

DEBUNKING MYTHS ABOUT THE DC VOUCHER PROGRAM

MYTH: If we don't reauthorize the program, voucher students immediately will be kicked out of their private schools.

FACT: First, the FY2009 Omnibus Appropriations Bill guarantees federal funding for the DC voucher program through the 2009-2010 school year, allowing students time to prepare for the transition out of their private school if need be.¹

More important, however, is that **ending public funding of vouchers does not end the ability of the Washington Scholarship Fund (WSF) to continue funding scholarships with private donations.** The WSF, which currently administers the DC voucher program, has existed since 1993.² Before it was selected to administer the DC program, it relied entirely on private donations to provide private school scholarships to DC students and, at the time it was chosen, was giving away more than one-thousand scholarships each year.³ The WSF continues to raise large sums of money and provides scholarships with that money.⁴ And, with help from private school supporters, the WSF is sure to raise even more money in the future.

Furthermore, the **WSF is not the only entity that offers scholarships for private school tuition.** There are various scholarship organizations that serve DC students who seek a private school education,⁵ and individual DC private schools also offer scholarships.⁶

Finally, some of the students receiving voucher money already attended a private school before getting voucher money, making it unlikely they would have to return to the public schools.⁷

MYTH: Ending the DC voucher program would be a shock to the Washington Scholarship Fund and voucher recipients.

FACT: The statutory authority creating the DC voucher program permitted the federal government to offer vouchers **"for a period of not more than 5 years."**⁸ District of Columbia law also states that funding for the program shall be "for a period of not more than 5 years."⁹ The WSF is surely aware of the law.

In addition, press reports have been clear that that the voucher program was a five-year pilot program. Many articles dating back to the enactment of the program—some of which even quote the WSF—note that the program would end after five-years.

Yet, it appears the WSF did not take steps to help parents and students transition. To the contrary, the WSF recently sent out letters admitting **new students** into the program¹⁰, even though the program has not been

¹ HR 1105, the Omnibus Appropriations Act, 2009.

² US Dep't of Educ., "Press Release: Administrator for DC School Choice Incentive Program Selected, March 24, 2004, <http://www.dcpwatch.com/vouchers/040324.htm>.

³ *Id.*

⁴ Washington Scholarship Fund, "WSF Programs and Services," <http://www.washingtonscholarshipfund.org/programs/index.html>.

⁵ These include Capital Partners for Education (<http://www.cpe.org>), the Latino Student Fund (<http://www.latinostudentfund.org>), and the Black Student Fund (<http://www.blackstudentfund.org>).

⁶ Individual private schools often have their own scholarship funds, such as the one at Sidwell Friends (<http://www.sidwell.edu/admissions/financialaid.asp>).

⁷ US Gov't Accountability Office, *District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operations*, Pub. No. 08-9 at 5,41 (Nov. 2007) (GAO Report); see also Letter from Senator Feinstein to the Washington Scholarship Fund, Feb. 11, 2005, <http://feinstein.senate.gov/05releases/r-dcvoucher021105.htm> (stating that 187 vouchers in the first year of the program were offered to students already in private schools).

⁸ Section 304(b) of P.L. 108-199 Stat. 3 (2004); see also Section 302(7) of P.L. 108-199 Stat. 3 (2004).

⁹ DC Code 38-1851.03(b).

¹⁰ Presumed Dead: Politics is driving the destruction of the District's school voucher program," *Wash. Post*, April 11, 2009, http://www.washingtonpost.com/wp-dyn/content/article/2009/04/10/AR2009041003073_pf.html.

reauthorized and the explanatory language accompanying the FY2009 Omnibus Appropriations Bill¹¹ stated that no new students should be admitted into the program for the 2009-2010 school year.

MYTH: The DC voucher program is popular.

FACT: The citizens of the District of Columbia did not ask for the voucher program—they opposed it. In **1981**, DC voters soundly rejected referendum on a tuition tax credit (which is a different form of government school voucher) with **89% opposed and only 11% in favor**. DC citizens again clearly expressed their opposition to vouchers in an opinion poll conducted in **November 2002**—prior to Congress’ enactment of the DC voucher program. In that poll, **75% of District voters opposed** private school vouchers.¹²

In addition, the **District’s only congressional representative, Delegate Eleanor Holmes Norton**, along with DC Council members¹³ and other congressional leaders, **strongly opposed** (and continue to oppose) the congressional effort to impose vouchers on the District of Columbia. The creation of the DC voucher program contradicts the principle of local control of education by imposing on citizens without a vote in Congress a program for which they and their elected representatives expressed opposition.

Even in Congress the program passed with the narrowest margin possible—one vote (209-208).¹⁴ The narrowness of the vote in the House is even more remarkable considering the vote was taken in a Republican-led Congress, was taken while numerous Representatives who opposed vouchers were attending a presidential primary debate in Baltimore, and was held open for an unusually long 40-minute period.¹⁵ Among the “no” votes were 14 Republicans.¹⁶

In the Senate, the voucher program was stripped from the DC Appropriations bill before it hit the Senate floor because it was clear the bill could not pass with the voucher language.¹⁷ The voucher program became law, nonetheless, when it was later inserted into the conference report of a \$280 billion omnibus appropriations bill.¹⁸ In short, the Senate never even voted on the measure because it could not pass on a floor vote.¹⁹

MYTH: Many of the students in the program go to the most expensive and elite private schools in DC.

FACT: Proponents of the bill like to tout certain elite private schools that are participating in the program. What they do not say is that **“only 3 percent [of voucher students] attended the most expensive schools that charged \$20,000 or more.”**²⁰ Indeed, the 2008 Department of Education Report found that **only 11% of students in the program**²¹ **were attending a school with tuition above the \$7,500 tuition cap.**²² And, the 2009 Report found that **only 22%** of students in the voucher program attended a school that charges more than the \$7,500 tuition cap.²³

¹¹ The accompanying language states: “Funding provided for the private scholarship program shall be used for currently-enrolled participants rather than new applicants.”

¹² Zogby International poll for NSBA, Nov. 2002.

¹³ Robert Marus, “Republicans Add DC Voucher Plan to Unamendable Appropriations Bill,” *Assoc. Baptist Press*, Nov. 20, 2003, http://www.abpnews.com/index.php?option=com_content&task=view&id=2667&Itemid=116 (stating that “the majority of elected officials in D.C. oppose the voucher proposal”).

¹⁴ Spencer S. Hsu & Justin Blum, “DC School Voucher Bill Passes in House by 1 Vote: Grant Plan for at Least 1,300 Students Goes to Senate,” *Wash. Post*, Sept. 10, 2003, http://www.kleasonline.org/DC_Voucher_Bill_Passes.htm.

¹⁵ *Id.*

¹⁶ <http://clerk.house.gov/evs/2003/roll478.xml>.

¹⁷ Robert Marus, *supra*, note 15.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ GAO Report at 30-31.

²¹ In accordance with the methodology of the Department of Education Reports, students are considered to be “in the program” when they are offered a voucher, regardless of whether they use the voucher.

²² US Dep’t of Educ., *Evaluation of the DC Opportunity Scholarship Program: Impacts After Two Years*, 12 (June 2008) (2008 US Dep’t of Educ. Report).

²³ US Dep’t of Educ., *Evaluation of the DC Opportunity Scholarship Program: Impacts After Three Years*, 14 (April 2009) (2009 US Dep’t of Educ. Report).

Looking at the participating schools²⁴, rather than the number of students attending those schools is also instructive. In year two, only 38.8% of the schools participating charged an average tuition of more than \$7,500. In contrast, 73.7% of the non-participating schools charged more than \$7,500.²⁵ **And in year three, only 22% of participating schools charged an average tuition of more than \$7,500.**²⁶ Thus, data shows that the vast majority of the students in the program do not attend the most elite schools in the city.

MYTH: Voucher students get a better education than DC public school students.

FACT: The Department of Education issued reports analyzing the DC voucher program in 2007, 2008, and 2009. These reports have found that the voucher program is not improving student achievement. These findings are consistent with studies of private school voucher programs in Milwaukee²⁷ and Cleveland,²⁸ which have all revealed that vouchers do not improve math or reading achievement.

First, the Department of Education studies of the DC program have found that **students from “schools in need of improvement,”** which are the students targeted by the program, **have shown no improvement in reading or math due** to the voucher program.²⁹

Second, the study concluded that the DC program has had **no impact on the math achievement** of students overall or of any of the ten subgroups of students in the study.³⁰

Third, the minor increases in reading achievement found by the 2009 study were minimal and did not apply to the key students in the program.³¹ Students who **had attended SINI schools before entering the program** and students who were in **the lower third of test score performance before entering the program did not** improve in reading.³² **These students, of course, are the students that proponents of the program purport it to help.** Yet, the studies show that they are not improving academically.

The **two sub-groups of students who showed the most improvement in reading were students for which federal government intervention is the least justifiable:** students who did **not** come from SINI schools and students who were in the **top** two-thirds of the test-score distribution when they entered the program.³³

Furthermore, the Department of Education reports also found that **many of the children who left the DC voucher program did so because the voucher schools did not provide the academic support they needed:** Of the students who left the voucher program in the first year, **45%** stated that it was because the “child did not get the academic support he/she needed at the private school.”³⁴ The number shot to **54%** in the second year and was at **39%** in the third year.³⁵

Finally, the 2007 Report by the Government Accountability Office (GAO) also debunks the myth that voucher schools improve academic achievement. That Report found that “many of the [voucher] schools [examined by the GAO] were **not accredited**, and there is **no evidence they submitted evidence of educational**

²⁴ The Department of Education Reports consider a school to be “in the program” when they choose to accept voucher students. However, not all participating schools actually accept or enroll students each year. For example, in the second year of the program, only 88% of “participating schools” actually had voucher students enrolled. *2008 US Dep’t of Educ.* at 6.

²⁵ *2008 US Dep’t of Educ. Report* at 12.

²⁶ *2009 US Dep’t of Educ. Report* at 15.

²⁷ Witte, Wolf, et al., *MPCP Longitudinal Educational Growth Study Second Year Report* (Mar. 2009); Witte, *Achievement Effects of Milwaukee Voucher program* (Feb. 1997); Witte, Stern, & Thorn, *Fifth Year Report Milwaukee Parental Choice Program* (Dec. 1995).

²⁸ Plucker, Muller, 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* (Dec. 2003).

²⁹ *2009 US Dep’t of Educ. Report* at 35; *2008 US Dep’t of Educ. Report* at 34-38; and US Dep’t of Educ., *Evaluation of the DC Opportunity Scholarship Program: Impacts After One Year* 44, 46, & xx (June 2007) (*2007 US Dep’t of Educ. Report*).

³⁰ *2009 US Dep’t of Educ. Report* at xxvi, xxx; *2008 US Dep’t of Educ. Report* at 34-38; and *2007 US Dep’t of Educ. Report* at 44, 46, xviii, and xx.

³¹ *2009 US Dep’t of Educ.* at xxv-xxvi.

³² *Id.*

³³ *Id.* at xxix.

³⁴ *2009 US Dep’t of Educ. Report* at 25.

³⁵ *Id.*

soundness.³⁶ Another troubling conclusion in the Report is that “at least 3 of 52 schools that participated [in 2004-05] indicated that at least half of their teachers **did not have at least a bachelor’s degree**, and 6 schools indicated that about 10 to 20 percent of their teachers lacked at least a bachelor’s degree.”³⁷

MYTH: The program is a great help to students from “schools in need of improvement.”

FACT: In this program, priority is supposed to be given to students attending SINI schools. Yet, according to the 2007 GAO Report, **these students are “underrepresented” in the program:** In the 2006-2007 school year, even though 52% of DC public school students attended SINI schools, only 24% of voucher students came from such schools.³⁸ Plus, the 2007, 2008, and 2009 Department of Education Reports all show that students who entered the Voucher program from SINI schools have **shown no improvement in academic achievement.**³⁹

MYTH: Voucher students are safer than public school students.

FACT: Although certain voucher advocates go so far as to argue that attendance at DC public schools leads students to join gangs,⁴⁰ there is no evidence that voucher schools are safer than public schools. To the contrary, the 2007, 2008, and 2009 Department of Education Reports all found that though participation in the Voucher program had a substantial impact on *parents’ views* of school safety, **it did not have any impact on a students’ actual school experience with dangerous activities.**⁴¹

MYTH: Voucher schools increase student motivation and engagement.

FACT: According to the 2008 and 2009 Department of Education Reports, participation in the Voucher program **provided no statistically significant impacts** on a students’ “aspirations for the future”; “frequency of doing homework”; “time spent reading for fun”; “engagement in extracurricular activities”; or “attendance” or “tardiness rates.”⁴²

MYTH: Voucher schools offer students better educational resources.

FACT: Students participating in the DC voucher program are significantly **LESS** likely to go to a school with **ESL programs, learning support and special needs programs, tutors, counselors, cafeterias, and nurse’s offices** than students not in the program.⁴³ And, students in the program experienced **no increase in before-and-after-school programs.**⁴⁴

MYTH: Voucher schools have smaller class sizes.

FACT: The 2009 Department of Education Report found that participation in the DC voucher program had **no effect on the “student/teacher ratio.”**⁴⁵

MYTH: Voucher students get access to better teachers than students in DC public schools.

FACT: First, the teachers in many of the voucher schools lack the qualifications that public school teachers have. For example, the GAO Report found that “at least 3 of 52 schools that participated [in 2004-05] indicated that at least half of their teachers **did not have at least a bachelor’s degree**, and 6 schools indicated that about 10 to 20

³⁶ GAO Report at 34.

³⁷ *Id.*

³⁸ GAO Report at 26, 28.

³⁹ 2009 US Dep’t of Educ. at 35; 2008 U.S. Dep’t of Educ. Report at 34-38; & 2007 US Dep’t of Educ. Report at 44, 46, & xx.

⁴⁰ Jim Lovino, “Senator Draws Ire for DC Public School Gang Comment DeMint Relays Message from District Parents,” Mar. 6, 2009, <http://www.nbcwashington.com/news/local/Senator-DC-Public-Students-Are-Gang-Members.html>.

⁴¹ 2009 US Dep’t. of Educ. Report at 44-45; 2008 US Dep’t of Educ. Report at 42-43, 50; 2007 US Dep’t of Educ. Report at xx, 1-4.

⁴² 2009 US Dep’t of Educ. Report at 60-62; & 2008 US Dep’t of Educ. Report at 57-58.

⁴³ 2009 US Dep’t of Educ. Report at xxii, & 17; 2008 US Dep’t of Educ. Report at xvii, 16.

⁴⁴ 2009 US Dep’t of Educ. Report at 55-56 & xxxii; 2008 US Dep’t of Educ. Report at 57-58, xxvi, & F-8.

⁴⁵ 2009 US Dep’t of Educ. Report at xxxii.

percent of their teachers lacked at least a bachelor's degree."⁴⁶ In addition, students in the DC voucher program **"rated their teacher's attitude" no better than students who did not participate in the program.**⁴⁷

MYTH: The program gives DC students a "choice" of private schools.

FACT: To the contrary, **not all public school students can even gain access to a voucher school**, as voucher schools are permitted to maintain their admissions standards and, thus, can essentially reject any public school student they choose. Voucher schools **can reject students based on prior academic achievement**. Also, under the program, all voucher schools **can reject students on the basis of gender**, and **religious schools can discriminate against teachers based on their religion.**⁴⁸ In contrast, public schools serve all students in DC.

Certain groups of DC students have less access to voucher schools than others. For example, students with special needs often cannot find a private school that can serve them: The Department of Education Reports show that a significant number of students had to reject their voucher because they were **"unable to find a participating school that offered services for their child's learning or physical disability or other special needs."**⁴⁹ Indeed, in the first year of the program, 21% of the students who rejected a voucher did so for this reason,⁵⁰ 17% rejected it for this reason in the second year, and 16% rejected it for this reason in 2009.⁵¹

High school students also have less access to voucher schools: "For the school year 2005-2006, only about 70 openings were available at the high school level."⁵²

And, **students seeking non-religious schools also "have a limited number to choose from**, since most participating private schools were Catholic or Protestant, and these schools offered the most openings. The remaining schools included some that were Afro-centric or Muslim, or offered only early childhood education."⁵³ Indeed, in year one, nearly **two-thirds** of students attended a Roman Catholic school, 17 percent attended a non-Catholic faith-based school, and only 18% were enrolled in nonsectarian private schools.⁵⁴ In year two, **77%** of students in the program attended a faith-based school (with 53% at a Catholic school).⁵⁵ And, in year three, **82%** of students in the program attended a faith-based school (with 59% attending a Catholic school).

Furthermore, the 2008 study revealed that 8% of the students who left their voucher school did so because **"religious activities at the private school made the child uncomfortable."**⁵⁶ And, 2% of students didn't even accept a voucher because they did not want to attend a school that provided religious instruction."⁵⁷

MYTH: Voucher schools do not need to be accountable to taxpayers because they are accountable to the parents.

FACT: The 2007 GAO Report demonstrates that the voucher program is not even accountable to the parents of participating students. The report concluded that although the WSF compiled an annual directory to help parents during the selection process, **"it did not collect or omitted or incorrectly reported** some information that would have helped parents evaluate the quality of participating schools."⁵⁸ And, "[s]ome information WSF did provide to parents may have been **misleading.**"⁵⁹ In fact, **"WSF incorrectly reported information on some**

⁴⁶ GAO Report at 34.

⁴⁷ 2009 US Dep't of Educ. Report at xxxii.

⁴⁸ P.L. 108-199 Stat. 3 (2004).

⁴⁹ 2008 US Dep't of Educ. Report at 22.

⁵⁰ 2009 US Dep't of Educ. Report at 23.

⁵¹ *Id.*

⁵² GAO Report at 30-31

⁵³ *Id.*

⁵⁴ 2007 US Dep't of Educ. Report at 19.

⁵⁵ 2008 US Dep't of Educ. Report at 14.

⁵⁶ *Id.* at 23.

⁵⁷ *Id.*

⁵⁸ GAO Report at 36.

⁵⁹ *Id.*

schools that could have significantly affected parents' choice of schools, primarily the percentage of teachers who had at least a bachelor's degree and tuition rates."⁶⁰

Even if the program were accountable to parents, however, that should not excuse the program from also being accountable to taxpayers. The program costs taxpayers approximately \$14 million of federal money annually, yet the schools are exempt from student testing, teacher qualification, and non-discrimination requirements, as well as open records and meetings laws that apply to public schools. And, according to the GAO Report, the program has not even adhered to the rules imposed on it. For example, tuition was paid to schools that do not even charge tuition, payments were made to schools without the proper authorization and documentation, and schools lacked required occupancy certifications.⁶¹ It is simply bad government to fund a program without providing oversight and without requiring metrics, like student testing, that allow clear evaluation of the program.

MYTH: This program is constitutional.

FACT: The DC voucher program is constitutionally suspect. Although the United States Supreme Court did uphold the constitutionality of the Cleveland voucher program in *Zelman v. Simmons-Harris*,⁶² the DC voucher scheme differs from the Cleveland program in significant ways.

First, unlike the Ohio voucher scheme, which prohibited voucher schools from engaging in all forms of discrimination, the DC scheme permits religious schools to discriminate on the basis of religion in hiring and on the basis of gender in admission.⁶³ In addition to diverging from the facts of *Zelman*, this violates other constitutional case law, which holds that "the Constitution does not permit the state to aid discrimination."⁶⁴

Also, *Zelman* permitted the voucher scheme in Cleveland because it found that the program did not use financial incentives to skew students towards religious schools. This is because any student choosing to accept a voucher was **required** to copay a portion of the private school tuition. (The Cleveland vouchers were capped at the either 75% or 90% of the school tuition (depending on the family income) or \$2,500, whichever was less.) Attending a private school (with a copay), therefore, would be more costly than attending a public school (for free). In fact, the Court concluded that there was a **disincentive** to go to a religious school because attending the secular public school would cost a student nothing, but attending a religious school would, in all cases, require a copay.⁶⁵ The DC scheme, however, does **not require** a copay. Thus, in some instances, students attend private religious schools at no additional cost because the \$7,500 voucher covers the *entire* tuition. Thus, DC parents can get a free religious education at taxpayer expense. Unlike the Cleveland program, therefore, there is no disincentive to attend the private religious school.

Furthermore, in *Zelman*, though a copay was required, the copay that schools could charge was capped for students below the poverty level. Thus, for those priority students, attending private religious schools would cost about the same as attending a private secular school. In DC, there is no copay cap.

For DC students accepting a voucher, however, there is an **incentive** to choose a religious private school over a secular private school. Religious schools are traditionally less expensive than secular private schools. Thus, while the \$7,500 may cover tuition at a religious private school, it is unlikely to cover the tuition at a secular private school. Thus, attending a religious school will cost a parent less (with little or no copay) than attending a secular private school (with a large copay). The incentive to attend a religious school is highlighted by the fact that approximately 75% of all students in the program attend private religious schools.⁶⁶

⁶⁰ *Id.*

⁶¹ *Id.* at 20-23, 33, 35.

⁶² 536 US 639 (2002).

⁶³ Compare Ohio Rev. Code § 3313.976 (A)(6) with P.L. 108-199 Stat. 3 (2004); see also *Zelman*.

⁶⁴ *Norwood v. Harrison*, 413 US 455, 465-66 (1973).

⁶⁵ *Zelman*, 536 US at 653-54.

⁶⁶ 2008 US Dep't of Educ. Report at 14.