

Council for American Private Education

# CAPE outlook

Voice of America's private schools

## DC Voucher Bill Heads Toward Final Hurdle

With the possibility of Congress approving a voucher program for the District of Columbia this month—a program that some states might turn to when fashioning their own school choice initiatives—*Outlook* offers, in question and answer format, a detailed examination of this historic legislation.

### *What is the legislation's current status?*

The U.S. House of Representatives approved the DC School Choice Incentive Act (title III of division C of the Consolidated Appropriations Act, 2004) December 8, 2003, and the Senate is scheduled to act on the measure January 20, 2004. The text of the legislation may be found in House Report 108-401.

### *In general, how will the program work?*

The U.S. Department of Education will award grants on a competitive basis to one or more eligible entities to run one or more voucher programs. Eligible entities will award vouchers of up to \$7,500 to low-income students residing within the District of Columbia to pay the tuition, fees, and transportation expenses, if any, to enable them to attend private elementary or secondary schools within the District.

### *What entities are eligible to administer the program?*

Eligible entities (hereafter called “grantees”) include an educational establishment of the District of Columbia government, a nonprofit organization, or a consortium of nonprofit organizations.

### *How much money is available for the program?*

House Report 108-401 appropriates

\$14 million for the program in fiscal year 2004. Up to 3 percent (\$420,000) may be used for administrative expenses, and up to 3 percent may be used to cover the costs of an independent evaluation of the program. The rest (a little over \$13 million) is available for vouchers.



DC Voucher Legislation

### Questions and Answers

#### *What will each voucher be worth?*

Voucher amounts may vary, depending on financial need, but may not exceed \$7,500 per child.

#### *How long will the program last?*

The program is authorized for five years.

#### *What criteria will be used to award vouchers to students?*

Vouchers must be awarded only to students who reside in the District and whose family income during the program's first year does not exceed 185 percent of the poverty line. In awarding vouchers, grantees are expected to give priority to students attending low-performing public schools.

#### *Are private schools required to participate in the program?*

No. Schools are free to participate in the program or not.

#### *What are the requirements for schools that choose to participate?*

Requirements span several categories, as described below.

**Admissions.** If more eligible voucher students seek admission than a participating school can accommodate, the school must accept voucher students through a random selection process.

**Nondiscrimination.** Schools may not discriminate against program participants or applicants on the basis of race, color, national origin, religion, or sex.

**Information to Grantees.** Schools must provide the information necessary for grantees to meet certain reporting requirements of the program, which include reports concerning the academic achievement of participating students as well as their graduation rates and college-going rates.

**Information to Evaluator.** Schools must comply with requests for data and information in connection with the evaluation of the program by an independent evaluator. (Such requests may turn out to be minimal since the evaluator, and not the school, is responsible for administering annual tests to measure student performance.)

**Reports to Parents.** At least once each year, schools must report to parents of voucher students on (a) school safety, “including the incidence of school violence, student suspensions, and student expulsions” and (b) how each student's academic achievement compares with the achievement of other voucher students in the same grade and with the achievement of all students in the same grade.

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**CAPE member organizations:**

- American Montessori Society
- Association Montessori International–USA
- Association of Christian Schools International
- 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
- Seventh-day Adventist Board of Education
- Solomon Schechter Day School Association
- Southern Baptist Association of Christian Schools
- Toussaint Institute for Historically Black Independent Schools
- United States Conference of Catholic Bishops
- 28 Affiliated State Organizations

a coalition of national associations serving private schools K-12  
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**Tuition and Fees.** Schools may not charge voucher students higher tuition or fees than they charge non-voucher students.

**Finances.** Schools must be financially responsible and must use voucher payments effectively.

***Do participating schools have to administer the same tests taken by students in DC public schools?***

No. However, the independent evaluator must assess the academic achievement of all voucher students using the same tests used by the DC public schools. Parents of students applying for vouchers must agree that their children will participate in the testing program. The evaluation will, among other things, compare the achievement of voucher students with that of other students in the same grade in DC public schools, including students who applied for vouchers but did not receive them.

***May a school require voucher students to follow the same rules as other students?***

Yes. A participating school “may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at the school.”

***Are participating schools considered recipients of federal funds?***

The bill stipulates that vouchers “shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the eligible student.”

***Does the legislation include provisions that allow religious schools to maintain their religious character?***

Yes. Specifically, participating religious schools are not required to (a) change their teaching mission, (b) remove “religious art, icons, scriptures, or other symbols,” or (c) drop religious terms and references from their names, mission statements, or governing documents. They may continue to hire employees of their particular religion, consistent with Title VII of the Civil Rights Act of 1964, and they may continue to select board members on the basis of religion. Further, the legislation’s ban against sex discrimination does not apply to religious schools if “inconsistent with the religious tenets or beliefs of the school.” Religious schools may not, however, discriminate against program par-

ticipants or applicants on the basis of religion.

***May single-sex schools participate in the program?***

Yes. The legislation makes clear that “a parent may choose and a school may offer a single-sex school, class, or activity.”

***How will the program be evaluated?***

The Secretary of Education and the Mayor of the District of Columbia will select an independent entity that will evaluate the program “using the strongest possible research design.” The entity will be required to (a) “measure the academic achievement of all participating eligible students,” (b) use the same assessment measures each year as those used by the District during the first year of the program to assess public school students, (c) work to ensure that parents of voucher applicants and recipients agree to have students participate in the testing program.

The evaluator is required to carry out the following tasks:

- compare the academic performance of voucher students with the performance of students in the same grade in District public schools and, in particular, with the performance of students who apply for vouchers but do not receive them;
- assess the program’s effectiveness in increasing school choice for parents;
- determine why parents participate in the program;
- compare “the retention rates, dropout rates, and (if appropriate) graduation and college admission rates” of voucher students with nonparticipating students of similar backgrounds;
- determine the effect of the program on the District’s public schools and the students who attend them;
- compare the safety of participating private schools with the District’s public schools;
- measure whatever else the Secretary of Education “considers appropriate for inclusion in the evaluation.”

***What reporting requirements apply to the grantee?***

The grantee (not participating schools) must submit the following reports to the Secretary of Education: (a) an annual report on program activities, (b) an annual report on the academic performance and graduation and college admissions rates of voucher students, and on the degree of parental satisfaction with the program.

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## Congress Poised to Approve Spending Bill

In size and scope, the federal consolidated appropriations bill for FY 2004 is overwhelming. It includes \$328 billion in discretionary spending and \$820 billion in total spending, with a significant slice of that staggering sum going to education. Dozens of programs—from helping disadvantaged preschoolers get a jump-start on learning, to training teachers to use technology—depend on the federal budget,

and this year, most of them will not be disappointed. If the Senate approves the omnibus bill this month, as the House did last month, overall spending for federal education programs will increase by \$2.9 billion to a total of \$56 billion (all figures are subject to a 0.59 percent across-the-board cut in all nondefense discretionary spending).

As for programs that affect students in private schools, high-

lights of the appropriations bill include a \$720 million increase in Title I funding and a \$1.26 billion increase in special education grants to states under IDEA. On the downside is a 22 percent, or \$82 million, decrease in funds for Innovative programs under Title V, Part A.

The Senate is expected to take up the consolidated appropriations bill January 20. Updates will be available on CAPE's Web site at [www.capenet.org](http://www.capenet.org).

## Colorado Program Halted

A Colorado district judge halted implementation of the state's new voucher program last month, ruling that it violates the "local control" provision of the state constitution. But less than a week later, Colorado Attorney General Ken Salazar and the Institute for Justice (IJ) filed separate appeals with the Colorado Supreme Court and asked the district court to lift the injunction against the Opportunity Contract program during the appeals process. Supporters of the program hope the Colorado case will repeat the typical pattern of school choice challenges: short-term setbacks followed by long-term victories.

"For many Colorado parents, Opportunity Contracts are the difference between hope and despair, success and failure," said Chip Mellor, president and general counsel at IJ, which filed the appeal on behalf of a dozen families. "We hope the Colorado Supreme Court will quickly take up the case and allow the program to continue."

Article IX, section 15 of the Colorado Constitution gives to locally elected boards of education "control of instruction in the public schools of their respective districts." In his decision last month, Judge Joseph E. Meyer, III, said, "The goals of the voucher program are laudable," but he went on to say that "even great ideas must be implemented within the framework of the Colorado Constitution." He said the voucher program strips control over instruction from the local district in violation of the state constitution, and he enjoined all parties "from taking any actions to implement or enforce" the voucher program.

The suit challenging the program's constitutionality was filed by the Colorado PTA and other anti-voucher groups.

### Federal Education Aid (in millions of dollars) Key Programs Affecting Private Schools

	FY 2003	FY 2004*
Community Learning Centers	\$993.5	\$1,005.0
English Language Acquisition	\$683.7	\$685.3
Even Start	\$248.4	\$248.4
Innovative Education Programs	\$382.5	\$300.0
Math & Science Partnerships	\$100.3	\$150.0
Migrant Education	\$395.4	\$395.9
Reading First	\$993.5	\$1,030.0
Safe and Drug Free Schools	\$666.4	\$680.2
Special Education (Part B)	\$8,874.4	\$10,129.4
Teacher Quality	\$2,930.8	\$2,945.8
Technology	\$695.9	\$695.9
Title I (grants to LEAs)	\$11,684.3	\$12,412.0

\*Approved by House; awaiting approval in Senate; subject to an across-the-board cut of 0.59 percent.

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In turn, the Secretary of Education must submit to various Congressional committees an annual report summarizing the findings of the reports referenced in (a) and (b).

#### *What does the legislation say regarding provisions of the Individuals with Disabilities Education Act (IDEA)?*

The legislation states, "Nothing in this title may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act."

#### *Does the legislation include language relating to abortion?*

Yes. The legislation applies section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) to the program. Section 909 states, "Nothing in this chapter shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of fa-

cilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion."

#### *Are there provisions of the program still to be worked out?*

Yes. Although the legislation lays out many elements of the program, some details remain unresolved. The bill calls for the Secretary of Education and the Mayor of the District of Columbia to develop a memorandum of understanding "regarding the design of, selection of eligible entities to receive grants under, and implementation of" the program.

#### *Where can I get more information about the legislation?*

More information, including the text of the legislation, is available on CAPE's Web site at [www.capenet.org](http://www.capenet.org).

Return service requested

## CAPE notes

★ The first Web site that Google returns for the search string “private education” is CAPE’s. Thousands of visitors come to the site each month (in November they accounted for over 195,000 hits) to read the latest news, to examine statistics and studies, and even to find teaching jobs (one of our more popular pages).

Whatever brings them to capenet.org, visitors will now encounter an expanded site

with a brand new look. A convenient navigation menu provides a one-click gateway to a wealth of information about private education. Parents, policymakers, and educators can use the site to find out about private schools, search the archives of *Outlook*, subscribe to CAPE’s e-mail updates, and download free publications like the popular IDEA Toolkit (more than 9,000 copies have been downloaded in recent months). If you haven’t seen the site lately, give it a click at [www.capenet.org](http://www.capenet.org).

★ Private elementary and secondary schools in Wisconsin can now finance capital projects through the bond market thanks to Assembly Bill 79, which Governor James Doyle signed into law last month. The new law expands the reach

of the Wisconsin Health and Educational Facilities Authority (WHEFA) beyond health care facilities and private colleges to nonprofit K-12 schools.

“We’re delighted with the governor’s decision to sign AB 79,” said Judd Schemmel, executive director of the Wisconsin Council of Religious and Independent Schools

(WCRIS), an affiliate of CAPE.

“We’re excited for private K-12 schools to

have the opportunity to work with WHEFA when considering the financing options associated with building renovations and new construction.”

WCRIS will hold workshops across the state to help interested schools take advantage of the new law.

★ Does a four-week seminar this summer on *Mining for Meaning in Children’s Literature* strike your fancy? How about *Mozart: the Man, His Music, and His Vienna*? Teachers in the nation’s K-12 public and private schools are eligible to apply to participate in the 2004 summer seminars and institutes sponsored by the National Endowment for the Humanities, an independent agency of the federal government. According to NEH, “All teach-

ers selected to participate in a seminar or institute will be awarded a stipend of \$2,800, \$3,250, or \$3,700 (depending on the length of the seminar or institute) to help cover travel costs, books and other research expenses, and living expenses.” The seminars are held at participating colleges and universities across the country. Information on how to apply is available online at <http://www.neh.gov/projects/si-school.html>.

★ “So the decision here could have very broad impact, I assume.” That was one of Justice Sandra Day O’Connor’s observations last month during oral arguments in *Locke v. Davey*. The Supreme Court will decide whether the State of Washington’s Promise Scholarship program for higher education violates the First Amendment’s Free Exercise Clause by denying benefits to otherwise qualified persons who choose to pursue a degree in theology from a religious perspective.

The session included sporadic references and questions regarding the case’s possible implications for K-12 voucher programs. Must such programs include religious schools if they include any other private school? In extending state benefits to students, may constitutionally permissible distinctions be made between attendance at private schools that teach religion and attendance at those that do not?

The high court’s decision—broad or narrow—is expected sometime before the end of June.

