

cape Council for American Private Education outlook

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School Choice: Drumbeat of Education Reform

School choice is fast becoming the drumbeat theme in national discussions on education reform. The growing popularity of the concept is reflected in a swarm of symposia, conventions, and news conferences to promote the idea. In September alone, school choice events were being staged faster than Sammy and Mark were whacking homers.



"The most important help in life is help in getting a good education."

Ted Forstmann

Forstmann Announcement

On September 28, news wires and airwaves were awash with the announcement by entrepreneur Ted Forstmann that 36 cities and two entire states had been selected to participate in the largest private school scholarship program ever. Forstmann and John Walton, director of Wal-Mart Stores, have pledged as much as \$100 million of their own money for the program and so far have raised over \$70 million in matching grants from dozens of other wealthy philanthropists. Some 35,000 low-income children will receive scholarships ranging from \$600 to \$1,600 to help them attend private school starting in school year 1999-00 (see page 2 for more details).



"When I...speak directly with people, they're with us....The parents are on our side."

J. C. Watts

In a news conference at the National Press Club in Washington, D.C., Forstmann said that the problem with

American education today is a lack of competition: "Monopolies always produce bad products at high prices." He said he established the Children's Scholarship Fund not only to give "kids born without a lot of luck" the help they need to get a good education, but also to "harness the creative forces of competition to create more excellence in education."

CEO America Conference

A few days before the Forstmann news conference, the Children's Educational Opportunity of America Foundation (CEO America) held a school choice conference in Washington, D.C., at which one presenter called for a publicly-funded version of scholarships. Former Education Secretary and onetime presidential candidate Lamar Alexander proposed a \$2 billion government-sponsored scholarship program for low-income children in targeted cities, with \$1 billion coming from Title I and the rest in new funds.

Another speaker at the CEO conference, Representative J.C. Watts (R-OK), talked about the gap on school choice

between black leaders and the people they represent. He said that when he visits communities, bypasses community leaders, and goes directly to the people to discuss the issue, he discovers that parents are "on our side."

School Choice Summit

A week before the CEO conference, some parent choice advocates gathered just outside of Washington for what was billed as a school choice summit. Some of the major players in the movement were on hand to address the group, including Clint Bolick of the Institute for Justice, Nina Shokraii of the Heri-

tage Foundation, Quentin Quade of the Blum Center, and Paul Peterson of Harvard.

Peterson, who directs the university's Program on Education Policy and Governance (PEPG), reviewed the comprehensive and rigorous research on school choice which PEPG is leading in Cleveland, New York City, and Washington, D.C. (see next page).

In his latest book, *Lessons from School Choice*, Peterson makes the case for school choice experimentation to address the nation's "endemic" problems of education.



"The longer U.S. students remain in school, it seems, the further behind they fall."

Paul Peterson





Children's Scholarship Fund

giving parents a choice • giving children a chance

On September 28, 1998, the Children's Scholarship Fund (CSF), announced details about its program to help low-income children attend private schools. Starting with school year 1999-00, at least 35,000 children in 38 communities across the country will receive scholarships totaling more than \$140 million. Here is some important information about the program:

- Children must be entering grades K-8 in September 1999 to be eligible.
- Families must reside within one of the 38 targeted communities.
- Families must be low-income (eligible for the federal lunch program).
- Scholarships range from \$600 to \$1,600 per year, depending on income.
- Scholarships are awarded for at least four years.
- A lottery will be conducted on April 17, 1999, to determine the winners.

Parents can apply now for scholarships by calling 1-800-805-KIDS

Eligible Communities and Approximate Number of Scholarships to Be Awarded

Arkansas (entire state) (1,250); Atlanta, GA (500); Baltimore, MD (500); Baton Rouge, LA (250); Bay Area, CA (500); Birmingham, AL (375); Boston, MA (500); Buffalo, NY (500); Charlotte, NC (750); Chattanooga, TN (500); Chicago, IL (2,500); Cincinnati, OH (250); Dallas, TX (1,250); Dayton, OH (750); Fort Worth, TX (500); Indianapolis, IN (500); Jackson, MS (400); Jersey City/Elizabeth, NJ (400); Kansas City, KS & MO (1,250); Los Angeles, CA (3,750); Memphis, TN (750); Miami, FL (1,250); Michigan (entire state) (3,750); Minneapolis/St. Paul, MN (1,500); New Orleans, LA (1,250); New York, NY (2,500); Newark, NJ (1,000); Omaha, NE (500); Philadelphia, PA (1,250); Phoenix, AZ (500); Pittsburgh, PA (500); Portland, OR (500); Saint Louis, MO (500); Savannah, GA (250); Seattle, WA (250); Tampa Bay, FL (750); Toledo, OH (500); Washington, DC (500).

Initial Report on D.C. Program

When thousands of parents of children in public and private schools in the District of Columbia applied last year for scholarships from the Washington Scholarship Fund (WSF), Harvard University's Program on Education Policy and Governance (PEPG) was on hand to begin a long-range study of the impact of the program. Because the scholarships were awarded by lottery, PEPG was able to design a

Parents "very satisfied" with...	Private	Public
Moral Values	69.7%	20.9%
School Discipline	64.3%	20.2%
Academic Program	62.5%	19.7%
Safety	66.3%	24.9%
Teacher Skills	63.8%	23.9%

"randomized experiment" evaluation. Last month it issued an initial report comparing, among other things, school-related perceptions of public and private school parents and students who qualified for the program. The report found some significant differences between the two groups. For example, although one in five public school students said they did not feel safe at school, only one in 20 private school students felt the same way. Also, 59 percent of private school parents graded their school an "A," compared to only 18 percent of public school parents. The chart shows some additional differences.

Court Watch...

Title VI Ruled Unconstitutional

The U.S. Court of Appeals for the Fifth Circuit ruled in August that federal Chapter 2 (now Title VI) aid to students in religious schools is unconstitutional. Title VI requires school districts to provide students in participating private schools with "secular, neutral, and non-ideological" instructional services, materials, and equipment.

In 1995, the Ninth Circuit Court of Appeals reached a contrary conclusion in *Walker v. San Francisco Unified*



School District when it ruled that Chapter 2 services to students in religious schools did indeed pass

constitutional muster. With a conflict in the circuit courts on such a consequential issue, the U.S. Supreme Court may very well take up the matter, should any of the aggrieved parties decide to appeal.

Title VI services have not yet been stopped in states that fall under the jurisdiction of the Fifth Circuit (Louisiana, Mississippi, and Texas), and a stay of the decision would likely be sought pending an appeal.

Court Hears School Choice Case

On September 28, the Ohio State Supreme Court heard oral arguments in *Gatton v. Goff*, a case on the constitutionality of the Cleveland Pilot Project Scholarship Program. Nearly 3,000 low-income children in Cleveland receive scholarships of no more than \$2,250 to attend the private school or neighboring district public school of their parents' choice. The program is being challenged by the American Federation of Teachers, the National Education Association, and the American Civil Liberties Union, and is being defended by the Ohio Department of Education and the Institute for Justice, which represents parents of children in the program.

New IDEA Causes Courts to Change Course

Must school districts provide disabled students in private schools the same services they would provide similar students in public schools? For years the answer to that question was largely unsettled, with courts providing conflicting opinions about the scope of services a special education student in a private school could expect under the Individuals with Disabilities Education Act (IDEA). But when Congress reauthorized IDEA in 1997, it addressed the question specifically, and provided an answer at once clear and confining.

The reauthorized law states quite unambiguously that a district is only obliged to provide private school students with services "equal to a proportionate amount" of the federal special education funds the district receives each year, an amount estimated at about \$500 per student. In the world of special education, \$500 does not go very far. To be sure, districts and states are free to provide additional services using state and local funds, but under federal law they are not obliged to do so.

Prior to the reauthorization of IDEA, some courts had determined that school districts were required to provide special education students in private schools the full array of services they would expect to receive in public schools. But the "proportionate amount" amendment to IDEA does not provide the courts much wiggle room on the issue, and as a result, the most recent decisions are sounding the same note. Below are some examples of cases decided in the past few months.

Second Circuit - July 1998

In July, the U.S. Second Circuit Court of Appeals ruled in *Russman v. Mills* that a school district in New York State was not required to pay for on-site special education services, including a full-time aide, for a student attending a religious school. The same court had reached the opposite conclusion in the same case two years ago.

The reason for the reversal? The judges determined that the 1997 reauthorization of IDEA merely requires states to provide to private school children "only those services that can be purchased with a proportionate amount of the federal funds received under the program." The court went on to say that the amended IDEA "does not require a school district to provide on-site special-education services to a disabled child voluntarily enrolled in private school."

Eighth Circuit - August 1998

In August, the U.S. Eighth Circuit Court of Appeals ruled in *Foley v. Spe-*

cial School District of St. Louis County that a school district in Missouri did not have to provide on-site services to Clare



Foley, a special education student in a Catholic elementary school. Citing the 1997 amendments to IDEA, the court ruled that the 11-year-old girl, who needed a variety of special education services, was not entitled to particular services. Under the new law, said the court, "states are required only to spend proportionate amounts on special education services for [private school] students as a whole" The court went on to say that "whatever their rights under

prior law, Clare and her parents now have no individual right under IDEA to the special education and related services in question."

Eighth Circuit - September 1998

In September, another decision by the Eighth Circuit, *Westendorp v. Independent School District No. 273*, illustrated just how much of a turning point the 1997 amendments to IDEA were when it comes to services to children in private schools. The court determined that a Minnesota school district had mistakenly refused to provide special education services for a paralyzed boy attending a religious school because the services were to have been provided *prior* to the reauthorized IDEA. The court reasoned that under the pre-1997 version of IDEA, the child would have been entitled to the services, even though he was not entitled after the reauthorization. "In amending IDEA," the court said, "Congress substantially limited the rights of disabled children enrolled by their parents in a private school."

While Congress may have substantially limited the rights of private school children under IDEA, it did not eliminate them entirely. IDEA still requires that students in private schools be provided services "equal to a proportionate amount of federal funds" made available under IDEA. Further, the law goes on to state that such services "may be provided to children with disabilities on the premises of private, including parochial, schools." Another section requires states to ensure that private school children with disabilities are identified and evaluated. Still, with the courts now in agreement about the curtailed rights of disabled children in private schools under the new IDEA, it appears that legislation at the state or federal level is now the only means available to help these children receive all the publicly-funded special education services they need and deserve.



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• What's the real secret to hitting homers? Is it quick reflexes, brute strength, bat speed, or private education? Turns out that home-run heroes **Babe Ruth**, **Roger Maris**, and **Mark McGwire** all attended Catholic schools as kids.



The Babe went to St. Mary's in Baltimore, MD; Maris attended Shanley High School in Fargo, ND; and McGwire, the reigning sultan of swing, graduated from Damien High School in La Verne, CA.

• Moving from baseball to football, the **Washington Redskins** are doing their share to advance the privately-funded scholarship movement. Valued at between \$400 million and \$600 million, the team is currently up for sale, with the proceeds to be used to fund a charitable foundation whose mission,

according to *The Washington Post*, is to provide "academic scholarships and support for schools for underprivileged children." As directed by the will of former owner **Jack Kent Cooke**, the Redskins and other assets of the Cooke estate are being sold to fund the Jack Kent Cooke Foundation. After all the estate's assets are sold, the foundation is expected to be worth nearly \$1 billion. One of the foundation's projects is to establish a school and orphanage at the team's practice facility in Loudon County, VA.

• **Joe Klein**, the 'anonymous' author of *Primary Colors*, was the guest on CNBC's *Tim Russert Show* on September 19. After the obligatory discussion of what nowadays is Topic A on such shows, the host and guest refreshingly took up the issue of faith-based education. Seems that Klein and Russert once visited a religious school in Philadelphia, where children, according to Russert, are not only learning how to read and write, but are also learning "right from wrong." Klein commented on the studies that demonstrate the effectiveness of such schools and the obvious dedication of the staff at the school

they had visited. On the involvement of faith-based institutions in solving our country's problems, Klein observed, "It's a great thing that's happening in this decade, really good news."

• "If I could afford it, she'd be in private school, definitely." That's how one Cleveland parent spoke of a desire for a good education for her child in *Time to Move On*, a report on the education-related "aspirations and concerns" of African-American and white parents. Based on telephone surveys of 1,600 parents, the report, published by **Public Agenda**, reveals that 60 percent of black parents "would switch their kids from public to private school if money were not an obstacle."

• The Federal Communications Commission (FCC) has set December 1, 1998, as the start date for filing applications for the 1999-00 **E-Rate** program, which runs from July 1, 1999, to June 30, 2000. By October 30, 1998, the Schools and Libraries Corporation is expected to determine and announce the length of the period during which applications may be filed.