

Council for American Private Education

CAPE outlook

Voice of America's private schools

Nevada Supreme Court Deals Mixed Ruling on ESAs

The Nevada Supreme Court last month delivered mixed blessings to parents eagerly waiting to use education savings accounts (ESAs) to customize their child's education. In a consequential and historic ruling, the court essentially said the overall concept of ESAs does not violate the state's constitution even though the program's particular funding mechanism does. The bottom line is that parents will have to continue their wait until the legislature can enact a technical fix.

Nevada's expansive ESA program, the broadest in the country, was signed into law by Governor Brian Sandoval in June 2015. The program provides the opportunity for any parent of a child enrolled in public school to access a state-funded savings account, equal to roughly \$5,100 per student, to cover the cost of a variety of education services, including enrollment in private schools.

Several Challenges

The court considered several constitutional challenges to the program. One involved a claim that the program violated Article 11, Section 2 of the Nevada Constitution, which requires the legislature to provide for "a uniform system of common schools." The court maintained that such language was plainly intended merely to ensure "uniformity within the public school system" and not to restrict the legislature from promoting the education of the public "by all suitable means," as it is permitted to do under Section 1 of Article 11. As the court reasoned, the education savings account program "does not alter the existence or structure of the public school system" and is not contrary to the "mandate to provide for a uniform system of common schools."

The court went on to dismantle a second challenge, namely, that the program violated Article 11, Section 10, which states, "No public funds of any kind or

character whatever...shall be used for sectarian purposes." The court reasoned that the ESA program was established by the legislature for "a secular purpose—that of education—and that the public funds which the state treasurer deposits into the education savings accounts are intended to be used for education, or non-sectarian, purposes." It went on to state, "Once the public funds are deposited into an education savings account, the funds are no longer 'public funds' but are instead the private funds of the individual parent who established the account." Parents are then free to decide "where to spend that money for the child's education and may choose from a variety of participating entities, including religious and non-religious schools."

But the challenge the court found convincing was one asserting that funds appropriated for public education were being improperly diverted to education savings accounts, a program for which the legislature had not explicitly appropriated funds. The court found that the diversion violated Sections 2 and 6 of Article 11. On the basis of that finding, the court halted the program's implementation.

Swift Reaction

The school choice advocacy community was quick to respond, recognizing and hailing the substantial and sweeping breakthrough the decision provided while calling for a quick fix to the technical funding issue.

"The Nevada Supreme Court has unequivocally said that there is no constitutional impediment to fully funding Ne-

vada's ESA program, but unfortunately the court said that the funding mechanism in the current program cannot be used," declared Tim Keller, the Institute for Justice's lead attorney defending Nevada's ESA program. "The ball is now in the governor's and legislature's court to adequately fund

the ESA program for thousands of families who have already applied to participate in it."

"Today's decision is disappointing for our clients and the families in Nevada who need educational alternatives right now," declared IJ Attorney

Keith Diggs. "However, the silver lining is that the problem identified by the court is a technical problem that the legislature can, and should, fix as soon as possible."

Betsy DeVos, chair of the American Federation for Children, struck a similar theme, voicing encouragement that the ruling dismissed the substantive constitutional challenges to the program, while encouraging Governor Sandoval and the state legislature "to quickly address the technical fix required to fund a child's education through an ESA."

EdChoice President and CEO Robert Enlow called the ruling "a big win for thousands of Nevada families who are clamoring for schooling options to make sure their kids have an opportunity to succeed in life."

Joining other school choice advocates, Enlow encouraged the governor and legislature "to move quickly to consider an alternate funding stream for the ESA program so that the more than 8,000 Nevada students waiting to use these accounts can do so as soon as possible."

[image © lukas555 / Adobe Stock]



CAPE member organizations:

- 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 of Islamic Schools in North America
- 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
- Seventh-day Adventist Board of Education
- United States Conference of Catholic Bishops
- Wisconsin Evangelical Lutheran Synod Schools
- Affiliated State Organizations

a coalition of national associations serving private schools K-12
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SAT Results After a Year of Transition

Call it a year of transition for the College Board’s SAT assessment. Some graduates of the class of 2016 took the old SAT, which was last administered in January 2016, and some took the new SAT, first administered in March 2016. On account of the transition, “Comparisons of SAT results for the class of 2016 to those of previous graduating classes cannot be made because the number of test administrations and the characteristics of the class cohort are different from those in the past,” according to the College Board.

Still, the company provided “mean scores for students in the graduating class of 2016 who took the old SAT at least once through January 2016, and mean scores for students in the graduating class of 2015 who took the SAT at least once through January 2015.” It turns out that the average total score on the old SAT for 2016 graduates was 1484 out of a possible 2400, a 12-point drop from the previous year’s graduates. On specific tests, the reading mean score was 494 for the class of 2016, down three points from 2015; the writing mean score was 482, down five points; and the math mean score was 508, down four points.

Variability

Scores varied significantly by the type of school students attended, with college-bound seniors in religious and independent schools scoring substantially higher than the national average. Specifically, the average combined score of students in independent schools was 1645, or 161 points above the national mean of 1484, while the average for religious school students was 1594, which was 110 points above the mean. Public school students scored 1453, 31 points shy of the mean.

In each of the subjects tested, SAT scores for college-bound seniors in religious and independent schools were also substantially higher than the national average, actually helping to boost that average. Mean SAT scores for students in public schools were 487 in reading, 472 in

writing, and 494 in math, while comparable scores for students in religious schools were 532, 525, and 537. Students in independent schools scored 530, 536, and 579.

Cohorts by Type of School

Among old-SAT-taking members of the class of 2016 for whom a high school is known, 9 percent attended a religiously affiliated school, 7 percent attended an independent school, and 85 percent attended a public school (percentages are rounded). That translates into 131,260 students from religious schools, 103,861 from independent schools, and 1,305,158 from public schools. For 97,310 students, the type of high school was “other or unknown.” Overall, roughly 1.6 million students in the class of 2016 took the old SAT.

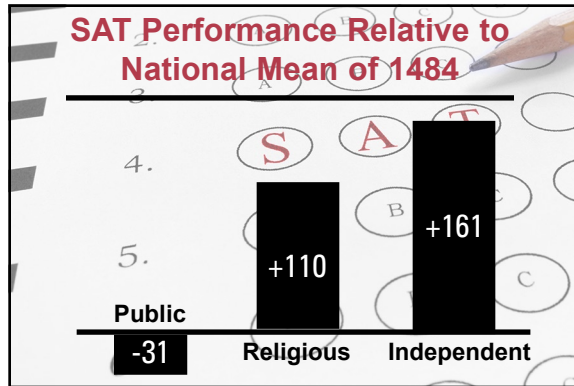
Transition Going Well

The transition to the new SAT appears to be going well for the College Board, which reports, “More test-takers completed the new SAT from March through June of this year than took the old SAT during the same period in 2015.” The College Board called the numbers “a substantial show of support for the test’s redesign.” Specifically, “Nearly 1.36 million test-takers took the new SAT in 2016, compared to 1.18 million who took the old SAT in 2015,” an increase of roughly 180,000 test takers.

“We have transformed all of our tests to deliver greater opportunities and to clear a path for students to succeed in college and careers,” said College Board President David Coleman.

The College Board reported that since its “Official SAT Practice” on Khan Academy launched in June 2015, “more than 1.7 million unique users have signed up to practice for the SAT—free of charge.”

[image © zimmytws / Adobe Stock]



Schools	Reading	Writing	Math
Independent	530	536	579
Religious	532	525	537
Public	487	472	494
National Mean	494	482	508

ESSA Guidance Announced at USDE Conference

Nadya Dabby, the U.S. Department of Education's assistant deputy secretary in charge of the Office of Innovation and Improvement, had some encouraging news for private school leaders last month: the Department will indeed be issuing separate guidance on equitable services for students in private schools under the *Every Student Succeeds Act* (ESSA). The guidance will be published before the current administration ends, which means in time to inform consultation on services for the 2017-18 school year, when much of ESSA takes effect. (For more information on ESSA, read CAPE's *Private Schools and the Every Student Succeeds Act*.)

Ms. Dabby's announcement came during the annual National Private School Leadership Conference in Washington, DC, sponsored by the department's Office of Non-Public Education (ONPE). Considerable time was devoted at the conference to a discussion about ESSA and private schools, with numerous questions from the audience fielded by attorneys from the Office of General Counsel Michael Anderson and Phil Rosenfelt.

Published Guidance

So far, the department has issued several guidance documents on ESSA, including one devoted to Title II and another to Title III. The latter two documents contained some direction regarding services to students and teachers in private schools and included this blanket statement: "New or changed requirements that affect the equitable participation of private school teachers and other educational personnel under the ESEA will be addressed in forthcoming guidance. Except as otherwise provided in that guidance, the existing non-regulatory Title IX, Part E Uniform Provisions, Subpart 1—Private

Schools (Revised March 2009) will remain applicable."

Character Formation Project

As usual, the ONPE conference included an array of topics and presenters that captured the



Kathryn Wiens, director of the Schools for Applied and Innovative Learning at Delaware County Christian School, speaks at the ONPE conference. (USDE Photo)

interests of those in attendance. Ryan Olson, director at the Institute for Advanced Studies in Culture at the University of Virginia, offered an overview of the School Cultures and Student Formation Project, described as "a national study of character and citizenship formation in American high schools." The landmark study will examine character formation in 10 school sectors: prestigious independent, Catholic, Protestant evangelical, Jewish, Islamic, urban public, rural public, charter, pedagogical, and

home schools.

Kathryn Wiens offered a summary of findings on school cultures and student formation in



Beverly Amico, CAPE board member and AWSNA executive director for advancement, speaks at the ONPE conference. (USDE Photo)

prestigious independent schools, reviewing the moral ideals and tensions in six sample high schools. The project's final report will include similar qualitative studies for each of the 10 sectors along with findings from a telephone survey of 3,000 parent-student pairs.

Waldorf Education

Beverly Amico, executive director for advancement at the Association of Waldorf Schools of North America, reviewed the history, philosophy, and principles of Waldorf education, which she described as "either the best kept secret or the most misunderstood education on the planet." Her presentation and an accompanying video captured the passion and enthusiasm for learning that Waldorf education strives to develop in students.

More information about Waldorf education is available at <www.waldorfeducation.org>.

Hello/Goodbye

CAPE continued in growth mode last month when the board welcomed a new national member and a new state affiliate.

The Council of Islamic Schools in North America (CISNA) is the newest member of CAPE. CISNA aspires to be a "leading and unifying organization striving for the advancement of Islamic schools and Islamic education." Its mission is "to improve Islamic schools through accreditation, consultation, and professional development." The group advocates for Islamic schools and fosters "professional relationships with educational institutions and agencies relevant to Islamic education."

CISNA brings the number of national member organizations in CAPE to 20.

The Mississippi Association of Independent Schools (MAIS) brings CAPE's list of state affiliates to 38. Through its rigorous accreditation program, MAIS certifies "the educational integrity" of its 120 member schools, which currently enroll over 40,000 students. It also governs inter-school athletic competitions, offers professional development opportunities, and sponsors academic competitions among schools. MAIS brings a fresh voice to the State CAPE Network.

But the joy of new growth at CAPE was tempered by the board saying farewell to a long-standing and cherished colleague, Dr. Philip Patterson, former president of the National Christian School Association (NCSA). While continuing his service as distinguished professor of mass communication at Oklahoma Christian University, Philip is turning the helm of NCSA over to its new president Kelly Moore, whom the board welcomed to CAPE.

Philip was a "go to" guy at CAPE in so many ways and was regularly called on as a presenter during high-stakes meetings with government officials. He will be deeply missed.

CAPE notes

★ U.S. Secretary of Education John B. King announced September 28 the names of 329 schools identified by the U.S. Department of Education as the National Blue Ribbon Schools for 2016.

Schools were selected either because their test scores in reading and math placed them among the top-performing schools in the nation or state, or because they made notable improvements in closing achievement gaps.

Fifty private schools were among the awardees this year. Each state's commissioner of education nominates public schools for the award, and CAPE nominates private schools. All winning schools will be honored at an awards ceremony November 7-8 in Washington, DC.

"National Blue Ribbon Schools are proof that we can prepare every child for college and meaningful careers, King said in a video message to honorees. "Your schools are on the cutting edge, pioneering innovative educational practices—professional learning communities, project-based learning, social and emotional learning, positive behavior systems—making you shining examples for your communities, your state and the nation."

As a gauge of the program's popular-

ity, the U. S. Department of Education reported that on the day the winners were announced, the National Blue Ribbon Schools Web site received over 90,000 page views, with the news triggering "the third most popular social media event in ed.gov history and the second most popular Facebook event."



The following private schools were named National Blue Ribbon Schools:

California — California Crosspoint High School, Hayward • Carden School of Fresno, Fresno • Stevenson School — Carmel Campus, Carmel • Valley Christian Elementary School, San Jose • **Colorado** — St Mary's Academy, Englewood •

Delaware — Christ The Teacher Catholic School, Newark • St John The Beloved School, Wilmington • **District of Columbia** — Holy Trinity School, Washington • Our Lady of Victory School, Washington • **Florida** — Northside Christian Elementary School, St Petersburg • **Georgia** — Calvary Day School, Savannah • St Joseph Catholic School, Marietta • St Thomas More School, Decatur • **Illinois** — Sager Solomon Schechter Day School, Northbrook • St Anne Parish School, Barrington • St Daniel the Prophet, Chicago • St Juliana School, Chicago • St Paul Lu-

theran School, Mount Prospect • **Indiana** — Cathedral High School, Indianapolis • **Kentucky** — Covington Catholic High School, Park Hills • St Francis of Assisi, Louisville • St Henry School, Elsmere • St Mary School, Alexandria • St Xavier High School, Louisville • **Louisiana** — St George School, Baton Rouge • St Joseph's Academy, Baton Rouge • St Thomas More Catholic School, Baton Rouge • **Maryland** — Our Lady Of Perpetual Help School, Ellicott City • St Joseph School – Fullerton, Baltimore • St Patrick School, Rockville • St Pius X Regional School, Bowie • **Michigan** — Everest Collegiate High School and Academy, Clarkston • **Missouri** — Central Christian School, Saint Louis • Chaminade College Preparatory School, Saint Louis • Immanuel Lutheran School, Saint Charles • **New Jersey** — Academy of The Most Blessed Sacrament, Franklin Lakes • St Augustine of Canterbury School, Kendall Park • St Cassian Elementary School, Upper Montclair • St Peter School, Point Pleasant Beach • **New York** — Big Apple Academy, Brooklyn • **Ohio** — St Edward High School, Lakewood • Worthington Christian Elementary School, Columbus • **Pennsylvania** — Holy Family School, Phoenixville • St Genevieve School, Flourtown • St Joan of Arc School, Hershey • St Mary Interparochial School, Philadelphia • St Philip Neri School, Lafayette Hill • **Texas** — Legacy Christian Academy, Frisco • Prince of Peace Catholic School, Plano • St Vincent de Paul Catholic School, Houston