



STATE OF WISCONSIN
Legislative Audit Bureau
NONPARTISAN • INDEPENDENT • ACCURATE

Report 21-8
May 2021

Opportunity Schools and Partnership Program



Opportunity Schools and Partnership Program



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Process by Which Schools Are Eligible for Transfer into the Program

Response

From the Department of Public Instruction



STATE OF WISCONSIN

Legislative Audit Bureau

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May 19, 2021

Senator Robert Cowles and
Representative Samantha Kerkman, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Cowles and Representative Kerkman:

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. We again recommend that the Milwaukee County Executive comply with statutes by notifying the Governor and the mayor of the City of Milwaukee that the program commissioner position is vacant.

No schools have been transferred into the program to date. No MPS schools will be eligible for transfer into the program for the 2021-22 school year. No schools in other school districts will be eligible for transfer into the program for the 2021-22 or the 2022-23 school years.

We appreciate the courtesy and cooperation extended to us by DPI. A response from DPI follows the Appendix.

Respectfully submitted,

Joe Chrisman
State Auditor

JC/DS/ss

Opportunity Schools and Partnership Program

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 2021-22 school year. No schools in other school districts will be eligible for transfer into the program for the 2021-22 or the 2022-23 school years.

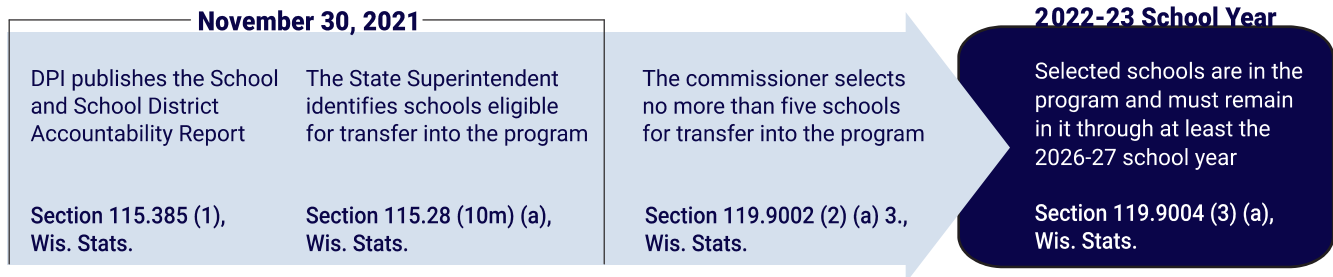
Beginning in 2017 and biennially thereafter, s. 13.94 (1) (os), Wis. Stats., requires the Legislative Audit Bureau to prepare a performance evaluation audit of the program. In July 2019, we issued report 19-11, which was our second statutorily required audit of the program. To complete our third audit of the program, we contacted the Department of Public Instruction (DPI) and the office of the Milwaukee County Executive. In addition, we assessed how recent statutory changes affect the eligibility of schools for transfer into the program.

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 2022-23 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 2022-23 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 2021-22 school year.

No MPS schools were transferred into the program for the 2020-21 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 2019. 2019 Wisconsin Act 185 prohibited DPI from publishing the School and School District Accountability Report in November 2020. As a result, no MPS schools will be transferred into the program for the 2021-22 school year. If the School and School District Accountability report that DPI publishes in November 2021 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 2022-23 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.

No county executive has notified the Governor and the mayor that the program commissioner position has been vacant since June 2016.

No county executive has notified the Governor and the mayor that the program commissioner position has been vacant since June 2016. The county executive's office indicated that such notification has not occurred because no MPS schools are currently eligible for transfer into the program. 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, this position has been vacant for more than four years. If the School and School District Accountability Report that DPI publishes in November 2021 indicates that MPS was placed in the fails to meet expectations category, there may be insufficient time to select a commissioner who must then identify and transfer MPS schools into the program in the 2022-23 school year.

The Milwaukee County Executive should comply with statutes by notifying the Governor and the Milwaukee mayor that the commissioner position is vacant, which will allow the statutorily prescribed process for selecting a new commissioner to begin. If the notification that DPI is statutorily required to provide by November 30, 2021, indicates that MPS schools are eligible for transfer into the program, the commissioner will need to begin the process of identifying one or more such schools to transfer into the program for the 2022-23 school year.

Recommendation

We recommend the Milwaukee County Executive comply with statutes by notifying the Governor and the mayor of the City of Milwaukee that the position of commissioner of the opportunity schools and partnership program is vacant.

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 2021-22 or the 2022-23 school years.

In the 2019-20 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. In addition, Act 185 prohibited DPI from publishing such a report in November 2020. As a result, no schools from the Madison Metropolitan or the Racine Unified school districts will be transferred into the program for the 2021-22 or the 2022-23 school years.

2015 Wisconsin Act 55 modified statutes pertaining to intradistrict transfer aid. Under Act 55, such aid will be provided only for students participating in intradistrict transfer programs for the 2015-16 school year. In subsequent school years, Act 55 prohibits school districts from receiving such aid for students who did not participate in intradistrict transfer programs for 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.

2017 Wisconsin Act 59, the 2017-19 Biennial Budget Act, modified how schools of certain unified school districts are eligible for transfer into the program. Act 59 defined such 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, Act 59 stipulates 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.

The Governor’s 2021-23 Biennial Budget Proposal would eliminate the program, including the statutory provisions that apply to MPS and those that apply to school districts other than MPS.

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 non-profit charter school that met certain performance requirements; or
- the governing body of a nonsectarian non-profit 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 2019-20 school year, this amount was \$8,911. 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.

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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 2023, as required by statutes. If any MPS schools are transferred into the program in the 2022-23 school year, we will report relevant information, including the number of such schools.

■ ■ ■ ■



Appendix



Appendix

Process by Which Schools Are Eligible for Transfer into the Program

Milwaukee Public Schools

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

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

Response

May 13, 2021

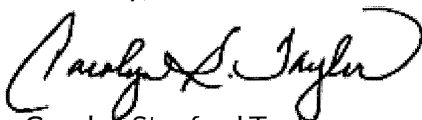
Joe Chrisman, State Auditor
Legislative Audit Bureau
22 E. Mifflin Street, Suite 500
Madison, WI 53703

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,



Carolyn Stanford Taylor
State Superintendent

CST:jk