

Council for American Private Education

CAPE outlook

Voice of America's private schools

New IRS Regulations Could Threaten Scholarship Programs

Tax credit scholarship programs in states across the country may suffer collateral damage from an ongoing battle between the Trump Administration and high-tax states over implementation of the new tax law that went into effect this year. On August 23, the Internal Revenue Service (IRS) issued proposed regulations designed to thwart efforts by Connecticut, New Jersey, New York and other states to work around the new \$10,000 cap on the state and local tax (SALT) deduction. Those regulations will also apply to tax credit scholarship programs, causing fears that the new policy could result in fewer scholarships for children from low-income families.

New Tax Law

In December 2017, Congress passed and President Trump signed the *Tax Cuts and Jobs Act* (TCJA), a major overhaul of the federal tax code. One provision of the new law that garnered significant attention was the \$10,000 cap it placed on the state and local tax deduction. High earners from high-tax states, in particular those with high property tax payments, would bear the brunt of this policy. In response, states with higher tax rates considered ways of “working around” the new cap. Connecticut, New Jersey, and New York ultimately passed laws that would allow government agencies to accept certain state and local taxes as charitable contributions, thus permitting taxpayers to circumvent the new tax law by continuing to claim a deduction for those tax payments on their federal return. As more states began to consider similar proposals, the IRS signaled its intention to push back.

Tax Credit Scholarships

High earners in high-tax states were not the only ones who spent the summer anxious about what action the IRS would take. School choice advocates feared that state tax credit scholarship programs could end up being harmed if the IRS issued a broad ruling suddenly changing the rules of the game.



Tax credit scholarship programs operate in the following way: an individual or corporation donates to a non-profit scholarship granting organization (SGO), which uses those privately donated monies to fund scholarships for children to attend private schools, a majority of whom come from low-income families. The donor then receives a state tax credit. The full donated amount has also qualified as a tax deductible charitable contribution on federal returns...until now.

Proposed IRS Regulations

On August 23, the IRS proposed regulations that would effectively shut down the workarounds passed by Connecticut, New Jersey, and New York. According to the IRS, under the new rules, “if a state grants a 70 percent state tax credit and the taxpayer pays \$1,000 to an eligible entity, the taxpayer receives a \$700 state

tax credit. The taxpayer must reduce the \$1,000 contribution by the \$700 state tax credit, leaving an allowable contribution deduction of \$300 on the taxpayer’s federal income tax return.” Previously, the entire \$1,000 contribution was tax deductible.

As explained by the *Wall Street Journal*, this treats “donations for state tax credits like tickets to charity galas, where donors claiming a tax deduction have to subtract the value of their surf-and-turf dinners from their contributions.”

The proposed crackdown will also apply to tax credit scholarship programs, which, unlike the “charities” recently set up to circumvent the new tax law, have existed for years without IRS concern. Advocates fear that the new policy will mean fewer donations and therefore fewer scholarships for children from low-income families. The effect that the new regs will have on corporate donations is unclear.

Leslie Hiner, Vice President of Legal Affairs for EdChoice, was unsparing in her assessment of the IRS announcement, saying that “the government has taken a sledgehammer to a nail, overreaching in a way that will hurt children in need.”

American Federation for Children President John Schilling also criticized the new policy, observing that taxpayers in states with tax credit scholarship programs “will now likely be advised by their Certified Public Accountants to stop donating to SGOs because of a reduced tax benefit – this ultimately hurts participating students.”

The IRS will accept public comment on the proposed regulations through October 11 via the Federal eRulemaking Portal at regulations.gov. A public hearing will be held on November 5 in the IRS Auditorium at 1111 Constitution Avenue, NW in Washington, DC.



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

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Study Suggests That Private Schools Are Safer

A new study indicates that students at private schools are less likely to experience problems with school safety than students at public schools. In their study *Can private schools improve school climate? Evidence from a nationally representative sample*, M. Danish Shakeel with Harvard University’s Program on Education Policy & Governance and Corey DeAngelis with the Cato Institute’s Center for Educational Freedom have found that “public schools appear to need strict custodial environments, such as random dog sniffs, metal detectors, and clear backpacks to keep the school environment in order,” whereas private schools “enjoy fewer incidences of crime and less strict school safety and climate practices than public schools.”

Findings

The study’s authors used nationally representative data from the Schools and Staffing Survey for 2011-2012, the most recently available school year. Laying out some of the study’s key findings in the *Washington Examiner*, DeAngelis wrote that even after controlling for a wide variety of factors that might be expected to skew the results, “private schools have a statistically significant advantage for each of the 13 discipline problems examined.”

According to the study, “Private schools are about 28 percentage points more likely than public schools to never experience student possession of weapons.” Private schools are also “about 8 percentage points more likely than public schools to never experience physical conflicts among students.” Students at private schools were found to be 12 percentage points less likely to use illegal drugs than students at public

schools and gang activities were 18 percentage points less likely at private schools than public.

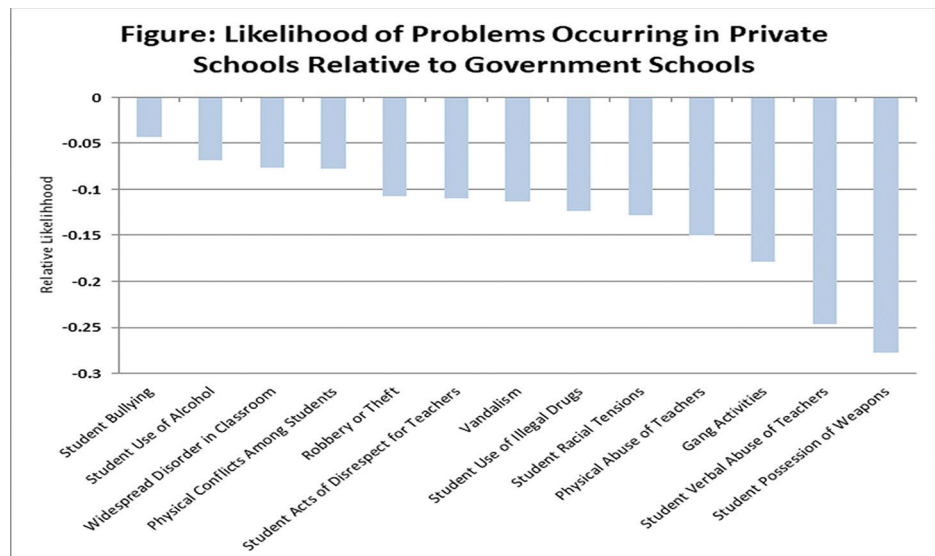
The study’s results also favor private schools when measuring physical abuse of teachers, student bullying, student verbal abuse of teachers, and widespread disorder in classrooms. In addition, the authors observe that “while private school skeptics often claim that private schools do not lead to racial integration, we find that private schools are about 13 percentage points more likely than public schools to never experience student racial tensions.”

Implications

Interestingly, these results were not achieved by private schools implementing harsher security measures. To the contrary, “private schools are less likely to restrict student liberties than government schools,” according to DeAngelis’ piece in the *Examiner*. “Private schools are about 6 percentage points less likely to require students to pass through metal detectors each day, 20 percentage points less likely to search for drugs using random dog sniffs, and 7 percentage points less likely to require students to use clear backpacks.”

The authors conclude by calling for research into whether their findings lead to improved academic outcomes at private schools. They also recommend that policymakers “consider the role of school choice in reducing crime-related incidence at schools,” a summons that occurs as the Federal Commission on School Safety, chaired by Secretary of Education Betsy DeVos, examines a range of ideas on the subject of school safety. Shakeel and DeAngelis’ study was published in the *Journal of School Choice*.

Figure: Likelihood of Problems Occurring in Private Schools Relative to Government Schools



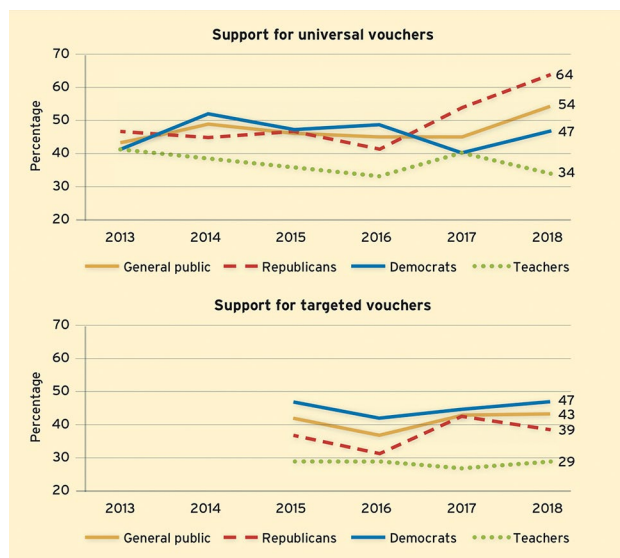
New Poll Shows Increased Support for School Choice

Education Next's 12th annual survey of public opinion demonstrates that “choice in 2018 has certainly enjoyed a boost in public favor.” Administered in May of 2018 and released in August, the results show improved support for tax credit scholarship and voucher programs, though that support is somewhat diminished when the term “voucher” is used.

Vouchers

Education Next asked respondents the following question: “A proposal has been made that would give all families with children in public schools a wider choice, by allowing them to enroll their children in private schools instead, with government helping to pay the tuition. Would you support or oppose this proposal?” This question describes what is essentially a voucher program without using the word “voucher.”

54% of respondents answered that they favored such a program. This is a 9 percentage point increase over the 45% who supported such a universal choice policy when asked the same question in 2017. Disapproval of such a universal choice program dropped to 31% from 37% over the last year.



Notably, 61% of parents support such a program, and Hispanic support has jumped from 49% last year to 67% this year.

According to the *Education Next* release, “the increase in support occurred among both Republicans and Democrats. Backing among Republicans for universal vouchers has bumped upward by 10 percentage points, to 64%, while among Democrats the rise has been 7 percentage points, to 47%.”

The numbers changed, however, when respondents were asked about wider choice targeted at low-income families rather than all families. In that case, only 43% approved, the same level as 2017. According to the survey, “African American (56%) and Hispanic (62%) respondents are considerably more supportive of vouchers for low-income families than are whites (35%).”

Education Next added another interesting variation to the voucher question by actually using the word “voucher.” Support for universal vouchers dropped ten points when the term “voucher” was used instead of “wider choice.”

Fifteen states have voucher programs.

Tax Credit Scholarships

Eighteen states have tax credit scholarship programs, which allow individuals and/or corporations to receive a state tax credit as a result of a donation to a non-profit scholarship granting organization (SGO). The SGO uses the privately donated funds to grant private school scholarships to children. *Education Next* describes their popularity this way: “Private schools tend to favor these programs, because they generally entail only limited state regulation of the schools. The programs also appeal to taxpayers, because the amount of money the state gives up in tax receipts is often less than the cost of educating a child in a public school.”

The *Education Next* survey found that 57% of respondents support “a tax credit for individual and corporate donations that pay for scholarships to help low-income parents send their children to private schools.” This is up 2 percentage points over last year. Parent support stands at 62% and support among Hispanics at 68%.

The report makes note of the fact that these gains in public opinion for school choice have occurred despite heavy criticism of a pro-voucher Secretary of Education by choice opponents. For more information,

including interactive results and trends, visit the [Education Next](#) website.

For the first time since 2007, the US Senate brought the federal government’s annual education appropriations bill up for a floor debate. The yearly spending bill for the Departments of Labor, Health and Human Services, and Education includes funding for federal education programs. In recent years, rather than debating “Labor-H” as a free-standing bill, congressional leaders have grown habituated to dumping it into a larger year-end “omnibus” spending package. This is largely due to the hot-button political issues that inevitably arise as part of the legislation, in particular in its health section, as well as the all-around dysfunction of the congressional budget process.

In August, however, after an eleven year wait, senators finally had the chance to debate education priorities on the Senate floor, though the Labor-HHS-Education bill was not quite a standalone measure: it was combined with the annual military appropriations bill in order to make it harder for senators to vote “no.” The Senate ended up passing the bill by a vote of 85-6 and in so doing rejected many of the Trump Administration’s recommendations on education, including spending cuts and a proposed \$1 billion school choice program (see March 2018 *CAPE notes* for more details). The President’s suggested merger of the Labor and Education Departments has also failed to gain traction on Capitol Hill.

As the end of the federal government’s fiscal year fast approaches (September 30), it very much remains to be seen whether education funding will have a full debate on the House floor. But the broad contours of education spending are taking shape. Stay tuned.

CAPE notes

★ On July 15-17, the State CAPE Network held its annual Summer Institute, this time in Detroit, Michigan. Attendees learned about passage of the new Illinois Tax Credit Scholarship program, which occurred in a political environment less than ideal for such measures. State CAPE representatives also enjoyed a delightful presentation on the extraordinary work of Detroit's Cristo Rey school. Laura Colangelo, Executive Director of the Texas CAPE, was elected as State CAPE Representative to the CAPE Board. A host of other issues facing private schools were discussed. The State CAPE Summer Institute is a tremendous opportunity for networking and information sharing. State CAPE Network coordinator Suzie Hanson of the Washington CAPE worked with Brian Broderick and his leadership team at the Michigan CAPE to put together an excellent program, though the karaoke extravaganza that was allowed to unfold on Monday night did call into question their good judgment.

★ Dr. Charles Glenn, Professor emeritus at Boston University and member of the CAPE Board, is the editor of a new book titled *Muslim Educators in American Communities*. The book is a study of American Islamic schools and charter schools started by Muslim immigrants. The flier describes it this way: "Do faith-based schools cause social divisions? Do their students fail to become good citizens

who can cooperate with those of other faiths? This familiar accusation against Catholic, and more recently against Evangelical, schools, is now directed against Islamic schools in Western societies. The studies presented here offer objective information from schools established by Muslim immigrants across the United States, with reassuring results." Friends of CAPE can order at www.infoagepub.com using the discount code MUSLMORG18.

★ In July, President Trump signed his first major education policy bill, a reauthorization of the Carl D. Perkins Career and Technical Education Act, which provides federal support to state and local career and technical education (CTE) programs. This is the first time the Perkins CTE law has been updated since 2006. The changes are intended to better align CTE programs with jobs that are in-demand and to give states more flexibility to set goals. The President said that by signing the reauthorization, "we will continue to prepare students for today's constantly shifting job market, and we will help employers find the workers they need to compete."

★ Also in July, the President nominated Judge Brett Kavanaugh to the United States Supreme Court. Judge Kavanaugh is a private school graduate who, prior to being a judge, represented then-Governor Jeb Bush in his effort to establish a voucher program. According to a National Education

Association (NEA) release opposing Judge Kavanaugh's nomination, "he has predicted that a future Supreme Court would uphold school vouchers that go to private religious schools." The *Washington Post* reports that while in private practice, Kavanaugh "challenged schools when they attempted to exclude religious groups." Senate confirmation hearings begin September 4.

★ You may have heard that there are some new faces at CAPE. Joe and Trish McTighe have ridden off into the sunset for a well-deserved retirement after long and fruitful service at CAPE. Their tireless work on behalf of private schools and the children who attend them will not be forgotten. As has been previously reported in *Outlook*, Michael Schuttloffel has been hired as the new Executive Director, replacing Joe. He took the reins on July 1 after having worked in public policy for almost twenty years inside and outside of government at both the federal and state levels. Kay Gunn is CAPE's new Executive Assistant, bringing considerable experience from the corporate world. Michael and Kay are both products of private schools and very much look forward to working with everyone in the CAPE family.