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(FORM UPDATED: 08/11/2010)

# WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

## 2011-12

(session year)

## Senate

(Assembly, Senate or Joint)

## Committee on Education...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (December 2012)

## Senate

### Record of Committee Proceedings

#### **Committee on Education**

##### **Senate Bill 179**

Relating to: requiring a private school that provides child care for children under three years of age to be licensed to operate a child care center.

By Senators Lassa, Ellis and Taylor; cosponsored by Representatives Bernard Schaber, Grigsby, Pope-Roberts, Berceau, Bernier, Bewley, Hulsey, Pasch, Ringhand and Sinicki.

September 13, 2011 Referred to Committee on Education.

October 5, 2011 **PUBLIC HEARING HELD**

Present: (7) Senators Olsen, Vukmir, Grothman, Darling,  
Vinehout, C. Larson and T. Cullen.  
Absent: (0) None.  
Excused: (0) None.

##### Appearances For

- Mike Ellis, Madison — Senator
- Julie Lassa, Madison — Senator, 24th Senate District
- Penny Bernard Schaber, Madison — Representative, 57th Assembly District
- Joyce Mallory, Milwaukee — Milwaukee Child Care Alliance
- Jeff Spitzer-Resnick, Madison — Disability Rights Wisconsin
- SuAnne Rieckman, Appleton
- David Edie, Madison — Wisconsin Council on Children and Families
- Ruth Schmidt, Madison — Wisconsin Early Childhood Association
- David Linsmeier, Pewaukee — Wisconsin Child Care Administrators Alliance

##### Appearances Against

- None.

##### Appearances for Information Only

- Matt Kussow, Madison — WCRIS

##### Registrations For

- Laura Chern, Madison
- Jennifer Kammerud, Madison — WI Dept of Public Instruction

- Bryan Rieckman, Appleton
- Lena Taylor, Milwaukee — Senator, 4th Senate District

Registrations Against

- None.

Registrations for Information Only

- None.

October 5, 2011

**EXECUTIVE SESSION HELD**

Present: (7) Senators Olsen, Vukmir, Grothman, Darling,  
Vinehout, C. Larson and T. Cullen.  
Absent: (0) None.  
Excused: (0) None.

October 19, 2011

**EXECUTIVE SESSION HELD**

Present: (7) Senators Olsen, Vukmir, Grothman, Darling,  
Vinehout, C. Larson and T. Cullen.  
Absent: (0) None.  
Excused: (0) None.

October 27, 2011

**EXECUTIVE SESSION HELD**

Present: (7) Senators Olsen, Vukmir, Grothman, Darling,  
Vinehout, C. Larson and T. Cullen.  
Absent: (0) None.  
Excused: (0) None.

Moved by Senator Vukmir, seconded by Senator Darling that  
**Senate Amendment 1** be recommended for introduction and  
adoption.

Ayes: (7) Senators Olsen, Vukmir, Grothman, Darling,  
Vinehout, C. Larson and T. Cullen.  
Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE  
AMENDMENT 1 RECOMMENDED, Ayes 7, Noes 0

Moved by Senator Vukmir, seconded by Senator Darling that  
**Senate Bill 179** be recommended for passage as amended.

Ayes: (7) Senators Olsen, Vukmir, Grothman, Darling,  
Vinehout, C. Larson and T. Cullen.

Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 7, Noes 0

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Sarah Archibald  
Committee Clerk

# Vote Record Committee on Education

1646  
SB179

Date: 10/27

Moved by: Vukmir

Seconded by: Darling

AB \_\_\_\_\_ SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt 1 \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:  
 Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Senator Luther Olsen, Chair</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Leah Vukmir</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Glenn Grothman</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Alberta Darling</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Kathleen Vinehout</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Chris Larson</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Timothy Cullen</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	_____	_____	_____	_____

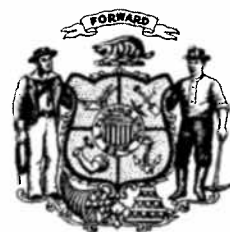
Motion Carried

Motion Failed





# WISCONSIN STATE LEGISLATURE



**TESTIMONY IN FAVOR OF SB 179**

by

Jeff Spitzer-Resnick

Managing Attorney

October 4, 2011

As many of you may be aware, Disability Rights Wisconsin (DRW) is Wisconsin's protection and advocacy agency for people with disabilities. In my work as Managing Attorney for DRW's Schools & Civil Rights team, one area that I have worked to improve is child care for children with disabilities. In fact, DRW, along with other members of the Early Learning Coalition, played a key role in the eventual passage of Youngstar, Wisconsin's new Quality Rating and Improvement System for childcare centers. Our goal in working on Youngstar has been to make quality child care universally available in Wisconsin for children with disabilities, something that has simply not been true to date.

DRW supports SB 179 because, if passed, it would close an important loophole in Wisconsin's effort to improve its child care system. Currently, all the health and safety regulations in Wisconsin's childcare laws simply do not apply to private schools which provide childcare. In addition, that means that these schools do not receive the important training and quality improvement built into Youngstar.

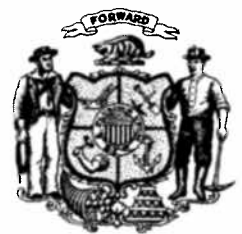
Both business and educational leaders understand that quality early learning experiences are critical to long term educational and vocational success. This is particularly true for those who have extra challenges built into their lives, such as children with disabilities. Since Wisconsin is on the path towards building a high quality early learning system, the legislature should pass SB 179 in order to keep moving forward in this direction.

I would be glad to answer any questions you may have about our position either during this hearing or at a later date.





# WISCONSIN STATE LEGISLATURE





WISCONSIN COUNCIL ON

**children  
& families**

Raising Voices to Make Every Kid Count

555 West Washington Ave, Suite 200

Madison, WI 53703

[www.wccf.org](http://www.wccf.org)

☎ 608-284-0580

✉ 608-284-0583

## **Testimony on SB 179: Requiring a private school that provides child care to be licensed**

The Wisconsin Council on Children and Families strongly supports this bill. We believe that the current child care licensing law needs to be amended to assure that young, vulnerable children served by private schools are protected by the health and safety rules that thousands of child care centers and homes must meet.

Currently child care and preschool programs providing care and supervision to 4 or more children under age 7 unrelated to the provider are required to be licensed to promote and protect the health, safety and welfare of the children. Over 5,000 child care centers and family child care homes are currently licensed. Originally public schools and YMCAs were exempt from licensing, but YMCA child care programs are now required to be licensed, and public schools that choose to operate a child care program for young children must assure the program meets licensing standards. A discrimination law suit allowed private schools to operate child care programs without licensing. It is time to close this loophole, at least for children under age three. Only private schools are exempt from child care licensing under current law.

We support closing the loophole that allowed an Appleton private school in 2010 to care for up to 37 infants and preschool children in unsafe conditions without the protection of licensing. The Appleton Fire Department found the 37 children in care, ranging in age from 3 months to 5 years, including infants sleeping in a closed basement room with no supervision, smoke detectors, or monitors. The Appleton Fire Department found numerous safety violations, but child care licensing officials had no jurisdiction to act earlier. For the safety of our youngest children, we support SB 179.

David Edie  
Early Education Policy Analyst  
Wisconsin Council on Children and Families  
October 5, 2011





# **JULIE LASSA**

## **STATE SENATOR**

Testimony on Senate Bill 179  
Senate Committee on Education  
Wednesday, October 5, 2011  
State Capitol, Room 411 South  
11:00am.

Chairman Olsen and members of the Senate Education Committee,

Thank you for allowing me to speak to you today on Senate Bill 179, which will protect children from unscrupulous childcare providers who cut corners and endanger child safety, without adding additional regulations to legitimate private schools and childcare centers.

Senate Bill 179 closes a loophole in existing state law that allows childcare centers to operate without proper licenses by simply defining themselves as private schools. Senate Bill 179 will close this loophole by requiring private schools that care for children under the age of three to obtain a license to operate a childcare facility in Wisconsin.

The loophole in existing state law first came to light in May 2010, when the Appleton Fire Department closed Grace's Garden Academy, a Fox Valley care center, for building code violations. The inspector found numerous violations, including five infants sleeping in a closed basement room with no supervision or monitors, no functional smoke detectors, and a basement packed with toys from the floor to ceiling. The inspector also found a total of 19 children, ranging in age from three months to five years, under the care of only three adults. Inspectors from the state Dept. of Children & Families had attempted to close Grace's Garden in the fall of 2009 due to its poor conditions, but because the owner declared it a private school, the center was able to remain open until parents learned of the fire code violations.

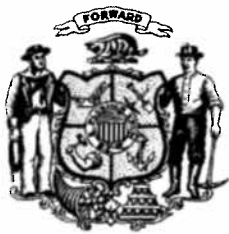
Quality childcare is important for the safety and wellbeing of both children and parents. Parents should not be in the position of worrying whether their children are being placed in an unsafe and unhealthy environment after they leave. One mother whose children attended Grace's Garden Academy noticed that her daughter was having respiratory problems and wasn't sleeping at night. She believes this is because her daughter was placed, without monitors, in Grace's Garden Academy's dark, moldy basement during the day. When fire inspectors investigated, they could not file criminal charges because there are none on the books. They were, however, able to cite Grace's Garden with a "failure to have a permit before occupancy." This is not acceptable.

Unregulated private schools should not be able to care for infants and young children without some type of regulatory oversight to ensure they are meeting health and safety standards. This proposal will help protect children by forcing illegal childcare centers to either clean up their act or close down.

Thank you again for the opportunity to speak to you today regarding this important legislation. I would be happy to answer any questions you may have.



# WISCONSIN STATE LEGISLATURE



## **Milwaukee Child Care Alliance Mission Statement**

The Milwaukee Child Care Alliance (MCCA) is a network of leaders in early care and education who are committed to strengthening the lives of children and families through advocating to improve the quality of early care and education in the Greater Milwaukee Area.

### **Testimony on SB 179: Requiring a private school that provides child care to be licensed October 5, 2011**

The Milwaukee Child Care Alliance (MCCA) strongly supports SB 179. We believe that the current child care licensing law needs to be changed to assure that young, vulnerable children served by private schools, are protected by the health and safety rules that thousands of child care centers and homes are required to meet. This bill will help to protect Wisconsin's children from programs that cut corners and endanger their safety!

Currently child care and preschool programs providing care and supervision to four or more children under the age of seven, unrelated to the provider, are required to be licensed to promote and protect the health, safety and welfare of the children. Over 5,000 child care centers and family child care homes are currently licensed. Under current law, private schools are exempt from the child care licensure requirement. It's time that all programs caring for young children are operating under the same laws and are required to be licensed by DCF.

We support closing the loophole that allows programs; such as what happened at an Appleton private school in 2010 to care for up to 37 infants and preschool children in unsafe conditions without the protection of licensing. The Appleton Fire Department found the 37 children in care, ranging in age from 3 months to 5 years, including infants sleeping in a closed basement room with no supervision, smoke detectors, or monitors. The Appleton Fire Department found numerous safety violations, but child care licensing officials had no jurisdiction to act earlier. For the safety of our youngest children, we support SB 179.

#### **Co-Chairs of the Milwaukee Child Care Alliance:**

Beverly J. Anderson &  
Ebenezer Child Care Centers, Inc.

Patti Grede  
Penfield Children's Center

#### **Members:**

Wendy Bahr  
La Causa Early Education & Care Centers

Jeanne Diffley  
COA Youth & Family Services

Pam Boulton  
UWM Center for Early Childhood Professional  
Development & Leadership

David Linsmeier  
Mary Linsmeier Schools

Dick Buschmann  
Day Care Services for Children

Gina Hobbs  
Neighborhood House

Rose Yanacheck  
Council for the Spanish Speaking/Guadalupe HS

Carol Keintz  
Next Door Foundation/Educare of Milwaukee

Nancy Nestler  
Multicultural Community Services

Julie Lefler  
YMCA

Angela Lampkin  
Child Development Center of St. Joseph

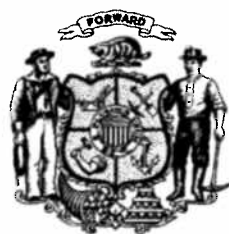
Schnell Price  
Jo's Daycare Academy

Jack McCommon  
4C

Joyce Mallory  
Malaika Early Learning Center



# WISCONSIN STATE LEGISLATURE



**Testimony in support of SB 179:  
Requiring a private school that provides child care to be licensed**

Wisconsin Early Childhood Association (WECA) supports SB179. Our work as a statewide professional association for early childhood educators is rooted in the very basic premise that *every* young child in our state is deserving of nurturing care that guarantees their safety and well-being. When young children in care outside of their homes are in licensed facilities, Wisconsin child care licensing rules establish a foundation of safety. It is only upon such a foundation that professionals in our field can foster development, support early learning, establish relationships that build social and emotional competence, and prepare young children for future success in school and beyond.

A child care program in Appleton, operating under the guise of a private school and found by the Appleton Fire Department to be endangering children, lacked the necessary foundation of child protection. Child care licensing officials had no authority to prevent or intervene in this situation. SB179 can create the change we need by requiring private schools that operate child care programs to be licensed. We urge you to take this action immediately.

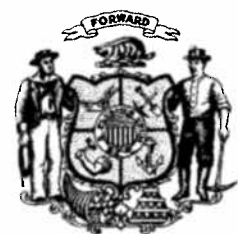
Ruth Schmidt  
Executive Director  
Wisconsin Early Childhood Association

October 5, 2011





# WISCONSIN STATE LEGISLATURE





wisconsin department of  
**children & families**

201 East Washington Avenue, Room G200

P.O. Box 8916

Madison, WI 53708-8916

Governor Scott Walker  
Secretary Eloise Anderson

Secretary's Office

October 12, 2011

Senator Luther Olsen, Chairman  
Senate Committee on Education  
State Capitol, 123 South

Dear Senator Olsen;

As the agency responsible for regulation of child care, the Department of Children & Families offers the following written testimony on SB 179 for information only.

Any child care program that cares for four or more children under age 7 who are unrelated to the provider is required to be licensed, with certain exceptions:

- Specific named relatives (through blood, marriage or legal adoption);
- Legal guardian;
- Public or parochial school or tribal school;
- A person employed to come to the home;
- A governmental entity which provides programs of a social nature.

SB 179 would require any private school that operated a child care center providing care for children under age 3 to obtain a license to operate. Public schools operating a child care program that provides care to children under age 3 would continue to be exempt from the licensing requirement.

The Department of Children and Families currently has a regulatory system in place through regional licensing offices across the state. Staff conduct initial and periodic (one to four times per year) on-site visits to child care centers to assure the health & safety of children. The Department is unaware of the number of programs that may be affected by this law as these programs are currently unregulated. DCF checked with the Department of Public Instruction on whether they maintain data on private schools that may be providing child care to children under age three. DPI is unaware of how many of the 832 private schools in the state provide care to children under age 3.

The Department expects a fiscal effect due to increased workloads of the licensing staff. However, because the number of programs that may be affected by the law is unknown, the actual fiscal effect is difficult to determine with any certainty.

Respectfully,

*MaryAnn Lippert*

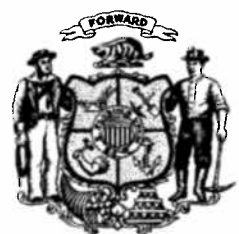
MaryAnn Lippert  
Executive Assistant

T 608.266.8684 F 608.261.6972 [dcf.wi.gov](http://dcf.wi.gov)

DCF-F-22-E (R. 04/2011)



# WISCONSIN STATE LEGISLATURE



**To: Senate Education Committee**  
**From: Matt Kussow, Executive Director**  
**RE: Senate Bill 179**

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The **Wisconsin Council of Religious and Independent Schools (WCRIS)** applauds the authors' attempt to legally define the differences between private schools and childcare centers. Our board understands the loophole which exists in the law and certainly does not want rogue childcare centers circumventing state regulations by trying to declare themselves a private school. As an association, we realize the effect this has on the public's perception of private education.

However, we are concerned with the effect this proposal will have on a small number of private schools around Wisconsin which serve a limited number of children under the age of three at before- and after-school programs. In most cases, these children are the siblings of other students at the school or the children of employees.

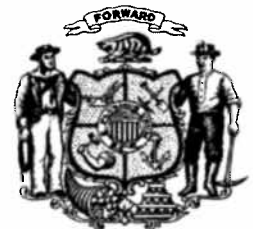
As you know, under current law, "public, parochial and tribal" schools are exempt from this type of licensure. SB179 chooses one option, redefines them as "private schools", and adds another layer of regulation. It would seem appropriate to extend this new requirement to any public school serving children less than three years of age as well.

In addition, I would urge members to examine the various levels of regulation which exist and explore the possibility of streamlining the process. We have private schools at the moment hitting requirements from as many as seven different state departments, usually while holding at least one certificate of accreditation from a qualified agency. It would seem a more efficient process could more adequately serve all our interests.

Thank you for your consideration.



# WISCONSIN STATE LEGISLATURE





# Penny Bernard Schaber

*Serving the heart of Appleton*

STATE REPRESENTATIVE 57th ASSEMBLY DISTRICT

## Testimony for Senate Bill 179

Chairman Olsen and members of the Senate Committee on Education:

Thank you for agreeing to hear this bill, and for giving me the opportunity to testify. Senate Bill 179 is a response to an incident in my district that revealed a disturbing oversight in Wisconsin's statutes governing child care licensing.

In October 2009, Grace's Garden Academy, an Appleton day care facility, was ordered to close by the Dept. of Children and Families for operating without a license. At the time, the facility was found to be caring for as many as ten preschool-aged children. Rather than closing, or making the necessary changes to obtain a day care license, the owner of the day care instead declared that her day care center was in fact a private school.

Under current law, private schools are exempt from the child care licensure requirement, so DCF was unable to compel Grace's Garden Academy to close, and the facility evaded further inspection for six months. At the same time, the Dept. of Public Instruction has no authority to regulate or monitor private schools, so Grace's Garden was able to continue operating without any state oversight whatsoever—putting children at risk.

In May 2010, the Appleton Fire Dept. received a complaint of a building code violation at the facility. The inspector found numerous violations, including infants sleeping in a closed basement room with no supervision or monitors, no functional smoke detectors, and a basement packed with toys from the floor to the ceiling. The inspector also found a total of 19 children, ranging in age from three months to five years, under the care of only three adults. The facility was ordered closed immediately, and the owner was cited for building code violations.

SB 179 closes the loophole that allows day care operators like Grace's Garden to avoid licensure requirements by claiming to be a private school. Under the bill, the exemption from child care licensure would not apply to private schools that care for children under three. Removing toddlers and infants from the licensing exemption brings the statutes in line with their original intent, by drawing a bright line in the law between the kinds of facilities that actually teach children, and those that simply take care of them while their parents are at work.

The vast majority of Wisconsin's day care centers comply with the licensing requirements not just because they are the law, but because they are the right thing to do to keep kids safe. Legitimate day care operators who do the right thing should not have to compete with those who would cut corners by exploiting this loophole. I ask for your help in preventing the next Grace's Garden Academy by supporting SB 179.

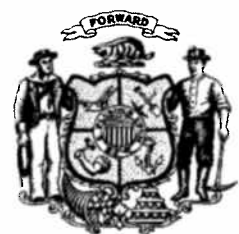
The Assembly version of this bill, AB 215, received a public hearing yesterday at which some questions were raised that may lead to an amendment to the bill. I will be working with Senator Lassa to determine how to address questions that have been raised concerning currently existing private schools who appropriately and correctly care for children under the age of 3 at this time. I would like to have the opportunity to address concerns raised by my colleagues in the Assembly yesterday.

DISTRICT  
(920) 739-9001  
815 E. Washington St.  
Appleton, WI 54911  
rep.bernardschaber@legis.wi.gov  
<http://bernardschaber.assembly.wi.gov>

STATE CAPITOL  
PO Box 8953  
Madison, WI 53708  
(608) 266-3070  
FAX: (608) 282-3657  
Toll-free: (888) 534-0057



# WISCONSIN STATE LEGISLATURE





Wisconsin Department of Public Instruction  
**HOME-BASED PRIVATE EDUCATIONAL PROGRAM**  
 PI-1206 (Rev. 4-09)

**INSTRUCTIONS:** Complete and retain the pink copy for your records and return the original and the yellow copy to:

**WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION  
 SCHOOL MANAGEMENT SERVICES / HOME-BASED  
 125 SOUTH WEBSTER STREET**

**P.O. BOX 7841  
 MADISON, WI 53707-7841**

School Year <b>2009-2010</b>
---------------------------------

The sections listed are references to the Wisconsin statutes.  
 For additional information about the Home-Based Private Educational Program, call: (608) 266-5761 or toll free 1-888-245-2732, ext. 1.

1. **Section 115.30(3)** On or before each October 15, each administrator of a home-based private educational program shall submit, on forms provided by the department, a statement of the enrollment on the third Friday of September in the elementary and secondary grades under his/her jurisdiction to the department.

HOME-BASED ENROLLMENT DATA													Total No. of Children 1-12 and Ungraded In Program Only	
Indicate the Number of Children in Each Grade Level and the Name of the Public School District of Residence.													Ungraded 1-12	
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	1-12	9-12
MALE														
FEMALE														

Name of Public School District of Residence

2. **Section 115.001(3g)** "Home-based private educational program" means a program of educational instruction provided to a child by the child's parent or guardian or by a person designated by the parent or guardian. An instructional program provided to more than one family unit does not constitute a home-based private educational program.

**Section 118.15(4)** Instruction in a home-based private educational program that meets all of the criteria under s. 118.165(1) may be substituted for attendance at a public or private school.

**Section 115.30(3)** The administrator of each home-based private educational program shall indicate in his or her report whether the system or program meets all of the criteria under s. 118.165(1).

**Section 118.165(1)**

- (a) The primary purpose of the program is to provide private or religious-based education.
- (b) The program is privately controlled.
- (c) The program provides at least 875 hours of instruction each school year.
- (d) The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. This subsection does not require the program to include in its curriculum any concept, topic, or practice in conflict with the program's religious doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the program's religious doctrines.
- (e) The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 118.15(1)(a).

The program meets all of the above named criteria. Check one  
 True     False

**RECOMMENDATIONS:** It is recommended that a copy of the school calendar verifying a minimum of 875 hours of instruction and course outlines verifying that there exists a sequentially progressive curriculum of fundamental instruction be maintained in your home.

Name of Parent or Guardian Print or Type		
Street Address If mailing address is a P.O. Box, also list street address.		
City	State	Zip
Signature of Parent/Guardian		Date Signed Mo./Day/Yr.