

RSC Policy Brief: School Choice and No Child Left Behind

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In the next few months, the House will likely consider legislation to reauthorize the Elementary and Secondary Education Act (ESEA), which was given the moniker No Child Left Behind (NCLB) in 2001, with the passage of H.R. 1 (PL 107-110). Although a draft of the Majority's proposal is not yet available, it is likely their legislation will not expand school choice options for parents.

School choice takes many different forms across the country and at the various levels of government. At the state and local level, school choice exists for many parents through avenues such as residential choice, tax credits and deductions, scholarships, home schooling, and local lottery mechanisms, among others. However, at the federal level, school choice (especially *private* school choice) remains significantly limited. This brief will briefly detail current *federal* school choice (public and private) provisions, and will outline recent proposals being discussed within the context of NCLB reauthorization.

Public School Choice

Under the Elementary and Secondary Education Act (ESEA)—the backbone of federal education law for grades K-12—public school choice is offered to parents as a result of schools failing to meet certain progress requirements. Specifically, ESEA requires schools that fail to meet each state's measure of "Adequate Yearly Progress" (AYP) for two consecutive years to provide parents the opportunity to enroll their child in a different, higher-performing public school within the same local education agency (LEA). According to the Department of Education, during the 2003-2004 school year, 32,000 (one percent) of eligible students (2.75 million) chose to transfer to a new school under these provisions.

The Unsafe School Choice Option is another form of federal school choice in current law. States are required to establish policies under which any student attending certain "dangerous" public schools, or who is a victim of a violent crime while on school grounds, must be provided an opportunity to transfer to a different public school. However, between 2003 and 2005, only four states identified five or more schools as dangerous in any given year, and very few students have taken advantage of this program. Currently, each school determines its own policy for designating a school as dangerous, revealing a potential flaw in the program since so few students are benefiting from it.

In addition, most states provide for public charter schools and magnet schools, which, although initiated at the state level, are eligible to receive federal assistance. Charter schools are typically funded on a per-pupil basis, and are given enhanced flexibility regarding many state and local regulations in exchange for increased accountability of higher results. ESEA provides funding to assist with the opening of new charter schools, as well as competitive grants for the facilities in their

first few years of operation. In FY 2006, Congress appropriated \$214.8 million for federal charter school programs. Finally, magnet schools are designed to promote diversity in the public school system by offering specialized curriculum (such as math and science), which is intended to increase diverse attendance. ESEA provides competitive grants for LEAs to establish these schools, and in FY 2006, Congress appropriated \$107 million for the federal Magnet School Assistance Program.

Private School Choice

Although conservatives pushed for the inclusion of such provisions in 2001, ESEA provides *no* private school choice (such as vouchers) for parents who wish to transfer their child from a failing public school to a private school. However, NCLB authorized “supplemental educational services” (SES), such as tutoring, as a means of school improvement. As such, the law requires LEAs to provide low-income students with the opportunity to receive SES, if they are attending a public school identified for needing improvement (failed to meet AYP for three years). SES must be provided to these students by a state-approved provider, which may include public and private nonprofit or for-profit entities. Thus, under this provision, parents of these children could choose to have their child tutored through a private entity. Of note, according to CRS, “Much greater proportions of eligible students are choosing to receive supplemental educational services than to change schools under the ESEA Title I-A public school choice provisions.”

Currently, the District of Columbia operates the only federal voucher program. However, this program is not included in NCLB, but is a separate section of federal code. The D.C. voucher program, which is set to expire in FY 2008, is a five-year demonstration program that provides low-income students with scholarships to pay for the cost of attending a private school in the District. In FY 2006, Congress appropriated \$14.9 million for the voucher program, and in the first two years of implementation, 2,454 students were awarded scholarships through the program.

Recent School Choice Proposals

In his FY 2008 budget, the President proposed the creation of Promise Scholarships, which would be offered to parents of low-income children (grades 3-12) in certain failing schools. These scholarships would “follow the student” and allow parents to send their child to a private school, to an out-of-district public school, or to receive extensive tutoring. In addition, students choosing to attend a private school under this program would be required to take their state’s assessment tests, as outlined by their original school. The President also proposed a new grant program (Opportunity Scholarships), which would function much like the D.C. voucher program—as a locally designed scholarship program providing for private school scholarships for low-income students. Finally, the Administration has called for the expansion of supplemental education provisions, including increasing the per-child funding for certain SES recipients, among other changes.

Rep. Buck McKeon, ranking member on the Education Committee, recently introduced the Empowering Parents Through Choice Act (H.R. 1486), which would implement some of the President’s initiatives outlined above, including the Promise Scholarships and the Opportunity Scholarships. In addition, Rep. McKeon also introduced H.R. 2203, which would enhance current public school choice provisions such as allowing supplemental services (SES) to be offered after two years of a school failing to meet AYP and requiring that unused SES funds be rolled over to the next year to be used for the same purpose—providing these services to students.

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