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## Testimony on Senate Bill 587

Thank you Chairwoman Darling and committee members for hearing our testimony on Senate Bill 587. As parents and students continue to deal with the changing landscape of education during COVID, we introduced this bill to help parents find the best educational opportunity for their child.

SB 587 allows parents to transfer their student to another school based on the requirements for masking or vaccine. This transfer exemption works both ways, it allows a student to transfer away from schools with requirements to one that doesn't have them or from a school without requirements to one that does. It is important for parents to have the full range of choice when finding the best school for their kids.

Additionally, the bill clarifies that when the student transfers, they receive an exemption to the WIAA transfer rules for athletes in their junior or senior years. Currently, if a student moves schools without moving residences, they must sit out a year of varsity athletics if they are a junior or senior. While this rule may make sense in normal times, we are facing extraordinary circumstances and exemptions are necessary.

Thank you for taking my testimony and I would be happy to answer any questions you may have.



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# BARBARA DITTRICH

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STATE REPRESENTATIVE • 38<sup>th</sup> ASSEMBLY DISTRICT

October 14, 2021

## Senate Committee on Education

**RE: Rep. Dittrich Testimony on SB 587** - Relating to: state aid payments for pupils in grades kindergarten to 12 who transfer schools due to the existence or absence of mandates regarding pupil face coverings or COVID-19 vaccines; school district membership in an interscholastic athletic association in the 2021-22 school year; and making an appropriation.

Hello, Committee Chair Darling and members of the committee. I appreciate the opportunity to speak to you on a topic that has quickly become the most controversial decision made by school boards and a way to place control on which option is best for a student where it squarely belongs — with the parents.

At a time when families are incredibly unnerved with how their school district is responding to COVID-19, parents need to have the option to enroll their children in the best educational option especially in regards to mask/vaccine policies, whether that includes masking/vaccines or refraining from those practices. School boards are under incredible pressure regarding these mandates.

We know that one-size does not fit every student. And too often parents feel the decisions of their school board don't represent their views, giving them the freedom to ensure their children are taught and protected in a way that they, the parents, feel is correct. Wisconsin has already seen the school choice program provide children the opportunity to find a more suitable educational setting by putting parents in the driver's seat of their child's education.

For parents that believe that that our kids neither need to be masked all day at school nor that it's good for their social-emotional health, this allows them to be put their children in a school that more closely reflects their values. Conversely, parents that wish to have their children masked while in a school setting will be allowed to choose a school that follows these practices. Wisconsin students and parents deserve to be taught in a way that allows them flourish. Frustration and fear over COVID is detracting from the education of our children!

SB 587 allows children to continue playing sports over the decision of their parents to transfer them to a school that accurately represents their beliefs. Participation in sports is extremely helpful to the physical, emotional, and social well-being of a student. Children should not be pulled from a sport on the sole grounds of the decision of a parent to have the child attend a different school.

While I have never been against masking or vaccines, government mandates are detrimental to the nuanced needs of each student and take away a parent's right to make the best choices for their kids. This legislation remedies that challenge while helping our students to move forward in their education. Thank you for your time, and I'll answer any questions you have on this legislation.



Senate Education Committee  
October 14, 2021

**Wisconsin Department of Public Instruction  
Testimony in Opposition for Senate Bill 587 and Assembly Bill 600**

The Department of Public Instruction (DPI) submits the following testimony in opposition to Senate Bill 587 (Assembly Bill 600).

Senate Bill 587 provides that, during the 2021-22 and 2022-23 school years, a pupil enrolled in or attending a public or private school may transfer to another school if one of the following conditions is met:

1. If a school requires pupils to wear face coverings to prevent the transmission of the novel coronavirus SARS-CoV-2, a pupil may transfer to a school that does not require pupils to wear face coverings.
2. If a school does not require pupils to wear face coverings, a pupil may transfer to a school that does require pupils to wear face coverings.
3. If a school requires pupils to receive, or to show proof of having received, COVID-19 vaccines, a pupil may transfer to a school that does not require pupils to receive or to show proof of having received COVID-19 vaccines.
4. If a school does not require pupils to receive, or to show proof of having received, COVID-19 vaccines, a pupil may transfer to a school that does require pupils to receive or to show proof of having received COVID-19 vaccines.

Under the bill, if a pupil is eligible to transfer schools, the pupil's parent must apply to the school the pupil wants to attend (transferee school), and, if the pupil is accepted and attends the transferee school, the Department of Public Instruction (DPI) must make a payment to the transferee school on behalf of the pupil. The payment amount is one of the following:

**2021-22 Transferee School Payment Amounts**

	<u>Pupil without a disability</u>	<u>Pupil with a disability</u>
Public School including ICS	\$8,161	\$13,013
Private School	\$8,336 (K-8) \$8,982(9-12)	\$13,013

If the pupil transfers after the third Friday in September, DPI must prorate the applicable per pupil payment amount. The bill requires DPI to offset the payments made to transferee schools, via a reduction to state aid (for school districts) and withholding from state payments (for ICS and choice/SNSP private schools); the reduction would be applied to the school district, ICS, or private choice/SNSP school from which the pupil transfers. Because the state does not make payments to private schools that do not participate in a parent choice program or the SNSP, no funds can be withheld to offset the transfer payments made on behalf of tuition-paying students in a private school who transfer to a school district, ICS, or private choice/SNSP school under the bill. The bill creates a sum sufficient GPR appropriation to pay the costs associated with this type of transfer.

The bill establishes the following timeline for action on transfer applications:

1. The school must act on an application and notify the parent whether the application was approved or denied within 20 days.
2. If approved, the parent must within 10 days notify the school whether or not they intend to enroll their child. A pupil could enroll immediately, but the parent must enroll the pupil within 15 days of notice from the school.
3. The acceptance of a transfer may be cancelled by the transferee school if the parent does not enroll their child within the 15-day period.

The DPI has identified several concerns with the bill:

- The bill provides no criteria for the approval or denial of a transfer application by a transferee school/district.
- The bill permits a year-round application and transfer process under specific situations for enrollment in another school district, ICS, or private choice/SNSP school, outside the processes, eligibility criteria, and timelines that exist under current law for these programs.
- The bill does not require that approved transfers be reported to DPI, even though DPI would be required to adjust aid payments to reflect the transfers.
- The bill's provisions relating to public school transfers are redundant, because under current law, a parent may apply to transfer their child to a different school district under the Open Enrollment alternative application. A parent may submit an Open Enrollment alternative application at any time during the school year.
- The bill does not address transportation provisions for pupils transferring to another school district.
- Under current law, parents may already be able to submit applications to enroll their child in an ICS at any time during the year, because ICS can set their own enrollment periods. Further, ICS are required to have a random selection process for pupil applicants and may already have an existing wait list which would prevent additional pupils under the bill from enrolling.

- The bill does not require that a pupil would need to meet the current law eligibility criteria for participation in any of state's three private school parental choice programs or the SNSP.
- Private school students not participating the choice programs or SNSP could transfer under this bill to another private school that does not participate in the choice or SNSP programs and the school will receive a state payment, funded with a newly created sum sufficient GPR appropriation, for these students.
- *There is no prohibition on a private school charging tuition for transfer students.*
- Choice schools are required to have a random selection process for pupil applicants and may already have an existing wait list which would prevent additional pupils under the bill from enrolling.

Additionally, for pupils transferring to a public school or an ICS, the transfer amount would be equal to \$8,161 per 1.0 full-time equivalent (FTE) for a child without a disability, and \$13,013 per FTE for a child with a disability. This is compared to the current law payments for pupils regularly enrolled in an ICS, which is \$9,201/FTE, or \$1,040 greater than the open enrollment transfer amount in the bill. For a pupil with a disability, the open enrollment payment amount is \$13,013, or \$3,812 more than the per pupil payment for ICS.

For pupils transferring to a private school participating in a choice program or the SNSP, the payments would be equal to current law payments under these programs (choice schools: \$8,336 for K-8 and \$8,982 for 9-12; SNSP schools: \$13,013).

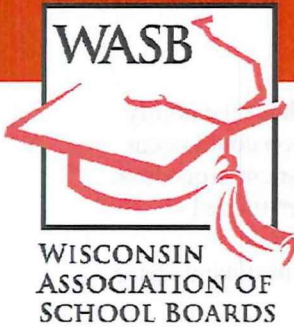
In summary, because the bill permits an application process for enrollment in ICS and private choice/SNSP schools without regard to the current law processes, eligibility criteria, or timelines for those programs, the bill creates a confusing landscape for parents and schools.

#### *Membership in an Interscholastic Athletic Association*

The bill also prohibits a school district from being a member of an interscholastic athletic association in the 2021-22 school year unless, for the 2021-22 school year, the association considers the method by which educational programming was delivered during the 2020-21 or 2021-22 school year to be an extenuating circumstance that justifies a request to waive the association's transfer rules for a pupil. Additionally, if a waiver is granted based on the method of delivering educational programming in the 2020-21 or 2021-22 school year, the association must allow the pupil to play any level of athletics during the 2021-22 school year, including varsity athletics.

The bill attempts to indirectly impact interscholastic athletic association policies by directly prohibiting the ability of school districts to continue membership unless the association complies with the provisions of the bill. In matters related to the Wisconsin Interscholastic Athletic Association (WIAA), the department defers those discussions to the athletic association.

The department appreciates the opportunity to provide this information.



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

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TO: Members, Senate Committee on Education  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: October 14, 2021  
RE: OPPOSITION to SENATE BILL 587, relating to: state aid payments for pupils in grades K through 12 who transfer schools due to the existence or absence of mandates regarding pupil face coverings or COVID-19 vaccines; and school district membership in an interscholastic athletic association in the 2021-22 school year.

The Wisconsin Association of School Boards (WASB) is a voluntary membership association representing all 421 of Wisconsin's locally elected public school boards. The WASB opposes this bill based on our member-approved resolutions.

Senate Bill 587 would allow a student in a public or private school to transfer to any other private or public school if the school has a different COVID masking or vaccine policies. A taxpayer-funded payment amount must then follow the student to their new school called a "transferee school" under the bill. The bill specifies the amount of the taxpayer-funded amount depending on whether the student is transferring to a private or public school and whether the student has a disability or not.

The bill would require the parent of a pupil who wants to transfer to a transferee school as allowed under the bill to submit an application to the governing body of the transferee school. No later than 20 days after the governing body of a transferee school receives an application, the governing body must notify the applicant whether the governing body accepts or rejects the application.

Our members have taken a position opposing public dollars going to private schools. WASB Resolution 2.70 states:

*The WASB strongly opposes the use of state or federal taxpayer dollars to subsidize nonpublic schools or nonpublic students/parents through a system of vouchers, scholarship tax credits, tuition tax credits or deduction plan or other similar arrangements.*

*All publicly funded schools, including private schools receiving voucher funding, must have the exact same accountability and transparency standards and requirements.*

COVID-related masking policies in schools have been changing in districts across the state as boards reevaluate decisions based on additional data and circumstances at the state and local level. What happens if a district changes their policies after an application is submitted or approved? Who is going to track every school's policies? We are also concerned that this bill would allow taxpayer dollars to flow to any private school whether they are in a choice program or not. Would those schools become choice schools and be subject to additional transparency and accountability provisions?

We have other questions about how the bill would work in practice. The bill clearly contemplates the ability of a “transferee school” to reject an application, but provides no criteria under which a rejection could occur. The WASB is also concerned that bill appears to disregard existing public school open enrollment procedures and existing voucher school eligibility procedures in allowing transfers and awarding taxpayer-funded amounts to transferring students and their families. This includes, among other things, ignoring or disregarding the existing alternative open enrollment procedures and perhaps ignoring open enrollment space availability determinations by public schools.

Overall, this bill is a clever way to get a toe in the door for a wide-open “money follows the student” system. The bill could open the door to full privatization of K-12 education, and we have no doubt if this temporary system was put in place, voucher advocates would immediately shift to making it permanent. It would fully realize the dream of privatization advocates to “put a voucher in every backpack.”

This bill also contains the provisions from a previously vetoed bill—Senate Bill 384—prohibiting a school district from being a member of an interscholastic athletic association (i.e., the WIAA) unless the association allows an exception to its transfer rules based on the manner in which educational programming was delivered during the 2020-21 and 2021-22 school years.

The WASB’s opposition to these provisions was noted in our testimony to this committee regarding Senate Bill 384 and is unchanged. The WASB continues to oppose these provisions on the ground that they interfere with the ability of school boards to control or influence the policies of an organizations of which they are voluntary members. The WASB also opposed similar provisions last session.

WASB Resolution 3.98 states:

*The WASB supports the autonomy of WIAA to govern itself and to determine regulations and standards for athletics and student eligibility while taking into account the input of its member schools. The WASB opposes legislative efforts to impose explicit or implicit mandates on the WIAA or its member schools (2018-8)*

Interscholastic athletics and other extracurricular activities offered in public schools are, as the name suggests, something extra. They are intended to supplement the school curriculum. In this regard, the sports, music, drama, forensics, and other activities offered by each public school district are viewed as an extension of the classroom and of the school day. School-based athletic programs, for example, are not community or recreational youth sports programs. They are neither designed nor intended to provide programming to the general public in the way a YMCA or community-based recreation program might. Again, they are an extension of the school day.

Public schools provide athletics and other extracurricular activities because they have educational value and create incentives for students to enroll in and remain in public schools and perform well enough to remain eligible to participate in those activities. These opportunities reduce truancy, reduce discipline referrals, boost students’ grades (GPA), promote a sense of belonging and community, improve school climates, increase graduation rates, and keep students engaged in school offerings and interested in their education.

Public schools exert institutional control at the district level (by requiring such things as school attendance, certain levels of academic standing or grade point averages, and adherence to codes of conduct) over who may participate in such activities and are accountable for how those activities are conducted.

Public schools also exert institutional control at the conference and at the state level through membership in bodies such as the Wisconsin Interscholastic Athletic Association (WIAA) that establish and enforce eligibility criteria and other rules, including transfer rules, intended to promote competitive fairness. Those statewide rules, like the local district rules, govern who may participate in such activities.

Those rules also provide for an appeal process under which a student athlete's individual circumstances are carefully considered. School districts exercise this institutional control at the statewide level through a representative process into which they have input. This bill would interfere with our member school boards' ability to regulate and control a private, non-profit organization in which they are members and would instead substitute lawmakers' judgment for the judgment of the WIAA and its public school members about what is in the best interests of competitive fairness.

For the above reasons, the WASB opposes Senate Bill 587.





October 13, 2021

## **WIAA Statement on Opposition to Latest School Athletics Transfer Legislation (SB 587)**

The WIAA respectfully objects to the provisions in SB 587 wherein the legislature is inserting themselves into the decision-making process of a private, member driven organization.

As we all have witnessed, the pandemic wreaked havoc on our lives over the last year and a half, and high school athletics were not immune from its reach. School districts around the state wrestled constantly with providing opportunity for their student athletes to compete while also protecting their safety as well as the safety of the community around them.

During this challenging time, numerous accommodations have been made to facilitate high school athletic competition, including member-driven policy changes designed to provide student-athletes the opportunity to compete. This included a transfer rule modification that allows a student to return to the school they left due to instructional style and maintain their athletics eligibility immediately upon their return.

The WIAA will always oppose legislation that amends transfer rules outside of the existing, deliberative process that exists through our current membership practices. We believe it is often in response to an isolated case and does not take into account the big picture as it relates to fairness to all student athletes. Most do not consider the fact that transfer rules in organizations like the WIAA help to promote member harmony, as well as protect opportunities for the displaced student. In addition, these rules reduce the undue influence exerted by people seeking to benefit from a student-athlete's prowess.

Lastly, the WIAA has the same goals as SB 587's authors in regard to accessibility and fairness for all Wisconsin student athletes. It should be noted that there have been only a handful of waiver requests pertaining to COVID instructional style, some of which were granted. WIAA will continue to assess its transfer waiver requests on a case-by-case basis while balancing fairness to all student-athletes as dictated by our members. A process that we take seriously and believe is best done through and initiated by the WIAA membership, not the state legislature.