

Parent Power

A PUBLICATION FOR CATHOLIC SCHOOL PARENT ADVOCACY ORGANIZATIONS

VOLUME 8 ISSUE 1

FALL 2002



Victory for Cleveland:

**“We believe that
the program
challenged here
is a program of
true private choice,
. . . and thus,
constitutional.”**

Chief Justice Rehnquist
Zelman v. Simmons-Harris
July 27, 2002

Related story, page 2

Parents of Special Needs Children: A Voice for Choice

The beginning of the 2002-2003 school year marks an important opportunity for the Catholic school community to become involved in the reauthorization of the Individuals with Disabilities Education Act. Catholic school parents, teachers, school administrators, and others are encouraged to join our efforts as soon as possible—before final legislative decisions will be made affecting the ability of Catholic and other private school families to access services through IDEA.

Judging from the volume of letters beginning to gather in the USCCB Parental Advocacy Office, parents of special needs children who attend Catholic and other private schools are likely to have a significant impact on the reauthorization of the Individuals with Disabilities Education Act (IDEA). The letters to Congress have been collected through the efforts of IDEA parent liaisons appointed by Catholic school superintendents, principals, state Catholic conferences and parent advocacy organizations, and tell personal and compelling stories of the frustrations parents of “parentally placed private school students” have faced in accessing evaluations and special education services for their children through IDEA.

IDEA Liaisons

The letter writing campaign is part of a continuing national effort initiated by the USCCB Parental Advocacy Office and Office of Government Liaison to secure increased special education services through IDEA for families who send, or would like to send, their special needs children to Catholic schools. Through the creation of a national advocacy network, operated through the identification of IDEA liaisons in as many Congressional districts as possible, parents of special needs children will be able to receive important information sent from the USCCB about the reauthorization of IDEA, and to communicate with members of Congress as issues affecting children in private schools are addressed during Committee hearings and House and Senate floor debates.

IDEA Web Site

Those who wish to become an IDEA liaison, or to participate in writing letters to Congress, will find further details about the advocacy effort on the USCCB Department of Education’s newly created IDEA web page at www.usccb.org/education/fedasst/idea.htm. In addition to information on writing to Congress and appointing IDEA liaisons, the web page includes background information and additional web links for Congressional committees, the President’s Commission on Excellence in Special Education, and the U.S. Department of Education’s Office of Special Educational Programs.

It is critical that the Catholic school community let their voices be heard *now*, so that members of Congress will be well aware that our schools do serve students with special needs, and that our parents deserve more flexibility in accessing special education services for their children through IDEA. |||

New Doors Open for School Choice

As the new school year opens, it appears that the doors to school choice for many American families may be opening wider than ever before. The most significant sign of progress, of course, is the U. S. Supreme



Court's recent ruling upholding the constitutionality of the Cleveland Scholarship and Tutoring Program. But there are hopeful signs on several other horizons as well that long-standing efforts to provide all families with affordable educational options are finally beginning to bear fruit.

Effect of the Zelman decision

The U.S. Supreme Court's 5-4 decision, issued on June 27, 2002, in the *Zelman v. Simmons-Harris* case, held the Cleveland school choice program constitutional on the grounds that it is a "program of true private choice" which is "neutral in all respects toward religion, and "confers educational assistance directly to a broad class of individuals defined without reference to religion." The decision not only signals an historic victory for the families of the more than 4,000 children participating in the program, but also, once and for all, removes potential First Amendment challenges as an obstacle to efforts throughout the country to initiate new school choice programs.

While local voucher initiatives still face formidable state constitutional and political challenges (see related story, page 7), the broad applicability of the *Zelman* decision should provide voucher proponents a fair amount of flex-

ibility in designing programs to meet those challenges. As a sign of the immediate effect of the court's ruling, within two days of the decision, Rep. Dick Armey (R-TX), introduced a bill, H.R. 5033, to create a program in Washington DC that would provide vouchers of up to \$5,000 for low-income students to attend the school of their choice.

Choices for Special Needs Students

On another front, as the reauthorization of the Individuals with Disabilities Education Act (IDEA) unfolds, Congress is likely to consider the possibility of providing families greater flexibility in choosing the educational setting they believe is best suited to their special needs children. For instance, at recent hearings on the report of the President's Commission on Excellence in Special Education, members of the House education committee expressed particular interest in several of the Commission's recommendations regarding parental choice options. Those recommen-

WEB INFO

More information on the IDEA reauthorization, including a link to the report of the President's Commission, is available on the USCCB Department of Education web site, at www.usccb.org/education/fedasst/idea.htm.

dations include allowing states to use their IDEA funds in designing optional choice programs for students with special needs, such as the McKay Scholarship program in Florida, and adding provisions to IDEA similar to the school choice provisions in the NCLBA (outlined below) for special education students attending poorly performing public schools.

Choice provisions in the No Child Left Behind Act

The recently enacted No Child Left Behind Act (NCLBA) marks yet another example of emerging opportunities for families of children attending poorly performing public schools to expand their educational options. Despite failed attempts to include several voucher provisions in the statute, Congress did include provisions in the law, effective immediately, that allow students attending

WEB INFO

The full text of the Zelman decision is available at www.supremecourtus.gov. The text of H.R. 5033 is available on Thomas, the Congressional web site, at <http://thomas.loc.gov>.

The No Child Left Behind Act

How does the new law affect private school students and teachers?

It took two presidencies, four sessions of Congress, and more than three years of partisan wrangling, but at long last, the reauthorization of the Elementary and Secondary Education Act (ESEA) was finally signed into law as Public Law 107-110 on January 8, 2002, as the No Child Left Behind Act (NCLBA).

Thanks to higher funding levels, strengthened language regarding consultation between private and public school representatives, and the addition of new programs accessible to the private school community, the No Child Left Behind Act should in fact significantly increase opportunities for the Catholic school community to benefit from services available through the programs authorized under the Act. It is also important to note that the new law's highly publicized requirements regarding annual testing in grades 3 to 8 do *not* extend to private schools, except for required assessments of private school students participating in the Title I program.

To assist the Catholic school community in taking advantage of the many opportunities available through the new law, the USCCB Department of Education and Office for Government Liaison provided a series of 10 daylong training sessions throughout the country for diocesan personnel and principals. Training session materials, including a Power Point presentation, are available on the USCCB's Department of Education web site at <http://www.usccb.org/education/fedasst/nclb.htm>. The NCLBA statute, as well as additional background information, is available at www.ed.gov/nclb.

Title IX: Uniform Provisions

The Uniform Provisions section of Title IX of NCLBA (formerly Title XIV of ESEA) describes the process required by law for ensuring the equitable participation of private school students and teachers in various programs contained in the No Child Left Behind Act. Section 9501 lists most of the programs in which private school students and teachers are eligible to participate. In addition to the

programs listed in this section, private school students and teachers are also eligible to participate in programs authorized under Titles I and V of NCLBA; these sections of the law contain separate language referring to private school participation.

Consultation

Specific requirements contained in the Uniform Provisions section stipulate that local school districts must consult with private school officials *prior* to designing programs funded through the various titles of NCLBA, to ensure that the programs serving private school students will appropriately accommodate the specific needs of those students.

These consultation meetings should also address such issues as the amount of funding available to serve private school students; how, where, and by whom services will be provided; how programs will be assessed; and how those assessments will be used to improve services. Private school representatives should be sure to review information about these provisions contained in the detailed summary of the NCLBA on the USCCB Department of Education web site, so that they will have clear guidelines for conducting discussions with public school officials about accessing services for their school's students and teachers.

Available programs

When consulting with local school districts, private school representatives should remember to inquire about all of the programs authorized by NCLBA in which their students and teachers are eligible to participate. The chart on pages 4 and 5 provides a quick overview of these programs, and may serve as a useful tool in initiating discussions with public school officials. Further details about each program may also be found in the web site summary. |||



No Child Left Behind Act

NCLBA Programs

Services Provided

TITLE I: Improving the Academic Achievement of the Disadvantaged

Part A: Improving Basic Programs Operated by Local Educational Agencies

Provides supplemental educational services to educationally disadvantaged students to support the students’ instructional program in the regular classroom.

Part B: Student Reading Skills Improvement Grants
Subpart 1: Reading First

Supports activities for K-3 students such as reading and literacy programs, program and instructional assessments; professional development; and data collection and reporting.

Part B: Student Reading Skills Improvement Grants
Subpart 3: William F. Goodling Even Start Family Literacy Program

Provides grants to a variety of entities that support family literacy programs to assist parents of children ages birth through 7 to help their children reach their full potential as learners. Grants are targeted to high-need areas, such as areas with high levels of poverty, illiteracy, limited English proficiency, or unemployment.

Part C: Education of Migratory Children

Supports educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves.

TITLE II: Preparing, Training, and Recruiting High Quality Teachers and Principals

Part A: Teacher and Principal Training and Recruiting Fund

Supports professional development and teacher recruiting efforts. Private school teachers may participate only in professional development activities, which may include training in innovative teaching strategies, integrating technology into the curriculum, and teaching students with different learning styles and special needs.

Part B: Math and Science Partnerships

Provides grants to partnerships to support such activities as summer institutes for mathematics and science teachers, training in curriculum development and increased subject matter knowledge; and stipends or scholarships to obtain alternative certification or advanced course work.

Part D: Enhancing Education through Technology

Supports activities such as professional development in the use of educational technology, and the acquisition of educational hardware, software, and technology.

TITLE III: Language Instruction for Limited English Proficient and Immigrant Students

Part A: Language Acquisition, Language Enhancement, and Academic Achievement Act

Supports activities for the provision of language instruction programs, professional development, and the creation of community and family participation programs to assist students with limited English proficiency.

TITLE IV: 21st Century Schools

Part A: Safe and Drug-Free Schools and Communities

Supports drug, violence, and suicide prevention programs; mentoring programs; professional counseling; security services; and parental involvement programs.

Part B: 21st Century Community Learning Centers

Supports the creation of after-school or summer programs providing academic enrichment and a wide variety of other programs for students and families in high-poverty areas.

TITLE V: Promoting Informed Parental Choice and Innovative Programs

Part A: Innovative Programs

Supports a wide variety of activities, including professional development, technology activities, purchase of instructional and educational materials such as library materials or computer hardware or software, programs for educationally disadvantaged students or for gifted students, literacy programs for adults, parental and community involvement activities, community service and service learning programs, programs to hire and support school nurses, mental health and counseling programs, consumer education, pre-kindergarten programs, CPR training, alternative education programs for students suspended or expelled, and school safety programs.

Part D, Subpart 6: Gifted and Talented Students

Provides grants to a variety of entities to support activities designed to meet the educational needs of gifted and talented students.

TITLE VI: Flexibility and Accountability (New program)

Title VI provides several programs that make it possible for state and local educational agencies to transfer federal education program funds allocated for one purpose to other purposes authorized by NCLBA. Importantly, whether the state or local district takes advantage of the ability to transfer funds or receives a special authorization for additional flexibility, the obligation to provide equitable services to private and religious school students and teachers remains. State and local school districts must consult with private school officials prior to making any decisions that could impact the ability of private school students and teachers to benefit from programs under NCLBA in which they would otherwise be eligible to participate.

Education Tax Benefits

The following list includes existing federal and state laws that provide tax benefits to offset the cost of K-12 educational expenses.

Coverdell Education Savings Accounts

A provision in the tax legislation passed by Congress in June, 2001, allows taxpayers to earn tax-free interest on contributions of up to \$2,000 to educational savings accounts. Withdrawals may be made without penalty to pay for K-12 educational expenses, as well as higher education expenses. Contributions may be made beginning in January, 2002, and up to April 15, 2003. *For more information on ESA accounts, go to the USCCB Department of Education web site at www.usccb.org/education/parentasn/esas618.htm.*

Donations to Scholarship Organizations

Arizona

Legislation passed in 1997 allows individuals to receive a tax credit of up to \$500 for single taxpayers, or \$625 for married taxpayers, for donations to school tuition organizations. Taxpayers may also claim up to \$200 for single taxpayers, or \$250 for married taxpayers, for donations to public schools, or for certain fees at public schools. In 2001, 14,500 contributors donated \$7.4 million to the Catholic Tuition Organization of the Diocese of Phoenix (CTODP), the largest of more than 40 scholarship organizations in the state. *For more information, see www.ctodp.org or www.ctso-tucson.org.*

Florida

The Florida legislature passed a law in 2001, effective 2002, that provides corporations with a 100% tax credit of up to 75% of their tax due for donations to organizations that provide scholarships of up to \$3,500 to low-income public school students to attend private schools, or \$500 for transportation to another public school. A total of \$50 million annually is allowed for the tax credit.

Pennsylvania

The Educational Improvement Tax Credit (EITC), passed in 2001, allows corporations to receive a tax credit of 75% of their contribution of up to \$100,000 to a scholarship organization, or 90% of their contribution, if they contribute for more than one year. Scholarships provided by the organizations are available to families with an income up to \$60,000, plus \$10,000 for each additional dependent, and may be used to attend a private school, or a public school outside the

student's home district. The total annual state tax credit is capped at \$30 million. As of February, 2002, nearly 1000 companies had pledged more than \$25.5 million in donations to 96 scholarship organizations, for a total of \$12 million in approved tax credits. *For more information, see www.inventpa.com, or www.paschoolchoice.org.*

Tax Credits and Deductions

Illinois

The State of Illinois passed an income tax credit in 1999 that allows all families to claim up to \$500 for 25% of expenses over \$250 for tuition, books, and lab fees at public, private or parochial K-12 schools. In income tax filings for the year 2000, more than 165,000 tax returns, or 2.9% of all returns, claimed the education expense tax credit; totaling more than \$61 million in tax savings. *For more information, see www.revenue.state.il.us/publications/bulletins/2000/#17 and [#19](http://www.revenue.state.il.us/publications/bulletins/2000/#19).*

Iowa

The State of Iowa allows an income tax credit equal to 25% of the first \$1,000 paid for each dependent for K-12 tuition and textbooks. The credit may not exceed \$1,000. More than \$11.5 million was claimed by taxpayers in 2001.

Louisiana

The State of Louisiana allows an income tax credit of \$25 per pupil for educational expenses, including tuition, for all nonpublic and public school students. Taxpayers claimed \$15 million in 2000.

Minnesota

The state of Minnesota expanded its existing educational tax deduction in 1997 to include a tax credit for families earning up to \$37,500 of up to \$1,000 per child or \$2,000 per family for educational expenses excluding tuition. The state also increased the tax deduction to \$1,625 for K-6 educational expenses, and \$2,500 for grades 7-12. The deduction may be claimed for private school tuition, as well as textbooks, tutoring, enrichment programs, and home computers. *For more information see <http://cfl.state.mn.us/tax/credits.html>.* |||

The Next Hurdle: State Blaine Amendments

While the recent U.S. Supreme Court's ruling on the Cleveland Scholarship and Tutoring Program has cleared the obstacle of federal Constitutional challenges to similar school choice programs, voucher opponents and proponents alike predict that the legal battle is far from over at the state level. In particular, state constitutional language prohibiting support of sectarian schools or institutions remains an equal, if not more substantial, obstacle to initiating local voucher initiatives.

The amendments, commonly referred to as Blaine amendments, have their origin in a U.S. Constitutional amendment proposed by Congressman James Blaine in the 1870s to prohibit states from using public funds to benefit any religious institution. Though the Constitutional effort failed, subsequent efforts were successful in incorporating similar amendments in many state constitutions. As many as 37 state constitutions include such language, but slight differences in the wording of the amendments, along with varying opinions issued by state courts and attorneys general interpreting the amendments, ensure an equally diverse context for individual state efforts to enact voucher programs.

These variations were immediately apparent in two court rulings involving state Blaine amendments that were issued within weeks of the Cleveland decision. In *Davey v. Locke*, a case originating in Washington State, the U. S. Court of Ap-

peals for the Ninth Circuit held that the state could not use its Blaine amendment to prohibit students from using state scholarships to pursue a degree in religious studies. Soon afterwards, however, state Circuit Judge P. Kevin Davey struck down Florida's state voucher program on the grounds that it violated the state constitution's "clear and unambiguous" prohibition against state support for "sectarian institutions."

In contesting Blaine amendments, however, voucher proponents have one certain argument in common, namely, the questionable nature of the original intent of the amendments. The inauspicious history of the Blaine amendment has been explicitly cited, for instance, in court opinions issued by both the Arizona Supreme Court and by the U.S. Supreme Court. The 1999 decision of the Arizona Supreme Court in *Kotterman v. Killian*, which upheld the state's education tax credit, refers to the Blaine amendment as "a clear manifestation of religious bigotry," citing a quote from an 1875 article in *The New York Tribune*, that "labeled the amendment part of a plan to 'institute a general war against the Catholic Church.'" Similarly, Justice Clarence Thomas, in his plurality opinion in *Mitchell v. Helms* (2000), expressed strong criticism regarding the history of Blaine amendments, claiming that "hostility to aid to pervasively sectarian schools has a shameful pedigree that we do not hesitate to disavow ... Consideration of the amendment arose at a time of

pervasive hostility to the Catholic Church and to Catholics in general ... In short, nothing in the Establishment

" Consideration of the amendment arose at a time of pervasive hostility to the Catholic Church and to Catholics in general ... In short, nothing in the Establishment Clause requires the exclusion of pervasively sectarian schools from otherwise permissible aid programs, and other doctrines of this Court bar it. This doctrine, born of bigotry, should be buried now. "

—Justice Clarence Thomas

Clause requires the exclusion of pervasively sectarian schools from otherwise permissible aid programs, and other doctrines of this Court bar it. This doctrine, born of bigotry, should be buried now."

Without a doubt, efforts to contest existing Blaine amendments, if successful, will achieve a critical victory not only for potential voucher programs, but also for the ability of families throughout the country who send their children to Catholic and other religious private schools to participate equitably in state-supported educational services. |||

Choice continued from page 2

schools that have failed state tests for the past two years to transfer to better performing public schools, or, if the school has failed for the past three years, for low-income students to use Title I funds to purchase supplemental educational services from state-approved providers, including private and religious schools. *See related article on NCLBA on page 3.*

WEB INFO

More information on Supplemental Services is available at <http://www.nochildleftbehind.gov/parents/supplementalservices/index.html>.

Tax Relief for Educational Expenses

On yet another front, opportunities continue to increase to provide economic assistance to families through educational tax benefits at both the federal and state level. Current federal law already allows families to earn tax-free interest on contributions of up to \$2,000 to Coverdell Education Savings Accounts, which may now be used for

elementary and secondary educational expenses, in addition to higher educational expenses. And with the inclusion in the Bush administration's FY'03 budget of \$3.5 billion over five years to provide some form of education tax relief, key members of the House of Representatives are pursuing efforts to advance tax legislation during this session of Congress to enhance the ability of all families to choose a quality education for their children. While a variety of tax proposals have been introduced in both the House and Senate, it is anticipated that the House Ways and Means Committee will give most serious consideration to H.R. 5193, a bill recently introduced by Congressman Schaffer (R-CO), that would expand the current \$3,000 deduction for higher education expenses to K-12 expenses for individuals earning up to \$20,000, or married couples earning up to \$40,000.

Interest in educational tax relief also continues to expand significantly at the state level. Currently, seven states have enacted laws, some as recently as last year, that provide individual income tax credits and deductions for K-12 expenses, or for donations to organizations that provide tuition scholarships for qualifying students. *See page 6 for a list of existing education-related tax benefits.* |||



Department of Education

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

3211 Fourth Street, NE, Washington, DC 20017-1194 ~ 202-541-3132 ~ FAX 202 541-3390
Email: parent@uscgb.org ~ web: uscgb.org/education

