

The League of Women Voters  
of Dane County presents...



Issues Forum

# ***Keeping the “Public” in Public Schools***

**Speaker: Julie Underwood, J.D., Ph.D.  
Susan Engeleiter Professor of Law Education,  
Policy and Practice  
University of Wisconsin–Madison**

**Wednesday, June 6, 2018**

**7:00 – 8:30 p.m.**

**Capitol Lakes Grand Hall  
333 West Main Street in downtown Madison**

**The event is free and open to the public.  
Free parking in the ramp across the street.  
Bring your ticket into Capitol Lakes to get stamped.**

**Committee: Janine C. Edwards, Janet Kane, Sandra Whisler**

**For more information visit the League’s website at  
[www.lwvdanecounty.org](http://www.lwvdanecounty.org) or call 608-232-9447.**

## **Wisconsin League of Women Voters Positions (selected)**

### **Privatization**

Ensure transparency, accountability, positive community impact and preservation of the common good when considering the transfer of governmental services, assets and/or functions to the private sector.

### **Elementary and Secondary Education**

Promote equal educational opportunity for each child through an equitable state aids formula while retaining substantial program and personnel responsibilities in the local district.

Substantial control of school programs and personnel by the local school district.

Charter school authority given only to K-12 public school districts to maintain Wisconsin's commitment to local control of K-12 public education.

A system of school choice within the public school system, but which does not include any tax dollars being given to private or religious schools.

A requirement of all institutions or organizations that receive public funds for K-12 education to meet the same requirements as public schools, including:

- accounting for the use of public funds;
- meeting performance standards for their students;
- meeting the same state standards for all school employees.

### **Study Questions:**

1. Population trends in rural Wisconsin make it challenging to maintain adequate funding for local public schools. How can residents of rural school districts meet these challenges in the face of state-mandated revenue limits? How do school vouchers affect local public school budgets?
2. The Wisconsin Constitution reads "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 between the ages of 4 and 20 years; and no sectarian instruction shall be allowed therein; but the legislature by law may, for the purpose of religious instruction outside the district schools, authorize the release of students during regular school hours." Does the current status of education in Wisconsin fulfill the constitutional obligation? Do the people of Wisconsin have responsibility to hold elected officials accountable to provide free, uniform, nonsectarian education to the children of the state? How can the people hold elected officials accountable?

3. How does the phrase “choice programs” persuade people that giving taxpayer money to private and religious schools is desirable? What does this phrase obscure?

## What Is Public about Public Education?

In her presentation to the [League of Women Voters of Dane County](#) on October 4, 2017, Professor Julie Mead outlined [What Is Public About Public Education?](#)

**Public Purpose** – Public education is essential to democracy. To make informed votes, engage in public dialogue, or run for office, people must be educated. One of the primary purposes of state government is to provide public education. Every person benefits from an educated citizenry.

1. **Public Funding** – All taxpayers invest together to provide public schools.
2. **Public Access** – Everybody has the right to a public education. Public schools are all inclusive. No one is excluded; public schools serve all. A common experience is provided; people from varied backgrounds learn to work together. The Wisconsin Constitution states this is a fundamental right.
3. **Accountability to Communities** – Each school district has an elected board of members who are accountable to the community. Federal and state laws govern public schools. All elected representatives, including the governor, are accountable to the citizens for public education.
4. **Public Curriculum** – What is taught is decided collectively. There are standards decided upon by qualified educators and citizens.

## Who Wants to Privatize Public Education?

In a [1995 opinion piece in the Washington Post](#), Milton Friedman, the influential economist, advocated for universal vouchers.

“In my view, such a radical reconstruction can be achieved only by privatizing a major segment of the educational system – i.e., by enabling a private, for-profit industry to develop that will provide a wide variety of learning opportunities and offer effective competition to public schools. Such a reconstruction cannot come about overnight. It inevitably must be gradual.”

A number of entrepreneurs and large corporations have organized the American Legislative Exchange Council (ALEC), which spearheads the efforts to privatize public education. [Wikipedia identifies ALEC](#) as a nonprofit 501(c)(3) “organization of conservative state legislators and private sector representatives who draft and shape model state-level legislation for distribution among state governments in the United States.”

# ALEC's Legislative Agenda on Education

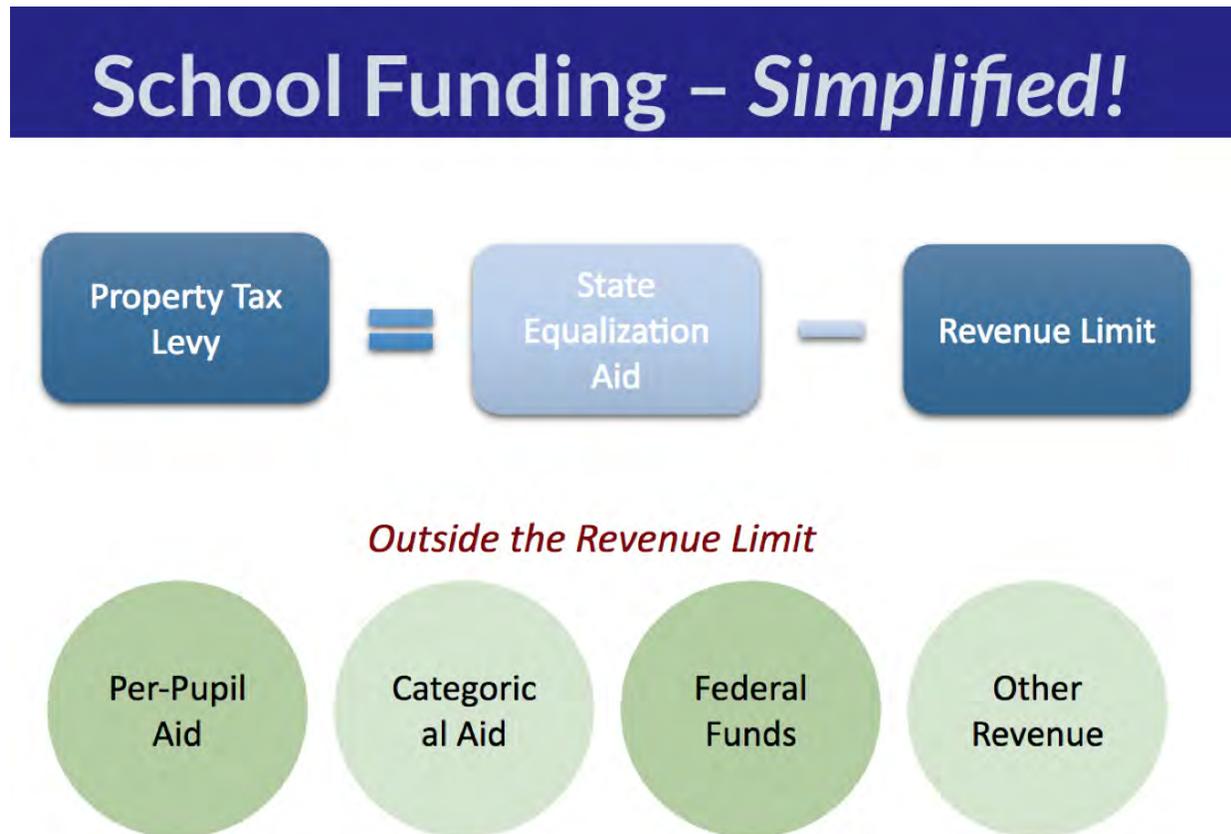
[https://www.alecexposed.org/w/images/5/55/ALEC\\_on\\_Education.pdf](https://www.alecexposed.org/w/images/5/55/ALEC_on_Education.pdf)

On ALEC task forces, corporate lobbyists and special interests vote as equals with elected representatives on templates to change our laws, behind closed doors with no press or public allowed to see the votes or deliberations. ALEC's education legislation diverts taxpayers' money from American public school children to for-profit education corporations, strips away the rights of teachers and their ability to negotiate strongly for small class sizes and other practices that help children learn better, and gives more tax breaks to rich corporations and individuals to pay private school tuition, among other things that undermine America's proud tradition of investing in our future through investing in excellent public education for all of America's children. ALEC's education task force has long been chaired by a private school corporation. Below are examples of the model bills that ALEC has promoted.

- ALEC's "Family Education Tax Credit Program" creates a tax credit for paying private primary or secondary school tuition and fees. It would also create a tax credit for corporations and individuals that give money to be used as "scholarships" to pay tuition and fees at private schools. This also reduces tax revenue for public services.
- ALEC's "Parent Choice Scholarship Program Act-Universal Eligibility" creates a voucher program to use taxpayer funds that would be spent on public schools to subsidize private for-profit, religious, or other primary and secondary schools. This program has no income limit for subsidy and therefore all students would be eligible.
- ALEC's "Education Enterprise Zone Act" creates a voucher program to subsidize private schools with taxpayer money.
- ALEC's "Education Accountability Act" allows a state to override the elected school board, declare schools "educationally bankrupt," and divert funds to private schools.
- ALEC's "Charter Schools Act" would allow the state to grant charters to create and operate schools outside of traditional public schools, while also exempting these charter schools from state laws that apply to public schools
- ALEC's "Virtual Public Schools Act" requires virtual or online education company courses to be recognized as public schools and require that such companies receive the same per pupil funding as traditional schools that provide classrooms, sports training facilities, lunch, and transportation, resulting in windfall profits for online "schools."
- ALEC's "Alternative Certification Act" attempts to allow students to be taught by people who have no training in how to teach children and the different ways kids learn at various ages and based on different learning styles. This paves the way for for-profit schools to pay "teachers" less than educators who are actually trained in teaching.

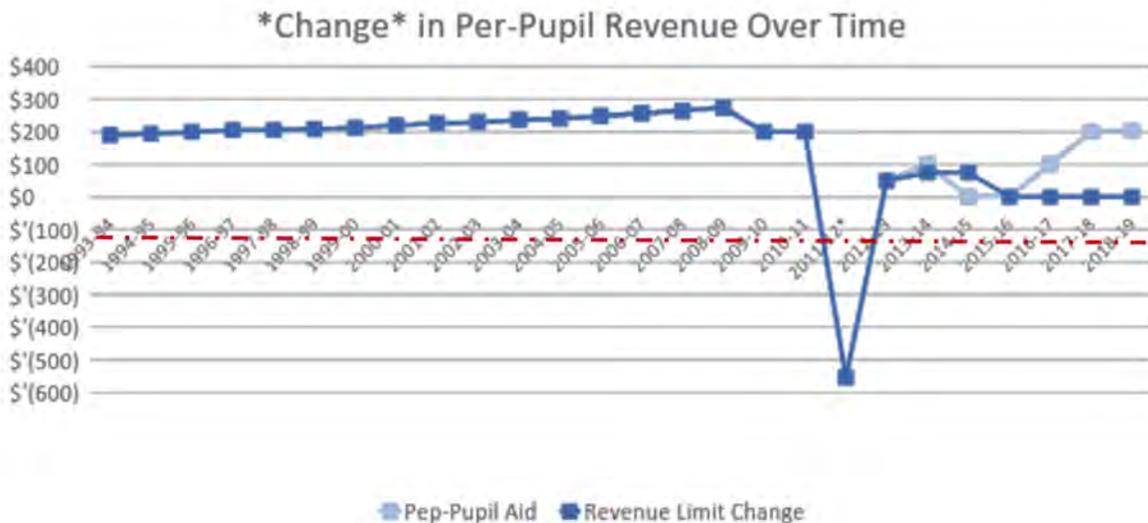
## What Is Happening to Public School Funding?

These figures, supplied by Jeff Pertl, Senior Policy Adviser at the Wisconsin Department of Public Instruction, explain.



The revenue limit is a maximum amount that each school district can spend. This amount for each district was set in 1993 based on the amount of money the district was spending at that time. In 1996, the legislature passed a law guaranteeing that the state would provide two-thirds of K-12 costs. From 1993 to 2008, there was an annual increase in each revenue cap that ranged from \$190 to \$275 per pupil. The 2011-13 state budget made the drastic cut to each revenue limit of \$528 per pupil. Since that time there have been no increases to the revenue limit. Changes in the revenue limits are permanent. Instead small increases have been made in specific categories of aid; these changes are not permanent.

# Revenue Limits & Per-Pupil Aid



This graph shows that state funding to public schools was cut drastically in 2011 by Governor Scott Walker and the legislature. ***The current level of state funding continues to be less than the level of 2008-09. The per-pupil aid that the legislature and the governor have provided since 2013 still is less than the state funding in 2008-09.***

Detailed information about school aid, revenue limits, and categorical aids can be found in the following document.

[https://docs.legis.wisconsin.gov/misc/lfb/budget/2017\\_19\\_biennial\\_budget/050\\_budget\\_papers/490\\_public\\_instruction\\_general\\_school\\_aids\\_and\\_revenue\\_limits\\_state\\_support\\_for\\_k\\_12\\_education.pdf](https://docs.legis.wisconsin.gov/misc/lfb/budget/2017_19_biennial_budget/050_budget_papers/490_public_instruction_general_school_aids_and_revenue_limits_state_support_for_k_12_education.pdf)

Full information about the Fair Funding Proposal by State Superintendent Tony Evers can be seen at the following link: <https://dpi.wi.gov/budget/fairfunding>

## The Legislature Is Expanding Voucher Programs

The current law providing for vouchers is 2015 Act 55, which enacted the 2015-17 biennial budget. This budget (Senate Bill 21) was passed by the state legislature along party lines ([Senate vote](#); [Assembly concurrence](#)). By incorporating policy issues in an omnibus budget bill, Wisconsin legislators avoid accountability for their votes on specific policy provisions.

**Wisconsin legislators have never had to account to voters directly about their votes on voucher programs. Wisconsin voters have never had an opportunity to vote for or against vouchers and charter schools in a statewide referendum.**

**Under the Wisconsin Choice Programs, taxpayers' public funds are used to pay for the cost of students to attend private and religious schools.**

There are five voucher programs in Wisconsin: (1) Milwaukee program; (2) Racine program; (3) Wisconsin statewide voucher program; (4) special education; (5) private school tuition tax deduction. There are additional charter schools, which can be independent of public school districts. All of these programs are paid for by taxpayer money.

In 2015-16 and 2016-17, the statewide voucher program was limited to admitting only 1% of a school district's students to a voucher school. Taxpayers paid a total of \$303.2 million for private school tuition vouchers in the 2016-17 school year.

In August, 2017, the Joint Finance Committee of the legislature voted to raise the eligible level of income to 220% of the poverty level for the statewide voucher program. Throughout the state, a married couple with two children can have income up to \$61,120 per year and still qualify to receive a voucher to send their children to a private school. In Milwaukee and Racine, a married couple with two children can have income up to \$80,401 (300% of poverty level) and still receive vouchers for their children to attend private schools. Eligible students in grades kindergarten through grade eight may attend private schools without charge for tuition. Continuing voucher students in grades nine through twelve may be charged tuition if their family income exceeds 220 % of the federal poverty level. However, family income can increase after the first year a student is admitted because there is no further check on income.

In 2017-18, 4,540 students were enrolled in voucher programs. [Ref: [WPCP Facts and Figures for 2017-18](#)] In the 2018-19 school year, 122 private schools registered to participate in the voucher programs. [Ref: [Department of Public Instruction Parental Choice Programs](#)]

"Beginning in 2017-18, the participation limit will increase by one percentage point each year until the limit reaches 10% in 2025-26. Beginning in year 2026-27, no limit will apply. Act 55 also eliminated the restriction on the number of private schools that can participate in the statewide choice program." [Ref: [Page 3 of Wisconsin Legislative Fiscal Bureau document: Private School Choice Programs](#)]

In the 2017-19 state budget, a Special Needs Scholarship Program (a voucher program) was established for private and religious schools in Wisconsin. Under current law, the State of Wisconsin provides a student with a disability in a private school with a 90% plus reimbursement rate and provides a student with a disability in a public school with only 26% reimbursement.

[Ref: [https://docs.legis.wisconsin.gov/misc/lfb/budget/2017\\_19\\_biennial\\_budget/034\\_comparative\\_summary\\_of\\_provisions\\_2017\\_act\\_59\\_by\\_agency/public\\_instruction.pdf](https://docs.legis.wisconsin.gov/misc/lfb/budget/2017_19_biennial_budget/034_comparative_summary_of_provisions_2017_act_59_by_agency/public_instruction.pdf)]

The voucher programs began slowly, but have increased rapidly. In making these changes in the statewide voucher program, legislators provided taxpayer money to private schools for children in families of all income levels.

## How Are Voucher Programs Affecting Public Schools?

Money for the statewide vouchers is taken directly from the total allocation of state funds that each public school district receives through the state funding formula. **Public schools receive what is left.**

General aid payments to school districts are affected by funding provisions for open enrollment, private school voucher programs, and the independent charter school program. Page 4 of a [November 2017 Legislative Fiscal Bureau Memorandum](#) explains: *“The district of residence for pupils participating in the program is able to receive a nonrecurring (one time only) revenue limit adjustment for those pupils... The district of residence counts all of those pupils for general aid purposes. The general aid payment is reduced by a specific amount related to the payments to the district or school of attendance for those pupils.”* The district is not able to increase property taxes to make up for those reductions.

In 2018-19, for each elementary school student who attends a voucher school, the school district must pay \$7,747 to the voucher school. For each eligible high school student, the public school district must pay \$8,393 to the voucher school.

In the 2017-18 school year, the Department of Public Instruction (DPI) reports 121,500 students in private and religious schools in Wisconsin. In 2026-27, when all students in private and religious schools will be eligible to receive vouchers, if a per-pupil amount of \$10,000 were provided for each student in a private school through vouchers, 121,500 x \$10,000, or approximately \$1.2 billion of taxpayer funds would flow to private schools. [Ref: Christopher Thiel, Legislative Policy Manager, Milwaukee Public Schools (personal communication, June 5, 2018).]

A [Wisconsin Association of School Boards \(WASB\) Legislative Update](#) made the editorial comment: *“Any way you look at it, we’re paying for more kids to go to school and using property taxes to do it. Folks, there is no free money, no matter what voucher proponents try to tell you.”*

**Furthermore, schools that accept vouchers and charter schools can operate with lower standards than public schools and with little financial and academic accountability. The few requirements for voucher schools are described** in pages 3-16 of [Private School Choice Programs](#), produced by the Wisconsin Legislative Fiscal Bureau.

## How Are Rural School Districts Doing with Current Finances and the Statewide Voucher Program?

The legislature and the governor have chosen to provide categorical (per-pupil) aid to school districts in recent years rather than to raise the revenue limit. Per-pupil aid is not permanent; increases to the revenue limit are permanent. Per-pupil aid can be taken away any year. Per-pupil aid contributes to the inequality of funding among school districts because each district gets the same amount per pupil. Districts with little state funding get the same amount as districts with much state funding. Districts lose funding as pupils leave the district; this is the deteriorating situation of public schools in rural districts. ***230 out of the 426 school districts received less state aid in 2017-18 than they had in 2016-17.***

In December, 2017, leaders of the Wisconsin State Legislature announced the creation of the Blue Ribbon Commission on School Funding. The responsibility of the commission is to examine how tax dollars are distributed to schools and make recommendations about the needs of the students. The co-chairs of the commission are representative Joel Kitchens (R-Sturgeon Bay) and Senator Luther Olsen (R-Ripon).

Members of the legislature and experts in the field of education serve on the Blue Ribbon Commission. The commission has held eight public hearings in locations throughout the state between January 2018 and May, 2018. A final public hearing occurred on June 4 in Madison. **The commission will make recommendations for the 2019-21 budget.**

The [website for the commission](#) states *“As the demographics and population trends in our state have changed, our education funding formula has remained the same. Sixty-one percent of all public school districts in Wisconsin are experiencing declining enrollment. Some districts also have high property values, particularly in rural lake districts, which means that they receive little to no aid from the state. We need to review how tax dollars are being distributed among the schools in our state.”*

The commission is tasked with the following, as described in a [legislative update from the Wisconsin Association of School Boards](#):

- The effects of distributing general aid through our equalization aid formula. Attention will also be given to other factors that could improve our efforts to provide equal educational opportunities to all pupils;
- The relationship between declining enrollment districts and the fixed costs that districts face, and the possible incorporation of a minimum aid per district;

- Evaluating transportation costs and how districts pay for those costs;
- Review of high-cost categorical aids and the consideration of other aids that could be created to meet specific needs;
- Methods to better align funding for various school choice options such as open enrollment, school choice and independent charter schools;
- Consideration of funding levels for certain extended learning opportunities like summer school, preschool or dual enrollment;
- Options to provide revenue-limit equity to low-spending districts; and
- Other technical changes that could improve the transparency of the school finance system.

In April, 2018, the commission held a public hearing in southwestern Wisconsin during which 20 administrators of school districts testified. Superintendent of Pecatonica School District, Dr. Jill Underly, stated that school segregation still exists. “It may not be based on race necessarily, but it is still to an extent based on income inequality... Public schools, a cornerstone of our democracy, were supposed to equalize opportunity. It shouldn’t matter where you go to school, but in Wisconsin, let’s be honest, it DOES matter.” *(permission to quote from Dr. Jill Underly, June 4, 2018).*

Poverty among Wisconsin families has increased in recent years. In many rural school districts, more than half the students are eligible for free or reduced lunch. Superintendent Doug Olsen of Kickapoo Area School District noted that with poverty come needs.

“... only 48% of poor students are ready for school at age 5, compared to 75% of students from moderate- to high-income families. From vocabulary and pre-literacy skills, to numeracy, emotional regulation, and trauma, kids in poverty are more at risk to come to school less prepared.

“Costs for basic services, i.e., transportation, utilities, electricity, are increasing. New costs are added including technology, school safety, testing. Without adequate resources, buildings and systems maintenance are deferred. There are fewer applicants for vacant teaching jobs, a shortage of substitute teachers, and problems with a flattening pay scale for teachers.” *(Permission to quote from Superintendent Doug Olsen, June 4, 2018)*

The video titled [Road to Referendum](#) (on YouTube) explains the case of the Eau Claire school district for a referendum and also presents the general needs of most Wisconsin school districts.

Since 2011, half of Wisconsin school districts have put forward a referendum. Historically, only half of the referenda presented to voters have been approved. However, since 2011, 80% of

the referenda have been approved. The fact that voters are passing referenda means that the people of Wisconsin value public education. For generations, Wisconsinites have supported and profited from excellent public schools that were adequately funded by the state legislature. Now public schools funds have been cut, maintenance costs are increasing, and public funds are being drained to pay for private and religious schools.

## What Are the Academic Results of Voucher Schools?

A critical question is “How do students perform academically in voucher programs compared with students in public schools?” ***In general, students in voucher schools perform no better than public school students, and in some voucher schools, they perform worse than in public schools.***

A narrative review of 13 research studies (from 1998-2015) that employed random assignment methods showed five studies with positive results for all students (Washington, DC, Charlotte, NC, and Milwaukee, WI); five studies of data (New York City, Washington DC, and Dayton, Ohio) showed positive results for African American subgroups; two showed no significant results (New York), and one (Louisiana) showed negative results. [Ref: Egalite, AJ & Wolf, PJ. (2016). [A Review of the Empirical Research on Private School Choice](#). *Peabody Journal of Education*, 91(4), 441-454.]

The studies of state voucher programs that have found negative effects are:

- **Indiana:** Waddington, J. & Berends, M. (2015). Vouchers in the crossroads: Heterogeneous impacts on student achievement and attendance across private schools in Indiana. Paper presented to the Association for Public Policy Analysis and Management.
- **Louisiana:** Abdulkdiröglu, A., Pathak, P., & Walters, C. (2017). [Free to choose: Can school choice reduce student achievement?](#) Cambridge, MS: National Bureau of Economic Research
- **Louisiana:** Mills, J. & Wolf, P. (2016). [The effects of the Louisiana Scholarship Program on Student achievement after two years](#). Fayetteville, AR: School Choice Demonstration Project.
- **Ohio:** Figlio, D. & Karbownik, K. (2016). [Evaluation of Ohio’s EdChoice Scholarship Program: Selection, Competition, and Performance Effects](#). Washington, DC: Fordham Foundation.
- **Washington, DC:** Dynarski, M., Rui, N., Webber, A., Gutmann, B. (2017). Evaluation of the DC Scholarship Program: Impacts after one year. US Dept. of Ed.

In late June, 2017, both the Indiana and Louisiana results were updated. [Read a review by National Public Radio \(NPR\)](#).

A research report of the Indiana Choice Scholarship Program is still in peer review for publication. Approximately 3% (34,000 students) participate in this statewide program that costs \$146 million annually. The study involved 3,300 low-income students in grades 3-8 who used vouchers to switch from public schools to 13 private schools. These students were matched with similar students who remained in public schools. The results may not be representative of the entire state program because half of Indiana's voucher students had never attended public schools. Many voucher students, especially those lowest achieving, returned to their public schools. The study of standardized test scores indicate the following:

After years 1 & 2 -modest losses in math; no benefits in English/Language Arts (E/LA).

After year 4 -in math, students caught up to their peers in public schools; they surpassed their peers in E/LA.

The Louisiana Scholarship Program paid for almost 7,000 low-income students to attend private schools in 2012-2013. Most of the participating private schools are low-income, low tuition, and Catholic. These are 33% of the total private schools in Louisiana. Almost nine out of ten voucher students are African-American. Previous evaluations showed that, in comparison with students who stayed in low performing public schools, voucher students' achievement in math, science, social studies, and reading declined after the first and second years of switching. However, after three years, voucher students achieved about the same as similar students in the public schools on state tests of math and English. A subset of lower achieving students at the beginning showed gains in English over public school peers. Students who left for private schools in lower grades continued to show losses in math. This lower performance in math is consistent with findings in voucher programs in Washington, DC, Milwaukee, Florida, and Ohio.

*Ref: Mills, JN & Wolf, PJ. (2017). "How has the Louisiana Scholarship Program Affected Students?" Education Research Alliance Policy Brief, 1-11. [EducationResearchAllianceNOLA.org](http://EducationResearchAllianceNOLA.org)*

## **Have the Voucher Programs Been Challenged in Court?**

[Much of this historical review can be found on pp. 27-28 of this informational document: [Wisconsin Legislative Fiscal Bureau, Private School Choice Programs, January, 2017.](#)]

As soon as the voucher program was enacted in Wisconsin in 1990, its legality was challenged. Petitioners requested the Wisconsin Supreme Court to review the bill, arguing that the bill was unconstitutional on three grounds: (1) public funds may be expended only for public purposes; (2) the Wisconsin Constitution requires that schools be as uniform as possible; (3) the Wisconsin Constitution prohibits the legislature from passing a private or local provision as part of a multi-subject bill. The Wisconsin Supreme Court refused to review the bill.

Petitioners both for and against the bill brought their legal challenges to the Dane County Circuit Court (*Davis v. Grover*). In August, 1990, the Circuit Court ruled that the program was not unconstitutional and that the bill did not violate the three grounds stated above.

In November, 1990, the Court of Appeals reversed the Circuit Court decision and declared the bill unconstitutional on the basis that it was a local/private provision passed as part of a multi-subject bill. The Court of Appeals did not address the other two grounds for the lawsuit.

In March, 1992, the Wisconsin Supreme Court, by a vote of 4 to 3, reversed the decision of the Court of Appeals and ruled that the Choice Program was constitutional.

Initially only nonsectarian schools could participate in the program. In 1995, Act 27 expanded the program to all sectarian schools and made other changes. In 1996-97 the Act 27 changes were challenged in the Dane County Circuit Court and then in the Court of Appeals; both courts found the law invalid. Then in June, 1998, the Wisconsin Supreme Court upheld the constitutionality of Act 27 (*Jackson v. Benson*). On November 9, 1998, the U.S. Supreme Court refused to hear the Wisconsin case.

In 2002, the U.S. Supreme Court upheld the constitutionality of the Ohio Pilot Project Scholarship Program (*Zelman v. Simmons-Harris*). In the Ohio case, both sectarian, nonsectarian, and public schools were allowed to receive tuition and tutoring aid from taxpayer funds based on the financial need of the parents. The Supreme Court held that it was constitutional because it was enacted for a secular purpose, was neutral with respect to religion, allowed participation in a variety of schools, and provided assistance to a broad class of citizens who directed aid to sectarian schools as a result of their independent and private choice.

However, the U.S. Supreme Court decision does not prevent a court from deciding that its state constitution prohibits a voucher program. The state of Florida prohibited a voucher program after the Cleveland decision. The state of Wisconsin could also decide to prohibit voucher and charter programs.