

DOCUMENTS OF THE NEW JERSEY GOVERNOR'S ADVISORY

PANEL ON SCHOOL VOUCHERS

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## KEY DECISIONS - SCHOOL TUITION VOUCHERS

### Scope of the Pilot Project

1. How many districts? Only urban?
2. How many schools?
3. How many and which grade levels?
4. How many pupils?
5. How many years should the pilot project operate?
6. Will currently enrolled private school students be given vouchers?

### Fiscal Issues

1. What should each voucher be worth? Should all vouchers be of the same value?
2. Should the voucher represent the full cost of education?
3. How much money in total will be required?
4. Where will the money come from? From the public school district? A separate state allocation?
5. To whom will the voucher money go? To parents? To the school receiving the pupil?
6. Should there be a "means" test (i.e., prorated voucher value based on family income)?

### Evaluation of the Pilot Project

1. What criteria will be used to evaluate the pilot project (impact and feasibility of expansion)?
  - \* Student achievement?
  - \* Attendance rates?
  - \* Drop out rates?

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- \* Satisfaction?
- \* Student characteristics (e.g., ethnic/racial mix, socioeconomic status)?
- 2. What measurements will be used to evaluate the pilot project?
  - \* Standardized tests?
  - \* Criterion-referenced tests?
  - \* Surveys?
  - \* Interviews?
- 3. How frequently will evaluation be conducted?
- 4. Who will conduct the evaluation?

#### **Private and Church-Related Schools**

- 1. To what extent should private schools be included in the pilot project? (NOTE: Clarification has been sought and obtained from the Governor's office regarding the intent of the Executive Order. It has been determined that use of the term "tuition school voucher program" indicates that private schools are to be included.)
- 2. Should church-related schools be included? If yes, how do we avoid entanglements with the Constitutional requirements regarding separation of church and state?
- 3. What controls should be instituted regarding the participation of private and church-related schools?
  - \* Teacher certification?
  - \* Curriculum?
  - \* Display of religious objects/symbols?
  - \* Facilities?
  - \* Length of day/year?
  - \* Services to "special pupils" (e.g., special and bilingual education)?

- \* Financial accounting?
  - \* Discrimination based on race, religion, national origin, disability, etc.?
4. Should the pilot project be restricted to only those private schools currently designated by the Department of Education as eligible to receive public funds?

#### **Other Critical Issues**

1. Should public schools be included in the pilot project (i.e., public school choice)?
2. Should some form of proactive school improvement plan be instituted in the public school district(s) where the pilot voucher project is being implemented? If yes, what actions should be involved?
3. Should a training program be established to assist participants in creating a voucher program?
4. What funding is needed to carry out training and implementation?
5. What role, if any, will the local public board of education play?

THOMAS H. KEAN  
President

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### MEMORANDUM

To: The Honorable Christine Todd Whitman, Governor

From: Thomas H. Kean, Chairman  
Governor's Advisory Panel on School Vouchers

Subject: Proposed Legislation from Advisory Panel on School Vouchers

Date: January 3, 1996

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On behalf of the Advisory Panel on School Vouchers, I am pleased to submit proposed legislation to implement a tuition school voucher pilot program in conformance with Executive Order No. 30. The Panel believes that this proposed legislation is fiscally responsible and legally defensible. The draft legislation proposes a minimum appropriation of \$5.5 million to support a pilot voucher project.

This proposal reflects the views of the majority of the Panel. Some members of the Panel believe that vouchers should be limited to public schools only. A minority report, written by two members of the Panel, has been sent to you already. Also attached are some personal exceptions taken by another Panel member.

Please call on me or any member of the Panel if you have any questions or if we can be of service to you.

Attachments

1. The Legislature finds and declares that:

a. School tuition vouchers may serve as a vehicle for education reform by providing all parents with the ability to select the school and education program which best suits their children's individual needs. Increasing parental involvement and satisfaction with their children's educational program and environment will have a positive effect on the education of these children. In addition, school choice will provide an incentive to all schools, both public and private, to improve their educational programs and services and become more efficient and innovative; and

b. In order to responsibly assess the merits of tuition vouchers, a limited pilot program should be established which incorporates adequate controls and is subject to meaningful evaluation.

2. The Commissioner of Education shall establish a tuition voucher pilot program in each eligible school district beginning in the first full school year following enactment. The program shall allow children residing in an eligible school district to attend a participating nonpublic school or a participating public school and have the tuition paid, in full or in part, with a school tuition voucher. The voucher redemption shall be based solely on the parent's or guardian's decision to enroll the child in a nonpublic school or public school.

3. For the purposes of this act, unless the context clearly requires a different meaning:

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~~Eligible school district~~ means any school district which has been approved by the Commissioner of Education to participate in the program.

"Parental Information Center means an office in each eligible school district which will disseminate and receive vouchers and provide interested parents with information describing educational options available for their children under this act.

"Participating nonpublic school" means a nonpublic elementary or secondary school which charges tuition or fees for its services; and

- (1) was established before September 1995;
- (2) is located within the same county as the eligible school district;
- (3) whose staff and students are currently designated by the Department of Education as eligible to receive publicly funded services;
- (4) complies with all State and federal standards applicable to nonpublic schools; and
- (5) complies with all other requirements imposed by this act.

"Participating public school" means any public school within the same county as an eligible school district, which elects to receive voucher pupils pursuant to N.J.S. 18A:38-3. Participating public school shall also mean any public school within the eligible school district which shall participate pursuant to procedures established by the eligible school district.

4. There shall be a maximum of one eligible school district per county. The municipal governing body in a Type I school district



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the local board of education in a type II school district, or the Commissioner of Education in consultation with the State District Superintendent in a State-operated school district shall file an application with the Department of Education in order to participate in the pilot program. The Commissioner of Education shall appoint an eligibility review panel to consider applications and make recommendations to him for final decision. The panel will base its recommendations on, but not limited to, the following criteria:

- a. merit as a pilot site;
- b. net cost to the district or State;
- c. establishment of a representative sample of districts; and
- d. practical capacity of the participating schools.

Prior to making a final recommendation to the Commissioner on an application, the panel may suggest that the district modify the application.

Notwithstanding the above, the Commissioner of Education shall require each application for approval as an eligible school district to include eligibility criteria for voucher redemption which shall take into account the financial ability of the pupil's family to meet the cost of tuition at the public or nonpublic school of choice.

5. a. In each year of the pilot project, parents and guardians of children residing in an eligible school district, in the grade levels and schools determined by the Commissioner of Education pursuant to the district's application and the panel's review, shall be provided vouchers by the district's Parental Information Center.

b. The amount of the tuition voucher in each eligible school district shall be no more than \$2,500 for pupils in grades kindergarten through eight and \$3,500 for pupils in grades nine through twelve. However, the tuition voucher given to the parent or



guardian of a pupil pursuant to this section shall not exceed the tuition rate established by the participating school for the year of attendance.

c. The parent or guardian shall submit, by June 1 of the preceding school year, the tuition voucher along with evidence that the pupil is enrolled in a participating school to the Parental Information Center in the eligible school district, which shall forward it to the Department of Education. The voucher shall be redeemed through checks from the Department of Education made payable to the parent or guardian. The Department of Education shall issue an initial check in an amount equal to one-fifth of the voucher amount on September 1. An additional check equal to one-fifth of the voucher amount shall be forwarded to the parent on the fifteenth day of October, December, February and April upon proof of tuition payment and continued attendance. The parent or guardian shall be responsible for full payment of tuition. If a voucher pupil ceases to attend the pupil's school of choice, the parent or guardian shall immediately notify the Parental Information Center and all further installment payments will be withheld. For economically disadvantaged pupils attending the participating school, the participating school may waive the amount of tuition which exceeds the tuition voucher. Notwithstanding the above, if a voucher is redeemed in order to attend a public school within the eligible school district, the Department of Education shall not issue a check to the parent and no further tuition will be required for attendance. Notwithstanding the above, if a voucher is redeemed in order to attend a participating public school outside of the district, the Department of Education shall not issue a check to the parent but shall credit the voucher amount to the participating school on behalf

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of the pupil, and the parent or guardian will be responsible for the difference in tuition. If a parent or guardian fails to make an election to attend a school pursuant to this section, the child shall be enrolled in the public school of the district of residence.

d. Pupils using a tuition voucher to attend a nonpublic school or public school outside of a pilot school district shall not be included in the resident enrollment of the pilot district for the school year of transfer and thereafter. The Commissioner of Education shall make any necessary adjustments to the resident enrollment and State aid entitlement of the school district in order to account for pupils attending a participating school under this act.

e. The parent or guardian shall provide the Commissioner of Education with the information necessary to conduct the evaluation and reporting required pursuant to the provisions of this act including requesting and making available pupil's records such as those concerning attendance and academic achievement. If the parent or guardian refuses to provide such information, the Department of Education is authorized to prohibit further participation in the voucher program by the parent or guardian.

f. Each Parental Information Center shall make reasonable efforts to notify the public of all requirements necessary for participation in the programs provided under this act.

6. No funds provided to a parent or guardian pursuant to this act shall be considered income to the recipient for State income tax purposes.

7. The Commissioner shall be authorized to take such steps as may be necessary to recapture from the parent or guardian of a pupil a

funds provided under this act which are not used to pay tuition at the participating school, plus a penalty equal to two times the amount of the misapplied funds. The Commissioner is authorized to institute proceedings under the "penalty enforcement law," N.J.S. 2A:58-1 et seq. in order to recapture the funds not expended in accordance with this act plus the amount of any penalty.

8. For the duration of the pilot project the Commissioner of Education shall not impose any additional requirements beyond those contained in this act upon participating nonpublic schools unless those requirements also are imposed upon nonparticipating nonpublic schools under State or Federal law.

9. Transportation shall be provided to voucher pupils attending a participating nonpublic school or a public school outside of the eligible school district pursuant to the provisions of N.J.S. 18A:39-1 applicable to nonpublic school transportation.

10. a. An independent evaluation shall be conducted, focusing upon attendance rates, dropout and graduation rates, parental and student satisfaction, parental involvement, and student academic achievement, shall be conducted to determine the effectiveness of the program. Statistics on the socioeconomic status of voucher recipients shall also be kept for academic purposes. The evaluation, an accumulation of data, shall be performed by the Commissioner of Education, with the assistance of an evaluation and research advisor committee appointed by the Commissioner of Education.

b. On or before January 1st of each year, the Commissioner of Education shall make a status report to the Governor and the Legislature on the evaluation of the program.

c. The Commissioner of Education shall recommend to the Governor and the Legislature by January 1, 2001, whether the tuition voucher program should be continued, expanded, modified or terminated. During the pendency of the pilot project, the Commissioner of Education may terminate the program in any eligible school district, at the end of any school year, at the request of the applicant and upon recommendation of the eligibility review panel.

11. There is appropriated from the General Fund the sum of \$5.5 million, in addition to the sums made available pursuant to section 5 d. of this act, to the Department of Education to effectuate the purposes of this act. The Department of Education shall seek other sources of public funding and may accept private contributions. The applicant district or municipality is authorized to contribute local funds to supplement the voucher program in the district.

12. This act shall take effect immediately and shall expire on June 30, 2001 unless reauthorized by statute.

**ADVISORY PANEL ON SCHOOL TUITION VOUCHERS  
PERSONAL EXCEPTIONS TO THE MAJORITY REPORT**

- David Matthews:
1. The minimum annual appropriation for the voucher pilot program should be \$10 million.
  2. There should be some mechanism for ordinary citizens to petition the State to include their district (town) in the pilot program.

IVOL/EXCEPTIONS



**Minority Report Regarding  
Advisory Panel on Private School Vouchers**

**Submitted to  
Governor Christine Todd Whitman**

**Submitted by  
Dr. Dennis W. Daggett, Superintendent  
Mt. Olive School District  
Dr. John Howard, Jr., Superintendent  
East Orange School District**

**December 1, 1995**



### A False Start Leads to a False Ending

There are numerous false assumptions upon which the Advisory Panel's report is based. When a process begins with faulty assumptions, logic tells us that the conclusions will also be faulty.

We believe that most members of the Advisory Panel came to the discussion table with an incorrect premise upon which they based their opinions. That incorrect premise was that New Jersey's public schools are failing. Some members of the Panel have crossed the state extolling this philosophy.

• We -- and many others -- know that New Jersey's public schools are a success story. This is not hyperbole or personal opinion. This conclusion is based upon **factual data**. Do we claim that every single school is providing the very best level of education possible? No. But we do believe strongly that given the proper guidance and encouragement from the State Department of Education, political and educational leaders, and their individual communities, every school can be a success story.

The facts are clear:

- According to ETS (Educational Testing Service), New Jersey continues to lead the nation in the percent of high schools that offer Advanced Placement courses --83%.
- According to the College Board Technical Report for New Jersey, the average combined score for NJ public school students increased by 7 points in the 1995 testing schedule.
- According to the NJ Department of Education, New Jersey's high school graduation rate has risen six percent in three years to an all-time high of 86 percent.

- According to the NJ Department of Education, 80 percent of New Jersey's high school graduates plan to continue their education after high school.
- Some panel members have put forth the argument that competition among public and non-public schools would be healthy and, therefore, beneficial to the children. This is yet another false argument.

The dictionary defines competition as "a contest between rivals." Competition, however, is only competition if it is fair.

- Public schools must serve all students. Private schools can be selective.
- Public schools must serve all the members of a community without regard to capacity or resources. Private schools can turn students away when they don't have the capacity.
- Public schools operate under strict accountability standards and mandates established by local, state, and federal governments. Private schools may ignore most of those accountability measures.

Neither public nor private schools are factories. Our children are not widgets. The rhetoric that a system of private school vouchers and "the wonderful power of competition to produce quality will solve all the messy little problems" (Chubb and Moe) is nothing more than millennialist thinking -- a hope or belief without proof -- that a single social reform will solve all problems.

• Despite the rhetoric about competition and opportunity for children, we must not deny that some of the pressure for private school vouchers is the same today as it was in southern states following *Brown v. Board of Education*. Regardless of pleas to institute vouchers to "help our cities," study after study shows those taking advantage of vouchers are white and middle class families. The reality is, private school vouchers **will not** help our cities, they **will not** help minorities, and they **will not** help our system of public education.

Private school vouchers will lead to greater educational, racial, and social stratification and create a two-tier education system. The top tier private schools will educate a selective group of students that is subsidized by the general public's tax dollars.

The bottom tier public schools will warehouse children who are more difficult and more expensive to educate. As a result, those left with special needs, special challenges, and different languages will be relegated to the back seat of society for the rest of their lives.

### The Constitutional Question

Analysis of any program of public aid to parochial schools, including vouchers, must begin with the establishment clause of the First Amendment, which prohibits government at any level from aiding religious organizations.

Under the establishment clause, the Supreme Court has struck down virtually every form of direct financial aid to parochial schools at the elementary and secondary levels.

Routing funds to parents rather than directly to sectarian schools is nothing more than a ruse and an attempt to circumvent the constitutional requirements set by the Courts. One need only review the *Lemon* decision which notes that such funding schemes are unconstitutional if the primary effect is to promote religion or result in excessive entanglements between church and state.

Some private school voucher proponents claim that by directly aiding parents, not the non-public schools, New Jersey will have a *G. I. Bill for children*. Such a comparison is no more than a shameless subterfuge to evade the Supreme Court's decisions. Plus, it distorts the federal government's *G. I. Bill*.

The Supreme Court has held that religious institutions of higher education typically resemble secular ones in their commitment to academic freedom, in the substance of their curricula, and in the employment of faculty who are not affiliated with the religion of the college. Additionally, the Court pointed out that the greater maturity of college students makes them far less subject to religious indoctrination than children.

### On the Question of Choice

"Choice" has become a significant buzzword in many political arenas. The pollsters tell us that everyone likes "choice." It's American. It resonates within the American consciousness. In the case of vouchers for private and church-affiliated schools, it's also phony. It is nothing more than a hollow notion designed to make the public believe they'll get something they won't.



- Private and church-affiliated school vouchers provide choice only to the operators of those schools. They set their admission standards. They set their enrollment maximums. They decide on IQ levels required of potential students; whether or not they'll accept physically or emotionally challenged students; whether they'll accept only girls or only boys.

The schools set the standards for retention in the school. Grades, department, degree of parental involvement, etc. are all the choice of the private school operators only.

And one more critical element is under the control of the private school operators: tuition. When vouchers become available -- especially vouchers given to students already enrolled in the private school -- what's to stop the school operators from raising tuition the amount of the voucher? Nothing. They'll keep the same students and the same number of students while reaping greater income. It's one choice private school operators should never have with public funds.

### On the Question of Accountability

The statutes in our state covering operators of private schools are marvelously brief. In fact, they cover nothing more than health and safety requirements. They do not require that any private or church affiliated school make itself accountable to the citizenry for anything they do or any results they achieve.

They are not required to employ people licensed to teach by the state of New Jersey. They are not required to submit to public audits to account for the funds they receive beyond what any business is required to do.

They are not required to have their students undergo testing or any state administered evaluation instrument. And they are not required to publish the results if they do.

Under a voucher scheme where the money "really" goes to the parents, private schools won't be brought under any of the accountability measures which apply to every public school in the state.

The result can only be public moneys disappearing into the coffers of the private schools without a trace -- or at least without being traceable.

### Of Bureaucrats

Vouchers as proposed in this report would reveal the administration's "smaller, smarter government" as no more than a hollow slogan. Many in state government, including Governor Whitman, believe that our current bureaucracy is already out-of-hand. They should recognize that a private school voucher program would only exacerbate an already exploding system. This is only a partial list of what the Advisory Panel said such a program would require for administrative purposes:

- an eligibility panel;
- a parental information center;
- an evaluation review committee;
- a Department of Education office housing new and different monitoring and inspection teams;
- an increase in the state treasurer's staff and functions;
- a vastly complicated student transportation system requiring setup, monitoring, and no doubt, a huge increase in funding.

New Jersey hasn't been able to adequately staff the Department of Education to carry out its existing responsibilities for years, yet all these additions are being proposed with no increase in proposed department funding.



## Summary

Discussion of private school vouchers began as a *political slogan* in the mayor's race in Jersey City and has somehow blossomed into a Governor's Advisory Panel in New Jersey. As members of the Panel, we have voiced our objections to this concept in this paper.

In summary, we submit the following list of major points and hope that, in the end, the State Legislature will reject private school vouchers in favor of real support for public school choice.

- Private and parochial schools are not held to the same standards and accountability measures as public schools. If a school receives public tax dollars it must meet the same standards that public schools are required to meet.
- The State of New Jersey already faces a Supreme Court mandate to meet the requirements of *Abbott v. Burke*. With such demands on the budget and the education community, state government should not be involved in an unproven scheme that would put an even greater strain on public resources.
- Public tax dollars should not be given to any non-public elementary or secondary school.
- Private school vouchers are unconstitutional.
- No private school voucher program in the United States has been successful.

- Private and parochial schools can discriminate against students that do not meet their discrete selection processes and requirements.
- Taxes on New Jersey residents will increase to benefit only a select few.