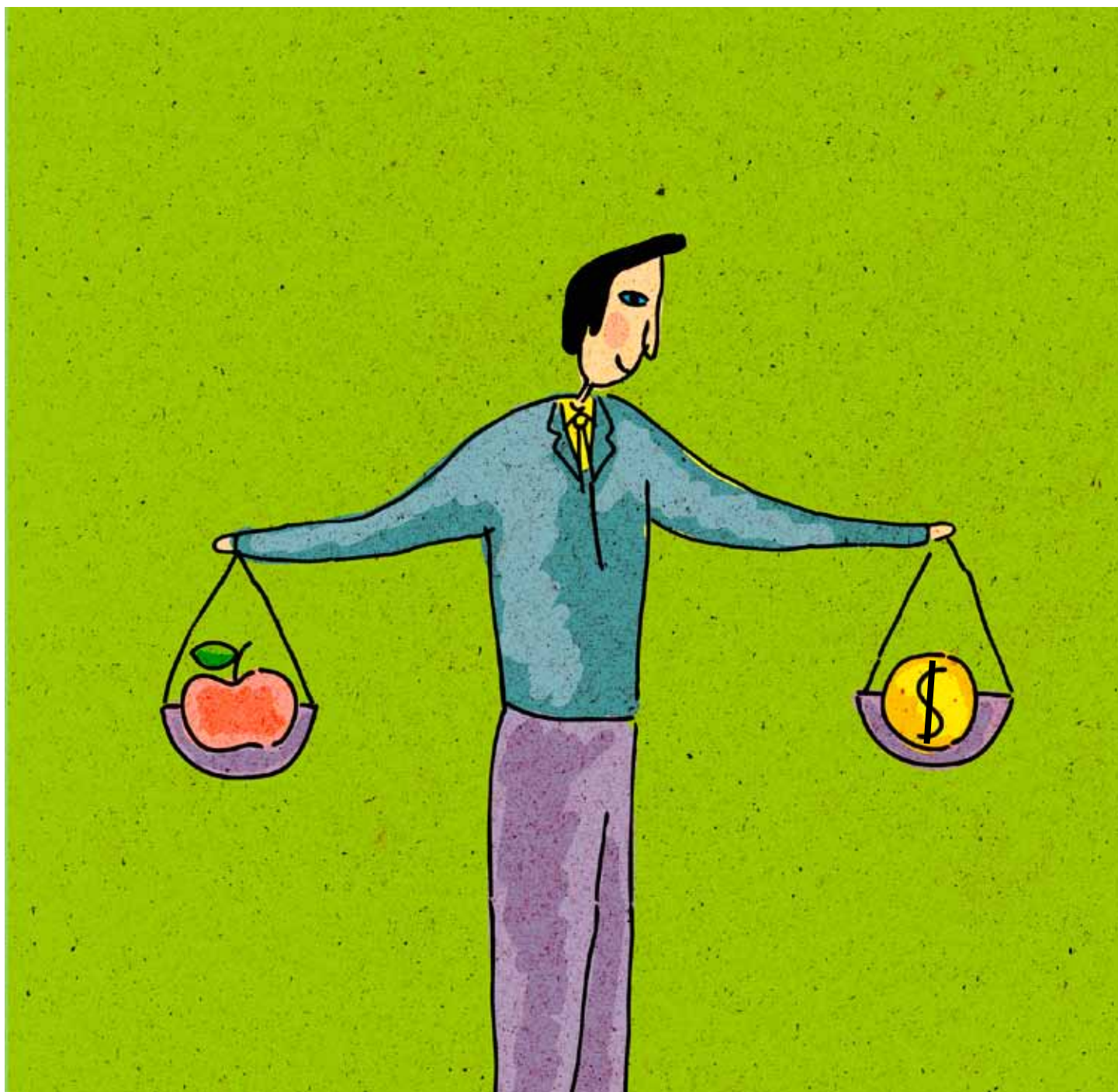


# When Private Schools Take Public Dollars: What's the Place of Accountability in School Voucher Programs?

Chester E. Finn, Jr., Christina M. Hentges, Michael J. Petrilli and Amber M. Winkler

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Of all the arguments that critics of school voucher programs advance, the one that may resonate loudest with the public concerns school accountability. Opponents say it's not fair to hold public schools to account for their results (under No Child Left Behind and similar systems) and then let private schools receive taxpayer dollars—however indirectly—with no accountability at all.

We at the Thomas B. Fordham Institute don't buy that argument entirely. Private schools participating in voucher programs, tax-credit programs, scholarship programs and such are accountable to parents via the school choice marketplace. But we don't dismiss it, either. **For both substantive and strategic reasons, we believe it's time for school choice supporters to embrace accountability, done right.**

For too long, school choice supporters have been stuck in a tired internal debate that hobbles the advance of vouchers and other worthy forms of school choice. Staunch free-marketers say "leave the schools alone and let the parents decide." More left-leaning critics say "if they won't play by the same rules as public schools don't give them any assistance at all." Yet this debate has become ever more archaic in a society preoccupied with student achievement, school performance, results-based accountability, international competitiveness and institutional transparency.

**It's time for the school choice movement to wake up—and catch up to the educational demands and expectations of the 21st century. It's paradoxical to us that even as the demands on K-12 education are escalating and important new forms of choice are emerging (not just vouchers for choice's sake but private schooling as a decent option for kids otherwise stuck in failing public schools, means-tested scholarships for low-income families, corporate and individual tax credit and deduction programs, specialized vouchers for disabled youngsters, and more) the accountability-and-transparency discussion seems mired in the 1970s.**

Let's restart the discussion. But what does "accountability, done right" look like in practice? To find out, we sought the assistance of 20 experts in the school choice world—scholars, advocates, program administrators, private school representatives—to help us wrestle with the thorny issues that together embody the accountability question writ large. In this paper, we present their insights, opinions, and advice about how accountability for voucher programs should be structured. We then synthesize their views and offer our own take. Here's an overview.

**The majority of experts agree that participating private schools should not face new regulations regarding their day-to-day operations.** Our respondents would generally **have government leave private schools alone—whether or not they receive indirect public subsidy—when it comes to issues such as teacher qualifications, admissions, student discipline, and religion in the curriculum.**

**Respondents also find common ground when it comes to parental information and program evaluation.** Everyone sees the value of helping parents make informed choices by providing them with data about how well their children are performing. **They also generally agree that voucher programs as a whole should be rigorously evaluated by third-party researchers.**

**Consensus breaks down, however, when it comes to making school results and financial audits transparent.** Here the school choice movement is clearly divided. At one extreme are those who would "let the market rule," and are averse to public transparency or accountability around school-level results. At the other extreme are those who say "treat private schools like charter schools," and would have the government or its agent to intervene if individual schools aren't performing adequately.

**We say: consider a sliding scale.** Our solution is rather simple: **the more voucher-bearing students a school enrolls, the greater its obligations for transparency and accountability.** Schools that draw the majority of their revenues from private sources should be treated more like other private schools, while those that depend primarily

on public dollars should be treated more like public schools. This approach respects the independence of schools that participate in a limited way in voucher programs and kindred forms of indirect public subsidy. Yet it also acknowledges that private schools that survive predominantly on public funds—whether direct or indirect—are closer to being public schools, and thus should face increasing levels of public transparency and accountability.

Most of the public discussion surrounding school voucher programs in the United States revolves around a simple divisive question—should private schools receive public support? Let's be clear: this paper does not rehash that tired debate. Instead, we start with the premise that voucher programs are a worthy form of school choice. So are tax credits and other indirect sources of public subsidy to children to attend privately operated schools. None is a full-scale solution to all that ails K-12 education in the United States in 2009. But these are reasonable mechanisms for assisting needy children to leave failing or ill-suited school settings for educational opportunities that succeed for them.

But what conditions should accompany that assistance? What are the terms for private school participation in such forms of public financing, direct or indirect? **This line of inquiry is particularly relevant in an era when the push for school choice is matched (bested, actually) by the push for stronger academic results in the public sector—and for accountability systems that set standards, monitor student and school performance in relation to those standards, make reams of school-performance information accessible to the public, and intervene in various ways when school results are not satisfactory.** If taxpayer dollars are helping pay to educate children in private schools, why should such schools be exempt from the sorts of accountability arrangements visited upon traditional public schools?

The American public has long favored academic accountability for voucher-accepting private schools, and the lack of it is a salient argument against this form of choice. **Ten years ago, a Phi Delta Kappa/Gallup Poll found 75 percent of respondents agreeing that “private or church-related schools that accept government tuition payments should be accountable to the state in the way public schools are accountable.”<sup>1</sup> Yet accountability mechanisms remain piecemeal and generally minimal: a test here, a financial audit there.** America has no firm grasp on a policy structure that would both allow private schools to remain autonomous and permit taxpayers to determine whether their dollars are being spent effectively and kids are learning more.

The main argument against applying to private schools accountability systems meant for public schools is that private schools are supposed to be different from one another—and free to be different from the schools that kids are leaving. The “case for autonomy” asserts that, when schools are left to their own devices—the principal is free to manage his/her budget, staff and curriculum—and “held accountable” via parent choice, they will produce better pupil outcomes. There is understandable concern that top-down accountability arrangements might exact too high a price when it comes to a principal's autonomy to run the best possible school, particularly if these arrangements push schools to adopt a mediocre curriculum, pledge allegiance to dubious academic standards or “teach to a test”—particularly a bad one. More than a few private schools balk at being subject to external regulations associated with voucher programs that exceed basic state licensure requirements for a private school to operate. And these schools hold a lot of power. Since voucher programs are voluntary, schools can simply choose not to participate if hurdles are overly onerous.

So we're wrestling with sticky questions here. If private schools are going to get public funds, should they remain entirely “private”? And if not, in what ways must they become more “public”? There is, and likely will continue to be, much debate about this and innumerable corollary questions and issues. But one thing's for sure: **the core debate over private schools' right to privacy on the one hand, and the public's right to accountability and transparency on the other, cannot continue to fester.** With new programs starting around the country, others being proposed, and existing programs like Washington, DC's Opportunity Scholarship Fund hanging in the balance, reasonable rules for accountability are a necessity to protect and expand children's educational options.

Meanwhile, participants within what's often termed the “school choice movement” have been stuck in a tired internal debate that hobbles the advance of vouchers and other worthy forms of school choice and that has become ever more archaic in a society preoccupied with student achievement, school performance, results-based accountability, international competitiveness and institutional

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1. Murphy, D. “Vouchers and the Accountability Dilemma,” *American Educator*, Spring 1999 (29-37).

transparency. It's time for the choice movement to wake up—and catch up to the educational demands and expectations of the 21st century. Indeed, it's paradoxical to us that even as the demands on K-12 education are escalating and important new forms of choice are emerging, the accountability-and-transparency discussion remained mired in the 1970s.

With these tensions, needs and trade-offs in mind, Fordham decided to investigate some policy options for holding voucher-accepting private schools accountable to the public. Our goal was to explore alternative ways of addressing macro-level policy questions and weigh their pros and cons. To help us answer these prickly questions, we sought the advice of a bipartisan group of 30 education policy experts. Twenty agreed to participate. These aren't "anti-voucher" folks, mind you (remember we aren't rehashing old fights); they all agree there's a potential benefit to providing public dollars to (some) kids to attend private institutions. But, as you'll see in the paper, there is a lot of disagreement over policy details.

Our experts are as follows (see Appendix A for fuller bios).

**Chad Aldis**, Executive Director, School Choice Ohio

**Jim Blew**, Director of K-12 Education Reform, Walton Family Foundation

**Clint Bolick**, Director, Scharf-Norton Center for Constitutional Litigation, Goldwater Institute

**Jeb Bush**, Founder, Chairman of the Board and President of the Foundation for Florida's Future and the Foundation for Excellence in Education; 43rd governor of Florida, 1999 - 2007

**John Chubb**, Founder and Senior Executive Vice President, New Product Development, EdisonLearning; Managing Director, The EdisonLearning Institute

**David Driscoll**, Former Commissioner of Education, Massachusetts; Board Member, Thomas B. Fordham Institute

**Howard Fuller**, Distinguished Professor of Education & Founder/Director of the Institute for the Transformation of Learning, Marquette University

**Frederick M. Hess**, Director of Education Policy Studies, American Enterprise Institute

**Paul Hill**, Director of the Center on Reinventing Public Education, University of Washington

**Jon Husted**, Senator, 6th Ohio Senate District

**Ed Kirby**, Senior Program Officer, Walton Family Foundation

**Matthew Ladner**, Vice President for Research, Goldwater Institute

**Sister Dale McDonald**, PBVM, Director of Public Policy and Educational Research, National Catholic Education Association

**Joe McTighe**, Executive Director, Council for American Private Education

**Susan Mitchell**, President, School Choice Wisconsin

**Nina Rees**, Senior Vice President for Strategic Initiatives, Knowledge Universe Education

**Darla Romfo**, President and Chief Operating Officer, Children's Scholarship Fund

**Andrew Rotherham**, Co-Founder and Publisher, Education Sector

**Ken Smitherman**, President, Association of Christian Schools International

**Patrick Wolf**, Professor of Education Reform and 21st Century Chair in School Choice, University of Arkansas

In late 2008, we provided these individuals with information about how the handful of private school voucher programs in the U.S. operate, focusing on the ways these programs address the toughest questions around accountability and transparency for voucher-accepting private schools (this document is included as Appendix B). We sketched out a few possible strategies for regulating inputs (private schools' curriculum, teacher hiring policies, disciplinary practices, and fiscal practices) as well as outputs (student performance and other academic information)—and asked the experts to weigh in. We offered “multiple choices” to resolve each dilemma posed, but our respondents were free to offer potential solutions that were not included on our lists.

Experts had four weeks to respond to our questions about the best ways to regulate voucher-receiving private schools, with ample nagging from us to do so. Lead author Christina Hentges spent innumerable hours poring over lengthy and thoughtful responses from the expert panel. She coded the written transcripts according to theme and synthesized key areas of agreement and disagreement. The Fordham team met several times as a group to talk through the findings, then to develop a possible resolution.

The paper is organized into four parts. The first presents the policy proposals over which our experts were in substantial agreement; the second looks closely at the proposals over which there was disagreement. Part three boils down the experts' ideas about accountability and transparency for voucher schools into a conceptual model that we think you'll find useful. And the last part provides our two cents: a “sliding scale” of accountability and transparency—with more of both required for schools that serve more students with vouchers. We trust you'll find these pennies thought-provoking, even if you don't agree with us.

We'd like to thank Fordham program associate Christina Hentges for her skillful analysis of this in-depth qualitative data. We appreciate Quentin Suffren for his consistently careful copyediting and Laura Pohl for her creative layout design. Special thanks go to the Walton Family Foundation and to our sister organization, the Thomas B. Fordham Foundation, both of which provided funding for this paper. Finally, we're most grateful to our 20 experts who, as evidenced by their thoughtful (and lengthy) responses, gave generously of their time in helping us work through potential policy resolutions to this dilemma.

## Areas of Agreement: What Not to Regulate

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Can policymakers develop an approach to “smart regulation” of voucher-receiving private schools that holds schools accountable without strangling them? We begin by examining whether many of the “input” regulations that apply to public schools ought to apply to voucher schools as well—rules regulating teacher quality and setting admissions standards, among other things.

Virtually everyone who took part in this survey agrees that private schools that accept publicly funded scholarships ought not to be regulated like public schools. While many respondents would like to see the schools’ outcomes and finances be made transparent (more on that below) nobody wants government to micromanage these schools’ daily affairs. Thus, when asked about accreditation, teacher qualifications, admissions, student discipline, and religion in the curriculum, most respondents would simply leave private schools alone—and free to be different from public schools. Let’s take a look at these “process regulations” one by one.

### Accreditation

All private schools are subject to some state regulation, regardless of whether they accept voucher students. All states require private schools to be licensed, and some go further and also require them to be accredited by a valid external agency. In other states, accreditation is optional.

Most respondents are skeptical about requiring participating private schools to be accredited by an external agency. Few regard accreditation as a necessary, desirable, or even useful step, particularly if a state doesn’t already require accreditation for all its private schools. Frederick Hess comments, “I think requiring external accreditation raises the concern that certain kinds of nontraditional schools may encounter difficulties, that ideological biases may come into play, or that schools may be coerced into adopting particular practices or expending resources in unnecessary ways.”

Even those who would impose more rules on private schools—such as maintaining records with distinctive information about voucher students—find scant merit in accreditation as an accountability mechanism. This distaste for accreditation stems largely from the fact that the process often scrutinizes and sometimes dictates private schools’ curricula. Respondents prefer creating state operating standards for voucher-participating private schools (i.e., financial reporting requirements) in lieu of dictating curricular content and sequence. Patrick Wolf sums up this argument: “Private schools that accept taxpayer-financed vouchers should be required to account carefully for the disposition of those funds and the fact that they were spent properly on educational services associated with a particular student. The actual content of those educational services should be left to the discretion of the private school.” Although accreditation wins little enthusiasm from our commentators, several note that parents may use it as an indicator of school quality.

### Teacher Qualifications

Although several states require private schools to employ state-certified teachers, most states do not. Private schools can hire teachers of their choice, and many consider this freedom central to their ability to provide a superior and different education.

Respondents overwhelmingly favor shielding private schools from additional teacher qualification or certification measures. While some note the value of having teachers possess traditional credentials such as college degrees, most are content to leave private schools alone when it comes to staffing. David Driscoll observes that “while it is most reasonable to call for a bachelor’s degree in this day and age, this is one area I would leave up to the school. If they are financially viable and getting reasonable results, the state does not need to oversee their personnel choices.”

There is one exception. Jeb Bush stipulates that “in order to ensure the safety of all students, teachers of state-funded choice students should undergo a criminal background check.” (One may fairly ask why that isn’t a licensure requirement for all schools, public and private.) Otherwise, the overall theme of respondents is to let private schools be.

Many schools participating in voucher programs are religious, but many voucher students do not share a religious affiliation with their schools. Some argue that voucher policies should ensure that students using vouchers are not compelled to participate in a school's religious instruction or activities.

Most respondents, however, believe that voucher laws and programs should take vows of silence regarding participation in religious instruction or activities, noting that any such regulation would infringe on private schools' autonomy. As John Chubb says, "vouchers do not compel any family to choose religious schools. If families choose religious schools, the school should be free to set policies about participation in religious activities." Respondents do, however, express some interest in requiring private schools to inform parents in advance about their overall school program, including any expectations for religious instruction and curriculum. This shifts the "onus," as Ed Kirby and Jim Blew say, back to the parents, rather than requiring the schools to alter their operations or engage in permission-seeking from dozens of parents.

### **Admissions Standards**

Private schools are normally free to accept (or reject) whichever applicants they please. Some schools maintain rigorous academic requirements while others are more lenient. Yet voucher students may not fulfill these pre-existing qualifications. They may not pass an entrance exam or may not fit the school's religious or cultural profile. Should such students have access to a private school simply because they carry a publicly funded voucher?

Respondents generally favor allowing participating schools to accept or deny applicants as they see fit, advice that runs counter to some existing programs which require schools to accept students via lottery. A few respondents liken private school admissions standards to those of selective public schools, such as magnet or gifted-and-talented programs. Frederick Hess observes that "we routinely allow magnet schools, governor's schools, exam schools, gifted programs, and so forth to serve hand-picked populations in public K-12, so why ought we restrict the ability of private schools to serve the students they deem best-suited to their environment?" More than one respondent noted that admissions criteria are necessary for the good of the voucher-bearing students themselves. Patrick Wolf explains that "if private academically rigorous college preparatory schools are required to take any voucher students who apply to them...they will participate until it is clear that the random voucher student accepted by their school tends to be overwhelmed and demoralized by the academic program." Such a scenario would set students up for failure and harm, and would shrink the pool of schools willing to participate. Nina Rees notes that, "if the experience in Washington, DC is any indication, there is no need to require that private schools set aside their admissions criteria to accept voucher students. Most private schools are ready, willing, and able to serve voucher students."

### **Student Retention**

As with admissions, respondents generally believe that private schools should be free to follow their own standards and protocols when it comes to retaining and expelling students—and would like this to be codified in law. In other words, they'd have the voucher law specify that private schools may adhere to their longstanding policies. Furthermore, as with religious instruction, respondents believe that parents should be informed up front about the school's expectations for student behavior. Howard Fuller would like "protocols [to] be established, published, and distributed to the parents and students prior to the beginning of the school year."

Respondents want schools to be transparent about these matters, too. Paul Hill wants them to have "published criteria for expulsion and show that, in the expulsion of a voucher student, they acted consistently with them." But, he admits, "this is all hairy. The real problem is that anyone expelled claims that others (tuition payers, white kids) did the same thing and were not expelled." That's why, Andrew Rotherham notes, "this is exactly the sort of issue where consistent reporting of data is vital. Schools receiving public money are expected to perform a public service and to the extent they

are failing to do that, by simply pushing out hard-to-educate students, they are not meeting that charge and the public and policymakers deserve to know that.”

Overall, respondents agree that transparency is important when it comes to the procedures for expelling students. They believe that private schools should be left to their own devices and permitted to follow existing protocols; however, clear documentation of their adherence to published procedure is important to ensure that all children are treated fairly regardless of financial status.

# Disagreements: How Much Transparency for Test Results and School Finances

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While respondents generally concur about how government should regulate the daily affairs of private schools that participate in taxpayer-funded scholarship programs (by and large, it shouldn't), our survey reveals substantial disagreement around two big issues: student testing and school finance policies. Respondents disagree over what the schools' obligations are, who should have access to what sorts of information, and to what extent school performance in these two areas should affect continued participation in the voucher program.

There's lots of gray when it comes to these two big issues of testing and finance, however, and many a quest for reasonable middle ground. In the midst of their disagreements, respondents across the board agree about the importance of providing both test scores and financial information about the schools to current and prospective parents. They also accept the idea of a rigorous, methodologically sound program-level evaluation based on the test scores of voucher students. So respondents agree on fundamental principles of transparency to parents and accountability for the voucher program as a whole. But the devil is in the details.

Highlighted below are the five major areas of disagreement: 1) whom should be tested and how, 2) what other academic performance information should be required of schools, 3) who should have access to academic data from schools, 4) what financial information should be required of schools, and 5) under what circumstances may participating schools be dropped from the program. We've tried to present respondents' logic as well as their conclusions. Each section first identifies any agreement, and then explores key points of disagreement. Diagrams illustrate major differences.

## 1. Whom should be tested and how?

Standardized tests are a hallmark of No Child Left Behind, but private schools are generally not subject to state testing mandates associated with the law. Private schools often teach a curriculum that is not aligned with state standards and tests and worry that a state assessment will not satisfactorily appraise what a voucher student learns in private school. But if voucher students are not tested at all, it can be difficult to determine whether the voucher program is "succeeding" and taxpayers are receiving value for their dollars.

We asked respondents whether voucher-bearing students should be tested and, if so, what sort of test they should take. All respondents believe that the academic performance of these students should be appraised in some way, but they differ on the details. The discrepancies center around which tests should be used and how these should be administered. Several respondents are also amenable to testing all private school students—not just those receiving vouchers—in order to increase information available to parents and the public.

### Test How?

#### Private schools choose the test

Several respondents favor letting private schools select the tests to administer to voucher-bearing students. They see this as the best way to provide information to parents (and, sometimes, the public) while protecting schools' autonomy in the academic domain. Still, respondents would like schools to choose tests that allow parents and outsiders to compare voucher-bearing students' performance with that of public school pupils. John Chubb believes that "private schools should be able to continue their 'specialness' as much as possible under a voucher system. But parents still need to have some generally recognized measure of student progress with which to judge them. Private schools should not be required to take the state test or any particular test, because that threatens their curricular autonomy. But it is fair and appropriate to ask them to administer a test of their choosing as long as it is nationally normed or sanctioned by the state." Ed Kirby and Jim Blew agree, noting that letting private schools choose their test is appropriate "at this point in the

evolution of public education testing and accountability systems given how deeply flawed most states' systems are in regard to their capacity to produce reliable and useful information about the academic performance and value of individual schools." In other words, considering the weaknesses of many state tests, it would be a mistake to impose them on private schools. When and if better tests come online, it might make sense to administer them to voucher students, too.

In some cases, this problem of test selection is already solved. Many private schools already test all their students, typically with nationally normed tests. According to Darla Romfo, these tests "help the parents and educators assess how the child is doing primarily using his own previous performance as a benchmark, as well as the performance of other students."

### **On the other hand...**

Not all respondents are sold on letting private schools choose their tests. Some favor requiring voucher-bearing students to take the same state-mandated assessments as their peers in public schools. This, respondents say, would allow for the easiest comparison across different types of schools. Frederick Hess says this option "strike[s] a balance between safeguarding institutional autonomy, providing families with what they need to be informed consumers, and ensuring some appropriate degree of public accountability." For Hess, private schools maintain their autonomy because only voucher-bearing students take the state test. Jon Husted further points out that having voucher-bearing students take the same test as their public school peers is a good marketing tool, because "positive results can be used to grow support for the program."

### **How about a third party?**

A few respondents prefer a different approach: mandating that either the state government or the voucher program administrator—not individual private schools—oversee student testing. This option, they say, ensures that a testing regimen does not unduly burden participating private schools. For instance, Joe McTighe is open to testing voucher-bearing students, but believes that "if the government wants testing information from an assessment instrument other than what the school normally administers, the government or a third party should administer the test..." Other approaches could involve having voucher students take the tests at neutral sites or even at public schools during the district's regular testing schedule." Nina Rees offers a similar suggestion, saying "the entity that is charged with administering the program should work with researchers to select or design an ideal test (or set of tests) for all voucher students to participate in. These tests would be sensitive to the different curricula that private schools are teaching while trying to capture how a student could have done on a state standardized test." This is actually how the program works in Washington, DC, where a federally selected evaluator manages student testing.

### **Test everybody...and report the results**

A few respondents argue that all students at voucher-accepting private schools should take a standardized test, and their aggregate results should be reported publicly. Andrew Rotherham believes that testing all of a school's pupils will provide valuable information to parents and policymakers alike; he prefers using the state test because participating private schools receive public funds. Howard Fuller and Chad Aldis are also amenable to testing all students at participating private schools and reporting the results, but they'd like private schools to choose the tests. Like Rotherham, Fuller and Aldis believe that testing all students would yield valuable information to policymakers and parents alike. Aldis, however, would like private schools to choose and administer a test more closely tied to their curriculum. He says "requiring schools to administer a NRT [norm-referenced test] of their choosing to all students attending the school would in most cases allow disclosure of a school's academic performance without infringing on privacy concerns."

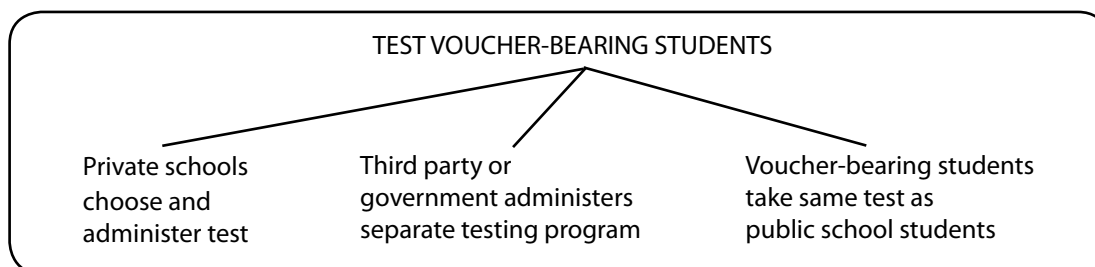
### **Why Test?**

Just as respondents differ on how voucher-bearing students should be tested, they also offer varied reasons as to why these students should be tested. Their reasoning has important implications for policymakers shaping such programs. Many respondents emphasize testing and reporting results principally as a way to inform parents of their options, which in turn, presumably allows the market

to function more efficiently. Others focus on using testing data to compare the performance of students using vouchers with those attending public schools. To the latter group of respondents, the data help make the program more accountable to taxpayers and policymakers. Patrick Wolf notes that in Milwaukee and Washington, DC, “[t]he students are tested so that the program can be evaluated, not so that individual voucher schools can be evaluated.”

Of course, the goals of testing students to provide information to parents “shopping” for a school versus testing to provide the public at large with comparative data overlap. If all students in a private school are tested and the results are reported, this provides parents with important information they can use to judge the quality of the school they have chosen. It allows parents and policymakers to compare participating private schools with nearby public schools. And as Jon Husted has noted, test scores of voucher-bearing students can help garner support for a voucher program as a whole—not necessarily for one school or another.

Figure 1. Different approaches to testing voucher-bearing students



## 2. What other academic performance information should be required of schools?

Besides test scores, what indicators of academic performance, if any, should participating schools be required to gather for their voucher-bearing students? Most respondents believe that collecting additional academic information is worthwhile, though a few prefer not to burden private schools with such obligations. Those in favor of collecting these data agree on such key metrics as graduation and dropout rates. As with test scores, there’s also disagreement about whether to release these data to the public.

### Track predetermined indicators

Respondents overwhelmingly favor requiring private schools to track certain predetermined indicators for students using vouchers. They consider such data helpful to parents when making school decisions. Of particular value are attendance rates, student retention and graduation rates, college admission rates, and PSAT/SAT/ACT averages. Chad Aldis notes that, in his experience, “the top question received from parents is, ‘what schools are good?’ and adopting a ‘limited number of meaningful standards’ helps to answer this question.” Several respondents concur that collecting data is vital to promoting transparency.

Some value non-test information but caution that these data should not be used for accountability purposes. Paul Hill emphasizes that the data be used as a tool for parents, “not...to decide whether to kick a school out of a voucher program or remove its license.” Sister Dale McDonald agrees, saying “the private school should NOT be evaluated on the academic measures of a few students who are using vouchers—their results are not indicative of the total school program.”

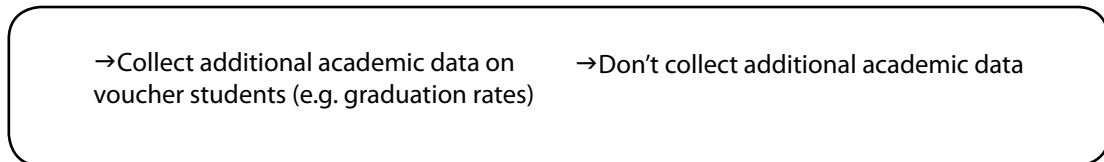
### Don’t add this burden to schools!

Several dissenters did emerge. Jeb Bush and John Chubb believe these data are superfluous to furthering what Bush terms a “school choice system,” mostly because private schools, which must attract customers, already have incentives to release information as necessary.

Darla Romfo points out that “the data the school collects should be whatever makes sense in

order to adequately market itself and manage its own outcomes.” Joe McTighe adds that “if the state insists on collecting additional data about voucher students, it should either collect the data directly from students or parents via survey... or it should request school officials to extract data about voucher students from data the school already compiles for all students (e.g., daily attendance, grade promotion, graduation status, etc.).” His primary concern is saving school leaders from mounds of additional paperwork. Otherwise, he warns, schools may choose not to participate in the program.

Figure 2. Different approaches to collecting additional information



### 3. Who should have access to academic data from schools?

After asking respondents which academic data should be collected from schools, we asked them who besides parents (i.e., researchers, state governments, or the public) should have access to that information. Sizable disagreements emerged. Some respondents stoutly defend keeping such data (test scores and other academic indicators) private; others favor widespread release. Those in the latter camp, however, temper their enthusiasm with concerns about student privacy, negative policy implications for programs, and an unnecessary burden on participating schools. There are also disagreements about whether school-level data or only program-level data should be released to the public.

#### **Private schools shouldn't have to release information to the government or designated evaluators**

Only a few respondents assert that private schools should not be compelled to release information about voucher-bearing students to officials or evaluators. Sr. Dale McDonald says “each school should establish principles and methods for ongoing reporting of information about all students in a clear, accurate manner consistent with its mission, each audience’s needs, and state law.” While she prefers not to single out voucher-bearing students, she concedes that “voucher students’ information could be reported as a sub-section of the total group if doing so does not compromise student identity.”

Darla Romfo also understands that “the reality of passing a voucher law probably requires some release of information to one or more of the named entities.” But, she says, “if the first purpose of vouchers is about freedom and parental choice, a voucher has value in that it gives both to the parent who is the primary educator of their child and the best advocate for their child. Perhaps the most important measure of success is parental satisfaction with their child’s school.” As Romfo argues, if the ultimate evaluation of a voucher lies with the parents, the debate over who else should see what data becomes somewhat irrelevant.

#### **Data available to a state or third-party entity—not the public at large**

Some respondents believe only state governments or designated evaluators should be able to access information about academic performance. Frederick Hess, for example, says “a reasonable middle ground is to ensure that state officials and trained researchers are in a position to collect, analyze, and report on findings in a manner that can advance public understanding of school and program outcomes and that can inform policy decisions.” Paul Hill agrees, but thinks “it should be clear that schools can opt in to full disclosure and the state should be free to publish analyses of voucher students in groups of schools (e.g., Catholic elementary schools).”

Others believe data should be released for public consumption; further, they think that releasing data is a boon, not a curse, to a voucher program. John Chubb believes “the data should be available for public inspection, as it is a public program.” He argues that “research will ultimately and competitively determine what the data actually mean about performance.” Howard Fuller agrees with releasing data to the public but is reluctant to compel this of private schools. “I would prefer to have this done on a voluntary basis,” he says, “but at the end of the day if schools take tax dollars the public has a right to know the results.” Andrew Rotherham concedes that he doesn’t “think that data reporting needs to get down to the level of GPAs, but clear and consistent information about outcomes should be available to parents, policymakers, and the public.” Addressing concerns about privacy of student data, Ken Smitherman says, “I see no privacy violation issue here because it is not about identifying individual students.”

**Should data be available on a school-by-school basis?**

Respondents disagree over whether achievement data should be available for the program as a whole or on a school-by-school basis.

Respondents who want to make such information available only at the program level pointed to the District of Columbia model. The purpose of these assessments, Patrick Wolf argues, is “to evaluate and report upon what tends to happen when private school choice is expanded to a population of families through school vouchers. . . . Whether or not voucher-accepting school X is producing solid educational outcomes tells us next to nothing about whether or not the voucher program is a good policy or a bad policy. The policy to be evaluated is choice, not any specific school.” Wolf also makes an analogy between evaluating school vouchers and food stamps: “We evaluate the food stamp program based on whether or not it tends to advance the nutritional status of participants, not whether or not the stores they shop at are ‘good stores’ or whether, individually, they buy what we would view as ‘good food.’”

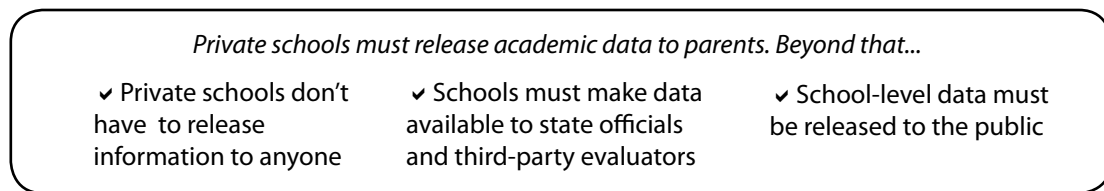
Frederick Hess, however, thinks that basic outcome data such as student performance on state assessments “should probably be aggregated and then reported on a school-by-school basis.” He continues, “Both for the purposes of parents and for efforts to generalize from findings, it is necessary not only to know gross outcomes for voucher recipients but how those outcomes vary across different schools.” Clint Bolick and Matthew Ladner agree, but add “that information on the value-added gains of students should also be made available if possible,” to remove any incentive for private schools to “avoid students far behind grade level.”

**Voucher programs benefit from releasing data to the public**

In addition to improved transparency and accountability, releasing data also presents an opportunity for private schools to become active partners in voucher programs. A few respondents—though not necessarily in favor of compelling private schools to release data—contend that policymakers could incentivize schools to do so by pointing out the benefits that may follow. Nina Rees, for example, sees a potential for private school participation from a marketing standpoint. She remarks that “providing this information to the public could bolster a school’s standing in the community and attract greater philanthropic support—so schools may wish to publicize this information. . . . on their own.” Likewise, Ken Smitherman sees the process of “determining the what and the how” as an opportunity to “pursue buy-in” from the schools themselves.

Chad Aldis argues that “programs would be more transparent and potentially more successful through better consumer decisions if information about student performance was available at the state and school level.” He points out that in Ohio, “voucher student test scores are submitted to the Department of Education—where they simply reside.” This, he says, “does nothing to provide information to prospective parents or to the public at large.”

Figure 3. Different approaches to making academic results transparent



## 4. What financial information should be required of schools?

One of the most prominent public demands for voucher-accepting private schools is that they account for their use of taxpayer dollars. Respondents agree in principle that private schools should be asked to demonstrate some degree of financial transparency and viability. They also agree that participating schools should annually report pertinent financial information; it's not enough for them to open their books just once upon entering the program.

Yet respondents disagree on what degree of transparency is appropriate. Should schools report their overall financial condition, their use of taxpayer funds, or both?

### Regular audits provide sufficient information

**No one is comfortable with letting private schools submit a clean audit for purposes of entry into the scholarship program—and never again demonstrate financial solvency or fiscal stewardship.**

Paul Hill supports requiring schools to undergo an audit prior to entry but also believes that the process "should be repeated every one to three years, so the state does not allow students to enroll in schools that are about to go under." Nina Rees agrees that audit information should be used "to educate parents about the long-term sustainability of a school based on clear data." Respondents favoring regular audits are concerned that schools that appear viable at the outset might go bankrupt over time. They see some form of regular audit as the best way to protect against enrolling children in dying schools, as well as to ensure basic financial safeguards for taxpayer dollars.

### What about accounting for use of voucher funds?

While some respondents are interested only in school-wide audits, others are more concerned with accounting specifically for the use of voucher-related funds. Both Sr. Dale McDonald and Joe McTighe are comfortable with private schools' reporting on their use of voucher funds, without necessarily submitting to annual audits. In McTighe's opinion, "the public should be assured that money spent on vouchers does not exceed the per-pupil cost of educating children in a participating private school up to the per-pupil cost of educating children in public schools."

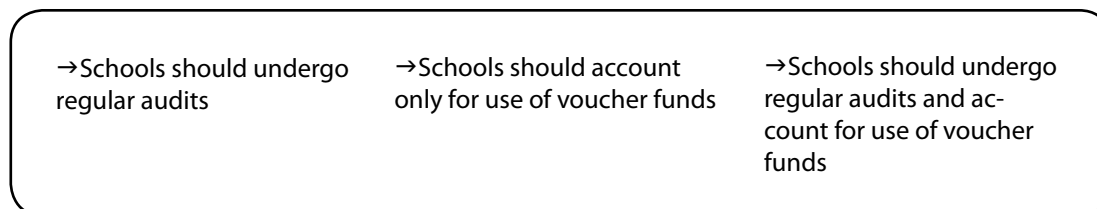
Other respondents are less enamored of this model. **Frederick Hess is hesitant about asking schools to account for the specific use of voucher funds, because it "recalls the 'Title I staplers' and ditto machines and all the unfortunate over-the-top compliance accounting that grew up around the Elementary and Secondary Education Act."** Instead, these dollars should be seen as fungible with the schools' own resources.

### Full disclosure: submit to audits and account for voucher funds

A few respondents believe that requiring both a complete audit and an accounting of voucher funds is the best way to secure financial transparency and, more fundamentally, to ensure that schools aren't misusing such funds. **Ed Kirby and Jim Blew speak favorably of the "annual financial screening" in Milwaukee, where schools must submit an annual audit that clearly delineates their per-pupil costs.** This audit works on two levels: it verifies the school's overall fiscal stability and also provides in-depth information on how voucher funds are expended. Kirby and Blew say this "screen has served as an effective means to screen out potential operators (or weed out existing operators) who are not suited to operating schools." John Chubb further points out that "the public needs to know that its funds are not being used to buy cars and vacations for school principals."

While Jeb Bush and Howard Fuller support maximum transparency, both stress that requirements should not overburden private schools. Ken Smitherman offers one suggestion for easing the burden, saying that he “would require an annual financial review by a CPA for the smaller schools—size of budget to determine this—and [a more extensive audit] for larger schools.”

Figure 4. Different approaches to financial transparency



## 5. Under what circumstances may participating schools be dropped from the program?

The final disagreement centers on what might lead to a participating private school losing its eligibility to continue in the voucher program. Some respondents believe a school should be removed if it fails to follow the program’s rules and regulations, especially related to financial matters. Others are less concerned with compliance than with academic outcomes and believe schools with consistently poor performance should be dropped. A few believe that schools should be dropped for either financial or academic transgressions. Only two respondents staunchly defend the power of the market itself to weed out bad schools.

### The market is the best judge

Ken Smitherman thinks that quality standards like “accounting reviews and audits and adequate student assessments” will measure progress toward meeting agreed-upon expectations for participating private schools. But he stops short of empowering the state or a program administrator to drop delinquent private schools. Similarly, Darla Romfo believes “the market will work itself out. If parents are dissatisfied with a school, they will remove their child from the program; if all or the majority of students leave, it will be a sign that the school is not meeting expectations.” Chad Aldis believes the market option “is very plausible for academic performance issues if parents have access to academic performance information on a school-by-school basis. If not, the market will take a substantial amount of time to work—if ever.”

### Schools should be removed if they fail to adhere to rules

Most other respondents refrain from placing all their eggs in the market basket. Many believe that a school’s failure to follow mandated rules and regulations, or its misuse of program dollars, is adequate grounds for removal from the program. Jeb Bush believes that “private schools should be expected to follow the laws established in the state” in order to participate and that “safety and financial guidelines, including being responsive to the state, are important to public oversight of the use of taxpayer funds.” Bush and John Chubb believe that schools should be penalized for regulatory infractions, but not for academic matters. As Chubb says, “families and the market will decide the consequences for low test scores.”

### Poor academics are the appropriate reason to remove schools

Other respondents want schools’ continued participation to depend at least in part on academic performance. Paul Hill believes in removing schools from the voucher program if they fail to yield suitable academic results. He offers examples of such standards, including “students’ failure to attain proficiency on standardized tests; students failing to make adequate progress over time; a high student dropout rate; or a low student attendance rate.” Andrew Rotherham also believes that schools that fail to live up to academic benchmarks should be removed. He points out that “we don’t expect the government to maintain vendor relationships with ineffective vendors in other contexts, and should not in the education context either.” A school’s academic performance also has implica-

tions for the program at large, says Jon Husted. He believes “a pattern of [academic] failure not only harms the students attending there, it also undermines the voucher program for all schools and students by becoming either a policy or political target.”

### **But tread carefully...**

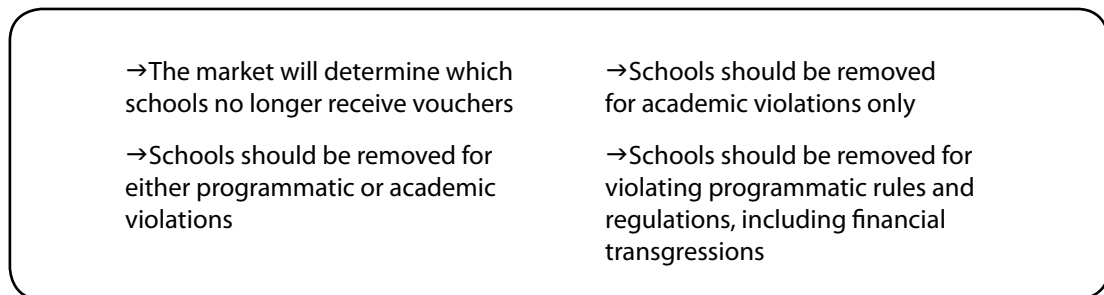
Chad Aldis mistrusts holding schools to account for academic performance because “too many factors affect [Department of Education] decisions that make seemingly objective measures very subjective.” Ed Kirby and Jim Blew are also not sold on the efficacy of evaluating schools based on academic results. But, they say, “should state testing evolve...we would recommend returning to a discussion [of this].”

Sister Dale McDonald agrees that schools should be removed for violating program rules but offers a different take on academic performance. In her view, schools “should not be removed for academic reasons unless students fall significantly behind the levels at which they entered the school. Under current voucher guidelines many students come to the private school with academic deficits and will need a year or more to catch up with their new peers.” David Driscoll is of a similar mindset, responding that “it is likely that most voucher schools will be able to point to at least one regular public school that is ‘doing as badly.’”

### **Don’t decide immediately – give a grace period**

Most respondents are willing to cut schools some slack. Even if they favored penalizing schools for lackluster performance or violation of program rules, they still want to give them a grace period before removing them from the program. David Driscoll, for instance, favors sanctioning schools for failure to comply with rules and regulations, but encourages putting a school on probation first and removing it only “if problems are not addressed.” He adds “this is an area where the state needs to be explicit about the conditions that will lead to removal.” Joe McTighe concurs with removing schools that fail to follow the rules but believes “an appropriate enforcement and appeals process should be followed, and opportunities for correction should be provided before applying the ultimate sanction.”

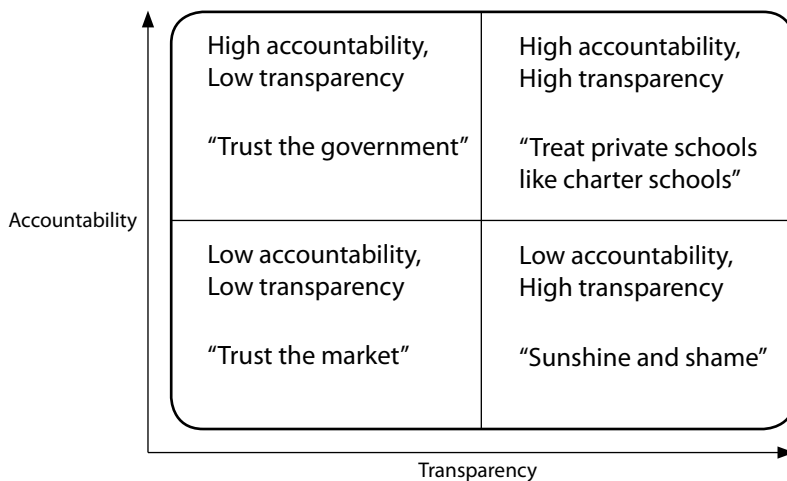
Figure 5. Grounds for dropping private schools from a voucher program



Let's recap what we've learned so far. Respondents generally agree that school "inputs" and operations (such things as teacher qualifications, admissions policies and discipline procedures) ought not be further regulated by government. And they are open to evaluations of entire voucher programs based on tests administered to voucher students. But when it comes to reporting on the "outputs" of individual schools, such as student achievement and other academic indicators, as well as financial information about the schools, consensus deteriorates quickly. Some want lots of school-level data provided to the public, and for the government to take action if results aren't up to snuff. Others trust the market to provide quality control, and merely want enough information about schools provided to parents to facilitate that process. Still others are somewhere in the middle.

One helpful way to understand this is to distinguish between transparency and accountability. Transparency, as we see it, is about making information public (or, at least, making it known to government officials), bringing in lots of sunshine. Accountability, on the other hand, implies that government (or its agent) will take some corrective action if something goes awry. Thus, as illustrated in Figure 6, we can envision four basic types of policies toward individual schools participating in voucher programs: those that promote low transparency with low accountability, low transparency with high accountability, high transparency with low accountability, or high transparency combined with high accountability. Let's consider each in turn.

Figure 6. The transparency-accountability matrix



**Low transparency, low accountability.** This is the classic libertarian "free market" strategy. In its most extreme version, schools have no special obligation to provide information, academic or otherwise, to anyone, even to parents, beyond whatever is necessary to draw customers to their doors. Nor would the public have access to achievement data for voucher students, or to financial audits. There would be no mechanism for withdrawing voucher dollars from private schools because the government (or its program administrator) would have no information about school quality on the basis of which to act.

**Low transparency, high accountability.** This is a star-chamber-like "trust the government" strategy. Schools would submit information (about academic results and financial status) to the government, but the public as a whole would not have access to it. If achievement scores were lackluster, however, or audits unclean, the government or the program administrator could remove schools from the program. Individual private schools would become ineligible to receive vouchers, yet nobody but school and government officials would know exactly why.

**High transparency, low accountability.** This is the “sunshine and shame” strategy, and it is probably most popular among our participants. School results and audits would be made available to the public, ideally in comparable form (meaning that pupils in voucher-receiving schools would take the state test, or at least nationally normed tests), and ideally for all pupils, not just those receiving vouchers. But government would have no obligation to “pull the plug” on lackluster private schools. The marketplace would be trusted to weed out bad schools, as parents would (presumably) remove their children from them.

**High transparency, high accountability.** This is the “treat private schools more-or-less like charter schools” strategy. In its most extreme version, all kids in voucher-receiving private schools would take state tests, just like in public schools, and schools would be held accountable to the same performance expectations. They would also have to submit to regular and rigorous audits. The government would withdraw program eligibility from those schools that don’t measure up—and everybody, including parents, would have all the data.

Compelling arguments can be made for each of the approaches described in the previous section. Cranking up the dial on transparency and/or accountability is certainly the easiest position to defend in public, since public money is in play, innocent and needy children are involved, parents are not always sophisticated consumers, and in the NCLB era almost everybody favors making school data available to all. For school choice advocates confident that private schools outperform public schools, there can only be upsides to releasing student results, particularly if these are presented in terms of student growth over time. And if some schools are dragging down the program with poor results, and potentially harming children, why not withdraw their right to participate?

Yet a case can also be made for limiting transparency and/or accountability, particularly if a program-level evaluation of voucher students is in place. In other words, if there's a mechanism to inform taxpayers and government officials as to whether or not the voucher program is "working" (i.e., boosting pupil achievement), as is built into the Washington, DC initiative, then minimal transparency or accountability at the school level is more defensible. That's because the public also has an interest in ensuring that voucher-eligible youngsters have access to a full range of private schools, and there's reason to worry that some, maybe a lot, of those schools will refuse to participate in voucher programs if doing so would subject them to a lot of transparency and, especially, accountability. There is a real and legitimate fear that treating private schools like public schools will cause them to shed the very qualities and characteristics that make them different—and worth considering in the first place.

It's also important to note that the highest-status private schools in a given community (which may or may not also be the highest-performing schools) are most apt to have plenty of full-tuition-paying applicants and the least need to accept voucher recipients. By and large, the sorts of private schools to which President Obama sends his kids will participate in a voucher program out of public-spiritedness, not out of self interest. It's also the case that these elite private schools usually admit a relatively small number of voucher-bearing students, which means that transparency/accountability policies that they view as harmful to their integrity could swiftly cause them to withdraw altogether from the program. Private schools that rely more heavily on a voucher program for students and dollars are less apt to be deterred by transparency/accountability mandates.

Nobody, of course, can be certain how various schools might react to various kinds of voucher programs, particularly considering how small and constrained are America's experiments to date with the voucher strategy. Nor is it obvious that the preferences and interests of schools should drive public policy in this domain any more than in the more familiar public-education sector. Indeed, we and others have often deplored the extent to which adult interests and ingrained institutional practices have dominated education policy, frequently at great cost to children and taxpayers alike.

It's with unusual tentativeness and rare humility, therefore, that we suggest a possible solution to the voucher-receiving school accountability puzzle—mindful as we do so that it is likely to displease purists on every side of this issue. (Which could, of course, attest to its merit!)

We propose a sliding scale: the more voucher-bearing students a school enrolls, the greater its obligations for transparency and accountability. Putting it another way, schools that continue to draw the majority of their revenues from private sources should be treated more like other private schools, while those that depend more heavily on public dollars should be treated more like public schools. Schools like Sidwell Friends in Washington, D.C., that accept just a handful of voucher students would face relatively light transparency and accountability requirements, while those like St. Anthony School in Milwaukee, which enroll mostly voucher-bearing students, would face heavier requirements on these fronts, more akin to those of charter schools. This approach leaves it primarily up to the individual school—and to the decisions of individual students and parents acting through the market—to determine the extent to which that school must be transparent and accountable.

One additional variable should be considered by policymakers striving to design a fair and workable sliding scale: the amount of the vouchers. The closer these come to parity with per pupil public-school funding, the more accountability and transparency should be expected of schools receiving them. Even a St. Anthony School ought not be obliged to bear accountability/transparency burdens akin to those of charter schools and district schools if its students are supported by taxpayers at only, say, half the level of those enrolled in public-sector schools.

Such a sliding scale is a win/win solution. It would encourage schools like Sidwell Friends to continue participating in voucher programs—and not scare them off with heightened transparency or accountability requirements. Yet neither would it let taxpayer-dependent schools such as St. Anthony receive loads of public dollars without any public oversight. But it also asks policymakers to deploy reasonable proportionality as between the generosity of their financial assistance to private-school students and the obligations that they impose on such schools.

Let us be clear: like our respondents, we aren't proposing to ramp up regulation of how schools conduct themselves, with a single caveat. We believe, as do all of our respondents, that participating private schools should adhere to published disciplinary protocols when expelling a voucher-bearing student. Both operating programs and parents have a right to know that a voucher-bearing student has been treated fairly under a school's policies.

Let's illustrate how a sliding scale might work in practice. Below, and in figure 7 on page 24, we outline the rules and requirements for three schools: one with just a handful of voucher recipients, one in which voucher recipients make up half the total student population, and another at which almost all students arrive clutching vouchers. These are hypothetical examples, mind you. Real policies for participating private schools could be structured in a hundred different ways—and different rules or points on the sliding scale might apply to schools participating in tax-credit type programs rather than vouchers per se.

**Johnstown Country Day School:** It serves just a few voucher students and faces limited transparency and accountability obligations

Johnstown Country Day (JCD) enrolls 800 pupils. It's the sort of school that starts to accept children onto its exclusive waiting list when they are still in the womb. It enrolls just five students who receive scholarships from the local voucher program. The program operator, the Investing in our Children's Future Fund (ICFF), administers a nationally normed test to the school's participating students one Saturday each spring at a public library near the school. Once the test results are in, ICFF shares each child's scores (along with the school's annual audit results) with his or her parents so they know how their own children are doing. This information will help parents to judge JCD's performance—and their children's performance at JCD—and to determine whether they want to change schools for the next year. The test results are also fed into a program-wide evaluation of ICFF, conducted by independent analysts engaged by the government for this purpose, the findings of which are public and accessible to legislators, private donors, teacher unions, and more. But school-level test results are never shared with the public. Nor does JCD have to test its non-voucher-receiving students in order to participate in the program.

**Mount Saint Mary's School:** Half its students receive vouchers and it faces medium transparency and accountability obligations

Mount Saint Mary's (MSM) enrolls 600 pupils. Located in a tough neighborhood, this private school struggled financially until the ICFF program was enacted. Now, half of its students receive scholarships from that program and the revenues that accompany them account for about half the school's budget. Once a year, Mount Saint Mary's administers a nationally-normed test of its own choosing to all its voucher-receiving students. Once the results are in, ICFF shares them (along with the school's annual audit results) with individual parents so they know how their children are doing and whether they want to stick with MSM. In addition, school-level test results for all voucher-receiving students are made public and this information can be found on GreatSchools.net. (Audit results are made public too.) Though these test results are also fed into a program-wide evaluation of ICFF, conducted by indepen-

dent analysts engaged by the government for this purpose, ICFF doesn't have the right to withdraw eligibility from the school.

**Yes We Can School:** Ninety percent of its students receive vouchers and it faces significant transparency and accountability requirements as a result

Yes We Can enrolls 1,000 students, nine tenths of them with vouchers. Indeed, this new school was created in response to the ICFF. Its founders wanted to serve a high-need population but knew that they would need public funds to do so. So they located it in a low-income part of the city and threw open the doors to voucher recipients. Once a year, Yes We Can administers the state assessments to all its pupils. Once the results are in, ICFF shares them (along with the school's annual audit results) with individual parents so they know how their own children are doing. The parents are better equipped to judge Yes We Can's success as a result, and to determine whether they want to change placements for the next year. The test results for voucher-receiving students are also fed into a program-wide evaluation of ICFF, conducted by independent analysts engaged by the government for this purpose. Plus, school-level test results for all students (not just those receiving vouchers) are made public and accessible on GreatSchools.net. If student performance does not meet previously established benchmarks, as measured by student growth over time, the ICFF is obligated to withdraw funding from the school. It has a similar obligation if the annual audit reveals any financial irregularities or major instabilities.

## In Conclusion

As we said, this "sliding scale" model won't please everyone and likely won't thrill anyone. Advocates of greater transparency and accountability may cringe at the idea of some private schools facing little of either despite enrolling some voucher-aided pupils. Private school advocates may blanch at the requirement that schools with myriad voucher recipients must take the state test, make results transparent, and be dropped from the program if they don't measure up. **Critics on all sides may worry about perverse incentives, as private schools under such a system are discouraged from taking more voucher students lest they face greater scrutiny.**

But no solution is going to be perfect and this one is plausible, at least until more is known about student results, parent behavior, and school responses in the presence of vouchers and kindred funding systems (and state tests are of a higher quality). This approach respects the independence of schools that participate in a limited way in voucher programs. Yet it also acknowledges that private schools that survive predominantly on public funds are close to being public schools, and thus should face significant public transparency and accountability—all keyed to performance, not to inputs or operations. Particularly if we can protect all private schools from the regulation of their day-to-day affairs, we think this approach makes a lot of sense. Now the question is whether any policymakers want to experiment with this strategy in the real world. We stand ready to help.

Figure 7. The sliding scale in practice

School	Percent of pupils receiving vouchers	Financial requirements	Testing requirements	Transparency requirements	Accountability requirements
<b>Johnstown Country Day School</b>	Fewer than 1%	Annual audits, released to parents	Voucher-receiving students participate in testing for program evaluation purposes only.	Parents see their own child's test results. Program-level evaluation results are made public but no one ever sees school-level results.	None—the program administrator has no right to withdraw eligibility from the school, unless it violates rules and procedures.
<b>Mount St. Mary's</b>	50%	Annual audits, released to parents and public	School administrators test of its choosing to all voucher-receiving students.	Parents see their own child's test results. Program-level evaluation results are made public, as are school-level test results (for voucher-receiving students).	None—the program administrator has no right to withdraw eligibility from the school, unless it violates rules and procedures.
<b>Yes We Can</b>	90%	Annual audits, released to parents and public	All students in the school take state assessment.	Parents see their own child's test results. Program-level evaluation results are made public, as are school-level test results (for all students, not just those receiving vouchers).	If student performance does not reach benchmarks, as measured by student growth over time, the program administrator is obligated to withdraw funding from the school. So too if the annual audit reveals any financial irregularities or instabilities.

**Chad Aldis**, for the past year, has led School Choice Ohio in its effort to ensure Ohio parents have access to high quality educational options for their children. Before coming to Ohio, he worked at the Florida Department of Education where he was the program director for the McKay Scholarship for Students with Disabilities and the Corporate Tax Credit Scholarship Program. In his two and a half years in that role, Chad was responsible for the implementation and oversight of the scholarship programs including drafting of guidance documents and the creation and passage of administrative rules to ensure the proper operation of the programs.

**Jim Blew** is director of K-12 Education Reform for the Walton Family Foundation, which seeks to improve the academic performance of U.S. schools by creating new quality educational options, especially for low-income families in urban school districts. Mr. Blew previously directed various campaigns for the Alliance for School Choice and its predecessor, the American Education Reform Council. He has also worked for political and marketing communications firms in New York and California. In 1997, Mr. Blew helped found the highly successful Watts Learning Center charter elementary school in South Los Angeles.

**Clint Bolick** serves as the director of the Scharf-Norton Center for Constitutional Litigation at the Goldwater Institute. A legal pioneer in a number of areas, Bolick is perhaps best known for his leadership in defending state-based school choice programs. He has argued and won significant cases in both state and federal courts, winning school choice victories in the Supreme Courts of Wisconsin, Ohio, and Arizona, as well as in *Zelman v. Simmons-Harris* before the Supreme Court of the United States. Before joining the Goldwater Institute, Bolick was a co-founder and former vice president of the Institute for Justice and former president and general counsel of the Alliance for School Choice. Bolick is the author of several books including, *Voucher Wars: Waging the Legal Battle Over School Choice* and *Leviathan: The Growth of Local Government & the Erosion of Liberty*. His most recent book, *David's Hammer: The Case for an Activist Judiciary*, was released in April, 2007.

**Jeb Bush** is Founder, Chairman of the Board and President of the Foundation for Florida's Future and the Foundation for Excellence in Education. He served as the 43rd governor of Florida, from 1999 through 2007. During his two terms, Bush championed major reform of education. Florida raised academic standards, required accountability in public schools and created the most ambitious school choice program in the nation. Under his leadership in the late 1990s, the Foundation for Florida's Future joined forces with the Greater Miami Urban League to establish the state's first charter school, Liberty City Charter School, in one of the most underserved parts of Miami-Dade County. He also co-authored *Profiles in Character*, a book profiling 14 of Florida's civic heroes—people making a difference without claiming a single news headline. Bush took time out of his successful business career to serve as Florida's secretary of commerce under Bob Martinez, Florida's 40th governor, where he promoted the state worldwide. Bush earned a bachelor's degree in Latin American Affairs from the University of Texas at Austin.

**John E. Chubb** is co-founder, senior executive vice president, and chief development officer of Edison Learning, which partners with school districts and charter boards across the nation to bring innovative high-achieving schools and programs to largely disadvantaged communities. Dr. Chubb is also a distinguished visiting scholar at the Hoover Institution at Stanford University and a member of the Koret Task Force on K-12 Education at Hoover. He is the author of numerous books and articles on student achievement, education policy and school choice. His books include *Learning from No Child Left Behind: How and Why America's Most Important But Controversial Education Law Should be Renewed* (2009), *Liberating Learning: Technology, Politics and the Future of American Education*, with Terry M. Moe (2009), *Within Our Reach: How America Can Educate Every Child* (2005), and *Politics, Markets and America's Schools*, with Terry M. Moe (1990).

**David Driscoll** has a 45 year career in Education including classroom teaching and as a local School superintendent. During his time as commissioner, Massachusetts was noted for high standards and rigorous assessments. Student performance was first on NAEP in 4th and 8th grade Reading and Mathematics in 2005 and 2007. Most recently, Massachusetts students ranked among the top performing countries in the world on TIMSS. He serves on a number of national Board including the National Assessment Governing board (NAGB).

**Howard Fuller** is a Distinguished Professor of Education, and Founder/Director of the Institute for the Transformation of Learning at Marquette University in Milwaukee, Wisconsin. Immediately before his appointment at Marquette University, Dr. Fuller served as the Superintendent of Milwaukee Public Schools June 1991 - June 1995. He is the Chair of the Board of the Black Alliance for Educational Options (BAEO); the Chair of the Board of CEO Leadership Academy and the Chair of the Board of the Alliance for Choices in Education in Milwaukee; and the Chair of the Charter School Review Committee for the City of Milwaukee. He also serves on the Board of Directors of Transcenter for Youth; the Johnson Foundation; the Joyce Foundation; Advocates for School Choice, and is a member of the Advisory Board of the Big Picture Company.

**Frederick M. Hess** is Director of Education Policy Studies at the American Enterprise Institute and Executive Editor of Education Next. He is known for his work on a range of educational issues including entrepreneurship, urban education, accountability, leadership, choice and charter schooling, governance, philanthropy, and collective bargaining. His many books include *The Future of Educational Entrepreneurship* (Harvard Education Press 2008), *Common Sense School Reform* (Palgrave Macmillan 2004), *Revolution at the Margins* (Brookings Institution 2002), and *Spinning Wheels* (Brookings Institution 1998). His research and analysis has appeared in scholarly and more popular publications including Social Science Quarterly, American Politics Quarterly, Teachers College Record, American Journal of Education, Harvard Educational Review, Urban Affairs Review, National Review, Washington Post, Educational Leadership, Phi Delta Kappan, and Education Week. Dr. Hess is a member of the board of directors of the National Association of Charter School Authorizers and a member of the review board for the Broad Prize in Urban Education. A former high school teacher in Baton Rouge, Louisiana, he has also taught at Harvard University, Georgetown University, the University of Pennsylvania, and the University of Virginia. He holds an M.Ed. in Teaching and Curriculum and an M.A. and Ph.D. in Government from Harvard University.

**Paul T. Hill** is the John and Marguerite Corbally Professor at the University of Washington Bothell, and Director of the Center on Reinventing Public Education, which develops, tests, and helps communities adopt alternative governance systems for public K-12 education. He is a non-resident Senior Fellow at the Brookings and Hoover Institutions and directed the National Working Commission on Choice in K-12 Education. Dr. Hill chairs the National Charter School Research Project and leads its Charter School Achievement Consensus Panel, which authored the influential white paper, "Key Issues in Studying Charter Schools and Achievement: A Review and Suggestions for National Guidelines" (May 2006). Dr. Hill's current work on public education reform focuses on school choice, finance, accountability, and charter schools. His books include *Charter Schools Against the Odds* (2006); *Making School Reform Work: New Partnerships for Real Change* (2004); *Charter Schools and Accountability in Public Education* (2002); *It Takes A City: Getting Serious About Urban School Reform* (2000); and *Fixing Urban Schools* (1998). He is the lead author (with Lawrence Pierce and James Guthrie) of *Reinventing Public Education: How Contracting Can Transform America's Schools* (1997). His ideas profoundly influenced the Education Commission of the States 1999 national commission report, *Governing America's Schools*. Dr. Hill holds a Ph.D. and M.A. from Ohio State University and a B.A. from Seattle University, all in political science.

**Jon Husted** was first elected to the legislature in 2000, representing Ohio's 37th House District. In 2005 and again in 2007, Husted's colleagues honored him by electing him Speaker of the Ohio House. As speaker, Husted was responsible for all of the functions of the Ohio House. In addition,

he served as the chair of the House Rules and Reference Committee and of the Joint Legislative Ethics Committee. During the 127th General Assembly, Husted strengthened education in Ohio by leading the efforts to create the Choose Ohio First Scholarship, which will provide \$100 million in STEM (science, technology, mathematics and medicine) scholarship funds to Ohio students attending Ohio colleges and universities. He has championed efforts to improve education by expanding school choice options for Ohio children and families. Husted furthered these efforts in the 126th General Assembly with the unveiling of the Ohio Educational Choice Scholarship Program – a nationally recognized initiative that provides educational options to children and families. An Ohio native, Husted received his Bachelor’s and Master’s degrees from the University of Dayton.

**Ed Kirby** manages the Walton Family Foundation’s work in the school choice movement. Previously he served on, and then directed, the team that launched the Massachusetts charter school initiative in the late 1990s. Ed began his career as a high school English teacher. He lives in Jamestown, Rhode Island.

**Matthew Ladner** is vice president of research for the Goldwater Institute. Prior to joining Goldwater, Ladner was director of state projects at the Alliance for School Choice, where he provided support and resources for state-based school choice efforts. Ladner has written numerous studies on school choice, charter schools and special education reform. Ladner is a graduate of the University of Texas at Austin and received both a Masters and a Ph.D. in Political Science from the University of Houston. Ladner previously served as director of the Center for Economic Prosperity at the Goldwater Institute and as vice president of policy and communications at Children First America.

**Dale McDonald**, PBVM, PhD, is the Director of Public Policy and Educational Research for the National Catholic Educational Association in Washington, DC. Prior to joining NCEA, she was director of the Catholic School Leadership Program in the Boston College Graduate School of Education. She has been a presenter at conferences on educational policy issues and served on committees convened by the White House, U.S. Department of Education and National Center for Education Statistics. She has been published in several journals, contributed to the Handbook of Research on Catholic Education and the Encyclopedia of American Catholic Education and also publishes the NCEA Annual Statistical Report on Catholic Elementary and Secondary Schools. Sister McDonald received a Ph.D. in Educational Administration from Boston College, an M.S. in Educational Administration from Pace University, an M.A. in American History and a B.S. in Elementary Education from Fordham University.

**Joe McTighe** has been executive director of the Council for American Private Education (CAPE) since July 1, 1996. CAPE is a coalition of 18 national organizations and 31 state affiliates serving private elementary and secondary schools. There are 29,000 private schools in America; more than six million students attend them. CAPE member organizations represent about 80 percent of private school enrollment nationwide. CAPE’s mission is to preserve and promote educational pluralism so that parents have a choice in the schooling of their children. Prior to his service at CAPE, Joe worked for 15 years as associate director at the New York State Catholic Conference, where he served as executive secretary to the NYS Council of Catholic School Superintendents. Before that, Joe worked in the Catholic schools office for the Diocese of Albany, NY, served as principal of a Catholic elementary school in Albany, and taught at an inner-city Catholic school in Manhattan. Joe received a B.A. in philosophy from Manhattan College, an M.A. in philosophy from The New School for Social Research, and completed coursework toward a Ph.D. in philosophy and education at Columbia University.

**Susan Mitchell** is President of School Choice Wisconsin. She has worked for more than 15 years with parents, employers and community members to expand parent choice in Milwaukee. She formerly was the president of the American Education Reform Council, now the Alliance for School Choice. She served as Wisconsin Commissioner of Insurance and was a reporter for the Wall Street

Journal. She has held leadership positions in private business and was a special assistant to former Milwaukee Public Schools Superintendent Howard Fuller. She holds a Masters Degree from the University of Wisconsin-Madison.

**Nina Rees** is Senior Vice President for Strategic Initiatives at Knowledge Universe Education, LLC, a leading global education company with investments in early childhood education, before and after school programs and online instruction. Rees has over 15 years of experience in education policy, most recently as the Assistant Deputy Secretary for Innovation and Improvement at the U.S. Department of Education, where she also oversaw the passage and early implementation of the DC Student Opportunity Scholarship Act. Prior to joining the Education Department, Rees served as a domestic-policy adviser to Vice President Dick Cheney, where she also worked on the passage of the No Child Left Behind Act. Prior to joining the White House, Rees served as the senior education analyst at the Heritage Foundation where she authored more than two dozen policy briefs and served as the foundation's chief spokesperson on education. Rees currently serves on the board of directors of the Washington Scholarship Fund and the Greater Educational Opportunities Foundation as well as the board of advisors of the National Association of Charter School Authorizers and the Program on Education Policy and Governance at Harvard University's John F. Kennedy School of Government.

**Darla Romfo** serves as President and Chief Operating Officer of the Children's Scholarship Fund, a nonprofit dedicated to providing scholarships for low-income children in grades K-8. Prior to joining CSF, Ms. Romfo was Legislative Director and Counsel to Senator John Breaux of Louisiana. In that position, she worked closely with the Senator in his capacity as a member of the Senate Democratic Leadership and as Chairman of the Bipartisan Commission on the Future of Medicare. She also worked closely with Senator Breaux on the National Commission on Retirement Policy and helped develop a comprehensive Social Security and Retirement Reform Bill. Previously, Ms. Romfo worked for Senator Kent Conrad of North Dakota as his Tax Counsel and Legislative Director. Before working on Capitol Hill, she was an attorney specializing in tax. She graduated from the University of North Dakota. Ms. Romfo is a CPA and received a law degree from George Washington University.

**Andrew J. Rotherham** is Co-Founder and Publisher of Education Sector, a national education policy think tank. He also writes the blog *Eduwonk.com*, which an *Education Week* study cited as among the most influential information sources in education today, as well as a regular column for *U.S. News & World Report*. Rotherham previously served at The White House as Special Assistant to the President for Domestic Policy during the Clinton Administration and is a former member of the Virginia Board of Education. He is the author of more than 100 articles, book chapters, articles, papers, and op-eds about education policy and politics and is the author or editor of four books on educational policy. Rotherham serves on advisory boards and committees for a variety of organizations including The Broad Foundation, Harvard University, and the National Governors Association. Rotherham is also a trustee of the Cesar Chavez Public Charter High School for Public Policy and a member of the board of directors for the Indianapolis Mind Trust and Democrats for Education Reform.

**Ken Smitherman, LL.D.**, has served as president of the Association of Christian Schools International, Colorado Springs, Colorado, since July 1, 1996. Dr. Smitherman began his career in education as a public school teacher and principal. In 1970 he returned to his alma mater, Greenleaf Friends Academy, where he began his Christian school career as administrator. From 1984 to 1996, he served as the superintendent of King's Schools and vice president of CRISTA Ministries, an organization with nine separate ministries, in Seattle, Washington. Dr. Smitherman was an elected ACSI board member for twelve years. While on the board he served on the Executive Committee and as chairman of the entire board as well as the Legal/Legislative and the Long-range Planning committees. During his tenure in Washington State, he served on the board of the Washington Federation of Independent Schools.

**Patrick J. Wolf** is Professor of Education Reform and 21st Century Chair in School Choice at the University of Arkansas in Fayetteville. He previously taught at Georgetown and Columbia University. Dr. Wolf is principal investigator of the School Choice Demonstration Project and is leading a national research team engaged in comprehensive evaluations of the DC Opportunity Scholarship Program and the Milwaukee Parental Choice Program. He has authored, co-authored, or co-edited three books, more than 30 articles and book chapters, and 17 policy reports on school choice, special education, and public management. In 1998 he received the "Best Article Award" from the Academy of Management, Public and Nonprofit Management Division. A 1987 summa cum laude graduate of the University of St. Thomas (St. Paul, MN), he received his Ph.D. in Political Science from Harvard University in 1995.

## Appendix B: Questions Posed to Respondents, September 2008

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Is it possible to hold voucher-receiving private schools accountable for student achievement—at least the achievement of their voucher-bearing students—without strangling them? Can choice supporters develop an approach to “smart regulation” of voucher-receiving private schools that these schools can live with? An approach that can also deter more nefarious forms of regulation? We at the Thomas B. Fordham Institute are interested in these and related questions, and we’d like your help in developing some answers.

We have constructed an open-answer survey consisting of ten questions related to voucher school accountability and regulation. Each question includes a look at existing voucher programs and options for resolving accountability dilemmas. We’re interested in your in-depth explanations of which scenario you prefer, rooted especially in real-world conditions and experience. We ask that you either build your answers into this document or place them in a separate file. We’d appreciate you sending us the fruits of your labors by month’s end (Tuesday September 30).

### Background

While most of the public debate surrounding school voucher programs in the United States revolves around a simple up or down question—should these programs receive public support or not?—a more interesting, perhaps just as important, question often goes unexamined: under which conditions should private schools be allowed to receive taxpayer dollars? This question is particularly relevant in an era when the push for school choice is matched (surpassed, actually) by the push for stronger academic results—and for “accountability systems” that set standards, monitor student and school performance in relation to those standards, and “intervene” in various ways when results are not satisfactory.

What does “smart regulation” mean for private schools participating in voucher programs? On the one hand, private schools are supposed to be different from one another—and free to be different from the schools that kids are leaving. On the other hand, taxpayer dollars are helping pay to educate children in them, so why should they be exempt from the sorts of accountability arrangements visited upon traditional public schools?

If private schools are going to get public funds, can they remain entirely “private” or in what ways must they become more “public”? There is, and is likely to continue to be, much debate about this and innumerable corollary questions and issues. We seek your help identifying and sorting out some answers.

As for academic accountability for these schools, there has long been evidence that the American public favors more of it. Ten years ago, a Phi Delta Kappa/Gallup Poll found 75 percent of respondents agreeing that “private or church-related schools that accept government tuition payments should be accountable to the state in the way public schools are accountable.”<sup>2</sup> Yet today accountability mechanisms remain piecemeal and generally minimal: a test here, a financial audit there. America has no firm grasp on a policy structure that both allows private schools to remain autonomous and permits taxpayers to determine whether their dollars are being successfully spent and their kids are learning more.

Still, the “case for autonomy” asserts that, when schools are left to their own devices (e.g., a principal able to manage his/her budget and faculty), and “held accountable” via parent choice, they will produce better student outcomes. There is understandable concern that top-down accountability arrangements might exact too high a price when it comes to the principal’s autonomy to run the best possible school, particularly if it pushes schools to “teach to a test”—particularly a bad test.

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2 Murphy, D. “Vouchers and the Accountability Dilemma,” *American Educator*, Spring 1999. (29-37).

More than a few private schools balk at being subjected to external regulations associated with voucher programs that exceed basic state licensure requirements for a private school to operate. And these schools hold a lot of power; since voucher programs are voluntary, schools can simply choose not to participate.

With these tensions and trade-offs in mind, Fordham decided to explore policy options for holding voucher schools accountable to the public. Our goal is to explore various issues and alternative ways of addressing them, as well as their pros and cons. We're well aware that this territory is contentious and sensitive and that genuinely complicated dilemmas and trade-offs arise all over the place. Below we pose ten dilemmas about measuring student progress, dictating financial transparency for private schools, regulating teacher quality, and setting admission standards, among other areas. We describe how existing voucher programs tackle these quandaries (as codified in state or federal law), and then we pose a few options.

Examples cited here include the Milwaukee Parental Choice Program; the Washington, D.C., Opportunity Scholarship Program; the Ohio Educational Choice Scholarship; and the now-defunct Florida A+ Opportunity Scholarship Program.<sup>3</sup> Each of these programs has (or had) several years in existence and its accountability mechanisms evolved over time.<sup>4</sup>

A few words about our choice of programs. We do not focus on highly specialized voucher programs (such as Florida's McKay program or state autism vouchers) or tax credit programs, though we're mindful that some of the options and dilemmas associated with them are similar. But there are differences, too. Accountability measures that apply to voucher students being removed from badly performing schools are completely different than those required for youngsters with disabilities. With tax credit programs, the premise is fundamentally different. Individuals (and/or corporations) choose to donate money to them as charitable acts. They have control over the uses of their own dollars, unlike state or federal voucher programs where dollars already in the public domain are being deployed.

Even the voucher initiatives we do describe are not the sort of "universal" programs that Milton Friedman had in mind. Each targets students who attend failing schools or who fall within pre-determined income and residency limits. Means tests (e.g., family income limits) also bar a significant proportion of parents from exercising school choice. Most programs limit the number of students who can participate, and many interested students never receive vouchers. Although none of these programs represent Friedman's dream, they are today's best examples of publicly funded voucher programs for non-disabled students. We want to know how they and their progeny should be held accountable to the public, and, more broadly, how they should be regulated. Thank you for your help. (And please let us know if you notice any errors in our descriptions of these programs.)

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For each of the ten questions that follow, please consider the options, select which one you prefer, and then provide an in-depth explanation of why you find it preferable (as rooted in real-world scenarios and conditions as possible). If the policy options we've outlined don't suffice, please provide an alternative that you would find more desirable. We intend to take your answers, and those of another twenty or so policy experts, and weave them into a helpful guide for policymakers. The more explicit you can be about your policy choices and your reasoning, the more guidance our final product can provide. As promised, you may choose to leave parts of answers "off the record". To help us identify what you'd prefer to keep anonymous, please highlight the portion of the answer. Thank you once again for your participation.

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<sup>3</sup> A vote for a constitutional amendment that may resurrect the Florida A+ Opportunity Scholarship Program is scheduled for November 2008.

<sup>4</sup> The recent passage of a K-3 voucher program for New Orleans is the latest of these initiatives. The programs are alive and well but remain contentious wherever they exist.

## Category One: Testing and Other Measures of Academic Performance

### 1. The dilemma: Should the government mandate testing for voucher students?

Standardized tests are a hallmark of No Child Left Behind, but traditional private schools are generally not subject to state testing mandates. In the case of voucher students, however, standardized assessments afford the opportunity to study changes in student performance over time, as well as make fair comparisons with students in traditional public schools, and provide perhaps the principal basis for determining whether the voucher program is “succeeding” and taxpayers are receiving value for their dollars.

Despite the wealth of information available via testing, and the fact that many private schools administer their own or nationally normed tests (e.g., the Iowa Basic or the SAT-9), they do not typically administer the same tests that public schools use. Their basic autonomy frees them from requirements to teach a state curriculum; private school administrators are free to dictate curriculum sequencing and content, which therefore may not reflect state standards and assessments (nor align with the latter). This freedom to be different is part of what makes private schools appealing to students. And a voucher student’s scores on a test meant for public schools may not represent what he/she has learned in private school.

School administrators also demonstrate skepticism toward the content and/or rigor of state academic standards and assessments (often with good reason). This fuels doubt that a state assessment could satisfactorily appraise what a voucher student learns in private school. Lastly, on a practical point, many private schools thrive on their reputation. Their autonomy allows them to operate out of the spotlight. They do not want to be compared to public schools or even with each other. If subjected to sunshine, some of these schools may simply refuse to participate in the program.

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** Only in 2006 did the state legislature mandate that voucher students take standardized tests. (Even now, this testing requirement is only in place until 2011, when it’s to be revisited based on the outcome.) They must now sit for reading, science, and mathematics assessments in fourth, eighth, and tenth grades. The law says voucher students in these grades must take either the state test (the Wisconsin Knowledge and Concepts Examination) or a nationally normed test (such as the Iowa Test of Basic Skills or the Terra Nova). Schools may choose which test to administer. Students in grades 4, 8, and 10 will take standardized tests annually during a pilot study (lasting 2006-2011). Over half of the participating voucher schools use a test besides the WKCE, and their students’ scores therefore cannot be compared to their peers in the public school system. Private school students who are not receiving vouchers are not required to sit for the tests.

**Florida:** The state’s A+ Opportunity Scholarship law mandated that all voucher students take the statewide assessment (FCAT). Other private school students do not take the FCAT.<sup>5</sup>

**Washington, D.C.:** By law, voucher students must take standardized tests annually throughout the duration of their grant. Students must sit for the same test that their peers in D.C. Public Schools took during the first year of the voucher program (the SAT-9). Parents and students must consent to the testing as part of receiving a voucher. Neither the Opportunity Scholarship Program nor participating private schools may choose which test to administer to voucher-bearing students.

<sup>5</sup> Ronald G. Stowers, “Legal Opinion—Florida Comprehensive Assessment Test Scores and Chapter 119, Florida Statutes,” Florida Department of Education, <http://www.fldoe.org/ogc/opinions/2000/00-05.asp>.

**Ohio:** The Educational Choice Scholarship law requires participating private schools to administer state achievement tests to all voucher students.<sup>6</sup>

The four options below outline potential policies for administering tests to voucher students. Based on your own experience and the information listed above, which policy option do you favor? Would you prefer a combination? Or perhaps an option we've failed to mention?

1. Voucher students need not sit for standardized tests.
2. A private school accepting voucher students should have a choice between administering the state test or some other nationally normed test of the school's choosing.
3. Voucher students must take the state assessment, just like public school students.
4. If private schools accept voucher students, they must administer a standardized test to both non-voucher and voucher students alike to more accurately gauge and compare the progress of voucher students.

**2. The dilemma: On which student academic measures (other than test results discussed in Question 1) should private schools participating in voucher programs be evaluated (e.g., attendance rate, graduation rate, grade promotion, etc.)?**

Test scores are not the sole indicator of success for voucher students in private schools. Such metrics as grade promotion and graduation rates also demonstrate children's progress, or lack thereof. In addition, attendance rates, continuation in the same school, involvement in school activities, and parental satisfaction may also be indicative of a child's success or struggles at a private school.

Non-test-score factors also gauge the social value and return-on-investment of a voucher program. Students receiving vouchers are typically poor and ill-served by their local public schools. They often begin at private school with academic and social disadvantages. Therefore, measuring other factors such as attendance or participation rates may reveal rapid improvements that test scores take longer to demonstrate.

However, collecting these data may infringe on private schools' standard operations—for example, if a school typically does not track dropout rates (or does not do so in the manner that public schools do). It may also be private schools' typical practice to maintain student privacy by not collecting various statistics. Should private schools be mandated to collect specific information, they may violate these privacy norms.

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** The law does not include explicit language regarding whether participating private schools must release information about attendance, dropout, or suspension rates. However, the law offers four standards, at least one of which a school must meet. Two are academic in nature:<sup>7</sup>

<sup>6</sup> Ohio Revised Code, "Chapter 3310: Educational Choice Scholarship Pilot Program," Ohio Laws and Rules, <http://codes.ohio.gov/orc/3310>. Although this provision is explicitly stated in the law, it does not represent a change in operating procedures for chartered nonpublic schools. These schools are already bound, as part of their state charter, to administer an achievement test to all students. They may choose, however, which test to use.

<sup>7</sup> The other two standards are not academic in nature:

- The mean attendance rate for voucher students is 90% or greater
- At least 70% of the families of pupils in the program meet parent involvement criteria established by the private school

- 70% or more of voucher students advance at least one grade level (as it is defined by voucher law for grades K-12) each year<sup>8</sup>
- 80% or more of voucher students demonstrate significant academic progress (as it is defined by voucher law for grades K-12)<sup>9</sup>

**Washington, D.C.:** In addition to test scores, private schools must make voucher students' retention, dropout, graduation, and college admission rates available to the public in a manner that does not disclose any personal information.

**Ohio:** Ohio law does not require private schools to track student performance measures beyond state test scores.

**Florida:** Florida law does not require private schools to track student performance measures beyond state test scores.

The three options below outline potential policies for collecting non-test academic indicators for voucher students. Based on your own experience and the details listed above, which of these do you favor? Would you prefer a combination? Or, perhaps an option we've failed to mention?

1. Don't require private schools to collect (non-test) performance information for voucher students.
2. Require private schools to choose a few non-test indicators that they feel are important to voucher students' progress, and track those statistics for the school's cohort of voucher students over time. These scores are provided to the department of education, but are not made available to the public via a formal report or on a website. (They are, however, available through FOIA inquiries.)
3. Require private schools to track a set of predetermined indicators, such as class promotion, graduation, and college admission rates.

### **3. The dilemma: What information about private schools' success with voucher students should be released to the public?**

No Child Left Behind places a premium on transparency as do many state accountability laws. Demographic and academic performance data for public schools are now widely available to the

<sup>8</sup> Chapter PI 35: Milwaukee Parental Choice Program, "Chapter PI 35.03: Private School Requirements," Wisconsin Administrative Code, <http://www.legis.state.wi.us/rsb/code/pi/pi035.pdf>. Wisconsin law reads as follows:

• For pupils attending a Milwaukee parental choice program in grades 9 through 12, "advance one grade level" means a successful completion of at least 4 credits or the equivalent as approved by the state superintendent during each school year. For pupils attending a Milwaukee parental choice program in grades kindergarten through 8, each participating private school shall ensure that each pupil in the choice program who is advanced one grade level has met one of the following criteria:

Achievement of 70% of the instructional objectives specific to each grade level in reading, mathematics, and language arts which are introduced during each semester of the current school year. Under this subparagraph, a private school shall do all of the following: establish written objectives and performance standards for reading, mathematics, and language arts for each grade level in which pupils are enrolled in the Milwaukee parental choice program; document written criteria and methodology for evaluating pupil performance for each objective; and document each pupil's performance using the evaluation method specified in this subparagraph in a written record and maintain these records for 3 years.

or

Achievement of at least .08 grade equivalent increase for each month between the spring or fall administration of the standardized achievement test. Under the subparagraph, a private school shall report, by October 15, to the state superintendent the tests to be administered and the dates on which they will be administered, and it shall maintain each pupil's answer sheet and score information for 3 years.

<sup>9</sup> Chapter PI 35: Milwaukee Parental Choice Program, "Chapter PI 35.02: Definitions," Wisconsin Administrative Code, <http://www.legis.state.wi.us/rsb/code/pi/pi035.pdf>. The law defining academic progress reads as follows:

(a) The pupil demonstrates improvement in reading and mathematics in comparison to his or her performance level in the previous school year.

(b) The pupil demonstrates satisfactory performance on at least 50% of any new instructional concepts in reading and mathematics introduced during each of the current school year semesters, and the level of attainment is documented in a written record of performance at beginning, mid-point and ending of each semester.

public. Private schools are not subject to the same level of scrutiny, but such attention may be necessary or desirable for voucher students and/or for schools enrolling them. Information such as test results indicates how voucher students are performing as compared to similarly representative groups at public school—as well as whether they’re making gains in private schools that they may not have been making in public schools and whether the taxpayer is getting value-for-money via the voucher program. Indicators such as attendance rates, graduation rates, promotion rates, and so on could provide more specific information about voucher students’ performance in a particular school. (We refer here to aggregate or average data about groups or cohorts of voucher students, not to individual data, which of course should remain private.)

Making such data available to the public, however, opens voucher schools to great scrutiny. The public may misinterpret data, such as one year of low test scores, and program opponents might use or misuse such data to seek to curb or terminate the program. Public data also puts an added reporting burden on schools. Save for standardized test scores, most proposed performance indicators are school-specific; for example, voucher student GPA information is useless without a comparison group of private school classmates or students in other schools. Releasing school-specific data may not be useful without such contextual or comparative information. Rules that require private schools to release information publicly also infringe on their traditional right to shield data they do not wish to release. What’s more, schools with a small number of voucher students may not be able to report such data without violating privacy laws or norms. The law would therefore need to include alternate forms of evaluation to ensure student progress without violating student privacy at applicable schools.

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** All schools participating in the choice program must submit voucher student test scores to evaluators at the School Choice Demonstration Project (run out of the University of Arkansas). The SCDP is charged with analyzing and releasing the aggregate results to the public. The analysts must then report the data to the state’s Legislative Audit Bureau (LAB), which is responsible for providing relevant analysis to the WI state legislature from 2007–2011. Due to the restrictions of the Institutional Review Board for Human Subjects Research protocols that govern the research activities of the SCDP, school-level aggregated student test scores cannot be released to any outside entity, including the LAB. These audit results become public documents.

**Washington, D.C.:** Voucher students must participate in testing that is handled by the program’s evaluators. The Institute of Education Sciences, a branch of the Department of Education, handles both test score data and retention, dropout, college admission, and graduation information. Nothing that could personally identify a student is disclosed to the public. The law calls only for summary reports about students in the program; no school-specific data are released.<sup>10</sup> The IES analyzes and releases the following information:

- Analysis of voucher student test scores as compared to those of same-grade students in the District of Columbia’s public schools and same-grade students who applied for scholarships but did not receive them.
- A comparison of dropout rates, graduation rates, college admission rates, and retention rates to D.C.P.S. students of similar backgrounds who did not participate in the program.

**Ohio:** All private schools participating in the voucher program must report test results to the state department of education according to department procedures. Program data are publicly available under the law, but the Ohio Department of Education does not release or post student data on its website.<sup>10</sup>

<sup>10</sup> DC School Choice Incentive Act of 2003, “Section 310b: Achievement Reports,” U.S. Department of Education, <http://www.ed.gov/programs/dcchoice/legislation.html>; Ohio Administrative Code, “Chapter 3301-11-11: Participation by chartered nonpublic schools,” Ohio Laws and Rules, <http://codes.ohio.gov/oac/3301-11-11n.html>

**Florida:** Voucher student scores were not released to the public on an individual basis because they were considered “student records.” Furthermore, the department of education did not create summary scores for a cohort of voucher students unless 10 or more students, in any given grade, took a test.<sup>11</sup> If 10 or more students took an assessment, the department would create summary scores for schools in response to public requests.

The four options below outline potential policies for publicly releasing student information. Based on your own experience and the details listed above, which of these options do you favor? Would you prefer a combination? Or, perhaps an option we’ve failed to mention?

1. Private schools do not have to release any voucher student information to the state or federal department of education or to such intermediaries as universities or think tanks.
2. Voucher laws require participating schools to report all pertinent academic information to the state or a state-contracted intermediary for state monitoring purposes only. This information will not be available for public consumption on a school-by-school basis.<sup>12</sup>
3. Private schools must report all academic indicators for voucher students (assessment results, GPA, class rank, promotion, and graduation rates). This information will be publicly available (i.e., easily found on the state department of education’s website) for schools educating more than 10 voucher students at any grade level. Information will also be available for the general cohort of students.

## Category Two: Accreditation, Finances, and Teachers

### 4. The dilemma: Should participating private schools be required to obtain independent accreditation or be subject to additional regulation beyond state requirements for private school licensure?

Private schools are subject to some state regulation regardless of whether they accept voucher students. All states require them to be licensed, and some go further and also require them to be accredited by a valid external agency. Because private schools do not typically accept taxpayer dollars, yet must satisfy the state’s compulsory-attendance law, licensure by the state is a generally accepted form of ensuring their legitimacy. When it comes to schools participating in voucher programs, however, there may be a justification for erecting additional hurdles to ensure that schools are in certain respects equivalent to the public schools that voucher children leave behind. For example, Wisconsin law mandates the minimum number of hours a school must operate and the subjects it must teach. No quality control exists beyond these measures; by turning to an external accrediting agency, the state ensures that the school meets commonly accepted standards of an independent body.

Yet, undergoing accreditation processes is itself burdensome and somewhat costly. Accrediting processes are time-consuming, requiring private schools to compile financial information, student details, governance and curricular materials, and risk management protocols. In many cases, there are also fees associated with obtaining and maintaining accreditation. Some school leaders say such details are extraneous to the effective education of children and are of little use in determining a school’s efficacy.

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** To participate in the Milwaukee Parental Choice Program, private schools must achieve accreditation from one of several agencies named in state statutes.

<sup>11</sup> Ronald G. Stowers, “Legal Opinion—Florida Comprehensive Assessment Test Scores and Chapter 119, Florida Statutes,” Florida Department of Education, <http://www.fldoe.org/ogc/opinions/2000/00-05.asp>.

<sup>12</sup> We do not address the question of whether information in a state’s possession may be subject to freedom of information or sunshine laws.

(Some schools may be grandfathered in if they received funding through another Milwaukee-based choice program called Partners Advancing Value in Education.)<sup>13</sup>

**Washington, D.C.:** The federal voucher law requires nothing more of participating private schools than what is mandated by existing District of Columbia law (in this case, all private schools in D.C. must have licensure from the city).

**Ohio:** In addition to state regulations governing private schools in general, Ohio law places a number of demands on voucher-receiving private schools. They must make all records pertinent to the program available during business hours to department of education representatives or department contractors; must have sufficient attendance-keeping mechanisms; and must maintain sufficient mechanism for ensuring the confidentiality of student records.<sup>14</sup>

**Florida:** In addition to state regulations for private schools in general, the law mandates that participating private schools be subject to the attendance, instruction, and curriculum criteria set forth by private school accrediting agencies.<sup>15</sup>

Based on your own experience and the details listed above, which policy (listed below) do you favor? Would you prefer a combination? Or, perhaps an option we've failed to mention?

1. Participating schools are subject to no additional regulation beyond what the state requires for private school licensure.
2. Participating private schools do not need accreditation but state law imposes certain operating regulations in addition to general licensure. For example, state law requires that private schools maintain open records for aggregate information about voucher students; state law also sets forth guidelines for recordkeeping.
3. Participating private schools must attain accreditation from an external agency in addition to having a valid state operating license.

### **5. The dilemma: What level of financial transparency should voucher laws require of participating private schools?**

One of the most prominent public demands for voucher-accepting private schools is that they account for their use of taxpayer dollars. Pertinent information may include not only the use of student grant money but also the general operating conditions of a voucher school. If states spell out stipulations for financial transparency in voucher laws, they help to ensure participating private schools are financially sound and do not use voucher students as a means for individuals, schools, or firms to gouge the public, or steal from the public coffer. A school's audit results, budgets, and accounting for use of voucher funds all illuminate and perhaps help to ensure a school's financial stability and appropriate use of tax dollars.

But while financial transparency allows taxpayers to follow their dollars, it invades private schools' traditional freedoms. Requirements may subject schools to excessive reporting burdens and require an inordinate amount of staff time. In the case of a full audit or financial statement, the private school may worry about releasing sensitive information to the state, such as private donor details.

By making public their financial histories, private schools may invite additional criticism. If the government asks for too much public disclosure, public schools may decide not to participate in voucher programs.

<sup>13</sup> First Class City School System, "Section 119.23: Milwaukee parental choice program," Wisconsin Administrative Code, <http://www.legis.state.wi.us/statutes/stat0119.pdf>

<sup>14</sup> Ohio Administrative Code, "Chapter 3301-11: Educational Choice Scholarship Program," Ohio Laws and Rules, <http://codes.ohio.gov/oac/3301-11>

<sup>15</sup> Florida Statutes: Title XLVII, "1002.38: Opportunity Scholarship Program," Florida Senate, [http://www.flsenate.gov/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=Ch1002/SEC38.HTM&Title=-%3E2004-%3ECh1002-%3ESection%2038#1002.38](http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch1002/SEC38.HTM&Title=-%3E2004-%3ECh1002-%3ESection%2038#1002.38)

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** Schools participating in the choice program must follow accounting standards established by the Milwaukee Department of Public Instruction. They must have an annual audit by a C.P.A., and the report must clearly demonstrate per pupil costs. The law also states that schools must annually demonstrate their financial viability according to DPI regulations. Each school administrator must also participate in a DPI-approved “fiscal management training program.”

**Washington, D.C.:** The law does not specify financial or audit requirements for participating schools. Instead, regulations say the entity administering the voucher program (in this case the Washington Scholarship Fund) must establish protocols for determining schools’ financial responsibility.<sup>16</sup> WSF each year gathers financial information from all participating private schools. These documents may include a school’s audit results or other evidence of “financial stability.” Should a school’s balance sheet or audit results be suspect, WSF further investigates the school’s stability and then determines whether it may continue to participate in the program.<sup>17</sup>

**Florida:** Upon entering the program, and to maintain eligibility each year, schools could do one of the following to demonstrate financial stability:

- Demonstrate that they had been operating for at least one year
- Submit a statement from a C.P.A. verifying that the school was insured or that the school’s operators had the credit or capital to run it
- Submit a letter of credit or surety bond in the anticipated amount of opportunity scholarships

**Ohio:** The state does not specify audit requirements for voucher schools. Instead, the school must annually report its tuition structure to the state department of education. This report must include details about adjustments to or discounts on tuition rates.

The four options below outline potential policies for ensuring financial accountability for voucher schools. Based on your own experience and the details listed above, which policy do you favor? Would you prefer a combination? Or, perhaps an option we’ve failed to mention?

1. Don’t mandate that private schools release any financial information beyond that which may be required for state licensure or corporate filings. Schools are not responsible for submitting audit results or showing financial standing at the beginning or end of the school year.
2. In order to participate in a voucher program, private schools must submit valid audit information and show they are in positive financial standing. Once they establish that standing, they need not re-submit financial information.
3. Participating private schools must submit detail regarding the costs of educating voucher students and the uses of voucher money. They provide this information annually, although no additional audit or budget information is necessary.
4. Private schools must annually demonstrate sound financial standing by undergoing a full audit. They must also provide annual reporting on the use of voucher money.

<sup>16</sup> U.S. Government Accountability Office, “District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operations,” November 2007, <http://www.gao.gov/new.items/d089.pdf>

<sup>17</sup> *ibid.*

## 6. The dilemma: What state regulations, if any, should pertain to teachers and/or other personnel in voucher schools?

Although several states require private schools to employ state-certified teachers, most do not. Private schools have fewer barriers to teacher employment and many consider this freedom central to their ability to provide a superior and different education free of state encumbrance. Private schools may refuse to participate in voucher programs if regulations encroach on their ability to freely hire teachers with any background or credential.

Without guidelines for teacher credentials, however, it is possible for private schools to employ unqualified teachers (or perhaps employ “teachers” in name only), including those without college (or even high school) degrees. This could negatively impact a voucher student’s academic experience. Teacher regulations also directly relate to the use of grant money; schools required to employ teachers with certain prerequisites might be less likely to try to scheme the system and misuse grant money to pay unqualified teachers.

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** Program regulations stipulate that all voucher school teachers must have high school diplomas (either by completing conventional high school or via an “equivalency” certificate).

**Florida:** Teachers had to have at least a bachelor’s degree or three years teaching experience, or possess “special skills, knowledge, or expertise” that qualify them to teach a given subject (the law does not provide further information clarifying the depth or breadth of such skills).

**Ohio:** The voucher law does not stipulate rules for teacher certification beyond those provided in Ohio law for all private schools (teachers must have either a bachelor’s degree or state certification).<sup>18, 19</sup>

**Washington, D.C.:** Voucher law does not require additional teacher qualifications beyond those mandated by D.C. law for all private schools (private school teachers must have D.C. licensure).<sup>20</sup>

Based on your own experience and the details listed above, which of the policy options below do you favor? Would you prefer a combination? Or, perhaps an option we’ve failed to mention?

1. Private schools participating in voucher programs should not be subject to any teacher credentialing rules beyond those outlined by state law for private schools in general.
2. State law should require teachers at voucher schools to hold at least a bachelor’s degree.
3. Teachers at private schools participating in voucher programs must achieve and maintain either conventional state certification or state-approved alternative certification.

<sup>18</sup> Operating Standards for Ohio Schools, see Rule 3301-35-12 in Section 3301.07 of the Revised Code, Ohio Department of Education, <http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=316&ContentID=5769&Content=51171>; <http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEPrimary.aspx?Page=2&TopicID=703&opicRelationID=1332>

Two types of private schools exist in Ohio; non-chartered nonpublic schools, and chartered nonpublic schools. The latter have state licensure and are the only type of private school allowed to participate in the voucher program. These schools must be accredited by an external agency; therefore, they meet teacher certification requirements of independent accrediting entities.

<sup>19</sup> Ohio Administrative Code Chapter 3301-35 Standards for Kindergarten through Twelfth Grade, “Chapter 3301-35-01: Purpose and definitions”, Ohio Laws and Rules, <http://codes.ohio.gov/oac/3301-35-01>

<sup>20</sup> District of Columbia State Education Agency, “Initial Teacher License,” Office of Academic Credentials and Standards, <http://www.k12.dc.us/dcsea/certification/licensing/initialteacher.html>

## Category Three: Religion, Admissions, and Expulsions

### 7. The dilemma: What should state law say about voucher student participation in religious instruction and activities at participating private schools?

Many schools participating in voucher programs are religious, but many voucher students are not members of the same faith as their schools. American traditions around separation of church and state suggest that voucher students should not be compelled to participate in a school's religious instruction or activity, yet these portions of the curriculum and schedule are often integral parts of a private school's day. Exempting voucher students from religious activities may also deter them from becoming fully integrated members of the student body. This also infringes on private schools' right to educate children in a certain manner (via religious curricula) or through imbuing students with a specific culture (through religious ceremonies).

Nonetheless, it may be unfair to require students to participate in religious activities if they are attending the religious school for other reasons (e.g. improved academics, safer environment, etc.). Indeed, the reason that voucher programs passed Constitutional tests under the First Amendment is because they serve a primarily secular purpose. It's possible that requiring voucher students to participate in religious instruction against their will could raise additional Constitutional concerns.

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** Schools may not require students to participate in religious activities.

**Florida:** Schools could not compel students to profess a specific belief, worship, or pray.

**Washington, D.C.:** Voucher law does not contain any instructions about religion.

**Ohio:** Voucher law does not have any instructions about religion.

The three options below outline possible policies bearing on religious instruction of voucher students. Based on your own experience and the information supplied above, which policy do you favor? Would you prefer a combination? Or, perhaps an option we've failed to mention?

1. Voucher laws should remain silent with regard to religious activities, observance, or instruction, providing discretion to participating schools.
2. Voucher laws should mandate that schools receive parental permission for voucher students to participate in religious instruction or religious activities. Students must also have the option to opt out at any time.
3. Voucher laws should explicitly allow schools to compel students to participate in religious instruction and/or activities.

### 8. The dilemma: Should private schools be subject to limits on or alterations to their admissions standards in order to participate in the program?<sup>21</sup>

Private schools are normally free to accept (and reject) whichever applicants they please; some schools maintain rigorous academic requirements while others are more lenient. Some give high priority to "legacy" students and others admit students only of a faith or cultural background. This freedom is a hallmark of private schools' autonomy. Yet voucher students may not fulfill these pre-existing qualifications. They may not pass an entrance exam or may not fit the school's religious or cultural profile. Should such students have access to a private school simply because they carry a publicly funded voucher? If not, are public dollars subsidizing discrimination and/or working against the very opening of opportunity for which the voucher program was designed? Wouldn't allowing schools to maintain their admissions standards lead to the "creaming" of the best students in the pool of voucher applicants?

<sup>21</sup> Again, we are not visiting the idea of refusing admission of disabled students since it opens up questions of adequacy of school facilities and programs, both of which are beyond the scope of this paper. If this issue alters your thoughts about the question in general, please share your reservations in your response.

Yet regulation of admissions would strip private schools of their autonomy. The cultures and traditions and academic standards of private schools are often in part due to a carefully selected student body. If private schools deviate from their traditional admissions protocol, they may alter the quality of the student body. State-mandated admission may also trigger a ripple effect whereby private schools are forced to change curriculum and standards to adapt to a different student body.

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** Schools must admit all students who apply. If the number of applications exceeds the number of spots available, schools must randomly select eligible (based on a means-test) students using a method (of the school's choosing) that has been reviewed and improved by the Department of Public Instruction. They may give preference to siblings of existing students.<sup>22</sup>

**Washington, D.C.:** Students must come from families below a certain income threshold in order to qualify for the program. Schools may not discriminate on the basis of any basic civil rights tenets, including race, gender, national origin, color, or religion. Otherwise, schools are allowed to apply their usual admissions standards.

**Ohio:** The law says participating schools must abide by their individual admission policies "fairly" and "without discrimination" toward a student's financial status.<sup>23, 24</sup>

**Florida:** Participating private schools must accept students regardless of either religious or academic backgrounds. Schools may give priority to siblings of current students. Schools must admit all students who apply. If, however, demand exceeds capacity, schools must select students using a random system (e.g., a lottery).

Based on your own experience and the details listed above, which of the policies outlined below do you favor? Would you prefer a combination? Or, perhaps an option we've failed to mention?

1. State law should contain no rules regarding admissions criteria. Participating schools are free to evaluate each candidate based on their own standards and may choose to accept or deny applicants as they see fit (within the bounds of non-discrimination statutes, of course).
2. Participating private schools must admit all comers or, if over-subscribed, use a random system (e.g., a lottery) for selecting students. They may not take religion, academic background, or any other factors into account.
3. Participating private schools must admit all comers or, if over-subscribed, use a random system (e.g., a lottery) for selecting students, though they are allowed limited exceptions, such as preferences for siblings of current students.

### **9. The dilemma: When, if ever, should private schools have the right to expel voucher students?**

Traditionally, private schools may retain or expel students at will, just as parents of private school students may enroll or withdraw their children any time. Like other students, voucher pupils may fail to meet various private school standards: they may not attain certain academic benchmarks; they may skip class; or they may refuse to follow all conditions set forth by the voucher program. It seems only fair that schools should be allowed to maintain their standards and expel these students if necessary.

<sup>22</sup> Chapter PI 35: Milwaukee Parental Choice Program, "Chapter PI 35.03: Private School Requirements," Wisconsin Administrative Code, <http://www.legis.state.wi.us/rsb/code/pi/pi035.pdf>.

<sup>23</sup> Ohio Administrative Code, "Chapter 3301-11-11: Participation by chartered nonpublic schools," Ohio Laws and Rules, <http://codes.ohio.gov/oac/3301-11-11>

<sup>24</sup> Ohio law for chartered, nonpublic schools (the only kind of private school allowed to participate in the program) prohibits discrimination on the basis of race. Scholarship program law does not address the potential for schools to admit students based on religious qualifications.

If these students lose their vouchers, however, they will more than likely be forced to attend the failing schools they originally escaped. Therefore it may be to these students' benefits that, despite transgressions, they remain in the private school.

The information below describes how existing voucher programs resolve this dilemma:

**Milwaukee:** The law does not address conditions for expelling voucher students, leaving discretion for participating schools.

**Washington, D.C.:** The law does not address conditions for expelling voucher students, leaving discretion for participating schools.

**Ohio:** The law does not address conditions for expelling voucher students, leaving discretion for participating schools.

**Florida:** State law states that schools must follow their "published disciplinary procedures" before expelling a voucher student.

Based on your own experience and the details listed above, which policy outlined below do you favor? Would you prefer a combination? Or, perhaps an option we've failed to mention?

1. State law should remain silent regarding student expulsion, leaving discretion to participating schools.
2. Expulsions of voucher students may occur according to individual schools' published protocols. Schools are free to devise their procedures for discipline and expulsion.
3. Should a private school wish to expel a student, it must first hold a special hearing whereby parents and teachers discuss the child's progress and behavior. The outcome of the hearing and subsequent parent-teacher discussions determines the child's course.

## Category Four: Eligibility for School Participation

### 10. The dilemma: Under what circumstances should a school lose eligibility to participate in a voucher program?<sup>25</sup>

It's possible that a voucher school could follow all of the rules contemplated here and still be deemed unworthy of receiving public support. For example, a school could participate in the state-mandated testing, as required. But what if test scores are low? Likewise, it could participate in required auditing procedures. But what if expenses seem unreasonable? Should the government (or its intermediary) intervene and remove such schools from the voucher program?

When determining what warrants private school termination from a voucher program, financial problems may supersede academic failings, or vice versa. Financial grounds may include a school's misuse of grant money or its inability to prove financial stability. If voucher students fail to reach proficiency on standardized tests; drop out or fail to graduate at an alarming rate; or otherwise demonstrate academic failure, a school may also forfeit the right to continue participating in a choice program.

Financial and academic failures are very different. A financially unstable school may catapult students to academic success; conversely, a financially stable school may be an educational disaster. Therefore, penalizing a school for failure in one area may prevent it from succeeding in another. Is one cause more important than the other? If a school fails in one area while succeeding in another, should the state seek to intervene to rectify the situation rather than dropping the school from the program?

<sup>25</sup> This question refers not to circumstances that would cause a school to be shut down, but rather those that give cause for a school's removal from participating in the voucher program.

**Milwaukee:** Choice program schools are barred from participation if they are not financially viable, if their application for accreditation is denied, fail to refund the state in the case of overpayment, or if their general operating conditions are unsafe for students. In addition, if schools fail to receive accreditation or do not meet at least one of the four academic performance benchmarks referred to in Question 2, they are removed from the program. They are also removed from the program if they fail to provide mandated student test scores to the SCDP for purposes of the program evaluation.

**Ohio:** Voucher schools can lose the right to participate if they violate any of the obligations dictated by state regulations. These rules include failure to administer tests or to refund money to the state, to keep sufficient records, or to operate in accordance with their state private school license. However, they are not required to meet any specific academic goals.

**Washington, D.C.:** The law does not specify any grounds for removing a school from the program. Instead, decisions about private school eligibility are left to the entity responsible for administering the program (the Washington Scholarship Fund). If the WSF conducts a financial review and finds a school has fiscal problems, it removes the school from participation. WSF does not outline any academic grounds for a school's loss of eligibility.<sup>26</sup>

**Florida:** The law does not specify any grounds for removing a school from the program. But, schools are responsible for meeting a variety of conditions in order to remain eligible in the program. These include: demonstrating financial stability; abiding by antidiscrimination policies; meeting state health and safety codes; meeting standards for student admission; adhering to curricula prescribed by an external accrediting agency; employing qualified teachers (as outlined in state law); not compelling students toward religious belief; and following a school's pre-existing protocol for expelling students when dismissing voucher students. But schools do not have to meet any specific academic goals.

Based on your own experience and the details listed above, which of the policy approaches outlined below do you favor? Would you prefer a combination? Or, perhaps an option we've failed to mention?

1. Regulations should not dictate the circumstances which private schools may be dropped from participation in the program. The market will work itself out. If parents are dissatisfied with a school, they will remove their child from the program; if all or the majority of students leave, it will be a sign that the school is not meeting expectations.
2. Schools should be placed on probation should they commit transgressions regarding either student performance or failure to comply with program rules and regulations. The state should enact and enforce stricter monitoring standards for these schools.

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<sup>26</sup> U.S. Government Accountability Office, "District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operations," November 2007, <http://www.gao.gov/new.items/d089.pdf>

3. States should remove schools from the voucher program that misuse program dollars or fail to follow mandated rules and regulations. This penalty is appropriate for infractions including spending student grant money on non-program related activities; failing to administer standardized tests to students where required; failing to attain satisfactory results on an audit; failing to receive state-mandated financial training; etc.

4. States should remove schools from the voucher program if they fail to yield suitable academic results for its voucher students, as determined by benchmarks set by the state—even if these schools follow all other rules and regulations. These academic standards could include students' failure to attain proficiency on standardized tests; students failing to make adequate progress over time; a high student dropout rate; or a low student attendance rate.

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