



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #642

Milwaukee Parental Choice Program -- Assessments, Promotion, and Standards; School Accreditation; Staff Credentials; Hours of Pupil Instruction; and Provision of Information (DPI -- Choice and Charter)

[LFB 2009-11 Budget Summary: Page 528-533, #3-7]

CURRENT LAW

Certain statutory requirements are placed on the operations of public schools, private schools, and those private schools that participate in the Milwaukee parental choice program. Requirements on public schools are generally found in Chapters 115 to 121 of Wisconsin Statutes and cover school district organization and governance, personnel, facilities, curriculum and instruction, safety and health, pupil policies and services, and budget and finance. Much more limited requirements for private schools are focused on the purpose of the schools to provide private or religious-based education and not to circumvent the state's compulsory school attendance requirement, with additional requirements for curriculum and hours of instruction.

Schools participating in the Milwaukee parental choice program must meet the requirements for private schools as well as other statutory requirements specific to the choice program. Under these requirements, a choice school 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.
- meet at least one of the following standards: (a) at least 70% of the pupils in the program advance one grade level each year; (b) the school's average attendance rate for pupils in the program is at least 90%; (c) at least 80% of the pupils in the program demonstrate significant academic progress; or (d) at least 70% of the families of pupils in the program meet parental involvement criteria established by the school.

- administer a nationally-normed, standardized test in reading, mathematics, and science to choice pupils in the 4th, 8th, and 10th grades.
- achieve accreditation by December 31 of the third school year following the first school year in which it participates in the choice program. (This requirement does not apply if the school was approved for scholarship funding in the 2005-06 school year by Partners Advancing Values in Education).
- have teachers who have graduated from high school or been granted a declaration of equivalency of high school graduation.
- if the school is new to the program, submit to the Department of Public Instruction (DPI): (a) a copy of the school's current certificate of occupancy issued by the City of Milwaukee; (b) evidence of financial viability; and (c) proof that the school's administrator has participated in a fiscal management training program.
- annually submit to DPI: (a) an independent financial audit of the school conducted by a certified public accountant; and (b) evidence of sound fiscal practices.

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. For certain violations, the State Superintendent may issue an order barring a school from participating in the program in the current school year. If a school does not seek or has not achieved accreditation by the required dates or if a school's application for accreditation had been denied by an accrediting organization, the State Superintendent may issue an order barring a choice school from participating in the program in the subsequent school year. Finally, DPI may also withhold payment from a parent or guardian if the school attended by the child of the parent or guardian violates any statutory provision of the choice program.

GOVERNOR

Make the following changes to the choice program, effective beginning in the 2010-11 school year.

Pupil Testing. Require choice schools to administer to all choice pupils in the relevant grades: (a) the 4th, 8th, and 10th grade knowledge and concepts examination approved by the State Superintendent; (b) the 3rd grade standardized reading test developed by the Department; and (c) all tests required for public school pupils under the federal No Child Left Behind Act, which currently requires testing in reading and math each year in 3rd through 8th grades and once in high school, and in science once each in elementary, middle, and high school.

Pupil Promotion. Require choice schools to adopt a written policy specifying criteria for promoting choice pupils from 4th to 5th grade and from 8th to 9th grade, and require the policy to include a pupil's test scores, academic performance, teacher recommendations, and any other

academic criteria specified by the school. Prohibit a choice school from promoting a choice pupil unless the pupil satisfies the specified criteria.

Require choice schools to develop a policy specifying the criteria for granting a high school diploma to a choice pupil, which must include the pupil's academic performance and teacher recommendations. Prohibit a choice school from granting a high school diploma to any choice pupil unless the pupil has satisfied the specified criteria. Require a choice school to issue a diploma to a choice pupil who satisfactorily completes the course of instruction and any other requirements necessary for high school graduation.

Academic Standards. Require choice schools to adopt pupil academic standards in mathematics, science, reading and writing, geography, and history.

Accreditation. Require choice schools to achieve accreditation from an authorized organization by August 1 of the school year in which it first participates in the program. Require schools participating in the program on the effective date of the bill to achieve accreditation by August 1, 2010, unless the private school was approved for scholarship funding for the 2005-06 school year by Partners Advancing Values in Education (PAVE).

Staff Credentials. Require that all teachers and administrators in choice schools have at least a bachelor's degree from an accredited institution of higher education.

Hours of Instruction. Require choice schools to annually provide at least 1,050 hours of direct pupil instruction in grades 1 to 6 and at least 1,137 hours of direct pupil instruction in grades 7 to 12.

Provision of Information. Require choice schools to provide each applicant to the school with the following information: (a) the names and contact information for members of the school's governing body and for the school's shareholders, if any; (b) the status of the school as a for profit or not for profit organization; (c) the appeals process for rejected applicants; (d) a statement that the school agrees to permit public inspection and copying of its records as under state public records law; (e) a statement that the school agrees to provide public access to meetings of the governing body of the school as under state open meetings law; (f) a copy of the school's policies regarding granting a high school diploma, non-harassment, suspension and expulsion, and accepting or denying the transfer of credits for the satisfactory completion of coursework at another school.

Also, require a choice school to provide to any requestor the above information and: (a) the school's choice and non-choice pupil enrollment; (b) for each year of participation in the program, the number of choice and non-choice pupils in the school in the 4th, 8th, and 12th grade and the number of those pupils who advanced to the 5th or 9th grade or graduated from the school; (c) a copy of the school's academic standards; and (d) pupil scores on required standardized tests administered in the previous school year, to the extent permitted under the federal law.

Penalties. Specify that if a choice school fails to meet the following bill requirements,

the State Superintendent may issue an order barring the school from participating in the program in the current year: (a) administering the 3rd grade standardized reading test to all choice pupils in that grade; (b) issuing a high school diploma to a choice pupil who satisfactorily completes the school's requirements for high school graduation; (c) adopting pupil academic standards; (d) having all teachers and administrators hold at least a bachelor's degree from an accredited institution of higher education; and (e) providing the specified information to persons applying to the school or the specified information to any person requesting information.

Attachment 1 shows how the proposed requirements for choice schools in the bill compare to the current law requirements for public schools and private schools. Attachment 2 shows the penalty provisions for violations of the bill requirements. Both attachments include all choice program provisions in the bill, including those not directly addressed in this paper.

DISCUSSION POINTS

Background

1. As originally conceived, school vouchers were designed to provide a taxpayer-supported allotment directly to the parents of eligible pupils, who could in turn use the voucher at the private school to which they wished to send their child. Supporters of this approach argue that because eligible schools would have to compete for funding and pupils, there may be a greater incentive to provide better educational programming desired by a greater number of parents. In addition, because parents have the best interests of their child at heart and would know best the needs of their child, they would be able to choose what they felt was the best school among the various options. Proponents believed that eligible schools needed flexibility from state regulations to innovate and to be at risk of closing if they could not attract enough pupils. It was argued that competition among private schools would, in turn, spur innovation at public schools, which could be at risk of losing pupils to the private schools.

2. Opponents would argue that a number of practical issues may complicate the theory behind voucher programs. For parents to make an appropriate choice for where to send their children to school, certain baseline information about eligible schools would be necessary. Schools would also need to follow best practices regarding their financial operations to ensure their continued operation, which is not necessarily a topic parents would have the technical expertise to assess in making their decisions. Because taxpayers provide the funding for a voucher program, there is also the issue of how accountable the eligible voucher schools have to be to receive funding. Opponents indicate that, to the extent that taxpayer funding for voucher programs constrains the amount of funding available for public schools, a voucher program potentially weakens the system of public education that states are often constitutionally required to provide.

3. As enacted in 1989 Act 336, there were relatively few requirements placed on schools in the choice program, which was more limited in scope at that time. No more than 1% of MPS enrollment could participate in the program, and no more than 49% of a choice school's enrollment could consist of choice pupils. Choice schools had to comply with federal nondiscrimination laws, meet the health and safety codes applicable to public schools, meet one of

the four standards to continue to be eligible to participate in the program, and meet certain administrative deadlines. The State Superintendent was required to annually report to Legislature on data comparing MPS pupils to choice pupils on certain academic indicators and was authorized to conduct financial or performance audits of the program.

4. In a 1992 decision upholding the constitutionality of the choice program (Davis v. Grover), the State Supreme Court held that the program did not violate the uniformity clause or public purpose doctrine. In discussing the provision of public funds to private schools, the Court cited precedent that such provision "need only be accompanied by such controls as are necessary to fulfill the public purpose required." The Court noted that choice schools were subject to the same regulations as private schools, that the program was subject to evaluation, and that "parental choice preserves accountability for the best interests of the children." The Court found that the reporting and requirements in the program at the time provided reasonable state control.

5. The choice program expansion in 1995 Act 27 allowed sectarian schools to participate in the program, increased the participation limit to 15% of MPS enrollment, deleted the reporting provisions for the State Superintendent, deleted the percentage limit on the share of choice pupils in a choice school, and required that choice schools be subject to uniform financial accounting standards and provide for an annual independent financial audit.

6. These changes were found constitutional in a 1998 State Supreme Court decision (Jackson v. Benson). Among the issues considered by the Court were whether the choice program, as amended, violated the Establishment Clause of the U.S. Constitution by creating excessive entanglement between government and religion. The Court ruled that the choice program did not grant the state "the authority to impose a 'comprehensive, discriminating, and continuing state surveillance' over the participating sectarian private schools." The Court held that the enforcement of the "minimal standards" under the program would be consistent with the State Superintendent's existing duties to monitor the quality of education at all sectarian private schools and ensure that the educational purposes of the program are fulfilled. Further, it would not "involve the State in any way with the schools' governance, curriculum, or day-to-day affairs."

7. Most of the requirements on choice schools dealing with financial operations were enacted under 2003 Act 155. That act also created the penalty provisions under which the State Superintendent can immediately terminate schools from the program, bar schools from participating in the program in the current year, or withhold payment from parents of pupils in choice schools. The requirements that choice schools achieve accreditation and administer a nationally-normed standardized test in certain subjects to pupils in the 4th, 8th, and 10th grades were enacted in 2005 Act 125. That act also increased the enrollment limit for the program to 22,500 pupils.

8. Ultimately, it is the role of the Governor and Legislature, subject to review by the Courts if litigation ensues, to determine the appropriate level of state requirements to be placed on choice schools. The Legislature must by law establish those requirements, which may differ for public schools, choice schools, and private schools, and balance the competing policy goals that are inherent in a school choice program.

Accreditation and Academic Requirements

9. The bill would increase the academic requirements for choice schools. The bill would: (a) require additional testing of choice pupils; (b) require choice schools to specify criteria for promoting choice pupils to certain grades; (c) require choice schools to adopt academic standards; (d) require higher educational attainment by more staff at choice schools; and (e) increase the required hours of instruction in most grades at choice schools. AB 75 would also require that a choice school achieve accreditation by August 1 of the school year in which it first participates in the choice program.

10. Requiring a school to achieve accreditation prior to a school's participation in the choice program could be viewed as appropriate. Given that taxpayer funding would be provided to these schools, this bill provision could provide additional assurance that funds would be received by schools that have demonstrated some level of quality in their educational programming and financial operations prior to entering the choice program.

11. Because accreditation is a multi-year process, the bill provision requiring schools to be accredited before participating in the choice program would limit the ability of start-up schools to enter the program. To the extent that one of the policy goals of a choice program is to encourage innovation and respond to the desires of parents, the bill provision could be detrimental to that goal. Further, to the extent that the bill would involve the state in the curriculum and day-to-day affairs of choice schools, it would potentially provide additional state entanglement in the affairs of the schools.

12. Generally, the academic requirements under the bill are also addressed in some manner during the school accreditation process. It could then be argued that the academic requirements and the first-year accreditation requirement are to some extent duplicative. The academic requirements in the bill would be enforced by DPI and subject to legislative change and oversight, but potentially provide additional state entanglement in the affairs of choice schools. Accreditation requirements would be set and enforced by a non-state entity, and the specific requirements of accrediting agencies would not be subject to legislative review.

13. The Committee could choose to maintain the current law three-year time frame for a choice school to achieve accreditation and specify that the bill provisions related to academic requirements (pupil testing, pupil promotion, academic standards, staff credentials, and hours of instruction) would apply to a school in the program until it achieves accreditation. This alternative would allow new schools to participate more easily in the choice program while still requiring them to meet additional standards. Once the schools achieve accreditation, the activities required by an accrediting agency to maintain that status would be the main method of ensuring ongoing academic quality in choice schools.

Provision of Information/Public Records and Open Meetings Law

14. Under the bill, choice schools would be required to provide certain information about the school to each person who applies to attend. This information would include: (a) a statement that the school agrees to permit public inspection and copying of any record of the school

to the same extent as required of, and subject to the same terms and enforcement provisions that apply to, an authority under state public records and property law; and (b) a statement that the school agrees to provide public access to meetings of the governing body of the school to the same extent as is required of, and subject to the same terms and enforcement provisions that apply to, a governmental body under state open meetings law.

15. Public school districts are legal entities created under state law, governed by publicly-elected school boards and administered by public employees, for the purpose of providing education to those children living within school district boundaries. A variety of sources at the state and federal level provide data on public schools at the school, district, and state levels on student achievement, attendance, and behavior and school district programming, staffing, finances, and demographics.

16. The public records and open meetings law apply to school districts to provide information to the taxpayers and citizens about these entities. The declarations of policy preceding both public records law and open meetings law in Chapter 19 of Wisconsin Statutes refer to representative government being dependent upon an informed electorate, thus entitling citizens to "the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them" and "the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business."

17. Private schools, including those schools in the choice program, are privately controlled with the primary purpose of providing private or religious-based education. Given that they do not have same purpose, scope, governance structure, or role in representative government as public schools, it could be viewed as inappropriate to specify what information the schools have to provide to applicants and to the general public and to require private schools in the choice program to meet requirements of the public records and open meetings law as a condition of participating in the choice program. Further, to the extent that these requirements would involve the state in the governance of choice schools, they could potentially provide additional state entanglement in the affairs of the schools.

18. Because choice schools receive taxpayer funding to support some portion of their operations, however, it could be considered appropriate that the schools be required to provide certain information to applicants and the general public and agree to the same standards for public records and open meetings as other taxpayer-funded entities. Schools would still have the option of maintaining the private nature of their activities by not participating in the choice program.

19. The Committee could choose to specify that the public records and open meetings statements would only be required for schools with a certain proportion of choice pupils. Under this alternative, those schools that serve a high proportion of choice pupils, and thus receive a greater proportion of their funding from taxpayers, would be subject to more stringent standards for openness. Those schools with a smaller proportion of choice pupils would not be under these requirements.

20. While the percentage varies from year to year, on a statewide basis, public schools typically receive approximately 90% of their funding from state and local property taxpayers, with

the remainder coming from federal aid and other local non-property tax revenue. A corresponding requirement could be enacted specifying that choice schools with 90% or more of their total enrollment participating in the choice program would be required to provide statements agreeing to standards in the public records and open meetings law. Based on the third Friday enrollment count from September, 2008, 78 schools participating in the choice program had 90% or more of their enrollment participating in the choice program, while 49 schools were below that threshold. To smooth out yearly fluctuations in enrollment and choice participation, this figure could be calculated using a three-year average.

Penalties

21. Under current law, certain violations by choice schools can result in the State Superintendent issuing an order barring a school from participating in the program in the current school year. If a choice school violates any of the statutory provisions of the program, the State Superintendent is authorized to withhold payment from a parent or guardian if their child attends that school. The penalties for a choice school for violating the additional requirements under the bill would generally fall into one of these two categories. Attachment 2 summarizes the penalties that would apply to violations of current choice program law and to the additional requirements under AB 75 (including provisions in the bill related to the choice program that are not directly addressed in this paper).

22. Under the bill, violating certain academic requirements (such as required staff credentials) could result in a school being barred from the program, while violating others (such as hours of pupil instruction) would not. Further, certain current law violations that are more administrative in nature (such as not submitting the notice of intent to participate) could result in the harsher penalty of a school being barred from the program, while certain bill violations that are more substantive in nature (such as not administering most testing required of pupils) could result in the more lenient penalty of withholding payments.

23. To simplify choice program law, the Committee could choose to give the State Superintendent the authority to issue an order barring a school from participating in the program in the current school year for violating any provision of choice program law and clarify that DPI's current law authority to withhold payment would apply to any violation. Under current law, the State Superintendent has the authority to bar schools from the program for violations of the program's financial requirements. This option would extend the same penalty provisions to violations of current law and bill provisions related to academic requirements.

24. The Committee could also choose a more limited option to standardize certain penalties. Under the bill, schools that fail to administer the 4th, 8th, and 10th grade knowledge and concepts examination or any of the tests required under NCLB other than the 3rd grade reading test could have their payments withheld, but could not be barred from the program in the current year. This is the same penalty as for the current law requirement for choice schools to administer certain nationally-normed, standardized tests. Under the bill, a school that fails to administer the 3rd grade reading test could, however, be barred from the program in the current year.

25. Also, under current law, the provisions related to the choice program are found in s.

119.23 of the statutes, and the provision for withholding of payments specifically applies to violations of that section. The bill requirements for choice schools regarding pupil promotion are drafted in s. 118.33 of the statutes with the public school provisions for pupil promotion. The only reference to pupil promotion in s. 119.23 under the bill relates to issuing high school diplomas, for which there would be a penalty for violating this requirement of being barred in the current year.

26. With respect to these provisions, the Committee could choose to specify that failure to administer any required test could result in the withholding of payments and that violations of all pupil promotion provisions could result in a school being barred from the program.

27. If the Committee would adopt the additional choice requirements but delete the penalty provisions from the bill, the default penalty provision under which DPI could withhold payments would apply to the other requirements, with the exception of the pupil promotion requirements.

ALTERNATIVES

A. Accreditation and Academic Requirements

1. Approve any or all of the Governor's recommendations regarding additional requirements in the following areas for schools participating in the Milwaukee parental choice program:

- a. pupil testing
- b. pupil promotion
- c. academic standards
- d. accreditation
- e. staff credentials
- f. hours of instruction
- g. all of the above

2. Approve the Governor's recommendation to change the date by which a choice school is required to achieve accreditation, but delete the recommendations regarding pupil testing, pupil promotion, academic standards, staff credentials, and hours of instruction. Under this alternative, the state would rely on the accreditation process to attain educational goals under the choice program, but would not modify other requirements.

3. Delete the Governor's recommendation to change the date by which a choice school is required to achieve accreditation. Specify that the Governor's recommendations regarding pupil testing, pupil promotion, academic standards, staff credentials, and hours of instructions apply until a school achieves accreditation. Under this alternative, the state would rely on specific statutory requirements to attain educational goals under the program, but would not modify accreditation requirements.

4. Delete all provisions related to pupil testing, pupil promotion, academic standards, accreditation, staff credentials, hours of instruction.

B. Provision of Information/Public Records and Open Meetings Law

1. Approve the Governor's recommendation to require schools participating in the Milwaukee parental choice program to provide each applicant with certain specified information (including statements that the school agrees to permit public inspection and copying of its records as under state public records law and to provide public access to meetings of the governing body of the school as under state open meetings law) and to provide certain specified information to any person making a request of the school.
2. Modify Alternative 1 by specifying that the provision requiring choice schools to provide each applicant with statements agreeing to follow the public records and open meetings laws would apply only to those schools in which 90% or more of its total enrollment participates in the choice program, as calculated using a three-year average.
3. Modify Alternative 1 by deleting the provision requiring choice schools to provide each applicant with statements that the school agrees to follow state public records and open meeting laws.
4. Delete all provisions related to the provision of information by choice schools.

C. Penalties

1. Approve the Governor's recommendations regarding penalty provisions for the additional requirements under the bill.
2. Modify the Governor's recommendations by: (a) specifying that failure to administer any required test could result in the State Superintendent withholding payment from a parent or guardian; and (b) including violations of the pupil promotion provisions as a condition under which the State Superintendent may issue an order barring a school from participating in the choice program in the current year.
3. Delete provision and, instead, modify current law to specify that the State Superintendent could issue an order barring a choice school from participating in the program in the current year or withhold payment from a parent or guardian if the school attended by the child of the parent or guardian violates any statutory provision of the choice program.
4. Delete provision. (Current law under which the State Superintendent may withhold payments from a choice school would apply to most violations of the bill requirements.)

Prepared by: Russ Kava
Attachments

ATTACHMENT 1

Requirements for Public, Private, and Choice Schools Related to Provisions in Assembly Bill 75

	Public School Districts	Private Schools	Milwaukee Parental Choice Program Schools
Pupil Assessments	<p>Under state law, districts must administer the 4th, 8th, and 10th grade knowledge and concepts examination and the 3rd grade standardized reading test adopted by the State Superintendent to all pupils in those grades.</p> <p>Under the federal No Child Left Behind Act, all students must be tested in reading and math each year in 3rd through 8th grades and once in high school and in science once each in elementary, middle, and high school.</p>	No provision.	<p><i>Current Law:</i> Must annually administer a nationally-normed, standardized test in reading, mathematics, and science to choice pupils in the 4th, 8th, and 10th grades. May administer additional standardized tests to choice pupils.</p> <p><i>AB 75:</i> Same as public schools.</p>
Pupil Promotion	<p>Must adopt a written policy specifying criteria for promoting pupils from 4th to 5th and from 8th to 9th grade, which must include the pupil's score on the 4th and 8th grade knowledge and concepts examination, the pupil's academic performance, teacher recommendations, and any other academic criteria specified by the board. Promotion prohibited unless pupil satisfies criteria.</p> <p>Must develop a written policy specifying the criteria for granting a high school diploma (in addition to the number of credits required in particular subjects under state law). Criteria must include the pupil's academic performance and teacher recommendations. Granting a diploma is prohibited unless the pupil satisfies criteria.</p>	No provision.	<p><i>Current Law:</i> No provision.</p> <p><i>AB 75:</i> With respect to 4th and 8th grade promotion, same as public schools.</p> <p>With respect to high school diplomas, same as public schools, excluding provisions requiring credits in particular subjects. Also, require a choice school to issue a diploma to a choice pupil who satisfactorily completes the course of instruction and any other requirements necessary for high school graduation.</p>
Academic Standards	<p>Must adopt pupil academic standards in mathematics, science, reading and writing, geography, and history. May adopt the standards issued by the Governor as Executive Order #326, dated January 13, 1998.</p>	<p>Must provide a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health.</p>	<p><i>Current Law:</i> Same as private schools.</p> <p><i>AB 75:</i> Same as public schools.</p>

	Public School Districts	Private Schools	Milwaukee Parental Choice Program Schools
Staff Credentials	Must ensure that every teacher, supervisor, administrator, and professional staff member holds a certificate, license, or permit to teach issued by DPI, and that all instructional staff in charter schools established by a school district hold a DPI license or permit.	No provision.	<i>Current Law:</i> All teachers in a choice school are required to have graduated from high school or been granted a declaration of equivalency of high school graduation. <i>AB 75:</i> All teachers and administrators must have at least a bachelor's degree from an accredited institution of higher education.
Hours of Pupil Instruction	Must schedule at least 180 school days annually. Must annually schedule at least 437 hours of direct pupil instruction in kindergarten, at least 1,050 hours in grades 1 to 6, and at least 1,137 hours in grades 7 to 12. Scheduled hours include recess and time for pupils to transfer between classes but exclude lunch.	Must provide at least 875 hours of instruction each school year for each grade.	<i>Current Law:</i> Same as private schools. <i>AB 75:</i> Require the same number of hours as public school districts in grades 1 to 6 and 7 to 12.
Provision of Information	School boards and their employees are required to follow the procedures and requirements of the state public records law and open meetings law.	No provision.	<i>Current Law:</i> No provision. <i>AB 75:</i> Must provide each applicant with certain specified information, including statements that the school agrees to follow the public records law as it applies to an authority and the open meetings law for meetings of its governing body. Must also provide certain specified information to any person upon request.
Pupil Records	Must adopt written rules specifying the content of pupil records and the time during which pupil records shall be maintained. Must maintain a pupil's progress records for at least five years after the pupil ceases to be enrolled in the school. Must provide a pupil or the parent or guardian of a pupil with a copy of the pupil's progress records upon request. Must transfer to another school or school district within five days all pupil records for a specific pupil if the school receives written notice that the pupil intends to enroll or has enrolled in another school or school district.	No provision.	<i>Current Law:</i> No provision. <i>AB 75:</i> Must maintain progress records for each choice pupil attending the school while the pupil attends the school and for at least five years after the pupil ceases to attend the school. Specify that if a choice school ceases operating, it must immediately transfer all of the progress records of choice pupils to MPS. Require choice schools to provide a choice pupil or the parent or guardian of a choice pupil with a copy of the pupil's progress records upon request. With respect to five day transfer, same as public schools.

ATTACHMENT 2

Choice Program Penalty Provisions Under Current Law and Assembly Bill 75

	<p align="center">Violations for which the State Superintendent may issue an order barring a school from participating in the program in the current school year</p>	<p align="center">Violations for which the State Superintendent may withhold payment from a parent or guardian if the school attended by the child of the parent or guardian</p>
<p>Current Law</p>	<p>Failure to meet at least one of the four standards for pupil grade advancement, attendance, academic progress, or parental involvement.</p> <p>Failure to provide the notice of intent to participate.</p> <p>Misrepresentation of or failure to provide information relating to the certificate of occupancy, evidence of financial viability, or proof of attendance at the fiscal management training required of new schools.</p> <p>Failure to provide the independent financial audit or evidence of sound fiscal practices.</p> <p>Failure to refund to the state any overpayment made.</p>	<p>Applies to all other program violations, including:</p> <p>Failure to comply with federal nondiscrimination law.</p> <p>Failure to meet the requirement that all teachers have graduated from high school or been granted a declaration of equivalency of high school graduation.</p> <p>Failure to administer a nationally-normed, standardized test in reading, mathematics, and science to pupils attending the school under the choice program in the 4th, 8th, and 10th grades.</p> <p>Failure to exempt a choice pupil from participating in a required religious activity if the pupil's parent or guardian submits a written request for exemption from such activities.</p>
<p>Assembly Bill 75</p>	<p>Failure to administer the 3rd grade standardized reading test to all choice pupils in that grade.</p> <p>Failure to issue a high school diploma to a choice pupil who satisfactorily completes the school's requirements for high school graduation.</p> <p>Failure to adopt pupil academic standards.</p> <p>Failure to meet the requirement that all teachers and administrators have at least a bachelor's degree from an accredited institution of higher education.</p> <p>Failure to provide the information specified under AB 75 to persons applying to the school or the information specified under AB 75 to any person requesting information from the school.</p>	<p>Failure to provide at least 1,050 hours of direct pupil instruction in grades 1 to 6 and at least 1,137 hours of direct pupil instruction in grades 7 to 12 annually.</p> <p>Failure to administer to all choice pupils in the relevant grades the 4th, 8th, and 10th grade knowledge and concepts examination and all tests required for public school pupils under the federal No Child Left Behind Act.</p> <p>Failure to transfer pupil records to another school or school district if a choice pupil enrolls in another school or school district.</p>

	<p>Violations for which the State Superintendent may issue an order barring a school from participating in the program in the current school year</p>	<p>Violations for which the State Superintendent may withhold payment from a parent or guardian if the school attended by the child of the parent or guardian</p>
	<p>Failure to comply with provisions to maintain pupil progress records for the specified period of time and provide progress records to choice pupils and their parents or guardians.</p> <p>Failure to pay annual fee required with the notice of intent to participate.</p> <p>Failure to exempt a choice pupil from participating in a required religious activity if the pupil's parent or guardian submits a written request for exemption from such activities.</p>	

NOTE: Under the bill, there would be no specified penalty if a choice school violates the provisions regarding pupil promotion (except requirement to issue high school diplomas to eligible pupils).