



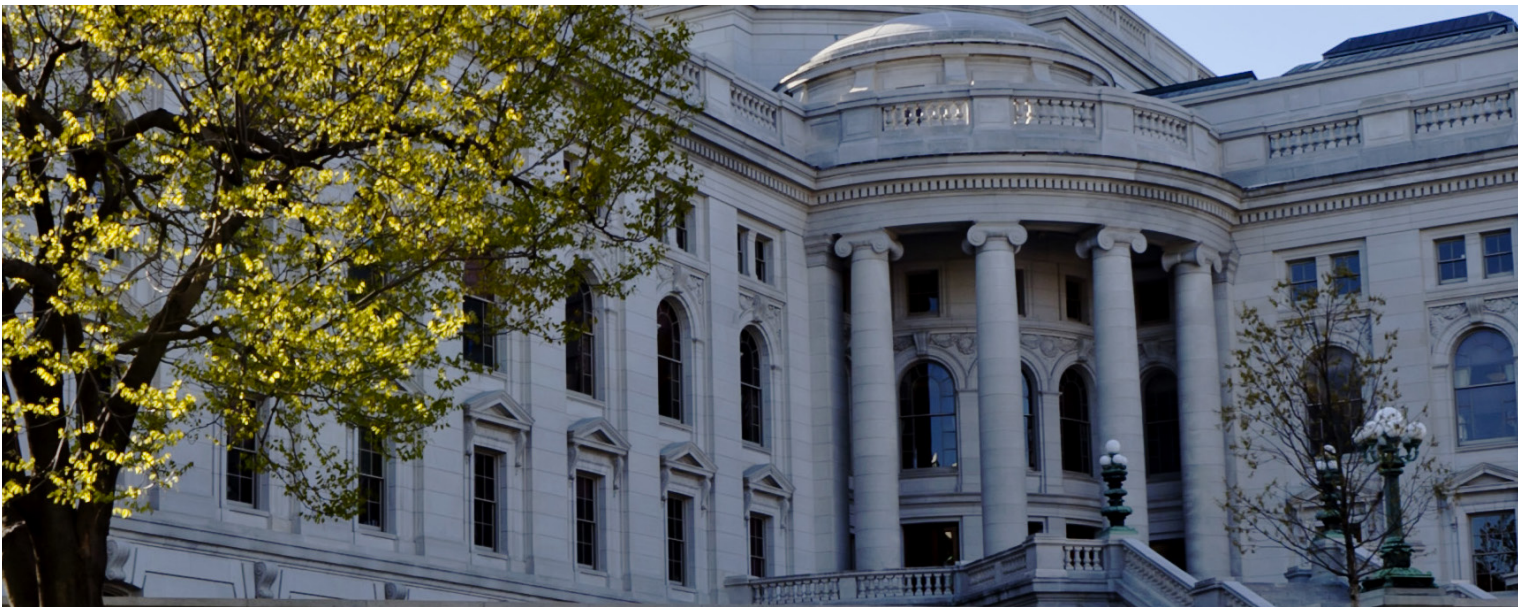
STATE OF WISCONSIN

# Legislative Audit Bureau

NONPARTISAN • INDEPENDENT • ACCURATE

Report 23-7  
May 2023

## Opportunity Schools and Partnership Program



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# Opportunity Schools and Partnership Program



STATE OF WISCONSIN

Legislative Audit Bureau

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STATE OF WISCONSIN

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# Legislative Audit Bureau

Joe Chrisman  
State Auditor

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May 31, 2023

Senator Eric Wimberger and  
Representative Robert Wittke, Co-chairpersons  
Joint Legislative Audit Committee  
State Capitol  
Madison, Wisconsin 53702

Dear Senator Wimberger and Representative Wittke:

As required by s. 13.94 (1) (os), Wis. Stats., we have completed a performance evaluation audit of the opportunity schools and partnership program established by 2015 Wisconsin Act 55, the 2015-17 Biennial Budget Act.

Student achievement and other factors determine whether public schools in a given school district are eligible for transfer into the program. Statutes include eligibility criteria for Milwaukee Public Schools (MPS) and separate eligibility criteria for all other school districts. An opportunity school is managed and controlled by a program commissioner selected by the applicable county executive.

No schools have been transferred into the program to date. No MPS schools will be eligible for transfer into the program for the 2023-24 school year. No schools in other school districts will be eligible for transfer into the program for the 2023-24 or the 2024-25 school years.

We appreciate the courtesy and cooperation extended to us by the Department of Public Instruction (DPI). A response from DPI follows the Appendix.

Respectfully submitted,

Joe Chrisman  
State Auditor

JC/DS/ag





# Opportunity Schools and Partnership Program

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***2015 Wisconsin Act 55, the 2015-17 Biennial Budget Act, established the opportunity schools and partnership program.***

2015 Wisconsin Act 55, the 2015-17 Biennial Budget Act, established the opportunity schools and partnership program. Student achievement and other factors determine whether public schools in a given school district are eligible for transfer into the program. Statutes include eligibility criteria for Milwaukee Public Schools (MPS) and separate eligibility criteria for all other school districts. An opportunity school is managed and controlled by a program commissioner selected by the applicable county executive. No schools have been transferred into the program to date. No MPS schools will be eligible for transfer into the program for the 2023-24 school year. No schools in other school districts will be eligible for transfer into the program for the 2023-24 or the 2024-25 school years.

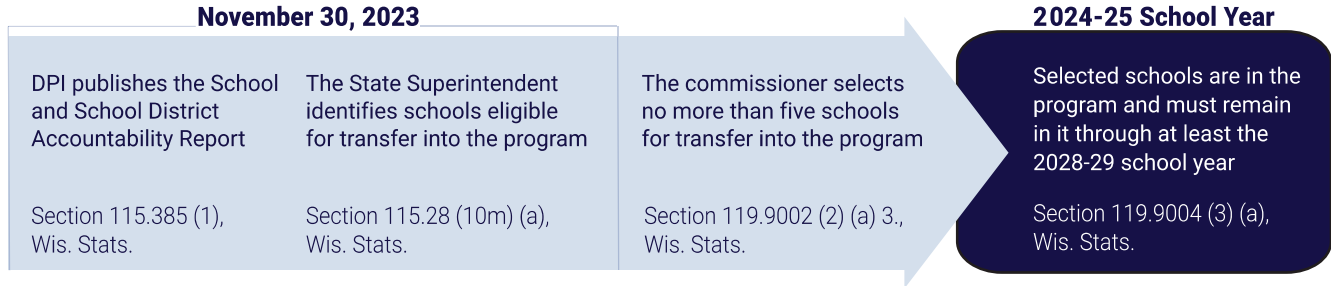
Beginning in 2017 and biennially thereafter, s. 13.94 (1) (os), Wis. Stats., requires the Legislative Audit Bureau to conduct a performance evaluation audit of the program. In May 2021, we issued report 21-8, which was our third statutorily required audit of the program. To complete our fourth audit of the program, we contacted the Department of Public Instruction (DPI), analyzed DPI's data, and attempted to contact the office of the Milwaukee County Executive.

## Milwaukee Public Schools

Under the program, statutes specify unique eligibility criteria for MPS. Figure 1 shows the statutorily required process by which MPS schools would be eligible for transfer into the program in the 2024-25 school year. Statutes prohibit a school in the program from being transferred out of the program for five consecutive school years.

Figure 1

**Statutorily Required Process by Which MPS Schools Would be Eligible for Transfer into the Program in the 2024-25 School Year**



Based on factors such as academic achievement, growth in academic achievement, attendance rates, and graduation rates, DPI places school districts throughout the state into one of five performance categories: significantly exceeds expectations; exceeds expectations; meets expectations; meets few expectations; or fails to meet expectations. DPI also places each school into one of these five categories and publishes all of this information in the School and School District Accountability Report.

By each November 30, statutes require the State Superintendent of Public Instruction to identify to the MPS superintendent and the program commissioner selected by the Milwaukee County Executive all MPS schools eligible for transfer into the program. A given school is eligible if MPS was placed in the fails to meet expectations category in the most-recent School and School District Accountability Report and that school either:

- was placed in the fails to meet expectations category in the most-recent School and School District Accountability Report; or
- is in a vacant or underutilized school building, as defined by statutes.

The Appendix summarizes the process by which MPS schools are eligible for transfer into the program.

***No MPS schools will be transferred into the program for the 2023-24 school year.***

No MPS schools were transferred into the program for the 2022-23 school year because MPS was not placed in the fails to meet expectations category in the School and School District Accountability Report that DPI published in November 2021. No MPS schools will be transferred into the program for the 2023-24 school year because MPS was not placed in the fails to meet expectations category in the School and School District Accountability Report that DPI published in November 2022. If the

School and School District Accountability Report that DPI publishes in November 2023 indicates that MPS was placed in the fails to meet expectations category, statutes require the program commissioner to select no more than five eligible MPS schools to transfer into the program for the 2024-25 school year.

### **Program Commissioner**

***Statutes require the Milwaukee County Executive to select a program commissioner.***

Statutes require the Milwaukee County Executive to select a program commissioner, even if no MPS schools are in the program. Statutes also require the county executive to notify the Governor and the mayor of the City of Milwaukee if the commissioner position becomes vacant. The Governor, the county executive, and the mayor are each statutorily required to appoint an individual who is not an elected official to compile a list of nominees for the commissioner position. No later than 120 days after notifying the Governor and the mayor, statutes require the county executive to select a new commissioner from these nominees.

Statutes require the program commissioner to establish policies for providing qualitative analysis of each eligible school in order to determine whether a school is suitable for transfer into the program. Statutes provide that a school must be selected based, in part, on the level of interest within the school and the school's community in transferring the school into the program. Statutes require the commissioner to provide alternative public school attendance arrangements for students who do not wish to attend an opportunity school.

Although statutes do not provide a timeline for the Milwaukee County Executive to notify the Governor and the mayor of a vacancy in the commissioner position, we found in report 21-8 that this position had been vacant for more than four years. We also found that no county executive had notified the Governor and the mayor that the program commissioner position had been vacant since June 2016. The county executive's office indicated that such notification had not occurred because no MPS schools were eligible for transfer into the program. During our current audit, we attempted on several occasions to contact the county executive's office to determine whether the program commissioner position is vacant, and if so, whether the county executive had informed the Governor and the mayor. However, the county executive's office did not respond to us. If the program commissioner position remains vacant and the School and School District Accountability Report that DPI publishes in November 2023 indicates that MPS was placed in the fails to meet expectations category, there may be insufficient time for the county executive to select a commissioner who must then identify and transfer MPS schools into the program for the 2024-25 school year.

## Other School Districts

Statutes specify separate eligibility criteria for school districts other than MPS. By each November 30, the State Superintendent must notify the Governor, the relevant county executive, and the relevant mayor if the schools of a given school district are eligible for transfer into the program. To be eligible, a school must be in a school district that:

- had a membership of more than 15,000 students in the most-recent school year;
- was placed in the fails to meet expectations category in the two most-recent School and School District Accountability Reports; and
- received intradistrict transfer aid, which is intended to help improve the racial balance among a district's schools, in the two school years the school district was placed in the fails to meet expectations category.

***No schools from the Madison Metropolitan or the Racine Unified school districts will be transferred into the program for the 2023-24 or the 2024-25 school years.***

In the 2021-22 school year, only the Madison Metropolitan and the Racine Unified school districts had more than 15,000 students and received intradistrict transfer aid. Neither of these school districts was placed in the fails to meet expectations category in the two most-recent School and School District Accountability Reports. As a result, no schools from the Madison Metropolitan or the Racine Unified school districts will be transferred into the program for the 2023-24 or the 2024-25 school years.

Statutes specify that intradistrict transfer aid is provided only for students participating in intradistrict transfer programs in the 2015-16 school year. In subsequent school years, statutes prohibit school districts from receiving such aid for students who did not participate in such programs in the 2015-16 school year. After school districts no longer receive intradistrict transfer aid, only MPS schools will be eligible for transfer into the program. For the 2022-23 school year, the Madison Metropolitan school district received intradistrict transfer aid, but the Racine Unified school district did not. If the Racine Unified School District continues to receive no intradistrict transfer aid in subsequent school years, its schools will no longer be eligible for the program.

Statutes define unified school districts to be those that are already eligible for the program, contain a city with more than 75,000 residents, and contain at least two villages. Only the Madison Metropolitan and the Racine Unified school districts meet this definition. If the State Superintendent provides notification that the schools of either of these school districts are eligible for transfer into the program, statutes stipulate that a school district has 120 days to demonstrate to the Department of Administration (DOA) that its school board has not delegated the authority to make decisions about employee benefits.

If DOA certifies that such authority has been delegated, any school in that district is eligible for transfer into the program. However, if DOA certifies that such authority has not been delegated, any school in that district is eligible for transfer into the program only if that district had a membership of more than 15,000 students in the most-recent school year, was placed in the fails to meet expectations category in the three most-recent school years, and received intradistrict transfer aid in the three most-recent school years.

The Appendix summarizes the process by which schools are eligible for transfer into the program.

## **Oversight of Opportunity Schools**

A program commissioner selected by any county executive in the state is statutorily responsible for the overall management and control of an opportunity school, including the budget, staffing, facilities, and student transportation. A commissioner may determine a school's calendar and hours and the compensation of its staff, who are not employees of the school district.

A program commissioner must determine through a request for proposal process which of the following statutorily identified entities will operate an opportunity school:

- an individual or group not currently operating a school;
- an individual operating a nonprofit charter school that met certain performance requirements; or
- the governing body of a nonsectarian nonprofit private school in a parental choice program that met certain performance requirements in recent school years.

Statutes prohibit students enrolled in an opportunity school from being charged tuition. Instead, the State Superintendent must use funds from a sum-sufficient appropriation to pay the program commissioner or operator of a school a per-student amount equal to the per-student amount paid to the operator of a charter school. In the 2022-23 school year, this amount was \$9,264. Statutes require that a school district's state aid be reduced by an amount equal to the amount paid to the commissioner or school operator. A commissioner may charge each entity operating an opportunity school a fee of up to 3.0 percent of the total per-student payment the entity receives, not to exceed a combined total of \$750,000 annually from all entities.

## 8 › OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM

***Statutes prohibit a school from being transferred out of the program for five consecutive school years.***

As noted, statutes prohibit a school from being transferred out of the program for five consecutive school years. Thereafter, a program commissioner may transfer a school out of the program if it was placed in the significantly exceeds expectations, exceeds expectations, or meets expectations category for each of the three preceding school years. A commissioner may transfer the operation of such a school to:

- the school district, if the school district has not been placed in the fails to meet expectations category for any of the three preceding school years;
- an individual or group that will operate the school as a charter school; or
- the governing body of a private school.

We will prepare our next biennial performance evaluation audit of the program in 2025, as required by statutes. If any MPS schools are transferred into the program in the 2024-25 school year, we will report relevant information, including the number of such schools.

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## Appendix

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## Appendix

### Process by Which Schools Are Eligible for Transfer into the Program

#### Milwaukee Public Schools

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**If MPS** was placed in the fails to meet expectations category in the **most-recent** School and School District Accountability Report



**Then an MPS school** is eligible for transfer into the program if it:

- was placed in the fails to meet expectations category in the **most-recent** School and School District Accountability Report

**OR**

- is in a vacant or underutilized school building

#### Other School Districts

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**If a school district:**

- had a membership of more than 15,000 students in the the **most-recent** school year
- AND**
- was placed in the fails to meet expectations category in the **two most-recent** school years
- AND**
- received intradistrict transfer aid in the **two most-recent** school years



**Then any school in the district** is eligible for transfer into the program



**However,** if DOA certifies that an eligible unified school district has not delegated its authority to make decisions about employee benefits, **then** the district's schools are eligible only if the district:

- had a membership of more than 15,000 students in the the **most-recent** school year
- AND**
- was placed in the fails to meet expectations category in the **three most-recent** school years
- AND**
- received intradistrict transfer aid in the **three most-recent** school years



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## Response

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May 25, 2023

*Delivered electronically*

Joe Chrisman, State Auditor  
Legislative Audit Bureau  
22 E. Mifflin Street, Suite 500  
Madison, WI 53703  
[Joe.Chrisman@legis.wisconsin.gov](mailto:Joe.Chrisman@legis.wisconsin.gov)

Dear Mr. Chrisman:

The Department of Public Instruction (DPI) appreciates the opportunity to review the performance evaluation audit of the Opportunity Schools and Partnership Program established by 2015 Wisconsin Act 55, the 2015-17 biennial budget.

The DPI has no changes to the report. The Legislative Audit Bureau has described the program and its requirements as we understand them.

Sincerely,

A handwritten signature in blue ink that reads "Jill Underly".

Jill K. Underly, PhD  
State Superintendent

JK:tc

cc: Mr. Dean Swenson, Deputy Auditor for Performance Evaluation  
[Dean.Swenson@legis.wisconsin.gov](mailto:Dean.Swenson@legis.wisconsin.gov)