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Give Every Wisconsin Family the Power to Choose the Best Education

By Jim Bender and Patrick McIlheran



A PREFACE TO

Give Every Wisconsin Family the Power to Choose the Best Education

One of the few things that all Americans agree on about education is that it must improve. How, specifically? There we differ.

Wisconsin was a pioneer in a drive to find an improvement — the school choice movement. Milwaukee's program to let parents direct state aid to the school of their choice is now more than three decades old and has produced remarkable results for the tens of thousands of families that have taken part. More recent expansions are spreading those benefits across Wisconsin.

Meanwhile, other states are embracing even more far-reaching visions of parental empowerment by choice, and new exposure of the flaws in the traditional district public school model means it's time to see how Wisconsin can move forward as well.

We should enrich the environment in which millions of parents, and the myriad educators who want to work with them, find what is right for each child. They know the children. They know the job. We should empower them. That only happens by making Wisconsin's promise of school choice available for all families. Here is how to do that.

— Badger Institute

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The Issue

Www.isconsin is a mandatory attendance state: All parents are required by law to send their children to school.¹ They may use a district school run by a local government. They may use charter schools — public schools often given some measure of independence from a district. They may use virtual charter schools or, since a 1983 Wisconsin Supreme Court ruling,² homeschool children themselves. They may also use a private school. Failure to use one of the options can result in prosecution and even jail.

All Wisconsinites who earn income, own real estate or buy things — including those who send their children to private schools — pay a variety of taxes to fund education. That includes local property taxes that are required to stay with the public school district that levies them.³

Those two elements, attendance and taxation, involve citizens' obligation to the state. What about the state's obligation to families? Even though all taxpaying families must live by mandatory attendance laws, not all of the options for meeting that requirement are made available to all families.

That should change.

All families should be given the ability to direct the education dollars the state has designated for their children to the school that works best for them.

This isn't an argument over religion. In 1925, the U.S. Supreme Court ruled in Pierce vs. Society of Sisters that states can't prohibit parents from choosing a religious school. In 1998, the Wisconsin Supreme Court ruled in Jackson vs. Benson that Milwaukee's Parental Choice Program was legal. In 2002, the U.S. Supreme Court in Zelman vs. Simmons-Harris upheld the constitutionality of school choice programs that include religious schools. It is now indisputable that the U.S. and Wisconsin constitutions permit parents to choose religious schooling, even with state aid.

In light of recent U.S. Supreme Court rulings⁴ vindicating the Free Exercise Clause, not only do states have the option to include private religious schools in their choice programs, they now are required to include such schools if other options are offered.

The debate today is, instead, over whether all parents who are required to send their children to school have the same right to choose which kind of school is best for their children.

While all families currently have access to traditional district schools, only some families have access to parental choice programs. There are restrictions on income, caps on enrollment, limits on enrollment windows and various other ways the state has limited the ability for most families to exercise choice.

Even the option that simply lets families move their children to a more suitable traditional district school — public school open enrollment — includes no right to a transfer. If the district that a parent prefers decides to make some seats available for such transfers, some families can get access, while others are denied. About 20% to 30% of such open enrollment requests were denied by school districts in the five most recent school years, according to the Wisconsin Department of Public Instruction⁵ (DPI).

Yet even with all these restrictions, the choice programs have grown steadily every year.

Parents Want Better Results

Parents who are engaged and eager for options seem driven by multiple motives.

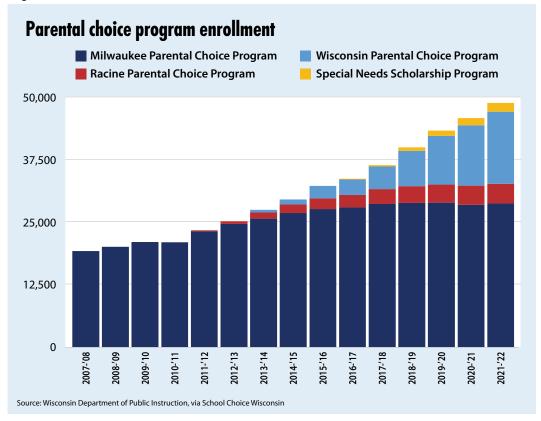


Figure 1

One is poor outcomes in traditional public school districts. Wisconsin's fourth-grade reading scores on the NAEP "nation's report card" test are down from sixth-best nationally in 1998 to 27th in 2019, the latest year available. Only 36% of Wisconsin fourth-graders were proficient or better in reading, while 39% of Wisconsin eighth-graders were. In math, fourth-grade scores were down from fourth-best nationally in 1998 to 13th in 2019. In math, 45% of Wisconsin fourth-graders were.⁶

DPI's own test, the Forward Exam, shows similarly poor results.⁷ Only 43% of fourthgraders statewide, for example, were proficient at "English language arts" — that is, reading — in 2018-'19, before the disruptions stemming from COVID-19 school shutdowns.

Even though all taxpaying families must live by mandatory attendance laws, not all the options for meeting that requirement are available to all families. That should change. The figure for eighth-graders statewide was only 37% proficient. It was lower in some places: 16% in the Racine Unified School District. It was higher in others: 58% proficient at reading in Maple Dale-Indian Hill in Milwaukee's North Shore suburbs.

And in Milwaukee Public Schools (MPS), again in the last pre-pandemic year of 2018-'19, only 18.6% of eighth-graders tested as proficient in reading. At some schools, dismayingly fewer children could read proficiently: 7% at Fifty-Third Street Elementary, 6% at Lincoln Middle School, 4% at Auer Avenue Elementary and zero at Cass Street Elementary.

Families that are using Wisconsin's choice programs to access private schools are opting for better results. The results are long since in, starting with the School Choice Demonstration

Project, in which researchers at the University of Arkansas were tasked by the Wisconsin Legislature to measure the performance of choice schools in Milwaukee's pioneering program starting in 2006.⁸ After years of following students carefully matched on their backgrounds, researchers found that attending a choice school rather than MPS meant significantly higher proficiency rates in reading, a markedly higher likelihood of graduating from high school and of getting into college, and a lower likelihood of becoming involved in criminal activity as a young adult.

Similarly, the annual Apples to Apples study conducted by the Wisconsin Institute for Law & Liberty (WILL) finds that students in private schools accessible through Milwaukee's choice program are more proficient in math and reading than similar students in traditional public schools in Milwaukee.⁹

Sometimes, the results simply have to do with safety. The news that in the 2021-'22 school year, MPS called police an average of 7.2 times every school day, as the Badger Institute's Mark Lisheron reported¹⁰ in August 2022, illustrates why educators at choice schools say that many parents cite worries about safety as a chief concern. So do the ongoing systemic problems that result from intentionally lax discipline policies, such as those in some Madison public schools, as reported by Dave Daley for the Badger Institute in July 2020.¹¹

Evident from the news are other factors driving engaged parents to seek alternatives: Par-

ents are balking, sometimes rebelling, at the rise of political and cultural indoctrination in traditional district schools.

There is an ongoing debate across the country about both the academic and non-academic curricula in public schools, how pervasive it is and the age at which children should be exposed to some subjects, or whether it is appropriate at all. But there is also common ground.

Parents, regardless of where they fall on the political spectrum, want the ability to choose schools that reflect their values and teach the basics — reading, writing and math.

Six hundred Wisconsinites were asked in a recent poll conducted by OnMessage Inc. to state which of four issues was "most important right now": increasing teacher pay and overall funding for our public schools; focusing on teaching reading, writing and math instead of focusing on critical race theory and gender theory; focusing on reducing crime in our schools and improving overall student safety; or ensuring parents have a greater say and influence over what their children learn in school.

The largest percentage — a plurality of 39% — want a focus on reading, writing and math.

Funding Choice for All

A vision of equality in resources is a longtime part of Wisconsin school finance: It has been a principle since 1949, for example, that Wisconsin school districts levying equal tax rates should be able to fund equal per-pupil expenditures.¹² Funding for a child's education should not be determined by the riches or poverty of her town's tax base.

Yet Wisconsin right now funds individual children based on what sort of school her parents choose. If they choose to send her either to a private school using a parental choice program, or if they choose a public charter school, less will be available for her education than if she were sent to a traditional district school.

Inequity in Funding

Traditional public school districts spent between \$11,000 and \$22,000 per pupil, all-in, according to DPI figures for the 2020-'21 school year (with the exception of a few higher-figure oddities). The statewide average was \$15,329 per pupil.¹³

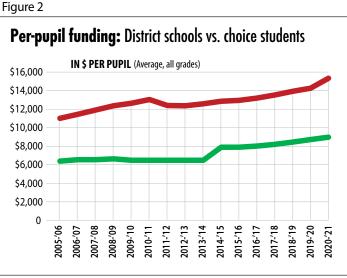
Schools in Wisconsin's three choice programs open to all students, by contrast, received \$8,946 per pupil in high school and \$8,300 per pupil in K-8. The figures have increased slightly, and this school year they are \$8,399 for K-8 students and \$9,045 for high schoolers. While charter school funding is more complex, charter schools fare little better than choice schools on a per-pupil basis.

Nor is this a one-year anomaly. For at least two decades, per-pupil funding for choice students has lagged far behind the sum that taxpayers would spend if the very same students instead attended a local district school. The amount of the average choice per-pupil grant has ranged from 49% and 59% of the average per-pupil cost in district schools since 2005. The most recent figure: 56%.

The funding gap is more acute at the high school level. While the choice grant for grades nine through 12 is higher than for lower grades, it pales next to the per-pupil costs that DPI reports for the 10 school districts providing only high school education. Those figures

in 2020-'21 ranged from \$13,700 a student at Arrowhead Union High School in Hartland to \$22,400 at Lakeland Union High School in Minocqua. The districts spent, on average, \$17,922 per pupil providing a high school education — just over 100% more than choice schools were paid to provide a high school education.

This inequity in funding harms the state's children by foreclosing the choices



Source: Legislative Fiscal Bureau and Wisconsin Department of Public Instruction

their families have, breaking the promise of Wisconsin law that parents should be able to choose the school they see as best.

The reason is that when parents elect to take their child's state school aid to a private school under the choice program, by law that aid must be accepted as full payment. No additional tuition may be charged, in nearly every case. The choice voucher is all a school has to work with.

While the current elementary level choice grant, \$8,399 per pupil, is short of the corresponding per-pupil cost in school districts, it does not fall as short as the current grant of \$9,045 per pupil at the high school level. As a result, most seats available for families using the choice program are in high schools that also accept tuition-paying families, and the tuitions charged are usually higher than the choice grant. Most private high schools must do additional fundraising, tapping donors to cover the share of operating costs that cannot be borne by tuition-paying families and that are not covered by the choice grant.

The amount that a school can fundraise depends on the capacity of its donors and functions as a cap on how many choice students it can accept. A school that accepts students via the choice program must, by law, accept all the students who apply if the school has space, and if it does not have enough space, it may not pick and choose — it must admit students by lottery, giving preference only to existing students and their siblings. But *how* *many* choice students a school accepts is within that school's discretion, and at the high school level, most schools are limited in how many choice students they can accept by their capacity to raise money from donors to cover the gap between the choice per-pupil grant and the cost of educating a child.

Schools Face Difficulties

This limit is illustrated by the closure of a high school in Milwaukee, the high school affiliated with the HOPE Christian Schools network of, now, seven elementary schools. The 3,400-student network, with 95% of its students from low-income families, had included a

high school through the 2021-'22 school year. But in January 2022, it announced it was closing the 256-student high school, saying it was "driven by two primary causes, funding and teacher shortages."¹⁴

"State funding has been significantly inadequate to support long-term high-quality outcomes at HOPE Christian High School," read a statement from the school, "and over time, this challenge has only gotten worse with no end in sight."

The school for seven years running had graduated every one of its students, and all graduates of the high school for 12 years had been accepted into colleges.¹⁵ "Now it's like where do I go from here?" one mother of two boys in the school told a reporter. If the answer is to MPS, her sons would be

Inequities in funding harm the state's children by foreclosing the choices their families have, breaking the promise of Wisconsin law that parents should be able to choose the school they see as best.

entering a system that manages to graduate less than 64% of its high schoolers in four years and that fails to graduate one in four even after seven years of high school.

The inadequate per-pupil funding for choice students also makes it difficult to set up a high school, limiting options for families in the broad swaths of Wisconsin that are not near pre-existing private high schools. Nonprofit groups seeking to open a school not only would have to fundraise to cover the costs of operation that aren't covered by the choice grant, they would have to find money to obtain a school building even as they worked to recruit students.

That's before taking into account the difficulties such groups may encounter in obtaining a suitable building. A community group in Mattoon in Shawano County, for example, sought in 2018 to buy a school building that had been vacant for two years after it was closed by a consolidated school district based in Antigo, a 15-mile drive away. The group intended to open a choice school, serving parents who wanted a local educational option.

The group, Shepherd's Watch, along with governments in the Village of Mattoon and the Town of Hutchins, had to sue the school district to obtain the building, which opposed plans for a school in Mattoon on the grounds that the "establishment of any sort of private charter school at Mattoon could further drain students and damage district coffers," as a district official told the *Antigo Journal*.¹⁶ The school is on track to open in 2023 after six years of effort.

Potential choice schools have encountered similar resistance from incumbent school district officials in obtaining disused buildings in Milwaukee and elsewhere. The inadequacy of the choice grant in this way restricts new schools' options for facilities — and, so, restricts the options available to families across Wisconsin.

The remedy is parity in funding for all children regardless of what type of school they attend. Reform should start from the principle that students all have an equal value in the eyes of the law and that where a child receives a publicly funded education should not determine the amount of that funding.

Needless Complexity

Wisconsin's school choice program is actually four different programs.

The Special Needs Scholarship Program (SNSP) is the smallest, serving about 1,800 students in the most recent year and offering a higher per-pupil funding for students with disabilities or other special education needs, analogous to how traditional public schools are given extra funding for such students.

The other three programs, serving the bulk of choice families, differ by geography and age. The Milwaukee Parental Choice Program (MPCP) covers families who live in Milwaukee and is the oldest, dating to 1990. The Racine Parental Choice Program (RPCP) covers families living in the Racine Unified School District and has operated since 2011. The statewide Wisconsin Parental Choice Program (WPCP) covers families living anywhere else in Wisconsin and has operated since 2013.

The three main programs all offer the same grant and operate under the same enrollment rules: Schools cannot select students, nor generally can they charge families any additional tuition, nor place any religious requirements of any sort on students.

They differ, however, in the income limits on family participation, which this discussion treats later, and in how the programs are funded. The complexity is needless, and the funding mechanism needs improvement.

Currently, the Milwaukee choice program is funded mostly with a state appropriation from general purpose revenue — the nonspecific pot of money from which most state programs are funded. About 10.7% of the cost of the program in 2020-'21 was covered by a reduction in state aid to MPS, a \$25 million net reduction that the school district made up for via its property tax levy. State law is phasing out this reduction in state aid to MPS, and the Milwaukee choice program is due to be funded wholly by state appropriation, with no effect on MPS' funding, in the 2024-'25 school year.

In the programs covering Racine and the rest of Wisconsin, the state funds the per-child grant through general purpose revenue, then it withholds an equal amount of money, per child, from the aid it sends to the school district in which a particular child lives. The district is compensated by the state by being allowed to raise its revenue limit — the cap on the total amount of money, both state aid and property taxes, it may take in — by the same

amount that its aid is reduced.

In effect, the district rejected by a family using the choice program loses about \$8,500 per child in state aid but can raise its tax levy by the same amount. As the Legislative Fiscal Bureau puts it, "If a school district chooses to levy to the maximum, its total resources are unaffected by the choice aid reduction, because it replaced the aid reduction with local

Every middle-class family now paying tuition at all of the parochial or private schools across Wisconsin could, tomorrow, decide to move their children to a traditional district school and those children's education would become an added burden on taxpayers. levy."¹⁷ The cost of educating children in the school choice program outside of Milwaukee thus is shifted to the property tax.

The difference in funding methods is a legacy of the legislation that separately, over the years, established the programs, as is the fact that there even are separate programs for Milwaukee, for Racine and for the rest of Wisconsin. The distinction serves no purpose but to make school choice finance complex.

The reduction in aid, similarly, has no purpose but as a legacy of long-past legislative battles. Politically, however, it serves the opponents of school choice by letting them tell taxpayers in a school district that they bear the cost of families using the program on their property taxes, a particularly disliked tax. In total, the choice-related reduction of state aid to school districts amounted to about 2.3% of the \$6.3 billion that Wisconsin sent to school districts in 2020-'21, but that it is anything opens the program to attack.

Wisconsin could eliminate the unnecessary complexity and reduce the local political conflicts over the school finance pie by funding all choice students from general purpose revenue, as Milwaukee students already will be starting in 2024. This would mean no portion of school funding for families who opt for a choice school would be borne by property taxes. The only effect of such families' choices on public school districts' finances would be those associated with change in enrollment, no different than if a family moved from one public school district into a neighboring one. Additionally, lawmakers should simplify and consolidate programs to increase efficiency for both parents and schools.

Opening Choice to All

Income Limits

Although Wisconsin legislators extended to families in the rest of our state by 2015 the option that had previously been available in Milwaukee since 1990 and in Racine since 2011, sending a child to the school that is best for her remains a practical option only for some families — generally, those with lower to middle incomes and the well-off.

That is because Wisconsin's school choice program imposes family income limits. In this, it differs from public charter schools or the option to choose a different traditional school district, both of which are open to all families regardless of income. But if Milwaukee or

Racine families choose a private school, they can take their state aid with them only if they earn less than 300% of the federal poverty line. If a family in the rest of Wisconsin chooses a private school, they lose their state aid if they earn more than 220% of the poverty level.

That means a family of four in Wausau loses access to the choice program if parents earn any more than \$58,300. In Milwaukee or Racine, a family of four is cut out if parents earn more than \$79,500. The limits are \$7,000 higher if parents are married.

Families above the limits have some options. They could try to access a public charter

school, with all the cost borne by taxpayers, although the number of seats available in charter schools is limited and charter schools face inadequate per-pupil financing. Alternatively, a family could try to use the state's open enrollment option to access another district, although, as noted earlier, districts deny 20% to 30% of such requests. If a family is well-off enough, it can pay tuition at a private school. If the school the family chooses has enough generous donors, it can offer help with tuition, as many private schools do.

Or a well-off family can move to a better district. For example, a family dissatisfied with the Madison Metropolitan School District, where in the last pre-pandemic year of 2018-'19, 35% of all students were proficient in reading, could choose to attend the schools in the neighboring Middleton-Cross Plains Area School District, where 59% of students that year At the high school level, most schools are limited in how many choice students they can accept by their capacity to raise money from donors to cover the gap between the choice per-pupil grant and the actual cost of educating a child.

were proficient in reading. However, the median home sale price in Middleton, according to real estate brokerage Redfin, is \$591,000, about 57% more than the median home sale price in Madison.

If the family moves, it makes little difference to taxpayers. Middleton spent about \$15,200 per pupil in 2020-'21, the most recent figures available from DPI, while Madison spent about \$17,150. The cost to a family, both in money and disruption, would be great.

And these options are less available, or not available at all, to middle-income families above the cutoff for school choice but below the prosperity needed to afford a house in Middleton.

It is important to note as well that in either case, the family would cost taxpayers far more than if their child attended a private school using a choice grant, which this year is \$8,399 per student in elementary grades and \$9,045 in high school.

Fallacious Cost Claims

In response to proposed legislation that would allow all families of any income to access school choice, DPI in early 2022 produced a misleading claim that such a measure would cost property taxpayers \$577.3 million. The figure is at best a gross exaggeration, as explained in a Badger Institute policy brief, "School Choice and Property Taxes,"¹⁸

published in February 2022.

DPI assumed for its estimate that all 67,870 students now in Wisconsin private schools outside Milwaukee whose parents pay their tuition would receive choice grants. As the policy brief explained, existing choice schools couldn't accommodate such a surge because the choice grant is inadequate to fund a child, especially at the high school level, meaning schools that accept students in the choice program cannot afford to open enough seats without a herculean fundraising effort.

We point out above why the state should increase the per-pupil funding for choice schools to eliminate this de facto cap on enrollment, granting middle-income families the same access to the program as they now have to public charter schools and traditional district schools. We also point out why the state's method of funding choice should be simplified so that its funding has no effect on school districts — a change that would alter DPI's figure for property tax impact to zero.

Even so, critics will note that opening choice to all families will add to taxpayer costs as tuition-paying families access the program. However, every middle-class family now paying tuition at all of the parochial or private schools across Wisconsin could, tomorrow, decide to move their children to a traditional district school and those children's education would become an added burden on taxpayers.

The pathway forward is clear: Eligibility for the publicly funded education options should be uniform. All Wisconsin residents who must abide by mandatory attendance laws and pay taxes should be eligible.

Conclusion

There are many things about Wisconsin education on the whole that must be improved. Some, such as reforming and diversifying pathways into the teaching profession, are complex enough to require a paper all their own, and the Badger Institute intends to continue producing such research. Others, such as requirements for classroom transparency or measures to preserve parental rights, are beyond the scope of this report. Many such reforms are part of providing a rich environment of options for families.

But the fundamental mechanism of choice already is in place in Wisconsin. It has been tested over decades and found to offer families vital access to options closely suited to children's needs. It can empower many more Wisconsin parents and the educators who want to serve their children in innovative ways with some reforms that give families the power to choose what they need.



The lag of per-pupil funding amounts for school choice compared to traditional district schools limits the availability of choice. The complexity of choice funding and its entanglement with funding for district schools lead to confusion and conflict. The limits on which families can access choice are unjust.

Lawmakers should:

- Make sure all students have the same value in the eyes of the law and that where one receives a publicly funded education should not determine the amount of funding available.
- Decouple funding from local district sources, and fund children in the choice program directly from state general purpose revenue.
- Simplify and consolidate choice programs to increase efficiency for both parents and schools.
- Make eligibility uniform for publicly funded education options. All Wisconsin residents who must abide by mandatory attendance laws and pay taxes should be eligible.

About the Authors



Jim Bender is a longtime school choice advocate and the Badger Institute's daily, influential presence in the state Capitol advancing meaningful, common-sense policy reforms. He was president of School Choice Wisconsin from 2011 to 2020 and a member of the design team for the Wisconsin statewide school report card. He previously

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Endnotes

¹ law.justia.com/codes/wisconsin/2015/chapter-118/section-118.15/

² homeschooling-wpa.org/about-us/history/

³ The Wisconsin Constitution requires "the support and maintenance of common schools, in each school district." The districts should be as uniform as possible, says the constitution, be free to attend and offer no sectarian instruction. The Wisconsin Supreme Court has found that only local public schools are "common" schools and that local dollars levied for schools must remain with the local district.

In the case that challenged the Milwaukee Parental Choice Program, the Wisconsin Supreme Court found that the program did not violate the constitutional requirement for "common schools." The Legislature was free, as long as it met its financial duty to district schools, to provide options to families beyond the traditional public school system.

⁴ nationalreview.com/bench-memos/carson-v-makin-scores-another-victory-for-religious-liberty/

⁵ dpi.wi.gov/open-enrollment/data

⁶ nationsreportcard.gov/

⁷ wisedash.dpi.wi.gov/Dashboard/dashboard/22275

⁸ School Choice Demonstration Project homepage: uaedreform.org/category/department-of-education-reform/ scdp/milwaukee-evaluation/

⁹ Flanders, Will. 2022. "Apples to Apples IV" WILL Policy Report. will-law.org/wp-content/uploads/2022/05/ ApplestoApplesII.pdf

¹⁰ badgerinstitute.org/News/2022-2023/Police-banned-crime-a-daily-occurrence-in-MPS-schools.htm

¹¹ badgerinstitute.org/News/2019-2020/Analysis-Madison-school-districts-lenient-discipline-policy-is-a-dismal-failure.htm

¹² Legislative Fiscal Bureau, information paper 27, "State Aid to School Districts," January 2021, docs.legis.wisconsin. gov/misc/lfb/informational_papers/january_2021/0027_state_aid_to_school_districts_informational_paper_27.pdf

¹³ To be clear: This number includes federal money for poor and disabled students, some of which — the percent varies by district — benefits private school pupils. In 2018-'19, the last school year before unprecedented pandemic-related federal aid, about 6.8% of all revenue to Wisconsin school districts came from all kinds of federal aid combined; the amount going to private school pupils would be a fraction of that. The number also includes school districts' spending on transportation, some of which benefits private school pupils, since districts by constitutional requirement cannot bar such students from school buses. In total, about 3% of school districts' spending statewide was related to transportation of every kind of student, public school or private.

¹⁴ tmj4.com/news/coronavirus/hope-christian-schools-closing-high-school-in-milwaukee-citing-funding-and-staff-shortage

¹⁵ jsonline.com/story/news/education/2022/01/21/milwaukees-hope-christian-high-school-voucher-program-close/6599269001/

¹⁶ realcleareducation.com/articles/2019/07/03/school_choice_could_help_a_rural_communityif_given_the_ chance_110343.html

¹⁷ docs.legis.wisconsin.gov/misc/lfb/informational_papers/january_2021/0028_private_school_choice_and_special_ needs_scholarship_programs_informational_paper_28.pdf

¹⁸ badgerinstitute.org/Reports/A-Badger-Institute-Policy-Brief--School-Choice-and-Property-Taxes.htm