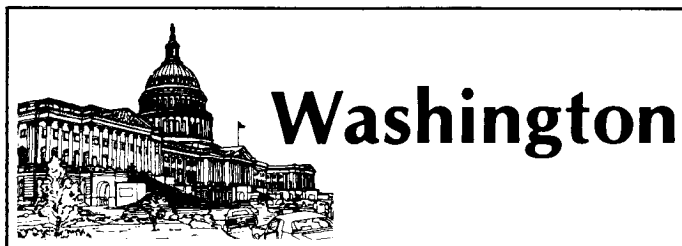


OUTLOOK

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 66 • December 1980



New IRS Gift Regulations in Doubt

The Department of the Treasury, as a result of working with CAPE organization lawyers during the past six months, has substantially revised its position on the tax deductibility of parental payments to their childrens' private schools. The revision clarifies situations in which gifts to schools are considered deductible. Treasury may, however, be stopped from promulgating the new rules by a Continuing Resolution due to be passed by the 96th Congress in the last hours of its legislative life.

Congress will probably not enact a *bona fide* Appropriations Act for the Treasury Department this year; instead, it will most likely pass a Continuing Resolution to provide stop-gap funding for that and other departments until June 5, 1981. The Resolution keeps in effect the terms of the 1980 Treasury Department Appropriations Act, P.L. 96-74. Section 614 of that Act prohibits the use of funds "to carry out any revenue ruling of the Internal Revenue Service which rules that a taxpayer is not entitled to a charitable deduction for general purpose contributions which are used for educational purposes" by a religious, tax-exempt organization.

An attempt was made by Sen. Thomas Eagleton (D-MO) to delete that portion of the Resolution. In a "Dear Colleague" letter on November 21, 1980, he wrote: "During the past year, the Internal Revenue Service, working with the U.S. Catholic Conference, the Lutheran Church — Missouri Synod, and the Council for American Private Education has formulated new regulations which they and I have reviewed and have found to be satisfactory Since a(n) . . . acceptable administrative solution has been worked out, the amendment (Section 614) is no longer necessary."

It is not known, at press time, whether Eagleton's effort will succeed, thereby allowing the IRS to issue new regulations, or whether it will fail, thus maintaining the status quo.

IRS Sanctions Against Private Schools Jeopardized

Congress seems likely to prohibit the Internal Revenue Service once again from implementing new rules regulating the tax-exempt status of private schools practicing racial discrimination. In the absence of appropriations legislation, the House passed a Continuing Resolution on December 3. This provides temporary funding for the government, and in so doing, keeps last year's restrictions on the Service intact until June 5, 1981. (At press time the Senate was still considering the Resolution.)

The earlier prohibitions, originally proposed by Congressmen John Ashbrook (R-OH) and Robert Dornan (R-CA), became part of the 1980 Treasury Department Appropriations Act (P.L. 96-74). They read:

"Sec. 103. None of the funds made available pursuant to the provisions of this Act shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under Section 501(c)(3) of the Internal Revenue Code of 1954 unless in effect prior to August 22, 1978." (Ashbrook).

"Sec. 615. None of the funds available under this Act may be used to carry out . . . 'Proposed Revenue Procedure(s) on Private Tax-Exempt Schools'" (Dornan). [These rules had been designed by the IRS to strengthen the procedures by which it tests the racially discriminatory practices of private schools.]

According to Ashbrook, "The Internal Revenue Service has no business making social policy." The Congressman argues that the Service already has the capability of denying tax-exempt status to schools which have been found to discriminate, so there is no reason to go along with its desire to place the burden of proof of nondiscrimination on all private schools.

The IRS counters that it is merely trying to bring its new rules "in line with those followed by the federal courts" by focusing its investigations on how schools operate rather than how they say they do. The agency wrote to Rep. Charles Rangel (D-NY) last June, "On the one hand, the Service is under a continuing federal court injunction to deny

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tax exemption to private schools which are racially discriminatory, and we have concluded that more effective rules are needed to enforce this nondiscrimination requirement. On the other hand, we are prohibited from issuing any new guidance to our agency and field personnel which they could utilize and rely on to administer the nondiscrimination requirement in an effective and uniform way."

Rhode Island Tuition Tax Invalid

The Rhode Island statute which permitted taxpayers to take a state income tax deduction for tuition, textbook and transportation expenses incurred in sending their children to New England primary and secondary private schools has been struck down by the U.S. Court of Appeals for the First Circuit. In its September 17 decision in the case of *Rhode Island Federation of Teachers, AFL-CIO, et al., v. Norberg*, the court held that such deductions contravene the Establishment Clause of the first amendment. Circuit Judge Bownes stated that if the enabling statute [R.I.Gen.Law #44-30-12(c)(2)] were allowed to stand, it "would form an unconstitutional bridge between church and state."

The court ruled that the primary effect of the tuition tax deductions would be an advancement of religion, since they conferred a special benefit on parents who choose to send their children to sectarian schools. Judge Bownes wrote, "The . . . conferral of a benefit for the performance of a religious act will make people more likely to continue to perform the act or to begin to perform it if they are not already doing so." He pointed to the fact that 94% of the students who attended nonpublic and tuition funded public schools in Rhode Island in 1979 went to sectarian schools, and 79% of the nonpublic school students throughout New England enrolled in religious schools that year. ". . . We think it proper to conclude," he said, "that the Rhode Island tuition deduction would confer a tax benefit along nearly solid sectarian lines."

The deductions for textbook and instructional materials were held invalid because the state surveillance required to ensure their nonsectarian character would itself constitute excessive government involvement in sectarian school affairs, impermissibly entangling church with state.

The Circuit Court also ruled that deductions for

transportation were unconstitutional on the grounds that they were an integral, albeit minor, part of the tax statute.

Legislative Update

The 96th Congress is due to end December 5. Following is an update of the status of legislation which has been followed by *Outlook* this year:

Signed into law:

Asbestos Detection and Control: P.L.96-270

Refugee Education Assistance: P.L.96-422

International Educational Programs: Title VI of Higher Education Reauthorization Act, P.L.96-374

Pending before committees or awaiting Floor action, but having virtually no possibility of passage:

Youth Act of 1980 (foundered on issue of subminimum wages and the post-election Congressional unwillingness to work with the current Administration)

Tuition Tax Credits (Prospects for passage look more favorable in the upcoming Congress. It is anticipated that several bills will be introduced early in the session.)

Foreign Language Programs (Although House approved H.Con.Res.301 on November 17, expressing the sense of Congress that foreign language studies need strengthening, the Senate has not acted on it to date. Bill to reimburse schools for added foreign language instruction will probably be re-introduced in coming session.)

Charitable Deduction to Extend to Non-Itemizers (Senate will not consider this amendment to tax cut bill since it agreed not to take up bill itself. On the House side, a Democratic co-sponsor is being sought for the bill.)

Assistant Secretary for Private Education

Testing

Child Health Assurance

Presidential Commission on National Service

Regulatory Reform

Sunset Review

Capenotes

. . . At its December meeting the CAPE Executive Board met with Mrs. Lorelei Kinder, leader of the

COUNCIL FOR AMERICAN PRIVATE EDUCATION/1625 Eye Street, N.W., Washington, D.C. 20006

Robert L. Smith, *Executive Director*; Carla Gelband, *Editor*; Jay Roudebush, *Art Editor*

(202) 659-0016

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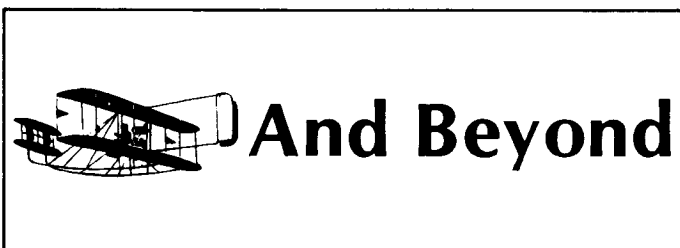
OUTLOOK is published monthly (September through June) by the Council for American Private Education. Annual subscription \$7. Council members: The American Lutheran Church • American Montessori Society • The Association of Evangelical Lutheran Churches • Association of Military Colleges and Schools of the U.S. • Christian Schools International • Friends Council on Education • Lutheran Church-Missouri Synod • National Association of Episcopal Schools • National Association of Independent Schools • National Association of Private Schools for Exceptional Children • National Catholic Educational Association • National Society for Hebrew Day Schools • Seventh-day Adventist Board of Education, K-12 • Solomon Schechter Day School Association • U.S. Catholic Conference/ Associated state organizations in Arizona, California, Connecticut, District of Columbia, Florida, Georgia, Indiana, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, Oregon, Puerto Rico, Tennessee, Texas, Virginia, Washington and Wisconsin.

Education Transition Team and Edward Curran, the Team's resource person on non-public education.

... CAPE has received a grant from the Geraldine Rockefeller Dodge Foundation to assist in its much-needed development effort. A solicitation process is also underway to encourage individual and organizational contributions to CAPE.

... *A Parents' Handbook (Title I, ESEA, Working With Schools)* may now be obtained from Mrs. Joan Ambrosio, Division of Education for the Disadvantaged, Office of Compensatory Education, ROB 3659, 400 Maryland Ave., S.W., Washington, D.C. 20202.

... Through the generosity of Reader's Digest, CAPE is distributing reprints of *Marijuana Alert II* to requesting private schools. The pamphlet may be reproduced by recipient schools.



Private School Program 'Validated'

The National Diffusion Network has been making exemplary education projects available to public and private schools since 1974, but it was not until last September that nonpublic schools approached the Network's Joint Dissemination Review Panel with a request that one of their programs be validated for dissemination. (The Network is a federally-supported, nation-wide system of communication among educators designed to help schools adopt tested and approved learning programs.) The Panel accepted their project on October 17.

Since 1971, three nonpublic schools in the Archdiocese of New York (Guardian Angel, St. Columba and Sacred Heart) and the New York City Board of Education have been using the Hampton Institute's Follow Through Program as a model for their Non-Public Schools Follow Through Program in New York City. (The program is so named because it is a continuation of Head Start and other early learning experiences.) Economically disadvantaged children, considered "at risk" in terms of cognitive development, self-image, nutrition and overall health, are given a boost toward school success by this program of early intervention.

Hampton's model uses an individualized, multifaceted approach to instruction. Children of different ages work in nongraded classrooms in which desks and worktables are arranged and re-arranged to suit the learning of the moment. Students move from mastery of one skill to the next at their own rate of growth. An Implementor works with teach-

ers, staff and parents to assess training needs and assure that programs remain consistent with non-graded constructs and philosophy. Policy Advisory Committees involve parents at all levels of decision making.

The effectiveness of the program is demonstrable. Follow Through children reach national testing norms in reading by the end of their first school year and in mathematics a year later. They maintain this level of achievement throughout the program and for at least one year afterwards. Participating children test more frequently at or above grade level than do the samples of both nonpublic and public school children not involved in such a plan.

Schools wishing to learn more about this and other National Diffusion Network projects may contact Seymour Rubak, Department of Education, 400 Maryland Avenue, S.W., Transpoint Building, Room 48B, Washington, D.C. 20202. Similarly, schools desiring to propose an exemplary project for dissemination should contact Mr. Rubak.

Fun and Games at ETS

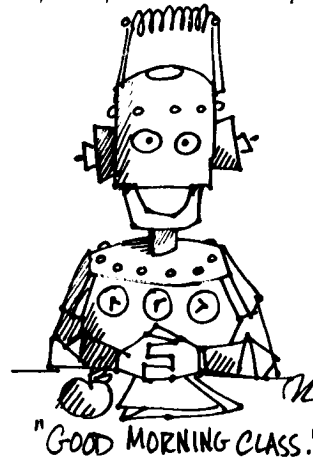
"Your answer is not correct. The correct answer is being drawn above."

"Right on. Your score is now 7."

"Hit any key to continue."

Twirling paddle dials attached to the Apple II computer, we located the wrong note on the melody line of "Twinkle, Twinkle, Little Star" and replaced it with what we thought was the correct one. The computer played back our version. The star was grievously adrift.

It seemed fitting that this should have taken place on Halloween in the Washington offices of the Educational Testing Service, the day before the national administration of the SATs. The demonstration was called "Beyond Paper and Pencil." It was the result of a year-long Innovative Item Assessment Project. Non-traditional test questions were grouped into six scripts, dealing with biology, English, French, mathematics, music and social studies. The questions were not in multiple choice format; instead, they solicited responses of words,



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phrases or algebraic expressions, or asked students to manipulate graphs and pinpoint maps.

Ernie Kimmel, Director of Test Development of the College Board Program, ETS, explained that the project was "an early developmental effort to use relatively inexpensive technology to meet growing concerns about traditional paper-and-pencil testing." Three factors have converged, he said, to give impetus to the project: The cost of powerful computing equipment has fallen low enough for school and individual use. (What we were looking at costs around \$2500.) Alternatives to multiple choice testing should be developed, requiring students to construct, not merely recognize, correct answers. (This is hard. You don't get any hints.) Links should be built between testing and learning. (Incorrect responses are kept on the screen along with the correct ones, for comparative purposes.)

Although mass testing is a long way off, some secondary school students will soon be allowed to play with the scripts and the machinery. Then ETS will launch a full-blown field test of its magic microcomputer.

— Editor



● **Teaching and Learning Grants:** Applications are being accepted for the National Institute of Education's Program of Research Grants on Teaching and Learning. Awards will be made for research which "will contribute to improvement of educational practice and equity in the areas of language and literacy, basic cognitive skills, teaching in school settings, and testing and evaluation." Closing date

is January 27, 1981. Program announcements available by sending self-addressed mailing label to Grants Program Staff, Teaching and Learning Program, NIE, 1200 19th St., N.W., Washington, D.C. 20208.

● **Evaluation:** *Standards for Evaluations of Educational Programs, Projects and Materials* sets forth 30 standards for use in assessing plans, operations and reports. It was prepared by the Joint Committee on Standards for Educational Evaluation under the supervision of Daniel J. Stufflebeam of Western Michigan University and "focuses on 4 key attributes of good evaluation: utility, feasibility, propriety and accuracy." The book is available for \$8.95 from the McGraw-Hill Co., 1221 Avenue of the Americas, New York, N.Y. 10020.

● **Space Shuttle Student Involvement:** The National Science Teachers Association and the National Aeronautics and Space Administration are conducting a project "to stimulate the study of science and technology in secondary schools by engaging students in a competition to develop experimental concepts suitable for flight aboard the Space Shuttle." Write: Space Shuttle Program, NSTA, 1742 Conn. Ave., N.W., Washington, D.C. 20009. Proposals due February 2.

● **Science Education:** *Science and Engineering Education for the 1980s and Beyond*, prepared by the National Science Foundation and the Department of Education, suggests that "... the number of our young people who graduate from high school and college with only the most rudimentary notions of sciences, mathematics and technology portends trouble in the decades ahead." The report should be available shortly from Superintendent of Documents, U.S. Gov't Printing Office, Washington, D.C. 20402.

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COUNCIL FOR AMERICAN PRIVATE EDUCATION
1625 Eye Street, N.W.,
Washington, D.C. 20006