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February 18, 2000, Friday, Late Edition - Final

SECTION: Section B; Page 1; Column 5; Metropolitan Desk

LENGTH: 1163 words

HEADLINE: Charter School To Raise Topic Of Creationism

BYLINE: By EDWARD WYATT

BODY:

A publicly financed **charter school** scheduled to open in Rochester next fall intends to teach students about creationism as a scientifically based theory competing with the theory of evolution.

The plan has drawn the attention of state regulators and attracted opposition from community and civil liberties groups, which contend that it is a thinly veiled attempt to teach **religion** in a public school classroom.

The Rochester Leadership Academy, which hopes to enroll 436 students in kindergarten through eighth grade, will teach the science of evolution, said John R. Walker, a Rochester business professor who sponsored the application for the school. But because "the theory of evolution is unproven," Mr. Walker said, the school "will present contrasting theories," including creationism.

Creationism holds that there is scientifically valid evidence that a divine being created the universe, humans and other species less than 10,000 years ago. Mr. Walker said he did not consider the presentation of creationism as an alternative scientific theory to be an unconstitutional promotion of **religion**.

Nevertheless, the approval of the Rochester Leadership Academy, which will be managed by National Heritage Academies, a Grand Rapids, Mich., company that operates 22 **charter schools** in Michigan and North Carolina, expands to New York a debate that has recently flared up in other states.

In August, the Kansas Board of Education voted to delete from the state's science curriculum virtually any mention of evolution, the theory that all life forms descended from simple organisms over billions of years. In October, New Mexico's education board voted to bar the teaching of creationism. The New York curriculum requires the teaching of evolution but does not mention alternative theories.

To opponents of creationism, the approval of the Rochester school raises questions about whether some companies applying to run **charter schools** see the explosive growth of such schools as a chance to skirt constitutional barriers between church and state. **Charter schools** are generally state-approved and publicly financed schools that are freed from many personnel and curricular regulations.

At the Rochester school, much will hinge on whether teachers spend significant time in class on the doctrine of creationism as science or simply note that it is an alternative belief. National Heritage contends that its teachers in Rochester will mention the existence of theories opposing evolution, as they do at the company's other schools, mainly to avoid offending parents who espouse those views at home.

"I understand the law, that you don't teach **religion** at school," said Mr. Walker, an assistant professor of business at Roberts Wesleyan College, a Christian college in Rochester, and the pastor of the Faith Christian Center, a small nondenominational church. "But basically, evolution is unproven. So we teach it as a theory, and we teach creationism as a theory. Like with all theories, we say, 'Examine the evidence and decide.' I don't consider that a religious preference."

National Heritage has been sued by the American Civil Liberties Union in Michigan over what the group says is the company's promotion of religious activities, including prayer sessions for parents, in a **charter school** there. National Heritage says it provides parents with a meeting room and some have prayed there, but not with the school's sanction. The suit is pending.

The Rochester academy received its charter last month from the State University of New York's trustees. State education officials say they will be closely watching the school and have received assurances that it will not offer any religious content. They say that merely presenting creationism as a theory does not violate state or federal law.

"We need to know how they intend to present it," said Roseanne DeFabio, assistant state education commissioner for curriculum. "If it is as a theory that is held by a number of people, rather than as a matter of faith and religious belief, then it is not inappropriate to present it alongside evolution."

That is how National Heritage says it intends to present the material. Mark DeHaan, senior vice president for National Heritage Academies, said creationism would occupy a "minute" portion of the time spent on evolution.

"The theory of creationism is appropriately mentioned when you talk of the theory of evolution," Mr. DeHaan said. "But 1 percent of the time is spent on that, and 99 on the theory of evolution."

"I think it's inappropriate to teach evolution as, 'This is reality,' " he added. "We have to teach evolution as a theory, and in doing so we say, 'By the way, there are other theories out there.' But we're not going to give the other theories the detail we're giving to evolution."

If a child asks about or wants to discuss creationism, Mr. DeHaan said, "the teacher will say, 'That's a great subject to talk with your parents about.' "

Mr. DeHaan pointed out that National Heritage did not mention creationism in the curriculum it presented to New York regulators. But that same fact is cited by opponents of the school's plan as evidence that the company is trying to disguise its intentions.

"I think they have grown too savvy to put it in their curriculum," said Martha Laties, chairwoman of the Monroe Citizens for Public Education and Religious Liberty, based in Monroe County, where Rochester is located.

"Creationism is **religion**," Ms. Laties added. "I think this experience indicates it is very likely that **charter schools** that intend to promote **religion** will apply to the state and be approved."

The People for the American Way Foundation is also opposing the school's plans as unconstitutional, sending letters to SUNY trustees and the Board of Regents.

In New York, **charter schools** can be approved by either the SUNY trustees or the Board of Regents and are monitored jointly by SUNY's **Charter School** Institute and the State Education Department.

Robert J. Bellafiore, executive director of the **Charter School** Institute, said his staff members and SUNY trustees raised questions during the approval process about whether the Rochester school would include religious material in its curriculum, and received assurances that it would not.

"Everyone will be watching this very closely," said Mr. Bellafiore, a former press aide to Gov. George E. Pataki. "They understand the importance of the separation of church and state and we are confident they will abide by it."

National Heritage markets its schools as "offering a back-to-basics and moral focus approach," according to company materials, and in some communities in Michigan the company's schools have drawn students from private religious schools.

A significant part of National Heritage's curriculum focuses on character development, "based on the Greek cardinal virtues of justice, temperance, prudence and fortitude," according to company materials.

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October 24, 1999 Sunday 2D EDITION

SECTION: DENVER & THE WEST; Pg. B-01

LENGTH: 976 words

HEADLINE: Parents blast evolution policy Charter school denies religious agenda

BYLINE: By Coleman Cornelius, Denver Post Northern Colorado Bureau,

BODY:

FORT COLLINS - A Fort Collins charter school is under fire from parents irate over a new policy they claim limits the teaching of evolution in science classes.

Officials of Liberty Common School counter that the newly adopted policy is meant to keep religion - not evolution - out of the classroom.

The debate has prompted an inquiry by local school board members seeking to determine whether Liberty Common School is abiding by the U.S. Constitution, state and local education standards, and its charter, said Garth Rogers, a board member on a fact-finding subcommittee.

The full Poudre School District Board of Education could issue an opinion on the matter during its meeting Monday night.

Of most concern to some parents is this policy clause: 'Discussions of evolutionary theory can lead to discussions of whether or not supernatural forces play a role in the mechanism of evolution or the origin of life. These topics extend beyond the scope of science and will not be taught at Liberty Common School.'

Policy opponents said they think that means the school intends to exclude evolution as a way to avoid religious discussion.

Larry Sarnier and Linda Rosa, a Loveland couple whose daughter is in eighth grade at Liberty Common School, raised concerns about the school's evolution policy at a hearing last week.

The two are among a handful of upset parents whose children attend the school, which has more than 500 students in kindergarten through ninth grade.

The dispute arises as controversy sweeps the nation over how public schools should approach evolution and **creationism**.

Evolution, rooted in scientific evidence, holds that all life evolved from simple organisms over 4 billion years. **Creationism**, based on a literal reading of the Bible, holds that God created man and animals fully formed about 10,000 years ago.

Fueling the debate was the August decision by the Kansas Board of Education to expunge evolution from its education standards, meaning state schools may stop teaching the scientific theory that is widely regarded as a basis of biology.

The U.S. Supreme Court has ruled that public schools cannot teach religious doctrine.

Many creationists have instead sought to undermine evolution by demanding, for instance, changes in education standards and textbook disclaimers that label evolution an unproven theory.

Some local parents think Liberty Common School's new policy is an example of efforts to gut evolution. They charge that the charter school, a public school run by an independent board of directors, promises an expanded science curriculum, but is limiting evolution to appease fundamentalist Christian parents and board members.

'We want evolution back into the classroom, and we want it back quickly,' said Sarner, an activist who has been at the center of several community controversies.

School leaders argued that evolution is not restricted at their science-oriented school.

Officials said the evolution policy, adopted Oct. 7, will not result in a curriculum change and is simply meant to clarify for inquiring parents how the topic is addressed.

'I know there's a belief that there's a religious agenda behind this,' said Kathryn Knox, school headmaster. 'But that's not the motive for this at all.'

Said Maureen Schaffer, vice chairwoman of the school's board of directors, 'We probably teach more evolution at Liberty Common School than is taught at any other school in the district.'

Schaffer and her husband, U.S. Rep. Bob Schaffer, a conservative Fort Collins Republican, founded the 3-year-old charter school with a group of other local parents.

'The point of the policy is to make sure parents and teachers understand that we're not going to allow religion in the classroom,' she said.

The school's 'Policy on Teaching Science and Evolution' explains that science is based on observations and experiments; that scientific knowledge is constantly changing; and that science can't explain matters that 'cannot be tested objectively and those that are essentially matters of morality.'

It states that human evolution is not taught at Liberty Common School because the topic is not part of the Core Knowledge Sequence, the curriculum used by the school, nor is it part of Colorado education standards.

The Colorado Model Content Standards for Science, amended in 1995, require that 'students know and understand how organisms change over time in terms of biological evolution and genetics.' The standards do not address human evolution.

Rosa said she sat in on her daughter's science class last year to observe evolution instruction; time allotted to the topic was cut in half, from more than two weeks that had been planned to about six days, she said.

'My daughter came home and said, 'They're giving evolution the it's-just-a-theory treatment,' Rosa said. 'I thought, 'Uh oh, we were afraid of that.'

Carol Webster and her husband, Mark Tobin, who have a third-grader at the school, share the concerns. 'Evolution is the central and core belief behind anything we study in biology today,' said Webster, a former biology teacher. 'To ignore that fact or to gloss over it or to skirt the issue is illegal, irresponsible and reprehensible.'

If the parents are correct in their interpretation, the school's policy is 'questionable constitutionally,' said Molleen Matsumura of the National Center for Science Education, a watchdog group in Berkeley, Calif.

'It's a misunderstanding of First Amendment law to say we will avoid topics that we believe have religious implications,' Matsumura said. 'You can't exclude for that reason.'

GRAPHIC: PHOTO: The Denver Post /John Epperson Student Emily Rosa, left, and her parents, Linda

Rosa and Larry Sarner, are objecting to the lack of evolution teaching in her school.

LOAD-DATE: October 25, 1999

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The Associated Press State & Local Wire

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June 4, 1999, Friday, AM cycle

SECTION: State and Regional

LENGTH: 574 words

HEADLINE: Graves discusses new Board of Regents, evolution debate

BYLINE: By DAVID MILES, Associated Press Writer

DATELINE: TOPEKA, Kan.

BODY:

When Gov. Bill Graves appoints the new State Board of Regents, the majority of the members probably will be new faces.

Graves has until July 1 to appoint the nine members to the new board, created by the Legislature to replace the current board and oversee a wider range of higher education functions in the state.

"I'm pretty comfortable a majority of the new board will not be carryovers from the current board," Graves told reporters at a Statehouse news conference Friday.

Graves did not say how many members will be new to the board, but he added one of his top priorities is to have the new board filled by the end of the month.

The new board will have governance, supervisory or coordinating authority over all higher education institutions in the state, including community colleges and vocational-technical schools.

The current board governs the state's six universities, while the State Board of Education supervises the 19 community colleges and 11 vocational-technical schools.

"It's a multidimensional jigsaw puzzle we're putting together," Graves said, noting the board should be diverse along geographic, racial, gender and political lines.

Different term lengths also play a factor, Graves said. Three members will serve two-year terms; three will serve three-year terms; and three will serve four-year stints.

"That may make a difference in terms of what I want my options to be a couple of years down the road," Graves said. "It may make a difference in terms of someone's willingness to serve - whether they're guaranteed four years of service or two."

At the news conference, Graves also expressed displeasure with the State Board of Education's deadlock over proposed standards for teaching science, including evolution.

The standards, drafted by a committee of science teachers and professors, list evolution as a cornerstone of science and say that without an understanding of evolution, students cannot succeed in life sciences.

But conservative board member Steve Abrams is pushing an alternative that would change the definition of science, eliminating all but one reference to evolution. It would add a definition of creation as "the idea that the design and complexity of the design of the cosmos requires an intelligent designer."

Abrams says his proposal doesn't advocate the teaching of **creationism** or religion in public schools.

For the past 2 years, the board has deadlocked on several issues along philosophical lines, including student tests, charter schools and teacher licensing.

"The disappointment probably stems from the fact that we seem to keep revisiting in this 10-member board these 5-5 philosophical splits over everything," Graves said.

Graves also said the board has become sidetracked over the issue of how science should be taught in the 304 public school districts.

"The board needs, in my estimation, to sharpen its focus on sustaining and improving the system of public education that we have ... not dragging us down into these kinds of divisive debates," he said.

Graves said some legislators have told him they are interested in changing the board.

Proposals include appointing board members and creating a secretary of education, Graves said.

"There are bills in the drawer that are already drafted," he said. "There are a number of people who have been wanting to take on the state board every year that they can. This really exacerbates those feelings."

LANGUAGE: ENGLISH

LOAD-DATE: June 4, 1999

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February 21, 2000, Monday

SECTION: nSTATE AND REGIONAL NEWS

DISTRIBUTION: TO CITY, EDUCATION AND RELIGION EDITORS

LENGTH: 421 words

HEADLINE: Leading African-American Pastors to Promote **Charter Schools**;
Group Will Encourage Opening and Operating Inner-City Schools That Run Independently From the
Public School System

DATELINE: LOS ANGELES, Feb. 21

BODY:

Several leading African-American pastors are launching a campaign tonight to encourage the creation of **charter schools** in low-income, urban areas. More than 250 pastors and their colleagues will rally at the Sheraton Gateway Hotel near LAX at 7:00 p.m.

"We have a clear obligation to upgrade the quality of education for our children," explains Dr. E. Lynn Brown, Presiding Bishop of the Christian Methodist Episcopal Church's Ninth District. "We need to make sure children get the schooling they need and deserve, even if it means doing it ourselves," agrees Rev. L. Daniel Williams, the newly elected President of the Baptist Ministers Conference of Los Angeles and Southern California.

Under California law, community and faith-based organizations can petition school districts for permission to open public **charter schools**. School operators receive about \$5,200 per year for each child that attends their school. Like other public schools, **charter schools** must adhere to rules that ensure the separation of church and state. Out of the nearly 300 **charter schools** in California today, only about 25 are located in low-income urban areas.

"A lot of urban churches have classrooms that are ready to use, so we can help the school district with its facilities crisis," says Bishop Brown. "We won't even charge them \$170 million," alluding to the cost of building the now-defunct Belmont complex.

Tonight's event is underwritten by the Good Schools for All Campaign, a project of the San Diego-based School Futures Research Foundation. This national effort is chaired by Wyatt Tee Walker, Senior Pastor of the Canaan Baptist Church of Christ in Harlem, New York, and Harry Blake of Louisiana, the General Secretary of the National Baptist Convention. Both are former top aides to Dr. Martin Luther King.

In addition to Bishop Brown, Pastor Williams, and Dr. Blake, speakers at the event include Bishop Charles E. Blake (Pastor of the West Angeles Church of God in Christ in Los Angeles), Dr. Timothy Winters (Senior Pastor of the Bay View Baptist Church in San Diego, which operates a highly successful **charter school**, the Nubia Leadership Academy), and Dr. Charlie Knight (Superintendent of the Ravenswood School District in East Palo Alto).

SOURCE School Futures Research Foundation

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LANGUAGE: ENGLISH

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February 22, 2000, Tuesday

SECTION: FINANCIAL NEWS

DISTRIBUTION: TO EDUCATION, CITY AND NATIONAL EDITORS

LENGTH: 1135 words

HEADLINE: Granting of Charter Is 'Abdication of Responsibility';
Revoke Rochester School's Charter if it Teaches Creationism as Scientific Theory, AJCongress Tells
SUNY Board Of Trustees

DATELINE: NEW YORK, Feb. 22

BODY:

The American Jewish Congress has demanded that the Board of Trustees of the State University of New York revoke the charter it granted to the Rochester Leadership Academy (RLA) if the school teaches creationism, a religious explanation for life's origins, as a scientific theory. "RLA cannot have both a charter (and tax funds) and religious instruction," AJCongress said. "It can have one or the other, but not both."

The upstate New York school is scheduled to open next fall.

In a strongly worded letter sent Friday to Thomas F. Egan, Chair of the Board of Trustees, AJCongress President Jack Rosen and Executive Director Phil Baum declared, "New York Law provides that **charter schools** are public schools. Public schools may not teach religious theories of origins, *Epperson v. Arkansas*, 393 U.S. 97 (1968). Creationism is a religious theory of origins which may not be taught as science in the public schools, *Edwards v. Aguillard*, 482 U.S. 578 (1987). It follows that Rochester Leadership Academy, a public school, may not teach creationism as science."

They told Egan, "We are amazed that the leadership of the State University of New York would abdicate its responsibility to police **charter schools** and grant a charter to those who would subvert constitutional protections in this way."

Rosen and Baum noted guidelines put together by AJCongress together with 30 other organizations for teaching the origins of the earth, guidelines that have been adopted by the U.S. Department of Education and distributed nationally. These guidelines provide that:

- In science class [schools] may present only genuinely scientific critiques of, or evidence for any explanation of life on earth, but not religious critiques (beliefs unverifiable by scientific methodology).
- Schools may not refuse to teach evolutionary theory in order to avoid giving offense to **religion** nor may they circumvent these rules by labeling as science an article of religious faith.
- Public schools must not teach as scientific fact or theory any religious doctrine, including "creationism," although any genuinely scientific evidence for or against any explanation of life may be taught. Just as they may neither advance nor inhibit any religious doctrine, teachers should not ridicule, for example, a student's religious explanation for life on earth.

"These principles are clear, well settled and authoritatively established. They leave no room for efforts at circumvention," the AJCongress leaders said, adding that opposing arguments were defeated in the *Edwards* case.

Noting that AJCongress supports **charter schools**, Rosen and Baum added, however, "We are not surprised that those who believe in creationism would seek to exploit **charter schools** to insinuate creationism into a public school curriculum."

Rosen and Baum declared that "aside from being unconstitutional, the Trustees' decision will undermine support for **charter schools** as a legitimate alternative to existing public schools. The decision to charter RLA has unfortunately lent credence to those who predicted that **charter schools** would prove to be nothing more than a mechanism for undermining church-state separation."

The full text of the letter is as follows:

As an organization that has supported **charter schools**, we are perplexed by the story in today's New York Times reporting on the decision of the Trustees of the State University of New York to grant a charter to Rochester Leadership Academy (RLA) even though it has proclaimed its intention to teach religious theories of origin as science.

New York Law provides that **charter schools** are public schools. Public schools may not teach religious theories of origins, *Epperson v. Arkansas*, 393 U.S. 97 (1968). Creationism is a religious theory of origins which may not be taught as science in the public schools, *Edwards v. Aguillard*, 482 U.S. 578 (1987). It follows that Rochester Leadership Academy, a public school, may not teach creationism as science.

As we, and over 30 other groups from across the ideological spectrum put it in the Joint Statement on **Religion** in the Public Schools written with regard to teaching origins:

in science class [schools] may present only genuinely scientific critiques of, or evidence for any explanation of life on earth, but not religious critiques (beliefs unverifiable by scientific methodology). Schools may not refuse to teach evolutionary theory in order to avoid giving offense to **religion** nor may they circumvent these rules by labeling as science an article of religious faith. Public schools must not teach as scientific fact or theory any religious doctrine, including "creationism," although any genuinely scientific evidence for or against any explanation of life may be taught. Just as they may neither advance nor inhibit any religious doctrine, teachers should not ridicule, for example, a student's religious explanation for life on earth.

These principles are clear, well settled and authoritatively established. They leave no room for efforts at circumvention. The contrary arguments advanced by RLA were all made by creationism proponents in *Edwards* and all were rejected. It is obviously beyond the authority of the Trustees of SUNY to reconsider any of those principles.

We are not surprised that those who believe in creationism would seek to exploit **charter schools** to insinuate creationism into a public school curriculum. We are amazed that the leadership of the State University of New York would abdicate its responsibility to police **charter schools** and grant a charter to those who would subvert constitutional protections in this way.

RLA cannot have both a charter (and tax funds) and religious instruction. It can have one or the other, but not both. The decision to allow it to have both is irreconcilable with the statutory and constitutional duties of the Trustees. Aside from being unconstitutional, the Trustees' decision will undermine support for **charter schools** as a legitimate alternative to existing public schools. The decision to charter RLA has unfortunately lent credence to those who predicted that **charter schools** would prove to be nothing more than a mechanism for undermining church-state separation.

If RLA will not abandon its proposal to teach **religion** as science, its charter must be revoked.

SOURCE American Jewish Congress

CONTACT: Stephen Steiner, Director of Communications of American Jewish Congress, 212-360-1540

URL: <http://www.prnewswire.com>

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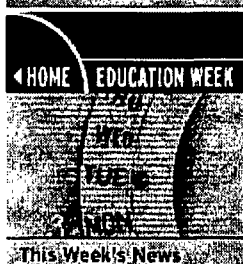
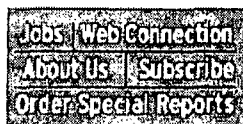
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Example: House of Representatives

learning environments where students can succeed.

Q: Some argue that vouchers are vital to help children escape ineffective, dangerous schools. What is the Administration's response to that?

A: The President's opposition to vouchers is based more on what happens to students who do not participate in a voucher program than on what may happen to the few who do. The fact is that 90% of our students attend public schools, and our primary responsibility, especially with limited federal resources, is to make sure that the public schools they attend are among the best in the world. This means concentrating our time and money on raising academic standards, improving teaching, providing schools with technology and other up-to-date learning tools, and creating charter schools and other forms of choice within the public school system. That is why the President is sending legislation to Congress with tough accountability provisions that will require states to identify failing schools and take the tough measures necessary to redesign them, by putting in place high standards, quality teachers, and safe learning environments. Vouchers only drain financial resources and energy away from our most important task -- improving our public schools.



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February 23, 2000

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School Choice: Beyond the Numbers

Commentary

By Joseph P. Viteritti

Related stories:

"Spate of Legal Rulings on Vouchers, Choice Yields Little Consensus," June 23, 1999.

"What's So Good About Choice?," Commentary, Jan. 27, 1999.

For background, previous stories, and Web links, see our Issues Page on School Choice.

There are two distinct approaches to school choice. A market model, taken from economics, is based on the empirical proposition that introducing competition to education will improve the performance of school systems and their students. An equity model, derived from a concept of justice, is based on the normative proposition that all parents deserve an equal opportunity to select the schools their children attend. The two approaches are inextricably related, but often confused and misapplied in debates about the desirability of school choice. The validity of an empirical model is tested by the assembly of measurable data that reasonable people can agree are relevant. Normative models are assessed according to deep-seated values that parties to a discussion claim to share.

Education is the only profession where the providers' lack of confidence in their own product is used as a rationale for rejecting an alternative.

Behind the choice debate that has occupied policymakers so intensely for the past 10 years is the fantastic notion that some day a group of dispassionate experts will objectively reach a judgment to determine whether or how it is safe to translate the explosive idea into policy without incurring unwitting harm. Of all the issues up for discussion among educational researchers, none is so packed with emotion. Many of the underlying premises to the debate are plainly irrational. Choice opponents defend the status quo by arguing that if we provided parents with the means to remove their children from traditional public schools, an overwhelming number would. Education is the only profession where the providers' lack of confidence in their own product is used as a rationale for rejecting an alternative.

Market purists, skeptical about the capability of the public sector to accomplish anything worthwhile, expect government officials to enact a revolutionary choice policy that is not only efficient but also just. Presently, there is little evidence that the market alone is capable of serving the needs of disadvantaged communities, whether the commodity in question is housing or groceries, recreation or health care. Equally absurd, however, is the assertion that we should not try choice until it can be proven to work, since it is impossible to demonstrate the viability of any idea that has not been given a

chance.

The most controversial empirical debate that rages around choice programs concerns student performance.

Most people trace the market model to the writing of economist Milton Friedman, dating back to 1955. Troubled by the monopolistic nature of education in America, the Nobel laureate advocated a system of vouchers that parents could use at any school, public or private. His expectation was that competition would force low-performing schools to close, and provide the rest with an incentive to

improve. Convinced that private schools would outperform public schools, he envisioned a system of education that was publicly financed and privately run, with a minimal governmental role in either operating or regulating institutions. Since the market had not yet been tested in education, Mr. Friedman's model was purely theoretical; because the operation of the market had been uneven in other sectors, his message rang hollow to most who heard it. And if the culture of the public education profession was inhospitable to the concept of competition, it was downright hostile to the prospect of privatization.

The choice question was brought into the mainstream of policy circles in 1990, with the publication of John E. Chubb and Terry M. Moe's *Politics, Markets, and America's Schools*. As the issue moved to center stage through the next decade, both the dialogue and the characters began to change, so that the script originally written by Milton Friedman was barely recognizable. Charter schools, which by the first of this year were instituted in 36 states and the District of Columbia, provided public school advocates with a way to enjoy the benefits of choice and experiment with competition without crossing over into the voucher camp. Voucher programs became a reality for 8,000 low-income students in Milwaukee and 4,000 in Cleveland, while Florida began to launch a statewide program for children who attend chronically failing public schools.

Unlike the universal voucher plan put forward by Milton Friedman, the current voucher programs are targeted at disadvantaged and underserved populations. They are advanced in the name of equity as well as efficiency. Like the many charter proposals that were enacted in state legislative bodies once resistant to change, these voucher plans were put forward by unusual political coalitions that included free-market champions, concerned business leaders, and representatives of minority communities who were fed up with the quality of local public schools, demonstrating that the constituency for choice had expanded beyond the Republican right. Polls today indicate that the most consistent and vocal supporters of school choice are black and Hispanic parents.

The case for choice is no longer built on abstract economic models; and advocates are unwilling to wait for expert evidence decreeing that it is all right to advance the cause. The demand erupts from an on-the-ground understanding by parents that there is no future for children consigned to failing schools, parents who reject the unjust arrangement that limits choice to families that have the economic means to either acquire a private school education or live in communities where public schools provide a decent education.

It seems that children who participate in choice programs are forced to incur certain "opportunity costs" in terms of educational expenditures.

Economically disadvantaged people, who historically have not been well served by either public education or the market, are not likely to be taken in by romanticized notions of one or the other. But they understand that both public schools and the market respond to clients who have the power to grant or withhold revenues needed for institutional survival. It is not the market that makes choice work for the poor, so much as giving poor people the resources to prod the market. When choice is properly designed, it is a form of redistributive public policy: providing public resources for disadvantaged people to purchase private (or public) goods (or services) in accord with a larger public interest.

There is no reasonable response to the demand that all parents, regardless of economic status, should be allowed to select the schools their children attend—other than to argue that if poor people were granted choice, they would fail to exercise it in the best interests of their own children. It is an untenable position on many counts. History shows that those who have made such crucial decisions for poor children in the past usually have not done so to the children's benefit; if a disproportionate number of poor children attend failing schools, it is not because their parents want them there. Anyone who has a child knows that there isn't any person or institution that is more inclined to act in the best interest of the child than that child's own parents. This natural sentiment is not compromised by economics, but the ability to act on it is.

In addition to the charter and voucher programs already mentioned, philanthropists have inaugurated privately supported, voucher-style scholarship programs that reach more than 100,000 students across the nation. This wide range of experience has been informative. The record shows that there is a strong demand for choice among poor and minority parents. This is demonstrated by the long waiting lists of applicants that accompany all choice programs—charters, vouchers, and private scholarships alike. Last year, when the Children's Scholarship Fund announced a lottery for 40,000 partial-tuition scholarships, the foundation received 1.25 million applications from low-income parents. These parents were willing to forgo a free public education and absorb the balance of tuition payments for the opportunity to exercise choice.

When parents who have exercised choice are asked to identify the characteristics that attracted them to their children's new schools,

their responses usually focus on several factors: high academic standards, a safe, nurturing environment, opportunities for meaningful parental involvement, and, for those in parochial schools, the religious values within the curriculum. After their children attend such schools, they register higher levels of satisfaction on these same factors in comparison to their previous public schools. Contrary to what some would believe, poor parents are capable of making intelligent decisions in selecting schools for their children.

The most controversial empirical debate that rages around choice programs concerns student performance. If students who have opted into charter schools and voucher programs are not exhibiting higher levels of academic achievement, then, even conceding the best intentions among choice advocates and parents, what's the point? At this juncture, there is no definitive evidence with regard to charter schools, although a major federal study is under way. Early studies of privately financed voucher programs in New York, San Antonio, Milwaukee, and Indianapolis are encouraging, but skeptics question their methodological rigor. The same can be said for the public voucher programs in Milwaukee and Cleveland, although the quality of the later evaluations is generally better.

Scholars have been fighting over whether private and parochial schools outperform public schools since the late James S. Coleman posed the question in 1983. I happen to agree with him that parochial schools do a better job mediating the effects of poverty among inner-city minority children. I find the recent spate of comparative studies on graduation rates in urban schools especially persuasive. But not everyone would agree. Nor will they ever, at least not in the educational lifetimes of those children whose parents are waiting for some authoritative body to declare that they should have the opportunity to exercise choice that most middle-class families take for granted.

The case for
school choice is
no longer built on
abstract
economic
models.

In the end, choice constitutes good public policy because it is fair, not because its effects are measurable by academicians who would not dream of sharing the decision about where to send their own children to school.

For those empiricists who need reassurance, I would suggest for the sake of argument that we call it a draw. Let us

assume that there is an equal proportion of high-quality schools in the public and private sectors. Acknowledging the overall shortage of good schools in poor urban communities, let us assume that the parent in search of an educational opportunity has the same probability of finding a desirable placement in both. Certainly there is no evidence to contradict that assumption; even skeptical scholars could accept such a randomized assertion. A well-crafted voucher program targeted for poor and underserved communities would simply expand the number of decent options for a population that wants and needs more options; and it would empower parents whose

opportunity to act in the best interest of their own children has been impeded by financial hardship.

A final consideration brings us back to where we began: Would the competition engendered by choice provide an incentive for low-performing schools to improve? Unfortunately, that question cannot be fully addressed with the current assortment of charter and voucher programs because most have been designed to limit real competition. As a result of the legislative horse-trading imposed by choice opponents, most charter school laws set strict limits on the number of schools allowed, and on average, these new schools receive about 80 cents for every dollar allocated to regular public schools. The same is true for voucher programs. When the Milwaukee program began, a cap was set so that only 1 percent of the school population was allowed to participate. It is now at 15 percent. About 4,000 children participate in the Cleveland program, but the waiting list of applicants exceeds 17,000.

It seems that children who participate in choice programs are forced to incur certain "opportunity costs" in terms of educational expenditures. The further one moves from the traditional public school run by a local district, the higher the cost. For example, in Cleveland, per-capita public spending for children who attend regular public schools is \$7,746; for charter school students, it is \$4,518; and for students who use vouchers, it is \$2,250. This is an unfair competitive arrangement. It is also inequitable. Considering that many of the children who participate in choice programs come from disadvantaged backgrounds, the practice turns the idea of compensatory education on its head.

Yes, theoretically the effect of market competition is measurable empirically, but no, we can not fully assess it under the existing plans. Of course, there are some skeptics who will continue to deny that competition, even unencumbered, with all the artificial constraints removed, will work to improve public education. I don't share their cynicism. Even if they are wrong, but especially if they are right, the most compelling argument for choice remains a plea for fairness. We don't need numbers to prove that.

Joseph P. Viteritti is a research professor of public administration in the Wagner School of Public Service at New York University in New York City, where he is the director of the Program on Education and Civil Society. He is the author of Choosing Equality: School Choice, the Constitution, and Civil Society (Brookings Institution Press, 1999).

on the Web

"School Choice 1999: What's Happening in the States" is an annual report from the Heritage Foundation examining state-by-state trends in school choice.

The Milwaukee Parental Choice Program is the first in the U.S. to provide major subsidies to private schools as part of a voucher program. Read analyses of Milwaukee's school choice initiatives from Harvard's Program on Educational Policy and Governance.

"Use of School Choice" is a 1995 report from the National Center for Educational Statistics examining the correlation between the characteristics of families and the types of school choices they make.

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How about a status report on where we are vis a vis the GOALS

Educating ALL of America – Educational Excellence for Hispanic Americans WHITEPAPER

Since, 1993, improving educational opportunities and outcomes for all Americans has been a cornerstone of President Clinton's Administration. Yet even as the effort to implement standards and accountability takes root in states and communities across the country, we confront the reality that Hispanic Americans lag behind in academic achievement.

In August 1999, the First Lady hosted the first White House Convening on Latino youth, seeking to draw attention to the needs of the Latino community and emphasizing the importance of ensuring that every child meets his or her full potential. Over 200 community leaders, foundation and private sector representatives joined federal agency personnel to discuss pathways to achievement for Latino youth, including the networks of support that promote such achievement, and the risk factors that impede that progress. The event also furthered an on-going discussion concerning how to expand effective programs to address the needs of young Hispanic Americans.

To build on this effort, the White House is exploring the idea of hosting a national strategy session in the spring of 2000 that would bring together the various stakeholders, including public, private, philanthropic, and other non-profit organizations and leaders. The strategy session would highlight the importance of boosting Hispanic education achievement to our country's democracy and economic success. It would take stock of the progress achieved to date while addressing the need for more action from every sector of society. We are interested in all areas of education, including the early childhood years, elementary, secondary, and higher education and lifelong learning.

At present, the meeting's focus is anticipated to concentrate on the following five areas:

- 1. Access to Early Childhood Education
- 2. Closing the Achievement Gap on State Assessments
- 3. Hispanic Dropout Rate
- 4. Language Proficiency
- 5. Higher Education

MAA
06/01/00 ISSUES
- HOW IN LATINA GELS
✓ 06/01/00 VISIT
ASPIRA
0 12/11/00
0 12/11/00

In developing this strategy session we will work with stakeholders to help formulate and structure the session, as well as to secure concrete commitments for future investments to address the educational needs of Hispanic Americans. We are in the process of reaching out to various public, private and community-based organizations and individuals to elicit their views and input about our idea.

0 12/11/00

0 12/11/00

0 12/11/00

0 EXCUSE ? NO

0 CHARTER SITUATION - REFORMATION OF PUSUK GOVERN

0 MONEY ALONE ISN'T THE ANSWER

0 BUT WE DON'T SUPPORT THE CAMP BAKLAN

0 DEATH RIMS

0 ACCIDENTS

0 STANDARDS

0 COMPETITION (NONE IF THERE IS A SAFETY NET)
- ALL ROCKS

⇒ TO SLOW, TO DISRUPT,

BOUNDS

DIVIDE

PUSUK TO CAMP
SOME

Scott Palmer

Case
0213-9276



"Lim, Jeanette" <Jeanette_Lim@ed.gov>
02/25/2000 04:04:55 PM

Record Type: Record

To: Andy Rotherham/OPD/EOP
cc: "Palmer, Scott" <Scott_Palmer@ed.gov>
Subject: Talking Points on Public Charter Schools

<<whcharter.outline.doc>>

Andy- Scott has asked me to forward these talking points to you for your panel. Hope they provide what you need. We have provided the information in bullets rather than Qs and As. If you have questions, feel free to call me at 205-9716. As is our policy at OCR with our cases, let me caution you against mentioning any school district by name. We are gathering information on the number of OCR cases implicating charter schools and expect to forward general numbers and outcomes. You have some specific examples of OCR and DOJ cases in the talking points. I am also providing you the draft Qs and As, with which we have been working with Peter Rundlit and with DOJ (Anita Hodgkiss).

<<Charter Schools QA Draft - 02-02-00.doc>>

Scott will be back in the office on Monday, 2-28.

Jeanette Lim



- whcharter.outline.doc



- Charter Schools QA Draft - 02-02-00.doc

- The U.S. Department of Education (ED) and the U.S. Department of Justice support establishment of Public Charter Schools to encourage innovation and choice in public school systems across the nation. Charter schools provide a variety of avenues to achieving high standards and equity. The President has signed legislation implemented by ED supporting a significant expansion in the number of charter schools.
- **Public Charter Schools, like any other public school, remain subject to Federal civil rights laws.**
- As part of its efforts to support innovation and choice in education reform, ED, with contributions from DOJ, has developed a question and answer document that helps charter school developers comply with federal civil rights requirements. Both agencies plan to provide expanded technical assistance to charter school developers.
- The Qs&As guidance is a revision of a draft document that was originally developed in 1997. Many charter developers found the 1997 draft document to be very helpful
- The Qs&As will be released in the near future and will include answers to additional questions that charter school developers have asked.
- ED staff (including OCR) have been participating in national and regional meetings and providing technical assistance on civil rights obligations so that charters and SEAs avoid costly delays and litigation. OCR plans to train Federal technical assistance providers who will work with charter school developers throughout the country. After receiving input on the Qs&As from such stakeholders as charter school developers and disability and civil rights advocates, it will be available at local

and national charter school conferences. DOJ has shared a draft with certain members of Congress who have expressed an interest in this topic.

- The Qs&As discuss meeting civil rights compliance in areas such as recruitment and admissions, physical accessibility for students with disabilities, and education for students with disabilities as well as students who are limited English proficient.
- The Qs&As also address the process of how a proposed charter school can meet school desegregation obligations under a Federal court order where the U.S. is a party or where there is a Title VI desegregation plan with ED-OCR.
- **DOJ Cases:** Federal desegregation case law recognizes that any new school in a district under a desegregation decree can have the effect of impeding the progress of desegregation, even without intending to do so. In these cases, Federal courts have reviewed the proposed new schools and their effect on the enrollment in existing schools. The final decision to approve a new charter rests with the Judge. However, the Judge could ask for other parties' opinions (such as DOJ's).
- As explained in the Qs&As, those who want to establish a charter school in school desegregation cases where the U.S. is a party should contact DOJ and provide information such as the state charter application. In many cases, the proposed charter, because of its small enrollment, will have a de minimis effect on school desegregation efforts, and DOJ will not oppose the proposed charter in court. If DOJ has concerns, they will ask for additional information and may make recommendations, such as recruitment strategies.

- **OCR Title VI desegregation plans:** Charter school operators should contact ED-OCR and go through the same process with ED-OCR as the districts under court order go through with DOJ. The only difference is that there is no court involved.

Rebuttal to the attacks

- **Some have claimed that OCR and DOJ are using civil rights laws as roadblocks to stop charters.** (see 3/22/99 Clint Bolick editorial in Wall Street Journal (alleging DOJ uses school desegregation to impede charters in East Baton Rouge; accuses OCR of using disability laws to impede charters); 10/20/99 Wall Street Journal editorial “Charter Hypocrisy” (criticizes DOJ for using school desegregation to impede development of charter schools in Louisiana; OCR’s handling of Young Women’s Leadership School in NY (single-sex school), suggesting OCR only backed down because Secretary Riley strongly supports charters.
- DOJ has worked well with many states, such as Texas, in helping charters comply with school desegregation decrees. It has had some conflicts with the state of Louisiana.
- Young Women’s Leadership school is not a charter school. Title IX regulations allow single-sex schools, but only if certain conditions are met. From a Constitutional standpoint, the establishers of a single-sex school need “an exceedingly persuasive justification” in order to establish such a school.

Here are the specific cases, in more detail:

DOJ: Louisiana School Desegregation Cases

- East Baton Rouge, LA: DOJ had not been provided information needed to determine if proposed charter schools would have an impact on desegregation; DOJ agreed to the charters once it got the information. Louisiana officials also were involved (See 6/7/99 letter from Governor Mike Foster to Janet Reno and Richard Riley).
- At a hearing before the trial judge in July 1999, DOJ criticized the East Baton Rouge School Board for failing to seek court approval before allowing charters to begin operation, but did not oppose Board's motion for retroactive approval. NAACP and private plaintiffs opposed Board's motion.
- In August 1999, trial judge determines that 3 small charters pose no financial problem to the School Board in implementation of the district's desegregation plan. The Judge stated that charters are subject to Court's orders regarding desegregation. The Judge acknowledged that the charters violated the consent decree by not asking for prior approval, but approved enrollment and grades set forth in Board's motion for 99-00 school year.

OCR CHARTER CASES

Of OCR complaints involving charter schools, most have to do with the legal requirements involved in Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. Here are some OCR cases in more detail:

Beaufort County, S.C.: an OCR Title VI desegregation plan District

- In 1998, school district (about 50% white) rejected the establishment of Lighthouse Charter school for two reasons:

1. Lighthouse did not state what its projected racial population was, and the School Board found that Lighthouse Charter was not in compliance with the state racial balance law. (NOTE: The State of South Carolina challenged the constitutionality of the racial balance law, and the State legislature may repeal the racial balance requirement).
 2. **District argued that because it has a Title VI desegregation plan with OCR, Lighthouse must ask OCR's permission (S.C. State law states that charters must comply with same civil rights obligation as districts). According to the record, Lighthouse believed it was not required to obtain approval from OCR.**
- In June 1999, S.C. Supreme Court upheld School Board's denial of the charter, stating there was no evidence that Lighthouse had satisfied OCR requirements. The State Supreme Court remanded the issue of constitutionality of the racial balance law back to the trial court.

Boston Renaissance Charter School

- Two complaints resolved in 1997: one Title VI harassment (closed with resolution agreement); one 504 (violation, closed with resolution agreement).
- 504 violations: Failure to inform parents of procedural rights, failure to provide regular education supplementary aids and services as well as special education services, failure to provide school day comparable in length, and failure to notify beneficiaries it does not discriminate on the basis of disability. Results in an OCR approved resolution agreement.

- Recent complaint in March 1999 regarding Attention Deficit Disorder student resolved without controversy.

Sonoma, CA

- 1996 Sonoma charter school complaint alleged that District discriminated against Hispanic and in particular LEP students with respect to enrollment and admission, language services, and failure to respond to internal complaint. Publicizing and recruitment of Hispanic and LEP students, taken as a whole, had effect of deterring Hispanic and LEP families from applying to and enrolling at the charter school; voluntary resolution agreement reached.

Ohio

- Charters in Ohio that did not provide the legally required free and appropriate public education (FAPE) or physical accessibility to students with disabilities. (Open cases?)

Florida

- In Florida, there are **pending** compliance reviews/cases involving charters designed to serve students with a specific disability (e.g., an all Learning Disabled (LD) school).
- There are several issues in these kinds of cases. Can an all-LD charter provide the legally required least restrictive environment (LRE) /FAPE for its students if it is all LD? What if a student with another disability wants to apply to this specific charter school (e.g., what if that student's FAPE requirement (for say, autism) differs from the FAPE provided for the targeted population in the all-LD charter)? Can that autistic student be automatically excluded because the school states the placement of

that autistic student would be inappropriate?). Can a student without a disability attend that charter?

- We are looking into the actual numbers of OCR charter cases, both closed and currently pending, and will provide that information as soon as possible.

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Should choice schools have to disclose more?

Opponents seek public scrutiny, but supporters say idea is damaging ruse

By Alan J. Borsuk
of the Journal Sentinel staff

Last Updated: Dec. 12, 1999

Even George Mitchell, a consultant who has been a key figure in the fight for Milwaukee's groundbreaking private school choice program, says that taking a stand in favor of making more information public "is akin to supporting apple pie and the American flag and motherhood."

But that isn't keeping the issue of what information should be made public about the choice schools from becoming a fight between adamant advocates on both sides of the program. And the battleground has become more active in recent weeks.

To opponents of the program, requiring the approximately 90 private schools with students using the state-funded vouchers to disclose more about themselves to the public is a simple matter of fairness, accountability and good policy:

You get public money, you have to act like a public school. You get public money, you get public scrutiny. You get public scrutiny, you get better public understanding of how the schools are doing and whether the experiment is working.

To supporters, such as Mitchell, the idea is "a ruse" dressed in an appealing costume but actually highly damaging to the program. Their position:

You get public scrutiny and regulation, you defeat the choice experiment, forcing schools out of the program and crimping the efforts of others. In fact, they say, that's why critics are pushing the disclosure debate. These are and should be private schools, even if voucher students are attending them.

Underlying the debate is the unprecedented nature of what has been created in Milwaukee, where about 8,000 students from low-income homes are attending private schools, using vouchers that mean about \$5,100 per student to the schools.

How do you label the institution that results? Is it a public school, a private school, a private school with public students? Answer that and you almost surely show where you stand on the choice program.

Both sides agree the law is on the side of choice supporters. The 1998 Wisconsin Supreme Court decision that allowed the choice program to expand greatly and to include religious schools held that the schools were private and not required to operate like public schools. The U.S. Supreme Court subsequently refused to consider the case, thereby letting the Wisconsin decision stand.

It also appears that current politics are on the side of the voucher program. Proposals calling for the choice schools to adopt the same rules on discrimination as the public schools, conduct the same proficiency testing and accept the same regulations on a host of operating policies appear destined to go nowhere as long as the alignment of power in the state Legislature remains the same.

But the choice foes are raising their voices more loudly, led by Alex Molnar, a University of Wisconsin-Milwaukee education professor, and Barbara Miner, managing editor of Rethinking Schools, a school reform periodical based in Milwaukee.

Education Week, a widely read industry publication, ran an essay by Molnar last month in which he called for the Legislature to order an evaluation of choice, including public release of more information.

Rethinking Schools, which is also circulated nationally, has stressed the accountability question in its two most recent issues.

One issue that critics have been hot about is finding out about the racial composition of choice schools. Some have suggested the program has been disproportionately serving white children. Many of the choice schools have been reluctant to disclose racial data, although much of it is expected to come out in a legislative audit due to be released soon.

Mitchell and Howard Fuller, the former Milwaukee Public Schools superintendent who is a leading figure in the choice movement, recently released a report analyzing overall trends in racial makeup of private schools and data from some schools. They concluded that the racial diversity of private schools in the city was increasing. Their report said the large majority of students who had come into the program in recent years were minorities.

But Molnar and Miner took the report as fresh ammunition for their argument for wide disclosure of information on choice schools. They attacked the Mitchell/Fuller report as inadequate and flawed in its methodology.

"They start with data that are inadequate, they make assumptions which are questionable and therefore draw conclusions which are not supportable," Molnar said.

Miner called the Fuller-Mitchell report "disinformation" made possible "because the public does not have access to reliable, comprehensive data on voucher schools."

Mitchell and Fuller defended the validity of their methods and conclusions, although they made some minor adjustments in response to specific criticisms from Miner.

Fuller said, "Like a lot of battles that go on in choice debate, what people say sometimes sounds like, of course, it's reasonable. But it's reasonable only if you take away the political implications of their comments, and it's clear that people like Alex Molnar and Barbara Miner want to destroy the choice program."

Schools in the choice program are required to comply with a range of state rules on compliance with the program, including filing audited financial statements and demonstrating that they have at least basic programs in general educational subjects and that at least 70% of their students are advancing at a conventional pace.

Fuller said those rules, plus the basic notion of parents choosing what school to send their children to, provide adequate public accountability.

"Because public dollars go to private schools does not make them public schools," Fuller said. "The only difference in the schools now is that poor people are able to go to them."

Rethinking Schools has said its reporters have had particular difficulty getting information from Catholic schools and have been turned down on requests to visit Catholic schools.

Maureen Gallagher, director of Catholic education for the archdiocese, said she felt there was a lot of accountability built into the choice program - to parents, to the church and to the state.

But, she said, "We're not accountable to every reporter who calls us."

Molnar said the day will come when the political scene will change and the demand for more regulation of choice schools will prevail. Many religious schools, fearing government will tamper with their identity and program, will leave the program while other schools will have to submit to rules they don't want, he said.

He favors such rules and such a prospect.

Fuller and Mitchell said the rules and the prospect are indeed linked. Thus, their stand is exactly the opposite.

Appeared in the Milwaukee Journal Sentinel on Dec. 13, 1999.

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E D U C A T I O N

Desperate Measures

BY SIOBHAN GORMAN ■

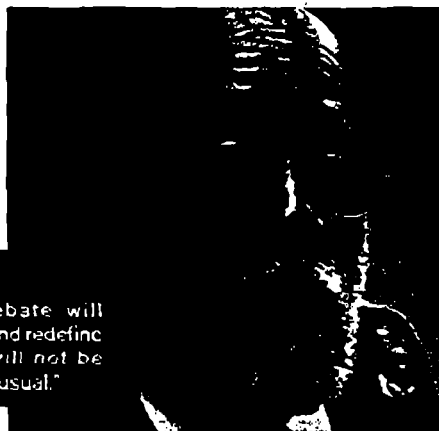
As president of the Urban League of Greater Miami, T. Willard Fair collects stories from Florida's educational front lines. Such as the time a seventh-grade girl, asked to write the days of the week, stared blankly at the board with chalk in hand. A product of the Miami-Dade public school system, she couldn't do it. And when the days were written on the board for her, she couldn't read them either. Fair relates the story to explain why he's sure he's on the correct side of the debate over school vouchers. He's all for them. Fair says that variations of the

same scene occur all too frequently in low-income areas of Miami—where 26 schools received a grade of F this year from the state—and across the country. He asks why low-income students should be sentenced to years in failing schools, while wealthier children escape to private schools; and he blames a public education system that, he says, is more interested in preserving itself than in educating students.

"The voucher says forget about the fact that you don't have the money," Fair said. "You still have a right to get the best possible education for your children." That's why he pushed hard in Florida this year for the A-Plus plan, Republican Gov. Jeb Bush's program that gives vouchers—government money that students can use to attend private schools—to children in chronically low-performing schools.

T. WILLARD FAIR:

The voucher debate will "reform, reshape, and redefine education. We will not be doing business as usual."



ARMAR FOLTY

FED UP WITH THEIR NEIGHBORHOOD SCHOOLS, SOME LOW-INCOME PARENTS ARE EMBRACING REPUBLICAN-BACKED VOUCHERS. CAN THE DEMOCRATS COME UP WITH ANYTHING BETTER?

Fair frames his argument for school vouchers as a civil rights issue—an argument some minority parents and local civil rights leaders are beginning to embrace. And GOP presidential front-runner George W. Bush hopes to capitalize on this new interest in vouchers by promoting a federal version of his brother Jeb's program on the campaign trail.

If George W. Bush is successful, he'll chip away at a core Democratic constituency—low-income and minority voters—and put Vice President Al Gore and other Democrats in a bind. Some of Gore's

supporters are hoping that he will respond to the challenge by articulating an alternative to vouchers that speaks to the urgency felt by many low-income parents.

"That's our best hope for recasting the debate in bolder tones," said Christopher Edley Jr., a former top Clinton Administration aide on race issues and currently a professor

at the Harvard Law School who is advising Gore's presidential campaign. One option suggested by some experts: Make every school a charter school—public schools that promise to raise student achievement in exchange for regulatory freedom.

The still-young presidential campaign offers an opportunity to educate the American public on the pros and cons of vouchers and other alternatives, said Deborah Wadsworth, the executive director of Public Agenda, a non-partisan public opinion research group. "It's an enormous opportunity," she said. "It is, on the one hand, kind of indefensible to make Americans continue to live with a public school system that does not deliver what they expect, but it is also indefensible to kind of disassemble the system without giving people real opportunities to weigh the options, and that's probably what the presidential candidates' debate needs to be about."

Public opinion on vouchers remains split and soft, although support for the idea is stronger among minorities. A recent study by Public Agenda suggests that most Americans—63 percent—do not understand the issue, so their support is largely up for grabs. But the same survey also finds that when the public is presented with an explanation of vouchers, 57 percent respond favorably and 67 percent see them as part of the solution.

Experts on both sides of the debate agree that the window of opportunity is closing for nonvoucher education reforms. Unless voucher opponents seize the opportunity, they say, that window will slam shut within three to five years. "You're not going to see mass defections by the Democratic base, but there'll be erosion at the margin, and there are certainly a number of swing voters to whom education is important," Edley warned. "I think that frustrated parents and civic leaders who don't sense urgency from public education leaders will increasingly favor blowing up the system."

LOOKING TO ELECTION 2000

In policy addresses, television ads, and town hall meetings, the top presidential candidates in both parties are already talking about vouchers. George W. Bush is pushing a kinder, gentler voucher. Sen. John McCain, R-Ariz., would pilot a more robust one. Gore, without articulating a comprehensive alternative of his own, has charged that Bush's proposal would "slam the door on kids in America's public school system." Earlier this month, Gore launched a television ad that calls vouchers "a big mistake," in an effort to contrast himself with



BUSH'S PLAN:

The Texas Governor hopes his support for vouchers will appeal to traditionally Democratic minority voters.

both Bush and his Democratic opponent, Bill Bradley, who supported a pilot voucher program when he

was in the Senate but says that vouchers are not the answer to America's educational problems. Bradley still waxes equivocal, however. "If I'm President of the United States, when it comes to urban public education, we're going to try this, we're going to try that, we're going to experiment here, experiment there, but we are going to improve urban public education," he said at a town hall meeting in New Hampshire.

In addition to formulating a policy on vouchers, the next President will almost certainly have the opportunity to nominate Justices to the Supreme Court, where the issue is heading for a review.

A recent *Los Angeles Times* poll asked registered voters whether a presidential candidate's stand on vouchers would affect their vote, and 41 percent said that a candidate's support for vouchers would make them more likely to vote for that candidate, compared with 22 percent who said they would be less likely and 34 percent who said it would have no effect. The trend was not dramatically different among Democratic voters: 35 percent said they would be more likely to vote for a candidate if he supported vouchers, while 25 percent said they'd be less likely, and 38 percent said it would have no effect.

"Assuming that the two current front-runners are the nominees of their respective parties, I think it's clear that there will be a debate about the appropriateness of vouchers as an element of an overall educational strategy," said William A. Galston, a professor at the University of Maryland's School of Public Affairs and an adviser to Gore.

Like Jeb Bush, George W. does not use the word "vouchers." He prefers to call them federally funded "scholarships," worth about \$1,500 each, and he touts them as an

AP/WIDE

example of his tough-love approach to school reform. He would give students who are languishing in perpetually failing schools scholarships to attend other schools—public or private. Jeb Bush says that Florida's test run this year should give his brother's national message a boost. "I hope that it'll give them [the voters] a sense that they can match the rhetoric with the practical implementation of it," he told *National Journal*. "I know what my brother's views are, and I think it'll be helpful to him."

And Democrats are worried. Although Edley characterized the Bushes' voucher plan as "snake oil," he conceded that it has public appeal. "It's a brilliant tactical move because it positions voucher supporters as the allies of children in desperate straits," he said. "You've got desperate kids and their families. One side is offering vouchers as an escape, and the other side is offering three-year plans. That's not much of a contest."

It is too early to tell whether the Florida program has improved achievement for voucher students or pushed poorly performing schools to improve. (See box, these two pages.) But the end of the program's first year, in May, will provide some clues, based on the experiences of the 134 children who used vouchers to leave two chronically failing schools in Pensacola—58 went to private schools and 76 went to other public schools. The subsequent year could offer a better test of vouchers: 78 Florida schools received a grade of F last year, and those that receive another F at the end of this school year will be required to offer parents vouchers.

Not surprisingly, the voucher issue is likely to be raised in

the Florida legislative campaigns next year. "I do think that a candidate's stand on vouchers will affect the outcome of elections," said state Rep. DeeDee Ritchie, a Democrat, whose Pensacola district includes the two schools in which students received vouchers this year.

Vouchers will very likely be an issue in other states as well, but some experts predict that many states mulling voucher plans will wait until after the presidential election and a year or more of the Florida experiment before moving ahead. In New Mexico, where Republican Gov. Gary E. Johnson's voucher plan was soundly defeated in both the House and Senate this year, the Governor has vowed to campaign for any state-level candidate—Democrat or Republican—who supports vouchers. Georgia's Democratic Gov. Roy Barnes is eyeing Florida's progress. In Michigan, voucher advocates are gathering signatures for a ballot initiative that would require low-performing schools to offer vouchers to their students, but Republican Gov. John Engler dismisses the measure as a "nonstarter."

Regardless of who dominates the voucher debate next year, the ultimate outcome, says Fair, will be a stronger commitment to finding a new way to educate children. "It's going to reform, reshape, and redefine education," he said. "We will not be doing business as usual."

FROM MILTON FRIEDMAN TO THE BROTHERS BUSH

"In the beginning," says author Terry Moe, pausing for effect, "there was Milton Friedman." Friedman first floated the voucher concept in the mid-1950s as a way to privatize

ON THE FRONT LINES IN PENSACOLA

With two days to make a decision amid moving boxes and three high-energy children, Bruce Arnold opted for vouchers just to keep her options open. She had recently moved back to Pensacola, Fla., from College Grove, Tenn., to care for her ailing father and had to decide whether to take the vouchers or enroll her two school-age sons at Spencer Bibbs Advanced Learning Academy, one of the two Florida schools deemed by the state to be chronically failing. Under the state's new A-Plus plan, parents at Bibbs and A.A. Dixon Elementary had the option of taking \$4,000 vouchers to send their children to private schools. Arnold applied for two spots at both a magnet school and a nearby private school, but there wasn't enough space at either, so she settled on a highly regarded public school on the other side of town—A.K. Suter Elementary. "I feel kind of bad that my kids aren't going to Bibbs in a way," she said, emphasizing the importance of fixing broken public schools. "I feel like I'm fostering the attitude that I'm trying to get rid of. By the same token, I don't want my kids to pay for it."

Arnold is not the only parent feeling an internal pull between supporting public schools and wanting the best for her children. In a September Phi Delta Kappa International/Gallup poll, 69 percent of Americans said it is more important to reform the existing public school system than to find alternatives. Yet 70 percent would consider using vouchers for a private school, according to a recent survey by the nonpartisan research group Public Agenda.

In the end, Arnold settled on Suter because she believed that its small size—271 students—would offer the best learning environment for her children. Now she says that even if her children are offered slots at the magnet school or a private school, she will keep them at Suter. She was particularly impressed with the attentiveness

of her son Campbell's first-grade teacher, who in a recent parent-teacher conference discussed Campbell in detail without referring to notes.

But looking ahead, Arnold worries about whether her children will be safe at the public middle school. Arnold, whose husband makes about \$50,000 a year, says she would consider sending her children to a private middle school with a voucher if she were given the option. "I don't want my kids to be afraid to go to school."

Similar reservations led Rita Westmore, a single mom whose children attended Dixon until this year, to take vouchers and opt for a private school. Westmore cited worries about a "nonchalant" attitude she sensed among Dixon's teachers. One afternoon when she was picking up her twin daughters at school, she says she overheard one teacher say to another: "Most of the children come from the projects, so you can't expect any better." This fall, Westmore enrolled her

National Urban League President Hugh B. Price, a voucher opponent, cites several reasons for the recent surge in interest in vouchers: Colleges and universities are raising their admissions standards; universities are paring back remedial classes; employers are clamoring for a better-skilled work force; states are raising the bar on standardized tests and graduation requirements; and the increasing attacks on affirmative action are pressuring minority students to demonstrate that they have the skills to compete for college admission in the absence of race-based entry policies.

This year, Florida offered a blueprint that appears to be 2 parts Jencks to 1 part Friedman. The plan passed last spring by the Florida Legislature uses grades A through F to evaluate schools, and requires schools that receive a D or F to submit a plan of action to the state Board of Education. The state then gives the school technical and financial help to implement that plan. If a school receives two F grades in a four-year period, the students in that school are eligible for state "opportunity scholarships" worth \$4,000 a year. The vouchers must be accepted as full tuition at participating private schools, and those schools must offer spaces to voucher students by lottery if there are not enough seats for everyone. Students who use the vouchers take the same state tests that public school students take. Public schools that move up a grade or earn an A get financial bonuses.

But this compromise has the potential to offend free-market purists, who bristle at the idea of tying up private schools with government strings, such as requiring voucher students to take state tests. And Nina Shokraii Rees, an education policy analyst at the Heritage Foundation who is also advising George W. Bush's presidential campaign, has reservations about the ability of this approach to produce a sample size large enough for research that could lead to widespread change.

"It's a new era, in a way," Rees said of the Bush brothers' vouchers-as-accountability approach. "It really is part of the public school reform strategy, rather than an opportunity for poor people to have the same opportunities that more affluent parents have. I'm not saying there's anything wrong with it, but you're removing it more from the original intention of simply offering the parents the option to choose schools."

SEEKING MINORITY VOTES

The political success of voucher supporters may hinge on their ability to attract support from minority voters. According to a September poll by the education fraternity Phi Delta Kappa International and the Gallup Organization Inc., 57 percent of blacks support vouchers that cover full tuition, compared with 47 percent of the general population. The same poll found that 70 percent of nonwhites support the government's paying all or part of the tuition for nonpublic schools, compared with 51 percent of the general population.

There is a small but growing nucleus of voucher supporters in the African-American church community. And Fuller,

who is now director of the Institute for the Transformation of Learning at Marquette University, said that his next project is to join forces with the Hispanic community. Pastor Cheryl McBride Brown, the director of education for the highly regarded Believers in Christ Christian Academy in Milwaukee, said that a pro-voucher organization she chairs has grown from two churches to 33 in a little more than a year. She added that the group—Clergy for Educational Options—has started talking with African-American church leaders in other states. Support for vouchers from African-American church leaders not only builds support for school choice within the African-American community, Brown said, but may also help address the lack of space for voucher students in the private sector by encouraging African-American churches to start schools for these students.

Voucher supporters see the upcoming elections as an opportunity. "Education is going to be the No. 1 issue, and what you are prepared to do about that is going to be the question that is asked by the electorate," said Fair. "Vouchers therefore become part of an arsenal of things that can be used and articulated to say we are prepared to do something right now as other repairs reform the system."

Price of the National Urban League does not agree with Fair, but he's sympathetic to his local counterpart's plea. "I understand what T. is saying," Price said. "He's holding the sword of Damocles, saying: 'You need to know in my town of Liberty City I don't have the luxury of saying to kids, just wait until we figure this out.' I understand where he's coming from; he's close to the ground and close to the families. We're trying to say to the policy-makers: 'Some very old and very dear friends of public education are getting very impatient with the situation.'"



GORE'S AD:

To contrast himself with both Bush and Bradley, Gore has a TV commercial that calls vouchers "a big mistake."

SEARCHING FOR ALTERNATIVES

Fair's statement implies that there may be other weapons in the reform arsenal, ones that Democrats can use. Several alternatives are possible, including building on a Wisconsin program that combines smaller classes with a contract to improve student achievement in low-income schools, and requiring private schools that accept vouchers to be publicly accountable.

Theodore Sizer, who is a founder of Francis W. Parker Charter School in Ayer, Mass., offered the most radical suggestion: Charter every public school and allow students to take all of their public education money with them to any public school. Uncomfortable with sending public money to private schools, because he fears private schools will not take students at random, Sizer says that charter schools offer both competition and equal access. Similar ideas have been floated recently by such Democrats as Sen. John F. Kerry of Massachusetts and Price of the National Urban League. Last month, the nonpartisan Education Commission of the States also endorsed the idea of chartering all public schools.

"You can't do these things piecemeal because it won't have an effect," said Sizer, who is now chairman of the Coalition of Essential Schools. "When you're talking vouchers, that is a code word for choice. You, the parent, want the right to pick your child's school."

True, says voucher proponent Clint Bolick, the litigation director of the Institute for Justice, a conservative public-interest law firm. "That would be an effective glasnost to our perestroika of school choice," he said, shaking his head. "But the Democrats can't go there because the unions won't allow that."

Indeed, Robert F. Chase, the president of the 2.5 million-member National Education Association, said that chartering every school is too simplistic an approach. "I don't know what that means," he said. "The laws that exist right now related to charter schools vary dramatically."

The teachers' unions, the most aggressive opponents of vouchers, say that reducing class size and boosting resources for Saturday and after-school programs are the best antidotes to vouchers. "It's not as if people are floundering around out there, and they have no idea what to do to serve kids as well as we possibly can," Chase said. "Class size has a great impact on student achievement."

One of the programs that Chase would like to see highlighted nationally is Wisconsin's Student Achievement Guarantee in Education program. Targeting low-income schools, SAGE lowers class size to 15 in early grades, extends the school day, establishes a rigorous curriculum, and requires an accountability plan for school staff. These components are rolled together into a contract the school has with the state Department of Public Instruction that promises to raise student achievement.

Alex Molnar, a professor at the University of Wisconsin (Milwaukee) and a creator of the SAGE program, is evaluating the three-year-old program and says that SAGE produces significant increases in achievement for all children. He found a particularly strong benefit for African-American students. But some voucher advocates say that the unions are only looking out for their own interests by pushing solutions that hinge on hiring more teachers.

One option Florida may consider next year would require private schools participating in the voucher program to adhere to the same testing and accountability measures that public schools do. Holding private schools to the same standards that public schools have to meet polls well nationally, according to this year's Phi Delta Kappa-Gallup poll: 77 percent of Americans believe private schools that take public money should be held to the same accountability measures as public schools.

In another approach floated recently, an *Atlantic Monthly* article called for a "grand bargain" that would allow a multi-year test of vouchers for up to 5 million children in return for major increases in public school spending. But voucher proponent Paul E. Peterson, a Harvard University professor who is assessing public and private voucher programs and a self-

described Democrat, questioned the practicality of the proposal. He said that the Bush brothers' approach offers a better political bargain because it gives schools a chance to reform themselves and gives children in continually failing schools an alternative. "I doubt that there's enough political support to go that dramatically immediately, even with the idea of additional monies being given to the public sector," he said.

ALL IN THE DELIVERY

In election-year politics, the messenger may be as important as the message. Whether Gore will formulate and articulate a plan that addresses the urgency many minority parents feel remains an open question.

He'll face some tough competition from likely Republican messenger-to-be George W. Bush. Touting Bush's education record in Texas, several voucher advocates argued that it is difficult to paint the Governor as an enemy of public schools. As a practicing "compassionate conservative," Bush

has gone to great lengths to demonize the Republicans on the education issue and to court minority voters. "I can see him going into the inner city and championing this, where his father and Bob Dole simply weren't going to do that," said the Institute for Justice's Bolick. "The big question is whether the Republicans will seize the opportunity, or if they'll fumble."

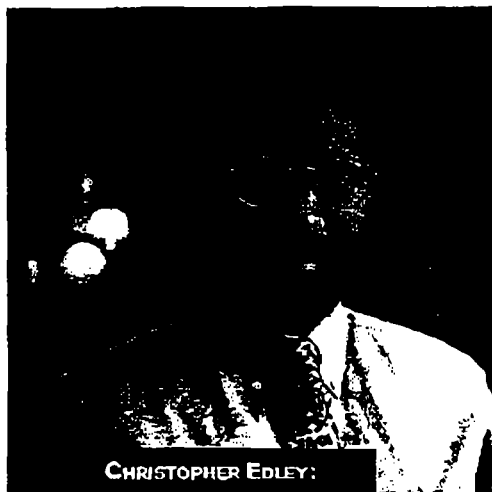
The same question can be asked of Gore, who has secured endorsements from the top two national teachers' unions. "It's obviously been difficult for Gore to state full-blown policy proposals that are

inconsistent with major Administration initiatives that are under active consideration by Congress," Harvard's Edley said. "But as the campaign develops, that will have to change.

especially on an issue like education, where the Administration's measures don't measure up."

On Thursday, Gore highlighted his education proposals in a campaign speech. Gore adviser Galston said that many of Gore's proposals deal with the concerns of poor and minority parents. He cited class-size reduction; universal preschool; and Gore's teacher corps, which would subsidize college tuition for high school seniors who agree to teach in the inner city. Gore's plan for improving low-performing schools is essentially the same as the current White House proposal, which calls on states and school districts to turn around failing schools and offers more money for after-school programs. Galston said that Gore has an advantage over Bush when it comes to trumpeting the anti-voucher theme, because Democrats still hold more favor with the public on education issues.

But Gore can't depend on that edge alone, some Democrats warn; to win the debate, he'll have to offer a clear alternative to vouchers. "If Gore's going to repackage the same ideas, at best it's going to be a stalemate," said Arnold F. Fege, the president of Public Advocacy for Kids, a non-profit public-education advocacy firm, "and at worst, he's going to lose [to] vouchers."



CHRISTOPHER EDLEY:

"It's obviously been difficult for Gore to state full-blown policy proposals that are inconsistent with Clinton's."

RICHARD A. BLUM

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Public Charter Schools Program
Nonregulatory Guidance
For-Profit Entities, Private School Conversions,
Admissions, and Lotteries

U.S. Department of Education
Office of Elementary and Secondary Education

March 1999

**QUESTIONS ANSWERED ABOUT FEDERAL START-UP GRANTS
UNDER THE PUBLIC CHARTER SCHOOLS PROGRAM**

The Public Charter Schools Program (PCSP) was originally authorized in October 1994, and reauthorized in October 1998, by the Charter School Expansion Act of 1998, Title X, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, 20 U.S.C. 8061-8067. The program, which provides support for the planning, program design, and initial implementation of charter schools, is intended to enhance parent and student choices among public schools and give more students the opportunity to learn to challenging standards. However, enhancement of parent and student choices will result in higher student achievement only if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to *all* students. Every student should have an equal opportunity to attend a public charter school.

This nonregulatory guidance applies only to charter schools receiving Federal start-up grants under the PCSP. It addresses questions the Department has received regarding various provisions of the PCSP statute, including those related to student admissions to public charter schools, the use of lotteries, private school conversions, and the involvement of for-profit organizations in charter schools. These guidelines do not contain all of the information you will need to comply with PCSP requirements, but are intended merely to provide guidance on the PCSP and on examples of ways to implement it. For additional information about the PCSP, please contact the PCSP Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3E122, Washington, D.C. 20202-6140. Telephone (202) 260-2671.

- **What is the purpose of the PCSP?**

The purpose of the PCSP is to expand the number of high-quality charter schools available to students across the Nation by providing financial assistance for their planning, design, and initial implementation; and evaluating the effects of charter schools, including the effects on students (in particular, student achievement), staff, and parents.

- **In addition to Title X, Part C of the ESEA, what other Federal statutory and regulatory authorities apply to the PCSP?**

Recipients of funds under this program should be aware of the following statutory

requirements in addition to Title X, Part C of the ESEA: the definitions set out in Title XIV of the ESEA, which establishes general provisions for all programs authorized under the ESEA; Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability; the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability by public entities, including public charter schools and public school districts, regardless of whether they receive Federal financial assistance; and Part B of the Individuals with Disabilities Education Act, which requires States to make available a free appropriate public education to children with disabilities. The Education Department General Administrative Regulations (EDGAR), Parts 75, 76, 77, 79, 80, 81, 82, 85, and 86 also apply to this program.

- **Who is eligible to apply for a PCSP grant?**

State educational agencies (SEAs) in States with a specific State statute authorizing the establishment of charter schools are eligible to apply for PCSP grants. An "eligible applicant," defined as an authorized public chartering agency in partnership with a charter school developer, in such States may apply to the SEA for a subgrant. If a State elects not to participate in the PCSP or is denied funding, an eligible applicant may apply directly to the Department for a grant.

- **How may PCSP planning and implementation grant funds be used?**

SEAs may use PCSP funds to award subgrants to charter schools in the State, and charter schools may use the funds only for post-award planning and design of the educational program, and initial implementation of a charter school. SEAs may also reserve up to 5 percent of PCSP grant funds for administrative expenses related to operating the charter school grant program, and up to 10 percent of the PCSP grant funds to support dissemination activities. These dissemination activities are carried out through separate dissemination grants to charter schools.

- **What are dissemination grants?**

Dissemination grants are awarded to charter schools to support activities that help open new public schools (including public charter schools) or share the lessons learned by charter schools with other public schools. The following activities may qualify as dissemination activities: (a) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and its developers, and that agree to be held to at least as high a level of accountability as the assisting charter school; (b) developing partnerships with other public schools designed to improve student performance; (c) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and (d) conducting evaluations and developing materials that document the successful practices of the assisting charter school that are designed to improve student performance in other schools.

A charter school may not use dissemination grant funds, either directly or through a contractor, for marketing or recruitment activities designed to promote itself or the programs offered by it or by a contractor to parents or the community. In particular, grant funds may be used to develop materials documenting successful

practices of the charter school for the educational purpose of assisting other schools in improving student achievement, but not for the purpose of recruiting students or promoting the program of the school or its contractor. Any charter school receiving a dissemination grant should provide thorough and high-quality information that meets the needs of other schools trying to learn from the charter school's experience.

- **Who is eligible to apply for a dissemination grant?**

A charter school may apply for a dissemination grant, regardless of whether it has applied for or received a planning or implementation grant under the PCSP, if the charter school has been in operation for at least three (3) consecutive years and has demonstrated overall success, including (a) substantial progress in improving student achievement; (b) high levels of parent satisfaction; and (c) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school. For more information about dissemination grants, see section 10304(6) of the ESEA, 20 U.S.C. 8064(6).

- **Is a for-profit entity that holds a legal charter eligible to apply for a PCSP grant or subgrant?**

A for-profit entity does not qualify as an eligible applicant for purposes of the PCSP. A charter school receiving PCSP funds may enter into a contract with a for-profit entity to have the for-profit entity manage the charter school on a day-to-day basis. However, it should be emphasized that if the charter school enters into such a contract, the charter school must be held by the State and the cognizant chartering authority to the same standards of public accountability and requirements that apply to all public charter schools, including State student performance standards and assessments that apply to all public schools; and the charter school must supervise the administration of the PCSP grant and is directly responsible for ensuring that grant funds are used in accordance with statutory and regulatory requirements (See EDGAR, Part 75, Subpart F).

- **Is a private school eligible to receive PCSP funds?**

Only charter schools that meet the definition of a charter school under the ESEA are eligible to receive PCSP funds. Section 10310(1) defines a charter school as, among other things, a "public school" that is created by a developer as a public school, or adapted by a developer from an existing public school, and operated under public supervision and direction. See ESEA § 10310(1) for the definition of a charter school for purposes of the PCSP.

- **Can a private school be converted into a public charter school?**

As stated above, the ESEA defines a charter school as a newly created public school or one adapted from an existing public school. There is no provision nor mechanism in the law for converting private schools into public charter schools. The ESEA does not foreclose a newly created public school from using resources previously used by a closed private school or from involving the parents and teachers who may have been involved in the closed private school. However, any newly created public school must be just that; it cannot be a continuation of a private school under a different guise. The public charter school must be separate and apart from any private school. It must be established as a public school, and comply with applicable State and federal laws regarding public schools.

In its creation, development, and operation, the charter school cannot have any affiliation with a sectarian school or religious institution. Because a newly created public school would not have any "previously enrolled" students, *all* students would need to apply for admission and would have to be selected by lottery if there are more applicants than spaces available. Similarly, the charter school must inform the community of its public school status and have a fair and open admissions process. Outreach and recruitment efforts, such as radio advertisements or community meetings, should be designed to reach all segments of the parent community. The charter school must recruit in a manner that does not discriminate against students of a particular race, color, national origin, or sex, or students with disabilities. It may not discriminate on the basis of race, color, national origin, sex, or disability in its programs or activities.

- **What is a lottery for purposes of the PCSP?**

A lottery is a random selection process by which applicants for admission to a public charter school are admitted to the charter school.

- **Under what circumstances must a charter school use a lottery?**

A charter school receiving PCSP funds must use a lottery if more students apply for admission to the charter school than can be accommodated. A charter school with fewer applicants than spaces available does not need to conduct a lottery.

- **Are weighted lotteries permissible?**

Weighted lotteries are permitted only when they are necessary to comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Equal Protection Clause of the Constitution, or a State law requiring desegregation.

- **May a charter school exempt certain categories of applicants from the lottery and admit them automatically?**

A charter school that is oversubscribed and, consequently, must use a lottery, generally must include in that lottery all eligible applicants for admission. A charter school may exempt from the lottery only those students who are deemed to have been admitted to the charter school already and, therefore, do not need to reapply. Specifically, the following categories of applicants may be exempted from the lottery: (1) students who are enrolled in a public school at the time it is converted into a public charter school; (2) siblings of students already admitted to or attending the same charter school; and (3) children of a charter school's founders (as long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment). Once a student has been admitted to the charter school through an appropriate process, he or she may remain in attendance through subsequent grades. A new applicant for admission to the charter school, however, would be subject to the lottery if, as of the application closing date, the total number of applicants exceeds the number of spaces available at the charter school.

To be eligible for Federal start-up grants, a charter school's admissions practices must comply with State law and applicable Federal laws. Accordingly, the exemptions discussed above are permissible only to the extent that they are consistent with State law regarding desegregation, the school's charter, and any

applicable Title VI desegregation plans or court orders requiring desegregation. A charter school's admissions practices must also comply with Part B of the Individuals with Disabilities Education Act and Federal civil rights laws, including, but not limited to, Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990, as applicable.

- **May a charter school receiving PCSP funds set minimum eligibility criteria for admission to the charter school?**

The ESEA does not specifically prohibit charter schools from setting minimum qualifications for determining who is eligible to enroll in a charter school and, thus, to be included in the lottery. Charter schools receiving PCSP funds are required, however, to inform students in the community about the charter school and give them an "equal opportunity to attend the charter school." Thus, a charter school may set minimum qualifications for admission only to the extent that such qualifications are (a) consistent with the statutory purposes of the PCSP; (b) reasonably necessary to achieve the educational mission of the charter school; and (c) consistent with civil rights laws and Part B of the Individuals with Disabilities Education Act. A major purpose of the PCSP, for example, is to assist "educationally disadvantaged" and other students to achieve to challenging State content and performance standards.

In light of this purpose, it is unlikely that an elementary charter school could justify establishing minimum qualifications for admission, regardless of the school's mission or purpose. On the other hand, a secondary charter school might be able to justify certain admission requirements that target disadvantaged students and are consistent with the above-described purposes. For example, an alternative secondary school might have admissions qualifications related to a purpose to serve students who have dropped out of school, or a secondary school for the performing arts might require that applicants for admission be able to demonstrate a minimum level of competence in the performing arts. Such requirements might measure the capacity of the student to benefit from and contribute to the purpose of the school.

In establishing any such admissions criteria, a secondary charter school should consider multiple measures of a student's ability to benefit from the educational program, and must ensure -- consistent with Federal civil rights laws and Part B of the Individuals with Disabilities Education Act -- that such factors are not used in a manner that inappropriately restricts access to the charter school. It should not, for example, use a test as a sole criterion to determine a student's ability to benefit from the school's program. The secondary charter school should target all segments of the parent community in its outreach efforts, and should recruit in a manner that does not discriminate against students of a particular race, color, national origin, or sex, or against students with disabilities.



JNATHAN@hhh.umn.edu

02/16/2000 11:48:54 AM

Record Type: Record

To: Andy Rotherham/OPD/EOP, alex_medler@ed.gov

cc:

Subject: Re: help

I agree with your third wave thought. Secretary Riley has visited New Visions School - a converted private non-sectarian school which works with kids who have not succeeded. It has had its contract renewed by Minneapolis School Board for clear evidence of improved achievement.

Re district dynamics - how about agreement by Boston to create new pilot schools after 18 of first 61 Mass charter proposals came from Boston? Have you seen the Eric Rofes report in which several districts where there were strong charter laws, there were clear district responses? Worth citing! assume Alex can get it for you, if you haven't see it.

Also, I am past a great statement from the former Flagstaff Arizona supt to this message. It's something both of you should have - great examples of district response from a very credible former charter skeptic.

Joe Nathan

Dr. Kent D. Matheson - Flagstaff, Arizona Supt.
Speaking at Idaho School Administrators Conference
2/21/98

(Dr. Matheson previously was president of the Washington State Superintendents Association, and had been Washington State Supt. of the Year). He retired from Flagstaff at the end of the (1997-98) school year. (206) 433-7511, 1822 SW 156th, Burien, Washington 98166

1. Presentation to the entire conference.

We administrators must deal with choice, competition and change. We can no longer draw a line in the sand and prevent certain things from happening. They are happening. We have to deal with them.

When charters were first proposed in Arizona, proponents described them as gentle acorns which would grow up and blossom. Opponents described them as cut worms which could hurt the whole field (of public education). I was on the side of those viewing charters as cutworms. When you are planting a field and see a cutworm coming, you use pesticide. That's what I wanted to do - stop the charter movement. But I, and other like-minded superintendents couldn't do that.

Why couldn't we stop the charter movement?

#1 Some families have been disappointed in the job done by public schools. Part of that

perception comes from the news media, which has misled the public. The news media has generally ignored the important research from people like David Berliner, who has described the great accomplishments of public education. But despite our accomplishments, we have not done well with all students. And there are some (legitimately) unhappy parents.

#2 Charters offer the promise of accountability. We need to be sensitive to this issue. The problem in Arizona is that some charters are not very accountable. But public education has not been very accountable either. The vast majority of charters are doing a very good job. But some kids and parents participating in charters are getting cheated.

We find ourselves in a situation in Arizona where the legislature is not offering a level playing field. They permit a \$500 tax credit for people contributing to charter schools, and only a \$200 tax credit for those contributing to public schools.

Another problem with charters in Arizona is that some districts are charging a finder's fee. Some districts have said we will approve charters if you give us \$20,000 a year. This sets up a situation where the district is not eager to see the charter close down (especially if it is a charter outside its district). A number of districts have sponsored charters miles from their own district.

We as superintendents need to compete, collaborate, and be creative. We need to encourage "top notch" operations, such as the charter started in Flagstaff by former state teacher of the year Karen Butterfield. We are developing ways to collaborate with Butterfield.

Public school districts need to provide more choices and to market the good things we are doing. The public no longer will just accept our word that public schools are the best option. The world in which we live in provides choice, flexibility and opportunity.

If we don't respond, we will have more competition. I've learned that you can compete and collaborate at the same time.

2. Presentation to a concurrent session on dealing with charters

Charter schools were a wakeup call for me. We superintendents, and our districts, must be competitive, collaborative, and creative.

In the School Board News of October 27, an article reported that LA charter schools

- * are making traditional schools work hard to please families
- * are developing programs for difficult kids
- * have adopted promising practices that traditional districts often have not adopted
- * are using more innovative staffing approaches

What are we doing in Flagstaff as a result of the charter movement?

1. We went with a full day kindergarten at 8 of our 12 elementary schools. We used Title 1 dollars in eligible schools. Eleven of our 12 elementaries now have full day kindergarten.
2. One charter closed a week before it was scheduled to open. We met with those parents and "made them feel welcome." We wanted them to know that we wanted their kids.
3. We went with a modified calendar in two of our elementary schools. Two of these schools have beyond year round schools.

4. We set up a new magnet middle school emphasizing performing arts, science and technology. This is a new magnet school which has been very popular. Our middle magnet school starts at 9:00 and ends at 4:15. parents like the later start and ending time.

5. Our principals are now more active in explaining to community groups that we have good schools.

6. We'll be starting a new magnet elementary school - ACT (Academics, Character and Technology). All students will wear uniforms. This school serves are predominantly Hispanic students. We went to 5 stores, asking for their best price on uniforms which would allow enough to have 5 days worth of clothes without wearing the same thing twice. JC Penney put together a package for \$65.

7. We've asked business leaders to interview a representative sample of high school seniors. This is becoming part of our graduation process (being able to make public presentations). The students are impressive and this word is spreading through the community.

I don't think we would have responded as much if we had a weaker charter law. Our state's law was "a very strong motivating force making us want to compete."

When the charter law passed, I was "bristly and angry." "I have a completely different attitude now.

Superintendents and school districts are going to have to deal with these issues. School boards need to understand that the world is changing.