

POLICY BRIEF

KEY FINDINGS

- > Students in **85%** of Maine municipalities **cannot be reimbursed for their educational choices**, and may only exercise choice if their family pays the full cost of tuition and transportation out of pocket.
- > Only **87 jurisdictions offer some measure of school choice** to resident students.
- > Only **20 jurisdictions offer full choice at every grade level** to resident students.
- > High-schoolers have full choice in **48 Maine towns**, and students in grades 6-12 have full choice in just **2 towns**.
- > Choice is concentrated in rural areas of Maine, primarily small towns with low percentages of school-aged children.

SCHOOL CHOICE OPTIONS FOR MAINE STUDENTS DIFFER BY TOWN

BACKGROUND

Maine law compels children ages 6 to 17 to attend school, be it public, private, or homeschool. The Maine Constitution also requires municipalities to support and maintain public schools "at their own expense. Students have the right to attend a district outside of their home district, and school boards may approve a student's request to transfer to another School Administrative Unit (SAU) than attend the one in which they reside. For these transfers, Maine law clarifies that the "student's parent or guardian shall pay the cost of tuition and transportation."

"Town-tuitioning" is a mechanism that allows school-age children in Maine who reside in a municipality that does not operate its own schools, or contract with another school or district to educate resident children, the option to attend a public or private school of their choice (under certain conditions), with public education dollars following the child to the chosen school. Maine's town-tuitioning law has been on the books since 1873, making it the second-oldest school choice program in the nation behind Vermont's own town-tuitioning law.

Town-tuitioning is a public benefit that empowers families residing in towns which utilize it to pursue the best educational option available, regardless of ZIP code or financial status. For more than 100 years, students living in mu-

nicipalities which utilize the program could be reimbursed by their town to attend any school of their choice: private or public, religious or secular. State law sets the maximum tuition allowed to be paid for elementary and secondary students.

In January 1980, at the request of a legislator, Maine Attorney General Richard S. Cohen issued an advisory opinion concluding that allowing sectarian schools to receive town tuition would infringe on the Establishment Clause under the First Amendment of the US Constitution, which prohibits the state's establishment of religion. Agreeing with the AG's interpretation, the legislature subsequently amended the law to prohibit sectarian schools from receiving town-tuition dollars for education.

Challenges to this law, known as Maine's "sectarian exclusion," have been denied *writ of certiorari*, or a spot on the US Supreme Court's docket, until this year. In 2021, the Court agreed to hear *Carson v. Makin*, a suit filed by three Maine families who currently send their children to accredited private schools designated as sectarian and were denied public tuition by their town for that education.

Maine Policy Institute has submitted an *amicus curiae* (friend of the court) brief in support of striking down the sectarian exclusion so families may pursue the state-accredited education of their choice.

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By discriminating against certain schools solely based on their religious status and limiting a public benefit on that basis, the state unfairly limits educational opportunities and interferes with Mainers' right to Free Exercise under the First Amendment of the US Constitution.

PUBLIC EDUCATION IN MAINE TODAY

In 2020, 172,636 students living in 493 municipalities and unorganized territories were enrolled in Maine's public education system, attending 595 schools across 277 SAUs. This includes the Career & Technical Education (CTE) schools and 10 public charter schools. More than 4,000 students are tuitioned by their school board to a school outside of their SAU, about 2.5% of all public school students. School boards may also choose to not accept students from outside their SAU.

Private schools, numbering more than 100 in Maine, must meet certain state standards of teacher certification, basic curriculum, immunizations, etc. to operate. Of those schools, 45 are considered "private special purpose" which largely serve students requiring special needs, 15 are classified as "private sectarian" and 36 as "private nonsectarian." Eleven of the nonsectarian private schools each serve a student body of whom at least 60% are funded by town, rather than parent, tuition. In addition to the other rules applying to private schools, they must also participate in statewide assessments and meet the same curriculum standards as public schools.

Until this publication, families looking to find out which Maine towns allow their resident students school choice could not easily access this information in a central database.

METHODOLOGY

Students who reside in a town which does not operate or contract with a school serving their grade level may receive town-paid tuition to attend any private school meeting certain criteria, including that it be "a nonsectarian school in accordance with the First Amendment of the United States Constitution." For purposes of this project, these towns are designated as having "full choice" for grade levels not served by their SAU. If a town is part of a school district which serves all grade levels, its choice is categorized as "none."

Some SAUs contract exclusively with a private school to serve its students. For instance, Saco Public Schools does not operate its own high school, so its resident students are designated to attend Thornton Academy, a 60% publicly-funded private school. Technically, they are "tuitioned" to that school, but they otherwise do not have public school choice due to the existing agreement between the city and Thornton Academy. Towns with similar situations were categorized as providing no school choice for their resident students.

Lincoln Academy, another 60% publicly-funded school, accepts town-tuitioned high school students from certain Midcoast towns, which allow for some measure of choice for grades 9 through 12, but it does not contract with any particular school district for all of its students. This allows resident students of Damariscotta, Newcastle, Bristol, Bremen, and other nearby towns organized into Alternative Organizational Structure (AOS) No. 93, a regional SAU, full high school choice. Some school boards may choose to cover costs of transportation to certain area districts or schools for their students, as RSU 12 offers for their students attending Wiscasset schools.

Rising high-schoolers residing in the City of Portland may apply to attend one of three high



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schools operated by Portland Public Schools based on availability, with a lottery system to decide enrollment in the event of more applications than spots available at a particular school. In cases like this where a town is part of a district which provides multiple options for the same grade levels, or a district contracts with multiple nearby schools or districts that serve the same grade levels, it was designated as having “limited choice” for those grade levels.

Jurisdictions marked as not available (N/A) are either those which the state’s Education in the Unorganized Territories (EUT) office has not assigned residents a school or SAU, or those which were not able to be reached by time of publication: Dennistown Plt, Glenwood Plt, Grand Isle, Nashville Plt, Monhegan Plt, Orient, Pleasant Ridge Plt, Shirley, The Forks Plt, West Forks, Willimantic, and Winterville Plt. Through EUT, 13 localities are designated to SAUs with limited school choice options; 92 are designated to SAUs with none. As more information comes to light from these jurisdictions, the map will be updated.

FINDINGS

Out of more than 900 localities, be they municipalities like cities and towns, or unorganized townships, 575 provide some information on SAU designation. In more than 85% of the jurisdictions with information available, resident students do not have an option to be reimbursed for their educational choices. They may attend another district or private school only if their families pay all costs of attendance, including tuition and transportation.

Only 87 jurisdictions (9.5%) offer some measure of school choice, found largely in rural areas, often small towns in counties with low percentages of school-age children. Twenty municipalities offer full choice at every grade level. High-schoolers in 48 towns have full choice. In two towns, students

in grades six through 12 have full choice. Seventeen jurisdictions give students a limited pool of options across various grade levels. Four among those provide limited choice for all grades, five do so for high-schoolers, six for elementary schoolers (either K-5 or K-6), and one each for grades K-8 and grades 6-12.

Local school boards could allow broader public school options for their resident students by negotiating with other nearby SAUs, or reorganizing themselves to open up choice. What if the state expanded town-tuitioning to all public school students through a sort of “open enrollment” policy, similar to that in place in Minnesota, Florida, or Texas? An analysis of student transfer data in Texas over the 2018-2019 school year found that while only 3% of students transferred to a traditional public school outside of their home district, 45,000 students utilized their option to enroll in a higher-performing school district as measured by state standards.

Under open enrollment, Maine’s public school system would likely see an explosion of competition between schools and districts within relative geographical proximity, as SAUs and schools work to attract families through voluntary choice instead of assuming enrollment based on residency. This may offer greater challenges for school administrators, but it would no doubt benefit students’ education and the state’s future. With public school enrollment on a steady decline, allowing open enrollment for every Maine student could bolster local school budgets by helping to keep students in the public school system.

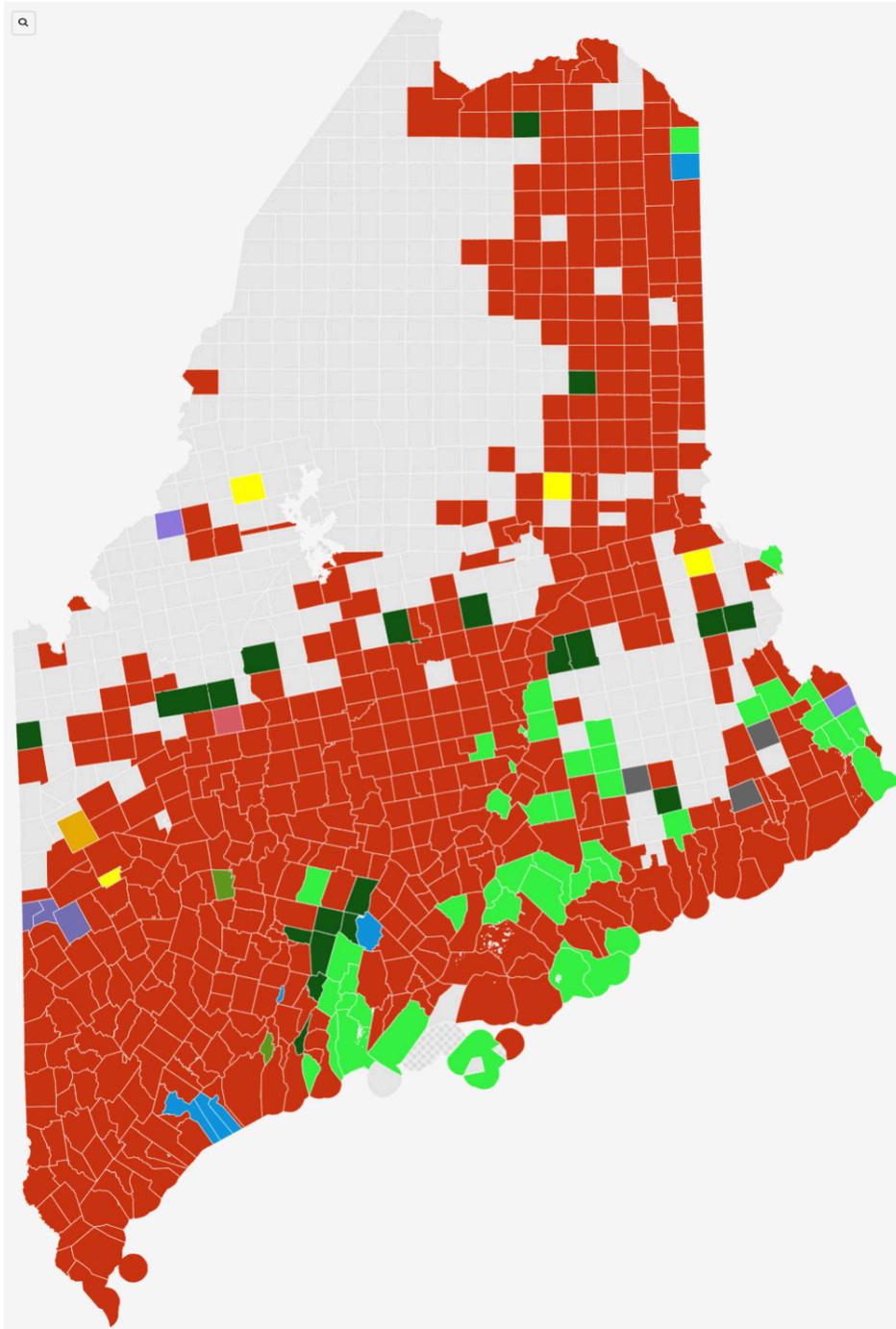


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SCHOOL CHOICE MAP OF MAINE

Legend: N/A (grey), Full K-12 (dark green), Full 6-12 (medium green), Full 9-12 (light green), Limited K-12 (yellow), Limited K-8 (pink), Limited 6-12 (orange), Limited 9-12 (blue), Limited K-6 (grey), Limited K-5 (purple), None (red)



View the interactive version of the Maine School Choice Map at www.maineconomy.org/project/school-choice-map



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Table 1: School Choice by Jurisdiction

Full Choice				Limited Choice			
Name	Choice	Name	Choice	Name	Choice	Name	Choice
Bowerbank	Full K-12	Alexander	Full 9-12	Jefferson	Full 9-12	Albany Twp	Limited K-5
Burlington	Full K-12	Alna	Full 9-12	Lamoine	Full 9-12	Andover	Limited 6-12
Caratunk	Full K-12	Amherst	Full 9-12	Lubec	Full 9-12	Batchelders Grant	Limited K-5
Carrabassett Valley	Full K-12	Aurora	Full 9-12	Matinicus Isle Pl	Full 9-12	Brookton Twp	Limited K-12
Chelsea	Full K-12	Baring Pt	Full 9-12	Milford	Full 9-12	Centerville Twp	Limited K-6
Deblois	Full K-12	Blue Hill	Full 9-12	Newcastle	Full 9-12	Herseytown Twp	Limited K-12
Eagle Lake	Full K-12	Bremen	Full 9-12	Nobleboro	Full 9-12	Lexington Twp	Limited K-8
Highland Pt	Full K-12	Bristol	Full 9-12	Northport	Full 9-12	Limestone	Limited 9-12
Lake View Pt	Full K-12	Brooksville	Full 9-12	Orrington	Full 9-12	Long Island	Limited 9-12
Lincoln Pt	Full K-12	Castine	Full 9-12	Osborn	Full 9-12	Mason Twp	Limited K-5
Lowell	Full K-12	Caswell	Full 9-12	Otis	Full 9-12	Milton Twp	Limited K-12
Moro Pt	Full K-12	Charlotte	Full 9-12	Pembroke	Full 9-12	Perkins Twp	Limited 9-12
Palermo	Full K-12	Cherryfield	Full 9-12	Penobscot	Full 9-12	Portland	Limited 9-12
Robbinston	Full K-12	Cranberry Isles	Full 9-12	Perry	Full 9-12	Soldiertown Twp	Limited K-12
Somerville	Full K-12	Crawford	Full 9-12	Pleasant Point	Full 9-12	T19 ED BPP	Limited K-6
Talmadge	Full K-12	Damariscotta	Full 9-12	Saint George	Full 9-12	T22 MD	Limited K-6
Waite	Full K-12	Dedham	Full 9-12	South Bristol	Full 9-12	Washington Twp	Limited 9-12
Westport	Full K-12	Dennysville	Full 9-12	Southport	Full 9-12		
Whitefield	Full K-12	Frenchboro	Full 9-12	Surry	Full 9-12		
Windsor	Full K-12	Glenburn	Full 9-12	Swans Island	Full 9-12		
Fayette	Full 6-12	Great Pond	Full 9-12	Trenton	Full 9-12		
West Bath	Full 6-12	Greenbush	Full 9-12	Vanceboro	Full 9-12		
		Hancock	Full 9-12	Vassalboro	Full 9-12		
		Indian Island	Full 9-12	Veazie	Full 9-12		

RESEARCH METHODS

Data on town-SAU organization and school choice options were collected from public sources, either through the Maine Department of Education website, municipal websites, or through conversations with school district or municipal officials. The full data set and sources, where applicable, can be found on a public spreadsheet.

To develop the accompanying map visualization, data from the State of Maine Geographic Information System (GIS) for municipal boundary shapes were matched to school choice data of corresponding municipalities and unorganized territories.

ACKNOWLEDGEMENTS

To Sophie Cohen, 2021 policy intern, for her help in the early research and strategic development of this project, and to Cathy Severance at EUT, for describing in great detail the system by which Maine guarantees a free and appropriate public education to its students living in the unorganized territories.



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