

Council for American Private Education

CAPE outlook

Voice of America's private schools



Report: Excessive Regulations Thwart School Choice

With school choice programs popping up across the country, a new study takes a look at their potential effects on private schools. The study contends that too much regulation would drive schools away from choice programs and narrow the options for parents. According to the report, many private school officials “would rather turn down ‘free money’ than compromise the core qualities of their schools.”

Prepared by H. Lillian Omand for the Cato Institute, the study is based on a survey of just over 1,000 private schools. The survey measures a school’s willingness to support and participate in school choice programs under each of 11 regulatory restrictions, ranging from requirements for school accreditation and teacher certification to random admission of program students by lottery. While responses vary by type of regulation and type of school, the bottom line is this: There is a limit to the regulations schools are willing to accept.

For Omand, the best school choice programs are those that strike a balance between competitive efficiency and educational freedom. She contends that when schools are free to innovate and distinguish themselves from one another, they are more likely to increase quality, choice, and customer satisfaction.

The report examines the typical types of regulations attached to school choice initiatives: nondiscrimination requirements, lottery-based admissions policies, tuition caps, opt-out provisions, and regulations relating to accreditation, teacher qualifications, and standardized testing. Calculating the requirements connected with school choice, the author concludes that programs based on vouchers tend to be bundled with more elaborate regulations than those based on tax credits.

The survey asked school officials to react to various regulatory proposals. What, for example, did they think of a regulation

limiting vouchers to one-half the per-pupil spending for public schools and forbidding private schools from charging voucher students anything more than the voucher amount? About one-third of respondents from schools with tuition under \$1,400 opposed the caps, compared to three-fourths of those from schools with



Regulating
Diversity Away

tuition in the \$5,000 range. When asked about the same voucher caps, though with the opportunity for schools to charge a small additional fee per year, respondents’ overall support went up by about 10 points. Omand says the higher support may reflect “the belief that parents are more involved in their children’s education when they have some financial investment in it.”

On regulations relating to religious issues, 65 percent of Catholic schools and 66 percent of other Christian schools opposed “losing the ability to prefer members of their own denomination in admissions.” Furthermore, over 90 percent of these same schools opposed provisions that would allow “some students to opt out of religious activities.”

But while those two groups on those two issues showed similar response rates, there were striking differences in opinion within the private school community about other kinds of regulations. Take

school accreditation. Twenty percent of nonsectarian schools, 4 percent of Catholic schools, 40 percent of other Christian schools, and 31 percent of Jewish schools opposed regulations requiring schools in choice programs to be accredited. Disparities also existed around teacher certification, with 60 percent of nonsectarian schools, 17 percent of Catholic schools, 53 percent of other Christian schools, and 49 percent of Jewish schools opposing such requirements.

When presented with certain admissions-related regulations, schools of various types tended to have more consistent responses. Slightly more than a majority opposed a requirement that a random lottery be used to admit choice students; an even stronger majority opposed a ban on academic-based admissions screening, and over 80 percent opposed a ban on behavior-based screening.

By way of summary, the survey asked administrators to rank various categories of regulations according to the level of concern they caused. Religious schools put “possible restrictions on religious teaching” first, but otherwise schools said their most serious concern was “loss of control over admissions standards,” followed by “capped tuition for participating students,” and then, in a tie for third, “increased state supervision and reporting requirements” and “application of state education standards such as standardized testing and/or teacher certification.”

Still, the study documents a positive disposition toward school choice. Despite their concerns about regulatory pitfalls, 82 percent of private school administrators indicated general support for vouchers and almost all of them indicated general support for tax credits.

The Struggle for School Choice Policy After Zelman: Regulation vs. the Free Market is available at <http://www.cato.org/pubs/pas/pa-495es.html>.

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Government Issues School Crime and Safety Report

Violence in schools. Few topics can so quickly ignite anxiety, fear, and calls to action. This is because adults have a primal inclination to protect the young. But it is also because adults naturally want children to learn, and it is axiomatic that unless schools are safe, they cannot be places of learning.

Two federal entities, the Bureau of Justice Statistics and the National Center for Education Statistics, are responsible for measuring and reporting on school crime and safety. Last month they released their sixth annual report, covering grim issues like homicide, suicide, fights, hate speech, and theft—topics we'd prefer not to associate with schools.

According to the report, for the school year ending June 30, 2000, 22 students nationwide lost their lives in school-associated homicides (16) or suicides (6). But those grievous statistics tell only a small part of the story. Away from school, 2,124 children ages 5-19 were homicide victims during school year 1999-00, and 1,922 children ages 5-19 died by suicide during calendar year 2000.

For nonfatal serious violent crimes—including rape, robbery, sexual assault, and aggravated assault—students were also more likely to be victims away from school (290,000 incidents in 2001) than at school (161,000). And for school crime in general, the report notes that between 1995 and 2001, the percentage of students who reported being a crime victim at school fell from 10 percent to 6 percent, a promising trend indeed.

For some measures of crime and safety, the report presents data by school type. In 2001, a higher percentage (1.9 percent) of public school students reported that they had been victims of violent crime during the previous six months than private school students (1.0 percent). The same is true of theft victims (4.4 percent public versus 2.5 percent private). But for victims of bullying, the type of school they attended didn't matter. The report notes that "no differences were detected between public and private school students' reports of being bullied in 2001." Eight percent of public school students ages 12-18 said they had been bullied sometime during the previous six months, compared to 7.3 percent of private school students, a difference so small that it is apparently not statistically significant.

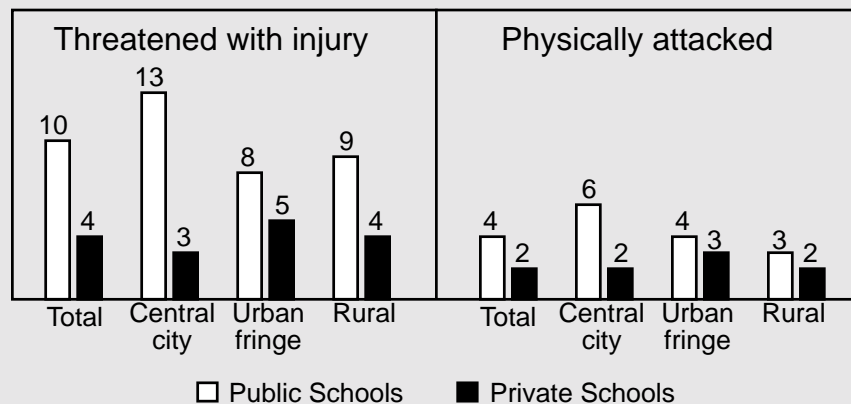
Associated with being bullied is being the victim of hate-related words. Public school children (12.7 percent) were more likely to be targets of such language than private school children (8.2 percent). More specifically, the report says that "public school students were more likely to report exposure to hate words related to their race, ethnicity, or disability." Students in public schools (37.3 percent) were also more apt to see hate-related graffiti at school than their counterparts in private schools (16.8 percent).

Students have a sense of whether or not their school is a safe place to be. The report touches on factors that help form that sense. For example, in 2001, 21.6 percent of public school

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How Safe Are America's Teachers?

Percentage of teachers who in 1999-2000 reported that during the previous 12 months they had been...



Source: *Indicators of School Crime and Safety: 2003*. U.S. Departments of Education and Justice. October 2003.

USDE Issues Title I Guidance

There will probably never be a document that definitively answers every conceivable question about Title I services for children in private schools, but the non-regulatory guidance that the U.S. Department of Education issued last month comes remarkably close. After scrutinizing the statute and regulations and getting a lot of input from the field, USDE staff have compiled responses to dozens of questions about Title I, ranging from What students are eligible? to When should services start?

Title I provides remedial services to children who live in high-poverty areas and who are, or are at risk of, failing to meet certain achievement standards. Some of a school district's funds for Title I are set aside for services to eligible private school children based on the percentage of resident low-income students in the area who attend private schools. Thus, if 100 out of 500 school-age children living in a public school attendance area attend private schools, the district must set aside 20 percent of its Title I allocation for services to private school students.

The guidance document is divided into five sections, the first dealing with consultation. Public school officials are supposed to consult with private school officials on virtually every aspect of Title I services relating to private school students. The guidance covers the who, what, how, and when of consultation. It advises districts that "a unilateral offer of



services...with no opportunity for discussion is not adequate consultation." The document also provides an example of the signed affirmation of adequate consultation that district officials must obtain from private school officials.

Another section, the longest by far, focuses on how to determine whether services and benefits to private school students are equitable. Examples are offered of the various ways districts may calculate the number of children from low-income families in a given area who attend private schools. The circumstances under which districts may reserve funds "off the top" of their Title I allocation are also covered, along with when those reservations must include set-asides for equitable services to private school students.

Sections on parental involvement and professional development clarify that when a school district earmarks Title I funds for such activities, it must reserve some of those funds for services to parents and teachers from private schools. The set-aside is based on the "proportion of private school children from low-income families residing in participating public school attendance areas." Moreover, services must be planned and implemented only after meaningful consultation with parents, teachers, and private school officials.

In all, the document takes on the tough questions connected with Title I and offers clear and definitive answers. It is available at www.ed.gov/programs/titleiparta/psguidance.doc.

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students and 4.9 percent of private school students ages 12-18 said street gangs were present at school. For students in urban public schools, the figure jumped to 31.9 percent, compared to 5.0 percent for their peers in urban private schools. When asked whether they were afraid of being attacked or threatened at school, or on the way to or from school, 6.6 percent of public school students and 4.6 percent of private school students said they were afraid sometimes or most of the time. Furthermore, a percentage both of public school students (4.9 percent) and private school students (2.0 percent) reported that they avoided one or more places in school for fear of being attacked.

School violence is not only directed at students. Teachers can be victims as well, and they more than likely consider their personal safety when deciding where they want to teach. Teacher risk varies by type of school (see chart).

Referring to a survey of teachers taken during the 1999-2000 school year, the report has this to say: "Public school teachers were more likely than private school teachers to be victimized by students in school: 10 percent of public school teachers had been threatened with injury, compared with 4 percent of private school teachers. Likewise, 4 percent of public school teachers and 2 percent of private school teachers had been physically attacked by students. Among teachers in central city schools, those at public schools were four times more likely to be targets of threats of injury than their colleagues in private schools (14 vs. 3 percent) and about three times more likely to be targets of attacks (6 vs. 2 percent)."

Indicators of School Crime and Safety: 2003 is available for download as a PDF file at <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2004004>.

Supreme Court to Hear AZ Tax Case

Law suits surrounding Arizona's tax credits for contributions to tuition scholarship programs seem to be self-perpetuating. In 1999 the Arizona Supreme Court ruled that the program violated neither the Arizona Constitution nor the First Amendment of the U.S. Constitution. The program's opponents, however, quickly appealed the decision to the U.S. Supreme Court, which ultimately refused to take the case. In February 2000, other plaintiffs challenged the program in federal district court, but the judge dismissed the case for lack of federal jurisdiction. Undaunted, challengers then turned to the Ninth Circuit Court of Appeals, which, in October 2002, reversed the district court's dismissal and ordered the lower court to hear the case on its merits. Then the state appealed the Ninth Circuit's ruling to the U.S. Supreme Court, which just recently agreed to hear the case in its current term.

Arizona's tax code permits tax credits for contributions up to \$500 (\$625 for married couples) to "school tuition organizations," which award educational scholarships to help children attend private schools.

At issue before the U.S. Supreme Court is the extent to which federal courts have jurisdiction over state tax cases. The district court held that the federal Tax Injunction Act and principles of comity preclude federal courts from interfering in the administration of a state tax code. But the Ninth Circuit held that "a federal action challenging the granting of a state tax credit is not prohibited by the Tax Injunction Act" and that comity does not prevent plaintiffs from pursuing a constitutional right in federal court. The U.S. Supreme Court now gets to decide which court is right.

The case is *Hibbs v. Winn*, U.S. Supreme Court, Case No. 02-1809.

Return service requested

CAPE notes

★ Florida Education Commissioner Jim Horne last month announced proposed legislation to strengthen the accountability provisions within the state's private school scholarship programs. According to the commissioner, the state currently provides scholarships to 24,368 private school students, including 12,305 McKay Scholarships for children with disabilities, 11,420 Corporate Tax Credit Scholarships for low-income students, and 643 Opportunity Scholarships for students previously enrolled in failing public schools.

Currently, private schools participating in the programs must file a sworn affidavit confirming they comply with various state laws. Horne reported that 93 percent of more than 1,100 participating private schools have completed the form to date, and he said the Department of Education "is taking measured steps to ensure that participating private schools report full compliance with the law." Students in schools that fail to complete the forms will not be eligible for scholarships.

A new database established by the state identified 8 students (out of nearly 15,000) who were registered in 2002 with more than one scholarship funding organization and who illegally received more than the \$3,500 allowed in voucher funding.

Horne's proposed legislation contained a host of accountability measures

for schools, parents, and scholarship funding organizations. The legislation includes a requirement that private schools enrolling students with Corporate Tax Scholarships "annually administer or make provisions for scholarship students to take one of the nationally norm-referenced tests identified by the Department of Education." According to a statement by the DOE, "Results would go to parents and to a private third-party research entity. The research entity would report to the state on the aggregate learning gains of the students."

★ Wisconsin lawmakers last month approved bills that would significantly expand the Milwaukee voucher program. Both the Senate and Assembly agreed to eliminate the cap on the number of students eligible for vouchers. Under current law, the cap is set at 15 percent of the Milwaukee school district's enrollment. The two houses also changed the family income eligibility ceilings for voucher recipients from 175 percent of the poverty level to 220 percent. Another change expands the pool of eligible private schools from those located in the city to those throughout Milwaukee County.

The legislation now goes to Governor Jim Doyle, who has previously announced that he opposes expanding the school choice program.

★ A recurring allegation about private

schools is that they are not as effective as public schools in instilling civic virtues. But a recent study by Swarthmore College Professor Thomas S. Dee suggests that private school attendance has a positive effect on adult civic engagement.

Using data from two U.S. Department of Education surveys (High School and Beyond, and the National Education Longitudinal Study of 1988), Dee examined the impact of schooling on adult civic participation. He found that, compared to their public school counterparts, "students who attended Catholic school in 10th grade were substantially more likely to vote as adults." The Catholic school voting advantage held true even after "an unusually rich set of control variables" were applied. Specifically, "attending a Catholic school increased adult voter turnout by 7.6 to 11.8 percentage points and increased voter registration by 9.6 percentage points."

Dee concludes, however, that despite the "robust partial correlation between Catholic schooling and adult civic engagement," he cannot completely eliminate the possibility that the results might reflect selection biases.

The paper, *The Effects of Catholic Schooling on Civic Participation*, was presented last month at Harvard University during the annual meeting of the National Academy of Education. It is available at www.swarthmore.edu/socsci/tdee1/Research/catholic0503.pdf.