

Council for American Private Education

CAPE outlook

Voice of America's private schools

States Assessing Impact of Federal 529 Change

The massive tax reform package that Congress approved last December included a change in 529 college savings accounts to allow annual withdrawals of up to \$10,000 to cover tuition in elementary and secondary schools. Now a number of states are scrambling to figure out exactly what that change might mean for taxpayers who have 529 accounts that also benefit from state tax breaks.

In states that have no tax provisions relating to college savings accounts, the issue is straightforward. Deposits into the accounts are not deductible for federal tax purposes, but earnings accumulate tax free at the federal level if used for qualified expenses. Since K-12 tuition is now a qualified expense, withdrawals for tuition up to the allowable annual limit may be taken without incurring any federal tax.

But with state 529 plans, it could be a different story. States generally allow 529 plans to grow free of state tax, and some even provide state tax deductions or credits for all or part of the contribution to a college 529 account. But will states allow for credits, deductions, and tax-free growth if funds are used for elementary and secondary tuition? Will families incur a state tax penalty if they withdraw 529 funds for K-12 tuition? Those are exactly the issues that states are actively trying to figure out. Some have already arrived at answers.

Illinois and New York

Illinois State Treasurer Michael Frerichs issued a news release January 18 indicating that families that use the state's 529 plan, called Bright Start or Bright Directions, to pay for elementary or secondary tuition would violate the state's tax code. "Our analysis concludes that families who use Bright Start or Bright Directions money on elementary or high school expenses and then cite those expenditures when seeking tax relief will be in conflict with state law and could incur tax penalties if audited by

state authorities," Frerichs said.

The New York State Department of Taxation and Finance issued a similar warning January 23 in a "preliminary" report on the effects of the new federal tax code. "It appears that distributions for K-12 tuition expenses would not be considered qualified distributions under the New York statutes implementing 529 accounts and would trigger the recapture of any tax benefits that had accrued on contributions," according to the report. "We will continue to review the federal law's provisions on 529 plans on New York residents, and welcome discussion for possible solutions and alternatives."

Missouri and Mississippi

Missouri, on the other hand, has taken a "cleared for takeoff" approach to the expansion of 529s through the state's higher education savings plan, known as the "MOST" program. The board in charge of the plan recently approved a resolution acknowledging that the MOST program relies on the federal definition of "qualified high education expenses" and that any changes to that definition "automatically apply to MOST participants." The resolution calls on the state treasurer to "promote and market" the new provision allowing withdrawals for elementary and secondary tuition.

State Treasurer Eric Schmitt, who administers the program, said, "The expansion of the MOST 529 program to include K-12 tuition is one of the most important improvements to Missouri education

policy in the past decade. This change will make educational opportunity accessible to more families than ever before and help prepare the next generation of Missourians for the economy of tomorrow."

Mississippi Treasurer Lynn Fitch offered

a similarly welcoming, though less definitive, response to the federal tax change, saying she is looking forward "to working with Mississippi families to help them save for all of their

loved ones' education goals."

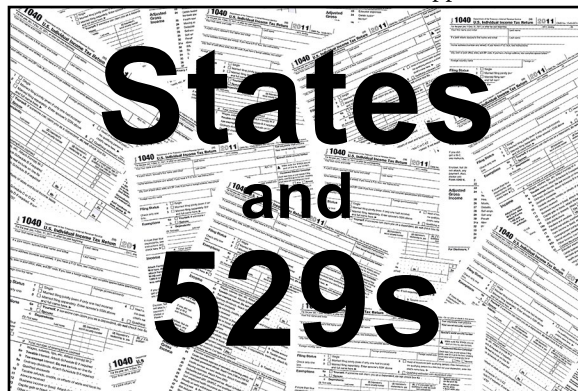
Awaiting State Legislation

In many states, the legislature will have to act to resolve any 529 conflicts between the state and federal tax codes.

The Nebraska State Treasurer's Office issued a statement indicating that until the state legislature adopts authorizing legislation, the use of 529 accounts for private and parochial K-12 schools will be permissible under federal law, but will not receive any state tax benefits." In addition, withdrawals from state 529 accounts "to pay for K-12 tuition will be considered non-qualified withdrawals under current state law and will be subject to recapture of any state income tax deduction previously claimed." Further, "earnings on such withdrawals also will be subject to state income tax under current state law."

The bottom line is that taxpayers in states that have their own 529 programs should act with caution until definitive determinations are made about how potential withdrawals for K-12 tuition will affect their tax liability.

[Photo: Maria Dryfhout/Shutterstock.com]



CAPE

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
Council of Islamic Schools in North America
Council on Educational Standards and Accountability
Evangelical Lutheran Church in America
Friends Council on Education
Islamic Schools League of America
Jesuit Schools Network
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
Affiliated State Organizations

a coalition of national associations serving private schools K-12
Executive Director: Joe McTighe

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State CAPEs Celebrate National School Choice Week

National School Choice Week, which took place January 21 to 27, certainly lived up to expectations. NSCW leaders reported that nearly 7 million people attended 32,240 school choice celebrations in settings across the country, including 50 major cities. President Trump, 34 governors, and over 600 mayors and country leaders issued proclamations to commemorate the week. The event yielded thousands of positive news stories, nearly a million visitors to the NSCW Web site, and worldwide trending for #schoolchoice on Twitter.

In Washington, DC, Education Secretary Betsy DeVos and members of Congress addressed a rally on Capitol Hill. “I am here to fight on your behalf,” said DeVos. “Every single child deserves an equal opportunity to get a great education,” she added.

Study Hard

Also at the rally was Rep. Virginia Foxx (R-NC), chairwoman of the House Committee on Education and the Workforce. Dr. Foxx implored the students in the audience, “Please take advantage of the opportunities that are being given to you as a result of your choice in education. Work hard. Study hard. You probably think you are studying too much. Study more... because, the more you study, the more you learn, the better prepared you are going to be for whatever it is you choose to do in life.”

Texas Senator Ted Cruz described the dramatic circumstances surrounding the amendment he sponsored to expand 529 college savings plans to allow withdrawals for K-12 tuition, which he called “the most significant federal school choice legislation in the history of our country.” The amendment passed the Senate only after a tie-breaking vote was cast by Vice President Mike Pence.

State CAPEs

But NSCW was hardly limited to a rally on Capitol Hill. Within the private school community, state CAPE organizations sponsored or

participated in major events in their own states.

In Rhode Island, a rally at the State House included remarks by Jason Botel, the acting assistant secretary for elementary and secondary education at the U.S. Department of Education. Another speaker, Rhode Island State Representative Robert Lancia, announced legislation to increase the cap on the state’s education tax credit

program from its current level of \$1.5 million to \$5 million.

PACAPE

The Pennsylvania CAPE honored House Speaker Mike Turzai as its 2018 “School Choice Champion” during an event in Lancaster. Dr. D. Merle Skinner, PACAPE co-coordinator, said the group was

excited to be able to recognize Speaker Turzai for his steady and staunch support of the state’s Educational Improvement Tax Credit (EITC).

New Mexico

At the request of the New Mexico Association of Non-public Schools (NMANS), Governor Susana Martinez issued a proclamation declaring the week of January 21 “New Mexico School Choice Week.” The document recognized that the state has many different types of schools, noting, “It is important for parents in New Mexico to explore and identify the best education options available to their children.”

Kentucky

Private school leaders in Kentucky attended rallies in Madisonville and Frankfort. The latter event attracted over 1,000 participants and numerous public officials, including State Treasurer Allison Ball, State Senators Mike Wilson and Ralph Alvarado, and State Representative John Carney.

Leaders from the faith community included Louisville Catholic Archbishop Joseph E. Kurtz, Rabbi Simcha Snaid from Congregation Anshei Sfard in Louisville, and Pastor Jerry Stephenson from the Midwest Church of Christ in Louisville.



Rep. Virginia Foxx (R-NC), chairwoman of the House Committee on Education and the Workforce, chats with students at a NSCW rally on Capitol Hill. (Committee Photo)

CAPE Announces New Director

CAPE's board of directors announced last month the appointment of Michael Schuttloffel as executive director, effective July 1, 2018.

In accepting the position, Schuttloffel, currently the executive director of the Kansas Catholic Conference, called CAPE, "an organization with a respected past and a promising future for serving the religious and independent school community in the United States." He said he was looking forward to helping CAPE expand its sphere of influence in preserving and promoting educational pluralism.

One immediate focus will be affirming the vital role of private schools in American education and their significant contributions to educating the public and advancing the common good. "CAPE will continue to promote the rights of parents to educate their children in the school of their choice and to protect the right of private schools to fulfill their unique missions," he said.



Michael Schuttloffel

Kansas Catholic Conference

As director of the Kansas Catholic Conference since 2008, Schuttloffel served as its lead advocate and spokesman on legislative and political matters. He played a central role in the passage of Kansas's tax-credit scholarship program, which was signed into law in 2014.

Previously, Schuttloffel was an advisor to the governor of Texas. From 1999-2006, he worked as a congressional staffer in the U.S. House of Representatives, including as legislative director for a senior member of the Armed Services Committee.

He attended private schools for 15 years, graduated from the honors program at Villanova University in 1997, and completed a master's

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Michigan

The Michigan Association of Nonpublic Schools (MANS) and the Michigan Catholic Conference (MCC) cosponsored a rally for National School Choice Week at the State Capitol in Lansing. According to MANS Executive Director Brian Broderick, "This event recognized the importance of allowing parents and students to choose the type of school that best fits their

degree in political science from Fordham University in 1998. Michael and his wife, Misty, have five children.

Extraordinary Opportunity

Calling the appointment "an extraordinary opportunity," Schuttloffel said he was looking forward "to working with all of CAPE's member organizations—and all of CAPE's friends and partners—on behalf of the families served by America's private schools."

Private schools "make an important contribution to the common good," he said, and "CAPE plays a critical role in telling that story and in expanding opportunities for parents who want the chance to send their children to the school of their dreams."

Direction and Energy

In announcing Schuttloffel's appointment, CAPE Board President Dan Egeler, president and CEO of the Association of Christian Schools International, said the board was enthusiastic about the new direction and energy Schuttloffel would bring to CAPE. "Michael is smart, grounded, and has the deep commitment and determination to advance CAPE's vision and mission."

Greatly Missed

At the same time, Egeler expressed the board's praise and gratitude for Joe McTighe, CAPE's current executive director, who will leave the position at the end of June. "Under Joe's guidance, CAPE has grown in influence and stature. His leadership, humor, and deep concern about private education have helped position CAPE as the 'Voice of America's Private Schools.' He will be greatly missed."

needs."

Clay Curtin, a senior from Lansing Catholic High School, spoke about the profound impact that school choice had on his life: "I cannot imagine how different my life would be had my parents not been able to choose the school where I could thrive in and out of the classroom every single day. Opportunities that push students to shape their lives into who they're called to be are available and encouraged throughout the day at Lansing Catholic."

Unusual Trio

"We trust parents with all kinds of important choices for their children: what they eat, the media they consume, who they spend time with, and what happens during the 130 hours a week they are not in school. So when it comes to their children's education, why do we refuse to give parents the freedom to choose?"

That commonsense question was posed in an unusual **essay** published during National School Choice Week (NSCW). What made the essay unusual was its three authors: a member of the U.S. Senate, a member of the House, and a member of the Cabinet. One rarely sees that combination in a byline.

Yet, Secretary of Education Betsy DeVos, Senator Lamar Alexander (R-TN), who chairs the Committee on Health, Education, Labor and Pensions, and Representative Virginia Foxx (R-NC), who chairs the Committee on Education and the Workforce, combined their clout to make the case for choice.

"Education holds the key to unlocking the full potential of all children," they wrote. Yet today, "millions of students remain stuck in schools that aren't allowing them to thrive."

The authors called NSCW a time to celebrate schools and other settings "that are giving students a better chance: public charter, private, magnet, faith-based, home, districts with open enrollment, virtual, and many traditional public schools."

They continued: "Any school that effectively educates children contributes to the public good. We should care less about the word that comes before 'school' and more about whether that school is preparing its students to succeed."

"Parents know their children's unique needs better than any government official—making parents best-positioned to determine the right learning environment for their children."

CAPE notes

★ Is your school environmentally friendly enough to be a Green Ribbon School? If so, the U. S. Department of Education reports that state education agencies are currently accepting applications for the 2018 awards cycle.

According to USDE, the program “recognizes schools in three primary areas, known as Pillars: (1) reduced environmental impact and costs, (2) improved health and wellness, and (3) effective environmental and sustainability education.”

Each state may nominate up to five schools, including one private school.

School officials can find out more about the program by contacting their state’s Green Ribbon Schools coordinator, listed at: www2.ed.gov/programs/green-ribbon-schools/state-contacts.html.

★ USDE’s Office of Non-Public Education (ONPE) has just published the latest issue of “Ombudsman Update.” The quarterly newsletter focuses on the services provided by the men and women employed by state education departments who are responsible for ensuring proper implementation of the equitable services provisions for private school students and educators under the *Elementary and Secondary Education Act (ESEA)*, as amended by the *Every Student Succeeds Act (ESSA)*.

“Ombudsmen have been hard at work assisting LEAs [school districts] with navigating the ESEA provisions and with meeting all equitable services requirements,” writes ONPE Director Maureen Dowling.

Though the audience is primarily state ombudsmen, the publication is of great value to private school leaders and administrators looking to navigate the sometimes befuddling equitable services terrain. The latest issue includes helpful questions and answers, news from the field, and “tools you can use.” The “Ombudsman Spotlight” section highlights the work of Texas Ombudsman Cory Green

Be sure to download the current issue of “Ombudsman Update” at: <https://innovation.ed.gov/what-we-do/non-public-education/essa/ombudsman-corner/>.

★ The decision by the U.S. Supreme Court last June in *Trinity Lutheran Church of Columbia v. Comer* continues to have positive repercussions. Last month the Federal Emergency Management Agency (FEMA) announced that houses of worship are now eligible for disaster assistance.

In the forward to its new policy guide, FEMA cited the Supreme Court’s ruling in *Trinity Lutheran* as its reason for changing the guidance “so as not to exclude houses of worship from eligibility for FEMA aid on the basis of the religious character or primarily religious use of the facility.”

★ EdChoice has just published its annual “comprehensive guide to every private school choice program in America.” The *ABCs of School Choice* is as user-friendly as it gets, with programs organized not only by state, but also by program type, including education savings accounts (ESAs),

vouchers, tax-credit scholarships and individual tax credits and deductions.

EdChoice President and CEO Robert Enlow describes the annual publication as “the nationally recognized one-stop shop for private educational choice in the United States.” It outlines “how each program works and whom it serves” and also offers “feedback on how it could be changed to help even more families in a particular state.”

This year’s publication catalogues 63 private school choice programs across the country, up from 10 just 18 years ago at the turn of the century.

The *ABCs of School Choice* is available at: <https://www.edchoice.org/research/the-abcs-of-school-choice/>.

★ The American Federation for Children released its annual National School Choice Poll last month. The survey found that 63 percent of likely voters in November 2018 support the concept of school choice. Support is especially strong among Latinos (72 percent) and African Americans (66 percent).

AFC President John Schilling said the poll “shows that families want educational opportunity and freedom when it comes to their child’s education... This is the time for policymakers to think boldly about putting students first and providing more and better educational options.”

Detailed findings from the poll are available at www.federationforchildren.org.