

R&C

Special-Needs Vouchers



May 2007

Research & Commentary

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Research and Commentary on Special-Needs Vouchers

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Talking Points on Special-Needs Vouchers

By Michael Van Winkle
Legislative Specialist, The Heartland Institute
May 2007

■ What are special-needs vouchers?

- Special-needs vouchers allow parents whose children suffer from physical or mental disability to receive state funds to attend non-public schools that cater to their special needs.
- Comprehensive special-needs program legislation defines special needs as: autism, blindness, deafness, emotional or behavioral disorders, intellectual disability, orthopedic impairment, health impairment, learning disability, speech-language impairment, traumatic brain injury, or visual impairment.

■ An increasing number of states are adopting special-needs vouchers.

- In 1999, Florida became the first state to allow special-needs vouchers.
- Since then, four additional states have created special-needs voucher programs: Arizona, Georgia, Ohio, and Utah. The following table provides quick reference to current programs:

Special-Needs Voucher Programs					
Program	Year Adopted	Eligibility	Maximum Scholarship	Current Enrollment	Cap
Arizona*	2006	Disability	\$3,000 (avg.)	830 (est.)	\$2.5 million
Florida	1999	Disability	\$20,703	16,812	none
Georgia*	2007	Disability	\$9,000 (avg.)	4,100 (est.)	none
Ohio	2003	Autism	\$20,000	490	none
Utah	2005	Disability	\$6,042	138	\$2.5 million

*new program

■ **Special-needs vouchers are constitutional.**

- According to a recent study by the Institute for Justice and American Legislative Exchange Council, choice programs are constitutional in almost every state.¹
- The U.S. Supreme Court ruled in *Zelman v. Simmons-Harris* that allowing parents to use vouchers at religious schools does not violate the First Amendment.²

■ **Special-needs vouchers, like other choice programs, save states money.**

- A study by the Milton and Rose D. Friedman Foundation estimates between 1990 and 2006, school choice programs nationally saved taxpayers \$444 million.³
- Special-needs vouchers save states money because the value of the voucher is usually less than what the state already spends per student. For example, Florida's special-needs vouchers averaged \$6,926 in 2006, while per-pupil expenditures by public schools averaged \$9,462. Thus, every child accepting a voucher potentially saved the state \$2,536.

■ **Special-needs vouchers are popular.**

- A study of the McKay Scholarship Program for Students with Disabilities, conducted by the Manhattan Institute (executive summary included in this package), found 92.7 percent of McKay participants are satisfied with their schools. Only 32.7 percent say the same about public schools.

1. Richard Komer and Clark Neily, *School Choice and State Constitutions*, Institute for Justice and American Legislative Exchange Council, April 2007

2. *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002)

3. Susan Aud, "Education by the Numbers: The Fiscal Effects of School Choice Programs, 1990-2006," *School Choice Issues*, Milton and Rose D. Friedman Foundation, April 2007

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THE HEARTLAND INSTITUTE

19 South LaSalle Street #903
Chicago, IL 60603
phone 312/377-4000 · fax 312/377-5000
<http://www.heartland.org>

Georgia Passes Special-Needs Voucher Bill

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On the last day of its legislative session, April 20, Georgia joined the parade of states that have passed voucher legislation. The measure has been sent to Gov. Sonny Perdue (R) for his signature.

Senate Bill 10 allows parents of disabled children to use the money the state would have spent educating their children in public schools to send them to the public or private school of their choice. The average voucher will be about \$9,000, and an estimated 4,100 students will use them when they become available this autumn.

The Georgia Senate passed the bill in early January. The vote in the state General Assembly--which ultimately passed it 91-84--was a horse race, witnesses said.

"You usually know how the vote's going to go, and we really didn't," said Lori Drummer, state project director for the Alliance for School Choice, a national advocacy group based in Washington, DC. "We thought we could lose by two [votes]. So we are definitely celebrating. This was just a pure victory."

Riding High in April

Jamie Self, vice president of public policy for the Georgia Family Council, agreed. Heading into the final day of the session, she said, advocates knew they had 89 solid votes for the bill, but they would need 91 to reach the required majority.

"It was a little touch and go right up until the very end," Self said. "In the last 30 minutes, we were running around getting people out of bathrooms and their offices, because we knew if even one of them wasn't there, we wouldn't get it. It was a little bit dramatic."

The Milton & Rose D. Friedman Foundation, an advocacy group based in Indianapolis, spent five months taking Georgians' pulse on school choice in conjunction with four other groups. The result was a poll released in the weeks before the vote, showing 59 percent of Georgians favored the special-needs voucher legislation and only 20 percent opposed it.

In addition, 58 percent of Georgians said they favor vouchers in general, while only 22 percent oppose them. Perhaps most importantly, 54 percent said they would be more likely to vote for a candidate who supports school choice than one who does not.

"I know that poll had an effect on a couple of votes in particular," Self said. "There were a couple of people who really wanted to come our way and vote for this, but were afraid for an election back home. It was great to have that data so we could tell them what the numbers were in their area."

Rejected in March

Elsewhere in the South, school choice did not fare as well this spring: A bill that would have combined tax credits and vouchers in South Carolina, the Educational Opportunity Scholarship Act, was defeated in the legislature in late March by seven votes.

School choice advocates said they will continue bringing the bill back for consideration.

“This is a parental loss, not a political loss--but it’s only a temporary setback for those who care about making our students and our state more competitive,” Randy Page, president of South Carolinians for Responsible Government, said in a March 29 news release.

“Regardless of today’s outcome,” Page noted, “the past few days demonstrate that support for school choice is growing, and that more and more House members are showing the courage to stand up to the education establishment.”

Karla Dial (dial@heartland.org) is managing editor of School Reform News.

EDUCATION NOTEBOOK:

Georgia Lawmakers Approve Vouchers for Students with Disabilities

[print this page](#)

By Dan Lips

Parental choice in education may be coming soon to another state. This fall, Georgia public school students with disabilities will be eligible for school vouchers to attend private schools under just-passed state legislation. If Governor Sonny Perdue signs the bill, Georgia will be the thirteenth state to offer private school choice options to parents.

On Friday, the General Assembly voted 91 to 84 to approve Senate Bill 10, the "Georgia Special Needs Scholarship Act," which would provide tuition scholarships to public school students with disabilities. Supporters project that as many as 4,100 children could participate in the program this fall. Each scholarship would be worth about \$9,000, around what the state pays to educate a special-needs student in public school. The State Senate approved the measure by a vote of 35 to 16 in January.

If Governor Perdue signs the legislation, Georgia would follow Florida, Ohio, Utah, and Arizona in offering school choice options to children with disabilities.

The Georgia program is modeled after Florida's McKay Scholarship Program for Children with Disabilities. Launched in 1999 and expanded in 2000, the McKay program gives every disabled student in the state the opportunity to attend the school of their parents' choice. Eligible students can use scholarships to transfer to a new public school or enroll in one of the 751 participating private schools.

Last year, 17,300 students received scholarships through the program, with an average scholarship amount of \$6,927. The program's success is evident in the steady participation gains since it went statewide in 2000, when just 970 children enrolled.

Participating families have good things to say about the McKay program. In 2003, the Manhattan Institute found that more than 90 percent of the parents of participating students were satisfied with their child's school. The survey also found that over 90 percent of parents whose children left the program believe it should remain available to those who wish to use it.

The success of Florida's McKay program has inspired other states to offer targeted scholarships. Since 2003, Ohio has offered tuition scholarships to children with autism. In 2004, Utah created the Carson Smith Scholarship Program for children with disabilities. And last year, Arizona lawmakers enacted a similar scholarship program for children with disabilities. According to the Alliance for School Choice, a dozen states are considering proposals to create scholarships for special-needs students this year.

The Georgia legislature's approval of the Special Needs Scholarship Act was driven by strong popular support. A March 2007 poll of 1,200 likely Georgia voters

conducted by Strategic Vision found that 59 percent favored the plan and only 20 percent opposed it. Overall, 82 percent of respondents believed that parents make better education choices for their children than school officials.

Citizens and voters realize that school choice is a common-sense policy and long overdue. School choice programs have been shown to improve families' satisfaction with their children's education and boost the classroom performance of participating children.

If the legislation is signed, Georgia parents and taxpayer may soon see these benefits for themselves.

All that remains to be seen is whether Gov. Sonny Perdue, a Republican, will sign the bill. Thousands of children and families are watching with anticipation.

[Dan Lips](#) is an Education Analyst at the Heritage Foundation, www.Heritage.org

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214 Massachusetts Ave NE
Washington, DC 20002-4999
phone - 202.546.4400 | fax - 202.546.8328
e-mail - staff@heritage.org

School choice welcome in today's world

By Jim Wooten

The Atlanta Journal-Constitution

Published on: 04/24/07

Watching the final hours of legislative debate, when the Georgia House considers a bill that represents one of the most significant education reforms in ages, the stark contrast between two views of the role of government could not be clearer.

At issue was Senate Bill 10, legislation that would give a handful of Georgia parents of special-needs children a voucher that could be used to buy education services from private schools or from other public school districts. No matter your belief system or your impression of the job public schools are doing, SB 10 is nothing to freak out over.

It's an evolutionary change, glacial really, in the relationship of parents to their government.

The great-grandparents of generations living today desperately needed government to gather up our children and educate them. The masses of farmers and factory workers lived hand-to-mouth and had neither the time, the money nor the education to school their children. They lived in isolation, on farms, in urban tenements and in mountain hollows. They needed schooling decisions made for them.

The problem with politics is the perpetual existence of one reality of representative democracy. That reality is that most elected officials — and editorialists, too, for that matter — are forever making assumptions based on the world as it existed during their childhood or formative years. New information is reinterpreted to fit the worldview we hold.

The consequence is that legislators are most always legislating for yesterday. In the case of education, that means they're completely unmindful of the culture, of lifestyles, of the education marketplace that has evolved. Consequently, they keep trying to reconfigure the model, convinced as they are that if the class size is smaller, or if more money is made available for teacher salaries, or nicer buildings or newer books, the problems that existed a few generations ago would be cured. And they might. If this was then.

Reality is, however, that many children reach school with far more needs and far less appreciation for learning. Their families are often never formed, transient, overly litigious, demanding and altogether unreasonable.

Children, regardless of need or potential, are thrown together, sometime for no other reason than to achieve political correctness. And the teacher monopoly on talented women vanished decades

ago.

We simply cannot configure government schools to serve all abilities and needs in one classroom. We can't give up on efforts to make public schools better just because some parents are perfectly content to abdicate their responsibilities to government.

But because every child has one lifetime shot at the third grade, our elected representatives should give parents a genuine option to leave when they become convinced the child's not being served. Special education parents, as they demonstrated in hour after hour of public discussion of SB 10, are informed and are capable of making responsible choices. Those who care can get the information to help them make those choices. Government collects tons of it. And if parents have the means, they can act on it.

Yet, a large contingent of legislators, close to a majority, is of the mind that parents are incapable of making responsible choices and, therefore, a government agent should. "SB 10 is not the solution for the families of Georgia with special education kids," state Rep. Kathy Ashe (D-Atlanta) argued when the bill got to the House floor. A version of that advice came from a number of other speakers.

SB 10 said that parents who are satisfied with how public schools are educating their special needs child are free to stay. Those who have reason to believe their public school is doing a poor job can take a voucher and shop for services elsewhere. Choice.

Parents of limited means can, for the first time, exercise choice in k-12, just as they do in pre-k and college. How could anybody possibly object?

Lots do. And not just Democrats. Those who believe the role of government is to array us for its convenience and to educate us when, where and how the education establishment sees fit, opposed SB 10. Not only is the status quo the choice they'd make, they insist it's the choice for the rest of us, too.

But for House Speaker Glenn Richardson (R-Hiram), the let-government-decide view would have carried the day. On the House floor, in the last day of the session, SB 10 fell one vote shy. Richardson, to his everlasting credit, cast the deciding vote that will bring choice into law.

Jim Wooten is associate editorial page editor. His column runs Tuesdays, Fridays and Sundays.

jwooten@ajc.com



Georgia's Opinion on School Vouchers

Executive Summary

This scientifically representative poll of 1,200 likely Georgia voters measures public opinion on school vouchers, both in general and specifically for special education students. While naysayers often claim that the public doesn't support school vouchers, this poll finds that Georgians strongly support them. The poll also shows that most Georgians have not accepted the claims used to oppose school vouchers, such as the claims that private schools don't serve disabled students or that parents shouldn't be put in charge of educational decisions for their children. Conducted March 20-22 by Strategic Vision, LLC, the poll has an error margin smaller than plus or minus 3 percentage points.

Key findings include:

- **K-12 education is the top priority of Georgia voters**—33 percent picked K-12 education as the most important issue facing Georgia, more than any other issue by a large margin (the next most common response was jobs and economic growth, at 21 percent).
- **Georgians strongly support school vouchers, both in general and in the context of special education.** When asked about a bill currently being debated by the Georgia legislature that would provide school vouchers to special education students, 59 percent said they favored this policy, while only 20 percent were unfavorable. Questions about vouchers in general produced very similar results: 58 percent of Georgians favor school vouchers, while just 22 percent were unfavorable.
- **Georgia voters are more likely to vote for a state representative or senator who supports school vouchers.** Four times as many voters said they would be more likely to vote for a legislator who supports vouchers (54 percent) as said they would be less likely (13 percent).
- **Georgians believe that school choice improves K-12 education.** A majority of Georgians (53 percent versus 29 percent) agree that school vouchers improve K-12 education by allowing parents the freedom to choose the best education for their child. In addition, when asked what appeals to them the most about school choice and vouchers, 38 percent cited parents choosing the best school for their children and 21 percent cited better education and curriculum.
- **Georgians reject the claim that private schools don't serve disabled students and they are strong supporters of private education**—54 percent said private schools do a better job of educating special needs students than public schools, while only 8 percent said they do a worse job. In addition, if it were up to Georgians a strong majority would choose private and home schools for their children - 59 percent would select a private school or homeschool environment versus 27 percent who would choose a public school environment.
- **Georgians overwhelmingly believe that parents, not school administrators, are best prepared to make educational choices for children.** A resounding 82 percent of Georgia voters think that parents are better able to make educational choices for their children than school administrators; only 12 percent say school administrators know better than parents.

- **School vouchers are favored in all areas of the state.** The strongest support for school vouchers can be found in Gwinnett, Cobb, Douglas, Forsyth, Cherokee, Glynn and Muscogee Counties. A resounding 70 percent of Middle Georgia supported school vouchers, as did 57 percent of those in the Atlanta area, 54 percent of those in North Georgia and 53 percent of those in South Georgia.
- **Vouchers for special needs students are favored by all racial groups.** The strongest support for special needs vouchers is seen among whites (66 percent favor), Asians (60% percent favor) and Hispanics (59 percent favor). African-Americans in Georgia also support vouchers for special needs students (46 percent favor to 37% oppose).
- **A majority of all racial groups support the idea that school vouchers should be available to all children regardless of income.** Support for this concept is highest among whites (73 percent), but the concept finds strong support among Asians (61 percent), Hispanics (59 percent) and African-Americans (51 percent).
- **A significant majority of all regions believe that private schools do a better job at meeting the challenges of students with special needs.** Fully 57 percent of those in Atlanta and South Georgia believe that private schools do a better job at meeting the needs of students with disabilities. Those in middle Georgia and North Georgia also believe that private schools do a better job, 55 percent and 47 percent respectively. Fewer than 1 in 10 people anywhere in the state think that private schools do a worse job of educating special needs students.

Methodology

This survey provides a statistically valid representation of the views of likely Georgia voters on school vouchers, both in general and specifically for special education students. A total of 1,200 completed interviews were obtained. This provides statistical significance more than sufficient for decision-making purposes. The statistical margin of error at the conventional 95 percent confidence level is smaller than plus or minus 3 percentage points.

For this survey, the research firm Strategic Vision, LLC conducted phone interviews of a random sample of registered Georgia voters from its call center. Interviews were conducted from March 20 to March 22, 2007.

Respondents were asked whether they had voted in the 2006 election and were planning to vote in the next election. Respondents who satisfied both these criteria were classified as “likely voters” and were included in the survey. Respondents who either did not vote in 2006 or were not likely to vote in the next election were not included.



Milton & Rose D. Friedman Foundation
One American Square, Suite 2420
Indianapolis, IN 46282
Phone: 317-681-0745 • Fax: 317-681-0945
www.friedmanfoundation.org

Georgia Family Council
5550 Triangle Parkway, Suite 160
Norcross, GA 30092
Phone: 770-242-0001 • Fax: 770-242-0501
www.georgiafamily.org

Catholic Archdiocese of Atlanta
680 West Peachtree Street, NW
Atlanta, Georgia 30308
Phone: 404-888-7802 • Fax: 404-885-7494
www.archatl.com

Alliance for School Choice
1660 L Street, NW, Suite 1000
Washington, D.C. 20036
Phone: 602-468-0900 • Fax: 602-468-0920
www.allianceforschoolchoice.org

Southeastern Legal Foundation
6100 Lake Forrest Drive, Suite 520
Atlanta, Georgia 30328
Phone: 404-257-9667 • Fax: 404-257-0049
www.southeasternlegal.org

Georgia Senate Bill 10:

The Georgia Special Needs Scholarship Act

Enacted 5/19/07

Senate Bill 10

By: Senators Johnson of the 1st, Rogers of the 21st, Weber of the 40th, Schaefer of the 50th, Hill of the 32nd and others

AS PASSED

AN ACT

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to enact the "Georgia Special Needs Scholarship Act"; to provide for a short title; to define certain terms; to provide for scholarships for public school students with disabilities to attend other public or private schools; to provide for qualifications and criteria for the scholarship program; to establish certain requirements for schools that participate in the scholarship program; to provide for the amount of scholarship and method of payments; to authorize the State Board of Education to promulgate certain rules; to provide for an annual report on the program; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by adding at the end thereof a new article, to be designated as Article 33, to read as follows:

"ARTICLE 33

20-2-2110.

This article shall be known and may be cited as the 'Georgia Special Needs Scholarship Act.'

20-2-2111.

The General Assembly finds that:

- (1) Students with disabilities have special needs that merit educational alternatives which will allow students to learn in an appropriate setting and manner;

- (2) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;
- (3) Children, parents, and families are the primary beneficiaries of the scholarship program authorized in this article and any benefit to private schools, sectarian or otherwise, is purely incidental;
- (4) The scholarship program established in this article is for the valid secular purpose of tailoring a student's education to that student's specific needs and enabling families to make genuine and independent private choices to direct their resources to appropriate schools; and
- (5) Nothing in this article shall be construed as a basis for granting vouchers or tuition tax credits for any other students, with or without disabilities.

20-2-2112.

As used in this article, the term:

- (1) 'Board' means the State Board of Education.
- (2) 'Department' means the Department of Education.
- (3) 'Parent' means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of a child.
- (4) 'Participating school' means a private school that has notified the department of its intention to participate in the program, and that complies with the department's requirements.
- (5) 'Prior school year in attendance' means that the student was enrolled and reported by a public school system or school systems for funding purposes during the preceding October and March full-time equivalent (FTE) program counts in accordance with Code Section 20-2-160.
- (6) 'Private school' means a nonpublic school, sectarian or nonsectarian, which is accredited or in the process of becoming accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519.
- (7) 'Program' means the scholarship program established pursuant to this article.
- (8) 'Resident school system' means the public school system in which the student would be enrolled based on his or her residence.
- (9) 'Scholarship' means a Georgia Special Needs Scholarship awarded pursuant to this article.

(10) 'Scholarship student' means a student who receives a scholarship pursuant to this article.

20-2-2113.

The resident school system shall annually notify prior to the beginning of each school year the parent of a student with a disability by letter, electronic means, or by such other reasonable means in a timely manner of the options available to the parent under this article.

(1) The parent may choose for the student to attend another public school within the resident school system which has available space and which has a program with the services agreed to in the student's existing individualized education program. If the parent chooses this option, then the parent shall be responsible for transportation to such school. The student may attend such public school pursuant to this paragraph until the student completes all grades of the school, graduates, or reaches the age of 21, whichever occurs first, in accordance with federal and state requirements for disabled students;

(2) The parent may choose to enroll the student in and transport the student to a public school outside of the student's resident school system which has available space and which has a program with the services agreed to in the student's existing individualized education program. The public school system may accept the student, and if it does, such system shall report the student for purposes of funding to the department;

(3) The parent may choose for the student to attend one of the state schools for the deaf and blind operated by the State Board of Education, if appropriate for the student's needs. Funding for such students shall be provided in accordance with Code Section 20-2-302; or

(4) The parent may request and receive from the department a scholarship for the student to enroll in and attend a participating private school in accordance with this article.

20-2-2114.

(a) A student shall qualify for a scholarship under this article if:

(1) The student's parent currently resides within Georgia and has been a Georgia resident for at least one year;

(2) The student has one or more of the following disabilities:

(A) Autism;

(B) Deaf/blind;

(C) Deaf/hard of hearing;

- (D) Emotional and behavioral disorder;
 - (E) Intellectual disability;
 - (F) Orthopedic impairment;
 - (G) Other health impairment;
 - (H) Specific learning disability;
 - (I) Speech-language impairment;
 - (J) Traumatic brain injury; or
 - (K) Visual impairment;
- (3) The student has spent the prior school year in attendance at a Georgia public school and shall have had an Individualized Education Program (IEP) written by the school in accordance with federal and state laws and regulations;
- (4) The parent obtains acceptance for admission of the student to a participating school; and
- (5) The parent submits an application for a scholarship to the department no later than the deadline established by the department.
- (b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student, including transportation to and from the participating school.
- (c) For a student who participates in the program whose parents request that the student take the state-wide assessments pursuant to Code Section 20-2-281, the resident school system shall make available to the student locations and times to take all state-wide assessments. Test scores of private school students participating in the state-wide assessments shall not be applied to the system averages of the resident school system for data reported for federal and state requirements.
- (d) Students enrolled in a school operated by the Department of Juvenile Justice are not eligible for the scholarship.
- (e) The scholarship shall remain in force until the student returns to his or her assigned school in the resident public school system, graduates from high school, or reaches the age of 21, whichever occurs first. However, at any time, the student's parent may remove the student from the participating school and place the student in another participating school or public school as provided for in Code Section 20-2-2113.
- (f) Acceptance of a scholarship shall have the same effect as a parental refusal to consent to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq.

- (g) The creation of the program or the granting of a scholarship pursuant to this article shall not be construed to imply that a public school did not provide a free and appropriate public education for a student or constitute a waiver or admission by the state.
- (h) Any scholarship directed to a participating school is so directed wholly as a result of the genuine and independent private choice of the parent.
- (i) The parent of each student participating in the scholarship program shall comply fully with the participating school's rules and policies.
- (j) Any parent who fails to comply with the provisions of this article and department regulations relating to the scholarship shall forfeit the scholarship.

20-2-2115.

- (a) To be eligible to enroll a scholarship student, a participating school shall:
 - (1) Have a physical location in Georgia where the scholarship students attend classes and have direct contact with the school's teachers;
 - (2) Demonstrate fiscal soundness by having been in operation for one school year or by submitting a financial information report for the school that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant. The report must confirm that the school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming school year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. The report shall be limited in scope to those records that are necessary for the department to make a determination on fiscal soundness and to make payments to schools for scholarships;
 - (3) Comply with the antidiscrimination provisions of 42 U.S.C. Section 2000d;
 - (4) Comply with all health and safety laws or codes that apply to private schools;
 - (5) Comply with all provisions of Code Section 20-2-690 and any other state law applicable to private schools;
 - (6) Regularly report to the parent and the department on the student's academic progress, including the results of pre-academic assessments and post-academic assessments given to the student, in accordance with department guidelines; and
 - (7) Employ or contract with teachers who hold a bachelor's degree or higher degree or have at least three years of experience in education or health and annually provide to the parents the relevant credentials of the teachers who will be teaching their students.
- (b) A home school operating under the provisions of Code Section 20-2-690 shall not be eligible to enroll scholarship students.

(c) Residential treatment facilities licensed or approved by the state shall not be eligible to enroll scholarship students.

(d) The creation of the program shall not be construed to expand the regulatory authority of the state, its officers, or any public school system to impose any additional regulation of nonpublic schools beyond those reasonably necessary to enforce the requirements of this article.

(e) A participating school intending to enroll scholarship students shall submit an application to the department by June 30 of the school year preceding the school year in which it intends to enroll scholarship students. The notice shall specify the grade levels and services that the school has available for students with disabilities who are participating in the scholarship program. A school intending to enroll scholarship students in the 2007-2008 school year shall submit an application no later than June 30, 2007.

(f) The board shall approve a participating school's application to enroll scholarship students if the school meets the eligibility requirements of this article and complies with board rules established pursuant to Code Section 20-2-2117. The board shall make available to local school systems and the public a list of participating schools.

20-2-2116.

(a) The maximum scholarship granted a scholarship student pursuant to this article shall be an amount equivalent to the costs of the educational program that would have been provided for the student in the resident school system as calculated under Code Section 20-2-161. This shall not include any federal funds.

(b) The amount of the scholarship shall be the lesser of the amount calculated in subsection (a) or the amount of the participating school's tuition and fees, if applicable. The amount of any assessment fee required by the participating school may be paid from the total amount of the scholarship.

(c) Scholarship students shall be counted in the enrollment of their resident school system; provided, however, that this count shall only be for purposes of determining the amount of the scholarship and the scholarship students shall not be included as enrolled for purposes of state or federal accountability requirements, including, but not limited to, the federal Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110). The funds needed to provide a scholarship shall be subtracted from the allotment payable to the resident school system.

(d) Each local school system shall submit quarterly reports to the department on dates established by the department stating the number of scholarship students in the resident

school system. Following each notification, the department shall transfer from the state allotment to each school system the amount calculated under Code Section 20-2-161 to a separate account for the scholarship program for quarterly disbursement to the parents of scholarship students. When a student enters the program, the department must receive all documentation required for the student's participation, including the participating school's and student's fee schedules at least 30 days before the first quarterly scholarship payment is made for the student. The department may not make any retroactive payments.

(e) Upon proper documentation received by the department, the department shall make quarterly scholarship payments to the parents of scholarship students on dates established by the department during each academic year in which the scholarship is in force. The initial payment shall be made upon evidence of admission to the participating school, and subsequent payments shall be made on evidence of continued enrollment and attendance at the participating school.

(f) Payment to the parents must be made by individual warrant made payable to the student's parent and mailed by the department to the participating school of the parent's choice, and the parent shall restrictively endorse the warrant to the participating school for deposit into the account of such school.

(g) A person, on behalf of a participating school, may not accept a power of attorney from a parent to sign a warrant, and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a participating school, as the parent's attorney in fact.

(h) If the participating school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the department prior to the first quarterly payment of the year in which the scholarship is awarded, up to a maximum of \$1,000.00, and deducted from subsequent scholarship payments. If a student decides not to attend the participating school, the partial reservation payment must be returned to the department by such school. Only one reservation payment per student may be made per year.

20-2-2117.

(a) The board shall adopt rules to administer the program regarding eligibility and participation of participating schools, including, but not limited to, timelines that will maximize student and public and private school participation, the calculation and distribution of scholarships to eligible students and participating schools, and the application and approval procedures for eligible students and participating schools. The

department shall develop and utilize a compliance form for completion by participating schools. The department shall be authorized to require any pertinent information as it deems necessary from participating schools for the purpose of implementing the program. Participating schools shall be required to complete such forms and certify their accuracy.

(b) No liability shall arise on the part of the department or the state or of any local board of education based on the award or use of a scholarship awarded pursuant to this article.

(c) The department may bar a school from participation in the program if the department determines that the school has intentionally and substantially misrepresented information or failed to refund to the state any scholarship overpayments in a timely manner.

20-2-2118.

The Office of Student Achievement, in conjunction with the department, shall provide the General Assembly not later than December 1 of each year with a report regarding the scholarship program for the previous fiscal year. The report shall include, but not be limited to, numbers and demographics of students participating and numbers of participating schools. Such report shall also be posted on the Office of Student Achievement's website."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall apply to the 2007-2008 school year and all school years subsequent thereto.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.

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THE SPECIAL NEEDS SCHOLARSHIP PROGRAM ACT AS PASSED BY THE EDUCATION TASK FORCE

Summary: The Special Needs Scholarship Program provides special needs students with the option to attend the public or non-public school of their choice.

Section 1: (Title) The Special Needs Scholarship Program

Section 2: (Definitions)

- A) “Program” means the Special Needs Scholarship Program.
- B) “Eligible Student” means any elementary or secondary student attending public school in our state with an individual education plan, including but not limited to students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, autistic, or hospitalized or homebound due to illness or disability. ¹
- C) “Parent” includes a guardian, custodian or other person with authority to act on behalf of the child.
- D) “Resident school district” means the public school district in which the student resides.
- E) “Department” means the state Department of Public Instruction. ²
- F) “Participating school” means either a public school outside of the resident school district or any non-public school that provides education to elementary and/or secondary students that has notified the department of their intention to participate in the program and comply with its requirements. ³

Section 3: (Basic Elements Of The Special Needs Scholarship Program)

- A) Any parent of a public school special needs student who is dissatisfied with the student’s progress shall qualify for a scholarship from the state for the child to enroll in and attend a non-public school if:
 - 1) the special needs student has had an individual education plan written in accordance with the rules of the department; and
 - 2) the student has been accepted for admission at a participating school; and
 - 3) the parent has requested a scholarship from the state before the deadline established by the department. ⁴
- B) The department shall inform the resident school district that a special needs student has requested a special needs scholarship. The resident school district shall within three business days provide the department with a copy of the student’s most current individual education plan.
- C) Upon receipt of the special needs student’s request for a scholarship, the department shall review the individual education plan drafted by the student’s public school to determine the amount of the scholarship. The department shall provide the student’s parent with a timely written explanation of their determination for the amount of the scholarship.
- D) The maximum scholarship granted an eligible student shall be an amount equivalent to the cost of the educational program that would have been provided for the student in the resident school district. Although the scholarship amount is a function of a student’s individual education plan, the participating school is not required to abide by the individual education plan. The parent and the participating school will mutually determine the best services and educational plan for the student. ^{5,6}
- E) The amount of the special needs scholarship shall be the lesser of the amount calculated above [in Section 3(C) and (D)] or the amount of the participating school’s estimated costs for serving the student. The costs of any assessment by the participating school of the student’s special needs may be included in the scholarship amount.

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F) Participating students shall be counted in the enrollment of their resident school district. The funds needed to provide a scholarship shall be subtracted from the state school aid payable to the student's resident school district. ⁷

G) The Special Needs Scholarship shall remain in force until the student returns to a public school or graduates from high school or reaches their 21st birthday, whichever comes first.

H) At any time, the student's parent may remove the student from the participating school and place the student in another participating school or in a public school.

Section 4: (Responsibilities of the Resident School District)

A) A resident school district shall annually notify the parents of a special needs student of the special needs scholarship program and offer that student's parent an opportunity to enroll the student in a participating school of their choice.

B) The resident school district shall provide a participating school that has admitted an eligible student with a complete copy of the student's school records while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC 1232g).

C) The resident school district shall provide transportation for an eligible student to and from the participating school under the same conditions as the resident school district is required to provide transportation for other resident students to non-public schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

D) If the parent of an eligible student participating in this program requests that the student take the state-wide assessments, the resident school district shall provide locations and times for the student to take all state-wide assessments if they are not offered at the student's participating school. ⁸

Section 5: (Responsibilities of the Department of Public Instruction)

A) The department shall adopt rules and procedures regarding:

- 1) the eligibility and participation of non-public schools, including timelines that will maximize student and public and non-public school participation;
- 2) the calculation and distribution of scholarships to eligible students and participating schools; and⁹
- 3) the application and approval procedures for eligible students and participating schools.

B) No liability shall arise on the part of the department or the state based on the award or use of a special needs scholarship.

C) The department may bar a school from participation in the program if the department establishes that the participating school has:

- 1) intentionally and substantially misrepresented information required under Section 6; or
- 2) failed to refund to the state any scholarship overpayments in a timely manner.

D) If the department decides to bar a participating school from the program, it shall notify eligible students and their parents of this decision as quickly as possible.

Section 6: (Accountability for Participating Schools)

A) To be eligible to participate in the special needs scholarship program, a non-public school must operate in this state and demonstrate:

- 1) Administrative Accountability. To ensure that students are treated fairly and kept safe, all participating schools shall:
 - a. comply with all health and safety laws or codes that apply to non-public schools; and
 - b. hold a valid occupancy permit if required by their municipality; and
 - c. certify that they will not discriminate in admissions on the basis of race, color, national

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- origin, or religion; and ¹⁰
- d. comply with all state laws that apply to non-public schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a non-public school. ¹¹
- 2) Financial Accountability. To ensure that public funds are spent appropriately, all participating schools shall:
- a. demonstrate their financial accountability by:
1. submitting a financial information report for the school that complies with uniform financial accounting standards established by the department and conducted by a certified public accountant; and ¹²
 2. having the auditor certify the report is free of material misstatements. The auditor's report shall be limited in scope to those records that are necessary for the department to make payments to schools for scholarships.
- b. demonstrate their financial viability by showing they can pay any funds owed the state, if they are to receive \$50,000 or more during the school year, by: ¹³
1. filing with the department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the Special Needs Scholarships expected to be paid during the school year to students admitted to the participating school; or
 2. filing with the department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the Special Needs Scholarships expected to be paid during the school year to students admitted to the participating school.
- 3) Academic Accountability. To ensure that schools provide academic accountability to parents of the students in the program, all participating schools shall regularly report to the parent on the student's progress. ¹⁴
- 4) Participating School Autonomy. A participating school is autonomous and not an agent of the state or federal government therefore:
- a. the department or any other state agency may not in any way regulate the educational program of a participating school that accepts a special needs scholarship; and
 - b. the creation of the special needs scholarship program does not expand the regulatory authority of the state, its officers or any school district to impose any additional regulation of non-public schools beyond those reasonably necessary to enforce the requirements of the program; and
 - c. participating schools shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

Section 7: (Responsibilities of the Scholarship Students and Their Parents)

- A) It shall be the responsibility of a parent to select their child's school, apply for admission, and apply for a special needs scholarship.
- B) Any student participating in the program must comply fully with a participating school's written code of conduct and shall remain in attendance throughout the school year, unless excused by the school for illness or other good cause. However, a parent may transfer an eligible student to another participating school at any time. The scholarship amount shall be prorated between participating schools according to the period of attendance at each school.
- C) A parent's decision for their student to participate in the program constitutes a non-public placement for

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purposes of the Individuals with Disabilities Education Act.

Section 8: (Evaluation of Special Needs Scholarship Program) ¹⁵

- A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.
- B) The study shall assess:
 - 1) the level of participating student's satisfaction with the program;
 - 2) the level of parental satisfaction with the program;
 - 3) the percentage of participating students who were victimized because of their special needs status at their resident school district compared to the percentage so victimized at their participating school;
 - 4) the percentage of participating students who exhibited behavioral problems at their resident school district compared to the percentage exhibiting behavioral problems at their participating school;
 - 5) the class size experienced by participating students at their resident school district and at their participating school; and
 - 6) the fiscal impact to the state and resident school districts of the program.
- C) The researchers who conduct the study shall apply appropriate analytical and behavioral sciences methodologies to ensure public confidence in the study.
- D) The researchers who conduct the study shall provide the legislature with a final copy of the evaluation of the program.
- E) The public and non-public participating schools from which students transfer to participate in the program shall cooperate with the research effort by providing student assessment instrument scores and any other data necessary to complete this study.
- F) The Legislative Service Agency may accept grants to assist in funding this study.
- G) The legislature may require periodic reports from the researchers. The researchers must make their data and methodology available for public review while complying with the requirements of FERPA.

Section 9: (Effective Date) The Special Needs Scholarship Program will be in effect beginning with the fall semester of the next school year.

ENDNOTES FOR SPECIAL NEEDS SCHOLARSHIP PROGRAM

These notes are intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice legislation.

Please note: All of the states that have passed a special needs scholarship program have chosen to name the program after a child with special needs or an advocate for such children.

1. The definition for an eligible student in this model legislation includes all special needs students living in the state and initially enrolled in a public school regardless of their household income. Because the scholarship amount is based upon the cost of the individual education plan developed at the resident public school, the authors chose not to make students presently attending non-public schools eligible for the program. As a result, there may be a savings for the taxpayers when eligibility is so limited because a scholarship covering non-public school costs will often be less than the costs of state and local support provided to special needs students attending a public school. Given the likely savings, legislators could extend scholarships to some special needs students already

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attending non-public schools without increasing state spending. States may also want to consider whether or not to include gifted students in the program.

2. This bill designates the Department of Public Instruction as the agency regulating the Parental Choice Scholarship Program. The intent was to name the existing agency in the state that is responsible for public school finances and non-public school regulation. Alternatively, legislators may choose to create a new small agency to oversee the program if they are concerned about the hostility the program would face from the existing state education department.

3. This model legislation allows special needs students to use a scholarship to attend a public school outside their district as well as a non-public school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child's special needs. Making sure parents can choose either a public or non-public school is not only the right policy but also the best legal strategy. The US Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, non-public secular schools and non-public religious schools. If a state already has some form of public school choice for special needs students, then this legislation should be made compatible with the existing program. In fact, if a state already has a broad array of school choice options available to parents of special needs children, then a state may be able to add an option for just non-public schools without encountering constitutional questions.

4. This model legislation empowers parents solely to determine whether their child's needs are being met by his or her existing public school and whether their child should be transferred to another public or non-public school. The authors believe deeply that this determination should reside with the parents and not the department, the school district or some panel of educators. These government agencies have a financial stake in the decision and will be reluctant to approve the transfer of a special needs student to another public or non-public school. By placing the determination in the hands of the parent, this approach ensures that the person making the decision is the one with the greatest interest in the child's progress, avoids expensive and unproductive legal battles, and forces the resident public schools to meet the needs of these children or lose them to another public or non-public school.

5. This model legislation is silent about whether schools can charge special needs students tuition and fees in excess of the scholarship amount. Allowing this would encourage greater participation by schools where costs exceed the scholarship amount. Some also believe direct payments from parents would encourage stronger ownership and involvement in their children's education. However, legislators may wish to place a cap on the tuition and fees that a poor student might be charged to ensure that all families can afford to participate in the program. Regardless, legislators should make sure that the amount of the scholarship plus the tuition and fees charged to the student do not exceed the school's costs for educating a student. Any payments above cost to a religious non-public school would be considered an impermissible subsidy of religion.

6. This model legislation bases the scholarship amount on the amount that would have been spent on the student under their individual education plan at the resident school district. It is important that the new public or non-public school selected by the parents not be required to follow the individual education plan crafted at the resident public school since that school disappointed the parent. The new school should be free to craft a better plan to meet the student's special needs, even though the scholarship amount will be based upon the old plan.

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7. Optimally, a scholarship should equal the federal, state and local dollars that would have been available for the child at his resident public school. Unfortunately, tapping federal dollars will bring some unwanted federal regulations to choice schools. As a result, few non-public schools would be willing to participate in the program. Similarly, legislators should be aware that using local dollars may violate the state constitution in some places (such as Colorado) and may be politically unviable in other states. Therefore, this legislation draws the funds for scholarships solely from state funds and then subtracts the costs from the state aid paid to the resident school district that has not met the student's needs. This will have the helpful side effect of reducing the financial incentive for resident school districts to over-identify or overspend on special needs students.

8. The model legislation allows a parent to request that their child be given the statewide assessments so that they can mark their child's progress. The legislation does not require testing of special needs students.

9. It is important that the department calculate the scholarship in strict accordance with the definitions in the legislation. If the department cannot be trusted to do this objectively, a more detailed description for determining the size of the scholarship should be written into the law.

10. Private schools are already required to comply with nondiscrimination policies under federal law with respect to race, color, and national origin (42 USC 1981). In addition, if private schools are recipients of federal funds they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability). The value of including a state prohibition based on religion and disability in this legislation is to head off arguments from school choice opponents that the private schools will "cream off" the best students or discriminate against students who don't share their religious faith in admissions. These provisions may or may not be acceptable to some religious schools in a given state. Legislators may also wish to include language banning discrimination in hiring on the basis of race, color, national origin or disability. In doing so, however, legislators should take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.

11. We believe participating schools should be required to meet the same legal requirements as other non-public schools to ensure the safety of their students. Alternatively, schools could be required to conduct criminal background checks on existing and potential employees and then be given the flexibility to exclude from employment any people that might reasonably pose a threat to the safety of students. This alternative language would be valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this alternative language would give these schools clear authority to dismiss or not hire individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This alternative language would give schools the responsibility to do background checks, the power to exclude potential risks from the school, and the liability for their employment decisions.

12. The purpose of the financial information report is to make sure that the department can ascertain the costs of educating a student at the school and to ensure public funds are used appropriately. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for many non-public schools.

13. The model legislation provides for two methods for schools to demonstrate financial viability to ensure

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that public funds are secure. The first method employs a market-based means of demonstrating viability. Non-public companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed the state. They will therefore conduct the checks necessary to protect their financial interest as well as the taxpayers' financial interests. Surety bonds can be expensive (one to three percent of the amount covered) or invasive for some institutions so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the state. This might include things like personal guarantees, reserve accounts or escrow accounts.

14. The model legislation does not require that special needs students take standardized assessments because of the special educational challenges these students face. Instead, the legislation requires the school to regularly report to the parents on the student's progress and it gives the parents the option of having their children take the statewide assessments given to other students.

15. It is crucial that the legislature give this study oversight responsibility to a trusted objective nonpartisan source like a legislative service agency. A longitudinal study can be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some, states, the legislature is not allowed to accept such grants and another trusted agency will have to be selected. It will be tempting for legislators to further define the details of the study but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

Additional Note: It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised, the remaining legislation produces a program that is workable and achieves the original intent of the bill.

Vouchers for Special Education Students: An Evaluation of Florida's McKay Scholarship Program

Jay P. Greene, Ph.D.

Senior Fellow, Manhattan Institute for Policy Research

Greg Forster, Ph.D.

Senior Research Associate, Manhattan Institute for Policy Research

EXECUTIVE SUMMARY

The McKay Scholarship Program for Students with Disabilities makes a school voucher available to any special education student in Florida public schools. This program is the second largest school voucher program in the country, and with approximately 375,000 eligible special education students it is likely to become the largest soon. Currently, 9,202 students use McKay vouchers.

This study is the first empirical evaluation of the McKay program's performance. Based on two telephone surveys—one of parents currently using a McKay voucher and the other of parents who previously used a voucher but no longer do—this study shows that parents are much more satisfied with their experiences in private McKay schools than they were with their experiences in the public schools. This is true both for currently participating parents and for parents who have left the program.

Highlights of this study include:

- 92.7% of current McKay participants are satisfied or very satisfied with their McKay schools; only 32.7% were similarly satisfied with their public schools;
- Those participants also saw class size drop dramatically, from an average of 25.1 students per class in public schools to 12.8 students per class in McKay schools;
- Participating students were victimized far less by other students because of their disabilities in McKay schools. In public schools, 46.8% were bothered often and 24.7% were physically assaulted, while in McKay schools 5.3% were bothered often and 6.0% were assaulted;
- McKay schools also outperformed public schools on our measurement of accountability for services provided. Only 30.2% of current participants say they received all services required under federal law from their public school, while 86.0% report their McKay school has provided all the services they promised to provide;
- Behavior problems have also dropped in McKay schools. 40.3% of current participants said their special education children exhibited behavior problems in the public school, but only 18.8% report such behavior in McKay schools;
- Former McKay participants provide similar responses. 62.3% were satisfied with their McKay school, while only 45.2% were satisfied with their old public school. Their class sizes also dropped from an average of 21.8 students to 12.7 students. Former participants also reported that their McKay schools performed better than their public schools on almost every other measure;
- This superior performance by McKay schools was largely provided for the same or only slightly more money per pupil than is spent in public schools. Even though the McKay program allows participants to choose schools that charge tuition above the amount of the voucher, 71.7% of current participants and 75.8% of former participants report paying either nothing at all or less than \$1,000 per year above the voucher;
- Perhaps the strongest evidence regarding the McKay program's performance is that over 90% of parents who have left the program believe it should continue to be available to those who wish to use it.

The results of these surveys indicate that participants in the McKay program are being significantly better served by McKay schools at no additional cost to the taxpayer and no or little additional cost to their families.

Lessons from Florida School Choice Gives Increased Opportunities to Children with Special Needs

by David F. Salisbury

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In 2000, Florida instituted an innovative school choice program for children with disabilities. During the 2000–01 school year, the McKay Scholarship Program for Students with Disabilities provided scholarships to more than 1,000 students who chose to attend private schools rather than remain in their neighborhood public schools. Currently, more than 8,000 special education students in Florida attend 464 private schools throughout the state.

Critics of school choice often argue that school choice benefits only the best and brightest, leaving behind those children who are most difficult to educate. They also argue that vouchers lead to the establishment of “fly-by-night” schools and drain public schools of revenue. Florida disproves those claims.

Private schools have proven their willingness to accept McKay scholarship students, and the fact that 89 percent of McKay students re-enrolled in their scholarship schools demonstrates that most parents are satisfied with their chosen private school.

Policymakers in other states should look to Florida’s experience to inform their school choice efforts. In addition, Congress should make school choice an integral component of any new legislation reauthorizing the Individuals with Disabilities in Education Act. IDEA encumbers public schools with complex regulations that waste time and resources that could be better spent helping disabled children learn. Eliminating the regulatory burden created by IDEA for states that offer school choice to parents would encourage states to implement innovative reforms.

David Salisbury is director of the Center for Educational Freedom at the Cato Institute.

**More than 8,000
of Florida's
380,000 eligible
students now use
McKay scholar-
ships to attend
private rather
than public
schools.**

Introduction

School choice opponents often argue that choice will benefit only the best and brightest students, leaving behind those who are the most difficult to educate. Sandra Feldman, president of the American Federation of Teachers, has repeatedly warned that private schools will turn away handicapped students or students they perceive to be difficult to educate.¹ Others similarly predict that private schools will siphon off only the best and brightest students while refusing children with personal, behavioral, or educational challenges.²

The evidence suggests that those critics were wrong in their predictions. Even as the critics issued their warnings, more than 100,000 children with disabilities were being served by private schools, paid for by either public or private funds.³ According to the *Directory for Exceptional Children*, there are more than 2,500 private schools and clinics throughout the United States serving special needs children.⁴ Many schools specialize in helping difficult-to-educate children and utilize innovative, scientifically based programs that are more effective at helping children with disabilities than are those used in many public schools.⁵ Florida's McKay Scholarship Program for Students with Disabilities provides additional evidence that private schools will not only accept difficult-to-educate children but will go out of their way to provide effective programs to help children with physical, behavioral, emotional, or learning disabilities.

How the McKay Scholarship Program Works

Through the McKay Scholarship Program, the state of Florida provides a choice of any private or public school to parents of children who are identified as disabled under a variety of categories, including those who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handi-

capped, specific learning disabled, hospitalized or homebound, or autistic.⁶ Before the program's enactment, enrollment decisions for these children were made primarily by school officials—not parents. Parents now have a much greater role in deciding which school, public or private, is best for their child. More than 8,000 of Florida's 380,000 eligible students now use McKay scholarships to attend private rather than public schools.

Any student with a disability who has been in a Florida public school for at least one year qualifies for a McKay scholarship. Students must be identified as having a disability and must have an active individualized educational plan (IEP) as mandated under federal education guidelines. By law, parents must enroll their children in a private school first and then apply for the scholarship. Parents may apply for a scholarship at any time during the school year, but must allow at least 60 days for the first scholarship payment to be made.⁷ The state mails the scholarship checks to the parent at the student's private school, and the parent then endorses the payment to the private school.

The dollar amount of a McKay scholarship depends on the amount of funds being spent on the student in his or her assigned public school or the amount of tuition at the private school, whichever is less. If the cost of the private school is greater than the amount of the scholarship, the family must pay the difference or receive tuition assistance from the private school.⁸ Families must also provide transportation to the private school. To provide educational continuity for the student, the scholarship remains in force until the child returns to a public school or graduates from high school.

Scholarship Recipients

Information compiled by the Florida Department of Education shows that the McKay Scholarship Program serves a diverse mix of students. Fifty percent of recipients this year

were white, 28 percent black, 19 percent Hispanic, and 3 percent were identified as multiracial or “other.” Sixty-nine percent of scholarship recipients this year were boys and 31 percent girls. About half of all recipients were in grades five through eight, and about half (53.3%) had been categorized as learning disabled by the public school that they previously attended. The next largest categories of disability were speech- and language-impaired children, who together account for about 16 percent of McKay scholarship recipients.⁹ These categories are reflective of the general population of students in special education programs in public schools throughout the state.¹⁰

Florida categorizes special education students using a level-of-services matrix to determine the size of each child’s benefit. Historically, around 85 percent of all Florida special education students were categorized as level one or two on the matrix, meaning that those students require minimal levels of intervention due to their disability.¹¹ About 83 percent of McKay scholarship recipients are matrix level one or two, again showing that scholarship students are reflective of the general special education student population.¹²

Tuition rates at private schools vary, but in many cases the amount provided through the McKay scholarship is sufficient to cover full tuition at a participating private school. Because of that, even very low-income families are able to benefit from the McKay program.¹³ One indication that the McKay Scholarship Program is helping low-income families is that 50 percent of students using McKay scholarships in 2002–03 fell within federal income guidelines for the free or reduced lunch program in their public schools. This is a higher representation of low-income families than in the state’s student population generally, where 44 percent of students qualify for free or reduced lunch.¹⁴

Participating Private Schools

Private schools in Florida are relatively free to operate without excessive government

interference. For example, private schools do not have to be licensed or approved by the state, but they are required to make their existence known to the Department of Education and respond to an annual survey designed to make information about them available to the public. Approximately one half of Florida’s private schools are accredited, either by the Florida Council of Independent Schools or by some other accrediting organization.¹⁵ Accreditation, however, is often an expensive and time consuming process, so some schools choose to rely solely on their reputations in the community and record of success as a way to attract patrons.

Currently, 547 of Florida’s 1,646 private schools are registered to participate in the McKay program. Of those schools, 215 are non-religious private schools and 332 are religious schools.¹⁶ To be eligible to participate in the McKay program, private schools must be able to demonstrate financial stability by being in operation for one full school year, or by providing a statement from a certified public accountant confirming that the school is insured and has sufficient capital or credit to operate for the upcoming year. Private schools must also notify the Florida Department of Education of their intent to participate in the McKay program by May 1 of each year.

Many participating private schools have special programs for children with disabilities. Catholic schools, for example, offer an array of programs for disabled children.¹⁷ Other private schools find smaller class sizes and increased individual attention sufficient to help McKay scholarship children, particularly those with mild learning disabilities. Most children in special education have mild rather than severe disabilities and do not require high levels of specialized treatment or therapy. Some private schools focus exclusively on children with particular types of disabilities (see Table 1). In many cases, specialized schools provide expertise and a level of intervention beyond what is available in the public schools or in nonspecializing private schools.¹⁸

Private schools have opened their doors to

Private schools have opened their doors to McKay scholarship students, demonstrating their willingness to help students who, in many cases, were not being well served by their public schools.

Table 1
Private Schools Enrolling McKay Scholarship Students (by type)

Type of School	Number of Schools
Regular	378
Exceptional Child	82
Correspondence	1
Special	3
Total	464

Source: Florida Department of Education, Choice Office. Although 547 Florida private schools have registered for participation in the McKay program, the table includes only those schools that had enrolled McKay scholarship recipients as of January 7, 2003.

McKay scholarship students, demonstrating their willingness to help students who, in many cases, were not being well served in their assigned public schools. The number of private schools participating in the McKay program has increased each year, from only a few in 2000 to 547 currently.¹⁹ In addition, new private schools have emerged in response to increased demand from parents. According to the Florida Department of Education, more than 353 new private schools have registered with the department since May 2000.²⁰ This increased demand for private schools comes not only from McKay scholarship students but also from Florida students who qualify for the other school choice programs such as Opportunity Scholarships, which help children who are assigned to failing public schools.²¹

There has been controversy over a few private schools in the state that accepted McKay scholarships and were later investigated for building code violations or financial mismanagement.²² But we should not forget that public schools in Florida and elsewhere have also been charged with fraud and fiscal mismanagement. One elementary school in Palm Beach County, recently overpaid 45 staff members about \$35,000 by using false time sheets to siphon off money from after-school programs.²³ Recent investigations have revealed a rash of irregularities in public school financial audits around the United

States.²⁴ In Michigan, district officials bilked millions from the East Detroit Public Schools before the misspent funds were discovered.²⁵ Last year, the Washington, D.C., School District paid benefits to teachers who were no longer employed in the district and overpaid other teachers over \$430,000.²⁶

The simple fact that a school is run by the government does not make it immune from fiscal mismanagement. In fact, when fiscal mismanagement occurs in public school districts, it typically involves much larger dollar amounts than are involved in isolated cases of private school mismanagement. Without the McKay program, parents are basically without recourse if their assigned public schools suffer from poor management. With a McKay scholarship, however, parents are in control. If the school their child is in fails to meet their expectations, parents can enroll their child in another school. The fact that a mismanaged private school may lose business or be forced to shut down completely should be viewed as an advantage of the McKay program.

Benefits for Students

Parents are in the best position to know if their children are making academic gains and having a positive educational experience. The

With a McKay scholarship, parents are in control. If the school their child is in fails to meet their expectations, parents can enroll their child in another school.

fact that 89 percent of McKay students re-enrolled in their scholarship school for the 2002–03 school year is evidence that the program is benefiting those students. Florida newspapers are full of testimonials from parents about the positive turnaround of children who are receiving individualized attention in their new schools.²⁷ In many cases, those children were not receiving the same degree of help in their public schools, even though their educational plans prescribed it. Almost three-fourths of the families whose children received McKay scholarships chose to pay some additional tuition cost beyond the amount provided by the scholarship.²⁸ Those parents seemed to feel that the added value of the private school is worth an additional financial sacrifice.

Effect on Public Schools

Cost and Fiscal Impact

During the 2000–01 school year, McKay scholarship amounts ranged from \$2,685 to \$20,140, with the average scholarship amount being \$5,763. The average scholarship last year was \$5,550 with some scholarships as large as \$20,065. The average scholarship amount for the current year is \$6,808. Total expenditures for McKay scholarships during the current year amount to just over

\$54 million (see Table 2).

The McKay Scholarship Program was designed to be revenue neutral. McKay students take to their new schools only those funds that would be spent on their education in the public school. At the same time, public schools experience a decreased enrollment burden proportionate to the loss of students and funds. Of course, public schools have fixed costs that are not reduced by slight declines in student enrollment. For example, the cost of buildings, maintenance, teachers, and administration is not reduced appreciably by the departure of a few students using McKay scholarships. On the other hand, McKay scholarships come out of state funds, which constitute approximately 51 percent of total education revenues. When a student uses a McKay scholarship to attend a private school, the local funds that were being used to educate that student remain in the public schools. Since local funding constitutes approximately 41 percent of total education funding in the state, this should be a sufficient amount of revenue to cover a school's fixed costs.²⁹

In addition to local funds, all federal funds received by the state for special education programs (approximately 9 percent of all special education funding) are retained by the Florida Department of Education. Some of these funds are passed on to local districts

McKay students take to their new schools only those funds that would be spent on their education in the public school.

Table 2
Per Student and Total Expenditures on the McKay Scholarship Program

School Year	Number of Students	Minimum Scholarship Amount	Maximum Scholarship Amount	Median Scholarship Amount	Annual Expenditure for McKay Scholarship Program
2000–01	1,021	\$2,685	\$20,140	\$5,763	\$5,833,636
2001–02	5,017	\$1,700	\$20,065	\$5,550	\$27,842,338
2002–03	8,080	\$135	\$21,326	\$6,808	\$54,464,000

Source: Florida Department of Education, Choice Office. Data current as of December 4, 2002.

School choice programs allow the state to transfer some of its enrollment burden to the private sector, relieving pressure on public school classrooms and budgets.

to be used for special education programs.³⁰ Also, in recognition of the higher operating costs in smaller districts or districts experiencing decreasing enrollment, the state's funding formula includes a "declining enrollment supplement" and a "sparsity supplement" that are designed to augment funding for such districts.³¹

Given that not all revenues appropriated are included in the calculation of the McKay scholarship amount, the fiscal impact of the McKay program on public schools is slightly positive. According to the Florida Department of Education, funding elements not included in the McKay scholarship amount provide revenue of roughly \$560 per student above the average McKay scholarship.³² That is the average amount of additional revenue that stays with the district when a student leaves the public school using a McKay scholarship. Those funds can be used to cover necessary fixed costs or to enhance special and regular education programs for the students who remain in public schools.

Effect on Class Size

Florida voters recently passed a class size reduction initiative that placed a cap on class sizes in Florida public schools. With construction costs to build new public school classrooms running between \$15,000 and \$35,000 per seat, the initiative is expected to cost as much as \$27 billion in capital expenditures alone.³³ The state legislature will thus be forced to find ways to relieve the enrollment burden on public schools. Florida Senate President Jim King has acknowledged that lawmakers will consider expanding tuition vouchers to help meet class size reduction goals.³⁴ Every time a student uses a McKay scholarship to attend a private school, class size is reduced in the public school. School choice programs allow the state to transfer some of its enrollment burden to the private sector, relieving pressure on public school classrooms and budgets.

Participation in the McKay Scholarship Program has more than doubled each year and is expected to grow at a similar rate for at least

the next few years.³⁵ As the McKay program expands, the fiscal impact on public schools should continue to be positive. Moving more student enrollment to the private sector will allow local school districts to focus their resources on fewer students, reducing class size, or enhancing educational programs.

Increased Parental Involvement

Greater parental involvement is another benefit of competition between public and private schools. Knowing that parents have other options motivates public school leaders to publicize their schools' achievements and provide quality programs for children so that their parents will want to continue to enroll their children there. Parents of children with disabilities are motivated to become more informed about their public schools as well as about private options that are available.

In Florida, new websites and other information sources have emerged to provide parents with evaluative information about public and private schools. One example is GreatSchools.net, a nonprofit organization that provides in-depth school profiles of both public and private schools on its website. Each state's section has a list of school districts and various "tools" for parents, including links to compare schools, "match school needs" in three steps, and a "my school list." Parents can sign up to receive two newsletters, "Great News" and "My School Stats," a customized school report. Greatschools.net encourages school principals to add information to their schools' profiles. This increased availability of comparative information about schools, both public and private, creates a healthy educational atmosphere for schools and allows parents to become more aware of the options available to them.³⁶

Criticisms of the McKay Program

Criticism of Florida's school choice policies has arisen primarily from the state's two

largest teachers' unions, the Florida PTA, and the ACLU.³⁷ Presumably because McKay scholarships specifically benefit handicapped children, the unions have been less vocal in their opposition to the McKay program. Last year, the unions, along with other groups, filed suit to stop families from using Florida Opportunity Scholarships (another school choice program), but no group has filed suit to prevent parents of children with disabilities from using McKay scholarships.³⁸

Florida newspapers have closely scrutinized participating private schools, some of which are new at offering services to special education students. Observers should be less hasty in their criticism, however, given that public schools have a mediocre record of success when it comes to helping students in special education, particularly those students with learning disabilities. A number of national studies show that children with learning disabilities who are placed in public school special education programs make only small annual academic gains.³⁹ One study reported that 80 percent of poor readers in special education classes made no measurable gain during the school year. For this reason, the bulk of students placed in special education programs remain there perpetually, never catching up to their higher achieving peers.⁴⁰ These low achievement gains persist even though proven methods exist for effective remediation in reading.⁴¹ Public school leaders themselves admit that special education students are not coming close to reaching their academic potential.⁴² If there is any segment of K-12 education where parents most need additional options, that segment is special education. Parents raising a child with a disability deserve the freedom to choose from all the options available.

What about "Accountability"?

One of the major claims made by critics of the McKay Scholarship Program is that private schools are unaccountable to the public, even though they admit students who receive state-funded scholarships. By "unaccountable," critics mean that the private

schools are not required to report results to any government agency. Reporting to a government agency, however, is only one kind of accountability. Another, vastly superior, method is direct accountability to consumers. Because McKay scholarship parents are free to withdraw their children at any time and take their scholarship funds to another school, private schools must meet the expectation of parents or risk losing customers and damaging their reputation in the community. That is a higher standard of accountability than public schools have had to meet in the past. Making public and private schools directly accountable to parents is the most effective way to ensure a high level of quality for special education.

Parents have better information and better incentives to make optimal decisions about their child's education than do local or state education officials. Parents know more about their children's abilities and needs than does the typical professional, who must make judgments about each child after only a brief diagnosis. Parents may lack the expertise of special educators, but they have an incentive to seek out the very best information and advice. Only parents are willing to spend weeks, months, and years researching educational alternatives for a single child. Accordingly, reforms based on parental judgment and choice should result in better educational outcomes for disabled children.

What about "Inclusion"?

One of the trends in special education has been that of "inclusion." This means providing instruction to children with disabilities in regular classrooms in the presence of their nondisabled peers whenever possible. Inclusion appears to be the prevailing practice in private schools as well. Only a small percent of McKay scholarship students are in specialized schools (see Table 1). The vast majority of them are in regular private school classrooms. Presumably, parents who place their children in private schools feel that the environment provided by the school is appropriate for their children.

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Imposing uniform standards or admission policies on private schools would create an institutional rigidity that would undermine the positive contribution those schools make.

Is More Regulation of Private Schools Necessary?

Some critics have called for increased regulation of private schools, although evidence suggests that would be counterproductive. One of the reasons that the McKay program is so successful is precisely because there is little or no government interference, and schools are free to experiment with new and innovative methods and approaches. A recent U.S. Department of Education report, prepared at the request of Congress, indicates that private and religious schools are unlikely to participate in any school choice program that would require them to give up their curriculum, religious environment, and ability to accept students based on their unique specialization.⁴³ Because private schools have unique values and missions, imposing uniform standards or admission policies on those schools would create an institutional rigidity that would undermine the positive contribution that private schools make to the education enterprise. Also, private schools must do a good job if they are to survive in the marketplace.

Parents' Rights and IDEA

Under the federal statute known as the Individuals with Disabilities in Education Act, parents of children with disabilities are entitled to a "free appropriate public education."⁴⁴ That means that the public school must provide educational services for every child no matter what the cost. The question has been asked whether parents who receive a McKay scholarship can force a private school to provide particular special education services to their child. In other words, do McKay parents give up their right to a "free and appropriate public education" by choosing to withdraw their child from public school?

The U.S. Department of Education's Office of Civil Rights has decided that parents do give up those rights. In an explanatory letter dated March 30, 2001, the agency determined that despite the use of tax dol-

lars, parents who opt to send their child to a private school under the voucher program were just like any private school parents.⁴⁵ "That means that there is no guarantee that the student will receive any special education and related services while enrolled in the private school under the voucher program," Pinellas School Board attorney John Bowen wrote in a letter notifying his colleagues of the OCR decision.⁴⁶

Students who elect to attend a private school using a McKay scholarship are considered to be in the same category as other parentally placed private school students. The rights of parents who choose to enroll their child in a private school are different from those of parents of public school students with disabilities. Individualized Educational Plans are not required for parentally placed students and students do not have a legally enforceable right to a particular level of education services from the private school. Since choice is involved, parents who choose a private school for their disabled child presumably feel that the services provided by the school are equal to or better than what was provided for the child in public school. Also, McKay scholarship students can return to the public school at any time or can choose to attend another private school.

The McKay Program and Federal Special Education Policy

Recognizing that special education fails to meet the needs of many children with disabilities, the Florida legislature has taken a positive step toward fixing the problem. Giving school choice to children with disabilities not only provides those children with additional educational options but also has therapeutic benefits for the education system overall. Because of federal law, however, the state is still saddled with many of the most serious flaws of special education policy. Florida parents must still wend their way through the IEP meetings and due process

procedures mandated under IDEA before becoming eligible for a McKay scholarship. It would be much better if parents received the option of a McKay scholarship immediately following a positive diagnosis of a disability. The amount of the scholarship would be based on the diagnosis category or on the matrix level of services, but the student would not have to receive an IEP or have been in the public school for one full year.

Also, Florida's public schools are still burdened with IDEA's procedures and paperwork. Recent congressional investigations into special education have been dominated by complaints about bloated government regulations, mountains of paperwork, and bureaucratic imperatives that waste time and misuse scarce resources. Those resources could be better spent helping disabled children learn.⁴⁷ It is estimated that U.S. schools spend more than \$4 billion nationally on IEP meetings, procedural monitoring, due process, mediation, and record keeping. Some large school districts spend as much as \$28 million annually on activities related to IDEA compliance.⁴⁸ Some special education teachers spend 50 to 60 percent of their time filling out forms required by IDEA.⁴⁹ Funds that are currently being used to pay for those activities could be better spent if devoted to the education of children with disabilities.

The best solution to these problems would be for Congress to amend IDEA to allow states with parental choice options to opt out of federal IDEA requirements. Last year, the President's Commission on Special Education recommended flexibility for states to adopt school choice for students with disabilities, and congressional leaders in both the House and the Senate have indicated that they favor the idea of school choice programs for students in special education.⁵⁰ With Congress set to draft legislation reauthorizing IDEA this year, it is likely that the new federal law will include more liberal provisions for school choice.

Even without changes in federal law, Florida (and other states contemplating school choice programs for children with disabilities) could consider turning down federal

funds associated with IDEA. Historically, Congress has provided less than 15 percent of funding for special education, and only states that choose to accept IDEA funds are required to comply with its procedural requirements.⁵¹

If Florida and other states were to compare the amount of federal funding they receive with the costs of procedural compliance, they would likely find that turning down federal funds will produce savings rather than additional costs. Free of federal mandates for IEP and due process procedures, states would be able to assign a scholarship amount to children based on their disability category as soon as it is determined that a child has a disability. Parents would still be able to consult with special education teachers, specialists, medical doctors, and other experts to determine the best educational approach for their child, but they would no longer be required to navigate the complicated maze of IDEA requirements, IEP meetings, and due process procedures before becoming eligible for a McKay scholarship. At the same time, school districts and special education teachers would be free to create more effective methods for educating children with disabilities and to devise more efficient procedures for program administration and paperwork. These changes would be healthy for students as well as for public schools.

An environment of healthy competition between private and public schools is the most effective way to release the creative potential of talented special education teachers and administrators, in both private and public schools. Yet those improvements will only be realized if the public schools can be released from the bureaucratic stranglehold of federal IDEA requirements.

The Future of Special Ed

With almost 13 percent of U.S. students in special education programs, special education and the policies surrounding it affect a large number of children all across America.⁵² The federal program under which special accommodations are made to children with disabili-

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The growing number of scholarship applicants and the fact that 89 percent of McKay students reenrolled in their scholarship schools indicate a high level of parental satisfaction.

ties has been highly criticized by a presidential commission, by multiple experts, and by Democratic and Republican members of Congress. Almost all observers and advocates of special education admit that the program is critically flawed.⁵³ In view of the benefits that can be provided to children with disabilities through increased options and choice, reform advocates and policymakers are increasingly looking to school choice as a solution to these problems. A presidential commission, members of Congress, and an increasing number of advocacy groups are calling for increased parental choice in special education.⁵⁴

Many other countries already make full use of private schools to address the needs of children with disabilities, and, in countries that allow choice between private and public schools, students with disabilities are among the primary beneficiaries.⁵⁵ There is every indication that the McKay Scholarship Program is setting a trend for what will be the future of special education in the United States. The President's Commission on Excellence in Special Education recommended that states allow more choices for students with disabilities, including the option of attending private schools.⁵⁶ In 2003, several more states, including Connecticut, Pennsylvania, South Carolina, Colorado, and Arkansas will likely consider implementing school choice scholarships for students with disabilities.⁵⁷

Conclusion

Florida's McKay Scholarship Program provides concrete evidence of the willingness of private schools to participate with public schools in the task of educating students with disabilities. The number of private schools accepting McKay students continues to increase. In addition, new private schools have come into operation to serve students who are now able to enroll with a McKay scholarship. Participating private schools serve a diverse mix of special education students in terms of ethnic and economic background, age, and

nature of disability. The growing number of scholarship applicants and the fact that 89 percent of McKay students reenrolled in their scholarship schools for the 2002–03 school year indicate a high level of parental satisfaction with the program.

Participation in the McKay Scholarship Program should continue to grow. As it does, the fiscal impact to the state will continue to be positive. Allowing more students to choose private schools reduces the cost of public education for taxpayers. Offering students a McKay scholarship to attend a private school helps reduce class size in the public schools. The McKay program and other school choice programs allow the state to transfer some of its enrollment burden to private schools, relieving pressure on public school classrooms and budgets.

In spite of the positive benefits of the McKay program, the program is not as effective as it could be. Because of federal requirements, children with disabilities must still spend a year in their assigned public school before becoming eligible for a scholarship. Also, parents must navigate complex procedural requirements under the IDEA before a scholarship amount can be determined and the scholarship awarded.

One approach to alleviating those problems would be for Congress to allow states to use parental choice to replace negotiation as the method to determine a child's educational plan. Free of IEP and other federal requirements, parents could receive a scholarship for their child once a diagnosis of disability has been determined. Not only would this facilitate the awarding of scholarships to children with disabilities, it would also relieve public schools from IDEA's procedures and paperwork, much of which is wasteful and unnecessary. Special education teachers would be free of the burden of state and federal paperwork and could instead focus their talents on helping children with disabilities.

Florida's McKay Scholarship Program for Students with Disabilities shows that school choice provides tangible benefits to students with disabilities. Florida policymakers should

support the program's expansion. Members of Congress should deregulate IDEA to allow more school choice for children in special education programs, and legislatures around the United States should consider ways to extend school choice to students in their states, including students with disabilities.

Notes

1. See, for example, Sandra Feldman, "Where We Stand: Vouchers and Accountability," American Federation of Teachers, Washington, July 2002, www.aft.org/stand/previous/2002/0702.html.

2. See, for example, Kweisi Mfume, president and CEO of the NAACP, www.rethinkingschools.org/special_reports/voucher_report/vquotes.shtml; and Howard Fuller and Kaleem Caire, "Lies and Distortions: The Campaign against School Vouchers," Institute for the Transformation of Learning, Marquette University, Milwaukee, April 2001, www.schoolchoiceinfo.org/hot_topics/pdf/10.pdf.

3. Public school districts have historically placed children with disabilities in private facilities. During the 1998-99 school year, school districts placed approximately 100,600 students in private schools. See U.S. Department of Education, "Twenty-Third Annual Report to Congress on the Implementation of the Individuals with Disabilities in Education Act," Washington, 2001, p. A-80; and Janet R. Beales and Thomas F. Bertonneau, "Do Private Schools Serve Difficult-to-Educate Children?" Mackinac Center for Public Policy, Midland, Michigan, 1997.

4. *The Directory for Exceptional Children*, 14th ed. (Boston: Porter Sargent, 2001-02), www.portersargent.com.

5. See Marie Gryphon and David Salisbury, "Escaping IDEA: Freeing Parents, Teachers, and Students through Deregulation and Choice," Cato Institute Policy Analysis no. 444, Washington, July 10, 2002, p. 12 and Appendix.

6. 2001 Florida Statutes, Title XVI, chapter 229.00577, www.miedresearchoffice.org/mckaystatute.htm.

7. See "The ABC's of Obtaining a McKay Scholarship," <http://floridachild.org/mckayform.html>.

8. A formula is used to determine the scholarship amount. See Florida Department of Education, "Use of the Exceptional Student Education Matrix of Services," Appendix B: ESE Guaranteed

Allocation Funding for Scholarships, Charter Schools, and DJJ Facilities, Division of Planning, Budgeting, and Management Memorandum #0204, Tallahassee, Florida, January 2002, www.firn.edu/doe/commhome/pub-home.htm.

9. Data provided by Kendra Lee, Florida Department of Education, Choice Office, Tallahassee, December 4, 2002.

10. The demographics of the overall population of special education students are as follows: 53 percent white, 29 percent black, 16 percent Hispanic, 2 percent "other." See Florida Department of Education, "2002 SEA Profile," Bureau of Instructional Support and Community Service, Division of Public Schools and Community Education, Tallahassee, p. 6.

11. See Florida Department of Education, "Use of the Exceptional Student Education Matrix of Services," Appendix B: ESE Guaranteed Allocation Funding for Scholarships, Charter Schools, and DJJ Facilities, Division of Planning, Budgeting, and Management Memorandum #0204, Tallahassee, January 2002), p. 4, www.firn.edu/doe/commhome/pub-home.htm.

12. Data provided by Kendra Lee, Florida Department of Education, Choice Office, Tallahassee, Florida, December 4, 2002.

13. According to the Choice Office at the Florida Department of Education, 1,858 (out of 8,080) families receiving McKay scholarships currently pay tuition amounts less than the amount of state funding. About 850 families paid nothing above the scholarship amount in 2001-02. See Manhattan Institute for Policy Research, "Florida Facts, McKay Scholarship Program for Students with Disabilities," www.miedresearchoffice.org/mckayscholarship.htm#_Paying_above_scholarship. Increasing the scholarship amount would put more private schools in the reach of families.

14. Florida Department of Education, "McKay Scholarship Program Data as of November 19, 2002," Florida Department of Education, Tallahassee, 2002, p. 1. See also Florida Department of Education, "2002 SEA Profile," Division of Public Schools and Community Education, Bureau of Instructional Support and Community Services, Tallahassee, p. 6.

15. The Florida Council of Independent Schools accredits approximately 156 private schools in that state. Other accrediting bodies include the Association of Independent Schools of Florida, Florida Association of Independent Special Education Facilities, National Independent Private Schools Association, Southern Association of

Christian Schools, National Association for the Education of Young Children, American Montessori Society, and Florida Kindergarten Council.

16. Manhattan Institute for Policy Research, "Florida Facts, McKay Scholarship Program for Students with Disabilities," www.miedresearchoffice.org/mckayscholarship.htm#_Paying_above_scholarship. According to Kendra Lee of the Florida Choice Office, 464 of the 547 approved private schools had enrolled McKay students as of January 7, 2003, personal communication, January 7, 2003.

17. Resources available for children with disabilities in Catholic schools are described in a booklet entitled "Special Needs Resource Directory: Embracing Students with Special Needs in Our Catholic Schools and Parish Religious Education Programs," U.S. Conference of Catholic Bishops, Department of Education, Division of Catholic Schools and Public Policy, September 2001.

18. Representative of Florida private schools that specialize in serving children with disabilities are the Woodland Hall Academy operated by the Dyslexia Research Institute in Tallahassee, the Pepin Academy Charter School in Tampa, and the Jericho School for Children with Autism in Jacksonville. The Depaul School for Dylexia in Clearwater enrolls 22 McKay students and provides full-time academic remediation for students in elementary and middle grades. Other specialized schools are listed in the Non-Public School Directory available from the Florida Department of Education, http://info.doe.state.fl.us/non_public_schools.

19. Manhattan Institute for Policy Research, "Florida Facts, McKay Scholarship Program for Students with Disabilities," www.miedresearchoffice.org/mckayscholarship.htm#_Schools_taking_scholarships.

20. Brenda Parks, nonpublic schools specialist, Choice Office, Florida Department of Education, Tallahassee.

21. Some observers claim that the poor quality of Florida public schools overall has increased the demand for private schools. See Stephen Hegarty, "Florida Voucher Program Surges," *St. Petersburg Times*, September 6, 2001; and Lisa Fine, "Florida's 'Other' Voucher Program Taking Off," *Education Week*, August 8, 2001. According to Patricia Hardman, director of the Dyslexia Research Institute in Tallahassee, Florida, private school administrators point to dissatisfaction with the local public schools as a major motivation for parents to enroll a child in a private school. Personal communication, January 19,

2003.

22. See Stephen Hegarty, "Voucher Complaints Chase Pair," *St. Petersburg Times*, April 7, 2002; Anita Kumar and Stephen Hegarty, "Questions Swirl Around Private School," *St. Petersburg Times*, November 2, 2002; and "Tossing McKay Dollars," editorial, *St. Petersburg Times*, November 13, 2002.

23. "Enemies from Within," editorial, *Palm Beach Post*, December 7, 2002.

24. See "Financial Scandals Exposed in Michigan School Districts," *Michigan Education Report*, Fall 2002, p. 1. Also see Carl Campanile, "Klein's Principal Purge," *New York Post*, December 12, 2002.

25. See Chastity Pratt, "Detroit School Items Pile Up," *Detroit Free Press*, July 31, 2002.

26. Justin Blum, "District Schools Misspent \$5 Million," *Washington Post*, December 20, 2002, p. A31.

27. For example, see the case of Meghan Neidhart in Lisa Fina, "Florida's 'Other' Voucher Program Taking Off," *Education Week*, August 8, 2001. The case of Angela Daugherty is mentioned in Alan Richard, "Florida Sees Surge in Use of Vouchers," *Education Week*, September 4, 2002. Also see Laurie Turner, "Disabled Voucher Program," editorial, *St. Petersburg Times*, March 30, 2002, and the case studies featured on the Florida Department of Education's website, www.firn.edu/doe/choice/pce.html.

28. See Manhattan Institute for Policy Research, "Florida Facts, McKay Scholarship Program for Students with Disabilities," www.miedresearchoffice.org/mckayscholarship.htm#_Paying_above_scholarship.

29. According to the Florida Department of Education, state funds constituted 50.97 percent of total education revenues in 1999-2000. Local funding constituted 40.78 percent of total revenues and federal funding constituted 8.28 percent of total revenues. See Florida Department of Education, "Profiles of Florida School Districts: 1999-00 Financial Data Statistical Report," Tallahassee, November 2001. For a description of funding sources used for McKay scholarships, see 2001 Florida Statutes, Title XVI, chapter 229.00577, www.miedresearchoffice.org/mckaystatute.htm.

30. Shan Goff, testimony before the President's Commission on Excellence in Special Education, Coral Gables, Florida, April 9, 2002, www.ed.gov/inits/commissionsboards/whspecialeducation/meeting_april-09-2002/transcript_4-9-02_fl.doc.

31. See Florida Department of Education, "Profiles of Florida School Districts: 1999-00 Financial Data Statistical Report," Tallahassee,, November 2001, p. 15.
32. Patricia Levesque, Florida Department of Education, and Mark Armstrong, Senate Appropriations Committee, correspondence with author on McKay Scholarship Program fiscal impact, January 21, 2003. The exact amount of per student revenues varies by district.
33. John Kirtley, "Lots of Rewards in School Choice," *Tampa Tribune*, October 22, 2002. Also see Mary Ellen Klas and S.V. Date, "Education Trumped Party Bias, Experts Say," *Palm Beach Post*, November 7, 2002.
34. Mary Ellen Klas and Jim Ash, "Class-size Jam Splits Fla. GOP Leadership," *Palm Beach Post*, November 19, 2002. Governor Jeb Bush has also proposed increased use of vouchers as a way to address the class size reduction mandate. See Mike Salinero, "Class-Size Plan Has Vouchers, Charters," *Tampa Tribune*, January 24, 2003.
35. Florida Choice Office director J.C. Bowman, telephone conversation with author, January 22, 2003.
36. FloridaChild provides another useful information resource at www.floridachild.org. FloridaChild is a private organization that provides information to parents on public and private schools, charter schools, homeschooling, scholarships, and special education.
37. The National Education Association's position on vouchers can be found at www.nea.org/issues/vouchers/index.html. Position statements by the American Federation of Teachers can be found at www.aft.org/issues/index.html. The National PTA has a position statement opposing vouchers, www.pta.org/programs/posvouchers.htm. The position statement of the ACLU on vouchers and school choice can be found at www.aclu.org/ReligiousLiberty/ReligiousLiberty.cfm?ID=10778&c=140.
38. For information on the lawsuit involving Florida Opportunity Scholarships, see "FEA v. State Board of Education (Florida)," www.ij.org/cases/index.html.
39. Hanushek estimates that the average educational improvement for children with learning disabilities is 0.04 standard deviations in reading and 0.14 in math. See E. A. Hanushek et al., "Does Special Education Raise Academic Achievement for Students with Disabilities?" National Bureau of Economic Research, working paper no. 6690, Washington, 1998. A later study by E. A. Hanushek, John Kain, and Steve Rivkin showed gains of 0.1 standard deviations in math for one year of special education. See E. A. Hanushek, John Kain, and Steve Rivkin, "Inferring Program Effects for Specialized Populations: Does Special Education Raise Achievement for Students with Disabilities?" University of Rochester, Rochester, New York, August 2001.
40. See J. K. Klinger et al., "Outcomes for Students with and without Learning Disabilities in Inclusive Classrooms," *Learning Disabilities Research & Practice* 13 (1997): 153-61. See also N. Zigmond and J. M. Baker, "Concluding Comments: Current and Future Practices in Inclusive Schooling," *Journal of Special Education* 29 (1995): 245-50.
41. One such program, known as "embedded phonics," has a demonstrated record of improving reading skills in children who had made little or no progress in the preceding 16 months of special education. After an eight-week intervention using this approach, 40 percent of children are able to return to regular classes (compared to the normal rate of 5 percent for leaving special education.) See G. Reid Lyon et al., "Rethinking Learning Disabilities," in *Rethinking Special Education for a New Century*, ed. C.E. Finn et al. (Washington: Thomas B. Fordham Foundation and Progressive Policy Institute, 2001), pp. 259-87. See also S. W. Moody et al, "Reading Instruction in the Resource Room: Set Up for Failure," *Exceptional Children* 16 (2000): 305-16; S. R. Vaughn et al, "Broken Promises: Reading Instruction in the Resource Room," *Exceptional Children* 64 (1998): 211-15; and R. L. Allington and A. McGill-Franzen, "School Response to Reading Failure: Instruction for Chapter One and Special Education Students Grades Two, Four, and Eight," *Elementary School Journal* 89 (1998) 529-42.
42. For example, see Kalman Hettleman, "Still Getting It Wrong: The Continuing Failure of Special Education in the Baltimore City Public Schools," Abell Foundation, Baltimore, 2000; and Andrew P. Dunn, "What's Wrong with Special Education?" *Education Week*, May 17, 2000, pp. 36, 39. See also Mark Kelman and Gillian Lester, *Jumping the Queue: An Inquiry into the Legal Treatment of Students with Learning Disabilities* (Cambridge, Massachusetts: Harvard University Press, 1997). See also Robert Worth, "The Scandal of Special Ed," *Washington Monthly*, June 1999.
43. Lina Muraskin, "Barriers, Benefits, and Costs of Using Private Schools to Alleviate Overcrowding in Public Schools," U.S. Department of Education, Planning and Evaluation Services, Washington, 1998.
44. Individuals with Disabilities in Education Act,

U.S.C. 20, sec 1414(a).

45. Susan Bowers, U.S. Department of Education, Letter on Florida's McKay Scholarship Program, March 30, 2001, www.edlaw.net/service/fla_voucher.html.

46. John Bowen, memo to school board members on opportunity scholarships for students with disabilities, April 24, 2001, available from Pinellas County Schools, School Board Attorney's Office, 301 4th Street, S.W. Largo, Florida.

47. See "A New Era: Revitalizing Special Education for Children and Their Families," Report of the President's Commission on Excellence in Special Education, U.S. Department of Education, Washington, July 1, 2002, www.ed.gov/inits/commissionsboards/whspecialeducation/reports.html. See also Rick Keller, Testimony before the Education Reform Subcommittee of the House Committee on Education and the Workforce, Hearing on Special Education Paperwork Burden and Accountability System, 107th Cong., 2d sess., May 2, 2002.

48. American Institutes for Research, "What Are We Spending on Special Education Services in the United States, 1999-2000?" Advance report 1, Special Education Expenditure Project, Washington: American Institutes for Research, March 2002. See also Kalman Hettleman, "Still Getting It Wrong: The Continuing Failure of Special Education in the Baltimore City Public Schools," Abell Foundation, Baltimore, 2002, p. 20; and Andrew Mollison, "Congress Rethinks Special Education; Hearings Begin on Improving Law," *Atlanta Journal and Constitution*, March 2002.

49. Robert Worth, "The Scandal of Special Ed," *Washington Monthly*, June 1999.

50. Lisa Fine, "Election Results Boost Special Ed. Vouchers," *Education Week*, December 4, 2002.

51. Thomas A. Mayes and Perry A. Zirkel, "State Educational Agencies and Special Education: Obligations and Liabilities," *Boston University Public Interest Law Journal* 10 (2000): 63.

52. Approximately 6.5 million K-12 students are enrolled in special education programs. See American Institutes for Research, "What Are We Spending on Special Education Services in the United States, 1999-2000?" p. 7. See also Don Soifer, "Almost 1 in 8 Students Labeled 'Disabled.'" *School Reform News*, April 2002.

53. A review of IDEA's problems is provided in Gryphon and Salisbury.

54. See "A New Era: Revitalizing Special Education for Children and Their Families," p. 38. See also Lisa Fine, "Election Results Boost Special Ed. Vouchers," *Education Week*, December 4, 2002; and Lewis M. Andrews, "The Need for—and Feasibility of—a Voucher Program for Learning Disabled Children in Connecticut," www.yankeeinstitute.org/papers/voucher.php.

55. See Lewis M. Andrews, "More Choices for Disabled Kids: Lessons from Abroad," *Policy Review*, April/May, 2002. See also Robert Holland, "Vouchers Helping the Learning Disabled," *Washington Times*, June 5, 2002.

56. See "A New Era: Revitalizing Special Education for Children and Their Families," p. 38.

57. For information on potential legislative developments in Connecticut, see www.yankeeinstitute.org/papers/voucher.php. For information about Pennsylvania, contact the Commonwealth Foundation, www.commonwealthfoundation.org/SouthCarolinaGovernor-electMarkSanford made school choice a prominent part of his election campaign including proposals for scholarships for students with special needs, see www.sanfordforgovernor.com/issues.asp?action=detail&id=1665&name=Issues. Information about Colorado was obtained through a personal conversation with Colorado Senate President John Andrews on December 2, 2002. For information on Arkansas, see "Bill Would Offer School Vouchers to Disabled Children," Associated Press, January 2, 2003. According to Robert Metty at the Florida Department of Education, Washington, Utah, and Minnesota have also expressed interest in McKay type legislation. Personal communication with author, January 13, 2003.

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