

Informational Paper 28

School Integration (Chapter 220) Aid

Wisconsin Legislative Fiscal Bureau
January, 2007

School Integration (Chapter 220) Aid

Prepared by

Russ Kava

Wisconsin Legislative Fiscal Bureau
One East Main, Suite 301
Madison, WI 53703

School Integration (Chapter 220) Aid

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

Initially, state funding for integration aid was provided through a separate, sum sufficient appropriation. However, Chapter 34, Laws of 1979, deleted the sum sufficient appropriation and provided that funding for the program be distributed through the general school aids appropriation. During the program's history, integration aid payments have grown from \$8.3 million in 1976-77 to a high of \$84.8 million in 2006-07. It is the fourth largest form of state school aid after equalization aid, special education aid, and student achievement guarantee in education (SAGE) program aid.

During the 1970s, the issue of school integration within Wisconsin's public schools was addressed not only by the Legislature but by the federal courts. The U.S. District Court for the Eastern District of Wisconsin found that the Milwaukee School Board had administered the school system with segregative intent and ordered that a desegregation plan be developed. In 1979, a settlement agreement was reached which required the Milwaukee Public Schools (MPS) to ensure that at least 75% of all students within the district would be enrolled in racially balanced schools.

This was defined by the Court as having between 20 and 60 percent black enrollment at the high school level and between 25 and 60 percent black enrollment at the middle and elementary school level; only 9% of MPS schools met this standard in 1976. The settlement agreement remained in effect for five years, until July 1, 1984.

During this period of litigation, the Legislature enacted Chapter 220, which was considered to be landmark legislation because it represented a major effort by a state government to encourage integration in its public schools. Although passage of Chapter 220 was closely associated with the situation in the Milwaukee metropolitan area, the law allows school districts outside the Milwaukee area to participate in the program provided certain eligibility criteria are met.

In 1984, the issue of school integration in Milwaukee was again before the federal courts. The MPS School Board filed a lawsuit against 24 suburban school districts and the state charging that the public schools within the metropolitan Milwaukee area were segregated. The parties involved in the action, commonly referred to as the Milwaukee School Desegregation Case, eventually reached a settlement agreement that was approved by the federal District Court in October, 1987. This agreement was primarily dependent on the Chapter 220 program to facilitate and finance increases in the number of voluntary pupil transfers between MPS and suburban Milwaukee school districts. Although the original agreement expired on June 30, 1993, MPS and the suburban districts extended the agreement to June 30, 1995. Since the expiration of the agreement, MPS has negotiated individual transfer agreements with the participating suburban school districts.

The purpose of this paper is to provide background information on the integration aid

program. The first section discusses how a school district becomes eligible for Chapter 220 payments. The second section describes the formulas used to calculate these payments. The third section summarizes state aid payments and school district participation in Chapter 220. An appendix to this paper provides a brief summary of the terms of the 1987 settlement agreement.

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

Aid Eligibility

Integration aid is funded as a first draw from the general school aids appropriation. For revenue limit purposes, integration aid is included under a district's limit. As a result, any integration aid received by a district reduces the amount that the school board can levy in property taxes. Integration aid is treated as a deductible receipt for the purpose of calculating a district's shared costs that are aided through the equalization aid formula. This means that integration aid offsets shared costs, reducing the level of costs aided through the formula.

In order to qualify for integration aid, a school district must transfer pupils between school attendance areas with certain concentrations of minority or nonminority pupil populations. The statutes define "attendance area" as the geographical area within a school district established by the school board for the purpose of designating the elementary, middle, high, or other school which pupils residing in the area would normally attend. A "minority group" pupil is defined as a pupil who is Black or African

American, Hispanic, American Indian, an Alaskan native, or a person of Asian or Pacific Island origin.

State aid is provided for each minority group pupil who is transferred from an attendance area where minority group pupils comprise 30% or more of the population to an attendance area which has less than a 30% minority pupil population. In addition, aid is paid for each nonminority group pupil who transfers from a nonminority attendance area (less than 30% minority) to a minority attendance area (30% or more minority).

In order to be eligible for state aid, pupils must be four years old on or before September 1 of the year they enter school. Pupils who transfer under Chapter 220 are subject to the same rules and regulations as resident pupils and have the same responsibilities, privileges, and rights as resident pupils in the school district or attendance area. Pupils transferring schools have the right to complete their education at the elementary, middle, or high school to which they transfer as long as full funding is provided through the general school aids appropriation.

Under the original provisions of Chapter 220, only transfers between attendance areas could be aided. This requirement was subsequently modified to allow pupils attending schools serving an entire school district to be aided. This change recognized the existence of magnet or specialty schools that can have citywide attendance areas.

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

Formulas Used to Calculate Integration Aid

Integration aid is calculated through two different formulas depending upon whether a pupil is transferred within a school district (**intradistrict**) or from one school district to another (**interdistrict**). Under both formulas, school districts receive state aid based on the number of pupils transferred in the prior school year. For example, integration aid paid in fiscal year 2006-07 reflects pupil transfers in the 2005-06 school year.

Intradistrict Transfer Aid

General Provisions. State aid for intradistrict transfers is based on a certain percentage of aid per pupil received by the district under the equalization aid formula. The goal of this formula is to equalize the tax bases of school districts. School districts with low property valuations per pupil receive a larger share of their costs through the equalization aid formula than districts with high property valuations per pupil.

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

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

Prior to 1996-97, the weighting factor used to determine the intradistrict transfer payment was 0.325 (instead of 0.25). State aid for merged attendance area plans is calculated according to the same formula as intradistrict transfer aid. In 2006-07, five districts are operating intradistrict transfer programs (Beloit, Madison, Milwaukee, Racine and Wausau).

Milwaukee Public Schools. Under 1999 Act 9 (the 1999-01 budget act), portions of the intradistrict transfer program were restructured for MPS only. Act 9 contained provisions, commonly referred to as the neighborhood schools initiative, designed to assist MPS in the renovation and construction of school facilities and in the delivery of educational services for children in that district. The neighborhood schools initiative is intended to reduce the number of pupils who are transported outside of their neighborhood under the intradistrict transfer program.

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

Under Act 9, MPS is required to obtain the written consent of a pupil's parent or guardian to transfer the pupil under the intradistrict transfer program. Certain percentage thresholds are

established for the number of pupils for which MPS is required to receive written consent as a condition of the receipt of aid. MPS's intradistrict transfer aid will be reduced by the amount of aid generated for pupils who exceed the following percentage thresholds for each school year: (a) 75% in 2000-01; (b) 80% in 2001-02; (c) 90% in 2002-03; (d) 95% in 2003-04; and (e) 100% in 2004-05. Under 2005 Act 25 (the 2005-07 budget), the threshold was set at 95% in 2005-06 and each year thereafter. MPS may not receive state categorical transportation aid or state equalization aid for the transportation costs relating to those pupils short of the thresholds. Annually, by May 1, MPS is required to collect and report to the Legislature the number and percentage of pupils transferred outside of their attendance area without their parents' or guardians' written consent.

In 2004-05, MPS did not meet the 100% threshold. As a result, MPS's intradistrict aid was reduced by \$1.3 million in 2004-05 and MPS's transportation aid was reduced by \$31,000 in 2005-06. Also, MPS's shared cost for the 2005-06 equalization aid calculation was reduced by \$575,000. No aid reductions were made in any other year due to failure by MPS to meet the percentage thresholds.

Act 9 also established a hold harmless on the amount of intradistrict aid MPS receives in order to ensure sufficient funding to make debt service payments to the Authority and to pay the costs related to the continued busing of intradistrict transfer pupils. Annually, the MPS intradistrict aid will be the greater of: (a) the 1998-99 aid amount (\$32.9 million), less any aid reduction due to a failure to reach the percentage thresholds described above; or (b) the actual aid entitlement under the intradistrict aid program, less any aid reduction due to a failure to reach the percentage thresholds described above. This hold harmless provision applies until the Authority bonds are paid off. Each year through 2006-07, MPS's intradistrict aid entitlement has exceeded the 1998-99 hold harmless amount.

A total of \$98.5 million in bonds have been issued related to the neighborhood schools initiative, excluding bonds for capitalized interest, issuance and other allowable costs. This funding was budgeted to complete or begin approximately 40 projects, including construction of new schools, additions to schools, renovations to facilities, and leases for schools.

Interdistrict Transfer Aid

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

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

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

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

Since 1977-78, interdistrict transfer payments have exclusively been made to school districts within the Milwaukee metropolitan area. Chapter

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

Minority Census Tract Aid

A third category of integration aid was established in 1985 Act 29 as an incentive for MPS to increase school enrollments in minority-populated areas of the city. Under this provision, pupils attending nonspecialty public schools located in census tracts that have nonwhite populations of 20% or more (according to the most recent federal census), who are in excess of the enrollment in those schools in the 1984-85 school year, would each be counted as an additional 0.2 pupil under the general equalization aid formula. This provision only applies to MPS which was to be eligible for minority census tract aid beginning in 1986-87. In 1987-88, a small amount of equalization aid (\$19,200) was paid to MPS under

this provision. No aid has been paid since.

Relationship to Open Enrollment Program

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

Pupil Transportation

Transportation for an interdistrict transfer pupil is provided pursuant to an agreement between the sending district and the receiving district. Statutes specify that if either the sending district or the receiving district operates an intradistrict transfer program, that district shall be responsible for the cost of transportation. Effectively, this provision requires MPS to provide transportation for pupils in the interdistrict transfer program. MPS may meet this responsibility either by contracting directly for provision of transportation or by reimbursing another district for the cost of such a contract. Transportation for an intradistrict transfer pupil may be provided by his or her school district. A school district providing transportation for Chapter 220 pupils may not claim state categorical transportation aid for those pupils.

Table 1: Integration Aid Payments

Fiscal Year	Intradistrict Transfer Aid				Interdistrict Transfer Aid				Total	
	Pupils	Percent Change	Aid Amount	Percent Change	Pupils	Percent Change	Aid Amount	Percent Change	Integration Aid	Percent Change
1997-98	32,660	2.4%	\$37,034,500	9.5%	5,474	-3.5%	\$39,627,400	-1.4%	\$76,661,900	3.6%
1998-99	32,824	0.5	38,960,500	5.2	5,438	-0.7	40,953,200	3.3	79,913,700	4.2
1999-00	33,204	1.2	41,261,500	5.9	5,488	0.9	42,072,500	2.7	83,334,000	4.3
2000-01	31,920	-3.9	40,885,200	-0.9	5,454	-0.6	43,416,900	3.2	84,302,100	1.2
2001-02	31,424	-1.6	41,542,900	1.6	5,234	-4.0	42,606,400	-1.9	84,149,300	-0.2
2002-03	30,220	-3.8	41,213,800	-0.8	4,846	-7.4	41,223,700	-3.2	82,437,500	-2.0
2003-04	31,204	3.3	43,784,500	6.2	4,520	-6.7	40,069,300	-2.8	83,853,800	1.7
2004-05	31,148	-0.2	44,397,700 *	1.4	4,150	-8.2	37,189,900	-7.2	81,587,600	-2.7
2005-06	33,172	6.5	48,849,500	10.0	3,794	-8.6	35,372,400	-4.9	84,221,900	3.2
2006-07	33,576	1.2	50,524,700	3.4	3,457	-8.9	34,225,300	-3.2	84,750,000	0.6

*Amount shown does not reflect a \$1,333,800 aid reduction taken by MPS for failure to obtain required percentage for parental consent to transfer pupils.

Program Costs and Participation

Table 1 summarizes 10 years of state aid payments and pupil transfers under the Chapter 220 program. The data shown in the table are from the October 15 general school aids distribution run prepared by DPI for the indicated year. Not included in these amounts are the equalization aid payments that school districts continue to receive for pupils sent to other districts under the interdistrict transfer program. As noted, separate payments to sending school districts are not made by the state. The aid amounts shown include reductions made to fund the Milwaukee parental choice program and the Milwaukee and Racine charter school program under the statutory provisions that applied in the particular year.

Table 2 provides a breakdown by school district of interdistrict transfers, total aid payments, and aid payments per transfer since 2004-05. All 18 of the school districts in Milwaukee County and six districts outside Milwaukee County participate to varying degrees in the program. Table 2 shows that while estimated payments per transfer averaged \$9,901 in 2006-07, they ranged from a low of \$7,849 (Milwaukee) to a high of \$15,195 (Nicolet UHS).

As noted previously, sending districts do not

receive separate sender aid payments. The primary beneficiary of the sender aid provision is Milwaukee. In the 2005-06 school year (for aid paid in 2006-07), 89% of the 3,457 interdistrict transfer pupils were MPS residents. The 3,075 pupils who transferred from MPS to the suburban school districts represent 3.2% of Milwaukee's 2005-06 membership.

Table 3 displays pupil transfers, total aid payments, and aid payments per transfer since 2004-05 for the five school districts participating in the intradistrict component of Chapter 220.

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

Table 2: Interdistrict Transfer Payments

	2004-05			2005-06			2006-07		
	Pupil Transfers	Aid Payment	Aid Per Transfer	Pupil Transfers	Aid Payment	Aid Per Transfer	Pupil Transfers	Aid Payment	Aid Per Transfer
Brown Deer	79.00	\$717,159	\$9,078	68.67	\$670,241	\$9,760	50.21	\$507,643	\$10,110
Cudahy	116.22	1,092,298	9,399	96.74	934,658	9,662	71.00	695,647	9,798
Elmbrook	333.00	3,130,908	9,402	320.79	3,212,894	10,016	306.21	3,071,555	10,031
Fox Point J2	93.40	1,020,227	10,923	88.80	1,008,093	11,352	87.86	1,014,245	11,544
Franklin Public	307.18	2,912,489	9,481	268.15	2,594,714	9,676	239.01	2,381,899	9,966
Germantown	32.00	296,382	9,262	32.50	315,944	9,721	33.50	315,577	9,420
Glendale-River Hills	59.02	600,263	10,171	51.60	522,720	10,130	43.16	441,105	10,220
Greendale	60.50	569,834	9,419	62.33	602,111	9,660	55.30	578,089	10,454
Greenfield	118.79	1,041,547	8,768	108.23	1,009,691	9,329	103.23	959,196	9,292
Hamilton	100.59	886,320	8,811	109.55	979,432	8,941	108.29	1,017,400	9,395
Maple Dale-Indian Hill	62.80	836,697	13,323	59.85	782,183	13,069	53.12	763,445	14,372
Menomonee Falls	320.50	2,897,383	9,040	288.62	2,697,354	9,346	279.04	2,684,060	9,619
Mequon-Thiensville	147.50	1,384,679	9,388	145.00	1,449,311	9,995	136.50	1,358,925	9,955
Milwaukee	445.20	3,299,150	7,410	405.30	3,032,838	7,483	381.70	2,995,890	7,849
New Berlin	60.50	613,494	10,140	58.28	589,917	10,122	44.03	449,705	10,214
Nicolet UHS	114.00	1,345,657	11,804	111.09	1,453,530	13,084	105.59	1,604,458	15,195
Oak Creek-Franklin	110.50	893,489	8,086	94.00	778,076	8,277	87.00	748,127	8,599
Saint Francis	143.34	1,175,986	8,204	136.40	1,222,151	8,960	109.67	1,046,422	9,542
Shorewood	211.50	2,049,762	9,692	199.49	1,959,104	9,821	177.99	1,893,247	10,637
South Milwaukee	170.21	1,544,068	9,072	138.67	1,249,120	9,008	121.37	1,181,658	9,736
Wauwatosa	531.88	4,162,699	7,826	467.76	3,866,143	8,265	422.59	4,250,292	10,058
West Allis	163.00	1,372,042	8,417	138.00	1,205,175	8,733	113.50	1,017,930	8,969
Whitefish Bay	258.20	2,350,147	9,102	250.85	2,388,049	9,520	249.90	2,542,469	10,174
Whitnall	111.50	997,174	8,943	93.79	848,986	9,052	77.11	706,347	9,160
Total	4,150.33	\$37,189,854	\$8,961	3,794.46	\$35,372,435	\$9,322	3,456.88	\$34,225,331	\$9,901

Table 3: Intradistrict Transfer Payments

	2004-05			2005-06			2006-07		
	Pupil Transfers	Aid Payment	Aid Per Transfer	Pupil Transfers	Aid Payment	Aid Per Transfer	Pupil Transfers	Aid Payment	Aid Per Transfer
Beloit	72	\$121,553	\$1,688	64	\$111,145	\$1,737	72	\$126,513	\$1,757
Madison	944	463,504	491	888	518,441	584	864	492,189	570
Milwaukee	25,124	36,696,173 *	1,461	26,836	40,627,605	1,514	27,336	42,212,550	1,544
Racine	5,032	6,744,962	1,340	5,172	7,279,329	1,407	5,108	7,392,881	1,447
Wausau	276	371,489	1,346	212	312,995	1,476	196	300,541	1,533
Total	31,448	\$44,397,681	\$1,412	33,172	\$48,849,515	\$1,473	33,576	\$50,524,674	\$1,505

*Amount shown does not reflect a \$1,333,800 aid reduction taken by MPS for failure to obtain required percentage for parental consent to transfer pupils.

APPENDIX

Milwaukee Settlement Agreement

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

On September 15, 1987, the plaintiffs, the state defendants, and all 24 suburban school districts agreed to a settlement to resolve the lawsuit. The agreement, which was approved by the Court in October, 1987, consisted of three parts: (1) an agreement among the Milwaukee School Board, the NAACP and 23 suburban Milwaukee school districts, which initially expired on June 30, 1993, but was extended to June 30, 1995; (2) an agreement among the Milwaukee School Board, the NAACP, former Governor Thompson, and former State Superintendent Grover, which expired on July 1, 1993; and (3) a stipulation by all parties and all defendants for entry of an order from the Court which dismissed the claims of the plaintiffs against the defendants.

The following summarizes the major provisions

of these past agreements, particularly those provisions that directly involve the Chapter 220 aid program.

Interdistrict Transfer Opportunities

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

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

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

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

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

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

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

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

Milwaukee agreed to make available for suburban pupil transfers, a number of seats equal to at least 10% of its resident enrollment. The 10% goal applies to each of the district's specialty schools and programs, alternative schools, and city-wide schools.

Coordinating Council

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

Selection and Placement of Transfer Pupils

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

Minority Staff Recruitment and Retention

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

Other Terms and Enforcement of the Agreement

During the term of the settlement, the participating school districts and the NAACP agreed to support legislation which would expand specialty schools, continue funding for Chapter 220, and "improve" Chapter 220, such as current-year funding of interdistrict transfer aids. The parties agreed not to support any legislation or judicial remedy which would involve the

involuntary transfer of pupils, reorganization of district boundaries, or a change in district governance.

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

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

State Defendants

The Governor and the State Superintendent agreed to support, in all reasonable ways, continued efforts to achieve greater racial balance in the metropolitan Milwaukee public schools through voluntary pupil transfers. In addition, the two agreed to propose and support, in all reasonable ways, programs (either new or supplemental to existing programs) that would

have sought to correct the academic deficiencies of disadvantaged pupils in MPS and achieved a more effective educational program. Funding sought for the educational programs would total at least \$30 million between 1988 and 1993 based on the following schedule:

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

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

While there was no provision in the agreement for continued funding after 1992-93, the Legislature maintained the program at \$8 million annually until 1998-99. In 1999 Act 9, that appropriation was reduced to \$1.41 million beginning in 1999-00. The funds were distributed according to an annual spending plan developed by the MPS School Board with the approval of the Governor, the appropriate standing committees, and the Joint Committee on Finance. This funding was deleted in 2003 Act 33, effective in 2003-04.

The agreement signed by the Governor and the State Superintendent stated that failure on the part of the Legislature to appropriate the funding called for in the agreement or the simple fact of amendments to the integration aid statute would not, in and of themselves, constitute a violation of the agreement or form the basis for further litigation.

Extension of 1987 Settlement Agreement

The original settlement agreement was due to expire on June 30, 1993. A committee was formed in June, 1991, by the Coordinating Council to draft a new agreement. The committee was unable to

reach consensus on several key issues including: (1) the required 10% set aside in MPS schools for suburban transfer students; and (2) the setting of specific transfer goals for each participating district and any proposed changes to a 20% bonus aid provision, which has since been repealed. Instead, MPS and the participating suburban school districts extended the 1987 agreement for two more years to June 30, 1995. Negotiations in that interim failed to produce a new agreement to continue the

program after that date. In November, 1994, the MPS Board voted not to extend the agreement beyond the June 30, 1995, expiration date. The Board further authorized and directed the MPS Superintendent to commence negotiations for individual transfer agreements between MPS and the participating suburban school districts to continue interdistrict transfers. Since that date, MPS has entered into such agreements with the participating suburban districts.