

## New Forms of School Choice The Real McKays

*School Choice Forces Emboldened by Recent String of Judicial and Legislative Victories*

By Robert Holland

*Summary: Last month Robert Holland described some of the exciting legal and legislative developments spurring parental use of education vouchers. This month, in Part II of his review, Holland looks at Florida's McKay scholarships, the research findings of the nation's pre-eminent voucher proponents, and the charter school movement*

**T**he fastest-growing voucher program in the land is the McKay Scholarship, which three years ago emerged in the choice-friendly climate of Florida. As of July 2003, more than 9,200 Florida special-education students were using McKays to attend private schools equipped to accommodate them. (Special education is education lingo for individualized instruction developed to meet the needs of each student judged to have a disability.) McKays predate the June 2002 *Zelman* decision. But the U.S. Supreme Court's go-ahead for vouchers has thrust them front and center as a model for the rapid expansion of educational freedom.

McKay Scholarships are now the second largest voucher program in the nation. (With 11,000 vouchers, the 13-year-old Milwaukee program is still No. 1) If several states adopt a version of the McKay Scholarships, or if Congress uses the McKay principle to retool the Individuals with Disabilities Education Act (IDEA), then nationwide school choice could well be at "the tipping point"—the moment at which something new and unusual becomes ever-present and inevitable.



Sandra Feldman, president of the American Federation of Teachers, and her nemesis, Clint Bolick of the Institute for Justice.

Under the Florida program, named for former state senate president John McKay, parents who are dissatisfied with the quality of public school special education programs are eligible to use a voucher to enroll their children in private schools. The voucher is equal to the per-pupil cost of public school special education and is applied toward tuition and fees. Growth in McKay use has been explosive, yet its potential is enormous—there are 375,000 special-education students in Florida who are eligible for a McKay scholarship. Nationally, 12 percent of America's 48 million public schoolchildren are enrolled in special education, which, depending on the degree of disability, may entail services ranging from medical to psychiatric to therapeutic.

Research by Manhattan Institute scholars Jay P. Greene and Greg Forster indicates that parental support for the McKay concept will run deep if it ever goes national.

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Surveys in Florida show high levels of parent satisfaction: 93 percent are either “satisfied” or “very satisfied” with their McKay private school as compared to only 33 percent who are satisfied with the special-ed program in their public school. Surveys of school safety and student behavior also show pronounced differences: Almost half of the pupils in public schools say other pupils have victimized them because of their disabilities. At McKay schools only 5 percent report such incidents. While 40 percent of McKay parents responding to the survey said their children had behavior problems when they were in public school, only 18 percent said misbehavior occurred at their McKay school.

The researchers surveyed parents who had withdrawn their child from a McKay-funded school for various reasons and asked whether Florida should continue the program. A resounding 91 percent said “yes.” The level of support was almost uniform without regard to race, income, or severity of disability. It showed that even

parents who opted out thought families were better off because they had a choice.

School choice advocates say a bill pending in Congress to reauthorize the massive Individuals with Disabilities Education Act offers an excellent opportunity to advance the voucher concept. Originally adopted in 1975, IDEA was intended to guarantee each disabled child access to “free and appropriate” public education. It regulates virtually every aspect of special education, on which some \$50 billion a year is spent annually by local, state and federal governments. IDEA mandates that school districts create an “individual education plan,” or IEP, for each disabled child, but in practice this process has become a bureaucratic nightmare. Cato Institute analysts Marie Gryphon and David Salisbury explained the problem in a July 2002 white paper (“Escaping IDEA”):

“The process mandated by the statute has not only failed to achieve its purpose of ensuring an appropriate education to each disabled child. It has marginalized the parents it was intended to empower and has created a barrage of compliance-driven paperwork so overwhelming that special educators are driven to quit the profession.”

Representative Jim DeMint (R-SC) puts the case this way: “Too often, the complicated and adversarial federal IDEA system prevents parents from making choices unless they are wealthy and have the time to navigate the confusing IDEA bureaucracy. Families at all income levels should be given options to ensure that their disabled children receive a truly equal and quality education.”

Of course, the national teacher unions and other special interests oppose McKay-type reforms. They want so-called “full funding” of special education with no major changes in the bureaucratic and lawsuit-prone IDEA. So far they have frustrated bills like DeMint’s that give states the flexibility to try McKay-style choice.

Opponents say McKay schools aren’t accountable because they operate outside government compliance rules. People

for the American Way (PFAW) and the Disability Rights and Education Defense Fund issued a joint report claiming that once parents use a voucher to leave a public school, “they have effectively opted out of the legal rights and educational services guaranteed under IDEA.” The report recites various horror stories, including one about a private school that changed its address four times in a year and was cited for health and safety code violations. Said PFAW president Ralph Neas, “Florida officials have taken an out-of-sight, out-of-mind approach to the McKay vouchers, and we’re seeing the serious consequences that this lack of oversight is having on children with disabilities.” Similarly, the American Civil Liberties Union (ACLU) posted to its website a 2002 letter to a House subcommittee on IDEA reform. The gist of the letter—signed by the usual suspects: the National Education Association, American Federation of Teachers, Americans United for Separation of Church and State, National PTA, and American Association of University Women, joined by social-work and religious groups—is that private schools do not have to comply with government regulations on teacher certification, assessment and curriculum.

School choice advocates counter that the most powerful form of accountability is to parents, who can withdraw their children from schools that fail to live up to their commitments. A Manhattan Institute study provided the evidence that parent power makes a difference. Researchers found that 86 percent of McKay voucher recipients said their schools delivered the services they promised. By contrast, only 30 percent said they received all federally mandated services when their children were in public school.

## The Fruits of Research

When school choice reaches its tipping point, a big share of the credit will have to go to the researchers who demonstrated it benefits. Three eminent scholars are especially deserving: Dr. Paul E. Peterson, director of Harvard University’s Program on Education Policy and Governance; Dr. Jay P. Greene, senior fellow at the Manhattan Institute for Policy Re-

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search; and Harvard economist Caroline M. Hoxby, who also directs the Economics of Education Program for the National Bureau of Economic Research. Many opinion surveys have shown that vouchers increase parental satisfaction. But these three established that vouchers actually improve students' academic performance.

In February 2002, Dr. Peterson and his associate, William Howell, published a particularly important study of a private scholarship program for African-American children in New York City ("School Choice in New York City After Three Years: An Evaluation of the School Choice Scholarship Program"). Because the program used a lottery to select student voucher recipients, the trial was "randomized," which is the so-called gold standard of research design. (This kind of research is far more common in medicine than in education.) Random selection makes it possible to compare two demographically similar groups—in this case: those who wanted vouchers and got them, and those who wanted vouchers but didn't. This lets researchers assess the impact of vouchers on subsequent student academic achievement.

The study found that after three years, the children who won the lottery and received vouchers to attend private schools scored 8 percentile points higher on the reading and math sections of standardized tests than their peers who remained in public schools. The advantage amounted to more than one grade level.

Because its research design lent credibility to the positive voucher outcomes, the Peterson-Howell study attracted more than ordinary scrutiny. After all, because the voucher students had been picked by lottery no one could object that they were smarter or their parents more determined for them to succeed. That forced the critics to question the study's reliance on the mother's ethnicity to define the ethnicity of the students in the selection pool. The Harvard team responded by using four different methods of racial classification—and the results did not change. Peterson and Howell addressed other statistical quibbles, including a "point-by-point re-

buttal" by PFAW (which the American Federation of Teachers touted on its website) of the study's "methodology and claims." The evidence for the positive impact of vouchers on African-American students stood up.

The researchers do not contend that their study is the final word. In fact, it yielded a bit of an anomaly in that African-American voucher students scored significant gains, but Hispanic voucher students did not. More study is in order. Nevertheless, the research demonstrates that vouchers can elevate academic achievement within a racial cohort that historically has been harmed by segregation.

In the face of such evidence, voucher foes have a fallback argument: They say vouchers may help a minority of students, but they hurt the vast majority who remain in public schools.

"Don't abandon the public schools" is their battle cry. The day after the Supreme Court's *Zelman* decision, Gene Carter termed vouchers "a dangerous threat to public education in America." Carter, the executive director of the Association for Supervision and Curriculum Development, an educators group in Alexandria, Virginia, cited the following reasons:

- "Vouchers take badly needed money away from public schools."
- "Vouchers increase inequity by encouraging the most active parents to leave the public schools."
- "Vouchers do not provide accountability for the use of public funds."

Says Carter, "We believe that our nation should focus its energies on improving – not abandoning – public schools to ensure that all can become high-performing. This takes the commitment of all Americans through public funding, community involvement, and support for quality teaching and learning."

But Carter's lament has been countered by a new study by Dr. Jay Greene and

Marcus A. Winters, released in August 2003, which shows that vouchers can improve public schools ("When Schools Compete: The Effects of Vouchers on Florida Public School Achievement"). The Manhattan Institute scholars examined Florida's A+ Program, which gives vouchers to students in failing public schools. The state's Florida Comprehensive Assessment Test (FCAT) grades schools A to F. If a school receives two Fs in a four-year period, it is considered chronically failing, and its students become eligible for vouchers they may use at private schools or other public schools.

Governor Jeb Bush reasons that his A+ Program gives public schools an incentive to compete for students—and the tax dollars that accompany them. The research question Greene and Winters asked was "How much incentive does voucher competition provide?" They compared changes in 2001 and 2002 student test scores measured against the type of school the students attended over a prior three-year period (1998 to 2001). The school types were F-graded schools where students are eligible to receive vouchers; schools threatened by one F grade; schools that overcame the threat of vouchers and other low-performing D-grade schools not currently facing a voucher threat.

The data show that Florida's low-performing schools improve in proportion to the threat they face from voucher competition. Failed schools where students already are eligible for vouchers made the greatest advances – improving by 10.1 scale score points on FCAT reading, 9.3 on FCAT math, and 5 percentile points on the Stanford-9 math test. Schools just one F away from vouchers made the next greatest improvements: 8.2 scale points in FCAT reading, 6.7 on FCAT math, and 3 percentile points on Stanford-9 math. By contrast, low-performing schools that received at least one D grade showed little or no movement in student achievement. "While these schools were similar to schools facing voucher competition," Greene and Winters concluded, "they failed to make similar gains in the absence of competitive incentives."

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Critics of past Greene research say it's the stigma of a failing grade, not the threat of vouchers, that makes failing schools improve. People for the American Way accuses Greene of failing to investigate alternative reasons why F-rated schools improve (e.g., extra state money for remedial education).

But the Manhattan Institute researchers say the data show more is at work than stigma or money. Specifically, "schools that received one F in 1998-99 but none since are no longer exposed to the potential of voucher competition. These schools actually lost ground relative to non-low-performing Florida public schools, {thereby} supporting the conclusion that once the threat of vouchers goes away, so does the incentive for failing schools to improve."

In yet another recent study, Harvard's Caroline Hoxby found more evidence that competition works ("How School Choice Affects the Achievement of *Public* School Students"). Hoxby looked at charter schools in Arizona and Michigan and the voucher program in Milwaukee and discovered that the competition they created caused local public schools to become more productive. Student achievement rose in public schools challenged by the availability to parents of these options.

The Greene and Hoxby studies suggest that when vouchers or other forms of choice are available to K-12 students, they generate competition among schools that benefits all students, not just the students who use them. The quality and quantity of this school research is opening policymakers' eyes.

## Charter Schools: Steady Progress

Public charter schools are another important educational innovation. While they are unlikely to create the tipping point for school choice, they have helped build the foundations for choice by overcoming many roadblocks set up by education's vested interests.

The Washington, D.C.-based Center for Education Reform (CER), a nonprofit

clearinghouse of school-choice information, estimates that 320 new charter schools opened across the country when school bells rang in September 2003. That brings the total to more than 3,000, a far cry from 1992, when the nation's first charter school opened in St. Paul, Minnesota. Charter schools are public schools sponsored by parents, teachers, community groups, universities or education management companies. They are exempt from many regulations governing the typical public school. In exchange for the latitude to innovate, charter sponsors sign binding agreements promising to deliver improved academic performance. Jeanne Allen, president of CER, says: "What the research reveals is: charter schools work. In major studies by universities, researchers, state departments of education, policy groups, and the U.S. Department of Education, charters are shown to have enriched the educational scene and offered not just viable, but excellent educational opportunities for thousands of children in hundreds of communities."

Maryland recently joined 39 states and the District of Columbia in establishing a process to set up charter schools. However, state laws vary so much that CER rates just 20 states as providing "strong" support for charter schools (e.g., multiple chartering authorities, an appeals process, alternative certification for teachers, and legal/fiscal autonomy from the government-school norm). A strong charter law lets its sponsor operate a school in accordance with its own vision of the mission of education. Typically, charter schools operate on less per-pupil appropriations than regular public schools. In many cases, they must find their own facilities and teachers. But because they are public schools, they must accept all students who choose to attend them and they are not permitted to charge tuition.

Some charter schools fail. However, supporters say occasional failure is an argument in support of the concept because it shows charter schools are accountable. They ask: How many regular public schools closed down after they fail to deliver? In fact, charter school accountability is double-barreled: Schools must

produce results or lose their public charter, and they must satisfy parents or risk losing their students.

In the past decade many charter schools have compiled excellent records. Among the success stories is the KIPP Academy, those inner-city charter schools with 10-hour school days, Saturday classes and parent/school contracts. They grew out of the Knowledge Is Power Program (KIPP) begun in 1994 by Teach for America Corps members Mike Feinberg and Dave Levin at a Houston elementary school. A year later, they opened an additional KIPP Academy in Houston and one in the South Bronx. The success of these intensely focused schools of choice in raising academic achievement, particularly among minority children, inspired Doris and Donald Fisher, founders of Gap, Inc., to form a partnership with Feinberg and Levin to spread the success of the schools nationwide. As a result, another 30 KIPP academies have opened in 14 states and the District of Columbia. In their new book, *No Excuses: Closing the Racial Gap in Learning*, Abigail and Stephan Thernstrom praise the KIPP Academy as a model of what can be done in erasing the much-lamented achievement gap for poor and minority children.

Local teacher union affiliates often work to undermine fledgling charters and charter applicants, but until recently the national teacher unions offered their *pro forma* support (See *Organization Trends*, December 2000). That's changing as the American Federation of Teachers (AFT) has gone public with a campaign to stifle the competition that charter schools pose to other public schools. AFT's change-of-mind began with a barbed resolution at its biennial convention in 2000 demanding that charter schools be subject to the same regulations as public schools, including requirements that all teachers be state-certified and that all charter schools be subject to collective bargaining agreements. Of course, that defeats the purpose of creating schools that are free to innovate. In September 2003, the AFT Detroit affiliate staged a teacher walkout to protest a legislative proposal to increase the number of charter schools in Michigan.

The controversy caused philanthropist Bob Thompson to withdraw his offer to contribute \$200 million to build 15 charter high schools in Detroit that promised to deliver a 90 percent graduation rate.

The AFT also released a July 2002 report “Do Charter Schools Measure Up?” that implied most don’t. It argued that charter students “generally score no better (and often do worse) on student achievement tests than other comparable public-school students.” The report ignored studies showing high levels of satisfaction among charter-school parents and evidence that school districts responded to charter competition by improving their services and curricula.

Many in the news media share the AFT perspective. For instance, Francis X. Clines, a member of the *New York Times* editorial board, claimed almost two-thirds of Texas schools rated low-performing by the “No Child Left Behind Act” were “*laissez-faire* charter schools.” He neglected to mention that many Texas charters serve underprivileged or troubled kids who have problems in conventional public schools, or that many charter schools for at-risk children are only a few years old and just beginning to make a difference.

Fortunately, the research on charter schools is invalidating the false charges. In June 2003 the Manhattan Institute published a study, “Apples to Apples,” which crunched data in 11 states to generate comparisons between charter and regular public schools. The study compared test scores of “untargeted” charter schools – that is, those serving a general population – to the closest neighboring regular public schools. Jay Greene led a research team that found the charter schools had outperformed regular public schools on math by 0.08 standard deviations – the equivalent of a 3 percentile point gain for a student starting at the 50th percentile. On reading, charter students outperformed students at nearby regular public schools by 0.04 standard deviations – the equivalent of a 2 percentile-point gain for a student starting at the 50th percentile.

Of the 11 states, Texas showed the

strongest charter school results on an “apples to apples” basis (as opposed to the “apples to zebras” comparison by the *Times*’ Clines and other foes). Texas charter schools had year-to-year math score improvements that were 0.18 standard deviations higher than public schools, and reading-score improvements that were 0.19 standard deviations higher. That translates to 7 and 8 percentile-point gains from the 50th percentile. Florida (whose vouchers, scholarship tax credits and charter schools make it School Choice Central) also showed large charter gains amounting to 6 percentile points in both reading and math.

Such comparisons show charter schools do better than regular public schools in educating the general student population. But charters serving at-risk students do an even better job. A 2002 California State University study showed the Golden State’s charter schools are more effective than regular public schools. Scores rose 22 percent at charter schools where at least half the students were in the federal free or reduced-price lunch program. The gain at regular public schools was 19 percent.

The record is still being written, and there are sure to be more studies on charter schools. But their steady progress in opening public school systems to more kinds of school choice is another weight on the scales that will soon reach the tipping point.

## Conclusion

Years from now, Americans may look back on the school-choice controversies encouraged by guardians of the education status quo in the early years of the 21st Century and wonder why anyone was foolish enough to believe the tide of progress could be held back. Some of them may be angry when they think of opportunities their own children or grandchildren could have had, were it not for the bitter-end resistance to educational freedom.

For now, the tide runs strongly, with the emergence of new forms of choice like the McKay Scholarships in Florida, with an expanding research base showing that

choice has many good effects on choosers and non-choosers alike, and with the steady growth within the government-controlled system of semi-independent charter schools giving families options other than the orthodox. Of course, there also are the beachheads being established for vouchers and education tax credits as a result of an increasingly favorable legal and legislative climate honoring private choice as a public good, as discussed in last month’s issue.

All this activity is part of a larger movement away from centralized control and toward individual empowerment. Consider: Two decades ago, home-schooling was something done by authority-defying parents for a few thousand children; today, home-schooling is legal in all 50 states and parents of diverse political dispositions are teaching almost two million children at home. A free market in education is becoming ever more pervasive as private entrepreneurs offer everything from tutoring to teacher training. In many instances, the Internet is the liberating force that brings education-seekers and providers together without government monitoring and control.

The educational choice movement is robust but merely in its toddlerhood. It will be exciting to watch it grow.

*Robert Holland is a senior fellow at the Lexington Institute, a think tank in Arlington, Va.*

## Correction

The October *Organization Trends* article, “Rating the Charity Raters,” incorrectly reported that Charity Navigator had a five-point rating system for charities. The correct number is four. See the Capital Research Center website, [capitalresearch.org](http://capitalresearch.org), to read an exchange between author Paul Niehaus and Charity Navigator president Trent Stamp

# BrieflyNoted

The environment is not a major priority for potential voters, who ranked it 25th out of 43 issues, according to an October Harris poll survey. Just one percent of voters consider the environment the most important issue, according to a Fox News-Opinion Dynamics poll conducted a few weeks earlier. But that could change, says Deb Callahan, president of the **League of Conservation Voters**, “because of the terrible voting record of this president.” Margaret Conway, **Sierra Club** National Political Director, says if the environment is “number one for 3 to 6 percent of voters and it’s a close race, that’s the margin.” Ed Kilgore, policy director at the **Democratic Leadership Council**, says the “Republican Party has become so extreme on this topic... it would be easy for Democrats to seize the sensible middle ground on environmental issues.” Political analysts disagree. Says Larry Sabato, director of the University of Virginia’s Center for Politics: “The economy’s more important; Iraq’s more important; and health care’s more important.” Moreover, those who select the environment as their top issue already vote overwhelmingly for Democrats. According to *Los Angeles Times* exit polls in 2000, Al Gore was favored over George Bush by 76 to 12 percent among the nine percent of voters who then considered the environment a priority.

On November 5, President Bush signed into law a ban on partial birth abortion, eliciting praise and criticism from pro-life and abortion rights advocates. Archbishop Charles Chaput, chairman of the **U.S. Conference of Catholic Bishops Committee for Pro-Life activities**, said, “President Bush’s signing of the Partial-Birth Abortion Ban Act marks the first time in three decades that our nation has placed any restriction on an abortion procedure.” But Kim Gandy, president of the **National Organization for Women (NOW)**, said, “Today George W. Bush sends a message to every woman and girl in the United States: Your reproductive rights are not guaranteed.” A NOW protest at the signing ceremony, held in the Ronald Reagan Building in Washington, D.C., produced only a modest turnout. Less than an hour after the signing, U.S. District Judge Richard Kopf in Nebraska issued a temporary injunction stopping application of the law to several doctors who filed suit against it.

Surprise: **People for the American Way (PFAW)** decries the CBS decision to yank its controversial miniseries on former President Ronald Reagan in response to conservative criticism of the show’s historical accuracy. Although CBS admitted the show contained fictional statements and scenes, PFAW accused it of caving in to the “Right-Wing Thought Police.” Says a PFAW statement, “Our primary concern is continued right-wing intimidation against the expressions of opposing points of view, whether attacks on dissent, intimidation of scientific researchers, or a demand for historical revisionism—or historical cleansing—regarding Ronald Reagan.”

On November 5, the U.S. Senate Judiciary Committee approved the nomination of California Supreme Court Justice **Janice Brown** to the important D.C. Circuit Court of Appeals. Senate Democrats vow to filibuster Brown’s nomination, making her the fifth Bush judicial nominee so treated. Civil rights groups oppose Brown, an African-American born into a poor, sharecropping family in segregated Alabama. Julian Bond, chairman of the **National Association for the Advancement of Colored People (NAACP)** said Brown is “hostile to civil rights and civil liberties and ill-prepared to sit on the nation’s second-highest court.” He added: “The President’s penchant for choosing extremist minority judicial candidates is an exercise in cynicism of the worst kind.”

