

Chapter PI 35

MILWAUKEE PARENTAL CHOICE PROGRAM

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Note: Chapter PI 35 was created as an emergency rule effective September 20, 1990.

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.

(1m) “Administrator” means the individual signing the notice of intent to participate in the Milwaukee parental choice program under s. 119.23 (2) (a) 3., Stats. The administrator shall be one of the following:

(a) An owner of the private school.

(b) An individual appointed as the private school's administrator by the governing body of the organization operating the private school.

(2) “Auditor” or “certified public accountant” means a firm licensed as a certified public accounting firm 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.

(5m) “Classroom records” means teacher recorded test scores, teacher originated grade and progress reports, teacher originated attendance records, and permanent files for individual pupils containing such data.

(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.

(6m) “Disqualified person” means a person who for a period of 7 years from the date of the order issued by the state superintendent:

(a) Had ownership interest in, or was an officer, director or trustee of a private school barred or terminated from participation in the choice program under s. 119.23 (10), Stats., or

(b) Was the administrator of the private school, a person identified as an administrator designee, or an individual responsible for the activity that resulted in an order being issued barring or terminating a private school from participation in the choice program under s. 119.23 (10), Stats.

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

(7m) “Educational programming” means the providing of instruction and related services to pupils enrolled in the private school.

(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.

(8m) “Financially viable” means the ability of the private school to pay for goods and services, make debt service payments, and pay other obligations as they become due.

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

(9m) “Generally accepted auditing standards” means the auditing standards prescribed by the accounting examining board under s. Accy 1.202.

(9r) “Generally accepted government auditing standards” means the auditing standards issued by the comptroller general of the United States.

(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.

(10b) “Individual responsible” means any person having administrative, financial, or pupil health and safety responsibilities, whether compensated or uncompensated, for the private school.

(10k) “Initial notice of intent to participate” means a notice of intent to participate submitted by a private school under this chapter that meets any of the following criteria:

(a) Did not participate in the program in the preceding school year.

(b) Participated in the program but voluntarily withdrew during the preceding or current school year.

(c) Participated in the program but was issued an order from the state superintendent terminating or barring the private school’s participation in the program during the preceding or current school year.

(10m) “Less-than-an-arms-length transaction” means a transaction where one party to the transaction is able to control or substantially influence the actions of the other. Such transactions include but are not limited to those between any of the following:

(a) Administrative and operating locations of the private school.

(b) The private school and any other organization that has as an owner, officer, or director an individual who serves in any of these capacities at the private school.

(c) The private school and an owner, director, trustee, officer, or key employee of the private school or an immediate family member of an owner, director, trustee, officer, or key employee of the private school either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

(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.

(12m) “Net eligible educational programming cost” means the cost of providing kindergarten through grade 12 educational programs less offsetting revenues and debt proceeds. Net eligible educational programming cost may not include penalties, fines, fees or interest charges required to be paid by the private school for not complying with any law or regulation.

(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.

(15m) “Professional standards” means both of the following:

(a) Standards established by the accounting examining board under ch. 442, Stats.

(b) Standards issued by the comptroller general of the United States for engagements where the use of generally accepted governmental auditing standards is required.

(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.

(17m) “Related parties” has the meaning given in generally accepted auditing standards.

(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.

(20m) “Scope limitation” means the inability of the auditor to perform a procedure required by professional standards, contract or law.

(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 measure 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; CR 02-023: 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; **CR 04-076: am. (2), cr. (1m), (5m), (6m), (7m), (8m), (9m), (9r), (10b), (10k), (10m), (12m), (15m), (17m) and (20m) Register October 2005 No. 598, eff. 11-1-05.**

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; CR 02-023: 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. (a) 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 certificate 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.

(b) The administrator of a private school filing an initial notice of intent to participate in the Milwaukee parental choice program under sub. (1) shall no later than May 1 prior to the first school year of participation in the program, or no later than March 1 if the private school is beginning participation in the program with summer school, submit to the department a copy of the validated application for a certificate of occupancy filed with the City of Milwaukee and a copy of the validated application to the City of Milwaukee board of zoning appeals, if applicable.

(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; CR 02–023; am. (1) (intro.), (c), (2) (intro.), (3), (5), (6) (a) (intro.), cr. (1) (d); Register August 2002 No. 560, eff. 9–1–02; **CR 04–076; renum. (3) to be (3) (a), cr. (3) (b) Register October 2005 No. 598, eff. 11–1–05.**

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) A private school under this section shall notify each applicant and the applicant's parent or guardian of acceptance or nonacceptance, in writing, within 60 days after receiving the application. The private school shall retain copies of all notices given under this section and all original applications, both accepted and nonaccepted, 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. All corrections to applications shall be made by a single strike-through of the information to be corrected with the corrected information written in indelible ink next to the stricken item. Any correction made under this paragraph shall be initialed by the parent and the school administrator or his or her designee as required by the department. Any application not corrected as required by this paragraph shall be considered an ineligible application until a properly completed application is obtained and a copy that meets the requirements under this paragraph is provided to the department.

(b) Upon notification of acceptance under par. (a), the applicant may enroll in the private school. The applicant may not be simultaneously enrolled in and attending another private school, a home-based private educational program, a charter school under s. 118.40 (2r), Stats., or a public school district, in or out of Wisconsin.

(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, a home-based private educational program, a charter school under s. 118.40 (2r), Stats., or a public school district, in or out of Wisconsin, 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.

(9) (a) A private school shall engage the auditor providing the opinion statement required under s. PI 35.046 (1) (a), or another auditor, to separately audit the private school's current enrollments as reported under sub. (6). The auditor's report shall identify ineligible pupils for whom the private school has received payment, the amount of payment received for each such pupil, and additional eligible pupils qualifying the private school for a payment. The separate enrollment audits required under this subsection shall be provided to the department by December 15 following the third Friday in September enrollment, and by September 1 following the second Friday in January enrollment.

(b) The private school shall provide the auditor with a listing of all kindergarten through grade 12 pupils enrolled in the school by grade level and original classroom records the auditor requires to audit enrollment under this subsection. The listing provided under this paragraph shall identify pupils participating in the choice program.

(c) The auditor engaged for an enrollment audit under this subsection shall develop a written audit program identifying the steps and procedures followed in conducting the audit. The audit program shall be made in accordance with professional standards and include all the procedures specified in this subsection and such other procedures as the auditor considers necessary to fulfill professional responsibilities. The auditor shall retain working papers relating to audits under this subsection for at least 3 years from the date of the department's certification of the financial audit report under s. PI 35.045 (1) (g) 3. unless requested to retain the working papers longer by the department or a law enforcement agency.

(d) The auditor shall perform all the following and other procedures agreed upon by the auditor and the department in auditing the private school's enrollment:

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

2. Reconcile the enrollment the private school reported to the department under s. 115.30 (3), Stats., with the pupil listing provided by the private school under par. (b). If necessary, the private school shall amend the filed report under s. 115.30 (3), Stats., to correctly report enrollment.

3. Verify enrollment reported on the membership report under sub. (6) for all choice program pupils against the private school's official attendance records.

4. Determine that the private school has an original application as required by sub. (4) for all pupils identified as participating in the choice program. Any pupil for whom an application cannot be provided or contains a correction not complying with the requirements of sub. (4) shall be considered an ineligible pupil and disclosed in the auditor's report required under par. (a).

5. Verify that all choice program pupils included on the private school's official enrollment records against original classroom records and determine that they meet the requirements of sub. (7).

6. Select a sample of at least 60 other pupils identified as not participating in the choice program from original classroom records and determine that selected pupils were included in reported membership enrollments under sub. (6). 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. If the school has an enrollment of fewer than 60 pupils, records for all pupils shall be examined.

7. 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.

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

9. If the private school has operated a summer school program, the auditor, as part of the third Friday in September enrollment audit, shall review for clerical accuracy, documentation maintained by the school supporting summer school membership reports filed with the department.

(e) Failure of the private school to provide original classroom records as required under this subsection shall be considered a scope limitation and the auditor engaged to provide the enrollment audit under this subsection or the opinion statement required under s. PI 35.046 (1) (a) shall disclaim an expression of an opinion regarding the eligibility of the pupils for whom classroom records are not available. Pupils for whom the auditor has disclaimed an expression are not eligible for payment under s. PI 35.05 (3).

(f) Upon review of the September enrollment audit, the department shall certify an amount due from the private school for payments made to the school for ineligible pupils or additional payments due the school for qualifying pupils. The private school shall refund to the department the amount certified as due the department within 60 days of notification. The department shall make additional payments due the school for qualifying pupils within 60 days of notification.

(g) The private school shall retain all pupil records required for audits under this subsection for at least 3 years from the date of the department's certification of the financial information report under s. PI 35.045 (1) (g) 3. unless requested to retain the records longer by the department or a law enforcement agency. The private school shall provide the department access to original records referenced in the auditor's working papers and provide copies as requested by the department.

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; CR 02–023: 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; **emerg. am. (2) and (6) (c), eff. 8–1–05; emerg. am. (2) and (6) (c), eff. 8–9–05; CR 04–076: am. (4) and (7) (a) 2., cr. (9) Register October 2005 No. 598, eff. 11–1–05.**

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; CR 02-023: 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 the choice program, a private school participating in the Milwaukee parental choice program shall submit, on a form provided by the department, a financial information report identifying the operating nature of the private school as required under s. PI 35.047 (12) (a) and accompanied by the auditor's opinion statement 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) A statement of net choice program assets 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 based on audited enrollments required under s. PI 35.04 (9).

(d) A statement of cash flows.

(e) Such other information necessary for the fair determination of educational programming cost.

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

(g) 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 information 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 another related party as a result of internal financing from other funds of the school or other less-than-an-arms-length transaction. 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.

5. All loans from an individual to the private school must result in a cash deposit to the school's or operating organization's depository account required under s. PI 35.047 (5) (a). Unpaid reimbursements due related parties or employees of the private school shall not be considered a loan.

(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; CR 04-076; am. (1) (intro.), (b), (c), and (3) (b) 4., renum. (1) (d) and (e) to be (1) (f) and (g) and am. (1) (g) 3., cr. (1) (d), (e) and (3) (b) 5. Register October 2005 No. 598, eff. 11-1-05.

PI 35.046 Financial audit requirements. (1) A private school under this chapter shall do all of the following:

(a) Annually by September 1 following a school year in which the private school participated in the choice program, the private school shall submit to the department an independent financial audit of the private school conducted by a certified public accountant accompanied by the auditor's opinion statement that the financial information report required under s. PI 35.045 is free from material misstatement and the private school's per pupil cost and any payment adjustment is fairly presented. The audit under this subdivision shall be limited in scope to those records that are necessary for the department to make payments under s. 119.23 (4) and (4m), Stats.

(b) Have a written engagement agreement, a copy of which shall be provided to the department upon request, with any auditor providing services required by this chapter. The written agreement shall contain all of the following:

1. A statement that the auditor shall comply with generally accepted auditing standards and the requirements of this chapter. The written agreement shall also specify that the auditor shall comply with generally accepted governmental auditing standards if required by other government agencies providing funds to the private school.

2. The responsibilities of the private school and the auditor in meeting the requirements of this chapter.

3. Any other services in addition to those required by this chapter that the auditor is providing to the private school.

4. The auditor's acknowledgement that the auditor is aware that the department will rely on the work of the auditor in fulfilling its requirements under this chapter.

5. The auditor's compensation for the services the auditor is providing the private school.

(c) Balance the financial accounting system required under s. PI 35.047 (1) and provide the auditor with a trial balance of account balances.

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

(e) Approve adjusting entries recommended by the auditor recorded in the private school's financial accounting records.

(f) Retain all financial records relating to the report required under s. PI 35.045 for at least 3 years from the date of the department's certification of the financial information report under s. PI 35.045 (1) (g) 3. unless required to retain such records longer by the department or a law enforcement agency.

(g) Provide the department access to original records referenced in the auditor's working papers and provide copies as requested by the department.

(2) The auditor engaged by the private school to provide the opinion statement under 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 sub. (3) and such other procedures agreed upon by the auditor and the department, and any other procedures the auditor considers necessary to fulfill professional responsibilities. The auditor shall retain working papers relating to audits under this section at least 3 years from the date of the department's certification of the financial information report under s. PI 35.045 (1) (g) 3. unless requested to retain the working papers longer by the department or a law enforcement agency.

(3) (a) The auditor shall determine that the financial report is free from material misstatement by performing 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. The auditor, in performing audit procedures to determine the report required under s. PI 35.045 (1) is free from material misstatement, shall consider account balances and total non-payroll related transactions with any one party to be significant if they exceed the following:

1. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is less than \$100,000, the variance limitation shall be 4% of the reported costs.

2. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is at least \$100,000 but less than \$1,000,000, the variance limitation shall be 2% of the reported costs.

3. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is at least \$1,000,000 but less than \$3,000,000, the variance limitation shall be 1.5% of the reported costs.

4. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is at least \$3,000,000 but less than \$5,000,000, the variance limitation shall be 1% of the reported costs.

5. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is at least \$5,000,000 but less than \$10,000,000, the variance limitation shall be .7% of the reported costs.

6. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is at least \$10,000,000, the variance limitation shall be .5% of the reported costs.

(b) The auditor shall consider accounts with a balance equal to at least 75% and individual transactions equal to at least 20% of the variance limitation amount determined under par. (a) as being significant and shall perform tests of those accounts and transactions along with other procedures considered necessary to conclude that the accounts and transactions do not contain mis-

statements whose effect, when aggregated with misstatements in other accounts and transactions, would exceed the variance limitation identified under par. (a) and result in a material misstatement in the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g).

(c) The auditor shall determine if fees charged pupils are allowed as specified under s. PI 35.03 (6) (a).

(d) The auditor shall perform all of the following regarding the private school's cash and investment balances:

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

2. 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 all of the following:

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

b. Receipts per depository statement 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.

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

(f) Trace all entries on the financial information report required under s. PI 35.045 (1) to the trial balance provided by the school under sub. (1) (c).

(4) The auditor engaged under this section shall comply with the requirements of s. Accy 1.101, and with all of the following:

(a) An auditor providing financial statement compilation or review services to the private school may not perform the audit under sub. (1) (a) unless the private school makes available a trial balance, based on the school's general ledger established as part of financial accounting system under s. PI 35.047 (1), for the compilation or review services.

(b) An auditor that performs the audit under sub. (1) (a) or compilation or review services under par. (a) may not post, or prepare for posting, original or source document transactions such as cash receipts and disbursements, invoices or billings for services, billings from vendors and suppliers, payroll activity and other typical recurring financial transactions to the private school's general ledger.

(c) The auditor may prepare and post adjusting, correcting, and closing journal entries to the private school's general ledger that have the written approval of the private school's management. The auditor's working papers shall document evidence of management approval for all such entries resulting from financial statement compilation, review or audit.

(d) The auditor may assist in the preparation of the budget required under s. PI 35.047 (2) (b). In providing assistance, the auditor shall comply with s. Accy 1.201, regarding forecasts, and shall identify as required by the department, that such assistance was provided.

(5) The auditor engaged under sub. (1) (a) shall evaluate whether there is substantial doubt about the private school's ability to continue as a going concern for a reasonable period of time. If after considering identified conditions and events and plans of the private school's management, the auditor concludes that substantial doubt about the private school's ability to continue as a going concern for a reasonable period of time remains, the auditor's report shall include an explanatory paragraph in the opinion statement required under sub. (1) (a) to reflect that conclusion.

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; CR 02-023; am. (1) (b), (2) (b) 2., 3., 4. and 6., Register August 2002 No. 560, eff. 9-1-02; **CR 04-076; r. and recr. Register October 2005 No. 598, eff. 11-1-05.**

PI 35.047 Sound fiscal practices. (1) A private school under this chapter shall use a double entry financial accounting system that is organized in such a manner that it will enable preparation of the report required under s. PI 35.045 (1) and provide such other information to fiscally manage the private school. The accounting system shall identify all the sources of funding used in the private school's operation specifically identifying all of the following:

(a) Revenue for pupils participating in the choice program.

(b) Revenue for parent or other private-paid tuition pupils.

(c) Revenue from payments made to or due the private school from the school district for instruction provided pupils enrolled in the private school.

(d) Revenue from payments made to or due the private school from the school district for transportation of the private school's pupils.

(e) Revenue from federal, state and local governments for instructional programs, food service and facility acquisition.

(2) (a) Except as specified under par. (b), annually, prior to the start of the private school's fiscal period, the administrator of the private school shall prepare a budget for the ensuing fiscal period showing anticipated enrollments for all pupils enrolled in the school and for choice program pupils, estimated revenues and costs, and a schedule of anticipated beginning and ending net choice program assets. The budget shall identify contingent funding sources the private school will use should actual enrollments be less than expected.

(b) A private school filing an initial notice of intent to participate in the choice program under s. PI 35.03 (1) shall, by the following May 1, submit to the department the information required in par. (a) along with a schedule of monthly cash flow requirements on a form provided by the department.

(c) A private school that participated in the program under this chapter in the immediately preceding school year shall revise the information required in par. (a) to reflect revenues resulting from the school's actual third Friday in September enrollment and related required budget changes if the actual third Friday in September enrollment for all pupils or for choice program pupils varies by 20% or 20 pupils, whichever is less, from the anticipated enrollments used in the budget required under par. (a).

(d) A private school filing an initial notice of intent to participate in the choice program under s. PI 35.03 (1), shall submit to the department by the following November 1, on a form provided by the department, a budget as required in par. (a) reflecting the school's actual third Friday in September enrollments and any related changes in revenues, costs and monthly cash flow requirements.

(3) A private school shall make payment of all the following within 90 days of receipt of invoice or payment request or as per written agreement:

(a) Payments to vendors for services provided.

(b) Reimbursements to employees and other individuals for expenses incurred on behalf of the private school. The employee or related party shall request reimbursement within the time period specified by the private school's written policy for such reimbursement. All reimbursements shall be made on the basis of original receipts that shall be retained by the private school in support of the paid reimbursement.

(4) A private school shall make payments to employees based on written documents specifying compensation and dates for payment. The private school shall provide this information to any employee requesting it.

(5) A private school shall have an adequate system of financial internal controls that includes all of the following:

(a) Depositing all receipts and paying all disbursements from a 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 private school's revenue and expenditure transactions. The depository account or accounts used by the private school or those used by its operating organization for school purposes shall be located within the state of Wisconsin.

(b) Maintaining documentation as to the nature and source of all cash receipts.

(c) Depositing intact and separate from all other receipts of the school, payments received for choice program pupils. The private school shall maintain a record of the deposit date for all individual payments received for the choice program pupils.

(d) Using pre-numbered checks for all school disbursements, except those from a petty cash fund.

(e) Maintaining on file original invoices and payment requests supporting disbursements.

(f) Using internal control practices recommended in previous fiscal practices reports required under sub. (13).

(6) A private school or its operating organization shall be current with all of the following:

(a) Filing and withholdings payment requirements of the federal internal revenue service. If the private school or its operating organization is required to file annual information return form 990 or form 990-EZ, a copy of the information in the filed return identified as available for public inspection by the federal internal revenue service shall be provided to the department by the private school within 30 days after filing.

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

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

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

(e) Filing requirements of the Wisconsin department of regulation and licensing.

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

(7) A private school shall have worker's compensation coverage and shall have liability and errors and omissions insurance coverage for incidents resulting from omissions or actions of the private school's owners, directors or employees. Coverage shall be provided by an insurance company licensed to do business in the State of Wisconsin or by a non-profit, tax exempt mutual protective organization covering risks of schools of, and controlled by, a religious denomination. All coverage shall be on an occurrence form or a claims made basis. Minimum coverage shall be as follows:

(a) Worker's compensation as specified under chapter 102, Stats.

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

1. For each occurrence, minimum coverage in the amount of \$1,000,000.

2. Personal injury, minimum coverage in the amount of \$1,000,000.

(c) Umbrella excess liability, an aggregate limit minimum coverage of \$5,000,000, unless the coverage amounts are based on a written or documented verbal recommendation of a risk or insurance consultant.

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

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

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

(8) If a private school operates or contracts for the operation of school buses with an organization other than a Wisconsin school district, the private school or the contracted operator shall have school bus insurance as required by s. 121.53, Stats. The private school may not contract for the school bus operation with an organization other than a Wisconsin school district unless the operator has provided the private school with a certificate of insurance meeting the requirements of s. 121.53, Stats.

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

(10) A private school shall, at least once every 3 years, have a written risk management and insurance evaluation by a risk or insurance consultant.

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

(12) The administrator of a private school filing an initial notice of intent to participate in the choice program under s. PI 35.03 (1) shall, by the following May 1, participate in a fiscal management training program approved by the department and shall provide the following on a notarized statement on a form provided by the department:

(a) Identification of the operating nature of the private school as one of the following:

1. Non-profit corporation.

2. Affiliation with religious organization with non-profit status.

3. For profit corporation.

4. For profit limited partnership

5. For profit partnership.

6. Sole ownership.

7. Specified other.

(b) Identification of how the private school will implement an accounting system that complies with the requirements of sub. (1).

(c) A statement that the private school shall have a written policy as required by sub. (3) (b) for expenses incurred on behalf of the private school.

(d) Identification of the written documents on which employee compensation will be based as required by sub. (4).

(e) A statement that the private school will have a system of financial internal controls as required by sub. (5).

(f) A statement that the administrator of the private school and the operating organization of the private school are current with filings and withholdings payments under sub. (6).

(g) A statement that the private school will have the minimum insurance coverage as specified under sub. (7) unless a different amount is recommended based on the written recommendation of a risk or insurance consultant. The private school shall provide the department with a certificate of insurance or other evidence of having obtained the required insurance by August 1 or prior to May 1 if the private school begins initial participation in the program with operating a summer school.

(h) A statement that the private school shall comply with the requirements of subs. (8) and (9) prior to providing or contracting for pupil transportation.

(i) A statement that the private school shall obtain the risk management and insurance evaluation as required by sub. (10).

(j) A statement that the private school shall have a fidelity bond as required by sub. (11) by August 1 or prior to May 1 if the private school begins initial participation in the program with operating a summer school.

(13) A private school shall engage an auditor to provide a report to the department by December 15 attesting to the private school's compliance or non-compliance with the fiscal and internal control practices required by this section. The internal audit staff of an organization affiliated with the private school may, with prior approval of the department, provide the report required by this subsection if the internal audit staff meets independence standards identified in generally accepted government auditing standards. The report under this subsection shall meet all of the following requirements:

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

(b) The report shall contain the private school's response as to its reasons for non-compliance with the requirements of this section and corrective action the school is taking.

Note: The Milwaukee parental choice program budget and anticipated cash flow form may be obtained from the Wisconsin Department of Public Instruction's website at www.dpi.state.wi.us/dpi/dfm/sms/finrpt.html or is available at no charge by writing to the Wisconsin Department of Public Instruction, School Management Services, P.O. Box 7841, Madison, WI 53707-7841.

History: CR 04-076: cr. Register October 2005 No. 598, eff. 11-1-05.

PI 35.048 Going concern determination. (1) The following shall be considered indicators that a private school under this chapter may not meet the requirements of under s. 119.23 (7) (am) 2. or (d) 2., Stats., or have the financial ability to continue:

(a) The budget and statement of cash flows required under s. PI 35.047 (2) show the private school has inadequate revenues and other financial resources to fund current operations.

(b) The audit opinion statement required by s. PI 35.046 (1) (a) contains a qualification as to the private school's ability to continue as a going concern.

(c) Failure to make payments as required by s. PI 35.047 (3) or s. PI 35.047 (4) as identified in the notarized statement or report required by s. PI 35.047 (12) and (13) or a written communication from a vendor or employee.

(d) Failure to make filings with or withholdings payments to the federal internal revenue service as required by s. PI 35.047 (6) (a), to the Wisconsin department of revenue as required in s. PI 35.047 (6) (b), or to the Wisconsin department of workforce development as required by s. PI 35.047 (6) (c) is identified in a written communication from these agencies or in the notarized statement required under s. PI 35.047 (12) or report required by s. PI 35.047 (13).

(e) Audit reports provided as required in s. PI 35.047 (6) (f) contain questioned costs or compliance findings that may affect the private school's ability to continue.

(f) Failure of the private school to make payment to the department as required by s. PI 35.045 (1) (g) 3. or 35.04 (9) (f).

(2) A private school under this section shall provide to the department any information the department requires, including an audit of the private school's financial statements in accordance with generally accepted accounting principles, to determine the ability of the private school to continue financially and shall promptly notify the department of impairments in the private school's ability to finance its operations.

(3) A private school participating in the choice program shall notify the department immediately of a decision to cease educational program operations.

History: CR 04-076: cr. Register October 2005 No. 598, eff. 11-1-05.

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.

Note: 2003 Wis. Act 155 repealed s. 119.23 (7) (b), Stats.

(2) (a) The department shall collect audits and reports under this chapter including those of membership eligibility from all of the private schools participating under this chapter. The department shall rely on the information contained in audits and reports received under this chapter in its administration of the Milwaukee parental choice program and may make inquiries considered necessary to ascertain the accuracy of information contained in such audits or reports.

(b) An auditor engaged by the private school under this chapter shall respond directly to inquiries from the department and permit the department to review audit working papers prepared in support of the enrollment audits under s. PI 35.04, financial audit requirements under s. PI 35.046, and the report on fiscal practices under s. PI 35.047. The auditor shall provide copies of working papers as requested by the department. The auditor shall notify the private school of any such inquiries or requests and the auditor's response thereto.

(c) Information contained in auditor working papers and copies, or information provided the department by the private school under s. PI 35.046 (1) (g) shall be confidential and not open to public inspection. The department may only disclose information under this paragraph to the following:

1. The department of regulation and licensing as part of a referral for investigation as to the auditor's compliance with professional standards.

2. The appropriate staff of the legislative audit bureau, a district attorney, the department of justice or a law enforcement agency for the purposes of audit, investigation or prosecution.

(d) An auditor who fails to timely and properly fulfill auditing and reporting requirements under ss. PI 35.04, 35.046 and 35.047 may not be engaged for any purpose required under this chapter by a private school participating in the choice program in succeeding years until such time as the auditor provides evidence acceptable to the department that the auditor has made procedural changes and has had professional development training that will enable the auditor to comply with the requirements identified in this subsection.

(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 is providing educational programming and has met the requirements under ss. PI 35.03, 35.04, 35.043, 35.045, 35.046, 35.047 and 35.048. 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%. No September payment may be made to a private school that has ceased educational programming prior to the payment date.

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. No November payment may be made to a private school that has ceased educational programming prior to the payment date.

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%. No February payment may be made to a private school that has ceased educational programming prior to the payment date.

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%. No May payment may be made to a private school that has ceased educational programming prior to the end of its scheduled school term.

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

(10) (a) The state superintendent shall review information provided under s. PI 35.048 and make a determination as to the

financial viability of the private school to continue to provide educational services to pupils enrolled under the Milwaukee parental choice program.

(b) The state superintendent shall notify a private school of a determination that the school is not financially viable.

(c) If the state superintendent determines that the private school does not have the financial ability to continue, that private school may not be permitted to participate in the choice program until the school provides acceptable information that it is financially viable to the state superintendent and the school's administrator has participated in fiscal management training as required by the department in addition to that specified in s. PI 35.047 (12).

(d) The state superintendent may require a private school determined to not have the financial ability to continue to immediately provide a surety bond, payable to the state of Wisconsin, to secure against loss due to failure of the private school to return checks as required in s. PI 35.04 (8), or to refund any amount certified due from the school in s. PI 35.04 (9) (f) or in s. PI 35.045 (1) (g) 3. The amount of bond required under this paragraph shall be equal to 25% of the total current fiscal year payment amount as determined under s. 119.23 (4), Stats., and shall remain in force until the department is provided with financial statements for the private school prepared in accordance with generally accepted accounting principles that do not contain a qualified audit opinion or an expression of the auditor's doubt as to the private school's ability to continue as a going concern.

(11) The department may provide or participate in the providing of, training related to financial matters to private school staff and their auditors. The department may charge a reasonable fee for such training or participation in such training.

(12) (a) The state superintendent may issue an order barring a private school from participating in the choice program if the state superintendent determines that the private school has done any of the following:

1. Misrepresented information required under s. 119.23 (7) (d), Stats.

2. Failed to provide the notice required under s. 119.23 (2) (a) 3., Stats., by the date or within the time period specified.

3. Failed to provide the information required under s. 119.23 (7) (am), Stats., by the date or within the time period specified.

4. Failed to provide the information required under s. 119.23 (7) (d), Stats., by the date or within the time period specified.

5. Failed to refund to the state any overpayment made under s. 119.23 (4) (b) or (4m), Stats., by the date specified under s. PI 35.04 (8) or (9) (f) or 35.045 (1) (g) 3.

6. Failed to meet at least one of the standards under s. 119.23 (7) (a), Stats., by the date specified under s. PI 35.03 (5).

7. Was barred or terminated from participation in the choice program under s. 119.23 (10), Stats., in the past.

8. Has an individual who is a disqualified person as an owner, officer, director, trustee, administrator, administrator designee, or with administrative, financial, or pupil health and safety responsibilities, whether compensated or uncompensated.

(b) The state superintendent may issue an order immediately terminating a private school's participation in the choice program if the state superintendent determines that conditions at the private school present an imminent threat to the health or safety of pupils.

(c) Whenever the state superintendent issues an order under this section, the state superintendent shall immediately notify the parent or guardian of each pupil attending the private school.

(d) The state superintendent may withhold payment from a parent or guardian under s. 119.23 (4) and (4m), Stats., if the private school attended by the child of the parent or guardian violates s. 119.23, Stats.

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; CR 02-023: am. (3) (a), Register August 2002 No. 560, eff. 9-1-02; **emerg. cr. (2m) and am. (3) (b) 1., eff. 8-1-05; emerg. cr. (2m), eff. 8-9-05; CR 04-076; renum. (2) to be (2) (a) and am., cr. (2) (b) to (d) and (10) to (12), am. (3) (b) Register October 2005 No. 598, eff. 11-1-05.**

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 pro-

vided 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.