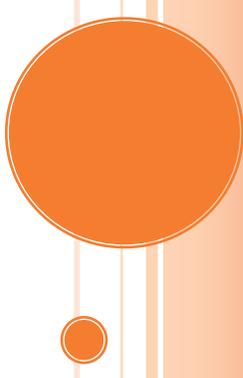
A faint, light-colored illustration of the Wisconsin State Capitol dome and its surrounding building, serving as a background for the title text.

WISCONSIN LEGISLATOR  
BRIEFING BOOK  
2017-18

**CHAPTER 12 – EDUCATION,  
ELEMENTARY-SECONDARY**

The state supervises and regulates elementary and secondary (K-12) education through the Department of Public Instruction, headed by the State Superintendent of Public Instruction. The Department of Public Instruction oversees the operation of all public K-12 schools in the state. In Wisconsin, financial responsibility for the education of K-12 students is shared among local school districts, the state, and the federal government. Funding is provided locally through the property tax, from the state through general purpose tax revenues, and from the federal government through federal taxes.

Katie Bender-Olson, Senior Staff Attorney, and Jessica Ozalp,  
Staff Attorney  
Wisconsin Legislative Council

A large orange circle with a thin white border is positioned in the lower right quadrant. Below it, a smaller orange circle with a thin white border is also present. The background of the page features a vertical orange gradient bar on the right side.

# TABLE OF CONTENTS

CONSTITUTIONAL BASIS.....	1
SCHOOL DISTRICT CHARACTERISTICS AND ENROLLMENT .....	1
Demographics of Pupils .....	2
FINANCING.....	2
Methods of State Support .....	3
Federal Funding and Programs.....	5
SCHOOL DISTRICT GOVERNANCE .....	6
Types of Districts .....	6
Management of Districts.....	6
STATE LAWS ON SCHOOL OPERATIONS.....	7
Role of Department of Public Instruction.....	7
School Accountability .....	8
Low-Performing Schools .....	8
COMPULSORY SCHOOL ATTENDANCE .....	11
PARENTAL CHOICE PROGRAMS.....	11
Milwaukee, Racine, and Statewide Programs.....	12
State Funding for Choice Schools.....	12
Requirements for Choice Schools.....	13
OPEN ENROLLMENT .....	13
CHARTER SCHOOLS .....	15
School Board Charters vs. Independent Charters .....	15
State Funding for Charter Schools.....	16
Requirements for Charter Schools.....	17
ADDITIONAL REFERENCES .....	18
GLOSSARY .....	18

## CONSTITUTIONAL BASIS

The Wisconsin Constitution guarantees all Wisconsin children, from 4 to 20 years old, access to a sound basic education. The Constitution makes the state Legislature responsible for the establishment of district schools which are to be “as nearly uniform as practicable” and “free and without charge for tuition to all children.” [Wis. Const. art. X, s.

**The Wisconsin Constitution requires all children to receive a free education that is as nearly uniform as possible.**

3.] Since the adoption of the Wisconsin Constitution, the Wisconsin public education system for K-12 students has grown to a comprehensive and complex array of schools, districts, and state programs.

The Constitution assigns the supervision of public instruction to a state superintendent who is elected on a nonpartisan spring ballot for a term of four years. The Superintendent of Public Instruction (“State Superintendent”) is charged under the statutes with the general supervision of public instruction and leads the Department of Public Instruction (DPI) in implementing policies and promulgating administrative rules. As a constitutional officer, the State Superintendent’s powers can only be altered in certain ways by the Legislature. Courts have found that the Constitution prohibits granting authority over public instruction to other officers who are not subordinate to the State Superintendent. [Coyne v. Walker, 2016 WI 38; Thompson v. Craney, 199 Wis.2d 674 (1996).]

## SCHOOL DISTRICT CHARACTERISTICS AND ENROLLMENT

Wisconsin currently has 424 public school districts and more than 2,200 school buildings. All territory in the state is required to be in a school district. In the 2014-15 school year, there were 874,414 public school students in pre-kindergarten through 12th grade programs, a slight increase from the previous year. The

**Local school districts, through their elected boards, administer K-12 education. DPI provides oversight, technical assistance, and funding to the districts.**

Department of Administration has projected Wisconsin’s school-age population to increase slightly between 2010 (the date of the last Census) and 2035.

DPI provides direction, resources, and technical assistance for K-12 public education in Wisconsin by offering a broad range of programs and professional services to local school administrators and faculty. DPI distributes state school aids and administers federal aids to supplement local tax resources, advises on curriculum and school operations, ensures education for children with disabilities, offers professional guidance and counseling, and

develops school and public library resources, among other responsibilities. [See generally, ch. 115, Stats.]

The state currently relies on local school districts through their elected boards to administer its K-12 programs. In addition, 12 cooperative educational service agencies (CESAs) furnish support services to the local districts on a regional basis.

## Demographics of Pupils

Approximately 29% of the 2015-16 public school pupils in Wisconsin can be classified as minority. Current public school enrollment is approximately 3.8% Asian, 0.1% Pacific Islander, 9.4% Black, 11.3% Hispanic, 1.2% American Indian/Alaskan Native, and 3.0% with two or more races or ethnicities.

In the 2015-16 school year, approximately 39.5% of pupils were classified as economically disadvantaged.

Wisconsin public schools provided services to 118,417 special education pupils, or 13.7% of the public school enrollment, in 2015-16. This represents a slight decrease over the prior year. Schools also provided services to 46,851 English language learners (ELL), or 5.4% of the public school enrollment, in the 2015-16 school year.

## FINANCING

The Wisconsin Constitution establishes two fundamental aspects of school finance: creation of a common school fund and designated minimum local tax contributions to qualify for such funds. [Wis. Const. art. X, ss. 2 and 4.] The remainder of the school finance system is a creature of statute. [See generally, ch. 121, Stats.]

The state provides financial assistance to school districts to achieve two basic policy goals: (1) reduce reliance on the local property tax as a source of revenue for educational programs; and (2) guarantee that a basic educational opportunity is available to all pupils regardless of the local fiscal capacity of the district in which they reside.

The 424 public school districts derive their revenue through four major sources: state aid; property tax; federal aid; and other nonproperty tax revenue, such as fees and interest earnings. For fiscal year 2014-15, state aid represented approximately 46% of public school revenue while federal aid contributed approximately 7% of revenue. The remainder of school revenue came from property tax and other local revenue.

**For a complete description of the state equalization formula, see the Legislative Fiscal Bureau's (LFB) 2015 Informational Paper, *State Aid to School Districts* at: <http://www.legis.wisconsin.gov/lfb>**

For the 2014-15 school year, the Legislature appropriated over \$5.2 billion in general and categorical school aid. More than 99% of this amount is funded through state general purpose revenues (GPR); the other 1% is supported with segregated revenues (SEG) and program revenues

(PR). School aid represents approximately 32% of the state’s total general fund budget for the 2015-17 biennium.

State aid is provided in a sum-certain appropriation and the funding level is determined through the budget process, similar to most other state appropriations. State support for K-12 education for the 2014-15 fiscal year funded an estimated 61.8% of the total costs of public education statewide.

## Methods of State Support

The state funds K-12 education through three different methods: (1) general school aids; (2) categorical aids; and (3) the school levy tax credit.

First, unrestricted general aids are provided through a formula that distributes aid on the basis of the relative fiscal capacity of each school district as measured by the district’s per pupil value of taxable property. This formula is known as either the “general school aid formula” or the “equalization aid formula.” In addition, the Legislature has established other general school aid programs that are associated with the equalization formula.

The second source of state support is categorical aid that partially offsets specific program costs such as special education, class size reduction, and pupil transportation. Categorical aid is either paid on a formula basis or awarded as grants.

The third source of state support is the state school levy tax credit. Although the school levy tax credit is considered school aid, this aid is paid to municipalities to offset the property tax rather than being paid directly to school districts.

Also, school district costs that are not reimbursed through a particular categorical aid program are included as shared costs under the equalization formula. This means the state shares in unreimbursed costs only to the extent to which a school district is supported under the equalization formula.

### 1. General or Equalization Aids

The current school aid formula operates under the principle of equal tax rate for equal per pupil expenditures. Generally, this means that a school district’s property tax rate does not depend on the property tax base of the district, but rather, depends on the level of expenditures. The rate at which school costs are aided through the formula is determined by comparing a school district’s per pupil tax base to the state’s guaranteed tax base.

Equalization aids are provided to make up the difference between the district’s actual tax base and the state guaranteed tax base. Stated differently, there is an inverse relationship between equalization aids and property valuations; those districts with low per pupil property valuations receive a larger share of their costs through the equalization formula than districts with high per pupil property valuations.

## 2. Categorical Aids

The state also finances K-12 education through targeted-purpose aids outside the revenue limit, known as categorical aids. There are two types of categorical aids: (a) programs which automatically

**Categorical aids, including aid for special education, can be formula driven for specific students or functions or can be provided as grants.**

provide funds to school districts based on formulas; and (b) grant programs in which districts must submit a request in order to receive the funds. Unlike equalization aid, categorical aid programs are distributed without regard to the relative size of a school district's property tax base. In addition, most of the programs are funded on a sum certain dollar basis, which may not match school district expenditures. For these programs, if the appropriated amount in a particular year is insufficient to fully fund a categorical formula, aid payments are prorated.

### Special Education Aid

The major categorical aid program in Wisconsin is the special education program, which accounts for nearly half of categorical aid funding. State and federal law require that local school districts provide special education and related services to children with disabilities ages 3 through 21 who reside in the school district.

Programs for special education are provided by school districts, either on their own or through cooperative arrangements with other districts, CESAs, or County Children with Disabilities Education Boards (CCDEBs). The state reimburses a portion of the costs for educating and transporting pupils enrolled in special education, including school age parent programs. The total appropriation for special education programs in the state for 2014-15 was approximately \$369 million and is estimated to cover 26.9% of eligible costs.

### Other Categorical Aids

The second largest proportion of categorical aid funds go to per-pupil aid. This appropriation currently provides every school district a \$150 per pupil payment each year. 2015 Wisconsin Act 55, the 2015-17 Biennial Budget, increased funding to raise the payment to \$250 per pupil in fiscal year 2017. Per pupil funding is outside of the revenue limits.

The state also provides categorical funding for the Student Achievement Guarantee in Education (SAGE) program, which awards five-year grants to certain schools to reduce class sizes in grades K-3. This program, created in 1995, is phasing out and being replaced with the Achievement Gap Reduction (AGR) program created in 2015 Wisconsin Act 53. The SAGE program and the AGR program provide the same per pupil allocation. Each participating school receives state aid of approximately \$2,000 for each eligible low-income K-3 pupil.

Additional categorical aids include the Common School Fund (library aid), pupil transportation, and supplemental aid for school districts with large areas (sparsity aid).

### 3. State School Levy Tax Credit

The school levy tax credit and the first dollar credit are mechanisms for accomplishing one of the main objectives of state support for schools: relieving the burden of the property tax. The school levy tax credit is distributed based on each municipality's three-year share of statewide levies for school purposes, multiplied by the annual amount appropriated for the credit, and allocated proportionately to reduce individual owners' property tax bills. Further information on this credit and the first dollar credit can be found in the LFB's 2015 Informational Paper, *State Property Tax Credits*.

## Federal Funding and Programs

The federal government provides funds to help support numerous educational programs in Wisconsin. DPI reports that federal funds provide approximately 7% of the funds expended on public K-12 schools in the state. The two major programs of the federal government are those under the Elementary and Secondary Education Act (ESEA), and the special education program, the Individuals with Disabilities Education Act (IDEA).

**Revenue Limit.** Under current law, there is a limit on the annual amount of revenue per pupil that each district can raise through the combination of general school aids (defined as equalization, integration, and special adjustment aids), computer aid, and property taxes. This limit is commonly referred to as the "revenue cap."

ESEA has been reauthorized several times since it was originally enacted. The 2002 version is referred to as the "No Child Left Behind Act" (NCLB) and the 2015

**More information on federal education law and Wisconsin's ESEA waiver is available at:**  
<http://dpi.wi.gov/esea>

reauthorization is titled the "Every Student Succeeds Act" (ESSA). This federal legislation includes testing and accountability measures and standards that states, school districts, and individual schools are required to meet. In July 2012, Wisconsin was granted a waiver from certain NCLB requirements to allow the state

more flexibility under ESEA in exchange for the implementation of various accountability measures. The NCLB waiver expired in August 2016 and Wisconsin must implement ESSA beginning in the 2017-18 school year.

## SCHOOL DISTRICT GOVERNANCE

### Types of Districts

Wisconsin school districts may be organized in different forms. Districts may be classified as one of the following:

- Common school districts. (Most school districts are common school districts.)
- Unified school districts. (Unified school districts are generally in urban areas.)
- Kindergarten through grade eight (K-8) districts.
- Union high school districts.
- First-class city districts (only Milwaukee).

School districts are governed by elected school boards. The statutes specify the number of school board members based on the type of school district structure. The statutes

provide a means to change the number of school board members or plan of apportionment for school board members. The elections are generally held at the nonpartisan spring election for a term of three years. [s. 120.06 (1), Stats.]

**School boards have broad authority to supervise and manage the school district and the power to tax for the maintenance of school and school district programs.**

### Management of Districts

The statutes assign the management of the school district to the school board, and empower the board to supervise and tax for the maintenance of school and school district programs. School boards are generally authorized to adopt all policies reasonable to promote the cause of education, including the establishment, provision, and improvement of school district programs, functions, and activities for the benefit of pupils. Included in these general powers is the authority to make school government rules, to suspend and expel students, to enter into agreements with other governmental units, and to generally administer the school district. The statutes also spell out the duties of the school district president, treasurer, and clerk. [s. 120.12, Stats.]

**Q: How many credits are required for high school graduation?**

A: The number required is determined by the school board. Wisconsin law requires 13 credits but encourages school boards to require an additional 8.5 credits.

The statutes prescribe requirements for the annual meeting of school districts as well as for special meetings called for consideration of a specific topic. The statutes also lay out the powers of the annual meetings and special meetings in a common or union high school

district and requirements for meetings and reports of school boards. [ss. 120.08 to 120.11, Stats.]

## STATE LAWS ON SCHOOL OPERATIONS

Wisconsin law provides that public education is a fundamental responsibility of this state and the statutes contain broad educational goals and expectations for the public schools. These goals cover broad areas under academic skills and knowledge, vocational skills, personal development, and citizenship. [s. 118.01, Stats.] The statutes also create requirements relating to who attends school, what they learn, how learning is measured, and many other aspects of school operations.

Some examples of statutory requirements pertaining to schools include:

- Compulsory attendance and truancy. [ss.118.15 to 118.163, Stats.]
- Transportation to school. [s. 121.54, Stats.]
- Provision of educational services to deaf, blind, special needs, ELL, gifted and talented, and other student subgroups. [ch. 115, Stats.; s. 118.35, Stats.]
- Building safety and maintenance. [ss. 115.33 and 120.12, Stats.]
- Nutrition programs. [ss. 115.34 to 115.347, Stats.]
- Health and social service programs. [ss. 115.345 to 115.368, Stats.]
- Teacher preparation and licensing. [s. 115.28, Stats.]
- Privacy of student records. [s. 118.125, Stats.]
- Hours of instruction. [s. 121.02 (1) (f), Stats.]
- Graduation standards. [s. 118.33, Stats.]

Wisconsin's school and school district accountability system is also found in the statutes, including the following components:

- Academic standards. [s. 118.30, Stats.]
- State standardized assessments. [s. 118.30, Stats.]
- School report cards. [s. 115.385, Stats.]
- Interventions for low performing schools and school districts. [s. 118.42, Stats.]
- Educator evaluations. [s. 115.415, Stats.]

## Role of Department of Public Instruction

DPI oversees the operation of all public K-12 schools in the state. DPI administers educator licensing and certification, and provides schools with resources relating to curriculum and standards. DPI runs state and federal grant programs, federal nutrition programs such as

free and reduced-price lunch, and school and public library systems. It also operates CTE and career readiness programs such as apprenticeships and youth options.

One of DPI's main duties is managing the student information system, data reporting, state assessments, and educator evaluations that make up the state school and school district accountability system. The accountability system is a mechanism for fulfilling requirements mandated under both federal and state law. Accountability requirements aim to reduce the achievement gap between academic performance of subgroups of students. The accountability system disaggregates test scores by income, race, disability, and other categories to track how these subgroups achieve compared to their peers. The objective of equalizing opportunities for academic achievement underpins the federal laws described on p. 5 ("Federal Funding and Programs,") and DPI carries out Wisconsin's implementation of this initiative.

## School Accountability

To measure achievement and growth, state and federal law require statewide assessments for students in public schools. Assessment scores are a major component of Wisconsin's school accountability system, developed to comply with federal law. Historically, the federal No Child Left Behind Act (NCLB) required all states to implement standardized tests based on academic standards. From 2005 until 2016, NCLB required yearly testing in reading and mathematics in grades three through eight and once in high school.

To comply with NCLB, Wisconsin made a number of changes to its state assessment program. In 2012, Wisconsin received approval from the U.S. Education Department for a flexibility waiver, under which the state agreed to develop an alternative accountability system. Like NCLB, Wisconsin's waiver conditions required annual testing of students in grades three through eight and once in high school. Although NCLB ended with the 2015 reauthorization of ESEA, the yearly testing requirement continues.

A number of assessments are used in Wisconsin to fulfill federal requirements through the state accountability system. [s. 118.30, Stats.] State statutes also require additional testing beyond federal minimums, such as science and social studies tests. Together, all the required tests make up the Wisconsin Student Assessment System. Student performance on these assessments is reported in proficiency categories and used to produce school "report cards." For more information about the assessments used in Wisconsin public schools, see <http://dpi.wi.gov/assessment>.

## Low-Performing Schools

State law requires DPI to take specific steps to identify and improve low-performing schools. [s. 118.42, Stats.]

## General Provisions

Under state law, if the State Superintendent determines that a school district has been in need of improvement for four consecutive school years, the school board must do all of the

following: (1) employ a standard, consistent, research-based curriculum; (2) use pupil academic performance data to differentiate instruction to meet individual needs; (3) implement a system of academic and behavioral supports and early intervention for pupils; and (4) provide additional learning time to address the academic needs of pupils who are struggling academically.

If the State Superintendent determines that a particular public school was in the lowest performing 5% of all public schools in the state in the previous school year, and is located in a school district that has been in need of improvement for four consecutive years, the school board must do all of the following in the school: (1) use rigorous and equitable performance evaluation systems for teachers and principals; (2) adopt a policy establishing criteria for evaluating whether the distribution of teachers and principals within the affected schools relative to the distribution of teachers and principals throughout the school district, based on their qualifications and effectiveness, is equitable; (3) establish teacher and principal improvement programs; and (4) adopt placement criteria for principals that include performance evaluations and measures of pupil academic achievement.

If the State Superintendent determines that a **school district** has been in need of improvement for four consecutive years, the State Superintendent may direct the **school board** to implement any of the following: activities for low-performing school districts, described

**Under Wisconsin law, there are consequences for low-performing public schools and for low-performing school districts.**

above; a new or modified instructional design; professional development; or changes in administrative and personnel structure in the school district after consulting with the school board, school superintendent, and collective bargaining units in the school district. In addition, the school board may be directed to adopt accountability measures to monitor the school district's finances or to monitor other interventions directed by the State Superintendent.

If the State Superintendent determines that a **public school** is located in a school district that has been in need of improvement for four consecutive years, and if the school has been in need of improvement for five consecutive school years or was among the lowest performing 5% of all public schools in the state in the previous school year, the State Superintendent may, after consulting with the school board, the school district superintendent, and the collective bargaining units, direct the **school board** to do one or more of the following in the school: (1) implement a new or modified instructional design; and (2) create a school improvement council to make recommendations to the State Superintendent regarding improving the school.

If the State Superintendent issues a directive to a school board, he or she must notify each legislator whose district includes any portion of the school district and must provide a system of support and improvement, including technical assistance, to the board. If a

school district receives a directive from the State Superintendent, the school board must seek input from school district staff, parents, and community leaders on implementing the directive.

### Milwaukee Public Schools

State law contains provisions that apply specifically to the Milwaukee Public Schools (MPS), as follows:

1. The MPS school board must evaluate all school buildings in the school district according to the criteria adopted by MPS, and must develop a master plan governing the use, repair, renovation, and demolition of buildings in the school district.
2. MPS must annually prepare a budget for each school in the school district.
3. MPS must 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 birth through postsecondary education.
4. MPS must provide alternative methods of attaining a high school diploma for those pupils who are unlikely to graduate in a traditional manner, including a program allowing a pupil or former pupil to retake a course in which he or she was not originally successful.
5. If MPS determines that state or federal aid or private funding is available for the purpose, the board must participate in an educational research consortium, similar to the Consortium on Chicago's School Research and the Boston Plan for Excellence, to provide research and policy recommendations for DPI, MPS, and the Legislature.
6. MPS must conduct a survey of parents of pupils enrolled in the school district and use the results of the survey to develop or modify parent involvement in school improvement plans, which may include school-based community resource centers, regularly scheduled public meetings, or parent education classes.
7. MPS must report assessment scores and achievement data for students in Opportunity Schools and Partnership Program<sup>1</sup> schools in its annual report to DPI.

[s. 119.16, Stats.]

---

<sup>1</sup> An OSPP school is one transferred to an Opportunity Schools and Partnership Program created in the 2015-17 Budget. [s. 119.33, Stats.]

## COMPULSORY SCHOOL ATTENDANCE

State law requires a parent, guardian, or other person caring for a child to make that child attend school on a regular basis. Children between 6 and 18 years old must generally attend school until the end of the school term, quarter, or semester in which the child turns 18. A child is not required to be enrolled in kindergarten, but if the child is enrolled in kindergarten, then he or she must attend regularly. The attendance requirements do not apply to a child who has already graduated from high school and do not apply on religious holidays.

A student may comply with the attendance requirements by attending a public school, attending a private school, or being homeschooled. A parent or guardian who chooses to homeschool a child, referred to in the statutes as conducting a “home-based private educational program,” must file a form with DPI each year.

**Children between the ages of six and 18 must be required to attend school. A child who is enrolled in five-year old kindergarten must also attend school regularly.**

State law excuses a child from attending school under certain circumstances. Attendance requirements do not apply to a child who is excused by a parent or guardian prior to an absence; however, the excused absences are limited to 10 days. A school board may excuse a child who is temporarily unable to attend because of a physical or mental condition, but who is expected to return. A school board may also excuse an eligible child who is serving as a poll worker.

[ss. 115.30 (3), and 118.15 (1), (3), and (4), Stats.]

## PARENTAL CHOICE PROGRAMS

Parental choice programs (“choice programs”) allow eligible, low-income students to attend private schools using state-funded tuition vouchers. Wisconsin has three choice programs, commonly referred to as: (1) the Milwaukee Parental Choice Program (MPCP); (2) the Racine Parental Choice Program (RPCP); and (3) the Statewide Parental Choice Program (“Statewide Program”).

**Parental choice programs allow eligible families to send their children to a participating private school at no charge.**

## Milwaukee, Racine, and Statewide Programs

The MPCP was the first choice program in Wisconsin and began accepting low-income students in the City of Milwaukee in 1990. Only nonsectarian (nonreligious) schools were originally eligible to participate in the MPCP, but the program was expanded to include sectarian schools in 1995. The MPCP is the largest choice program, enrolling 27,619 students in 117 participating private schools in the 2015-16 school year.

The RPCP became the second choice program in the state when it was created in 2011. The program serves eligible students who reside within the Racine Unified School District. The RPCP enrolled 2,127 students in 19 private schools in 2015-16.

The Statewide Program is the most recently-added choice program and was created in 2013 to serve eligible students who live outside of the City of Milwaukee or the Racine Unified School District. The Statewide Program enrolled 2,514 students in 82 private schools in 2015-16.

[ss. 118.60 and 119.23, Stats.]

## State Funding for Choice Schools

Private schools receive a payment from the state for each eligible student attending the school under a choice program. During the 2015-16 school year, the state paid private schools \$7,214 for each eligible K-8 student, and \$7,860 for each eligible 9<sup>th</sup> to 12<sup>th</sup> grade student.

Payments made to schools participating in the MPCP are funded by a combination of GPR (71.2% in 2015-16) and a reduction in the amount of general school aids received by the Milwaukee Public Schools (MPS) (28.8%). However, MPS can levy to make up for reductions in its school aids through property tax revenue.

Payments made to schools participating in the RPCP and Statewide Program were originally funded entirely by GPR, but a funding distinction now exists based on whether a student entered the choice program before or after the 2015-16 school year. Students who started participating in the RPCP or Statewide Program in 2014-15 or earlier are still funded entirely by GPR, while students who entered the program in 2015-16 or later are now funded by a combination of GPR and a reduction in state aid to school districts.

### Q: Who is eligible for school choice?

A: Children who meet requirements relating to family income and residency. A child already attending private school may only enter the RPCP or statewide program at certain grade levels.

## Requirements for Choice Schools

A private school must comply with statutory requirements to participate in a choice program. These requirements include:

- Administering statewide assessments to choice students.
- Securing accreditation.
- Adopting academic standards.
- Requiring teachers and administrators to possess specified credentials, such as a bachelor's degree or license issued by DPI.
- Requiring teacher's aides to have graduated from high school or have an equivalent degree.
- Complying with health and safety and nondiscrimination laws.

A private school participating in a choice program must also meet one of the following student achievement standards each year:

1. At least 70% of the choice students advance one grade level each year.
2. The school's average attendance rate for choice students is at least 90%.
3. At least 80% of the choice students demonstrate significant academic progress.
4. At least 70% of the families of choice students meet parent involvement criteria established by the school.

[ss. 118.30 (1s) to (2), 118.301 (3), 118.33 (1m), 118.60 (2) and (7), 119.23 (2) and (7), Stats.]

## OPEN ENROLLMENT

**Additional information on the open enrollment program can be found on the DPI website at:**  
<http://www.dpi.wi.gov/open-enrollment>

Wisconsin has a full-time open enrollment program that allows parents to apply for their children to attend school in a school district other than the one in which they reside, if certain conditions are met.

Wisconsin law creates two open enrollment application processes. The first process applies to the majority of students and requires applications to be submitted between the first Monday in February and the last weekday in April. The second process, called the alternate application process, applies to students who have special circumstances and allows students to apply at any time during a school year.

**A parent may open enroll his or her child in a school in another district if there is room in the district and if an application is submitted within a certain window of time. In specified circumstances, an application may be submitted at any time.**

A student may use the alternate application process if any of the following circumstances apply:

- The student has been the victim of a violent criminal offense.
- The student is or has been homeless in the current or prior school year.
- The student has been the victim of repeated bullying or harassment, which has continued despite being reported to the school board.
- The student’s residence changed because of military orders.
- The student moved into the state.
- The student’s residence changed because of a court order, custody agreement, or placement in or removal from a foster home or the home of a non-parent.
- The student’s parent, the resident school district, and the nonresident school board agree that open enrolling into the nonresident school district is in the student’s best interests.
- The student’s parent and the nonresident school board agree that open enrolling is in the best interests of the child, and denial by the resident school board is overturned by DPI.

A school district may only deny an open enrollment application for specified reasons. A district may deny a regular education student applying for open enrollment only if: (a) there is insufficient space in a school, program, class, or grade; (b) the student was expelled from another district within the last three years for certain dangerous conduct or there is a pending disciplinary proceeding for such conduct; or (c) the student was previously identified by the school district as habitually truant in the current or prior school year.

A school district may deny a special education student applying for open enrollment for two additional reasons, beyond those previously mentioned. A district may deny a special education student’s application if services required under the student’s Individualized Education Plan (IEP) are unavailable or if there is insufficient space to accommodate the services needed by the student. A district may also deny a special education student’s

application if the student was identified as potentially having a disability, but has not yet been evaluated by an IEP team.

Certain special education students whose open enrollment applications are denied may be eligible to participate in the Special Needs Scholarship Program. This program provides state-funded scholarships for eligible students with disabilities to attend private schools beginning in the 2016-17 school year.

[ss. 115.7915 and 118.51 (3), (3m), (5), (8), Stats.]

## CHARTER SCHOOLS

Charter schools are public schools that operate under a “charter,” or authorizing contract, and are exempt from many state laws that apply to traditional public schools. Exemption from requirements allows charter schools autonomy to experiment with instruction methods, curriculum, or other policies. Wisconsin passed the first charter school legislation in 1993, which limited charters to 20 schools statewide. The limit was later removed, and 242 charter schools were operating in Wisconsin as of the 2015-16 school year.

**A school district may create a charter school. In addition, several specified entities, such as the City of Milwaukee, are authorized to establish charter schools.**

### School Board Charters vs. Independent Charters

A charter school may be authorized either by a school board (“school board charter schools”) or by one of a list of entities named in the statutes (“independent charter schools”). Only school boards could create charter schools when charter legislation was originally enacted. Since that time, the Legislature has authorized additional entities to create charter schools.

#### School Board Charter Schools

A school board may create a charter school on its own initiative or may create a charter school after receiving a petition from teachers in the district. If the school board acts on its own initiative, the board contracts with an entity of its choice to operate the charter school. If the school board receives a teacher petition, it must hold a public hearing and may either grant or deny the request to create a charter school. Denial of a petition by the MPS Board can be appealed to DPI. If a charter school is established by petition, the school board must contract with the entity named in the petition.

A school board charter school is either an “instrumentality” or a “non-instrumentality” of the school district. In an “instrumentality” school, the charter school personnel are employees of the school district. In a “non-instrumentality” school, the district does not

directly employ the personnel. Generally, school boards determine whether or not a school board charter school is an instrumentality of the district.

[s. 118.40 (1m) to (2m), (3) (a) and (7) (a), Stats.]

### Independent Charter Schools

State law names nine specific entities that are authorized to create independent charter schools. In 1997, the Legislature authorized four entities to create independent charter schools: (1) the City of Milwaukee; (2) the University of Wisconsin (UW) – Milwaukee; (3) UW-Parkside; and (4) Milwaukee Area Technical College (MATC). The Legislature expanded the list in 2015 to include an additional five entities: (1) Gateway Technical College; (2) the Waukesha County Executive; (3) the College of Menominee Nation; (4) Lac Courte Oreilles Ojibwa Community College; and (5) the Office of Educational Opportunity in the UW System.

[s. 118.40 (1m), (2m) to (2x), Stats.]

2015 Wisconsin Act 55, the 2015-17 Biennial Budget, also allows for conversion of certain eligible schools in Milwaukee County into a new form of charter through the Opportunity Schools and Partnership Program. [s. 119.33, Stats.]

### State Funding for Charter Schools

State funding for a charter school depends upon whether it is a school board charter school or independent charter school, and if the school is an independent charter school, on what entity authorized the school. State funding for school board charter schools is received by the school district and distributed according to the terms of each charter school's particular contract. The amount a school district receives for each charter school student is generally calculated under the school aid formula. The charter students are counted in the school district's membership for purposes of revenue limits and equalization aid, and the contract costs are eligible for cost-sharing under the equalization aid formula.

State funding for independent charter schools is a per student amount determined under a statutory formula, but the manner of funding differs depending on the entity which created a particular school. An independent charter school created by one of the original authorizers -- the City of Milwaukee, UW-Milwaukee, UW-Parkside, or MATC -- received payments of \$8,079 per student in the 2015-16 school year. Payments for these charter students will be adjusted in future years based on increases in the revenue limit per pupil adjustment and categorical aid funding for public schools. To provide the state funding for these charter students, the general school aid available to traditional public schools is reduced statewide. However, school districts can levy property taxes to make up for the reduced funding.

An independent charter school created by three of the new charter authorizers -- Gateway Technical College, the Waukesha County Executive, or the Office of Educational Opportunity -- will receive per pupil payments in the same amount as those received by

other independent charter schools. A charter school created by the College of Menominee Nation or Lac Courte Orielles Ojibwa Community College will receive different per student payment amounts, which are based on federal payment amounts from the Bureau of Indian Education. A student attending a school created by any of the new charter authorizers can be counted for revenue limit and general aid purposes by the school district in which the student lives, unlike students who attend a charter school created by one of the original independent charter school authorizers. To provide funding for students attending a school created by Gateway Technical College, the Waukesha County Executive, the Office of Educational Opportunity, or the two tribal colleges, the general school aid available to a particular school district will be reduced based on students who live within the district but attend one of these independent charter schools. A school district's general aid payment will be reduced by the same amount that is paid to the independent charter schools.

[s. 118.40 (2r) (e) to (g) and (2x) (e) and (f), Stats.]

## Requirements for Charter Schools

Charter schools are generally exempt from requirements in chs. 115 to 121, Stats., unless the language of a particular provision specifically applies to such schools. The statutes prohibit charter schools from charging tuition and from discriminating in admissions or program participation on the basis of sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation, or disability. Charter schools or their authorizing board or entity are subject to certain statutory requirements, including:

- Complying with health and safety requirements applicable to traditional public schools.
- Requiring teachers to hold a DPI-issued license or permit.
- Administering statewide assessments to students.
- Approving only high-quality charter school applications that meet identified educational needs and promote a diversity of educational choices.
- Giving preference in charter contracts to charter schools serving children-at-risk.
- Holding parent-teacher conferences at least annually.

State law limits charter school contracts to five-year terms, which can be renewed, and identifies bases for a school board or authorizing entity to revoke a school's charter. The bases include violation of the contract, failure of charter students to make sufficient progress attaining educational goals, or failure to comply with generally accepted accounting standards of fiscal management.

**Q: Must a charter school comply with state school laws?**

A: Charter schools are generally exempt from school laws but are, instead, regulated by their charter.

[ss. 118.30 (1m) and (1r), and 118.40 (2r) (b) and (d), (3) (b), (3m), (4) (ar) and (b), (5), and (7) (b), Stats.]

## ADDITIONAL REFERENCES

1. At the beginning of each biennial legislative session, the Legislative Fiscal Bureau publishes Informational Papers on education topics, such as state aid to school districts, local government expenditure and revenue limits, the open enrollment program, and pupil assessment. These Informational Papers may be found at:  
<http://www.legis.wisconsin.gov/lfb>.
2. The Legislative Audit Bureau has prepared the following reports that relate to elementary and secondary education. These reports may be found at:  
<http://www.legis.wisconsin.gov/lab>.
  - *Governor’s Read to Lead Development Fund* (September 2013).
  - *Test Scores for Pupils in the Milwaukee Parental Choice Program (Report 5 of 5)* (August 2012).
  - *Open Enrollment Program Transfer Amount Alternatives (December 2011)*.
  - *Milwaukee Parental Choice Program (Letter Report, August 2010)*.
  - *Virtual Charter Schools* (February 2010).
3. DPI has prepared numerous publications relating to the programs it operates and the information it collects. These may be found on the DPI website at:  
<http://www.dpi.state.wi.us>.
4. The U.S. Department of Education maintains a website that has information on all federal education programs, including the “Every Student Succeeds Act.” The website is: <http://www.ed.gov>.

## GLOSSARY

**ACP/ ILP:** Academic and Career Plans, also known as ILP, Individualized Learning Plans. All students enrolled in grades 6 through 12 in a public school district will participate in ACP beginning in fall 2017.

**AGR:** Achievement Gap Reduction program replacing SAGE, which is phasing out by the end of the 2017-18 school year. Only existing SAGE schools are eligible to participate in the new AGR program.

**CESAs:** Cooperative educational service agencies. Twelve CESAs provide support activities to local school districts on a regional basis. They are governed by ch. 116, Stats., and their services vary based upon the districts they serve.

**CHAPTER 220 AID:** Racial balance transfer program known as Integration Aid. Statutorily referred to as the Special Transfer Aid Program; most commonly referred to as “Chapter 220” after the 1975 session law which enacted it. 2015 Wisconsin Act 55, the 2015-17 Biennial Budget, ended this program.

**CTE:** Career and Technical Education. In Wisconsin, this includes apprenticeship programs, career centers, technical preparation programs (Tech-Prep), options to take courses at postsecondary, at-risk youth programs in Milwaukee, and opportunities to receive industry certifications.

**DPI:** Department of Public Instruction.

**ELL:** English Language Learner.

**ESSA:** Every Student Succeeds Act of 2015, updating No Child Left Behind.

**IDEA:** Individuals with Disabilities Education Act. The term used to refer to the federal law relating to special education.

**IEP:** Individualized Education Plan created for a student with a disability.

**NCLB:** Federal No Child Left Behind Act of 2001. A reauthorization of the Elementary and Secondary Education Act, designed to improve gains in student achievement and to hold states accountable for students’ progress. It includes requirements for annual testing of students.

**SAGE:** Student Achievement Guarantee in Education. A state categorical aid program focused on reduced class sizes at the kindergarten to third grade level.

**Wisconsin Legislative Council**

One East Main Street, Suite 401  
Madison, WI 53703-3382  
Phone: (608) 266-1304