

**Testimony on 2013 Senate BILL 286**  
**By Sally Flaschberger**  
**Advocacy Specialist- School and Civil Rights**

**Recommendation: Neutral position**

My name is Sally Flaschberger and I am special education advocate for Disability Rights Wisconsin in our Milwaukee Office who attends IEP meetings with parents and takes daily calls from families to help them resolve concerns for their children with disabilities in choice, charter and public schools. I am also a parent of a child with a disability. Our managing attorney, Monica Murphy, was not able to be here today and I was asked to discuss our position on the proposed legislation. I have also been actively involved in the discussion with our agency in the area of school accountability and what that means for students with disabilities across Wisconsin.

Disability Rights Wisconsin is neutral on this bill and would like to discuss some of the areas we see will be effective in holding all schools accountability and other areas we feel could be improved or added to SB 286.

Disability Rights Wisconsin agrees that we need greater and more transparent accountability for choice, charter and public schools and particularly for parents of children with disabilities. This bill has many positive elements that we support:

- One data system for all public, charter and private school to enter data.
- Each student will be assigned a unique number for better tracking of information.
- Multiple measures will be broken into groups including students with disabilities.
- Each school must display on the home page of their website the reports issued by the department.
- System to identify schools that are not providing quality education and more swift action to help these schools change.
- System to eliminate failing choice and charter schools more quickly.

Because this bill is about creating a common accountability system and providing parents with the best, transparent information about how students perform, we strongly support a common definition of disability that crosses public, choice and charter schools.

**Discrimination in Choice Schools**

Disability Rights Wisconsin also sees SB 286 as an opportunity to address concerns raised in a complaint to the US. Department of Justice about discrimination against students with disabilities in choice schools and we are disappointed that this bill does not include any of these elements. The USDOJ answered this complaint by detailing specific requirements to DPI regarding choice schools and requiring DPI to respond with assurances by May of next year. While many may argue the validity of this determination by USDOJ, the USDOJ has not

reversed any directive in this letter at this time and we believe will hold DPI and the state of Wisconsin accountable to the requirements at the end of the school year.

Evidence of discrimination does exist. This has been documented by the calls to our agency from parents that I personally have taken and in MPS data of students with disabilities returning to the public schools after a school determines they cannot support the child or the child is suspended or expelled from the choice school. During the first semester of last year, 448 students returned to MPS and 142 of these were students with disabilities.

Here are specific examples of individual students:

- T. was a kindergartner with a medical disorder that caused toilet difficulties. Despite her mother's pleas, her teacher wouldn't allow her to use the bathroom as needed - and humiliated her by discussing her problems publicly.
- A. was a 9-year-old who sometimes wouldn't speak. Her teacher left her sitting by herself in a corner of the classroom.
- S. was a 4-year-old receiving speech and language services. When his mother met with administrators to enroll him in school, they tried to talk her out of it.
- K. was an 8-year-old with attention deficit hyperactivity disorder. A school refused to admit him unless he was put on medication.
- B. was an eighth-grader with mental health issues. Her behavior was improving, but she was expelled from school for having a verbal dispute with another student.

These children all have educational disabilities, and they all tried to participate in the Milwaukee Parental Choice Program and they were either denied admission, not served or pushed back into public schools by private voucher schools.

If amended to address these important concerns, this bill can help Wisconsin ensure discrimination against students with disabilities is not occurring and prevent enforcement action by the US Department of Justice. We strongly suggest the bill be amended to provide parents with the protections they need and DPI with the authority they require.

Although USDOJ directs various actions in its April 2013 letter, DRW believes several key items are most important:

- The establishment of a formal complaint system for families, similar to what is required for public schools.
- Providing DPI with additional authority to play a monitoring role in choice schools to ensure that, absent a valid Americans with Disabilities Act (ADA) defense, they do not expel/exit a student with a disability unless the school has first determined that there are no reasonable modifications to

school policies, practices or procedures that could enhance the school's ability to educate the student.

DRW would also ask to amend that private schools comply with the State Pupil Non-Discrimination statutory requirements as public schools do (this can be accomplished by amending 118.60 and 118.13 (1).) This would allow an already established system and authority in DPI to deal with such complaints.

Although the disaggregated data collection proposed in this bill is an excellent first step in monitoring the education and outcomes for students with disabilities and all students, enhanced data collection about enrollment trends in voucher schools can also help us ensure fairness for students with disabilities and track discriminatory practices.

We would request that when a student exits a parent choice school, the receiving public school district be required to collect the following data to report to DPI:

1. The date of the student's enrollment in the public school.
2. The student's disability status.
3. This data should be disaggregated by grade level and type of disability.
4. The name of the school the student attended through the Parental Choice Program.
5. The reason provided by the parent for leaving the Parental Choice Program.

#### **Act 125- Seclusion and Restraint**

Disability Rights Wisconsin worked for many years with a variety of stakeholders to shine a bright light on extremely dangerous seclusion and restraint practices that were occurring in our schools. Working alongside school administrators, school boards, teachers, DPI and legislators, Wisconsin came to agreement that among key health and safety standards, certain practices should be banned. We request that this bill be amended to incorporate Wisconsin Act 125 within foundational health and safety measures for all schools.

#### **Funding for Parental Choice Program**

DRW receives information annually from the Milwaukee Public School and reports from parents about students returning to the public schools after not receiving adequate support in a choice school. The current funding system does not allow the money to follow the student back to the school district immediately. Since the public school must re-enroll the child, they are left to provide the services without adequate funding. We would ask that the funding be pro-rated and returned to DPI from the choice school so that it can be provided to the public school responsible for education the student.