



Wisconsin Briefs

from the Legislative Reference Bureau

Brief 14-11

September 2014

SCHOOL CHOICE OPTIONS IN WISCONSIN

OVERVIEW

A free public education is guaranteed by the Wisconsin Constitution in Article X, Section 3: "The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children..." Children in Wisconsin are generally required to attend school while they are between the ages of 6 and 18 years (Section 118.15, Wisconsin Statutes, "Compulsory school attendance.") and must participate in an educational program as defined by law or be considered truant. This brief discusses the public and private educational options available to parents of school aged children.

Within the category of public schools, parents have a number of options for educating their children. Among the options: parents may choose to send their child to the elementary or high school in the school district to which the child is assigned based on residency; an intradistrict school if offered by the district; a school in another public school district under the interdistrict open enrollment program; a brick-and-mortar charter school or a virtual charter school; a public school in a neighboring district under the School Integration Transfer Aid Program; and one or more classes at a University of Wisconsin System institution or technical college under the Youth Options Program or Course Options Program.

Nonpublic educational options include private schools or home schooling, generally at the parents' expense. However, any eligible low-income student in the Milwaukee and

Racine school districts, and a limited number of students in school districts throughout the state may apply to attend private schools through the state-funded Parental Choice Programs.

PUBLIC SCHOOLS

About 87% of the state's approximately one million elementary and secondary pupils are enrolled in schools in the state's 424 public school districts. Apart from certain extracurricular and other fees, a public education is provided at no cost to an enrolled student. Free transportation is also generally provided to eligible students, based primarily on the distance from a student's home to the school in which the pupil is enrolled. If a district contains multiple facilities, students are typically assigned to a particular elementary or secondary school based on location. Intradistrict choice allows students to transfer from the school in their assigned attendance area to other public schools within the same district. Intradistrict programs are developed at the local level without state involvement and permit selection of different programs or different schools in the district. Magnet schools offering specialized programs with high academic standards in subject areas such as mathematics, science, and the performing arts are examples of intradistrict choice.

Full-Time Open Enrollment Inter-District Transfers

Wisconsin's inter-district open enrollment program (also known as "Public School Choice") allows parents to apply to send their children to a school in a school district other

than the one in which they reside. Any student in grades kindergarten to 12 may apply to attend school in any public school district in the state. However, students may apply for 4-year old kindergarten, prekindergarten, early childhood education, and school-operated day care only if the student's resident school district offers the same type of program and if the student is eligible for that program in his or her district of residence. An open enrolled student has all the rights and privileges, including participation in extracurricular activities, of resident students and is subject to the same rules and regulations. During the 2013-14 school year, approximately 50,000 students statewide transferred to other districts using open enrollment.

Space Available. Every school district must accept eligible nonresident students into all grades for which it has space available, although limitations may be imposed due to racial balance, class size, particular student needs, or transportation availability. A school district may not refuse to participate in the open enrollment program. The number of spaces must annually be determined by the school board at its January meeting. The board may take into account building capacity and projected enrollment in all of the district's schools, programs, classes, and grades, and may "reserve" some spaces for school district population growth. It may not, however, set a maximum desired percentage of nonresident students.

Applications. The open enrollment application period begins on the first Monday in February and ends at 4:00 p.m. on the last weekday in April. While late applications may generally not be accepted, 2011 Wisconsin Act 114 created an exception for out-of-cycle open enrollments in certain circumstances: cases of bullying and harassment; a recent move into the state; homelessness; a change of address due to military orders; the student having been a victim of a violent criminal offense; a change of residence as a result of a court order,

custody agreement, or foster placement; or the parent and the nonresident school board agreeing that attending school in the nonresident school district is in the best interests of the student. A student may apply to no more than three nonresident school districts in an application period.

If there are more applications than spaces for a particular grade or program, priority goes to nonresident students currently attending through open enrollment and any of their siblings who have also applied. If there are still spaces after approving all priority students, the remaining spaces must be filled randomly. If, in the random selection process, a student is selected, that student's siblings must be granted preference for the next available spaces.

Applications may generally only be denied if there is no space available, or for certain other reasons such as expulsion and truancy issues. A denial may be appealed to the Wisconsin Department of Public Instruction (DPI), and the state superintendent's decision may be appealed to the resident's circuit court. The department is required to uphold the board's decision unless it finds it was "arbitrary or unreasonable."

Under the open enrollment program, students apply to districts, and not to individual schools. A student may request placement in a particular school or program, but assignment to that school or program is not guaranteed. Similarly, a student may request placement in a charter school established by the school board of the nonresident school district, including a virtual, online charter school, but assignment to the charter school is not guaranteed. Once a student is attending a nonresident school district under open enrollment, the student may continue to attend without reapplication, except that the nonresident district may require the student to reapply, but only once, and only when the student is entering middle school, junior high, or high school.

Cost. There is no tuition cost to parents for participation in open enrollment, and parents of nonresident students may be charged only the same fees as resident students. For regular education students, open enrollment is funded by a transfer of state aids from the student's resident school district to the nonresident school district. The transfer amount is equal to the statewide average per pupil school district cost for regular instruction, co-curricular activities, instructional support services, and pupil support services in the previous school year. The amount, \$6,635 for the 2014-15 school year, is an approximation of the "marginal cost" to the nonresident school district of educating an additional student. The resident district counts that student as part of its membership for state aid and revenue limit purposes.

For special education students, the resident school district directly pays the nonresident district the cost of the special education, which includes the transfer amount for regular education students plus any actual, additional, special education costs to educate the student. Open enrollment may be denied by the resident school district if the cost of a student's special education in the nonresident school district imposes an undue financial burden on the resident school district.

Transportation. Parents of open enrolled students are generally responsible for transporting their child to and from school in the nonresident school district. The primary exception is when the individualized education program for a disabled student specifically requires that transportation be provided. In that case, the nonresident school district is responsible for providing the transportation. Low-income parents may be eligible for reimbursement of transportation costs by DPI. Either district may choose to provide transportation to an open enrolled student, but the nonresident school district may not pick up or drop off any open enrolled student within the boundaries of the student's resident dis-

trict without the approval of the resident district's school board. If the nonresident district chooses to provide transportation to an open enrolled student, it may charge parents for the cost, or the district may receive categorical transportation aid if it does not charge the parent. It may also decide to provide transportation through a "parent contract," under which it reimburses the parent's transportation costs.

History and More Information. The Open Enrollment Program, Section 118.51, Wisconsin Statutes, was created by 1997 Wisconsin Act 27. For more information: DPI Web site: <http://oe.dpi.wi.gov/>. Telephone: 888-245-2732. E-mail: openenrollment@dpi.wi.gov.

Course Options Program

The Course Options Program allows students enrolled in Wisconsin public school districts to attend up to two courses at a time in a variety of educational institutions. The Course Options Program, which was created by 2013 Wisconsin Act 20, supersedes the Part-Time Open Enrollment Program, which had permitted students only to enroll in up to two courses at a time in another school district. The Course Options Program continues to allow attendance at a nonresident school district, but expands the eligible choices to a University of Wisconsin System institution, a technical college, a nonprofit institution of higher education, a tribal college, a charter school (including a virtual charter school), and any nonprofit organization that has been approved by DPI.

Any public school district student, including those enrolled in a nonresident district through the Full-Time Open Enrollment program, may apply to an eligible educational institution provided a course satisfies a high school graduation requirement and, if applicable, conforms to or supports a pupil's academic and career plan. Courses taken through the program are free for students

and their families, with the student's resident school district paying the cost to the other educational institution. Courses conducted wholly or partially online are eligible for the program. Because there are no grade level restrictions on eligibility, students in kindergarten through eighth grade may apply to attend a course as long as they meet any entrance and enrollment criteria and prerequisites established by the educational institution from which the student wants to take the course.

Parents are generally responsible for providing transportation, unless the school district chooses to cover the costs. Eligible low-income parents may apply to DPI for transportation financial assistance.

The Course Options Program is similar in some respects to the Youth Options Program, although there are different rules, limitations, and processes. Students may participate in both programs provided they meet the requirements and procedures for each.

History and More Information. 2013 Wisconsin Act 20 amended Section 118.52, previously the Part-Time Open Enrollment program, which had been created by 1997 Wisconsin Act 27. For more information: DPI Web site: <http://courseoptions.dpi.wi.gov/>. Telephone: 608-267-3161. E-mail: <http://courseoptions.dpi.wi.gov/user/507/contact>.

Youth Options Program

Wisconsin's Youth Options Program allows eligible juniors and seniors enrolled in public high schools to take approved postsecondary courses at a University of Wisconsin System institution, a Wisconsin technical college, one of the state's participating private nonprofit institutions of higher education, or tribally-controlled colleges. Students who complete the courses may receive high school credits that count toward high school graduation requirements or they may receive college credits, or both high school and college credits.

The Youth Options Program provides an alternative educational mechanism for students who are considering a technical career, wish to begin college early, or want to prepare for entering the workforce immediately after graduating from high school. All 11th and 12th grade students enrolled in a public school may apply, including full- and part-time open enrolled students, but not including private school or home-schooled students.

If a school board approves a college course as qualifying for high school credit and determines that the course is not comparable to a course already offered in the district, then the board will pay the tuition, and for the cost of any books, fees, and materials required for the course that will not become the property of the student. However, a student or parent or guardian must reimburse the district if the student takes the course for college credit or if the student receives a failing grade in a course or fails to complete a course. A school board may establish a policy limiting the number of college credits the school board will pay for through the program at 18 credits, although it may set a higher limit or decline to set a limit. Parents or students are responsible for transportation costs relating to the college courses, but eligible low-income students may apply to DPI for transportation financial assistance.

History and More Information. 1991 Wisconsin Act 39 created the postsecondary enrollment options (PSEO) program. 1997 Wisconsin Act 27 renamed the PSEO program to the "Youth Options Program" in Section 118.55, Wisconsin Statutes. For more information: DPI Web site: <http://youthoptions.dpi.wi.gov>. Telephone: 800-441-4563. E-mail: Kevin.miller@dpi.wi.gov.

Charter Schools

Charter schools are public schools that operate with fewer mandates and a more flexible structure than the typical public school. They are created through a contract, the

“charter,” between the charter school’s governing board and the sponsoring authority.

The sponsoring authority may be the board of a school district or it may be one of four specific entities identified by statute: the Common Council of the City of Milwaukee, the Chancellor of the University of Wisconsin-Milwaukee, the Chancellor of the University of Wisconsin-Parkside, or the district board of the Milwaukee Area Technical College. The latter category of charter schools are known as independent, or “2R” schools, in reference to the program’s statutory citation, Section 118.40 (2r), Wisconsin Statutes.

There are currently 242 charter schools authorized in the state, of which 23 are independent “2R” schools, and 30 are virtual, or online, charter schools. In the 2013-14 school year, approximately 48,000 students were enrolled in charter schools. Of these, about 9,000 attended “2R” schools, and over 7,000 were enrolled in virtual charter schools.

How Established. Local school boards may authorize charter schools in two ways. First, a school board, on its own, may contract with a person or private organization to operate a school as a charter school. The school board must hold a public hearing on the proposed contract. Second, a school board may authorize the establishment of a charter school upon receipt and approval of a written petition requesting the board to do so. The petition must be signed by at least 10% of the teachers employed by the district or by at least 50% of the teachers employed at one school in the district. The board must hold a public hearing within 30 days of receiving the petition. At any public hearing, the board must consider the level of employee and parental support for the school and the fiscal impact of the charter school on the district. A school district must notify DPI of its intention to create a charter school and include a description of the proposed school in the notice, but the department does not have the authority to approve or deny charter school requests.

Requirements. Charter schools are generally not subject to most of the laws that govern elementary and secondary education, but they are required to: 1) administer the standardized examinations administered to pupils attending public schools, and adopt pupil academic standards in mathematics, science, reading and writing, geography, and history; 2) develop and enforce a policy specifying criteria for promoting a pupil from 4th grade to 5th grade, from 8th grade to 9th grade, and for granting a high school diploma; and 3) ensure that all of the school’s instructional staff hold a license or permit to teach issued by DPI. The school district in which a charter school is located must include the charter school in the school district’s annual school performance report.

A charter school may not charge tuition and must be nonsectarian in its programs, admission policies, employment practices, and all other operations. Charter schools are prohibited from discriminating in admission or denying participating in any program or activity on the basis of a person’s sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional or learning disability, and are subject to the federal laws governing education, including the Individuals with Disabilities Education Act.

Virtual Charter Schools. Virtual charter schools are public, nonsectarian charter schools under contract with a school board in which all or a portion of the instruction is provided over the Internet. The pupils enrolled in and instructional staff employed by the school are typically not in the same location, with pupils attending from their homes and communicating with teachers using electronic mail, by telephone, or through online discussions.

History and More Information. 1993 Wisconsin Act 16 authorized school boards to establish up to 20 charter schools exempt from most laws governing public schools. With

the approval of the State Superintendent of Public Instruction, up to two charter schools could be established in each of no more than 10 school districts. School boards could contract for the operation of a school as a charter school either on its own initiative or upon receipt of a petition signed by at least 50% of the teachers employed at a school. Charter school staff remained school district employees and remained eligible to participate in the Wisconsin Retirement System. The limit on the number of school districts that were permitted to establish charter schools was repealed by 1995 Wisconsin Act 27.

1997 Wisconsin Act 27 authorized the City of Milwaukee, the University of Wisconsin-Milwaukee, and the Milwaukee Area Technical College to establish and operate, or contract for the operation of, charter schools for pupils residing with the Milwaukee Public Schools (MPS) school district. 2001 Wisconsin Act 16 expanded the entities authorized to establish a charter school to include UW-Parkside.

2007 Wisconsin Act 222 authorized school districts to establish virtual charter schools, in which all or a portion of the instruction is provided via the Internet and the teachers and pupils are geographically remote from each other. It also permitted the acceptance of pupils for attendance at virtual charter schools through the Open Enrollment Program and required instructional staff of virtual charter schools to hold teacher licenses issued by DPI. Total enrollment in all virtual charter schools was limited to 5,250 pupils beginning in the 2009-10 school year. 2011 Wisconsin Act 32 eliminated the limit on the number of pupils who may enroll in virtual charter schools under the Open Enrollment Program.

2013 Wisconsin Act 20 allowed UW-Milwaukee to establish an independent charter school anywhere in Milwaukee County or in an adjacent county and allows a pupil who resides in Milwaukee County or in an adjacent county to attend any independent charter school in Milwaukee County or in an

adjacent county. Previously, UW-Milwaukee could establish a charter school only within the Milwaukee school district, and, with one exception, a pupil who resided in MPS could attend only an independent charter school located in MPS.

Charter Schools law is in Section 118.40, Wisconsin Statutes. For more information: DPI Web site: http://dpi.wi.gov/sms_csindex. Telephone: 888-245-2732. E-mail: openenrollment@dpi.wi.gov.

Technical College Option

With approval from the school board, and with the written approval of the parent or guardian, any child who is at least 16 years old and meets the definition of being "at risk," may attend a technical college in lieu of high school or on a part-time basis. Technical colleges are required to admit eligible students that reside within the technical college district and must, as a condition of receipt of any state aid, offer day class programs satisfactory to meet the requirements leading to the child's high school graduation. [Section 118.15 (1) (b), Wisconsin Statutes.] DPI Web site: http://alternativeed.dpi.wi.gov/files/alternativeed/pdf/contracting_techcolleges.pdf.

Work Based Learning Programs

2013 Wisconsin Act 20 (Section 118.56, Wisconsin Statutes), authorized a public school board, the governing body of a charter school, or the governing body of a private school to create a work based learning program for pupils in grades 9 to 12. If established, the program must require a participating pupil to work at least 280 hours per year for an eligible employer, with hours of instruction not allowed to satisfy the work requirements.

The pupil must complete the required work hours by working no fewer than 40 and no more than 50 days per school year, by working no fewer than six and no more than

eight hours per day, and by working no more than two days per week.

In determining eligibility for the program, the pupil may be required to demonstrate employability through an interview process, teacher recommendations, previous work, internship, or volunteer experience. A pupil who wishes to participate must enter into a signed agreement with the participating school and the pupil's parent or guardian.

Participating employers must comply with child labor laws, and provide each pupil with: occupational training and work based learning experiences, at least 30 hours of training, and a mentor to supervise the work and prepare a year-end evaluation. The school board or governing body of the charter or private school must provide free transportation to and from the workplace.

School Integration Transfer Aid Program ("Chapter 220")

The Special Transfer Aid Program promotes the cultural and racial integration of minority group pupils with nonminority pupils. It was created by Chapter 220, Laws of 1975, and is thus often referred to as "Chapter 220," although the program is in Subchapter VI of Chapter 121, Wisconsin Statutes.

The program provides additional state aid to each school district that establishes a program in which students are transferred from a racially imbalanced district to another school district or from one attendance area within a single district to another attendance area within that district. Under the program, a "minority group pupil" is one who is Black or African American, Hispanic, American Indian, or an Alaskan native, or who is of Asian or Pacific island origin. Transfers can be made only with the approval, documented by written consent, of the pupil's parent or guardian.

The program applies to interdistrict or intradistrict transfers between an attendance area within or outside a school district

in which minority group pupils constitute 30% or more of the number of pupils in the school in which the pupil would normally attend, and a school district attendance area in which minority group pupils constitute less than 30% of the number of pupils enrolled in the school. Participating minority group pupils transfer to a school in another district or school district attendance area where minority group pupils constitute less than 30% of the number of pupils enrolled in the school. The reverse applies to transfers of nonminority pupils: they may transfer from schools where minority group pupils constitute less than 30% of enrollment, to schools in another district or attendance area within the same district where minority group pupils constitute more than 30% of enrollment. Transportation for students involved in a transfer program must be provided if required by law, with transportation costs being reimbursed by the state.

The school board of each school district lying wholly or partially within Milwaukee County must annually organize a planning council with the school board of the Milwaukee Public Schools to make a recommendation to the school board on a cooperative program designed to facilitate interdistrict transfers to promote cultural and racial integration. Each school board must then determine the extent to which its district will participate in the cooperative program and must disseminate information concerning the program to pupils and parents and guardians of pupils in the school district. The school district must provide information about the availability of transfers, transportation arrangements, and the courses and programs to be available to transferred pupils.

State law specifies that a school district that is eligible for interdistrict or intradistrict Chapter 220 integration aid may not accept an application for transfer into or out of the school district under the Full-Time Open Enrollment program if the transfer would increase racial imbalance in the school district.

State law also requires a nonresident school district that receives applications for transfer into the district under both the Chapter 220 program and the open enrollment program to accept or reject all Chapter 220 applications before it accepts or rejects open enrollment applications. However, an opinion of the Wisconsin Attorney General (OAG-4-07, December 20, 2007) indicated that this provision is inconsistent with the equal protection guarantees of the U.S. Constitution as applied by the U.S. Supreme Court in cases dealing with pupil assignment plans in other school districts. [*Parents Involved in Community Schools, et al. v. Seattle School District No. 1*, 551 SSI U.S. 701, 127 S.Ct. 2738 (2007)] Chapter 220 pupils may also participate in the Course Options Program.

More Information. DPI Web site: http://sfs.dpi.wi.gov/sfs_aid220. Telephone: 608-267-3752. E-mail: bradley.adams@dpi.wi.gov

National Guard Challenge Academy

The Wisconsin National Guard Challenge Academy is a residential program authorized by federal and state law, the purpose of which is improving the quality of life for 16 to 18 year old at-risk teens. Participants selected to attend the Challenge Academy, known as "cadets," stay at the Fort McCoy army base in a quasi-military environment but are considered enrolled in the student's school district of residence for purposes of district equalization aid eligibility, special education responsibility, and revenue limit authority. Federal law authorizes the Department of Defense to assume up to 75% of the cost of the program.

Cadets spend much of their time in classrooms preparing to test for a High School Equivalency Diploma. Cadets receive classroom instruction from licensed teachers and also participate in activities including anger management classes, a character development curriculum, community service projects, and various physical fitness challenges and leadership experiences. During a 12 month

post-residential phase, graduates of the residential phase are matched with community volunteers (mentors) who help the cadets as they continue to grow and become contributing citizens.

History and More Information. The Youth Challenge Program, now Academy, was created by 1997 Wisconsin Act 237, and is in Section 321.03 (1) (c), Wisconsin Statutes. For more information: DPI Web site: http://sfs.dpi.wi.gov/sfs_youthchall. Telephone: 608-267-9114. E-mail: dpifin@dpi.wi.gov.

Program or Curriculum Modification

If requested by a child who is 16 years of age or older, and with the written approval of the child's parent or guardian, a school board may excuse the child from regular school attendance if the child, his or her parent or guardian, and the school board enter into a written agreement that the child will participate in a program or receive curriculum modifications leading to the child's high school graduation. Similarly, with the same conditions, a child who is 17 years or older may receive program or curriculum modifications leading to the child receiving a high school equivalency diploma.

The child or his or her parent or guardian may request that the school board provide the child with program or curriculum modifications, including: 1) modifications within the child's current academic program, 2) a school work training or work study program, 3) enrollment in any alternative public high school or program located in the school district of residence, 4) enrollment in any nonsectarian private school or program, or tribal school, located in the school district in which the child resides, if a contractual agreement is reached between the schools that provides for payment of the child's tuition by the school district, 5) homebound study, including nonsectarian correspondence courses or other courses of study approved by the school board or nonsectarian tutoring provided by the school in

which the child is enrolled, or 6) enrollment in any public educational program located outside the child's resident school district, which may be pursuant to a contractual agreement between the districts. [Section 118.15 (1) (c) and (d), Wisconsin Statutes.]

High School Equivalency Diploma Program

The school board must excuse a child who is 17 years or older from regular school attendance if, upon a child's request and with the approval of the parent or guardian, the child began a program leading to a high school equivalency diploma while in a juvenile correctional or detention facility, a juvenile portion of a county jail, or a secured residential care center for children and youth. [Section 118.15 (1) (cm), Wisconsin Statutes.]

PRIVATE SCHOOLS

Attendance at a private school satisfies the requirements of the compulsory attendance law if the educational program offered by the school is privately controlled; provides at least 875 hours of instruction each school year; and provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health. The institution may request the state superintendent of public instruction to approve the private school's educational program as being compliant with the law. A school is not required to include in its curriculum any concept, topic, or practice in conflict with the program's religious doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the program's religious doctrines.

1997 Wisconsin Act 27 provided that private school students may take up to two high school courses per semester at no charge in the student's resident school district if the student meets the high school's admission standards and there is space available in the course or courses.

Transportation. A pupil attending a private school is generally entitled to transportation by the public school district in which the student resides if the pupil resides two miles or more from the private school the pupil attends, the pupil's residence is in the private school's approved attendance area, and the private school is located within the boundaries of the pupil's resident school district or not more than five miles beyond the boundaries of the school district as measured along the usually traveled route.

Tuition Tax Deduction. A family sending a child to a private school is responsible for paying for tuition, fees, books, and associated costs, other than transportation. However, 2013 Wisconsin Act 20 provides for an income tax deduction for tuition and mandatory school fees paid to a private school beginning in tax year 2014. The income tax deduction is limited to up to \$4,000 per year per pupil enrolled in grades K-8 and \$10,000 per year per pupil in grades 9-12.

Statutes and More Information. Some key statutes relating to private schools are Sections 118.15 (1), 118.165, and 121.54 (2). DPI private schools Web site: http://sms.dpi.wi.gov/sms_private. Telephone: 608-266-2803. E-mail: <http://sms.dpi.wi.gov/user/220/contact>.

Home Schooling

Instruction in a qualified home-based private educational program may be substituted for attendance at a public or private school. If the child's parent or guardian chooses home-schooling as the alternative to enrollment in a public school, the family is responsible for all costs involved. No financial aid is available from the state or school district for homeschooled students or their families. Generally, school districts receive state aid for each pupil enrolled in public schools in the district. A homeschooled student is not included in the school district's enrollment count. As a result, the resident's school district receives no state

aid for that student. Approximately 21,000 children are homeschooled in Wisconsin

Requirements. Parents or guardians who chose to home school their children must satisfy the compulsory attendance requirements under state law if the educational program meets the same criteria established for private schools. Specifically, the home-based private educational program must provide at least 875 hours of instruction per year and its primary purpose must be to provide private or religious-based education. It must provide a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health, consistent with any of the program's religious doctrines. Finally, it must be privately controlled and not be operated for the purpose of avoiding or circumventing the compulsory school attendance requirements.

It is the responsibility of the parent or guardian to ensure that the child's educational program meets all of the requirements. The parent is also responsible for establishing the curricula and obtaining educational materials to use for instruction. A homeschool parent may do the teaching or designate someone else to do so. There are no minimum educational requirements for parents who homeschool their children, nor are parents required to hold a teaching certificate or license. DPI does not provide instruction or curricula for homeschooling. Parents also have the option of enrolling their children, at their own expense, in privately operated correspondence or virtual schools located either within or outside this state. Parents who choose this option are responsible for ensuring that their child's educational program meets the requirements for a home-based educational program.

Not Regulated. There is no express authority under the law for DPI or any school district to regulate home-schooling or to monitor whether or not the instruction provided in a home-based educational program satisfied the requirements under the compulsory

attendance law. The homeschooling laws do not require any form of testing or assessment. A home-based private educational program does not lead to a traditional Wisconsin high school diploma, and homeschooled students may wish to pursue a General Educational Development certificate and/or a High School Equivalency Diploma. Some private companies offer correspondence courses and grant diplomas upon completion of certain requirements.

Part-Time Public School Attendance. Homeschooled students may take up to two courses per semester in any grade in either their resident or a nonresident school district.

School Services May be Offered. School districts are required to identify and evaluate all children in the district who may have a disability and must offer a placement that would provide the child a free appropriate public education, which generally means enrollment in a public school. However, school districts are not required to provide special education and related services to children with disabilities who are homeschooled. If a school district chooses to do so, the district will not be reimbursed by federal or state aids.

School districts are not required to permit homeschooled students to participate in any clubs or activities. However, districts are not prohibited from allowing homeschooled students to participate in extracurricular activities and may choose to do so. In high school sports governed by the Wisconsin Interscholastic Athletic Association (WIAA), any participation by homeschooled students will be dependent upon applicable WIAA eligibility rules.

Statutes and History. Key provisions relating to home schooling are in Sections 118.15 (4) and 118.165 (1), Wisconsin Statutes. 1983 Wisconsin Act 512 first specifically provided that instruction in a qualified "home-based private educational program" is a permissible option. However, the statutes had

previously, since at least 1889, provided that instruction elsewhere than at a formal public or private school may be substituted for school attendance, as long as the instruction was substantially equivalent to that provided to children in formal school settings. Act 512 was prompted by a 1983 Wisconsin Supreme Court decision, *Wisconsin v. Popanz*, 112 Wis. 2d 166.

In that decision, the supreme court held that parents who chose to send their children to a private school that was not included in a directory of private schools maintained by DPI could not be prosecuted under the compulsory attendance law because that law did not provide sufficient information about what constitutes a “private school” for purposes of satisfying the compulsory attendance law.

PARENTAL CHOICE PRIVATE SCHOOL PROGRAMS

Under the state’s private school choice programs, eligible low-income students may attend a participating private school with financial assistance from the state. The Milwaukee Parental Choice Program, established in 1990, was the nation’s first large-scale program in which public funding was used to educate students in private schools. Private school choice has expanded considerably since then, and there are now three private school voucher programs, with similar eligibility requirements and operational rules, in the state: the Milwaukee Parental Choice Program (MPCP), the Racine Parental Choice Program (RPCP), and the statewide Wisconsin Parental Choice Program (WPCP).

Eligibility. The Choice Programs are generally open to pupils in grades kindergarten through 12 whose family income does not exceed a certain percentage of the federal poverty level. In the WPCP, family income may not exceed 185%, and in the MPCP and RPCP, family income may not exceed 300% of the federal poverty level. For the 2014-15 school year, the income limit for the MPCP

and RPCP is \$59,409 for a family of three. If the child’s parents/legal guardians are married their income is reduced by \$7,000 when determining income eligibility. A pupil attending a private school under any of the programs, or a student waiting list for a space under the statewide WPCP in the previous year, does not have to show income eligibility if the pupil’s family income rises above the poverty threshold, and he or she may continue to attend school under the program.

There is no limit on the number of students who may participate in the Milwaukee and Racine programs, but there is a limit of 1,000 students that may enroll in private schools through the statewide program, and no more than 1% of the pupil membership of a school district may participate in the WPCP.

Participating private schools must accept all eligible Choice applicants for which they have room, and must generally have a random drawing to select the students if there are more eligible applicants submitted than slots available. However, a school may give preference in accepting siblings of pupils that were accepted on a random basis. A student may apply to more than one Choice school during the open application periods. Schools may not use, during the admissions process, information about an applicant’s race, ethnic background, religion, prior test scores, grades, recommendations, or membership in the church parish.

Funding and Payments. The Racine and Statewide programs are fully funded from state general purpose revenues. The Milwaukee program is currently funded by a mix of state general purpose revenues and a reduction in state general aid to the Milwaukee Public Schools, but the state aid reduction component is being gradually phased out so that the MPCP will become fully state-funded.

The state issues payments directly, on behalf of the child’s parent or guardian, to the Choice school in which the child is enrolled.

The payment is equal to the amount of the private school's operating and debt service cost per pupil that is related to educational programming, or an amount set by law, whichever is less. For the 2013-14 school year, the state-paid maximum expense is \$6,442. For the 2014-15 school year, the payments will be a maximum of \$7,210 for pupils in grades K-8 and \$7,856 for pupils in grades 9-12. If the school spends less than the maximum per pupil, it will receive that amount from the state, and the school may spend the payment for any educational purpose. A student may be charged reasonable fees for personal items such as towels, clothes, or uniforms; social and extracurricular activities if the activity is not a part of the required curriculum; musical instruments; meals; high school classes not required or credited for graduation; transportation; and before-school and after-school child care. A participating private school may not charge additional tuition payments for a Choice student in grades kindergarten through 8, but may charge a Choice student, attending the school in grades 9 through 12 tuition above the state aid payment, in an amount determined by the school, if that student's family income exceeds 220% of the federal poverty level. A school is not required to provide transportation to Choice students, and may charge the parent or guardian if it provides the service. In some cases, a school district may choose to provide transportation.

Academic Requirements. In general, participating private schools must be accredited by an approved accrediting organization, and all of the private school's teachers and administrators must have at least a bachelor's degree from an accredited institution of higher education. Participating private schools must 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.

Participating private schools must meet at least one of the following standards: 1) at

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

Participating private schools must administer the state standardized reading test to 3rd grade pupils and must also administer all other standardized examinations required to be administered to public school pupils. Schools must adopt academic standards in conformity with state law, maintain progress records for at least five years after the pupil ceases to attend the school, and issue a high school diploma or certificate to each student who satisfactorily completes the course of instruction and any other requirements necessary for high school graduation.

Other Rules. Participating private schools must meet all federal nondiscrimination and state and local health and safety laws or codes that apply to public schools. They must have a municipal certificate of occupancy if applicable and develop and implement a plan for maintaining indoor environmental quality.

A school may ask a parent to raise funds for or contribute volunteer time to the school, but cannot require it as a condition of admission or impose any penalties on a parent or child for failure to participate in such activities or volunteer time. Students may not be required to participate in any religious activity if the parent or guardian submits a written request for excusal. A participating private school may not discriminate against a child with special needs during the admissions process but a Choice school, as with all private schools, is required to offer only those services to assist students with special needs that it can provide with minor adjustments. Participating private schools must have writ-

ten procedures in place regarding suspensions and expulsions. The state superintendent may issue an order barring a private school from participating in the program or terminating its participation or may withhold payment if the school has violated certain program requirements.

History. The Milwaukee Parental Choice Program was created by 1989 Wisconsin Act 336. Beginning in the 1990-91 school year, up to 1% of the MPS membership was authorized to attend private, nonsectarian schools in grades kindergarten through 12 at state expense provided the total family income did not exceed 175% of the federal poverty level. No more than 49% of a private school's enrollment could consist of Choice pupils. 1995 Wisconsin Act 27 authorized religious schools to participate in the program. 2011 Wisconsin Act 32 eliminated the cap on the number of pupils that may participate in the MPCP and allowed any private school to participate, not just private schools located in the City of Milwaukee. The act also increased the family income limit to 300% of the federal poverty level.

2011 Wisconsin Act 32 created a Parental Choice Program for Eligible School Districts that is similar to the Milwaukee Parental Choice Program but was limited to any school district located in a city of the second class and meeting certain criteria related to income and state aid as determined by DPI. The Racine School District was the only eligible district identified as being eligible for the 2011-12 school year. Participation was limited to 250 pupils in the first school year of the program and 500 pupils in the second year, with no limit in subsequent years. 2011 Wisconsin Act 215 closed the Parental Choice Program for Eligible School Districts to additional schools, leaving the Racine School District the only eligible participant.

2013 Wisconsin Act 20 created a limited statewide voucher program for eligible school districts other than Milwaukee and Racine.

Enrollment was limited to 500 students statewide in the first year of the program, with a limit of 1,000 participants beginning in 2014-15 and subsequent school years.

Statutes and More Information. The Milwaukee Parental Choice Program is in Section 119.23, Wisconsin Statutes, and the Racine Parental Choice Program and the statewide Wisconsin Parental Choice Program are in Section 118.60. For more information, see the Wisconsin DPI Choice Programs Web site: http://sms.dpi.wi.gov/choice_programs. Telephones: 608-266-8066 or 608-266-0523. E-mails to: <http://sms.dpi.wi.gov/user/519/contact> or <http://sms.dpi.wi.gov/user/525/contact>.