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# **When Rights, Incentives, and Institutions All Clash: The Case of School Vouchers and Special Education in Milwaukee**

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This paper was prepared for presentation at the 2012 Annual Meeting of the American Political Science Association, August 30-September 2, New Orleans, LA. The research draws upon data collected for the state-mandated longitudinal evaluation of the Milwaukee Parental Choice Program (MPCP) performed by the School Choice Demonstration Project (SCDP) at the University of Arkansas. We gratefully acknowledge the assistance of the Wisconsin Department of Public Instruction, Milwaukee Public Schools, and the schools of the MPCP in completing this project. Paul Peterson of Harvard University and Andy Rotherham of Bellweather Education provided helpful suggestions regarding an earlier draft of this paper. We also acknowledge the financial support of an ideologically diverse group of foundations including the Annie E. Casey, Joyce, Kern Family, Lynde & Harry Bradley, Robertson, and Walton Family foundations. Although we are extremely grateful for this assistance, we ourselves are solely responsible for the content and conclusions of this paper, including any errors contained within. The 36 research reports of the SCDP Milwaukee evaluation can be found at [http://www.uark.edu/ua/der/SCDP/Milwaukee\\_Research.html](http://www.uark.edu/ua/der/SCDP/Milwaukee_Research.html).

## ABSTRACT

Two highly controversial issues in the field of K-12 education in the U.S. are special education and parental school choice. Those two policy concerns converge surrounding the question of what proportion of students in school voucher programs compared to public schools have education-related disabilities, and whether or not the two school sectors are properly classifying and serving students with special education needs.

We might expect private voucher-receiving schools to serve fewer students with disabilities than local public school systems due to the legal framework and institutional incentives surrounding special education and private schools. Most federal disability laws do not apply to private schools. The private schools participating in the Milwaukee Parental Choice Program (MPCP), which is our subject here, do not receive any extra government funds to serve students with disabilities. Still, if only a small portion of all MPCP students have disabilities, that finding would raise questions regarding the extent to which the program is fulfilling its original mission to serve disadvantaged students in Milwaukee.

Based on evidence we collected over five years of studying the MPCP program, we are able to estimate that between 7.5 and 14.6 percent of MPCP students have disabilities that likely would qualify them for special education services were they attending Milwaukee Public Schools (MPS). Our strongest analytical lever in generating that range is an individual fixed-effects estimation of the likelihood of being classified as a special education student in MPCP compared to MPS for the 20 percent of our sample who switched between the school sectors during our study. We also draw upon student disability classifications of private school principals, parent surveys, and school visits to inform our analysis.

Our estimated rate of actual student disability in the MPCP is between 23 and 61 percent lower than the rate of student disability of 19 percent reported for MPS. Our estimates, however, are more than four times higher than the official disability rate of 1.6 percent for the MPCP announced by the Wisconsin Department of Public Instruction based merely upon the percentage of MPCP students who were given accommodations during the most recent round of accountability testing.

## **When Rights, Incentives, and Institutions All Clash: The Case of School Vouchers and Special Education in Milwaukee**

Two highly controversial issues in the field of K-12 education in the U.S. are special education and parental school choice. In certain places, especially Milwaukee, Wisconsin, those two sensitive education concerns intersect in ways that prompt regular interest on the part of policy makers, advocates, the media, and the public at large. In this paper we examine the rational incentives that private voucher-receiving and public schools face regarding the classification of students with special needs and their demonstrated response to those incentives in the form of the officially reported and likely actual rates of student disability in the two competing educational sectors.

The extent to which school choice initiatives such as public charter schools and private voucher or scholarship programs are accessible to students with disabilities is a major policy concern. For example, a public charter school in Washington, DC, is being investigated due to the complete absence of any special education students within its walls (Turque 2012). In Milwaukee, the public charter schools that are independent of Milwaukee Public Schools (MPS) report a total special education enrollment of 8.4 percent, less than half the 19 percent rate for MPS (Witte *et al.* 2010a, p. 12).

Our specific concern here is with the participation rates of students with disabilities in Milwaukee's means-tested school voucher program. Voucher programs permit parents to enroll their child in a participating private school, of their choosing, with the support of government funds that often are accepted as the full cost of educating the child. Tax-credit scholarship programs are similar to voucher programs except that they are funded indirectly by providing individuals and corporations with a dollar-for-dollar reduction in their tax liability in exchange for charitable contributions to nonprofit organizations that issue voucher-type scholarships.

Readers may wonder why we would bother to study school voucher programs. A few years ago, several prominent pundits famously declared the death of school vouchers as an education reform in the U.S. In 2008, Sol Stern of the conservative Manhattan Institute observed that the voucher movement had “hit a wall” and predicted it would soon be consigned to the scrapheap of history (Stern 2008). That same year, Greg Anrig of the liberal Century Foundation published an

op-ed in which he asked the rhetorical question “How did one of the conservative policy world’s most cherished causes crumble so quickly?” (Anrig 2008) Subsequent years produced similar declarations of the death of school vouchers from conservative-turned-liberal Diane Ravitch (e.g. Richards 2011a; Ravitch 2011). These prominent social commentators from both the left and right seemed only to agree about one thing: school vouchers were a thing of the past.

Not only was the movement to enact school vouchers not dead in 2008-09, it wasn’t even sick. In 2008 and 2009, four new voucher and tax-credit programs were enacted in Georgia, Louisiana, Arizona, and Indiana. The five years from 2005 to 2009, when the school voucher movement was supposedly on the wane, saw a 125 percent increase in the number of private school choice programs in the U.S., a rate-of-gain fairly typical since the first program was established in Milwaukee in 1990 (Table 1). Should at least 6 new programs be enacted from now until the end of 2014, our current 5-year policymaking period also would produce a typical rate-of-gain of 125 percent. Rumors of the death of school vouchers have been greatly exaggerated.

**Table 1. Number of Voucher and Tax-credit Scholarship Programs in the U.S., 1990-2012**

<b>Years</b>	<b># Programs Added</b>	<b>Cumulative #</b>	<b>% Added</b>
1990-94	1	1	100
1995-1999	3	4	300
2000-2004	4	8	100
2005-2009	10	18	125
2010-2012	12	30	67

Sources: Compiled from Glenn and Gininger 2012, p. 27; supplemented by Foundation for Educational Choice accessed on July 28, 2012, from <http://www.edchoice.org/School-Choice/School-Choice-Programs.aspx>

Sixteen voucher and 14 tax-credit scholarship programs currently exist in the U.S. (Exhibit 1). We have organized them into two types. Means-tested or “failing public schools” voucher or tax-credit scholarship programs are limited to families below a certain income level or students attending public schools deemed in need of improvement, or both. Twenty-one such programs exist in the U.S., including in Milwaukee. Type A private school choice programs collectively enrolled 181,224 students last year, with the majority of them in the large statewide tax-credit scholarship programs in Pennsylvania and Florida or the established urban voucher programs in

Milwaukee and Cleveland. Type A programs account for 86 percent of all private school choice students in the U.S.

### **Exhibit 1: Types of Private School Choice Programs in the U.S., 2012**

(Note: 16 government-run voucher programs appear in **bold**; \*Denotes programs enacted in 2012)

#### Type A. Means-Tested or Failing Public Schools Voucher or Tax-Credit Scholarship Programs (21)

Arizona Individual School Tuition Organization Tax Credit  
Arizona Corporate School Tuition Organization Tax Credit  
**Cleveland Scholarship and Tutoring Program**  
**District of Columbia Opportunity Scholarship Program**  
**Douglas County, Colorado, Choice Scholarship Program**  
Florida Tax Credit Scholarship  
Georgia Scholarship Tax Credit Program  
Indiana Corporate and Individual Scholarship Tax Credit Program  
**Indiana Choice Scholarship Program**  
Iowa Individual and Corporate School Tuition Organization Tax Credit  
**\*Louisiana Statewide Student Scholarships for Educational Excellence Program**  
Louisiana Tax Credit for Donations to School Tuition Organizations  
**Milwaukee Parental Choice Program**  
\*New Hampshire Corporate Education Tax Credit  
**New Orleans Student Scholarships for Educational Excellence Program**  
**Ohio Educational Choice Scholarship Program**  
Oklahoma Equal Opportunity Education Scholarships (has a provision for special needs students)  
Pennsylvania Educational Improvement Tax Credit  
\*Pennsylvania Opportunity Scholarship Tax Credit  
**Racine Parental Choice Program**  
Rhode Island Corporate Scholarship Tax Credit  
\*Virginia Education Improvement Scholarships Tax Credit

Total 2011-12 Enrollments:	181,224
Percent of All Voucher/Tax-Credit Enrollments:	86%

#### Type B. Special Needs Voucher/Tax-Credit Programs (9)

Arizona Empowerment Scholarship Accounts Program  
Arizona Lexie's Law  
**Florida McKay Scholarship Program**  
**Georgia Special Needs Scholarship Program**  
**Louisiana School Choice Pilot Program for Certain Students with Exceptionalities**  
**Ohio Autism Scholarship Program**  
**Ohio Jon Peterson Special Needs Scholarship Program**  
**Oklahoma Lindsey Nicole Henry Scholarship for Students with Disabilities**  
**Utah Carson Smith Special Needs Scholarship**

Total 2011-12 Enrollments:	30,158
Percent of All Voucher/Tax-Credit Enrollments:	14%

(Source: Compiled from Glenn and Gininger 2012, p. 27; supplemented by Foundation for Educational Choice accessed on July 28, 2012, from <http://www.edchoice.org/School-Choice/School-Choice-Programs.aspx>)

Type B programs provide vouchers or tax-credit scholarships to students with disabilities, regardless of their family income or the performance of their neighborhood public school. Nine such programs operate in the U.S., last year enrolling 30,158 students who comprised 14 percent of all private school choice students. Most of the children using special needs vouchers are in Florida, as the McKay Scholarship for Students with Disabilities Program alone enrolls 22,861 students, making it approximately the same size as the means-tested Milwaukee program.

Our research here most clearly applies to Type A private school choice programs. After all, the percentage of students with disabilities in the 9 special needs programs is obvious: it is 100 percent. Thus, although we think that some of the issues that we discuss in this paper, such as the different ways that students with disabilities are labeled and served in the public and private sectors, apply to all private school choice programs, we acknowledge that the empirical results of our study apply most clearly to the 21 voucher programs that primarily serve students who are low-income and/or leaving low-performing public schools.

This paper is structured as follows. Next we discuss the legal and procedural structure of special education in the public and private educational sectors and the different incentives regarding special education classification that they likely engender. After that we paint a picture of the operational reality of special education in MPCP through qualitative material from school visits. We then present our statistical estimates of the actual disability rate in MPCP, drawing upon official classifications from the public sector, principal designations from the private sector, and parent surveys from both sectors. We then discuss why our statistical estimates differ both from official government disability rates for the MPCP and the rate of student disability reported in MPS. Finally, we conclude by issuing an urgent call for further research on this topic.

## **RIGHTS, INCENTIVES, AND SPECIAL EDUCATION**

Special education refers to educational supports and programs targeted to school-age children with exceptional education needs due to physical, cognitive, or behavioral disabilities.

Receiving a special education designation brings with it certain legal rights for special services or accommodations in the public educational sphere. Such rights originated with the federal Rehabilitation Act of 1973 and were further codified and extended through the All Handicapped

Children Act of 1975, which has since been renamed the Individuals with Disabilities Education Act or IDEA (Palmaffy 2001).

Students with qualified official diagnoses of a disability that affects their learning, and most disabilities do, are covered by special education laws and programs in Wisconsin and throughout the country. The most commonly recognized qualified diagnoses include autism, visual impairment, speech or hearing impairment, mobility impairment, other health impairment, mental retardation, emotional disturbance, and specific learning disability (Horn and Tynan 2001, p. 29).

Public school students who are diagnosed with a qualifying condition are entitled by federal law to receive a Free and Appropriate Public Education (FAPE) to include special education services in the least restrictive environment possible and according to an Individualized Education Program (IEP) (Wolf and Hassel 2001). A student's IEP is drawn up by a committee of interested parties including the student's parents or guardians, local public school officials, and relevant medical or psychological diagnosticians and care providers. The extra services provided to students in special education are funded through a combination of federal, state, and local monies based on formulas established in law. In Wisconsin, the federal government pays about 11 percent of the extra cost of educating each student in special education, with the state paying 26 percent of those costs and the local public school district covering the remaining 63 percent. In some cases districts contract with private schools to enroll and educate students with disabilities who they cannot accommodate within their own schools (McGroarty 2001).

The legal and funding structure surrounding special education in the private school sector differs greatly from the situation in the public school sector. Except for the case of public school contracts with private schools, the IEP and additional funding associated with a student with a disability in the public sector does not transfer if the child enrolls in a private school. The point is made clearly in a recent memo on the subject from the Wisconsin DPI (2011b, p. 6):

*...[S]tudents with disabilities attending voucher schools as part of the MPCP are considered parentally placed private school students and as such, DPI treats them in the same fashion as students attending private non-voucher schools. Under 34 CFR § 300.137 parentally placed private school students are eligible to participate in equitable services and are not entitled to a Free and Appropriate*



*Public Education (FAPE). How, where, and by whom equitable services will be provided for parentally placed private school students is determined through a consultative process between representatives of MPS and representatives of private school officials and representatives of parentally placed private school students.*

If a parent, as opposed to local school officials, enrolls a student with special needs in a private school, that student must surrender her legal rights to the special educational services and funding included in her IEP. Private schools are not required by federal law to enroll students with disabilities (Wisconsin DPI 2011b, p. 3).

Private schools are not entitled to any additional resources from the state if they do enroll a student with special needs. They can either accommodate the student themselves, using whatever resources they have, or seek to engage in a negotiation with public school officials regarding the provision of special services to the student by the public school system with additional public funds. The latter option, the "equitable services" program referenced in the above quote, does not appear to be popular with private school officials and parents. One MPCP principal we interviewed stated that private school parents "know that an extended process to qualify for a [equitable] services plan usually results in their child being assigned a waiting list for services and often will not receive any services." Public school officials, quite understandably, are interested in serving their own special needs students first.

This does not mean that private schools do not enroll or serve students with special needs. Many of them do so. In fact, some private schools exclusively serve students with severe disabilities that cannot be adequately accommodated elsewhere (McCroarty 2001; Wolf and Hassel 2001, pp. 60-62). Wisconsin state law prohibits private schools participating in MPCP from discriminating against student applicants based on disability. The Wisconsin DPI (2011b, p. 6) states:

*A private school may not discriminate against a child with special educational needs in the admission process for the MPCP. However, as a private school, a MPCP school is required to offer only those services to assist students with special needs that it can provide with minor adjustments.*

In reality most private schools, including many of the schools in MPCP, are only equipped to serve students with mild-to-moderate special needs. As Superintendent of Public Instruction Tony Evers stated in a memo on the MPCP to the Wisconsin Joint Committee on Finance (Wisconsin DPI 2011c, p. 6), "as a practical matter, public schools offer a greater range of services and better economies of scale [than private schools] when providing special education services."

What is important here is not the fine legal distinctions between the rights of students and the responsibilities of schools and school districts in the public and private sectors so much as the more general distinction in form and style regarding how students with disabilities are identified and served in the two sectors. In the public sector, special education is largely driven by legal rights and formal procedures (Wolf and Hassel 2001). Official diagnoses must be made and, once made, an elaborate multi-step process must be followed that results in some change in how or where a student is educated that is expected to serve the child's special needs. Students are officially designated as "special education" on forms and in school records to ensure that they receive the extra services to which they are entitled by law. Once a student receives a special education designation, that label tends to stick until the child drops out of school or graduates (Finn, Rotherham and Hokanson 2001, p. 338). The procedures and services that result are supported by additional federal, state, and local funds.

In the private sector, in contrast, special education tends to be handled much less formally. Most elements of the IDEA 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 to the private school. The formal structure of special education, including explicitly labeled students, exists primarily and almost exclusively in the public sector. When and if parents choose to enroll their student with special needs in a private school, for example through participating in a Type A voucher program such as the MPCP, they leave all of that formal policy structure -- including the child's IEP, special education label, special supports, and extra funding -- behind.

Given the reality that special education is implemented with great formality in the public sector and great informality in the private sector, we might expect the same student with special

educational needs to be less likely to be diagnosed and labeled as "special education" if that child is enrolled in the private school sector, through the MPCP, as opposed to the public sector. The reasons for these expectations are rooted in the different principals and incentive structures in the public and private school sectors.

There is a different fundamental logic to the public and private education sectors. The public sector is designed to be accountable to the public at large, through formal procedures implemented within a hierarchical structure ultimately governed (well or badly) by elected officials in the form of school board members, mayors, or governors. Various scholars have labeled this kind of structure "rational-legal" (Weber 1947), "hierarchical" (Ouchi 1980), or simply "bureaucracy" (Chubb and Moe 1990). Although a fierce debate rages regarding the ability of school boards to hold public schools accountable to the broader public (e.g. Howell 2005), our main point here is simply that the public school system consists of a long string of principal-agent relationships regulated by formally documented rule-based behavior (Brehm and Gates 1999; Chubb and Moe 1990; Downs 1967).

The logic of private schools is very different. Private schools must survive in a market environment by attracting sufficient revenue in the form of tuition-paying customers (Chubb and Moe 1990, pp. 185-229). Private schools tend to be accountable to their customers – the parents who decide whether or not to send their children to the school. Organizations that operate in such a market environment face strong incentives to be flexible and accommodating towards their clients (Ouchi 1980). They tend to be much less formalized than their private sector counterparts, since accountability is enforced not through a long chain of principal-agent relationships but merely through customers voting with their feet or simply the threat of them doing so (Wilson 1989, p. 364; Hirschman 1970). Competition in the private school education market also is theorized to place cost-pressure on schools to keep their tuitions attractively low (Friedman 1955). Private schools face incentives to give parents what they want and nothing that they don't want.

How do the incentive structures of public and private schools likely affect special education designations? We think they likely manifest themselves in the under-classification of student

disability in the private sector relative to the public sector. We suspect there are at least three specific reasons for this:

1. Private schools seek operational efficiencies by being far less likely to employ school psychologists and counselors than public schools, meaning a given student with special education needs is less likely to be diagnosed as such if in a private school;
2. Many private schools resist conferring formal labels of any kind on their students, including disability designations, since parents often seek to avoid the stigma of having their child labeled;
3. Private schools need to educate a given special needs student, to the best of their ability and for the same amount of resources, regardless of whether they go through the time and trouble to formally designate them as special education, so, not surprisingly, most private schools do not bother to do so (Peterson and Llaudet 2006, p. 14).

Under such circumstances, we expect two empirical realities to hold. First, the percentage of MPCP students who actually have disabilities that presumably would qualify them for special education will be smaller than the percentage of MPS special education students. This is because the public sector receives more resources and can provide more special services to special education students, naturally attracting such students to their school system and away from the private sector. Second, the percentage of MPCP students classified as having a disability will be substantially lower than the percentage of MPCP students who actually have the sorts of special educational needs that would qualify them as special education students were they to be educated in MPS. In other words, the “true” rate of disability in private schools will be higher than the reported rate of disability in those schools but lower than the “true” rate of disability in the local public school system. Before we test these expectations empirically we provide additional information about how students with disabilities are treated in MPCP schools.

### **SPECIAL EDUCATION IN THE MPCP: THE REALITY ON THE GROUND**

In the final year of our longitudinal evaluation of the MPCP we examined with our own eyes how education was delivered to students in Milwaukee schools (Stewart, Jacob, and Jensen 2012). We requested permission from a broad assortment of MPCP and MPS schools to conduct site visits and interview school personnel. We received permission to conduct the site visits from

most of the MPCP schools we approached but were denied access to any MPS schools by the central administration.

One goal of our 2011 site visits was to learn more about the number of students with disabilities who attend MPCP schools and how those special needs students are served. We visited six high schools and seven elementary/middle schools that participate in MPCP. Our research protocols require that we keep the names of the schools and school personnel confidential. The schools were selected to represent the diversity of MPCP regarding school-level performance and other distinctive characteristics of schools. We interviewed teachers, administrators, board members, and parents. When interviewing principals and school counselors, we asked them how they serve students with disabilities. In general we learned that:

- These schools enroll students with special needs, even some with severe disabilities. We observed children with Down's Syndrome, autism, and emotional disturbance. One MPCP elementary school we visited only serves students with disabilities.
- Few schools in the MPCP formally classify any of their students as in special education. Several principals stated that parents of students with disabilities switch their children to the private school from MPS specifically to escape the special education label.
- Most of the schools in the MPCP that we visited said that they serve students with disabilities in the same way they serve all their economically and educationally disadvantaged students -- by providing a challenging educational program but also extra time and individualized attention from teachers and Title I tutors to learn the material.
- Most of the MPCP school personnel we interviewed said that their school lacks the resources and programs to serve the needs of students with severe physical, emotional, or learning disabilities. Almost all of their enrollees who would be classified as special education if in MPS have disabilities within the range of mild-to-moderate in severity, with the exceptions noted above. The fact that the voucher amount of \$6,442 per student must cover all of the costs of educating each MPCP student was cited by principals as the main reason why students with severe disabilities do not seek enrollment in their schools and could not be served effectively if they did so.

While these were our general findings regarding how MPCP schools deal with the issue of special education, some specific quotes from our interviews help to make the approach more concrete. A high school principal (High School Site 6) who estimated that 8-9 percent of the school's MPCP students would qualify as special education students said:

*Initially we tried mainstreaming them but it did not work and we started our modified tracking system. We call it College Readiness Continuum and any student who is 1-2 years behind in math or reading we try to catch them up. Right now it is only a 1-hour-a-day program. The goal of the program is to have them prepared for college.*

One of the MPCP elementary schools we visited had a student population comprised of 18-20 percent of students with special needs, according to the principal (Elementary Site 7). As she characterized it, "We have the range of abilities a school can have, from gifted and talented to a Down's Syndrome child and everything in between." The school has a full-time staff person to help struggling students, called a Learning Support Specialist. The Learning Support Specialist described why she enjoys her work:

*...Because of the incredible freedom that I have to meet the needs of the children as I see best, in collaboration with the teachers and the parents. I can really build a program to meet the needs. And my program changes every year. ... And that is magnificent... I don't have external parameters dictating what I have to do.*

One would rarely find such flexibility in a special education program in the public sector given the "external parameters" that govern special education in public schools (Wolf and Hassel 2001). It is not surprising that some parents would choose the more flexible private-sector environment for the education of their special needs child.

The MPCP schools we visited regularly emphasized that they resist labeling students with special needs. As one teacher put it, "There's not a test and there's not a form" (Elementary Site 7). She proceeded to describe in detail how cognitively-challenged students in her class are fully integrated into the educational experience and also receive special assistance, with the example of a field trip:

*The students with strong cognitive abilities remember a lot of details and communicate that in their essays. ... They are participating in the assignment and they are doing the utmost that they can do that matches their ability. [Children with cognitive impairments] will have trouble even remembering...it was just a vague memory. Then the children, as a social exercise -- this is a reading and science assignment but it is also a social assignment -- are asked to help the other students with gentleness [and partner up with the struggling students to remind them of what happened] and then they can start to write. .... Maybe their spelling is very intuitive and phonetic but that's where they are. If they are matching letters*

*to sounds that make sense then they are making progress....Then we can talk about the spelling rules and they can correct or a peer can help them to correct and then they have a reason to take pride in their work and they work real hard and they don't get an F or a D. Then there is the artistic part. If a student doesn't do so well on the cognitive side they can excel on the artistic side.*

Finally, the MPCP school we visited that exclusively serves students with disabilities (Elementary Site 5) merits some consideration. It is one of two such schools we know of in the MPCP. It has 9 full-time employees and currently enrolls 55 students in grades 1-8, all suffering from emotional disturbance. Most of the students enrolled in the school participate in the MPCP. The annual cost per pupil at the school is about \$12,000. Since the MPCP voucher provides a maximum of \$6,442/year per student, even if they have a disability, the school has to rely on charitable donations to fill the gap.

The primary educational strategy of the school is to “accept kids where they are”. School personnel, including a full-time social worker, try to place the focus on what students can do, rather than what they struggle at doing. The school has a program in which students meet with a full-time art therapist for about an hour per week and engage in unstructured "art therapy" similar to how "free writing" supports English composition. The activity is used as an opportunity for informal counseling, as the art therapist said that students often reveal important information in the one-on-one setting. The teachers use this information to understand what troubles the students may be having at home that might be affecting their academics.

The school leadership defines student success as growth in the academic, emotional, and spiritual realms. The school has a sectarian religious affiliation and many of its students are referred there from other similarly affiliated religious schools in the area. School personnel say that they de-emphasize traditional measures of student success such as test scores. Their theory of action is that if they address the emotional and behavioral problems of the students first, academic progress will then follow. They also try various ways to get parents involved, such as traditional parent-teacher conferences and home meetings.

Our qualitative research on the MPCP provides additional insight into special education in the nation's oldest and largest urban school voucher program. The Choice schools we visited all served students with disabilities, most commonly those in the mild-to-moderate range of

severity. The principals repeatedly said that it is difficult for them to specify how many special education students they have in their schools because they resist labeling the children.

## **QUANTITATIVE ESTIMATES OF THE STUDENT DISABILITY RATE IN THE MPCP**

If we wanted to compare the percentage of MPCP students in special education with the percentage of MPS students in special education, ideally we would insist that the private schools in the Choice program classify and handle students with disabilities in exactly the same way that public schools do. That way we would be confident that student disabilities are being recognized and measured similarly in the two sectors and therefore direct cross-sector comparisons of disability rates would be valid. It is neither possible nor arguably desirable to require that private schools measure and manage special education in the same way that public schools do. Private schools participating in voucher programs are subject to different laws and follow different norms and practices than public schools. Special education is "special" in the private sector, and we have been advised that some parents specifically choose to place their special needs child in a private school for that very reason.

Under these circumstances, how are we to know or at least estimate what proportion of students in the MPCP have special educational needs? First of all, there is little sense in using the term "special education" for such a comparison, because the phrase has very different meanings in the public and private school sectors. What we can do is ask school administrators and parents whether a child has a disability, particularly one that affects their learning, since the term "disability" and the phrase "disability that affects learning" have a more consistent meaning across school sectors than does the phrase "special education". That is what we did in surveys of private school administrators and MPCP and MPS parents. Three different ways to analyze the data lead us to estimate that the proportion of MPCP students with disabilities that likely would qualify them for special education services if they were in MPS is between 7.5 and 14.6 percent.

### **Disability Rates in the MPCP According to a Rigorous Statistical Analysis**

First, we consider what the administrative data regarding the disability classifications of students in our study say about whether a child's school sector affects the likelihood that he or she will be



formally classified as a special education student. To do so we apply the statistical methodology of individual level fixed-effects analysis to the students in our five-year longitudinal study.

The 2005 Wisconsin Act 125 directed our research organization to conduct a longitudinal evaluation of the MPCP starting in 2006 and report our results annually. We selected a random sample of all MPCP students in grades 3-8, plus the entire population of MPCP 9th graders, and carefully matched them to MPS students in similar grades and neighborhoods, with similar test scores and other important characteristics (Witte *et al.* 2008). In 2007 and 2008, we added additional MPCP and MPS third grade students to the sample using the same matching strategy. In total, our samples have 3,669 students in MPCP and the same number in MPS. This approach provided us with two panels of students, one representative of all students attending the MPCP (at least in the specified grades) and a very similar group attending MPS. We then tracked these two panels of students over five years, from 2006-07 through 2010-11, to produce reports about the test score achievement and educational attainment of the Choice students compared to their public school peers (Witte *et al.* 2009; 2010b; 2011; 2012; Cowen *et al.* 2011; 2012).

To help track the students in our study panels, every year from 2006 through 2010 we sent an enrollment verification form to each MPCP school. The form listed the students in our study who we confirmed were attending that specific private school in the previous year and asked the school staff to indicate if the student still was enrolled and, if not, where they were (if known). The form also asked the school staff to: "Indicate whether each student has a physical or learning disability." Thus we have administrative data from the private schools in the MPCP, from the perspective of the private school principals, regarding the disability status of the 3,669 students in our MPCP panel. Annually we also received the accountability testing file from MPS which included information on the special education status of the 3,669 students in our MPS panel as well as any of our MPCP panelists who had subsequently switched to MPS.

We readily acknowledge that our measures of student disability are not identical across the private and public sectors. Our private school measure is whether or not the student has a disability, in the opinion of private school administrators. Our public school measure is the official MPS indicator for whether or not a child is in special education. In the public sector, having a disability is likely closely aligned with being in special education. The diagnosis of a

disability results in the special education classification. That is how the public sector is required and expected to accommodate students with disabilities. Having a disability is likely poorly aligned with any formal classification of special education in the private sector because many private schools do not make special education classifications and do not have formal special education programs. The statistical comparisons we make below are of private school classifications of student disability compared with public school classifications of special education status.<sup>1</sup> When we say "disability classification" we mean administrator opinion in the case of MPCP and formal special education designation in the case of MPS. The fact that they are likely two different things is, in a sense, the whole point of this exercise.

Through the course of our five-year study, 1,475 of the 7,338 students in our MPCP and MPS study panels (20.1%) switched school sectors, in some cases multiple times. A total of 1,045 students originally in our MPCP panel subsequently switched to MPS and remained there. An additional 104 students originally in our MPS panel switched to MPCP and stayed there. Ninety-six students in our MPCP panel switched to MPS and back again, while 57 students in our MPS panel switched to MPCP and then returned to MPS.<sup>2</sup>

The students in our longitudinal study who switched sectors provide us with a unique opportunity to determine the extent to which private schools in the Choice program recognize student disabilities at different rates than MPS. The reason is because these sector-switchers had the opportunity to be classified as having a disability in the public sector, the private sector, both, or neither. In research parlance, the students are observed in both the private school and public school conditions, and we know from administrative records if their disability status changed or stayed the same when their school sector changed.

Individual level fixed-effects analysis is the ideal methodology for analyzing these data. The fixed effects in the statistical regression model control for the unique characteristics of each

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<sup>1</sup> Because we seek to determine the rate at which students are affirmatively classified as having a disability, we treat missing data for any student in any year as equivalent to a 0 for the variable "classified as having a disability." Although imputing zeroes for missing data is inappropriate when determining such things as student proficiency rates and test scores (Jacob and Wolf 2012), it makes sense in this case because we are interested in differences in disability classification practices and rates across the school sectors. Not answering the disability question, as administrators did during nearly 16 percent of the student-years in our analysis, is literally not classifying the student as having a disability.

<sup>2</sup> The remaining 173 sector switchers had more complicated switching patterns and/or incomplete data.

student while determining whether general factors, such as the student's school sector, influences student disability classifications over time. The method systematically compares the disability classifications of students in MPCP to the disability classifications of themselves when they are observed in the MPS, and vice-versa. Each student is his or her own control group.

Before we get to the statistical regression results, we can get a hint of what the data will tell us by simply examining a cross-tabulation of the disability classification rates for the sector-switchers in our study. Table 2 provides us with initial evidence that Milwaukee students have a greater likelihood of being classified as having a disability in MPS compared to MPCP. If disability classification practices were identical across the two sectors, all of the student observations would appear in the upper left quadrant of the results table (YES/YES) or the lower right quadrant (NO/NO). In other words, every student classified as having a disability in one sector would be similarly classified in the other sector and every student classified as not having a disability in one sector would be similarly classified in the other sector.

**Table 2: Disability Status for Sector Switchers Observed in Each Sector, 2006-2010**

		Disability in MPS?		
		YES	No	Total
Disability in MPCP?	YES	33 (2.2)	35 (2.4)	68 (4.6)
	NO	161 (10.9)	1,246 (84.5)	1,407 (95.4)
Total		194 (13.2)	1,281 (86.9)	1,475 (100.0)

Note: Numbers in parentheses are cell percentages based on the total sample of 1,475. Student counted as "yes" if classified as having a disability in any year in that sector.

Sources: MPCP enrollment verification lists 2006-2010; DPI MPCP accountability testing database 2010; MPS accountability testing files 2006-2010.

Although most observations do fall along what researchers call the "primary diagonal" from upper left to lower right, enough observations deviate from that pattern to indicate that disability classifications are not consistent across sectors. A total of 2.4 percent of the sector-switchers in our study were assigned a disability classification when in MPCP but not while in MPS. This small proportion dwarfs the 10.9 percent of our sector-switchers who were not given a disability classification when in MPCP but were so classified when in MPS. Overall, of the sector switchers in our study, 4.6 percent of them were ever classified in MPCP as having a disability while 13.2 percent of them received such a classification when in MPS. These descriptive statistics suggest that the same students are almost three times more likely to be classified as having a disability when in MPS than when in MPCP.

Are these differential rates of disability classification solely a function of unclassified special needs students "washing out" of MPCP and reverting to MPS? By examining the differential rates of disability classification among different groups of sector-switchers we see that is not the case (Table 3). The overwhelming majority of sector-switchers (80%) went from MPCP to MPS. That group was classified with disabilities at a rate of 4.4 percent when in MPCP but 12.7 percent when in MPS. Students in our study who switched from MPS to MPCP, on the other hand, were classified with disabilities at the rate of 10.6 percent in MPS but at a rate of 0.0 percent in MPCP. In other words, students who started in MPS and then entered the MPCP shed their official disability label if they had one, and 10.6 percent of them did. Students who started in MPCP, switched to MPS, then switched back to MPCP were classified with disabilities at approximately similar rates of 9.4 percent when they were in MPCP and 8.3 percent when they were in MPS. Note that this group of students was welcomed back into MPCP, after leaving it, even though nearly 10 percent of the students had disabilities. Finally, students who started in MPS, switched to MPCP, and then returned to MPS were classified with disabilities at a rate of 15.8 percent while in MPS but at a rate of 0.0 percent while in MPCP. Remember, these are the same students observed in both sectors.

**Table 3: Disability Status for Sector Switchers By Switching Pattern**

<b>Item</b>	<b>MPCP to MPS</b>	<b>MPS to MPCP</b>	<b>MPCP to MPS to MPCP</b>	<b>MPS to MPCP to MPS</b>
<b>Disability in MPCP</b>	4.4%	0.0%	9.4%	0.0%
<b>Disability in MPS</b>	12.7%	10.6%	8.3%	15.8%
<b>Total Number of Switchers (N)</b>	1045	104	96	57

Sources: MPCP enrollment verification lists 2006-2010; DPI MPCP accountability testing database 2010; MPS accountability testing files 2006-2010

Finally, to further test the extent to which a student's disability designation is influenced by the sector in which they are enrolled we estimate a statistical model with individual level fixed-effects that calculates each student's likelihood of being given a disability classification across the five years in which they appear in our data. The variable of interest in the model is an indicator for whether or not the student was in MPS during a particular year. By using individual students as their own comparison group, this analytic method tells us if disability classification rates vary systematically depending upon school sector, and by how much, controlling for everything that is unique about each student. Our simplest model only includes the indicator variable for school sector while a second model simultaneously controls for other general characteristics of the data that can affect classifications such as year and student grade level.<sup>3</sup>

The results of the fixed-effects analysis are presented in Table 4. In our simplest model the effect of a given student being in MPS is to increase their likelihood of being classified with a disability by 12.4 percentage points, from 4.1 percent if in MPCP to 16.5 percent if in MPS. Our second model controls for certain general trends in the data. The disability classifications of the students tend to increase in frequency across the years of our study. However, controlling for that trend, designations tend to decrease somewhat once the student is in high school.

Because our Model 2 controls for variables that never take the value 0, such as year and grade, the interpretation of the regression coefficients is not as straightforward as for Model 1. Once the effects of year and grade are controlled for, and the proper calculations are made using the

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<sup>3</sup> We estimate these models as linear probability models to facilitate ease of interpretation, though the results are similar if the models are run as logit or probit estimations. Disability designation is the dependent indicator variable (1=YES; 0=NO). We estimate the model over the five years of our study for each student in our sample.

"predict" command in STATA, the effect of being in MPS on the likelihood of a student being classified with a disability is an increase of 5.5 percentage points, from 9.1 percent to 14.6 percent, a difference that is both large and statistically significant beyond the 99 percent confidence level. If we suspect that the MPS classification rate is correct and the MPCP rate is biased to the low side, which we do, then students in the MPCP who ever were educated in MPS have special educational needs due to disabilities at the rate of 14.6 percent.

**Table 4: Predicting Disability Designations in Milwaukee**

VARIABLES	Model 1 Beta Coefficient	Model 2 Beta Coefficient
In MPS	0.124*** (0.006)	0.061*** (0.008)
2007		0.018*** (0.006)
2008		0.026** (0.012)
2009		0.047*** (0.017)
2010		0.066*** (0.023)
Grade 4		0.008 (0.007)
Grade 5		-0.000 (0.013)
Grade 6		-0.013 (0.019)
Grade 7		-0.023 (0.024)
Grade 8		-0.033 (0.030)
Grade 9		-0.054 (0.036)
Grade 10		-0.061 (0.042)
Grade 11		-0.084* (0.047)
Grade 12		-0.096* (0.525)
Constant	0.041*** (0.002)	0.086*** (0.015)
N	7,338	7,332
F-Stat	398.99***	10.77***

Notes: \*\*\*  $p < .01$ , \*\*  $p < .05$ , \*  $p < .10$ . Beta coefficients are linear probability estimates of being classified as having a disability or being in special education. Student fixed-effects included. Standard errors clustered by student are in parentheses.

Sources: MPCP enrollment verification lists 2006-2010; DPI MPCP accountability testing database 2010; MPS accountability testing files 2006-2010.

### **Disability Rate in MPCP for All Students Using Best Classification Available**

The 14.6 percent disability rate among MPCP students generated by our statistical analysis only applies to the students in our study who switched sectors. Although sector-switchers comprised 20 percent of our total sample of MPCP and MPS students, they represented 35 percent of the students who started off in our MPCP panel, since MPCP students switch sectors at a higher rate than MPS students (Cowen *et al.* 2010). MPCP sector-switchers probably have a higher rate of disability than MPCP non-sector-switchers. The 14.6 percent disability rate is only definitely valid for the subgroup of Choice students who switch between the private and public sectors. For an estimate of the student disability classification rate across the entire MPCP, including students who never attend a public school, we need to look elsewhere.

Our administrative data on MPCP student disability classifications is helpful here. Although the evidence above indicates that MPCP administrators under-classify students with disabilities compared to their MPS counterparts, the enrollment verification form information from MPCP schools is the best administrative data we have on the disability status of the 65 percent of MPCP students in our study who never attended MPS. If we average the MPCP disability classification rate of 3.75 percent for MPCP non-switchers with the MPS disability classification rate of 14.6 percent for MPCP switchers, we get an estimate of the overall disability rate in MPCP of 7.5 percent.

We think that this 7.5 percent rate for MPCP might under-estimate the actual disability rate in the program, because MPCP school personal appear to under-classify students with disability. Therefore, we think the best estimate of the student disability rate in MPCP lay in the range between the lower bound of 7.5 percent established from our administrative data and the upper bound of 14.6 percent established by our statistical analysis.

## **Disability Rates in the MPCP According to Our SCDP Parent Survey**

Fortunately we have additional data that we can use to estimate the disability rate in MPCP. This third source of information on student disability comes from parent surveys implemented as part of our longitudinal study.

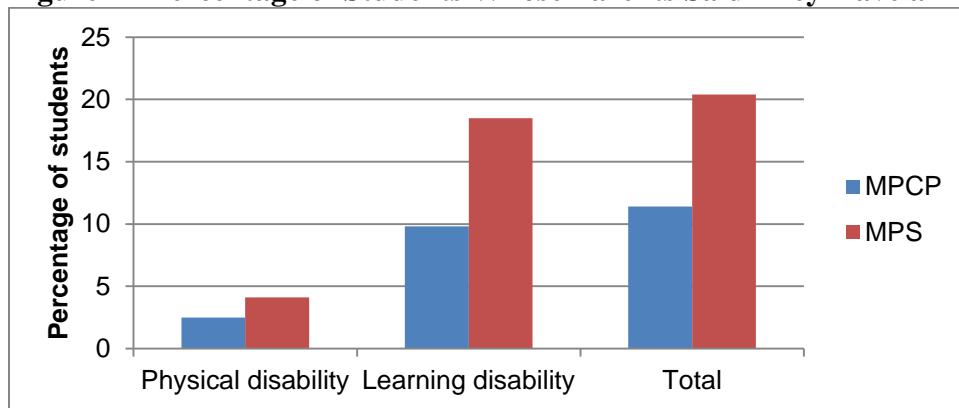
In the springs of 2007, 2008, and 2009 we surveyed parents in both our MPCP and MPS matched panels by telephone. In that survey, we asked parents three questions about their child's special educational needs:

- "Does [the child] have any physical disabilities?" (yes/no)
- "Does [the child] have any learning disabilities?" (yes/no)
- If a parent answered yes to the learning disabilities question, we further asked: "How well does the facilities at [the child's] school attend to his/her particular needs?" (very well, adequately, poorly, other/refused/don't know)

Based on parent responses, 2.5 percent of students in the MPCP have a physical disability and 9.8 percent have a learning disability. A total of 4.1 percent of the parents of MPS students in our matched panel similarly responded that their child has a physical disability and 18.5 percent acknowledged a learning disability. When we combine the two categories and account for students with both types of disabilities, we arrive at a student disability rate in the MPCP of 11.4 percent and in our MPS-matched sample of 20.4 percent (Figure 1). The MPS rate from our survey is similar to the official disability rates reported for all MPS students over the past four years of 18-19 percent (Wisconsin DPI 2011c, Table 1), giving us great confidence in the reliability of the MPCP disability rate of 11.4 percent from our parent surveys.



**Figure 1 - Percentage of Students Whose Parents Said They Have a Disability**



Note: Responses based on the first time a parent answered the question, usually in 2007. Follow-up surveys were used exclusively to fill-in missing data from 2007 non-respondents. The percentage of students with learning or physical disabilities does not add to the total because some students have both.

Source: Milwaukee Longitudinal School Choice Evaluation Parent Surveys in 2007, 2008, and 2009

We think this comparison of the student disability rates in MPCP and MPS is reliable because parental standards regarding whether or not a child has a disability are likely similar regardless of whether the child is in private or public schools. Our survey evidence indicates that the MPCP student disability rate is more than half of the MPS rate, and is almost exactly in the middle of the range of 7.5 to 14.6 percent established by our analysis of administrative data.

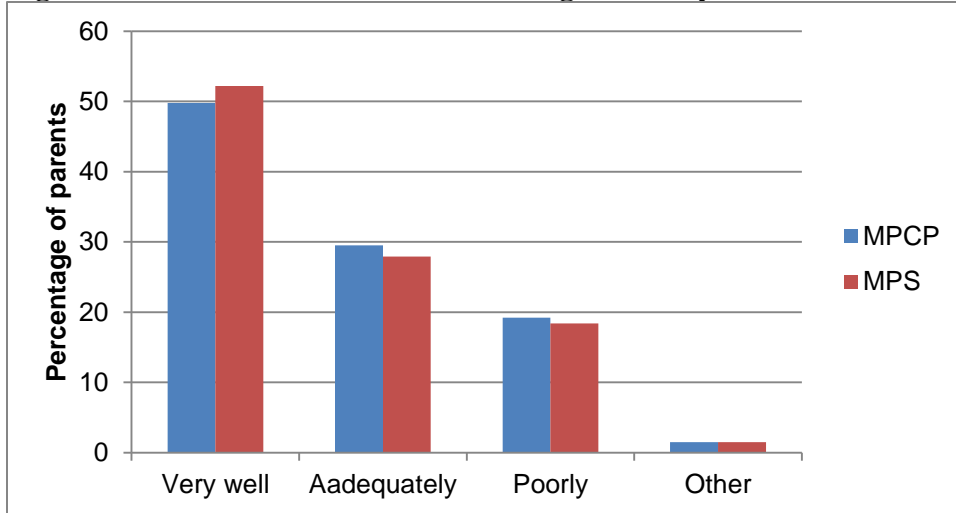
Parents of students with learning disabilities further report similar levels of satisfaction with the educational services provided to their child whether the student was in MPCP or MPS (Figure 2). For both groups, approximately half the parents said the school did "very well" at serving their child's special needs, while about 30 percent of parents in both groups said the school served their child "adequately" and about 19 percent said "poorly." These survey findings might seem surprising, since few students in MPCP schools receive extra government funding for services when they have a disability. Still, according to the parents in our survey, nearly 10 percent of the students in the MPCP have a learning disability and parents tend to be as satisfied with the educational services that those students are receiving in the private sector as are parents of students with learning disabilities in the public sector. Moreover, a legal memo pertaining to a civil rights case (Wisconsin DPI 2011b, p. 4) states:

*...DPI is required to accept due process complaints and state complaints related to the equitable services provisions of IDEA. DPI has not received any due*

*process or state complaints related to the participation of children with disabilities in the MPCP.*

In the 21 years that the Wisconsin Department of Public Instruction has administered the Milwaukee Parental Choice Program, it has not received a single formal complaint regarding the Choice program's treatment of students with disabilities.

**Figure 2 - How Well the Child's Learning Disability is Addressed**



Note: Responses based on the first time a parent answered the question, usually in 2007. Follow-up surveys were used exclusively to fill-in missing data from 2007 non-respondents.  
Source: Milwaukee Longitudinal School Choice Evaluation Parent Surveys in 2007, 2008, and 2009

### **The Disability Rate in MPCP According to DPI**

The 2010-11 school year was the first one for which private schools in MPCP were required to test all of their voucher students in grades 3-8 and 10 using the state government test, the Wisconsin Knowledge and Concepts Exam (WKCE). The Wisconsin DPI (2011a, p. 2) stated that "the private schools reported about 1.6 percent of choice students have a disability". The press release then contrasted that figure with the MPS special education rate of 19 percent.

This DPI claim that 1.6 percent (or "less than 2 percent") of MPCP test-takers had disabilities was presented in several news reports as evidence that the MPCP serves very few students with disabilities (e.g., Richards 2011; Hetzner and Richards 2011; Miner 2011). The release of the figure also led disability rights groups to file a lawsuit against the MPCP and DPI, claiming that the MPCP program and schools discriminate against students with disabilities.

How did DPI arrive at their 1.6 percent disability rate in MPCP? They did not ask MPCP administrators to indicate which students have disabilities, as we were able to do, because they lack legal authority to do so. DPI provided the following response to a question from the petitioners in the civil rights lawsuit (Wisconsin DPI 2011b, p. 4):

9. Please describe whether and how DPI tracks data regarding application, enrollment, retention, outreach, disenrollment, transfer, and suspension or expulsion, of children with disabilities in MPCP schools.

*[DPI response:] Private schools are only required to provide to the department the information set forth on the MPCP Student Application. Wisconsin Stat. § 119.23, the statute governing the MPCP, neither authorizes DPI to request nor requires schools participating in the MPCP to provide the other data to which question 9 refers. Therefore it is not collected.*

The MPCP Student Application does not include a question regarding student disability, since it is illegal for MPCP schools to discriminate against students in admission based on disability. DPI had neither the authority nor the means to collect such data from MPCP administrators.

If DPI's disability rate is not based on classifications by MPCP administrators, on what is it based? Beginning in the fall of 2010, DPI did have legal authority to receive copies of the state test that the MPCP schools administered to their voucher students in certain grades. It is only from those test forms that DPI received any information about MPCP students with disabilities. The only disability measure on the test forms was an indicator of whether or not a student was provided a test accommodation due to a disability, not whether or not the student had a disability (Wolf 2012).

Students with disabilities are not automatically provided testing accommodations, especially in the private sector, which is not bound by most federal disability laws. In fact, the training instructions for administering the WKCE state that students only should be provided with testing accommodations if specified in their Individualized Education Program (IEP). Since few private schools develop or maintain IEPs for their students with disabilities, few MPCP students with disabilities could be provided with testing accommodations. This is a clear example of how the coding and classification system regarding students with disabilities taking the WKCE was aligned to the formalized procedures and practices of the public school system and in direct

opposition to the procedures and practices common to the private schools participating in the MPCP.

Our MPCP administrative data from the past five years indicates that MPCP officials flagged 5.6 percent of 2010 WKCE test-takers as having a disability but only 1.6 percent of test-takers (less than a third) were actually given any testing accommodations. Since most MPCP students with disabilities were not provided with testing accommodations, the testing accommodation question that DPI used to measure the disability rate in MPCP clearly is negatively biased, by a lot.

The error in reporting a flawed measure of disability in the MPCP was magnified by the fact that DPI then compared that rate to the special education rate in MPS and characterized the comparison as "apples-to-apples" (Wisconsin DPI, 2011c, p.1). Since the MPS data with which the MPCP rate was compared were collected using very different procedures, sources, and standards than DPI used to arrive at the MPCP rate, we think that our contrasting estimates of the disability rate in MPCP are much more reliable and comparable to the official special education rate reported for MPS.

## **DISCUSSION**

The wealth of quantitative and qualitative evidence from our state-mandated longitudinal study indicates that the student disability rate in the MPCP likely is between 7.5 and 14.6 percent, with perhaps our best estimate based on parent responses that 11.4 percent of MPCP students have disabilities. The private-school choice program appears to attract and enroll fewer students with special educational needs than does MPS, where the official student special education rate is 19 percent and around 20 percent of the parents of students in our matched MPS sample say their child has a disability. Still, the difference in disability enrollment rates across the two sectors appears to be dramatically smaller than previously supposed.

Eleven percent is significantly lower than 20 percent. If 11 percent is a reliable estimate of the percentage of students in MPCP with disabilities, why is it 9 percentage points lower than the rate in MPS also based on parent reports? We think that institutional and behavioral incentives

explain the difference. The MPCP is likely to be less appealing of an option than the public school system for many parents of students with disabilities. As discussed throughout this report, the MPCP voucher is limited to \$6,442/year, less than half the per-pupil expenditure in MPS, regardless of whether or not a student has a disability. Prior to the fall of 2011, MPCP could not require any participating families to supplement the voucher amount. Thus, MPCP schools have little choice but to deliver a highly efficient, bare-bones, educational program.

As we discussed in the section regarding our school visits, every MPCP school we visited said that they provide special support for struggling students, but most of them lack the full complement of educational programs that students with disabilities are entitled to if they receive their education in the public sector. Eleven percent of MPCP parents acknowledge that their child has a disability and have chosen to have the student's educational needs addressed in a private school, through participation in the MPCP. Twenty percent of MPS parents in our comparison sample similarly acknowledge that their child has a disability and have decided to use the very different public school system of special education supports to serve the student's needs. Given the greater resources and legal entitlements available to students with disabilities in the public sector compared to the private sector, we would have been shocked if our data had suggested that the disability rates in the two sectors are similar. They are not, in all likelihood simply due to the different educational choices that parents have made and the different incentives that surround those choices.

If policy makers remain concerned that only 7.5-14.6 percent of the students in the MPCP have disabilities, one option for increasing that percentage would be to add a "special needs" voucher program to the school choices available to parents. Over 30,000 students bearing special educational needs participate in one of the nine school voucher or tax-credit scholarship programs in the U.S. limited exclusively to students with disabilities. Special needs voucher programs bring with them two advantages over MPCP for parents of students with disabilities. First, the maximum value of the voucher is on a sliding scale based on the severity of the student's disability, so high-needs students can bring more resources to the private schools to address those needs. Second, special needs vouchers reduce some of the monetary disincentive that private schools face to avoid classifying students as having a disability.

Our findings have implications for how we think about, talk about, and analyze student disabilities and special education in the context of a school choice program like MPCP. The parents and schools in the MPCP face different incentives regarding student disability than do the parents and schools in the public sector. As a result, MPCP schools enroll a lower percentage of students with special educational needs than does MPS. MPCP schools do, however, enroll a much higher percentage of special education students than is commonly reported -- 7.5-14.6 percent instead of less than 2 percent. Comparisons between the rates of officially diagnosed special education students in the MPCP and MPS are not valid simply because student disability is perceived, measured, and handled differently in the two education sectors.

Importantly, because student disability is measured very differently in MPCP compared to MPS, comparisons between the performance of MPCP and MPS students should never separate out or "control for" special education status in modeling achievement gains or comparing achievement levels. Any attempt to "control" for special education in comparing student performance in MPCP to that in MPS is likely to generate a severe bias against the MPCP schools because it only "controls for" the underperformance of students formally designated as special education students. Most if not all of the students with special educational needs in MPS have that formal designation, so their educational struggles are thereby removed from the equation. But most MPCP students with special educational needs are not formally designated as special education or even of having a disability, so their educational struggles remain in the equation and pull down the average overall performance level of students in the MPCP.

The only perfect way to correct that bias would be to force the private schools in the MPCP to classify special needs students in exactly the same way as MPS, something that neither the schools nor the parents they serve would likely support. The next best approach is to control for student baseline test-scores in any MPCP-MPS comparisons of student performance, as we do in our longitudinal evaluation (Witte *et al.* 2012), with the expectation that much of the disadvantage that a special-education student faces in learning is already reflected in their prior test scores, an expectation that has been confirmed by research (National Research Council, 1997). A final alternative is to compare student performance between the MPCP and MPS straight up, as we do in our Annual School Testing Summary Report (Jacob and Wolf 2012),

discarding the illusion that we can effectively know and control for exactly which students are and are not special education students in the two sectors, because we know that we cannot. Although our two studies of comparative MPCP achievement growth and achievement levels have limitations that we openly acknowledge in the reports, they do not suffer from the severe bias that comes from comparisons "controlling for" special education because they do not employ a control variable that is measured dramatically differently in the two sectors.

Special education needs to be handled with care, just like the children with special needs who either are or are not officially classified as "special education" students. Through our longitudinal study we can estimate reliably that at least 7.5 percent and perhaps as many as 14.6 percent of the students in the Milwaukee Parental Choice Program have the kinds of exceptional educational needs that would qualify them for the special education label and legal entitlements if they were in Milwaukee Public Schools. We have also learned that many private schools handle students with disabilities very differently from public schools, generally by fully including challenged students in the regular educational program of the school with modest personal or programmatic supports. When parents and school officials think that such an approach is not effectively serving the needs of the child, then the student might transfer to MPS where there is a much greater likelihood that he or she will be officially labeled as a special education student.

Many people are making choices in the educational environment of Milwaukee. For some parents and educators, those choices involve eschewing the formal special education label for students with disabilities. Individual and institution incentives appear to be guiding the behavior of parents and school officials regarding special education in Milwaukee. That makes the case of school choice and special education in Milwaukee illustrative of general theories of political behavior. Perhaps special education is not quite so "special" after all.

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