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# Wisconsin Briefs

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## MILWAUKEE PARENTAL CHOICE PROGRAM

The Milwaukee Parental Choice Program provides state-paid tuition vouchers to allow up to 22,500 children from low-income families residing in the Milwaukee Public Schools (MPS) district to enroll in private schools in the City of Milwaukee. When the program began operation in 1990, it was the first large-scale voucher program in the nation for educating pupils at private schools at state expense. Since 1995, religious schools have been authorized to participate in the program.

The 2005 Legislature enacted a number of changes to the Choice Program. 2005 Act 125 raised the limit on the number of pupils in the program, allowed pupils to continue to participate if their family's income rises, required private schools to be accredited, and mandated standardized pupil testing. In addition, the 2005-2007 biennial budget act (Act 25) required that the teachers generally be high school graduates.

### CURRENT PROGRAM PROVISIONS

**Student Participation.** The Choice Program (Section 119.23, Wisconsin Statutes) permits up to 22,500 students residing in the MPS district to attend any participating private school located within the city. Previously, enrollment in the program was capped at 15% of the number of students enrolled in the MPS district (approximately 14,800 pupils). In the 2006-07 school year, about 17,000 pupils are attending 125 private schools under the program. Without the increase in the enrollment limit, the maximum was expected to be reached in 2005, and the Department of Public Instruction (DPI), as required by law, prepared an

administrative rule to prorate the number of spaces that would be available to students at each of the participating schools.

A private school may enroll as many students under the program as it wishes. The school must determine admissions on a random basis, except that preference may be given to siblings of pupils already accepted.

Over 60% of students attending private schools under the program are African American, which is about the same proportion as is in the enrollment of MPS. Catholic schools account for the majority of religious-based institutions, but other Christian, Jewish, and Islamic schools also participate. A sectarian school must excuse a student from any religious instruction or activity at the request of the child's parent or guardian.

**Income Eligibility and Voucher Payment.** To be eligible to enter the Choice program, the total income of a pupil's family cannot exceed 175% of the poverty level established annually by the federal government. However, once in the program, a pupil may continue to participate until the family income reaches 220% of the poverty level. In 2006-07, the income limit at the 175% of federal poverty level is \$29,538 for a family of three and is \$35,523 for a family of four. The corresponding limits at 220% are \$37,134 and \$44,658.

Tuition checks are paid to the pupil's parent or guardian but must be endorsed for use by the private school. Private schools must accept, as total payment for tuition, the lesser of: 1) the amount paid per pupil under the program in the previous school year increased by the percentage change in the amount of general school aid from the previous school year to the current school year

(a total of \$6,501 in 2006-07) or 2) an amount equal to the sum of the school's per pupil operating costs and any debt service expenses related to educational programming. A student cannot be charged fees for tuition, instruction, registration, books, teacher or administrator salaries, buildings or facilities construction or maintenance, equipment, computers, or transportation if provided or reimbursed by MPS. However, a student may be charged reasonable fees for personal items such as towels, gym clothes, uniforms, or social and extracurricular activities if such activities are not a required part of the curriculum.

**Funding.** The program is funded in part by reducing the state school aids that would have been paid to MPS for each pupil by an amount equal to 45% of the amounts paid to private schools under the program, with state appropriations covering the remainder of the cost. Originally, the Choice Program was funded wholly by reducing state aids paid to MPS, but 1999 Wisconsin Act 9 required that 50% of the cost be funded by reducing MPS state aids and 50% by cutting the aids available to all other school districts throughout the state. 2001 Wisconsin Act 16 removed the outside districts from the formula and made the state and the MPS jointly responsible for program costs.

**Pupil Performance Standards and Standardized Testing.** Participating schools must meet at least one of the following standards: 1) at least 70% of the pupils in the program must advance one grade level each year; 2) the average attendance rate for pupils in the program must be at least 90%; 3) at least 80% of the pupils in the program must demonstrate significant academic progress; or 4) at least 70% of the families of the pupils must meet the school's criteria for parental involvement in the child's schooling. Previously, DPI was required to monitor enrollees' performance and evaluate school compliance with these standards, and schools failing to meet standards were

ineligible to participate in the program in the following school year. 2003 Wisconsin Act 155 repealed DPI's monitoring requirement, but authorized the department to bar a school in the current school year if it determines that the school failed to timely meet at least one of the standards. DPI may withhold payment if a school violates any provision of the laws governing the program.

Beginning with the 2006-07 school year, each private school in the program must annually administer a nationally normed standardized test in reading, mathematics, and science to pupils in the program in the 4th, 8th, and 10th grades. Through 2011, scores must be submitted to the School Choice Demonstration Project, and the Legislative Audit Bureau (LAB) must review and analyze the test score data. In its report to the legislature, the LAB must compare these scores with a representative sample of the scores of pupils in the program who took the state's standardized tests, and a comparable group of MPS students who took the state tests.

**Accreditation and Financial Management Standards.** In general, in order to begin or continue participating in the program, a private school must achieve accreditation within three years by the Wisconsin North Central Association, the Wisconsin Religious and Independent Schools Accreditation, the Independent Schools Association of the Central States, the Archdiocese of Milwaukee, the Institute for the Transformation of Learning at Marquette University, or any other organization recognized by the National Council for Private School Accreditation. Any private school that was approved for scholarship funding for the 2005-06 school year by Partners Advancing Values in Education is exempt from this requirement. DPI may bar a private school from participation in the program in the following school year if its application for accreditation is denied or not submitted in a timely manner.

Private schools participating in the program are subject to uniform financial accounting standards established by DPI and must annually submit the results of an independent financial audit conducted by a certified public accountant. Also required is evidence of sound fiscal practices and financial viability, and proof that the school's administrator has participated in an approved fiscal management training program. DPI may bar a school from participation in the current school year for noncompliance with financial standards.

2005 Act 25 required that all teachers with primary responsibility for the academic instruction of pupils in the program be high school graduates or obtain a declaration of equivalency of high school graduation.

**Health and Safety Standards.** Participating schools must follow all health and safety laws that apply to public schools and must possess a certificate of occupancy issued by the City of Milwaukee. DPI may issue an order immediately terminating a school's participation if DPI determines that conditions at the school present an imminent threat to the health or safety of pupils.

## LEGISLATIVE AND JUDICIAL BACKGROUND

Prior to creation of the Choice Program by 1989 Wisconsin Act 336, the concept was considered in three other bills: 1987 Assembly Bill 866, 1989 Senate Bill 31, and 1989 AB-601. Specific votes on the proposal were not taken on the first two, both of which were budget bills. 1989 AB-601 passed the assembly but did not receive a vote in the senate.

**1989 Wisconsin Act 336**, which created the Choice Program, initially permitted up to 1% of MPS enrollment (grades K to 12) to attend private nonsectarian schools, beginning in the 1990-91 school year. No more than 49% of an individual school's enrollment could consist of Choice Program pupils. In the program's first year, 341 stu-

dents enrolled in seven private schools. The program was funded by reducing state aids paid to the MPS district.

In 1992, the Wisconsin Supreme Court upheld the Choice Program in *Davis v. Grover*, 166 Wis. 2d 501, ruling that the program was not a private or local law improperly enacted as part of the omnibus state budget bill and that the attempt to improve the educational opportunities of low-income Milwaukee students was an appropriate purpose for experimental legislation.

The program was expanded by **1993 Wisconsin Act 16** to allow a maximum of 1.5% of MPS enrollment to participate and permit up to 65% of a school's enrollment to consist of Choice Program pupils beginning with the 1994-95 school year.

**1995 Wisconsin Act 27** authorized religious schools to participate in the program. It also increased the enrollment maximum to 7% of MPS students in 1995-96 and 15% in subsequent years. Restrictions on the number of students at an individual school were removed.

In 1998, in *Jackson v. Benson*, 218 Wis. 2d 835, the Wisconsin Supreme Court ruled that permitting religious schools to participate in the Choice Program did not violate Wisconsin's constitutional provision against spending state funds for religious purposes. The court also held that the program did not violate the U.S. Constitution's First Amendment guarantee of separation of church and state because it met the three-pronged test set down by the U.S. Supreme Court that: 1) the government's expenditure must have a legitimate secular purpose; 2) it must not have the primary effect of advancing religion; and 3) it must not lead to excessive entanglement between the state and participating private, religious schools. On November 9, 1998, the U.S. Supreme Court declined without comment to hear an appeal of the Wisconsin Supreme Court decision, thus allowing it to stand.

**1999 Wisconsin Act 9** revised the funding mechanism and authorized payments

for academically necessary summer classes. Fifty percent of the cost of the program was funded by reducing MPS state aids and, 50% by cutting the aids available to all other school districts throughout the state.

**2001 Wisconsin Act 16** established the current funding formula, so that outside districts are removed from the calculations. Now, state school aids to MPS are reduced by 45% of the costs, and state appropriations cover the remaining 55%.

**2003 Wisconsin Act 155** revised the financial management, pupil performance, and health and safety standards to which Choice Program schools are held accountable. It requires each participating private school to submit to DPI evidence of sound fiscal practices and financial viability, a copy of the school's certificate of occupancy, and proof that the school's administrator has participated in a fiscal management training program. The act also authorized DPI to bar a school from continuing to participate if

the school misrepresents required information, violates various notice requirements, fails to refund overpayments to the state, or fails to meet certain other standards. DPI may also ban participation if it finds that conditions at the school present an imminent threat to the health or safety of pupils.

**2005 Wisconsin Act 25** added a requirement that Choice Program teachers generally possess at least a high school diploma. **2005 Wisconsin Act 125** increased the number of pupils allowed to participate from 15% of total MPS students to 22,500; allowed a pupil to continue participation even if the family's income increases to 220% of the federal poverty level; required each participating school to become accredited within three years; and required schools to administer standardized tests in reading, mathematics, and science, with the Legislative Audit Bureau analyzing the test results and reporting to the Legislature annually from 2007 to 2011.

**CHOICE PROGRAM ENROLLMENT, 1990-2007**

School Year	Enrollment	Number of Participating Schools	Total Payments to Choice Schools
2006-07 .....	17,000*	125	\$110,500,000*
2005-06 .....	14,468	125	90,991,151
2004-05 .....	14,071	117	82,646,395
2003-04 .....	12,882	106	75,066,132
2002-03 .....	11,304	102	64,670,181
2001-02 .....	10,497	102	58,289,841
2000-01 .....	9,238	100	49,201,588
1999-2000 .....	7,575	90	38,677,950
1998-99 .....	5,761	83	28,194,334
1997-98 .....	1,497	23	7,029,912
1996-97 .....	1,616	20	7,066,768
1995-96 .....	1,288	15	4,723,096
1994-95 .....	771	12	2,474,139
1993-94 .....	704	12	2,101,440
1992-93 .....	594	11	1,630,530
1991-92 .....	512	6	1,353,200
1990-91 .....	300	7	733,800

\*Estimated.

Source: Department of Public Instruction departmental data.

**Further Information**

For further information, contact the DPI Choice Program administrator at (608)

266-2853. The Choice Program Web site is: <http://dpi.wi.gov/sms/choice.html>