

# The Conservative Case for Public School Open Enrollment

Aaron Garth Smith and Jude Schwalbach

June 2023

## Key Points

- America's school choice moment has finally arrived. More states are adopting private school choice programs that provide universal access to education savings accounts. But the traditional public system serves the vast majority of students and will for the foreseeable future; those students deserve more choice as well.
- Public school choice, which allows students to transfer to schools outside their zoned district, has shown great promise in increasing access to educational opportunities and spurring improvements across school districts.
- Few states, however, have implemented effective public school choice programs. Policy-makers would be wise to learn lessons from the nation's most successful public school choice program—in Wisconsin.

America's school choice moment has finally arrived.<sup>1</sup> Nearly 70 years after Milton Friedman first proposed K–12 education vouchers, students in Arizona, Iowa, Utah, West Virginia, and other states can customize their education using education savings accounts (ESAs). ESAs allow parents to spend public education funding on expenses such as private school tuition, tutoring, and home-schooling curricula. But the vast majority of students nationwide (84 percent) still attend traditional public schools—and will for the foreseeable future. Conservatives would be wise to support policies that give families choice within the public education system.<sup>2</sup>

Cross-district open enrollment does precisely that, and it has strong bipartisan support. In fact, 68 percent of Democrats and 70 percent of Republicans favor allowing families to attend schools across district lines.<sup>3</sup>

## Why Conservatives Should Worry About Residential Assignment

Public education is long overdue for an overhaul. Among its most antiquated practices is residential assignment, in which students' public schools are determined based on where they live. School district attendance zones often reflect the legacy of the discriminatory and now-illegal boundaries imposed by housing redlining.<sup>4</sup> The federal Home Owners' Loan Corporation and the Federal Housing Administration reinforced racial segregation, codifying preexisting boundaries set by developers and homeowners associations decades ago.<sup>5</sup>

For many, residential assignment is an insurmountable barrier to better educational opportunities. These government-imposed geographic lines fracture communities by inextricably linking housing and schooling. Families are pressured to

sacrifice valuable goods, such as living near their family, friends, and churches, to guarantee they have access to quality public schools. Ironically, this means that many families sometimes sacrifice the invaluable voluntary associations Alexis de Tocqueville described as essential to the American experiment in favor of government-imposed ones.

Furthermore, residential assignment maintains public school districts' monopoly over students by limiting parents' ability to hold schools accountable. Unless they can afford to pay private school tuition—or move across town—families have no leverage to pressure their district schools to improve or be responsive to their desires. To tip the balance of power toward students and families, education dollars should follow students to any school, public or private, just as Friedman envisioned.

In 1980, Friedman and his wife, Rose, explained that in a system with school choice, a public school's enrollment “would be determined by the number of customers it attracted, not by politically defined geographical boundaries or by pupil assignment.”<sup>6</sup> While open enrollment would not eliminate residential assignment, it would weaken the boundaries that arbitrarily sort students into schools, representing an essential step toward the education marketplace the Friedmans described.

## **The Promise of Cross-District Open Enrollment**

Cross-district open enrollment policies can benefit students and school districts. First, studies consistently show that students tend to transfer to higher-performing school districts when given the opportunity. For example, a study of Wisconsin's open enrollment program found a positive relationship between districts' state test results and student-transfer inflow, with separate analyses showing similar findings in California, Colorado, Minnesota, and Texas.<sup>7</sup>

Research also shows that students transfer schools for various reasons, indicating that open enrollment can help them access their best-fit education. Separate evaluations of California's District of Choice program by the state's nonpartisan Legislative Analyst's Office (LAO) found that students participate in open enrollment to escape

bullying and access curricula, instructional philosophies, and other programs that aren't available in their home districts.<sup>8</sup> In its latest analysis, LAO reported that participating students “gained access to an average of five to seven courses not offered by their home districts” across several course types, including Advanced Placement and Career Technical Education.<sup>9</sup>

Open enrollment can also have positive competitive effects, with Reason Foundation's Wisconsin study finding that districts that lose students also post modest signs of improvement in the two years following enrollment losses.<sup>10</sup> California's LAO evaluations provide evidence of students' home districts taking steps to better engage their communities and pursuing reforms to reduce student attrition, such as addressing programmatic concerns and improving access to within-district school transfer options.<sup>11</sup> These efforts appear to work. Many of these school districts saw reductions in the number of students transferring out and improved their test scores over time.<sup>12</sup> This shows that public school competition can foster excellence, making open enrollment the tide that raises all boats.

## **Wisconsin's Open Enrollment Success**

As mentioned, one state where families are reaping the benefits of open enrollment is Wisconsin. Policymakers across the country have much to learn from that state's experience over the past 25 years. Three main policy components have helped Wisconsin's largest school choice program grow from 2,464 participants in 1998–99 to 70,428 students in 2020–21.<sup>13</sup>

First, all of the state's school districts must participate in open enrollment and can only reject transfer applications for limited reasons, such as capacity constraints. Public schools don't always welcome nonresident students (even when they have seats available). Wisconsin's transfer law protects those seeking opportunities outside their residentially assigned school districts.<sup>14</sup> This policy is complemented by strong transparency requirements.

Second, the state's Department of Public Instruction (DPI) produces an annual report for the governor and legislature detailing important trends

for each school district, including the number of transfer applications received, number of transfer applications rejected, and reasons for rejecting transfer applications. DPI publishes these and other data on its website, adding accountability and providing policymakers with vital information to help them improve the policy over time.

Third, a statewide per-student allotment follows all of Wisconsin's open enrollment students to their schools of choice, with additional funding for students with disabilities.<sup>15</sup> In 2022–23, these funding amounts are \$8,224 per student and \$13,076 per student with a disability.<sup>16</sup>

Importantly, receiving school districts can also be reimbursed up to \$30,000 per student annually for students with disabilities whose costs exceed their transfer amount (paid for by students' home school districts), and low-income families can be reimbursed by the state for a portion of their transportation expenses.<sup>17</sup> Wisconsin's approach means that all school districts have the same financial incentives to welcome transfer students.

## The Current State of Open Enrollment Policies

Wisconsin's robust open enrollment policy stands in stark contrast to student-transfer laws in most states. Although many states claim to have some sort of open enrollment, most have weak laws, with only 16 states requiring participation.<sup>18</sup>

For instance, Ohio lets school districts opt out of open enrollment. This means that affluent school districts near the state's eight major cities often refuse to participate in open enrollment, effectively keeping inner-city and nearby rural children from transferring to better suburban schools.<sup>19</sup>

Some states also cripple their open enrollment laws through arbitrary program limits. For example, Vermont caps the number of transfer students allowed. States such as Louisiana and New Mexico only allow participation for students assigned to failing schools or districts. Even worse, four states—California, Georgia, Mississippi, and Washington—require transfer applicants to get permission from or notify both the sending and receiving school districts before transferring, imposing significant administrative burdens on families.<sup>20</sup>

Additionally, 24 states don't explicitly prohibit public school districts from charging tuition to transfer students.<sup>21</sup> This means that only students whose families can afford to pay public school tuition and transfer fees can use open enrollment. For instance, for the 2022–23 school year, nonresident students could be charged more than \$20,200 annually for seventh through 12th grade at Pelham Public Schools in New York.<sup>22</sup>

A final problem with open enrollment policies is a lack of transparency. Most states don't require school districts to post their policies, procedures, or available capacity on their websites, leaving families in the dark about transfer opportunities.<sup>23</sup> Similarly, state education agencies in 47 states don't collect and publish key open enrollment data, making it impossible to obtain even basic figures, such as the number of students transferring into and out of school districts.<sup>24</sup>

## Recommendations for State Policymakers

Robust open enrollment requires both strong policy and portable education funding. State policymakers must overhaul their student-transfer laws so that students are guaranteed tuition-free access to any public school across their state, with few exceptions—primarily, that a school is full or overcrowded and cannot accept more students. These revamped policies should establish clear expectations for school districts and ensure that timelines, school-level capacity, and other important information are easily accessible to parents and all stakeholders.

State education agencies should be required to collect and report key open enrollment data at the school district level, including the number of transfer applications received, reasons for rejecting transfer applications, and number of transfer students enrolled. Policymakers must also ensure that state and local education funding follows students to the schools of their choice. Otherwise, school districts might have financial incentives to block transfer students who live outside their boundaries. This problem is unique to each state, but Wisconsin serves as a good example of how one state successfully addressed it with a straightforward policy solution.

## About the Authors

**Aaron Garth Smith** is the director of education reform at Reason Foundation.

**Jude Schwalbach** is a policy analyst at Reason Foundation.

## Notes

1. Robby Soave, “This Is the School Choice Moment. Will the GOP Screw It Up?,” Reason Foundation, June 2022, <https://reason.com/2022/05/17/this-is-the-school-choice-moment-will-the-gop-screw-it-up>.

2. This calculation is based on data provided by the National Center for Education Statistics Digest of Education Statistics. In 2019–20, there were 50,437,821 public school students in the United States, of which 3,431,220 attended charter schools. That same year, 5,485,800 students attended private schools. See Institute of Education Sciences, National Center for Education Statistics, Digest of Education Statistics, “Table 216.20. Enrollment of Public Elementary and Secondary Schools, by School Level, Type, and Charter, Magnet, and Virtual Status: 2009–10 through 2019–20,” [https://nces.ed.gov/programs/digest/d21/tables/dt21\\_216.20.asp?current=yes](https://nces.ed.gov/programs/digest/d21/tables/dt21_216.20.asp?current=yes); and Institute of Education Sciences, National Center for Education Statistics, Digest of Education Statistics, “Table 205.90. Private Elementary and Secondary Schools and Enrollment, Percentage Distribution of Private Schools and Enrollment, and Private Schools and Enrollment as a Percentage of Total Public and Private Schools and Enrollment, by Locale: 2009–10 and 2019–20,” [https://nces.ed.gov/programs/digest/d21/tables/dt21\\_205.90.asp?current=yes](https://nces.ed.gov/programs/digest/d21/tables/dt21_205.90.asp?current=yes).

3. EdChoice and Morning Consult, *The Public, Parents, and K–12 Education*, April 2023, <https://edchoice.morningconsultintelligence.com/assets/226853.pdf>.

4. Jude Schwalbach, “Public Schools Without Boundaries: Ranking Every State’s K–12 Open Enrollment Policies,” Reason Foundation, November 3, 2022, <https://reason.org/policy-brief/public-schools-without-boundaries-a-50-state-ranking-of-k-12-open-enrollment>.

5. Lindsey M. Burke and Jude Schwalbach, “Housing Redlining and Its Lingering Effects on Education Opportunity,” Heritage Foundation, March 11, 2021, <https://www.heritage.org/education/report/housing-redlining-and-its-lingering-effects-education-opportunity>.

6. This was originally published in 1980, though this report cites the 1990 edition with a forward. Milton Friedman and Rose Friedman, *Free to Choose: A Personal Statement* (New York: Harcourt Brace Jovanovich, 1990), 163.

7. Will Flanders, “K–12 Open Enrollment in Wisconsin: Key Lessons for Other States,” Reason Foundation, February 9, 2023, <https://reason.org/policy-brief/k-12-open-enrollment-in-wisconsin-key-lessons-for-other-states>; Emily Sass et al., *Don’t Fence Me In: Improving Texas’ System of Student Transfers*, Texas Public Policy Foundation and Reason Foundation, August 2022, <https://www.texaspolicy.com/wp-content/uploads/2022/08/2022-06-RR-NGT-DontFenceMeInOpenEnrollment-SassCrusius.pdf>; Gabriel Petek, *Follow-Up Evaluation of the District of Choice Program*, California Legislative Analyst’s Office, February 2021, <https://lao.ca.gov/reports/2021/4329/District-Choice-Evaluation-020121.pdf>; Deven Carlson, Lesley Lavery, and John F. Witte, “The Determinants of Interdistrict Open Enrollment Flows: Evidence from Two States,” *Educational Evaluation and Policy Analysis* 33, no. 1 (2011): 76–94, <https://doi.org/10.3102/0162373710388643>; and Luke Ragland and Craig Hulse, *Open Doors, Open Districts*, Ready Colorado, Fall 2018, <https://readycolo.org/wp-content/uploads/2018/10/ODODfinal.pdf>.

8. Petek, *Follow-Up Evaluation of the District of Choice Program*.

9. Petek, *Follow-Up Evaluation of the District of Choice Program*.

10. Flanders, “K–12 Open Enrollment in Wisconsin.”

11. Petek, *Follow-Up Evaluation of the District of Choice Program*.

12. Petek, *Follow-Up Evaluation of the District of Choice Program*.

13. Wisconsin Department of Public Instruction, Open Enrollment Data and Reports, <https://dpi.wi.gov/open-enrollment/data>.

14. Schwalbach, “Public Schools Without Boundaries.”

15. Wisconsin Department of Public Instruction, Open Enrollment Data and Reports.

16. Wisconsin Department of Public Instruction, Open Enrollment Data and Reports.

17. Wisconsin Department of Public Instruction, Open Enrollment Data and Reports.

18. Jude Schwalbach, “How Colorado Can Improve Its Open Enrollment Policies for Students, Parents and School Districts,” Reason Foundation, April 19, 2023, <https://reason.org/testimony/how-colorado-can-improve-its-open-enrollment-policies-for-students-parents-and-school-districts>. Additionally, Montana’s H.B. 203 was signed into law on May 3, 2023, and North Dakota’s H.B. 1376 was signed into law on May 8, 2023, which increased the number of states with robust open enrollment laws to 16.

19. Deven Carlson, *Open Enrollment and Student Diversity in Ohio's Schools*, Thomas B. Fordham Institute, January 2021, <https://fordhaminstitute.org/ohio/research/open-enrollment-and-student-diversity-ohios-schools>.
20. Scwalbach, "Public Schools Without Boundaries."
21. Scwalbach, "Public Schools Without Boundaries." The new open enrollment laws in Montana and North Dakota stop public schools from charging transfer students tuition.
22. Pelham Public Schools, "Non-Resident Tuition," <https://www.pelhamschools.org/parents-and-community/tuition-paying-students>.
23. Schwalbach, "Public Schools Without Boundaries."
24. Schwalbach, "Public Schools Without Boundaries."

© 2023 by the American Enterprise Institute for Public Policy Research. All rights reserved.

The American Enterprise Institute (AEI) is a nonpartisan, nonprofit, 501(c)(3) educational organization and does not take institutional positions on any issues. The views expressed here are those of the author(s).