

Council for American Private Education

CAPE outlook

Voice of America's private schools

Stimulus Plan Provides Mixed Results for Private Schools

President Barack Obama signed into law in mid-February a massive package to help jump-start the sagging economy through a combination of tax cuts and government spending. The nearly \$800 billion legislation, known as the *American Recovery and Reinvestment Act* (ARRA), involves unprecedented amounts of federal funds for education programs, some of which will affect students in religious and independent schools.

According to the Congressional Research Service, ARRA “provides \$97.558 billion in discretionary or mandatory appropriations for education programs.” And the Department of Education plans to move those funds quickly. A department advisory dated February 18 says the goal “is to get half of the money to the states within 40 days and the second half within six months.”

State Fiscal Stabilization Fund

ARRA establishes a \$53.6 billion State Fiscal Stabilization Fund (SFSF) designed primarily to help states offset their own cuts in aid to education and other services. Despite a strong advocacy effort by the private school community, the act does not include an explicit requirement that SFSF money serve children in private schools in an equitable way. But neither does the act exclude private school students from being served under SFSF. Further, it may be that current provisions in programs for which SFSF funds must be used (for example, the *Elementary and Secondary Education Act* and the *Individuals with Disabilities Education Act*) require equitability.

Within SFSF, \$5 billion is set aside for use by the Secretary of Education for State Incentive Grants and an Innovation Fund, but most remaining funds are awarded to states through a formula based on school-age population (ages 5-24) and total population. States, in turn, must use 82 percent of the funds first to restore cuts that

may have been made to school districts and public institutions of higher education and then to provide additional monies to school districts. The remaining 18 percent of a state's allocation of SFSF funds is available “for public safety and other government services,” which, at the state's discretion, may also include assistance for elementary, secondary, and post-secondary education, including private education.

Public school districts that receive SFSF monies can only use such funds for activities authorized under the *Elementary and Secondary Education Act* (ESEA), the *Individuals with Disabilities Education Act* (IDEA), the *Adult Education and Family Literacy Act*, the *Carl D. Perkins Career and Technical Education Act* (Perkins Act), or for “modernization, renovation, or repair of public school facilities.” Since some of these acts allow or require equitable services to students and teachers in private schools, school districts would at least be free to use SFSF funds to provide such services. Examples of allowable services include professional development for teachers (authorized under ESEA Title II-A), remedial instruction in math or reading for disadvantaged students (authorized under Title I-A), library materials and educational equipment (authorized under Title V-A), and services to students with special needs (authorized under IDEA).

Encouraging Equitable Services

Many private school representatives across the country are expected to encourage state and local officials to treat

all students and teachers equitably under SFSF, regardless of the type of school they attend. In an analysis of the impact of ARRA on private schools (available at <http://www.capenet.org/pdf/CAPE-ARRA.pdf>), CAPE provides the following rationale for directing a fair share of SFSF

benefits toward the religious and independent school community:

- A number of federal programs that benefit public school students and teachers require equitable benefits to comparably situated private school students and teachers.

Congress has long recognized the principle of equitable services since the enactment of the *Elementary and Secondary Education Act* in 1965. Such equity is based not only on a commitment to fairness and inclusion, but also on the practical recognition that America's children are educated in a variety of schools.

- The economic stimulus effect of a particular expenditure is not dependent on the public or private control of the participating institution. Key purposes of the stimulus package are to save jobs and improve education. These goals can be accomplished by directing benefits to students and teachers in public and private schools.

- There is a particular interest in preserving private elementary and secondary schools in that their closing (as has been the case, unfortunately, with many urban religious schools) presents an added financial burden on already hard-pressed and overcrowded public schools.



President Obama signs the *American Recovery and Reinvestment Act* February 17 in Denver. (White House Photo)

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CAPE member organizations:

- Agudath Israel of America
 - American Montessori Society
 - Association Montessori International—USA
 - Association of Christian Schools International
 - Association of Christian Teachers and Schools
 - Association of Waldorf Schools of N.A.
 - Christian Schools International
 - Evangelical Lutheran Church in America
 - Friends Council on Education
 - Lutheran Church—Missouri Synod
 - National Association of Episcopal Schools
 - National Association of Independent Schools
 - National Catholic Educational Association
 - National Christian School Association
 - Oral Roberts University Educational Fellowship
 - Seventh-day Adventist Board of Education
 - United States Conference of Catholic Bishops
 - Wisconsin Evangelical Lutheran Synod Schools
 - 31 Affiliated State Organizations
- a coalition of national associations serving private schools K-12
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Outlook is published monthly (September to June) by CAPE. An annual subscription is \$25. ISSN 0271-1451

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- Private school parents will help bear the cost of the stimulus package; their children should reap some of the benefits.

- Private schools help educate the public. They perform a public service at enormous savings to taxpayers. Private K-12 schools nationally save taxpayers an estimated \$48 billion annually. Their public purpose should be recognized with public support.

Tuition Ban

ARRA includes language that expressly prohibits SFSF funds from being used “to provide financial assistance to students to attend private elementary or secondary schools.” But such language should be read carefully and literally as only prohibiting aid, such as tuition or vouchers, that would enable children to attend a private school. It should not be read as prohibiting services to students *who* attend a private school. Indeed, the fact that Congress worded this prohibition so narrowly suggests that it anticipated the use of SFSF funds for services to private school students but wanted to exclude the use for such purposes as tuition scholarships or vouchers.

Also relevant to this prohibition, which again pertains only to the use of SFSF funds, is language that appears in the conference report to accompany ARRA (Report 111-16), which reads as follows: “The conference agreement provides that no recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools, except provided in section 14003.” Section 14003 lists the acts (for example, ESEA and IDEA) that encompass the activities for which school districts are authorized to use SFSF monies. Under IDEA, such activities include covering the costs, under certain conditions, of having a child with special needs attend a private school. In a report dated February 20, the Congressional Research Service interpreted the ARRA prohibition, through the filter of the conference report, to mean: “No funds may be used to provide financial assistance for pupils to attend private schools, except (according to H.Rept. 111-16) as authorized by ESEA, IDEA, the Adult and Family Literacy Act, or the Perkins Act.” This interpretation appears to open the way for using SFSF funds even to cover tuition

costs connected with IDEA placements, though the U.S. Department of Education will likely issue definitive guidance on this point in the near future.

Innovation Fund Under SFSF

As noted above, the SFSF includes \$5 billion for the Secretary of Education to use for State Incentive Grants and an Innovation Fund. The incentive grants are to be awarded to states that have made significant progress with respect to certain education-related goals, such as achieving equity in teacher distribution and improving the

American Recovery and Reinvestment Act Select Education-Related Provisions

Purpose	Amount (in billions)
Title I-A, ESEA	\$10.0
Title II-D, ESEA (EdTech)	\$0.65
IDEA, Part B	\$11.7
State Fiscal Stabilization Fund	\$53.6
Early Head Start	\$1.1
Head Start	\$1.0
Child Care and Development Block Grants	\$2.0
School Lunch Equipment Grants	\$0.1

collection and use of data. Of the \$5 billion, up to \$650 million may be used by the secretary for an Innovation Fund to provide grants to eligible entities that have made “significant gains in closing the achievement gap.” The grants are intended to help the eligible entities, which can be school districts or a partnership between a nonprofit organization and a school district or a consortium of schools, to expand their work and to help others follow their example. Presumably, a partnership between a nonprofit organization and a consortium of schools clears the way for a group of private schools and an interested nonprofit organization to apply for a grant.

School Modernization Under SFSF

The school modernization program contained in the version of the stimulus package originally passed by the House was rolled into the SFSF component of ARRA by adding “modernization, renovation, or repair of public school facilities” as an allowable use of any and all SFSF funds received by school districts. The explicit “public school” reference excludes the use of these funds for upgrading religious and independent elementary and secondary schools.

ESEA, IDEA

ARRA also provide funding increases for several existing education programs, including \$13 billion for Title I grants under the *Elementary and Secondary Education Act* (ESEA) to help disadvantaged students. Of that amount, \$10 billion is available for services to students in public and private schools, and \$3 billion is targeted for grants to help public schools that have been

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identified for school improvement.

The act also allocates \$650 million under Title II-D of ESEA (EdTech) to help public and private schools enhance instruction through technology.

The *Individuals with Disabilities Education Act* (IDEA), which provides services to children with special needs in public and private schools, receives an additional \$12.2 billion under ARRA, including \$11.7 billion for Part B, which requires the equitable expenditure of federal funds for services to students placed by their parents in private schools, and \$500 million for Part C, which serves infants and toddlers with disabilities.

These special funds for ESEA and IDEA are supposed to be available during school years 2009-10 and 2010-11 and are in addition to the regular annual appropriations for these programs. In the current fiscal year, those regular appropriations are as follows: \$11.7 billion for IDEA Parts B & C, \$13.9 billion for ESEA Title I-A, and \$268 million for ESEA Title II-D. Thus, the net effect of ARRA on these programs is to increase IDEA Parts B & C by 104 percent, ESEA Title I-A by 72 percent, and ESEA Title II-D by a whopping 242 percent.

Early Childhood

Early childhood programs also get a boost in ARRA, which provides \$1.1 billion for Early Head Start and \$1 billion for Head Start, two programs to promote the healthy development of children from low-income families before they attend school. A number of private non-profit organizations sponsor these programs. Another \$2 billion will go to the Child Care and Development Block Grant program, which helps low-income parents in the workforce cover daycare or after-school program costs at the child-care provider of their choice, public or private.

School Lunch

ARRA includes \$100 million for a grant program for equipment assistance for school food authorities that administer the National School Lunch Program. Funds under the grant program are provided in a proportional manner to states, which in turn provide competitive grants to school food authorities “based upon the need for equipment assistance in participating schools with priority given to schools in which not less than 50 percent of the students are eligible for free or reduced price meals.” Numerous religious and independent schools across the country serve as school food authorities, which means they actually administer the food program in one or more schools.

Department’s Overview

A statement from the U.S. Department of Education describes ARRA as “historic legislation” that “will provide an immediate stimulus to the economy by saving or creating hundreds of thousands of early childhood, K-12, and higher education jobs in states across America that are at risk of state and local budget cuts.” The statement goes on to say the act “will lay the foundation for a generation of education reform.”

Because the legislation is designed “to invest the education dollars quickly, productively, and transparently,” department officials intend to develop “a streamlined application process that requires strong commitments on the front end and even stronger proof on the back end that states are not only putting new dollars into the classroom but are making meaningful and measurable progress toward the reform goals of this legislation.”

In the days ahead, the department plans to post specific guidance and timetables for each program funded by ARRA on a special Web page at <http://www.ed.gov/policy/gen/leg/recovery/index.html>.

Next Steps

Private school officials interested in having students and teachers participate in programs funded under ARRA should take the following steps quickly:

- Keep abreast of fact sheets, guidance, appropriations tables, and regulations relating to ARRA’s education programs by frequently visiting the U.S. Department of Education’s ARRA Web page at the [URL noted above](#).
- At the state level, urge the governor and state education department officials to include private school students and teachers in an equitable way under ARRA’s State Fiscal Stabilization Fund.
- At the local level, urge the mayor, school superintendent, and other appropriate officials to include private school students and teachers under SFSF.
- Work with officials at the state education department and local school districts to ensure that increases in formula funds for programs that already benefit students or teachers in private schools (e.g., IDEA Part B; ESEA Title I-A; ESEA Title II-D) will, from the start, include equitable set-asides, timely and meaningful consultation, and effective targeting of funds in order to meet the specific needs of students and teachers.
- Read the latest version of CAPE’s analysis of ARRA and its impact on private schools. The document, which will be updated as warranted, is available as a free download at <http://www.capanet.org/pdf/CAPE-ARRA.pdf>.

School Choice Grows

“A record number of children benefit from a record number of private school choice programs operating in a record number of states.” That’s a key assessment in the latest School Choice Yearbook from the Alliance for School Choice. The numbers work out this way: “In the 2008-09 school year, approximately 171,000 children are participating in 18 school choice programs in 10 states and the District of Columbia.”

Part of the growth in school choice programs and participants stems from a scholarship tax credit program that Georgia enacted in 2008 and a voucher bill for students in New Orleans that Louisiana passed the same year. All told, publicly assisted choice programs currently exist in Wisconsin, Ohio, Arizona, Florida, Pennsylvania, the District of Columbia, Utah, Rhode Island, Iowa, Georgia, and Louisiana.

The number of students benefiting from choice initiatives has grown by leaps and bounds, up 8 percent in the past year and 89 percent in the past five years. Moreover, activity in state legislatures is strong. “In the 2007-08 legislative session, school choice bills were introduced in 44 states,” notes the report. “More than one-quarter of all state legislative chambers passed a private school choice bill during the 2007-08 legislative session. In 2008, six states passed a school choice bill in both of their legislative chambers, while an additional five states passed a bill in one chamber.”

“The success and growth of the school choice movement comes not as a result of work in Washington, D.C., but because of work by state-level activists, parents, and committed lawmakers across the country,” said Alliance Interim President John Schilling.

The School Choice Yearbook is available for download online at <http://www.AllianceForSchoolChoice.org>.

Return service requested

CAPE notes

★ Within weeks of passing a whopping stimulus package that includes some \$100 billion in education spending, the House of Representatives approved an omnibus spending bill February 25 that provides even more money for education while essentially eliminating the \$14 million D.C. Opportunity Scholarship Program after the 2009-10 school year. The program currently allows over 1,700 children from low-income families to attend a religious or independent school in Washington, D.C.

Although the appropriations bill provides funds for scholarships to continue through 2009-10, it specifically requires Congress to reauthorize the program, and the D.C. Council to approve it, in order for funding to continue beyond that point. Reauthorization in the current Congress would be a steep uphill climb.

An explanatory statement accompanying the appropriations bill directs the chancellor of public schools in D.C. to “promptly take steps to minimize potential disruption and ensure smooth transition for any students seeking enrollment in the public school system as a result of any changes made to the private scholarship program affecting periods after school year 2009-2010.”

Signaling the challenges a reauthorization bill would face, Melissa Wagoner, a spokesperson for Senator Edward M. Kennedy, who chairs the Senate Health, Education, Labor and Pensions Committee, told *CQ Today*, “Senator Kennedy strongly

opposed the creation of the program, which takes funds from very needy public schools to send students to unaccountable private schools.” (Sidwell Friends School is one of the private schools that participate in the program.)

In a strongly worded editorial February 25, the *Washington Post* denounced the bill language as a “back-door attempt” to destroy the voucher initiative and “an ill-disguised bid to kill a program that gives some poor parents a choice regarding where their children go to school.” The editorial called on Congressional leaders to do the right thing. “If not, city leaders, including D.C. Mayor Adrian M. Fenty (D), need to let President Obama know that some 1,800 poor children are likely to have their educations disrupted.”

To help get that message to the White House, school choice advocates released a “video letter” from scholarship recipients to President Obama asking him to save the program. The video may be viewed at <<http://www.youtube.com/watch?v=QKzZJoPu1OQ>>.

★ New York City Mayor Michael R. Bloomberg and Catholic Bishop Nicholas DiMarzio announced February 7 that the city and the Diocese of Brooklyn “will explore the possible conversion of some Catholic schools into publicly funded charter schools as a pilot program,” according to a news release issued by the mayor’s office. The mayor cited as precedent the Catholic-to-charter conversion last year of

seven schools in Washington, D.C.

“Many Catholic schools are finding it hard to stay open because of tighter budgets and falling enrollment, even as they remain attractive to so many families because of their focus on high academic standards and high student achievement,” Mayor Bloomberg said. “Many if not most of the students would be likely to seek admission in Brooklyn and Queens public schools that are already at or near capacity, which gives us all a shared interest in finding innovative ways to keep these school doors open.”

The mayor’s news release outlined several principles that should surround the possible conversion, including: “Students now enrolled in the schools would be guaranteed admission into the new charter schools. New students would be admitted through the lottery process now employed by existing charter schools....Religious instruction will continue to be prohibited in the curriculum of these and all other public schools.”

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