

## Piccola, Senator Jeffrey

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**From:** Dena Sher [Sher@au.org]  
**Sent:** Tuesday, February 15, 2011 12:40 PM  
**To:** Dena Sher  
**Subject:** Oppose SB 1 in Committee Tomorrow  
**Attachments:** 2011-02-15 - PA SB 1 - Vouchers - Oppose.pdf

Attached (and copied below), please find a letter sent to Chairman Piccola on behalf of Americans United's Pennsylvania members and chapters. The letter explains why we strongly oppose SB 1. The bill would establish voucher payments for public school students to attend private and religious schools. Vouchers are bad for students, are bad for taxpayers, harm religious liberty, and violate the Pennsylvania Constitution.

Please contact me if you have any questions or would like any further information.

Sincerely,  
Dena Sher  
Americans United  
T: (202) 466-3234  
E: [sher@au.org](mailto:sher@au.org)

Dear Chairman Piccola:

On behalf of its Pennsylvania members and chapters, Americans United for Separation of Church and State writes to oppose the SB 1, which will be heard by the Committee on Education tomorrow. SB 1 would establish voucher payments for public school students to attend private and religious schools. Vouchers are bad for students, are bad for taxpayers, harm religious liberty, and violate the Pennsylvania Constitution.

### **Vouchers Do Not Improve Student Education**

According to multiple studies of the District of Columbia,<sup>[1]</sup> Milwaukee,<sup>[2]</sup> and Cleveland<sup>[3]</sup> school voucher programs, students offered vouchers do not perform significantly better in reading and math than students in public schools.

The 2010 Department of Education study also showed that, in all four years of the study of the Washington, DC program, there was no statistically significant difference between students who were offered a voucher and those who were not in their aspirations for future schooling; engagement in extracurricular activities; frequency of doing homework; attendance at school; reading for fun; or tardiness rates. In fact, students who participated in the program may actually have been *more likely* to be absent from school. Likewise, there was no significant difference in the student-teacher ratios in their classrooms or the availability of before- and after-school programs in their schools.

Furthermore, voucher programs do not provide participating students with better teachers than are available at the public schools. To the contrary, a report issued by the Government Accountability Office (GAO) of the DC voucher program found that, at some schools, less than half of the teachers had even obtained a bachelor's degree.<sup>[4]</sup> And, the 2009 Department of Education study revealed that the students participating in the voucher program rated their teacher's attitude no better than students who did not participate in the program.<sup>[5]</sup>

### **Students Using Vouchers at Private Schools Lose Rights and Protections**

Despite receiving public money, private schools that participate in voucher programs are not subject to all civil rights laws that public schools are, including Title IX, and IDEA. And, students who attend private schools with publicly funded vouchers are stripped of their First Amendment, due process, and other constitutional and statutory rights offered to them in public schools. Unfortunately, many parents and students are not even aware of this when they accept the voucher.

In particular, students who receive special education services face severe consequences for using private school vouchers. Under the federal Individuals with Disabilities Education Act (IDEA), students with disabilities are entitled to



a free and appropriate public education that meets each student's specific educational needs and is provided in the least restrictive environment possible. If a school district determines through the federally mandated evaluation process that it cannot adequately provide the necessary services for a student with disabilities in its school system, then that child could be placed in a private school, with all the protections of IDEA and *at no cost to the student's family*. But, students with disabilities whose parents accept vouchers and enroll them in private school have no "individual entitlement to a free appropriate public education including special education and related services in connection with those placements."<sup>[6]</sup> Moreover, private schools do not have to abide by the "least restrictive environment" requirements of IDEA. Thus, these schools could segregate students with disabilities from other students,<sup>[7]</sup> which runs directly counter to the goals of IDEA and the Americans with Disabilities Act.

#### **Vouchers Will Not Improve Opportunities for Kids from Low Income Families**

Voucher payments often do not cover the entire cost of tuition or other mandatory fees for private schools. Thus, it is often families who have the money to cover the cost of the rest of the tuition, uniforms, transportation, books, and other supplies who can use the vouchers. In Cleveland, the majority of families who were granted a voucher but did not use it cited the additional costs—above the amount of the voucher—that the family would have had to pay as the reason they could not use the voucher.

A 2003 study concluded: "For many families, the financial burden of paying even the relatively small portion of their children's private school tuition is more than they can bear."<sup>[8]</sup> In the end, the families most likely to use a voucher are the ones who could already afford to send their kids to private schools.

#### **Taxpayers Lose Oversight and Accountability Protections**

Private schools that receive publicly funded vouchers do not face the same accountability standards as public school, such as those in the No Child Left Behind (NCLB) Act. Private voucher schools do not have to comply with the same teacher standards, curriculum, and testing requirements as the public schools. Most private schools are not subject to state accreditation standards or state sunshine laws. Taxpayers have no way to account for their money being spent at private schools.

#### **Vouchers Will Cost, Rather than Save, Taxpayer Money**

Vouchers do not decrease education costs. Instead, tax money that would ordinarily go to public schools now pays for vouchers, thus limiting the capacity of public schools. A 1999 study of Cleveland's program showed the public schools from which students left for private voucher schools were spread throughout the district. The reduction in students, therefore, was negligible at individual schools. Instead, the public school district lost state funding to pay for vouchers without being able to cut overall operating costs.<sup>[9]</sup> And voucher programs cost the state money to administer.

In Milwaukee, which has been disproportionately burdened in a statewide voucher funding scheme, the city has had to raise property taxes several times since the voucher program began in order to ensure adequate funding for the city's schools.<sup>[10]</sup>

#### **Vouchers Would Funnel Money to Religious Schools and Harm Religious Liberties**

Vouchers divert taxpayer funding away from public schools to religious schools—in all voucher programs, an overwhelming majority of vouchers go to religious schools.<sup>[11]</sup> Most religious schools are part of the ministry of the sponsoring church. Because religious indoctrination is an important part of these ministries, the schools integrate religion throughout their curriculum and require all students to receive religious instruction and attend religious services. Thus, there would be no way to prevent the publicly funded vouchers from paying for these institutions' religious activities and education. The vouchers would be unrestricted in their use and would pay for all aspects of a religious education, including worship, proselytization, and religious items such as Bibles. Hence, the funding provided to religious schools harms religious liberties.

#### **SB 1 Would Be Unconstitutional**

The Pennsylvania Constitution prohibits the use of public funds to support religious schools. Article III, Section 15 commands that "[n]o money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school." Yet, that's just what this voucher bill would do. Although two Pennsylvania Supreme Court cases have interpreted this section to allow children who attend private and religious schools



to ride public school buses, these cases do not support vouchers. To the contrary, the cases upheld the law as one that promotes public safety.<sup>[12]</sup> And a majority of the *Rhoades* court concluded that the important factor in determining that the law's constitutionality was that transporting students is "'so separate and indisputably marked off' from functions in any sense associated with religion"<sup>[13]</sup> that is taught in these sectarian schools. Vouchers, though, will be used to fund "the actual teaching of religion," religious worship, and "the conduct of many other programs in parochial [that are] infused with religious significance,"<sup>[14]</sup> which the majority of the *Rhoades* court acknowledged would be proscribed by the Constitution.

Americans United is committed to protecting the integrity of public education; it is the public schools that have long served *all* students. We urge you, therefore, to oppose SB 1.

If you have any questions about this, please contact me at (202) 466-3234 x. 242 or sher@au.org.

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<sup>[1]</sup> U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Final Report* (June 2010) (Although the 2009 study showed a marginal gain for some students in reading (but notably, not for the program's targeted group, students from schools in need of improvement), the 2010 Final Report said "[t]here is no conclusive evidence that the [program] affected student achievement" and earlier findings of modest gains "could be due to chance" and were no longer statistically significant.); U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 3 Years* (Apr. 2009); U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 2 Years* (June 2008); U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Impact After 1 Year* (June 2007).

<sup>[2]</sup> Witte, Wolf, et al., *MPCP Longitudinal Educational Growth Study Third Year Report* (Apr. 2010); Witte, Wolf, et al., *MPCP Longitudinal Educational Growth Study Second Year Report* (Mar. 2009); Witte, Wolf, et al., *MPCP Longitudinal Education Growth Study Baseline Report* (Feb. 2008); Witte, *Achievement Effects of Milwaukee Voucher Program* (Feb. 1997); Witte, et al., *Fifth Year Report Milwaukee Parental Choice Program* (Dec. 1995).

<sup>[3]</sup> Plucker, et al., *Evaluation of the Cleveland Scholarship and Tutoring Program, Summary Report 1998-2004* (Feb. 2006); *Evaluation of the Cleveland Scholarship and Tutoring Program, Executive Report 1998-2002* (Feb. 2006).

<sup>[4]</sup> U.S. Gov't Accountability Office, *District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operation*, Publication No. 08-9, 34 (Nov. 2007).

<sup>[5]</sup> 2009 U.S. Dep't of Ed. Report at xxxii, 25, 55-56.

<sup>[6]</sup> Letter from Susan Bowers, Acting Dep. Ass't Sec'y for Civil Rights, & Patricia J. Guard, Acting Dir., Office of Special Ed. Programs, U.S. Dep't of Ed., to John Bowen, Att'y for Pinellas County, Fla., Sch. Bd. (Mar. 31, 2001), [www.ed.gov/policy/speced/guid/idea/letters/2001-1/bowen3302001fape.doc](http://www.ed.gov/policy/speced/guid/idea/letters/2001-1/bowen3302001fape.doc).

<sup>[7]</sup> This was the result in Ohio's autism voucher program. Van Lier, *Analyzing Autism Vouchers in Ohio* 8, 24-25.

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<sup>[9]</sup> KPMG, LLP, *Cleveland Scholarship and Tutoring Program: Final Management Study* (Sept. 1999).

<sup>[10]</sup> Borsuk, "MPS Property Tax Levy Expected to Rise 14.9%," *Milwaukee Journal Sentinel*, July 4, 2008.

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<sup>[12]</sup> *Rhoades v. Abington Twp. Sch. Dist.*, 424 Pa. 202, 66 (1967); *id.* at 69 (concurring opinion of Roberts, J., joined by a three other justices); *see also Springfield Sch. Dist. v. Dep't of Ed.*, 483 Pa. 539, 572 (1979).

<sup>[13]</sup> *Rhoades*, 424 Pa. at 70 (concurring opinion of Roberts, J., joined by three other justices) (quoting *Everson v. Bd. of Educ.*, 330 U.S. 1, 18 (1947)).

<sup>[14]</sup> *Id.*





February 15, 2011

The Honorable Jeffrey E. Piccola  
Chair  
Committee on Education  
Pennsylvania State Senate  
Senate Box 203015  
173 Capitol Building  
Harrisburg, PA 17120-3015

Dear Chairman Piccola:

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1301 K Street, N.W.

Suite 850, East  
Tower

Washington, D.C.  
20005

(202) 466-3234

(202) 466-2587 fax

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Sincerely,



Dena S. Sher  
State Legislative Counsel

cc: Officers and Members of the Committee

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