

Council for American Private Education

# CAPE outlook

Voice of America's private schools

## Rights and Responsibilities in School Choice Programs

By their very nature, school choice programs convey rights and responsibilities to parents. Empowered with an opportunity heretofore unavailable, parents newly benefiting from choice are able to select a school that best fits the needs of their child. No longer forced to settle for a school assigned by their address, they now have the right to find a setting that reflects their expectations of what a school should be. With that right, comes the responsibility of carefully evaluating available options and making a sound selection—an awesome responsibility indeed.

### Additional Rights, Responsibilities

But beyond the inherent and significant overarching rights and responsibilities attached to virtually every choice program, particular statutes governing those programs sometimes spell out additional rights and responsibilities, or even make the inherent rights explicit. Florida's McKay Scholarship statute, for example, unequivocally affirms the *right* of parents to transfer a child from one private school to another within the program. The same statute gives parents the *responsibility* to make certain the child shows up for an annual assessment.

To find out the extent to which rights and responsibilities are affirmed in various school choice statutes, Gerard Robinson, a resident fellow at the American Enterprise Institute (AEI), embarked on an ambitious study, the results of which are reported in *A Survey of Parental Rights and Responsibilities in School Choice Laws*.

### References to "Parent"

Robinson first set out to identify the instances of the word "parent" in every school choice statute across the country. Then, using a subset of 20 statutes representing various types of choice programs, he took a deep dive to examine the precise context in which the word "parent" was

used. His findings are instructive.

First, some background. Robinson calls school choice "an important social movement," noting that between 1990 and 2015, "lawmakers in more than 40 states and the District of Columbia enacted a range of public and private school choice laws." Done right, school choice not only helps get a child into a better school, but "can also help empower parents to be thoughtful advocates for their child's education, rather than passive consumers." But despite this latter goal, "remarkably little attention has been paid to how school choice laws actually address parents." Robinson's study attempts to change that reality.

### 102 Statutes

The report looks at "102 parental choice laws enacted in 45 states and the District of Columbia," including 43 charter school laws, 25 voucher laws, 29 tax credit/deduction laws, and five education savings accounts (ESA) laws. Within those laws, Robinson identified 1,604 instances of "parent," and discovered, among other things, that "the term 'parent' appears more than four times more often in an ESA law than in a tax-credit law." More significantly, Robinson also found out that the number of "parent" mentions in a law is not necessarily a reliable indicator of the substantive meaning of the mention.

### Four Categories

To get to the bottom of what the mentions meant, Robinson established

four categories of usage: legal, window-dressing, rights, and responsibilities. A mention of "parent" was placed in the legal category if it defined or outlined "the relationship between the parent and the school choice program." When, for example, a

New Hampshire law identified a parent as "the natural or adoptive parent or legal guardian of a child," that mention was classified as legal.

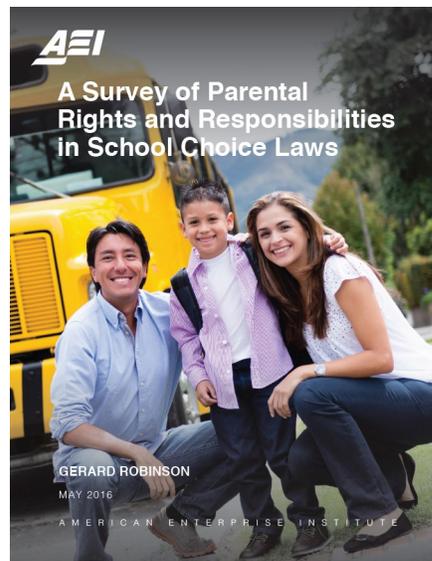
A window-dressing classification covered cases "where the term 'parent' appears in an aspirational context but lacks substantive information that specifies a parent's role in his or her child's education." A New Mexico law that provided "parents and students with an

educational alternative to create new, innovative and more flexible ways of educating children" amounted to window-dressing in Robinson's calculus.

"Rights" refers to "instances where the law gives specific power to parents over decisions and procedures that affect their child's education." And "responsibilities" refers to "instances where the law asks parents for something in exchange for receiving the benefits of a choice program."

Employing these categories, Robinson scoured various school choice statutes to label each mention of "parent" as a legal instance, a window-dressing instance, an instance that signifies a right, or one that signifies a responsibility. He did this for 20 statutes in all, consisting of three to five occurrences each of charter laws, voucher laws, tax credit scholarship laws, ESA laws,

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- Agudath Israel of America
- American Montessori Society
- Association Montessori International—USA
- Association of Christian Schools International
- Association of Christian Teachers and Schools
- Association of Waldorf Schools of N.A.
- Christian Schools International
- Council on Educational Standards and Accountability
- Evangelical Lutheran Church in America
- Friends Council on Education
- Lutheran Church—Missouri Synod
- National Association of Episcopal Schools
- National Association of Independent Schools
- National Catholic Educational Association
- National Christian School Association
- Oral Roberts University Educational Fellowship
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- 37 Affiliated State Organizations

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**Outlook is published monthly (September to June) by CAPE. An annual subscription is \$35. ISSN 0271-1451**

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## NCES Reports Increase in Private School Enrollment

The National Center for Education Statistics (NCES) on May 26 released its congressionally mandated annual report on education in the United States, covering a host of indicators from demographics to performance to economic outcomes. This year's report, *The Condition of Education 2016*, included several eye-catching findings concerning students and teachers in private schools.

### Enrollment Up

The number of private school students (pre-K through 12) increased from 5.3 million to 5.4 million between 2011-12 and 2013-14 (the two most recent enrollment counts by NCES). That change drove the private school share of all U.S. students from 9.6 percent to 9.7 percent.

According to the report, "In 2013-14, some 38 percent of all private school students were enrolled in Catholic schools," which accounted for 2.1 million students. Conservative Christian schools enrolled 707,000 students; other affiliated religious schools, 565,000; unaffiliated religious schools, 758,000, and nonsectarian schools, 1.3 million.

### Low Pupil/Teacher Ratio

The number of private school teachers moved from 431,000 in fall 2012 to 441,000 in fall 2013. On a related note, the pupil/teacher ratio in private schools in 2013 was 12.2 students per teacher, compared to 16.1 students per teacher in public schools.

### High Performance

Drawing on data that NCES periodically collects on the transcripts of high school graduates, the report notes that coursetaking patterns differ

between students in private schools and those in public schools. According to the report, "A higher percentage of 2009 graduates from private schools (85 percent) had taken courses in algebra II/trigonometry than had graduates from traditional public schools (75 percent), and a higher percentage of graduates from private schools (23 percent) had taken courses in calculus than had graduates from public schools (15 percent)."

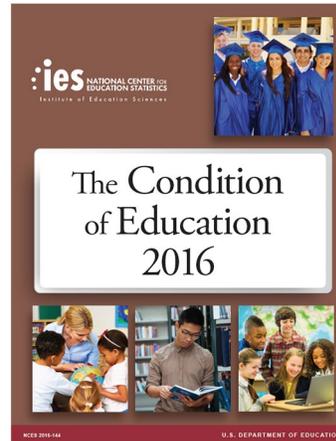
Private school students also tended to take more science courses, with the report noting that "a higher percentage of private high school graduates (44 percent) had taken at least one credit in biology, chemistry, and physics than had graduates from traditional public schools (29 percent)."

### Enrollment by Location

Another interesting chart in the report looks at how private school enrollment is distributed by school location. As the report puts it, "In 2013-14, higher percentages of private school students in cities and towns were enrolled in Catholic schools than in other religious or nonsectarian schools." In towns, 48 percent of private school students were enrolled in Catholic schools; 39 percent in other religious schools, and 13 percent in nonsectarian schools. In cities, the comparable figures were 42 percent, 34 percent, and 24 percent. However, "a lower percentage of private school students in rural areas were enrolled in Catholic schools" (14 percent) than other religious schools (61 percent) or nonsectarian schools (25 percent).

The suburbs had their own enrollment pattern, with 38 percent in Catholic schools, 36 percent in other religious schools, and 26 percent in nonsectarian schools.

The report is available at [nces.ed.gov](http://nces.ed.gov).



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and individual tax credit/deduction laws.

Upon completing his in-depth analysis, Robinson discovered—much to his surprise—that legal and window-dressing references “served as the norm” in school choice legislation. In addition, roughly 60 percent of “parent” mentions in the voucher and tax-credit laws he looked at, and more than 70 percent of the mentions in the tax-deduction and ESA laws, had nothing at all to do with rights or responsibilities.

Robinson would like to see much more language in choice legislation that emphasizes the two Rs. “Our choice laws must reflect more

than ‘legalese’ and window-dressing if we are to truly empower parents so that they can help their children.” The development of “model language and legislation” can help states “better emphasize the parental role in education,” he writes.

Robinson concludes that for school choice to work, states “must have a critical eye for how laws treat parents, how they invite them into the lifelong process of a child’s schooling, and how they call equal attention to both rights and responsibilities.”

*A Survey of Parental Rights and Responsibilities in School Choice Laws* is available for download as a PDF document at [www.aei.org](http://www.aei.org).

# NCES Looks at Crime and Safety in Schools

The safety of their child at school is an ongoing concern of parents, who naturally want to rest assured that their precious charge is protected and secure.

A new federal report might provide them some comfort. Issued last month, *Indicators of School Crime and Safety: 2015* notes, “Between 1995 and 2013, the percentage of students ages 12–18 who reported being victimized at school during the previous 6 months decreased overall (from 10 to 3 percent), as did the percentages of students who reported theft (from 7 to 2 percent), violent victimization (from 3 to 1 percent), and serious violent victimization (from 1 percent to less than one-half of 1 percent).”

The 220-page report provides a plethora of measures of crime and safety in schools, covering topics such as “victimization, teacher injury, bullying and cyber-bullying, school conditions, fights, weapons, availability and student use of drugs and alcohol, [and] student perceptions of personal safety at school...” The stated purpose of the report is to establish “reliable indicators of the current state of school crime and safety across the nation” and to regularly update and monitor those indicators.

## Data by School Type

Several indicators are analyzed by the type of school students attend. For example, “A higher percentage of students attending public schools (13 percent) than of students attending private schools (2 percent) reported that gangs were present at their school in 2013.” Note, however, that the term “at school” is defined rather expansively to include the school building itself, school grounds, a school bus, and even the trip to and from school.

Using the same expansive definition of “at school,” the report notes that “in 2013, approximately 26 percent of public school students reported seeing hate-related graffiti at school, compared with 13 percent of private school students.”

Looking at another measure of school safety, in 2013, “a higher percentage of public school students (4 percent) than of private school

students (1 percent) reported avoiding one or more places in school” because of fear of being attacked or harmed. The places at issue included “the entrance, any hallways or stairs, parts of the cafeteria, restrooms, and other places inside the school building.”

## Teachers

Oftentimes the safety and security of the school environment ultimately influences a teacher’s decision on where to practice the profession. As a general rule, teachers do not relish the idea of dealing with unrelenting student misbehavior, let alone threats to their well-being.

The report states, “During the 2011–12 school year, a higher percentage of public than private school teachers reported being threatened with injury (10 vs. 3 percent) or being physically attacked (6 vs. 3 percent) by a student from their school.”

Of course, classroom misbehavior does not always result in physical harm. Some misdeeds are simply annoying and distracting. According to the report, “A higher percentage of public school teachers (41 percent) than of private school teachers (22 percent) reported that student misbehavior interfered with their teaching in 2011–12. In addition, 38 percent of public school teachers reported that student tardiness and class cutting interfered with their teaching, compared with 19 percent of private school teachers.”

## On the Same Page

Teachers also like to know that colleagues and administrators are on the same page when it comes to enforcing school rules. It turns out that the majority of teachers in both public and private schools believe there is consistency within the community in holding students accountable, even though a slightly higher percentage of private school teachers think that’s the case. As the report put it, “During the same year [2011–12], lower percentages of public school teachers than of private school teachers agreed that school rules were enforced by other teachers (68 vs. 77 percent) and by the principal in their school (84 vs. 89 percent). [Image © fotofun/Adobe Stock]

# ESSA Rules

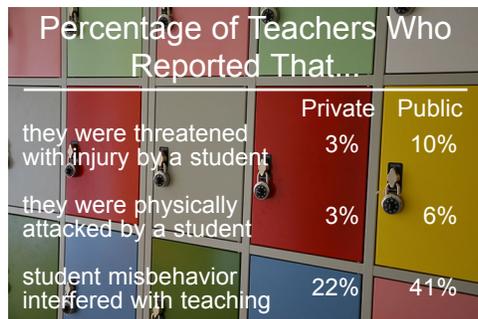
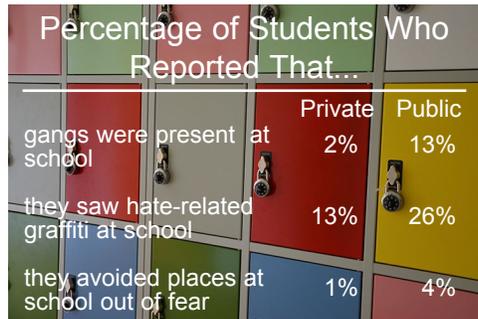
The U.S. Department of Education released in late May proposed regulations on accountability, data reporting, and consolidated state plans under the *Every Student Succeeds Act* (ESSA). Although the proposed rules largely affect public schools, some provisions carry consequences for equitable services to students and teachers in private schools.

For example, ESSA, like its predecessor, the *No Child Left Behind Act*, provides states the option to submit to USDE a single application and plan for programs in which they intend to participate. ESSA (Sec. 8302(b)(1)) requires the secretary of education to collaborate “as appropriate” with private school officials and others in establishing the procedures and criteria governing submission of the consolidated application. Moreover, state applications must include “assurances of compliance with applicable provisions regarding participation by private school children and teachers” in programs (Sec. 8302(b)(3)).

Although the statute itself is clear on this point, the proposed regulations are silent. There is no mention at all of private schools in sections relating to consolidated state plans (Sec. 299.13 to Sec. 299.19). Those plans are supposed to provide pledges that provisions governing equitable services to private school students and teachers have been carried out, but the regulations do not call for such assurances.

Also, one would think that the development of the consolidated plans would involve consultation with private school representatives, whose students and teachers are to be served under the act. But the long list of stakeholders with whom states must consult in developing the consolidated plan (Sec. 299.15(a)) conspicuously omits private school officials.

The public has 60 days to comment on the proposed rules, and CAPE will most certainly do so.



## CAPE notes

★ In mid-May, the National Assessment of Educational Progress (NAEP) released results from the first-ever national assessment of student performance in technology and engineering literacy (TEL).

According to the National Center for Education Statistics (NCES), eighth grade students “were asked to respond to questions aimed at assessing their knowledge and skill in understanding technological principles, solving technology and engineering-related problems, and using technology to communicate and collaborate. Students also were surveyed on their opportunities to learn about technology and engineering in and out of school.”

The digital-based tests were administered between January and March 2014 to 21,500 students in 840 public and private schools across the country.

Results showed that 60 percent of student in private schools scored at or above the proficient level on the new assessment, compared to 42 percent of students in public schools.

An NCES news release provides additional details about the test: “The Technology and Engineering Literacy assessment tests students’ thinking and reasoning skills in three content areas—Technology and Society, Design and Systems, and Information and Communication Technology—as well as three technology and engineering practice—Understanding Technological Principles, Developing Solutions and Achieving Goals, and Communicating and Collaborating.”

★ A recent editorial in *The Wall Street Journal* (WSJ) had high praise for a new study from the Department of Education Reform at the University of Arkansas. Researchers at the university conducted the first-ever meta-analysis of voucher programs across the globe that utilize randomized controlled trials (RCTs), the gold standard in research studies. A meta-analysis reviews, analyzes, and combines the results of previous studies on a given topic in order to obtain more robust and reliable findings about the topic.

According to the WSJ: “The study’s most important news is that voucher students show ‘statistically significant’ improvement in math and reading test scores. The researchers found that vouchers on average increase the reading scores of students who get them by about 0.27 standard deviations and their math scores by about 0.15 standard deviations. In laymen’s terms, this means that on average voucher students enjoy the equivalent of several months of additional learning compared to non-voucher students.”

Researchers looked at 19 studies representing 11 voucher programs in the United States and abroad. They noted that generally the positive effects were larger “(1) for reading than for math, (2) for programs outside the US relative to those within the US, and (3) for publicly-funded programs relative to privately-funded programs.”

They also pointed out that “in terms of policy implications, it is critical to consider the cost-benefit tradeoffs associated

with voucher programs” since, as noted in other studies, vouchers “tend to generate achievement outcomes that are as good as or better than traditional public schools, but at a fraction of the cost.”

The report is available at <[www.uaedreform.org/working-papers/](http://www.uaedreform.org/working-papers/)>.

★ Michigan’s private schools save taxpayers an estimated \$750 million annually, but they could produce even greater savings if they were operating at capacity enrollment.

A just-released survey of Michigan’s private school sector by the Mackinac Center for Public Policy found that although the state’s 601 private schools enroll about 113,000 students, they have the capacity to enroll an additional 21,000 students. What’s more, 71 percent of the schools said they would likely participate in a “a voucher or tuition tax credit program to make private schools affordable for more families.”

