

Independent Schools
and
School Choice
Legislation
in the United States

Association of Waldorf Schools of North America (AWSNA)

AWSNA is an association of independent Waldorf Schools and Waldorf teacher education institutes in North America representing over 250 organizations. Its mission is to promote the growth and development of Waldorf education, support and strengthen member schools, and inform the public about the benefits of Waldorf education. AWSNA initiates and maintains relationships with groups seeking the revitalization of education for all children. It is a member of the National Association of Independent Schools (NAIS) and the Council for American Private Education (CAPE).

Waldorf education arose from a social movement promoting cultural renewal and world peace by fostering the principles of individual freedom, democracy, and social responsibility. Its founders, Emil Molt and Rudolf Steiner, intended Waldorf education to be a major force in the worldwide development of independent education that is accessible to families of all financial and cultural backgrounds. For more information about AWSNA visit www.whywaldorfworks.org.

Institute for Social Renewal (ISR)

The Institute for Social Renewal seeks to foster a healthy society founded on three distinct, interdependent areas of social life: a political life that protects human rights and the environment; an economy based on social responsibility; and an educational and cultural life centered in human freedom.

To accomplish this, the ISR works principally in the areas of education renewal and economics education from the perspective of Rudolf Steiner's social ideas. ISR conducts research and teaches individuals and institutions about innovative ways to (1) finance a diverse and accountable educational system, (2) establish ethical and socially responsible business initiatives and associations, and (3) administer and govern not-for-profit organizations effectively. For more information about the Institute for Social Renewal visit www.socialrenewal.com.

Comments on the Perspectives in this Document

We welcome thoughtful comments on the ideas presented in this document. These can be directed to Patrice Maynard, Leader for Outreach and Development, Association of Waldorf Schools of North America: pmaynard@awsna.org or 518-672-7878.

Additional copies

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Waldorf Perspectives
2009 EDITION

*Independent Schools
and
School Choice Legislation
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*The Association of Waldorf Schools of North America
The Institute for Social Renewal*

July 2009

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BACKGROUND

PURPOSES OF THIS WALDORF PERSPECTIVES DOCUMENT

The debate about educational or school choice in the United States is quickly moving from whether or not educational choice should be a significant part of the education landscape to what types of school choices parents will have.

School choice legislation could inaugurate a new era of educational freedom and parental choice in education in harmony with the ideals of politically free and independent schools if all types of schooling are included in school choice. Alternatively, such legislation could restrict school choice to options confined to or controlled by the government schooling bureaucracy. Such school choice legislation would then be an instrument to create an oppressive uniform national educational system controlled by the state and federal governments, which in turn are heavily influenced by major corporate interests. Unfortunately, the latter is an all too real possibility.

The purposes of this document are to:

- provide supporters of Waldorf and other independent schools with basic information on recently enacted educational choice legislation in the United States and help them to consider what such legislation may mean for the future of independent education;
- stimulate vital dialogue within the Waldorf school movement and, just as importantly, between members of the Waldorf school movement and other private schools about school choice;
- provide facts and resource information for independent school supporters who want to become politically active in the school choice movement.

DISCLAIMER

The perspectives and information presented here should not be construed as supporting or derived from any liberal or conservative political platform or corporate agenda. Articles for this document were selected based on their individual merit. The guiding principle underlying this study and analysis is that a free and democratic society requires a diverse educational system in which all parents regardless of financial background have the freedom to choose the type of schooling they think is most suitable for their children.

Neither does this document represent an official AWSNA or ISR position statement or endorsement of any specific legislation by either organization. Rather, the facts and perspectives are offered by AWSNA and ISR as thoughts for an open dialogue among school choice supporters.

ACKNOWLEDGEMENTS

This document draws upon the research and information made publicly available by a number of organizations involved in the promotion of school choice, including the Alliance for School Choice, the Milton and Rose Friedman Foundation, and the Cato Institute. Information on these and other organizations can be found in the Resources section of this document.

Financial support for this study was provided by the Association of Waldorf Schools of North America through a grant from the Waldorf Educational Foundation.

The Social Mission of Waldorf Education: Independent Education Accessible to All

THE FOUNDERS' MISSION AND VISION:
EMIL MOLT: INDUSTRIALIST, FINANCIER

As a major shareholder and managing director of the Waldorf Astoria Cigarette Factory in 1919, Emil Molt asked Rudolf Steiner to help him establish an independent school for the factory workers' children. Together they founded the original Waldorf School in Stuttgart, Germany. For about 20 years the tuition for approximately 200 factory worker children was covered by the business and Molt personally. During this time, up to 800 other students attended school. Their parents paid tuition according to their financial capabilities.

RUDOLF STEINER: EDUCATOR, SOCIOLOGIST, SPIRITUAL SCIENTIST

Rudolf Steiner was a leading European sociologist following World War I, whose book, *Towards Social Renewal*, published in 1917, was considered "the most original contribution in a generation" to sociological literature by a New York Times reviewer. The ideas therein were a response to the question: What can we do to create a lasting peace in the world? He described society in terms of three vitally important independent sectors or spheres of human activity: a spiritual-cultural life based on individual freedom, a political life based on democracy and equality, and an economic life based on entrepreneurship, balanced by social responsibility. This arrangement is often called the threefold social organism or the threefold nature of social life.

Steiner maintained that a thriving independent educational system that was accessible to families of all financial backgrounds was essential to develop those cultural and community values needed to permeate the political and economic sectors. According to Steiner, the ability of government schools to foster the development of these values in each new generation of students has run its course. To ensure the development of these values, education must be independent and free from the dictates of corporations and political interest groups that want to perpetuate their own social agenda.

Executive Summary

Waldorf Education arose out of a social movement that embraces the principles of educational and cultural freedom. The school choice movement provides an opportunity in the 21st century for educational freedom to advance to an unprecedented degree in the United States. There are, however, many cultural, political, and economic challenges to overcome for this to be the case. This document provides current information on the status of the school choice movement in the various states and provides a Waldorf perspective on the guiding principles and effective strategies for realizing real choice in education. It is hoped that in doing so it will give supporters of private education and school choice important information and ideas that will help advance this imperative and noble cause.

EDUCATIONAL FREEDOM, FUNDING, AND RIGHTS

Gary Lamb provides a Waldorf perspective on real competition in education. Lamb focuses on every child's right to an education. This right should mean first and foremost that all families have the financial resources to provide their children with a decent education. In turn, the financial ability of a school to exist should depend on its ability to win the appreciation of parents and children rather than on party politics. Certain freedoms need to complement the right of a child to an education. Educational freedom means freedom of choice for parents, the freedom of teachers to teach out of experience and insight, and the freedom of schools to establish their own goals, standards, and assessments.

WHAT IS PUBLIC EDUCATION?

Three of the authors – Christopher Hammons, Ph.D., Gary Lamb, and Adam B. Schaeffer – challenge the modern characterization of “public education” that limits its meaning to a single type of school: government schools. They all express the need to expand the meaning of public education to educating the public in a broad sense that includes all types of schooling: government, religious, independent, and home schools. They maintain that all are engaged in educating the public and should be recognized for doing so. This is consistent with our educational heritage in the United States and with the fundamental principles of educational freedom and every child's right to decent education.

VOUCHER AND TAX CREDIT PROGRAMS PROGRESS IN 2008

The main difference between voucher and tax credit programs, which financially assist private school families, is that voucher programs rely on government funding, and tax credit programs normally do not. Consequently, tax credit programs are traditionally more resistant to legal challenges and burdensome regulations.

There were five noteworthy advances in school choice in 2008. Perhaps the most significant was the passage of a \$50 million scholarship tax credit program in Georgia. The new law allows corporations and individuals to receive tax credits for donations to organizations that grant scholarships to children who attend private schools. Two new programs were enacted in Louisiana after the devastation of Hurricane Katrina. A \$10 million program now provides low-income K-3 students in New Orleans with scholarships to attend private schools. (A troublesome feature of this voucher program is the mandatory testing that scholarship students will need to take.) In addition, private school families can take a 50% personal tax deduction for educational expenses, including tuition, of up to \$5,000 per child. Florida increased its corporate scholarship tax credit program by \$30 million from \$88 million to \$118 million. And Pennsylvania increased the tax credit limit for businesses participating in its Educational Improvement Tax Credit Program that make donations to scholarship granting organizations from \$200,000 to \$300,000. In the Pre-K tax credit

program, the tax credit limit for businesses was increased from \$100,000 to \$150,000. And provisions were made for more small and medium-sized businesses to fully participate in the programs.

STATE REGULATION OF PRIVATE SCHOOLS

An extensive survey by Christopher Hammons of the Milton Friedman Foundation shows that private schools are subject to a wide range of laws and regulations. Each state was evaluated in a number of areas such as accreditation, licensing, curriculum standards, reporting requirements, and health and safety regulations and given a letter grade based on a numerical score. Florida, which is the least regulated state, received the highest grade of A and North Dakota, the most regulated state, received the lowest failing grade of F. According to the evaluation, nearly half of the states place inappropriate restrictions on private schools. The report concludes that contrary to the opinion that private schools are unregulated and lack accountability, state governments "exercise significant power over private schools." A major concern for independent schools with any school choice legislation is whether the legislation will undermine the freedom of independent schools. The recently enacted voucher program (2008), Student Scholarships for Educational Excellence Program, in Louisiana is a case in point. It provides scholarships to low-income students in grades K-3 located in New Orleans to attend a public or private school of their choice. Participating private schools must submit to numerous regulations including administering nationally normed standardized tests to the voucher students. They also must administer all the tests the students would be required to take in their public schools, including the state graduation exam. In addition, voucher redeeming schools are required to admit all applying voucher students for whom space allows.

ASSESSMENT AND TESTING

In the article "Assessment Without High-Stakes Testing," five American and European Waldorf educators challenge the anticipated benefits of norm-referenced high stakes testing of children. They point out that this method of assessment is specifically geared to economic interests and the need for workers in a competitive global economy. While economic life is one part of human existence, there is much more to life. They make the case that education is a cultural activity and as such has its own intrinsic purpose, just as economic or political life does. The authors characterize this purpose as assisting the unfolding of human capacities latent in each child rather than instilling something from outside. This fact in itself demands something far beyond narrowly focused standardized testing. Other important factors to take into consideration when developing appropriate assessments are that children learn in different ways at different ages whether they are in the kindergarten, lower school, or high school. And within each of those time periods each child learns at a different rate. The authors offer a variety of alternative assessments that are appropriate for the kindergarten, lower school, and high school years.

FEATURED MODEL LEGISLATION

The Public Education Tax Credit Act developed by Adam Schaeffer, a researcher at the Cato Institute, is an innovative and brilliantly conceived model of school choice legislation. In drafting this model legislation, Schaeffer expands the term public education to include all education providers – government, religious, and secular. The Act combines the best aspects of previously implemented personal expense and donation tax credits programs while at the same time improving on them. For instance, it is applicable for all education expenses and provides tax credits not only against state income taxes, but property and sales taxes as well. The Act is crafted so that financial resources go to those families who

need them the most, and it supports all types of schooling options for parents beyond the local public school, including private schools, out of district public schools, and home schooling. It is perhaps the best example to date of how to develop an efficient and effective broad-based funding system for educating children that does not rely on government financing.

Because this education tax credit program and others like it do not rely on government funds, it is less likely to incur legal challenges and intrusive regulations than a government-funded voucher program would be.

OPINION POLLS

The 2007 and 2008 national public opinion polls conducted by "Education Next," a publication of the Hoover Institution at Stanford University, and the Program on Education Policy and Grievance (PEPG) at Harvard University show continued public support for school choice. But each type of school choice legislation elicits different responses from people. Vouchers continue to be the most controversial and inspire the most debate while public charter schools appear to be the most politically palatable. Even so, the survey shows that there is considerable confusion and uncertainty regarding charter schools. Education tax credits continue to elicit high levels of support.

The Friedman Foundation is conducting a series of state surveys, and in the past two years it has done polling in 11 states. One of the questions that voters are asked is: "If it were your decision and you could select any type of school, what type of school would you select?" The respondents were given five choices: regular public school, charter school, private school, homeschooling, and virtual school. The responses are a stunning contrast to the current enrollment figures, which show that of the 56 million public and private school children about 89% attend public schools (about 1.4 million are in public charter schools) and approximately 6 million children or 11% attend private schools. In addition, about 1.5 million are being homeschooled. The voters in 11 states being polled responded accordingly as to what their preferred schooling option would be:

Regular public school:	14.5%
Public charter school:	23%
Private school:	43%
Home school:	16%
Virtual school:	3.5%

These polls indicate that the landscape of American education for approximately 57.5 million children would be quite different from what it is now if parental choice in education were a reality. The regular public school would be reduced to playing a minor role with private education taking the leadership position in a much more diverse educational system. The research results also suggest that the opposition by politicians and interest groups to supporting private school families because most children attend public schools is rendered meaningless, if not exposed as being disingenuous. Most of those children would not be in public schools if parents could choose the school they think is best for their children.

GROWING BIPARTISAN SUPPORT

A growing number of Democrats are supporting school choice legislation. The majority of recent victories were only possible because Democrats and Republicans were working together. Three-quarters of the school choice victories in 2006 and 2007 were won in states where Democrats either controlled the governorship, legislature, or both. The continued growth of school choice indicates that both Republicans and Democrats are responding to the merit and need of school choice for all families. Increasingly, individuals in both parties are responding to the real educational issues at hand rather than to habitual party politics.

Educational Freedom, Funding, and Rights: A Waldorf Perspective

By Gary Lamb

The Waldorf school movement was born out of a European peace initiative following World War I called the movement for social threefolding. It advocated for a balanced society based on equality in a democratic rights life, individual freedom in cultural life, and entrepreneurial initiative allied with social responsibility in economic life.

In keeping with these three ideals, the following educational principles are viewed as the foundation of a free, prosperous, and just society.

PUBLIC EDUCATION, MORE THAN GOVERNMENT SCHOOLS

A well-educated public is essential for a democratic society. Educating the public, “public education,” is an activity that should not be restricted to a specific type of school or education system. Government, independent, religious, and home schooling need to be viewed as valid approaches to educating the public.

THE RIGHT OF EVERY CHILD TO A DECENT EDUCATION

The right to an education needs to be recognized as an equal opportunity for all children in the United States to receive a decent education. Compelling families to send their children to schools that are unsafe or clearly unable to meet the educational needs of their children is a denial and abrogation of such a right.

Regarding education, a society’s primary legal obligation is to its children and their rights, not to a particular school or educational system. Society’s obligation to uphold all children’s right to an education means first and foremost that all parents of school-age children should have the financial resources to provide their children with a decent education—otherwise, that right is meaningless.

FREEDOM OF CHOICE AND A FINANCIALLY LEVEL PLAYING FIELD FOR ALL TYPES OF SCHOOLING

All families should have sufficient financial resources and the freedom to choose from a variety of local schooling options for their children, whether government, independent, religious, or home schools. The financial ability of a school to operate should depend ultimately on its ability to win the confidence and appreciation of parents and students rather than on the governments determining which schools or types of schools should receive funding and then compelling families to send their children to them. In other words, parents as their children’s representatives should have the ultimate say concerning which schools should exist, not legislative bodies or political interests groups.

INDEPENDENT WALDORF SCHOOLS WELCOME THE OPPORTUNITY TO EDUCATE CHILDREN FROM ALL ECONOMIC BACKGROUNDS

Independent schools have been unfairly limited in their ability to educate low- and middle-income students because of outdated state funding systems that discriminate against private school families and children. Independent Waldorf schools welcome the opportunity to have greater diversity in their schools and to serve a much broader public.

AN EQUITABLE AND EFFICIENT FUNDING SYSTEM FOR EDUCATION

A funding system that is equitable does not place a disproportionate burden on those who have the least ability to pay. The ideal funding system is one that collects and distributes funds efficiently in a transparent manner and does not burden schools with undue regulations. Funding programs based on education tax credits are an efficient and cost effective means to enable families of all economic backgrounds to select the type of education they think is most appropriate for their children. Since they encourage private sector funding rather than the use of tax money to uphold a child's educational rights, they are less prone to onerous government regulations.

THE FREEDOM TO TEACH OUT OF PERSONAL KNOWLEDGE AND CLASSROOM EXPERIENCE

The world is changing; social conditions are changing; human consciousness is evolving. Consequently, education needs to be an evolving art and science. Each child is unique, and each new generation has new capacities, interests, and challenges. Teachers need to have the opportunity and freedom to innovate and respond to the needs of each child and to the changing conditions of the world based on their direct insight. Each upcoming generation needs the opportunity to develop the insights and capacities to improve and, if necessary, to transform the existing economic and political systems, not simply to fit into them.

FREEDOM FOR INDEPENDENT SCHOOLS TO SET THEIR OWN EDUCATIONAL GOALS, STANDARDS, AND ASSESSMENTS

Independence and freedom in education are meaningless if all schools are compelled to adhere to the same values, goals, standards, and assessments dictated by a centralized government authority. Independent schools should have the freedom to establish their own goals, standards, and assessments, and to create their own accrediting associations.

INDEPENDENT SCHOOLS WILL BE ACCOUNTABLE TO THE FAMILIES THEY SERVE, THE ACCREDITING BODIES THEY CHOOSE, AND THE STATES WHERE THEY ARE LOCATED

In a free and just society, independent schools will have the option to create, choose, and be held accountable to independent school accrediting organizations. In the spirit of full disclosure they will inform their school families about their educational goals, curriculum standards, and assessment methods. It is appropriate that independent schools abide by pertinent state laws and regulations regarding safety, contractual commitments, discrimination, hate-based factions, fraud protection, and employment policies.

REAL COMPETITION IN EDUCATION, A KEY TO SUCCESS

In summation, real competition in education based on the foregoing ideas is the most efficient way to give parents of all financial and cultural backgrounds the opportunity to become actively involved in their children's education, for the most valued educational approaches and schools to succeed, and for all children to have the best education possible.

How Voucher and Tax Credit Programs Work

VOUCHER PROGRAMS

Education vouchers are a method of public funding that empowers parents by allowing public money to follow their children to the private school of their choice.

Types of K-12 Voucher Programs:

– *Means-Tested Voucher Programs* enable low-income families who meet specific income criteria, typically around 185 percent of the federal poverty guideline, to direct funds set aside for education by the government to pay for all or part of tuition at the private school of their choice.

Existing Programs:

Cleveland Scholarship and Tutoring Program (means -preferred)
Louisiana Student Scholarships for Educational Excellence Program
Milwaukee Parental Choice Program
Washington, D.C., Opportunity Scholarship Program

– *Failing Schools, Failing Students Voucher Programs* enable parents whose children are doing poorly in school or whose children attend failing public schools to use government funds set aside for education to send their children to a private school.

Existing Programs:

Ohio's Educational Choice Scholarship Program
Louisiana Student Scholarships for Educational Excellence Program

– *Special Education Voucher Programs* enable parents of children identified as having special educational needs to use public funds set aside by the government to send their children to the private school of their choice.

Existing Programs:

Arizona's Scholarship for Students with Disabilities Program
Florida's McKay Scholarship Program for Students with Disabilities
Georgia's Special Needs Scholarship Program
Ohio's Autism Scholarship Program
Utah's Carson Smith Special Needs Scholarship Program

– *Foster Child Voucher Programs* provide foster children, who are often forced to change schools many times over the course of their K-12 education, with the opportunity to receive public funds to attend the private school of their guardians' choice.

Existing Programs:

Arizona's Displaced Pupils Choice Grant Program

– *G.I. Junior Voucher Programs* provide children in military families, who often live on bases or in areas with high concentrations of failing schools, with the opportunity to receive public funds and attend the private school of their parents' choice. (No G.I. Junior Voucher Programs are currently in operation.)

Sources:
School Choice
Yearbook 2008-2009
(Washington, D.C.,
The Alliance for
School Choice, 2009)
with additions from
The ABCs of School
Choice: 2007-2008
(Indianapolis, The
Friedman Foundation,
2008).

– *Town Tuitioning Programs* help children who live in towns that do not operate public schools at their grade levels. In a few cases the town picks the schools to which its students will be tuitioned, but usually the choice of school is left to parents.

Existing Programs:

Maine and Vermont

– *Universal Voucher Programs* enable all parents, regardless of their income, where they live, or any other criteria, to direct all or part of the government funds set aside for education to send their children to the private school of their choice. In effect, this type of program serves to separate the government financing of education from the government operation of schools. It can be means-tested, so that poorer families receive a larger voucher. (No universal programs are currently in operation.)

SCHOLARSHIP TAX CREDIT PROGRAMS

Scholarship tax credit programs provide individuals and/or corporations with tax credits for contributions to charitable scholarship organizations that grant children scholarships to attend a private school of their parents' choice.

- Rather than being operated by the government, these scholarship programs are operated by nonprofit, tax-exempt scholarship granting organizations, which use the contributions to provide scholarships that enable children to attend private school.
- Typically, laws require that eligible families meet certain income criteria.
- Scholarship granting organizations use their own criteria for distributing scholarship monies to eligible students.
- States monitor these organizations to ensure financial accountability.
- Depending on the state, these organizations are referred to as Scholarship Organizations (SOs), Scholarship Tuition Organizations (STOs), Scholarship Granting Organizations (SGOs), or Scholarship Funding Organizations (SFOs).

Why create a scholarship tax credit program?

- Tax credit scholarships do not originate from any state appropriations but from private charitable donations made under the provisions of the tax code. Accordingly, they are not funded by public agencies. [Consequently, they are less subject to legal challenges and regulatory burdens.]
- In each state that has adopted these scholarship programs, both existing charitable groups and newly formed charitable groups have registered as scholarship granting organizations to provide scholarships to help students. Some infrastructure is already present in most states, so these programs have a short startup period and can quickly benefit needy students.

Existing Programs:

Arizona (Individual and Corporate)

Florida (Corporate)

Georgia (Individual and Corporate)

Pennsylvania (Corporate)

Rhode Island (Corporate)

PERSONAL TAX CREDITS AND DEDUCTIONS

Parents are given a tax credit or tax deduction from state income taxes for approved educational expenses. This usually includes private school tuition as well as books, supplies, computers, tutors, and transportation. Even when tuition is not eligible for the credit or deduction, these programs still make school choice easier for parents because they relieve the burden of non-tuition expenses at private schools. Some programs restrict the income level of eligible recipients or the amount they can claim.

Existing Programs:

Illinois (deduction)

Iowa (credit)

Louisiana (credit)

Minnesota (deduction and credit)

PUBLIC EDUCATION TAX CREDITS

This legislation creates an education tax credit for direct payment of educational expenses and for contributions to organizations that provide educational scholarships to eligible students in order to allow all parents to choose the best education for their children. Currently no public education tax credits programs are available. (See the article on public education tax credits in this issue.)

AT A GLANCE: PRIVATE EDUCATION VOUCHER PROGRAMS, 2008-2009

STATE	PROGRAM NAME	YEAR ENACTED	NUMBER OF SCHOLARSHIPS	AVERAGE SCHOLARSHIP AMOUNT	NUMBER OF PARTICIPATING PRIVATE SCHOOLS	SCHOLARSHIP \$ CAP AND/OR ENROLLMENT CAP	ANNUAL TAX CREDIT CAP OR VOUCHER PROGRAM APPROPRIATION
AZ	Arizona Scholarship for Pupils with Disabilities	2006	211	\$9,308	54*	None	\$2.5 million
AZ	Displaced Pupils Choice Grant Program	2006	228	\$3,929*	107	\$5,000; 500 students	\$2.5 million
DC	D.C. Opportunity Scholarship Program	2004	1,716	\$6,300	52	\$7,500	\$12.7 million
FL	McKay Scholarship for Students with Disabilities Program	1999	19,571	\$7,295*	873	None	\$131.3 million (spent in 2007-08)
GA	Georgia Special Needs Scholarship Program	2007	1,596	\$6,331	139	None	\$5.9 million
LA	Student Scholarships for Educational Excellence Program	2008	640	\$3,919	35	\$7,138	\$10 million
ME	Town Tuition	1873	6,052 (2004-05)	NA	NA	\$7,567 (2004)	NA
OH	Cleveland Scholarship and Tutoring Program	1995	5,752	\$2,894*	43	\$3,250	\$18 million
OH	Autism Scholarship Program	2003	1,005	\$15,500*	200	\$20,000	\$15.6 million (spent in 2007-08)
OH	Educational Choice Scholarship Program	2005	9,654	\$3,564*	312	\$4,500 (K-8) \$5,300 (9-12) 14,000 students	\$25.5 million (spent in 2007-08)
UT	Carson Smith Special Needs Scholarship	2005	500	\$4,692	45	\$3,865.60 (under 3 hrs of service) \$6,442.50 (3+ hrs of service)	\$3.5 million
VT	Town Tuition	1869	2267 (2006-07)	NA	NA	\$10,394 (2007-08)	NA
WI	Milwaukee Parental Choice Program	1990	19,538	NA	127	\$6,607; 22,500 students	\$128.8 million (state spending estimate)

Note: NA means no statistics are available.
*refers to 2007-2008 school year

AT A GLANCE: PRIVATE EDUCATION TAX CREDIT AND DEDUCTION PROGRAMS, 2008-2009

SCHOLARSHIP TAX CREDIT PROGRAMS

STATE	PROGRAM NAME	YEAR ENACTED	NUMBER OF SCHOLARSHIPS	AVERAGE SCHOLARSHIP AMOUNT	NUMBER OF PARTICIPATING PRIVATE SCHOOLS	SCHOLARSHIP \$ CAP AND/OR ENROLLMENT CAP	ANNUAL TAX CREDIT CAP OR VOUCHER PROGRAM APPROPRIATION
AZ	Individual School Tuition Organization Tax Credit	1997	27,153*	\$1,788*	359*	None	No Cap; 54.3 million donated in 2007
AZ	Corporate School Tuition Organization Tax Credit	2006	1,947*	\$2,374*	156*	\$4,400 (k-8) \$5,700 (9-12)	\$14.4 million
FL	Corporate Tax Credit Scholarship Program	2001	22,272	\$3,417*	966	\$3,950	\$118 million
GA	Georgia Scholarship Tax Credit Program	2008	NA	NA	NA	None	\$50 million
IA	Individual School Tuition Organization Tax Credit	2006	8,737	\$856	156	None	\$7.5 million
PA	Educational Improvement Tax Credit	2001	43,764*	\$1,022*	NA	None	\$44.7 million for private schools \$75 million overall
RI	Rhode Island Corporate Scholarship Tax Credit	2006	291	\$5,879	25	None	\$1 million

*refers to 2007-2008 school year

PERSONAL EXPENSE TAX CREDIT AND DEDUCTION PROGRAMS

STATE	TYPE OF PROGRAM	YEAR ENACTED	CAP	NUMBERS FAMILIES	ANNUAL REVENUE
IL	Tax Credit	1999	25% expense credit up to \$500 per family	194,923 (2003)	\$67.1 million
IA	Tax Credit	1987	25% expense credit up to \$250	171,600 (2004)	\$14.3 million (2004)
LA	Tax Deduction	2008	50% expense deduction up to \$5,000 per child	NA	NA
MN	Tax Credit	1997	75% expense credit, not including tuition, up to \$1000 per child	58,000 (2004)	\$15.5 million
MN	Tax Deduction	1955	100% expense deduction, including tuition, up to \$2,500 per child	222,000 (2005)	\$15.8 million (2005)

Sources: Alliance for School Choice, *School Choice Yearbook 2008-09* (Washington, DC, 2009) and The Friedman Foundation, *The ABCs of School Choice 2007-2008* with 2009/10 insert (Indianapolis, 2008).

Note: NA means no statistics are available.

New and Expanded School Choice Programs in 2008

GEORGIA'S \$50 MILLION SCHOLARSHIP TAX CREDIT PROGRAM

This new law allows corporations to receive a 100 percent tax credit for donations up to 75 percent of their total state tax liability to organizations that grant scholarships to children who want to attend private schools. Individuals can also donate up to \$1,000 per person (or \$2,500 per married couple) to these organizations and receive a 100 percent tax credit for their contributions. Student scholarship organizations must spend at least 90 percent of donations on scholarships.

It is estimated that if the full \$50 million allocated for the tax credit program is utilized, more than 10,000 children could benefit from the law.

LOUISIANA'S \$10 MILLION STUDENT SCHOLARSHIPS FOR EDUCATIONAL EXCELLENCE PROGRAM

Low-income students in grades K-3 located in New Orleans are eligible for vouchers to attend the public or private school of their choice. Additional grade levels will be added to the program in future years. Only private schools that were already in existence for three years when the voucher program was created can participate.

The voucher is equal to 90 percent of the total state and local (but not federal) funding per student in the student's home school district, or the "actual cost" of educating the student in the private school, including operating and debt service costs, whichever is lower. Special education students get an additional amount added to their voucher equal to the federal (but not state and local) special education funding in their home districts.

Students are eligible if: (a) their family incomes are no more than 250 percent of the poverty level; (b) they are eligible for the free and reduced lunch program; (c) they either were enrolled in a public school designated as failing the previous year, or are entering kindergarten; (d) they are entering a grade covered by the program (K-3 in 2008-09, with one additional grade level added in each subsequent year); and (e) they reside in the New Orleans school district. Participation is limited by the amount of money appropriated for the program: \$10 million.

[Editor's note: There are some troublesome regulations attached to the program. For instance, participating private schools must administer a nationally normed, standardized test to voucher students as well as administering all tests students would be required to take in public schools, including the state graduation exam.]

LOUISIANA PERSONAL TAX DEDUCTION FOR EDUCATIONAL EXPENSES

Louisiana provides a personal tax deduction for educational expenses, including private school tuition and fees as well as uniforms, textbooks, curricular materials, and any school supplies required by the school. This deduction helps mitigate the cost of choosing a private school, making it easier for families to exercise choice. The deduction also includes tuition and fees at university-run "lab schools," as well as educational expenses for both public and home school students. The deduction is worth 50 percent

Sources:

School Choice Activist (Washington, D.C.: Alliance for School Choice, July 2008) and *The ABCs of School Choice, 2009 Addendum to the 2007-2008 Edition* (Indianapolis, IN: Milton and Rose D. Friedman Foundation, 2009).

of the total amount spent on tuition, fees, and other eligible expenses. It is capped at \$5,000 per child, and all K-12 Louisiana students are eligible. Participating schools need only obey the existing laws and regulations governing Louisiana schools.

FLORIDA EXPANDS CORPORATE SCHOLARSHIP TAX CREDIT PROGRAM BY \$30 MILLION

The Florida legislature increased the scholarship amount to \$3,950 effective in the fall of 2008. The scholarship can be used for tuition and school fees including registration, but will not cover uniforms unless it is a part of the school's fees and not just a requirement of the dress code.

Other changes allow add-on siblings to qualify under the same income guidelines as renewal children and permits children in foster care to be eligible for a scholarship. School financing organizations (SFOs) that have been in operation at least three years can now retain up to 3 percent for administrative expenses. The overall cap of the program was increased from \$88 million to \$118 million.

PENNSYLVANIA EXPANDS CORPORATE TAX CREDIT PROGRAM

Two changes were made in 2008 to the Educational Improvement Tax Credit Program (EITC). The total tax credit limit available to businesses for the EITC program has been increased from \$200,000 per state fiscal year to \$300,000, and the Pre-K tax credit limit has been increased from \$100,000 to \$150,000.

In addition, the Personal Income Tax Liability Tax was added to the list of taxes that make businesses eligible to participate in the EITC and Pre-K EITC programs. This will allow subchapter S corporations and other small and medium-sized businesses that pay personal income tax on Pennsylvania income to fully participate in the program.

State Laws and Regulations Governing Private Schools

Prepared by Christopher Hammons, Ph.D.

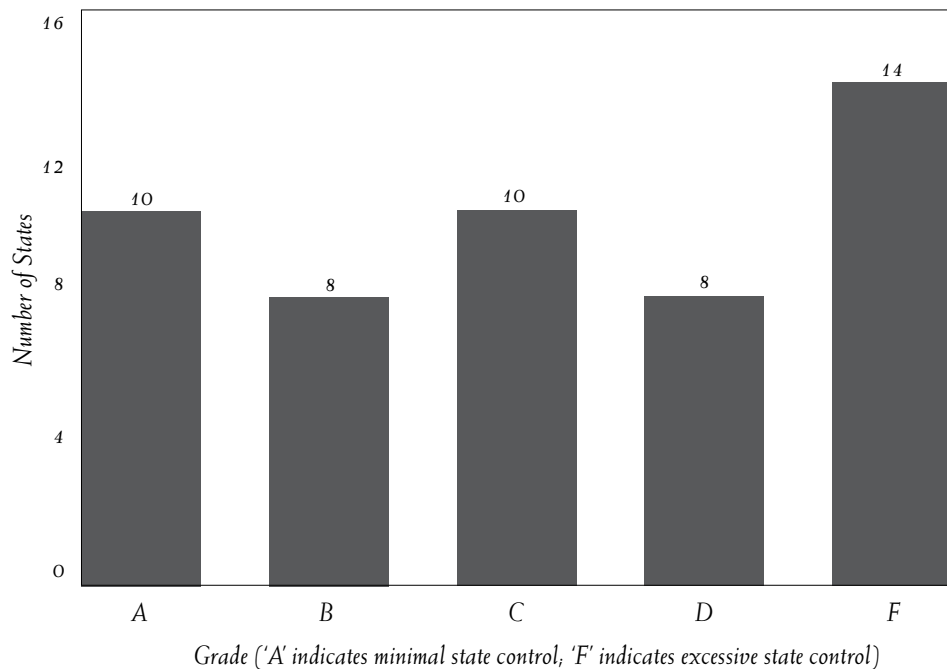
INTRODUCTION

It is a widespread misconception that private schools avoid government oversight or are “unregulated.” In fact, private schools are subject to a wide variety of laws and regulations that run the gamut from reasonable rules to ensure health and safety to unreasonable rules that interfere with school curricula, preventing schools from pursuing the educational approaches that work best for their students. Partly because the public is largely unaware of this body of regulations, it is not often subject to public scrutiny, and thus there is less incentive to reform unreasonable laws and regulations.

This report analyzes the laws and regulations that govern private schools in all 50 states. It documents the extent to which private schools are regulated. A full list of the laws and regulations governing private schools in each state is available on the website of the Friedman Foundation. The degree of regulation varies considerably from state to state.

This report also evaluates the laws and regulations in each state to measure the extent to which they allow a true educational marketplace to flourish. Some states require private schools to meet legal hurdles – such as state licensing or state mandated accreditation – to operate within the state. These barriers to entry make it harder for private schools to serve students, and (perhaps even more importantly) reduce the healthy positive effects of competition in education by offering both public schools and existing private schools protection from potential competitors. Some states also impose requirements that private schools follow the states’ idea of the best approach

DISTRIBUTION OF STATE SCORES



Source:
 This is an edited version of *Fifty Education Markets: A Playbook of State Laws and Regulations Governing Private Schools* (Indianapolis, IN, The Friedman Foundation, April 2008). To view the complete article and a list of laws and regulations governing private schools state by state, visit www.friedmanfoundation.org.

Chart 1

to education or mandate expensive services that not all schools believe are necessary or effective. Other states promote a more competitive education market. These states embrace the concept that "public education" means educating the public, rather than a government monopoly on schools.

To compare the extent to which states regulate private schools, states are graded on a scale from A to F. States with higher grades embrace a free-market conception of education to a greater degree than states with a lower score. The report reveals that almost half (22) of the states earned a poor or failing grade of D or F. These states regulate private schools in unreasonable ways, so that the schools' opportunity to compete in the education marketplace is threatened by excessive government barriers (see Chart 1). Only about a third of the states (18) earned a grade of A or B (very good or good) for protecting private schools from excessive government intrusion.

HISTORICAL BACKGROUND

Public education has long been an American priority, and never more so than now. The National Center for Educational Statistics reports that about 49 million children in the United States attend public schools.¹ The cost of educating these children is about \$474 billion, with states spending an average of more than \$10,000 per year to educate each child.² At no time in our nation's history have we spent more on public education than we do now, even when costs are adjusted for inflation. Future expenditures on public education are expected to increase rapidly, as American public schools take in an ever-increasing student population and the labor market requires better educated citizens.

American society originally considered education to be a way to secure liberty rather than a way to secure labor. The American founders argued that democracy would work only if the people were able to develop the ability to reason, make rational choices in the political arena, and resist demagoguery. An educated public, the founders contended, was the surest means of protecting liberty and upholding the ideals of American constitutionalism.

As a result of this enlightened thinking, the founders put great emphasis on educating the public. Common schools sprung up all over the fledging country to make sure citizens could read, write, and reason. The value of an educated public was even enshrined in early state constitutions, which extolled the virtue of education for a free people. The Massachusetts constitution, framed by John Adams, declares:

Wisdom and knowledge, as well as virtue, diffused generally among the body of people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish... public schools and grammar schools in the towns; to encourage private societies and public institutions (of learning).³

During the progressive movement of the early 20th century, emphasis on an "educated public" morphed into the call for "public education." While the terms may seem synonymous, they are not. Modern debate about how best to educate the public incorrectly confuses a public education, meaning government-run schools, with the broader idea of an educated public. In short, the 20th century saw the rise of government-run

schools as the central means of securing an educated populace. The result is that public school students outnumber private school students by a margin of 8 to 1.⁴

Defenders of government schools often counter that private schools are “unregulated,” claiming that private schools are not accountable to the public because the government has no oversight over anything that happens in private schools. The purpose of this report is to examine the extent to which private schools are in fact regulated by state governments. It presents an overview of the scope and variety of laws in each state. What becomes evident is that, while the extent of private school regulation varies tremendously from state to state, private schools are not “unregulated,” in any sense of that word, in any state in the nation. In fact, few states allow the sort of free-market approach to education that reformers desire. To the contrary, most states impose at least some unreasonable regulations on private schools. This includes barriers to entry in the private school sector, interference in the curriculum and academic decisions of private schools, and mandates for unnecessary services.

In the early part of the 20th century, Oregon tried to require that children within its borders attend public schools only. The U.S. Supreme Court ruled in 1925 that compulsory attendance at public schools was unconstitutional. While the ruling was concerned primarily with the operation of private schools as a right of free enterprise, a related conclusion of the ruling was that parents have the liberty to provide alternative means of educating their children. The court concluded:

The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. **The child is not the mere creature of the state;** those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations [emphasis added].⁵

Since this landmark ruling, millions of Americans have continued to choose options other than public schools. According to the National Center for Education Statistics, slightly more than 6 million children will attend one of 28,000 private schools during the 2007-08 academic year. Private schools make up about 23 percent of all elementary and secondary schools in the United States. About 75 percent of these private schools have a religious affiliation.⁶

While the ruling in this case would seem to imply that private schools may operate largely free from government interference, the court did not take things that far. In the same case the court noted that while states cannot compel parents to send their children to government schools, state governments do have a compelling interest in regulating private schools. This was a point agreed upon even by the parents fighting Oregon’s mandatory public education laws:

No question is raised concerning the power of the state reasonably to regulate all schools, to inspect, supervise and examine them, their teachers and pupils; to require that all children of proper age attend some school, that teachers shall be of good moral character and patriotic disposition, that certain studies plainly essential to good citizenship must be taught, and that nothing be taught which is manifestly inimical to the public welfare.⁷

To this end, while the Supreme Court concluded that states cannot compel parents to send their children to public school, the court also maintained that each state retains the authority to regulate both public and private schools within its boundaries. The manner and extent to which it does so is up to the state.

States must walk a fine line when regulating private schools, however, as many private schools maintain a unique religious or cultural heritage that may be protected by the First Amendment. Moreover, the power to regulate the operation of private schools is the power to determine what students will be taught and how. In effect, while parents have a constitutional right to send their children to the school of their choosing, if the state misuses its regulatory power, it can render that choice less valuable by mandating conformity to state preferences in curriculum and pedagogy.

STATE REGULATIONS

The regulations we found fall into a number of categories:

Accreditation, licensing and approval – Many states require that private schools get some sort of approval from the state to operate. In a few cases, this consists only of registering the school with the state, which means completing and filing some paperwork providing the school's name, address, and other basic information. However, in most states the process is more difficult and provides the state with an opportunity to reject applicant schools. Some states view this application process as seeking formal "approval" from the state. Schools that do not meet state criteria (which vary a great deal from state to state) can be rejected. Some states require applicant schools to obtain a "license" from the state, which not only gives the state the opportunity to decline the applicant, but usually also entails regular renewal. The most stringent barrier for private schools seeking entry into the education marketplace is mandatory accreditation.

In some cases states set up a voluntary state-run system of approval, licensure, or accreditation that private schools need not participate in if they do not wish to. While this presents less of a barrier to entry, it still distorts the private school sector by conferring the prestige of state approval upon schools that choose to do things the state's way.

Transparency and reporting – States typically require private schools to file regular reports, including faculty lists, faculty credentials, enrollment, student demographics, test scores, grades, disciplinary reports, health records, and financial records.

Curriculum and academics – Many states require private schools to follow state guidelines for curriculum development. This may be a general requirement that private schools teach core classes such as English, math, and social studies. Such requirements are necessary to determine which institutions are schools for purposes of the compulsory attendance requirement. However, some states are more specific, requiring that particular health, sex education, or multicultural history classes be taught. Some states mandate the number of hours of each subject that must be taught at each grade level. For instance, a state may require that third graders receive so many hours of science, so many hours of English, so many hours of social studies and so forth. Some states require private schools to assess their students with standardized tests. In addition, there are state mandates regarding private school facilities, teacher and administrator credentials, teacher-student ratios, guidance counselors, librarians, and so on.

Health and safety – All 50 states have provisions regulating private schools for health and safety. These include required immunizations, disease control, sight and hearing tests, fire drills, and emergency plans.

Miscellaneous – Many states have regulations that do not fit easily in the previous four categories. Most of these focus on two particular issues. The first is state-subsidized educational services. Such provisions regulate the extent to which private school students may access public school facilities, extracurricular activities, textbooks, and transportation. The second concerns school or local political culture, such as requirements that state and national flags be flown; that the Pledge of Allegiance or a state pledge be recited; or that students be registered to vote when they turn 18.

A quick survey of the states reveals tremendous variety in both the quantity and scope of regulations that govern private schools. Some states, such as Florida and New Jersey, place relatively few regulations on private schools, creating few legal barriers for private schools seeking entry into the education marketplace. Other states, such as North Dakota and Maryland, create substantial hurdles, requiring private schools to get government approval before opening their doors.

GRADING THE STATES

To highlight the differences among the states, each state was given a grade from A to F based on the degree of private school regulation. The state's grade reflects the quantity and scope of regulations that either assist private schools in educating students or make it more difficult for private schools to succeed. States with higher grades embrace a free-market concept of public education, giving private schools easier access to the education marketplace. States with lower grades make it more difficult for private schools to compete.

Grades were determined by allocating points to each state using the scoring rubric found in Chart 2. The premise for the point system was to measure the extent to which each provision creates or removes barriers to entry in the educational marketplace. Regulations that make it easier for private schools to compete resulted in states being awarded points. Regulations that make it more difficult for private schools to compete resulted in states being penalized points. The rationale for each point deduction or addition is given below. Regulations from all 50 states were assessed and scored by two political scientists. No state was assigned a score without the consent of both researchers.⁸

Once numeric scores were assigned to each state, a letter grade was awarded. Any state that received a positive score was given a letter grade of A because such states impose few barriers for private schools and in many cases may actually work to promote private schools. Working backward from a score of 0, every decrease of a half point in the score resulted in a lower letter grade. For imposing an excessive amount of regulations on private schools, any state that received a score of -5 or lower received a failing grade.

As noted above, many states have voluntary systems of approval, licensure, or accreditation of private schools. These systems do influence the private school market, but obviously not as much as mandatory systems do. However, even states with voluntary systems of approval maintain regulations that apply to all schools, whether they are approved or not. To represent this, we scored such states twice, once for the laws and regulations that were mandatory for all schools, and a second time including both those requirements and the additional, voluntary requirements necessary for state approval, licensure, or certification. We used the average of these two values as the state's score. In cases where states had different regulatory regimes for different types of schools (such as elementary and secondary schools, or religious and non-religious schools) we

did not score the tracks separately. In these cases the more burdensome track is not voluntary for the schools that are subject to it; schools subject to unreasonable regulations cannot choose to free themselves of it by declining to apply for state approval.

SCORING SYSTEM: STATE REGULATION OF PRIVATE SCHOOLS

<i>State Accreditation, Licensing or Approval</i>		<i>Points</i>	<i>Other Academic Requirements</i>		<i>Points</i>
Voluntary accreditation, licensing, or approval		-1	Class size		-1
Mandatory accreditation, licensing, or approval (state or private agency)		-2	Standardized testing (school chooses the test)		-1
Mandatory accreditation, licensing, or approval (state only)		-3	Standardized testing (state chooses the test)		-2
			Standardized testing (mandatory outcome)		-1 Additional Point

<i>Credentials</i>		<i>Points</i>	<i>Parity For Subsidized Services</i>		<i>Points</i>
Educational credentials (less than certification)		-1	Busing prohibited transportation		-1
Certification		-2	mandatory transportation		+1
Professional Development		-3	Textbook Sales and Loans prohibited		-1
			mandatory		+1
			Extracurricular Activities prohibited access		-1
			mandatory access		+1
			Health and Diagnostic Services prohibited access		-1
			mandatory access		+1
			Professional Development Programs prohibited access		-1
			mandatory access		+1

<i>Curriculum</i>		<i>Points</i>
Core classes		-
Curricular content		-1
Control of delivery		-1
Sex education (no mandatory content)		-1
Sex education (mandatory content)		-2
Multicultural ideology		-1
Curricular protection		+1

<i>Required Services</i>		<i>Points</i>
Library		-1
Guidance Counselors		-1

Chart 2

HOW THE STATES SCORED

Charts 3 and 4 provide a comprehensive list of the point additions and deductions applied to each state. What becomes immediately apparent is the wide variation in the extent to which states regulate private schools. At the high end, a few states such as Florida, New Jersey, and Connecticut place very few barriers in the way of private schools seeking to open their doors. At the other end of the grading scale, 14 states, including Alabama, New York, and North Dakota, earned failing grades.

Florida was a high-scoring state, earning a grade of A. Florida doesn't require any sort of formal approval to start a private school. Each year, schools must file some basic information with the state (name of school, contact information, enrollment, etc.) but this requirement is not intrusive. In addition, state law makes it clear that neither the

GRADES AND SCORES ALPHABETICAL BY STATE

Alabama	F	-6	Montana	F	-5
Alaska	B	-1	Nebraska	F	-5.5
Arizona	A-	0	Nevada	F	-5
Arkansas	A-	0	New Hampshire	C+	-2
California	B	-1	New Jersey	A	+2
Colorado	B	-1	New Mexico	C+	-2
Connecticut	A	+1	New York	F	-6
Delaware	A	+1	North Carolina	D	-4
Florida	A	+2	North Dakota	F	-11
Georgia	A-	0	Ohio	C-	-3
Hawaii	C+	-2	Oklahoma	B	-1
Idaho	C+	-2	Oregon	C+	-2
Illinois	C+	-2	Pennsylvania	D	-4
Indiana	D-	-4.5	Rhode Island	D	-4
Iowa	D	-4	South Carolina	F	-5.5
Kansas	F	-5	South Dakota	F	-7
Kentucky	B	-1	Tennessee	F	-6
Louisiana	D	-4	Texas	B-	-1.5
Maine	D+	-3.5	Utah	A-	0
Maryland	F	-6	Vermont	D	-4
Massachusetts	C-	-3	Virginia	B	-1
Michigan	C-	-3	Washington	F	-5
Minnesota	B+	-0.5	West Virginia	C-	-3
Mississippi	F	-5	Wisconsin	A-	0
Missouri	A-	0	Wyoming	F	-5

Note: 'A' indicates minimal state control; 'F' indicates extensive state control.

Chart 3

state nor any school district is authorized to oversee or exercise control over the curricula or academic programs of private schools. In short, Florida not only seeks to protect access to the educational marketplace for potential private schools, but makes sure that, once established, schools have the ability to operate free from government intrusion.

Connecticut is another high-scoring state. Similar to Florida in its approach, Connecticut doesn't require private schools to pass any state-mandated hurdles to open their doors. Private schools in Connecticut may register with the state, seek approval from the state, or seek accreditation from a private agency, but all three options are voluntary. Connecticut also mandates that private schools have access to many public school services, such as school nurses and bus transportation. The thinking in Connecticut seems to be that since public dollars have paid for many of these services, all students should have access to them, even if the student is not enrolled in a public school.

Alabama, with a score of -6, is a typical failing state. In Alabama, all private schools must register with and be licensed by the state unless they are affiliated with a church or religion. The state also mandates that private schools must hire certified teachers, but exempts religious schools from this requirement. In addition, the state requires private

RANKING EACH STATE ACCORDING TO GRADE AND SCORE

Florida	A	+2	Michigan	C-	-3
New Jersey	A	+2	Ohio	C-	-3
Connecticut	A	+1	West Virginia	C-	-3
Delaware	A	+1	Maine	D+	-3.5
Arizona	A-	0	Iowa	D	-4
Arkansas	A-	0	Louisiana	D	-4
Georgia	A-	0	North Carolina	D	-4
Missouri	A-	0	Pennsylvania	D	-4
Utah	A-	0	Rhode Island	D	-4
Wisconsin	A-	0	Vermont	D	-4
Minnesota	B+	-0.5	Indiana	D-	-4.5
Alaska	B	-1	Kansas	F	-5
California	B	-1	Mississippi	F	-5
Colorado	B	-1	Montana	F	-5
Kentucky	B	-1	Nevada	F	-5
Oklahoma	B	-1	Washington	F	-5
Virginia	B	-1	Wyoming	F	-5
Texas	B-	-1.5	Nebraska	F	-5.5
Hawaii	C+	-2	South Carolina	F	-5.5
Idaho	C+	-2	Alabama	F	-6
Illinois	C+	-2	Maryland	F	-6
New Hampshire	C+	-2	New York	F	-6
New Mexico	C+	-2	Tennessee	F	-6
Oregon	C+	-2	South Dakota	F	-7
Massachusetts	C-	-3	North Dakota	F	-11

Note: 'A' indicates minimal state control; 'F' indicates extensive state control.

Chart 4

schools to follow detailed reporting requirements.

No state scored lower than North Dakota, with a score of -11. North Dakota makes it extremely difficult for private schools to open their doors. All private schools must be approved and accredited by the state. In addition, all private schools must hire certified teachers who teach only in the fields in which they are certified. Private schools must require students to achieve at least the same number of credit hours in each subject as students in public schools and must follow state guidelines regarding class sizes and teacher-student ratios. All private school students must be tested using a standardized test. Private schools also must maintain certain defined library facilities and a given number of guidance counselors.

The distribution of grades in Chart 4 indicates that about one-third (18) of the states do a good to very good job of providing private schools with the opportunity to compete in the education marketplace. These are states that earned grades of A or B. They did so by minimizing the burden of regulations that create unnecessary hurdles that private schools must overcome in order to open their doors. One-fifth (10) of the states do a fair or average job of creating opportunity for private schools, meaning they earned a grade of C. But almost half (22) of the states do a poor or failing job of providing opportunities for private schools, earning a grade of D or F. Those states impose the most extensive regulation of private schools.

CONCLUSION

If we are serious about educating the public, doing so may require us to seek alternatives to government monopolies in the education marketplace. This report illustrates that private schools are not “unregulated,” as many people believe. To the contrary, state governments exercise significant power over private schools. While tremendous effort has been made to reform public education, an alternative means of reforming education without touching public schools would be to reform the myriad of unreasonable regulations that many state governments have placed on private schools. Doing so may be the best means of educating the public without interfering with public education.

1 *Digest of Education Statistics* 2006, National Center for Education Statistics, 2007, table 33.

2 *Digest of Education Statistics*, Tables 163 and 167.

3 *Massachusetts Constitution*, Chapter 5, Section 2.

4 “*Characteristics of Private Schools in the United States: Results from the 2003-2004 Private School Universe Survey*,” National Center for Education Statistics, March 2006.

5 *Pierce v. Society of Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510 (1925), 535.

6 “*Characteristics of Private Schools*.”

7 268 U.S. 510, 534.

8 The two graders were the author and Friedman Foundation Senior Fellow Greg Foster.

National Surveys Show Public Support for School Choice

As conducted by "Education Next" and PEPG

2007 SURVEY RESULTS

VOUCHERS GENERATE THE MOST DEBATE

Few education reforms inspire as much debate as do proposals to provide low-income families with vouchers that would allow them to send their children to private schools. Apart from programs serving disabled students, only Wisconsin, Ohio, and Washington, D.C., have publicly funded voucher programs in operation. Elsewhere, state legislatures, referenda, and/or state courts have defeated proposed voucher initiatives.

Despite the legislative and legal disputes, a plurality of the public supports the voucher idea. Forty-five percent of those surveyed favor offering vouchers to low-income families, 34 percent oppose the idea, and 20 percent neither favor nor oppose it. Both 68 percent of African Americans and 61 percent of Hispanics favor vouchers, compared to 38 percent of whites. Only 15 percent of African Americans and 23 percent of Hispanics oppose vouchers, compared to 40 percent of whites. [Employee and not employee columns indicate past or present employment at a public school.]

A proposal has been made that would use government funds to pay the tuition of low-income students who choose to attend private schools. Would you favor or oppose this proposal?

Responses To Vouchers	National	White	African American	Hispanic	Not Employee	Employee
Completely Favor	21	14	41	35	21	18
Somewhat Favor	24	24	27	26	25	22
Neither Favor Nor Oppose	20	22	17	17	21	18
Somewhat Oppose	15	17	8	12	15	17
Completely Oppose	19	23	7	11	19	25

TAX CREDITS GENERATE THE MOST PUBLIC SUPPORT

Tax credit programs that help defray the cost of a private education are a less publicized, but more widely available, form of school choice than vouchers. Such programs exist in one form or another in several states, including Pennsylvania, Arizona, Minnesota, Illinois, and Florida. The greater incidence of tax credit programs could be due to the broader public support for this approach than for vouchers. Nationwide, 53 percent of adults favor tax credits, while only 25 percent oppose them, with another 23 percent neither favoring nor opposing the idea. As with vouchers, African Americans and Hispanics express the highest levels of support for tax credits.

Sources:

The 2007 survey results and commentaries are excerpts from "What Americans Think about Their Schools," William G. Howell, Martin R. West, and Paul E. Peterson (Stanford, CA, *Education Next*, Hoover Institution, Stanford University, Fall 2007). The 2008 survey results and commentary are from "Americans Think Less of Their Schools than of Their Police Departments and Post Offices," William G. Howell, Martin R. West, and Paul E. Peterson (Stanford, CA, *Education Next*, Hoover Institution, Stanford University, Fall 2008.) These 2007 and 2008 national surveys of U.S. adults were conducted under the auspices of *Education Next*, a publication of the Hoover Institution at Stanford University and the Program on Education Policy and Grievance (PEPG) at Harvard University.

A proposal has been made to offer a tax credit to low-income parents who send their children to a private school. Would you favor or oppose such a proposal?

Responses To Tax Credits	National	White	African American	Hispanic	Not Employee	Employee
Completely Favor	27	22	42	37	27	25
Somewhat Favor	26	26	25	23	26	25
Neither Favor Nor Oppose	23	22	21	24	23	22
Somewhat Oppose	10	12	6	7	10	13
Completely Oppose	15	17	6	8	15	15

CHARTER SCHOOLS: CONFUSING, BUT POLITICALLY PALATABLE

Compared to school vouchers and tuition tax credits, state legislatures have generally found charter schools to be more politically palatable. Charter schools are public schools of choice that are privately managed under a renewable performance contract that exempts them from many of the regulations that apply to other public schools. The first of these schools opened its doors in Minnesota in 1992, and their numbers have grown steadily since. In the 2006-07 school year, roughly 4000 charter schools served 1.15 million students across 40 states and Washington, D.C.

For the most part, Americans either express support for charter schools or opt not to take a position one way or the other. Forty-four percent of respondents support their formation, and another 42 percent neither support nor oppose them. Only 14 percent of Americans oppose charter schools. Differences across subgroups are reasonably small, with slightly higher proportions of African Americans supporting charter schools and school employees opposing them.

Though Americans appear cautiously supportive of charter schools, most are confused about them. For example, when asked whether charter schools are free to teach religion (they are not), or whether they can charge tuition (they cannot), almost two-thirds of the public confess to not knowing the answer and another quarter offer the wrong answer. Indeed, only 13 percent of adults nationwide correctly note that charter schools cannot teach religion and 16 percent correctly observe that charter schools may not charge tuition.

Many states allow for the formation of charter schools, which are privately managed under a renewable performance contract that exempts them from many of the regulations of other public schools. Do you support or oppose the formation of charter schools?

Responses To Charter Schools	National	White	African American	Hispanic	Not Employee	Employee
Completely Favor	19	18	25	19	19	22
Somewhat Favor	25	24	22	29	25	25
Neither Favor Nor Oppose	42	44	41	35	43	33
Somewhat Oppose	8	8	5	10	8	8
Completely Oppose	6	6	7	7	5	13

Based on what you have heard about charter schools, are the following statements true or false?

Charter schools are free to teach religion?

Responses	National	White	African American	Hispanic	Not Employee	Employee
True	24	24	22	25	24	28
False	13	13	9	15	12	19
Don't Know	63	63	69	60	64	54

Charter schools may not charge tuition?

Responses	National	White	African American	Hispanic	Not Employee	Employee
True	16	15	18	16	14	27
False	24	22	21	28	23	28
Don't Know	60	62	61	56	63	45

2008 SURVEY RESULTS

CHARTER SCHOOLS AND VOUCHERS

As they did in 2007, a plurality of the overall public and every subgroup continue to support charter schools. Indeed, supporters of charter schools outnumber opponents more than two to one. The modal response, however, continues to be "neither support nor oppose." Roughly 40 percent of the American public remain undecided about the merits of these schools, even as enrollment in charter schools has expanded to more than 1.2 million students nationwide.

Though Americans have yet to render a verdict on charter schools, they appear evenly divided on vouchers. For the public as a whole, the number of supporters equals the number of opponents, with only one-fifth of the population refusing to stake out a position one way or the other. As we observed last year, support for vouchers is highest among African Americans and Hispanics. By contrast, a majority of public school teachers oppose vouchers.

Many states permit the formation of charter schools, which are publicly funded but are not managed by the local school board. These schools are expected to meet promised objectives but are exempt from many state regulations. Do you support or oppose the formation of charter schools?

Responses To Charters	National	White	African American	Hispanic	Public School Teachers
Completely Support	16	15	15	14	18
Somewhat Support	26	27	27	23	29
Neither Support Nor Oppose	41	41	48	46	20
Somewhat Oppose	10	10	9	11	16
Completely Oppose	6	7	1	6	17

A proposal has been made to use government funds to help pay tuition of low-income students whose families would like them to attend private schools. Some people say that such a program would improve the educational opportunities of the poor. Would you favor or oppose this proposal?

Responses To Vouchers	National	White	African American	Hispanic	Public School Teachers
Completely Favor	16	12	28	18	15
Somewhat Favor	27	26	27	29	21
Neither Favor Nor Oppose	27	25	35	29	12
Somewhat Oppose	15	19	3	8	25
Completely Oppose	15	17	7	15	26

A proposal has been made that would use government funds to help pay tuition of low-income students whose families would like them to attend private schools. Would you favor or oppose this proposal?

Responses To Vouchers	National	White	African American	Hispanic	Public School Teachers
Completely Favor	14	14	26	8	12
Somewhat Favor	23	22	24	29	18
Neither Favor Nor Oppose	18	18	24	15	4
Somewhat Oppose	22	22	23	22	21
Completely Oppose	22	24	3	26	45

TAX CREDITS

As an alternative to school vouchers, some states (Arizona, Minnesota, Florida, and Pennsylvania) have established tax credit programs that offset the costs of attending private schools or public schools. In Pennsylvania, for example, tax credits help cover the costs of school fees, supplies, and computers. To investigate the public support for different types of tax credit programs, we randomly asked different groups of respondents separate questions concerning tax credit policy, sometimes referring to programs that only benefit private school students, and sometimes to programs that benefit both private and public school students.

No matter how the question is worded, tax credits elicit a higher level of support than do school vouchers. A solid majority of the public as a whole, and a plurality of every subgroup, support education tax credits for low- and moderate- income parents who send their children to private schools. African Americans register the highest levels of support, with proponents outnumbering opponents three to one. When tax credits are used to offset expenses for both private and public school students, overall support rises by another 10 percentage points. Two subgroups are especially likely to affirm the most expansive scope of tax credit program: African Americans and Hispanics, among whom opposition to the program virtually vanishes.

A proposal has been made to offer a tax credit for educational expenses (fees, supplies, computers, and tuition) to low and moderate-income parents who send their children to private schools.

Would you favor or oppose such a proposal?

Responses To Tax Credits	National	White	African American	Hispanic	Public School Teachers
Completely Favor	22	20	26	27	18
Somewhat Favor	32	32	37	27	28
Neither Favor Nor Oppose	19	20	18	16	12
Somewhat Oppose	15	15	17	13	15
Completely Oppose	13	14	2	16	26

A proposal has been made to offer a tax credit for educational expenses (fees, supplies, computers, and tuition) for low and moderate income parents who send their children to public and private schools.

Would you favor or oppose this proposal?

Responses To Tax Credits	National	White	African American	Hispanic	Public School Teachers
Completely Favor	25	25	31	29	27
Somewhat Favor	39	39	42	46	38
Neither Favor Nor Oppose	21	22	24	17	18
Somewhat Oppose	8	10	2	4	8
Completely Oppose	7	8	1	4	9

Your Child, Your Choice: If It Were Reality

By Gary Lamb

The Friedman Foundation has sponsored a state polling series that includes voters' views on education. The underlying theme of the Foundation's Survey in the State series is to measure voter attitudes toward public institutions and policies, innovative ideas, and the state's K-12 education system. Thus far, surveys have been conducted in 11 states from December 2007 to May of 2009. The surveys were carried out by Strategic Vision, an Atlanta-headquartered public relations and public affairs agency with a division that specializes in polling.

A total of 1200 to 1500 completed interviews were obtained in each state. One of the questions each person was asked was: "If it were your decision and you could select any type of school, what type of school would you select in order to obtain the best education for your child?"

The responses indicate a stunning contrast to current national school enrollment figures. There are about 56 million elementary and secondary school students in the United States. Approximately 50 million attend public schools (about 1.4 million attend charter schools) and about 6 million attend private schools. In addition, an estimated 1.5 million children are homeschooled in the U.S.* If the survey responses in the 11 states are any indication of national attitudes, those figures would change dramatically if families could choose the school they thought would provide the best education for their children. Instead of 80-90% of school children attending regular public schools nationwide there would only be 14.5%! Public charter school attendance would rise to 23%, and the percentage of children being homeschooled would increase to 16%. Private schools would see a staggering enrollment increase from approximately 11% to 43% or an increase from 6 million students to over 24 million! About 3.5% of respondents would choose schools using on-line internet courses for their children. It appears that the perceived ability by most voters of local public schools to adequately educate the majority of children has run its course. They want something different.

The primary reason that families cannot send their children to the school of their choice is lack of financial resources. What a different educational landscape America would have if a child's right to a decent education were a financial reality for all families with school-age children. One of the major justifications given by politicians and interests groups for opposing school choice legislation is that it would take away money from local government schools where most children attend. But the reason that so many children attend such schools is because their families are compelled to send them there against their own wishes. And research studies such as the Survey in the State sponsored by the Friedman Foundation are revealing just how disingenuous their opposition to school choice really is.

* Sources of statistics: Private schools: Council for American Private Education, "Facts and Studies," www.capenet.org; Charter Schools: National Alliance for Public Charter Schools, "Fact Sheet," www.publiccharters.org/media/toolkit; Homeschools: National Center for Education Statistics, "Issue Brief" (December 2008), www.nces.ed.gov.

If it were your decision and you could select any type of school, what type of school would you select in order to obtain the best education for your child? (Numbers indicate percentage of affirmative responses.)

State Survey and Release Date	Regular Public Schools	Public Charter Schools	Private Schools	Home Schools	Virtual Schools
Idaho March 08	12	25	39	21	3
Illinois December 07	19	23	39	17	2
Montana October 08	10	28	38	18	6
Maryland September 08	18	20	45	12	5
Nevada January 08	11	23	48	15	3
Ohio May 09	17	26	44	10	3
Oklahoma June 08	17	17	41	19	3
Oregon January 09	13	24	44	14	5
Rhode Island April 09	17	13	55	12	3
Tennessee March 08	15	28	37	18	2
Vermont February 09	11	26	44	17	2
Average %*	14.5	23	43	16	3.5

*Averages are rounded to a half percent.

Democratic Support for Private School Choice Grows in 2007

Empowering parents with school choice can now truly be considered a bipartisan cause, as evidenced by the growing Democratic support for private school choice. The majority of recent school choice victories in various states have only happened as a result of Democrats and Republicans working cooperatively.

In 2007, the school choice movement continued to win with Democrats:

- For the first time ever, a Democratic governor proposed and signed an expansion of a school choice program. Governor Ed Rendell in Pennsylvania proposed in his budget, and signed into law, a \$16 million increase to the educational Improvement Tax Credit program. This brought funding for the program to \$75 million, the largest increase in the program's history. Democratic State Senator Anthony Williams and Democratic Representative Dwight Evans were instrumental in passing the increase.
- For the first time ever, an expansion of a school choice program passed through a Democratic-controlled House and Senate and was signed into law by a Democratic governor. Iowa Governor Chet Culver and the Democratic legislature expanded the Individual Scholarship Tax Credit Program by 50 percent, from \$5 million to \$7.6 Million.
- For the second year in a row, a majority of the school choice bills that passed were approved by either Democratic governors or Democratic legislatures.
- An organization to promote the three-sector federal funding initiative in Washington D.C., including the District's Opportunity Scholarship program, is chaired by the former Democratic mayor of D.C., Anthony Williams.
- Using Florida's Corporate Tax Credit Scholarship Program, former U.S. Congresswoman Carrie Meek (D-Florida) created a scholarship funding organization to help poor African-American children attend high-performing private schools. During her long tenure in Congress, Representative Meek had vigorously opposed school choice. This year she embraced it.

BIPARTISAN SUPPORT AND SCHOOL CHOICE VICTORIES

Three-quarters of school choice victories in 2006 and 2007 were won in states where Democrats controlled either the governorship, legislature, or both. Only four states had Republicans controlling both the governorship and legislature.

Four Democratic governors signed school choice bills in 2006 and/or 2007.

- PA- Governor Ed Rendell
- IA- Governor Chet Culver
- WI- Governor James Doyle, Jr.
- AZ- Governor Janet Napolitano

"My record speaks for itself. We have doubled the Educational Improvement Tax Credit program during my time as governor. I support it and I think it is a good idea."

- Governor Ed Rendell, Pennsylvania

"Yes, I was an opponent of vouchers. I was an opponent because I thought they were taking away from public schools... The way I see it now, they are not taking away."

- *Former U.S. Congresswoman Carrie Meek (D-Florida)*

"I look forward to... a fruitful dialogue that promotes more balanced education policies for our party, raises awareness for our nation's public charter schools, and reaffirms my support for tax credits for middle-class families."

- *U.S. Congressman Jim Clyburn, House Majority Whip (D-South Carolina)*

"The tuition money must follow the pupils, so that schools that fail will wither away and, unless politicians or old-line bureaucrats get involved, have to shut down... I'm convinced that all parents – rich and poor – benefit when they get to make their own choices rather than to be subjected to a monopoly provider."

- *Walter Isaacson*

*President of the Aspen Institute and chairman of the board of
Teach for America, former managing editor of TIME*

"I support implementation of school vouchers for Philadelphia students, including the ability to move to a Catholic school... To me the issue with school vouchers is not a church-state issue. It's a social justice issue. Every child – here in Philadelphia and across the country – should have the right to a safe, quality education, regardless of his socio-economic status. It's an idea whose time has come in Philly."

- *John Dougherty*

Business Manager, IBEW Local 98, Chairman of Redevelopment Authority of Philadelphia

Special Needs Scholarship Programs

By definition, children with special needs require a customized education to reach their potential. Thankfully, over the last 20 years we have seen dramatic improvements in the education offered to children with special needs in public schools. Yet no single public school, no matter how extraordinary its programs, can be expected to offer the best possible special needs education for every child. The challenge is simply too great.

Therefore, the federal government long ago recognized that some children with special needs would be best served by giving them the chance to attend a different public or private school with a program tailored for their special needs. Unfortunately, the existing process for providing families with this option is often antagonistic, legalistic, drawn out, and expensive. As a result, a growing number of states have recently decided to provide scholarships to families with special needs. Parents can then use these special needs scholarships to send their children to the public or private school with the program they feel will best meet their children's special needs.

This year, children in five states have access to special needs scholarships: Arizona, Florida, Georgia, Ohio, and Utah. In the years to come, more children will likely be given this option as legislators in several states are considering creating special needs scholarships.

A study of Florida's McKay scholarship program showed higher parental satisfaction with the McKay schools over public schools (93 percent vs. 33 percent for current participants) in areas such as individual attention, quality of services, academic progress, class size, teachers, staff communication, and school responsiveness. (See: Jay Greene and Greg Forster, "Vouchers for Special Education Students: An Evaluation of Florida's McKay Scholarship Program," Manhattan Institute Civic Report No. 38, June 2003.)

Arizona: Scholarship for Pupils with Disabilities

– Established in 2006, Arizona's Scholarship for Pupils with Disabilities provides grants to children with special needs to attend the public or private schools of their parents' choice.

SPECIAL NEEDS SCHOLARSHIP PROGRAMS IN THE UNITED STATES

State	Program	Number of Schlorships	Average Schlorship
AZ	Scholorship for Pupils with Disabilities	211	\$9,308
FL	McKay Schlorship	19,571	\$7,295*
GA	Special Needs Program	1,596*	\$6,331
OH	Autism Schlorship Program	1,005*	\$15,500*
UT	Carson Smith Special Needs Schlorship	500	\$4,692

* Statistics from 2007-08 school year. All others are from 2008-2009

Sources:

Text is from *School Choice Yearbook: 2007* (Washington, D.C.: Alliance for School Choice, 2008) pp. 27-28. Chart data is from *School Choice Yearbook, 2008-09* (Washington, D.C.: Alliance for School Choice, 2009).

Florida: John M. McKay Scholarship for students with Disabilities

- Now in its ninth year, Florida's McKay scholarship program is the oldest program in the country that provides scholarships for children with special needs to attend the schools that best fit their educational needs.

Georgia: Special Needs Scholarship Program

- Modeled after McKay and signed into law in 2007, Georgia's Special Needs Scholarship Program is the newest program in the country.

Ohio: Autism Scholarship Program

- Established in 2003, Ohio's Autism Scholarship Program is the only school choice program that provides scholarships specifically to students with autism to use for tuition or other educational services.

Utah: Carson Smith Special Needs Scholarship

- Utah's Carson Smith Special Needs Scholarship program was created in 2005 to provide tuition assistance for children with special needs to attend the private schools that best meet their educational needs.

Model School Choice Legislation

The Public Education Tax Credit Act

Adam B. Schaeffer

HOW THE PUBLIC EDUCATION TAX CREDIT ACT WORKS

The Public Education Tax Credit Act allows all taxpayers, individual and corporate, to claim education tax credits for direct payment of educational expenses and for contributions to organizations that provide educational scholarships to lower-income families. Taxpayers can claim these credits against their state income, sales, and local property taxes where these are applicable.

All education providers—government, religious, or secular—constitute public education because all serve the public by educating children. Expanding the embrace of “public” education is an overdue recognition of educational reality, not political semantics. This model legislation presents a more effective way of fulfilling the ideals of public education by ensuring that all families have the means to choose their children’s schools from a diverse market of education providers.

The Act is designed to provide universal access to the educational marketplace, not to create unnecessary dependence on third-party education funding or government programs. It therefore limits access of higher-income individuals to the scholarships funded by donation tax credits and phases out personal-use credits at the highest income levels. All individuals, regardless of income, can claim credits for education donations.

This proposal is the most comprehensive and broad-based tax credit model legislation yet developed. It offers the strongest prospects for creating a public education system that is dynamic, productive, and driven by freedom rather than coercion. Although this model tax credit legislation combines many aspects of previous proposals, it breaks new ground in five crucial respects:

1. Taxpayers are allowed to take credits against all three primary sources of non-federal government revenue: state income taxes, state sales taxes, and property taxes.

This will ensure that the tax liabilities are sufficient to underwrite universal educational freedom.

2. The program is not capped at an arbitrary dollar amount.

Each child is eligible to receive tax-credit-derived funds up to an amount that is less than current per-pupil spending in government schools. Taxpayers may donate all of their tax liability for education; the total amount will be limited by the needs of each scholarship organization, which must use the funds for scholarships based on need and return any funds in excess of a 25 percent reserve. Therefore, money will be saved—as is the case in current choice programs—with each student’s switch from the government system to the tax credit system.

3. Scholarship eligibility is not capped at an arbitrary income level.

Families can secure scholarship assistance on a sliding scale relative to their tax liability. As family income increases, so does the tax liability against which it can

Source:

This is an edited version of a Policy Analysis by Adam B. Schaeffer, *The Public Education Tax Credit* (Washington, D.C.: Cato Institute, 2007). The complete Policy Analysis (No. 605, December 5, 2007) contains an extensive introduction on the merits of tax credits as a vehicle for implementing school choice at the state level. The full text also includes examples of how the tax credit could work in specific situations, and extensive endnotes provide guidance to legislators.

claim personal-use credits. And as this personal-use credit increases, the amount of scholarship funds for which they are eligible decreases correspondingly.

Every family will have a "child credit cap" for each child, with the amount varying by family income. For example, say one family's child credit cap is \$3,000 and they have one child. If that family pays enough taxes to claim \$1,000 in personal-use credits, then it is eligible to use up to \$2,000 in scholarship funds derived from donation tax credits. If it can claim \$2,000 in personal-use credits, it can use only \$1,000 in scholarship funds.

This formula will ensure that there is no coverage gap or unfair penalty for middle-class families who are able to pay for a significant portion of their education expenses but still need assistance.

4. The tax credits cover all education expenses, not just tuition.

This aspect of the legislation ensures that parents have the greatest flexibility in choosing the best education possible for their child. It will enable the use and encourage the development of educational services such as distance learning, tutoring, and education support networks such as those for home schooling. It will produce the most dynamic possible education market choice for families.

5. Anyone can directly donate money for the education of a child.

Grandparents, uncles and aunts, other relatives or friends, and even businesses can all pitch in together to help educate a child. This provision will ensure that friends and families take responsibility for a child's education before strangers do, helping to strengthen family and community bonds.

[Editor's note: The original article gives several examples of how the Public Tax Credit would work in specific situations.]

THE PUBLIC EDUCATION TAX CREDIT ACT

(Donation and Family-Use Education Tax Credits)

Summary: This legislation creates an education tax credit for direct payment of educational expenses and for contributions to organizations that provide educational scholarships to eligible students in order to allow all parents to choose the best education for their children.

Section 1: Title

The Public Education Tax Credit Act*

Section 2: Definitions

- A) "Program" means the program established by the Public Education Tax Credit Act.
- B) "Department" means the state Department of Revenue.
- C) "Educational expenses" means tuition at a qualifying school; transportation related to educational activities; tutoring services; educational association membership or testing fees; and educational materials such as books, school supplies, and academic lessons and curricula. Educational expenses for students taught in a nonpublic home-based program do not include expenses for tutoring or academic lessons if the parent conducts them. Educational expenses for a student who is enrolled in a public elementary or secondary school in our state, but who is not a resident of

*The complete text has extensive notes intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice tax credit legislation. Interested parties are encouraged to contact the Cato Institute (www.cato.org) and obtain the complete Policy Analysis.

that school district include only transportation and out-of-district tuition expenses. Educational expenses do not include athletic fees or expenses.

- D) "Eligible student" means a student who:
- 1) is a resident of the state no less than age 5, is no more than age 18, and has not graduated from high school; and
 - 2) was eligible to attend a government school in a preceding semester or is starting school for the first time, and is not enrolled in a public elementary or secondary school; or
 - 3) is not a resident of the school district of the public school in which the student is enrolled.

The eligible student must otherwise be in compliance with state education law. Notwithstanding the above, the student for whom someone is claiming a credit against property taxes must be a resident of the school district in which that person is claiming the credit.

- E) "Scholarship organization" means an organization that receives donations from taxpayers and gives educational scholarships to eligible students.
- F) "Parent" includes a guardian, custodian, or other person with authority to act on behalf of the student.
- G) "Educational scholarships" means grants to students to cover part or all of the educational expenses of an eligible student.
- H) "Funding benchmark" means the dollar amount equal to the average per-pupil expenditures for public schools from both state and local government sources during the year of enactment, with this amount adjusted each year in the same manner that brackets are adjusted in Section 1(f) of the Internal Revenue Code.
- I) "Child credit cap" means the percentage of the funding benchmark a family is eligible to use for each eligible student as determined in Section 5.
- J) "Government school" means a public government school as defined in Section x of state law.

Section 3: Basic Elements of the Public Education Tax Credit Act

- A) Individuals and corporations may claim a Public Education Tax Credit (donation) against relevant taxes detailed in Section 4 by contributing to scholarship organizations or by contributing directly to the payment of an eligible student's educational expenses.
- B) Parents may claim a separate Public Education Tax Credit (personal use) for the educational expenses of each child who is an eligible student.
- C) Public Education Tax Credits are nonrefundable.
- D) Scholarship organizations may solicit contributions from individuals and corporations and provide educational scholarships to eligible students.
- E) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward unused Public Education Tax Credits (for donation and personal use) for three years.
- F) For corporations, the amount of the Public Education Tax Credit (donation) shall equal any contributions to scholarship organizations during the taxable year for which the credit is claimed, up to 100 percent of the taxpayer's tax liability.

- G) For parents, the total amount of the Public Education Tax Credit (personal use) claimed for their eligible children shall equal no more than their total direct payments for educational expenses for all of their dependent eligible children, up to the child credit cap for each child or their total applicable tax liability, whichever is less, during the taxable year for which the credit is claimed.
- H) For parents, the total amount of the funds used for their eligible children, which is derived from scholarship organizations cannot exceed the total amount of their child credit caps minus their total tax liability against which a Public Education Tax Credit can apply (total amount available for personal use).
- I) For an individual taxpayer or a married couple filing jointly, the amount of the Public Education Tax Credit claimed shall equal the total direct payments for educational expenses of eligible students (personal use credit) plus any contributions to scholarship organizations (donation credit) during the taxable year for which the credit is claimed, up to 100 percent of the taxpayer's tax liability.

Section 4: Application of Tax Credits to Income, Sales, and Property Taxes

- A) Tax credits may be claimed against a taxpayer's full income tax liability in accordance with Sections 3 and 5.
- B) Tax credits may be claimed against a person's full sales tax liability in accordance with Sections 3 and 5. The state sales tax liabilities against which individuals may claim credits will be determined according to tables produced by the Internal Revenue Service in accordance with the Tax Relief and Health Care Act of 2006, Publication 600, State and Local General Sales Taxes for the most recent year available.
- C) Tax credits may be claimed against a taxpayer's full property tax liability, in accordance with Sections 3 and 5, to the extent that it derives from property taxes imposed for school operating purposes but not from property taxes levied for bonded indebtedness or payments pursuant to lease-purchase agreements for capital construction. The eligible student for whom the person is claiming the credit must be a resident of the school district in which the person is claiming the credit.
- 1) The department shall develop forms for administering and claiming the credit for property tax purposes. The person or person's agent must use these forms to claim the credit. Tax collecting entities shall make the forms available at offices and locations where tax information is distributed.
 - 2) The person shall claim the credit for property tax purposes at the time payment is made and shall furnish the collecting entity a completed form, a copy of the receipt, and payment for the amount due, if any, after application of the credit.

Section 5: Determining the Child Credit Cap

- A) An eligible student's family can use a combination of Public Education Tax Credits up to the total amount of the child credit cap for each dependent eligible student.
- B) Notwithstanding the above, an eligible student's family can use educational scholarships derived from Public Education Tax Credit donations that amount to no more than the total of all child credit caps for all dependent eligible students minus the family's total tax liability for which a tax credit is available during the taxable year in which the scholarship is claimed.
- C) The child credit cap is:

- 1) 80 percent of the funding benchmark for each dependent eligible student in a family with a current-year taxable income not exceeding the family size and income standards used to qualify for a reduced-price lunch under the national Free or Reduced-Price Lunch Program (42 USC Section 1751 et seq.).
 - 2) 70 percent of the funding benchmark for each dependent eligible student in a family with a current-year taxable income not exceeding 1.5 times the family size and income standard used to qualify for a reduced-price lunch under the national Free or Reduced-Price Lunch Program (42 USC Section 1751 et seq.).
 - 3) 50 percent of the funding benchmark for each dependent eligible student in a family with a current-year taxable income not exceeding 3.0 times the family size and income standard used to qualify for a reduced-price lunch under the national Free or Reduced-Price Lunch Program (42 USC Section 1751 et seq.).
 - 4) 25 percent of the funding benchmark for each dependent eligible student in a family with a current-year taxable income not exceeding 6.0 times the family size and income standard used to qualify for a reduced-price lunch under the national Free or Reduced-Price Lunch Program (42 USC Section 1751 et seq.).
 - 5) 0 percent of the funding benchmark for each dependent eligible student in a family with a current-year taxable income that is more than 6.0 times the family size and income standard used to qualify for a reduced-price lunch under the national Free or Reduced-Price Lunch Program (42 USC Section 1751 et seq.). These families are still able to claim credit for donations to scholarship organizations or direct payment of educational expenses for nondependent eligible children.
- D) Notwithstanding the above, each family that makes use of a combination of both donation and personal use credits must ensure that the total used does not exceed the total in child credit caps for which they are eligible according to the guidelines in section 5C above. If a family overestimates the scholarship funds for which they are eligible, the taxpayer must adjust downward the personal tax credit claimed on their income tax return for the current year.

Section 6: Responsibilities of Parents Claiming or Using Public Education Tax Credits

- A) Parents may claim the Public Education Tax Credit only for expenses they actually paid.
- B) On a form prescribed by the department, parents will provide a detailed listing of the educational expenses for each child for whom they claim or have used a tax credit. They will attach to the form all receipts necessary to document these expenses.
- C) On a form prescribed by the department, parents will provide a detailed listing of all taxpayers claiming tax credits for the educational expenses of the parents' dependent children and/or all scholarship organizations providing funds for the educational expenses for each dependent child. For each taxpayer and/or scholarship organization, parents will list the full name, address, total funds provided, and date of funding.

Section 7: Responsibilities of Taxpayers Claiming Tax Credits

- A) On a form prescribed by the department, taxpayers will provide a detailed listing of the scholarship organization(s), child or children, and family or families to which they provided funds. In each case, taxpayers will list the full name, address, total

funds provided, and date of funding.

Section 8: Responsibilities of Scholarship Organizations

- A) Each scholarship organization shall:
- 1) notify the department of its intent to provide educational scholarships to eligible students;
 - 2) demonstrate to the department that it has been granted exemption from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;
 - 3) distribute periodic scholarship payments to parents or education providers serving specified parents for the specified educational expenses;
 - 4) provide a department-approved receipt to taxpayers for contributions made to the organization;
 - 5) ensure that at least 85 percent of revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships;
 - 6) verify annually by written and signed statement from each family or guardian the total scholarship amount for which each child is eligible according to Section 5;
 - 7) demonstrate its financial accountability by:
 - a. submitting a financial information report for the organization, conducted by its certified public accountant, that complies with uniform financial accounting standards established by the department; and
 - b. having the auditor certify that the report is free of material misstatements.
 - 8) file with the department, prior to the start of the school year, financial information that demonstrates the financial viability of the scholarship organization if it is to receive donations of \$50,000 or more during the school year.
- B) Notwithstanding the above, each scholarship organization may keep no more than 25 percent of total revenue from the previous fiscal year unused in a reserve fund. Any unused revenue in excess of this amount must be remitted to the taxpayer on or before a date one month prior to the tax filing deadline.

Section 9: Responsibilities of the Department of Revenue

- A) The department shall develop a standardized form for education service providers to document the amount paid by a parent for qualified educational expenses.
- B) The department shall ensure that parents are aware of the Public Education Tax Credit and that all procedures for claiming the credit are easy to follow.
- C) The department shall establish guidelines for parents to easily assign their tax credit to their students' qualifying schools and to easily adjust their state income tax withholding to reflect tax credit claims.
- D) The department shall require all scholarship organizations to register and annually report the information the department needs to carry out its responsibilities.
- E) The department shall adopt rules and procedures consistent with this act as necessary to implement the Public Education Tax Credit Act.
- F) The department shall annually report to the legislature on the number of parents claiming the tax credit, the dollar amount of the credits claimed by parents, the number of schools accepting eligible students who received a tax credit or educa-

tional scholarship, the number of scholarship organizations, the number and dollar amount of contributions to a scholarship organization, and the number and dollar amount of educational scholarships given to eligible students.

- G) The department shall have the authority to conduct either a financial review or audit of a scholarship organization if possessing evidence of fraud.
- H) The department may bar a scholarship organization from participating in the program if the department establishes that the organization has intentionally and substantially failed to comply with the requirements in Section 8.
- I) If the department decides to bar a scholarship organization from the program, it shall notify affected scholarship students and their parents of this decision as quickly as possible.
- J) The department shall allow a taxpayer to divert a prorated amount of state income tax withholdings to a scholarship organization of the taxpayer's choice up to the maximum credit allowed by law, including carryover credits. The department shall have the authority to develop a procedure to facilitate this process.
- K) A qualifying school is autonomous and not an agent of the state or federal government. Neither the department nor any other state agency may regulate the educational program of a provider of educational services that accepts payments from eligible students under this program. The creation of the Public Education Tax Credit program does not expand the regulatory authority of the state, its officers, or any local school district to impose any additional regulation on education service providers.

Section 10: Effective Date

The Public Education Tax Credit may first be claimed in the next calendar year.

Assessment Without High-Stakes Testing

Protecting Childhood and the Purpose of School

David Mitchell, Douglas Gerwin, Ernst Schubert, Michael Mancini, and Hansjörg Hofrichter¹

Picture a breezy spring morning at the beach. White-tipped waves roll rhythmically up the sand, washing away footprints like an eraser on a classroom blackboard. A group of children on a school outing marches purposefully along the shore through the edge of the frothy waves. A couple of eager children stride out in front. The teacher walking along with the main group of the class notices that one of the boys is lagging behind.

The teacher slows her step to find out why this child is not keeping up with his class. There are several possibilities:

1. The child is unable to keep up with the group due to some disability, physical or emotional, or simply exhaustion from lack of sleep or nourishment;
2. The child is unwilling to keep up with the group due to a lack of interest or, perhaps, a surfeit of distractions along the way; or
3. The child does not know how to keep up with the group, possibly because he is new to this experience and has not been taught how to hold his balance against the waves.

In each of these cases, the teacher will respond differently. In the first case, she may scoop up the boy and carry him, or ply him with a quick snack or a sip of water. In the second, she may draw his attention to something of interest up ahead or coax him with some gentle words of sympathy and encouragement. Or, in the final case, she may teach him how to high-step through the waves without losing his balance. In each of these three scenarios, the teacher assesses the child's situation—as well as her most appropriate response—by taking in the full context of his circumstances, rather than by testing his performance against a standardized norm that may threaten to exclude him from the company of his classmates if he does not speed up.

Yet, increasingly, this is what happens to students in school—whether or not they are lagging behind—as the result of government legislation enacted in 2002 under the promise “No Child Left Behind” (NCLB). Six years and billions of state and federal tax dollars later,² we may recognize that children don't learn faster or better by being subjected to high-stakes tests. If anything, the contrary may be the case.³

Former Assistant Secretary of Education Diane Ravitch is commonly recognized as one of the chief architects of the modern standards movement. In her book, *National Standards in American Education: A Citizen's Guide* (1995), Ravitch provides this rationale for standards:

Americans ... expect strict standards to govern construction of buildings, bridges, highways, and tunnels; shoddy work would put lives at risk. They expect stringent standards to protect their drinking water, the food they eat, and the air they breathe... Standards are created because they improve the activity of life. (pp. 8–9)

Ravitch asserts that just as standards improve the daily lives of Americans, so, too, will they improve the effectiveness of American education: “Standards can improve achievement by clearly defining what is to be taught and what kind of performance is expected.”⁴

This we may call "technocratic thinking," thinking that sees society as a problem to be solved, that approves technological fixes to improve living interactions and relationships, and that mistakes children for products. Standards, of course, are helpful, even necessary, in all areas of modern technology. They make products cheaper, more reliable, and of better quality. But children are not technological products, nor are they just a collection of parts; they are whole organisms and they belong to the social organization as a whole. They cannot be summarily tested, rejected, and recycled like an aluminum can. Human beings require a different approach to educational assessment, one that will have as much to do with teachers as with students.

To return to our school hike at the beach: For the child who lags behind due to physical or emotional impediments, or, metaphorically, cognitive challenges or learning difficulties, much has been achieved in the field of remedial education. These students are not exempt, however, from the testing required by the NCLB act, which is to say that these students may be treated differently from their peers in degree but not in kind.⁵ For the child who falls behind due to lack of focus and motivation, high-stakes testing exacerbates the divide between those more focused students who perform well on tests and those more easily distracted who do not. And for the child who slips behind because of inadequate teaching, we must ask, what is the point of testing students if their learning deficiencies are due in significant measure to the ineffectiveness of their teachers? And what will it take for these students to receive an adequate education?

As the NCLB legislation comes up for reauthorization, a broad coalition stretching across the political spectrum is rising up to demand a new approach to evaluating students, teachers, and schools.⁶ A fundamental question needs to be posed, however, before any new laws are formulated: namely, why are a growing number of children falling behind in their learning?⁷

There are many ways to find out, but even those who actually prepare for and administer these tests say that the tests are not one of them.⁸ As one critic of this legislation puts it, the closer you are to the classroom and the process of learning, the less useful this form of testing becomes.⁹ At a practical level, high-stakes, norm-referenced testing does not deliver the results it has promised. At a deeper, more troubling level, it raises moral questions when information from this testing is used for "non-educational purposes" such as grading, ranking, manipulating salaries, and student profiling. What are we trying to achieve when we send children to school?

HOW CAN WE HELP THEM TO SUCCEED AS LEARNERS?¹⁰

NCLB legislation has a noble intent—to provide every child with a good-enough education.

The resultant high-stakes testing, however, has become a wolf in sheep's clothing. Interpretation or misinterpretation of NCLB has led to heightened stress in children,¹¹ compromised the integrity of teachers, and created an intellectual caste system in which end results have replaced established educational practice.¹² High-stakes test preparation is even found in pre-schools and kindergartens as schools struggle to create an edge that will increase their funding.

It is the birthright of every child to enjoy a healthy childhood that involves free play, loving warmth, and healthy, child-centered rhythms—the unfolding of which will be transformed later into cognitive and moral capacities that become sources of strength in adult life. As teachers speaking on behalf of all children, we offer in this paper alternative methods of assessment that focus not simply on the performance of students but on the efficacy of teachers.

WHY SHOULD WE SEND OUR CHILDREN TO SCHOOL?

Before we can address the forms of assessment appropriate to childhood, it is important to identify and set aside three widely held yet misleading assumptions given as the purposes of education or the reasons for going to school. The first assumption is that one chief purpose of school is to instruct students. By this is meant that teachers know and students do not. The teachers' task is to convey what they know to their unknowing students, then confirm the efficacy of this transaction by testing the students' ability to remember—or at least recognize—what they have received. The lesson may be transmitted to the student by the teacher, but often the instruction takes place by textbook or other medium. In other words, students receive their lessons primarily through what they hear and what they see. Other modes of learning such as working with the hands, demonstrating through gymnastics, and practicing elocution are secondary, perhaps entirely neglected, approaches. Teaching not only involves the transfer of knowledge but also serves to focus insight and the self-learning forces within the child—each requiring modification based upon the developmental stage of the child.

This assumption is valid only if by education we simply mean the transmission of information. A teacher's task is not to pour in material but to draw out students' nascent capacities. Herein lies the fundamental difference between in-struction, which in its etymological origins means to pour stones (Latin *structus*) into an empty vessel, and e-ducation, which in its origins means to lead or draw (Latin *ducere*) forth or out (Latin *e-*). When they instruct, teachers insert what they know into the empty vessel of the student who knows not. By contrast, when they educate, teachers draw forth from a student what he or she in some sense already knows, whether implicitly or explicitly. Like Socrates in Plato's dialogue, *Meno*,¹³ the teacher coaxes from the students—with the help of skillful leading questions—responses that help them figure out the lesson for themselves, instead of waiting for the teacher to supply it. In so doing, instead of receiving and retaining someone else's thoughts, the students create their own. That is, they think. And in thinking, students use more than simply their visual and auditory senses, crucial though these are to learning. The difference between storing content and developing capacities is simple enough: In the one, you receive, primarily via eye and ear, something from without; in the other, you generate, usually with the participation of your entire body, something from within.

Instruction proceeds from the outside in; education from the inside out. Both aspects are needed at appropriate stages of development, but education entails a more active, participative—albeit more time-consuming—form of learning.

This latter approach to educating is sometimes called "the discovery method" or, in some forms, "constructivism," or even "the Socratic method," and yet, all too easily, education is replaced, either for lack of time or lack of teaching skill, by instruction. If we are to place education ahead of instruction we will need a new form of assessment, since the purpose of assessment will be to determine whether a teacher is drawing forth capacities from his or her students, activating the full resources of their entire organisms, not whether the students are retaining certain information, primarily through eye and ear.

A second assumption about going to school, also widely held, states that another chief purpose of education is to prepare students for the work force. This assumption posits an economic motive for an essentially cultural activity. We read, for instance, that schools need to ready the next generation to compete in the global marketplace. According to this view the mark of successful schooling will be students who are productive wage earners. To the extent that this paradigm rules the learning experience, testing will focus on skills having to do with economic values such as competition, efficiency, and speed.

To discern the fallacy of this assumption, it is helpful to distinguish in society three

interrelated, sometimes overlapping, yet distinct spheres of activity: one economic, one political, and one cultural. To the economic sphere belongs all activity having to do with commerce and the generation of wealth; to the political sphere, all matters of law and political rights; and, to the cultural sphere, everything to do with such things as the life of arts and humanities, science and technological research, morality and social customs, religion and philosophy.¹⁴

A school, then, is not primarily an economic organization; it is primarily a cultural organization. Put differently, the purpose of school is not to generate wealth as a business but to unfold human capacities as a center of learning. Place schools in the service of economic goals and we begin to undermine the purpose of schooling. Instead, the best way to prepare students for both economic and political life is to develop in them capacities of judgment and discretion.

It is perhaps an unwritten rule that cultural institutions or activities motivated by something other than themselves soon lose their cultural integrity. The value of a poem is... its poetic worth. Cultural values, in other words, are self-reflexive. Consider what would happen, say, if the primary value or purpose of a publication were to become economic (that is, to make money), rather than remain cultural (that is, enrich the life of ideas). Which journals most successfully reward the profit motive? These are pornographic magazines. Which forms of music pay the best? Advertising jingles. Which forms of cooking make the most money? Fast food outlets. This is not to say that a cultural activity cannot be profitable. Rather the point is that a cultural activity made subservient to economic gain may typically result in the loss or even the perversion of its cultural value.

Social scientist Donald D. Campbell arrives at a similar conclusion by means of a social law he has formulated in this way: "The more any quantitative social indicator is used for social decision-making, the more subjected it will be to corruption pressures and the more apt it will be to distort and corrupt the social process it was intended to monitor."¹⁵ We have only to recall reports of cheating by school officials anxious to raise their state-mandated test scores to recognize the efficacy of this social law.

An education free of economic motives requires a different form of assessment, since assessments will inevitably be grounded in the values of the very activities they are designed to test. Instead of basing assessment on the economic goals of efficiency, speed, and competitive advantage, schools will approach assessment based on the cultivation of essential human qualities that may unfold slowly, often laboriously, over long periods of time. Even the most essential skills—reading, writing, arithmetic—can be successfully evaluated without resorting to standardized tests.

Educational practices may be distorted not only by a commercial motive; they may also lose their integrity if their motive is political. Literature taken over by political activity can easily devolve into propaganda; religious worship controlled by the state soon appears as idolatry. This brings us to a third commonly held assumption: A further chief purpose of education is to prepare students to become responsible citizens. The motive for teaching, here, is to inculcate the values of a society and thereby help students align themselves with their political and social environment. Here testing will take the form of assessing familiarity with (and perhaps even obedience to) codes of conduct and social norms.

But this assumption flies in the face of the original intention of the founding fathers of the American nation—Thomas Jefferson in particular—who explicitly inspired a system of education designed to strengthen the individual against the tyranny of social norms and conventions. Far from raising children to fit a pre-existing order, according to Jefferson, education was intended to cultivate a generation of leaders who would ceaselessly renew society out of their own insights and their own thinking. In a letter to his friend William Roscoe on the subject of public education, Jefferson writes:

These schools will be based on the illimitable freedom of the human mind. For here we are not afraid to follow truth wherever it may lead, nor to tolerate any error so long as reason is left free to combat it.¹⁶

In sum, education needs to be pursued for its own ends, not for some extrinsic goal beyond itself. The moment education becomes primarily a means to some other goal, political or economic, it begins to lose its cultural value. The moment education—and, by extension, the assessment of education—is overshadowed by some economic or political motive, it begins to lose its own integrity.

And what is this integrity? Here we return to the question posed earlier about the reason for sending children to school. If not to fill them with instruction, train them for the work force, or outfit them as good citizens, what are the most important purposes of education?

AN ALTERNATIVE WAY OF VIEWING GROWING CHILDREN HOW THEY MIGHT BE EDUCATED AND WHY

The art of teaching presupposes a science of education based on accurate observation of children as they pass through distinct phases in their development from early childhood and the elementary grades to the high school years and beyond. During these phases, each lasting roughly six to seven years, children learn in radically different ways:

- To educate preschoolers we need to encourage them to “do” something. We engage their will. Powers of imitation in young children provide fertile educational possibilities. A life rich in play—both free and structured—is crucial to learning at this age. In this phase we cultivate and discipline childrens’ will, which sets the groundwork for more conscious learning in later stages in childhood.
- To educate elementary school children we need not only to invoke their will but also to stimulate their imagination through storytelling, which builds beautiful images and expresses the feelings and yearnings that reside deep within students’ inner lives. We work with their hearts in order to stir the imagination and invoke a sense of awe and wonder. A life rich in inner imaging holds the key to learning during these years. This is the phase of emotional development.¹⁷
- To educate high school students we not only need to stir their powers of intrinsic motivation and imagination but also to challenge their abstract thinking, exercise their powers of discrimination, and give them a sense of confident participation in the world. A life rich in ideals is vital to learning at this stage of development. At puberty, critical thinking, scientific investigation, and rigorous thinking are exercised. This is the phase of cognitive development.

In all three phases, the overarching purpose of education is to assist human unfolding. Ultimately, school serves not the business world nor any political agenda, but rather the child and young adult as he or she unfolds those capacities that make him or her uniquely human. And what makes the human being unique? By contrast with any animal, the human is distinguished, among other traits, by its exceptionally high degree of flexibility. We see this, for example, in the free play of a preschool child, in the tireless creativity of a grade-school child, and in the dawning of free and self-determined thinking in a young adult.

A teacher who works with the flexibility—behavioral, emotional, cognitive—within human beings at the appropriate stages of their development fulfills the purpose of education.

In this context, standardized tests have a minor role to play in the assessment of cognitive abilities in the high school years, though even here other forms of evaluation are likely to be more productive as tools of learning and predictive of success in adult life. The younger the child, the less useful are these tests, since they primarily assess cognitive function.

More alarming is the effect that testing can have not only on the classroom but on children's motivation to learn, especially in their early years. Consider the following story: Over-stressed due to the Vietnam War and Civil Rights confrontations, President Lyndon Baines Johnson was weary when the meeting of a blue ribbon educational reform group convened in his office. As the panel spoke, his head dropped, his eyes closed, and sleep overwhelmed him. At that point the panel's chairman, a distinguished professor from MIT, stood up and declared loudly, "Mr. President, we have a plan for the elimination of baseball in North America."

Johnson sat bolt upright, not believing what he had heard. The professor continued by putting forth a curriculum whose progression was determined entirely by testing.

- Fifth grade: take field trips to games with tests given on observations
- Sixth grade: study the rules of the game
- Seventh grade: learn about the history of baseball and key biographies
- Eighth grade: practice statistics, the computation of batting averages and pitching percentages
- Ninth grade: draw the geometry of the base paths and calculate the ricochet of balls hit off the green wall at Fenway Park in Boston
- Tenth grade: study baseball physics, calculating trajectory and velocity
- Eleventh grade: explore baseball economics, choosing an agent, negotiating contracts
- Twelfth grade: arrive at a grand synthesis—culminating in a major exam on all materials from grade five through eleven

The final test in grade twelve would be given to those who had passed all the previous tests.

Some might pass, but not enough to field a team. "Through this testing method, Mr. President," the professor concluded with a flourish, "we would eliminate baseball as a national pastime."

The professor had made his point, and a shaken President Johnson remained alert for the rest of the meeting.

This story points out the deadly effect testing can have on children's learning. Are we risking the same demoralization when we teach young children mathematics, biology, and history in order to assess them in this manner? Is there another way that still honors uniquely human qualities?

ALTERNATIVES TO HIGH-STAKES TESTING

There are many alternative approaches to high-stakes testing that educators can use in order to assess achievement in subject matter. Many of these methods ensure greater retention of material and a more lively process, one that activates enthusiasm for learning rather than subjecting children to undue stress—which many teachers report is a growing problem among children subjected to mandated testing.

Alternative assessment techniques vary depending on the educational level or developmental phase of children and the teacher's learning goals. Educational assessment should be exclusively used for finding out the extent to which specific learning goals have been attained.¹⁸ Also, each developmental phase of childhood requires different techniques and approaches. For example, to assess children's kinesthetic abilities during preschool years, we would observe how they engage their motor skills:

- Can they balance themselves while walking on a balance beam or climbing a tree?
- Are they able to skip?
- Can they walk backward in a straight line?

– How do they place their foot on the ground? Heel first; flatfooted; just the toes?

Assessment in early childhood should consider the physical development of young children as essential to their later artistic and academic learning. Gross motor skills need to be developed before fine motor skills. Social interactions, imaginative play, and tranquility essentially replace academic assessment at this age. Observations of children give rise in a teacher to intuitive insights that can be used for the design of movement exercises—for instance, in eurythmy,¹⁹ games, and gymnastics—to help remedy academic problems. Exercises in Spatial Dynamics²⁰ involving orientation to direction (up, down, left, right, forward, backward) may be worked on rhythmically. All of this helps to center the child so that more focused learning can take place.

Indeed, recent studies on the development of young children's intelligence suggest that "dramatic play" provides one of the most effective techniques for improving their "executive function" (EF) score, a measure of cognitive growth that is fast overtaking the traditional intelligence quotient (IQ) test as a reliable predictor of children's intellectual strengths and development. This new research demonstrates statistically that skills measured by EF, rather than those measured by IQ, lead to greater success later on in academic subjects such as grammar and arithmetic, and that EF scores can be improved through exercises such as those provided by dramatic play.²¹

With elementary age children the teacher observes their emotional constitution by being awake to the following:

- How do they shake hands in the morning when they are greeted? Can they speak a clear greeting?
- When the lesson of the previous day is reviewed, are they accurate in their recapitulation? Can they draw forth the essential points that were learned in the previous day's lessons?
- How do they apply and hold their concentration?
- How do they engage in artistic projects? Which topics do they focus on in the composition of their artwork? Do they have difficulty finishing their projects?
- Are they able to enter into the character of other personalities while engaged in drama and are they able to step out of a role with equanimity?

When the teacher observes these qualities of emotional intelligence in the children, she activates her own imagination that allows her to bring assistance and attention to the children, once again so that they can find a center. When a teacher is unable to correct an emotional or cognitive imbalance in children, then they need to meet with specialists capable of assisting them through special lessons.

An awareness of "multiple intelligences," for instance as described by Howard Gardner, also guides a teacher's educational methods and assessment process. Lessons consist of visual, auditory, and experiential components; assessment is based on multiple modes of student learning as a way to track a student's strengths and weaknesses within differing learning styles, such as visual, auditory, or kinesthetic. Auditory learners, for instance, internalize history most effectively through stories that they hear; visual learners through the illustrations they see; and kinesthetic learners through enacting the story.

Students need to learn traditional subject matter, but, in being questioned, are better served the more they are presented with questions for which there are "open answers." Whereas multiple-choice high-stakes tests inculcate in students the assumption that there is one and only one correct answer to any given problem, open-ended questions encourage a plurality of responses. These can begin with a math lesson in first grade, for example, when we may ask:

"What is 12?" Many correct answers are possible. For example:

$$12 = 6 + 6$$

$$12 = 11 + 1$$

$$12 = 3 + 4 + 5$$

$$12 = 1 + 2 + 3 + 3 + 2 + 1$$

From the beginning, children learn that a question can have many correct answers, but that not all answers are correct.

Students can write and illustrate notebooks to strengthen auditory recognition and subject retention. They can prepare portfolios and make class presentations, which enhance their ability to speak confidently and articulately in public. There are so many alternative ways for teachers to assess their students' actual educational growth besides high-stakes testing, and the few examples offered ask for the full involvement of the children.

As children arrive at puberty and enter into the turbulent phase called adolescence, an entirely different set of observations is called for to support intellectual development. Now we concentrate primarily on their forces of thinking. Students have reached the stage of development—roughly around twelve years old—when cause and effect become active in their cognitive experience.

Now the teacher must work with the students' ability to think flexibly. Students need to learn not to become caught in fixed or rigid ideas; instead, they must become more rigorous in their pursuit of truth. Fluidity and movement are important as different forms of thinking (such as analytic, causal, teleological, and synthetic) are exercised through appropriate coursework. For example, the study of geometry accentuates logical powers while the study of biology works with teleological and causal thinking. Students at this age must be able to command different forms of thinking. Multilayered thinking, far from inducing confusion and vagueness, requires ever greater levels of mental discipline and rigor.

HOW CAN WE EVALUATE STUDENTS AT THIS AGE?

- Are their memories precise and active when a teacher asks for a recapitulation of the essence from the previous day's lessons?
- Do they extend knowledge beyond activities in the classroom and make this evident in their papers and projects?
- Are they able to integrate information, linking different fields of knowledge?
- Are they capable of translating ideas into action? Can they define a task, invent a procedure to accomplish it, and carry it through to completion?
- Are they able to take material learned in one subject and apply it to another?

THE FOLLOWING LIST OF GUIDED ACTIVITIES OPENS THE DOOR FOR ALTERNATIVE ASSESSMENT:

- Team projects with class presentation
- Research papers
- Oral exams and thesis writing
- Science or history fairs with community participation in which students describe their efforts and answer questions
- Projects presented at a public gathering of parents and friends of a school
- Drama: remembering, reciting lines, and emulating prescribed movement on stage
- Sports: practicing confident hand-eye coordination, fluidity of movement, and team-building

Observation of these activities allows a team of teachers to work with forces of inspira-

tion to help and guide students past obstacles. Note that for the adolescent years, during which development becomes more individualized, correct assessment requires a group of teachers because different perspectives are crucial in determining courses of action.

While these examples are only a few of many possibilities, they are fundamental to successfully assessing the essential development of each student. Assessment that furthers student progress and thereby fulfills the real mission of education requires the full engagement of the teacher or team of teachers involved with the student. This approach fosters the healthy development of the students and builds hope of future improvement in their hearts. High stakes testing cannot be expected to help in this essential educational task.

THE ULTIMATE TEST

Ultimately, as mentioned previously, a teacher who tests her children is testing herself.

Children fail quizzes and need to make up inadequate work, but as they become older they become increasingly responsible for their own learning. When our children are left behind, however, we need to turn to the teachers who are responsible for shepherding them through their childhood. We need a culture in our schools that proclaims that there shall be "No Teacher Left Behind."

This does not mean that teachers should be rewarded according to the performance of their children, for this introduces unhealthy dynamics into education. But it does mean that, for students to succeed, their teachers need to be on an unending path of self-development, one that includes self-assessment. Practically, this entails that before teachers administer tests to their students, they need to submit themselves to self and peer review, asking: How am I doing? Only then can they administer tests to their classes. Even these tests will have the primary purpose not of testing students' comprehension but rather of having teachers evaluate the effectiveness of their own teaching.

In the final analysis, educational reform is the task of a school's circle of educators, not of a government's house of legislators. Teachers need to be charged with the task of studying their students, deepening their expertise, and developing appropriate methodology as a result. They can then set appropriate educational policies based on freedom and cultural pluralism. The task of the government is not to guarantee equal schooling for everyone; rather it is to guarantee equal access to the kinds of education that parents believe is right for their children.

¹ These authors and teachers are all active within Waldorf schools and institutes, members of an international independent educational movement with more than 1,000 schools and teacher training centers worldwide that do not participate in high-stakes testing. They are also concerned with the welfare of all children.

² The year before NCLB went into effect, states spent \$423 million on standardized tests. During the 2007-2008 school year, that amount increased to almost \$1.1 billion. And the windfall goes largely to five (soon to be four) testing companies. The cost of funding NCLB programs over a six-year period (2002-2008), authorized by law, has a cumulative gap of \$70.9 billion. Including President Bush's budget for 2009, that expense will become \$85.7 billion.

³ See, for example, Sharon L. Nichols and David C. Berliner, *Collateral Damage. How High-Stakes Testing Corrupts America's Schools*, Harvard Education Press, Cambridge, MA, 2007.

⁴ Diane Ravitch, *National Standards in American Education: A Citizen's Guide*, 1995, p. 25.

⁵ The Department of Education's new policy does not exempt any students from the assessments required under NCLB, including those with disabilities. NCLB requires annual testing of all students in grades 3 through 8. In addition, high school students must be assessed once during grades 10-12. Students must be tested in reading/language arts and math. Beginning in school year 2007-2008, all students must also be assessed in science once during grades 3-5, once during grades 6-9, and once during grades 10-12.

- 6 "An education policy that traumatizes children, destroys the desire to learn, and corrupts the purposes for learning should be eliminated, not reformed," from "School Matters," <http://schoolsmatter.blogspot.com/2006/03/where-are-mental-and-social-health.html>. Also, stories from each state are online at www.nea.org/lealncb/stories/states.html. Finally, Reggie Clark, a middle school robotics teacher, said that under NCLB, students "are not really even thinking. They are just remembering certain skills." "Discouraging Words," posted January 11, 2008, by NEA editor.
- 7 In a study of 271,000 Texas public high school students, Rice University researchers found that the state's accountability system, the model for NCLB, "has succeeded wildly... in producing more dropouts ...disproportionately minority student dropouts." See http://www.utexas.edu/news/2008/02/18/education_accountability/.
- 8 At a practical level, high-stakes, norm-referenced testing does not deliver the results it has promised. At a deeper, more troubling level, it raises moral questions when information from this testing is used for "non-educational purposes" such as grading, ranking, manipulating salaries, and student profiling. What are we trying to achieve when we send children to school?
- 9 See also Nichols and Berliner: "By restricting the education of our young people and substituting for it training for performing well on high-stakes examinations, we are turning America into a nation of test-takers, abandoning our heritage as a nation of thinkers, dreamers, and doers."
- 10 See the white paper, "Why Are We Doing This to Our Children?" at www.waldorfresearchinstitute.org.
- 11 See report from the Missouri Association of School Psychologists, <http://www.maspweb.org/nclb.html>. The National Association of School Psychologists recognizes that, when high stakes are attached to test scores, there is greater potential for misuse of data and negative consequences, such as the impact on student mental health.
- 12 "When 'failing' the test means failing the grade, failing to graduate, or even lesser consequences such as attending summer school or loss of certain privileges, students may experience long-term anxiety, low self-esteem, depression, etc. At a more systemic level, class-wide and building-wide testing can put students, teachers, and administrators at risk for anxiety and other forms of emotional distress. These consequences can impact not only test-taking but also learning and motivation." National Association of School Psychologists, <http://www.naspweb.org/nclb.html>.
- 13 Plato, *Meno*, trans. W.K.C. Guthrie, in *The Collected Dialogues of Plato*, ed. Edith Hamilton and Huntington Cairns, Bollingen Series LXXXI (Princeton: Princeton University Press, 1973).
- 14 This differentiation of society into three distinct but deeply interrelated spheres of activity is further elaborated by Rudolf Steiner in several books and many lectures on the theme of social reforms. See, for instance, Rudolf Steiner, *Towards Social Renewal* (London: Rudolf Steiner Press, 2000).
- 15 Donald Campbell, "Assessing the Impact of Planned Social Change," in *Social Research and Public Policies: The Dartmouth/OECD Conference*. Ed. Gene Lyons. Hanover, N.H.: Public Affairs Center, Dartmouth College, 1975.
- 16 Thomas Jefferson to William Roscoe, 1820. ME 15:303.
- 17 In *Counseling Today*, May 2008, Angela Kennedy reports on a presentation of American Counseling member Susan Eaves who says, "Low emotional intelligence (or EQ, as opposed to IQ) and the surge of self-centeredness in the children are products of our culture [and] put too much emphasis on academic [testing] and not enough on emotional development ... emotional intelligence is one of the most important predictors of success in life." Emotional intelligence develops a host of traits—impulse control, delayed gratification, ability to resolve conflict, cooperation, self-motivation, and most important empathy ... "empathy is the one trait that will put an end to all cruelty, violence, aggression, and bullying in our children."
- 18 See Paul Zachos, "Discovering the True Nature of Educational Assessment," *Research Bulletin*, IX, #2, Research Institute for Waldorf Education, 2004, pp. 9-12.
- 19 Eurythmy is artistic movement to speech and music and is a core course in Waldorf schools.
- 20 "Spacial Dynamics" is a study and discipline of enhancing the growing human being's relationship to his or her body and surrounding space through appropriate movements and gestures. This subject is also used in Waldorf schools.
- 21 Wray Herbert, "Is EF the New IQ," *Newsweek* June 4, 2008 url <http://www.newsweek.com/id/139885>.

Resources:

Note: This list should not be construed as an endorsement of the views or practices of the following organizations.

KEY NATIONAL SCHOOL CHOICE ORGANIZATIONS

American Legislative Exchange Council (ALEC)

1129 20th St., NW
Suite 5
Washington, DC 20036
202-466-3800
www.alec.org

The American Legislative Exchange Council (ALEC) is a voluntary association of conservative state legislators, think tank representatives, and business leaders. It has several task forces including one on education, which has developed model school choice legislation.

All Children Matter

201 Monroe Ave., NW
Suite 300
Grand Rapids, MI 49503
616-776-5440
www.allchildrenmatter.org
Greg Brock, Executive Director

All Children Matter is the lead organization of a number of Political Action Committees (PACs). Funded by the founding families of Wal-Mart and Amway, it supports political candidates who support school choice.

Alliance for School Choice (ASC)

1660 L St., NW
Washington, DC 20036
202-280-1990
www.allianceforschoolchoice.org
Charles Hokanson, President
Liz Moser, Director of Outreach and Training

The Alliance for School Choice has a website that is perhaps the best single source of information on school choice at the national and state levels. It gives a state by state description of all the educational choice programs and leading advocacy organizations. ASC publishes two quarterly newsletters, *School Choice Advocate* and *School Choice Navigator*, providing the latest information on school choice developments and research. ASC's staff provides practical information to school choice groups around the country.

Cato Institute

1000 Massachusetts Ave
Washington, DC 20001-5403
202-842-0200
www.cato.org
Andrew J. Coulson,
Director of the Center for Educational Freedom

Cato's Center for Educational Freedom was founded on the principle that parents are best suited to make important decisions regarding the care and education of their children. The Center's scholars seek to shift the terms of public debate in favor of the fundamental right of parents and toward a future when state-run schools give way to a dynamic, independent system of schools competing to meet the needs of American children.

Institute for Justice

901 N Glebe Rd., Suite 900
Arlington, VA 22203
703-682-9320
www.ij.org

The Institute for Justice is a litigation firm that has successfully defended school choice in courtrooms nationwide, including the U.S. Supreme Court. It maintains a complete list of completed and current school choice court cases and a media kit on school choice.

Mackinac Center for Public Policy

140 West Main St.
Midland, MI 48640
989-631-0900
www.mackinac.org

Mackinac Center for Public Policy is one of America's largest think tanks. It first developed the idea of a universal tuition tax credit and is very supportive of educational freedom.

Milton and Rose Friedman Foundation

One American Square
Suite 2420
Indianapolis, IN 46282
317-681-0745
www.friedmanfoundation.org
Robert Enlow, Executive Director

The Milton and Rose Friedman Foundation is named after Nobel prize-winning economist Milton Friedman, who first conceived of educational vouchers in 1955. The Foundation views vouchers as the best form of educational choice. Their website lists all current educational choice programs as well as those under consideration with full text of the legislation. They also provide a number of excellent publications, including *ABCs of School Choice* and *School Choice Advocate*, and a media kit on educational choice.

OTHER ORGANIZATIONS SUPPORTIVE OF SCHOOL CHOICE

Alliance for Catholic Education
www.ace.nd.edu

*Association of Waldorf Schools
of North America*
www.whywaldorfworks.org

Black Alliance for Educational Options
www.baeo.org

Council for American Private Education
www.capanet.org

Goldwater Institute
www.goldwaterinstitute.org

The Heritage Foundation
www.heritage.org/schoolchoice

*Hispanic Council for Reform and
Educational Options*
www.hcreo.org

Hoover Institute at Stanford University
www.hoover.org

The Institute for Social Renewal
www.socialrenewal.com

Manhattan Institute for Policy Research
www.manhattan-institute.org

EDUCATIONAL ASSESSMENTS RESEARCH

*Association for the Cooperative Advancement
of Science and Education (ACASE)*
110 Spring St.
Saratoga Springs, NY 12866
518-583-4645
www.acase.org
Paul Zachos, Director

ACASE is developing educational assessments approaches that are viable alternatives to norm-referenced high stakes testing.

IMPORTANT SCHOOL CHOICE PUBLICATIONS

*School Choice Yearbook and Model Legislation
Reference*
Published annually by the Alliance for School
Choice.

The ABCs of School Choice
Published annually by the Milton and
Rose Friedman Foundation.

Forging Consensus
Written by Andrew Coulson and published by the
Mackinac Center for Public Policy.

*School Choice and State Constitutions:
A Guide to Designing School Choice Programs
and Bulletproofing School Choice*
Available from the Institute for Justice.



The Association of Waldorf
Schools of North America

337 Oak Street
Minneapolis,
Minnesota 55403
518 672 7878
www.whywaldorfworks.org



The Institute
for Social Renewal

Postal Drawer 3
Loma Mar,
California 94021
518 392 9620
www.socialrenewal.com