

Council for American Private Education

CAPE outlook

Voice of America's private schools

South Dakota Enacts Tax-Credit Scholarship Program

Low-income families in South Dakota now have new opportunities to find a school that fits the needs of their children thanks to a measure signed into law March 25 by Governor Dennis Daugaard.

Under the "Partners in Education Tax Credit Program," insurance companies that pay premium and annuity taxes in the state may claim as a tax credit up to 80 percent of the contribution they make to a scholarship granting organization (SGO). The SGO in turn provides scholarships to help eligible students attend participating private schools.

The program limits the total amount of tax credits granted to all insurance companies in a given fiscal year to \$2 million, meaning companies will collectively be able to contribute up to \$2.5 million for scholarships.

With the law's enactment, South Dakota became the 26th state in the country to have some type of government-sponsored private school choice program, not counting town "tuitioning" programs in Maine and Vermont or scholarship programs in the District of Columbia or Douglas County, Colorado. (Less than a week later, Maryland became the 27th state. See story on p. 2.) Seventeen states, including South Dakota, now have 21 different tax-credit scholarship programs.

Savings to State

Scholarships in South Dakota, which may not exceed 82.5 percent of the state's per-pupil allocation for public schools, may be used to cover tuition and fees at a private school. With per-student spending at \$4,877 in 2015-16, scholarship amounts would roughly top out at \$4,024, and even at that level would yield a net savings to the state.

The new law defines an eligible student as a child in a household with an annual income not in excess of 150 percent of the income that qualifies a student for the fed-

eral free or reduced-price lunch program. Thus, a family of four with a household income of \$67,295 or less would qualify.

Once qualified, a K-8 student would remain eligible for three years, and a high school student, until graduation. After the initial period of eligibility, a child would continue to qualify as long as family income did not exceed 200 percent of the lunch eligibility level.

Even after meeting the income qualifications, students must also satisfy certain other conditions. They must be entering kindergarten, first grade, or ninth grade; or if entering another grade, they must have attended a public school the previous semester. Once they receive a scholarship, they qualify for subsequent years, as explained above.

Rules for Schools and SGOs

In order to participate in the program, a private school must be accredited by the state's department of education.

The law also sets out several requirements for SGOs. For example, they must be nonprofit entities and must devote at least 90 percent of the revenue they collect through contributions to educational scholarships. SGOs are also required to conduct criminal background checks on all employees and board members, and must submit to the state an annual audit and a detailed report on contributions and scholarships prepared by a certified public accountant.

The operation of the program is fairly straightforward. The SGO issues scholarships in the form of checks payable to

parents but sent to the school. The parent then endorses the check for deposit in the school's account.

SGOs are required to collect from a participating school documentation that the school is accredited by the state. They

must also ensure that scholarships follow students to the school of the parent's choice, even if the parent elects to change schools in mid-year, in which case the scholarship amount is to be prorated.

Participating students and parents are expected to apply for admission to the school of their

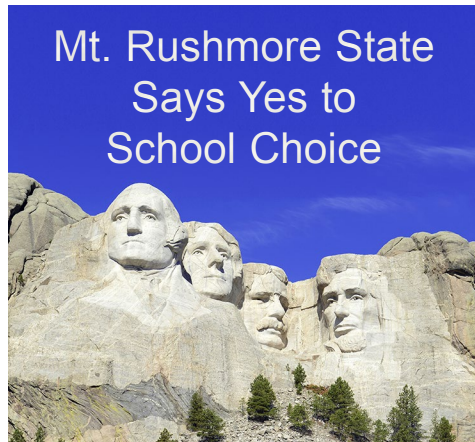
choice and comply with the published policies of the school. Parents are also responsible for seeing that students take the norm-referenced tests or state assessments administered by the school.

Positive Reaction

Reaction from the school choice community was swift and positive. Betsy DeVos, chairman of the American Federation for Children, said, "AFC welcomes South Dakota as a school choice state and thanks the governor and legislators who supported the bill for their commitment to providing quality educational options to the children who need access the most."

The Friedman Foundation for Educational Choice issued a statement indicating that the new law means that "low-income families in the Mount Rushmore State will have access to educational options that fit their children's learning needs. The Founders on the mountain would be happy to see this expansion of educational liberty."

[Photo © Robert Cicchetti /Dollar Photo Club]



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 on Educational Standards and Accountability
- 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
- 35 Affiliated State Organizations

a coalition of national associations serving private schools K-12
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Democratic Maryland Legislature Approves BOOST Program

The headline in *The Washington Post* captured the historic moment: “After 10-year fight, Md. lawmakers vote to fund private-school scholarships.” The article that followed reported that “over the objections of the state teachers union,” the Democratic-controlled House of Delegates and Senate (collectively known as the General Assembly) approved on March 29 the creation of a \$5 million grant program to “provide scholarships to students from poor families.” The program was included in the state’s budget for FY 2017.

“It’s a win-win for not just the people of the state of Maryland, but for all students,” said Senate President Thomas V. Mike Miller Jr. (D), as quoted in *The Post*. “It’s a good compromise.”

The newspaper went on to report that House Speaker Michael E. Busch (D) had hinted this month “that his opposition was softening, in part because two African American lawmakers from Baltimore—Dels. Antonio Hayes and Keith E. Haynes—had sponsored versions of the scholarship legislation. They and other members of the Democratic caucus argued that the aid was needed to help young black men in the city.”

The *Post* also noted indirectly that “Baltimore Mayor Kurt L. Schmoke, who is now the president of the University of Baltimore, also pushed for the scholarships, calling private schools ‘a lifesaver’ for many Baltimore students in need.”

Especially Exciting

Maryland Governor Larry Hogan (R), who strongly supported the initiative, released a statement noting, “It is especially exciting to see that both the Senate and House are backing our fight to provide scholarships for students from low-income families to attend nonpublic schools. This innovative program...has the potential to make a huge difference to students and families across the state.”

On the heels of South Dakota’s enactment of a tax-credit scholarship initiative the previous week (see p. 1), Maryland became the 27th state in the country to have a government-sponsored private school choice program, not including specialty programs in Maine and Vermont or scholarship programs in the District of Columbia or Douglas County, Colorado.

Named the “Broadening Options and Opportunities for Students Today (BOOST) Program”

the measure provides \$5 million in scholarships to help students eligible for the free or reduced-price lunch program to attend private schools. Scholarship amounts may not exceed the state-wide average per pupil expenditure in public schools or the tuition of the private school.

Advisory Board

The Maryland State Department of Education (MSDE) will administer the program with the assistance of a seven-member BOOST Advisory Board appointed by the governor, the president of the Senate, and the speaker of the House of

Delegates. MSDE is responsible for establishing application and award procedures, and for assembling a list of applicants ranked by family income. The advisory panel will review and certify the ranked list and will

then determine scholarship award amounts.

Nondiscrimination

Private schools wanting to participate in the program must administer any assessments prescribed by federal or state law. They must also “comply with Title VI of the *Civil Rights Act of 1964* as amended, Title 20, Subtitle 6 of the State Government Article, and not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation.” The statute adds, “Nothing herein shall require any school or institution to adopt any rule, regulation, or policy that conflicts with its religious or moral teachings. However, all participating schools must agree that they will not discriminate in student admissions on the basis of race, color, national origin, or sexual orientation.”

New Opportunities

“The nonpublic school community in Maryland is excited with the new opportunities provided by the BOOST program,” said Rabbi Ariel Sadwin, director of the Agudath Israel of Maryland/Mid-Atlantic Region and head of the Maryland CAPE. “We look forward to working with MSDE and the soon-to-be-appointed advisory board to ensure that the available funds are maximized to effectively help the highest possible number of students and families.”

Sadwin added that he would be working with other school choice states “to learn from their experiences in implementing the program.”

[Photo © AI/Dollar Photo Club]



Carlson-Thies Talks on Religious Freedom to CAPE's Leaders

Sex, religious freedom, and Alexis de Tocqueville. That's the mixed stew of topics that Stanley Carlson-Thies covered during an address to leaders of CAPE's member organizations and state affiliates March 14 in Washington, DC. Touching on themes from his acclaimed new book, *Free to Serve*, Carlson-Thies, director of the Institutional Religious Freedom Alliance, navigated the tricky waters of protecting the religious freedom of faith-based institutions while upholding the civil rights with which that freedom sometimes conflicts.

The sex part of the talk was rooted in the reality that "religious freedom controversies these days seem to be mostly about sex." He cited several prominent illustrations, including the recent case of a Catholic school in Massachusetts that was found to violate a state employment law when it rescinded an offer for employment as a food services director to a person involved in a same-sex marriage, a relationship at odds with Catholic teaching.

Observing that different people, communities, and institutions in a pluralistic society have different views on "fundamental matters of human sexuality," Carlson-Thies asked what society should do about these differences. Should it be legal for a private school to operate "on the basis of conservative morality" in matters like this, or should all institutions be forced to conform to the call for equality regarding sexual conduct?

As a path toward answering such questions, Carlson-Thies examined the issue of discrimination apart from sexuality. Is it "wrongful discrimination and should it be illegal" for an all-women college to admit only women, or for an all-boys high school to employ only male teachers? Similarly, is it proper for a Jewish school to hire only Jewish teachers or for a Muslim school to infuse the curriculum with Islamic values? For Carlson-Thies, all of these practices—even though they exclude some students and staff—are the necessary outcome of "a heterogeneous society in which citizens hold many different beliefs and in which we are committed to honoring each other's convictions about how to live." Labeling all those practices as discrimination fails to distinguish between "practices that are truly harmful and those that simply reflect diverse ways of operating."

Proposing a reframing of the "discrimination discourse," Carlson-Thies pointed out a funda-

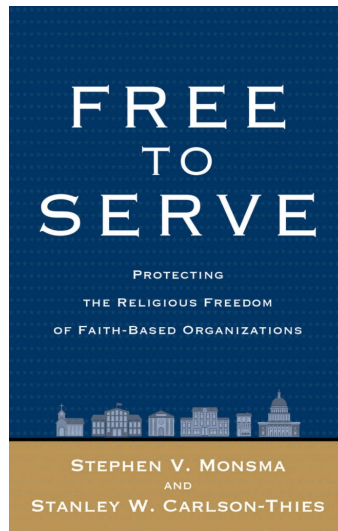
mental difference between discrimination that actually prevents people from attaining a goal and discrimination that merely requires them to take another path toward that goal. For example, male students turned down by an all-women college are not prevented from going to college, they simply have to choose one that accepts men. If schools were not free to discriminate along certain lines, there wouldn't be distinctive schools, whether same-sex schools or Montessori schools or schools that adhere to conservative moral values. Such institutions are not imposing their values or practices on others, they are simply requiring those who dissent from those values to find another option.

Another suggestion by Carlson-Thies for reframing the discussion is to recognize that while equal treatment is a fundamental value in society, another fundamental value is religious freedom. One value should not be routinely subordinated to the other. Thus, it is not right to "elevate progressive sexual ethics to privileged status by making it illegal for a faith-based school to operate consistently with its conservative sexual morality."

A "diverse society requires diverse, and not uniform, institutions," said Carlson-Thies. Orthodox Jewish institutions, for example, must be allowed to choose only Orthodox Jewish leaders, and the same applies to institutions run by Muslims, Mormons, Baptists, or atheists. "A diverse society must not apply non-discrimination laws in a way that makes it impossible for institutions to have diverse practices."

So where does Alexis de Tocqueville fit in? Carlson-Thies spoke about de Tocqueville's observation that Americans tended to turn to voluntary associations to address problems, unlike Europeans, who tended to turn to government. The wonder of associations, said Carlson-Thies, is that they provide "a pluralist alternative to government, an alternative that's hospitable to diverse convictions and values." Applying that attribute to private schools, he said part of the "great glory" of such schools is their great variety and distinctive profiles, with "different conceptions of how best to educate, how best to foster character and citizenship."

Urging private schools not to hide their "light under a basket," he said society will not "respect the distinctive contribution made by independent schools unless their presence is evident to the public."



Black Hoodie

Looking for a reaffirmation of why you are committed to private education? Then set aside 15 minutes to watch the powerfully moving [profile of St. Benedict's Prep](#) that aired on CBS's *60 Minutes* March 20.

The 7-12 school, which serves 550 boys from low-income neighborhoods in Newark, NJ, has a 98 percent graduation rate. In large measure, it is run by the students themselves. They look after one other with great love and care, a testament to the school's motto, "Whatever hurts my brother hurts me."

Correspondent Scott Pelley reports that students at St. Benedict's call each other "brother," and every morning "celebrate a revival," singing songs, praying, and chanting: "You can be any good thing you want to be. Go and conquer!"

Student leader Bruce Davis explains, "Benedict's men are different than the guys you see outside.... We learn what we're willing to accept, which is nothing but the best, nothing but finishing what we started."

The school year at St. Benedict's is 11 months, and although tuition is \$12,000, 80 percent of students pay only half that amount. That leaves the school's headmaster, Rev. Edwin Leahy, with the challenge of filling the gap with the support of alumni, corporations, and philanthropists.

Students earn the right to wear the school's black hoodie, fashioned after the habit of the Benedictine monks, only after completing a set of rigorous requirements, including a 55-mile hike along the Appalachian Trail. The [60 Minutes Overtime video](#) that features the hike is well worth the watch. In it, Pelley reflects on the deep camaraderie the students share: "That's what you have in that school, boys taking care of each other," he says. "It is a remarkable ethic of love and affection that they have for one another."

Return service requested

CAPE notes

★ Final regulations issued March 31 by the U.S. Department of Agriculture (USDA) concerning services offered by religious providers included a positive response to concerns raised by several CAPE member organizations.

In October 2015, a coalition including the Association of Christian Schools International, the National Catholic Educational Association, and the United States Conference of Catholic Bishops commented on proposed rules from eight federal departments and one agency concerning financial assistance to faith-based social service providers.

With respect to rules governing federal meal programs in schools, the coalition noted that a proposal that in effect would empower students “to demand the services of another provider at an off-site location” was entirely unworkable.

The USDA agreed. The preamble to the final rules states that “allowing students to leave the school campus to receive... school meal benefits from an alternate provider would be impractical, create a hardship for both the faith-based schools as well as alternate provider schools, and would represent a potentially hazardous situation for students.” The department concluded that “the Child Nutrition Programs should be treated in the same manner as an indirect assistance program under these rules,” with benefits being provided “as a result of a ‘genuine and independent choice’ on the part of parents or guardians who chose to enroll children in a faith-

based school as an alternative to a public school.”

In other words, once their parents enroll them in a faith-based school, students cannot elect to consume federal lunches or breakfasts at some other location. Score one for sanity!

★ U.S. Senator John McCain (R-AZ) recently introduced the *Native American Education Opportunity Act*, which would provide education savings accounts (ESAs) to Native American students attending Bureau of Indian Education (BIE) schools. The accounts would allow the parents of students to provide education through a variety of means that best suit the needs of the children, including private schools.

“It is unconscionable to leave Native American students stranded in failing schools when we can create the option of expanding educational opportunities on Indian reservations now,” said Senator McCain. “I am proud to introduce this bill that would give Native American parents the option of using BIE funds to pay for private school tuition, tutors, books, and other educational needs through a state-administered education savings account. I believe that encouraging private schools to compete with BIE schools can improve K-12 education, even in the most remote parts of Indian Country.”

The bill would apply only to states that already have ESA programs in place, namely, Arizona, Mississippi, Florida, and Nevada.

★ DC Mayor Muriel Bowser, a Democrat, and eight members of the DC City Council sent a letter March 7 to Congressional leaders in both parties calling for reauthorization of the *Scholarships for Opportunities and Results (SOAR) Act*, which would reauthorize the DC Opportunity Scholarship Program and provide additional funding for regular public schools and public charter schools. The letter called for the reauthorization “before the end of this Congress so that this critical funding for K-12 education in the District of Columbia is not put in jeopardy.”

A week later *The Washington Post* published an editorial in support of the initiative, stating: “The scholarships provide a lifeline to low-income and underserved families, giving them the school choice that more affluent families take as a given. And because the program results in more federal money for DC public education and not less—another myth advanced by opponents—it’s time for Congress to act.”

