

Report From Agency
FINAL REPORT
CLEARINGHOUSE RULE 19-120
CHAPTER PI 35
MILWAUKEE PARENTAL CHOICE PROGRAM

Analysis by the Department of Public Instruction

Statutory authority: s. 119.23 (10), Stats.

Statute interpreted: s. 119.23, Stats.

The proposed rule will amend Chapter PI 35 of the Wisconsin Administrative Code in order to conform Department rules governing the Milwaukee parental choice program to changes in statute as a result of 2017 Wisconsin Acts 36 and 59. The proposed rule will also make other various changes to conform the rule to best practices and efficiencies in program administration.

The hearing notice was published in the September 23rd, 2019 edition of the Wisconsin Administrative Register. A public hearing was held on October 15th, 2019.

Summary of public comments relative to the rule and the agency's response (bolded) to those comments:

No persons testified at the October 15th hearing and no persons submitted written testimony.

Agency response:

None.

Changes made as a result of oral or written testimony:

- No changes were made.

Changes to the analysis or the fiscal estimate:

- No changes were made.

Responses to Clearinghouse Report:

1. Statutory Authority:

- a. The following is the response to comment a:
 1. The Department believes the intent of the statute is to ensure that individuals directly and indirectly related to educational programming meet the background check requirement.
 2. Schools are required to exclude from employment any individual who might reasonably be believed to pose a threat to the safety of others. Specifying that this includes immoral conduct is not intended to limit the applicability of this requirement but to provide information on who might reasonably be believed to pose a threat to the safety of others.

- b. The statute requires that a school provide a surety bond or a budget that meets certain requirements prior to participating in the choice programs. The surety bond and stated bond call reasons provide financial protection for the state for any situations where the school is unable to repay the department for any amount owed back to the department.

2. Form, Style and Placement in Administrative Code:

The recommendations in this section were accepted by the Department. It appears that the rule reference in f. is incorrect since s. PI 35.13 (1m) (c) 1. is not included in the administrative rule changes. It appears the rule reference should be s. PI 35.13 (10m) (c) 1. The recommended changes were made by the Department to s. PI 35.13 (10m) (c) 1.

4. Adequacy of References in Related Statutes, Rules, and Forms:

The recommendation in this section was accepted by the Department.

5. Clarity, Grammar, Punctuation and Plainness:

- a. The language identifying that the accreditation notice must be filed “no earlier than the beginning of the school year” rather than the previous school year is correct because s. Wis. Stat. 119.23 (7) (em), Stats., requires that the school “...provide the department with evidence demonstrating that the private school remains accredited for the current school year...”
- b. This recommendation was accepted by the Department.
- c. The Department does not believe it is necessary to add a provision requiring that all schools currently participating in the program provide a form identifying whether the school will provide the data required under s. 115.385 (3) (b), Stats., in the first school year that the rule applies.
- d. The provision in s. PI 35.06 (6) (b) 4. b. specifies what “full day” means when a school does not offer first grade.
- e. The department does not believe the word “also” is necessary because the documents previously referenced in s. PI 35.07 (2) may be sufficient to meet the requirements specified in this section so an additional document may not be required.
- f. The department does not believe that a change to s. PI 35.13 (10m) (b) (intro.) is required because s. PI 35.13 (10m) (c) (intro.) specifies the employees for which the background check under s. PI 35.13 (10m) (b) must be completed.
- g. This recommendation was accepted by the Department.

Changes deemed necessary by the Department to improve implementation of the rule:

- a. Specified that the initial expected payment in s. PI 35.14 (1g) (a) for new private schools is based on ss. PI 35.04 (2) and 48.04 (2).
- b. Clarified that the change in net assets required to remove the bond in s. 35.14 (7) (a) is a requirement for both school years.
- c. Clarified the years were school years in ss. PI 35.14 (7) and 35.15 (6) (d).
- d. Removed the semicolons and the “or” from s. PI 35.09 (5).