

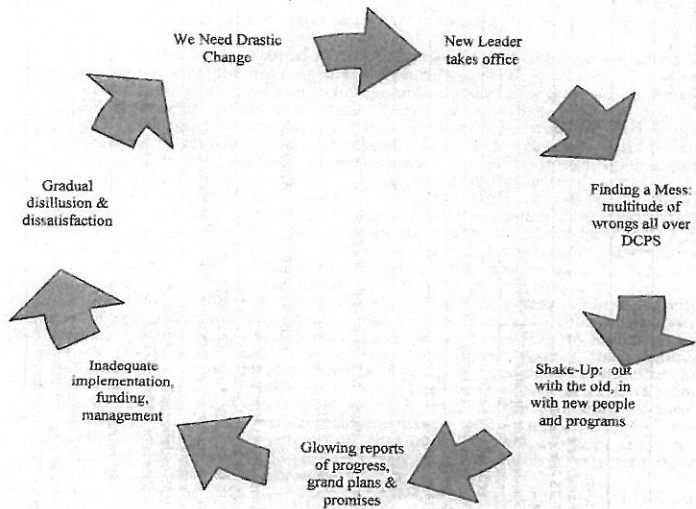
Attached to this testimony is a table summarizing activities, progress, and cautions line by line. The major results, in my view, are:

- An increase in already high staff turnover at all levels, a "workforce replacement" strategy that could bring good new staff but could also drive away effective principals and teachers;
- Expansion of professional development, especially at the local school level, and increasing attention to instructional practice;
- Limited progress in special education, so far not adequate to satisfy court decrees, Department of Education strictures, and having no impact on the enormous cost of private placements, transportation and attorneys' fees;
- Substantial per student funding increases, but unevenly allocated to local schools;
- A serious lack of timely and transparent budget information;
- Major facilities improvements, but a problematic plan for future work and continued under-funding of maintenance;
- Elimination of micro-management and divided authority, but also of checks and balances and non-observance of rules seen as impeding progress; and
- Shrinkage of input and influence of parents and community in key decisions.

Some of these changes are good and necessary, for example attention to effective instructional practices, replacement of ineffective principals, elimination of excess space, and major facilities improvements. Others, however, are unfortunate, for example, the dismissal or resignation of effective principals, ongoing instability at all levels of the workforce, and the shrinkage of parent and community input into important policy and budget decisions. And some are inadequate so far to the need, especially in special education.

I close with a graphic of the repeated cycle of change—20 years of continuous "reform" of the D.C. public school system. These are cycles of motion but ultimately not progress, as frequent changes in leadership throw out effective past reforms instead of building on them. We have seen different actors, different sets, but the same movie with the same ending, over and over. We pray that it will be different this time.

The Cycle of Change in DC Public Schools



ATTACHMENT 1.—ANALYSIS OF REFORM EFFORTS IN DCPS 2007–2009

*Background: Some Unique Circumstances in the District of Columbia*

State and city combined: no separate State control or oversight. Structurally, the District of Columbia has a State takeover.

Congressional control: potential intervention.

Charter schools: 60, on 96 campuses, compete with DCPS for 72,000 total public education students.

Serious ongoing enrollment decline: over 7 percent last year. Charter competition, gentrification, drop in births.

Unusually weak civic capacity.

Area	Activity	Progress	Cautions
Student outcomes: tests, dropout/graduation, truancy, college-going, satisfaction. Academic framework	All efforts combined Standards Aligned curriculum Professional development	Too early to tell Largely done well, prior and current administration Pacing guides (only) Major expansion, including reading and math coaches at all schools.	Data quality still problematic Curriculum not yet done; staff recently replaced School staff give mixed reviews to central PD
Teachers/principals	Aligned tests Test preparation Principal replacement (principals serve at-will)	Big expansion About 61 percent in 2 years Many applicants, good credentials Many replaced	Test security (self-monitor) Limited educationally Annual average over years about 23 percent; no time to build quality; dismissals unrelated to evaluations; some good ones leaving Half of new teachers gone in 2 years; many under-prepared Frequent reports of low morale; some good ones leaving. 27 percent of teachers have only 1-2 years of experience
Programs	Teacher recruitment Teacher replacement (after 2 years, just cause required) Teacher evaluation (current system ineffective) Early Childhood (D.C. long a national leader in availability) General instructional improvements Special programs	New system under development Continued expansion Expansion of targeted instruction, professional development. STEM, art integration, world cultures, IB planned at selected schools. Replacement of some middle schools by pre-K-8 schools. Restructuring (NCLB) New fields and facilities, substantially increased funding. Substantial progress Attempted, outcomes unclear Limited Expanded efforts Substantial expansion	Quality concerns: pupil/staff ratios; developmental appropriateness Schools closed, but most not yet implemented Lack of usual middle school course offerings, guidance counselors Course offerings thin
Special education	Reduce assessment backlog Service improvements (seriously inadequate for decades) Compliance with court decrees and Dept of Education rules Inclusion Social workers, psychologists (part from special education)		Large numbers of new referrals coming in Enormous cost of private placements, transportation and attorneys fees still rising Inadequate to satisfy requirements Too early to tell effects
Wrap-around (social) services			

Management systems	Integration of services from other city agencies Procurement Personnel-payroll Information Budget transparency (steady decline over 25 years) Central office staff replacement Funding Equity	Expansion, still increasing Improved New PeopleSoft—no complaints heard Little change apparent Employees now at-will. Many replaced. New evaluation systems. Substantial increases in per pupil funding, largely directed to classroom and instruction. Art, music, PE, librarians required at all schools Extends improvements to all schools by shifting focus to classroom improvements (Phase 1). Substantial progress, enabled by big increase in funding. Better Closed/consolidated 27 schools Better in second than in first year Less than in previous administrations	Some loss of services to same families in health, housing, day care, due to city budget cuts Information not timely, fails to answer many basic questions; no budget book—only tables Dismissals unrelated to evaluation; some good officials leaving Large differences in per student funding unrelated to student need; basic (staffing plan) strongly favors small schools and is often not even followed Postpones many systems renovations and real modernization to Phases 2 and 3 Cost overruns and concentration on Phase 1 may cause OPEFM to run out of money before underlying systems are replaced Significantly underfunded and provided to some extent by long-term bond funding Several million square feet of excess space remain, largely unused; significant number of very small schools in too-big buildings Substance is often thin, general, and details not made public Many staff, parents, community most closely involved with DCPS feel excluded and do not buy into the results No independent oversight except D.C. Council, which is not set up for close oversight. OSSE is responsible for Federal grants oversight, but is in a conflict of interest, since both DCPS and OSSE are controlled by the Mayor. Unintended consequences of over-emphasis on reading and math testing Staff often report feeling under-supported and over-threatened
Resources: budget, expenditures, staffing.			
Facilities: responsibility now shared with separate Office of Facilities Modernization (OPEFM).	Master Facilities Plan Modernizations, renovations, major repairs Maintenance Excess space		
Parent/community involvement	Communication Participation and input into policy, budget, and other key decisions.		
Governance and accountability	System accountability: D.C. Council and OSSE School accountability: DCPS central School staff accountability: DCPS central, principals	No micro-management of the executive NCLB measures, primarily test scores; school wide performance bonuses; principal dismissals. New evaluation process and instrument in preparation; stringent measures anticipated.	

Area	Activity	Progress	Cautions
Local school autonomy	Local school autonomy	Diminished, with promise of later increase	Heavily centralized, top-down control constrains good principals and teachers, sometimes results in arbitrary treatment at individual school level
Checks and balances	Checks and balances	Almost none. Protects effective reforms, unpopular changes.	Potential protection for fad reforms, mistakes, ineffective implementation, arbitrary decisions

ATTACHMENT 2.—THE DISTRICT'S NEW PUBLIC SCHOOL GOVERNANCE LAW—  
SUMMARY OF IMPACT AND ISSUES

*Effects*

The Home Rule Charter provisions on education have been eliminated. The D.C. Council and mayor have complete authority to change the governance of public education through the normal legislative process.

The Board of Education as a governing body for DCPS is abolished, and its powers and functions taken by the mayor and council. The council has authority to pass laws setting DCPS policy, but for at least a short time will not be able to change budget details—only the amounts allocated to major programs (instruction, facilities, administration, etc).

The board has become a State Board of Education, with authority over a number of city-wide educational policy decisions, such as academic standards, teacher qualifications, graduation requirements, school accreditation, and parent involvement policies. The board cannot hire, fire, or oversee any schools or the State Superintendent of Education, who will continue to report to the mayor. Following the November 2008 elections, board members will be all-elected, one per ward and one at large. The council, however, can change this system or abolish the board altogether.

DCPS is a city agency, operating under the same rules as agencies such as the Police Department or the Department of Health, unless and to the extent that the mayor and council explicitly create exceptions.

DCPS will operate as a local school district only, with its existing Federal grants authority and similar State functions moved to the Office of the State Superintendent of Education.

Facilities construction and renovation are controlled by a separate authority reporting to the mayor; the authority will approve and authorize decisions with significant impact on the educational program, including planning and design.

Oversight as well as policy and operations will be in the hands of the mayor and council. In its structure, this takeover is more like a State takeover of a local district elsewhere than a mayoral takeover. When a mayor takes over a school system, the State education department continues to do oversight and retains authority to set rules. When the State itself takes over a school district, power is exercised by the governor, State superintendent, State board and State legislature.

Constituent problems will be dealt with through an Ombudsman, but also by council members.

*Structural Issues.*—The structure may outlast the individuals stepping into it by many years. Structural concerns expressed by citizens:

- The council's role, since it has some budget authority and the ability to make policy and operating decisions through legislation, could lead to politicization of school decisions, for their becoming fodder in deal-making. In addition, will council members, with all their existing State and local responsibilities have the time and capacity to make well-informed appropriate decisions? Elsewhere, even in cities with mayoral takeovers, city councils do not have line-item budget or policy-making authority.
- The existing conflict of interest, whereby DCPS in its State role oversees itself and its competitors, the charter schools, will not be eliminated, but will be moved to the level of the mayor. Elsewhere in the country, State and local controls are separate. With the advent of dozens of charter schools as separate local education agencies, the District has become like a State.
- Independent oversight and checks and balances are lacking. Only the council will have the power of oversight. Information will be created and controlled solely by those operating the system. Elsewhere in the country, State superintendents and State departments of education oversee and exercise considerable power over local districts, whether controlled by school boards or mayors, and elected school boards answer to the voters only for education issues.
- The only procedure to ensure parent and community input and influence on policy decisions is a requirement that the mayor set up a process including quarterly public meetings. There are no requirements for public information.
- Continued control of DCPS' day-to-day fiscal operations by the city's CFO will maintain the existing confusion and lack of accountability for financial performance and may discourage good superintendents and school system CFOs from coming here. The CFO must have full access to financial information and the ability to investigate and halt payment for cause, but budget and education cost accounting systems and personnel are the prerogative of the Superintendent everywhere else in the country.
- The facilities authority as described in the bill disconnects facilities decisions from the educational system that the facilities are supposed to serve. Moreover,

it could easily become another bureaucracy that slows work and diffuses accountability. Long ago, the District had a similar system, which was changed because it did not serve education.

Senator DURBIN. Well, we're in a mess. We have five rollcalls, which will have us anchored on the floor for the next hour and a half, which means that we can't, at this point, continue the hearing.

And so—I don't know that we can recess it until this afternoon, because Senator Collins can't return, and my schedule is not very good, either. So—we could try to reconvene, because I really want to hear your testimony, if it's okay. If someone can't return, and wants to submit a written testimony, we'll make it part of the record. But, we're coming back. We're not stopping at this point, because there's still a lot of this story that needs to be told, and I want to give you each a chance to do it.

I hope you understand. We didn't know this was coming. And I think the first panel was valuable, and this panel is equally valuable.

So, I promise that we will reconvene. I apologize, on behalf of the subcommittee, for the inconvenience of bringing you all the way here, and making you sit through this, and then not being able to provide your testimony. And we will work with you to find a day that works for the remaining members of the panel.

Is that okay?

Senator COLLINS. Yes. My—

Senator DURBIN. Thank you.

Senator COLLINS [continuing]. Apologies, as well.

#### SUBCOMMITTEE RECESS

Senator DURBIN. I'd like to blame somebody, but since I'm in leadership—

Senator COLLINS. I was going to point that out, but—

Senator DURBIN. The subcommittee will stand recessed—

Senator COLLINS. Thank you.

Senator DURBIN [continuing]. And we'll be back.

[Whereupon, at 11:50 a.m., Wednesday, September 16, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

## MATERIAL SUBMITTED SUBSEQUENT TO THE HEARING

[CLERK'S NOTE.—The following testimonies were received by the Subcommittee on Financial Service and General Government for inclusion in the record.]

#### PREPARED STATEMENT OF THE SECULAR COALITION FOR AMERICA

I want to thank Senator Durbin and the other members of the Committee for this opportunity to submit written testimony as you consider whether or not to reauthorize the D.C. Opportunity Scholarship Program.

The Secular Coalition for America is the leading organization promoting the viewpoints of nontheistic Americans and their Federal policy concerns. Headquartered in Washington, DC, and founded in 2005, our mission is to increase the visibility of and respect for nontheists in the United States, and to protect and strengthen the secular character of our government as the best guarantee of freedom for all Americans. We are members of the National Coalition for Public Education, which is a coalition of civil rights, civil liberties, labor and education groups which fights against voucher programs. While the Secular Coalition for America opposes voucher programs and other revenue shifting measures which pay for religious education, we take no position on the use of vouchers for secular private education.

#### THE D.C. OPPORTUNITY SCHOLARSHIP PROGRAM INVOLVES AN INAPPROPRIATE USE OF GOVERNMENT FUNDS TO SUPPORT RELIGION

One of the most dearly held principles of religious liberty is that government should not compel any citizen to furnish funds in support of a religion with which he or she disagrees, or even a religion with which he or she does agree.<sup>1</sup>

According to a U.S. Department of Education report published in March 2009, 82 percent of students whose tuition is paid for by the District of Columbia voucher program attend faith-based schools.<sup>2</sup> Only 22 percent of students in the D.C. program attend a school that charges non-voucher students more than the \$7,500 the District of Columbia pays for a voucher student to attend the school.<sup>3</sup> Thus, for most students a voucher covers the cost of all instruction provided by the school, non-religious and religious instruction alike.

For some schools it is even difficult to identify what part of the curriculum could be characterized as "non-religious". As an example, one school that receives taxpayer funds pursuant to the District of Columbia voucher program, the Ambassador Baptist Church Christian School, states on its Web site that the school's "primary mission and goal . . . is to train the students in the knowledge of God and the Christian way of life and to provide them with an excellent educational experience . . . God's truth is infused throughout the curriculum and is reinforced in chapel each week." Other schools that receive taxpayer funds include the New Macedonia Christian Academy which boasts about delivering "a high quality Christian education to our students while instilling a strong Christ-centered academic foundation" and the Dupont Park School, which encourages "each student to develop a personal relationship with God." For such schools worship and religious doctrine are so intertwined with academic life as to be indistinguishable. There is no separation of non-religious and religious education.<sup>4</sup>

<sup>1</sup> Virginia Statute for Religious Freedom, 1789.

<sup>2</sup> U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years* (March 2009) xxi.

<sup>3</sup> U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years* (March 2009) ix.

<sup>4</sup> Students are directly affected by this lack of separation of non-religious and religious education and the absence of an opt-out provision to allow students to forgo religious instruction.

Continued



## THE D.C. VOUCHER PROGRAM SHOULD NOT BE REAUTHORIZED

The Secular Coalition opposes the use of government funds for religious purposes, including vouchers for religious schools. We agree with the founders of the United States that no individual taxpayer should be required to pay for the propagation of another's religion. This fundamental protection should certainly preclude taxpayer subsidization of religious organizations by supporting the religious education—and indoctrination—of a fellow citizen's child. Safeguarding every American's freedom of conscience is the very purpose of the Establishment Clause contained in the First Amendment of the U.S. Constitution.

When religious schools are privately funded, they have an undisputed right to include religious content in their curriculum. However, once taxpayer dollars enter the equation, it is imperative for the government to avoid funding religious activity.

We oppose the Scholarships for Opportunity and Results Act of 2009 and other legislative efforts to reauthorize the D.C. Opportunity Scholarship Program.

## PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

On behalf of the American Association of School Administrators, representing more than 13,000 school superintendents and local educational leaders, we urge you to oppose private school vouchers. In a time when every Federal dollar matters and funding for critical public school funding such as title I is under threat, now is not the time to continue the diversion of scarce taxpayer dollars to private schools.

A recent Institute of Education Sciences evaluation of the private school vouchers in the District of Columbia found no academic difference—in English or math—for the target population of students, those who originally attended schools failing to make Adequate Yearly Progress (AYP). Additionally there was no difference for boys in either English or math regardless of the AYP status of their original public school. It is clear, after an independent government evaluation, that the pilot program in the District of Columbia has not demonstrated results and therefore should not be continued.

Private schools are not held to the same accountability standards as public schools. They are not required to have the same level of transparency and reporting to the public and are not subject to the requirements of No Child Left Behind or the Individuals with Disabilities Education Act. As congressional expectations of public school districts continue to rise, it is inequitable to not have the same expectations for private schools receiving Federal dollars.

Vouchers are poor public policy, inherently flawed in permitting the inequalities found in the private markets, and lacking public oversight. Furthermore, touted as a "school choice" option for parents, this program actually leaves the choice of which students are admitted to the schools not the parents. Vouchers have demonstrated a consistent lack of political viability, losing by a margin of 2-to-1 in 12 State elections over a 36-year period. They create an unsustainable increase in Federal, State and local taxes.

With limited Federal dollars we must invest available funding into the public school districts that help a largest percentage of children and are subject to Federal requirements. It is the children left behind by vouchers who are at the greatest risk. Scarce taxpayer dollars should be focused on interventions to improve education for all students, rather than diverting funds to let a select few out of the public system.

Once again, we urge you to focus on the education that affects the majority of school children in the District and no longer continue sending taxpayer dollars to private schools through the expired and failed private school pilot program. If you have any questions, please do not hesitate to contact us.

## PREPARED STATEMENT OF THE AMERICAN FEDERATION OF TEACHERS

The American Federation of Teachers (AFT) appreciates the opportunity to share its views on the "Opportunity Scholarship Program," which provides private school vouchers in Washington, DC.

The AFT, on behalf of its more than 1.4 million members, strongly opposes reauthorization of or funding for new students to participate in the expired private school voucher pilot program. This position, while specific to the program at hand,

worship and indoctrination. More than 8 percent of the children who leave their voucher schools do so because "religious activities at the private school make the child uncomfortable," according to the 2008 U.S. Department of Education Report. U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Two Years* (June 2008) 23.

is consistent with a core principle: Taxpayer funds should be used to support our Nation's public schools. Private schools, which are ancillary to the public school system, should not be supported with public funds. This position is not new, nor is the decades-long discussion about the viability and suitability of vouchers. We believe that government's time and energy would be better spent focusing on strengthening and improving the public schools that are its responsibility. Instead of spending public dollars on vouchers for some students, funds should be invested in public school programs that have been proven to work, and that will help ensure all students receive a rich, rigorous education that prepares them for college or the workforce after high school. These proven programs include lowering class sizes to allow teachers to spend more time with individual students, adopting reading programs with a record of effectiveness, offering after-school programs for students, making available wraparound services to meet students' noninstructional needs, and providing high-quality early childhood education. In addition, school buildings need to be repaired and modernized so children have access to technology and can learn in a safe, healthy and comfortable environment.

The D.C. voucher program, like other private school voucher plans, is a flawed policy that lacks accountability, and diverts attention and resources from efforts to improve our public schools.

The program was established as a 5-year experimental pilot that expired at the end of fiscal year 2008. The fiscal year 2009 omnibus appropriations bill provided one additional year of funding, but specified that no further funds would be provided unless the program is reauthorized by Congress and approved by the D.C. City Council. The fiscal year 2010 financial services appropriations bill as reported by the committee provides funding only for students already receiving a voucher.

The voucher program has proven to be flawed and ineffective, and there is no justification for continuing it for any new students. Several Federal reports released in 2007, 2008 and 2009 have clearly documented the problems with the program and its lack of effectiveness.

According to three congressionally mandated evaluation reports, vouchers have not resulted in increased achievement for the students formerly attending schools in need of improvement—the very students the program was primarily intended to assist. The 2007 and 2008 reports revealed no statistically significant differences overall in reading or math between D.C. private school voucher students and their peers attending D.C. public schools. The 2009 report likewise found no overall difference in math scores. While there was some improvement in reading scores, there was no significant difference in reading for students coming from schools in need of improvement or students who entered the program in the lower third of test score distribution.

The evaluations also found that the voucher program had no impact on student motivation and engagement, on students' satisfaction with their school, or on whether students viewed their school as safe and orderly. Also, voucher students were less likely to have access to important services such as programs for English language learners, special programs for students with learning problems, counselors, tutors and after-school programs.

In addition, a number of accountability problems with the program were documented in a report issued by the U.S. Government Accountability Office in 2007. According to the report, for example, students from schools in need of improvement (the group given priority in the statute) were underrepresented in the program, and Federal tax dollars were spent on tuition at private schools that did not charge tuition. Some participating schools employed teachers who lacked a bachelor's degree; some failed to meet basic requirements for operating legally in the District of Columbia.

The AFT believes it is clear that the evidence does not support reauthorizing the program or providing funding for any new students. We now have an opportunity in the District of Columbia to make a real difference in the city's public schools, where the majority of students are educated. Resources and attention should be focused on that goal rather than on funding private school vouchers.

## PREPARED STATEMENT OF THE CENTER FOR INQUIRY

The Center for Inquiry strongly urges you to oppose legislation that would reauthorize the expired Washington, DC private school voucher pilot program. All four of the Federal studies that have analyzed the program concluded that the program is ineffective, leaving no justification for its continuation. Rather than extending the voucher program, Federal funding should be spent in more useful ways that would serve all students in Washington, DC.

The 5-year pilot program was authorized to provide private school vouchers worth up to \$7,500 to approximately 1,700 students, at an annual cost of \$14 million. Though the program was scheduled to expire in 2008, the fiscal year 2009 omnibus appropriations bill provided one additional year of funding (for the 2009–2010 school year) to allow for a smooth transition for students currently participating in the program. That appropriation stipulated that no additional funding would be available until Congress thoroughly examined the program and, by reauthorization, designated that the program warranted continued funding. Given the program's ineffectiveness, demonstrated conclusively and consistently as described below, and inappropriateness, given the disproportionate funding allocated to relatively few students while the needs of the majority of D.C. public school students go unmet, it is clear that there is no justification for extending the program.

Despite proponents' claims 6 years ago that the voucher program would permit students from "schools in need of improvement" (SINI) to attain greater levels of academic achievement, all three of the congressionally mandated Department of Education studies have concluded that the voucher program has had no effect on the academic achievement of these students.<sup>1</sup>

Furthermore, the 2007 U.S. Government Accountability Office (GAO) Report found that students from SINI schools are actually "underrepresented" in the program.<sup>2</sup> Having failed to improve the academic achievement of the students the program targeted, the voucher program has proven unworthy of reauthorization.

These Federal studies further found that the voucher program had no effect on student safety, satisfaction, motivation, or engagement.<sup>3</sup> And, they revealed that many of the students in the voucher program were less likely to have access to key services—such as ESL programs, learning support and special needs programs, and counselors—than students who were not part of the program.<sup>4</sup> Perhaps that is why students with physical or learning disabilities are underrepresented in the program compared to the public schools.<sup>5</sup> The program's inability to improve the school experience of students in the voucher program further demonstrates that the program is not worthy of reauthorization.

In addition to the lack of academic evidence supporting the program, the GAO Report also documented several accountability shortcomings in the program. Examples include Federal taxpayer dollars funding tuition at private schools that do not even charge tuition, schools that lacked city occupancy permits, and schools employing teachers without bachelor's degrees.<sup>6</sup> Also, some of the information provided to parents regarding the private schools, including information that "could have significantly affected parents' choice of schools," was "misleading," "incorrect," and "incomplete."<sup>7</sup>

That the program is expiring should come as no surprise to voucher proponents—the 5-year expiration date was clear when the program was created. Furthermore, the end of the program does not necessarily mean that students will have to leave their voucher school. The WSF provided privately-funded scholarships to students before the Federal voucher program was established and it continues to provide such scholarships now. And, with help from voucher supporters, it is sure to raise even more money in the future.

The Center for Inquiry believes that instead of sending Federal money to private schools, money should instead be invested in the public schools. We also note that despite receiving public money, the participating private schools are not subject to all Federal civil rights laws, and do not face the same public accountability standards, including those in the No Child Left Behind (NCLB) Act, that all public schools face. We also believe this program continues to raise problems under the First Amendment of the Constitution.

<sup>1</sup>U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years* (April 2009), [http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050\\_1.pdf](http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050_1.pdf); U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Two Years* (June 2008), <http://ies.ed.gov/ncee/pubs/20084024/pdf/20084024.pdf>; U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After One Year* (June 2007), <http://ies.ed.gov/ncee/pubs/20074009/pdf/20074009.pdf>.

<sup>2</sup>U.S. Government Accountability Office, District of Columbia Opportunity Scholarship Program: *Additional Policies and Procedures Would Improve Internal Controls and Program Operations*, Pub. No. 08–9 at 26 (Nov. 2007) (GAO Report), <http://www.gao.gov/new.items/d089.pdf>.

<sup>3</sup>2009 U.S. Department of Education Report at xxvi, xviii, 35, 40, 44–45, 49–50; 2008 U.S. Department of Education Report at 42–43, 50, and 57; and 2007 U.S. Department of Education Report at xix and 1–4.

<sup>4</sup>2009 U.S. Department of Education Report at xxii, and 17; 2008 U.S. Department of Education Report at xvii, and 16; 2007 U.S. Department of Education Report at 21.

<sup>5</sup>GAO Report at 30.

<sup>6</sup>*Id.* at 22–23, 33–35.

<sup>7</sup>*Id.* at 36.

The Center for Inquiry believes the objective evidence does not support the reauthorization or continued funding of the only federally funded school voucher program. Therefore, we urge you to oppose reauthorization of the D.C. voucher program.

Thank you for your consideration of our views on this important issue.

#### PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

Chairman Durbin, Ranking Member Collins, and members of the subcommittee thank you for the opportunity to submit testimony for the hearing "A Review of Federal Appropriations for District of Columbia Education."

The American Association of University Women is a membership organization founded in 1881 with approximately 100,000 members and 1,000 branches nationwide. AAUW has a proud 128-year history of breaking through barriers for women and girls and has always been a strong supporter of public education. Today, AAUW continues its mission through education, research, and advocacy.

The American Association of University Women remains committed to ensuring strong academic principles and closing the achievement gap for all children, while standing firmly by the belief that the country should provide an excellent education for all children, not private school vouchers for a few. While AAUW supports funding for District of Columbia public schools and charter schools, we strongly oppose the D.C. Opportunity Scholarship Program.

AAUW believes a strong, free public education system is the foundation of a democratic society, and has long opposed diverting public funds to private or religious elementary and secondary schools. The 1937 AAUW legislative program called for "free public instruction of high quality available to all, since popular education is the basis for freedom and justice," and in 1955 stated "universal education is basic to the preservation of our form of government and to the well-being of our society." Today, AAUW's 2009–2011 Public Policy Program clearly states AAUW's ". . . opposition to the use of public funds for nonpublic elementary and secondary education."<sup>1</sup>

While AAUW supports innovative techniques to improve America's schools, we believe voucher proposals fly in the face of our Nation's commitment to public education. AAUW does not oppose public school choice programs, which allow students to choose a public school in their school district. However, in many areas of the country the notion of "private school choice" is misleading because there are few, if any, private schools or because the only private schools are religiously affiliated and not the appropriate denomination for the family.

From AAUW's perspective, regardless of the constitutionality of certain voucher programs, such schemes are not sound education policy.

#### AAUW OPPOSES VOUCHERS

Private and religious schools are not required to observe Federal nondiscrimination laws, such as title IX. In fact, voucher proposals often contain language specifically intended to circumvent civil rights laws, and many proponents insist voucher funding does not flow to the school but instead to the parent or student precisely to avoid any civil rights obligations. This specificity in language allows private institutions to discriminate on the basis of religion, gender, disability, and language proficiency. Further, private and religious schools can reject a student based on the school's own admissions criteria and discriminate against a student in access to classes, guidance counseling, extracurricular activities, and other aspects of education.

Private and religious schools are not held to the same accountability and testing standards established in the No Child Left Behind Act (NCLB). Such schools do not have to hire "highly qualified" teachers, adhere to NCLB testing requirements and Adequate Yearly Progress, or disaggregate or publicly release student achievement results.

Funding for NCLB is woefully inadequate, and the additional diversion of needed resources would further diminish public schools' ability to meet mandated accountability standards and address achievement gaps among students. President George W. Bush's budget for fiscal year 2009 allotted only \$24.7 billion for NCLB—nearly

<sup>1</sup>American Association of University Women (June 2009), 2009–11 AAUW Public Policy Program. Retrieved July 9, 2009, from [http://www.aauw.org/advocacy/issue\\_advocacy/principles\\_priorities.cfm](http://www.aauw.org/advocacy/issue_advocacy/principles_priorities.cfm).

\$15 billion below the authorized amount. Over the course of its existence, NCLB has been underfunded to the tune of over \$85 billion.<sup>2</sup>

Our country's public schools already face teacher shortages, overcrowded classrooms, and increased accountability without adequate funding. Diverting critical resources from the school systems that educate 90 percent of America's students is not a fiscally sound investment.<sup>3</sup>

Private and religious school voucher programs weaken the public school system by diverting these already scarce funds that could otherwise be used for needed teacher training, smaller class sizes, expanded support services, and improved facilities.

Private school vouchers do not raise student achievement. A recent study conducted by the National Center for Education Statistics of the U.S. Department of Education compared the effectiveness of public schools to that of private institutions. After controlling for critical demographic factors (parents' income, education level, number of books in household), NCES found that public schools perform as well as, and even better in a few instances, than private schools.<sup>4</sup> A 2001 GAO study confirmed that the official evaluations of Cleveland's and Milwaukee's voucher programs found no differences in the achievement of voucher students compared to public school students, despite built-in applicant screening advantages for private schools.<sup>5</sup>

Vouchers are taxpayers' dollars spent according to the policies of a private school board—not the decisions of a democratically elected and publicly accessible school board. Private and religious schools are not required to meet basic accountability provisions, such as open meetings and records laws, or to publicly release test scores, dropout rates, and other basic information. Because private schools are not accountable to the public at large, taxpayers lose public oversight for the expenditure of their tax dollars.

Vouchers disproportionately help families with children already in private schools or those who have never attended public schools at the inception of the Cleveland "Scholarship and Tutoring Program," 39 percent of students used their vouchers to continue their attendance in private or religious schools, and another 40 percent were attending school for the first time.<sup>6</sup>

#### VOUCHER PROPOSALS UNPOPULAR IN PUBLIC OPINION POLLS AND BALLOT INITIATIVES

A 2001 poll conducted by the National School Boards Association and Zogby International revealed that voters preferred strategies to invest in public education like reducing class size (27 percent), improving teacher quality (27 percent), and increasing teacher training (23 percent) over voucher schemes (13 percent).<sup>7</sup>

A 2006 Phi Delta Kappa/Gallup poll found that 71 percent of Americans would prefer improving existing public schools over "finding an alternative to the existing public school system."<sup>8</sup>

In November 2007, Utah voters rejected a voucher proposal that would have made vouchers available to all students. This marked 11 out of 11 tries that voucher State ballot initiatives have been decisively rejected by voters.<sup>9</sup> In most cases, the \$3,000

<sup>2</sup>National Education Association (February 4, 2008). *Funding Gap: No Child Left Behind*. Retrieved April 27, 2009, from <http://www.nea.org/assets/docs/fundinggap.pdf>

<sup>3</sup>National Center for Education Statistics (2007). *The Condition of Education 2007*. Retrieved December 4, 2007, from <http://nces.ed.gov/pubs2007/2007064.pdf>. The 90 percent statistic is derived from this table, which shows total private school enrollment at 9.7 percent.

<sup>4</sup>National Center for Education Statistics (July 2006). *Comparing Private Schools and Public Schools Using Hierarchical Linear Modeling*. Retrieved December 4, 2007, from <http://nces.ed.gov/nationsreportcard/pdf/studies/2006461.pdf>

<sup>5</sup>U.S. Government Accounting Office (August 2001). *School Vouchers: Publicly Funded Programs in Cleveland and Milwaukee*. GAO-01-914 Retrieved December 5, 2007, from <http://www.gao.gov/new.items/d01914.pdf>

<sup>6</sup>Schiller, Zach and Policy Matters Ohio (September 2001). *Cleveland School Vouchers: Where the Students Come From*. Retrieved December 5, 2007, from <http://www.policymattersohio.org/voucherintro.html>

<sup>7</sup>National School Board Association/Zogby International Poll (September 25, 2001). *School Vouchers: What the Public Thinks and Why*. Retrieved December 5, 2007, from <http://www.nsb.org/MainMenu/Advocacy/FederalLaws/SchoolVouchers/VoucherStrategyCenter/NSBAAdvocacyToolsonVouchers/NSBAAnationalpollonschoolvouchers.aspx>

<sup>8</sup>Phi Delta Kappa/Gallup Poll (September 2006). *The 38th Annual Phi Delta Kappa/Gallup Poll on the Public's Attitudes Toward Public Schools*. Retrieved December 5, 2007, from [http://www.eric.ed.gov/ERICWebPortal/custom/portlets/recordDetails/detailmini.jsp?\\_nfpb=true&\\_&ERICExtSearch\\_SearchValue\\_0=EJ758062&ERICExtSearch\\_SearchType\\_0=no&accno=EJ758062](http://www.eric.ed.gov/ERICWebPortal/custom/portlets/recordDetails/detailmini.jsp?_nfpb=true&_&ERICExtSearch_SearchValue_0=EJ758062&ERICExtSearch_SearchType_0=no&accno=EJ758062)

<sup>9</sup>National School Boards Association (November 7, 2007). *Utah Voters' Defeat School Vouchers*. Retrieved January 2, 2008, from <http://vocuspr.vocus.com/vocuspr30/Newsroom/>

voucher would not cover even half of private school tuition which is estimated to be as much as \$8,000 annually. The initiative was defeated by a 25 percentage point margin with every county in the State voting against the voucher proposal.<sup>10</sup>

#### DISTRICT OF COLUMBIA SCHOOL VOUCHER PROGRAM

In 2003, a private school voucher program was created for the District of Columbia school system; it was intended as a 5-year pilot research project scheduled to expire in 2008. This represents the first time in history that Federal dollars have been used to fund private school vouchers. In the 109th Congress, several attempts to expand the program were proposed. While many of these attempts were thwarted, Congress did approve expanding eligibility for families already enrolled for the first 2 years of the program from 185 percent of the Federal poverty level to 300 percent of FPL, turning what was pitched as a program to subsidize tuition for low-income families into a program that funds private education for middle-class families that often could afford the tuition anyway. With these precedents laid, voucher proponents have been emboldened to further divert taxpayer dollars to pay for private education. The program, which currently receives \$14 million, provides vouchers of up to \$7,500 a piece to about 1,700 students.

While implemented, the District of Columbia private school voucher "pilot" program has not performed in the ways the law was intended. A 2005 report found that fewer than 75 of the more than 1,300 students who received vouchers came from public schools that were determined to be most in need of improvement by Federal law.<sup>11</sup> At the same time, more than 200 students who received vouchers were already enrolled in private schools. The unfortunate irony is that the number of students already in private schools receiving vouchers is almost three times the number of students coming from schools in need of improvement—the students who were purportedly the target of the program.<sup>12</sup>

Although the program expired in 2008, it was funded by the fiscal year 2009 Appropriations Act for one additional year. The current version of fiscal year 2010 Financial Services and General Government Appropriations Act (S. 1432) is similar to the budget request proposed by President Obama, which would fund the program until students currently receiving vouchers graduate from high school. The bill includes \$12.2 million for the program, limits the program to those students who received scholarships in the 2009–2010 school year, and includes an additional \$1 million for new testing requirements. The bill also includes important provisions from the fiscal year 2009 Appropriations Act that require schools to have certificates of occupancy and ensure that core subject teachers have bachelor's degrees.

While AAUW's general concerns about vouchers as discussed above apply to this program, we are especially troubled that most of the private schools that receive funding under the program do not have to follow title IX. Title IX is the Federal civil rights law prohibiting sex discrimination in education programs and activities that receive Federal financial assistance. The only private schools in the program that have to comply with title IX are schools that receive Federal money in addition to the voucher funding. While commonly known for creating opportunities for women and girls in athletics, title IX affects all areas of education. It has made it possible for women to pursue careers as lawyers, doctors, mechanics, scientists, and professional athletes. Because schools that participate in this voucher program are exempt from title IX, they can discriminate based on gender. This means schools can base admissions decisions on gender, limit opportunities for girls to play athletics, and base curriculum on outdated gender stereotypes. By exempting schools under this program from title IX, the voucher program creates an environment that is not only ripe for gender discrimination, but has no protections in place should that discrimination occur.

In addition to civil rights concerns, the D.C. voucher program has not been shown to improve academic achievement. In April 2009, the Department of Education re-

Query.aspx?SiteName=NSBNew&Entity=PRAsset&SF\_PRAsset\_PRAssetID\_EQ=108422&XSL=PressRelease&Cache=False

<sup>10</sup>Crawford, Grigs (November 7, 2007). *Taxes, Stem Cell Funding, School Vouchers Rebuffed in Ballot Measure Voting*. Retrieved December 5, 2007 from <http://www.cpolitics.com/wmspage.cfm?parm1=5&docID=news-000002623685>

<sup>11</sup>People for the American Way Foundation (February 2005). *Flaws and Failings: A Preliminary Look at the Problems Already Encountered in the Implementation of the District of Columbia's New Federally Mandated School Voucher Program*. Retrieved December 5, 2007, from [http://site.pfaw.org/site/PageServer?pagename=report\\_flaws\\_and\\_failings](http://site.pfaw.org/site/PageServer?pagename=report_flaws_and_failings)

<sup>12</sup>People for the American Way Foundation (February 2005). *Flaws and Failings: A Preliminary Look at the Problems Already Encountered in the Implementation of the District of Columbia's New Federally Mandated School Voucher Program*. Retrieved December 5, 2007, from [http://site.pfaw.org/site/PageServer?pagename=report\\_flaws\\_and\\_failings](http://site.pfaw.org/site/PageServer?pagename=report_flaws_and_failings)



leased a new report which found no improvement in academic achievement for those students receiving vouchers from public schools in need of improvement—the target audience of the voucher program.<sup>13</sup> An earlier report from June 2008 found that “after 2 years, there was no statistically significant difference in test scores in general between students who were offered an OSP [Opportunity Scholarship Program] scholarship and students who were not offered a scholarship.” In addition, while “the Program had a positive impact on overall parent satisfaction and parent perceptions of school safety . . . [s]tudents had a different view of their schools than did their parents.” Overall, student satisfaction was unaffected by the voucher program.<sup>14</sup>

In addition, a November 2007 GAO report revealed numerous problems with the District of Columbia voucher program, including a lack of detailed fiscal policies and not adhering to procedures for making scholarship payments. The report also found that many of the participating schools conducted classes in unsuitable learning environments taught by teachers lacking bachelor’s degrees. In many cases, parents were not informed of these deficiencies.<sup>15</sup>

AAUW will continue to urge Congress and the Obama Administration to end the D.C. voucher program—a program which does not work and has already expired. AAUW believes the appropriate strategy for improving our Nation’s schools is to direct resources toward improving public schools, rather than diverting public funds into private institutions.

Thank you for the opportunity to submit testimony.

#### PREPARED STATEMENT OF PEOPLE FOR THE AMERICAN WAY

On behalf of the hundreds of thousands of members of People For the American Way, we urge you to focus scarce Federal resources on programs that will create opportunity for all public school students and not just a select few. Accordingly, we oppose the experimental D.C. private school voucher program, which has failed to provide any significant improvement in the educational attainment of the enrolled students. Furthermore, this program continues to undermine fundamental constitutional principles as well as the core accountability requirements of the No Child Left Behind Act.

As a civil rights organization dedicated to protecting core constitutional principles, People For the American Way opposes the D.C. private school voucher program because it is a blatant infringement upon the separation of church and State and fails to adequately protect the civil rights of all students. The D.C. private school voucher program federally funds and permits private institutions to discriminate against students and staff based upon religion, gender, and limited English proficiency. Notably, this program even allows private schools to discriminate against students by picking and choosing which students to educate; public schools on the other hand must educate every child. The end result is the undermining of the diversity upon which this country flourishes.

Claims that funding of the voucher program is necessary to ensure increased funding for the D.C. public school system is a ruse created by the previous Administration to move an ideological agenda. Throughout the tenure of the experimental D.C. private school voucher program, D.C. public and charter schools could have utilized the nearly \$70 million in funds allocated to the voucher program for critical school safety measures and repairs. Instead, this funding was used to support a program that has consistently been found to have “no significant impact on student achievement.” In fact, the most recent study by the U.S. Department of Education in 2009<sup>1</sup> revealed that there were no significant differences in reading or math for D.C. private school voucher students who came from schools identified as in need of improvement (SINI). This same study further found that the program may not

<sup>13</sup>U.S. Department of Education, Institute of Education Statistics (April 2009). *Evaluation of the D.C. Opportunity Scholarship Program: Impact After Three Years*. Retrieved April 3, 2009 from <http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050.pdf>.

<sup>14</sup>U.S. Department of Education, Institute of Education Statistics (June 2008). *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Two Years Executive Summary*. Retrieved June 16, 2008 from <http://ies.ed.gov/ncee/pdf/20084024.pdf>.

<sup>15</sup>U.S. Government Accounting Office (November 2007). *District of Columbia Opportunity Scholarship Program: Additional Politics and Procedures Would Improve Internal Controls and Program Operations*. GAO-08-9 Retrieved December 5, 2007, from <http://www.gao.gov/new.items/d089.pdf>.

<sup>1</sup>“Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years,” Institute of Education Sciences, U.S. Department of Education, Mar. 2009, <http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050.pdf>.

be reaching enough SINI students, the top priority for the voucher program upon its creation, when compared with other student groups. Uplifting SINI students was the purported reason for the support of some Senators when the program was initially funded and failing on this point alone should be reason enough for the program’s elimination. D.C. public school students deserve better.

For the reasons outlined above, People For the American Way opposes the D.C. private school voucher program. The evidence is clear that it has not proven to be an effective educational tool. To the contrary, this program has actually hindered the improvement of our public educational system. Federally funding such programs symbolizes a deprioritization of the public schools and their students.

While we believe that there are more appropriate ways to phase out the current D.C. private school voucher program, we applaud President Obama’s recognition that taxpayer-funded private school voucher schemes are ineffective and not the answer. The Appropriations Committee has already agreed with the President in reporting a bill where no new students can be admitted to the program. We hope that you will continue to support our public school students and phase out the D.C. private school voucher program.

#### PREPARED STATEMENT OF AFRICAN AMERICAN MINISTERS IN ACTION

On behalf of thousands of clergy members, pastors, and African American community leaders within the African American Ministers In Action (AAMIA) network of People For the American Way, I write in opposition to the D.C. private school voucher program. As pastors, community leaders, and civically engaged citizens of faith, we stand against any measure or legislation that does not significantly uplift and improve our communities. The D.C. private school voucher program is one such measure.

From the very beginning, AAMIA has stood against the D.C. private school voucher program. By displacing funding, the D.C. private school voucher program has not only diverted taxpayer money from meeting the critical school safety, repair, and other needs of our congregants and parishioners, but has also failed to provide any significant academic improvements to our children’s education. In fact, the most recent study by the U.S. Department of Education in 2009<sup>1</sup> revealed that there were no significant differences in reading or math for D.C. private school voucher students who came from schools identified as in need of improvement (SINI).

Additionally, the D.C. private school voucher program is an infringement upon the separation of church and State that fails to adequately protect the civil rights of all students and staff. The program federally funds and permits private institutions to discriminate against students and staff based upon religion, gender, limited English proficiency, and disability. It even allows merit-based discrimination; while public schools must educate every child, private schools can pick and choose. Hence, those students most in need will continue to be left behind. This has already been shown to occur in evaluations of the D.C. voucher program.<sup>2</sup>

We ask you, as the Appropriations Committee did during its July markup, to make “school choice” a decision to choose what is best for our public schoolchildren, our communities and our schools. Supporting the voucher program means agreeing to fund private institutions that are unaccountable to the standards of the No Child Left Behind Act. Hence, not only do we have financial unaccountability, but academic as well while our public schools continue to fall into disrepair. This is unacceptable.

As faith leaders we must oppose any legislation that ignores and exacerbates the concerns of our communities. Federally funded voucher programs like the D.C. program symbolize the government’s deprioritization of the public schools and therefore its students. Funding for D.C. public school students should not be leveraged against the continuation of an ideological agenda to promote adequate Federal funding of private schools. This is not the role of the Federal Government. Thus, we ask

<sup>1</sup>“Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years,” Institute of Education Sciences, U.S. Department of Education, Mar. 2009, <http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050.pdf>.

<sup>2</sup>“District of Columbia Opportunity Scholarship Program,” U.S. Government Accountability Office, Nov. 2007, <http://www.gao.gov/new.items/d089.pdf>.

<sup>3</sup>“Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years,” Institute of Education Sciences, U.S. Department of Education, Mar. 2009, <http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050.pdf>. “Flaws and Failings: A Preliminary Look at the Problems Already Encountered in the Implementation of the District of Columbia’s New Federally Mandated School Voucher Program,” People For the American Way Foundation, Feb. 2005, [http://site.pfaw.org/site/PageServer?pagename=report\\_flaws\\_and\\_failings](http://site.pfaw.org/site/PageServer?pagename=report_flaws_and_failings).

you to continue on the path charted by the July-reported bill and stand for our communities by supporting the phase out of a program that ignores the real concerns of the D.C. public school students and District residents.

PREPARED STATEMENT OF AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE

Americans United for Separation of Church and State (Americans United) submits this testimony to the Subcommittee on Financial Services and General Government of the United States Senate Appropriations Committee for the hearing entitled: "A Review and Assessment of the Use, Impact, and Accomplishments of Federal Appropriations Provided to Improve the Education of Children in the District of Columbia." Though the hearing will focus on D.C. public school reform, charter schools, and the voucher program, this testimony will solely focus on the D.C. voucher program. In particular, we hope to explain why the D.C. voucher program has not only failed to improve education in the District of Columbia, but has actually served as a detriment to the system.

Americans United is a non-partisan organization founded in 1947 by a broad coalition of religious, educational, and civic leaders that is dedicated to preserving the separation of church and State as the way to ensure religious liberty for all Americans. Since our inception, we have opposed the funneling of public money to private and religious schools through mechanisms such as private school vouchers and tuition tax credits.

We opposed the D.C. voucher program at its inception for various reasons: because vouchers do not improve the education of participants in the program, undermine the public school system, and offend the principles of church-State separation by primarily funding religious private schools. Now that the voucher program has been in place for several years, there are studies and evidence proving each of these predictions true.

THE HISTORY OF THE PROGRAM

The D.C. voucher program was created as an experimental 5-year pilot program in 2004. The program was created against the wishes of D.C. citizens, the District's only congressional representative, and the majority of elected officials in the District of Columbia. The Republican-led U.S. House of Representatives passed the program by just one vote (209–208), on an evening when many representatives who oppose vouchers were attending a presidential primary debate in Baltimore and when the vote was held open for an unusually long 40-minute period. The vote was not a completely partisan vote, as 14 Republicans, along with 194 Democrats, opposed the bill.

The full Senate did not vote on the issue. Indeed, the voucher language was pulled from the D.C. Appropriations bill because it was clear the measure would not pass with the language. The program only passed in the Senate when it was later added to the conference report of a \$280 billion omnibus appropriations bill.

THE D.C. VOUCHER PROGRAM HAS FAILED TO IMPROVE EDUCATIONAL OPPORTUNITY

During its pilot phase, the voucher program has proven ineffective and has not improved the educational achievement of D.C. students. First, this voucher program has not improved student achievement. To the contrary, reports issued by the Department of Education in 2007, 2008, and 2009 all demonstrate that the target group of students (students from "schools in need of improvement") showed no improvement in reading or math achievement as compared to students who did not participate.<sup>1</sup> These three studies also revealed that the voucher program had no effect on student reports of school safety, satisfaction, motivation, or engagement.<sup>2</sup> And, they revealed that many of the students in the voucher program were less likely to have access to key services—such as ESL programs, learning support and spe-

<sup>1</sup> U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years* xviii, xxvi, xxiv–xxx, 35, and 40 (April 2009), [http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050\\_1.pdf](http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050_1.pdf); U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Two Years* 34–38 (June 2008), <http://ies.ed.gov/ncee/pdf/20084024.pdf>; U.S. Department of Education, *Evaluation of the D.C. Opportunity Scholarship Program: Impacts After One Year* xviii, xx, 44, and 46, (June 2007), <http://ies.ed.gov/ncee/pdf/20074009.pdf>.

<sup>2</sup> 2009 U.S. Department of Education Report at xxvi, xviii, 35, 40, 44–45, 49–50; 2008 U.S. Department of Education Report at 42–43, 50, and 57; and 2007 U.S. Department of Education Report at xix and 1–4.

cial needs programs, and counselors—than students who were not part of the program.<sup>3</sup>

A November 2007 United States Government Accountability Office (GAO) Report<sup>4</sup> was also critical of the D.C. voucher program. The study found that "accountability and internal control were inadequate."<sup>5</sup> For example, Federal tax dollars were paid to private schools that did not even charge tuition and on schools that employed teachers who lacked bachelor's degrees.<sup>6</sup> The report also found that parents were given "incomplete," "inaccurate," and even "misleading" information about the private voucher program has not met its goal of serving students in schools in need of improvement: less than one-quarter of the students offered vouchers under the program were from these schools.<sup>8</sup>

D.C. VOUCHERS UNDERMINE PUBLIC SCHOOLS

Public schools are open and non-discriminatory in their acceptance of all students, and are the unifying factor among the diverse range of ethnic and religious communities in our society. Public schools are the only schools that must meet the needs of all students. They do not turn children or families away. They serve children with physical, emotional, and mental disabilities, those who are extremely gifted, and those who are learning challenged, right along with children without special needs.

Vouchers undermine this vital function, however, by placing some of the most motivated students into private schools, leaving the students who are most difficult to educate behind in the public schools. The D.C. voucher program also diverts desperately needed resources away from the public school system to fund the education of the few voucher students. The government would better serve our children by using these funds to make the public schools stronger and safer.

On all counts—improving achievement, using funds effectively, providing opportunities for students in schools in need of improvement, and improving public schools—the D.C. voucher program has failed.

THE D.C. VOUCHER PROGRAM VIOLATES THE CONSTITUTIONAL STANDARDS SET FORTH IN *ZELMAN*

On June 27, 2002, the Supreme Court decided *Zelman v. Simmons Harris*,<sup>9</sup> which held that the Cleveland, Ohio, private school voucher program does not violate the United States Constitution. The *Zelman* decision, however, does not mean that all school voucher programs are constitutional. *Zelman* makes clear that voucher programs must meet strict requirements in order to satisfy the U.S. Constitution.<sup>10</sup> And, the D.C. voucher scheme, which differs from the Cleveland program in significant ways, does not meet those standards.

*The D.C. Voucher Program Allows Government-Funded Discrimination*

First, unlike the Ohio voucher scheme, the D.C. scheme permits religious schools to discriminate on the basis of religion in hiring and on the basis of gender in admission.<sup>11</sup> A central principle of our constitutional order, however, is that "the Constitution does not permit the State to aid discrimination."<sup>12</sup>

In addition to raising constitutional concerns, federally subsidized religious discrimination raises significant public policy concerns. When funding any school, whether public or private, the government should not surrender the longstanding principle of equal treatment for all—all students should be treated the same regardless of sex and all teachers the same regardless of religion. Taxpayer money should not fund programs that harm the fundamental civil rights of students and teachers.

<sup>3</sup> 2009 U.S. Department of Education Report at xxii, and 17; 2008 U.S. Department of Education Report at xvii, and 16; 2007 U.S. Department of Education Report at 21.

<sup>4</sup> U.S. Government Accountability Office, *District of Columbia Opportunity Scholarship Program*, (Nov. 2007), <http://www.gao.gov/new.items/d089.pdf>.

<sup>5</sup> *Id.* at 36.

<sup>6</sup> *Id.* at 22–33, 33, 34.

<sup>7</sup> *Id.* at 36.

<sup>8</sup> *Id.* at 23–24, 26, 28.

<sup>9</sup> 536 U.S. 639 (2002).

<sup>10</sup> Thirty-seven States have church/State provisions that are even stricter than the U.S. Constitution and some States also have education specific provisions. Therefore, voucher schemes are likely to violate a State's constitution even if they do not violate the U.S. Constitution. See e.g., *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>11</sup> Compare Ohio Rev. Code §3313.976 (A)(6) with Public Law 108–199 Stat. 3 (2004); see also *Zelman*.

<sup>12</sup> *Norwood v. Harrison*, 413 U.S. 455, 465–66 (1973).



*The D.C. Voucher Program Does Not Give Parents a Wholly Genuine and Independent Choice of Schools*

The fundamental holding in *Zelman* is that a voucher program that includes religious schools must "provide genuine opportunities for . . . parents to select secular educational options for their school-age children."<sup>13</sup> Vouchers may only go to religious schools if they are chosen "by way of the deliberate choices of numerous individual recipients."<sup>14</sup> It appears, however, that the D.C. system does not meet this requirement.

According to recent congressional testimony by the Headmaster of Sidwell Friends School, the Washington Scholarship Fund (the administrator of the D.C. program) does not allow parents to choose among all participating schools but rather has directed students to certain schools.<sup>15</sup> Thus, the choice of schools appears to be in the hands of the Washington Scholarship Fund and not the parents. As a result, parents do not have a wholly independent and private choice of schools.

*The D.C. Voucher Program Provides an Incentive To Attend Religious Schools*

The D.C. program also is distinguishable from the Cleveland voucher scheme and proves constitutionally suspect because it provides an incentive to attend private religious schools. *Zelman* permitted the voucher scheme in Cleveland because it found that the program did not use financial incentives to skew students towards religious schools.<sup>16</sup> This is because any student choosing to accept a voucher was required to copay a portion of the private school tuition. (The Cleveland vouchers were capped at the either 75 percent or 90 percent of the school tuition (depending on the family income) or \$2,500, whichever was less.) Attending a private school (with a copay), therefore, would be more costly than attending a public school (for free). In fact, the Court concluded that there was a disincentive to go to a religious school because attending the secular public school would cost a family nothing, but attending a religious school would, in all cases, require a copay.<sup>17</sup> The D.C. scheme, however, does not require a copay. Thus, in some instances, students attend private religious schools at no additional cost because the \$7,500 voucher covers the entire tuition. Thus, D.C. parents can get a free religious education at taxpayer expense. Unlike the Cleveland program, therefore, there is no disincentive to attend the private religious school.

Furthermore, in *Zelman*, although a copay was required, the copay that schools could charge was capped for students below the poverty level. Thus, for those priority students, attending private religious schools would cost about the same as attending a private secular school even though religious schools are traditionally much less expensive than secular private schools. In the District of Columbia, there is no copay cap. For D.C. students accepting a voucher, therefore, there is an incentive to choose a religious private school over a secular private school. The \$7,500 voucher may cover tuition at a traditionally less expensive religious private school, but is unlikely to cover the tuition at a secular private school. Thus, attending a religious school will cost a parent less (with little or no copay) than attending a secular private school (with a large copay). The incentive to attend a religious school is highlighted by the fact that approximately 75 percent of all students in the program attend private religious schools.<sup>18</sup> Because the structure, unlike the structure in *Zelman*, sets up an incentive to attend religious schools, the program is constitutionally suspect.

The D.C. voucher program has not improved the D.C. school system and has not improved the educational achievement of D.C. voucher participants. Furthermore, the program is constitutionally suspect. The Federal Government should be funding public schools rather than funneling taxpayer funds to private schools that lack accountability, religious liberty, and civil rights standards.

<sup>13</sup> *Zelman*, 536 U.S. at 655. This point was recently reaffirmed by the Ninth Circuit in *Winn v. Arizona Christian Sch. Tuition Org.*, 562 F.3d 1002, 1015-1018 (9th Cir. 2009), which held that a voucher scheme was unconstitutional because parents did not have "true choice" about which schools their children can attend with the State aid.

<sup>14</sup> *Zelman*, 536 U.S. at 652.

<sup>15</sup> *The D.C. Opportunity Scholarship Program: Preserving School Choice for All. Hearings Before the Senate Committee on Homeland Security and Government Affairs*, 11th Congress (May 13, 2009) at 177:45-178:35, [http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing\\_ID=0358fc7c-ce9e4008-b0d0-f0131a10dc43](http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=0358fc7c-ce9e4008-b0d0-f0131a10dc43).

<sup>16</sup> *Zelman*, 536 U.S. at 653-54.

<sup>17</sup> *Id.*

<sup>18</sup> 2008 U.S. Department of Education Report at 14.

PREPARED STATEMENT OF THE NATIONAL COALITION FOR PUBLIC EDUCATION

The National Coalition for Public Education (NCPE) submits this testimony to the Financial Services and General Government Subcommittee of the U.S. Senate Committee on Appropriations for a hearing entitled: "A Review and Assessment of the Use, Impact, and Accomplishments of the Federal Appropriations Provided to Improve the Education of Children in the District of Columbia." Although this hearing will focus on D.C. public school reform, D.C. charter schools, and the D.C. Opportunity Scholarship Program, this testimony will focus solely on the voucher program.

The National Coalition for Public Education is comprised of more than 50 education, civic, civil rights, and religious organizations devoted to the support of public schools. Founded in 1978, NCPE opposes the funneling of public money to private and religious schools through such mechanisms as tuition tax credits and vouchers. A list of the members of NCPE is attached.

We strongly believe that the D.C. voucher program should not be reauthorized. The three Federal Department of Education studies<sup>1</sup> and the 2007 Government Accountability Office (GAO) study<sup>2</sup> prove that the program is not improving student achievement, access to student resources, student motivation, or student perceptions of safety. Rather than continuing to spend millions of dollars on a program that has proven ineffective and that is geared towards only helping a small fraction of D.C. students, we believe that the money should be redirected to programs that help improve public education for all students in the District.

We acknowledge that some advocates may be able to point to some students who have gone to exemplary schools and seen improvement from the program. But according to government studies, these students are, unfortunately, the exception rather than the rule. First, according to the GAO study, only 3 percent of the students in the program attended the elite D.C. schools that cost \$20,000 or more a year. The reason students can attend these schools is not so much the \$7,500 voucher as it is the additional \$12,500-plus they receive in scholarships from private programs or the private school itself. A more complete examination of the program, such as the GAO in 2007, shows that some children in the program were being sent to schools without occupancy certificates and to schools where over half the teachers lack bachelor's degrees. Surely this is not a program that is serving the students well. Second, the studies show that the voucher program is not causing significant gains in academic achievement, increasing educational resources, or improving the school environment to justify continuing the program.

THE HISTORY OF THE PROGRAM

The D.C. voucher program was created as an experimental 5-year pilot program in 2004. The program was created against the wishes of D.C. citizens, the District's only congressional Representative, and the majority of elected officials in the District of Columbia. The Republican-led U.S. House of Representatives passed the program by just one vote (209-208), on an evening when many Representatives who oppose vouchers were attending a presidential primary debate in Baltimore and when the vote was held open for an unusually long 40-minute period. The vote was not a completely partisan vote, as 14 Republicans, along with 194 Democrats, opposed the bill.

The full Senate did not vote on the issue. Indeed, the voucher language was pulled from the D.C. Appropriations bill because it was clear the measure would not pass with the language. The program only passed in the Senate when it was later added to the conference report of a \$280 billion omnibus appropriations bill.

THE VALUE OF PUBLIC SCHOOLS

Open and non-discriminatory in their acceptance of all students, American public schools are a unifying factor among the diverse range of ethnic and religious communities in our society. Public schools are the only schools that must meet the needs of all students. They do not turn children or families away. They serve children with physical, emotional, and mental disabilities, those who are extremely gifted and those who are learning challenged, right along with children without special needs.

<sup>1</sup> The 2007 Report can be found at <http://ies.ed.gov/ncee/pdf/20074009.pdf>. The 2008 Report can be found at <http://ies.ed.gov/ncee/pdf/20084024.pdf>. And, the 2009 Report can be found at [http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050\\_1.pdf](http://ies.ed.gov/ncee/pubs/20094050/pdf/20094050_1.pdf).

<sup>2</sup> The GAO Report can be found at <http://www.gao.gov/new.items/d089.pdf>.



Vouchers undermine this vital function, however, by placing some of the most motivated students into private schools, leaving the students who are most difficult to educate behind in the public schools. The D.C. voucher program also diverts desperately needed resources away from the public school system to fund the education of the few voucher students. The government would better serve our children by using these funds to make the public schools stronger and safer.

Public schools are not failing. Rather, they are striving to respond to the swift, substantive changes in society and the calls for reform. We, as citizens, must create an environment of support so public schools can continue to change and improve. We must shift from bashing public schools to empowering continual public school improvement. Only then can we create the public will and motivation to accomplish for true reform.

#### STUDENTS FROM "SCHOOLS IN NEED OF IMPROVEMENT"

The purpose of the D.C. voucher program was to improve the learning environment and academic achievement of D.C. students who attend "schools in need of improvement" (SINI). Yet the GAO study shows that such students are underrepresented in the program. Furthermore, the Department of Education reports issued in 2007, 2008, and 2009 show that these students perform no better in math or reading than their counterparts in the D.C. school system. The evidence is clear that the program is not serving its main purpose.

#### ACADEMIC ACHIEVEMENT

Another goal of the voucher program is to improve student academic achievement, but studies show the program has failed to reach that goal. Again, the Department of Education reports analyzing the D.C. voucher program issued in 2007, 2008, and 2009 all found that the voucher program is not significantly improving student achievement.

First, as already explained, the Department of Education studies of the D.C. program have found that students from SINI schools, which are the students targeted by the program, have shown no improvement in reading or math due to the voucher program.

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

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

Second, the studies have concluded that the D.C. program has had no impact on the math achievement of students overall or of any of the ten subgroups of students in the study.

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

Finally, the 2007 GAO Report also found that many of the voucher schools examined in its study were not accredited, and there is no evidence they submitted documentation proving educational soundness.

#### ACADEMIC ATMOSPHERE

Proponents of the voucher program argue that the voucher program permits students to attend schools that are safer, provide better resources, and create a better learning environment. All of the federally administered studies, however, prove this theory wrong.

Although all three Department of Education studies show that parents believe that students in the voucher program are safer at school than those who did not participate, students have reported that participating in the program has had no impact on their actual school experience with dangerous activities.

Participation in the voucher program has also had no impact on student motivation and engagement. The 2008 and 2009 Department of Education studies have found that participating in the program has no statistically significant impacts on

students' aspirations for the future, frequency of doing homework, time spent reading for fun, engagement in extracurricular activities, or attendance or tardiness rates.

The voucher program also fails to offer participating students greater educational resources. In fact, the Department of Education studies show that students participating in the program are actually less likely to have access to ESL programs, learning support and special needs programs, tutors, counselors, cafeterias, and nurse's offices than students not in the program. And, the 2009 study shows that students in the program have no increase in access to before- and after-school programs.

Furthermore, the voucher program does not provide participating students with better teachers than are available at the public schools. To the contrary, the GAO Report found that, at some schools, less than half of the teachers had even obtained a bachelor's degree. And, the 2009 Department of Education study revealed that the students participating in the voucher program rated their teacher's attitude no better than students who did not participate in the program. In addition, this study found that the student-teacher ratio for those students participating in the program was no better than those who were not in the program.

Again, proponents' claims are not supported by the Federal studies.

#### LACK OF OVERSIGHT, ACCOUNTABILITY, AND INTERNAL CONTROLS

The 2007 GAO Report found troubling facts about the operation of voucher program. First, the GAO found that the grant administrator had not ensured that the participating schools adhered to the rules of the program or D.C. laws. For example, the administrator permitted schools to participate—and allowed students to attend schools—even though they lacked a valid D.C. occupancy certificate, failed to submit required financial data, and failed to submit required annual reports on operational reports with basic information on curriculum, teachers' education, and school facilities. Indeed, some participating schools failed to submit information on accreditation or educational soundness, yet voucher students were directed to and attended those schools.

The grant administrator also paid tuition for students to schools that actually did not charge tuition and made disbursements to other schools without requiring them to submit the proper paperwork.

The GAO report also criticized the grant administrator for providing inaccurate, misleading, and incomplete information to parents about the participating schools. Indeed, the administrator incorrectly reported information on some schools that could have significantly affected parents' choice of schools, such as the percentage of teachers who had at least a bachelor's degree and tuition rates.

#### STUDENT ACCESS TO VOUCHERS

This voucher program does not provide school "choice" to students. To the contrary, it provides private schools with the opportunity to obtain Federal funding to enroll the students of their choice. Indeed, the participating private schools can maintain their admission standards even for voucher students. So only those who meet the schools requirements, including academic testing, will be admitted to the school. Religious schools can also reject students based on gender. Thus, even students who qualify for a voucher may never be able to use that voucher if a private school does not accept them into its school.

Thus, it is no surprise that certain groups of students have less access to voucher schools than others. For example, students with special needs often cannot find a private school that can serve them. The Department of Education reports show that a significant number of students had to reject their vouchers because they were unable to find a participating school that offered services for their learning or physical disability or other special needs. Indeed, in the first year of the program, 21 percent of the students who rejected a voucher did so for this reason, 17 percent rejected it for this reason in the second year, and 16 percent rejected it for this reason in the third year.

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

And, according to the GAO Report, students seeking non-religious schools also have a limited number from which to choose, since most participating private schools were Catholic or Protestant, and these schools offered the most openings. Indeed, in the third year of the program, 82 percent of students in the program attended a faith-based school.

Furthermore, the 2008 study revealed that 8 percent of the students who left their voucher school did so because religious activities at the private school made

the student uncomfortable. And 2 percent of students didn't even accept a voucher because they did not want to attend a school that provided religious instruction.

#### DISCRIMINATION

Religious schools that participate in the program are allowed to discriminate in admission on the basis of gender and in hiring on the basis of religion. A central principle of our constitutional order, however, is that "the Constitution does not permit the State to aid discrimination." *Norwood v. Harrison*, 413 U.S. 455, 465-66 (1973).

In addition to raising constitutional concerns, federally subsidized religious discrimination raises significant public policy concerns. When funding any school, whether public or private, the government should not surrender the longstanding principle of equal treatment for all—all students should be treated the same regardless of sex and all teachers the same regardless of religion. Taxpayer money should not fund programs that harm the fundamental civil rights of students and teachers.

#### FUNDING RELIGIOUS SCHOOLS

Many of the members of our coalition object to taxpayer funds going towards religious education. Though the religious groups in our coalition value religious education and recognize that parochial schools can serve a valuable role for many children, they also recognize that because most parochial schools either cannot or do not wish to separate the religious components of the education they offer from the academic programs, these schools must be funded by voluntary contributions, not taxation. One of the most dearly held principles of religious liberty is that government should not compel any citizen to furnish funds in support of a religion with which he or she disagrees, or even a religion with which he or she does agree. The D.C. voucher program, however, violates that central tenet: it uses taxpayer money to fund primarily religious education. Indeed, approximately 82 percent of the students participating in the program attend religious schools. Parents certainly may choose such an education for their children, but no taxpayer should be required to pay for another's religious education.

Religious organizations and schools that rely on voluntary participation and contributions are likely to flourish. Government funds, however, threaten to shift religious schools' monetary source from the followers of their religion to the government treasury. And, with that shift, they also risk losing their religious identity, teachings, and message. To remain healthy, a religious school should follow the dictates of its adherents rather than the dictates of a government uninterested in its religious mission. To do this, they must reject government funding.

#### CONCLUSION

NCPE is committed to supporting public school education for all students in the District of Columbia. The D.C. voucher program, however, undermines public schools and generally does not significantly improve the academic resources, environment, or academic achievement for students—whether participating or not participating in the program. If Congress wants to improve education in the District, it should focus on programs that have proven results and that improve education for all students—not a select few.

Thank you for the opportunity to submit testimony on this important issue.

The National Coalition for Public Education (NCPE) is comprised of more than 60 education, civic, civil rights, and religious organizations devoted to the support of public schools. Founded in 1978, NCPE opposes the funneling of public money to private and religious schools through such mechanisms as tuition tax credits and vouchers.

American Alliance for Health Physical Education, Recreation and Dance—AAHPERD; American Association of Colleges for Teacher Education—AACTE; American Association of School Administrators—AASA; American Association of University Women—AAUW; American Civil Liberties Union—ACLU; American Federation of State, County, and Municipal Employees—AFSCME; American Federation of Teachers—AFT; American Humanist Association—AHA; American Jewish Committee—AJC; American Jewish Congress—AJCongress; Americans for Democratic Action—ADA; Americans for Religious Liberty—ARL; Americans United for Separation of Church and State—AU; Anti-Defamation League—ADL; ASPIRA Association, Inc.; Association of Educational Service Agencies—AESA; Association for Supervision and Curriculum Development—ASCD; Baptist Joint Committee for Religious Liberty—BJC; Center for Inquiry; Center for Law and Education—CLE; Child Welfare League of America, Inc.—CWLA; Children and Adults with Attention Deficit/Hyperactivity Disorder—CHADD; Council for Exceptional Children—CEC;

Council of Chief State School Officers—CCSSO; Council of the Great City Schools—CGCS; General Conference of Seventh-Day Adventists; Hadassah; International Reading Association—IRA; The Interfaith Alliance—TIA; Jewish Council for Public Affairs—JCPA; Labor Council for Latin American Advancement—LCLAA; Leadership Conference on Civil Rights—LCCR; League of Women Voters—LWV; Mexican American Legal Defense and Educational Fund—MALDEF; NA'AMAT USA; National Alliance of Black School Educators—NABSE; National Association for Bilingual Education—NABE; National Association for the Advancement of Colored People—NAACP; National Association of Elementary School Principals—NAESP; National Association of Partners in Education—NAPE; National Association of School Psychologists—NASP; National Association of Secondary School Principals—NASSP; National Association of State Boards of Education—NASBE; National Association of State Directors of Special Education—NASDSE; National Black Child Development Institute—NBCDI; National Committee for Public Education and Religious Liberty—National PEARL; National Council of Jewish Women—NCJW; National Education Association—NEA; National Education Knowledge Industry Association—NEKIA; National Parent Teacher Association—National PTA; National Rural Education Advocacy Coalition—NREAC; National Rural Education Association—NREA; National School Boards Association—NSBA; National Urban League—NUL; New York City Board of Education—NYCBOE; Northwest Religious Liberty Association—NRLA; People for the American Way—PFAW; Presbyterian Church (USA), Washington Office—PCUSA; School Social Work Association of America—SSWAA; Secular Coalition for America; Service Employees International Union—SEIU; Union for Reform Judaism—URJ; Unitarian Universalist Association of Congregations—UUAC; United Automobile Workers—UAW; United Church of Christ, Justice and Witness Ministries; United Methodist General Board of Church and Society—UMC—GBCS; Women of Reform Judaism—WRJ.

#### PREPARED STATEMENT OF THE NATIONAL SCHOOL BOARDS ASSOCIATION

The National School Boards Association (NSBA), representing 95,000 local school board members across the Nation through our State school boards associations, urges you to voice opposition to continued funding of the expired Washington, DC, private school voucher program during the hearing of the Appropriations Subcommittee on Financial Services and General Government scheduled for Wednesday, September 16, 2009. The hearing aims to examine the impact of Federal funding on improving the education of students in Washington, DC.

The \$14 million a year pilot program currently provides vouchers worth up to \$7,500 each for approximately 1,700 students. This funding has not produced effective student outcomes based on research that has repeatedly shown that the voucher program has failed to raise the achievement of students, particularly those who are low performing. Created as a 5-year pilot program, it expired in 2008. The fiscal year 2009 omnibus appropriations bill provided an additional year of funding (for the 2009–2010 school year) to allow current students to smoothly transition out of the voucher program. The legislation stipulated that additional funding would not be available unless Congress decides to reauthorize it and the D.C. City Council approves it. Given the program's ineffectiveness (as outlined in more detail below), and the disproportionate funding allocated to relatively few students despite the unmet needs of the D.C. public schools, NSBA believes extending the voucher program is not warranted and that such funding should be redirected to public schools to improve the performance for all students.

When Congress created the voucher program in 2003, the goal was to raise student achievement with a priority for students who attend "schools in need of improvement" (SINI) under the No Child Left Behind Act (NCLB). However, all three of the congressionally mandated Department of Education studies have concluded that the voucher program has had no significant effect on the overall academic achievement of these students.<sup>1</sup> In fact, a 2007 U.S. Government Accountability Of-

<sup>1</sup> "Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years," Institute of Education Sciences, U.S. Department of Education, April 2009; "Evaluation of the D.C. Opportunity Scholarship Program: Impact After Two Years," Institute of Education Sciences, U.S. Department of Education, June 2008; "Evaluation of the D.C. Opportunity Scholarship Program: Impact After One Year," Institute of Education Science, U.S. Department of Education, June 2007.



fice (GAO) report found that students from SINI were underrepresented in voucher schools.<sup>2</sup>

In all 3 years (2007, 2008 and 2009), the studies found no significant impact on math achievement of students who were in voucher schools compared to their peers in public schools. In years one and two, no significant impact was found on reading achievement. In year three, the study showed the reading achievement of some students improved, but it is noteworthy that students coming from SINI schools and those who entered the voucher program in the lower third of the test-score distribution showed no improvement in reading<sup>3</sup>—the very group the program intended to help. The two groups of students who showed the most improvement in reading were students for which Federal Government intervention is the least justifiable: students who did not come from SINI schools and students who were already high performing when they entered the program.

In addition, all three studies found that participating in the voucher program had no impact on student safety, satisfaction, motivation or engagement.<sup>4</sup> Students attending voucher schools also have less access to key services such as English-as-a-second-language programs, special needs services, school nurses, counselors, cafeteria, after school programs and tutors.<sup>5</sup>

Not only does the experimental program lack academic evidence to support its continuation, the 2007 GAO report documented numerous accountability shortcomings, including Federal taxpayer dollars paying tuition at private schools that do not even charge tuition, schools that lacked a city occupancy permit, and schools employing teachers without bachelor's degrees.<sup>6</sup> It also noted that children with physical or learning disabilities are underrepresented compared to public schools.<sup>7</sup>

A continuation of this failed program will not support Congress' goal to invest in what works in education. Now is not the time to divert funding from public schools, which are increasingly held accountable for student achievement under the escalating requirements of NCLB. Private schools are not held to the standards and accountability under NCLB. More support is needed for public schools as educators and policymakers look to raise academic standards, teacher quality and graduation rates to ensure our students are competitive in the 21st century global economy. They also must respond to increasing demands for services for students with special needs and limited English proficiency who generally do not meet the admission standards of private school.

NSBA believes the objective evidence does not support the continued funding of the only federally funded school voucher program. We urge you to voice your opposition to funding the Washington, DC voucher program.

## A REVIEW AND ASSESSMENT OF THE USE, IMPACT, AND ACCOMPLISHMENTS OF FEDERAL APPROPRIATIONS PROVIDED TO IMPROVE THE EDUCATION OF CHILDREN IN THE DISTRICT OF COLUMBIA

TUESDAY, SEPTEMBER 29, 2009

U.S. SENATE,  
SUBCOMMITTEE ON FINANCIAL SERVICES  
AND GENERAL GOVERNMENT,  
COMMITTEE ON APPROPRIATIONS,  
Washington, DC.

The subcommittee met at 10:30 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Richard J. Durbin (chairman) presiding.

Present: Senators Durbin, Alexander, and Collins.

OPENING STATEMENT OF SENATOR RICHARD J. DURBIN

Senator DURBIN. Good morning. I'm pleased to reconvene this hearing before the Senate Appropriations Subcommittee on Financial Services and General Government.

I apologize for the inconvenience on September 16, when we last gathered, and floor votes made it necessary to postpone the completion of the hearing. I'm glad to see that most of the witnesses were able to return today.

I welcome my distinguished ranking member, Senator Collins, and other colleagues, who will join us on the dais later.

Ms. Levy, Mr. Cane, Dr. Weitzel-O'Neill, thank you for taking the time to appear. I also want to thank Mr. Cork for returning, as well, to testify on a few additional questions.

Former Mayor Anthony Williams was here for the last hearing, and I'm sorry that he couldn't testify, but without objection, his written statement will be made part of the record of this hearing. [The statement follows.]

PREPARED STATEMENT OF ANTHONY WILLIAMS, FORMER MAYOR, DISTRICT OF COLUMBIA

Chairman Durbin, Ranking Member Collins, and other distinguished members of the subcommittee, my name is Anthony Williams and it is an honor to be before you today. I have sat in this seat more than a dozen times during my service as mayor of the District of Columbia, and while it's a bit different not to be the person responsible for spending the funding under discussion today, I have the same passions today as in 2003 when we began with you a discussion on what was then a speculative, bold idea: That the Federal Government ought to invest in educational reform in the Nation's capital.

(107)

<sup>2</sup>"District of Columbia Opportunity Scholarship Program," U.S. Government Accountability Office, Nov. 2007.

<sup>3</sup>"Evaluation of the D.C. Opportunity Scholarship Program: Impacts After Three Years," Institute of Education Sciences, U.S. Department of Education, April 2009.

<sup>4</sup>2009 U.S. Department of Education Report at xxvi, xviii, 35, 44-45, 49-50; 2008 U.S. Department of Education Report at 42-43, 50, and 57; 2007 U.S. Department of Education Report at xix and 1-4.

<sup>5</sup>2009 U.S. Department of Education Report at xxii and 17-18; 2008 U.S. Department of Education Report at xvii and 16; 2007 U.S. Department of Education Report at 21.

<sup>6</sup>2007 GAO Report at 22, 33-35.

<sup>7</sup>2007 GAO Report at 30.

I think it's useful to review briefly how the three-sector education initiative evolved and what sort of challenges we faced in 2003. At first, it was hard to rally people to look at education reform across public, public charter, and private schools. Everyone, understandably, was focused on their sector, their school, or their child. But I quickly earned some recruits along the way, including Kevin Chavous, then-chairman of the Council's Committee on Education, and soon enough there was a critical mass of civic leadership who thought the District could, indeed, become the locus of unprecedented educational reform.

To no one's surprise, though, it was an uneven start. Our public schools had not caught the "reform bug" yet and the ability to change from within needed considerable prodding. However, the funds provided by this subcommittee make possible some good programs, including important summer school initiatives. As is well known, my able and dynamic successor, Adrian Fenty, had better luck than I did in taking control of the schools, pushing the reset button at DCPS, and along with his innovative and brave Chancellor, Michelle Rhee, has since earned the District national attention as they try to fix decades of neglect and dysfunction in DCPS. They have my enthusiastic support and encouragement. I know they have yours, too.

Our public charter school movement, though very promising and innovative in 2003, was still fledgling and there were some who thought this "newfangled" way of educating our children had probably peaked. We now know that was far from accurate. The District of Columbia's public charter school movement is a national model. Parents have responded to their innovation and responsiveness by enrolling thousands upon thousands of more children in public charter schools. Six years of funding from this subcommittee has been spent well and made a profound impact in public charter schools' ability to secure adequate physical space for classrooms. The subcommittee should take a bow in having helped this along.

This subcommittee also launched the D.C. Opportunity Scholarship Program, the first federally funded voucher program for K-12 students. I continue to support this program strongly, and have done what I can to help it survive and will continue to protect it as long as necessary. When I hear the public discourse about healthcare reform, I can't help but think about the public discourse on the Opportunity Scholarship Program. Opponents have muddied the waters with misrepresentation of the facts and non sequiturs.

This subcommittee insisted that the scholarship program have a robust evaluation component so that after 5 years, everyone could rationally discuss whether or not children using the program fared better. So the Department of Education did just that: They funded an independent evaluation that shows two undisputable facts: (1) Children in the program earned better test scores with educational choices and (2) parents are remarkably happy with their children's educational settings. I hear lots of rhetoric that "vouchers don't work" and, Mr. Chairman, I believe that is profoundly inaccurate.

Some base more specious arguments against the OSP on the GAO report from a couple of years ago. As Mayor of the District for 8 years, programs under me were the subject of dozens of GAO reports. The report made some recommendations for improvement in program management that were implemented happily by the program operator. The subcommittee is right to continue looking at issues pertaining to school participation in the OSP and various compliance issues. But please don't lose sight of the basic fact that the program is fulfilling its basic mission and advancing the educational lives of thousands of low-income children.

No one, including Chancellor Rhee, feels that the D.C. OSP undermines public education in the city. In fact, she and Mayor Fenty both support the three sector initiative. They believe in initiatives and policies that put children first and that focus on what works for low-income families. I believe that some of the opposition to the D.C. OSP comes from a latent feeling among a few people who just don't think low-income families can (or should be able to) choose wisely among educational options for their children. I have met countless mothers and fathers and grandparents who, with the leg up provided by D.C. OSP, have rescued their children and grandchildren from lives with iffy futures and literally changed their families' whole outlook on life.

Basically, Mr. Chairman, I think the adage, "If it's not broken, don't fix it" applies here. My city has embraced the three sector initiative. All three sectors are doing well and parents' confidence in the future is increasing. A recent poll sponsored by a coalition of local organizations, including D.C. Children First, found that 74 percent of respondents (the same number who favor public charter schools) said they favor or strongly favor the Opportunity Scholarship Program. Support for the program is even higher—over 80 percent—for parents with school-aged children.

Our Mayor, a majority of the City Council, and a broad array of civic leaders support what this subcommittee has done, so I urge you not to complicate the political balance we have crafted and to renew all three sectors. I support the bi-partisan reauthorization bill put forth by Senator Lieberman enthusiastically and hope that the Congress will pass it.

Everyone knows that the District has a "special," some say "peculiar," others say "maddening" relationship with the Federal Government. I think it's a combination of all three. I think you should look at the three sector funding initiative in that light—namely, something that makes sense in the context of the "special" relationship between Congress and the capital city. Those who would argue for or against vouchers as an expression of national policy ought to take leave from the question at hand and work with the Congress, Mayor and City Council, Chancellor, parents, and other District leaders on renewing the three-sector program—because it's working, it's making a difference in children's lives, and it deserves not be caught in a national food fight over ideology.

Mr. Chairman, K-12 education in the District of Columbia, though it has a long way to go, is undergoing a transformation worthy of its status as a world capital. Our Mayor is aggressively changing the status quo in public schools. Our public charter schools represent the templar for the other cities. The D.C. Opportunity Scholarship Program is giving greater voice and empowerment to low-income families with proven success for children. Thank you for making this possible . . . and keep it going.

Senator DURBIN. I mentioned earlier, in my first hearing, that we're focusing on the special Federal appropriated payments for school improvement in the District of Columbia. It may be the first time since 2004 that we've really brought together in one forum the key officials for public schools, charter schools, and the Opportunity Scholarship Program.

The objective today is simple, and that's to determine whether or not we are, in fact, having a positive impact on the education of students in Washington, DC, based on the new and additional Federal investments.

I believe that Federal funding has helped improve education in the District of Columbia and leverage important reforms. But, we know that more needs to be done, and I'm optimistic that we can achieve those goals.

As for the voucher program, I believe the Department of Education study makes it clear that there are still unresolved issues about the effectiveness of the program, and questions about the administration, which we'll discuss today.

Now that Congress has invested close to \$350 million in special Federal payments to support D.C. children over the past 6 years—over and above, incidentally, the Federal grant funds available to the District—it's time for an honest appraisal. Have those resources made a difference? How do we know that? What progress has been made? What results have been demonstrated? And, what lies ahead?

I look forward to hearing the perspectives of these issues from our panelists. And before turning to Senator Collins for her opening remarks, I note the subcommittee has received a statement and additional materials for the record from Senator Joe Lieberman, chairman of the Senate Committee on Homeland Security and Government Affairs, who was at our last hearing and, unfortunately, didn't get a chance to testify. Both Senator Collins and I have apologized to him profusely and will make it up to him somehow, but he was kind enough to care enough and show up, and I wish we could have had his testimony in person. His statement was included and printed in the September 16 hearing.

Senator DURBIN. Senator Collins.

STATEMENT OF SENATOR SUSAN COLLINS

Senator COLLINS. Thank you. Thank you, Mr. Chairman. Mr. Chairman, I'll be brief, because I gave an extensive statement at our hearing on September 16.

The bottom line for me is, the District of Columbia has failed its children for many years by denying them the chance for a good education, thereby relegating them to lives of limited choices and lost opportunities.

I know that the chairman shares my belief that the schools in our Nation's capital should be a model of excellence and successful innovation for the rest of the country, and that is our goal. I believe that the three sector education initiative helps bring us closer to that goal, though we have a long ways to go.

As the chairman's indicated, Senator Lieberman, with whom I've introduced a bill that several of our colleagues, including Senator Alexander, have cosponsored, to extend the D.C. Opportunity Scholarship Program, attempted to testify last time, can't be here today. So, I just want to quote one phrase, or one section, of his testimony, which has been submitted for the record. He said, "Each dollar appropriated to the program is a dollar well spent, and I strongly urge the subcommittee to provide funds for the program, to allow it to continue in full force."

Regarding the Opportunity Scholarship Program, Senator Lieberman noted, "This program is helping disadvantaged students in the District. As such, it is not the whole solution to improving educational opportunity in our Nation's capital, but it should be part of the solution."

I would also note that, at our last hearing, Chancellor Rhee indicated her support for a continuation of the three sector approach. And I think we should follow her advice, as well.

Finally, Mr. Chairman, I'd like to enter into the record a letter that I received from the chairman of the board and members of the executive committee of the Washington Scholarship Fund that is dated September 21, 2009. The letter accounts for all 1,716 D.C. OSP students and the schools that they attended during fiscal year—or school year 2008–2009.

[The information follows:]

WASHINGTON SCHOLARSHIP FUND,  
SEPTEMBER 21, 2009.

The Honorable RICHARD J. DURBIN,  
Chairman, Subcommittee on Financial Services and General Government, Committee on Appropriations, United States Senate, Washington, D.C.

DEAR SENATOR DURBIN: Thank you once again for permitting the Washington Scholarship Fund (WSF) to testify at the hearing of the Subcommittee on Financial Services and General Government on September 16.

This letter is signed by the Chairman of the Board of WSF and by all members of its Executive Committee, in addition to its President and CEO. We are doing so because we want to express to you and to all members of the Subcommittee our confidence that Federal taxpayer monies dedicated to the Opportunity Scholarship Program (OSP) have been thoughtfully and prudently stewarded.

We would like to note as well that our student tracking and scholarship payment accounting processes have been carefully developed through our close work with the U.S. Department of Education's (DOE's) Office of Innovation and Improvement (OII) and Institute of Education Sciences (IES) in connection with IES's administration of the federally-mandated evaluation of the OSP on these matters. These processes

have been further developed and refined in response to recommendations made to WSF by the U.S. Government Accountability Office (GAO) in connection with its audit of the OSP on these matters, conducted in 2006 and 2007. We are confident in the integrity and accuracy of our student tracking and scholarship payment accounting processes, and are mindful of and committed to honoring our fiduciary obligations as the administrator of the OSP and as the steward of federal funds.

Pursuant to your request, we have attached to this letter an accounting as of September 30, 2008, of the OSP students placed in each school participating in the OSP for the 2008–2009 school year (please refer to Attachment A). As you will see, this accounting reports that 1,716 OSP students were placed in these schools as of the beginning of the last school year.

We will quickly acknowledge that there may well be differences between the information contained in the attachment and that shared with you by the schools from which you have gathered OSP student enrollment data directly.

Why might that be the case?

First, a school may have provided student enrollment data as of a point in the school year other than September 2008. If schools provided data as of June 2009, their reported number of OSP enrollees would likely be lower than the number reported in our attachment because of natural attrition during the school year. Students might leave a school because their family has moved out of the District, because their family has moved within the District and found a different school more convenient, or because of a host of other personal, financial or like reasons. As of June 2009, our records show that 1,625 students were enrolled in participating schools, a reduction in total enrollment of 91 students.

Second, a school may have provided student enrollment data as of September 2009, the beginning of the 2009–2010 school year. If they did so, the number of students reported by a school may be lower, reflecting in part the decision of the U.S. Department of Education to prohibit 216 eligible students from using their scholarships for the current school year.

Third, a school may have provided student enrollment data based on the number of students for whom an OSP payment was made and that number may be higher or lower than the number reported in our attachment. Why would that happen? In our experience, some eligible OSP students discontinue enrollment at a school during the course of the school year, and some students begin enrollment after the beginning of the school year. These inflows and outflows of students are typical of the dynamic movement of student populations over the course of any given school year in all schools, whether traditional public, public charter, or non-public. For students using their OSP scholarships for only part of the school year, tuition payments are prorated so that the participating school is paid only for the days during which the student is actually enrolled at the school. Because of student inflows and outflows during the course of the school year, the total number of students for whom scholarship payments (whether full or partial) are made during the course of the school year may well differ from the total OSP student enrollment at the beginning of the school year.

Based on the information you have gathered directly from OSP schools, you said at the hearing that you believed that there were 389 fewer OSP students in the program than the 1,716 students reported at the beginning of the 2008–2009 school year and that those 389 students were thus "unaccounted for." We believe that the 389-student difference between the opening enrollment of 1,716 and the information provided to you by individual schools is in fact "accounted for" by at least three factors:

- You said that five or more schools had not provided you with enrollment information. While we do not know which schools did not report to you, it is likely that a very significant proportion of what you regard as the 389 "unaccounted for" students—perhaps as many as 300 or more—were in fact enrolled at these schools during the 2008–2009 school year.
- For the reasons outlined above, schools might have provided OSP student enrollment information as of the end of the 2008–2009 school year or at any of varying points in time over the course of the 2008–2009 school year. Given the natural attrition that occurs during the course of the school year, the aggregate number of OSP students enrolled at the end of the school year will be less than the number of students enrolled at the beginning of the school year, accounting, in our view, for a portion of the seeming 389-student difference you cite.
- And we believe that one or more schools may have reported OSP student enrollment for the current 2009–2010 school year. Given the likely decline in 2009–2010 school year due in part to the decisions of the Department of Education, such number is likely to be less than the enrollment figures for the beginning

of the 2008-2009 school year, accounting again for a portion of the seeming 389-student difference.

For these reasons, we believe that the 389 "unaccounted for" students are, in fact, "accounted for" since they are either enrolled in the schools that did not report school enrollment to you or since they represent the natural decline in overall enrollment between the beginning of the school year (1,716 students) and the end of the school year (1,625 students). Our confidence in this matter is based on the fact that our school payment records carefully document the schools and the students to and for whom payments are made.

Regardless of the source of any differences between the enrollment information you have received from schools and the enrollment information we have provided to you, we want to assure you that we can and will fully document any discrepancies in the information provided by any particular school and the information provided in this letter.

Most importantly, let us restate what we said at the outset of this letter. We are fully confident that WSF has prudently stewarded the Federal dollars applied to this program. We stand ready to resolve any and all discrepancies in the data that give rise to any concern in this regard.

Finally, you and your fellow Subcommittee members broached several other important issues and questions at the September 16 hearing. We will address each of these issues and questions the Subcommittee raised at the hearing in a further letter.

We very much would appreciate the opportunity personally to meet with you and your staff to review together all relevant information concerning the Opportunity Scholarship Program and to address and resolve any and all of questions and concerns relating to the Program and our administration of it that you or other members of the Subcommittee may have. We of course will be available to meet with you at any time convenient to you.

Thank you, Senator Durbin, for engaging with us on these important matters. We look forward to working closely with you and your staff in further service to the low-income families the Federal government serves through the D.C. Opportunity Scholarship Program.

Sincerely,

JOSEPH E. ROBERT, JR.,  
Chairman and CEO, J.E. Robert Companies, WSF Chairman.

C. BOYDEN GRAY,  
Former U.S. Ambassador to the European Union, WSF Vice Chairman.

LAWRENCE C. NUSSDORF,  
President and COO, Clark Enterprises, Inc., WSF Treasurer.

GEORGE VRADENBURG,  
President, Vradenburg Foundation.

CURTIN WINSOR III,  
Chairman, Bank of Georgetown.

GREGORY M. CORK,  
President and CEO, Washington Scholarship Fund.

ATTACHMENT A.—ACCOUNTING OF D.C. OPPORTUNITY SCHOLARSHIP PROGRAM—2008-2009  
SCHOOL YEAR

Schools	Number of OSP Students Placed in Schools, September 30, 2008
Academia de La Recta Porta	28
Academy for Ideal Education (two campuses)	84
Ambassador Baptist Church Christian School	57
Annunciation School	22
Archbishop Carroll High School	141
Beauvoir School	1
Blessed Sacrament Elementary School	4
Bridges Academy	94
Calvary Christian Academy	128
Clara Muhammad School	20
Cornerstone Beulah Christian Academy (two campuses)	48
Dupont Park Seventh Day Adventist School	92

ATTACHMENT A.—ACCOUNTING OF D.C. OPPORTUNITY SCHOLARSHIP PROGRAM—2008-2009  
SCHOOL YEAR—Continued

Schools	Number of OSP Students Placed in Schools, September 30, 2008
Edmund Burke School	5
Georgetown Day School	3
Georgetown Visitation School	3
Gonzaga College High School	4
Holy Redeemer Catholic School	80
Holy Trinity School	6
Howard University Early Learning Programs	1
Kingsbury Day School of Kingsbury Center, Inc. <sup>1</sup>	
Kuumba Learning Center	14
Learning Life, and Leadership Christian Academy	13
Lowell School	1
Metropolitan Day School	22
Monroe School	1
Muhammad University of Islam	9
Nannie Helen Burroughs School	54
National Cathedral School	1
National Presbyterian School	3
Naylor Road School	101
New Macedonia Christian Academy	2
Our Lady of Victory School	18
Preparatory School of D.C.	10
Randall Hyland Private School of D.C.	2
Roots Activity Learning Center	26
Sacred Heart School	98
San Miguel Middle School	6
Sheridan School	1
Sidwell Friends School	2
St. Ann's Academy	62
St. Anselm's Abbey School	3
St. Anthony Catholic School	57
St. Augustine School	143
St. Francis Xavier School	87
St. John's College High School	13
St. Peter's Interparish School	10
St. Thomas More Catholic School	110
Washington Jesuit Academy	12
Washington Middle School For Girls	14
Grand Total	1,716

<sup>1</sup>This school placed their first OSP student for the 2008-09 school year after September 30, 2008.

Senator COLLINS. You, Mr. Chairman, raised some very important questions about the accountability of those funds, so I'm pleased that the board has answered those questions in this letter.

Thank you, Mr. Chairman.

I would ask your permission to have my entire statement be included in the record.

Senator DURBIN. Without objection, Senator Collins. The entire statement will be included. And, without objection, the entry that she wishes to add to the record will be included.

[The statement follows:]

PREPARED STATEMENT OF SUSAN COLLINS

Good morning. Mr. Chairman, thank you for convening the second half of our hearing to review the impact of the federal three-sector education initiative for the District of Columbia.

I will be brief, since my statement from September 16th is already included in the hearing record. For many years, the District of Columbia has failed its children



by denying them the chance to receive a decent education, thereby relegating them to lives of limited choices and few opportunities. Mr. Chairman, the schools in our nation's capital should be a model of excellence and successful innovation for the rest of the country. With that goal at the forefront, starting in fiscal year 2004, we designed a three-sector education initiative to provide federal resources to improve the educational opportunities for children in the District of Columbia. Since that time we have provided over \$330 million in federal funds to support the three-sector education initiative in D.C. This is above and beyond the federal education formula funds that the District receives.

Mr. Chairman, I believe that this three-sector initiative has been a success. I was impressed by Chancellor Rhee's unqualified support for the continuation of the initiative when she testified before our subcommittee on September 16th. Recently, the principal investigator for the D.C. Opportunity Scholarship Program reported that the reading effects of the D.C. OSP show the largest achievement impact of any education policy program yet evaluated in a randomized control trial by the U.S. Department of Education. We should all be proud of these results, and lean on that evidence as reason enough to reauthorize this important program.

Senator Lieberman was unable to appear before the subcommittee today, but he has been a leader in the efforts to reauthorize the three-sector education initiative in the District of Columbia. His statement has been made a part of the record, and I would like to briefly quote from it: ". . . each dollar appropriated to the program is a dollar well spent and I strongly urge this subcommittee to provide funds for the program to allow it to continue in full force." Regarding the D.C. OSP, Senator Lieberman notes that "this program is helping disadvantaged students in the District. As such, it is not the whole solution to improving educational opportunity in our Nation's capital, but it should be part of the solution."

Mr. Chairman, I believe that we should take careful notice of Senator Lieberman's comments since he is the Chairman of the program's authorizing committee. Indeed, this past May, we held a hearing in the Homeland Security and Governmental Affairs Committee to review the impact of the D.C. OSP. Based on the compelling witness testimony and the impressive results of the independent evaluation of its positive effects, he and I began work on a bill to reauthorize the D.C. OSP for 5 years. Together with Senators Feinstein, Voinovich, Byrd, Ensign, and Alexander, he and I have recently introduced that bill. It is our hope that the D.C. OSP can continue to provide excellent educational opportunities for thousands of D.C. students.

Mr. Chairman, I would like to enter into the record a letter from the Chairman of the Board and members of the Executive Committee of the Washington Scholarship Fund, dated September 21, 2009. The letter accounts for all 1,716 D.C. OSP students and the schools they attended during school year 2008-2009. I understand that, historically, WSF does its "head count" in late September or early October to give schools enough time to finalize their enrollments, and WSF has usually released OSP student numbers soon thereafter. I understand that WSF does not yet have the numbers for the current 2009-2010 school year. Therefore, I would like WSF to provide information about the placement of the 1,716 D.C. OSP students for the current school year as soon as it becomes available.

Finally, I would like to note that on September 17—the day after our hearing—the Department of Education selected WSF to administer the D.C. OSP for the 2009-2010 school year. This award followed a competitive process and is the sixth continuous award that WSF has received to implement the D.C. OSP.

Mr. Chairman, thank you for reconvening this hearing and I look forward to hearing from our witnesses.

Senator DURBIN. Senator Alexander, thank you for joining us again. Do you want to make an opening comment?

#### STATEMENT OF SENATOR LAMAR ALEXANDER

Senator ALEXANDER. Only to say, I'm here because I appreciate the way you conducted the last hearing, you and Senator Collins, and I thought you—

Senator DURBIN. You were surprised—

Senator ALEXANDER. No, I didn't say that.

I didn't say that. I just was impressed. Let's say that.

And, I'm glad you and Senator Collins are doing this. Just to make one point, it seemed to me that the line of questioning that the chairman was making was to try to make sure that the schools

that the Opportunity Scholarship Program children attended were good schools and that somebody was checking to make sure of that. And, I think that's a line of inquiry I'd like to hear more about today.

I looked up the law for private schools which said that the private schools in the District has to require information—it has to give the superintendent of public schools information about the amount of instruction, character of the instruction, qualifications of the staff, et cetera. So, Chancellor Rhee, who says she'd like to continue this three-pronged approach for 5 years—I mean, that's one check. A second check would be the charter schools, the charter school board apparently works hard on that. And then there's the accreditation process, which, my experience says, is not as extensive for K through 12 schools as it is for higher education, but at least it's an option that's out there. And the charter schools are all required to at least be in the process of accreditation.

So, I'm interested to see where we come down on the very good questions you were asking about. How do you make sure that all the schools they're attending are good schools?

Thank you for holding this hearing.

Senator DURBIN. Thanks, Senator Alexander.

Mary Levy, former director, Public Education Reform Project of the Washington Lawyer's Committee for Civil Rights and Urban Affairs will testify first. She is going to be followed by Robert Cane, executive director of the Friends of Choice in Urban Schools, Dr. Patricia Weitzel-O'Neill, superintendent of schools for the Archdiocese of Washington, and Greg Cork, executive director of the Washington Scholarship Fund.

Ms. Levy had a chance to testify last time, but because she's been kind enough to return, I'm going to give her a moment, if she'd like, to highlight some of her remarks, or add anything to her previous testimony, before we entertain the others.

#### STATEMENT OF MARY LEVY, PROJECT DIRECTOR, WASHINGTON LAWYERS' COMMITTEE FOR CIVIL RIGHTS AND URBAN AFFAIRS

Ms. LEVY. Thank you, and good morning.

I've been studying the D.C. public schools, and especially their finances and staffing, for 30 years. As a parent of children now graduated, and as a lawyer who specializes in education finance, I'll just give a 1-minute summary of what I said before.

We're very grateful for the Federal payment. It has enabled the school system to pursue reforms that need to be pursued without having to cut into the classroom, and we thank you.

It's too early to know what the outcomes are for student achievement. The reforms are a mix; some enhancements and a lot of just wiping out whatever was there.

And I've read the Government Accountability Office (GAO) reports. They agree with my own observations. And, yes, there is a strategy of workforce replacement, which I think has some worrisome consequences. I would say that I've been to this movie before. We have different actors, different sets, but it's the same plot. I just hope that the ending is different this time.

Senator DURBIN. Thank you.

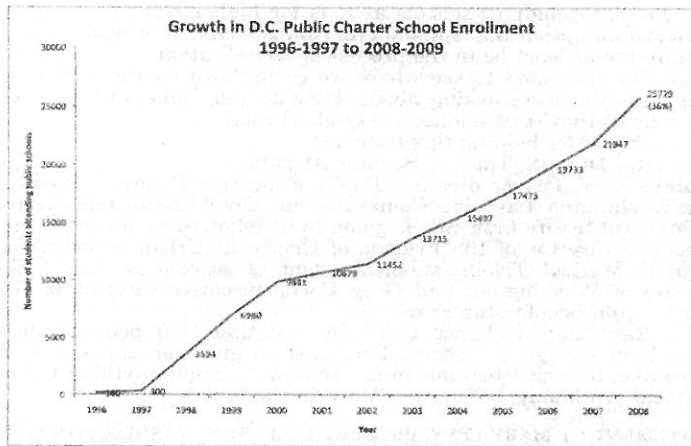
Mr. Cane?

**STATEMENT OF ROBERT CANE, EXECUTIVE DIRECTOR, FRIENDS OF CHOICE IN URBAN SCHOOLS**

Mr. CANE. Thank you, Mr. Chairman, Senator Collins, and Senator Alexander.

My name is Robert Cane. I'm executive director of Friends of Choice in Urban Schools. Focus has been in nonprofit in the District of Columbia since 1996, and our mission is to provide advocacy, technical assistance, and other support to the D.C. public charter schools. And, thank you for the opportunity to testify.

I want to make four points today. I think they're fairly straightforward. And I'd like to make them in connection with these graphs that you see over here and you have in your packet.



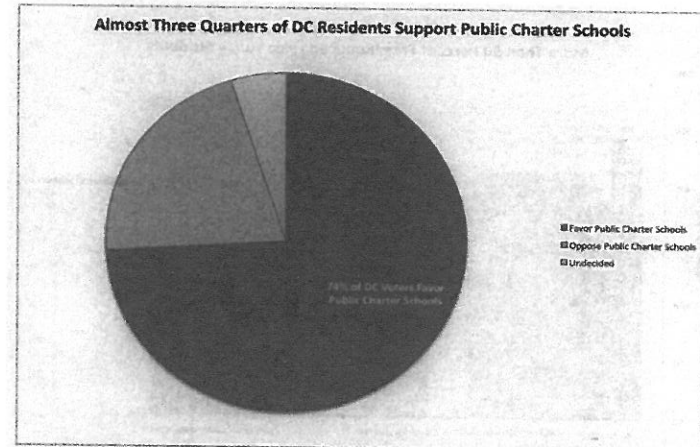
Data source: ncb.usse.dc.gov

Graph 1

September 2009

**FOCUS**

The first point I want to make is that the District of Columbia's public charter schools are wildly popular with the families of the District of Columbia and the general public. This graph shows the astonishing growth of the public charter schools from two campuses and 160 students, in 1996, to almost 26,000 students; during the last school year, 36 percent of all the public school students in the District of Columbia. And that's second only to New Orleans. Our schools are now on 99 campuses. It should be noted that 96 percent of the students in the District's public charter schools are Black or Latino, and 80 percent are economically disadvantaged. Although we've grown so much, many of our charter schools have extensive waiting lists. Capital City Public Charter School, which was the first public school visited by President Obama after his election, had 1,350 applications, this school year, for 45 places. And they're not alone.



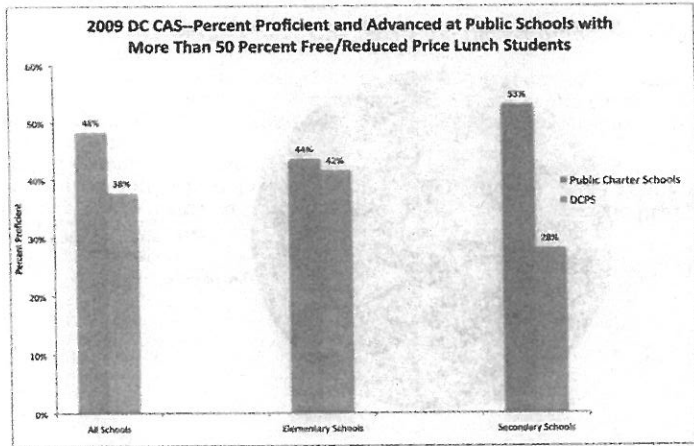
Data source: Fork in the Road: Where Does the District go in K-12 Education July 2009 Survey by Braun Research, Inc.

Graph 2

September 2009 **FOCUS**

The second graph, which we don't need to spend any time on, but in a recent survey, it showed that three-quarters of the voters of the District of Columbia support the public charter schools.

The next point I'd like to make is that, although everybody knows, and everybody says, correctly, that we have a long way to go, the public charter schools have made significant progress in student academic performance, and are ahead of the curve when it comes to school reform.

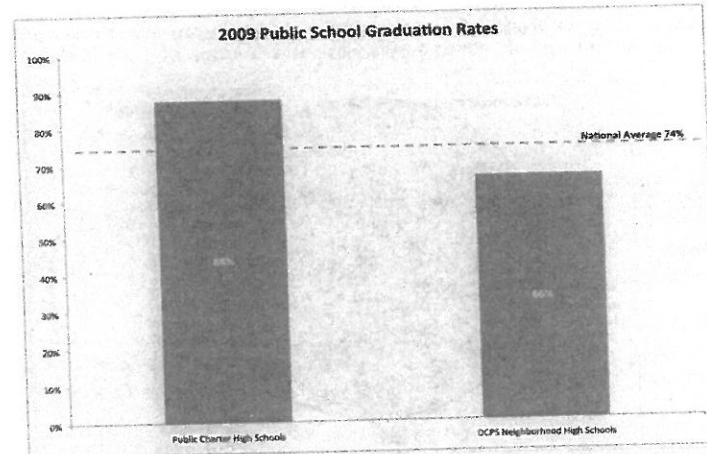


Data source: nslb.oesp.dc.gov

Graph 3

September 2009 **FOCUS**

This graph shows that the public charter schools have improved students' performance on standardized tests, especially at the secondary level, which is the column on the right. And it should be noted that disadvantaged and African-American students are nearly—in secondary schools—are nearly twice as likely to score "proficient" or "advanced" as their peers in the school system neighborhood schools.



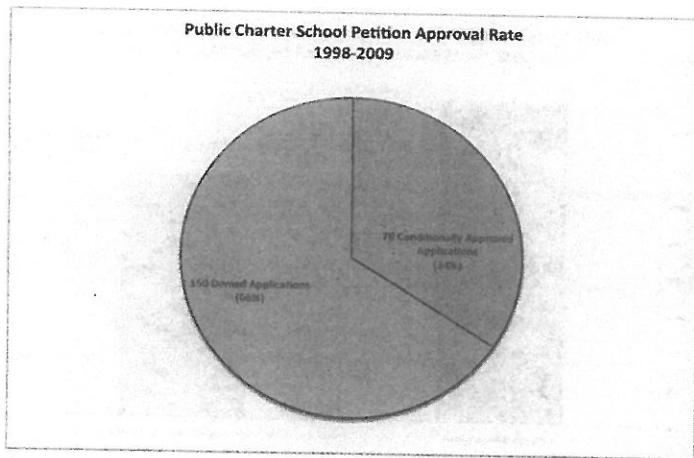
Data source: DC: nslb.oesp.dc.gov  
National Average: everygraduates.org  
(Project of John Hopkins University)

Graph 4

September 2009 **FOCUS**

The next graph shows the public charter school graduation rate, which is a very important statistic. And you'll see on the left, that the charter school rate approaches 90 percent, which is well above the national average for graduation. And please keep in mind that the national average includes many schools that are much wealthier than the D.C. schools; suburban schools and other—and schools from other areas worlds apart from the District of Columbia.

The next point I'd like to make—come on, Vanna—the next point I'd like to make has to deal with everybody's favorite subject, which is accountability. The dwindling number of people in the District of Columbia who oppose the public charter schools like to tell reporters, and anyone else who'll listen, that anybody can open up one of these charter schools and that, once they're open, they're not held to account by anyone. And these are outright falsehoods. And I have a couple of graphs that demonstrate what the facts are.

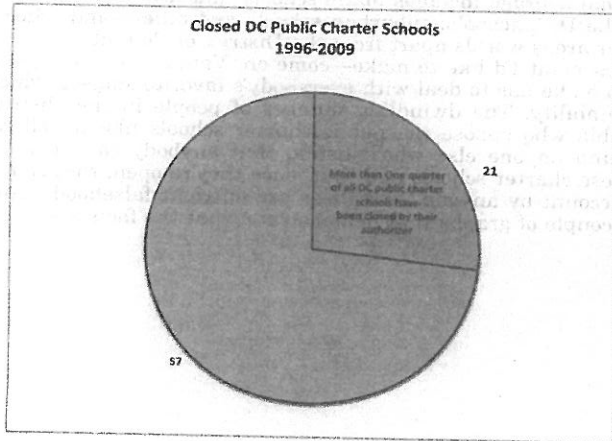


Source: DC Public Charter School Board and DC Board of Education

Graph 5

September 2009 FOCUS

This graph you have before you shows that two-thirds of all the applications for charters—that is, to start charter schools—since 1996 have been denied, and only 34 percent have been approved to open.

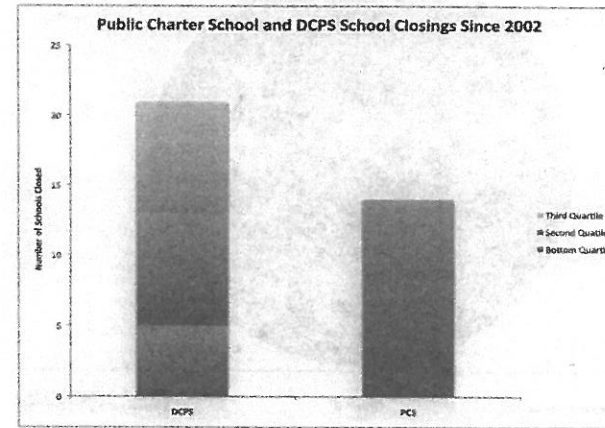


Source: DC Public Charter School Board and DC Board of Education

Graph 6

September 2009 FOCUS

The next graph shows that, of those schools that have opened, more than one-quarter have been closed by their charter authorizer. And we had some discussion about these closers last week.



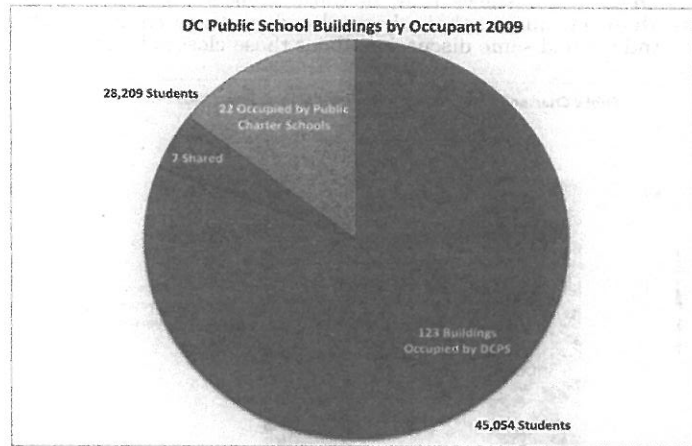
Source: www.ncfb.dc.gov

Graph 7

September 2009 FOCUS

And the next graph, I think, is extremely telling, and that is that 100 percent of all the public charter schools in the District of Columbia that have been closed, regardless of the stated reason for the closure, have been in the bottom quartile of academic performance. So, that means that the charter authorizers—we now just have one, the Public Charter School Board—are closing the right schools: the schools that are not performing. And we expect further closures this year and in coming years. And this is as it should be.

Our belief is that the only true accountability in public education is taking away the right to operate, for people who aren't doing the job. And this is the great advantage of the public charter schools. And it's interesting, and very desirable, that this brand of accountability is now being adopted by the city-run public schools.

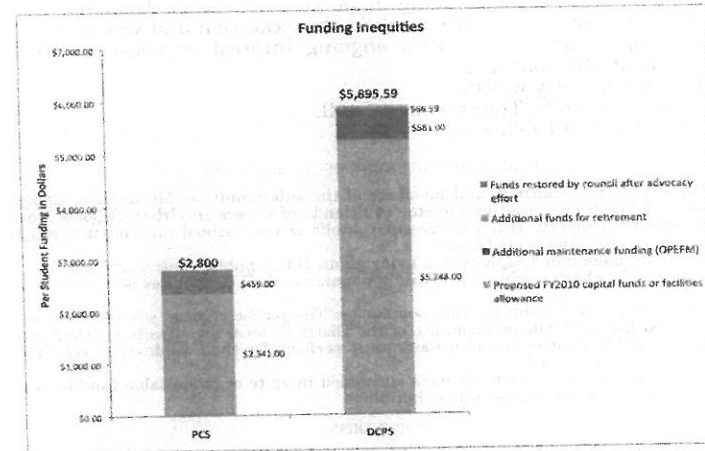


Data Source: DCPS Master Facility Plan and PCSB

Graph 8

September 2009 FOCUS

The final point I wish to make is that the D.C. government seems to have taken the wrong message from the success and popularity of the public charter schools. This graph shows that the government provides one school building for every 366 DCPS kids, and one for every 1,045 public charter school kids. Buildings, getting access to unused, abandoned school buildings has been a problem, certainly for the 11 years that I've been doing this job.



Data Source: DC OCFD

Graph 9

September 2009 FOCUS

And the final graph shows the huge per-student funding advantage that the D.C. government gives to the school system. You may have questions about this later, but I think you can see the school system funding is on the right, and the public charter school funding is on the left. And, I wish I could explain why the D.C. government has failed to respond in a positive way to the great and success and popularity of the public charter schools, but I can't. But, I can say that it's bad public policy to treat public charter school students and their families differently than DCPS students and their families. It's also morally indefensible and unkind to children from some of the District's most vulnerable communities.

Senator DURBIN. Mr. Cane, before you go further I'm a little confused by your graph 9.

Mr. CANE. Uh-huh.

Senator DURBIN. You're not suggesting that for the D.C. public schools that the annual cost per student is \$5,895, are you?

Mr. CANE. No. This relates to facilities funding outside the uniform per-student funding formula. The uniform per-student funding formula provides operating expenses. And there's a legal requirement that similarly situated students in the charter schools and DCPS students be funded at the same level. This is funding beyond that; for capital, and in the case of DCPS, for—

Senator DURBIN. Thank you.

Mr. CANE [continuing]. Some other things.

Senator DURBIN. Thanks for that clarification.

Mr. CANE. Thank you.

I'm going to wrap up, here, Mr. Chairman and members of the subcommittee.

But, I want to say that the District of Columbia, through its public charter schools, has been a leader in public school reform since



1996. The great changes being made at DCPS since Michelle Rhee came on the scene are very much in this tradition and welcome.

We appreciate the Senate's ongoing interest in these reforms, and hope it will continue.

Thank you, very much.

Senator DURBIN. Thank you, as well.

[The statement follows:]

#### PREPARED STATEMENT OF ROBERT CANE

Thank you Mr. Chairman and members of the subcommittee. My name is Robert Cane, and I've been executive director of Friends of Choice in Urban Schools since 1998. FOCUS supports D.C.'s burgeoning public charter school movement through advocacy and technical assistance.

I'd like to make four simple points today about D.C.'s public charter schools:

- The public charter schools are wildly popular with D.C. families and the public at large;
- There's a good reason for this popularity: The public charter schools have improved the academic performance of the District's most disadvantaged students;
- D.C.'s public charter school leaders must perform for their students or they will be sent packing; and
- D.C.'s public charter schools have succeeded in spite of inequitable funding and poor access to abandoned school buildings.

#### POPULARITY

If you'll refer to graph #1 you'll see the astonishing growth of D.C.'s public charter schools—from 160 kids on two campuses in 1996 to nearly 26,000 on 98 campuses last school year. Of these students, 96 percent are black or Latino and around 80 percent come from economically disadvantaged homes.

Public charter school enrollment represents 36 percent of all public school students in the District of Columbia, second only to New Orleans. And we're still growing, with another 2,000 students expected this year. Many of the public charters have extensive waiting lists. For example, Capital City PCS, recently held up as a model for the Nation by President Obama, last spring received 1,350 applications for just 45 places. And Two Rivers PCS took in 1,116 applications for 38 places.

The public charter schools are equally popular with the public at large. A recent opinion poll showed that 74 percent of D.C. residents support the public charters [graph #2].

#### IMPROVED ACADEMIC PERFORMANCE

As you know, educating inner city youth is a huge challenge, and D.C.'s public schools have struggled for decades to make headway. But even though no charter school leader would claim victory in this battle, it is clear that the public charters have made significant progress and are ahead of the curve when it comes to school reform.

Graph #3 shows that the public charter schools have improved their students' performance on standardized tests, especially at the secondary level. In fact, disadvantaged and African American secondary school students are nearly twice as likely to score proficient or advanced on these tests as their peers in DCPS neighborhood schools. And graph #4 demonstrates that the charters' graduation rate, which is approaching 90 percent, significantly exceeds the national average, even though the average includes wealthy suburbs and other areas a world apart from the District.

#### ACCOUNTABILITY

The dwindling number of those who oppose D.C.'s public charter schools like to tell reporters that anyone can open one of these schools and that once they're open they are not held to account.

These are outright falsehoods. Graph #5 shows that fully two-thirds of all applications for a charter have been denied. Graph #6 shows that of the 78 schools chartered since 1996 more than a quarter have lost their right to operate. And graph #7 shows that 100 percent of these closed schools were in the bottom quartile of student academic achievement.

More schools likely will lose their charters at the end of this school year. This is as it should be; the only true accountability in public education—and the great advantage of the public charter schools—is the ability to send packing those who are

failing to produce results. This brand of accountability is now beginning to be adopted by the city-run schools.

#### INEQUITABLE TREATMENT OF PUBLIC CHARTER SCHOOLS AND THEIR STUDENTS

Judging by its actions, the D.C. government appears to have taken the wrong message from the popularity and performance of the public charter schools. Graph #8 shows the continuing problem of inequitable access to public school buildings: one for every 366 DCPS kids and for every 1,045 public charter school students. And graph #9 shows the huge per-student funding advantage the government gives to DCPS. This is despite the fact that D.C. law requires that students in both types of public school receive the same number of tax-payer dollars.

We do not know why the D.C. government has failed to respond in a positive way to the great success of the public charter schools. We can say, however, that it is bad public policy to treat public charter school students and their families differently than DCPS students and their families, not to mention morally indefensible and unkind to children from some of the District's most vulnerable communities. We hope this school year will bring a change in this long-standing practice.

Mr. Chairman and members of the subcommittee, the District of Columbia, through its public charter schools, has been a leader in public school reform since 1996. The great changes being made at DCPS since Michelle Rhee came on the scene are in this tradition and are most welcome. We appreciate the Senate's ongoing interest in these reforms and hope it will continue.

Thank you.

Senator DURBIN. Dr. Weitzel-O'Neill.

#### STATEMENT OF PATRICIA WEITZEL-O'NEILL, Ph.D., SUPERINTENDENT OF SCHOOLS, ARCHDIOCESE OF WASHINGTON

Dr. WEITZEL-O'NEILL. Good morning, Senator Durbin, Ranking Member Collins, Senator Alexander.

I am Patricia Weitzel-O'Neill. I'm the superintendent for the Catholic schools in the Archdiocese of Washington, and have been participating in the Opportunity Scholarship Program since its inception in 2004.

I'd like to thank you for the invitation to speak on behalf of the Archdiocese of Washington in support of continuing the Three Sector Initiative legislation and the Opportunity Scholarship Program.

And I thank you, Senator Durbin, Ranking Member Collins, and all members of this subcommittee, for providing the appropriations for this program for these 5 years.

As a result of your provision for this program, you have made it possible for the recipients to attend safe, stable, and excellent schools. And, as you know from the testimony, 87 percent of these students would have been in failing schools in the District of Columbia without your good wisdom to fund these appropriations.

Today, I'm proud to confirm that the Archdiocese of Washington has supported this program fully by providing seats for approximately 900 to 1,000 students each year in the 20 participating Catholic schools, schools that are all accredited by the Middle States Association and have certificates of occupancies and adhere to our policies for excellence, which require all teachers to have bachelor's degrees, particularly those who are teaching in core subject areas, or the equivalent international degrees.

During this time, our student outcomes are measured, for all students, by the nationally normed TerraNova Assessment, and our Opportunity Scholarship students have participated in the rigorous research conducted by the Department of Education requiring them to take a second test: the Stanford-9.