

2025 Research REPORT

Thousands Served: Students with Disabilities in Wisconsin's Parental Choice Programs

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Executive Summary

The extent to which Wisconsin's school choice programs serve students with disabilities has been in the news media in recent years. However, in the absence of sound data, many reports rely on rumor and speculation. In the past two years, the Wisconsin Institute for Law & Liberty (WILL) has partnered with School Choice Wisconsin (SCW) to provide an accurate assessment of disability rates. Our second survey, conducted in the fall of 2024, received a significantly higher response rate than our first. This provided much greater insight on the extent to which choice schools serve students with disabilities. The survey was responded to by 205 school leaders who represent 240 of the 403 schools in the choice programs. These 204 schools collectively enrolled 74.1% of students in the state's school choice programs this year. We find that schools in those programs serve far more students with disabilities than the media or the Department of Public Instruction (DPI) report.

Among the highlights of this report:

More than 14% of students in choice schools likely have a disability, a finding consistent with a respected academic study conducted in 2012. This is **seven times greater** than DPI reports, and slightly higher than our result last year (about 10%) with a smaller sample of schools. DPI's apples-to-oranges protocol is guaranteed to understate disability enrollment in private schools.

Current DPI identification requirements guarantee undercounting. Only students who have received services in a public school previously or who have a service plan being implemented by a public school are counted as having a disability for the purposes of the state report card. This means that even many students in the Special Needs Scholarship Program (SNSP) are not counted as having a disability.

Private schools in the choice programs may not deny admission based on disability status. As is the case in many public schools, schools in the choice programs are not equipped to serve all students with disabilities. Ultimately, the decision on whether a choice program school can meet a student's needs is up to the parents after consultation with the school.

Disability discrimination is widespread in Wisconsin's public school open enrollment program. Under the program, Wisconsin statutes explicitly let school districts disallow admission due to disability status (along with other exclusionary provisions). More than 2,000 students were denied for this reason in the 2023-24 school yearⁱ.

School choice opponents wrongly claim that schools in the Special Needs Scholarship Program (SNSP) receive reimbursement for 90% of costs. In fact, of the 3,068 students using a SNSP scholarship in 2024-25, only 11 (0.36%) are eligible for 90% reimbursementⁱⁱ. The majority of the 8,653 choice students estimated to have a disability are funded at payment levels equal to about 70% of public funding for the general student population (\$10,237 for K-8 choice students and \$12,731 for choice high school students).

Introduction

Opponents of Wisconsin's school choice programs have long alleged that participating schools serve far fewer students with disabilities than do public schools.

Media outlets have echoed unsubstantiated claims, such as the assertion made by Wisconsin Watch, that schools in the choice programs expel students because of disabilities. Josh Cowen, a professor on leave from Michigan State University, cited Wisconsin Watch to claim schools "select children out after admitting them originally..." Notably, however, Matt DeFour, Wisconsin Watch statehouse bureau chief, acknowledges that "our reporting...didn't include an example of a student with disabilities experiencing discrimination."

The false claims provide a foundation for baseless assertions by legislators and the general public. For example, as recently as April 2024, State Senator Chris Larson tweeted:

"School choice is a lie. It really should be called 'The School's Choice.' Taxpayer-funded private schools in WI's various voucher programs can choose... to exclude students with disabilities." ⁱⁱⁱ

In this report, WILL and SCW present findings on what actually occurs with respect to enrollment of students with a disability in choice program schools. Consistent with scholarly work from a decade ago, we find that choice schools serve students with disabilities at a far higher rate than DPI reports.

Significant under-reporting by DPI is likely because many students who would be classified as having a disability, were they enrolled in a public school, are not classified as such at schools in the choice program. There are a number of reasons for this that we explore in this study.

We explain why DPI underreporting is a certainty given the way data are collected. We also present results of a survey, responded to by schools enrolling nearly three in four students in the state's choice programs, demonstrating the degree to which choice students with disabilities are not correctly identified. We demonstrate the high probability that this substantial response is representative.

In Recognition of John Jagler and Leah Vukmir

This report comes ten years after enactment of the Special Needs Scholarship Program. As documented in this report, the 3,068 students this year in the SNSP are among a much larger group of students with disabilities in the state's four school choice programs.

Credit for enactment of the SNSP goes to former State Senator Leah Vukmir and current State Senator John Jagler. The overused word "tireless" aptly describes their efforts in 2015 to attain an amendment to the state budget that launched the SNSP.



Existing Research

The extent to which schools in Wisconsin's choice programs serve students with disabilities has been the subject of one other study. As part of broader research on the Milwaukee Parental Choice Program (MPCP), scholars with the School Choice Demonstration Project (SCDP) at the University of Arkansas examined the issue^{iv}. The SCDP had the significant advantage of direct access to student-level records for students who switched from public to private schools.

Coupled with a survey of parents, SCDP researchers estimated a disability rate of students in the MPCP program of between 7.5% and 14.6%. This rate greatly exceeded the 1.6% rate which was reported on the DPI Report Card at that time.

The SCDP research notes that private schools often lack the incentive to identify students as having a disability because they do not receive the extra funding that public schools get when a student is diagnosed. There were also differences in the "organizational culture" of many private schools which might discourage diagnosis.

When WILL and SCW undertook the first version of this research last year^v, we estimated a disability rate in choice schools between 10.6% and 11.6%. These estimates were in line

with the SCDP findings. However, there was room to improve the response rate of the survey, which was a chief goal in conducting the second survey.

Our updated research builds on the SCDP and previous WILL/SCW findings. Important developments in recent years warrant a reexamination of those findings. First, the SNSP began enrolling students in 2016-17. From an initial enrollment of 205 in 2016, the program has grown to serve more than 3,000 students in 2024-25. Second, the statewide expansion of school choice beyond Milwaukee has opened the school choice program to areas with different demographics.

Defining Disability

According to DPI^{vi}, "A child with a disability is a child who needs special education and related services...The law has criteria for each category below to help...decide if a child has a disability." There are a number of categories of disability for which percentage estimates are available in public schools. These are listed below. In **Table 1**, "Count" represents the number of students classified as having this type of disability, and the "Percentage" column represents the percentage of all public-school students—including those without disabilities. Some data are missing due to privacy concerns for small numbers of students in the group.

Table 1. Students with Disabilities — Breakdown

Category	Count	Percentage
Autism	15,207	1.80%
Deaf/Blind	Missing	Missing
Emotional Behavioral Disability	10,041	1.20%
Deaf or Hard of Hearing	1,657	0.20%
Intellectual Disability	5,828	0.70%
Specific Learning Disability	24,850	3.00%
Other Health Impairment	25,457	3.10%
Orthopedic Impairment	693	0.10%
Significant Developmental Delay	11,432	1.40%
Speech or Language Impairment	26,926	3.20%
Traumatic Brain Injury	271	0.00%
Blind and Visually Impaired	453	0.10%
Unspecified Primary Disability	Missing	Missing

DPI Data

As of the third Friday in September, during 2024-25, 403 schools participated in the state's four school choice programs (Milwaukee Parental Choice Program (MPCP), Racine Parental Choice Program (RPCP), Wisconsin Parental Choice Program (WPCP), and Special Needs Scholarship Program (SNSP)). The MPCP, RPCP, and WPCP programs enrolled 55,555 students. The SNSP enrolled an additional 3,068 students.

Table 2 below shows the percentage of students classified by DPI as having a disability across different subsets of private school choice and public schools. These data are from the state's report cards that are released every fall. Note that in 2019-20, due to the COVID-19 pandemic, there were no report cards published; therefore, there are no data for that year on the chart. As we will demonstrate, the DPI substantially undercounts disability enrollment rates in private choice schools.

Table 2. Percent of Students with Disabilities – District vs. Private Choice

	16-17	17-18	18-19	19-20	20-21	21-22	23-24	23-24
MPCP	2.40%	1.60%	1.50%	No Data	1.60%	1.30%	0.80%	1.20%
MPS	20.10%	18.8%	19.70%	No Data	19.60%	19.30%	19.10%	19.30%
RPCP	2.00%	2.10%	2.60%	No Data	0.60%	0.50%	0.70%	0.50%
RUSD	17.40%	17.40%	17.20%	No Data	18.10%	17.90%	17.30%	17.60%
WPCP	3.70%	3.90%	3.80%	No Data	3.30%	3.30%	3.40%	3.30%
State minus MPS & RUSD	12.50%	13.30%	13.50%	No Data	13.70%	14.00%	14.50%	14.80%

Outside of choice schools located in the city of Milwaukee and schools located in the Racine Unified School District, approximately 14.8% of all public school students in 2023-24 were classified as having a disability (the statewide number in **Table 2** excludes Milwaukee and Racine accounting for the difference). By comparison, DPI calculates that the disability enrollment rate in the choice program was 1.2% in the MPCP, 0.5% in the RPCP, and 3.3% in the WPCP. Relying on this data alone, one would assume that the rates of disability in the state's choice programs were extremely low. However, these report-card figures exclude many students who would be classified with disabilities if they were in public schools.

Responding to our previous survey, a school leader explained one reason this occurs:

"According to DPI, we are only allowed to count students that have been previously identified with a disability and received services in a public school as having a disability in our...student database. So, if a student was identified with a disability while attending our private school but has never received public school special education services, we cannot mark them as having a disability, even if they are in the [Special Needs Scholarship Program]. This skews our demographic data."

To explain further, a student is only counted as having a disability if he or she have ever had an Individualized Education Plan (IEP) or Individualized Services Plan (ISP) implemented by a public school district. While there are additional nuances, an IEP is a plan for

special education services developed for students enrolled in a public school. An ISP is for special education services provided by the district in private schools.^{vii}

Compared with public schools, fewer students attending a private school are evaluated for disabilities. This could be for a number of reasons, including the reluctance of students' families to seek an evaluation and the labeling that accompanies it. Additionally, the unduly arduous process for private schools to get a public school district to provide an evaluation may also contribute. Even at the end of the process, the extent of services offered is at the discretion of the district, and may not fully encompass the needs of students who have multiple disabilities. Each of these reasons is a disincentive for parents to seek student evaluations.

There are also differences in the culture of private and public education when it comes to special education services. Returning again to the work of Patrick Wolf and the SCDP, they note that things are, in general, handled far more informally in private education:

"Most elements of the [federal disabilities law] do not apply to private schools, so such schools are not required to follow formal procedures in diagnosing or serving students with special educational needs. Student IEPs have no legal force in the private sector and bring no additional public funds...The formal structure of special education, including explicitly labeled students, exists primarily and almost exclusively in the public sector."

The Legal Obligation of Choice Schools

Wisconsin law includes obligations of private schools participating in the choice program regarding the education of students with disabilities. Wisconsin §119.23(3)(a) ^{vii} specifies that private schools in the choice programs may only give preference to existing students and their siblings. No mention is made of consideration of the disability status of the student in this section. If more students apply than there are seats available, the school must use a random lottery to determine who is admitted, and may not use any criteria involving disability status.

Under federal law, private schools must meet a different legal standard than public schools when it comes to serving students with disabilities. Section 504 of the Rehabilitation Act and Title III of the Americans with Disabilities Act (ADA) set forth requirements for private schools. Private schools subject to the ADA are required to make "reasonable modifications" to access the facility and are prohibited from discriminating based on disability. Changes may not fundamentally alter the nature of the goods and services provided by the private school or impose an undue financial or administrative burden. Section 504 requires private schools to make "minor adjustments" to access the facility. Private schools may consider the nature of the program provided and the expense of accommodations sought.

Furthermore, private schools participating in the SNSP, to specifically serve students with disabilities, must meet with families to complete an agreement to discuss the educational needs of each student and to explain special education resources available at the school. Participating schools are also required to provide quarterly reports to parents about student progress.

One school leader summed up the process for us in this way:

"Our school does not discriminate against students who have a disability. We have an open and honest discussion with families about what our school is able to offer, with assistance from the local public school, in order for the family to decide if our school is the best school to meet their child's needs, wants, and desires."

It is well-established that choice schools accept and serve students with disabilities. Beyond this, any claims that private schools may "discriminate" after enrollment are false. If a choice school is ever in a position involving the potential removal of a student with a disability, the school follows the guidelines and procedures in its handbook. Disabled and non-disabled students alike may engage in conduct that constitutes grounds for expulsion, and guidelines establishing that conduct apply equally to all students.

Survey: Preliminary Notes

SCW surveyed all 403 schools that participated in the MPCP, RPCP, and WPCP, as well as schools participating in the SNSP during the 2024-25 school year. The survey took place from August 30, 2024 to November 8, 2024. We received responses from 205 school leaders at schools that enrolled 74.1% of choice students this year.

Respondents were first asked to provide the overall number of students enrolled in choice programs in their schools. They were then asked how many choice (not SNSP) students enrolled in their school have or have had an Individualized Education Plan (IEP) or Services Plan (ISP) developed by a public school. An IEP serves as identification of students that would be receiving specialized services for a disability if they were in the public school.

Schools were then asked to identify approximately how many of their choice students (not SNSP) they thought would be classified as having a disability if they were enrolled in a public school. We recognize that the second data point is an estimate.

As noted, responding schools enrolled 74.1% of students in the choice programs during the 2024-25 school year. To explore whether the responses are representative, **Table 3** shows the results of a statistical analysis predicting the likelihood that a school would respond to our survey based on several demographic factors pulled from Wisconsin's state report card for all choice-participating schools. ^{viii}

Table 3. Prediction of Survey Response

VARIABLES	(1) Log Likelihood of Response
School Enrollment	0.00663 (0.000575)***
Percent African American	-0.632 (0.462)
Percent Hispanic/Latino	-0.446 (0.550)
Percent Economically Disadvantaged	0.167 (0.373)
Percent with Disability	-3.557 (2.800)
Constant	-0.393 (0.247)
Observations	353

Standard errors in parentheses

*** p<0.01, **p<0.05, *p<0.1

Stars on any of the variables would indicate that schools that responded to our survey were significantly different from most schools in the choice program on that variable. For instance, a positive coefficient on "Percent Hispanic/Latino" would mean that schools with more Hispanic/Latino students were more likely to respond. That is not the case here, however. Indeed, the results show that all of the included factors are insignificant. The variable that comes closest to marginal significance is, interestingly, disability status. ($p < .11$). But the negative coefficient on it means that schools with more students with DPI-recorded disabilities were marginally less likely to respond. This means that our results, if anything, will likely be a conservative estimate of overall disability rates in school choice.

Survey: Results

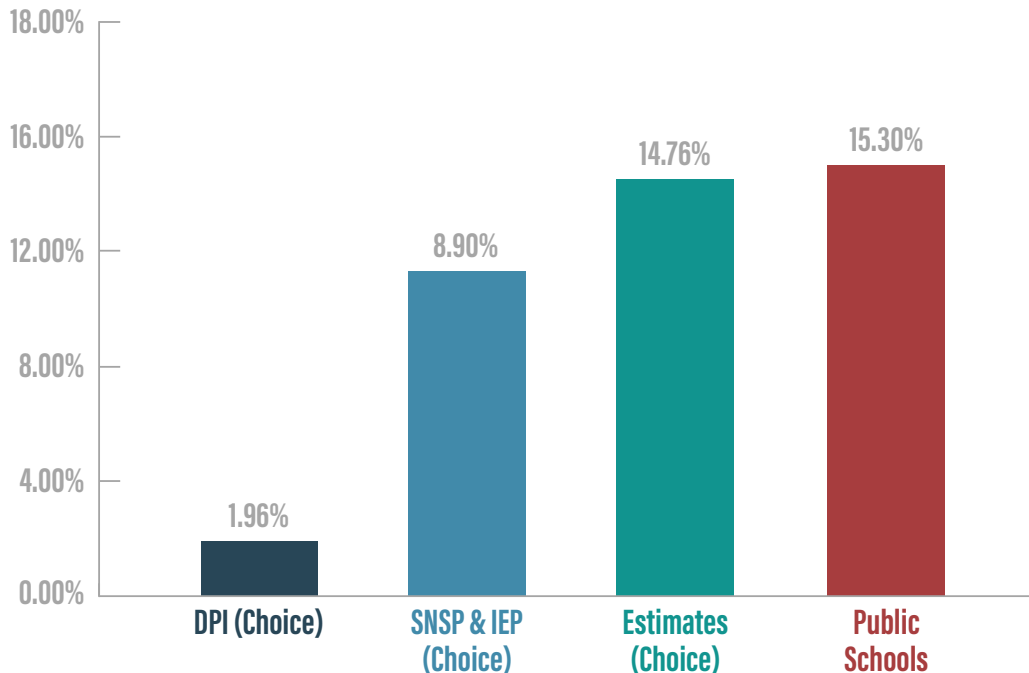
The results for schools that had exact data on the number of students that had an IEP or were enrolled in SNSP in their school are reported in **column 1** of **Table 4**. The results including schools that provided estimates are included in **column 2**.

Table 4. Disability Status at Choice Participating Schools

Actual IEP	Estimated with Disability
8.90%	14.76%

While our estimates for the rate of disability in choice schools were within one percentage point of each other last year, this year shows a larger spread. Based on the actual count of students with an IEP or enrolled in SNSP, we get an estimate of about 8.9% of students in choice schools likely having some form of disability. When we include schools that provided an estimate of the number of students that would be classified as having a disability were they in public schools, we get an estimate of 14.76%. This works out to approximately 8,653 students across Wisconsin's private choice programs. **Figure 1** below compares the share of students reported as having a disability in choice schools on the state report card with the middle ground between these two numbers, as well as with public school disability rates.

Figure 1. Reported & Estimated Real Disability Rates in Private and Public Schools



While the share of students with disabilities in choice-participating schools likely is somewhat below the share of such students in traditional public schools, the gap is far less than one would be led to believe by the DPI data or recent media reports. Consistent to what was found by the SCDP a decade ago, the number of students who would be classified as having a disability in private choice schools appears to remain underreported.

Funding for Students with Disabilities in Choice Schools

Choice schools receive, on average, only 70 percent of public school per pupil funding, which understandably makes it challenging to meet the needs of students with disabilities. As **Table 5** shows, in rare cases—11 of 3,068 in 2024-25—an SNSP student is reimbursed using the actual (90%) cost model.^{iv} Even then, the school only gets the base scholarship amount for the first year. The school/parents are left to figure out how

to come up with the financial support to cover the first year's expenses. **Table 5** shows that most of the estimated 8,653 disabled students were reimbursed well below the SNSP amount of \$15,409.

The reality is that most schools make an effort to serve all students with disabilities, and they make it clear to families what their capabilities are before *the family* makes the final decision on whether or not to attend, or continue attending, the private school.

Table 5. Breakdown of 2024-25 SNSP Reimbursement Rates

Category	Count
Estimated with Disability (14.76%)	8,653
SNSP Receiving 90% Actual Cost Model	11
SNSP Receiving \$15,409	2,657
SNSP Receiving \$12,371 (9-12)	41
SNSP Receiving \$10,237 (K-8)	359
Estimated number of students with disabilities receiving less than base SNSP amount*	5,996

*Average voucher payment when combining K-8 and 9-12 payments is \$11,304

Meeting Needs Sometimes a Challenge for Public Schools Too

It is worth pointing out that it is not only private schools that may, in some instances, struggle to meet the needs of students with disabilities. As seen in **Figure 2 & 3** below, public school districts either deny or do not open any seats for students with disabilities during open enrollment.

Limitations, of course, remain in this analysis. While we have shown evidence that our sample is similar to the schools in the choice program more broadly, it remains possible that the schools that chose to participate differ from those who didn't participate. Additionally, we cannot capture the extent of disability among students in the choice program relative to public schools. It may still be the case that public schools have a higher share of students with more profound disabilities. Nonetheless, one final quote from a school leader sums up the findings of this report:

"Many citizens and public-school advocates assume schools that participate in Choice don't accept and support students with disabilities. This is not true. For decades, many private schools have provided support for thousands of students with different types of disabilities. Historically schools have provided support for reading, writing, and math deficits; they have provided accommodations for students with a variety of disabilities. While they may not have called the support and accommodations 'Special Education,' they have provided the services and specialized instruction."

Figure 2. Open Enrollment Denials due to Special Education Related Reasons

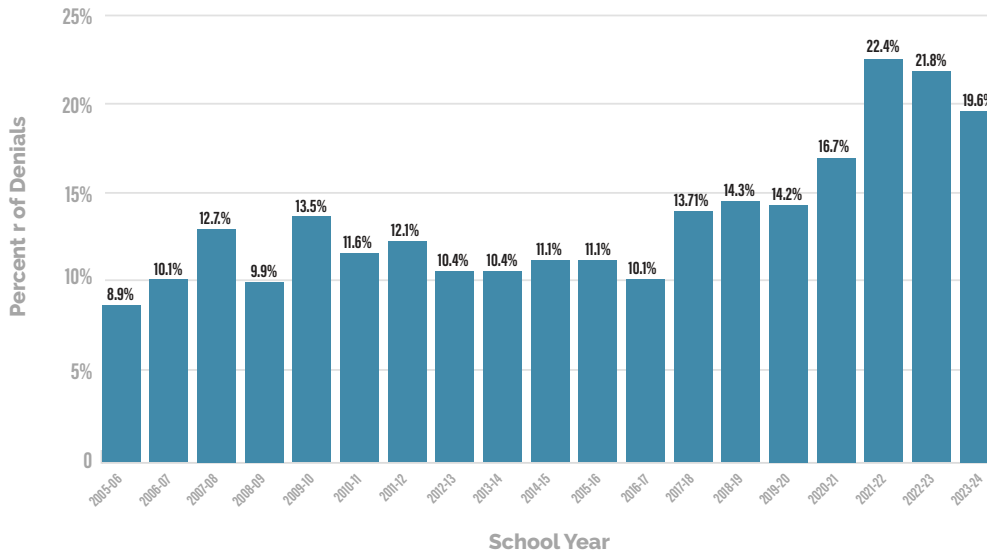
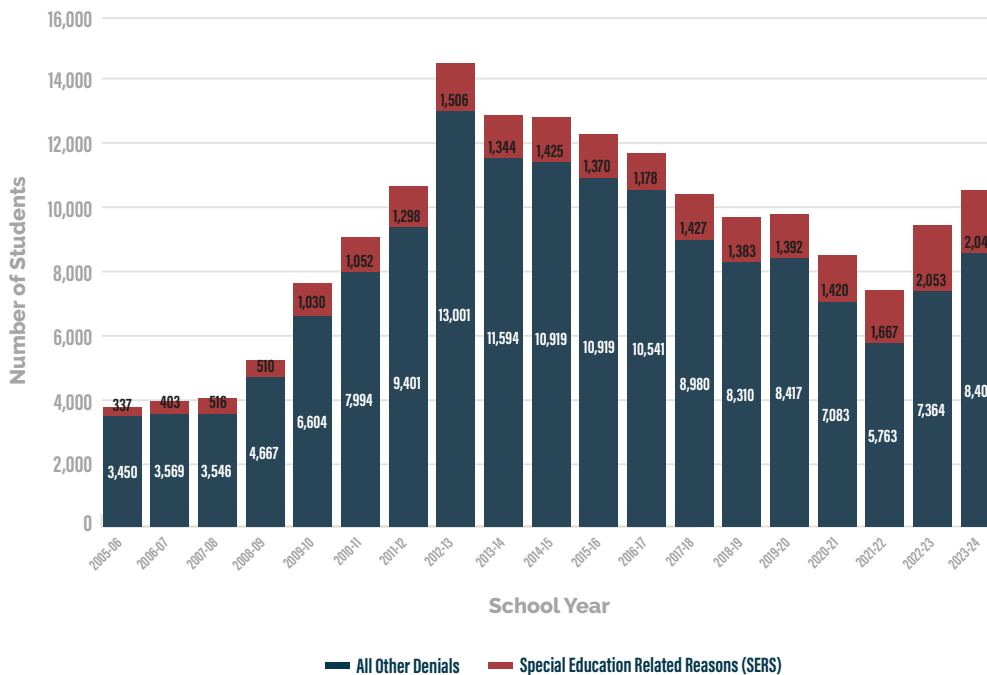


Figure 3. Non-Resident Open Enrollment Denials



Discussion

The claim that private schools in Wisconsin's choice programs don't serve students with disabilities—or serve only a small number—is unequivocally wrong based on the evidence presented here. The misleading narrative that students are being removed from choice schools due to a disability is based on virtually no evidence and stems from the limited legal obligations private schools have regarding this matter. The evidence here supports what many of us have long believed: most private schools see it as their mission to meet the needs of as many students as they can.

In the coming years, options like the SNSP are likely to continue to grow. The funding increase passed during the 2022-23 budget cycle may enable some schools to accommodate students even in the absence of an SNSP scholarship. This may provide even more opportunities for students with disabilities to enjoy educational options beyond their assigned public school. But even without further growth, the findings here strongly refute the notion that the private school door is closed to students with disabilities.

References

- i <https://dpi.wi.gov/open-enrollment/data>
- ii https://dpi.wi.gov/sites/default/files/imce/parental-education-options/SNSP/SNSP_Actual_Costs_Sept_2024.pdf
- iii <https://x.com/SenChrisLarson/status/1774904381931975125>
- iv https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2107763
- v https://will-law.org/wp-content/uploads/2023/10/Disabilities_Report_FINAL.pdf
- vi <https://dpi.wi.gov/sites/default/files/imce/sped/pdf/spec-ed-plain-lang-english.pdf>
- vii <https://docs.legis.wisconsin.gov/statutes/statutes/119/i/23> *Note that this applies to the MPCP, but the language is the same for the other non-special needs choice programs.*
- viii *This is a logit model where "1" represented a respondent and "0" represented a non-responding school*
- iv https://dpi.wi.gov/sites/default/files/imce/parental-education-options/SNSP/SNSP_Actual_Costs_Sept_2024.pdf