

Senate Committee on Education  
April 21, 2021

**Wisconsin Department of Public Instruction  
Testimony for Information on Senate Bill 41**

The Department of Public Instruction (DPI) appreciates the opportunity provided by Chairwoman Darling to provide this written testimony for information on 2021 Senate Bill 41 (SB 41). What follows is background information and an analysis of the provisions of the bill.

**Background – WPCP Eligibility Provisions**

The private school choice programs in Wisconsin include the Milwaukee Parental Choice Program (MPCP), the Racine Parental Choice Program (RPCP) and the Wisconsin (statewide) Parental Choice Program (WPCP).<sup>1</sup> Schools participating in the program receive a state aid payment for each eligible student on behalf of the student's parent or guardian.

Determination of which program a student is eligible for is based on where in Wisconsin a student resides. If a student resides in the City of Milwaukee, they are eligible to apply to the MPCP. If a student resides in the Racine Unified School District, they are eligible to apply to the RPCP. If a student resides outside of the City of Milwaukee and the Racine Unified school district, they are eligible to apply to the WPCP. Additionally, applicants are required to meet income and age requirements and may be required to meet an application grade or prior year attendance requirement.<sup>2</sup>

Choice students are required to reapply each year. Students who participated in any choice program in the prior year and students on a choice waiting list in the prior year applying to the same choice program are not, however, required to provide income documentation and meet the income requirement each year.

Students in the expanded choice programs are funded indirectly with aid withheld from their resident school districts. School districts receive a nonrecurring revenue limit exemption for choice withholdings and may raise local property taxes to account for the loss. In the year following initial enrollment in a choice school, choice students are included in resident districts' aid membership counts, but the specific amounts generated

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<sup>1</sup> The Special Needs Scholarship Program is an additional private school choice program, but has specific eligibility requirements that are not subject to the provisions of Assembly Bill 59.

<sup>2</sup> For more information, please see the Student Applications (Information for Parents & Schools) webpage at <https://dpi.wi.gov/parental-education-options/choice-programs/student-applications>.

for a school district vary under the aid formula and as such do not often match up to the aid withheld.

The overall impact is that any new choice student is funded 100 percent by their resident school district in their first year. Revenues available to school districts to make up for aid withheld by the state include the tax levy, fund balance, or budget reductions.

In subsequent years, the choice student is included in general school aids. General aids are determined for each school district based on three main factors consisting of membership, property value per member, and how much each district spends per member compared to other districts. These are all relative factors so any changes in one district affects the distribution for everyone else. As a result, any aid generated by a choice student for a resident school district will affect aid for other school districts. As a school district's tax levy may equal up to their revenue limit minus general aid, any loss in aid may be made up on the levy. Alternatively, losses in aid may also be borne by budget cuts or a school district may use fund balances.

**Analysis - WPCP Eligibility Provisions:**

The bill changes the income limit criteria for the WPCP to match the MPCP and RPCP. DPI has an income limits resource<sup>3</sup> laying out current limits.

The application period for the WPCP for the 2021-22 school year began on February 1, 2021 and ends on April 15, 2021. As the application period has already begun, there would be impacts to making a change to the 2021-2022 income limit requirements for the WPCP and a limited opportunity if the bill became law for parents or guardians to submit an application under the changed eligibility provisions.

**Background - Open Enrollment:**

Under the full-time open enrollment program, students in grades kindergarten (including four-year-old kindergarten) to 12 may apply to attend any public school district in the state. Parents may apply for a child to attend four-year-old kindergarten, prekindergarten, early childhood education, and school-operated daycare only if the child's resident school district offers the same type of program and if the child is eligible for the program. A pupil is permitted to submit applications to no more than three nonresident school boards in any school year. There is no tuition cost to parents for participation in open enrollment. Parents of open enrolled pupils may be charged the same fees as resident pupils. Parents are responsible for transporting students to and from school.

2011 Wisconsin Act 114 created an alternative application procedure by which parents may apply for open enrollment at any time during a school year, if any of the following criteria are met:

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<sup>3</sup> The income limits resource is available from the DPI at [https://dpi.wi.gov/sites/default/files/imce/parental-education-options/Choice/Student Application Webpage/income limit all programs 2021-22 final.pdf](https://dpi.wi.gov/sites/default/files/imce/parental-education-options/Choice/Student%20Application%20Webpage/income%20limit%20all%20programs%202021-22%20final.pdf).

- The pupil's resident school board has determined that the pupil has been the victim of a violent criminal offense. The application must be made within 30 days of the determination by the resident school board;
- The pupil is or has been homeless in the current or preceding school year;
- The pupil has been the victim of repeated bullying and harassment, the bullying or harassment has been reported to the pupil's resident school board and, despite any action taken, the bullying or harassment continues;
- The pupil's or parent's residence has changed as a result of military orders. The application must be made within 30 days after the date the military orders were issued;
- The pupil moved into the state. The application must be submitted within 30 days after moving into the state;
- The pupil's residence has changed as a result of a court order or custody agreement or because the pupil was placed in or removed from a foster home or the home of a person other than the pupil's parent. The application must be made within 30 days of the pupil's change of residence;
- The pupil's parent, the nonresident school board, and the resident school board agree that attending the nonresident school district is in the pupil's best interests;
- The pupil's parent and the nonresident school board agree (but the pupil's resident school board disagrees) that attending the nonresident school district is in the pupil's best interests.

If the pupil's resident school board prevents the pupil from transferring, the parent may file an appeal with the DPI. The nonresident school board may deny an application under the alternative procedure for the same reasons it may deny applications submitted under the regular application procedure. The nonresident school board may also deny an application if it determines that the transfer is not in the pupil's best interests or that the criteria upon which the application is based do not apply to the pupil. Parents or guardians do not have appeal rights for a nonresident denial of an alternative application. The resident school board may deny an application if it determines that the transfer is not in the pupil's best interests or that the criteria upon which the application is based do not apply to the pupil.

In the 2019-20 school year over 65,000 students transferred to a nonresident school district under open enrollment.

**Analysis – Open Enrollment Provisions:**

Under the bill, during the 2020-21 and 2021-22 school years, if a pupil submits an open enrollment application using the alternative application procedure on the basis of the pupil's parent and nonresident school board agreeing that attending school in the nonresident school district is in the best interests of the pupil, the pupil's resident school board may not deny the application for any reason.

In the 2019-20 school year, there were 14,003 alternative open enrollment applications submitted with best interest of the pupil chosen as the reason for the application. Of these, only 92, or 0.66 percent, were denied by the resident district. Parents or guardians have appeal rights to the DPI under current law if the resident district denies an alternative application.

Under current law, full-time open enrollment applications for a student may be submitted to no more than three nonresident school boards in any school year. Open enrollment applications are rarely denied under the current law 3-district limit. For the spring 2020 regular application period, only 11 out of approximately 25,000 regular applications were denied under the 3-district limit. The Department does not have data available to suggest if this number would increase as it may currently be limited due to parents or guardians complying with the 3-district limit and not trying to apply to more.

It is unknown how many additional open enrollment applications would be submitted under the bill.

If you have questions regarding this information, please contact Grant Huber, Legislative Liaison, at [grant.huber@dpi.wi.gov](mailto:grant.huber@dpi.wi.gov).



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.  
330 East Kilbourn Avenue, Suite 725, Milwaukee, WI 53202-3141  
414-727-WILL (9455)  
Fax 414-727-6385  
www.will-law.org

April 21, 2021

**TESTIMONY OF THE WISCONSIN INSTITUTE FOR LAW & LIBERTY IN  
SUPPORT OF 2021 SENATE BILL 41**

Chairman Darling and members of the Senate Education Committee,

Thank you for the opportunity to submit testimony in support of Senate Bill 41. The Wisconsin Institute for Law & Liberty (WILL) believes that every student in Wisconsin deserves access to a high-quality education and this bill advances that principle by removing barriers in the Open Enrollment and Wisconsin Parental Choice Programs.

Senate Bill 41 expands access to both the Open Enrollment and Wisconsin Parental Choice Programs by removing the zip code barrier, which locks students into limited educational options based on their address.

The Open Enrollment Program is the state's largest school choice program with over 65,000 students last year choosing to attend a public school outside of their residential district. Our research<sup>1</sup> found that demand and utilization of this program have grown over the past 20 years. In fact, overall participation increases each year 3-6% (or approx. 2,000-4,000 students). However, over 9,000 applications (24%) were denied in the 2019-2020 school year by districts and the overwhelming reason for denial was space.

Furthermore, the COVID-19 pandemic highlighted families' interest and need for additional educational options. Without a doubt, more families are looking for the best educational options for their students outside of their assigned public schools. The program must be amended to respond to the increased demand. But the Open Enrollment Program limits applications to only three non-residential districts per year, which restricts families' options even further. SB 41 expands options for families by removing the three application limit for the 2021-2022 school year so families can find the school that best meets the educational needs of their child.

The Open Enrollment Program also allows students to apply outside of the traditional enrollment window by submitting an "alternative application" under certain circumstances, including "best interest for the child." Just last year, 14,000 of the 15,000 alternative applications were submitted for that reason. SB 41 prohibits a child's resident school district from denying a student transfer to a nonresidential district if both the parents and nonresidential district agree it's in the best interest of the child. This will help keep families seeking alternative education options from being denied access to a nonresidential public school.

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<sup>1</sup> Public School Choice in Wisconsin: A work in progress, January 2021, <https://www.will-law.org/wp-content/uploads/2021/01/publicschoolchoicev7.pdf>



SB 41 also increases access to the Wisconsin Parental Choice Program (WPCP) by raising the income threshold from 220% to 300%. Under the current WPCP, a family of four must have a yearly income of \$57,640 or less. By raising the income limit to 300%, families of four making \$78,600 will be eligible for the WPCP. Expanding access to the parental choice program will help more families access private education, which is especially important for Wisconsin families navigating the fallout of the economic downturn due to the pandemic.

Interest in the WPCP continues to grow as more private schools join the program and the program is able to respond to the increased demand. In 2019-2020, 307 schools participated in the program, educating nearly 10,000 students and growing participation in the program by more than 30%. SB 41 will help more students access the WPCP and attend a school of their choice.

The education landscape is changing and Wisconsin should be a leader in providing educational options for all students, regardless of where they live or what type of educational model they are looking for.

Thank you,

Libby Sobic  
Education Policy Director  
[libby@will-law.org](mailto:libby@will-law.org)



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# BARBARA DITTRICH

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STATE REPRESENTATIVE • 38<sup>th</sup> ASSEMBLY DISTRICT

April 21, 2021

## Senate Committee on Education

**RE: Rep. Dittrich Testimony on SB 41** - applications for the full-time open enrollment program in the 2020-21 and 2021-22 school years and the family income requirement for the Wisconsin Parental Choice Program in the 2021-22 school year.

Good Morning Committee Chair Darling and members of the Senate Committee on Education. I appreciate the opportunity to share with you my support for Senate Bill 41. I also want to thank Senator Kooyenga for his leadership in introducing this bill with me, which seeks to ensure more Wisconsin kids receive the best education suited to their needs and abilities.

SB 41 expands eligibility for school choice due to income restrictions for students seeking to enter the Wisconsin Parental Choice Program. Currently, income eligibility limits are set at 220% federal poverty level (FPL). This bill would expand that eligibility to 300% FPL, allowing more students the opportunity to receive a quality education while continuing to save taxpayers. Additionally, SB 41 would allow students the option to apply to an unlimited number of nonresident school districts. Further, it would prohibit school districts from denying full-time open enrollment applications submitted under the alternative application process, as long as both parents and respective school boards agree that attending the out of district school is in the best interest of the child. Currently, some Wisconsin students are still restricted due to zip code, unfairly preventing them from receiving the best education to set them on their way to achieving their life and career goals.

Wisconsin has successfully offered school choice to families in our state for over 25 years. If ever there was a time where Wisconsin craves school choice or more educational options in general, in greater numbers than ever, it is now. Closures and difficulties with online learning have left children in educational peril. Students, in some cases, have been found to be falling 6 months to more than a year behind in their learning because of the disruption brought on by the COVID-19 virus. Families need a full array of options to get their students back on track as quickly as possible. Simply put, SB 41 would provide better, educational options for families and students.

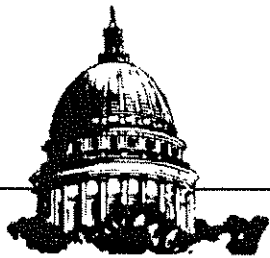
We need to ensure students in Wisconsin have the best possible opportunities open to them, regardless of zip code or family income level. I have had friends and constituents come to me,

sharing their frustration that they are unable to enroll their child in the school they feel is best for him or her, because they were just barely over the income eligibility cutoff.

I make no secret of the fact I am a proponent for a wide array of educational options for Wisconsin families and students. I myself have seen the benefits of multiple education options and strategies in my own family. My children have attended public, private, and homeschool education models over the course of their academic careers.

Especially in light of the restrictions placed on our students due to the COVID-19 pandemic and parents' frustrations, it is imperative we move this legislation forward. **Parents are the best judge as to what is the proper course for their child's education.** SB 41 would provide them a wider array of academic options. This bill is a win-win for Wisconsin taxpayers and families, but more importantly Wisconsin students.





**DALE KOOYENGA**  
STATE SENATOR · 5<sup>TH</sup> DISTRICT

State Capitol · P.O. Box 7882 · Madison, WI 53707-7882 · (608) 266-2512

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April 21, 2021

TO: Members of the Senate Committee on Education  
FR: Senator Dale Kooyenga  
RE: Support for Senate Bill 41

Committee Chair Darling and committee members, thank you for hearing Senate Bill 41, legislation that aims to expand education opportunities for children across Wisconsin.

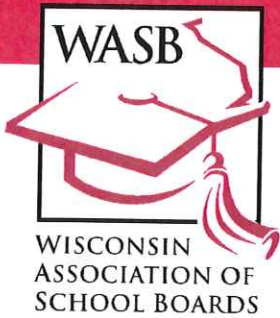
This bill will increase educational opportunities for children by modifying the Wisconsin Parental Choice Program (WPCP) by expanding the eligibility requirements to include families with income up to 300 percent of the federal poverty level. This change would bring the WPCP in-line with the Racine and Milwaukee Parental Choice Programs.

The bill also eliminates the limit on the number of open enrollment applications that can be submitted to a nonresident school district and prohibits denying an open enrollment application if the student's parent and nonresident school board agree that attendance at the school would be in the child's best interest.

For nearly a full year, schools in some of the largest districts in the state chose to remain closed for in-person instruction. Economically disadvantaged areas, both rural and urban, are more likely to have lower student achievement and higher achievement gaps between white and minority students. Early research suggests virtual instruction only exacerbates these issues.

School choice has given children the opportunity to escape failing schools by putting parents in the driver's seat of their child's education. This legislation increases school choice options and trusts parents to know what is best for their children including the choice between in-person and virtual education.

Thank you for attention to this matter. I respectfully ask for your support for Senate Bill 41.



122 W. WASHINGTON AVENUE, MADISON, WI 53703  
PHONE: 608-257-2622 • TOLL-FREE: 877-705-4422  
FAX: 608-257-8386 • WEBSITE: WWW.WASB.ORG

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Senate Committee on Education  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: April 21, 2021  
RE: OPPOSITION to SENATE BILL 41, relating to: applications for the full-time open enrollment program in the 2020-21 and 2021-22 school years and the family income requirement for the Wisconsin Parental Choice Program in the 2021-22 school year

Chairperson Darling and members of the committee, thank you for the opportunity to detail our opposition to the provisions of Senate Bill 41.

The Wisconsin Association of School Boards (WASB) is a voluntary membership association representing all 421 of Wisconsin's locally elected public school boards. Our members are responsible for, among other things, making an annual designation of available spaces for full-time open enrollment students, setting school district policies on full-time open enrollment, applying criteria to be considered when accepting or denying open enrollment applications and approving any discretionary transportation contracts.

The WASB opposes the nonstatutory provisions of Senate Bill 41 that would usurp local school board decision making and policy making in these areas for the remainder of the current 2020-21 school year and the coming 2021-22 school year. Our members have spoken clearly on this. The WASB's position is based on resolution language adopted by the full WASB membership at our Delegate Assembly.

Among other things, that resolution language places the WASB in support of:

- requiring that all open enrollment applications be submitted within the statutory window period (i.e., the regular application process);
- restoring the original statutory open enrollment window period so it begins on the first Monday in February and ends on the second Friday in March; and
- requiring open enrollment applications submitted outside the statutory window period (i.e., through the alternative application process) be subject to the sole approval by the school board of the resident district.

The WASB also opposes the nonstatutory provisions that would allow a student to apply for open enrollment in an unlimited number of districts. This would place unnecessary administrative burdens on school districts as students who are offered acceptance into multiple districts sift through these offers to decide which one they will accept. Meanwhile, school districts are put on hold despite statutory deadlines to which they must adhere.

The WASB also opposes the provisions in this bill that would increase the family income eligibility for the statewide voucher program (a/k/a the Wisconsin Parental Choice Program) to 300 percent of the federal poverty level for new applicants for the program in the 2021-22 school year.

This change would raise the family income eligibility for the statewide program for a family of four from \$57,640 to \$78,600 and to \$85,600 if the student's parents are married. For a family of five this bill would raise the family income eligibility from \$67,496 to \$92,040 and to \$99,040 if the student's parents are married.

According to the U.S. Census Bureau, median household income in Wisconsin (in 2019 dollars) was \$61,747. At a time when family income in many families has fallen—or is falling rather than rising—due to the pandemic, the need for this change is highly questionable.

The co-signer memo for Senate Bill 41 suggests that this change is necessary to allow parents and guardians more choice in the instructional mode they wish for their students; however, since the bill, at this point, primarily applies to next school year—i.e., the 2021-22 school year—this argument is likely illusory as we believe nearly all schools, public and private, are likely to be providing full-time in-person instruction next fall, particularly as the vaccination of students younger than age 16 becomes a realistic option.

Even without the passage of this bill and its proposed change in income eligibility, there will be additional slots opening up in the statewide voucher program next year because district enrollment caps will be raised from 5 percent to 6 percent and because more schools have been accepted to participate in the statewide program.

The DPI recently announced that the Wisconsin Parental Choice Program (i.e., the statewide voucher program), which allows students residing outside of the city of Milwaukee and Racine Unified School District to participate, has 307 private schools and school systems registered for the 2021-22 school year. That is an increase of 27 schools from the current 2020-21 school year.

The combination of additional participating schools and the increase in enrollment caps are likely to drain additional state aid from the school districts in which these additional voucher participant students reside.

WASB members, through the resolution process and their votes, have spoken clearly about their thoughts on the voucher program. The WASB opposes the current voucher funding mechanism, under which taxpayer-financed vouchers are provided to private schools by deducting state aid from public school districts. We believe this harms the majority of Wisconsin's students by diminishing resources available for public schools or requiring school boards to raise local property taxes to compensate for lost aid.

Creating two publicly supported education systems threatens the sustainability of public schools. Senate Bill 41 would further threaten the sustainability of public schools.

In closing, the WASB appreciates that the provisions Senate Bill 41 would be temporary in application. This is a positive aspect, but it does not remove our objection to these provisions. That objection is based on a resolution adopted by the full WASB membership at our Delegate Assembly.

Thank you for the opportunity to share our concerns with you. Please feel free to contact me if you have questions or would like additional information. I can be reached at [drossmiller@wasb.org](mailto:drossmiller@wasb.org) or (608) 512-1720.