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# Budget Briefs

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Reference Bureau

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## MILWAUKEE SCHOOL CHOICE VOUCHER PROGRAM

The biennial state budget act (2001 Wisconsin Act 16), passed by the legislature and signed by Governor Scott McCallum on August 30, 2001, revised the funding mechanism that supports the Milwaukee Parental Choice private school voucher program by making the state and the Milwaukee Public Schools (MPS) jointly responsible for program costs. Beginning with the 2001-02 school year, state school aids to MPS will be reduced by 45% of the costs, and state appropriations will cover 55%.

The Choice program provides state tuition vouchers to allow children from low-income families residing in the MPS district to enroll in private schools in the City of Milwaukee. When Choice began operation in 1990, it was the first large-scale voucher program in the nation to use tax money to pay for educating pupils at secular private schools. 1995 legislation authorized the participation of religious schools, but the law provided that a school must excuse a student from any religious instruction or activity at the request of the child's parent or guardian.

Originally, Choice was funded by reducing state aids paid to the MPS district, but 1999 Wisconsin Act 9 required that 50% of the cost be funded by reduction of MPS state aids and 50% by cutting the aids available to all other school districts throughout the state. Act 16 removes the outside districts from the financing formula, and appropriates almost \$126 million for the program in the 2001-03 biennium.

### CURRENT PROGRAM PROVISIONS

**Student Participation.** The Choice program permits up to 15% of students residing in the MPS district (approximately 15,100 pupils) to attend any participating private school located within the city. In 2000-01, about 9,600 pupils exercised the Choice option at 103 private schools. Over 60% of Choice participants are African American, which is about the same proportion as the general enrollment in MPS.

Approximately 6,000 Choice students were enrolled in religious schools in 2000-01. Catholic schools accounted for the majority of enrollments, but other Christian, Jewish, and Islamic schools also participated. Under current law, a private school may enroll as many Choice students as it wants. The school must determine admissions on a random basis, except that preference may be given to siblings of pupils already accepted.

**Income Eligibility and Voucher Payment.** The total income of a Choice pupil's family cannot exceed 175% of the poverty level established annually by the federal government. For example, in 2001-02, the income limit for a family of three is \$25,655 and for a family of four, \$30,913.

Choice tuition checks are sent by the state to the private school but must be endorsed by the pupil's parent or legal guardian for use by the private school. Private schools must accept, as total payment for tuition, the lesser of: 1) the sum of the amount paid per pupil under the program in the previous school year (\$5,326 in 2000-01) and the amount of revenue increase per pupil allowed in the current school year or 2) an amount determined by the Department

of Public Instruction (DPI) to be equal to the sum of the school's per pupil operating costs and any debt service expenses related to educational programming. Private schools are required to submit the results of an independent financial audit to DPI annually.

**Standards.** Participating schools must follow all health and safety laws that apply to public schools and must meet at least one of the following standards: 1) at least 70% of the Choice pupils must advance one grade level each year; 2) the average attendance rate for Choice pupils at the school must be at least 90%; 3) at least 80% of the pupils in the program must demonstrate significant academic progress; or 4) at least 70% of the families of Choice pupils must meet the school's criteria for parental involvement in the child's schooling. DPI monitors enrollees' performance and evaluates school compliance with standards.

## KEY LEGISLATIVE AND JUDICIAL ACTIONS

The Choice program, created by 1989 Wisconsin Act 336, originally permitted up to 1% of MPS membership (grades K to 12) to attend private nonsectarian schools, beginning in the 1990-91 school year. No more than 49% of an individual school's enrollment could consist of Choice pupils. In the program's first year, 341 students enrolled in seven private schools. The Wisconsin Supreme Court upheld the Choice program in *Davis v. Grover*, 166 Wis. 2d 501 (1992), ruling that Choice was not a private or local law improperly enacted as part of the omnibus state budget bill and that the attempt to improve the educational opportunities of low-income Milwaukee students was an appropriate purpose for experimental legislation. The program was expanded in 1994-95 to allow a maximum of 1.5% of MPS membership to participate and permit up to 65% of a school's enrollment to consist of Choice pupils.

1995 Wisconsin Act 27 authorized religious schools to participate in Choice. It also increased the enrollment maximum to 7% of MPS students in 1995-96 and 15% in subsequent years. Restrictions on the number of Choice students at an individual school were removed. 1999 Wisconsin Act 9 altered the funding formula and authorized payments for academically necessary summer classes.

In *Jackson v. Benson*, 218 Wis. 2d 835 (1998), the Wisconsin Supreme Court ruled in a 4-2 decision that permitting religious schools to participate in Choice did not violate the Wisconsin's constitutional provision against spending state funds for religious purposes. The court also held that Choice did not violate the U.S. Constitution's First Amendment guarantees of separation of church and state because it met the three-pronged test set down by the U.S. Supreme Court that: 1) the government's expenditure must have a legitimate secular purpose; 2) it must not have the primary effect of advancing religion; and 3) it must not lead to excessive entanglement between the state and participating private, religious schools. On November 9, 1998, the U.S. Supreme Court declined without comment to hear an appeal of the Wisconsin Supreme Court decision, thus allowing it to stand.

## FURTHER INFORMATION

For further information, contact the DPI Choice program administrator at (608) 266-2853 or toll free (800) 441-4563. The Choice Internet website is:  
[www.dpi.state.wi.us/dpi/dfm/sms/choice.html](http://www.dpi.state.wi.us/dpi/dfm/sms/choice.html)