

Informational Paper 29

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Milwaukee Parental Choice Program

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# Milwaukee Parental Choice Program

The Milwaukee parental choice program (MPCP) was established in 1989 Act 336. Under this program, state funds are used to pay for the cost of children from low-income families in the City of Milwaukee to attend, at no charge, private schools located in the city. Pupils began attending private schools under the program in 1990-91.

Initially, only nonsectarian private schools could participate under the program. Under 1995 Act 27, the program was expanded to include sectarian schools and several other changes were made in the program. The Act 27 changes were challenged in court and a preliminary injunction prohibiting implementation of these modifications was issued, although the changes took effect for nonsectarian schools in 1996-97. In June, 1998, the Wisconsin Supreme Court found that the Act 27 changes passed constitutional scrutiny in all the issues before the Court, and the full program, as expanded in Act 27, became effective in 1998-99.

This paper provides information on the following aspects of the choice program: (1) the major statutory provisions governing the program; (2) pupil participation; (3) program funding; (4) legal challenges to the program; and (5) the results of prior evaluations of the program authorized by statute.

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## Program Requirements

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The following section describes the major statutory provisions governing the Milwaukee parental choice program.

**Limits on Pupil Eligibility.** Participation is limited to pupils in grades kindergarten through twelve who reside in the City of Milwaukee. To be eligible to attend a choice school for the first time, a pupil's total family income must not exceed 175% of the federal poverty level. Under 2005 Act 125, beginning with the 2006-07 school year, a pupil attending a school in the choice program remains eligible to participate in the program if his or her family income is less than 220% of the federal poverty level. A sibling of a pupil attending a choice school is initially eligible to participate in the choice program if his or her family income is under 220% of the federal poverty level. A pupil who leaves the program would need to meet the family income requirement of 175% of the federal poverty level to re-enter the program, unless the pupil has a sibling still in the program, in which case the 220% threshold would apply.

For new students in 2006-07, 175% of the federal poverty level is \$23,553 for a family of two; \$29,538 for a family of three; and \$5,985 for each additional family member above three. For continuing students and siblings, 220% of the federal poverty level is \$29,610 for a family of two; \$37,134 for a family of three; and \$7,524 for each additional family member above three.

Under Act 125, the prior-year participation requirements for pupils in the choice program were repealed, beginning with the 2006-07 school year. Previously, in the school year prior to their initial enrollment in a choice school, participants must have been either enrolled in Milwaukee Public Schools (MPS), the choice program, or grades kindergarten through three in private schools located within the City of Milwaukee, or not enrolled in school.

**Limits on the Number of Participants.** The limit on pupil participation in the choice program was increased in Act 125. Currently, no more than 22,500 full-time equivalent pupils may participate in the choice program. Whenever the State Superintendent of Public Instruction determines that the limit has been reached, he or she must issue an order prohibiting the participating choice schools from accepting additional pupils until he or she determines that the number of pupils attending choice schools has fallen below the limit.

Prior to Act 125, the limit on the number of pupils who could participate in the choice program was equal to 15% of the MPS membership. In 2006-07, this limit would have resulted in a maximum of approximately 14,530 pupils who could participate in the choice program. If the total number of available spaces in the private schools was greater than the maximum number of pupils allowed to participate, the Department of Public Instruction (DPI) was required to prorate the number of spaces available at each participating private school.

**Admission and Selection Procedures.** The State Superintendent is required to annually inform families in Milwaukee of the private schools participating in the program. Applications must be submitted to the private schools on a form provided by the State Superintendent. Within 60 days after receipt of the application, the school must notify an applicant, in writing, whether the pupil has been accepted.

The State Superintendent must ensure that the private school accepts pupils on a random basis. This requirement has been interpreted to mean that if a school is oversubscribed in a particular grade, random selection is required in that grade. Pupils continuing in that choice program school and their siblings may be given preference by the school. In addition, siblings of pupils accepted on a random basis into the program can be given preference in admission by the school. If a private school rejects an applicant due to a lack of space, the pupil may

transfer his or her application to another participating private school that has space available.

A pupil assignment council composed of one representative from each participating private school makes annual recommendations on how to achieve balanced pupil representation in the program.

**Requirements of the Private Schools.** The participating schools must meet all state health and safety laws or codes applicable to public schools and a number of federal laws and regulations which apply to both public and private schools. The schools must notify the State Superintendent of their intent to participate in the program and the number of students for which the school has space by February 1 of the prior school year. At the time the private school files a notice of intent to participate in the program, the school must agree to comply with federal law that prohibits discrimination on the basis of race, color, or national origin.

Each private school is required to meet at least one of the following standards in order to continue to be eligible to participate in the program in the following school year:

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

The determination of whether a school meets at least one of the standards is made by the State Superintendent.

A private school cannot require a pupil to participate in any religious activity in the school if the pupil's parent or guardian submits a written request to the pupil's teacher or the school's principal that the pupil be exempt from such activities.

Each private school is subject to uniform accounting standards established by DPI.

By August 1 before the first school year a new school participates in the program, or by May 1 if the school begins participating in the program during summer school, each school participating in the program must submit to DPI:

1. A copy of the school's current certificate of occupancy issued by the City. If the school moves to a new location, the school must submit a copy of the new certificate of occupancy issued by the city to DPI before students attend school at the new location and before the next membership count date (either the third Friday in September or the second Friday in January). By law, a temporary certificate of occupancy does not meet this requirement.

2. Evidence of financial viability, as prescribed by DPI in administrative rule. Under rules promulgated by DPI, financial viability is defined as the ability of a school to pay for goods and services, make debt payments, and pay other obligations as they come due.

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

Annually, by September 1 following a school year in which a school participated in the choice program, the school must submit to DPI:

1. An independent financial audit of the school conducted by a certified public accountant, accompanied by the auditor's statement that the

report is free of material misstatements and fairly presents the school's operating and debt service cost per pupil related to educational programming. The audit is limited statutorily in scope to those records that are necessary for DPI to make payments to choice schools.

2. Evidence of sound fiscal practices, as prescribed by DPI by rule. Under DPI rules, this can include such actions as preparing of a budget for the ensuing fiscal year, making payments within a specified time frame, making payments to employees based on written agreements specifying compensation and payment dates, and maintaining an adequate system of internal financial controls.

Under 2005 Act 25, beginning in the 2006-07 school year, all teachers in a school participating in the choice program are required to have graduated from high school or been granted a declaration of equivalency of high school graduation. For the purposes of this requirement, a teacher is defined as a person who has primary responsibility for the academic instruction of pupils.

Requirements for accreditation and pupil testing were placed on choice schools under 2005 Act 125. Under the act, a choice school must either: (a) have been approved for scholarship funding by Partners Advancing Values in Education (PAVE) for the 2005-06 school year; or (b) achieve accreditation by December 31 of the third school year following the first school year that begins after June 30, 2006, in which it participates in the choice program. The statutorily-recognized accrediting agencies are 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.

If a school did not participate in the choice

program during the 2005-06 school year, or if a school participated in the program in 2005-06 but did not participate in 2006-07, and the school is not accredited by one of the organizations or approved by PAVE, that school must apply for accreditation by December 31 of the school year in which it enters or re-enters the choice program. However, any school that participated in the choice program during the 2005-06 school year, notified the State Superintendent of its intent to continue to participate in the 2006-07 school year, and is not accredited by one of the organizations or approved by PAVE was required to apply for accreditation by September 30, 2006. If the State Superintendent determined that such a school had not applied by September 30, the school could not participate in the program in the 2006-07 school year.

If, during the accrediting process, an accrediting agency determines that a school does not meet all of the current law requirements for a private school, the accrediting agency must report that failure to DPI. Under current law, an institution is considered a private school if its education program meets the following criteria: (a) the primary purpose of the program is to provide private or religious-based education; (b) the program is privately controlled; (c) the program provides at least 875 hours of instruction each school year; (d) the program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health; (e) the program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement; and (f) the pupils in the institution's educational program, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation, or the institution is licensed as a child welfare agency.

With respect to pupil testing, Act 125 requires each choice school to annually administer a nationally-normed, standardized test in reading,

mathematics, and science to pupils attending the school under the choice program in the 4<sup>th</sup>, 8<sup>th</sup>, and 10<sup>th</sup> grades. Choice schools are also authorized to administer additional standardized tests to choice pupils.

**Removal of Schools from the Program.** The State Superintendent may issue an order barring a school from participating in the program in the current school year if he or she determines that the school has done any of the following:

1. Failed to meet at least one of the four standards mentioned above by the date specified by DPI rule (currently June 30 of each year).
2. Failed to provide the notice of intent to participate by February 1.
3. Misrepresented information relating to the certificate of occupancy, evidence of financial viability, or proof of attendance at the fiscal management training required of new schools, or failure to provide that information by the date required.
4. Failed to provide the independent financial audit or evidence of sound fiscal practices.
5. Failed to refund to the state any overpayment made by the date specified by DPI rule (generally within 45 or 60 days of notification).

The State Superintendent can issue an order immediately terminating a school's participation in the choice program if he or she determines that conditions at the school present an imminent threat to the health or safety of pupils.

Under Act 125, if the State Superintendent determines that any of the following have occurred, he or she may issue an order barring a choice school from participating in the program in the subsequent school year:



1. A school that is required to seek accreditation by December 31 of the school year in which it enters or re-enters the choice program has not done so.

2. A school's application for accreditation had been denied by an accrediting organization.

3. A school has not achieved accreditation by December 31 of the third school year following the first school year that begins after June 30, 2006, in which it participates in the program.

Whenever the State Superintendent issues an order barring a school from participating in the program, he or she must immediately notify the parent or guardian of each pupil attending the school. In addition, the State Superintendent may withhold payment from a parent or guardian if the school attended by the child of the parent or guardian violates the laws governing the program.

**Responsibilities of MPS.** The only statutory requirement imposed on MPS is to provide transportation to program participants, but only to the extent transportation is required to be provided for other private school pupils under current law. MPS is eligible to receive state categorical aids for pupils who are transported at MPS's expense.

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### Program Participation

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Table 1 shows overall participation in the program since its beginning in 1990-91. The number of private schools in the program has increased from seven in 1990-91 to 124 in 2006-07. During the seventeen-year period, the aid membership in the program has increased from 300 to an estimated 17,000. The largest increase occurred in 1998-99, with the Wisconsin Supreme Court ruling that allowed sectarian schools to participate in the program.

**Table 1: Participation in the Choice Program**

Fiscal Year	Private Schools	Aid Membership
1990-91	7	300
1991-92	6	512
1992-93	11	594
1993-94	12	704
1994-95	12	771
1995-96	17	1,288
1996-97	20	1,616
1997-98	23	1,497
1998-99	83	5,761
1999-00	90	7,575
2000-01	100	9,238
2001-02	102	10,497
2002-03	102	11,304
2003-04	106	12,882
2004-05	117	14,071
2005-06	125	14,604
2006-07*	124	17,000

\*Estimated

A listing of the private schools participating in the program in 2006-07 and the September and summer school pupil headcount and FTE data for each school is shown in the appendix. The headcount and FTE data is unaudited and is therefore subject to revision. The aid membership on which payments are made also includes the January FTE count, which is not yet available, and therefore not shown in the appendix.

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### Program Funding

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A number of changes were made in 1999 Act 9 and 2001 Act 16 with respect to the funding of the Milwaukee parental choice program. The following section summarizes statutory provisions regarding payments made under the choice program as well as the various funding mechanisms used in the history of the program, focusing on recent funding changes.

**Choice Payments.** The State Superintendent is

required to pay the parent or guardian of a pupil enrolled in a private school under the MPCP from a separate, general purpose revenue (GPR) sum sufficient appropriation established for this purpose. This payment is made in four equal installments in September, November, February, and May of each school year and the checks are sent to the private school. The parent or guardian is required to restrictively endorse the check for the use of the private school. The total payment is equal to the lesser of the following: (a) the private school's operating and debt service cost per pupil related to educational programming, as determined by DPI; or (b) the amount paid per pupil in the previous school year adjusted by the percentage change in the general school aids appropriation from the previous school year to the current school year. If that percentage change is a negative number, however, the maximum per pupil payment does not change from the prior year.

The State Superintendent is also required to pay the parent or guardian of a pupil enrolled in an MPCP school for summer classroom or laboratory periods for necessary academic purposes. Annually, by October 15, each MPCP school is required to file a report with DPI stating the FTE number of pupils enrolled in summer programs who were attending the school on the second Friday of January of the school term immediately preceding that summer or whose applications had been accepted for attendance at the private school in the school term immediately following that summer. The payment to the parent or guardian is determined by dividing the FTE summer choice membership by the number of pupils attending summer programs, and multiplying that result by 40% of the per pupil payment amount under the choice program. The State Superintendent can include the entire summer school payment in one of the quarterly installments or apportion the amount among several quarterly installments.

**Past Laws Governing Choice Payments.** Prior to 1999 Act 9, payments were equal to the lesser of

the school's per pupil cost or the average equalization aid per pupil received by MPS. In Act 9, the payment was modified to equal the lesser of the school's per pupil cost or the amount paid per pupil in the previous school year plus the per pupil revenue limit increase provided to school districts in that school year. The current method of calculating the per pupil payment amount described above was established in 2003 Act 33.

**Choice Funding.** The choice program has always been funded from a separate sum sufficient appropriation. During the time of state two-thirds funding from 1996-97 to 2002-03, that appropriation was statutorily excluded from the definitions of state school aids and partial school revenues for purposes of calculating the two-thirds funding goal.

Although changes were made to choice program funding prior to 1999 Act 9, the same basic mechanism for funding the program was in place from 1990-91 through 1998-99. Prior to Act 9, MPS was, with certain exceptions, generally able to count the number of pupils participating in the choice program in its membership for revenue limit and general school aids purposes. Equalization aid for MPS was reduced by the average equalization aid per member received by MPS times the number of eligible pupils attending private schools participating under the choice program. In addition, the State Superintendent was required to ensure that equalization aid paid to other school districts was neither reduced nor increased as a result of the payments to choice schools or the MPS aid reduction. Further, the State Superintendent was required to ensure that the amount of the aid reduction to MPS lapse to the general fund, thus fully offsetting the cost of the program.

Under 1999 Act 9, the definition of membership was changed to completely exclude pupils enrolled in a choice school from being counted in MPS' membership. Also under Act 9, the incidence of the aid reduction was changed. Rather than the full

reduction coming from MPS' aid, the reduction was made by reducing the general school aids for which MPS was eligible by one-half of the reduction, while the general school aids for which the other 425 school districts were eligible to be paid was reduced proportionately by an amount totaling the other half. A school district's revenue limit calculation was not affected by the choice reduction. Thus, a school district could increase its property tax levy to offset any aid reduction made related to the choice program. Because this property tax levy was included in partial school revenues under the two-thirds funding calculation, total funding for general school aids was increased by two-thirds of the amount of the choice lapse, which partially offset the statewide reduction amount.

While the choice program was funded from a separate appropriation that was excluded from the definition of state school aids and partial school revenues for the purpose of calculating two-thirds funding, the provisions requiring the general school aids reduction and allowing districts to levy to offset the aid reduction caused the estimated cost of the choice program to increase partial school revenues. This effective inclusion of the estimated costs of the choice program in partial school revenues resulted in a higher funding level for general school aids than there would otherwise have been in the absence of the aid reduction and levy offset provisions. For some districts, the additional aid received under the equalization aid formula was greater than the initial choice reduction. Other districts did not receive enough additional aid to offset the choice reduction.

Under 2001 Act 16, the general school aid reduction for non-MPS school districts was deleted. As a result, 1999-00 and 2000-01 were the only years districts other than MPS had their general aid reduced for the choice program. Currently, general school aids for MPS are reduced by an amount equal to 45% of the total cost of the choice program, which is comparable to the net

reduction incurred by MPS under prior law. The amount levied by MPS to offset the choice reduction was not counted in partial school revenues, meaning no additional general school aid was generated by this choice levy for distribution to all districts under the equalization aid formula. This provision resulted in the general fund paying for 55% of the choice program and MPS for 45%. Other than MPS, all school districts' aid payments and property tax levies are not affected by the current choice program funding structure. The elimination of the state's two-thirds funding commitment in 2003 Act 33 did not affect the 55% general fund / 45% MPS funding split for the program.

Based on the October 15, 2006, general school aids distribution prepared by DPI, an estimated total of \$49.7 million will be reduced from the general school aids otherwise paid to MPS to partially fund the choice program in 2006-07. This \$49.7 million aid reduction from MPS represents 7.2% of the district's estimated 2006-07 aid eligibility. The state's general fund bears the remaining \$60.8 million cost of the choice program.

Table 2 summarizes state funding for the choice program since its inception. Total funding for the program has increased from \$0.7 million in 1990-91 to an estimated \$110.5 million in 2006-07. The per pupil amount and aid reductions shown in the table are those determined under the relevant statutory provisions that applied in the indicated year. The total state payment and aid reduction figures are based on the October general school aids distribution prepared by DPI. The final figures may have been adjusted based on final choice participation and aid eligibility data. Finally, it should be noted that the choice program funding data in Table 2 reflect only the amount and incidence of the aid reduction from the general school aids appropriation. The interactions of the choice program with the revenue limit and equalization aid formulas and the state's two-thirds funding of partial school revenues described earlier

**Table 2: State Funding of the Milwaukee Parental Choice Program**

	Aid Membership	Per Pupil Amount	Choice Program Aid Estimate (in Millions)	MPS		All Other Districts	
				Reduction (in Millions)	Percent of Aid	Total Reduction (in Millions)	Percent of Each District's Aid
1990-91	300	\$2,446	\$0.7	\$0.7	0.3%	\$0.0	0.0%
1991-92	512	2,643	1.4	1.4	0.5	0.0	0.0
1992-93	594	2,745	1.6	1.6	0.6	0.0	0.0
1993-94	704	2,985	2.1	2.1	0.7	0.0	0.0
1994-95	771	3,209	2.5	2.5	0.8	0.0	0.0
1995-96	1,288	3,667	4.6	4.6	1.2	0.0	0.0
1996-97	1,616	4,373	7.1	7.1	1.6	0.0	0.0
1997-98	1,497	4,696	7.0	7.0	1.5	0.0	0.0
1998-99	5,761	4,894	28.7	28.7	5.6	0.0	0.0
1999-00	7,575	5,106	39.1	19.5	3.4	19.5	0.6
2000-01	9,238	5,326	49.0	24.5	4.1	24.5	0.7
2001-02	10,497	5,553	59.4	26.7	4.4	0.0	0.0
2002-03	11,304	5,783	65.6	29.5	4.7	0.0	0.0
2003-04	12,882	5,882	76.2	34.3	5.3	0.0	0.0
2004-05	14,071	5,943	87.4	39.3	6.0	0.0	0.0
2005-06	14,604	6,351	93.7	42.2	6.2	0.0	0.0
2006-07*	17,000	6,501	110.5	49.7	7.2	0.0	0.0

\*Estimated.

are not addressed in Table 2.

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### Legal Challenges

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Once the Milwaukee parental choice program was enacted in 1990, its legality was immediately challenged. In May, 1990, the State Supreme Court was petitioned by several teacher, administrator, and parent groups and the Milwaukee branch of the NAACP to review the program. The petitioners argued that the program was unconstitutional because it violated: (1) the doctrine that public funds may be expended for only public purposes because the program "contains no educational controls, measures or standards of accountability;" (2) the state constitutional requirement that schools be as uniform as practicable; and (3) the state constitutional provision prohibiting the Legislature from passing a private or local provision as part of a multi-subject bill.

Although the State Supreme Court denied the request, six private schools in Milwaukee and several pupils and their parents wishing to participate in the program brought an action before the Circuit Court of Dane County (Davis v. Grover) seeking to compel the State Superintendent to immediately implement the program and to prohibit the State Superintendent from imposing any requirements on participating schools beyond those already specified in the parental choice law. The parties who previously requested the Supreme Court to review the program joined as intervenors in the Circuit Court action asking again that the law be declared unconstitutional.

In August, 1990, the Circuit Court ruled that the program was not unconstitutional. With regard to the public purpose challenge, the Court concluded that education is a public purpose and that the choice program is the Legislature's attempt "to improve the quality of education to the benefit of the entire state." Further, the Court held that the legislation "has sufficient accountability and

control to maintain its public purpose." With regard to the uniformity clause challenge, the Court reasoned that the private schools participating in the program do not become public school districts even though they accept public school students and are, therefore, not required to meet the statutory standards required of public school districts. Finally, the Court dismissed the local/private bill challenge by concluding that the legislation is intended to have "a direct and immediate effect on a specific statewide concern or interest" and, therefore, is "neither a local nor a private law."

In addition, the Circuit Court ruled that while the State Superintendent has the authority to ensure that participating schools meet the requirements both of the parental choice law and of other state and federal provisions, "he may not insist on compliance in a manner more onerous or demanding than that insisted upon for other participating programs and public schools." The Circuit Court opinion also agreed with the U.S. Department of Education that the private schools in the program were not required to comply with federal and state laws regarding education for handicapped children. While the private schools may not deny qualified handicapped students access to their program, the responsibility to offer them a free and appropriate education still rests with MPS.

In November, 1990, the Court of Appeals reversed the Circuit Court decision and declared the program unconstitutional by concluding that it was a local/private provision passed as part of a multi-subject bill. The Court of Appeals did not address the other two constitutional challenges previously dismissed by the Circuit Court. In March, 1992, the State Supreme Court, by a 4-3 vote, reversed the Court of Appeals decision and ruled that the choice program was not unconstitutional.

In 1995 Act 27, the choice program was

expanded to include sectarian schools and a number of other changes were made to the program. The Act 27 changes were challenged in court and a preliminary injunction prohibiting implementation of the Act 27 changes to the program was issued by the Dane County Circuit Court. An original action for removal of the case from the Circuit Court was brought before the Wisconsin Supreme Court and, on March 29, 1996, the Supreme Court issued a decision stating that it was evenly divided on the issues. As a result, the matter was returned to the Circuit Court and the preliminary injunction was continued.

On August 15, 1996, the Dane County Circuit Court made permanent the injunction relating to the expansion of the program to sectarian schools, but lifted the injunction as to nonsectarian schools, which allowed the provisions of Act 27 to take effect for nonsectarian schools.

On January 15, 1997, the Dane County Circuit Court issued a ruling that found that the Act 27 expansion of the program to sectarian schools violated Article I, Sec. 18 of the Wisconsin Constitution (prohibiting state support for religious societies) and the public purpose doctrine. The program, as it relates to nonsectarian schools, was determined to be constitutional. However, the Court found that the Act 27 provisions relating to the program were a local or private bill in violation of Article IV, Sec. 18 of the state Constitution. Under a stipulation before the Court, the program continued to operate, as modified by Act 27, for nonsectarian schools in 1996-97 and 1997-98.

On August 22, 1997, a majority of the Court of Appeals concluded that the Act 27 expansion of the choice program to sectarian schools was invalid under Article I, Sec. 18 of the Wisconsin Constitution because it directed payments of money from the state treasury for the benefit of religious societies. On June 10, 1998, the Wisconsin Supreme Court reversed the decision of the Court

of Appeals and upheld the constitutionality of the amended choice program (Jackson v. Benson). In accordance with this ruling, the injunction barring the implementation of the amended choice program was dissolved and the program expansion to sectarian schools took effect in 1998-99. Finally, on November 9, 1998, the U.S. Supreme Court declined, without comment, to hear an appeal stemming from the Wisconsin Supreme Court decision.

While the U.S. Supreme Court declined to hear an appeal on the Wisconsin case, on June 27, 2002, the Court upheld the constitutionality of the Ohio Pilot Project Scholarship Program in Zelman v. Simmons-Harris. Under the Ohio program, families in the Cleveland School District are provided tuition aid to attend participating public or private schools of the parent's choosing and tutorial aid for students who choose to remain enrolled in public school. Sectarian and nonsectarian schools in the Cleveland School District and public schools in adjacent districts are allowed to participate, and aid is distributed based on the financial need of the parents and the educational option chosen for the student. The Court held that the Ohio program did not violate the Establishment Clause of the First Amendment of the U.S. Constitution because it was enacted for a valid secular purpose, is neutral with respect to religion, permits participation of various types of schools, and provides assistance directly to a broad class of citizens who direct aid to sectarian schools as a result of their independent and private choice.

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### **Program Evaluation**

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Five reports were prepared for DPI by Professor John Witte of UW-Madison evaluating the first five years (1990-91 through 1994-95) of the program. In general, the evaluations concluded that: (a) the program had accomplished the purpose of making alternative school choices

available to low-income families whose children were not succeeding in school; (b) parents were very satisfied with the program and have been highly involved in their children's education with attendance rates comparable to the MPS average for elementary schools; (c) the attrition rate in the program declined during the first four years and leveled off in the fifth year, but in the last two years evaluated, was comparable to pupil mobility rates in MPS; and (d) when test scores were controlled for gender, race, income, grade, and prior achievement, there was no systematic evidence that choice students do either better or worse than MPS students on achievement tests.

As required by 1989 Act 336, the Legislative Audit Bureau (LAB) released an evaluation of the Milwaukee choice program in February, 1995. LAB agreed with Professor Witte's conclusions regarding parental satisfaction with, and involvement in, the program, attendance rates for choice pupils, and attrition rates. However, the Audit Bureau found that his conclusions regarding comparative academic performance were stronger than could be supported by the limited data available due to factors such as pupil attrition and small sample sizes. In 1993-94, only 145 of the 733 pupils had participated since the program's second year or earlier. The LAB concluded, in fact, that no conclusions could be drawn.

In the 1995 evaluation, the Audit Bureau indicated that the program had not had a substantial fiscal effect on MPS for two reasons. First, the program had not diverted a large number of students from MPS and had only reduced the increase in MPS enrollment since the program began. Second, the loss of revenue experienced by MPS did not appear to have impeded the district's ability to fund educational activities for other students during the period covered by the LAB evaluation. Choice payments never equaled more than 0.8% of the district's equalization aids during the period covered by the LAB evaluation.

As required by 1995 Act 27, the Audit Bureau

released a second evaluation of the program in February, 2000. LAB surveyed participating families about the choice program, and found that most respondents heard about the program through informal sources such as friends or relatives, and that most selected choice schools based on perceived educational quality. Of the choice schools surveyed, LAB determined that nearly three-quarters could be classified as religious. While the Audit Bureau noted that the performance of students in MPS and choice schools could not easily be compared given that not all schools administer the same standardized testing, nearly 90% of the choice schools that responded to the Audit Bureau surveys submitted to at least one form of independent quality review or performance measurement and that all schools reported compliance with the statutory performance standards that were selected.

With respect to the possible negative fiscal effects of the choice program on MPS, the Audit Bureau noted that a full cost-benefit analysis of the program would require making assumptions about the choice program. LAB noted, however, that while total revenue received by MPS was not significantly affected by the choice program, costs to MPS property taxpayers were higher than they would have been in the absence of the choice program, given that MPS could increase its property

tax levy to offset lost equalization aid. The Audit Bureau also noted that, in the context of state funding of two-thirds of partial school revenues in place at the time of evaluation, total state aid to MPS had increased, while total property taxes had decreased since the start of the choice program.

Another framework for evaluation of the choice program was established in 2005 Act 125. Under that act, annually from 2006 through 2011, choice schools are required to provide the scores of all standardized tests that it administers to the School Choice Demonstration Project, a national collaboration of researchers, currently based at Georgetown University, designing school choice program evaluations. LAB is required to review and analyze the standardized test score data received from the School Choice Demonstration Project. Based on its review, LAB is required to report to the Legislature annually from 2007 to 2011 on: (a) the results of standardized tests administered by choice schools; (b) the scores of a representative sample of choice pupils on the Wisconsin knowledge and concepts examinations administered in the 4<sup>th</sup>, 8<sup>th</sup>, and 10<sup>th</sup> grades and the Wisconsin reading comprehension test administered in the 3<sup>rd</sup> grade; and (c) the scores of a comparable group of MPS students on the knowledge and concepts examinations and reading comprehension tests.





**APPENDIX**

**Milwaukee Parental Choice Program Headcount and FTE  
2006-07 School Year**

School Name	3 <sup>rd</sup> Friday in September		Summer School FTE
	Headcount	FTE	
Agape Center of Academic Excellence, Inc.	92	81.6	
Atlas Preparatory Academy, Inc.	691	664.6	
Atonement Lutheran School	90	84.8	
Believers in Christ Christian Academy	225	219.4	
Bessie M. Gray Prep Academy	126	116.0	
Blessed Sacrament School	32	30.0	
Blyden Delany Academy	90	88.4	4.0
Carter's Christian Academy	21	19.4	
Catholic East Elementary School	89	85.5	
CEO Leadership Academy	166	166.0	
Ceria M. Travis Academy, Inc.	372	368.0	23.0
Christ Kids Academy of Excellence	29	27.4	
Christ Memorial Lutheran School	75	75.0	
Christ St. Peter Lutheran School	99	92.5	
Christian Faith Academy of Higher Learning	158	148.4	
Clara Mohammed School	192	187.2	
Community Vision Academy LTD	82	73.0	
Concordia University School and Institute for LIGHT	86	82.0	
Corpus Christi School	133	124.5	
CrossTrainers Academy	28	28.0	
Destiny High School	86	86.0	
Divine Savior Holy Angels High School	21	21.0	
DJ Perkins Academy of Excellence	58	55.2	6.0
Dr. Brenda Noach Choice School	147	143.8	
Early View Academy of Excellence	323	313.4	4.0
Eastbrook Academy	124	120.0	5.0
Elijah's Brook God's Nation Children School	52	50.0	
Emmaus Lutheran School	111	104.6	
Excel Academy	215	207.0	
Excel Learning Academy	96	90.0	9.0
Fairview Lutheran School	27	24.5	
Family Academy	7	5.8	
Family Montessori School	42	39.0	
First Steps Christian Learning Academy	11	10.6	
Garden Homes Lutheran School	197	189.0	
Gospel Lutheran School	55	51.5	
Grace Preparatory School of Excellence	15	11.0	
Greater Holy Temple Christian Academy	390	368.4	
Harambee Community School	448	425.6	
Hickman Academy Preparatory School	266	252.8	

School Name	3 <sup>rd</sup> Friday in September		Summer School FTE
	Headcount	FTE	
Holy Redeemer Christian Academy	311	304.2	
Holy Wisdom Academy	208	196.5	3.0
Hope Christian School	236	236.0	1.0
Hope Middle School	76	76.0	1.0
Institute for Career Empowerment Inc.	148	148.0	
Jared C. Bruce Academy	226	220.8	
Johnson Christian Academy, Inc.	89	82.6	
Keal Preparatory School, Inc.	6	6.0	
Kindergarten Plus	20	18.8	
King's Academy Christian School	165	159.8	
LaBrew Troopers Military University School	168	164.0	
Lutheran Special School & Education Services	27	27.0	
Malaika Early Learning Center	22	17.6	
Marquette University High School	25	25.0	
Mary Queen of Martyrs	220	209.0	
Messmer Catholic Schools	945	933.5	5.0
Milwaukee Lutheran High School	194	194.0	
Milwaukee Montessori School	21	20.0	
Milwaukee Seventh Day Adventist School	44	44.0	
Mother of Good Counsel School	155	152.5	
Mount Calvary Lutheran School	164	158.0	
Mount Lebanon Lutheran	78	74.0	
New Testament Christian Academy	27	27.0	
Noah's Ark Preparatory	147	143.8	
Northwest Lutheran School	80	77.0	
Notre Dame Middle School	90	90.0	2.0
Nubian Preparatory Learning Academy	9	8.2	
Nzingha Institute of Creative Learning for Living	60	60.0	
Oklahoma Avenue Lutheran School	22	20.0	
Our Lady of Good Hope School	74	70.0	
Our Lady of Sorrows School	147	141.0	
Our Lady Queen of Peace Parish	136	129.0	
Paige II University School, Inc.	14	12.8	
Parklawn Christian Leadership Academy	219	210.6	
Pius XI High School	261	261.0	
Prince of Peace	360	349.6	
Resurrection Christian Academy	48	44.8	3.0
Risen Savior Lutheran School	140	132.0	
Saint Adalbert School	421	405.4	
Saint Anthony School	966	909.2	23.0
Saint Bernadette School	85	81.5	
Saint Catherine of Alexandria	71	67.5	
Saint Catherine School	205	195.8	6.0
Saint Charles Borromeo School	24	23.5	
Saint Gregory the Great Parish School	81	78.0	

School Name	3 <sup>rd</sup> Friday in September		Summer School FTE
	Headcount	FTE	
Saint Joan Antida High School	298	298.0	
Saint John Kanty School	136	129.2	
Saint John's Evangelical Lutheran	24	22.0	
Saint Josaphat Parish School	195	186.6	
Saint Leo Catholic Urban Academy	162	156.4	
Saint Marcus Lutheran School	243	231.0	6.0
Saint Margaret Mary School	114	109.0	
Saint Martini Lutheran School	207	197.0	
Saint Peter-Immanuel Lutheran School	102	98.0	
Saint Philip Neri Catholic School	141	136.0	
Saint Philip's Lutheran School	96	91.5	
Saint Rafael the Archangel School	269	255.8	
Saint Roman Parish School	51	46.5	
Saint Rose Catholic Urban Academy	164	158.0	
Saint Sebastian School	111	109.0	1.0
Saint Thomas Aquinas Academy	84	79.0	
Saint Vincent Pallotti School	71	66.5	
Salam School	300	287.5	14.0
Seeds of Health	83	72.2	
Sharon Junior Academy	52	49.5	
Sherman Park Lutheran School/Preschool	31	26.0	
Siloah Lutheran School	149	142.6	
STS Christian Academy	9	9.0	
Tamarack Community School	125	119.4	
Teenpreneur #2	83	81.4	
Texas Bufkin Academy	66	64.4	
The AppleCrest Preparatory Leadership Academy	15	14.2	1.0
The Hope School	272	272.0	3.0
Travis Technology High School	98	98.0	
Trinity Christian Academy for Nonviolence	129	122.6	
Urban Day School	586	548.0	26.0
Veritas Academy	13	12.0	
Victory Christian Academy	56	56.0	
Victory Preparatory Academy	55	52.2	
Washington DuBois Christian Leadership Academy	161	152.6	15.0
Wisconsin Lutheran High School	196	196.0	
Word of Life Evangelical Lutheran School	17	16.2	
Yeshiva Elementary School	129	124.2	
Young Minds Preparatory School	<u>56</u>	<u>54.0</u>	<u>      </u>
Total (Unaudited Numbers) *	17,951	17,275.4	161.0

\*The aid membership on which choice program payments are made is equal to the average number of FTE pupils enrolled on the third Friday in September and the second Friday in January, plus the summer school FTE.