

Washington...



Comm. in Public Education v. Regan,
444 US 646

Supreme Court Allows Aid to Parochial Schools

The Supreme Court has upheld a New York State statute allowing nonpublic schools to be reimbursed for expenses incurred in meeting state-mandated testing, recordkeeping and reporting requirements. In its 5-4 opinion delivered February 20, it ruled that the law adequately met its 3-pronged test of constitutionality: it had a secular legislative purpose; its principal or primary effect did not advance or inhibit religion; and it did not foster an excessive government entanglement with religion.

Justice White, joined by Justices Burger, Stewart, Powell and Rehnquist, held that the law's purpose of providing quality educational opportunity to the citizens of New York was clearly secular. Further, "... there was no substantial risk that the examinations (on secular academic subjects) could be used for religious educational purposes" inasmuch as they were prepared by the state and administered by nonpublic personnel who had "no control whatsoever over the content of the tests" or their outcome. The services involved were found neither "part of the teaching process" nor ideological in content or use. Thus payment for complying with state law "has a primarily secular, rather than a religious, purpose and effect."

The majority dismissed the notion that direct payments to nonpublic schools are invalid *per se*, stating that the reimbursements should not be vitiated "simply because they involve payments in cash." The Justices also argued that the secular character of the tasks involved did not depend upon the public or private status of their administrators.

The Court disposed of the entanglement question by concluding that such involvement was not

present in a system which recompensed schools for "discrete and clearly identifiable services" in a process which was "straightforward and susceptible to . . . routinization"

Justices Blackmun, Brennan and Marshall dissented, calling the majority opinion "... a long step backwards" in crossing "the wavering line" between "that which is constitutionally appropriate public aid and that which is not." Justice Stevens suggested in a separate dissent that "... the entire enterprise of trying to justify various types of subsidies to nonpublic schools should be abandoned (and that) the 'high and impregnable wall' between church and state constructed by the Framers of the First Amendment" should be resurrected.

Education for Employment

"A mind is a terrible thing to waste," said President Carter, launching his Youth Employment Initiatives. He asked Congress "... to make a historic investment in our nation's most precious . . . national resource—the energies, the talents, the aspirations of America's young people."

But the House Elementary, Secondary and Vocational Education Subcommittee had some questions to pose before making the investment. On February 25 it began hearings on the plan, at which Secretary of Education Hufstедler found herself responding not only to prolonged, detailed questioning on the substance of the proposal but also to concerns about its timing.

The Youth Act of 1980 would improve the educational and employment skills of 1 million poverty youth in and out of school. It would ally the Departments of Education and Labor in a cooperative effort to provide youngsters with the tools needed for employment in a new labor market where workers are expected to be able to read, write, compute and communicate.

The Education Department's specifications for the Act (subject to review by Congress) assure private school children equitable participation in the program "on a basis comparable to public school children."

Boys to the Kitchen, Girls to the Shop

Sex desegregation by legislation is a "necessary but not sufficient condition for promoting girls' occupational potential," says National Institute of Education research associate Jeana Wirtenberg. Her study demonstrated that while girls entering nontraditional coeducational practical arts classes do so with positive feelings about engaging in typically male activities, a year's program does little to modify their attitudes toward their career prospects. She attributes this lack of change to continued sexual stereotyping written into curricula and reflected in the attitudes and behavior of parents, teachers and peers.



At the same time, a study mandated by the Education Amendments of 1976 and conducted for the Office of Education by the American Institutes for Research indicates that sex discrimination and stereotyping still exist in 60% of state and local vocational education programs despite federal proscription.

Legislative Update

Youth Employment Initiatives

H.R.6711 (Perkins, D-KY)

S.2385 (Williams, D-NJ; Pell, D-RI; Randolph, D-WV)

Hearings completed by House Elementary, Secondary and Vocational Education Subcommittee. Bill pending before Senate Committee on Education and Labor.

Charitable Deduction to Extend to Non-Itemizers

H.R.1785 (Fisher, D-VA and Conable, R-NY)

S.219 (Packwood, R-OR and Moynihan, D-NY)

Hearings concluded. Pending before Senate Finance Committee.

Assistant Secretary for Nonpublic Education

H.R.6289 (Guarini, D-NJ)

Pending before House Elementary, Secondary and Vocational Education Subcommittee.

Office of Nongovernmental Education, to be headed by Assistant Secretary of Nongovernmental Education.

S.2205 (Moynihan, D-NY)

Pending before Governmental Affairs Committee.

Basic Educational Opportunity Grant Program

S.1101 (Moynihan, D-NY)

To extend BEOG program to elementary and secondary schools.

Hearings concluded. Pending before Senate Subcommittee on Education, Arts and Humanities.

Asbestos in Schools

H.R.3282 (passed House December 13)

S.1658 (Javits, R-NY)

To provide funds to help detect and remove asbestos in school buildings.

Hearings held in New York March 17 by Subcommittee on Education, Arts and Humanities.

Presidential Commissions on National Youth Service and Volunteerism

H. Con. Res. 271

Amendment #1675 to S.1843 (Tsongas, D-MA)

To examine need for national service program.

Hearings on House Resolution by Military Personnel Subcommittee March 4.

Hearings on Senate amendment by Subcommittee on Child and Human Development March 13; mark-up set for March 26.

Repeal School Finance Panel

H.R.8480 (Perkins, D-KY)

To repeal authorization of school finance studies, finance panel and state equalization analysis.

Pending before House Elementary, Secondary and Vocational Education Subcommittee.

Testing

H.R.4949 (Weiss, D-NY; Chisholm, D-NY; Miller, D-CA)

To require testing companies to open their studies to public review and to guarantee students access to their answer sheets.

H.R.3564 (Gibbons, D-FL)

To define and protect consumer rights, to add a learning element to the testing process and to eliminate test grading based on relative distribution of scores.

Pending before House Elementary, Secondary and Vocational Education Subcommittee with no action scheduled.

Tuition Tax Credits

More than 30 bills have been introduced, many containing provision for elementary and secondary school students. Illustrative are:

H.R.4010 (Murphy, D-NY and Wydler, R-NY) and H.R.4226 (Gradison, R-OH). Pending before House Ways and Means Committee.

S.1095 (Moynihan, D-NY) pending before Senate Finance Committee.

Sunset

H.R.5858 (Long, D-LA)

S.2 (Muskie, D-ME); amendment #517 to S.2 (Javits, R-NY); and S.445 (Percy, R-IL)

To establish procedure for periodic Congressional review of federal programs and tax expenditures. (Charitable deductions and tax exemptions would thus be subject to periodic reauthorization or extinction).

House bill awaiting markup by Subcommittee on Legislative Process.

Senate bills awaiting markup by Governmental Affairs Committee.

Capenotes

... The National Advisory Panel on School Finance took testimony on private schools at its March 3 hearing. Executive Director Robert L. Smith testified for CAPE, accompanied by Father Thomas Gallagher of the United States Catholic Conference.

... CAPE is participating in the work of the Information Task Force of the new Department of Education. The Task Force is charged with providing ways to assure good continuing communication between the Department and the public.

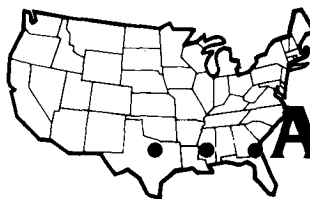
... The National Institute of Education and CAPE are conducting a survey of private school guidance counselors, principals and high school teachers as part of an in-depth study of private secondary schools.

... Conversations have been held between CAPE organization lawyers and Assistant Deputy Secretary of the Treasury for Tax Policy Daniel Halperin and his staff concerning the inimical effects of Revenue Ruling 79-99 on private schools. The ruling would sharply limit the definition of a tax deductible gift. Mr. Halperin's office is reviewing the recommendations.

... Father Thomas Gallagher has been appointed Secretary of Education for the U.S.C.C. He was formerly superintendent of the Archdiocese Schools in Rockville Centre, New York.

... The first of 13 Technical Assistance Workshops for Private School Administrators was held on February 21 in Arlington, Virginia, with over 120 administrators present. Dr. Edward D'Alessio, Deputy Commissioner for Nonpublic Education, Office of Education, was the luncheon speaker and CAPE Executive Director Robert L. Smith presided. Subsequent workshops were held during the month in Chattanooga and Orlando. Both were oversubscribed and highly successful, according to director Bruno Manno.

... CAPE and the National Center for Education Statistics have arranged to hold regular joint meetings. These sessions with NCES Director Marie Eldridge will be held on the occasion of each Board meeting and will give CAPE an early opportunity to review and comment on NCES activities involving private education. The arrangement will help to increase the effectiveness of surveys which include private schools and heighten the potential for greater and more useful private school data gathering.



And Beyond

“Altogether Sensible. . . . Altogether Entangling”

Religious objects had been removed from the classrooms and signs hung on the second floor of St. Francis High School in Traverse City, Michigan, proclaiming the space a public school annex. But on January 22 the dual enrollment program of the city's public and Catholic schools was held unconstitutional by the U.S. District Court for the Western District of Michigan, Southern Division. It said the program had “the primary effect of advancing religion . . . (and fostered) an excessive entanglement with religion.”

The use of religious school space for public school classrooms had begun in Traverse City in 1971 as a response to a decision to shut down two Catholic schools for financial reasons. To prevent the public school overcrowding which would have resulted, the School District rented space in the Catholic school and offered courses required for graduation but no longer taught at St. Francis. The Court decided that in the program thus created, “. . . the two spheres of religion and state (had) in effect merged in the effort to educate a group of students.”



● **Schaumburg Decision:** The Supreme Court struck down a village ordinance prohibiting solicitation of contributions by charitable organizations using less than 75% of their receipts for "charitable purposes." Excluded from these purposes were expenditures on salaries, overhead and other administrative and solicitation expenses. In the case of *Village of Schaumburg v. Citizens for a Better Environment et al.*, the Court ruled on February 20 that the municipal ordinance was "unconstitutionally overbroad" in its intrusion on the rights of free speech guaranteed by the First Amendment.

● **Independent Sector:** The newly formed coalition of non-profit organizations held its charter meeting on March 5. Presiding, John Gardner urged proponents of private initiative to band together to secure its survival. Sen. Daniel Moynihan (D-NY) reflected on the pendulum nature of American history, newly requiring vigilance against government, rather than private, intrusion.

● **Grants for Research on Knowledge Use and School Improvement:** The National Institute of Education has proposed regulations that would implement and govern a multi-year program of research grants on knowledge use and school improvement. The program seeks to build a systematic body of knowledge about improvement processes in elementary and secondary schools. Studies will clarify methods by which schools alter existing administrative and instructional practices and roles played in the process of change by ideas, new programs, products or materials. The public is invited to make comments and suggestions about, or objections to, the proposed regulations by April 14. They are set forth in the *Federal Register* of February 28, 1980 (Vol.45, No.41., pp.13135-38). Write Rolf Lehming, Research and Educational Practice, Dissemination and Improvement of Practice, NIE, Mail Stop 24, 1200 19th St., N.W., Washington, D.C. 20208.

● **Sexual Harassment of Students:** The deadline for submitting responses to the National Advisory Council on Women's Educational Programs Call for Information on the Sexual Harassment of Students (*Outlook*, November 1979, p. 2) has been extended to May, 1980.

● **Arts Education Program:** The closing date for applications is April 22. Awards are made to "encourage ... the establishment and conduct of programs ... in which the arts are an integral part of elementary and secondary school curricula." Applications may be submitted in one of 3 funding categories: state, urban or large community, and rural or small community. All projects must "provide opportunities for all students in the schools served by the project to acquire skills in and through several arts media, including at least dance, music, theater, and the visual arts, and integrate these disciplines into the regular educational program of the schools, rather than to include them peripherally or as extracurricular activities." Write Arts and Humanities Staff, U.S. Office of Education, Room 3728, Donohoe Bldg., 400 Maryland Ave., S.W., Washington, D.C. 20202.

● **New Executive Director, NCEA Secondary School Department:** Rev. Robert J. Yeager has been elected department head and will assume his new post this summer. He has been a priest of the Toledo Diocese since 1962 and principal of Calvert High School in Tiffin, Ohio, since 1973.

● **Private Sector Grant Program:** The International Communication Agency announces a program providing grant support to non-profit activities "to support the enhancement of Americans' competence in world affairs through greater understanding of other societies" Project proposals will be considered periodically by an ICA review panel after April 1. Write Office of Private Sector Programs, Associate Directorate for Educational and Cultural Affairs, ICA, 1776 Pennsylvania Ave., N.W., Washington, D.C. 20547.

● **Metric System Grants:** The closing date for submission of applications to the Metric Education Program (*Outlook*, January Capeline) has been extended to April 29.

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