

OUTLOOK

A report from CAPE, the Council for American Private Education, Washington, D.C.,
a coalition of 15 national organizations serving private schools (K-12)

Number 65 • November 1980



Senske Sworn In, Describes Goals

Even before he had taken the oath of office on October 7 as Assistant Secretary for Nonpublic Education, Al H. Senske was told that the Secretary of Education was depending on him. "I am counting on Al," Secretary Hufstedler said, "to serve as a strong advocate within the Department for changes in law, regulations and policy as they affect the quality and availability of educational services to private school students." She added, "Al is already working overtime to help the teachers and students in our nonpublic schools take full advantage of prevailing federal legislation" as part of a Department effort to "help educators fully utilize the benefits afforded through government programs . . ."

Senske refines his mandate into three major functions: "improvement, utilization and exploration." He lists the goals he has set for his Office and describes the plans he has made for implementing them:

The Office of Nonpublic Education (ONPE) must "improve the participation of private elementary and secondary school students and teachers in those federal programs for which they are eligible, help them in the *utilization* of those programs, and contribute toward the *exploration* of new programs and concepts of participation.

"To achieve these major functions ONPE has identified the following priorities:

"Develop Relationships: Develop and maintain relationships with other units in the Department (ED) in order to assure an adequate flow of accurate information with regard to private schools.

"Enhance Image: Contribute toward the enhancement of ED and of the image of public and private education to the various private school publics in particular and to the general public as a whole.

"Communicate Facts: Utilize every possible opportunity to communicate facts rather than myths regarding private and public education within and outside of the Department of Education.

"Functional Education: Provide educational leadership through the promotion of a functional education that not only provides students with the basic knowledge, attitudes and skills to function responsibly in their respective vocations and families, but also equips them as humane, law-abiding citizens with high standards and values systems.

"Public and Private: Promote the actualization of the cooperative role of public and private education through as many avenues and to as many publics as possible."

Court Denies PEARL Bid for Reappraisal

The Supreme Court has refused to reexamine a federal district court's ruling upholding the constitutionality of New York City's program of Title I aid to parochial school students. On October 6, the Court "dismissed for want of jurisdiction" an appeal by the National Coalition for Public Education and Religious Liberty for review of last April's judgment of the lower court (*PEARL v. Hufstedler*, Docket No. 79-2044).

In the earlier proceedings, PEARL had sought to show that Title I of the Elementary and Secondary Education Act of 1965 was a "law respecting an establishment of religion" insofar as it countenanced the use of government funds to pay for public school teachers' provision of remedial educational services to economically and educationally disadvantaged students on religious school premises during regular school hours.

It claimed that the occasional visits of Title I supervisors to the nonpublic schools' remedial classrooms were "intrusionary investigatory entrances into the religious schools," resulting in "government entanglement with religion." It urged that nonpublic school children participate in other, constitutionally acceptable aid programs, such as "health and dental benefits," "breakfast and lunch," and "special instruction . . . conducted on publicly owned premises after regular school hours and open equally to children registered in public and religious schools."

In its April 18 opinion in the case of *PEARL v. Harris* (Patricia Harris was then Secretary of the Department of Health, Education and Welfare), the three-judge panel in the U.S. District Court for the Southern District of New York ruled that "New York City's Title I program does not violate the

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First Amendment's prohibition against the establishment of religion. The program has a secular purpose and neither advances religion nor creates excessive entanglement between the government and religious authorities"

Refusing to "conjure up hypothetical situations," the court examined the 14-year-long record of operation of the City's programs. It concluded that the interests of church and state are kept separate in a multiplicity of ways: Teacher assignments to nonpublic school Title I programs are purely voluntary. Most teachers work in schools with different religious affiliations from their own. They receive guidelines from the City emphasizing their status as independent public school employees and warning them not to introduce religious subjects into their curricula or become involved in religious aspects of school life. Their Title I classrooms are devoid of religious symbols. To assure their compliance with the City's rubrics, their work is supervised and evaluated by public officials.

The court found, therefore, that ". . . the program has remained free from religious influences and has not promoted the religious mission of the nonpublic schools"

No Sectarian Sites for CETA Trainees

Comprehensive Employment Training Act (CETA) trainees can no longer be placed in sectarian elementary and secondary schools, pursuant to a September 9 ruling by the U.S. Court of Appeals in the case of *Decker v. O'Donnell*. The Seventh Circuit affirmed an earlier decision by a district court, and directed that court to make permanent its injunction prohibiting the use of federal funds for such employment.

The circuit court held that "all placement of CETA workers in sectarian schools violates the establishment clause (of the Constitution) because the statutory funding allocation mechanism creates too great a potential for political divisiveness along religious lines."

Evaluating the plan against the Supreme Court's three-part test of constitutionality, the court decided that the program cleared only the first hurdle: while there was no doubt about its secular purpose, it did have a primary effect of advancing religion and did foster an excessive government entanglement with religion.

The court found that the workers were placed in "pervasively sectarian" schools, and that these institutions exercised so much control over them that they had virtually become school, rather than public, employees.

Although it determined that some of the CETA activities were permissible (e.g. some nursing, health and cafeteria food services, as opposed to remedial, recreational, or adult education instruction and other enterprises), it prohibited the continuation of all sectarian CETA assignments by its finding that the entanglements of the program were so great as to render the entire plan unconstitutional.

At present, the Seventh Circuit is entertaining a motion for reconsideration of the case.

Legislative Update

Congress has been in recess since October 3. Subsequent to the last issue of *Outlook*, however, there have been changes in the status of the following:

International Educational Programs: now P.L.96-374.

Signed by President October 3 as Title VI of Higher Education Reauthorization Act. Authorizes separate program in Elementary and Secondary Education Act to increase Americans' knowledge of other cultures to help them better understand U.S. foreign policy.

Refugee Education Assistance: now P.L.96-422. Signed by President October 10. Provides extra federal aid to school districts with high numbers of Cuban, Haitian and Indochinese immigrants. Title III provides for participation of refugee children attending private elementary and secondary schools.

The status of the following legislation stands as listed in the October *Outlook*:

- Presidential Commission on National Service Regulatory Reform**
- Foreign Language Programs**
- Child Health Assurance**
- Sunset Review**
- Charitable Contributions to Extend to Non-Itemizers**
- Tuition Tax Credits**
- Youth Act**

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Capenotes

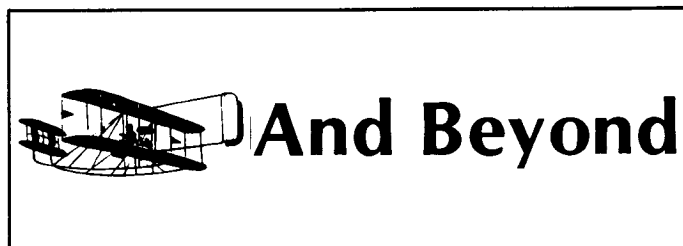
... As a member of the National Consortium on Testing, CAPE took part in its semi-annual meeting, held in Washington October 27-28.

... The Executive Director brought greetings from CAPE to the annual meeting of the California Association of Private School Organizations (CAPSO) on October 23-24.

... The Texas Association of Non-Public Schools (TANS) and Nebraska-CAPE (N-CAPE) were enthusiastically approved for membership in CAPE at the Board's fall meeting. This brings to 22 the number of State CAPE affiliates.

... CAPE is distributing *How to Service Students with Federal Education Program Benefits* (by Bruno Manno of The National Catholic Educational Association under contract with the Department of Education) and *Title I, ESEA, Working with Schools: A Parents' Handbook* (issued by the Division of Education for the Disadvantaged, Department of Education).

... Fred S. Stephan, Executive Secretary of the Seventh-day Adventist Board of Education, and Marlin W. Schulz, Associate Secretary of Elementary and Secondary Schools, Lutheran Church—Missouri Synod, have replaced Charles Hirsch and Al Senske, respectively, on the CAPE Board of Directors.



To Wonder, to Decide What is Good . . .

"A dramatic improvement in the quality of education in our elementary and secondary schools is the highest educational priority for America in the 1980s . . . the humanities can and must form a major part of [that] . . . education . . ."

This assertion sounds the keynote for the chapter on schools of *The Humanities in American Life*, a Report of the Rockefeller Foundation-sponsored Commission on the Humanities.

Declaring that "the humanities form a bridge between functional literacy and the higher intellectual and civic purposes of learning," the Commission argued that "the humanities help clarify questions of moral, social and aesthetic value that each individual encounters throughout learning and life. By showing young people how others have searched for meaning in their lives, the humanities help them think critically about themselves and their place in the world . . . They enable young people to go beyond merely functional tasks to wonder, imagine, and decide what is good, what is



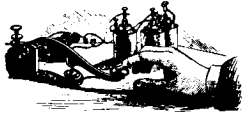
enjoyable, how their lives should be lived . . . The humanities bring to life the ideal of cultural pluralism by expanding the number of perspectives from which questions of value may be viewed, by enlarging young people's social and historical consciousness, and by activating an imaginative critical spirit."

Private School Governance Study

Only five states in the nation require accreditation of private schools, and only twelve insist on certification for private school teachers, according to responses to an unofficial survey conducted by Charles J. O'Malley, consultant for Nonpublic Schools, Florida Department of Education.

47 states replied to his recent questionnaire on the types of regulations and governance structures affecting private elementary and secondary schools. Below is a "sketch" of the prevailing conditions:

State Accreditation:	Mandatory Programs	5
	Voluntary Programs	27
	No Programs	17
State Approval:	Mandatory Programs	16
	Voluntary Programs	16
	No Programs	17
State Licensure:	Mandatory Programs	6
	Voluntary Programs	18
	No Programs	24
Teacher Certification:	Mandatory Programs	12
	Voluntary Programs	26
	No Requirements	11
Private School "Umbrella" Organizations:		22
Private School Organizations Accrediting Member Schools:		6
Private School Advisory Committees Working with State Education Depts.:		6



Capeline

● **Gallup Poll on Public Schools:** results of the 12th annual Gallup Poll survey of Americans' attitudes toward their public schools are reprinted in the September *Phi Delta Kappan*. Among other responses of interest are the public's perception of "discipline, use of dope/drugs and poor curriculum/poor standards" as the biggest problems facing public schools and its belief that those schools are second only to "the church" in deserving its vote of confidence.

● **Child Nutrition Paperwork Reduction:** The Agriculture Department's Food and Nutrition Service issued a final rule October 10 (*Federal Register*, pp. 67285-67288) providing alternatives to current free and reduced price meal certification procedures in National School Lunch and Breakfast Programs. Effective October 10, the rule gives options to schools in which at least 80% of the enrolled children are eligible for free or reduced price meals, or schools which serve all children free meals.

● **Humanities Organization:** The American Association for the Advancement of the Humanities has recently opened an office in Washington. Chaired by James M. Banner, Jr., it "supports the work of humanists, fosters communication and cooperation among them, promotes public understanding of the humanities, and seeks to increase the contribution of the humanities to American life." For membership information write the Association at 918 16th St., N.W. (Suite 601), Washington, D.C. 20006.

● **National Title I Council Study:** The National Advisory Council on the Education of Disadvantaged Children is studying problems of serving eligible handicapped and bilingual students in Title I programs. It plans to publish a "how-to" handbook in July to inform parents and administrators of the requirements and procedures for serving multiply-eligible students; illustrate methods of communication among parent advisory groups to assist districts in serving these students; describe how parent groups can participate in effective planning for multiply-eligible students. The Council needs to identify actual school practices in diverse settings. If you know of a school in which parents and staff plan cooperatively for providing Title I services to eligible handicapped or limited English proficient children, contact Jessyl Bradford, State/Local Liaison, NACEDC, 425 13th St., N.W., Suite 1012, Washington, D.C. 20004.

● **Asbestos:** The Asbestos Hazards School Safety Task Force is creating a mechanism whereby schools may apply for asbestos grants and loans. It is also concerning itself with the reliability of the formula used by the Environmental Protection Agency to measure toxic levels of asbestos, contending that it does not differentiate between asbestos and non-toxic cellulose fibers.

● **ED Program Grant Deadlines:** ED has published a directory of direct grant program application notices for Fiscal Year 1981. It lists the closing dates for transmittal of applications for most programs under which grants are awarded by the Department. Part I lists all closing dates in order of chronology; Part II provides the individual application notice for each program. The material is in the *Federal Register* of October 7, 1980, pp. 66564-66618.

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