



AMERICANS
UNITED
for Separation of
Church and State

(202) 466-3234 x226 (phone)
(202) 466-2587 (fax)
garrett@au.org

1301 K Street, NW
Suite 850, East Tower
Washington, DC 20005

**Written Testimony of
Maggie Garrett
Legislative Director of
Americans United for Separation of Church and State
regarding SB 196
before the Senate Education Committee
on February 27, 2013**

On behalf of our Tennessee members and chapter, Americans United for Separation of Church and State offers this testimony opposing SB 196, which would create a state-wide voucher program in Tennessee. Instead of providing equal access to high quality education or setting high standards and accountability, vouchers have proven ineffective, fund discrimination, lack accountability to taxpayers, deprive students of rights provided to public school students, and threaten religious freedom. Taxpayer money should be invested in the public schools, not funneled to private schools. SB 196, therefore, should be rejected.

Vouchers Do Not Improve Student Achievement or Resources

According to multiple studies of the District of Columbia,¹ Milwaukee,² and Cleveland³ school voucher programs, students offered vouchers do not perform better in reading and math than students in public schools. In 2011, the Wisconsin Legislative Audit Bureau released a five-year longitudinal study,⁴ which concluded that students in Milwaukee using vouchers to attend private and religious schools perform no better on standardized tests than their counterparts in public schools. Similarly, the U.S. Department of Education studied the D.C. voucher program for five years and found the program produced no statistically significant improvements overall in educational achievement.

Voucher programs also fail to offer participating students greater educational resources. In fact, the Department of Education studies of the D.C. voucher show that students participating in the

¹U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Final Report* (June 2010) (Though the 2009 study showed a marginal gain for some students in reading (but notably, not for the program's targeted group, students from schools in need of improvement), the 2010 Final Report said "[t]here is no conclusive evidence that the [program] affected student achievement" and earlier findings of modest gains "could be due to chance" and were no longer statistically significant.); U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 3 Years* (Apr. 2009); U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 2 Years* (June 2008); U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 1 Year* (June 2007).

² Witte, Wolf, et al., *MPCP Longitudinal Educational Growth Study Third Year Report* (Apr. 2010); Witte, Wolf, et al., *MPCP Longitudinal Educational Growth Study Second Year Report* (Mar. 2009); Witte, Wolf, et al., *MPCP Longitudinal Educational Growth Study Baseline Report* (Feb. 2008); Witte, *Achievement Effects of Milwaukee Voucher Program* (Feb. 1997); Witte, et al., *Fifth Year Report Milwaukee Parental Choice Program* (Dec. 1995).

³ Plucker, et al., *Evaluation of the Cleveland Scholarship and Tutoring Program, Summary Report 1998-2004* (Feb. 2006); *Evaluation of the Cleveland Scholarship and Tutoring Program, Executive Report 1998-2002* (Feb. 2006).

⁴ Legislative Audit Bureau, *Test Score Data for Pupils in the Milwaukee Parental Choice Program (Report 4 of 5)*, 17 (Aug. 2011) ("The project's five-year longitudinal study shows no significant difference in the performance of Choice and similar MPS pupils after four years of participation.")

program are actually *less* likely to have access to programs for English language learners, learning support and special needs programs, tutors, counselors, cafeterias, and nurse’s offices than students not in the program.

In contrast, Tennessee’s recent educational reforms led to drastic improvements. In 2007, Tennessee ranked behind every other state in terms of academic rigor and standards.⁵ This prompted then-Governor Bredesen to launch the Tennessee Diploma Project, which developed new high school graduation requirements, academic and teacher standards, and a more advanced statewide curriculum. In only three years, Tennessee showed such marked improvement that it was one of only two states to receive over \$500 million in federal funding as part of the Race to the Top competition. Tennessee should continue to fund its public schools rather than investing in a problematic voucher program.

Vouchers Lack Accountability

Most voucher programs lack sufficient accountability measures. They lack regulation, reporting, monitoring, and transparency. The current administrator of the D.C. voucher program, for example, admitted that quality control is “a dead zone, a blind spot” of the program.⁶ And, a report issued by the Government Accountability Office (GAO) revealed that the D.C. program has failed to meet even basic statutory requirements. For example, the administrator permitted schools to participate—and allowed students to attend schools—even though they lacked a valid D.C. occupancy certificate, failed to submit required financial data, and failed to submit required annual operational reports with basic information on curriculum, teachers’ education, and school facilities.⁷ Indeed, some participating schools failed to submit information on accreditation or educational soundness, yet voucher students were directed to and attended those schools.⁸

Similarly, the state of Georgia has given out \$170 million in tuition tax credits since 2008, yet it is difficult to determine “how the money was spent and on whom.”⁹ There is no way to determine whether the private schools funded are successful or failing, whether the program is serving low-income students, or whether the program is supplying tuition to kids who were and would be attending private schools regardless of the tuition tax program.¹⁰

The State cannot justify using taxpayer dollars on programs that are in no way accountable to the taxpayer.

Students Using Vouchers Lose Protections Provided to Public School Students

Despite receiving public money, private schools that participate in voucher programs are not subject to all federal civil rights laws, and do not face the same public accountability standards, including those in the No Child Left Behind (NCLB) Act, Title IX, and IDEA, that all public schools

⁵ State Collaborative on Reforming Education, *Taking Note: Tennessee’s Academic Standards: A Brief History and the Challenges Ahead* (January 2011).

⁶ Lyndsey Layton and Emma Brown, “Quality Controls Lacking for D.C. Schools Accepting Federal Vouchers,” *The Washington Post*, Nov. 17, 2012, <http://articles.washingtonpost.com/2012-11-17/local/35507144_1_voucher-program-voucher-dollars-private-schools>.

⁷ US Gov’t Accountability Office, *District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operations*, Pub. No. 08-9 at 34-35 (Nov. 2007) (GAO Report).

⁸ *Id.* at 34.

⁹ Maureen Downey, “Private School Tax Credit: A \$170 million tax diversion that Georgia lawmakers cloak in secrecy. Why?” *The Atlanta Journal Constitution*, Feb. 17, 2012 <http://blogs.ajc.com/get-schooled-blog/2013/02/17/private-school-tax-credit-a-170-million-tax-diversion-that-georgia-lawmakers-cloak-in-secrecy-why/?cxntfid=blogs_get_schooled_blog>.

¹⁰ *Id.*

must meet. Private voucher schools do not have to comply with the same teacher standards, curriculum, and testing requirements as the public schools. Most private schools are not subject to state accreditation standards or state sunshine laws. And, students who attend private schools with vouchers are stripped of their First Amendment, due process, and other constitutional and statutory rights offered to them and guaranteed in public schools. Unfortunately, many parents and students are not even aware of this when they accept the voucher.

Vouchers Lead to Taxpayer Funded Discrimination

SB 196 allows Tennessee taxpayer funds to flow to schools that discriminate in hiring and admission. SB 196 appears to bar such discrimination when it says that private schools must adhere to 42 U.S.C. § 1981, but that provision applies only to race. Private schools can limit admission based on religion, gender, economic status, disability, and other criteria. SB 196 does nothing to forbid private schools from taking taxpayer funded tuition *and* limiting their admission based on these factors.

Such discriminatory policies should never be supported and funded with Tennessee taxpayer funds. Allowing government money to flow to these institutions without holding them to non-discrimination laws is a clear violation of one of the central principles of our constitutional order: the government should not permit aid discrimination.”¹¹ When funding any school, whether public or private, the government should not surrender the longstanding principle of equal treatment for all. Taxpayer money should not fund programs that harm the fundamental civil rights of students and teachers.

Religious Discrimination

Vouchers primarily fund private religious schools because their tuition at these schools is commonly less expensive than their secular counterparts. A Tennessee voucher program would allow these religious schools to take taxpayer funded tuition and continue to discriminate in admission and hiring on the basis of religion. A religious school can limit admissions not just to co-religionists, but also to only those students—and the parents of students—who follow its teachings and tenets. For example, nearly a quarter of the participating schools in [the] Georgia [Tuition Tax Credit program] require families to make a profession of religious faith, according to their websites.”¹² These schools can also segregate students or apply different policies based on gender.

Religious schools can also use religious criteria in hiring. Thus, these schools can refuse to hire a teacher because he or she is an adherent to the wrong religion. They can also fire an unwed mother or a teacher going through a divorce, if either violates the religious teachings of the school.

Tennessee Taxpayers Should Not Be Forced to Fund Religious Schools and Education

We recognize the value of religious education and know that parochial schools can serve a valuable role for many children, but because most parochial schools either cannot or do not wish to separate the religious components of the education they offer from the academic programs, these schools must be funded by voluntary contributions, not the taxpayer. One of the most dearly held principles of religious liberty is that government should not compel any citizen to furnish funds in support of a religion with which he or she *disagrees*, or even a religion with which he or she *does agree*. Voucher programs, however, violate that central tenet: they use taxpayer money to fund

¹¹ *Norwood v. Harrison*, 413 U.S. 455, 465-66 (1973).

¹² Stephanie Saul, “Public Money Finds Back Door to Private Schools,” *The New York Times*, May 12, 2012, <<http://www.nytimes.com/2012/05/22/education/scholarship-funds-meant-for-needy-benefit-private-schools.html>>.

primarily religious education. Parents certainly may choose such an education for their children, but no taxpayer should be required to pay for another's religious education.

In addition, religious organizations and schools that rely on voluntary participation and contributions are likely to flourish. Government funds, however, threaten to shift religious schools' monetary source from the followers of their religion to the government treasury. And, with that shift, they also risk losing their religious identity, teachings, and message. To remain healthy, a religious school should follow the dictates of its adherents rather than the dictates of a government uninterested in its religious mission. To do this, they must reject government funding.

Vouchers Will Cost, Rather than Save, Taxpayer Money

Vouchers do not decrease education costs. Rather, tax money that would ordinarily go to public schools would instead pay for vouchers, thus limiting the capacity of public schools. A 1999 study of Cleveland's program showed the public schools from which students left for private voucher schools were spread throughout the district. The reduction in students, therefore, was negligible at the individual schools. Thus, the public school district lost state funding to pay for vouchers without being able to cut overall operating costs.¹³

Conclusion

Vouchers are not school reform. Vouchers don't address any alleged problems in the public schools, but instead shift money out of the public schools system for the benefit of a few students. Public funds would be better spent in the public schools, which serve all students.

¹³ KPMG, LLP, *Cleveland Scholarship and Tutoring Program: Final Management Study* (Sept. 1999).