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CORRECTED COPY

WHAT IS A PRIVATE SCHOOL?

Criteria for Defining Private Schools and Home-Based, Private Educational Programs Enacted by 1983 Wisconsin Act 512

A 1983 Wisconsin Supreme Court decision overturned the state's compulsory school attendance law. The court ruled that the attendance law could not be enforced against parents or guardians who sent their children to an unrecognized private school or instructed them at home (Wisconsin v. Popanz, 112 Wis. 2d 166). Because it decided that the phrase "private school" in Section 118.15 (1) (a), 1981-82 Wisconsin Statutes, was impermissibly vague, the court concluded the statute failed to provide fair notice to those who would seek to obey it and lacked sufficient standards for proper enforcement. Combining a dictionary definition of school with language in various statutes that used the term "private school" did not constitute criteria for defining private schools. The legislature, or its delegated agent, the court said, should define the phrase "private school".

As a result of this decision, a bill was introduced in the 1983 Legislature to define private schools. The bill passed on April 4, 1984, and was enacted as 1983 Wisconsin Act 512. The act defines both private schools and home-based, private educational programs.

WHAT IS A PRIVATE SCHOOL?

1983 WisAct 512 defines a private school as an institution which meets certain criteria set forth in newly created Section 118.165 (1) of the statutes. Under this section each program must:

- (1) have as its primary purpose the providing of private or religious-based education;
- (2) be privately controlled;
- (3) provide at least 875 hours of instruction each school year;
- (4) provide a sequentially progressive curriculum of instruction in reading, language arts, mathematics, social studies, science and health;
- (5) not be operated to avoid or circumvent the compulsory school attendance law;
- (6) allow pupils to return annually to the homes of their parents or guardians for not less than 2 months of summer vacation.

The curriculum standards do not require a program to teach topics which conflict with the school's religious doctrines or exclude topics which are consistent with such doctrines.

An institution may receive recognition as a private school by application to the State Superintendent of Public Instruction. The law also allows the state superintendent to accept accreditation of a school by an accrediting

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agency. In either case, the institution must meet or exceed the criteria defining private schools under Section 118.165.

WHAT IS HOME-BASED EDUCATION?

1983 WisAct 512 defines a home-based, private educational program as one in which a child's parent or guardian provides instruction or appoints another person to teach the child. A program that provides instruction to more than one family unit does not qualify as a home-based educational program. Instruction at home may be substituted for attendance at a public or private school if the program meets all of the criteria prescribed for private schools under Section 118.165 (1).

Public and private school administrators are required to report school enrollments to the Department of Public Instruction by October 15 of each school year. 1983 WisAct 512 added home schools to this requirement. The Legislature also added a new feature to the enrollment reports. Private and home schools must indicate whether their programs meet the educational standards for private schools under Section 118.165 (1).

BACKGROUND OF 1983 WISCONSIN ACT 512

1983 WisAct 512 was introduced as 1983 Assembly Bill 887 by the Committee on Primary and Secondary Education at the request of the Department of Public Instruction. The bill sparked considerable debate. More than 1,000 people registered for and against the bill at a public hearing held on January 25, 1984. Four substitute amendments were offered. Ten organizations were listed as requesting Assembly Substitute Amendment 1, and 5 as requesting Assembly Substitute Amendment 2. The bill was amended several times in both the Assembly and the Senate.

1983 AB-887 passed the Assembly in the form of Assembly Substitute Amendment 1 as amended by Assembly Amendments 1, 2, 5, 7, 11, 14, 16, 19 (incl. AA-1 to AA-19), and 20.

The bill passed the Senate in the form of Senate Substitute Amendment 1 as amended by Senate Amendments 1 (incl. SA-1 to SA-1), 3, 4, and 6. The Assembly concurred in the amended Senate substitute amendment. The Governor approved the bill on April 25, 1984. The act was published on May 2 and took effect May 3, 1984.