

Considering Educational Vouchers

THE FIRST AMENDMENT: The religion clauses of the First Amendment to the Constitution instruct,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.¹

Both clauses have an important role in protecting religious liberty: the establishment clause protects adherents of a faith other than the one the government might establish, and the free exercise clause protects adherents of a faith against which the government might discriminate. Much of the debate about vouchers has centered around the first amendment.

THE SUPREME COURT: In *Zelman v. Simmons-Harris*,² the United States Supreme Court upheld the Cleveland public school system's use of state-funded educational vouchers to pay for education at religious schools. In doing so, the Supreme Court indicated that - in some circumstances - the first amendment does not prohibit funding religious schools with public money.

THE DEBATE ABOUT VOUCHERS TO RELIGIOUS SCHOOLS: While the Court's decision in *Zelman* said that vouchers for religious schools can sometimes be LEGAL, the Court cannot tell us

whether such vouchers are MORAL. The debate is certainly not over, especially among people of faith who serve a higher power than the Supreme Court. People of faith must consider vouchers according to our understandings of God, and of the religious liberty that allows us to worship our God according to our conscience.

THE DEBATE ABOUT VOUCHERS TO NON-RELIGIOUS SCHOOLS: People of faith may also want to consider whether public funds should be used to support vouchers to non-religious private schools. While religious liberty concerns do not apply to this debate, the questions about education policy that it invokes are important. People of faith must consider the best method of ensuring that all of God's children receive a decent education.

THE DEBATE IN NORTH CAROLINA: North Carolina schools have recently implemented, and will continue to face, major reforms in their efforts to educate students whose needs are not being met:³ The debate over vouchers is surely close at hand. People of faith come down on both sides of the vouchers issue. So that we can be responsible to our children and our neighbors of all faiths, our faith communities must educate themselves about all sides of the debate. The information included here is intended to serve as a starting point for beginning the

discussion in your faith community. It by no means comprehends all of the caveats of the debate

VOUCHER PROPONENTS:

EDUCATION POLICY: Voucher proponents profess many reasons for supporting vouchers to religious schools. Among them are usually arguments about the need to provide quality education to children in failing schools systems, and the need to provide educational choices to parents who desire the influence of faith in their children's education. Thus, the pro-voucher movement represents itself as a pro-choice movement that brings educational alternatives to students who would otherwise be trapped in public schools.

RELIGIOUS LIBERTY: Voucher supporters complain primarily that, if a state is going to grant vouchers to any private schools, then the state cannot exclude religious schools simply because they are religious. They argue that this exclusion would infringe on the religious liberty of private religious schools, their students, and their students' parents. This is not exactly what the Supreme Court said when it upheld vouchers under the Ohio Vouchers Program - rather, the Court said that voucher programs could provide funds to religious schools, but it did not require that any voucher programs do so.

VOUCHER OPPONENTS:

EDUCATION POLICY: Voucher opponents are concerned about taking resources away from already struggling public schools - and the students left in them - in order to send

other students to private schools. Opponents argue that providing a private school choice for some only hastens the failure of the public schools, leaving many more behind than can be helped with vouchers.

RELIGIOUS LIBERTY: Voucher opponents who are people of faith also profess many reasons for resisting efforts to use vouchers in religious schools.

- Establishment of Religion: Opponents believe that the use of public money to fund the religious indoctrination of school children forces taxpayers to financially support religious beliefs not in line with their own.

- Infringement on the Free Exercise of Religion: Opponents also believe that the use of vouchers will bring regulations that necessarily infringe on religious liberty of the religious schools. This concern is a bit complicated, but it stems from laws which require that the government not engage in discrimination: federal money cannot be provided to institutions which discriminate on the basis of race, gender, religion, etc. If the government applies these laws to religious schools, the religious institutions may be required to compromise some of their most important beliefs about the kinds of individuals that should be allowed to attend and work at their schools: this would infringe on the free exercise of the school in question. On the other hand, if the government exempts religious schools from these laws, and continues to provide them funding in the face of discriminatory practices, then the government will be responsible for funding discrimination with public money - hardly a better alternative.



¹ U.S. CONST. am. 1.

² 122 S. Ct. 2460 (2002).

³ For more information on these reforms, see John Charles Boger, Education's 'Perfect Storm?' Racial Resegregation, 'High Stakes' Testing, & School Resource Inequities: The Case of North Carolina, 81 N.C.L. REV. 1375 (May 2003).

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QUESTIONS TO CONSIDER TOGETHER: Education Policy:

- What are the educational needs of the larger community?
- Are there children that are not receiving a quality education?
- Would vouchers to private schools provide a better education for any of the students in the community?
- Which private schools would accept students on the limited tuition that vouchers provide?
- Are there students that would still have to attend low quality public schools?
- Can the public schools improve while voucher money is being spent on private education?
- Is free public education a right worth protecting?
- How is God calling our faith community to respond to these educational needs?

Religious Liberty:

- Is our faith community comfortable with our tax money supporting the teachings of local religious schools?
- How would federal regulations against discrimination in hiring and accepting students affect the religious schools that we support?
- Would we be comfortable with our tax money supporting the decisions that other faith communities might make to exclude from hiring or admission the basis of gender, sexual orientation, race, or religious belief?
- Do we feel like public financial support of religious schools somehow demonstrates government support for religion in general, or a specific religion?
- Should the state provide vouchers to non-religious schools but not to religious schools?
- In what ways does the government provide special protection or help to us because we are a religious organization? Is this special treatment worth giving up to be treated just like other organizations?

For More Information:

Two very helpful websites:

THE BAPTIST JOINT COMMITTEE
www.bjcpa.org
(search under the Issues section)

INSTITUTE FOR JUSTICE
www.ij.org/index.shtml
(search for "vouchers")

Other websites include:
THE AMERICAN JEWISH CONGRESS
www.ajcongress.org

THE AMERICAN CIVIL LIBERTIES UNION
www.aclu.org

AMERICANS UNITED FOR THE
SEPARATION OF CHURCH AND STATE
www.au.org

THE FOUNDATION FOR INDIVIDUAL
RIGHTS IN EDUCATION
www.thefire.org

THE AMERICAN CENTER FOR LAW AND
JUSTICE
www.aclj.org

THE BECKET FUND FOR RELIGIOUS
LIBERTY
www.becketfund.org

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E d u c a t i o n a l V o u c h e r s

Are they good for our
Schools?

Are they good for our
Faith Communities?

