediation and pupil transportation; and (e) any other information requested by the State Superintendent.

Milwaukee Settlement Agreement

In June, 1984, the Board of School Directors for MPS filed a lawsuit against 24 suburban Milwaukee school districts and the state (the Governor and the State Superintendent of Public Instruction). The Board requested the U.S. District Court of the Eastern District of Wisconsin to declare the public schools in the Milwaukee metropolitan area to be unconstitutionally segregated and order the development and implementation of a desegregation plan. The District Court allowed the National Association for the Advancement of Colored People (NAACP) and several individuals to intervene as plaintiffs in the case in December, 1986. In April, 1987, the Court certified a plaintiff class (composed of all black children currently enrolled in or eligible to be enrolled in the metropolitan area public schools) in the lawsuit and made the intervening plaintiffs representatives of that class. Trial commenced in late April, 1987, with the presentation of evidence by the plaintiffs.

On September 15, 1987, the plaintiffs, the state defendants and all 24 suburban school districts agreed to a settlement to resolve the lawsuit. The agreement, which was approved by the Court in October, 1987, consisted of three parts: (1) an agreement among the Milwaukee School Board,

the NAACP and 23 suburban Milwaukee school districts, which initially expired on June 30, 1993, but was extended to June 30, 1995; (2) an agreement among the Milwaukee School Board, the NAACP, Governor Thompson and former State Superintendent Grover, which expired on July 1, 1993; and (3) a stipulation by all parties and all defendants for entry of an order from the Court which dismisses the claims of the plaintiffs against the defendants.

The following summarizes the major provisions of these past agreements, particularly those provisions which directly involve the Chapter 220 aid program.

Interdistrict Transfer Opportunities

Eighteen suburban Milwaukee school districts agreed to make a good faith effort to fill a specified number of seats, or to fill seats equal to certain percentages of their enrollments, with Chapter 220 minority transfers. In return, the plaintiffs in the lawsuit (MPS and the NAACP) agreed to dismiss their action against these districts "with prejudice" (which means that the plaintiffs cannot sue the 18 districts again for conduct that was or could have been challenged in the case). The districts are grouped according to four different pupil transfer goals:

a. Five districts (Brown Deer, Fox Point-Bayside, Maple Dale-Indian Hill, Glendale-River Hills and Nicolet UHS) set a goal that during the 1987-88 through 1992-93 school years, Chapter 220 transfers would equal 23% of the district's resident enrollment, less the number of district residents transferred to MPS and the number of resident minority pupils.

b. Five districts (Cudahy, Greendale, Greenfield, South Milwaukee and Whitefish Bay) set a goal that by the 1992-93 school year, Chapter 220 transfers would equal 20% of their resident enrollments, less resident transfers to MPS and resident minority pupils.

c. Seven districts set a goal to fill by the 1992-93 school year, a specific number of seats with Chapter 220 transfers:

Franklin	370
Oak Creek	440
St. Francis	95
Shorewood	227
Wauwatosa	845
West Allis	1,150
Whitnall	255

d. Menomonee Falls set a goal that by 1992-93, Chapter 220 transfers would equal 13% of its resident enrollment, less resident transfers to MPS and resident minority pupils.

The remaining six suburban districts involved in the lawsuit had the action dismissed "without prejudice" (which means the plaintiffs in the case can sue the six districts again for the original cause of action). Five of these districts agreed to a specific transfer goal. Mequon-Thiensville agreed to maintain or increase the number of seats available for Chapter 220 transfers from 1988-89 to 1992-93; while Elmbrook, New Berlin, Germantown and Hamilton agreed to participate in the Chapter 220 program beginning in 1988-89 and to increase the number of available seats from 1989-90 to 1992-93. If any of the five districts had a minority enrollment (including MPS transfer pupils) greater than 13%, the dismissal could have been converted to a dismissal with prejudice. The sixth district, Muskego-Norway, was dismissed from the lawsuit without an agreement for its participation in any aspect of the settlement, including the Chapter 220 program.

All of the suburban school districts agreed that, in attempting to reach their respective transfer goals, they would make a good faith effort each year to accept black pupils in the same proportion as black pupils are of MPS's resident minority population (approximately 80%) beginning in the 1987-88 school year.

Milwaukee agreed to make available for suburban pupil transfers, a number of seats equal

to at least 10% of its resident enrollment. The 10% goal applies to each of the district's specialty schools and programs, alternative schools and city-wide schools.

Coordinating Council

The settlement provided for the establishment of a Coordinating Council to be composed of one representative from each suburban district and a city delegation (the majority of which were appointed by MPS, but which included appointees of the NAACP and representatives from Milwaukee area business and civic communities). The Council had the authority to hire staff, appoint committees and establish an office, that was funded by MPS and the suburban districts.

Selection and Placement of Transfer Pupils

The agreement included a general prohibition against school districts subjecting applicants for interdistrict transfer to different standards, tests or procedures than those applied to resident pupils. However, certain exceptions to this rule were granted for pupils engaged in conduct warranting expulsion or who were habitually truant. Furthermore, districts were not required under the past agreement to accept pupils requiring a bilingual education program not available in the district or pupils identified as having exceptional educational needs.

Minority Staff Recruitment and Retention

The settlement required each school district to make a good faith effort to seek and hire minority applicants for employment by adopting a minority recruitment plan which was required to have remained in effect for the term of the original settlement.

Other Terms and Enforcement of the Agreement

During the term of the settlement, the participating school districts and the NAACP agreed to support legislation which would expand

specialty schools, continue funding for Chapter 220, and "improve" Chapter 220 (such as current-year funding of interdistrict transfer aids). The parties agreed not to support any legislation or judicial remedy which would involve the involuntary transfer of pupils, reorganization of district boundaries or a change in district governance.

The settlement language also included a provision which stated that nothing in the agreement shall require a district to accept a transfer pupil for whom it will not receive, in reimbursement, an amount equal to or greater than its tuition cost or, if the district is wholly or partly responsible for the transportation costs of interdistrict transfers, will not receive full reimbursement for such costs. Districts also retained the right to determine their own policies and practices as to class size, building utilization, opening and closing schools and all other matters not specifically governed by the settlement unless the policy or practice was intended to avoid the agreed upon transfer goals.

The methods of enforcing the agreement between MPS, the NAACP and the suburban districts were informal dispute resolution, mediation and binding arbitration. The sole remedy for breach of the settlement agreement would have been an award requiring performance of the specific provision found to have been violated. With the exception of the provision relating to full reimbursement of a receiving district's tuition and transportation costs, any provision of the settlement could have been replaced by the arbitrator. The federal District Court retained jurisdiction only for purposes of enforcing the arbitrator's decision and for resolving disputes over whether the order for the six school districts located outside of Milwaukee County should be converted to a dismissal with prejudice.

State Defendants

The Governor and the State Superintendent agreed to support, in all reasonable ways,

continued efforts to achieve greater racial balance in the metropolitan Milwaukee public schools through voluntary pupil transfers. In addition, the two agreed to propose and support, in all reasonable ways, programs (either new or supplemental to existing programs) which would have sought to correct the academic deficiencies of disadvantaged pupils in MPS and achieved a more effective educational program. Funding sought for the educational programs would total at least \$30 million between 1988 and 1993 based on the following schedule:

<u>School Year</u>	<u>Amount</u>
1988-89	\$3,000,000
1989-90	5,000,000
1990-91	7,000,000
1991-92	7,000,000
1992-93	8,000,000

From 1988-89 to 1992-93, the Legislature appropriated \$30 million to fund compensatory and expanded education programs for MPS in fulfillment of the settlement agreement.

While there was no provision in the agreement for continued funding after 1992-93, the Legislature maintained the program at \$8 million annually until 1998-99. In 1999 Act 9, that appropriation was reduced to \$1.41 million beginning in 1999-00. In 2002-03, the funds were distributed according to an annual spending plan developed by the MPS School Board with the approval of the Governor, the appropriate standing committees and the Joint Committee on Finance. Further details on this categorical aid program can be found in the Legislative Fiscal Bureau's Informational Paper #27, entitled "Elementary and Secondary School Aids."

The agreement signed by the Governor and the State Superintendent stated that failure on the part of the Legislature to appropriate the funding called for in the agreement or the simple fact of amendments to the integration aid statute would

not, in and of themselves, constitute a violation of the agreement nor form the basis for further litigation.

Extension of 1987 Settlement Agreement

The original settlement agreement was due to expire on June 30, 1993. A committee was formed in June, 1991, by the Coordinating Council to draft a new agreement. The committee was unable to reach consensus on several key issues including: (1) the required 10% set aside in MPS schools for suburban transfer students; and (2) the setting of specific transfer goals for each participating district and any proposed changes to the 20% bonus aid provision. Instead, MPS and the participating suburban school districts extended the 1987 agreement for two more years to June 30, 1995. Negotiations in that interim failed to produce a new agreement to continue the program after that date. In November, 1994, the MPS Board voted not to extend the agreement beyond the June 30, 1995, expiration date. The Board further authorized and directed the District's Superintendent to commence negotiations for individual transfer agreements between MPS and the participating suburban school districts to continue interdistrict transfers.

Since that date, MPS has entered into one-year agreements with each of the 23 suburban districts. These agreements include similar provisions to the original agreements. As of September, 2002, there were 4,036 MPS students attending the suburban districts, which was 465 less than the 4,501 seats available. Under the agreements, MPS has agreed to make seats available for interdistrict transfer students from all of the suburban districts participating in the program. As of September, 2002, 540 suburban students were in attendance at an MPS school. MPS is allowed to refuse placement of new students in a specific MPS school if such placements would increase the number of suburban transfer students from all participating suburban districts to more than 10% of the student population of that school.

1994 Audit of Chapter 220 Program

In his 1993-95 biennial budget recommendations (Senate Bill 44), the Governor proposed sunsetting the Chapter 220 program as of June 30, 1995. The Legislature rejected this proposal and instead directed the Legislative Audit Bureau (LAB) to conduct "a financial and performance evaluation of all components" of the program, including "its impact on desegregation and on the academic achievement of students participating in the program as compared to those who are not participating."

The audit (submitted in November, 1994) reached the following conclusions regarding the impact of the Chapter 220 program:

1. The program has improved integration in the 23 participating suburban school districts. The collective percentage of minority enrollment in these districts increased from 3.4% in 1978 to 13.4% in 1993 (5.7% of which were resident minority pupils and 7.7% were non-resident Chapter 220 transfers). However, further improvements will be difficult to achieve in the future because of limitations on available seats within MPS and the suburban districts, and suburban community resistance to program expansion.

2. The program has been less effective in encouraging and maintaining integration of the schools in Milwaukee. The percentage of MPS pupils attending an integrated school (with at least 30% nonminority enrollment) has declined from 73% in 1983 to 43% in 1993. This is largely the result of changing demographics within Milwaukee that have caused the nonminority percentage of total MPS enrollment to decline from 50.6% in 1978 to 25.9% in 1993.

3. For the MPS intradistrict transfer program, the LAB found that attending an integrated school had a very small positive effect on scores on state tests given to 8th and 10th grade pupils in the spring of 1994, but no single factor examined by the LAB explained much of the variation in test score.

MPS resident pupils transferring to the suburban districts had higher test scores on state 3rd, 8th and 10th grade tests than either MPS resident pupils or MPS resident pupils who had applied for the Chapter 220 program but were not selected. Nonminority suburban resident pupils transferring to MPS scored higher than nonminority suburban pupils who did not transfer and nonminority MPS pupils.

However, the audit found that academic achievement of transfer pupils was also affected by factors other than participation in the transfer program (such as parental involvement and socioeconomic status). In addition, there was a significant gap in test scores between minority and nonminority pupils wherever they attended school.

4. Most, but not all, suburban districts have provided enhanced educational opportunities to transfer pupils by such efforts as multicultural curriculum and training in human relations for staff, pupils and parents.

5. Survey and interview results show that opinions about the goals and success of the Chapter 220 program vary widely among participants and non-participants. For example, parents of transfer pupils cite opportunities for improving academic achievement as its primary goal and are generally supportive of the program. District administrators and some other school staff support the program's integration goal. However, some school board members, teachers and parents of non-participating students oppose the program's continuation.