CHAPTER 119

FIRST CLASS CITY SCHOOL SYSTEM

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Cross−reference: See definitions in s. 115.001.

SUBCHAPTER I

FIRST CLASS CITY SCHOOL DISTRICT

119.01 Applicability. This chapter applies only to cities of the 1st class.

119.02 Definitions. In this chapter, unless the context clearly requires otherwise:

(1) "Board" means the board of school directors in charge of the public schools of a city of the 1st class other than those public schools transferred to the opportunity schools and partnership programs under s. 119.33 or subch. II.

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

(2g) "Commissioner" means the individual in charge of the opportunity schools and partnership program under subch. II.

(3) "Members−elect" of a body at a particular time are those members who have been duly elected or appointed for a current regular or unexpired term and whose service has not terminated by death, resignation or removal from office.

(4) "Opportunity schools and partnership program" means the program under s. 119.33 or the program under subch. II.

History: 2015 a. 55.

119.04 Public instruction laws applicable. (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c), 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.363, 115.365 (3), 115.38 (2), 115.415, 115.445, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10), 118.245, 118.255, 118.258, 118.291, 118.292, 118.293, 118.30 to 118.43, 118.46, 118.50, 118.51, 118.52, 118.53, 118.55, 118.56, 120.12 (2m), (4m), (5), and (15) to (27), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.137, 120.14, 120.20, 120.21 (3), and 120.25 are applicable to a 1st class city school district and board but not, unless explicitly provided in this chapter or in the terms of a contract, to the commissioner or to any school transferred to an opportunity schools and partnership program.

NOTE: Sub. (1) is shown as affected by 2015 Wis. Acts 55 and 92 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

(2) The board shall exercise the powers, perform the functions and be entitled to all school aid under sub. (1) insofar as the same are relevant to cities of the 1st class. The board and the schools in cities of the 1st class shall be governed in all matters by the general laws of the state, except as altered or modified by express amendments.

History: 1971 c. 152 s. 38; 1971 c. 154 s. 80; 1973 c. 89 s. 20 (1); 1973 c. 90; 1973 c. 188 s. 6; 1973 c. 243, 254, 290, 307, 333; 1975 c. 39, 41, 95, 220, 379, 395, 422; 1977 c. 29; 1977 c. 203 s. 106; 1977 c. 206, 284, 447; 1979 c. 20; 1979 c. 34 s. 2102 (43) (a); 1979 c. 221, 298, 331; 1979 c. 346 s. 15; 1979 c. 355; 1981 c. 59; 1981 c. 241 s. 4; 1983 a. 193; 1983 a. 339 s. 10; 1983 a. 374 s. 12; 1983 a. 412, 489, 538; 1985 a. 29 s. 3202 (43); 1985 a. 56 s. 43; 1985 a. 214 s. 4; 1985 a. 225, 332; 1987 a. 27, 187, 285, 386, 403; 1989 a. 31, 120, 121, 122, 201, 209, 359; 1991 a. 39, 42, 189, 269; 1993 a. 16, 334, 377, 491; 1995 a. 27, 225; 1997 a. 27, 77, 113, 240, 252, 335; 1999 a. 9, 32, 73; 1999 a. 150 ss. 631, 672; 1999 a. 186; 2005 a. 99, 290, 346; 2007 a. 20, 97, 220, 222; 2009 a. 28, 60, 96, 215, 273, 305, 309; 2011 a. 10, 32, 85, 157, 166, 172; 2013 a. 20, 336; 2015 a. 55, 92; s. 13.92 (2) (i).

119.06 Initial establishment of board. (1) Members of a school board in existence in a city immediately prior to the date on which such city becomes a city of the 1st class shall continue to hold office and shall exercise all of the rights and privileges and discharge the duties of members of the board until their successors appointed under sub. (2) are appointed and qualified.

(2) Within 120 days after the date on which a city becomes a 1st class city, the mayor, the city treasurer, the city comptroller, the city attorney and the president of the common council of that city, acting as a commission for the city, shall meet and appoint a board of one at−large member and 8 members from election districts

numbered and designated by the common council. The election districts shall be substantially equal in population and the boundaries of the election districts shall be drawn so as to reflect a balanced representation of citizens of all areas within the city. The person appointed to represent an election district shall reside within the boundaries of the election district as determined by the common council under this subsection.

(3) The terms of members first appointed to the board by the commission shall be as follows:

(a) The at−large member and 4 of the combined aldermanic district members shall serve for a term beginning on the 4th Monday of the month next following their appointment and expiring on the 4th Monday in April in the 2nd year following the year in which a city becomes a city of the 1st class.

(b) Four of the combined aldermanic district members shall serve for a term beginning on the 4th Monday of the month next following their appointment and expiring on the 4th Monday in April in the 4th year following the year in which a city becomes a city of the 1st class.

(4) (a) Within 90 days after the board members appointed by the commission under sub. (2) have taken office, the common council of the city may, by resolution adopted by a majority of its members−elect, call a special election to elect successors to the board members so appointed. Such resolution shall be introduced at a regular meeting of the common council. No action may be taken on the resolution until the next regular meeting of the common council and until the resolution has been published as a class 1 notice, under ch. 985, together with a notice of the time when the resolution will be considered by the common council.

(b) The board members elected at the special election shall be nominated and elected to succeed the board members appointed for the terms expiring under sub. (3) (a) and (b) and for the same terms. The terms of office of the board members elected at the special election shall begin on the 4th Monday following the election.

(c) Candidates for the board at the special election shall be nominated in the same manner as for the spring election.

(d) The special election shall be held at the polling places and shall be conducted in the manner of and by the election officials for the spring election.

(5) The board first appointed under sub. (2) or first elected at a special election under sub. (4) shall hold an organizational meeting under s. 119.10 (2) on the 4th Monday of the month, or the next day if the 4th Monday is a legal holiday, following their appointment or election, and annually thereafter shall meet in accordance with s. 119.10 (2).

(6) Successors to board members appointed under sub. (3) or elected under sub. (4) shall be elected at the spring election immediately preceding the expiration of the terms of such board members and shall serve for 4−year terms.

(7) This chapter does not affect the term of office or employment of any person serving in any capacity by virtue of an appointment or contract of employment made by the school board in a city prior to the date on which a city becomes a city of the 1st class, but such person shall continue to serve in the same capacity under the board for the term for which the person was so appointed or employed, unless removed from such office or employment for the causes and in the manner provided in this chapter.

History: 1977 c. 445; 1983 a. 484; 1989 a. 290; 1993 a. 492.

119.08 Election of board members. (1) (a) The board shall consist of one member elected at−large and 8 members elected from numbered election districts determined by the board. The election districts shall be substantially equal in population and the boundaries of the election districts shall be drawn so as to reflect a balanced representation of citizens in all areas within the city.

(b) Within 60 days after the common council of the city enacts an ordinance or adopts a resolution adjusting the boundaries of wards in the city following the federal decennial census under s. 5.15 (1) and (2), the board shall, by vote of a majority of the membership of the board, adopt an election district apportionment plan for the election of board members which shall be effective until the city enacts a new ordinance under s. 62.08 (1) adjusting the boundaries of its wards under s. 5.15 (1) and (2).

(c) A person elected to represent a district shall reside within the boundaries of the district, except that if a person ceases to reside within the district because the boundaries of the district are changed during the person's term of office, the person may continue to serve for the balance of the term for which he or she was elected for so long as the person resides in the school district. Before taking office, the members of the board shall take the official oath of office and file it, duly certified by the officer administering the oath, with the city clerk.

(2) The electors of each election district shall elect one member residing within the election district to represent the election district. The at−large member shall be elected by the electors of the city. Board members shall be electors of the city and shall be elected at the spring election. Candidates shall file nomination papers for full terms or, when vacancies are to be filled, for unexpired terms. The primary and spring elections for board members shall be conducted by the election officials for the election of judicial or other officers held on that date. The polling places for the state, municipal or judicial election shall be the polling places for the board election and the municipal election hours shall apply.

(3) The regular terms of board members shall be 4 years.

(4) A vacancy on the board shall be filled by a special election ordered by the board. At such election the vacancy shall be filled for the unexpired term. The board shall follow procedures under s. 8.50, so far as applicable.

History: 1977 c. 445; 1983 a. 105, 484; 1985 a. 312; 1987 a. 176; 1989 a. 290; 2011 a. 39.

119.10 Meetings of the board. (1) The board is a continuing body. Any unfinished business before the board or any of its standing or special committees on the date of the annual meeting under sub. (2) shall be considered as pending before the board newly organized on such date. At its annual meeting, after the election of the new board president and the designation of the clerk, the clerk shall report to the board items of business pending before the board as a whole. After the annual April meeting, unless otherwise directed by the board, the clerk shall report items of business which had been pending before committees of the board to the corresponding committees of the board appointed by the new president. Matters thus reported may be acted upon by the board in the same manner and with the same effect as if the board had not been newly organized.

(2) Annually, no earlier than the 4th Monday in April and no later than the first Monday in May, the board shall hold its organizational meeting, shall elect a president from among its members to serve for one year and until a successor is chosen and shall designate an individual to serve as clerk. In the absence or during the disability of the board president, the board shall elect an acting president. The board president shall appoint standing committees to serve for one year.

(3) The board shall hold a regular meeting at least once each month at times fixed and published by the board in its rules. If a regular board meeting falls on a legal holiday, it shall be held on the next business day. Special meetings may be called and held as provided by the rules of the board. No business may be transacted at a special meeting other than that specified in the notice of the meeting, which shall be delivered personally or by mail to each member at least 24 hours before the time of such meeting.

(4) A majority of the members−elect of the board constitute a quorum for the transaction of business but a smaller number may adjourn. A majority of the members−elect of the board shall be necessary to elect any person authorized to be elected by the board.

(5) If a board member is absent for 4 successive board meetings without presenting satisfactory reason therefor in writing to

the board, the board shall declare the member's seat vacant and shall fill the vacancy under s. 119.08 (4). If any person appointed or elected by the board is absent or is unable to perform the duties of the person's office, the board may appoint or elect a suitable person to act in the person's place during the person's absence or inability.

(6) All elections or appointments by the board shall be by roll call vote which shall be entered by the clerk in the minutes and printed proceedings of the board.

History: 1977 c. 445; 1979 c. 110; 1991 a. 39, 269; 1993 a. 492.

119.12 Board; general provisions. (1) Board members are subject to all restrictions, liabilities, punishments and limitations, including recall under s. 9.10 (4), prescribed by law for members of the common council in their city. A majority of the members−elect of the board may dismiss from office for malfeasance any member of the board. The board shall provide by resolution the manner of hearing and disposing of complaints against a board member.

(2) In any action or proceeding in which the board is a defendant, service of any summons, writ, pleading or other papers served in commencing the action or proceeding upon the board president and the superintendent of schools constitutes service upon the entire board. It is sufficient to serve on such 2 officers any notice required by law to be served upon the board.

(3) Each member of the board shall be paid an annual salary in the amount set by the board. The salary shall be paid monthly.

(4) The board shall not in any one year contract any debt or incur any expense greater than the amount of the school funds subject to its order.

(5) If the board president is by law a member of any board or commission, the board may appoint another board member to serve on such board or commission in place of the board president.

(6) (a) The city attorney of the city shall be the legal adviser of and attorney for the board, except that the board shall retain an attorney to represent the board in any matter if any of the following applies:

1. The mayor, the common council, the city attorney, or the board determines that the board requires specialized legal expertise not possessed by the city attorney.

2. The mayor, the common council, the city attorney, or the board determines that the city attorney does not have sufficient staff to adequately represent the interests of the board.

3. The mayor, the common council, the city attorney, or the board determines that a conflict of interest exists.

(b) The city attorney shall notify the board as soon as a determination is made under par. (a) that the city attorney is unable to represent the board. The board shall provide the city attorney with reasonable notice of any board meeting at which the board will consider retention of an attorney.

History: 1977 c. 318, 403, 445, 447; 1983 a. 27; 1985 a. 158; 1991 a. 39; 2015 a. 55.

119.16 Board; duties. (1) EDUCATIONAL PRIORITIES AND OBJECTIVES. The board and the superintendent of schools shall identify broad yearly objectives and assess priorities for education in the district and shall issue an annual report and such additional reports as the board and superintendent deem desirable on the progress of pupils enrolled in the public schools.

(1m) MANAGEMENT OF SCHOOL DISTRICT. The board shall have the possession, care, control and management of the schools, facilities, operations, property and affairs of the school district.

(1n) CONTRACT WITH THE SUPERINTENDENT OF SCHOOLS OR WITH THE COMMISSIONER. Notwithstanding sub. (1m), immediately upon the transfer of a public school to an opportunity schools and partnership program under s. 119.33 or subch. II, the board shall make the superintendent of schools or the commissioner, respectively, an agent of the board under any lease between the board and the city and shall transfer to the superintendent of schools or the commissioner, respectively, the possession, care, control, and management of all land, buildings, facilities, and other property that is part of the school being transferred.

(2) ESTABLISH SCHOOLS AND DISTRICTS. The board shall maintain the public schools in the city, other than those public schools transferred to the opportunity schools and partnership programs under s. 119.33 and subch. II, and shall establish, organize and maintain such schools as the board determines are necessary to accommodate the children entitled to instruction therein. The board shall divide the city into attendance districts for such schools.

(3) BUILDINGS AND SITES. (a) The board shall construct, purchase, lease, improve or enlarge buildings and purchase furniture and sites for the public schools, shall purchase, install and maintain heating systems in public schools and may contract for carrying out any of these purposes.

(b) Except as provided in par. (c), schoolhouses and the sites on which they are situated shall be the property of the city. No site may be purchased or leased and no schoolhouse may be constructed unless a resolution therefor is duly adopted by the board. Except as provided in par. (c), deeds of conveyance and leases shall be made to the city.

(c) If the redevelopment authority of the city issues bonds under s. 66.1333 (5r), the board may lease buildings or sites from the redevelopment authority or borrow money from the redevelopment authority for the purposes of par. (a).

(3m) MASTER FACILITIES PLAN. (a) By July 1, 2011, the board shall evaluate all school buildings in the school district operating under this chapter according to the criteria established under par. (b), and shall develop a master plan governing the use, repair, renovation, and demolition of buildings in the school district.

(b) The board shall establish criteria to evaluate the safety, structural integrity, utility, and costs of maintenance and repair of school buildings in the school district. Subject to the requirements under sub. (10), the criteria shall include consideration of the advantages and disadvantages of repairing versus demolishing older buildings having high maintenance or operating costs.

(4) COMPETITIVE BIDDING. The board shall establish competitive bidding policies and procedures for purchases and for construction contracts.

(5) SPECIAL COURSES. Within budgetary limitations, the board shall establish in any public school, in grade 7 and higher, such classes of instruction consistent with the educational goals and objectives adopted by the board under sub. (1) as are petitioned for by the parents of a number of pupils attending the school sufficient to form one or more classes of instruction. Petition by the parents of 30 or more pupils of like classification attending any such school requesting the establishment of instruction in a specified subject is prima facie evidence of the sufficiency of the number of pupils to commence instruction therein.

(6) CUSTODIANS OF SCHOOL PREMISES. The board shall fix the duties and responsibilities of principals, as custodians of the school premises, and of the school engineers. Each principal shall have general supervision of and shall be custodian of all school premises over which the principal presides.

(8) BUDGET. (a) Annually before adopting its budget for the ensuing school year and at least 5 days before transmitting its completed budget under par. (b), the board shall hold a public hearing on the proposed school budget at a time and place fixed by the board. At least 45 days before the public hearing, the board shall notify the superintendent of schools and the commissioner of the date, time, and place of the hearing. At least one week before the public hearing, the board shall publish a class 1 notice, under ch. 985, of the public hearing.

(b) The board shall transmit its completed budget to the common council on or before the first Monday in August of each year on forms furnished by the auditing officer of the city, and shall include in the budget the information specified under s. 119.46 (1) for all public schools in the city under this chapter, including the schools transferred to the opportunity schools and partnership

programs under s. 119.33 and subch. II. The board shall itemize those portions of the budget allocated to schools transferred to the opportunity schools and partnership programs under s. 119.33 and subch. II. Such completed budget shall be published with the budget summary under s. 65.04 (2) or 65.20 and budget under s. 65.05 (7).

(9) SCHOOL BUDGET. Annually, the board shall prepare a budget for each school in the school district operating under this chapter, other than the schools transferred to the opportunity schools and partnership programs under s. 119.33 and subch. II.

(10) SCHOOL FACILITIES. (a) The board may not demolish any school facility that is 50 years old or older without the approval of the city historic preservation commission.

(b) The board may construct new school facilities only in the areas of greatest local need for such facilities.

(11) COMPREHENSIVE PROGRAMS. The board shall collaborate with nonprofit organizations and government agencies to provide pupils with comprehensive social services and educational support, which may include a program that offers comprehensive services that address the needs of children and youth from before the time they are born through postsecondary education.

(12) ALTERNATIVE ROUTES TO GRADUATION. The board shall provide alternative methods of attaining a high school diploma for those pupils who are unlikely to graduate in the traditional manner, including a program allowing a pupil or former pupil to retake a course in which he or she was not initially successful.

(13) RESEARCH CONSORTIUM. If the board determines that sufficient state or federal aid or private funding is available for this purpose, the board shall participate in an educational research consortium, similar to the Consortium on Chicago School Research and the Boston Plan for Excellence, to provide research and policy recommendations, including recommendations addressing pupil literacy and academic achievement, to the department, the board, and the legislature. In addition, the research consortium shall make its recommendations publicly available.

(14) PARENT SURVEY. Annually, the board shall conduct a survey of parents of pupils enrolled in the school district operating under this chapter and use the results of the survey to develop or modify parent involvement and school improvement plans, which may include school−based community resource centers, regularly scheduled public meetings, or parent education classes.

(15) AGGREGATE ASSESSMENT DATA OF PUPILS ATTENDING A SCHOOL TRANSFERRED TO AN OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM. Upon receipt from the superintendent of schools of pupil assessment and achievement data under s. 119.33 (2) (d) or from the commissioner of pupil assessment and achievement data under s. 119.9002 (4) for pupils enrolled in schools transferred to an opportunity schools and partnership program, the board may not make any modifications to the data but shall transmit that data to the state superintendent along with the report submitted under s. 119.44.

History: 1973 c. 17, 188; 1975 c. 353; 1977 c. 109; 1983 a. 391; 1985 a. 29; 1987 a. 395; 1989 a. 290; 1993 a. 492; 1999 a. 9; 2001 a. 30; 2009 a. 215; 2015 a. 55.

One who deals with a municipality does so at his or her own risk and may be subject to any provisions of law that might prevent him or her from being paid by a municipality even though the services were rendered. Unless the power to bind the municipality financially has been specifically delegated, the only entity with the statutory authority to contract is the municipality. The statutes do not authorize anyone other than the board to enter into contracts. The board may delegate that authority, but it must do so clearly and specifically. For an MPS employee to have such power, it must be specifically delegated by the board to that employee or class of employees. Holzbauer v. Safway Steel Products, Inc. 2005 WI App 240, 288 Wis. 2d 250, 706 N.W.2d 36, 04−2058.

The authority of school boards to contract for services and facilities for special needs students is discussed. 61 Atty. Gen. 203.

119.18 Board; powers. (1g) GENERALLY. The board may do all things reasonable to promote the cause of education, including establishing, providing and improving school district programs, functions and activities for the benefit of pupils.

(1r) RULES. (a) Subject to par. (b), the board may adopt and modify or repeal rules for its own government and for the organization, discipline and management of the public schools which shall promote the good order and public usefulness of the public schools.

(b) The board may not establish by rule any limit on the number of pupils who may enroll in a charter school that is not an instrumentality of the school district, as determined under s. 118.40 (7).

(2) DISTRIBUTION OF PRINTED PROCEEDINGS. The board may determine the distribution of the printed proceedings of the board.

(3) TRANSPORTATION. The board may provide for the transportation of pupils to and from any school within the city.

(4) INSURANCE. The board may provide for accident insurance covering pupils in the school district.

(5) TEXTBOOKS FOR INDIGENT PUPILS. The board may purchase textbooks for pupils whose parents, guardians or other persons having control or custody of such pupils are without means to furnish them with textbooks, if the indigency of such pupils have been investigated and certified by a welfare worker or attendance officer. The local governmental authority administering poor relief in the city shall reimburse the board for all expenditures by the board for such textbooks. Such textbooks shall be the property of the city and subject to the disposal of the board.

(6) SCHOOL CALENDAR. The board may determine the school calendar and vacation periods for each school year for the regular day schools, summer schools, social centers, and playgrounds. The board may close any school or dismiss any class in the event of an emergency, fire or other casualty, quarantine, or epidemic.

(7) SCHOOL HOURS. The board may establish rules scheduling the hours of each school day during which the schools shall be in session. The board may differentiate between the various grades in scheduling such school hours.

(8) SCHOOLS CLOSED. The board may determine on which national, state and local legal holidays and for which educational conventions the public schools shall be closed. There shall be no deductions from the annual or monthly compensation of employees not rendering services on such days.

(9) ENROLLMENT UNDER LEGAL NAME. The board may require that any pupil attending public school shall be enrolled under the pupil's legal name.

(10) EMPLOYEES. (b) Subject to ss. 63.18 to 63.53 when applicable, the board may employ and determine the qualifications, duties and compensation of any persons as are required in the operation and management of the schools.

(c) The board may employ a staff to aid it in its duties. The board shall determine the compensation, duties and qualifications of its staff, including whether or not employment of such staff shall be subject to ss. 63.18 to 63.53.

(11) BONDED OFFICERS AND EMPLOYEES. The board may require any officer or employee of the board to give security for the faithful performance of the officer's or employee's duties in such form and amount as the board determines, and may require at any time additional bonds and sureties of any officer or employee.

(12) EMPLOYER CONTRIBUTION. The board may make as the employer agency the contributions to the city retirement system payable under chapter 396, laws of 1937, in respect to its employees who are members of such system.

(13) EXCHANGE TEACHERS. The board may make an agreement with the managing body of the schools in any city or school district in the United States or another country for the exchange of one of the board's teachers for a teacher of such other city or school district for a period not exceeding one school year. The board shall determine the qualifications and compensation of the teacher rendering service under the agreement in the schools under its jurisdiction, who shall be counted as a regular teacher in

the city in the computation of state and county school aids. The agreement shall state:

(a) The manner and by whom the salaries of such exchange teachers shall be paid.

(b) That any teacher regularly employed by the board under this chapter shall receive credit for the year of exchange teaching service in the computation of any benefits to which the teacher is entitled under ch. 40 and the manner in which the monthly reservations shall be paid under that subchapter.

(c) Such other provisions as the board and the other managing body deem appropriate.

(14) SALES AND CHARGES. The board may establish and maintain, in any of the schools or playgrounds under its jurisdiction, cafeterias and stores for the sale of schoolbooks, candies, refreshments and supplies. The board also may charge or permit the making of a charge for admission to any school, social center or athletic entertainment or activity, under such terms and conditions as the board prescribes.

(15) LEASE SCHOOL PROPERTY. In addition to any other authority, the board may lease school sites, buildings and equipment not needed for school purposes to any person for any lawful use at a reasonable rental for a term not exceeding 15 years.

(16) GIFTS AND GRANTS. (a) In this subsection, "community foundation" means a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, dedicated to encouraging and assisting charitable activities and enterprises in a designated community in this state and having expertise in finance, fund development, and grantmaking.

(b) The board may receive, accept, and use gifts or grants of furniture, books, equipment, supplies, moneys, securities, or other property used or useful for school and educational purposes. The board shall make such use of gifts or grants, or invest the same in the case of moneys, as the donor or grantor specifies. In the absence of any specific direction as to the use of such gifts or grants by a donor or grantor, the board may determine the use of or may invest the same in accordance with the law applicable to trust investments, or may, subject to par. (c), transfer any such gift or grant to a community foundation. In the use, control, or investment of such gifts or grants, the board may exercise the rights and powers generally conferred upon trustees.

(c) The board may transfer a gift or grant to a community foundation only if the board and the community foundation agree, in writing and at the time of the transfer of the gift or grant, to each of the following:

1. The community foundation agrees to make disbursements from and of the gift or grant to the board upon the written request of the board.

2. Subject to subd. 2m., the board retains control over the manner in which any disbursement made under subd. 1. is used.

2m. The school board's use of any disbursement made under subd. 1. shall be consistent with the intent of the donor of the gift, bequest, or endowment and with the agreement between the school board and the community foundation.

3. The board exercises its rights over the use of each disbursement made under subd. 1. in accordance with the law applicable to trust investments.

(17) PURCHASES FROM HOUSE OF CORRECTION. The board may purchase for use in the schools, from any county in which the city is located, furniture, furnishings and equipment manufactured in any house of correction under s. 303.16 (1). The board may waive the furnishing by the county or institution of bid bonds and performance bonds otherwise required by the statutes in connection with any such purchase.

(18) COPYRIGHT MATERIALS. The board may copyright under the applicable federal laws any book, pamphlet, bulletin or record form edited and published by or under the direction of the board.

(19) FENCES. The board may construct around any schoolhouse or playground site a fence of materials and design approved by the board.

(20) DIPLOMAS. The board may grant diplomas in testimony of the completion of high school or special education requirements, including the requirements of special schools established under s. 119.28.

(21) RULES ON CONDUCT AND DRESS. The board may establish rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere.

(22) RECORDS CUSTODIAN. On behalf of any school district authority as defined in s. 19.32 (1), including the board, school district officers and any subunit of the board or school district, designate one or more persons to be legal custodians of records.

(23) SCHOOL CLOSINGS. The board may close any school that it determines is low in performance by adopting a resolution to that effect. If the superintendent of schools recommends to the board that a school be closed, he or she shall state the reasons for the recommendation in writing. If the board closes a school, the superintendent of schools may reassign the school's staff members without regard to seniority in service. If the board reopens the school, the superintendent of schools may reassign staff members to the school without regard to seniority in service.

History: 1973 c. 16, 21, 91, 188, 243; 1981 c. 96 ss. 45, 46, 67; 1981 c. 335; 1985 a. 225 ss. 67, 69; 1989 a. 31, 290; 1993 a. 492; 1995 a. 27; 1997 a. 164; 2011 a. 105, 163; 2015 a. 55.

119.19 Released time for religious instruction. (1) The board may permit a pupil, with the written permission of the pupil's parent or guardian, to be absent from school for up to 180 minutes per week to obtain religious instruction outside the school during the required school period. The board shall determine periods allotted for the pupil to be absent from school for the purpose of religious instruction. Monthly, the supervisor of the religious instruction shall report the names of the pupils who attended such weekly religious instruction to the principal of the school that the pupil regularly attends. The board may withdraw permission to be absent from school if a pupil does not attend the religious instruction.

(2) The board is not responsible for transporting a pupil to or from religious instruction under sub. (1).

(3) The board is released from all liability for a pupil who is absent from school under sub. (1).

History: 1989 a. 267.

119.22 Sex discrimination in physical education or physical training prohibited. Except as provided in s. 120.13 (37m), courses in physical education or physical training may not discriminate on the basis of sex in the provision of necessary facilities, equipment, instruction or financial support, or the opportunity to participate in any physical education or training activity as provided in 20 USC 1681 et seq.

History: 1971 c. 219, 307, 336; 1973 c. 188; 1977 c. 284; 1979 c. 53; 1983 a. 36, 412; 2005 a. 346; 2007 a. 97.

119.23 Milwaukee parental choice program. (1) In this section:

(ab) "Accrediting entity" means all of the following:

1. Wisconsin North Central Association, Wisconsin Religious and Independent Schools Accreditation, Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, Wisconsin Association of Christian Schools, Christian Schools International, Association of Christian Schools International, the diocese or archdiocese within which a private school is located, and any other organization recognized by the National Council for Private School Accreditation.

2. Subject to sub. (2) (a) 7. e., for a private school to which sub. (2) (a) 7. c. applies, the Institute for the Transformation of Learning at Marquette University.

(ae) "Administrator" means the superintendent, supervising principal, executive director, or other person who acts as the administrative head of a private school participating in the program under this section.

(af) "Disqualified organization" means an accrediting organization that is not an accrediting entity or a member of or otherwise sanctioned by an accrediting entity.

(ag) "Disqualified person" means a person who, when a private school was barred or terminated from participation in the program under this section by an order issued under sub. (10), satisfied at least one of the following:

1. Had a controlling ownership interest in, or was the administrator or an officer, director, or trustee of, the private school.

2. Was a person designated by the administrator of the private school to assist in processing pupil applications.

3. Was responsible for an action or circumstance that led to the private school being barred or terminated from participation in the program under this section.

(ai) 1. Except as provided in subd. 2., "new private school" means a school that qualifies as a private school under s. 115.001 (3r) and that satisfies either of the following:

a. The school has been in continuous operation in this state for less than 12 consecutive months.

b. The school provides education to fewer than 40 pupils divided into 2 or fewer grades.

2. "New private school" does not include a private school the governing body of which operates or manages a private school that is participating in the program under this section or under s. 118.60 if all of the following apply:

a. No payment has been withheld from any private school operated or managed by the governing body under sub. (10) (d) or s. 118.60 (10) (d) in the 3 immediately preceding school years.

b. No order barring any private school operated or managed by the governing body from participating in the program under this section or s. 118.60 has been issued under sub. (10) (a), (am), (ar), or (b) or under s. 118.60 (10) (a), (am), (ar), or (b) in the 3 immediately preceding school years.

(am) "Preaccreditation" means the review and approval of an educational plan. Review of an education plan includes consideration of whether the school submitting the plan meets the requirements under s. 118.165 (1). The fact that a private school has obtained preaccreditation does not require an accrediting entity to accredit the private school.

(ap) "Preaccrediting entity" means the Institute for the Transformation of Learning at Marquette University, Wisconsin North Central Association, Wisconsin Religious and Independent Schools Accreditation, Independent Schools Association of the Central States, Wisconsin Evangelical Lutheran Synod School Accreditation, National Lutheran School Accreditation, Wisconsin Association of Christian Schools, Christian Schools International, Association of Christian Schools International, and the diocese or archdiocese within which a private school is located.

(as) "Progress records" has the meaning given in s. 118.125 (1) (c).

(d) "Teacher" means a person who has primary responsibility for the academic instruction of pupils.

(2) (a) Subject to pars. (ag) and (ar), any pupil in grades kindergarten to 12 who resides within the city may attend any private school if all of the following apply:

1. a. The pupil is a member of a family that has a total family income that does not exceed an amount equal to 3.0 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget. In this subdivision and sub. (3m), family income includes income of the pupil's parents or legal guardians. Except as provided in subd. 1. d., the family income of the pupil shall be verified as provided in subd. 1. b. A pupil attending a private school under this section whose family income increases, including a pupil who attended a private school under this section in the 2010−11 school year and whose family income has increased, may continue to attend a private school under this section.

b. The private school submits to the department of public instruction the names, addresses, social security numbers, and other state and federal tax identification numbers, if any, of the pupil's parents or legal guardians that reside in the same household as the pupil, whether and to whom the parents or legal guardians are married, the names of all of the other members of the pupil's family residing in the same household as the pupil, and the school year for which family income is being verified under this subd. 1. b. The department of revenue shall review the information submitted under this subd. 1. b. and shall verify the eligibility or ineligibility of the pupil to participate in the program under this section on the basis of family income. In this subdivision, "family income" means federal adjusted gross income of the parents or legal guardians residing in the same household as the pupil for the tax year preceding the school year for which family income is being verified under this subd. 1. b. or, if not available, for the tax year preceding the tax year preceding the school year for which family income is being verified under this subd. 1. b. Family income for a family in which the pupil's parents are married or in which the pupil's legal guardians are married shall be reduced by $7,000 before the verification is made under this subd. 1. b. The department of revenue may take no other action on the basis of the information submitted under this subd. 1. b. If the department of revenue is unable to verify family income or to verify whether the pupil is eligible or ineligible to participate in the program under this section on the basis of family income, the department of revenue shall notify the department of public instruction of this fact and the department of public instruction shall utilize an alternative process, to be established by the department of public instruction, to determine whether the pupil is eligible to participate in the program under this section on the basis of family income. The department of public instruction may not request any additional verification of income from the family of a pupil once the department of revenue has verified that the pupil is eligible to participate in the program under this section on the basis of family income. The department of public instruction shall establish a procedure for determining family income eligibility for those pupils for whom no social security number or state or federal tax identification number has been provided.

c. If the private school operates a work based learning program created under s. 118.56, for purposes of this subdivision, "family income" does not include any money earned by the pupil in the work based learning program.

d. In this subd. 1. d., "eligible school district" has the meaning given in s. 118.60 (1) (am). The family income of a pupil does not need to be verified under subd. 1. b. for a pupil who resided in a school district other than an eligible school district and other than the school district operating under this chapter in a school year, attended a participating private school under the program under s. 118.60 in a school district other than an eligible school district in that school year, and applies to attend a participating private school in the program under this section in the school year immediately following that school year.

3. Except as provided in par. (ag) 1., the private school notified the state superintendent of its intent to participate in the program under this section or in the program under s. 118.60, and paid the nonrefundable annual fee set by the department, by January 10 of the previous school year. The notice shall specify the number of pupils participating in the program under this section and in the program under s. 118.60 for which the school has space. The department shall by rule set the fee charged under this subdivision at an amount such that the total fee revenue covers the costs of employing one full−time auditor to evaluate the financial information submitted by private schools under sub. (7) (am) and (d) 2. and 3. and under s. 118.60 (7) (am) and (d) 2. and 3.

3g. By May 1 before the first term of participation in the program under this section, the private school submits to the department, on a form provided by the department, a complete anticipated budget for the first fiscal period of participation in the program under this section. The governing body shall include on the completed form anticipated enrollments for all pupils enrolled in the private school and for pupils enrolled in the private school under this section; estimated revenues and costs; a schedule of anticipated beginning and ending net choice program assets; and a schedule of monthly cash flow requirements. The governing body shall include in the budget contingent funding sources the private school will use in the event that actual enrollments are less than expected.

4. The private school complies with 42 USC 2000d.

5. The private school meets all health and safety laws or codes that apply to public schools.

6. a. Except as provided in subd. 6. c., all of the private school's teachers have a teaching license issued by the department or a bachelor's degree or a degree or educational credential higher than a bachelor's degree, including a masters or doctorate, from a nationally or regionally accredited institution of higher education.

b. All of the private school's administrators have at least a bachelor's degree from a nationally or regionally accredited institution of higher education or a teaching license or administrator's license issued by the department.

c. Any teacher employed by the private school on July 1, 2010, who has been teaching for at least the 5 consecutive years immediately preceding July 1, 2010, and who does not satisfy the requirements under subd. 6. a. on July 1, 2010, applies to the department on a form prepared by the department for a temporary, nonrenewable waiver from the requirements under subd. 6. a. The department shall promulgate rules to implement this subd. 6. c., including the form of the application and the process by which the waiver application will be reviewed. The application form shall require the applicant to submit a plan for satisfying the requirements under subd. 6. a., including the name of the accredited institution of higher education at which the teacher is pursuing or will pursue the bachelor's degree and the anticipated date on which the teacher expects to complete the bachelor's degree. No waiver granted under this subd. 6. c. is valid after July 31, 2015.

7. a. Subject to subd. 7. c. and d., for a private school participating in the program under this section on July 1, 2009, the private school achieves accreditation by an accrediting entity by December 31 of the 3rd school year following the first school year that begins after June 30, 2006, in which it participates in the program under this section. If the private school is accredited as provided under this subd. 7. a., the private school is not required to obtain preaccreditation under subd. 7. bg. as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

b. Subject to subd. 7. c. and d., for a private school that was a first−time participant in the program under this section before April 10, 2014, and that is not accredited by an accrediting entity, the private school obtains accreditation from an accrediting entity by December 31 of the 3rd school year following the first school year in which the private school began participating in the program under this section. If the private school is accredited under this subd. 7. b., the private school is not required to obtain preaccreditation under subd. 7. bg. as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

bg. Each private school that begins participation in the program under this section on or after April 10, 2014, and that is not accredited by an accrediting entity, shall obtain preaccreditation by a preaccrediting entity by August 1 before the first school term in which the private school begins participation in the program under this section, or by May 1 if the private school begins participating in the program during summer school. In any school year, a private school to which this subd. 7. bg. applies may apply for and seek to obtain preaccreditation from only one preaccrediting entity. A private school to which this subd. 7. bg. applies that fails to obtain preaccreditation as required under this subd. 7. bg. may not participate in the program under this section or under s. 118.60 until preaccreditation has been obtained, but the private school may apply for and seek to obtain preaccreditation from a preaccrediting entity for the following school year.

br. A private school to which subd. 7. bg. applies shall apply for accreditation by an accrediting entity by December 31 of the first school year that begins after April 10, 2014, in which the private school begins participation in the program under this section, and shall achieve accreditation by an accrediting entity by December 31 of the 3rd school year following the school year in which the private school begins participation in the program under this section. If the private school is accredited under this subd. 7. br., the private school is not required to obtain preaccreditation as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

c. On or after July 1, 2009, a private school participating or seeking to participate in the program under this section or in the program under s. 118.60 may not apply for accreditation by the Institute for the Transformation of Learning at Marquette University, except that a private school that has applied for accreditation to the Institute for the Transformation of Learning at Marquette University before July 1, 2009, and that is participating in the program under this section on April 10, 2014, may, subject to subd. 7. e., complete the accreditation process with the Institute for the Transformation of Learning at Marquette University, and may, subject to subd. 7. e., seek renewal of accreditation from the Institute for the Transformation of Learning at Marquette University.

d. For a private school that was approved for scholarship funding for the 2005−06 school year by Partners Advancing Values in Education and is participating in the program under this section on November 19, 2011, the private school achieves accreditation by an accrediting entity by December 31, 2015. If the private school is accredited as provided under this subd. 7. d., the private school is not required to obtain preaccreditation under subd. 7. bg. as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

e. For a private school that is accredited by the Institute for the Transformation of Learning at Marquette University and that is participating in the program under this section on April 10, 2014, the private school achieves accreditation by an accrediting entity under sub. (1) (ab) 1. by December 31, 2014. If the private school is accredited as provided under this subd. 7. e., the private school is not required to obtain preaccreditation under subd. 7. bg. as a prerequisite to providing instruction under this section in additional grades or in an additional or new school.

8. Notwithstanding s. 118.165 (1) (c), the private school annually provides at least 1,050 hours of direct pupil instruction in grades 1 to 6 and at least 1,137 hours of direct pupil instruction in grades 7 to 12. Hours provided under this subdivision include recess and time for pupils to transfer between classes but do not include the lunch periods.

(ag) The governing body of a new private school shall comply with all of the following before the new private school may participate in the program under this section:

1. By August 1 of the school year immediately preceding the school year in which the new private school intends to participate in the program under this section, complete and submit to the department the following on forms provided by the department:

a. A notice of intent to participate and agreement to comply with procedural requirements.

b. A complete anticipated budget for the first fiscal period of participation in the program under this section showing that the private school will have a positive cash flow in each month of the fiscal period and no operating deficit. The governing body shall

include on the completed form anticipated enrollments for all pupils enrolled in the new private school and for pupils enrolled in the new private school under this section; estimated revenues and costs; a schedule of anticipated beginning and ending net choice program assets; and a schedule of monthly cash flow requirements. The governing body shall include in the budget contingent funding sources the new private school will use in the event that actual enrollments are less than expected.

c. The nonrefundable fee established by the department, as required under s. 119.23 (2) (a) 3., for the school year in which the fee is paid by the new private school. If the amount of the fee paid by the new private school under this subd. 1. c. increases for the school year in which the new private school will first participate in the program under this section, the new private school shall pay the difference between the fee paid and the fee due to the department. If the amount of the fee paid by the new private school under this subd. 1. c. decreases for the school year in which the new private school will first participate in the program under this section, the department shall refund the new private school the difference between the fee paid and the fee due to the department.

2. a. By August 1 of the school year immediately preceding the school year in which the new private school intends to participate in the program under this section, submit to the department the information required under sub. (6m) (a) and (c).

b. If, at the time the new private school submits the information required under subd. 2. a., the new private school does not have a physical property within which the private school intends to operate, submit a mailing address of an administrator of the private school.

3. By August 1 of the school year immediately preceding the school year in which the new private school intends to participate in the program under this section, submit to the department a statement indicating which of the standards under sub. (7) (a) the private school intends to meet.

4. Notwithstanding the deadline to obtain preaccreditation under sub. (2) (a) 7. bg., by December 15 of the school year immediately preceding the school year in which the new private school intends to participate in the program under this section, obtain preaccreditation from a preaccrediting entity.

5. By August 1 of the first school year in which the new private school intends to participate in the program under this section, demonstrate to the satisfaction of the department that the new private school has contracted with a 3rd−party payroll service that will remit federal and state payroll taxes for each employee of the new private school for the duration of the school year.

(ar) By December 31 of the school year immediately preceding the school year in which a new private school intends to participate in the program under this section, the department shall notify the new private school in writing whether it has satisfied those requirements under par. (ag) that must be satisfied before December 31. If the department determines that the new private school has not satisfied those requirements, the new private school may not participate in the program under this section in the following school year, but may reinitiate the process under par. (ag) for the next following school year.

(c) 1. Notwithstanding par. (a) 6., a teacher employed by a private school participating in the program under this section who teaches only courses in rabbinical studies is not required to have a bachelor's degree.

2. Notwithstanding par. (a) 6., an administrator of a private school participating in the program under this section that prepares and trains pupils attending the school in rabbinical studies is not required to have a bachelor's degree.

(3) (a) The pupil or the pupil's parent or guardian shall submit an application, on a form provided by the state superintendent, to the participating private school that the pupil wishes to attend. If more than one pupil from the same family applies to attend the same private school, the pupils may use a single application. Within 60 days after receiving the application, the private school shall notify each applicant, in writing, whether his or her application has been accepted. If the private school rejects an application, the notice shall include the reason. A private school may reject an applicant only if it has reached its maximum general capacity or seating capacity. The state superintendent shall ensure that the private school determines which pupils to accept on a random basis, except that the private school may give preference to the following in accepting applications, in order of preference listed:

1. Pupils who attended the private school under this section during the previous school year.

2. Siblings of pupils described in subd. 1.

3. Pupils who attended a different private school under this section or s. 118.60 during the previous school year.

4. Siblings of pupils described in subd. 3.

5. Siblings of those pupils who have been randomly accepted to attend the private school under this section and who did not attend a private school under this section or s. 118.60 during the previous school year.

(b) If the private school rejects an applicant because it has too few available spaces, the applicant may transfer his or her application to a participating private school that has space available. An applicant rejected under this paragraph may be admitted to a private school participating in the program under this section for the following school year, provided that the applicant continues to reside within the city. The department may not require, in that following school year, the private school to submit financial information regarding the applicant or to verify the eligibility of the applicant to participate in the program under this section on the basis of family income.

(3m) (a) A private school participating in the program under this section may not charge or receive any additional tuition payment for a pupil participating in the program under this section other than the payment the school receives under sub. (4) and, if applicable, sub. (4m), if either of the following applies:

1. The pupil is enrolled in a grade from kindergarten to 8.

2. The pupil is enrolled in a grade from 9 to 12 and the family income of the pupil, as determined under sub. (2) (a) 1., does not exceed an amount equal to 2.2 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget.

(am) 1. Beginning in the 2011−12 school year, a private school participating in the program under this section may recover the cost of providing the following to a pupil participating in the program under this section through reasonable fees in an amount determined by the private school and charged to the pupil, except that no participating private school may retroactively recover any uncollected costs incurred prior to November 19, 2011:

a. Personal use items, such as uniforms, gym clothes, and towels.

b. Social and extracurricular activities if not necessary to the private school's curriculum.

c. Musical instruments.

d. Meals consumed by pupils of the private school.

e. High school classes that are not required for graduation and for which no credits toward graduation are given.

f. Transportation.

g. Before−school and after−school child care.

2. 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 parent or guardian cannot pay or has not paid fees charged under subd. 1.

(b) Beginning in the 2011−12 school year, a private school participating in the program under this section may, in addition to the payment it receives for a pupil under sub. (4) and, if applicable, sub. (4m), charge the pupil tuition in an amount determined by the school if both of the following apply:

1. The pupil is enrolled in a grade from 9 to 12.

2. The family income of the pupil, as determined under sub. (2) (a) 1., exceeds an amount equal to 2.2 times the poverty level determined in accordance with criteria established by the director of the federal office of management and budget.

(c) A private school participating in the program under this section shall determine whether the private school may charge additional tuition to a pupil on the basis of the pupil's family income as permitted under par. (b). The private school shall establish a process for accepting an appeal to the governing body of the private school of the determination made under this paragraph.

(4) (a) Annually, on or before October 1, a private school participating in the program under this section shall file with the department a report stating its summer daily attendance for each day of summer school for the purpose of sub. (4m).

(bg) 1. In the 2013−14 school year, upon receipt from the pupil's parent or guardian of proof of the pupil's enrollment in the private school during a school term, the state superintendent shall pay to the private school in which the pupil is enrolled on behalf of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fu), an amount equal to the private school's operating and debt service cost per pupil that is related to educational programming, as determined by the department, or $6,442, whichever is less.

2. Except as provided in subd. 4., in the 2014−15 school year, upon receipt from the pupil's parent or guardian of proof of the pupil's enrollment in the private school during a school term, the state superintendent shall pay to the private school in which the pupil is enrolled on behalf of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fu), the lesser of an amount equal to the private school's operating and debt service cost per pupil that is related to educational programming, as determined by the department, or an amount either of $7,210, if the pupil is enrolled in a grade from kindergarten to 8, or of $7,856, if the pupil is enrolled in a grade from 9 to 12.

3. In the 2015−16 school year and in each school year thereafter, upon receipt from the pupil's parent or guardian of proof of the pupil's enrollment in the private school during a school term, except as provided in subd. 5., the state superintendent shall pay to the private school in which the pupil is enrolled on behalf of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fu), an amount equal to the sum of the maximum amount per pupil the state superintendent paid a private school under this section in the previous school year for the grade in which the pupil is enrolled; the amount of the per pupil revenue adjustment under s. 121.91 (2m) for the current school year, if positive; and the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive.

4. If the pupil described in subd. 2. is enrolled in a private school that enrolls pupils under the program in any grade between kindergarten to 8 and also in any grade between 9 to 12, the state superintendent shall pay to the private school in which the pupil is enrolled on behalf of the pupil's parent or guardian, from the appropriation under s. 20.255 (2) (fu), the lesser of an amount equal to the private school's operating and debt service cost per pupil that is related to educational programming, as determined by the department, or an amount determined as follows:

a. Multiply the number of pupils participating in the program under this section who are enrolled in the private school in any grade between kindergarten to 8 by $7,210.

b. Multiply the number of pupils participating in the program under this section who are enrolled in the private school in any grade between 9 to 12 by $7,856.

c. Add the amounts determined under subd. 4. a. and b.

d. Divide the amount determined under subd. 4. c. by the total number of pupils participating in the program under this section who are enrolled at the private school.

5. If the pupil described in subd. 3. is enrolled in a private school that enrolls pupils under the program in any grade between kindergarten to 8 and also in any grade between 9 to 12, the state superintendent shall substitute for the amount described in subd. 3. the amount determined under subd. 4. a. to d., with the following modifications:

a. Multiply the number of pupils participating in the program who are enrolled in the private school in any grade between kindergarten to 8 by the sum of the maximum amount per pupil the state superintendent paid a private school under this section in the previous school year for the grade in which the pupil is enrolled; the amount of the per pupil revenue adjustment under s. 121.91 (2m) for the current school year, if positive; and the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive.

b. Multiply the number of pupils participating in the program who are enrolled in the private school in any grade between 9 to 12 by the sum of the maximum amount per pupil the state superintendent paid a private school under this section in the previous school year for the grade in which the pupil is enrolled; the amount of the per pupil revenue adjustment under s. 121.91 (2m) for the current school year, if positive; and the change in the amount of statewide categorical aid per pupil between the previous school year and the current school year, as determined under s. 118.40 (2r) (e) 2p., if positive.

(c) The state superintendent shall pay 25 percent of the total amount under this subsection in September, 25 percent in November, 25 percent in February, and 25 percent in May. Each installment may consist of a single check for all pupils attending the private school under this section. The state superintendent shall include the entire amount under sub. (4m) in the November installment, but the payment shall be made in a separate check from the payment under this subsection.

(4m) (a) In addition to the payment under sub. (4), the state superintendent shall, subject to par. (b), pay to each private school participating in the program under this section, on behalf of the parent or guardian of each pupil attending summer school in the private school under this section during a summer and in the manner described in sub. (4) (c), an amount determined as follows:

1. Determine the maximum amount that could have been paid, at the end of the immediately preceding school term, per pupil under sub. (4) (bg) for the grade in which the pupil is attending summer school under this section.

2. Multiply the amount under subd. 1. by 0.05.

(b) A participating private school may receive a per pupil payment under par. (a) if all of the following are satisfied:

1. The private school offers no fewer than 19 summer days of instruction during that summer.

2. Each summer day of instruction offered by the private school under subd. 1. is comprised of no fewer than 270 minutes of instruction.

3. Each pupil for whom the private school seeks a payment under par. (a) attends no fewer than 15 days of summer instruction at the private school during that summer.

(4r) If, after the 3rd Friday in September in any school year, a private school participating in the program under this section closes, for each installment under sub. (4) (c) that was not paid to the private school in that school year, the state superintendent shall pay to the board, from the appropriation under s. 20.255 (2) (fv), the amount determined as follows for each pupil who had been attending the private school under this section in that school year and who enrolls in the school district operating under this chapter in that school year:

(a) Multiply the amount determined under sub. (4) (bg) by 0.616.

(b) Multiply the product under par. (a) by 0.25.

(4s) Notwithstanding subs. (4), (4m), and (4r), a pupil attending a private school participating in the program under this section who is receiving a scholarship under s. 115.7915 shall not be counted as a pupil attending the private school under this section under sub. (4), (4m), or (4r).

(5) The state superintendent shall ensure that pupils and parents and guardians of pupils who reside in the city are informed annually of the private schools participating in the program under this section and in the program under s. 118.60.

(6) The board shall provide transportation to pupils attending a private school under this section if required under s. 121.54 and may claim transportation aid under s. 121.58 for pupils so transported.

(6m) Each private school participating in the program under this section shall do all of the following:

(a) Provide to each pupil, or the parent or guardian of each minor pupil, who applies to attend the private school all of the following:

1. The name, address, and telephone number of the private school and the name of one or more contact persons at the school.

2. A list of the names of the members of the private school's governing body and of the private school's shareholders, if any.

3. A notice stating whether the private school is an organization operated for profit or not for profit. If the private school is a nonprofit organization, the private school shall also provide the applicant with a copy of the certificate issued under section 501 (c) (3) of the Internal Revenue Code verifying that the private school is a nonprofit organization that is exempt from federal income tax.

4. A copy of the appeals process used if the private school rejects the applicant.

5. A copy of the policy developed by the private school under s. 118.33 (1) (f) 2m.

6. A copy of the non−harassment policy used by the private school, together with the procedures for reporting and obtaining relief from harassment.

7. A copy of the suspension and expulsion policies and procedures, including procedures for appealing a suspension or expulsion, used by the private school.

8. A copy of the policy used by the private school for accepting or denying the transfer of credits earned by a pupil attending the private school under this section for the satisfactory completion of coursework at another school.

9. A copy of the policy governing visitors and visits to the private school, developed as required under sub. (7) (b) 2m.

(b) Annually, by August 1st, provide to the department the material specified in par. (a) and all of the following information:

1. The number of pupils attending the private school under this section in the previous school year.

2. The number of pupils attending the private school other than under this section in the previous school year.

3. For each of the previous 5 school years in which the private school has participated in the program under this section, to the extent permitted under 20 USC 1232g and 43 CFR part 99, pupil scores on all standardized tests administered under s. 118.30 (1s).

4. A copy of the academic standards adopted under sub. (7) (b) 2.

(c) Provide to the department a signed statement from each individual who is a member of the private school's governing body verifying that the individual is a member of the governing body.

(d) Upon request by any pupil, or the parent or guardian of any minor pupil, who is attending or who applies to attend the private school, provide the material specified in pars. (a) and (b).

(7) (a) Each private school participating in the program under this section shall meet at least one of the following standards:

1. At least 70 percent of the pupils in the program advance one grade level each year.

2. The private school's average attendance rate for the pupils in the program is at least 90 percent.

3. At least 80 percent of the pupils in the program demonstrate significant academic progress.

4. At least 70 percent of the families of pupils in the program meet parent involvement criteria established by the private school.

(ad) 1. If a private school participating in the program under this section or s. 118.60 and accredited under sub. (2) (a) 7. to offer instruction in any elementary grade, but not any high school grade, seeks to offer instruction in any high school grade, the private school shall apply for and achieve accreditation to offer instruction in the additional grades in the manner established under sub. (2) (a) 7. br.

2. If a private school participating in the program under this section or s. 118.60 and accredited under sub. (2) (a) 7. to offer instruction in any high school grade, but not any elementary grade, seeks to offer instruction in any elementary grade, the private school shall apply for and achieve accreditation to offer instruction in the additional grades in the manner established under sub. (2) (a) 7. br.

3. The governing body of a private school participating in the program under this section and accredited as required under subds. 1. and 2. and sub. (2) (a) 7. shall ensure that the private school continuously maintains accreditation from an accrediting entity as long as the private school continues to participate in the program under this section.

(ag) If a participating private school learns that an accrediting organization with which the private school is maintaining accreditation, as required under par. (ad), is a disqualified organization, the private school shall immediately notify the department in writing of this fact and shall obtain accreditation from an accrediting entity no later than 3 years from the date on which the private school learned that the accrediting organization is a disqualified organization.

(am) 1m. In this paragraph, "eligible education expenses" means all direct and indirect costs associated with a private school's educational programming for pupils enrolled in grades kindergarten to 12 that are reasonable for the private school to achieve its educational purposes, as determined by the governing body of the private school in a written policy and tested by an independent auditor. "Eligible education expenses" include expenses related to management, insurance, transportation, extracurricular programming and activities, facility and equipment costs, development expenses, and programming that provides child care services before school, after school, or both before and after school. A cost is not an "eligible education expense" if an independent auditor determines, after testing, that the cost is not a cost associated with the private school's educational programming for pupils enrolled in grades kindergarten to 12 that is reasonable for the private school to achieve its educational purposes, as determined by the governing body of the private school in a written policy.

2m. Each private school participating in the program under this section is subject to uniform financial accounting standards established by the department. Annually by October 15 following a school year in which a private school participated in the program under this section, the private school shall submit to the department all of the following:

a. An independent financial audit of the private school conducted by an independent certified public accountant, accompanied by the auditor's statement that the report is free of material misstatements and fairly presents the private school's eligible education expenses, and beginning in the 2nd school year a private school participates in the program under this section, a copy of the management letter prepared by the auditor. The audit shall be prepared in accordance with generally accepted accounting

principles with allowable modifications for long−term fixed assets. The audit shall include a calculation of the private school net eligible education expenses and a calculation of the balance of the private school's fund for future eligible education expenses. The auditor shall conduct his or her audit, including determining sample sizes and evaluating financial viability, in accordance with the auditing standards established by the American Institute of Certified Public Accountants. The department may not require an auditor to comply with standards that exceed the scope of the standards established by the American Institute of Certified Public Accountants. If a private school participating in a program under this section is part of an organization and the private school and the organization share assets, liabilities, or eligible education expenses, the private school may submit an audit of the private school or of the organization of which it is a part. If a private school that is part of an organization with which it shares assets, liabilities, or eligible education expenses submits an audit of only the private school, the independent auditor shall use his or her professional judgment to allocate any shared assets, liabilities, and eligible education expenses between the organization and the private school. If a private school participating in the program under this section also accepts pupils under s. 118.60, the private school may submit one comprehensive financial audit to satisfy the requirements of this subdivision and s. 118.60 (7) (am) 2m. The private school shall include in the comprehensive financial audit the information specified under s. 118.60 (7) (am) 2m.

b. Evidence of sound fiscal and internal control practices, as prescribed by the department by rule. An independent auditor engaged to evaluate the private school's fiscal and internal control practices shall conduct his or her evaluation, including determining sample sizes, in accordance with attestation standards established by the American Institute of Certified Public Accountants. The independent auditor engaged to evaluate the private school's fiscal and internal control practice shall also review any concerns raised in the private school's management letter submitted under subd. 2m. a. The fact that a private school reports a negative reserve balance alone is not evidence that the private school does not have the financial ability to continue operating or that the private school does not follow sound fiscal and internal control practices.

c. If an independent auditor engaged to evaluate the private school's fiscal and internal control practice determines that the governing body of the private school has not taken reasonable actions to remedy any concerns raised in the management letter submitted under subd. 2m. a. in the previous school year, a report prepared by the independent auditor that includes the auditor's findings related to the governing body's actions to remedy any concerns raised in the management letter for the previous school year.

3. a. By no later than February 15 or 120 days after the date on which the audit under subd. 2m. a. is received by the department, whichever is later, the department shall notify a private school participating in the program under this section whether or not additional information is required for the department to complete its review of the audit. Subject to subd. 3. b., the department may request that an auditor provide additional information if the request is related to the department reviewing the audit. The department shall determine whether a private school participating in the program under this section has provided the information and met the requirements required under subd. 2m. a. by April 1.

b. Before April 1, the department may contact the auditor who prepared the audit under subd. 2m. a. only regarding matters that may impact the private school's financial statement by an amount that is greater than 1 percent of the total amount the private school received under this section for the previous school year and any items or information the department determines are missing from the audit.

c. Notwithstanding subd. 3. a. and b., the department may communicate with an auditor as necessary for the purpose of assessing the financial viability of a private school participating in the program under this section.

d. An auditor who receives a written communication under this subdivision shall respond to the department within 10 school days of receiving the written communication.

(an) 1. A private school participating in the program under this section shall maintain a cash and investment balance that is at least equal to its reserve balance. If a private school ceases to participate in or is barred from the program under this section and s. 118.60 and the private school's reserve balance is positive, the private school shall refund the reserve balance to the department.

2. If a private school participating in the program under this section has a reserve balance that is greater than 50 percent of the total amount the private school received under this section in the previous school year, the governing body of the private school shall approve a plan for how it will use the amount of the reserve balance that exceeds 50 percent of the total amount the private school received under this section in the previous school year.

(ao) By November 1 of the first school term in which a private school participates in the program under this section, the private school shall submit to the department on a form provided by the department a budget reflecting the enrollments in the private school on the immediately preceding 3rd Friday in September and any related changes in revenues, costs, and cash flow requirements.

(b) Each private school participating in the program under this section shall do all of the following:

1. Administer to any pupils attending the 3rd grade in the private school under this section a standardized reading test developed by the department.

2. Adopt the pupil academic standards required under s. 118.30 (1g) (a) 3.

2m. Develop a written policy governing visitors and visits to the private school.

3. Ensure that any teacher's aide employed by the private school has graduated from high school, been granted a declaration of equivalency of high school graduation, been granted a high school diploma by the administrator of a home−based private educational program, or been issued a general educational development certificate of high school equivalency, or has obtained a degree or educational credential higher than a high school diploma, declaration of equivalency of high school graduation, or general educational development certificate of high school equivalency.

3m. Annually, schedule two meetings at which members of the governing body of the private school will be present and at which pupils, and the parents or guardians of pupils, applying to attend the private school or attending the private school may meet and communicate with the members of the governing body. The private school shall, within 30 days after the start of the school term, notify the department in writing of the scheduled meeting dates and shall, at least 30 days before the scheduled meeting date, notify in writing each pupil, or the parent or guardian of each minor pupil, applying to attend the private school or attending the private school of the meeting date, time, and place.

4. Maintain progress records for each pupil attending the private school under this section while the pupil attends the school and, except as provided under subd. 7., for at least 5 years after the pupil ceases to attend the school.

5. Upon request, provide a pupil or the parent or guardian of a minor pupil who is attending the private school under this section with a copy of the pupil's progress records.

6. Issue a high school diploma or certificate to each pupil who attends the private school under this section and satisfactorily completes the course of instruction and any other requirements necessary for high school graduation.

7. a. Except as provided in subd. 7. b., if the private school ceases operating as a private school, immediately transfer all of the progress records of the pupils who attended the school under this section to the board. The private school shall send written notice to each pupil, or to the parent or guardian of a minor pupil, of the transfer of progress records under this subd. 7. a.

b. If the private school is affiliated with an organization that will maintain the progress records of each pupil who attended the school under this section for at least 5 years after the private school ceases operation as a private school, the private school may transfer a pupil's records to the organization if the pupil, or the parent or guardian of a minor pupil, consents in writing to the release of the progress records to the affiliated organization. The private school shall send to the department a copy of the consent form for each pupil who consents to the transfer of progress records under this subd. 7. b. The written notice shall be signed by the pupil, or the parent or guardian of a minor pupil, and shall include the name, phone number, mailing address, and other relevant contact information of the organization that will maintain the progress records, and a declaration by the affiliated organization that the organization agrees to maintain the progress records for at least 5 years after the private school ceases operation as a private school.

(c) A private school may not require a pupil attending the private school under this section to participate in any religious activity if the pupil's parent or guardian submits to the pupil's teacher or the private school's principal a written request that the pupil be exempt from such activities.

(d) By August 1 before the first school term of participation in the program, or by May 1 if the private school begins participating in the program during summer school, each private school participating in the program under this section shall submit to the department all of the following:

1. a. In this subdivision, "municipality" has the meaning given in s. 5.02 (11).

b. A copy of the school's current certificate of occupancy issued by the municipality within which the school is located. If the private school moves to a new location, the private school shall submit a copy of the new certificate of occupancy issued by the municipality within which the school is located to the department before the attendance of pupils at the new location and before the next succeeding date specified in s. 121.05 (1) (a). If the municipality within which the private school is located does not issue certificates of occupancy, the private school may submit a certificate of occupancy issued by the local or regional governmental unit with authority to issue certificates of occupancy or a letter or form from the municipality within which the private school is located that explains that the municipality does not issue certificates of occupancy. A temporary certificate of occupancy does not meet the requirement of this subdivision.

2. Evidence of financial viability, as prescribed by the department by rule.

3. Proof that the private school's administrator has participated in a fiscal management training program approved by the department.

(dr) A private school participating in the program under this section may elect to maintain an electronic copy of any application submitted on behalf of and any correspondence to or about a pupil attending the private school under this section instead of a paper copy of the application or correspondence. The private school shall maintain electronic copies of pupil applications and correspondence for a period of at least 5 years.

(e) Each private school participating in the program under this section shall administer the examinations required under s. 118.30 (1s) or examinations permitted under s. 118.301 (3) to pupils attending the school under the program. The private school may administer additional standardized tests to such pupils.

(em) 1. Beginning in the 2013−14 school year, the governing body of each private school participating in the program under this section shall, subject to subd. 2., annually, by January 15, provide the department with evidence demonstrating that the private school remains accredited for the current school year as required under par. (ad). The governing body shall include as evidence of accreditation a letter prepared by an accrediting entity that confirms that the private school is accredited by that entity as of the date of the letter.

2. The governing body shall immediately notify the department if its accreditation status changes.

(g) 1. By the first day of the 3rd month beginning after the month in which the department establishes the model management plan and practices for maintaining indoor environmental quality in public and private schools under s. 118.075 (3), or by October 1 of a private school's first school year of participation in the program under this section, whichever is later, the private school shall provide for the development of a plan for maintaining indoor environmental quality in the private school.

2. By the first day of the 12th month beginning after the month in which the department establishes the model management plan and practices for maintaining indoor environmental quality in public and private schools under s. 118.075 (3), or by the beginning of the 2nd school year of participation in the program under this section, whichever is later, the private school shall implement a plan for maintaining indoor environmental quality in the private school.

3. Each private school participating in the program under this section shall provide a copy of the plan implemented under subd. 2. to any person upon request.

(9) If any accrediting or preaccrediting entity determines during the accrediting or preaccrediting process that a private school does not meet all of the requirements under s. 118.165 (1), it shall report that failure to the department.

(9m) Beginning in September 2016, and annually thereafter, the governing body of a private school participating in the program under this section that maintains an Internet site for the private school shall, if the private school is included in the most recent accountability report published under s. 115.385, within 30 days after the department publishes the accountability report, prominently link on the home page of that Internet site to the pages in that most recent accountability report concerning the private school.

(10) (a) The state superintendent may issue an order barring a private school from participating in the program under this section in the current school year if the state superintendent determines that the private school has done any of the following:

1. Misrepresented information required under sub. (7) (d).

2. Failed to provide the notice or pay the fee required under sub. (2) (a) 3., or provide the information required under sub. (7) (am) or (d), by the date or within the period specified.

3. Failed to refund to the state any overpayment made under s. 119.23 (4) (b), 2011 stats., or s. 119.23 (4) (bg), 2011 stats., or under sub. (4) (bg) or (4m) by the date specified by department rule.

4. Failed to meet at least one of the standards under sub. (7) (a) by the date specified by department rule.

5. Failed to provide the information required under sub. (6m).

6. Failed to comply with the requirements under sub. (7) (b) or (c).

7. Violated sub. (7) (b) 4., 5., or 6.

8. Before the end of a 7−year period beginning on the date of an order issued by the state superintendent under this subsection, retained a disqualified person, for compensation or as a volunteer, as an owner, officer, director, trustee, administrator, person designated by the administrator to assist in processing pupil applications, or person responsible for administrative, financial, or pupil health and safety matters.

(am) If the state superintendent determines that any of the following have occurred, he or she may issue an order barring the pri-

vate school from participating in the program under this section in the following school year:

1. The private school has not complied with the requirements under sub. (7) (em).

2. The private school's application for accreditation has been denied by the accrediting entity.

3. The private school has not achieved accreditation within the period allowed under sub. (2) (a) 7.

(ar) 1. If the state superintendent determines that a private school has failed to continuously maintain accreditation as required under sub. (7) (ad), that the governing body of the private school has withdrawn the private school from the accreditation process, or that the private school's accreditation has been revoked, denied, or terminated by an accrediting agency, the state superintendent shall issue an order barring the private school's participation in the program under this section at the end of the current school year.

2. A private school whose participation in the program under this section is barred under subd. 1. may not participate in the program under this section or under s. 118.60 until the governing body of the private school demonstrates to the satisfaction of the department that it has obtained accreditation from an accrediting entity, provided the accreditation is from an entity other than the entity with which the private school failed to continuously maintain accreditation or, if the private school's accreditation was revoked, denied, or terminated, other than the entity that revoked, denied, or terminated the private school's accreditation.

(b) The state superintendent may issue an order immediately terminating a private school's participation in the program under this section if he or she 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 par. (a), (am), (ar), or (b), he or she shall immediately notify the parent or guardian of each pupil attending the private school under this section.

(d) The state superintendent may withhold payment from a private school under subs. (4) and (4m) if the private school violates this section or s. 115.383 (3) (b).

(11) The department shall do all of the following:

(a) Promulgate rules to implement and administer this section. The department may not by rule establish standards under sub. (7) (am) that exceed the standards established by the American Institute of Certified Public Accountants.

(b) Notify each private school participating in the program under this section of any proposed changes to the program or to administrative rules governing the program, including changes to application or filing deadlines but not including changes to provisions governing health or safety, prior to the beginning of the school year in which the change takes effect.

(c) Within 10 days after receiving the information submitted as required under sub. (7) (em), notify the participating private school of receipt of accreditation status.

(d) When the department publicly releases data related to enrollment of, standardized test results for, applications submitted by, waiting lists for pupils participating in or seeking to participate in the program under this section, release the data all at the same time, uniformly, and completely.

History: 1989 a. 336; 1993 a. 16; 1995 a. 27 ss. 4002 to 4009, 9145 (1); 1995 a. 216; 1997 a. 27, 113; 1999 a. 9; 2001 a. 16, 105; 2003 a. 33, 155; 2005 a. 25, 125; 2009 a. 28, 96; 2011 a. 32, 47; 2013 a. 8, 20, 165; 2013 a. 166 s. 77; 2013 a. 237, 256; 2015 a. 55, 195, 212, 297, 338.

Cross−reference: See also ch. PI 35, Wis. adm. code.

This section is constitutional. Jackson v. Benson, 218 Wis. 2d 835, 578 N.W.2d 602 (1998), 97−0270.

Although portions of the plaintiff's property were located in Milwaukee, the school itself was not when it's buildings were not in the city and it was unable to obtain a certificate of occupancy form Milwaukee as required under sub. (7) (d). Without the requisite certificate on file, the plaintiff is ineligible to participate in the choice program under this section. Thomas More High School v. Burmaster, 2005 WI App 204, 287 Wis. 2d 220, 704 N.W.2d 349, 04−2511.

The Cleveland, Ohio school choice program, which provides tuition aid to parents who may use the money to pay tuition to private, religious schools, does not violate the establishment of religion clause of the 1st amendment. When an aid program is neutral with respect to religion and provides assistance to a broad class of citizens who, in turn, direct the aid to religious schools through individual choice, the program is not subject to challenge. Zelman v. Simmons−Harris, 536 U.S. 639, 153 L. Ed. 2d 604, 122 S. Ct. 2460 (2002).

Milwaukee Parental Choice Program Upheld. Beard. 75 MLR 673 (1992).

The Constitutional Implications of School Choice. 1992 WLR 459.

Opening the Door to School Choice in Wisconsin. Is *Agnosti v. Felton* the Key? Kimball. 81 MLR 843 (1998).

119.235 Contracts with private schools and agencies. (1) The board may contract with any nonsectarian private school located in the city or any nonsectarian private agency located in the city to provide educational programs to pupils enrolled in the school district operating under this chapter. The board shall ensure that each private school or agency under contract with the board complies with ss. 118.125 and 118.13, 20 USC 1232g, 20 USC 1681 to 1688, 20 USC 3171 to 3197, 29 USC 794, 42 USC 2000d and 42 USC 6101 to 6107, and all health and safety laws and rules that apply to public schools.

(2) Each private school or agency under contract with the board shall do all of the following:

(a) Offer a full school year educational program.

(b) Participate in the board's parent information program.

(c) Offer diverse opportunities for parents to participate in the school's programs.

(d) Meet insurance and financial requirements established by the board.

(e) Develop a pupil recruitment and enrollment plan that incorporates all of the following:

1. A good faith effort to achieve racial balance.

2. A pupil selection process that gives preference to the siblings of enrolled pupils and that gives no other preferences except those approved by the board.

3. A statement describing how the plan will serve the needs of low−academic achievers and pupils from low−income families.

(f) Report to the board any information requested by the board.

(3) Any pupil enrolled in the school district operating under this chapter may attend, at no charge, any private school or agency with which the board has contracted under sub. (1) if space is available in the private school or agency.

(4) The board shall establish appropriate, quantifiable performance standards for pupils at each private school or agency with which it contracts in such areas as attendance, reading achievement, pupil retention, pupil promotion, parent surveys, credits earned and grade point average.

(5) Annually, the board shall monitor the performance of the program under this section. The board may use the results of standardized basic educational skills tests to do so. The board shall include a summary of its findings in its annual report to the state superintendent under s. 119.44.

History: 1995 a. 27.

119.24 Admission of pupils. A pupil may attend a school in an attendance district other than the one in which he or she resides with the written permission of the superintendent of schools. Beginning in the 2000−01 school year, the board shall provide spaces in each school for pupils who reside outside the attendance district for the school, but shall fill any unused spaces with pupils who reside in the attendance district. A pupil who attends a school may continue to attend that school until he or she graduates from the school and each sibling of that pupil shall be given priority over other pupils in the process of admission for that school.

History: 1985 a. 29; 1999 a. 9.

119.25 Expulsion of pupils. (1) The board may adopt a resolution, which is effective only during the school year in which it is adopted, authorizing any of the following to determine pupil

expulsion from school under sub. (2) instead of using the procedure under s. 120.13 (1) (c):

(a) An independent hearing panel appointed by the board.

(b) An independent hearing officer appointed by the board.

(2) (a) During any school year in which a resolution adopted under sub. (1) is effective, the independent hearing officer or independent hearing panel appointed by the board:

1. May expel a pupil from school whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1) (c) 1. or 2.

2. Shall commence proceedings under par. (b) and expel a pupil from school for not less than one year whenever the hearing officer or panel finds that the pupil engaged in conduct that constitutes grounds for expulsion under s. 120.13 (1) (c) 2m.

(b) No administrator may be designated to participate in an expulsion hearing if he or she was involved in the incident that led to the expulsion proceeding. Prior to expelling a pupil, the hearing officer or panel shall hold a hearing. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, the pupil's parent or guardian, may be represented at the hearing by counsel. The hearing officer or panel shall keep a full record of the hearing. The hearing officer or panel shall inform each party of the right to a complete record of the proceeding. Upon request, the hearing officer or panel shall direct that a transcript of the record be prepared and that a copy of the transcript be given to the pupil and, if the pupil is a minor, the pupil's parent or guardian. Upon the ordering by the hearing officer or panel of the expulsion of a pupil, the school district shall mail a copy of the order to the board, the pupil and, if the pupil is a minor, the pupil's parent or guardian. A school board, hearing officer or panel may disclose the transcript to the parent or guardian of an adult pupil, if the adult pupil is a dependent of his or her parent or guardian under section 152 of the internal revenue code. Within 30 days after the date on which the order is issued, the board shall review the expulsion order and shall, upon review, approve, reverse or modify the order. The order of the hearing officer or panel shall be enforced while the board reviews the order. The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the board's decision to the state superintendent. If the board's decision is appealed to the state superintendent, within 60 days after the date on which the state superintendent receives the appeal, the state superintendent shall review the decision and shall, upon review, approve, reverse or modify the decision. The decision of the board shall be enforced while the state superintendent reviews the decision. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court for the county in which the school is located.

(c) Not less than 5 days' written notice of the hearing under par. (b) shall be sent to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The notice shall include all of the information specified in s. 120.13 (1) (e) 4.

(d) 1. In this paragraph:

a. "Early reinstatement" means the reinstatement to school of an expelled pupil before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (b).

b. "Early reinstatement condition" means a condition that a pupil is required to meet before he or she may be granted early reinstatement or a condition that a pupil is required to meet after his or her early reinstatement but before the expiration of the term of expulsion specified in the pupil's expulsion order under par. (b).

2. An independent hearing panel or independent hearing officer appointed by the board may specify one or more early reinstatement conditions in the expulsion order under par. (b) if the early reinstatement conditions are related to the reasons for the pupil's expulsion. Within 15 days after the date on which the expulsion order is issued, the expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the determination regarding whether an early reinstatement condition specified in the expulsion order is related to the reasons for the pupil's expulsion to the board. The decision of the board regarding that determination is final and not subject to appeal.

3. If the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school, determines that a pupil has met the early reinstatement conditions that he or she is required to meet before he or she may be granted early reinstatement, the superintendent of schools or designee may grant the pupil early reinstatement. The determination of the superintendent of schools or designee is final.

4. If a pupil violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the superintendent of schools or a principal or teacher designated by the superintendent of schools may revoke the pupil's early reinstatement as provided in s. 120.13 (1) (h) 4.

5. Except as provided in subd. 6., if the pupil's early reinstatement is revoked under subd. 4., the pupil's expulsion shall continue to the expiration of the term specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the board, independent hearing panel or independent hearing officer agree, in writing, to modify the expulsion order.

6. Within 5 school days after the revocation of a pupil's early reinstatement under subd. 4., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the superintendent of schools or his or her designee, who shall be someone other than a principal, administrator or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the superintendent of schools or his or her designee finds that the pupil did not violate an early reinstatement condition or that the revocation was inappropriate, the pupil shall be reinstated to school under the same reinstatement conditions as in the expulsion order and the early reinstatement revocation shall be expunged from the pupil's record. If the superintendent of schools or his or her designee finds that the pupil violated an early reinstatement condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the superintendent of schools or his or her designee is final.

History: 1987 a. 88; 1995 a. 27 s. 9145 (1); 1995 a. 32, 75, 235, 417; 1997 a. 27; 1999 a. 128, 186.

Having established the right to an education, the state may not withdraw the right on grounds of misconduct absent fundamentally fair procedures to determine if misconduct occurred. Attendance by the student at expulsion deliberations is not mandatory; all that is required is that the student have the opportunity to attend and present his or her case. Remer v. Burlington Area School District, 149 F. Supp. 2d 665 (2001).

119.26 Partial annexation of school district. When the city has annexed a portion of the territory of a school district and such annexation does not include the site of any school building of such school district, the school board of the district and the board may enter into an agreement to permit pupils residing in the annexed territory to continue to attend school in the school district, and the board shall pay tuition to the school district for the pupils in accordance with s. 121.78.

History: 1985 a. 29 s. 3202 (43).

119.28 Special schools. (1) The board shall establish and maintain such special schools for children with disabilities, as defined in s. 115.76 (5), as are required to accommodate pupils of school age desiring to attend school. The board shall prescribe the courses of study and the educational and other activities in special schools.

(2) The board may employ teachers to give instruction in homes or hospitals to pupils unable to attend special schools.

(3) The board may provide transportation for pupils attending special schools and provide school lunches for pupils under such terms as it determines.

(4) The superintendent of schools shall prescribe, with the approval of the committee on instruction, the periods of instruc-

tion at special schools subject to amendment, rejection or confirmation by the board.

(5) Any action under subs. (3) and (4) shall be subject to the direction of the state superintendent and the division for learning support in the department as provided by law.

History: 1973 c. 89; 1983 a. 27 s. 2200 (42); 1993 a. 335; 1995 a. 27; 1997 a. 27, 164; 2011 a. 158.

119.30 Trade schools. (1) The board may establish, conduct and maintain one or more schools for the purpose of giving practical instruction in the useful trades and may purchase the proper machinery, tools and equipment and employ a sufficient number of teachers and other necessary employees in such schools. Such schools shall be known as senior trade schools and junior trade schools.

(2) Until otherwise determined by the board, only pupils who have completed the 8th grade in an accredited school whose graduates are eligible for admission to a high school in the city shall be admitted to the senior trade schools. Only pupils who have attained the age of 14 years or have completed at least 6 grades in elementary school shall be admitted to the junior trade schools.

(3) The board may require pupils in trade schools to pay the cost of all materials consumed in the course. In lieu of that requirement, the board may establish a fixed sum to be paid by each pupil in a course which shall be sufficient to cover the cost of materials to be consumed by the pupil in the course. The board may sell any articles made or manufactured in a trade school and determine the use of the proceeds from the sale.

History: 1973 c. 15; 1989 a. 290.

119.315 Science, technology, engineering, and mathematics pilot programs for pupils in grades kindergarten to 5. If the board determines that state or federal aid is available, any school in the city that enrolls pupils in grades kindergarten to 5 is eligible to apply to the board for funding to participate in a pilot program designed to develop innovative instructional programs in science, technology, engineering, and mathematics; support pupils who are typically under−represented in these subjects; and increase the academic achievement of pupils in those subjects.

History: 2009 a. 215.

119.32 Superintendent of schools; business manager. (1) The board shall elect by roll call vote at a regular meeting a superintendent of schools whenever that office becomes vacant. The superintendent of schools shall be a person of suitable learning and experience in the art of instruction and shall have practical familiarity with the most approved methods of organizing and conducting a system of schools.

(2) Under the direction of the board, the superintendent of schools shall have general supervision of:

(a) The public schools and the manner of conducting and grading such schools.

(b) The assistant superintendents, supervisors, educational department heads, professional assistants to the superintendent of schools, principals, vice principals and teachers in the city.

(3) Subject to confirmation by the board, the superintendent of schools shall appoint the deputy superintendent of schools, associate superintendent of schools, executive assistant to the superintendent of schools, assistant to the superintendent of schools, assistant superintendent, division director, department director and other supervisory or administrative employees designated by the board.

(4) The superintendent of schools shall be an advisory member of every committee of the board, except when an inquiry into his or her acts or an investigation of his or her official conduct is under consideration by such committee.

(5) The superintendent of schools shall assign all teachers and engage and assign substitute teachers at the per diem compensation fixed by the board.

(6) The superintendent of schools shall collect such statistics and information relating to schools and the population entitled to school privileges in the city as the board directs.

(7) Notwithstanding ss. 115.28 (7), 118.19 (1) and 121.02 (1) (a), the board may elect a superintendent of schools, and may employ a business manager, who are not licensed by the department.

History: 1989 a. 4; 1991 a. 10, 39, 189; 1993 a. 16, 58, 490, 492; 1995 a. 27 ss. 4013, 4014, 9145 (1); 1997 a. 27.

119.33 Superintendent of schools opportunity schools and partnership program. (1) LEGAL ENTITY. There is created within the school district operating under this chapter a superintendent of schools opportunity schools and partnership program under the management and control of the superintendent of schools.

(2) DUTIES. The superintendent of schools may establish an opportunity schools and partnership program under this section. If the superintendent of schools proceeds under this section, the superintendent of schools, the entities selected to operate and manage schools transferred to the program under this section, and each school transferred to the program under this section shall be subject to ss. 118.016, 118.13, 118.30 (1m), and 118.38, other than s. 118.38 (1) (a) 9., and to subch. V of ch. 115 and federal law applicable to children with disabilities. If the superintendent of schools proceeds under this section, the superintendent of schools shall do all of the following:

(a) *Policies for identifying eligible schools to be transferred to the opportunity schools and partnership program; partnership initiatives.* 1. Establish policies for providing a qualitative analysis of each eligible school, identified in the annual report submitted by the state superintendent under s. 115.28 (10m) (a), to determine whether the school is suitable for transfer to the program under this section. The superintendent of schools may use the policies established by the commissioner under s. 119.9002 (1) (a) to select eligible schools to be transferred to the program under this section and may use the request−for−proposal process developed by the commissioner under s. 119.9002 (2) (b) for soliciting proposals from individuals, groups, persons, and governing bodies of private schools to operate and manage the eligible school upon transfer of the school to the program under this section. If the superintendent of schools does not use the policies established by the commissioner, the superintendent of schools shall include as a criterion in his or her policies the level of interest within the school and the school's community in transferring the school to the program, as determined from community engagement, and shall establish a method for evaluating community engagement.

2. Develop and manage partnership programs to more efficiently and effectively deploy wraparound services to residents of the county.

(b) *Selection of schools for transfer to the opportunity schools and partnership program and limit on the number of schools transferred in any one school year.* 1. a. During the 2015−16 school year, but after the commissioner has completed his or her selection under s. 119.9002 (2) (a), select from the report submitted by the state superintendent under s. 115.28 (10m) (a) at least one and not more than 3 eligible schools to be transferred to the program under this section for the following school year.

b. During the 2016−17 school year, but after the commissioner has completed his or her selection under s. 119.9002 (2) (a), select from the report submitted by the state superintendent under s. 115.28 (10m) (a) not more than 3 additional eligible schools to be transferred to the program under this section for the following school year.

c. During the 2017−18 school year and any subsequent school year, but after the commissioner has completed his or her selection under s. 119.9002 (2) (a), select from the report submitted by the state superintendent under s. 115.28 (10m) (a) not more than 5

additional eligible schools to be transferred to the program under this section for the following school year.

2. After selecting one or more eligible schools to be transferred to the program as provided under subd. 1., initiate a request−for−proposal process for each selected school and make a determination regarding the entity that will operate the school. Upon receipt of proposals under subd. 1., the superintendent of schools may engage the families of pupils enrolled in the school and community members and organizations to cultivate support for the transfer of the school to the program under this section.

3. For each eligible school selected under subd. 1., determine which of the following will be responsible for the operation and general management of the school upon its transfer to the program under this section:

a. An individual or group not currently operating a school.

b. A person who is operating a charter school. The superintendent of schools may proceed under this subd. 3. b. only if one of the following applies: the performance on examinations administered under s. 118.30 (1r) of pupils attending a school operated by the person exceeds the performance on examinations administered under s. 118.30 (1) of pupils attending the school being transferred to the person under this subdivision; or the performance category assigned to a school operated by the person on accountability reports published under s. 115.385 (1) for the school in each of the 3 preceding consecutive school years exceeds the performance category assigned to the school being transferred to the person under this subdivision in each of the 3 preceding consecutive school years. If fewer than 3 accountability reports have been published for a charter school described in this subd. 3. b., the superintendent of schools shall determine an alternative method for comparing the school's performance.

c. The governing body of a nonsectarian private school participating in a program under s. 118.60 or 119.23. The superintendent of schools may proceed under this subd. 3. c. only if one of the following applies: the performance on examinations administered under s. 118.30 (1s) or (1t) of pupils attending a school operated by the governing body exceeds the performance on examinations administered under s. 118.30 (1) of pupils attending the school being transferred to the governing body under this subdivision; or the performance category assigned to a school operated by the governing body on accountability reports published under s. 115.385 (1) for the school in each of the 3 preceding consecutive school years exceeds the performance category assigned to the school being transferred to the governing body under this subdivision in each of the 3 preceding consecutive school years. If fewer than 3 accountability reports have been published for a private school described in this subd. 3. c., the superintendent of schools shall determine an alternative method for comparing the school's performance.

4. Provide alternative public school attendance arrangements for pupils who do not wish to attend a school that has been transferred to the program under this section.

5. Annually submit to the board a report of the total number of pupils enrolled in all schools transferred to the program under this section in the current school year. For each school transferred to the program under this section, the superintendent of schools shall indicate the number of pupils enrolled in the school and whether the school is under the operation and general management of an individual or group under par. (c) 1., a person operating a charter school as described under par. (c) 2., or the governing body of a private school as described under par. (c) 3.

(c) *Transfer of schools to and supervision of schools transferred to the opportunity schools and partnership program.* Assume general supervision over the schools transferred to the program under this section and take one of the following actions regarding each school selected under par. (b) 1.:

1. Transfer the operation and general management of the school to an individual or group under par. (b) 3. a. If the superintendent of schools proceeds under this subdivision, neither the superintendent of schools nor the individual or group selected to be responsible for the operation and general management of the school may charge tuition to pupils attending the school.

2. Transfer the operation and general management of the school to a person under par. (b) 3. b. pursuant to a 5−school−year contract with the person. If the superintendent of schools proceeds under this subdivision, the superintendent of schools may contract only with a not−for−profit group. Under the terms of the contract:

a. The person, and schools operated by the person, shall be subject to the provisions of ss. 118.13 and 118.38, other than s. 118.38 (1) (a) 9.

b. The person shall submit achievement data of pupils attending the school directly to the superintendent of schools, who shall submit that achievement data to the board.

c. The person may not charge tuition to pupils attending a school under the contract.

d. The superintendent of schools shall evaluate the performance of the school at the end of the 3rd school year under the contract to determine whether the school is demonstrating adequate growth in pupil achievement. If the superintendent of schools determines that the school is not demonstrating adequate growth in pupil achievement, the superintendent of schools may either select an alternative person that qualifies under par. (b) 3. b. to be responsible for the operation and general management of the school or select a governing body of a private school that qualifies under par. (b) 3. c. to be responsible for the operation and general management of the school.

3. Transfer the operation and general management of the school to the governing body of a private school pursuant to a 5−school−year contract with the governing body. If the superintendent of schools proceeds under this subdivision, the superintendent of schools may contract only with a not−for−profit governing body of a private school. Under the terms of the contract:

a. The governing body of a private school, and schools in the opportunity schools and partnership program operated by the governing body, shall be subject to the provisions of ss. 118.13 and 118.38, other than s. 118.38 (1) (a) 9.

b. The governing body of a private school shall administer the examinations required under ss. 118.016 and 118.30 (1s) and shall submit achievement data of pupils attending the school directly to the superintendent of schools, who shall submit that achievement data to the board.

c. The governing body of a private school may not charge tuition to pupils attending a school under the contract.

d. The superintendent of schools shall evaluate the performance of the school at the end of the 3rd school year under the contract to determine whether the school is demonstrating adequate growth in pupil achievement. If the superintendent of schools determines that the school is not demonstrating adequate growth in pupil achievement, the superintendent of schools may either select an alternative governing body of a private school that qualifies under par. (b) 3. c. to be responsible for the operation and general management of the school or select a person that qualifies under par. (b) 3. b. to be responsible for the operation and general management of the school.

4. Ensure that no school transferred to the program under this section charges tuition to pupils.

(d) *Achievement and assessment data.* Upon receipt from an individual or group operating a school pursuant to par. (c) 1., from a person operating a school pursuant to par. (c) 2., or from the governing body of a private school operating a school pursuant to par. (c) 3. of pupil achievement and assessment data, forward that data to the board.

(e) *Employees; benefits.* 1. Select, hire, and employ staff. The superintendent of schools may terminate staff if appropriate. The

superintendent of schools shall determine the compensation, duties, and qualifications of his or her staff. Individuals employed by the superintendent of schools are not subject to subch. II of ch. 63.

2. a. Take responsibility over the selection, hiring, employment, and termination of the principals, vice principals, and teachers in those schools transferred to the program under this section. The superintendent of schools shall assign all teachers within those schools and shall engage and assign substitute teachers at the per diem compensation fixed by the superintendent of schools. If the superintendent of schools transfers a school to the program under this section, the superintendent of schools may reassign the school's staff members out of the school without regard to seniority in service, shall terminate all employees of the school who are employees of the school district operating under this chapter, and shall require any individual seeking to remain employed at the school to reapply for employment at the school. Employees of the program under this section are not employees of the board.

b. The superintendent of schools may delegate school staffing decisions under subd. 1. to the individual or group operating the school under par. (c) 1., the person operating the school under par. (c) 2., or the governing body of a private school operating the school under par. (c) 3.

c. Upon transfer of a school out of the program under this section, reassign staff members of the school only in consultation with the board.

3. Determine which of the following instruments will be used to provide health care and retirement benefits to the employees of the program under this section, and schools transferred to the program, and take the necessary and appropriate steps to execute the selected instrument:

a. A memorandum of understanding with the board under which the superintendent of schools may purchase health care and retirement benefits for all employees of the program under this section and schools transferred to the program.

b. A memorandum of understanding with the secretary of employee trust funds under s. 40.03 (2) (x) 2. under which the superintendent of schools may purchase health care and retirement benefits, with statutory contributions, for all employees of the program under this section and schools transferred to the program.

c. A contract between the superintendent of schools and an individual or group under par. (c) 1. or a person under par. (c) 2. under which the individual or group or the person is required to self−insure or purchase health care and retirement benefits for employees of the school under the contract.

d. A contract between the superintendent of schools and a governing body of a private school under par. (c) 3. under which the governing body is required to self−insure or purchase health care and retirement benefits for employees of the school under the contract.

(f) *Management of schools transferred to the opportunity schools and partnership program.* Upon the transfer of a school to the program under this section, take possession and exercise care, control, and management of all land, buildings, facilities, and other property that is part of the school being transferred as an agent of the board.

(g) *Educational priorities and objectives.* Identify broad yearly objectives and assess priorities for education in the program under this section. The superintendent of schools may issue an annual report and such additional reports as the superintendent of schools deems desirable on the progress of pupils enrolled in schools in the program.

(h) *Custodians of school premises.* Fix the duties and responsibilities of principals of schools transferred to the program under this section, as custodians of the school premises, and of the school engineers. Each principal shall have general supervision of and shall be custodian of all school premises over which the principal presides.

(i) *Competitive bidding.* Establish competitive bidding policies and procedures for purchases and contracts.

(j) *School budget.* Annually, prepare a budget for each school transferred to the program under this section. The superintendent of schools may delegate budgeting responsibilities under this paragraph to the individual or group operating the school under par. (c) 1., the person operating the school under par. (c) 2., or the governing body of a private school operating the school under par. (c) 3.

(k) *Budget.* Annually transmit his or her proposed budget for the program under this section to the board on forms furnished by the auditing officer of the city.

(L) *Comprehensive programs.* Collaborate with nonprofit organizations and government agencies to provide pupils enrolled in a school in the program with comprehensive social services and educational support, which may include a program under this section that offers comprehensive services that address the needs of children and youth from before the time they are born to postsecondary education.

(m) *Alternative routes to graduation.* Provide alternative methods of attaining a high school diploma for those pupils enrolled in a school in the program under this section who are unlikely to graduate in the traditional manner, including a program allowing a pupil or former pupil to retake a course in which he or she was not initially successful.

(n) *Transportation.* 1. Provide for the transportation of pupils to and from any school transferred to the program under this section.

2. Upon written request from the parent or guardian of a pupil attending a school transferred to the program under this section who is displaced from his or her residence while enrolled in that school, provide transportation assistance to ensure that the pupil may continue to attend the school.

(o) *Expulsion of pupils.* Follow the policies established by the board for the expulsion of pupils from schools transferred to the program under this section.

(p) *Random selection.* If the superintendent of schools or any entity operating and managing a school transferred to the program under this section establishes an application process through which pupils may apply to attend a school transferred to the program under this section, establish and utilize, and ensure that the entity utilizes, a random selection process for the admission of pupils to the school when the number of applicants exceeds the number of seats in the school.

(3) SUPERINTENDENT OF SCHOOLS; POWERS. (a) For purposes of the program under this section, the superintendent of schools shall have all of the powers granted to the commissioner of the opportunity schools and partnership program under s. 119.9003.

(b) The superintendent of schools shall exercise the powers, duties, and functions prescribed to the superintendent of schools under this section independently of the board. Budgeting, program coordination, and related management functions for the schools transferred to the program under this section shall be performed by the superintendent of schools.

(c) The superintendent of schools may enter into a contract for cooperative action with a municipality under s. 66.0301 without approval of the board. In this paragraph, "municipality" has the meaning given in s. 66.0301 (1).

(4) EXIT FROM OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM. Subject to sub. (5) (a), the superintendent of schools may transfer a school out of the program under this section if the superintendent of schools determines that the school has been placed in a performance category of "meets expectations" or higher on the 3 preceding consecutive accountability reports published for the school under s. 115.385 (1). Under this subsection, any of the fol-

lowing may apply to a school transferred out of the program under this section:

(a) Subject to sub. (5) (b), the superintendent of schools may return operation and general management of the school to the board.

(b) The superintendent of schools may transfer operation and management of the school to a person to operate the school under s. 118.40 as a charter school that is not an instrumentality of the school district, as determined under s. 118.40 (7).

(c) The superintendent of schools may transfer operation and general management of the school to the governing body of a private school.

(5) OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM; LIMITATIONS. (a) A school transferred to the program under this section may not be transferred out of the program under sub. (4) for 5 consecutive school years.

(b) The superintendent of schools may not return operation and general management of a school that has been transferred to the program under this section to the board if either of the following applies:

1. The school remains an eligible school, as defined under s. 119.9000 (5).

2. The school district operating under this chapter has been assigned in the 3 most recent school years a performance category of "fails to meet expectations" on the accountability report published under s. 115.385 (1).

(6) PAYMENTS TO THE SUPERINTENDENT OF SCHOOLS, PERSONS, AND PRIVATE SCHOOLS OPERATING SCHOOLS IN THE SUPERINTENDENT OF SCHOOLS OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM; STATE AID ADJUSTMENTS. Beginning in the 2016−17 school year, the state superintendent shall do all of the following:

(a) From the appropriation under s. 20.255 (2) (fs), pay to the superintendent of schools on behalf of an individual or group operating a school under sub. (2) (c) 1. an amount equal to the amount paid per pupil to an operator of a charter school under s. 118.40 (2r) (e) in that school year multiplied by the number of pupils enrolled in that school in that school year.

(b) From the appropriation under s. 20.255 (2) (fs), pay to a person operating a school under a contract entered into under sub. (2) (c) 2. for that school year an amount equal to the amount paid per pupil to an operator of a charter school under s. 118.40 (2r) (e) in that school year multiplied by the number of pupils enrolled in that school under that contract in that school year.

(c) From the appropriation under s. 20.255 (2) (fs), pay to the governing body of a private school operating the school in which a pupil is enrolled under a contract entered into under sub. (2) (c) 3. for that school year an amount equal to the amount paid per pupil to an operator of a charter school under s. 118.40 (2r) (e) in that school year multiplied by the number of pupils enrolled in that school under that contract in that school year.

(d) Reduce the amount of state aid that the school district operating under this chapter is eligible to be paid from the appropriation under s. 20.255 (2) (ac) for that school year by the sum of the amounts paid for that school year under pars. (a) to (c) and ensure that the aid reduction under this paragraph is lapsed to the general fund.

(e) Ensure that the aid adjustment under par. (d) does not affect the amount determined to be received by the school district operating under this chapter as state aid under s. 121.08 for any other purpose.

History: 2015 a. 55; s. 35.17 correction in (2) (b) 3. b. and c.

119.36 Dismissal of superintendent of schools. By a two−thirds vote of the members−elect and upon compliance with this section, the board may remove from office the superintendent of schools for a misdemeanor in office, incompetency or inattention to the duties of the office. Notice in writing of the charges against the accused and of the time and place of hearing and acting upon the charges shall be served upon the accused at least 5 days before the time of hearing and before any action is taken by the board on the charges. On demand, the accused or counsel for the accused shall be heard. Both the board and the accused may produce witnesses who shall be sworn by the board president and shall give testimony subject to the penalty for perjury.

History: 1991 a. 39, 189.

119.40 Salary schedules. (1) (a) Annually, the board shall establish a schedule of salaries for all classroom teachers, not including principals and vice principals, in the schools of the city.

(b) Annually, the board may establish one or more schedules of salaries for all its employees not covered under par. (a).

(2) All schedules of salaries annually fixed by the board shall be adopted for the same period and on the same year basis as the annual school budget is adopted by the board.

119.42 Teacher tenure. (1) In this section, "teacher" has the meaning given under s. 40.02 (55), but excludes the superintendent of schools, deputy superintendent of schools, associate superintendent of schools, executive assistant to the superintendent of schools, assistant to the superintendent of schools, assistant superintendent, division director and department director.

(1m) The appointment of a teacher in a 1st class city school district shall be probationary. After successful probation by completing 3 years of continuous service, the appointment shall be permanent during efficiency and good behavior. A teacher who has a permanent appointment shall not be discharged, except for cause upon written charges. After 10 days' written notice to the teacher of the charges and upon the teacher's written request, the charges shall be investigated, heard and determined by the board. The action of the board on the matter shall be final.

(2) Any teacher employed in a public school in territory annexed to the city, who at the time of the annexation possesses the qualifications required by law and by the rules of the board for probationary or permanent appointment to a teaching position in the city, shall have the status of a regularly appointed teacher in the schools of the city and shall be entitled to all the rights and privileges of regularly appointed teachers in the city. Time spent in teaching in the annexed territory prior to annexation shall be credited to each such teacher as time spent in teaching in the city.

(3) This section does not apply after December 21, 1995. Any person whose employment is permanent under this section on December 21, 1995, shall retain all of the rights and privileges of such permanent employment after that date.

History: 1981 c. 96 s. 67; 1985 a. 225; 1989 a. 4; 1991 a. 39; 1993 a. 58; 1995 a. 111.

Teacher tenure laws are in derogation of the common law, creating a contract between the parties by operation of law, and therefore are to be strictly construed. The scope of the tenure created by the statute, or by school board rule enacted pursuant to statute, must be determined from the language of the section and cannot be broadened beyond the intent of the legislature. Farley v. Milwaukee Board of School Directors, 49 Wis. 2d 765, 183 N.W.2d 148 (1971).

A probationer gains permanent status upon completion of six semesters; the school board's letter, sent after the sixth semester stating the plaintiff would not be reappointed, was ineffective. Bufkin v. Milwaukee Board of School Directors, 179 Wis. 2d 228, 507 N.W.2d 571 (Ct. App. 1993).

119.44 Board report. (1) The board shall file its annual financial report with the city clerk and shall send a copy of the report to the state superintendent.

(2) Annually at such times as the department prescribes but on or before September 1, the board shall file a verified annual report with the department, on forms supplied by the department. The annual report shall contain all of the following:

(a) Prior school year attendance data, including all of the following categorized by school, grade, gender and ethnicity:

1. The number of children:

a. Attending a technical college under s. 118.15 (1) (b) or (cm).

b. Excused from school attendance under s. 118.15 (1) (c).

c. Provided each of the program or curriculum modifications under s. 118.15 (1) (d).

2. a. The number of pupils suspended, the number of suspensions and the total number of school days missed as a result of suspensions under s. 120.13 (1) (b).

b. The number of pupils expelled, the number of expulsions and the total number of school days missed as a result of expulsions under s. 120.13 (1) (c).

3. The number of pupils transferred by the school board to a different school in the same school district.

4. The high school graduation rate.

5. a. The number of pupils enrolled in each school transferred to the superintendent of schools opportunity schools and partnership program under s. 119.33, as reported by the superintendent of schools in the enrollment report submitted under s. 119.33 (2) (b) 5.

b. The number of pupils enrolled in each school transferred to the opportunity schools and partnership program under subch. II, as reported by the commissioner in the enrollment report submitted under s. 119.9002 (2) (f).

(b) Scores of the standardized reading tests administered to pupils during the prior school year under s. 121.02 (1) (r), categorized by school, gender and ethnicity.

(c) The information specified under s. 120.18 (1) (gm) and (i).

(d) The information specified under s. 120.18 (1) (a).

(3) Rules promulgated under s. 120.18 (3) apply to the information reported under sub. (2).

History: 1987 a. 333; 1989 a. 31, 290; 1993 a. 16, 223, 399, 491; 1995 a. 27 s. 9145 (1); 1997 a. 27; 2015 a. 55.

119.46 Taxes for school operations fund. (1) As part of the budget transmitted annually to the common council under s. 119.16 (8) (b), the board shall report the amount of money required for the ensuing school year to operate all public schools in the city under this chapter, including the schools transferred to the superintendent of schools opportunity schools and partnership program under s. 119.33 and to the opportunity schools and partnership program under subch. II, to repair and keep in order school buildings and equipment, including school buildings and equipment transferred to the superintendent of schools opportunity schools and partnership program under s. 119.33 and to the opportunity schools and partnership program under subch. II, to make material improvements to school property, and to purchase necessary additions to school sites. The report shall specify the amount of net proceeds from the sale or lease of city−owned property used for school purposes deposited in the immediately preceding school year into the school operations fund as specified under s. 119.60 (2m) (c) or (5) and the net proceeds from the sale of an eligible school building deposited in the immediately preceding school year into the school operations fund as specified under s. 119.61 (5). The amount included in the report for the purpose of supporting the Milwaukee Parental Choice Program under s. 119.23 shall be reduced by the amount of aid received by the board under s. 121.136 and by the amount specified in the notice received by the board under s. 121.137 (2). The common council shall levy and collect a tax upon all the property subject to taxation in the city, which shall be equal to the amount of money required by the board for the purposes set forth in this subsection, at the same time and in the same manner as other taxes are levied and collected. Such taxes shall be in addition to all other taxes which the city is authorized to levy. The taxes so levied and collected, any other funds provided by law and placed at the disposal of the city for the same purposes, and the moneys deposited in the school operations fund under ss. 119.60 (1), (2m) (c), and (5) and 119.61 (5) shall constitute the school operations fund.

(2) If moneys specified in s. 119.60 (1), (2m) (c), or (5) or 119.61 (5) are deposited in the school operations fund, the moneys shall be used to pay the principal due on any bonds issued under s. 66.1333 (5r) (b), to make sinking fund payments with respect to such bonds, to purchase or redeem such bonds, to pay any redemption premium required to be paid when such bonds are redeemed prior to maturity, or to establish a defeasance escrow account for such bonds in an amount sufficient to provide for the payment of principal, any redemption premium and interest on such bonds when due, whether at maturity or upon prior redemption, and to pay any fees or expenses associated with the establishment of the defeasance escrow account.

History: 1975 c. 353; 1993 a. 437; 1995 a. 27; 2005 a. 453; 2007 a. 20; 2009 a. 28; 2011 a. 17; 2015 a. 55.

119.47 Taxes for school extension fund. (1) If activities are being conducted under s. 119.70 (1), the board as part of the budget transmitted annually to the common council under s. 119.16 (8) (b) shall specify the amount of money required for the ensuing school year under s. 119.70 (3). The taxes so levied and collected shall constitute the school extension fund.

(2) The board may receive and expend, in addition to the tax levied and collected under s. 119.70 (3), any sums of money appropriated by the common council of the city for community services. The common council may appropriate from the city general fund or a similar fund to the school district such sums of money as the common council deems expedient.

History: 1971 c. 211 s. 126; 1975 c. 353; 1985 a. 225 ss. 60, 61, 77.

119.48 Taxes for school construction fund. (1) If the board adopts a resolution by a two−thirds vote of the members−elect to provide funds, in addition to receipts from the sale of bonds, to purchase school sites, to construct school buildings and additions thereto or to remodel existing buildings, the board may include, as part of the budget transmitted to the common council under s. 119.16 (8) (b), a communication stating the amount of funds needed for such purposes. Upon receipt of the communication, the common council shall levy and collect a tax upon all property subject to taxation in the city, which shall be equal to the amount of money required by the board for the purposes set forth in the communication, at the same time and in the same manner as other taxes are levied and collected. Such taxes shall be in addition to all other taxes which the city is authorized to levy. The taxes so levied and collected and the moneys under s. 119.60 (1) that are deposited in the school construction fund shall constitute the school construction fund. If moneys under s. 119.60 (1) are deposited in the school construction fund, the moneys shall be used for the purchase of real property for school purposes. The board may allow the school construction fund to accumulate from year to year.

(2) The common council shall have the following options on the board's communication under sub. (1):

(a) To levy and collect a tax equal to the amount of money specified by the board under sub. (1).

(b) To levy and collect a tax to realize part of the money so specified and to provide the remainder thereof from the permanent improvement fund of the city.

(c) To decline to levy and collect a school construction fund tax and to provide the entire amount of money so specified from the permanent improvement fund.

(3) (a) The school construction fund taxes in any one year shall not exceed the levy rate specified in s. 65.07 (1) (f), unless the decision to exceed the levy rate specified in s. 65.07 (1) (f) is approved through the voter referendum procedure specified in sub. (4). Any such approval is applicable only for one year.

(b) The school construction fund tax levy shall be reduced in any year only by the amount which the common council in such year provides from the permanent improvement fund of the city.

(4) (a) If the board deems it necessary to exceed the levy rate specified under s. 65.07 (1) (f), it may by a two−thirds vote of the members−elect include a communication to the common council as part of the budget transmitted to the common council under s. 119.16 (8) (b).

(b) The communication shall state the purposes for which the funds from the increase in the levy rate will be used and shall request the common council to submit to the voters of the city the

question of exceeding the levy rate specified in s. 65.07 (1) (f) at the September election or a special election.

(c) Upon receipt of the communication, the common council shall file the communication as provided in s. 8.37 and shall cause the question of exceeding the levy rate specified under s. 65.07 (1) (f) to be submitted to the voters of the city at the September election or at a special election. The question of exceeding the levy rate specified under s. 65.07 (1) (f) shall be submitted so that the vote upon exceeding the levy rate specified in s. 65.07 (1) (f) is taken separately from any other question submitted to the voters. If a majority of the electors voting on the question favors exceeding the levy rate specified under s. 65.07 (1) (f), the common council shall approve the increase in the levy rate and shall levy and collect a tax equal to the amount of money approved by the electors.

History: 1987 a. 27; 1999 a. 182; 2005 a. 453.

119.485 Taxes for state trust fund loans. (1) If the board is awarded a state trust fund loan under subch. II of ch. 24, the board shall include in its budget transmitted to the common council under s. 119.16 (8) (b) a written notice specifying the amount of money necessary to pay the principal and interest on the loan as they become due. The common council shall levy and collect a tax upon all property subject to taxation in the city, at the same time and in the same manner as other taxes are levied and collected, equal to the amount of money required to make such payments. The taxes are in addition to all other taxes that the city is authorized to levy.

(2) Annually by December 31, the board shall transfer to the city an amount which, when added to the interest that will accrue on the amount, is sufficient to meet the anticipated costs of debt service on the loan in the ensuing year.

History: 1997 a. 27.

119.49 Bond issues. (1) (a) If the board deems it necessary to construct buildings or additions to buildings, to remodel buildings or to purchase school sites or to provide funds for any such purpose as a participant in a contract under s. 120.25, it may by a two−thirds vote of the members−elect send a communication to the common council of the city.

(b) The communication shall state the amount of funds needed under par. (a) and the purposes for which the funds will be used and shall request the common council to submit to the voters of the city at the next election held in the city the question of issuing school bonds in the amount and for the purposes stated in the communication.

(2) Upon receipt of the communication, the common council shall file the communication as provided in s. 8.37 and shall cause the question of issuing such school bonds in the stated amount and for the stated school purposes to be submitted to the voters of the city at the next election held in the city. The question of issuing such school bonds shall be submitted so that the vote upon issuing such school bonds is taken separately from any other question submitted to the voters. If a majority of the electors voting on the school bond question favors issuing such school bonds, the common council shall cause the school bonds to be issued immediately or within the period permitted by law, in the amount requested by the board and in the manner other bonds are issued.

(3) The proper city officials shall sell or dispose of the bonds in the same manner as other bonds are disposed of. The entire proceeds of the sale of the bonds shall be placed in the city treasury, subject to the order of the board for the purposes named in the communication under sub. (1). Such school bonds shall be payable within 20 years from the date of their issue.

(4) The common council shall levy and collect a tax upon all taxable property in the city, in the same manner and at the same time as other taxes are levied and collected, which shall be sufficient to pay the interest on all school bonds issued under this subchapter which are outstanding and to pay such part of the principal of such school bonds as becomes due during the ensuing school year.

(5) The sum of the amount of such school bonds outstanding and the amount of notes under s. 119.498 outstanding at any time shall not be greater than 2 percent of the total value of all taxable property in the city as certified under s. 121.06 (2). The tax levied to pay the interest and principal on such school bonds shall be in addition to the tax levied for general purposes upon all the taxable property of the city. The limit under s. 67.03 (1) (a) does not apply to bonds under this section.

History: 1973 c. 92, 172; 1975 c. 353; 1977 c. 418; 1989 a. 290; 1999 a. 150 s. 672; 1999 a. 182; 2003 a. 43; 2015 a. 55.

119.495 Borrowing on promissory notes; 1989 to 1993. (1) Between July 1, 1989, and the first Monday in August, 1993, upon adopting a resolution by a two−thirds vote of the members elect, the board may direct the common council to issue promissory notes under s. 67.12 (12) for the purpose of providing additional classroom space to accommodate anticipated school enrollments.

(2) The board shall include in its budget transmitted to the common council under s. 119.16 (8) (b) a written notice specifying the amount of borrowing to be authorized in the budget for the ensuing year. The common council shall issue the notes and levy a direct annual irrepealable tax sufficient to pay the principal and interest on the notes as they become due. The common council may issue the notes by private sale. The common council shall make every effort to involve a minority investment firm certified under s. 16.287 as managing underwriter of the notes or to engage a minority financial adviser certified under s. 16.287 to advise the city regarding any public sale of the notes.

(3) The common council may not issue a note under this section or sell a note issued under this section after June 30, 1994. The total amount of notes issued under this section may not exceed $27,500,000.

(4) The board may enter into a contract in anticipation of the sale of the notes on the same basis upon which a 1st class city may contract in anticipation of the sale of bonds under s. 67.10 (6).

(5) The city's budgetary authorization for borrowing in 1989 is increased by $10,000,000 for the purpose of this section.

History: 1989 a. 31; 1991 a. 314; 2011 a. 32.

119.496 Borrowing on promissory notes; 1992 to 1995. (1) Subject to sub. (6), between June 1, 1992, and June 30, 1995, upon adopting a resolution by a two−thirds vote of the members elect and receipt of written approval by the mayor of the city, the board may direct the common council to issue promissory notes under s. 67.12 (12) for the purpose of providing additional classroom space to accommodate anticipated school enrollments and for educational programming.

(2) The board shall include in its budget transmitted to the common council under s. 119.16 (8) (b) a written notice specifying the amount of borrowing to be authorized in the budget for the ensuing year. The common council shall issue the notes and levy a direct annual irrepealable tax sufficient to pay the principal and interest on the notes as they become due. The common council may issue the notes by private sale. The common council shall establish goals of involving minority investment firms certified under s. 16.287 as managing underwriters for at least 50 percent of the total amount financed by the notes and of engaging a minority financial adviser certified under s. 16.287 to advise the city regarding any public sale of the notes.

(3) The common council may not issue a note under this section or sell a note issued under this section after June 30, 1995. The total amount of notes issued under this section may not exceed $35,000,000.

(4) The board may enter into a contract in anticipation of the sale of the notes on the same basis upon which a 1st class city may contract in anticipation of the sale of bonds under s. 67.10 (6).

(5) The city's budgetary authorization for borrowing in 1992 is increased by $8,000,000 for the purpose of this section.

(6) The board may not direct the common council to issue promissory notes under this section unless all of the following occur:

(a) The board adopts a resolution declaring its intention to comply with s. 119.497, 1995 stats., and notifies the secretary of administration of its action.

(b) The board adopts a resolution declaring its intention, beginning in 1992 and annually thereafter until all notes issued under this section are repaid, to include as part of its budget transmitted to the common council under s. 119.16 (8) (b) a communication under s. 119.48 stating an amount needed for a school construction fund that is sufficient to require the common council to levy 0.6 mills on each dollar of the assessed valuation of all taxable property in the city, and notifies the secretary of administration of its action.

History: 1991 a. 314; 1997 a. 113; 2011 a. 32.

119.498 Promissory notes; unfunded prior service liability contributions. (1) Subject to s. 119.499 (1), the board may adopt a resolution requesting the common council of the city to authorize the issuance of promissory notes under s. 67.12 (12) for school purposes consisting of paying unfunded prior service liability contributions under the Wisconsin Retirement System.

(2) If the board adopts a resolution under sub. (1) and the city issues the notes, annually the board shall include in its budget transmitted to the common council under s. 119.16 (8) (b) an amount sufficient to pay the principal of and interest and redemption premium on the notes as they become due. The common council may authorize the issuance of the notes at public or private sale.

(3) The sum of the amount of notes under this section that are outstanding and the amount of bonds under s. 119.49 that are outstanding at any time may not exceed 2 percent of the total value of all taxable property in the city as certified under s. 121. 06 (2). The limit under s. 67.03 (1) (a) does not apply to notes under this section.

(4) The city's budgetary authorization for borrowing in 2003 is increased by $200,000,000 for the purposes of this section, and notes in that amount may be omitted from the city's 2003 budget.

History: 1995 a. 358; 2003 a. 43.

119.499 Borrowing; unfunded prior service liability. (1) The board may not request the redevelopment authority of the city to issue bonds under s. 66.1333 (5s) or adopt a resolution under s. 119.498 (1) unless it develops information on both options and chooses the option that is in the best public interest.

(1m) If the redevelopment authority of the city issues bonds under s. 66.1333 (5s), the board may borrow money from the redevelopment authority to pay unfunded prior service liability contributions under the Wisconsin Retirement System for the board. If the board borrows money from the redevelopment authority of the city to make such payments, it may use any school district revenues, including state aid, to repay the loan.

(2) (a) If the board decides to use school district revenues to repay the loan, it may request the city to remit designated revenues of the school district to the redevelopment authority of the city at such times and in such amounts as the board determines. The city may agree to the request, which is irrevocable while any amount due under the loan remains outstanding.

(b) If the board decides to use state aid to repay the loan, it may request the department to remit the aid to the redevelopment authority of the city in an annual amount agreed to by the board and the department, and the department shall ensure that the aid remittance does not affect the amount determined to be received by the board as state aid under s. 121.08 for any other purpose.

History: 2003 a. 43.

119.50 Disbursement of moneys. (1) All moneys received by or raised in the city for school district purposes shall be paid over to the city treasurer. Such moneys shall be disbursed by the city treasurer on the written order of the superintendent of schools, countersigned by the auditing officer of the city.

(2) The board shall provide by resolution for the manner in which the payroll shall be certified, audited, approved and paid.

(3) The superintendent of schools shall keep separate accounts of all money raised and apportioned for 1st class city school district purposes. The money shall be disbursed in accordance with this section and s. 66.0607 (5) and shall be paid from the proper funds.

History: 1971 c. 291; 1985 a. 225 s. 72; 1991 a. 39; 1993 a. 59; 1999 a. 150 s. 672.

One who deals with a municipality does so at his or her own risk and may be subject to any provisions of law that might prevent him or her from being paid by a municipality even though the services were rendered. Unless the power to bind the municipality financially has been specifically delegated, the only entity with the statutory authority to contract is the municipality. The statutes do not authorize anyone other than the board to enter into contracts. The board may delegate that authority, but it must do so clearly and specifically. For an MPS employee to have such power, it must be specifically delegated by the board to that employee or class of employees. Holzbauer v. Safway Steel Products, Inc. 2005 WI App 240, 288 Wis. 2d 250, 708 N.W.2d 36, 04−2058.

119.55 Youth service centers, truancy abatement and burglary suppression. (1) (a) The board shall establish one or more youth service centers for the counseling of children who are taken into custody under s. 938.19 (1) (d) 10. for being absent from school without an acceptable excuse under s. 118.15. The board shall contract with the boys and girls clubs of Greater Milwaukee for the operation of the centers.

(b) The board shall establish 2 youth service centers under par. (a).

(2) The board shall pay the city a sum sufficient to pay the costs of salaries and fringe benefits of 4 law enforcement officers to work on truancy abatement and burglary suppression on a full−time basis.

History: 1995 a. 27 ss. 4017t, 4017u, 7299m; 1997 a. 35, 113.

119.60 Real property. (1) Except as provided in sub. (2m) (c) and s. 119.61 (5), if any real property within the city which is used for school purposes is sold, the board shall determine whether the proceeds of the sale are deposited in the school operations fund under s. 119.46 or are deposited in the school construction fund under s. 119.48.

(2) Except as provided in sub. (2m) and s. 119.61 (5), city−owned property used for school purposes shall be sold by the city upon written request of the board if the common council adopts a resolution approving the sale. If, within 12 months after a written request by the board, the city has not disposed of the property, has failed to obtain a written agreement to dispose of the property or has not provided the board with a written report giving specific reasons, which are not identified by the city attorney as constituting a conflict of interest, for its failure to dispose of the property or to obtain an agreement to dispose of the property, the board may retain a real estate agent to represent the board in its real estate transactions.

(2m) (a) 1. Subject to subd. 2., if the common council finds that city−owned property used for school purposes has been unused or underutilized for at least 12 consecutive months, including the 12 months preceding June 8, 2011, or if the board has determined by resolution prior to January 1, 2011, that any city−owned property used for school purposes is surplus to the needs of the school district, the common council may sell or lease that property if it adopts a resolution approving the sale or lease.

2. Before the common council may adopt a resolution approving the sale or lease of underutilized city−owned property used for school purposes, the common council shall adopt by resolution a set of criteria under which the common council may or may not find that the city−owned property used for school purposes is underutilized. In order to determine whether city−owned property used for school purposes satisfies the criteria adopted under this

subdivision, the common council shall request from the board, and the board shall provide to the common council within 15 days of the request, all relevant information regarding the current and planned utilization of the city−owned property used for school purposes that is proposed for sale or lease under this paragraph.

(b) If a resolution is adopted by the common council as provided under par. (a), the board shall provide the common council and city employees and agents copies of all documents related to the property and access to and entry upon and into the property for purposes related to the sale or leasing of the property.

(c) If any real property within the city which is used for school purposes is sold or leased as provided in this subsection, the net proceeds of the sale or lease shall be deposited in the school operations fund under s. 119.46.

(d) Notwithstanding s. 119.16 (1m), if any real property within the city which is used for school purposes is leased as provided in this subsection, the lease shall require the lessee to assume responsibility for the care, operation, and maintenance of the real property and its facilities for the duration of the lease.

(3) The board's authority to retain a real estate agent under sub. (2) is limited to the actual sale of property. The board may compensate the real estate agent for his or her services only on the basis of a commission for specific property sold, and no property taxes may be levied for the purpose of providing funds to pay such commissions.

(4) The city is not liable for any action of the board or its real estate agent in the sale of property under this section.

(5) For any lease of city−owned property used for school purposes in effect on January 1, 2011, between the board and a charter school that is not an instrumentality of the school district under s. 118.40 (7), the common council shall be made party to the lease and may negotiate with the charter school to modify the terms of the lease when the lease is modified, extended, or renewed if the common council adopts a resolution to do so. If a lease is modified, extended, or renewed as provided in this subsection, the net proceeds of that lease shall be deposited in the school operations fund under s. 119.46.

History: 1983 a. 224; 2005 a. 453; 2011 a. 17; 2015 a. 55.

119.61 Surplus property. (1) In this section:

(a) "Education operator" means any of the following:

1. The operator of a charter school established under s. 118.40 (2r) or (2x).

2. The operator of a private school.

3. The operator of a charter school established under s. 118.40 (2) or (2m) that is not an instrumentality of the school district, as determined under s. 118.40 (7).

4. An individual or group that is pursuing a contract with an entity under s. 118.40 (2r) (b) or the director under s. 118.40 (2x) to operate a school as a charter school.

5. A person that is pursuing a contract with the board under s. 118.40 (2m) to operate a school as a charter school that is not an instrumentality of the school district.

6. An entity or organization that has entered into a written agreement with any of the operators identified in subds. 1. to 4. to purchase or lease a building within which the operator identified in subds. 1. to 4. will operate a school.

(b) "Eligible school building" means a school building in the school district operating under this chapter that satisfies any of the following:

1. The school building has been designated as surplus, underutilized, or vacant on any resolution adopted within the previous 5 years by the board, and the board is unable to demonstrate that the school building is no longer surplus, underutilized, or vacant.

2. The school building has been unused or satisfies any condition qualifying the building as an underutilized school building for a period of 12 consecutive months, including the 12 months preceding July 14, 2015.

(c) "Underutilized school building" means a school building that satisfies any of the following:

1. Less than 40 percent of the capacity of the school building is used for instruction of pupils on a daily, school day basis if any of the following applies:

a. The school building is not part of an active expansion plan. In this subd. 1. a., an "active expansion plan" is one in which the board can demonstrate to the common council that expansion of pupil enrollment will occur in the school year following the school year in which less than 40 percent of the capacity of the building is used in the manner described in subd. 1. (intro.).

b. Pupil enrollment in the school has declined in at least 2 of the 3 school years immediately preceding the school year in which less than 40 percent of the capacity of the building is used in the manner described in subd. 1. (intro.).

c. The school was placed in one of the 2 lowest performance categories on the accountability report published for the school under s. 115.385 (1) for the school year in which less than 40 percent of the capacity of the building is used in the manner described in subd. 1. (intro.) and all of the following apply: the school building is located within 5 miles of another school building of the school district; that other school building serves the same or similar grade levels; and no more than 60 percent of the capacity of that other school building available for the instruction of pupils is being used in that other school building.

2. a. Subject to subd. 2. b., the school building is not staffed on a full−time basis by a principal and instructional staff assigned exclusively to the school building.

b. A school building that is staffed on a full−time basis by instructional staff assigned exclusively to the school building is not an underutilized school building under this paragraph if the principal of the school also serves as the principal of another school.

3. The number of hours of pupil instruction offered in the school building in the previous school year was less than 80 percent of the number of hours of pupil instruction required to be scheduled under s. 121.02 (1) (f) 2. [s. 121.02 (1) (f)].

NOTE: The correct cross−reference is shown in brackets. Corrective legislation pending.

(2) (a) No later than 30 days after July 14, 2015, and annually thereafter, the board shall prepare an inventory of all school buildings in the school district operating under this chapter. The board shall sort the information in the inventory by the use of the building at the time the report is prepared and shall include all of the following for each school building in the district:

1. The total square footage of and the number of classrooms in the school building.

2. The portion of the total square footage being used for direct pupil instruction.

3. The number of pupils the school building can accommodate and the number of pupils receiving instruction in the school building.

4. The name of the principal and the number of full−time instructional staff assigned to the school.

5. For any school building not being used for direct pupil instruction, the manner in which the school building is being used, including whether the building is vacant or is being used for administration, storage, or professional development.

6. The duration over the past 36 months that the school building has been used in the manner identified under subd. 2. or 5.

7. Whether the board has designated the school building as surplus, underutilized, or vacant on any resolution adopted by the board within the previous 5 years.

8. Facility condition index information, including estimated short−term and long−term maintenance costs of the school building.

(b) The board shall submit a copy of the inventory required under par. (a) to the commissioner, the superintendent of schools, the city clerk, the department, and the joint committee on finance.

(c) In addition to the inventory required under par. (a), the board shall annually notify the commissioner, the superintendent of schools, the city clerk, the department, and the joint committee on finance any time a change is made to the use of a school building.

(3) (a) If, within 60 days after receipt of the inventory required under sub. (2) (a) or of a notice under sub. (2) (c), either the commissioner or the superintendent of schools submits a letter of interest regarding an eligible school building, the common council shall immediately proceed to add the commissioner or the superintendent of schools, respectively, as an agent of the board on any existing lease for the eligible school building between the common council and the board.

(b) If, no more than 60 days after providing the commissioner and the superintendent of schools with a copy of the inventory under sub. (2) (a) or of a notice under sub. (2) (c), neither the commissioner nor the superintendent of schools has submitted a letter of interest under par. (a), the city clerk shall post a public notice on the city's Internet site. The city clerk shall include in the public notice under this subsection the address of and the information specified under sub. (2) (a) 1. and 8. for each school building identified on the inventory under sub. (2) (a), or on the notice under sub. (2) (c), that is an eligible school building. The city clerk shall include in the public notice a request for and instructions for submitting letters of interest from persons interested in purchasing an eligible school building.

(4) (a) The common council may designate a person to act as the agent of the city with respect to the sale of an eligible school building. Except as provided in par. (e), only education operators may purchase an eligible school building. An education operator may submit a letter of interest as provided in the public notice under sub. (3) to notify the common council or its agent of its interest in purchasing an eligible school building.

(b) Upon receipt of a letter of interest under par. (a) or sub. (3) (a), the city clerk shall update that portion of the city's Internet site containing information about the eligible school building to indicate that a letter of interest has been received and that other interested education operators may, within 28 days from the date of the update, submit a letter of interest to notify the common council or its agent of its interest in purchasing the eligible school building. If, at the end of the 28−day period, no other letters of interest in purchasing the eligible school building have been received, the city shall proceed under par. (c). If, within the 28−day period, one or more other letters of interest in purchasing the eligible school building have been received, the city shall proceed under par. (d).

(c) Except as provided in par. (d), no later than 60 days after the first business day after the end of the 28−day period under par. (b), the common council or its agent shall do all of the following:

1. Determine whether the prospective buyer is an education operator under sub. (1) (a).

2. Make information about the eligible school building available and show the eligible school building to the education operator.

3. Consider the financial capability of the education operator.

4. Negotiate a reasonable purchase price and terms with the education operator. The common council may not require the education operator to make a payment in lieu of property taxation or to pay a similar fee as a condition of the sale of the eligible school building. The purchase price shall be based upon either of the following:

a. The purchase price paid for other comparable school buildings sold within the previous 5 years, with adjustments to the purchase price made by taking into consideration the useable square footage, age, condition, and location of the eligible school building and any other pertinent information about the eligible school building and the school building or buildings used for purposes of comparison.

b. An appraisal prepared for the eligible school building that includes the purchase price paid for comparable buildings, if available.

5. Complete the sale of the eligible school building in accordance with standard city practices. The common council or its agent may condition closing on any of the following:

a. Proof of financing for the purchase and any improvements proposed for the eligible school building.

b. Inclusion of a reversionary clause permitting the common council to recapture a building that remains unoccupied 24 months after the date of closing due to a failure of the purchaser to complete improvements proposed for the eligible school building.

(d) If, within 28 days after an education operator submits a letter of interest under par. (a), at least one other education operator submits a letter of interest under par. (a) or (b), the common council shall, within 50 days after the other education operator submits a letter of interest, initiate a competitive, request−for−proposal process and shall identify members of a committee to select the most suitable buyer of the eligible school building. Once the most suitable buyer is selected, the common council shall proceed with the selected prospective buyer as required under par. (c) 1. to 5. In evaluating proposals submitted under this paragraph, the committee selected by the common council may not consider the organizational status of the education operator nor the type of school proposed to be located in the eligible school building, but shall consider all of the following:

1. The nature of any improvements proposed for, and the amount of any investment in, the school building.

2. The quality of the design proposed for the school building.

3. The fiscal capability of the education operator.

(e) Any person may submit a letter of interest to purchase a school building that has qualified as an eligible school building for more than 24 consecutive months. Upon receipt of a letter of interest under this paragraph, the common council shall proceed with the prospective buyer as required under par. (c) 2., 3., 4., and 5.

(5) If any eligible school building is sold as provided in this section, the net proceeds of the sale shall be deposited into the school operations fund under s. 119.46.

History: 2015 a. 55.

119.66 Interest in contracts forbidden. During the term for which elected or appointed and for 2 years after the expiration of the term, no member of the board may be employed by the board or by the department of employee trust funds in any capacity for which a salary or emolument is provided by the board or the department of employee trust funds. No board member, superintendent of schools, assistant superintendent, other assistant, teacher or other employee of the board may have any interest in the purchase or sale of property by the city for the use or convenience of the schools. No contract made in violation of this section is valid. Any consideration paid by the city for a purchase or sale prohibited by this section may be recovered in an action at law in the name of the city. Any person violating this section shall be removed from any position held under this subchapter.

History: 1981 c. 96; 1991 a. 39; 2015 a. 55.

119.68 Claims against the city or board. (1) All claims against the city or board shall be audited for sufficiency of funds by the auditing officer of the city. The superintendent of schools shall furnish the auditing officer of the city a complete list of the claims. Before a warrant is issued therefor, the auditing officer of the city shall countersign it. Within 20 days after each regular or special meeting of the board, the superintendent of schools shall make and file with the auditing officer of the city statements of the condition of the funds for the support of the schools and of the financial transactions of the board during the period next preceding any such statement.

(2) No action may be brought or maintained against the school upon a claim or cause of action unless the claimant complies with s. 893.80. This subsection does not apply to actions commenced under s. 19.37, 19.97 or 281.99.

History: 1971 c. 40, 291; 1977 c. 285; 1979 c. 323 s. 33; 1991 a. 39; 1993 a. 59; 1995 a. 158; 1997 a. 27.

The Milwaukee Public Schools are not a suable entity. That a complaint should have named the Milwaukee Board of School Directors or City of Milwaukee as defendant did not require dismissal. Amendment to name and serve the appropriate defendant was allowed. Kleckley v. Milwaukee Public Schools, 20 F Supp. 2d 1264 (1998).

119.70 Use of school buildings and grounds for civic purposes. (1) The board may establish and maintain for children and adults, in the school buildings and on the school grounds, evening schools, vacation schools, reading rooms, library stations, debating clubs, gymnasiums, public playgrounds, public baths and similar activities and accommodations to be determined by the board. The board may cooperate, by agreement, with other commissions or boards having the custody and management of public parks, libraries, museums and public buildings and grounds of whatever sort to provide the equipment, supervision, instruction and oversight necessary to carry on such public educational and recreational activities in and upon such other buildings and grounds.

(3) The board shall report to the common council on or before the first Monday in August of each year the amount of money required during the ensuing school year for the support of activities under sub. (1). The common council shall levy and collect a special tax in the manner that other taxes are levied and collected, equal to the amount of money so required for the activities. The tax shall not be used or appropriated, directly or indirectly, for any other purpose.

(4) All moneys received by or raised in the school district for the activities under sub. (1) shall be paid to the city treasurer, to be disbursed in the manner that other school district funds are disbursed.

(5) Nothing in this section prohibits the board from granting the use of school property to religious organizations under s. 120.13 (17).

History: 1971 c. 152 s. 31; 1973 c. 290; 1975 c. 353; 1983 a. 339 s. 10; 1985 a. 225 ss. 74, 75, 78; Stats. 1985 s. 119.70; 1989 a. 192, 290.

119.71 Five−year−old kindergarten programs. (1) In this section, "full−day" has the meaning given in s. 121.004 (7) (c) 2.

(3) (a) Annually, the board shall spend at least $5,090,000 to expand its half−day 5−year−old kindergarten program to a full−day program, as provided under par. (b), and shall enroll in the expanded program only pupils who meet the income eligibility standards for a free lunch under 42 USC 1758 (b) (1). The board shall select pupils for the expanded program based on the order in which the pupils register for the program.

(b) The board shall use the funds specified under par. (a) to pay the costs of teachers, aides and other support staff, transportation of staff to pupils' homes, in−service programs, parental involvement programs and instructional materials. The board may not use the funds to provide facilities to house the program or to pay pupil transportation or indirect administrative costs associated with the program.

History: 1987 a. 399; 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27; 1999 a. 9; 2015 a. 55.

119.73 Kindergarten programs. The board shall evaluate the effectiveness of the expanded 5−year−old kindergarten programs under s. 119.71 in meeting the needs of disadvantaged children. Annually by January 1, the board shall submit a report summarizing its findings to the state superintendent and to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3).

History: 1987 a. 399; 1989 a. 56 s. 259; 1995 a. 27 s. 9145 (1); 1997 a. 27, 113; 2003 a. 33.

119.74 Extended−day elementary grade, 4−year−old kindergarten and alcohol and other drug abuse programs. The board shall spend at least $430,000 for the following programs in each school year:

(1) Extended−day preschool to grade 6 programs.

(2) Four−year−old kindergarten programs.

(3) Alcohol and other drug abuse programs at 68th Street school.

History: 1987 a. 399; 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27; 1999 a. 9.

119.75 First grade programs. (1) The board shall provide expanded educational opportunities for first grade pupils who have participated in an expanded 5−year−old kindergarten program under s. 119.71.

(2) Annually, the board shall spend at least $1,070,000 to pay the costs of teachers, aides and other support staff, transportation of staff to pupils' homes, in−service programs, parental involvement programs and instructional materials related to the programs under sub. (1). The board may not use the funds to provide facilities to house the programs under sub. (1) or to pay pupil transportation or indirect administrative costs associated with the programs under sub. (1).

History: 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27; 1999 a. 9.

119.78 Family resource center. The board shall establish a family resource center to distribute parent education materials, conduct workshops on child development, facilitate communication between school personnel and parents of pupils enrolled in the school district and provide volunteer opportunities for parents within the schools.

History: 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27 s. 9145 (1); 1997 a. 27; 1999 a. 9.

119.82 Alternative educational programs for learnfare pupils. (1m) Upon the request of the child or the child's parent or guardian, the board shall provide an alternative educational program for any child who resides in the city and satisfies all of the following:

(a) Is at least 13 years of age but not more than 18 years of age.

(b) Is receiving aid to families with dependent children under s. 49.19 or is a member of a Wisconsin works group, as defined in s. 49.141 (1) (s), with a member who is participating in Wisconsin works under s. 49.147 (3) to (5).

(c) Has been or is being sanctioned under s. 49.26 (1) (h).

(2m) Programs under sub. (1m) shall be designed to meet the high school graduation requirements under s. 118.33.

History: 1991 a. 39; 1993 a. 16; 1995 a. 27 ss. 4021, 9145 (1); 1995 a. 289; 1997 a. 27; 1999 a. 9; 2001 a. 104; 2003 a. 33; 2009 a. 28.

SUBCHAPTER II

FIRST CLASS CITY OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM

119.9000 Definitions. In this subchapter:

(1) "Commissioner" means the individual in charge of the opportunity schools and partnership program under this subchapter.

(2) "Council" means the opportunity schools and partnership program advisory council.

(3) "County" means a county having a population of 750,000 or more.

(4) "County executive" means the chief elected official of a county.

(5) "Eligible school" means a public school in the school district operating under this chapter identified on the annual report submitted by the state superintendent under s. 115.28 (10m) (a).

History: 2015 a. 55.

119.9001 Commissioner of opportunity schools and partnership program; general provisions. (1) The governor, the mayor of the city, and the county executive shall each appoint a person who is not an elected official to compile a list of candidates for the position of commissioner.

(2) (a) No later than 120 days after July 14, 2015, the county executive shall select, from the list of qualified candidates provided under sub. (1), an individual to serve as the commissioner of the opportunity schools and partnership program.

(b) In the event of a vacancy in the commissioner position, the county executive shall notify the governor and the mayor of the city who shall follow the procedure under sub. (1). No later than 120 days after providing notice under this paragraph, the county executive shall select an individual to fill the vacant position.

(c) The commissioner shall report to the county executive and may be removed from office only by the county executive and only for cause.

(3) The commissioner is subject to all restrictions, liabilities, punishments, and limitations, other than recall under s. 9.10 (4), prescribed by law for members of the common council in their city.

(4) The commissioner shall be paid an annual salary in the amount set by the county executive.

(5) (a) The corporation counsel of the county shall be the legal adviser of and attorney for the commissioner and the opportunity schools and partnership program, except that the commissioner shall retain an attorney to represent the commissioner and the opportunity schools and partnership program in any matter if any of the following applies:

1. The county executive, the county corporation counsel, or the commissioner determines that the commissioner or the opportunity schools and partnership program requires specialized legal expertise not possessed by the county corporation counsel.

2. The county executive, the county corporation counsel, or the commissioner determines that the county corporation counsel does not have sufficient staff to adequately represent the interests of the commissioner or the opportunity schools and partnership program.

3. The county executive, the county corporation counsel, or the commissioner determines that a conflict of interest exists.

(b) The county corporation counsel shall notify the commissioner as soon as a determination is made under par. (a) that the county corporation counsel is unable to represent the commissioner.

(c) The commissioner shall provide the county corporation counsel with reasonable notice of any meeting at which the commissioner will consider retention of an attorney.

History: 2015 a. 55.

119.9002 Commissioner; duties. The commissioner, the entities selected to operate and manage schools transferred to the program under this subchapter, and each school transferred to the program under this subchapter shall be subject to ss. 118.016, 118.13, 118.30 (1m), and 118.38, other than s. 118.38 (1) (a) 9., and to subch. V of ch. 115 and federal law applicable to children with disabilities. The commissioner shall do all of the following:

(1) POLICIES FOR IDENTIFYING ELIGIBLE SCHOOLS TO BE TRANSFERRED TO THE OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM; PARTNERSHIP INITIATIVES. (a) Establish policies for providing qualitative analysis of each eligible school, identified in the annual report submitted by the state superintendent under s. 115.28 (10m) (a), to determine whether the school is suitable for transfer to the opportunity schools and partnership program. The commissioner shall include as a criterion in his or her policies the level of interest within the school and the school's community in transferring the school to the program, as determined from community engagement. The commissioner shall establish a method for evaluating community engagement.

(b) Develop and manage partnership programs to more efficiently and effectively deploy wraparound services to residents of the county.

(2) SELECTION OF SCHOOLS FOR TRANSFER TO THE OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM AND LIMIT ON THE NUMBER OF SCHOOLS TRANSFERRED IN ANY ONE SCHOOL YEAR. (a) 1. During the 2015−16 school year, from the report submitted by the state superintendent under s. 115.28 (10m) (a), and using the policies established under sub. (1) (a), select at least one and not more than 3 eligible schools to be transferred to the opportunity schools and partnership program for the following school year.

2. During the 2016−17 school year, from the report submitted by the state superintendent under s. 115.28 (10m) (a), and using the policies established under sub. (1) (a), select not more than 3 additional eligible schools to be transferred to the opportunity schools and partnership program for the following school year.

3. During the 2017−18 school year, and in any subsequent school year, from the report submitted by the state superintendent under s. 115.28 (10m) (a), and using the policies established under sub. (1) (a), select not more than 5 additional eligible schools to be transferred to the opportunity schools and partnership program for the following school year.

(b) Develop a request−for−proposal process for soliciting proposals from individuals, groups, persons, and governing bodies of private schools to operate and manage an eligible school upon transfer of the school to the opportunity schools and partnership program.

(c) After selecting one or more eligible schools to be transferred to the opportunity schools and partnership program as provided under par. (a), initiate the request−for−proposal process under par. (b) for each selected school and make a determination regarding the entity that will operate the school. Upon receipt of proposals under par. (b), the commissioner may engage the families of pupils enrolled in the school and community members and organizations to cultivate support for the transfer of the school to the program.

(d) For each eligible school selected under par. (a), determine which of the following will be responsible for the operation and general management of the school upon its transfer to the opportunity schools and partnership program:

1. An individual or group not currently operating a school.

2. A person who is operating a charter school. The commissioner may proceed under this subdivision only if one of the following applies:

a. The performance, on examinations administered under s. 118.30 (1r), of pupils attending a school operated by the person exceeds the performance, on examinations administered under s. 118.30 (1), of pupils attending the school being transferred to the person under this subdivision.

b. The performance category assigned to a school operated by the person on accountability reports published under s. 115.385 (1) for the school in each of the 3 preceding consecutive school years exceeds the performance category assigned to the school being transferred to the person under this subdivision in each of the 3 preceding consecutive school years. If fewer than 3 accountability reports have been published for a school described in this subd. 2. b., the commissioner shall determine an alternative method for comparing the school's performance.

3. The governing body of a nonsectarian private school participating in a program under s. 118.60 or 119.23. The commissioner may proceed under this subdivision only if one of the following applies:

a. The performance, on examinations administered under s. 118.30 (1s) or (1t), of pupils attending a school operated by the governing body exceeds the performance, on examinations administered under s. 118.30 (1), of pupils attending the school being transferred to the governing body under this subdivision.

b. The performance category assigned to a school operated by the governing body on accountability reports published under s. 115.385 (1) for the school in each of the 3 preceding consecutive school years exceeds the performance category assigned to the school being transferred to the governing body under this subdivision in each of the 3 preceding consecutive school years. If fewer than 3 accountability reports have been published for a private school described in this subd. 3. b., the commissioner shall determine an alternative method for comparing the school's performance.

(e) Provide alternative public school attendance arrangements for pupils who do not wish to attend a school that has been transferred to the opportunity schools and partnership program.

(f) Annually submit to the board and to the county executive a report of the total number of pupils enrolled in all schools transferred to the opportunity schools and partnership program in the current school year. For each school transferred to the opportunity schools and partnership program, the commissioner shall indicate the number of pupils enrolled in the school and whether the school is under the operation and general management of an individual or group under sub. (3) (a), a person operating a charter school as described under sub. (3) (b), or the governing body of a private school as described under sub. (3) (c).

(3) TRANSFER OF SCHOOLS AND SUPERVISION OF SCHOOLS TRANSFERRED TO THE OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM. Under the direction of the county executive, assume general supervision over the schools transferred to the opportunity schools and partnership program and take one of the following actions regarding each school selected under sub. (2) (a):

(a) Transfer the operation and general management of the school to an individual or group under sub. (2) (d) 1. If the commissioner proceeds under this paragraph, neither the commissioner nor the individual or group selected to be responsible for the operation and general management of the school may charge tuition to pupils attending the school.

(b) Transfer the operation and general management of the school to a person under sub. (2) (d) 2. pursuant to a 5−school−year contract with the person. If the commissioner proceeds under this paragraph, the commissioner may contract only with a not−for−profit group. Under the terms of the contract:

1. The person, and schools operated by the person, shall be subject to the provisions of ss. 118.13 and 118.38, other than s. 118.38 (1) (a) 9.

2. The person shall submit achievement data of pupils attending the school directly to the commissioner, who shall submit that achievement data to the board.

3. The person may not charge tuition to pupils attending a school under the contract.

4. The commissioner shall evaluate the performance of the school at the end of the 3rd school year under the contract to determine whether the school is demonstrating adequate growth in pupil achievement. If the commissioner determines that the school is not demonstrating adequate growth in pupil achievement, the commissioner may either select an alternative person that qualifies under sub. (2) (d) 2. to be responsible for the operation and general management of the school or select a governing body of a private school that qualifies under sub. (2) (d) 3. to be responsible for the operation and general management of the school.

(c) Transfer the operation and general management of the school to the governing body of a private school pursuant to a 5−school−year contract with the governing body. If the commissioner proceeds under this paragraph, the commissioner may contract only with a not−for−profit governing body of a private school. Under the terms of the contract:

1. The governing body of a private school, and schools in the opportunity schools and partnership program operated by the governing body, shall be subject to the provisions of ss. 118.13 and 118.38, other than s. 118.38 (1) (a) 9.

2. The governing body of a private school shall administer the examinations required under ss. 118.016 and 118.30 (1s) and shall submit achievement data of pupils attending the school directly to the commissioner, who shall submit that achievement data to the board.

3. The governing body of a private school may not charge tuition to pupils attending a school under the contract.

4. The commissioner shall evaluate the performance of the school at the end of the 3rd school year under the contract to determine whether the school is demonstrating adequate growth in pupil achievement. If the commissioner determines that the school is not demonstrating adequate growth in pupil achievement, the commissioner may either select an alternative governing body of a private school that qualifies under sub. (2) (d) 3. to be responsible for the operation and general management of the school or select a person that qualifies under sub. (2) (d) 2. to be responsible for the operation and general management of the school.

(d) Ensure that no school transferred to the opportunity schools and partnership program charges tuition to pupils.

(4) ACHIEVEMENT AND ASSESSMENT DATA. Upon receipt from an individual or group operating a school pursuant to sub. (3) (a), from a person operating a school pursuant to sub. (3) (b), or from the governing body of a private school operating a school under sub. (3) (c) of pupil achievement and assessment data, forward that data to the board.

(5) EMPLOYEES; BENEFITS. (a) Select, hire, and employ staff. The commissioner may terminate staff if appropriate. The commissioner shall determine the compensation, duties, and qualifications of its staff. Individuals employed by the commissioner are not subject to subch. II of ch. 63.

(b) 1. Take responsibility over the selection, hiring, employment, and termination of the principals, vice principals, and teachers in those schools transferred to the opportunity schools and partnership program. The commissioner shall assign all teachers within those schools and shall engage and assign substitute teachers at the per diem compensation fixed by the commissioner. If the commissioner transfers a school to the opportunity schools and partnership program, the commissioner may reassign the school's staff members out of the school without regard to seniority in service, shall terminate all employees of the school who are employees of the school district operating under this chapter, and shall require any individual seeking to remain employed at the school to reapply for employment at the school. Employees of the opportunity schools and partnership program are not employees of the board.

2. The commissioner may delegate school staffing decisions under subd. 1. to the individual or group operating the school under sub. (3) (a), the person operating the school under sub. (3) (b), or the governing body of a private school operating the school under sub. (3) (c).

3. Upon transfer of a school out of the opportunity schools and partnership program, reassign staff members of the school only in consultation with the board.

(c) Determine which of the following instruments will be used to provide health care and retirement benefits to the commissioner and the employees of the opportunity schools and partnership program, and schools transferred to the program, and take the necessary and appropriate steps to execute the selected instrument:

1. A memorandum of understanding with the board under which the commissioner may purchase health care and retirement benefits for the commissioner and all employees of the opportunity schools and partnership program and schools transferred to the program.

2. A memorandum of understanding with the secretary of employee trust funds under s. 40.03 (2) (x) 3. under which the commissioner may purchase health care and retirement benefits, with statutory contributions, for the commissioner and all employees of the opportunity schools and partnership program and schools transferred to the program.

3. A contract between the commissioner and an individual or group under sub. (3) (a) or a person under sub. (3) (b) under which the individual or group or the person is required to self−insure or purchase health care and retirement benefits for employees of the school under the contract.

4. A contract between the commissioner and a governing body of a private school under sub. (3) (c) under which the governing body is required to self−insure or purchase health care and retirement benefits for employees of the school under the contract.

(6) EDUCATIONAL PRIORITIES AND OBJECTIVES. Identify broad yearly objectives and assess priorities for education in the opportunity schools and partnership program. The commissioner shall issue an annual report to the county executive and such additional reports as the commissioner deems desirable on the progress of pupils enrolled in schools in the program.

(7) MANAGEMENT OF SCHOOLS TRANSFERRED TO THE OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM. Upon the transfer of a school to the opportunity schools and partnership program, take possession and exercise care, control, and management of all land, buildings, facilities, and other property that is part of the school being transferred as an agent of the board.

(8) CUSTODIANS OF SCHOOL PREMISES. Fix the duties and responsibilities of principals of schools transferred to the opportunity schools and partnership program, as custodians of the school premises, and of the school engineers. Each principal shall have general supervision of and shall be custodian of all school premises over which the principal presides.

(9) COMPETITIVE BIDDING. Establish competitive bidding policies and procedures for purchases and contracts.

(10) SCHOOL BUDGET. Annually, prepare a budget for each school transferred to the opportunity schools and partnership program. The commissioner may delegate budgeting responsibilities under this subsection to the individual or group operating the school under sub. (3) (a), the person operating the school under sub. (3) (b), or the governing body of a private school operating the school under sub. (3) (c).

(11) BUDGET. Annually transmit his or her proposed budget to the board on forms furnished by the auditing officer of the city.

(12) COMPREHENSIVE PROGRAMS. Collaborate with nonprofit organizations and government agencies to provide pupils enrolled in a school in the opportunity schools and partnership program with comprehensive social services and educational support, which may include a program that offers comprehensive services that address the needs of children and youth from before the time they are born through postsecondary education.

(13) ALTERNATIVE ROUTES TO GRADUATION. Provide alternative methods of attaining a high school diploma for those pupils enrolled in a school in the opportunity schools and partnership program who are unlikely to graduate in the traditional manner, including a program allowing a pupil or former pupil to retake a course in which he or she was not initially successful.

(14) TRANSPORTATION. (a) Provide for the transportation of pupils to and from any school transferred to the opportunity schools and partnership program.

(b) Upon written request from the parent or guardian of a pupil attending a school transferred to the opportunity schools and partnership program who is displaced from his or her residence while enrolled in that school, provide transportation assistance to ensure that the pupil may continue to attend the school.

(15) EXPULSION OF PUPILS. Follow the policies established by the board for the expulsion of pupils from schools transferred to the opportunity schools and partnership program.

(16) RANDOM SELECTION. If the commissioner or any entity operating and managing a school transferred to the program under this subchapter establishes an application process through which pupils may apply to attend a school transferred to the program under this subchapter, establish and utilize, and ensure that the entity utilizes, a random selection process for the admission of pupils to the school when the number of applicants exceeds the number of seats in the school.

History: 2015 a. 55; s. 35.17 correction in (2) (d) 2. b. and 3. b.

119.9003 Commissioner; powers. (1) GENERALLY. The commissioner may do all things reasonable to promote the cause of education in schools transferred to the opportunity schools and partnership program, including establishing, providing, and improving school district programs, functions, and activities for the benefit of pupils.

(2) COUNCIL; INTERGOVERNMENTAL COOPERATION. (a) The commissioner may establish a council to advise the commissioner in the fulfillment of his or her duties under this subchapter.

(b) The commissioner may enter into a contract for cooperative action with a municipality under s. 66.0301. In this subsection, "municipality" has the meaning given in s. 66.0301 (1).

(3) RULES. The commissioner may adopt and modify or repeal rules for the operation of the opportunity schools and partnership program and for the organization, discipline, and management of the public schools transferred to the program which shall promote the good order and public usefulness of the public schools.

(4) USE OF VACANT AND UNDERUTILIZED SCHOOL BUILDINGS; CONTRACT WITH ELIGIBLE OPERATOR. (a) In this subsection:

1. "Education operator" has the meaning given in s. 119.61 (1) (a).

2. "Underutilized school building" has the meaning given in s. 119.61 (1) (c).

(b) The commissioner may proceed under s. 119.61 (3) (a) to become an agent of the board on a lease in a vacant or underutilized school building.

(c) The commissioner may enter into a lease with an education operator to operate a school in a vacant or underutilized school building obtained by the commissioner in the manner provided under s. 119.61 (3) (a). The commissioner shall count a school operated by an education operator under this paragraph towards the limit on schools in the opportunity schools and partnership program under s. 119.9002 (a) [s. 119.9002 (2) (a)], but not for purposes of performance benchmarking.

NOTE: The correct cross−reference is shown in brackets. Corrective legislation is pending.

(5) PARTICIPATION FEE. Beginning in the 2017−18 school year, the commissioner may charge to an individual or group under s. 119.9002 (3) (a), to a person under s. 119.9002 (3) (b), and to a governing body of a private school under s. 119.9002 (3) (c) a fee of up to 3 percent of the per pupil payment paid to the individual or group, person, and governing body under s. 119.9005 (2) to participate in the opportunity schools and partnership program. The fee revenue generated under this subsection may not exceed $750,000 in any given year.

(6) DISTRIBUTION OF PRINTED PROCEEDINGS. The commissioner may determine the distribution of the printed proceedings of public meetings held by the commissioner.

(7) INSURANCE. The commissioner may provide for accident insurance covering pupils in any school transferred to the opportunity schools and partnership program.

(8) TEXTBOOKS FOR INDIGENT PUPILS. The commissioner may purchase textbooks for pupils whose parents, guardians, or other persons having control or custody of such pupils are without means to furnish them with textbooks if the indigency of such pupils has been investigated and certified by a welfare worker or attendance officer. The local governmental authority administering poor relief in the city shall reimburse the commissioner for all expenditures by the commissioner for such textbooks. Such text-

books shall be the property of the city and subject to the disposal of the commissioner.

(9) SCHOOL CALENDAR. The commissioner may determine the school calendar and vacation periods for each school year for the regular day schools, summer schools, social centers, and playgrounds transferred to the opportunity schools and partnership program. The commissioner may close any school or dismiss any class in the event of an emergency, fire or other casualty, quarantine, or epidemic.

(10) SCHOOL HOURS. The commissioner may establish rules scheduling the hours of each school day during which the schools transferred to the opportunity schools and partnership program shall be in session. The commissioner may differentiate between the various grades in scheduling such school hours.

(11) SCHOOLS CLOSED. The commissioner may determine on which national, state, and local legal holidays and for which educational conventions the schools transferred to the opportunity schools and partnership program shall be closed. There shall be no deductions from the annual or monthly compensation of employees not rendering services on such days.

(12) ENROLLMENT UNDER LEGAL NAME. The commissioner may require that any pupil attending a school transferred to the opportunity schools and partnership program shall be enrolled under the pupil's legal name.

(13) EMPLOYEES; BONDED OFFICERS AND EMPLOYEES. (a) The commissioner may employ and determine the qualifications, duties, and compensation of any other persons as are required in the operation and management of schools transferred to the opportunity schools and partnership program.

(b) The commissioner may require any officer or employee of the commissioner and in a school transferred to the opportunity schools and partnership program to give security for the faithful performance of the officer's or employee's duties in such form and amount as the commissioner determines, and may require at any time additional bonds and sureties of any officer or employee.

(14) SALES AND CHARGES. The commissioner may establish and maintain, in any of the schools or playgrounds transferred to the opportunity schools and partnership program, cafeterias and stores for the sale of schoolbooks, candies, refreshments, and supplies. The commissioner also may charge or permit the making of a charge for admission to any school or athletic entertainment or activity, under such terms and conditions as the commissioner prescribes.

(15) GIFTS AND GRANTS. (a) In this subsection, "community foundation" means a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, dedicated to encouraging and assisting charitable activities and enterprises in a designated community in this state and having expertise in finance, fund development, and grantmaking.

(b) The commissioner may receive, accept, and use gifts or grants of furniture, books, equipment, supplies, moneys, securities, or other property used or useful for school and educational purposes. The commissioner shall make such use of gifts or grants, or invest the same in the case of moneys, as the donor or grantor specifies. In the absence of any specific direction as to the use of such gifts or grants by a donor or grantor, the commissioner may determine the use of or may invest the same in accordance with the law applicable to trust investments, or may, subject to par. (c), transfer any such gift or grant to a community foundation. In the use, control, or investment of such gifts or grants, the commissioner may exercise the rights and powers generally conferred upon trustees.

(c) The commissioner may transfer a gift or grant to a community foundation only if the commissioner and the community foundation agree, in writing and at the time of the transfer of the gift or grant, to each of the following:

1. The community foundation agrees to make disbursements from and of the gift or grant to the commissioner upon the written request of the commissioner.

2. Subject to subd. 3., the commissioner retains control over the manner in which any disbursement made under subd. 1. is used.

3. The commissioner's use of any disbursement made under subd. 1. shall be consistent with the intent of the donor of the gift, bequest, or endowment and with the agreement between the commissioner and the community foundation.

4. The commissioner exercises his or her rights over the use of each disbursement made under subd. 1. in accordance with the law applicable to trust investments.

(d) The commissioner, together with the county executive, may solicit private gifts and grants for use by the commissioner to further the purposes of the opportunity schools and partnership program and without oversight or approval of the board.

(16) COPYRIGHT MATERIALS. The commissioner may copyright under the applicable federal laws any book, pamphlet, bulletin, or record form edited and published by or under the direction of the commissioner.

(17) FENCES. The commissioner may construct around any schoolhouse or playground site a fence of materials and design approved by the commissioner.

(18) RULES ON CONDUCT AND DRESS. The commissioner may establish rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere.

(19) RECORDS CUSTODIAN. Designate one or more persons to be legal custodians of records.

History: 2015 a. 55.

119.9004 Opportunity schools and partnership program. (1) LEGAL ENTITY. (a) There is created within the school district operating under this chapter a opportunity schools and partnership program under the management and control of the commissioner. The commissioner shall exercise the powers, duties, and functions prescribed to the commissioner by law independently of the board and under the supervision of the county executive. Budgeting, program coordination, and related management functions for the schools transferred to the opportunity schools and partnership program shall be performed by the commissioner.

(b) The opportunity schools and partnership program comprises individual eligible schools transferred by the commissioner under s. 119.9002 (2).

(2) EXIT FROM OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM. Subject to sub. (3) (a), the commissioner may transfer a school out of the opportunity schools and partnership program if the commissioner determines that the school has been placed in a performance category of "meets expectations" or higher on the 3 preceding consecutive accountability reports published for the school under s. 115.385 (1). Any of the following may apply to a school transferred out of the program under this subsection:

(a) Subject to sub. (3) (b), the commissioner may return operation and general management of the school to the board.

(b) The commissioner may transfer operation and management of the school to a person to operate the school under s. 118.40 as a charter school that is not an instrumentality of the school district, as determined under s. 118.40 (7).

(c) The commissioner may transfer operation and general management of the school to the governing body of a private school.

(3) OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM; LIMITATIONS. (a) A school transferred to the program under this subchapter may not be transferred out of the program under this subchapter for 5 consecutive school years.

(b) The commissioner may not return operation and general management of a school that has been transferred to the opportunity schools and partnership program to the board if either of the following applies:

1. The school remains an eligible school.

2. The school district operating under this chapter has been assigned in the 3 most recent school years a performance category of "fails to meet expectations" on the accountability report published under s. 115.385 (1).

History: 2015 a. 55.

119.9005 Payments to the commissioner, persons, and private schools operating schools in the opportunity schools and partnership program; state aid adjustments. Beginning in the 2016−17 school year, the state superintendent shall do all of the following:

(1) From the appropriation under s. 20.255 (2) (fs), pay to the commissioner on behalf of an individual or group operating a school under s. 119.9002 (3) (a) an amount equal to the amount paid per pupil to an operator of a charter school under s. 118.40 (2r) (e) in that school year multiplied by the number of pupils enrolled in that school in that school year.

(2) From the appropriation under s. 20.255 (2) (fs), pay to a person operating a school under a contract entered into under s. 119.9002 (3) (b) for that school year an amount equal to the amount paid per pupil to an operator of a charter school under s. 118.40 (2r) (e) in that school year multiplied by the number of pupils enrolled in that school under that contract in that school year.

(3) From the appropriation under s. 20.255 (2) (fs), pay to the governing body of a private school operating the school in which a pupil is enrolled under a contract entered into under s. 119.9002 (3) (c) for that school year an amount equal to the amount paid per pupil to an operator of a charter school under s. 118.40 (2r) (e) in that school year multiplied by the number of pupils enrolled in that school under that contract in that school year.

(4) Reduce the amount of state aid that the school district operating under this chapter is eligible to be paid from the appropriation under s. 20.255 (2) (ac) for that school year by the sum of the amounts paid for that school year under subs. (1) to (3) and ensure that the aid reduction under this subsection is lapsed to the general fund.

(5) Ensure that the aid adjustment under sub. (4) does not affect the amount determined to be received by the school district operating under this chapter as state aid under s. 121.08 for any other purpose.

History: 2015 a. 55.