



The Council of Parent Attorneys and Advocates, Inc.
Protecting the Legal and Civil Rights of Students with Disabilities and Their Families

School Choice and Children with Disabilities:

Considerations in Voucher, Tax Credit, Education Savings or Other Choice Programs

As a thought leader in public policy and in response to increased state-led legislative activity in support of school choice programs, The Council of Parent Attorneys and Advocates (COPAA) surveyed its membership and examined nationally the impact of school choice programs on students with disabilities and their families, resulting in the 2016 report [School Vouchers and Students with Disabilities: Examining Impact in the Name of Choice](#). The report is comprehensive and includes a state-by-state analysis of choice programs and fundamental legal findings as it relates to school choice and student civil rights under the Individuals with Disabilities Education Act (IDEA) and other federal laws.

COPAA's report helps answer critical questions that policy makers, parents and advocates must have such as:

What are the pros to utilizing a school choice program for children with disabilities?

- **It can create options for some families when:**
 - The public school has failed their child and parents forego or cannot afford due process to secure better services in the public school.
 - A family has the financial means to offset the cost of tuition and other fees (e.g. transportation, private services needed that exceed a basic level) at a private or religious school.
 - A state offers an amount that meets full tuition costs due to a specific disability (e.g. dyslexia, autism, or includes funds to cover transportation or other necessary services and supports.)

What are the cons to utilizing a school choice program for children with disabilities?

- **It typically cuts the child off from their rights under IDEA.** The child is then no longer entitled to the special education and related services or procedural protections mandated by IDEA.
- **Families face severe consequences when IDEA rights are terminated such as:**
 - The evaluation conducted to diagnose the disability(s) and inform school teams about the nature of the child's disability is not viewed as a valuable tool by the private/religious school.
 - Students whose needs ultimately cannot be met [and are discharged from the private school] are then required to start the evaluation and planning process under IDEA all over again – wasting precious time during a valuable formative stage of development.
 - Parents have no recourse and are forced to start over in the IDEA process; meanwhile, the child is languishing and not receiving needed services and support.
- **Families encounter financial strain** because the funding provided by the choice program does not cover transportation or other necessary services and supports that a student needs.
- **Private or religious schools push out children** they determine too hard to educate. There is little to no protection if the child is asked to leave the private/religious school.
- **Special-education specific choice programs typically fail to include all students with disabilities** and it is rare for programs to accept students who are twice exceptional.
- **There is often no accountability for student outcomes** in a private or religious school.
- **Too little data exists to compare the academic outcomes** of students with disabilities [and other students] participating in choice programs to public school students.

Since COPAA issued its report in June 2016, new reports have emerged that support our findingsⁱ and demonstrate new alarming results that include students regressing in their academic progress and failing to learn to read and meet math proficiency standards.ⁱⁱ COPAA urges the Congress, the Administration and state policymakers to carefully consider the development of school choice policy so that it can support academic achievement and protect all children, including students with disabilities.

What should Federal policy makers consider in creating federally funded school choice programs?

- **Protect the legal rights of children;** including ensuring full alignment with the purpose and provisions of the IDEA, Section 504, the ADA and all other civil rights laws. Families should not have to sign away important civil rights to participate in publicly funded education programs.
- **Protect IDEA, Title I and other Federal formula funds** from being used to fund choice programs.
- **Require schools that receive public funds to participate in all state required assessments** and other required elements of a state accountability system.
- **Require states to publish** assessment scores, graduation rates, and other outcome data of students with disabilities in all schools, including those using choice funding.
- **The U.S. Departments of Education and Justice should issue a letter to:**
 - Clarify civil rights violations that may be linked to failure to provide a free and appropriate public education under Section 504, or equal access under the Americans with Disabilities Act.
 - Assure such programs are not creating a publicly financed (in whole or in part) segregated education system for students with disabilities. Choice programs should not be used for schools segregated on the basis of a specific disability, disability status, race, religion, gender etc.
- **Assure IDEA supports an express entitlement to all IDEA rights** under any choice program.

What should State policy makers consider in creating state funded school choice programs?

- **Invest in public education to:** assure that there are equitable resources; well-trained, knowledgeable and skilled teachers to provide quality instruction to children of all abilities; and steps taken to close achievement gaps and correct failing schools.
- **Protect the legal rights of children** including monitoring and enforcing compliance with federal and state laws; and, ensuring that “choice” programs using public funds are in full alignment with the purpose and provisions of the IDEA, Section 504, the ADA and all other civil rights laws. Families should not have to sign away important civil rights to participate in publicly funded education programs.
- **Include reasonable costs** for transportation or other services necessary to make the choice equitably available to all families.
- **Require that all schools accepting public funding must include all students in statewide assessments,** making all test results publicly available under one state system.
- **Retain the same high standards for teacher qualifications** as required by the State.
- **Provide oversight and monitoring** of participating [private/religious] schools.
- **Assure the same level of accountability of participating private schools as any other school** in the state.
- **Fund and conduct studies** to evaluate academic achievement, graduation and retention rates, bullying/harassment reports, segregation and similar measures, both for students accepting school choice funds and for those who remain in public schools. Comparative data is essential to good public policy.
- **Provide tools and supports to parents and children** for navigating the complicated nuances of school choice. Give special attention to:
 - a student’s role in the school choice decision-making process, and,
 - how best to educate families about their school choice options. Students with disabilities and their families should have all the information they need to make an informed choice.

COPAA is an independent, nonprofit organization of parents, attorneys, advocates, and related professionals.

COPAA members nationwide work to protect the civil rights and secure excellence in education on behalf of the 6.5 million children with disabilities in America. COPAA’s mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment, higher education and lifelong learning, as well as full participation in his or her community.

ⁱ School Choice: Private School Choice Programs Are Growing and Can Complicate Providing Certain Federally Funded Services to Eligible Students, Government Accounting Office, August 2016 at: <https://www.gao.gov/products/GAO-16-712>

ⁱⁱ Abdulkadiroglu, Atila; Pathak, Parag A.; Walters, Christopher R. "School Vouchers and Student Achievement: Evidence from the Louisiana Scholarship Program," NBER Working Paper, 2016. doi: 10.3386/w21839.