

cape Council for American Private Education outlook

"Voice of the Nation's Private Schools"

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CAPE Issue Paper: Equity for All Students Under IDEA

As the debate in Congress heats up about how to reauthorize the federal education program that serves children with special needs, CAPE's board of directors has sent a straightforward appeal to lawmakers: develop legislation that equitably serves all children, including those in private schools. The board approved an issue paper last month on the reauthorization of the Individuals with Disabilities Education Act (IDEA).

Children with special needs placed by their parents in private schools do not have the opportunity to participate equitably in IDEA. Currently, no individual child in a private school is entitled to any services under the program, and collectively, children with special needs in private schools receive IDEA services that amount to only a fraction of the services available to public school coun-

terparts with comparable needs. CAPE's issue paper calls for "equitable services for parentally placed private school students."



When IDEA was last reauthorized in 1997, Congress replaced somewhat vague language governing services to children in private schools with a quantitative formula. Specifically, the formula prescribes that amounts expended by a school district for the provision of

IDEA-related services to children in private schools should be "equal to a proportionate amount of federal funds" made available under Part B (20 U.S.C. 1412(a)(10)(A)(i)(I)). Because IDEA funds cover only a small share of the total cost of special education services in a school district, the net effect of the new formula is that children with special needs in religious and independent schools receive only a minimal portion of the services they would receive if in public schools. Regulations stipulate that no private school child with a disability has "an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school" (34 C.F.R. 300.454(a)(1)). And the regulations go on to say that al-

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Congress Approves Tax Deduction for Educators

I am a kindergarten teacher in a private school and at times my out-of-pocket expenses have matched my paycheck! I will start saving receipts immediately as this will help me out...tremendously." Thus a gleeful teacher conveyed to CAPE the significance of the federal tax deduction for educators enacted last month.

Part of the economic stimulus package passed by Congress and signed by President Bush, the measure allows eligible educators in private and public elementary and secondary schools to take an annual tax deduction of up to \$250 for out-of-pocket classroom ex-

penses. The new law defines an eligible educator as "an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year."

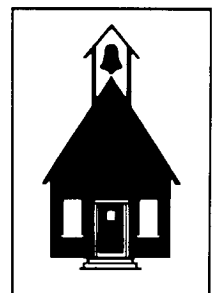
The program covers expenses incurred for books, supplies, equipment, and supplementary materials during tax years 2002 and 2003. Teachers can take their first deduction when filing tax returns due April 2003.

Government officials estimate the new provision will mean \$409 million in tax savings for educators over the next

two years. Private school teachers, who constitute 12 percent of the nation's teacher workforce, could collectively save \$49 million.

Senators Susan Collins (R-ME) and John Warner (R-VA) were the principal Congressional advocates of tax benefits for teachers. Following the

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though a school district has to consult with representatives of private school children in determining which children in private schools will be served, which services they will be provided, and how and where those services will be provided, the final decision regarding such matters rests entirely with the district (34 C.F.R. 300.454(b)).

Data Reflect Problem

The fact that IDEA does not provide equitable services to private school students is reflected in the data gathered by the U.S. Department of Education. In the 1999-00 school year, 11.26 percent of the nation's students ages 6 through 17 received services under IDEA Part B, but in private schools only 1.52 percent of students received services. What's more, there is no reason to assume that any individual private school student received all necessary services. For although the law requires services for public school students commensurate with their needs, it does not do so for students in private schools. Again, decisions as to which private school students are served and what services they receive are entirely matters of public school district discretion.

The CAPE issue paper calls for "innovative approaches that would ensure equitable services to eligible individual private school students." One such approach would be a variation of Florida's voucher program for students with disabilities that would cover students already enrolled in private schools.

The paper also asks that districts be required "to report annually on all private school children located, referred, identified, evaluated, and served" and to disclose the dollars expended on services to those students. Regulations require school districts to "locate, identify, and evaluate all private school children with disabilities" who reside within the district (34 C.F.R. 300.451(a)). An accurate and transparent child-find process is essential because the count of students with disabilities in private schools determines the proportionate share of funds available for services to those students. But the U.S. Department of Education does not require school districts or states to report the number of private school children with disabilities who have been located. (The Department does collect data on the number of children in private schools actually served under IDEA but not on the number of children in need of services.) Thus, it is impossible for the Department, or anyone else for that matter, to determine whether a district is expending the required share of federal dollars on services to private school children.

Earmark Funds for Students

On a related matter, CAPE's paper asks Congress to change the current law "so there is no fiscal disincentive for school districts to serve children in private schools." Because the share of federal dollars a district must spend on private school students is contingent on the number of private school students with disabilities that the district actually

locates, the law in effect provides school districts with a built-in disincentive to find private school children with special needs. The stark reality of the current formula is this: the more students with disabilities that a district finds in private schools, the less federal dollars available for services to students in public schools. A straightforward solution to this problem would be to require school districts to set aside a share of Part B funds equal to the share of resident students enrolled in private schools, and to reserve those funds strictly for services to private school students. Because data on the number of students in a district who attend private schools are readily accessible, private school parents and officials would know the share of federal funds available for services to private school students with special needs.

CAPE is also requesting lawmakers to "increase significantly the share of federal funds for IDEA." An increase in federal IDEA support would help districts meet the needs of all students with disabilities and would ensure a more equitable level of service and participation for students in private schools.

CAPE's paper closes with the recognition that the reauthorization of IDEA provides Congress "a unique opportunity to recraft an act that will truly provide enhanced opportunities for special education students." It urges Congress to adopt measures that "would go a long way toward realizing the equity that IDEA has always sought."

The issue paper is available online at www.capenet.org/pubpol.html.

CAPE's Board and State Representatives Meet In D.C.

CAPE's board of directors and state representatives met March 5 with officials from Congress and the Bush administration to discuss a variety of public policy issues of importance to the private school community. Topics included education tax credits, special education, the teacher shortage, community service, and charitable giving.

In connection with the latter topic, the CAPE delegation met with James Towey, who was recently



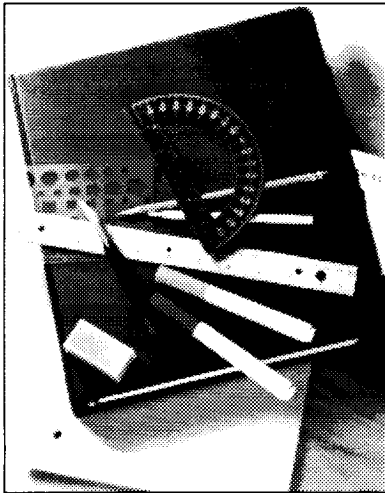
From left, Dan Vander Ark, CAPE's president-elect; Joe McTighe, executive director; Jim Towey, director of the Office of Faith-Based and Community Initiatives; Dick Osborn, CAPE's president. (Photo by John Holmes)

appointed by President Bush to direct the White House Office of Faith-Based and Community Initiatives. Towey spoke about measures in the Senate and the House to expand tax incentives for charitable contributions and to help faith-based organizations deliver social services. The Bush administration, he said, supports legislation that respects the separation of church and state while not taking the "faith out of faith-based."

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proposal's passage, Senator Collins said, "I authored this plan to reimburse educators for a small part of what they invest in our children's futures. As we raise our expectations for our schools and teachers, we must give them the tools and the support they need to do their jobs."

In a speech in the Senate shortly before the vote, Senator Warner described the dignity of teaching: "While many people spend their lives building careers, our teachers spend their careers building lives." Warner noted



that teachers are "overworked, underpaid, and all too often, under-appreciated." He said the tax relief would help provide teachers "the recognition they deserve" and predicted it would "encourage individuals to enter the teaching profession and remain in the profession." The federal government should play a role, he said, "in helping to alleviate the nation's teaching shortage."

With private schools and public schools facing the same shortage, CAPE has consistently called for the equitable participation of

private school teachers in government programs that assist teachers and promote teaching.

At a White House conference last month on preparing quality teachers, President Bush and the first lady, Laura Bush, announced the need for 2.2 million additional teachers over the next decade and outlined a series of programs to recruit, prepare, and retain quality teachers. Among the new initiatives were tax benefits for teachers, which the President signed the following week-end, and a substantial increase in federal loan forgiveness programs for certain teachers in high-need schools, which is working its way through the legislative process.

For details about the new teacher tax deduction, visit CAPE's Web site at www.capenet.org/new.html.

Title I Assessments Do Not Apply to Private Schools

The assessment provisions under Title I of the No Child Left Behind Act (NCLBA) do not apply to private schools, even if students in those schools receive Title I services. That clarification and others came forth from the negotiated rulemaking session held last month to work out the details of draft regulations relating to standards and assessments. The proposed regulations will soon be published in the *Federal Register* for public comment.

Twenty-one negotiators met for five days in March to hammer out the proposed rules. They included persons familiar with Title I at the national, state, and local levels who were nominated by a variety of education agencies and organizations, including CAPE. Jack Clark, assistant superintendent for the Catholic Diocese of Allentown, represented the interests of private school students.

Prior to the negotiations, CAPE participated in a focus group that the U.S. Department of Education held to identify areas the regulations may have to address. CAPE communicated concerns that some officials at the state and local levels were misinterpreting Section 9506(a) of the NCLBA to mean

that private schools with students who receive services under the act were required to participate in the assessment programs prescribed in the act.

The new proposed regulations clarify that private schools, including those whose students receive services under Title I, are not required to participate in a state's academic assessment system. The rules go on to state that if a school district provides Title I services to eligible students in private schools it must, "through timely consultation with appropriate private school officials," determine how those services will be assessed and how "the results of that assessment will be used to improve those services." To carry out this purpose, the district may use the state's academic assessments "or other appropriate academic assessments."

Although the negotiated rulemaking focused on assessments and standards, USDE plans to address additional issues relating to Title I and other titles of the NCLBA through the regular rulemaking process. The Department will solicit input on the issues requiring clarification through four planned regional meetings. Officials have said they will address most issues through nonregulatory

guidance, issuing regulations only when necessary.

Ed Tech Guidance Issued

On March 11, the Department provided an example of nonregulatory guidance when it released final guidance on the Enhancing Education Through Technology (Ed Tech) program.

The guidance stipulates that, in designing programs funded by Ed Tech, school districts must provide, on an equitable basis, services that address the needs of "children, teachers, and other educational personnel in private schools" in areas served by the district. The guidance also says school districts "must engage in timely and meaningful consultation with appropriate private school officials during the design and development of programs and continue the consultation throughout the implementation of these programs."

NCLBA rules and guidance are regularly posted on the USDE Web site at www.ed.gov/offices/OESE/esea/regsandguidance.html.





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•“Choice is not some experimental idea. In the 21st century, it is an expectation.” With these and other words, Secretary of Education Ron Paige provided a stirring endorsement of school choice at a symposium in Philadelphia last month of the Black Alliance for Educational Options (BAEO).

Noting Americans enjoy choice in a host of areas other than education, Paige said, “It’s surprising that a country that says it values education hasn’t powered it up with the energy of choice. But it’s not just a surprise. It’s a disgrace.”

The secretary recalled that when he was superintendent in Houston, some folks were surprised by his support of choice. But he told the audience, “I knew what you know: that giving parents greater choices and kids more chances does not hurt public education, it strengthens it. It brings us closer to equality.”

Paige urged BAEO to continue its efforts to empower parents. “You are the prophets of parental choice. You have a great American message. Preach it boldly.”

•Help is on the way for administrators, teachers, and parents trying to maintain or start Christian schools in urban settings.

Christian Schools International (CSI), a member of CAPE, is launching a new effort to help existing and potential urban Christian schools become self-sustaining, with plans to provide advice on everything from fundraising to curriculum development. The project is funded by a grant from the Richard D. Van Lunen Charitable Foundation.

CSI will take up to eight months to develop a model for a self-sustaining urban Christian school. It will then help three selected groups determine if their communities or regions can sustain a Christian school, working with each group to develop a self-sufficient school within three years.

“So many parents in North American cities want a Christian education for their kids,” said Dan Vander Ark, executive director of CSI and president-elect of CAPE. “It’s really hard to move from a passion to a plan for an actual school. I’m thrilled the Richard D. Van Lunen Charitable Foundation is helping CSI build a model that will serve parents in many cities.”

•Iowa Governor Tom Vilsack has appointed Sister Jude Fitzpatrick, former superintendent of schools for the Catholic Diocese of Des Moines, to the State Board of Education. The appointment, announced March 15, must be approved by the Iowa Senate.

The Des Moines Register reported that, if approved, Fitzpatrick “apparently would become the first nun to serve on the state education board.”

“Certainly I cannot separate the role I have had in education with who I am,” Fitzpatrick told the Register. “I obviously will bring that piece of experience to the state board. I would hope people see that as another perspective to the decisions the board makes....”

•“Children who attended private schools during the kindergarten year enter kindergarten scoring significantly higher in reading and mathematics than the national average, and maintain this difference through the spring of first grade.” Thus reports Children’s Reading and Mathematics Achievement in Kindergarten and First Grade, a new publication by the National Center for Education Statistics. The report is available online at <http://nces.ed.gov>.