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Re: Oppose SB 1657 and SB 1707—Private School Vouchers Are Bad Education Policy

Dear Senator:

On behalf of the Arizona members and supporters of Americans United for Separation of Church and State, I write to urge you to oppose SB 1657 and SB 1707, both of which would expand the number of students eligible to use the empowerment scholarship account voucher.¹

Vouchers are unpopular with Arizona voters--they already voted overwhelmingly in 2018 to reject a bill that would have expanded this same voucher program.² Furthermore, this bill should be rejected because vouchers don't work, fund discrimination, and violate religious freedom. Public dollars should fund public schools, which serve 90% of America's schoolchildren.

Voucher Programs Don't Work

Private school vouchers do not improve educational outcomes. Studies of the Indiana,³ Louisiana,⁴ and Ohio⁵ voucher programs revealed that students who used vouchers actually performed *worse* on standardized tests than their peers not in voucher programs. And studies of long-standing voucher programs in Milwaukee,⁶ Cleveland,⁷ and Washington, DC⁸ found that students offered vouchers showed no improvement in reading or math over those

¹ While both bills expand student eligibility, SB 1657 would create the biggest expansion. SB 1657 is similar to a bill introduced last year that would have made the voucher available to approximately two-thirds of Arizona students. Rob O'Dell, [Arizona Senate Passes Huge School Voucher Expansion, 2 Years After Voters Said No](#), *Ariz. Republic*, Feb. 15, 2021.

² *Id.*

³ Megan Austin, R. Joseph Waddington, and Mark Berends, [Voucher Pathways and Student Achievement in Indiana's Choice Scholarship Program](#), 22, Russell Sage Found., 2019.

⁴ Jonathan N. Mills and Patrick J. Wolf, [The Effects of the Louisiana Scholarship Program on Student Achievement after Four Years](#), 2, Univ. of Ark., May. 2019.

⁵ David Figlio and Krzysztof Karbownik, [Evaluation of Ohio's EdChoice Scholarship Program: Selection, Competition, and Performance Effects](#), 32, Fordham Inst., Jul. 2016.

⁶ Patrick J. Wolf, [The Comprehensive Longitudinal Evaluation of the Milwaukee Parental Choice Program: Summary of Final Reports](#), 7, School Choice Demonstration Project, Univ. of Ark., Apr. 2010.

⁷ Jonathan Plucker et al., [Evaluation of the Cleveland Scholarship and Tutoring Program. Technical Report 1998-2004](#), 166, Ctr. for Evaluation & Educ. Policy, Univ. of Ind., Feb. 2006.

⁸ Ann Webber et al., [Evaluation of the DC Opportunity Scholarship Program: Impacts Three Years After Students Applied](#), 4, U.S. Dep't of Educ., May 2019.

not in the program. With a record proving they don't work, there is no justification for funneling more money into vouchers.

In addition, private schools that benefit from this voucher are not governed by the same clear systems for accountability, oversight, reporting violations, or enforcing penalties for noncompliance as children and families attending public schools. This voucher program has a history of being subject to abuse. A 2018 audit by the Auditor General found that parents were abusing the system, even after a 2016 audit identified these issues.⁹ In just one year, parents made more than 900 purchases at unapproved merchants totaling more than \$700,000.¹⁰ Expanding student eligibility could lead to an increase in misspent funds.

Voucher Programs Fund Discrimination

Public schools are open to and must serve all students. Private schools accepting vouchers, however, often deny students admission or expel them for a number of reasons, including based on their religion, sexual orientation, gender identity, academic abilities, disciplinary history, disability, or ability to pay tuition. And private schools do not abide by federal civil rights laws that apply to public schools. For example, students with disabilities that use a voucher would forfeit many of the protections provided to students under the Individuals with Disabilities Education Act (IDEA) because they are considered parentally placed in private schools and lose the quality and quantity of services available to students in public schools.

Moreover, private religious schools can discriminate against employees by claiming an exemption from employment nondiscrimination provisions under Title VII of the Civil Rights Act and the ministerial exception.¹¹ Private religious schools have used religion as a basis to fire teachers for their reproductive health choices,¹² refuse to hire a teacher because of the belief that a mother should stay at home with her children,¹³ and fire a teacher because he is in a same-sex marriage.¹⁴ No school that receives public funds should be able to discriminate against a student or employee because of who they are.

⁹ Arianna Prothero, [Cosmetics and Clothes: Parents Misspent \\$700,000 in Arizona's School Choice Program](#), *Education Week*, Nov. 19, 2018.

¹⁰ Ariz. Auditor Gen. Rep. 16-107, [24-Month Follow-Up Report](#), 3, Oct. 2018.

¹¹ See 42 U.S.C § 2000e-1; *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 194 (2012) (teacher considered a minister for purposes of ministerial exception was barred from bringing an employment discrimination suit under the ADA); see also *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049 (2020).

¹² See, e.g., *Herx v. Diocese of Ft. Wayne-South Bend Inc.*, 48 F. Supp. 3d 1168 (N.D. Ind. 2014); *Ganzy v. Allen Christian Sch.*, 995 F. Supp. 340 (E.D.N.Y 1998).

¹³ See *Ohio Civil Rights Comm'n v. Dayton Christian Schs., Inc.*, 477 U.S. 619 (1986).

¹⁴ See Dep't of Justice, [Justice Department Files Statement of Interest in Indiana Lawsuit Brought by Former Teacher Against Archdiocese](#) (Sept. 27, 2019).

These Bills Would Violate Religious Freedom

Arizona sends more than \$200 million in tax dollars to private religious schools every year,¹⁵ and expanding this voucher would only increase this amount. Yet, one of the most fundamental principles of religious liberty is that government should not compel any citizen to pay for someone else's religious education. Indeed, this principle is twice enshrined in the Arizona Constitution.¹⁶ Passing these bills would send more money to religious schools in violation of this core religious freedom protection.

Conclusion

For all the above reasons, Americans United opposes SB 1657 and SB 1707. I have enclosed with this letter two documents outlining further some of the problems associated with vouchers. Thank you for your consideration on this important matter.

Sincerely,



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¹⁵ Sharon Kirsch, [Arizona is Wrong to Fund Religious Schools. The Supreme Court Could Spread Their Mistake](#), *AZCentral*, Feb. 5, 2020.

¹⁶ Ariz. Const. art. II, § 12; Ariz. Const. art. IX, § 10.