



Americans United for Separation of Church and State

MARYLAND CHAPTER

February 26, 2014

Senator Edward Kasemeyer
Chair, Senate Budget and Taxation Committee
3 West
Miller Senate Building
Annapolis, MD 21401

Senator Nathaniel McFadden
Vice-Chair, Senate Budget and Taxation Committee
3 West
Miller Senate Building
Annapolis, MD 21401

Re: Oppose SB 633 – Maryland Education Tax Credit

Dear Chair Kasemeyer and Vice-Chair McFadden,

On behalf of Maryland's members of Americans United for Separation of Church and State, we urge you to **oppose SB 633**, which would establish a tax credit benefit for business entities that contribute funds to qualified student assistance organizations. Americans United is a nonpartisan, national organization committed to preserving the constitutional principles of separation of church and state and religious liberty. We oppose this tax credit scheme because it is nothing more than a back-door voucher system, and has the same constitutional flaws inherent in voucher systems, as they are both subsidized by the state. This bill represents misguided education reform policy, and, in turn, we urge your opposition.

Vouchers Do Not Improve Student Achievement

According to multiple studies in 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

¹ U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Final Report* (June 2010).

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 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 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.

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.⁵ And, a report issued by the Government Accountability Office (GAO) revealed that the D.C. program has failed to meet even basic statutory accountability 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.⁶ Indeed, some participating schools failed to submit information on accreditation or educational soundness, yet voucher students were directed to and attended those schools.⁷

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.”⁸ 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.⁹

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

⁵ 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>.

⁶ 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).

⁷ *Id.* at 34.

⁸ 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>.

⁹ *Id.*

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 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 Harm Religious Liberty Rights of Maryland Taxpayers, Students and Parents

SB 633 allows Maryland taxpayer funds to flow to schools that discriminate in hiring and admission. Private schools can limit admission based on religion, gender, economic status, disability, and other criteria. SB 633 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 Maryland 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.”¹⁰ 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 Maryland 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]

¹⁰ *Norwood v. Harrison*, 413 U.S. 455, 465-66 (1973).

require families to make a profession of religious faith, according to their websites.”¹¹ 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.

Maryland 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 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.

This Voucher Program Will Cost, Rather than Save, Taxpayer Money

State funding for private schools harms our public education system by misappropriating funds that could be used to aid our cash-strapped public schools. This tax credit will not decrease education costs. Rather, tax money that would ordinarily go to public schools would instead pay the tax benefit, thus limiting the capacity of the public schools.

In addition, such a system simply fails low-income families. These backdoor vouchers would use taxpayers’ money to subsidize the education of only a small minority – only families with the money to cover the cost of the rest of the tuition, uniforms,

¹¹ 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>>.

transportation, books, and other supplies at private schools can benefit from this scheme. Instead, Maryland should invest taxpayers' money in public schools for the benefit of all students.

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.

Sincerely,

Dr. April Wuensch
President, Maryland Chapter
Americans United for Separation of Church and State