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Special Education Vouchers: Four State Approaches

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INTRODUCTION AND BACKGROUND

In the American education system, children have traditionally been assigned to attend a school in the district in which they live, although parents have always had the choice of sending their children to a private school or home schooling them. Choice within the public system began to be available in the 1960s when an educational reform movement added alternative schools to the available placements in some school systems (Tice, Princiotta, Chapman, & Bielick, 2006). Choice expanded in the 1970s and 1980s with the establishment of magnet schools (mainly to reduce segregation) and in the 1990s with the beginning of the public charter school movement and publicly funded voucher programs. According to the National Center for Education Statistics (NCES) report by Tice et al. (2006), statistics confirm that parental exercise of choice is a growing practice: between 1993 and 2003, the percentage of children enrolled in their assigned public schools decreased from 80% to 74% and children attending public schools chosen by their parents increased from 11% to 15%.

The commonly accepted meaning of a school voucher is an allocation of public funds to parents to pay for the education of their children at a private school of their choice. The main issue raised about these programs by some opponents is their constitutionality given requirements for the separation of church and state contained in both the federal and state constitutions when parents choose private parochial schools. One major area of litigation has been related to programs that include public aid to sectarian schools and the body of litigation in this area continues to grow. The Supreme Court has found some of these programs unconstitutional, but has upheld voucher programs that were “neutral” or “of direct benefit to students” (Etscheidt, 2005, p. 157). In a recent case, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), the U. S. Supreme Court ruled in favor of a voucher program in Cleveland, Ohio, but ruled that voucher programs have to meet strict requirements in order to be found constitutional. Constitutional questions about including sectarian schools in voucher programs still remain. There are a number of voucher programs currently operating and each one has its own set of criteria for participation (e.g., some target only low-income families, while others target students with disabilities).

Of particular interest to special educators are voucher programs that are specifically designed for students with disabilities to attend private schools. For example, the *John M. McKay Scholarship for Students with Disabilities* began as a pilot voucher program in Florida in 1999 and has grown in participation every year. This program has been used as a model for programs subsequently established by state laws in Arizona and Utah. There is also a limited program in Ohio that falls into this category of special education vouchers—it provides public funds for parents to place a child with autism in a private program that addresses that specific disability.

The voucher programs for students with disabilities are all financed through state and local funds and not federal funds. The students using these vouchers are considered to be ‘parentally placed private school students’ under the federal special education law, the Individuals with Disabilities Education Act (IDEA). As such, they have no individual entitlement to a free appropriate public education. IDEA regulations provide that, “No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school” [CFR 34 §300.137].

Opponents of special education voucher programs argue that students with disabilities who participate in voucher programs do not have access to the same special education services available to students in public schools, that teachers at private schools are not required to be highly qualified, and that private schools are not accountable to the public for how they spend voucher program dollars. Supporters of special education voucher programs, on the other hand, argue that these programs provide much needed alternatives to limited public school options for families of students with disabilities.

There has been very little research conducted on the topic of voucher programs for students with disabilities and most of the published analyses have come from organizations that work either in support of or opposition to vouchers (e.g., Greene and Forster, 2003; People for the American Way and Disability Rights Educational Defense Fund, 2003).

The National Association of State Directors of Special Education (NASDSE) has published documents¹ on home schooling and various aspects of the charter school movement, but not on other types of school choice such as vouchers. This Project Forum document focuses on voucher programs that are specifically designed to provide public funds for parental enrollment of children with disabilities in private schools. Project Forum completed this task as part of its cooperative agreement with the U.S. Department of Education Office of Special Education Programs (OSEP).

DATA COLLECTION

Project Forum developed an interview protocol and identified four states that currently offer voucher programs specifically for students with disabilities (see Appendix A for a copy of the

¹ Project Forum documents can be accessed at <http://www.projectforum.org/> and NASDSE’s charter-related documents are available at <http://www.nasdse.org/projects.cfm?pageprojectid=16>.

interview protocol). Representatives from the four states—*Arizona, Florida, Ohio* and *Utah*—were interviewed during November and December, 2006.² Interviews were transcribed and analyzed using Atlas.ti, a software program designed to aid in the analysis of qualitative data. Findings are reported in the following section.

INTERVIEW FINDINGS

Background

Terminology

All four states described their voucher programs as “scholarship” programs. Formal titles for the programs are: *Arizona Program for Pupils with Disabilities*, (AZ); *John M. McKay Scholarship for Students with Disabilities Program* (FL); *Special Education Pilot Project* (also known as the *Autism Scholarship Program*) (OH); and the *Carson Smith Scholarship Program* (UT).

Program History

All four voucher programs were established by state legislation. *Florida’s* was first implemented in 1999; *Ohio’s* in 2004; *Utah’s* in 2005 and *Arizona’s* in 2006. All four states’ voucher programs are permanent unless acted upon by future legislation. In the case of *Utah*, however, funding has to be renewed each year. *Arizona, Florida* and *Utah* cited parental choice advocates as a major force behind their states’ legislation and both *Utah* and *Ohio* cited advocacy on the part of parents of children with autism.

In the case of *Florida*, its voucher program appears to be part of a larger movement to increase school choice options. For example, the interviewees from the state described a wide range of available school choice options (e.g., charter schools and voucher programs for students both with and without disabilities) and noted that Governor Jeb Bush was a strong advocate for parental choice. Strong support for parental choice is evident in *Arizona* which has the largest number of charter schools per capita of any state. There are also a number of other voucher programs available (e.g., one for children in foster care) in addition to the newly instituted one for students with disabilities. The interviewees from *Ohio* and *Utah* were not able to characterize their states’ current school choice climates.

Program Administration

All four programs are administered by the state education agency (SEA). However, only *Arizona’s* and *Ohio’s* programs are administered by the state departments of special education.

² Information on Arizona’s voucher program can be found at www.ade.az.gov/hb2676; Florida’s at www.floridaschoolchoice.org/Information/McKay/; Ohio’s at www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEPrimary.aspx?Page=2&TopicID=675&TopicRelationID=676; and Utah’s at www.schools.utah.gov/admin/specialneeds.htm.

Utah's program is administered by the licensing division of the SEA and *Florida's* program is administered by the Office of Independent Education and Parental Choice designed to handle this and other state voucher programs (part of the SEA).

Fiscal and Human Resources

Funding sources and amounts budgeted for the special education voucher programs vary significantly among the four states. For example, funding for the voucher programs in both *Arizona* and *Utah* is legislatively appropriated. *Ohio's* program, on the other hand, takes money directly from the district of residence for each child and *Florida's* program is funded via state money through the Florida Educational Finance Program (the economic mechanism used to generate funding for all public school students in the state). Amounts of money appropriated and/or spent annually on voucher programs range from approximately \$2 million in *Utah* to \$107.7 million in *Florida*. The amount which can be spent on the voucher programs in *Arizona* and *Utah* is capped at \$2.5 million per year (although these caps may grow in response to inflation), but there is no cap on the total amount that can be spent each year on the voucher programs in *Florida* and *Ohio*.

The amount of human resources dedicated to voucher programs also varies from state to state. Not surprisingly, there is greater full-time equivalency (FTE) devoted to *Florida's* well-established voucher program than to the newer programs in the other three states. *Florida* has approximately 8.8 FTE associated with its voucher program (in addition to 1.0 FTE dedicated to staffing a telephone hotline required by statute to answer customer service-type questions), whereas *Ohio* dedicates just 2.0 FTE; *Utah*, 1.0 FTE; and *Arizona*, 0.2 FTE.

Voucher Program Components

Pupil Eligibility Criteria

Pupil eligibility criteria for the states of *Arizona*, *Florida* and *Ohio* all include enrollment and/or attendance at a public school for all or part of the preceding school year and possession of a current individualized education program (IEP). Also, *Ohio* specifically requires that a student be identified by the LEA as having autism in order to participate in the state's voucher program, although a different process is used to identify three-to-five year olds. *Utah's* eligibility criteria are somewhat more flexible than the other three states. For example, *Utah* requires that a student either be enrolled in a public school and have a current IEP, *or* be enrolled in a private school that has previously enrolled students with disabilities. If a private school student is not already identified with a disability, *Utah* requires that an assessment team consisting of representatives from the student's private school—as well as the public school where the private school is geographically located—determine whether or not the student would be eligible to receive special education services if the student were enrolled in the public school system. If the team agrees that the student would most likely be found eligible to receive special education services within the public school system, he/she becomes eligible to participate in the state's voucher program. The assessment team must also determine whether it is likely that the student would

receive more or less than 180 minutes of special education services per day if he/she were enrolled in public school because the probable amount of services affects the amount of the voucher.

School/Provider Eligibility Criteria

Florida and *Utah* permit parents to use vouchers at approved private schools, *Arizona* permits parents to use vouchers at *any* private school and *Ohio* permits parents to use vouchers at approved private schools as well as non-school providers such as clinics or agencies offering services included on a student's IEP (e.g., speech therapy, occupational therapy, physical therapy and transportation). The interviewee from *Florida* described a more extensive private school approval process than the other states. For example, schools that receive special education voucher students are required to complete a form indicating whether or not they are in compliance with the state's private school laws (e.g. conducting regular health, fire and radon inspections) and schools that have been in operation for fewer than three years are required to have a surety bond or letter of credit equal to one academic quarter's worth of voucher payments.

Student Participation

Numbers of participants in voucher programs vary considerably:

- *Florida's* program, which has been in operation for the longest period of time, had 17,300 participants during the 2005-06 academic year. Numbers have grown dramatically since the program's inception, with two students the first year, 970 the second, 5,013 the third and 9,100 the fourth.
- *Ohio's* program has approximately 530 students as of the 2006-07 school year, over 50% of whom are three to five years old. This program has also experienced significant growth—it had only 300 participants during the 2004-2005 academic year.
- *Utah's* program increased from 130 participants last year to 300 this year.
- *Arizona's* program, which only began this fall, currently has only a few participants.

Numbers of schools and/or providers also varies in these four states. *Florida* has 944 participating private schools; *Ohio* has 148 participating providers (24 of which are private schools); and *Utah* has 26 participating private schools. *Arizona* does not yet keep a count of the total number of participating schools.

Per Pupil Voucher Amount

The per pupil voucher amount is calculated in a variety of ways. In *Arizona*, for example, it is calculated using a weighted formula based on disability category. In *Florida*, the per pupil voucher amount is non-categorical and is calculated based on the cost of services identified in the student's IEP and adjusted based on district cost differential (similar to a cost of living allowance [COLA]). In *Utah*, the per pupil voucher amount is calculated using a formula incorporating the weighted pupil unit and add-on funding for special education services based on

whether the student is receiving more or less than 180 minutes of services per day. In *Ohio*, there is no formula. Instead, schools and other approved providers are required to submit a quarterly statement of costs with a cap of \$7,000 per quarter.

Average annual per pupil voucher amount ranges from \$4,800 in *Utah*, to \$6,927 in *Florida*, to \$17,000 in *Ohio*. Because *Arizona's* voucher program is so new, it has not yet calculated an average per pupil voucher amount. Maximum annual per pupil voucher amount ranges from \$6,030 in *Utah*, to \$19,000 in *Arizona*, to \$20,000 in *Ohio*, to \$22,000 in *Florida*. Most interviewees noted that if the school's tuition is less than the maximum allowable per pupil voucher amount, schools receive reimbursement for the actual cost of tuition only.

Methods of Payment

Arizona, Florida and *Utah* issue voucher checks on a quarterly basis that are made out to parents, but mailed to private schools. Parents are then required to endorse the checks to the private schools. The interviewees from *Arizona* and *Florida* noted that the issuance of voucher checks is based on continued enrollment and that private schools are required to submit students' attendance records prior to receiving reimbursement. *Ohio*, which also issues voucher checks to parents on a quarterly basis, sends the checks directly to parents rather than to schools.

Notice of Intent to Enroll in Voucher Program

Arizona, Florida and *Utah* all require that parents notify the student's home district and/or the state department of education of their intent to participate in the state's voucher program at least 60 days prior to receiving their first voucher payment. *Ohio*, on the other hand, requires that parents and LEAs each complete a simple one page application stating that the child lives in the district, has an IEP and is autistic. When the state approves the parent's application, the LEA is also notified. Parents are then required to inform the LEA of the date their child will begin attending private school.

Additional Rules and Restrictions

Interviewees described a variety of additional rules and restrictions pertaining to their special education voucher programs. For example, in all four states parents are permitted to transfer their children from one eligible private school to another. Several interviewees also described conditions under which a voucher can be revoked. In *Ohio*, for example—the one state that sends voucher checks directly to parents—voucher payments are stopped if parents do not use the money to pay the private provider. In *Florida*, if students return to the public school system, they are no longer eligible for the voucher program, and must first reestablish eligibility (i.e., attend public school for one full year) before they can again participate in the voucher program.

Transportation

In *Arizona*, *Florida* and *Utah*, parents are always responsible for transportation to the private school. This is usually the case in *Ohio*, but there are several exceptions: If the *Ohio* LEA is already providing transportation to a particular private school for one or more students, the LEA is also responsible for transporting any voucher students to that school. Also, because *Ohio* allows vouchers to be used to pay for transportation services *if* they are a part of a student's IEP, it is possible that one of the state's approved service providers (e.g., schools, clinics or agencies) will assume responsibility, and receive reimbursement, for providing transportation.

Accountability

In none of the four states interviewed are private schools required to participate in state-wide assessments under the No Child Left Behind Act of 2001 (NCLB). There are also no requirements in any of these states for providing accountability information to the state or student's home district, nor is there any public accountability required as to whether students are receiving appropriate special education services or accommodations. The interviewees from *Florida* noted, however, that private schools are required to provide parents with a written statement of student progress (e.g., an academic report card) and the interviewees from *Florida*, *Arizona* and *Ohio* noted that, if a parent requests it, the students' home district must make the state assessment available to the voucher student.

None of the states has any monitoring authority over schools providing services to voucher students and *Arizona* noted that the department of education is specifically prohibited from having any monitoring or supervisory oversight of private schools.

Program Outreach

Interviewees from each state described requirements related to program promotion and outreach. *Arizona*, *Florida* and *Utah* all require that LEAs notify parents of students with disabilities about the states' voucher programs. *Florida*, *Ohio* and *Utah* include information about their voucher programs on their department of education websites. The *Florida* statute also requires that parents be notified about the state's voucher program within 10 days of an IEP meeting.

Outcomes

None of the four states interviewed evaluate or plan to evaluate academic outcomes for students participating in their voucher programs, although *Ohio* conducted a parent satisfaction survey that elicited very high approval ratings. Also, *Florida's* chief financial officer generated an audit report citing problems with the special education voucher program that had surfaced, including lack of accountability resulting in claims of fraud, and made recommendations for changes (Audit Report of the Chief Financial Officer, State of Florida, December 2003).

Interviewees reported that it would be difficult, if not impossible, to calculate the financial impact of their states' voucher programs. Most interviewees also agreed that, in the absence of public oversight, it was not possible to evaluate the quality of services to students participating in their voucher programs. In the words of one, "We have no way of knowing...it is up to parents to judge." The interviewees from *Florida* noted, however, that its voucher program had undeniably succeeded in increasing the number of options available to parents.

CONCLUDING REMARKS

The number of voucher programs for students both with and without disabilities has grown significantly over the past several years. *Florida's* special education voucher program was first implemented in 1999; programs in the other three states included in this analysis all began within the past three years; and legislation has recently been introduced in *Georgia, Kentucky, Mississippi, South Carolina, Texas and Virginia* in support of special education voucher programs.³ Most if not all voucher programs have been instituted as part of a growing choice movement throughout the United States. Although these programs have created educational options for parents and students, there is a lack of public accountability under either NCLB or IDEA for students participating in states' special education voucher programs and data remain unavailable as to whether or not students participating in voucher programs are receiving appropriate services and/or performing competitively with their public school peers.

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³ This information was current as of February 2006. For more up-to-date information, you might wish to check individual state websites.

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Appendix A

Interview Protocol on Voucher Programs for Students with Disabilities

For the purposes of this study, the term “voucher program” is used to describe any program states have implemented (or are planning to implement) that provides public funds to parents who choose to place their children with disabilities in private schools. Project Forum will interview four state education agencies: Arizona, Florida, Ohio and Utah in order to describe the range of voucher programs currently available for students with disabilities.

Background and History of Special Education Voucher Program

- What terminology does your state use to describe its voucher program (e.g., “voucher,” “scholarship,” “choice”)?
- How was your state’s voucher program first introduced (e.g., via legislation or judicial decision)?
- When was your state’s voucher program first implemented?
- What were the motivating factors driving your state’s decision to implement a voucher program for students with disabilities (e.g., leadership on the part of a legislator or parental advocacy)?
- What entity is responsible for administering your state’s voucher program (e.g., department of education, LEAs)?
- What is the FTE devoted to administering your state’s voucher program?
- What is the source of funding for your state’s voucher program (e.g., does funding divert money from LEAs or is it provided by the state)?
- How much money is appropriated each year to pay for your state’s voucher program? How much has been spent for vouchers each year it has been in operation?
- Is there a cap on the amount that can be spent in a year or the number of children who can be supported?
- Is your state’s voucher program permanent or will it require renewal after a certain period of time?
- How would you describe the school choice climate in your state at this time (e.g., is your state’s voucher program for students with disabilities part of a larger trend to increase the number of choices available to students)?

Components of Special Education Voucher Program

- What are the eligibility criteria for participation in your state’s voucher program (e.g., current IEP on file, length of time eligible for special education, minimum number of hours of special education services allotted, enrolled in public school for at least one year)?
- How is per pupil award calculated (e.g., individually or based on average per pupil cost)?
- What is the average per pupil award?
- What is the maximum per pupil award?

- How is payment handled (e.g., voucher awarded directly to parent or to the private school, voucher awarded on a quarterly or annual basis)?
- Are there any rules/regulations governing which private schools are eligible to participate in your state's voucher program?
- Please describe rules for notification of the student's home district regarding intent to enroll in voucher program (e.g., 60 day notice).
- How is transportation handled (e.g., responsibility of public school system, private school or parents)?
- Is there any requirement for the private school to provide accountability information to the student's home district or the state directly (e.g., assessment results, special education reports)? If so, please describe.
- Please describe any other relevant rules/restrictions governing your state's voucher program (e.g., Are students permitted to switch from one eligible private school to another? Are there any conditions under which the voucher can be retracted?).
- How does your state make information available to families regarding the state's special education voucher program (e.g., publicity efforts)?

Outcomes

- How many students participate in your state's voucher program each year? Over the course of the program's history?
- Is there any required public reporting by the SEA or the state on the voucher program?
- Have there been any attempts to evaluate academic outcomes for students participating in your state's voucher program? If not, are their plans to evaluate? Please describe.
- Are these students included in your state accountability system under the No Child Left Behind Act?
- How many private schools receive reimbursement via your state's voucher program?
- Does the state monitor schools that receive "voucher students" ?
- Has the financial impact of your state's voucher program on the state and districts been determined or estimated (e.g., cost or savings)?
- What do you think is the impact of your state's voucher program on the quality of services to students with disabilities?
- Are there websites and/or documents related to your state's voucher program? If so, please provide.