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Harvard vs. the American Federation of Teachers: The Voucher Study Wars

This story has it all: poor minority kids in failing urban schools, dismal test scores, battles over church-state issues, teachers' unions threatening to strike, and school district takeovers.

You could not ask for a more contentious situation in schools today than the war being fought over Ohio's relatively new voucher program, the Cleveland Scholarship and Tutoring Grant program. Vouchers are clearly one of the most contentious and hotly-debated contemporary issues in education today. The fever generated from the two-year-old Cleveland plan has been made even hotter because it was the first to allow publicly-funded vouchers to be used at both religious and secular private schools. Because current voucher programs have existed only a short time, very few studies have been done to date and even those have had access to only early data. Yet the outcome of those studies promises to have an enormous impact on education policy decisions all around the country. Thus, voucher supporters and critics have been scrutinizing these studies closely, and in some cases, conducting their own research, in order to impact the direction and outcome of the voucher debate.

That battle has also entered academia, pitting a group from Harvard University against researchers from the American Federation of Teachers (AFT) over what happened in Cleveland and what it means to the future of vouchers. These dueling studies are critically important, asserts the Harvard team, because the policy decisions based on these studies "have a tremendous effect on the lives of those trapped in America's failing inner-city public schools." Further, "drawing a conclusion based on faulty analysis ... can make the difference between empowering poor parents to exercise control over their children's education and killing that opportunity."¹

This paper will review and critique the two major studies of the critical first year of the Cleveland voucher program. Beginning with a brief overview of vouchers, it will also look further at the context in which the Cleveland debate is taking place, reviewing the political climate in the state and other issues which

impact the debate. Finally, I will discuss the issue of vouchers and school choice in the context of their impact on the end of education.

School choice plans are being touted as one answer to the failure of public schools to live up to public expectations. Choice comes primarily in four forms: choice among public schools within or across school district lines, magnet schools, charter schools and vouchers.² Magnet schools are public schools which usually offer different curricula and have greater per pupil funding, and were found to be a useful tool by school officials to retain students in public schools following desegregation.³ Charter schools are public schools which operate under a contractual agreement, and while they receive generally the same per pupil funding, they are also free from many regulations, and are held publicly accountable for their students' academic achievement. Both have generally received bipartisan support.

Vouchers are the most controversial of the four.⁴ Under this program, parents receive a publicly-funded "voucher" allowing them to decide whether their child will attend public, private or (depending on the law) parochial school. Unlike charter schools, the non-public schools retain the right to determine whether they will accept the student, they set the tuition rate regardless of the voucher amount, and they are not accountable to the general public for the funds or the students' achievement. The idea began with economist Milton Friedman in 1955, who continued the notion in 1962 book calling for a system of publicly-funded vouchers.⁵ It received little serious attention, but was later revived in 1990 with a book published by the liberal-leaning Brookings Institution. In that book, authors John E. Chubb and Terry M. Moe suggested that school reform would be helped through an emphasis on parental choice and the insertion of competition into schooling.⁶

With support now coming from different ends of the political spectrum, choice took off. Soon, charter schools became law in Minnesota, and vouchers began in Milwaukee, Wisconsin. Support for voucher plans is strong among some in the religious community, who view it as an issue of religious freedom, accommodating their belief in the role schooling should play in laying a strong moral foundation for children. Others see it as a way to help low-income minorities have access to the choices that wealthy

parents have, and to allow them to quickly escape their failed school. Concerns about poor test results, school violence, and cynicism about government-run institutions also undergird vouchers.

The strategy of voucher supporters has been to make their initial inroads in communities dominated by poor minority students in failing school systems. This group would be most in need of the type of dramatic change that vouchers would promise, and it would be more difficult for voucher opponents to argue for the maintenance of the status quo or even incremental changes, some of which might have already been tried unsuccessfully. It is hard to argue in favor of merely "tinkering" with a desperate school system. This strategy proved useful in 1990 when the Wisconsin legislature passed a law allowing low-income students in Milwaukee to use vouchers at private secular schools.

Cleveland was the quintessential public school disaster, making it the perfect place for the second voucher program in the U.S. The system had been operating under a court-ordered desegregation plan for several years. A federal judge declared it in "a state of crisis" when it overran its budget by \$155 million in 1995, turning control of the district over to the state schools chief.⁷ The academic achievement of its 72,000 students has been consistently dismal. In 1995-96, only 23 percent of fourth graders passed the state proficiency test in science, and only 18 percent of the ninth graders passed the math portion. Only one of three high school students earns a diploma.⁸ This poor performance made the city a prime target for Republican Governor George Voinovich, the former Cleveland mayor, to push a plan many felt would rescue some city students from their failed public schools. Not everyone agreed with that assessment.

Passed by the state legislature in 1995, the Ohio voucher law limited eligibility to students living in the Cleveland City School District, and included both current public and private school students (including rising kindergartners). Preference was given to low-income students. In the first year of the program (during the 1996-97 school year), only students in kindergarten through third grade (K-3) could receive vouchers, but once admitted to the program, they could receive vouchers through the eighth grade. If the funds were appropriated, new students would be admitted in grades K-3 in future years. Students who were already enrolled in private schools could also receive vouchers, but no more than half of the total. There remained a role for the educational bureaucracy as well. The state superintendent was charged with administering the

program and establishing the criteria for voucher recipients, and private schools which accepted vouchers were required to meet "state minimum standards for chartered nonpublic schools."⁹ In admitting students, the schools could give preference to current students and their siblings, but then had to admit remaining students "randomly." They were, however, allowed to deny admission to "separately educated handicapped students" except "where otherwise prohibited by law."¹⁰ The law placed no cap on the number of voucher students in a private school. Public schools in districts adjoining Cleveland could also take voucher students, and would qualify for up to \$3,300 in additional state funds (on top of the voucher money) for each student. Vouchers amounts ranged from 75 percent (up to \$1,875) to 90 percent (\$2,250 maximum) of private school tuition, depending on the income of the family, which was responsible for the remaining amount. Private schools who charged less than \$2,500 prior to the law could not raise their tuition to that amount in the year after the bill passed. The state paid for the cost of the voucher, the transportation and program administration costs, relieving the now smaller Cleveland school district of that burden.¹¹

The new voucher law also included a new Tutorial Assistance program, offering services to those who chose to remain in public schools. Eligible students mirrored those who could receive vouchers. Tutors could be anyone who "appear[s] to possess the capability of furnishing the instructional services they are offering to provide."¹² Tutorial grant recipients also received varying amounts, based on family income, also ranging from 75 percent (up to \$375) to 90 percent (up to \$450) of the actual charges. Participation in this program was extremely low, and no followup studies have been conducted.

At the end of the program's first year, two groups of researchers gathered data to determine the voucher program's success or failure. With reform advocates from around the country watching closely, the stakes for this experiment are high. The first study came out in July 1997 from the American Federation of Teachers. In September 1997, a second study was published by Jay P. Greene, William G. Howell and Paul E. Peterson, under the auspices of Harvard University's Program on Education Policy and Governance (PEPG).¹³ This is not the first time groups from AFT and Harvard have taken aim at each other. Following several studies by John Witte of the University of Wisconsin which said the Milwaukee voucher program had no impact on student performance and suffered from a high attrition rate, Greene, Peterson and a

colleague responded with a study which challenged his conclusions.¹⁴ Their study reported that in fact Milwaukee choice students showed academic improvements after three or four years in the program.¹⁵ The high attrition rate could be attributed to the closing of one school whose students were forced to re-enroll in public schools, and in fact, the attrition rate was comparable to that of public school students.¹⁶ Peterson and Greene said Witte's study was "worthless", while Witte countered that their study was a "confusing, tortured effort."¹⁷ Witte's analysis was colored, some believe, by the fact that he had "a pronounced and public antipathy toward school choice," and that he was hand-picked to perform the analysis by a superintendent determined to shut the program down.¹⁸ Further shots were exchanged, with AFT (in a show of "scholarly ventriloquism"¹⁹) strongly in support of Witte's analysis, and publishing (at least on their website) several articles harshly critical of the Harvard team.²⁰ Those articles emphasize the negative aspects of Witte's study, while mostly ignoring his positive findings.²¹

In their Cleveland studies, the conclusions of the two groups differed in their perceptions of the program from its earliest days. All evaluators agree on the following facts: families representing 6,244 students applied for voucher "scholarships". The students were then sorted into eight groups, depending on the level of their family income and whether they were defined as "private" or "public" school students. In early January 1996, the new Cleveland Scholarship and Tutoring Office held a lottery, which served to rank all the students within their group.

But then the number of scholarships offered and accepted went through a number of gyrations, several of which affected the researchers' efforts to evaluate the program's acceptance among parents. At first, the Office thought they could fund about 1,500 vouchers, so they limited the number of private school students to 375 who were also below poverty levels (52 percent of that group), and they offered the remaining 1,125 to below poverty/public school students (39 percent of that group). Once parents came into the Office to verify their income (as required), they got the voucher. Interestingly, almost all of the 375 private school students' parents followed that procedure (and usually re-enrolled their student in the same private school), while only 66 percent of public school parents did so.²² Clearly, these parents were taking advantage of the opportunity to have public funds replace their private expenditures. That left voucher slots

open, so the Office made four more voucher offerings to public school parents of higher incomes (mostly around or just above the poverty line), with varying degrees of success. One problem was that many parents failed to verify their income, as AFT noted.²³ The Harvard study also mentions that many parents could not be reached by the voucher program office, or were found ineligible.²⁴

In all significant legislation, the devil is in the details, the appropriation, the implementation, and especially in this situation, the evaluation. As is not uncommon, statutory definitions provided another source of contention. Exercising his statutorily authorized policy discretion, the state superintendent decided to limit the number of private school students who might qualify for vouchers to 25 percent, rather than the 50 percent maximum that the law allowed. In addition, rising kindergartners were all defined as "public" school students; AFT contended that "many would have likely enrolled in private schools without a voucher", making the number of participating private school students actually higher, although no evidence is provided to document this assertion.²⁵

The AFT Study

AFT's study makes the following main arguments against the Cleveland voucher program. First, it did not really increase the educational choices for students in "failing schools." Second, voucher students were often excluded from private schools they chose. Third, because the program let private school students receive vouchers too, they monopolized the "established" private school slots, leaving former public school students to newer schools with no educational or financial track record. Fourth, voucher programs are not as inexpensive as believed. Fifth, a voucher program means the public will now have to pick up the tab for students who were previously using their own funds for private school tuition. Sixth, there is no public accountability for how schools use the funds. Seventh, "established" private schools got the new additional money even though their costs were not higher because the number of students they accepted was low enough not to require them to hire additional staff. Those additional funds, therefore, are going into the "general funds of private, mostly religious schools." Finally, AFT contends student learning would have improved better if the funds could have been spent on restoring full-day kindergarten, using a reliable program like "Success for All", and emphasizing "high standards of conduct and achievement."

AFT's analysis of the final 1996-97 school year enrollment figures emphasizes the fact that only about one-third of the original voucher applicant pool (1,994 out of 6,244) actually enrolled in private schools in 1996-97. Of that final number, 33 percent had attended public schools the prior year (664 students), 25 percent went to private schools and were now in grades one to three (496), and 42 percent were kindergartners (834). AFT contends this latter number is high because the public schools had discontinued full-day kindergarten in all non-magnet elementary schools (serving 83 percent of kindergartners), so parents were actually choosing the "day care and educational advantages" of full-day kindergarten offered by some private schools as opposed to rejecting their local public school.²⁶ However, the actual numbers of private schools offering full-day is not known for sure; in a footnote, AFT notes that they "*assume* that most private schools offered full-day kindergarten based on the high average kindergarten voucher payment", which was \$66 higher than the overall K-3 average.²⁷ In addition, AFT contends that if the primary purpose of the program was to enable poor students to leave failing schools, then at best it had only the "modest effect" of moving only 664 from public to private schools. They contend the actual main effect of the program was to give 834 low-income kindergartners full-day school, "an opportunity denied" to other Cleveland students.²⁸ AFT said full-day school is "a service that many working parents view as a virtual economic and educational necessity,"²⁹ without addressing the pros and cons of its academic benefits.

The voucher program faced a number of problems early on, not the least of which were actions by the AFT to kill it before it started. An AFT affiliate, the Ohio Federation of Teachers, and other interest groups challenged the program in court. The lawsuit against the voucher program added to the program's insecurity, making it unclear if the program would actually begin in the fall of 1996 as planned. Finally, just two weeks before school was set to open, the court ruled in favor of the new program. Tensions in the wider school system were high then because AFT members in Cleveland were threatening to strike at the beginning of the 1996-97 school year, saying that "teachers are being asked to pay for the voucher program and the ADM loss by accepting pay and benefit cuts."³⁰ Another setback occurred because the voucher program office was not able to convince school district officials to provide transportation initially, making it necessary

to transport students by taxicabs. "In short," noted the Harvard study, "the program began with enough uncertainty and confusion that parental satisfaction could not be taken for granted."³¹

By December 1996, all 4,464 public school students who had applied in January of that year got the chance to receive a voucher. About 66 percent (2,958) of those verified their income, which all researchers assumed meant that they wanted a voucher. Finally, 1,498 public school students (consisting of 664 older children and 834 kindergartners) were able to find private school slots and enroll in the program. Adding an additional 496 private school students brought the total number of participants to 1,994, attending some 55 private schools.³²

AFT contends that this number is low because these students were not accepted by the private schools of their choice.³³ This is a curious concern on AFT's part, that of worrying that students are not getting *enough* opportunity to exercise choice. But the union is also implying that this means that private schools will try to exclude a lot of students which the public school accepts, for any number of reasons, thus raising a red flag to parents that their child also might be left out, and that choice is just a mirage. As they assert, some students were not accepted at the school of their choice. But there could be a number of other reasons which combine to make this number low. Some families might have moved out of the district in the interim. David Brennan, founder of two schools which opened after the voucher plan began, cites the issue of demand outstripping supply. He said that while vouchers were being considered by the Governor's Commission on Educational Choice (which he chaired), he realized that the short supply of private school slots available at the time would limit the number of students who could receive vouchers; hence, his decision to open the two new schools.³⁴ One expects that as both older and newer private schools have time to make the appropriate arrangements in terms of staff and facilities, those schools will be able to expand to try to meet the demand. The gap between voucher applicants and participants could also be explained because some parents who applied originally and verified their income might have done so to keep their options open, while they were considering where to place their child. Choosing the private school option also might not have seemed realistic, since AFT's ongoing court challenges to the voucher program made its future less than sure, and led to its final approval only 15 days before school began in September 1997.

Some parents might have decided that it was better to deal with the devil they knew, rather than the one they did not. Finally, to the surprise of AFT and others, maybe some of those parents were actually *choosing* their local public school over a private school. The Harvard survey found that parents felt there was a lack of adequate communication between the voucher office and the applicants, and that 44 percent of parents who stayed in public schools said they were never offered a scholarship.³⁵ Harvard said they believe "this figure is probably much larger," since their survey team also had trouble reaching parents. The court challenges combined with the confusion from the evolving eligibility rules with the different lotteries no doubt added to parents' misunderstanding.

The Harvard study states that the remaining 56 percent who rejected vouchers did so because of transportation, financial considerations, and the offer of admission to a desired *public* school, thanks to the school district granting increased access to magnet and enrichment programs.³⁶ Only 21 percent said they were not admitted to the private school of their choice.³⁷ AFT assumed that about half had this problem.³⁸ In addition to issues addressed earlier, Harvard commented that the voucher program's uncertainty might have made private schools reluctant to accept many scholarship students.

AFT wanted to count all new kindergartners as private school students, asserting that since they had yet to attend public school at all, they therefore could not possibly be disillusioned with their school. Of course, this ignores the fact that the experience of either the parent, a sibling or neighbor could have led to that disillusionment with public schools, and that the parents were so poor that it would have been most unusual for them to have been predisposed or able to choose a private school.

Another major issue of contention for AFT was where the voucher students chose to attend school, and whether the schools were financially reliant on voucher funds. Most (77 percent, or 1,540 students) chose among some 46 religious schools (mostly Roman Catholic, along with some Islamic, Lutheran, and Episcopalian), which enrolled an average of 3.4 new students per grades 1-3. The remaining 23 percent of students (454) chose 9 non-religious schools, primarily Hope Central (352 students) or Hope Ohio City (72). Suburban public schools did not join the program.³⁹ AFT criticized these choices, noting that some 30 percent chose schools with "little or no educational and financial track record."⁴⁰ Brennan, who founded

both Hope schools, responded by saying, "Imagine how desperate parents had to be [with their public schools] that they put their children in a new school that had just gotten permission from the courts to open just 15 days before opening day."⁴¹ AFT said the great majority of voucher students in private schools which were "voucher dependent" (had a significant number of voucher students) had previously been public school students who had been "crowded out" of "established" private schools because the voucher program included current private schools students who AFT contends would have continued to go to private school anyway using their own money.⁴² But if true, those students would have laid first claim to those private school seats no matter who paid the funds. Plus, once the program has been running for a few years, most new voucher students will be kindergartners whose only superior competition for private school slots will be siblings of current students, a limited number.

Voucher supporters have stated that private schools spend less to give their students a better education, and therefore voucher programs would be more cost effective. The program was funded through a diversion of \$5.25 million in state aid from Cleveland's Disadvantaged Pupil Impact Aid program to fund both the voucher and tutoring programs. A cost analysis done in December 1996 of the Ohio Office of Budget and Management (OBM) shows the average voucher was \$1,763,⁴³ for a total cost of \$3.5 million. But AFT contended that they should add the following per pupil charges to that cost: \$629 transportation, \$257 administration, and \$543 in existing state aid to private schools (helping them pay for things like textbooks and software, as well as funds to help them meet legal reporting requirements). However, these costs are not completely accurate. The transportation costs are artificially high because initially the Cleveland school system refused bus service to voucher students, forcing them to take higher-cost taxicabs. Future transportation costs should be adjusted down for this. In addition, the state aid funds cited are not new monies, so adding those to the cost of the voucher program is not accurate. AFT claims the "full cost" was actually \$3,192 per pupil, for a total of \$6.4 million.⁴⁴ Compare that with a per pupil public school cost of about \$6,400 per student. AFT claims that is high because public schools must offer "special services" such as special, compensatory, and vocational education that most private schools do not. The Harvard study agrees that actual per pupil costs are hard to compare because of transportation, special education and other

sources of aid to choice schools.⁴⁵ AFT relies on a study by the Economic Policy Institute which says that the actual cost of "regular education" (less these services) is 58 percent of total school costs. Using that figure, they say the comparable per pupil cost in Cleveland is \$3,936, compared to the voucher cost of \$3,192. Even if you accept AFT's numbers, that's still a savings of \$744 per student, for a total savings of \$1.5 million, even before we know the students' achievement levels. AFT says that difference is small considering that public school teachers earn "significantly" more due to their higher credentials and greater experience, and because many private, religious schools are subsidized by tax deductible parish donations. However, if the issue is savings to the taxpayers, even by AFT's calculations, money is saved.

AFT is critical of funds going to private schools who accepted an average of 3.4 students, contending that since these numbers would not justify hiring additional staff, the schools are merely pocketing those additional funds. One wonders if AFT would then think it acceptable to keep public schools from receiving additional per pupil funds when their enrollments rise slightly. In addition, basing this criticism on an average is invalid, since some schools would have admitted enough students to require additional staff, while others admitted just a few students. Plus, AFT's ominous warning that the public monies would go into the "general funds" of the religious schools or for "direct support of church and parish activities"⁴⁶ ignores the fact that, as they admit elsewhere, they really have no idea how those funds are being spent. Catholic educators say their actual costs are higher than the tuition, and that in fact, they are subsidizing their students.⁴⁷

Future costs of the program are also an area of disagreement. AFT contends that the program will cost as high as \$13.3 million in FY 1999, while the state OBM projects only \$8.6 million. That difference comes from the conflicting per pupil costs, differing assumptions about attrition, future private school tuition rates, and transportation projections.⁴⁸ While AFT appears to stretch the truth on per pupil and transportation costs, the instability of the other assumptions make the accuracy of either budget projection impossible to predict (which is common for budget predictions).

At best, researchers should approach a project without preconceived notions as to its outcome, feeling free to follow the data wherever it leads them. This alone will allow policymakers and parents to

make rational judgements based on actual data, not on biases. AFT's actions prior to undertaking the study do not lend much confidence to their findings. Again and again, the Cleveland story shows AFT creating many of the problems its criticizes in its study. These roadblocks are designed to hinder the efforts of voucher school leaders like David Brennan, whose efforts were complicated by situations where, for example, the public school district blocked the use of public school buses or refused to cooperate in simple things such as turning over of students' records. Brennan said that when his schools finally received the records in March 1997, they found that the public schools had given two-thirds of their students some kind of "alphabet label."⁴⁹ Yet the Hope school teachers had done so to only one in ten, an example, Brennan says, of how "devastating" the label can be in public schools, and how it is abused, all leading parents to remove their children from public schools.

AFT's recommendations to Ohio policymakers were to shut down the voucher program and use the \$5.25 million to restore full-day kindergarten to more than 4,000 students. Interestingly, in 1997, the state legislature found some \$86.8 million to spread among urban districts⁵⁰ in the state to pay for full-day kindergarten.⁵¹ AFT's second alternative would be to "invest in what works", using the Success for All program developed by Johns Hopkins University. Using that same \$5.25 million, the program could be implemented in all 80 Cleveland public elementary schools (in 1996-97), helping about 40,000 mostly low-income children.

The Harvard Study

The Harvard study was funded in part by the Ohio Department of Education (who paid Northern Illinois University to conduct the telephone interviews), Harvard's Kennedy School of Government, and the John M. Olin Foundation.⁵² They began with a survey of the parents of 2,020 voucher applicants (split almost evenly between those who used the voucher and those who did not) to determine who participated, why, and how satisfied they were with their child's school. They also analyzed student test data. Upon completion, they presented five main findings. First, academic concerns were the primary factor motivating parents to apply for a voucher. Second, only "a relatively small proportion" of non-voucher recipients said that not finding a slot in a preferred private school was an important reason for not using a voucher. Third,

voucher parents whose children had been in public school were much more satisfied with every aspect of their choice school than applicants who did not receive a voucher. Fourth, choice schools did well in retaining students. And fifth, moderate gains were shown in preliminary test score results in mathematics and reading in two voucher schools (the non-religious Hope schools).

Harvard's study found that demographically, the two groups (recipients and non-recipients) were basically the same, in terms of their mother's education and employment, family size, family living arrangements, residential mobility or religious affiliation. But voucher students were less likely to have received special education or gifted student services. The study notes one limitation of its own, namely that since the voucher program was not set up as a randomized experiment, the two groups they looked at may have differences that cannot be detected.⁵³ Harvard noted that some students with special education needs (25 percent of non-recipients) or a history of disciplinary suspensions (12 percent) "had difficulty obtaining placement in private schools." This supports AFT's assertion of the exclusionary practices of private schools, and the notion that problem children might be left behind in public schools.

One major issue of contention between the two studies centers on the issue of why these low-income parents chose private schools. AFT and others⁵⁴ believe these parents are not "natural" consumers of education, and that academic concerns are not the reason for changing schools. AFT asserts that Cleveland parents were not avoiding "failing schools", but made their choices based on religious reasons or to keep siblings together. To the contrary, Harvard found that 85 percent of voucher parents wanted to "improve the academic quality" of their child's education.⁵⁵ Safety concerns rated second (79 percent), then location (59 percent), religion (37 percent), and friends (20 percent). Responses from those who remained in the public schools were in the same order but without the same degree of importance, the Harvard study notes.

If customer satisfaction is any measure of success, Harvard asserts, then "there is little doubt" that the Cleveland choice schools outperformed the public schools.⁵⁶ Voucher parents were much more satisfied with "every single aspect" of their choice school than those who remained behind. They were more than twice as satisfied with each of the following categories: academic quality, school safety, discipline, private attention to the child, parental involvement, class size, and school facility. The biggest satisfaction gap was

seen with teaching of moral values (71 percent of voucher parents versus 25 percent). There were some differences in satisfaction levels among parents, in the following order: established religious schools, then established secular schools, then new secular schools (the Hope schools) and finally the new parochial schools. Interestingly, the satisfaction of the last group equaled that of parents who chose to remain in public schools, and their scores were higher than parents who involuntarily remained in public schools.⁵⁷ Harvard also broke parent satisfaction down by race, income, and religious compatibility with the private school. Among voucher recipients, minority parents seemed to be less satisfied with their child's school. Higher income non-recipients had higher satisfaction, but income did not affect satisfaction among voucher recipients.

Changing schools was another focus of the Harvard study, to counter the assertion by voucher critics that private schools "may routinely expel or not readmit students for a second year" due to poor student performance.⁵⁸ In actuality, Harvard found that less than one-half of one percent of former public school students could not be readmitted to their private school. They found lower mid-year mobility than the broader school district experienced, and found that much of that could be explained by problems previously mentioned, such as lack of communication, late notices of acceptance to a preferred private school, and transportation difficulties. More than 8 of 10 parents planned to stay with the same school the second year, but some 6.5 percent were dissatisfied with their choice school.

AFT asserts the voucher program benefited mostly private school students, who now had their education paid for by taxpayers, and who held a "monopoly" on private school placements, forcing public school students with new vouchers into four new schools with no track record.⁵⁹ However, Harvard found only "modest" differences between the satisfaction expressed by voucher parents whose prior experience had been in public or private schools.⁶⁰

Primary differences between the Harvard and AFT studies include methodologies used. Harvard conducted interviews of voucher applicants, while AFT relied on data of voucher applicants and recipients which was supplied by the state education department. Harvard wondered how recipients felt and fared in their new schools; AFT did not. While seeing some positive benefits, Harvard concluded that one year was

not enough to "fully evaluate" an educational program, and they called for further study, and future comparisons with control groups. In spite of this caution, they also concluded that "test score and parental survey data provide strong support for future choice initiatives."⁶¹ By contrast, AFT was ready to call it a failure and advocated diverting the state funds to "proven" educational programs.

Test Scores

Harvard's study went a step further and evaluated the test scores of students who had attended two secular schools begun because of the new voucher program, Hope Academy and Hope Ohio City. Founded by voucher supporter and businessman David Brennan, the schools accepted all students who applied. This made them a "hard test case" for the voucher program, since they were attempting to educate the poorest and most educationally disadvantaged, Harvard noted. All Hope students (including special needs students) took the California Achievement Test (CAT) in the fall of 1996 and 1997. The scores showed "moderate gains" in reading and math from 1996 to 1997. Math scores were 8.6 percentile points higher, while reading was 5.7 points higher. Kindergartners showed a reading score gain of 5.1 percentile points, with math concepts improving 2.8 points. The Harvard group noted that all scores were statistically significant, except the math concept results.⁶² They also report that their previous analysis of student test scores from fall to spring of the 1996-97 school year showed "substantial gains", and that "contrary to doubts raised by the AFT....these gains did not disappear over the summer."⁶³ However, only 50 percent of the students tested in fall 1997 had taken the test the previous fall; many students had moved or been unable to follow one Hope school to its new location. To make sure the gains were an accurate reflection and not a result of attrition, they compared the 1996 test scores with two groups: those tested again in 1997, and those who were not. There were no significant differences, so they concluded that attrition did not affect increased test scores.

Voucher student test score gains look even better compared to their public school counterparts, and while no actual test comparison data was available, the Harvard group relied on reading test scores from the 1994-95 and 1995-96 school years, which dropped one to two points.⁶⁴ Because inner city students fall further behind as they age, the Harvard researchers says the positive results from the Hope schools "suggests that these students are learning at a faster rate, allowing them to close the gap with others nationwide."⁶⁵ But

they note that it is possible that these results cited are not representative of the program as a whole, but that because these two schools which were evaluated were deemed most "problematic" by AFT, their improved test results suggest that the voucher program has helped improve student test scores.⁶⁶ Of course, AFT's criticisms about these two schools does not mean their scores are representative of the choice students as a whole, as Harvard tries to assert.

Overall, the Harvard team (particularly after their Wisconsin debate with Witte), seems pleased with the current focus of the voucher debate. "The fact that debate over school choice increasingly hinges upon the collection and examination of evidence, and less on ideology, signifies progress on two fronts: in our understanding of the comparative advantages of public and private schools and the possibility choice may offer in promoting educational reform for the inner-city residents who need it most," they said.⁶⁷

Future of the Program

Before the first year ended, in May 1997, an Ohio appeals court struck down the Cleveland voucher program, ruling that it violated federal and state constitutional provisions barring government aid to religion.⁶⁸ Undeterred, Ohio lawmakers later voted to fund the program's expansion in the second year, while Gov. Voinovich touted the rise in voucher students' test scores.⁶⁹ In August, 1997, the Ohio Supreme Court agreed to allow the program to continue while it is undergoing judicial review.⁷⁰ The second year of the program began (1997-98) with some 3,000 voucher students in grades K-4. The legal survival of the Cleveland program might hinge on the one in Milwaukee, whose program survived a state supreme court challenge, leading to a possible appeal to the U.S. Supreme Court over the use of publicly-funded vouchers going to religious schools.

While voucher supporters have found some communities receptive to their proposals for dramatic change, they now have to deal with the realities of the difficulty of producing measurable academic improvement in their new charges. Like others before them, they are finding that it is not easy. In fact, the pressure will be even more intense than before vouchers, because this type of change is bringing in greater measures of accountability and more intense oversight, from parents and particularly voucher critics, who are not going silently. For the students' sake, greater adult accountability is a very good thing. Philosophical

arguments about the importance of introducing competition into education and the wisdom of free markets do nothing for those little children facing their new teacher in early September. It is inevitable, then, that these new or enlarged private schools will find themselves resorting to the kinds of specific questions and concerns raised by AFT and others, namely, how can we help these children learn? This brings the debate back around to the kinds of issues AFT raises. What works? Is it small class size? All day kindergarten? Teachers who are better prepared and/or who have greater authority? Greater parental involvement? Better facilities? School communities with a shared vision?

If there is one thing voucher supporters and critics have in common, it is that both have probably overreached in their attempts to declare victory or defeat after only one year in operation in Cleveland. Only after additional students assessments are available, and comparisons can be made between similar students in private and public schools, and more private school slots open up, and administrative details (such as transportation) are worked out, can we have an acceptable verdict on this program.

Yet my concerns about the efficacy of vouchers in educating American schoolchildren would focus as well on a debate about the end of education. If you assume that the assurance of domestic tranquility and the reduction in class division is an end of education, as do Richard Murnane and Frank Levy, then making sure each student receives the best education possible (focusing on their New Basic Skills) is an acceptable goal. Yet I contend that vouchers might foil that effort by leading to the balkanization of America, as they separate us into our various enclaves and destroy our worthy efforts to use the schools to build a public, to develop Americans, to nurture a common culture, and students who are equipped to participate in our democracy. The case has yet to be made by voucher advocates that their reform will not weaken our democracy. At the same time, voucher critics have yet to offer (and put in place) effective programs which help those children who need it most. AFT might not like this fact, but the voucher debate would not exist today if everyone was satisfied with the schools, and if some schools had not sunk to desperation levels. They, and others involved in schools, share some responsibility for this dismal performance. But the answer to improving students' learning is hardly a simple one. AFT and others would have to point out that the reforms they advocate have not been given the effort required to make them succeed, and that our wholesale

efforts to simply abandon the whole system we have developed could lead us to situations that are worse than what we have today, a thought not much given the consideration it is due.

Whether you have choice or not, the truth is both choices present difficulties. Private schools which accept vouchers might not be accountable to taxpayers directly, but they are accountable to the parents who have made the choice to send their child there, and who could remove them as well. Doing that is often difficult, though, since the child often gets attached to teachers, friends and a certain school routine, and parents are often reluctant to change midstream without a clear and compelling reason to do so, a reason which is often not clear-cut. In addition, when children are removed from a school the options for placing that child in another private school are limited, since slots at good schools are likely filled. Plus, the parents might have spent considerable time and effort getting their student accepted into the private school, making their removal emotionally difficult. Choice is definitely more complicated than it seems. AFT's warnings about children being refused admission to private schools will resonate with some parents. With private schools, both sides (parents and the school) hold some power, but the stakes for parents are much higher. Giving someone else power to choose or not choose your precious child is quite stressful for parents. It is not a system most people would necessarily welcome, unless the alternative (remaining with the status quo) is significantly more painful. For most parents today, it is not.

Less than a decade into the voucher experiment, it is far too early to tell how it will come out, or how popular this reform will be. I will, however, venture a prediction. Choice schools, both magnet and charter schools, will continue to proliferate (particularly the latter), and will remain a long-lasting form of public education. The primary reasons for that are, I believe, because they keep school reform in the public realm, they appeal to the middle class, and people accept the notion that one-size-does-not-fit all in schooling.⁷¹ However, I believe that voucher programs will, at the most, be used primarily in urban school districts that have faced long-term failure with little change, enabling acceptance of such drastic reform. The key point for all this is that for parents in most suburban areas under our current system, *choice already exists*, a point emphasized by voucher advocate Brennan.⁷² For the most part, they were able to choose their child's school by choosing the neighborhood where they would live. Thus, they have less need of school choice plans,

particularly voucher programs. Rural students have usually exercised less choice, but even for those whose school systems are less than optimal and whose family income is low, they probably would not benefit much from vouchers because in most cases private schools there are scarce, thus, sufficient supply (both quality and quantity) would be less likely to meet demand. Remember, choice won't work if you do not have different schools to choose from. But poor urban students are the group least likely to have exercised choice under our current system. Therefore, it is in these systems that vouchers might have a future. But it remains to be seen whether that future is a long-term answer or only a stop-gap measure, to allow public schools the time to regain their footing (or "get their act together", as one Cleveland voucher parent put it) and reclaim their territory.⁷³ In a fight to the death, even beleaguered school systems and their communities might rise to the occasion. If the battle remains focused on improving student achievement, wouldn't *that* be great for those children?

Even if public schools were completely replaced by vouchers, I would expect this type of debate to continue in the public realm, since taxpayer dollars are still involved, and the education of American children is something we all seem to care deeply about, in view of our near obsession with the topic. Parents who want vouchers generally reject any public input in the education of their children, but are still happy to accept the public's role in paying for that schooling. But does the fact that the entire taxpaying public is paying for their education justify outside input? In a word, yes. "When you stick your fingers into the public till," a congressman once said, "you shouldn't mind if a little democracy sticks to your fingers."⁷⁴

The issue is not solely student achievement, as critically important as that is. We need to address the question of whether American society can survive our pursuit of our self interests. I am not suggesting that individual parents cease working to make sure their children get the best education possible. But at some point, the broader public debate must address the issues raised by Tyack and Cuban, who think the debate over school choice focuses too much on test scores and economic competitiveness, and not enough on how our choices impact civil welfare.⁷⁵ In the voucher debate, as they point out, we see the "continuing tension between two competing elements of American ideology, one that 'elevates liberty and promotes free market' and the other that 'elevates equality and promotes participatory politics.'"⁷⁶ I believe this debate must begin

to address the issue of how our individual choices affect our "common future."⁷⁷ Teacher and education reformer Deborah Meier says that "while public education may be useful as an industrial policy, it is *essential* to healthy life in a democracy."⁷⁸ I am no great fan of certain aspects of our current public school system, but I wonder that if vouchers were to be instituted nationwide, whether our democracy could survive its destruction. Are there not some benefits that our public schools provide that are valuable and must be preserved? Could vouchers cause our schools to evolve into a "babble of privatized concerns?"⁷⁹ How can we continue to pass along the values and knowledge that our culture cherishes and requires for survival? Is the promotion of civic welfare and the preservation of our democracy an appropriate end of education?

Neil Postman thinks the public school will survive because "no one has created a better way to create a public," but if we lose sight of that end of education, we will not be able to accurately determine which issues we should consider when we think about making changes.⁸⁰ I know that those who support and oppose vouchers both care deeply about the educational future of those young children who face a potential twelve years of failure. But both sides have other issues on their agendas, such as the preservation of jobs or the expansion of particular belief systems (such as religious education and freedom, or individual rights and liberty). My hope would be that we could keep our eyes on the children and find a way to put their needs, their futures, and their country, first.

¹ Paul E. Peterson, Jay P. Greene, "Give Vouchers Time," *Washington Post*, May 1, 1998, p. A15.

² Tax credits, provided to parents who use personal funds to pay for their child's private school tuition, could be considered another form of school choice.

³ Rob Matheson, and P. Kayren McKnight, "The Implications of School Choice", the University of North Carolina at Chapel Hill, p. 1, at <http://horizon.unc.edu/projects/issues/papers/McKnight.asp>.

⁴ *Ibid.* p. 2.

⁵ Milton Friedman, *Capitalism and Freedom*, (Chicago: University of Chicago Press, 1962).

⁶ John E. Chubb, Terry Moe, *Politics, Markets and America's Schools*, (Washington, D.C.: Brookings Institution, 1990).

⁷ Beth Reinhard, "Waking Up to the Problems," *Quality Counts*, (Washington, D.C.: Education Week, January 8, 1998), pp. 224-226.

⁸ *Ibid.*, p. 224.

⁹ Dan Murphy, F. Howard Nelson, and Bella Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," (Washington, D.C.: American Federation of Teachers, July, 1997), p. 4.

¹⁰ *Ibid.*, p. 4.

¹¹ Other governments also provide funds for the transportation of private school students. Pennsylvania and Maryland (on a limited basis) are two examples.

¹² American Federation Of Teachers, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," p. 5.

¹³ Jay P. Greene, William G. Howell, and Paul E. Peterson, "An Evaluation of the Cleveland Scholarship Program," (Cambridge, MA: Harvard University, September, 1997). The study was jointly sponsored by the Taubman Center on State and Local Government at the Kennedy School of Government and the Center for American Political Studies in the Department of Government. Greene is from the University of Texas at Austin, Howell from Stanford University, and Peterson from Harvard University. A shorter but mostly similar document from the same three authors followed in December 1997, entitled "Lessons from the Cleveland Scholarship Program."

¹⁴ Jay P. Greene, Paul E. Peterson, and Jiangtao Du, "Effectiveness of School Choice", (Cambridge, MA: Harvard University, August, 1996).

¹⁵ Ibid.

¹⁶ Daniel McGroarty, "School Choice Slandered," *The Public Interest*, 117 (Fall 1994), p. 100.

¹⁷ Lynn Olson, "New Studies on Private Choice Contradict Each Other," *Education Week*, Sept. 4, 1996.

¹⁸ McGroarty, "School Choice Slandered," p. 97.

¹⁹ Ibid., p. 96.

²⁰ See American Federation Of Teachers "School Vouchers", http://www.aft.org/pr/gp_page.htm. See also "Witte Is Right; Greene and Peterson Are Wrong," at http://www.aft.org/research/reports/private/gp_ppt_outline.htm.

²¹ McGroarty, "School Choice Slandered," p. 99.

²² 2,958 parents out of 4,464 who applied in January 1996 came in and verified their income.

²³ Murphy, Nelson and Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," p. 9.

²⁴ Greene, Howell, and Peterson, "An Evaluation of the Cleveland Scholarship Program," p.16.

²⁵ Murphy, Nelson and Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," p. 7.

²⁶ Ibid., p. 10.

²⁷ Ibid., p. 10, footnote 15.

²⁸ Ibid., p. 11.

²⁹ Ibid. p. 22.

³⁰ "Assessment of Fiscal Simulation in Cleveland," American Federation of Teachers, Sept., 12, 1996, at <http://www.aft.org>.

³¹ Greene, Howell, and Peterson, "An Evaluation of the Cleveland Scholarship Program," p.17.

³² Figure provided by the Ohio Department of Education as of April 3, 1997.

³³ Murphy, Nelson and Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," p. 10.

³⁴ Telephone interview with David Brennan, August 3, 1998.

³⁵ Greene, Howell, and Peterson, "An Evaluation of the Cleveland Scholarship Program," Harvard p. 28.

³⁶ Ibid., p. 30.

³⁷ Ibid., p.30.

³⁸ Murphy, Nelson and Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," pp. 9-10.

³⁹ Ibid., p. 11.

⁴⁰ Ibid., p. 12.

⁴¹ Brennan telephone interview, August 3, 1998.

⁴² Murphy, Nelson and Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," p. 15.

⁴³ Ibid., p. 16. For the 1996-97 school year.

⁴⁴ Actually, the result is \$6.36 million.

⁴⁵ Greene, Howell, and Peterson, "Lessons From the Cleveland Scholarship Program," p. 4.

⁴⁶ Murphy, Nelson and Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," p. 26.

⁴⁷ Mark Walsh, "Battle Waged Over Vouchers in Cleveland," *Education Week*, Feb. 19, 1997.

⁴⁸ Murphy, Nelson and Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," pp. B1-B10.

⁴⁹ Brennan telephone interview, e.g., ADHD, LD, etc.

⁵⁰ These would include primarily Cincinnati, Cleveland, Columbus, Dayton and Toledo.

⁵¹ Reinhard, "Waking Up to the Problems," p. 226.

⁵² Per the Foundation: "The John M. Olin Foundation, Inc. was established in 1953. Mr. Olin was committed to the preservation of the principles of political and economic liberty as they have been expressed in American thought, institutions and practice. Accordingly, the general purpose of the John M. Olin Foundation is to provide support for projects that reflect or are intended to strengthen the economic, political and cultural institutions upon which the American heritage of constitutional government and private enterprise is based. The Foundation also seeks to promote a general understanding of these institutions by encouraging the thoughtful study of the connections between economic and political freedoms, and the cultural heritage that sustains them."

⁵³ Greene, Howell, and Peterson, "An Evaluation of the Cleveland Scholarship Program," Harvard long. p. viii.

⁵⁴ The Carnegie Foundation for the Advancement of Teaching and the Twentieth Century Fund report, according to the Harvard study, p. 26.

⁵⁵ Greene, Howell, and Peterson, "An Evaluation of the Cleveland Scholarship Program," p.53.

⁵⁶ Greene, Howell, and Peterson, "Lessons From the Cleveland Scholarship Program," p. 13.

⁵⁷ Ibid., p. 16.

⁵⁸ Ibid., p. 20.

⁵⁹ Murphy, Nelson and Rosenberg, "The Cleveland Voucher Program: Who Chooses? Who Gets Chosen? Who Pays?," p. ii.

⁶⁰ Greene, Howell, and Peterson, "Lessons From the Cleveland Scholarship Program," p. 14.

⁶¹ Ibid., p. 28.

⁶² Ibid., p. 23.

⁶³ Ibid., p. 24.

⁶⁴ Their source for this was the "Cleveland City School District, Building Profiles, Data for 1995-96 School year. Three-year Baseline Data, Elementary Schools," Assessment and Information Services, September 1996. This report was produced by the office overseeing desegregation in Cleveland.

⁶⁵ Greene, Howell, and Peterson, "Lessons From the Cleveland Scholarship Program," p. 25.

⁶⁶ Ibid., p. 25.

⁶⁷ Ibid., p. 28.

⁶⁸ Mark Walsh, "Voucher Plan in Cleveland Is Overturned," *Education Week*, May 7, 1997.

⁶⁹ Beth Reinhard, "Cleveland's Voucher Program Renewed for 2 Years," *Education Week*, July 9, 1997.

⁷⁰ Nina H. Shokraii, "School Choice 1998: A Progress Report," Heritage Foundation: Washington, D.C., January 30, 1998.

⁷¹ They do not exclude lower income or minority students. On the contrary, research shows that those students are more likely to be charter school students.

⁷² Telephone interview with David Brennan.

⁷³ Mark Walsh, "Battle Waged Over Vouchers in Cleveland", *Education Week*, Feb. 19, 1997.

⁷⁴ I heard this comment during debate over the Civil Rights Restoration Act, U.S. House of Representatives, 1988.

⁷⁵ David Tyack and Larry Cuban, *Tinkering Toward Utopia: A Century of Public School Reform*, (Cambridge, MA: Harvard University Press, 1995), p. 140.

⁷⁶ Ibid., p. 54.

⁷⁷ Ibid., p. 140.

⁷⁸ Ibid., p. 140. From "Choice Can Save Public Education" *The Nation*, March 4, 1991, pp. 270, 253, 266-271.

⁷⁹ Matheson, p. 5. See also Eric Bredo, "Choice, Constraint and Community", in William L. Boyd, and Charles T. Kerchner, (Eds.) *Politics of Educational Association Yearbook 1987*. Philadelphia, PA: Falmer Press.

⁸⁰ Neil Postman, *The End of Education*, (New York: Vintage Books, 1996), p. 197.

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Talking Points on private school accountability for Press Club:

- AS I SAID, PUBLIC ACCOUNTABILITY SHOULD FOLLOW PUBLIC MONEY. AND ACCOUNTABILITY IN THIS CONTEXT HAS TWO MAIN COMPONENTS, ACCOUNTABILITY TO BE OPEN TO ALL STUDENTS AND ACCOUNTABILITY FOR STUDENT PERFORMANCE.
- CHOICE, COMPETITION, AND ACCOUNTABILITY ARE NOT OPPOSING CONCEPTS, IN THE CHARTER MODEL THEY WORK IN CONCERT WITH ONE ANOTHER. IN THE VOUCHER MODEL THEY ARE OPPOSING BECAUSE THERE IS NO PUBLIC ACCOUNTABILITY FOR THE FUNDING.
- IN A DEPARTMENT OF EDUCATION STUDY IN 1998 EXAMINING WHETHER TRANSFERS TO PRIVATE SCHOOLS COULD BE USED TO EASE OVERCROWDING PRIVATE SCHOOLS WERE ASKED ABOUT ACCEPTING PUBLIC ACCOUNTABILITY ALONG WITH PUBLIC FUNDING FOR TRANSFER STUDENTS. ½ THE SCHOOLS SURVEYED RESPONDED THAT THEY WOULD NOT PARTICIPATE IF IT MEANT HAVING TO ACCEPT SPECIAL NEEDS STUDENTS SUCH AS THOSE WITH LEARNING DISABILITIES, LIMITED-ENGLISH PROFICIENCY, OR LOW ACADEMIC ACHIEVEMENT. *BARRIERS, BENEFITS, AND COSTS OF USING PRIVATE SCHOOLS TO ALLEVIATE OVERCROWDING IN PUBLIC SCHOOLS. 1998*
- THIS IS A REAL ISSUE, A 1992 HERITAGE FOUNDATION ANALYSIS OF MR. ALEXANDER'S GI BILL FOR KIDS POINTED OUT THAT THE BILL COULD, "*EASILY LEAD TO ONEROUS FEDERAL REGULATION OF PRIVATE SCHOOLS AND INCREASED FEDERAL FUNDING FOR PUBLIC SCHOOLS*". THE ONEROUS REGULATIONS THAT THE ANALYSIS CITES ARE THINGS LIKE THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AND OTHER CIVIL RIGHTS STATUTES. THESE "ONEROUS" STATUTES ARE WHAT PROTECT THE RIGHTS OF A LOT OF KIDS. MORE THAN 1 IN 10 KIDS ARE IN SPECIAL EDUCATION, THERE ARE MORE THAN 3 MILLION LIMITED-ENGLISH PROFICIENT KIDS, AND AFRICAN AMERICANS AND HISPANICS MAKE UP A SIGNIFICANT PROPORTION OF OUR STUDENTS. WE CAN'T IGNORE THESE ISSUES. *HERITAGE FOUNDATION, "ASSESSING BUSH'S SCHOOL VOUCHER PLAN", ALLYSON TUCKER, 1992.*
- 1 IN 10 CHARTER SCHOOLS ARE FORMER PRIVATE SCHOOLS THAT CONVERTED TO CHARTER STATUS, THIS SHOWS THAT IT CAN BE DONE. AND A RECENT ANALYSIS OF CHARTER SCHOOLS FOUND THAT PRIVATE CONVERSION CHARTER SCHOOLS CITED FEDERAL REGULATIONS AS LESS OF A PROBLEM THAN NEWLY CREATED OR PUBLIC CONVERSION CHARTER SCHOOLS. ONLY 3 PERCENT CITED IT AS AN ISSUE COMPARED TO 5 PERCENT OF PRE-EXISTING PUBLIC SCHOOLS. *THE STATE OF CHARTER SCHOOLS 2000, RPP ASSOCIATES.*

Talking Points on OCR Charter Schools for Press Club

- THIS IS A GREAT EXAMPLE OF THE MARGINS CONTINUING TO DOMINATE THE DEBATE. AS I SAID, THERE ARE MORE THAN 1700 CHARTER SCHOOLS IN THE COUNTRY, AND THE ISSUE THAT IS BEING RAISED HERE HAS AFFECTED FEWER THAN 20, AND WHERE THERE HAS ACTUALLY BEEN ANY SORT OF ACTIVITY I THINK AROUND 10. SO BASICALLY, LESS THAN 1 PERCENT OF ALL CHARTER SCHOOLS.
- A RECENT NATIONAL SURVEY LISTED 21 OBSTACLES THAT CHARTER SCHOOLS FACE AND ASKED CHARTER SCHOOL OPERATORS TO CITE WHICH ONES ARE PROBLEMS FOR THEM. ONLY 4 PERCENT CITED FEDERAL OBSTACLES, THE LEAST OF ANY OF THE 21 WHICH INCLUDED PROBLEMS SUCH AS COMMUNICATION WITH PARENTS, TEACHER TURNOVER, FUNDING, START UP FUNDING, FACILITIES, TEACHER BURNOUT, LACK OF PARENTAL SUPPORT, INTERNAL CONFLICTS AND A HOST OF OTHER OBSTACLES UNRELATED TO THE FEDERAL GOVERNMENT. THIS IS A MARGINAL ISSUE.
- DESECRATION ORDERS ARE COURT ORDERS AND AS SUCH ARE DEALT WITH BY THE COURTS, NOT THIS ADMINISTRATION.
- THE LARGER POINT HERE SERVES TO REMIND US THAT CHARTER SCHOOLS ARE PUBLIC SCHOOLS AND AS SUCH ARE REQUIRED TO MEET COURT ORDERS, FEDERAL LAWS CONCERNING STUDENTS WITH SPECIAL NEEDS, AND SO FORTH. THESE QUOTE UNQUOTE ONEROUS REGULATIONS ARE ACTUALLY PRETTY IMPORTANT ISSUES TO GROUPS THAT HAVE HISTORICALLY BEEN EXCLUDED FROM PUBLIC SCHOOLS AND SHOULDN'T BE TREATED LIGHTLY.
- OCR AND DOJ ARE STATUTORILY REQUIRED TO INVESTIGATE WHEN A COMPLAINT IS FILED, THEY DON'T GO OUT SEARCHING FOR COMPLAINTS.
- IN MOST CASES WHERE THEY HAVE BEEN INVOLVED THEY HAVE SUPPORTED THE CHARTER SCHOOL.
- NY GIRLS SCHOOL IS NOT EVEN A CHARTER SCHOOL

Kunst

Of course there is also
/

Klein

CHANGE NOW TIMES
RE CHANGE SITUATION

Here are some articles.
I have to admit that
there was not much out
there. I will continue
to dig deeper.

— Dana



ASSESSING BUSH'S SCHOOL VOUCHER PLAN

by Allyson Tucker

Executive Memorandum #336

7/20/92

The Bush Administration recently unveiled its "GI Bill for Children," an education voucher proposal designed to help low - and middle-income children obtain better educational services at public or private schools. The program would award the parents of these children each year a \$1,000 grant, or voucher, which they could use to afford the same educational choices that more affluent families already enjoy.

The GI Bill is a bold and imaginative proposal to expand education choice in America. Like most bold proposals, however, the plan has the potential to backfire. It easily could lead to onerous federal regulation of private schools and increased federal funding for public schools. These results can only be avoided if George Bush fights harder for the GI Bill than he has fought, so far, for the choice provisions in the America 2000 initiative, his education reform legislation now being gutted by Congress. In particular, Bush must refuse to sign the America 2000 legislation if it does not extend choice to private schools. Bush must also make it clear to Congress that he will withdraw support for the new GI Bill for Children the instant Congress acts to overregulate or remove the private and parochial schools from the legislation.

Officially entitled "Federal Grants for State and Local 'GI Bills' for Children," the Bush proposal awards \$500 million new federal dollars in fiscal year 1993, and additional amounts in later years, to fund \$1,000 school vouchers for low - and middle-income families in selected communities. The vouchers can be applied towards tuition, transportation, or "supplementary academic services for the child" at the public, private, or parochial school of the family's choice.

The 1944 GI Bill, from which the title of the new legislation is borrowed, awarded college scholarships to World War II veterans, who were permitted to redeem their scholarships at any college or university. The Bush GI Bill would give similar scholarships to low - and middle-income school children and permit them to use their vouchers at any lawfully operating school of their parents' choice.

Income Requirement. The Department of Education would select state and local governments to sponsor the federal vouchers based on the willingness of the governments to make educational options widely available. Only families with incomes below the national or state median income (whichever is higher) would be eligible for a voucher. The national median income for a family of four in 1989 was roughly \$40,000.

The GI Bill for Children, if enacted in its current form, would increase and improve available educational options for America's children in two ways: first, by giving low - and middle-income children the chance to pick an alternative to the failing public schools they might now attend; and second, by encouraging states and local governments to develop school choice initiatives. The Bush proposal could trigger a sweeping reform of America's schools, driven by parental choice. For dramatic improvement to occur, however, the White House must prevent Congress from restricting the new money only to public schools and from overregulating the private and parochial schools. One clear

danger in the GI Bill for Children is that in return for establishing vouchers, it expands federal funding to schools and federal regulation of private education. While education traditionally has been the domain of the state and local governments, federal spending on education has increased 25 percent since FY 1989. During the Bush Administration, the Department of Education's budget has increased 41 percent. The GI Bill for Children adds another \$500 million in spending during FY 1993, "and such sums as may be necessary for each of the fiscal years 1994 through 2000." Moreover, the \$500 million is in addition to the \$850 million already voted by the Senate for a multitude of new programs in its version of America 2000. If Congress strips out the heart of the GI bill, by denying federal voucher funds to private schools, the legislation could well end up as just additional federal funds for the coffers of the inefficient and ineffective public school bureaucracy.

Danger of Red Tape. The other danger is that even if private schools are included in the final legislation, they could become ensnared in suffocating federal red tape. The Bush proposal seeks to subject private schools to the onerous array of federal civil rights laws. The bill lists six civil rights statutes and states that "a school or provider of supplementary academic services that receives scholarship funds under this Act shall, as a condition of participation under this Act" comply with the statutes. Recognizing that full compliance with the myriad of regulations governing the statutes essentially would make it impossible for many private schools to participate in the program, the bill goes on to explain that "The Secretary shall promulgate new regulations to implement the provisions of this paragraph, taking into account the purposes of this Act and the nature, variety, and missions of schools and providers that may participate in providing services to children under this Act."

While it is important to protect the civil rights of students and counter opponents of the bill who will raise civil rights as an issue, compliance with the six civil rights statutes could be used by Congress or a future administration effectively to ban private school participation in the program. Indeed, in the Milwaukee, Wisconsin, parental choice program, launched in 1990, even a simple non-discrimination requirement for schools that, by law, already are forbidden to discriminate, caused many inner-city private schools not to participate in the choice program. The fear of onerous federal regulation could cause many private schools to refuse to participate. Schools would realize that even if the bill passes through Congress intact, and even if the White House drafts reasonable regulations, there is no guarantee that future administrations will not use the regulation clause to increase red tape.

Parental choice is crucial to any improvement in American education. Until parents have the power and right to choose the best school for their child, America's education system will continue to fail. The GI Bill for Children is a bold and innovative, but risky, vehicle for increasing choice. It can bring real reform only if George Bush gives the legislation his strongest support. In the meantime, Bush must signal Congress that he is determined to promote choice in education and insist that Congress include choice provisions in the America 2000 legislation, soon to be voted on by the House. Specifically, Bush should:

Continue to fight for his America 2000 choice proposals by strongly backing the choice amendment to H.R. 4323, the Neighborhood Schools Act, offered by Representative Dick Armey, the Texas Republican;

Issue a clear message to Congress that he will veto any education bill that does not give parents the right to choose a private school under federal choice legislation;

Give much stronger support to choice initiatives and legislation being proposed in the states; and

Inform Congress that he will withdraw all support from his own GI Bill, and actively oppose it, if Congress prevents parents from using their vouchers at private schools or votes additional federal rules for private schools.

The GI Bill for Children shows that the Bush Administration understands that low-income children deserve -- and need -- the opportunity to escape a public school system that is failing to teach even basic skills. Bush has provided Congress with an innovative plan that could radically improve American education. Bush now must fight for his proposal and not permit Congress to emasculate it.

Allyson Tucker
Manager, Center for Education Policy

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Barriers, Benefits, and Costs of Using Private Schools to Alleviate Overcrowding in Public Schools

Final Report

1998



Executive Summary

Many urban school systems are currently experiencing overcrowded conditions in their schools, and some policymakers have suggested that private schools could alleviate this problem by accepting some students from overcrowded schools in exchange for tuition reimbursement. Congress requested this study to examine "the benefits of using private and parochial schools as alternatives to alleviate the overcrowding in public schools and barriers to using public school dollars for tuition reimbursement." The study is also examining the extent of overcrowding in urban school systems, the amount of excess capacity in private schools, the willingness of private schools to participate in a transfer program, and program design, administration, and cost issues that should be considered if such a program were created.

Study Design

This study is primarily based on data collection and analysis in 22 large urban areas with overcrowded public schools: Baltimore City, Buffalo, Chicago, Dade County, Dallas, Detroit, Duval County (FL), El Paso, Houston, Long Beach, Los Angeles, Memphis, Milwaukee, Nashville, New Orleans, New York City, Oakland, Philadelphia, Pittsburgh, Portland (OR), San Antonio, and San Diego. . First, we identified a set of 34 school districts with large enrollments located in central cities. An initial inquiry showed that 22 of those districts had overcrowding affecting more than 10 percent of schools. All private schools located within the geographic boundaries of these 22 urban districts were then identified as well. Surveys were administered to both the school districts and the private schools in Spring 1997:

- The school district survey focused on the nature and extent of overcrowding, the methods being used to address overcrowding, and district concerns about using private schools to help alleviate overcrowding.
- The private school survey (from a representative sample of private schools in the 22 urban areas) sought information on enrollment rates, tuition and fees, additional space availability, admissions policies, student characteristics and flows, policies on religious participation (for religiously affiliated schools only), willingness to participate in a transfer program, and likely decisionmakers on participation.

Data from both surveys was merged with background data from other sources (the Common Core of Data for school districts and the Private School Survey conducted by the National Center for Education Statistics (NCES)) to examine the characteristics of private and public schools in these urban communities.

Other components of the study include:

- Survey of private school associations and organizations, soliciting their views on their member schools' willingness to accept public school students under various conditions.
- Analysis of program design and implementation issues, reviewing recent voucher programs as well as the general literature on school choice.
- Analysis of legal issues, addressing the constitutional and other legal issues that would be raised by a program that transferred public school students to private schools.

Findings

Extent of school overcrowding in large, central-city school districts

There is considerable variation in the methods that districts use to determine the existence and extent of overcrowding in their schools. The most common indicator of overcrowding among our sample of 22 urban school districts is to compare the number of students a building is designed to serve with its enrollment, but some districts use district-wide rules for computing building capacity rather than measuring the physical capacity of each building. Some districts considered other factors such as pupil/teacher ratios, use of portable buildings, or a range of quantitative and qualitative indicators.

Further, there are differences in the standards districts set for whether a certain enrollment level or class size means a school is overcrowded.

- In some districts, schools are considered overcrowded if they are operating at 80 percent or 85 percent of capacity, while in other districts, schools are not designated as overcrowded until they are operating at 105 percent or 110 percent of capacity.
- Among districts that use class size or pupil/teacher ratio indicators, the threshold for overcrowding frequently varies by grade level, with lower desired class sizes for lower grades. Here, too, there is substantial variation across districts; for example, desired class sizes at the kindergarten level range from as low as 20 students to as high as 30 students per class.

Despite those differences, however, overcrowding does appear to be a serious problem in some urban school districts.

- Using each district's own indicators and standards, we found that among 34 large urban school districts, 22 had overcrowding rates ranging from 9 percent of the schools in Philadelphia to 89 percent in Dade County.

- About two-thirds of these district have overcrowded conditions in at least 25 percent of their schools, and seven of the districts are experiencing overcrowding in more than 50 percent of their schools.
- There are sizable differences across districts in the extent of overcrowding in individual schools. The average amount by which actual enrollments exceed the capacities of overcrowded schools ranges from 10 percent to 41 percent in the nine districts that provided this information.

Characteristics of private schools located in overcrowded public school districts

Private schools are relatively plentiful in the 22 urban communities examined in this study, with over 3,000 private schools serving 774,000 students — 16 percent of total public and private school enrollments, compared to 11 percent nationally.

- **Religious affiliation.** Catholic schools are the most common private schools in these communities, enrolling 57 percent of all private school students. About 30 percent of private school students are enrolled in other religious schools and 13 percent in nonsectarian schools.
- **School size.** Private schools are considerably smaller than public schools in these urban communities — on average, roughly a third the size of the public schools. At the elementary level, private schools in these 22 communities enroll an average of 204 students, compared to 705 students in the average public school.
- **Pupil/teacher ratios.** Private schools in these communities have fewer pupils per teacher than the public schools. The average number of students per full-time equivalent teacher is 14.9 in these private schools, compared to an average of 19.9 pupils per teacher in the public schools in these districts.
 - Catholic schools have an average of 19.4 pupils per teacher, about the same ratio as in the public schools. In five of the communities, Catholic schools have pupil/teacher ratios that exceed the public school ratios in those communities.
- **Student composition.** Private schools in these 22 communities have higher proportions of minority and low-income students compared to private schools nationally, but these enrollments are still well below those in public schools in these same communities.
 - Minority students account for 43 percent of the private school students in these 22 urban communities — substantially higher than their proportion of private school enrollments nationwide (22 percent) but still well below their proportion in the public schools in these 22 communities (82 percent). In the Catholic schools, minorities are 51 percent of all students.

- Low-income students (i.e., students eligible for free or reduced-price lunches) constitute 32 percent of private school enrollments in these 22 communities, well above the national average for private schools in central cities (12 percent) but below the average for public schools in the 22 communities (64 percent).
- **Cost.** Tuition averages \$3,654 across private schools in the 22 communities. Secondary schools (\$4,869) are more expensive than elementary schools (\$2,978), and nonsectarian schools (\$5,888) cost more than Catholic schools (\$2,406) and other religious schools (\$3,586). Tuition revenues provide 82 percent of total operating funds for these private schools, and reliance on non-tuition revenues is particularly high in schools charging relatively low tuition.
- **Financial aid for low-income students.** Two-thirds of the schools (67 percent) offer scholarships or tuition discounts based on family financial need, and this assistance is more prevalent in schools with relatively high tuitions. Financial aid is provided to 22 percent of all students and 35 percent of low-income students in these private schools and offsets about 45 percent of tuition for the students who receive this assistance, reducing their average tuition from \$3,654 to \$2,001.
- **Admissions.** Private schools in the 22 communities accept 83 percent of the students who apply. About half of the schools (51 percent) maintain a waiting list, and the average number of students on the list in those schools is 25. Schools with high tuition (greater than \$8,000) have considerably lower admissions rates (51 percent, compared with 91 percent in the schools with tuition below \$2,000).

Private school interest in participating in a transfer program under various program conditions

Most private schools would be willing to participate in a program if they could maintain their current policies regarding curriculum, admissions, assessment, and other issues. However, their interest in participating would decline considerably if the transfer program included rules or conditions that affected their autonomy over admissions and other policies.

- **Random assignment.** If transfer students are randomly assigned to participating private schools (rather than allowing the schools to exercise control over which students they admit), the percentage of schools willing to participate declines to one-third to one-half of all private schools (the higher end of this range includes schools that are "possibly" willing to participate).
- **State assessments.** If transfer students are required to participate in the same assessments that the state requires for public school students (in order to monitor their academic progress), about one-third to one-half would be willing to participate.
- **Inclusion of students with special needs.** Only 15 to 31 percent of the private schools would participate if they were required to accept students with special needs such as learning disabilities, limited English proficiency, or low achievement.

Private school associations expressed concern about the potential numbers of special needs children who might be assigned to their schools and about the severity of the disability or other need. Some associations indicated that willingness to participate would depend on the types and severity of the disability or other special need, and whether additional funds were provided to support special services for these students.

- **Exemptions from religious instruction.** Most religious schools (86 percent) would not participate if they were required to allow transfer students to obtain exemptions from religious instruction or activities. Because religious schools comprise such a large percentage of all private schools, this condition would reduce the overall percentage of private schools willing to participate to 24 to 31 percent. The United States Catholic Conference comments that the notion of exemptions "strikes at the very nature of what a Catholic school is all about" and Christian Schools International said that "almost all our schools would not allow the exemption because every class is permeated with a Christian religious viewpoint."

Under most scenarios, religiously-affiliated schools account for about three-fourths of the schools that would be willing to participate. If, however, religious schools that participated in the transfer program were required to permit exemptions from religious instruction or activities, the number of religious schools willing to participate would decline considerably, and about two-thirds of the participating schools would be nonsectarian.

Space availability in private schools

Private schools in these 22 communities have a considerable number of spaces available. Under a transfer program that allows these schools to maintain their current policies, almost all of these spaces would be available for transfer students. If, however, the transfer program included provisions that affected the autonomy of participating private schools, the number of available spaces would decline significantly.

- **Amount of excess capacity in private schools.** Many of the private schools in these 22 communities are currently operating well below their full capacity. One-third of the schools have enrollments below 70 percent of their full capacity, and another third have enrollments between 70 and 90 percent of capacity.
 - Schools with higher tuition level are less likely than lower-tuition schools to have substantial excess capacity. Among schools with tuitions of \$8,000 or more, 70 percent are operating near full capacity, whereas among schools that charge less than \$2,000, only 29 percent are operating close to full capacity.
- **Total number of spaces available in private schools.** Private schools said they could accommodate an additional 150,000 students — somewhat less than the 185,000 spaces obtained if one calculates the difference between the schools' full capacities and their current enrollments.

- Religious schools account for 85 percent of the available spaces, and 57 percent of these spaces are in Catholic schools. Thus, if the transfer program included nonsectarian schools only, the number of available spaces would decline from 150,000 to 22,000.
- Schools with tuition below \$4,000 account for 83 percent of the available spaces; however, only 38 percent of the spaces are in schools with tuition below \$2,000, and very few (5 percent) are in schools that charge tuition of \$1,000 or less.
- **Impact of possible program conditions on the number of available spaces.** Specific provisions of the transfer program could result in a much smaller number of available spaces because fewer private schools would be willing to participate.
 - If transfer students are randomly assigned to private schools, the number of spaces available for transfer students declines by about one-third to one-half, to between 63,000 and 101,000 students. If participating schools are required to accept special needs students, the number of transfer students who could be accommodated in participating schools drops even further, to between 41,000 and 66,000 students. If transfer students are required to participate in state assessments, schools willing to participate could accommodate between 67,000 and 101,000 students.
 - If the transfer program required participating religious schools to permit transfer students to be exempted from religious instruction or activities, only 33,000 to 48,000 spaces would be available in schools that are willing to participate under this condition (including both religious and nonsectarian schools). Religious schools that would not be willing to participate under this condition account for 95,000 (78 percent) of the available spaces in religious schools.

Potential impact of transfer program on alleviating public school overcrowding

If all of the available spaces in private schools were filled with public transfer students, the transfer program would reduce public school enrollments by 4 percent and increase private school enrollments by 17 percent. If the transfer program contained provisions for random assignment, inclusion of special needs students, state assessment of transfer students, or exemptions from religious instruction, the potential impact would decline to 1 to 2 percent of public school enrollments.

- **Private school spaces as a percent of public school excess enrollments.** In the nine communities for which detailed data on the amount of overcrowding in public schools was available, private schools could accommodate 23 percent of the excess enrollments in public schools if participating schools could maintain their current policies without change.

- **Variations across communities.** The potential impact of a transfer program on alleviating overcrowding varies substantially across different urban areas.
 - In communities that have relatively small overcrowding problems and relatively large private school sectors, it appears that excess capacity in private schools could be sufficient to handle all of the public school excess enrollments. Available private school spaces amount to 294 percent of the public school excess enrollments in Pittsburgh, 135 percent in New Orleans, and 105 percent in Houston.
 - In other communities, the estimated number of available spaces constitutes a much smaller percentage of public school excess enrollments (e.g., 16 percent in San Diego), and transferring students from overcrowded public schools to available spaces in private schools would have little impact on the overall size of the overcrowding problem.
- **Cost of transfer program.** The total cost of a transfer program, including tuition, transportation, categorical program services for transfer students, and program administration, is estimated at \$4,575 per pupil. Some, although probably not all, of this cost might be offset by reductions in school district expenditures.
 - The average cost of tuition for the available spaces in private schools would be \$2,900 if schools could maintain their current policies. Under other program conditions, the average tuition would range from \$2,400 to \$3,200. If the program were limited to nonsectarian schools, the average tuition would rise to \$4,500.
 - Few spaces are available in schools that charge \$1,000 or less; such schools account for only 5 percent of the available spaces. About 38 percent of the spaces are in schools with tuition below \$2,000.

Analysis of Program Design and Implementation Issues

If a program was created to alleviate public school overcrowding by transferring some public school students to private schools, there are a wide variety of program design and implementation issues that program sponsors and administrators should consider. Some of these issues are applicable to any type of voucher program that subsidizes private school tuition, while others arise from the unique goal of this program to alleviate overcrowding. These issues include:

- **Selection and assignment of transfer students.** Would participation in the transfer program be open to all public school students, limited to students in schools with overcrowding or with the most severe overcrowding, or (as in recent voucher experiments) limited to students from low-income families? How would the transfer program affect students who already attend private schools? What issues concerning the inclusion of special education or other special-needs students would need to be addressed?

How would participating students be assigned to specific private schools — would students be assigned randomly to private schools, would they apply to specific private schools which would then randomly select from this pool of applicants (in the event of oversubscription), or would they apply to specific private schools subject to the school's normal admissions criteria?

- **Eligibility of private schools.** Would private school eligibility be restricted in any way, such as nonsectarian schools only, schools that are located within a reasonable proximity to the public schools with overcrowding problems, or schools offering the grade levels that are affected by overcrowding in public schools? Would newly-formed private schools be eligible to participate?
- **Oversight and accountability.** Would students transferring to private schools become private school students or would they remain public school students receiving instruction in private schools? Would there be any public oversight or accountability for participating private schools? For example, would program administrators or evaluators monitor the achievement of students who transferred to private schools?
- **Transfer students' participation in religious instruction and activities.** Would transfer students be allowed to opt out of religious instruction or activities?
- **Administration of transfer program.** What administrative activities need to be undertaken by public and/or private school authorities to implement and maintain the program? How would the program handle transfer students who leave their private school? Would the transfer program establish rules concerning the handling of disciplinary problems? Who would pay for any additional costs to parents that are associated with private school attendance, such as registration fees, book and material fees, school uniforms, and before- and after-school activities?
- **Duration of transfer program.** What would happen to students and schools in the program when overcrowding no longer exists in a school district?

Analysis of Constitutional and Other Legal Issues

The primary legal issues raised by a program of tuition reimbursement to alleviate overcrowding in public schools are: (1) whether inclusion of religious schools would violate the Establishment Clause of the U.S. Constitution, which states that "Congress shall make no law respecting an establishment of religion"; and (2) the applicability and effect of the Fourteenth Amendment and civil rights laws on any such program.

- **Establishment Clause.** Previous cases have been decided using the so-called Lemon test, which has three parts: to be constitutional, a program must have a secular legislative purpose, not have the primary effect of advancing or inhibiting religion, and not foster excessive entanglement between government and religion.

A carefully-designed transfer program would be likely to meet the first and third parts of the Lemon test. The program ostensibly would have a secular legislative purpose — namely, to relieve overcrowding in the public schools. And although it is assumed that private schools would have to meet some basic requirements to participate in the program, minimal requirements relating to health, safety, curriculum and similar matters in private schools, and the monitoring of those requirements, have been upheld in other contexts.

Satisfying the second part of the Lemon test is more difficult. In previous cases, the Supreme Court struck down state programs that provided tuition reimbursements only for parents sending their children to private schools, concluding that these programs had the primary effect of advancing religion even though the money was paid to the parents. However, other Supreme Court decisions suggest that a program that included a broad range of schools (both public and private) for participating students to attend would be less subject to constitutional attack.

- **Civil rights.** The provision of tuition assistance to private schools raises civil rights issues under the Constitution and Federal civil rights laws. Private schools that practice racial discrimination would be ineligible to participate due to Constitutional prohibitions and the requirements of Title VI of the Civil Rights Act of 1964. Additionally, all non-religious private schools are required by the Americans with Disabilities Act to refrain from discriminating against persons with disabilities. Section 504 of the Rehabilitation Act also prohibits discrimination based on disability and requires both religious and non-religious schools to admit students with disabilities when the school can do so by making "minor adjustments" to its program. Finally, Title IX prohibits sex discrimination but allows for single-sex enrollments at non-vocational elementary and secondary schools and provides for exemptions based on religious tenets at religious coeducational schools.

Exhibit 40

Comparing the "Excess Capacity" in Private Schools with the "Excess Enrollment" in Public Schools, in Individual Urban Communities, 1996-97

	Number of Spaces Available in Private Schools	Number of Students over Capacity in Public Schools	Available Spaces as a Percent of Public School Excess Enrollment
Baltimore City	4,081	4,823	85%
Dade County	14,414	69,192	21%
Houston	8,752	8,318	105%
Memphis*	*	6,743	*
Nashville	800	3,623	22%
New Orleans	11,369	8,410	135%
New York City*	*	124,103	*
Pittsburgh	3,710	1,260	294%
San Diego	2,148	13,610	16%
Total	56,055	240,082	23%

Notes: Asterisks indicate urban communities in which the response rate (percent of private schools reporting their number of spaces available) was below the study average of 45 percent. Totals include private school spaces available in all nine communities for which data was available on the size of the public school overcrowding problem.

Sources: Survey of Urban Districts with Overcrowding, 1997; Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

In other communities, the estimated numbers of available spaces constitute a much smaller percentage of public school excess enrollments (16 percent in San Diego, 21 percent in Dade County, and 22 percent in Nashville), and transferring public school students to private schools is likely to have a smaller impact on alleviating the public school overcrowding problem.

It should be noted that the average potential reduction of 23 percent across the nine communities is near the lower end of the range for the seven communities shown in Exhibit 40. This is largely because the estimated reduction potential for New York (not reported separately due to the low response rate for private schools in that city) is well below the figures for the other seven communities. It is not clear whether the estimate accurately reflects a relatively small amount of available private school spaces or whether the estimate for New York is artificially low as a result of the low response rate, partly due to systematic non-response from Catholic diocesan schools.¹⁸ If the non-responding schools in New York City tended to have more spaces available than the responding schools, then the "average" potential impact on overcrowding could be much higher.

¹⁸ See Chapter 1, page 7, for a discussion of the low survey response rate for Catholic schools in New York City.

CS/HBs 751, 753, 755
Bill At-A-Glance

BILL SECTION	STATUTE SECTION	TITLE / TOPIC
1	Amends 229.0535	Authority to enforce school improvement
2	Creates 229.0537	Opportunity Scholarship program
3		Pilot Program (<i>Sarasota County to provide opportunity scholarships to students with disabilities.</i>)
4	Amends 229.512	Commissioner of Education; general powers and duties
5	Amends 229.555	Educational planning and information systems
6	Amends 229.565	Educational evaluation procedures
7	Amends 229.57	Student assessment program
8	Amends 229.58	District and School Advisory Councils
9	Amends 229.591	Comprehensive revision of Florida's system of school improvement and education accountability
10	Amends 229.592	Implementation of state system of school improvement and accountability
11	Repeals 229.593	Florida Commission on Education Reform and Accountability (FCERA)
12	Repeals 229.594	Powers and duties of FCERA
13	Amends 229.595	Implementation of state system of education accountability for school-to-work transition
14	Amends 230.23	Powers and duties of school board ; performance pay policy
15	Amends 231.2905	School Recognition Program
16	Amends 232.245	Pupil progression; remedial instruction; reporting requirements
17	Amends 228.053	Developmental Research Schools
18	Amends 228.054	Joint Developmental Research School Planning, Articulation, and Evaluation Committee
19	Amends 233.17	Term of adoption for instructional materials
20	Amends 236.685	Educational funding accountability
21	Amends 20.15	Department of Education; councils and committees
22	Creates 236.08104	Supplemental academic instruction categorical fund
23	Amends 236.013	Definitions; "full-time equivalent student"
24	Amends 239.101	Legislative intent; career education
25	Amends 239.229	Vocational standards
26	Amends 24.121	Allocation of revenues and expenditure of funds for public education
27	Amends 228.0565	Deregulated public schools



Bethany Little
02/28/2000 10:10:37 AM

Record Type: Record

To: Andy Rotherham/OPD/EOP@EOP
cc:
Subject: q&a

I assume this is it. I hope it's helpful. Let me know if you need more.

Education Q&A
April 21, 1999

Q: Today Ted Forstmann of the Children's Scholarship Fund is announcing the winners of a lottery for \$170 million in scholarships for 40,000 kids from low-income families to attend private or parochial schools. Does the President support this action?

A: The Administration's objection to vouchers has always been over the use of federal funds, not local funds and certainly not private money. The President applauds the involvement of private citizens and organizations in promoting good education, and urges that we all work together to focus on strengthening the public schools that serve nearly 90% of students and on expanding choice within the public education system, such as through charter schools.

Q: Many people are citing the 1.25 million applications received as a sign that parents feel the public education system is failing their children and as a victory for school voucher advocates. If vouchers are supported by so many parents, why does the President continue to oppose their use?

A: Publicly funded vouchers would siphon critical dollars from neighborhood public schools -- which serve nearly 90% of our children and are already short on resources -- in order to send a few selected students to private schools, and would distract attention from the hard work of reform needed to change failing schools into good schools and good schools into outstanding schools.

The President agrees that no child deserves to get a second class education. Where schools are failing, local and state education officials must step in and redesign them, or close them down and reopen them with new, more effective leadership and staff who will raise standards, put into place effective reforms, and create safe, disciplined

A POSITIVE FORCE

The Involvement of Religious Organizations in Charter Schools

By Sharon L. Browne⁽¹⁾

Since passage of California's charter school law in 1992, religious organizations have played a positive role in assisting teachers, parents, and other community organizations in creating charter schools. Charter schools have been housed in buildings owned by religious organizations and religious leaders and members have been active in a number of nonsectarian community programs designed to help the schools. This paper responds to the questions most commonly asked about the role religious organizations can play in expanding educational opportunities under the Charter Schools Act of 1992, as amended in 1998.⁽²⁾

Certainly, any particular case will be viewed in light of the totality of circumstances at a school. Charter schools should seek legal advice on this sometimes murky area of the law before embarking on a specific course of action.⁽³⁾ Nonetheless, we can describe the parameters and define the setting in which those factual determinations must be made. A challenge to the Charter Schools Act is presently pending before a California appellate court and a decision in that case may shed some light on this area of the law.⁽⁴⁾

The answers given here are intended to provide general guidance under the applicable state and federal legal framework. Two crucial themes predominate. First, religious organizations may not legally operate, sponsor, or otherwise exercise control over charter schools.⁽⁵⁾ And, second, while charter schools, like all public schools, must be nonsectarian, the very purpose of charter schools is to foster innovation and creativity.⁽⁶⁾ Within certain legal constraints, therefore, religious leaders and religious organizations can make important contributions to the success of charter schools, as can all private individuals and organizations.

BACKGROUND

In California, the state constitution grants substantial powers to the Legislature for the education of California's children.⁽⁷⁾ Recognizing that California's public schools are failing to educate its youth, the Legislature adopted the Charter Schools Act allowing public schools to experiment with different administrative and educational approaches under a law that waives the statutes, regulations, and policies that apply to other public schools in return for a contractual promise to produce results.⁽⁸⁾ The Charter Schools Act requires charter schools to be nonsectarian.⁽⁹⁾

Likewise, the federal and state Constitutions place limits on the power of government to directly fund religious instruction and activities. The federal Constitution mandates that government "make no law respecting an establishment of religion, or prohibiting the free exercise thereof."⁽¹⁰⁾ The former provision, known as the Establishment Clause, forbids government affiliation with religious beliefs and institutions. Similarly, the California Constitution contains guarantees of the separation of religion and state. In language virtually identical to the First Amendment's Establishment Clause, the state Constitution declares, "[t]he Legislature shall make no law respecting an establishment of religion."⁽¹¹⁾ Although federal cases may supply guidance for interpreting this provision, California courts will independently determine its scope.

In addition, there are two other provisions of the state Constitution, having no counterparts in the federal Constitution, that provide guarantees that religion and government shall remain separate. Section 4 of Article I guarantees the "[f]ree exercise and enjoyment of religion without discrimination or preference." California courts have interpreted the clause

as being more protective of the principle of separation than the federal guarantee.⁽¹²⁾ The California Constitution further provides:

Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose⁽¹³⁾

Charter schools are an integral part of the California education system.⁽¹⁴⁾ The establishment of charter schools is encouraged by the Legislature.⁽¹⁵⁾ Their uniqueness stems from their exemption from many state and local regulations. Nonetheless, in examining the involvement of religious organizations in charter schools, it is important to keep in mind that charter schools are public schools that are under the exclusive control of officers of the public schools.⁽¹⁶⁾ Officials of charter schools are officers of the public schools to the same extent as are members of other school district governing boards. A charter school that violates any provision of law may have its charter revoked. Charter schools remain public institutions and will be treated as traditional public schools in litigation over church-state issues.

GOVERNANCE

1. May an existing religious school be converted to a charter school?

No. An existing religious school may not be converted to a charter school. The Charter Schools Act specifically prohibits the conversion of a private school to a charter school.⁽¹⁷⁾ The Charter Schools Act only allows for the conversion of an existing public school or the creation of a new charter school.

2. May a religious organization operate a charter school?

No. A religious organization may not operate a charter school.⁽¹⁸⁾ The Charter Schools Act requires charter schools to be nonsectarian in their programs, admission policies, employment practices, and all other operations.⁽¹⁹⁾ A charter may be revoked if the granting authority finds that the charter school violated any provision of law.⁽²⁰⁾ Thus, if a charter school were not nonsectarian, its charter would be revoked. Also, if a charter school were controlled by a church or other religious sect, it would be in violation of federal and state constitutional provisions and its charter would be revoked.⁽²¹⁾

3. What role can religious officials, such as church leaders, play in applying for a charter, establishing a charter school, and serving on the school's governing board?

A religious organization may not control or direct the operation of a charter school but members of religious organizations, including church leaders, may, like all other people, submit a petition to establish a charter school⁽²²⁾ and/or serve on the school's governing board. A high level of involvement by leaders of a particular church in a particular charter school, however, may generate cause for concern. For example, the governing body of a religious organization and the governing body of a charter school should not substantially overlap because it gives the appearance that the charter school is actually under the control or influence of the church. It is imperative that a charter school have its own autonomous organizational structure.

4. Can a religious institution provide services--such as legal, accounting, payroll, maintenance--to a charter school, either for free or for a fee?

Yes. The Charter Schools Act allows schools to accept assistance from "any private person or organization" for "funding or other assistance to the establishment or operation of a

charter school." ⁽²³⁾The Act also states that the charter school may purchase "administrative or other services from the chartering agency or any other source." ⁽²⁴⁾ This means that a charter school may accept assistance from private organizations, including religious organizations, in establishing or operating a charter school. Again, no control by a religious organization should accompany any contribution of services, and charter schools must remain nonsectarian in all their operations.

5. What role can religious organizations play in advertising, marketing, and recruiting students for a charter school?

Religious organizations should not be the sole vehicle for advertising, marketing, and recruiting students but can be utilized as one means of notifying potential students of a charter school so long as care is taken to advertise in other venues. This is because charter schools, in order to receive funding from the state, must remain public and abide by the constitutional requirements of the state. It is important that any advertisements posted at religious institutions or recruiting efforts occurring at religious institutions not give the impression that the charter school is denominational or is controlled or directed by a religious institution. Under the Charter Schools Act, the charter school must remain nonsectarian in its admission policies and shall admit all pupils who wish to attend the school. ⁽²⁵⁾ However, if the number of students who wish to attend the charter school is more than the school can accommodate, students are chosen by lottery with preference given to existing students and those who reside in the district. ⁽²⁶⁾

6. Can religious organizations raise money for and donate funds to charter schools?

Yes. A religious organization, however, when raising money for a charter school, may not imply that the charter school is sectarian or otherwise under the control of a religious organization. ⁽²⁷⁾ Moreover, a religious organization may not be given any degree of control over a charter school in exchange for a donation. A religious organization may, however, give a donation for a specific purpose so long as the purpose does not jeopardize the integrity of the state's policy of nonsectarian schools. Otherwise, all donations should come with "no strings attached."

INSTRUCTION

7. Can charter schools teach classes about religion?

Yes, to the same extent that any public school can. The study of religion, the Bible, the Talmud, and other religious books, when pursued in a nontendentious, pluralistic, objective, and secular setting, has been recognized as being an integral and necessary part of one's education. The Supreme Court has stated that "it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities." ⁽²⁸⁾

Charter schools, like all public schools, may not give direct instruction in religious principles. However, this does not mean that every reference to anything religious is prohibited. ⁽²⁹⁾ Charter schools, for example, may teach comparative religion, the history of religion, the Bible (or other religious books) as literature, and the effect of religion on the history of the United States and the world. Properly presented, such materials need not involve the promotion of religion. ⁽³⁰⁾ These subjects must be taught from an academic perspective; teachers may not endorse any of the religious beliefs to be studied or instruct students to engage in any religious practice. In addition, schools should seek to educate students about all major religions and must not promote or denigrate any specific religious denomination.

8. Can religious persons--such as nuns, clergy, Hasidim--teach at charter schools?

Yes, so long as the teacher does not attempt to convey religious messages.⁽³¹⁾

9. Can charter schools conduct joint activities with private religious schools, including such things as athletics, field trips, or other extracurricular activities?

It is all a matter of degree. Charter schools, for example, may participate in athletic leagues with religious schools, just as other public schools may do so. To the extent, however, that activities between charter schools and religious schools are jointly conducted on a regular basis, concerns could be raised about the appearance of such activities creating a symbolic union of church and state, which is constitutionally impermissible.

SCHOOL FACILITIES

10. May a charter school lease classroom space owned by a religious organization?

Yes,⁽³²⁾ but the propriety of such an arrangement should be evaluated on a case-by-case basis. The charter should specify information regarding the facilities to be utilized by the school.⁽³³⁾ If a charter school chooses to lease classroom space owned by a religious organization, such as a church, there are several precautions that should be taken to guard against legal challenge. For example, church signs and religious symbols, artwork, and literature should be removed from the leased space. A charter school should use a separate entrance from a church's main entrance (the children should not be required to walk through the church to enter the school), and the school should have complete control over the leased premises during the school day. The church and the charter school also should have no more than a landlord-tenant relationship.⁽³⁴⁾ In short, the leased space must offer students a purely secular environment.

11. What limits, if any, exist on the use of charter school facilities by religious organizations outside of school hours?

A charter school may allow religious organizations to use its facilities outside of school hours as part of a formal policy allowing community groups to utilize school facilities. Such a policy should be laid out in writing and made available to members of the general public upon request. A charter school should discriminate neither in favor of religious organizations nor against such organizations in granting outside groups use of its building.⁽³⁵⁾

If a religious organization, however, conducts after school religious instruction in a charter school building, it is important that the charter school in no way encourages students to attend such classes. If after school religious classes are offered, special care must be taken to preserve the independent identity of the charter school.

12. Can a charter school establish a nondenominational "meditation room" available to students and staff?

Although there is no precedent precisely on point, such a room is probably permissible so long as a charter school does not encourage students to use the room for silent prayer. A "meditation room" might also be less problematic from a legal perspective if it was called a "silent activity room."

OTHER

13. Can charter schools have students observe a "moment of silence"?

California law is silent on the question of whether school districts and teachers may begin each school day with a brief period of silent meditation. If a charter school contemplates a "moment of silence," it is important that it is not intended to be a religious exercise.⁽³⁶⁾ Instead, it should be considered as an opportunity for students to reflect on the anticipated activities of the day or to meditate on a religious theme if they so choose.

The United States Supreme Court did strike down an Alabama statute authorizing a one-minute period of silence. In that case, the sponsor of the relevant legislation testified that the only purpose of the law was to return voluntary prayer to the public schools so the justices concluded that the law had no secular purpose. The Court, however, was careful to distinguish between laws, such as Alabama's designed to promote prayer and those recognizing "an appropriate moment of silence during the schoolday."⁽³⁷⁾ A majority of the Court explicitly recognized that certain moment-of-silence statutes may be constitutional so long as their purpose is not to encourage prayer.

Recently, the United States Court of Appeals for the Eleventh Circuit upheld the constitutionality of Georgia's Moment of Quiet Reflection in Schools Act.⁽³⁸⁾ The court reasoned that the purpose of the law was to allow students time to reflect upon the upcoming day and that there was no evidence teachers encouraged students to pray during the moment of silence.

It is possible for California's charter schools to observe a moment of silence so long as it is clear that the purpose of the silence is to provide a time for quiet reflection rather than promoting voluntary prayer. Teachers may not encourage students to pray during this time but may not discourage them from doing so either.

14. Can religious artifacts, such as nativity scenes or menorahs, be displayed at charter schools whether or not the facility is leased from a religious institution?

The display of religious symbols such as a cross or menorah is permitted as a teaching aid or resource provided such symbols are displayed as an example of the cultural and religious heritage or a religion being studied in the academic curriculum and are temporary in nature. Religious artifacts, however, may not be displayed permanently and may not even be displayed temporarily if they have no relation to the curriculum or have the effect of endorsing a particular religion. For example, the Supreme Court has struck down the permanent display of the Ten Commandments in a public school classroom as unconstitutional.⁽³⁹⁾

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2. Educ. Code §§ 47600, *et seq.*

3. Many of the issues regarding the involvement of religious organizations in charter schools have important nationwide impact. A special acknowledgment is given to the Institute for Justice, which developed a briefing paper for the New York Charter School Resource Center.

4. *Wilson v. State Board of Education*, Court of Appeal, First Appellate District, Case No. 1 Civ. A084485.

5. Only a county board of education or the State Board of Education can legally sponsor a charter school. Educ. Code § 47605(b) and (j)(1)(2).

6. Educ. Code § 47601 provides:

It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

- (a) Improve pupil learning.
- (b) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.
- (c) Encourage the use of different and innovative teaching methods.
- (d) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the schoolsite.
- (e) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
- (f) Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems.
- (g) Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

7. Cal. Const., art. IX, § 1.

8. Educ. Code § 47601.

9. Educ. Code § 47605(d)(1).

10. U.S. Const., Amend. I.

11. Cal. Const., art. I, § 4.

12. *Fox v. City of Los Angeles*, 22 Cal. 3d 792 (1978).

13. Cal. Const., art. XVI, § 5.

14. Educ. Code § 47605(b).

15. *Id.*

16. Educ. Code § 47615; Cal. Const. art. IX.

17. Educ. Code § 47602.

18. Although Education Code § 47604 allows charter schools to operate as nonprofit public benefit corporations, a religious organization qualifying as a nonprofit organization for tax purposes cannot operate a charter school because it would violate the nonsectarian requirement of the Charter Schools Act and the federal and state constitutions.

19. Educ. Code § 47605(d)(1).

20. Educ. Code § 47607(b)(4).

21. First Amendment to the United States Constitution; Art. 1, § 4, of the California Constitution (free exercise of religion without preference); Art. IX, § 8, of the California Constitution (no public money for sectarian or denominational school); Art. XVI, § 5, of the California Constitution (no grant of anything to or in aid of any church, religious sect or sectarian purpose or help to support or sustain any school, college, university controlled by any creed, church or sectarian denomination); Art. XVI, § 3 (no public money for benefit of private organization). *See also*, 60 Ops. Cal. Atty. Gen. 103, 108 (1977) (an institution which is owned by, operated by, affiliated with, or associated with a religious group or sect would not be described as nonsectarian).

22. Educ. Code § 47605(a)(1).

23. Educ. Code § 47603.

24. Educ. Code § 47613.7(d).

25. Educ. Code § 47605(d)(1) and (d)(2)(A).

26. Educ. Code § 47605(d)(2)(B).

27. Educ. Code §§ 47603, 47605(d)(1).

28. *School District of Abington Township v. Schempp*, 374 U.S. 203, 225 (1963).

29. *See* 25 Ops. Cal. Atty. Gen. 316, 325 (1955) (It would be impossible to teach a course in the history of California which did not describe the early Catholic missions; Father Junipero Serra is regarded as one of the great figures in California's history. A high school course in European history could not properly omit reference to the great religious controversies of the middle ages. Similarly, instruction concerning the Constitution would involve the history of the struggle for religious freedom in colonial times. Religious subjects, such as Da Vinci's "Last Supper," Michelangelo's "Moses," and an Indian totem pole, are appropriate for study in a public school class on art. Likewise, passages from Beethoven's "Missa Solemnis" in a music class is appropriate.).

30. For example, Education Code § 51511 recognizes that religious matters such as religious literature, art, or music can be included in courses of study when such references do not constitute instruction in religious principles, do not aid a religious organization, or are incidental to or illustrative of matters properly included in the course of study.

31. It is also possible that the religious dress of such a teacher may be prohibited. *See, e.g., Cooper v. Eugene School District No. 4J*, 76 Or. App. 146, 708 P.2d 1161, 1165-68 (1985), *rev'd on a different ground, Cooper v. Eugene School District No. 4J*, 301 Or. 358, 723 P.2d 298, 313-14 (1986) (regulation banning the wearing by a teacher of religious dress (in this case, the white clothing and turban traditional to the Sikhs) while teaching school did not violate the provisions of the First Amendment to the United States Constitution or the Oregon Constitution guaranteeing freedom of religion, because the aim of the regulation was to guarantee religious neutrality in the public schools), *cited in In re Alcala on Habeas Corpus*, 222 Cal. App. 3d 345, 367 (1990).

32. Educ. Code § 47603.

33. Educ. Code § 47605(g).

34. *See Porta v. Klagholz*, 19 F. Supp. 2d 290 (1998).

35. *See, e.g.,* Educ. Code § 38131, which permits governing boards of any school district to allow the civic center at each public school facility and grounds to be used for religious

services for temporary periods where the "religious organization [] has no suitable meeting place for the conduct of the services, provided the governing board charges the church or religious organization using the school facilities or grounds a fee."

36. Prayers at the beginning of the school day have been held unconstitutional. *Engel v. Vitale*, 370 U.S. 421 (1962); *see also Sands v. Morongo Unified School District*, 53 Cal. 3d 863 (1991) (religious invocations and benedictions at public high school graduation ceremonies violate the federal and state Constitutions).

37. *Wallace v. Jaffree*, 472 U.S. 38, 59 (1985).

38. *Bown v. Gwinnett County School District*, 112 F.3d 1464 (11th Cir. 1997).

39. In *Stone v. Graham*, 449 U.S. 39, 41 (1980), the Supreme Court struck down the permanent display of the Ten Commandments in a public school classroom as unconstitutional stating: "The Ten Commandments are undeniably a sacred text in the Jewish and Christian faiths, and no legislative recitation of a supposed secular purpose can blind us to that fact." The State had argued that the law was designed to provide instruction on a "fundamental legal code," nonetheless, the Court found this reason was "not sufficient to avoid conflict with the First Amendment." *Id.*

FOR LOCAL LEADERSHIP OF PUBLIC EDUCATION



SCHOOL BOARD NEWS

FRONT PAGE ABOUT ARCHIVE NATIONAL AFFILIATE NSBA

Charter schools offer opportunity for religious leaders

1/12/99 – As the number of charter schools continues to soar across the country, there have been increasing instances involving the entanglement of religious groups in the charter school movement.

Most state charter school laws clearly prohibit religious schools from being charter schools, and any attempt to mix religious instruction with publicly funded charter schools would run afoul of the First Amendment.

But religious leaders in Chicago and New York City are hoping to get around those prohibitions by closing religious schools, turning them over to non-profit organizations, and having them reopen as charter schools. While charter schools aren't allowed to provide religious instruction during school hours, the proponents of these plans say they could offer voluntary religious lessons before or after school.

In Chicago, public schools chief Paul Vallas and the Rev. Michael Pfleger are discussing plans to convert St. Sabina School into a charter school as early as next fall.

The plan calls for St. Sabina to shut down as a Catholic school and reopen under a non-profit organization, presumably with strong ties to the Chicago Catholic Archdiocese. The school currently serves 550 students in preschool through eighth grade. Annual tuition is \$2,435.

If it were a charter school, it could receive \$4,700 per pupil in public funds. In exchange, the school would have to offer open enrollment and abide by the district's policies on academic standards, testing, discipline, and public accountability. Pfleger told the Chicago Tribune the public funds could be used to raise teacher salaries and provide tuition assistance to needy students.

"We've got every other private organization running charter schools—why not the archdiocese?" Vallas says. When asked about the possibility of religious instruction, he said, "If Sabina has after-school catechism, so be it."

The chief obstacle, according to Vallas is that the city already has reached the limit of 15 charter schools, although it's likely that one of the charters will be revoked.

Shortly after New York Gov. George Pataki signed a law authorizing charter schools in December, two New York City ministers, the Rev. Floyd Flake and the Rev. Wyatt Tee Walker, announced plans to set up charter schools—on church property but run by secular groups—with religious instruction available before and after school.

Flake, pastor of the Allen AME Church in Queens, is a former member of Congress and a strong supporter of vouchers for private schools. Walker is the pastor of Canaan Baptist Church in Harlem.

Assembly Education Committee Chair Steven Saunders, a sponsor of the state's charter school law, says the law was not intended to let ministers and religious groups receive

public funds to establish charter schools on church property. Although he told the New York Times the law does not bar ministers from opening charter schools, it "specifically prohibits private schools from converting to charter schools and sets up a series of criteria to make sure a charter school is distinct from existing private or church-affiliated schools." For example, each school must have substantially different officers and employees.

The legality of such arrangements would have to be looked at on a case-by-case basis, says David Ernst of the New York State School Boards Association (NYSSBA). "The fact that the sponsor is a religious organization would not make the school illegal," he says. One would also have to look at "the extent to which religion permeates the curriculum."

New York's charter law says "a charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination or in which any denominational tenet or doctrine would be taught."

The law allows up to 100 charter schools to be created, with the New York Board of Regents as the sole chartering agency. NYSSBA opposed the law. An association policy statement says charter schools "will reinforce divisions in communities" and calls them "a quick-fix diversion that will siphon away resources and public attention from the public schools."

New York City School Chancellor Rudy Crew lobbied against the state bill, saying he supported charter schools, but only if they are under the control of local school districts.

In other states—including Arizona, Michigan, New Jersey, Texas, and Utah—there have been instances of charter schools leasing property from churches or clergy members involved in the creation of charter schools.

While state laws generally prohibit the entanglement of religion in charter schools, "there are no effective mechanisms in the states to determine whether there are violations," says Robert Boston of Americans United for the Separation of Church and State. "Some people are getting the impression that charter schools are publicly funded private schools. They are not. They have to be accountable."

"The difficulty is trying to decide if a private school is religious or not," says NSBA General Counsel Julie Underwood. "There are no clear guidelines."

NSBA supports federal funding for charter schools but only if the local school board has the authority to grant and decertify a charter, the school maintains accountability, and there is assurance that the charter school does not foster segregation on the basis of race, religion, or other factors.

Meanwhile, in Baltimore, in a state that does not have a charter school law, four city public schools are managed by the non-profit arm of local churches.

Under the school district's New Initiatives Program, the churches raise money for the schools, recruit parent volunteers, operate after-school and Saturday tutoring programs—activities not uncommon across the nation.

But the Baltimore school-church partnerships go farther: The Rev. Vashti McKenzie helped select teachers and a new curriculum at Callaway Elementary School, for example. And last spring, the principal of John Eager Howard Elementary School and the pastor of Madison Avenue Presbyterian Church held a symbolic marriage ceremony to celebrate their joint commitment to improving the school.

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Covenant Syndicate

Volume 1, Number 34 --

Religion in Public Schools? Of Course.

- by Patrick Killough (killswan@ioa.net)

On the day after Labor Day Asheville's first ever public CHARTER school will open its doors. It is named the Francine Delaney New School for Children. Seven teachers and 98 students in grades K-5 have signed on.

With 35 such privately managed, publicly accountable charter schools about to open, the State of North Carolina recently mounted a series of regional training workshops with the theme, "Another Choice . . . Charter Public Schools."

I went to the recent workshop at the University of North Carolina at Asheville. It was an admirably informative event, with virtually no audience. Founders of charter schools in Asheville, North Wilkesboro and Rocky Mount were on hand. They brought real charter schools to life and made us like them.

Like all public schools in the United States, the newfangled charter schools are neither churches nor synagogues, mosques or temples. Bluntly, they are not instruments of religion. In recent decades public school managers have, however, managed to alienate American parents because too many teachers refuse to discuss religion at all. Indeed, some critics say that government-run schools actively promote a counter-religion called either secularism or secular humanism. But secularism is distinctly not the religion of most American parents. They, therefore, are actively looking for schools which reinforce values taught in the home and which do not drive wedges between children and parents.

Reinforcing values of the home is dead easy if you school your own offspring in your own home. If, furthermore, you are free to send your children to any school you please, then the odds are also great that you will find a private secular or private religious school whose administrators and teachers think along your lines. That is why the movement for states and localities to fund by vouchers all compulsory education wherever the secular basics are well taught is so strong. Empower parents, really empower them with hard cash, to choose where their children shall be educated (even at home), and you make them owners of schools.

Would traditional public schools survive real parental choice? Survive parental empowerment *via* vouchers? Many parents and taxpayers do want the current brand of public schools (admittedly a far cry from the legendary purely local entities of yesteryear) to survive and to flourish, and they expect that more choice, up to and including vouchers, will motivate public school reform.

If, however, public school managers want their institutions to survive, one item on their agenda must be how better to present formal, organized religion. It is hard to find sensible people advocating Christian mathematics or Jewish basketball or Buddhist engineering. When I add 6 and 7 and come up with 13, I am not formally worshiping God or, *per se*, probing the mystery of being or showing "ultimate concern." I can, most certainly add that dimension to any secular activity if I want to, and this is encouraged in religious schools everywhere. But religion is only a part of life, not its totality. Plenty of people agree that getting things right with God is the most important reason for being alive. But not all of what is learned in school (even religious schools) need or should be formal religion.

Still, religion's impact on human history is huge -- bigger than even driver's education or sports. Religion provided much of the impulse behind evangelization and colonization of the New World and is the reason why so many ground down Hindu untouchables converted to egalitarian Islam. Religion is part of the pyramids of Egypt, the cathedrals of Europe, the music of Bach, Palestrina, Mozart and Haydn. Religion drove the artistic work of Michelangelo and Dali. Religion is honored in the novels of Graham Greene and Evelyn Waugh and in the plays of Shakespeare and T.S. Eliot. All such objective or "secular" facts and truths and many more about religion can and should be made known in public schools; sensitively, of course. With nuance and understanding, you bet! But with apologies to none. If the public schools will but do that seemingly small thing, then they will surely survive.

Back to the Charter School Workshop in Asheville. My notes record with pleasure an assurance given at 1:50 p.m. by a moderately senior official of the NC Department of Public Instruction. What he laid down with firm authority was: "Of course you can teach religion in a charter school, just as you can in any public school. That is, you can teach about religion as a fact of history and life. You just may not advocate it, inculcate it or propagate it."

That is a sensible ruling. But in what public schools is it thus? Make it really so and public schools will have a fighting chance to win the hearts and minds of a lot more parents.

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Can Charter Schools Be Separated From Religious Foundation?

By [Charles C. Haynes](#)

9.7.1997

Charter schools—the hottest trend in public education—are igniting some First Amendment controversies in communities nationwide.

Charter schools are formed by groups of citizens, such as parents, teachers, or others, using public funds. Although these schools are required to meet state standards—some states are more restrictive than others—they are free to develop innovative approaches to curriculum and school policy. Currently, nearly 500 of them are operating in 15 states, with another 300 expected to open within a year. There may be as many as 3,000 charter schools by the year 2000, now that federal grants are available to help launch them.

Their popularity with parents is undeniable. In Michigan this year, one charter school had more than 5,000 applications for some 300 places.

Not surprisingly, such rapid growth also precipitates problems, some of which concern the First Amendment. A recent example comes from Los Angeles, where the principal of a proposed charter school plans to use teaching methods developed by L. Ron Hubbard, founder of the Church of Scientology. L.A. school-district officials are now trying to decide if that approach violates the Establishment clause of the First Amendment.

A number of other school districts in California are fighting over a similar question: Can the Waldorf approach to education be used in publicly funded charter or magnet schools? Waldorf education is based on the teachings of Rudolf Steiner, founder of the Anthroposophical Society. Steiner's concept of "spiritual science" is presently incorporated into more than 125 private Waldorf schools in the United States.

The debate could be quickly settled if the issue was whether or not to teach Scientology or Anthroposophy in a public school. The movements founded by Hubbard and Steiner are religious by almost any definition of the word, and the First Amendment prohibits public schools from promoting any religious or spiritual movement.

But advocates of the educational methods associated with these movements believe they can be adapted for use in a public school. One teacher, herself a Scientologist, argues that the disputed teaching method is not based on Hubbard's religious doctrine but on his "Applied Scholastics," which is nonsectarian. Using a similar argument, Waldorf proponents claim that their method can be separated from the religious aspects of Steiner's philosophy. Opponents counter that religious teachings are the basis for both of these educational techniques, and that to allow their use in a publicly funded school would violate the Establishment clause.

Sorting out these arguments will be a complex and controversial task for school boards. In my view, it is difficult, if not impossible, to separate these teaching methods from their religious foundation. Even if, for example, the Waldorf training for public school teachers manages to avoid mentioning

Steiner and his ideas about the soul, the entire approach to the curriculum is based on fundamental spiritual precepts that shape what should be taught and how it should be done.

The controversy surrounding religious teaching in charter schools is part of a larger debate about whether or not these schools are sufficiently accountable to the taxpayers. Proponents argue that charter schools should be as autonomous as possible so that they can provide real alternatives to regular public schools. Opponents contend that lack of accountability may lead to ideological schools that divide Americans and undermine the "common school" ideal.

Despite the problems and controversies, there is growing public support for the charter school idea. Are such schools effective? It's too early to tell. Studies now underway should provide some solid data in the next several years. Meanwhile, as charter schools multiply, school districts should make sure that the curriculum and policies adopted by these schools are consistent with the principles of the First Amendment.

Your questions and comments are welcome. Write to Charles Haynes, The Freedom Forum First Amendment Center, 1101 Wilson Blvd., Arlington, Va. 22209. E-mail: chaynes@freedomforum.org

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HEADLINE: Teachers testing waters of religion in the classroom

BYLINE: By Kevin Simpson, Denver Post Staff Writer,

BODY:

SAN DIEGO - In her first-floor classroom, Kim Plummer encourages 23 sixth-graders to write down all the religions they can think of, and one boy's hand shoots into the air.

'Is Islam a religion?' he asks.

On the second floor, Yolanda Sherard's seventh-graders already know the answer. Part of their world history project required them to interpret passages from the Koran, Islam's sacred text.

'The more I know about other religions,' figures 12-year-old Brandon Jones, whose uncle is Muslim, 'the more I know about the world.'

Often, the lessons at the Preuss School, a charter school on the University of California at San Diego campus, do not hinge on reading or 'riting or 'rithmetic.

The 'fourth R' has become an integral part of California's public school class work. Students read Jesus' parables, examine passages from the Koran and Torah and basically incorporate world religions into many areas of study.

'It's part of our natural curriculum,' says Plummer. 'California is such a diverse state, and with this variety of kids, religious diversity is in your face all the time.'

Plummer doesn't flinch, but she acknowledges that many teachers recoil from injecting religion into the lesson plan - fearful of offending, conscious of their own shortcomings on the subject, or scared of jeopardizing their career by crossing the shifting line that separates church and state.

'Ignorance lies at the bottom of all this,' says Plummer, who grew up in Denver. 'Just a lack of knowledge on everybody's part. My concerns are similar to other teachers' - I'm still not an expert on many religions.

'But that doesn't stop me.'

In fact, she helps run seminars that she wryly calls: 'Yes, You Can Teach About Religion and Still Keep Your Job.'

Plummer simply subscribes to the idea that any study of the humanities that dodges discussion of religion leaves some serious holes.

Sherard agrees. In her history class, which spans the fall of Rome to the Enlightenment, she reached a comfort level with religion by putting each assignment to one litmus test: Why is this relevant?

She emphasizes that relevance to her students.

Her project on Islam had kids pretend they were exchange students living with a Syrian family. They

produced a scrapbook and narrative that involved many aspects of Islamic culture, including the Five Pillars of Islam, which helped students understand the elements of prayer, fasting and pilgrimage.

Sherard encouraged one Muslim student to share with classmates his observance of Ramadan, a holy month of fasting - all in the context of their assignment.

'I tell my kids, 'Don't go home and say Ms. Sherard taught you religion,' she says. 'As teachers, we're not saying this is what you have to be. As long as we present it this way, I feel totally comfortable teaching about religion.'

Religion broached

gingerly most places

Controversy and constitutional concerns head the list of reasons that, throughout most of the country, religion is broached gingerly, if at all, in public school classes.

But Warren Nord, who teaches philosophy of religion at the University of North Carolina-Chapel Hill and has done extensive research on the subject of religion in the curriculum, sees another overriding factor.

'We educate educators not to take religion seriously,' says Nord, who has reviewed textbooks and standards nationwide. 'The conventional wisdom is that religion is a matter of blind faith, and education is about arguments and evidence and reason that only secular academic disciplines are competent to deal with.'

'We've got this artificial divide that requires education to be thoroughly secular, and real discussion of religion is reduced to ancient history.'

The California curriculum standards also look at religious teachings for their positive moral lessons, but some see that as a slippery slope that public education is ill-equipped to address, particularly when philosophies collide.

'I think public schools tend to mask our disagreements and try to cover over them rather than take them seriously,' says Perry Glanzer, a former education analyst for Focus on the Family. 'Take character education - we all want our kids to be honest, responsible, respectful and kind. But when you ask the 'why' question, which public schools don't do a good job of addressing, we have some profound disagreements.'

'A lot of times those answers to 'why?' go back to religious and philosophical presuppositions.'

While character education has been viewed by some as a compromise solution to moral issues, some curricula have returned to the Bible as a course of study.

And a source of conflict.

Since 1993, the North Carolina-based National Council on Bible Curriculum in Public Schools has been offering elective courses to interested school boards with the assurance that they pass constitutional muster. Its courses also are being considered in the Georgia Legislature for statewide offering.

'We teach the course as history and literature; we never say this is fact or this is true,' says Elizabeth Ridenour, the organization's president. 'We let the kids go straight through the Bible and form their own opinions.'

But that group's efforts have been met head on by People for the American Way, which has opposed a variety of Bible courses - including those offered in 14 Florida school districts.

'In a few instances, the sheep's clothing is beginning to fall off and the wolf is a bit more revealed,' says Elliot Mincberg, lead lawyer for People for the American Way. 'Their ostensible purpose is to teach about the Bible in a proper and constitutional way, but the devil is in the details.'

But Ridenour says only one of the Florida districts used her organization's curriculum - and that district altered the course significantly. She claims the course work has been adopted in 29 districts nationwide, and that 95 percent of the school boards approached with the curriculum have voted to use it.

Charles Haynes and his colleagues at the First Amendment Center recently teamed with the National Bible Association to release a guide to teaching the Bible - and, Haynes says, came under some criticism for even addressing so volatile a topic.

But the groups put together material with consensus from several organizations, including the National Education Association, the Christian Legal Society, the Council on Islamic Education and the Anti-Defamation League.

Haynes and Nord also have collaborated on another publication, 'Taking Religion Seriously Across the Curriculum,' a concept that has drawn positive response from both liberal and conservative audiences.

'A lot of teachers are
afraid' to teach religion

Plummer, known as 'the religion lady' among colleagues, took 15 religion credits at the nearby University of San Diego. She shares Nord's concern that teacher education requirements include no religion component and contends that simple unfamiliarity causes many educators to shy away from the subject.

'A lot of teachers are afraid of doing it wrong, of saying things they shouldn't say,' Plummer says. 'There's a huge information gap.'

Nevertheless, she says resources are readily available for teachers intent on educating themselves. She keeps a children's Bible on her bookshelf for reference.

But her professional bibles are 'The World's Religions,' an overview of the subject, and the Haynes and Nord publication, which offers her 'food for thought.'

Plummer feeds the same to students in an afternoon exercise. They have already collaborated on a working definition of religion, and now the classroom buzzes about the variety of faiths they've discovered.

She hands out pages from an almanac, and one boy uses his finger to trace a line from 'Roman Catholic' to the estimated world population of that denomination.

'Dang,' he says, 'that's a lot of people.'

Plummer passes out pages copied from the Yellow Pages, and instructs the kids to see if religions they'd never heard of have some local affiliation.

And there are many ways to incorporate religion into the study of history. Scriptural references will surface again when Plummer uses sermons delivered during the Civil War era to contrast the way Biblical teachings were used on both sides of the debate about slavery.

'Most teachers are generalists,' she says. 'I don't think they really understand the role of religion in history. But you can't teach history and not address that.'

GRAPHIC: PHOTO: Associated Press /Danny Johnston Charles Haynes addresses a workshop for public school educators last year in Little Rock, Ark. Haynes, a religion mediator for the Freedom Foundation in Arlington, Va., works to settle religion-related disputes between schools and communities.

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