

Council for American Private Education

# CAPE outlook

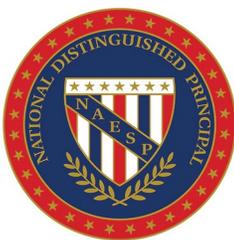
Voice of America's private schools

## Four Private School National Distinguished Principals Honored

The National Association of Elementary School Principals (NAESP) recognized four private school principals as 2018 National Distinguished Principals in Washington, DC on October 11-12. The private school honorees hail from Lutheran schools in Illinois and Wisconsin and Catholic schools in Pennsylvania and the District of Columbia.

### The Award

The National Distinguished Principals program was established in 1984 to recognize elementary and middle level principals who set high standards for instruction, student achievement, character, and climate for the students, families, and staffs in their learning communities. To be eligible, an individual must be a practicing principal with at least five years of experience in the principalship and must plan on continuing as a practicing principal. This year, sixty-two principals were given the award, with four coming from the private school world.



### Honorees

**Anthony C. Comella, Pilgrim Lutheran Church & School, Chicago, Illinois:** Anthony Comella has served as an educational professional since 1982 and is now in his sixth year as principal of Pilgrim Lutheran School. Comella's strong focus on academic strength is reflected in the adoption of a math specialist, fine-tuning of the 4th-8th grade instructional model, and implementation of a schedule that allows students to be instructed at their

specific level across grades, permitting more focused instruction. Comella introduced a Positive Behavioral Interventions & Supports (PBIS) program to serve student needs and encourages students to engage in service learning at every grade level. Comella's dedication to meeting the needs of the whole student led one colleague to remark that "the difference his work has on students is palpable."

### Helen M. McLean, Saint Andrew School, Drexel Hill, Pennsylvania:

Helen McLean's distinguished career at Saint Andrew School has spanned forty-one years, the past eleven of which she has served as the school's principal. In her tenure as principal, she took the lead in dramatically reversing declining enrollment and consulting with experts to implement a sustainable budget for the school while still investing in major improvements to the school's infrastructure. During her tenure, Saint Andrew's students have consistently advanced in regional science competitions. Using the Instructional Support Team model, the school has been successful at identifying and supporting individual student needs. McLean has also introduced the PBIS model. Recognized by colleagues for her leadership, McLean has earned plaudits for her commitment to data-driven school improvement as well as her dedication to mentoring students and teachers alike.

### Dawn D. Oldenettel, St. John's Lutheran School, West Bend, Wisconsin:

Over her forty years of service, Dawn Oldenettel's educational career spanned the roles of teacher, community college instructor, and school administrator until she stepped into the role of principal at St. John's Lutheran School six years ago. Oldenettel

immediately began strengthening the school's instructional culture by supporting teachers in professional and curricular development and introducing new reading and math programming. At St. John's, teachers visit each student's home before the start of the school year, setting the tone for a productive year in which families are welcomed to participate in all aspects of school life. Students are encouraged to develop service projects to help those in need, from park clean-ups to delivering donated gifts to families. Oldenettel's open-door policy and welcoming, proactive attitude have earned her respect from colleagues, parents, and students alike.

### Michael R. Thomasian, St. Anthony Catholic School, Washington, DC:

Michael Thomasian has served St. Anthony Catholic School for eighteen years as a teacher, associate principal, and for the past seven years, as principal. Thomasian counts expanding cultural horizons as one of his most significant accomplishments as a principal. St. Anthony now boasts a rigorous Spanish language program, and the school has introduced celebrations of Latino cultural events and holidays into its traditions. In 2017, Thomasian introduced the Danielson Framework for Teaching to his instructors and staff in order to boost effective teaching and robust learning. Described by a colleague as a humble servant leader, Thomasian's passion for nurturing the development of each of his students and staff was noted by the selection committee.

For more information about the National Distinguished Principals program visit <https://www.naesp.org/national-distinguished-principals-program>.

# CAPE

## 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  
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Evangelical Lutheran Church in America  
Friends Council on Education  
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National Association of Episcopal Schools  
National Association of Independent Schools  
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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

Executive Director:  
Michael Schuttloffel

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1300 Pennsylvania Ave, NW

#190-433

Washington, DC 20004

Tel: 844-883-CAPE

(email) [cape@capenet.org](mailto:cape@capenet.org)

[www.capenet.org](http://www.capenet.org)



## Michigan Court Ruling Cheered by Private Schools

Private school leaders hailed an opinion handed down by the Michigan Court of Appeals on October 16. The decision declared that it is constitutional for the state to reimburse private schools for state-imposed health and safety mandates. The ruling is particularly noteworthy because the Michigan Constitution has the strictest prohibition on public support for private education, also known as a “Blaine Amendment,” in the country.

### Background

Private schools in Michigan are required to comply with a host of public health mandates, such as criminal background checks, immunization compliance, and fire drills. However, private schools there have been prevented from receiving state aid to assist in compliance with these and other government mandates.

In 2017, the Michigan Legislature approved legislation that allocated \$2.5 million in general fund money “to reimburse actual costs incurred by nonpublic schools in complying with a health, safety, or welfare requirement mandated by...this state.”

Public school advocacy groups quickly filed suit against the law, describing it as an unconstitutional attempt to divert public funds to private schools. The Michigan Court of Claims accepted their argument and struck down the entire law. The state Attorney General appealed the decision to the Court of Appeals. The Michigan CAPE filed an amicus brief in support of the state’s appeal.

### Michigan Constitution

Article 8 of the Michigan Constitution includes the following language: “Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.” A referendum in 1970 changed the equation significantly, however. Article 8 now also says that “No public monies...shall be appropriated... directly or indirectly to aid or maintain any private, denominational or other nonpublic, pre-elementary, elementary, or secondary school. No payment, credit, tax benefit, exemption or deductions, tuition voucher, subsidy, grant or loan of public monies or

property shall be provided, directly or indirectly, to support the attendance of any student or the employment of any person at any such nonpublic school.”

This and other language in the Michigan Constitution constitutes the nation’s most stringent Blaine Amendment, and it was upon these grounds that opponents of the law compensating private schools for compliance with government health and safety mandates staked their case.

### The Ruling

In overturning the decision by the Court of Claims, the Michigan Court of Appeals declared that the Michigan Constitution and the 2017 law being litigated “must ultimately be viewed through

the lens” of two prior Michigan Supreme Court decisions. According to the logic of those precedents, the Court of Appeals determined that “the Legislature may allocate public funds to reimburse nonpublic schools for actual costs incurred in complying with state health, safety, and welfare laws. But only if the action or performance that must be undertaken in order to comply with a health, safety, or welfare mandate (1) is, at most, merely incidental to teaching and providing educational services to private school students (non-instructional in nature), (2) does not constitute a primary function or element necessary for a nonpublic school to exist, operate, and survive, and (3) does not involve or result in excessive religious entanglement.” The decision cited a private school’s payment to cover criminal background check fees as a clear example of a cost that it is appropriate for the state to reimburse.

Brian Broderick, Executive Director of the Michigan CAPE, praised the Court of Appeals’ “thoughtful decision,” saying, “The Court of Appeals appropriately took into consideration past Michigan case law and delivered a nuanced opinion that faithfully relies on precedent and gives future legislatures and courts clear guidance on how to approach such issues.”

The case has been remanded back to the Court of Claims for reconsideration, requiring that the three-prong test outlined above be applied to each health and safety mandate identified as reimbursable.



## School Choice on the Ballot in Arizona

This Election Day, Arizona voters will decide whether to accept or reject Proposition 305, a referendum on legislation passed in 2017 that would both expand and cap the state's existing Empowerment Scholarship Accounts program. The less than straightforwardness of the situation has caused its share of confusion, both in the Grand Canyon State and nationally.

### The ESA Program

For years, Arizona has been a leader in school choice, boasting a total of five school choice programs. One of them, the Empowerment Scholarship Accounts (ESA) program, allows parents to receive 90 percent of the money that would have gone to their child's public school for that child's education and to place those funds in an education savings account instead. Those funds could then be used for private school tuition, tutoring, and other education costs. However, the ESA program has only been open to children facing certain challenging circumstances, such as those with special needs, in foster care, or attending failing schools.

In 2017, the Arizona Legislature passed, and Governor Doug Ducey signed, legislation that would open the program to all Arizona children not already attending private school. The new law would also cap participation at 30,000 students whereas previously there was no cap. Currently around 5,400 students make use of the program. School choice advocates nationwide acclaimed the 2017 expansion as creating the strongest education savings account program in the country.

But not so fast.

### Referendum

In Arizona, after the Legislature passes a bill and the governor signs it, the people of the state have the opportunity to put the new law on the ballot if enough signatures are gathered. This is precisely what happened after the ESA expansion was approved. When it became clear that enough signatures had been obtained, a group of ESA supporters in the Legislature, including the governor, attempted to repeal the

expansion they had themselves passed. They were concerned about the prospect of a ballot measure, for reasons that will be explained momentarily.

Meanwhile, adding to the surreal nature of the proceedings, some of those who had opposed the legislation now opposed its repeal, seeing in the referendum an opportunity to deal the program a more decisive defeat. The repeal effort failed, the law stood as passed, and the stage was set for a referendum on the matter, one where the voters would decide.

### Pros and Cons

Putting the ESA expansion on the ballot changed the stakes and even the substance of the proposal. The Arizona Constitution contains "voter protection" language that prevents any future legislature from changing a law approved by a vote of the people, unless a three-fourths legislative supermajority can be mustered. Thus the 30,000 student cap on participation suddenly loomed large. When the ESA expansion was passed merely as a normal law, that 30,000 participant cap would be subject to change by any future legislature. However, if the voters approve the ESA expansion by passing Proposition 305, that cap will be voter protected under the Arizona Constitution. Meaning that passage of the referendum may well ensure a permanent 30,000 cap, whereas defeat of Proposition 305 would mean that the situation would revert to the *status quo ante*: no cap at all, but also no expansion of eligibility.

These and other considerations led Americans for Prosperity to remain neutral on Prop 305 and the American Federation for Children to come out in opposition. Both are prominent supporters of school choice. However, Governor Ducey, and school choice advocates like the Arizona Catholic Conference, the Goldwater Institute, and the Center for Arizona Policy, strongly urge a yes vote on Prop 305. They say that the uncertain possibility of a permanent cap on participation does not begin to outweigh the dramatic step forward that a semi-universal education savings account would represent.

Arizonans go to the polls November 6.



## Secretary DeVos on Choice

In October, Secretary of Education Betsy DeVos hit the road as part of the Education Department's annual "Rethink School Tour." In remarks given at the U.S. Space and Rocket Center in Huntsville, Alabama, the secretary asked a series of pointed rhetorical questions about America's education system, including: "Why aren't all parents allowed to decide the education that's right for their own children?"

She went on to say, "The family is—and always will be—the 'first school.' Parents, by their very nature, should decide what, when, where and how their children learn. But, over time, 'the system' has stolen decision-making power from families. Parents have the greatest stake in their child's education. Accordingly, they should have the greatest power to make sure their child gets the right education for him or her."

While some opponents of the Trump Administration's education policies criticized her comments, she explained in a later blog post that, "While at the Center in Huntsville, which symbolizes unlimited horizons, I encouraged everyone to question everything to ensure nothing limits students from being prepared for what comes next."

School choice advocates have been listening carefully to the secretary's remarks in recent months, hoping to learn about the Trump Administration's plans for the issue. In a recent interview with the *Daily Signal*, she said, "We are continuing to look at ways to complement what the states are doing, states really have to take the lead on this."

She added, "There are now over 54 different choice programs that have been implemented in states and over a half-million students taking advantage of them. But we have to look for ways not for the federal government to step in and in any way take over what states are doing, but anything the federal government does should No. 1, not be a mandate, and No. 2, complement or have the potential to complement and augment what states are doing."

## CAPE notes

★ *Politico* is reporting that the U.S. Department of Education's (USDE) Office of Non-Public Education (ONPE) will now report directly to Secretary of Education Betsy DeVos. ONPE is the Education Department's liaison to the private school community (see the previous issue of *Outlook* for coverage of ONPE's annual private school leadership conference). Until now, ONPE has been located in the Office of Innovation and Improvement (OII), however OII will now apparently be folded into another USDE office. While ONPE's move is only part of a larger restructuring at the Department, it is logical to see in it the elevation of the interests of the private school community. According to *Politico*, an email from Secretary DeVos to USDE staff indicated the shift is designed to aid in the Department's efforts to improve "parent choice." ONPE is led by Maureen Dowling.

★ Many in the world of Montessori education were caught by surprise when in September, the world's wealthiest man pledged to open and operate a national network of Montessori preschools.

While the announcement by Jeff Bezos, the chief executive of Amazon, contained few details about how exactly his concept would work, it did include an attention-grabbing commitment of \$2 billion to the project (the funds will also go to helping homeless families).

Dr. Timothy Purnell, Executive Direc-

tor of the American Montessori Society and member of the CAPE Board, had this to say: "Jeff Bezos's philanthropic vision to provide Montessori education for low income neighborhoods is exactly what the world needs more of."

★ The school choice advocates at the American Federation for Children (AFC) have released their 2017-2018 School Choice Guidebook. The Guidebook is chock-full of useful information on the many school choice programs existing across the country.

For example, students in 21 special needs scholarship programs received \$8,000 on average to attend the school that works best for them in 2017-18. In Florida, tax credit scholarship students enrolled for 4+ years are 40% more likely to attend college (by way of the Urban Institute). The Guidebook also informs readers of another Urban Institute finding that students in Milwaukee's voucher program are more likely to enroll in college than their peers in the Milwaukee Public Schools.

According to AFC, private school choice programs serve nearly 500,000 children in 26 states, the District of Columbia and Puerto Rico.

★ On the previous page, Secretary DeVos is quoted speaking to how important it is that the federal government's efforts be complementary to the work that states are doing on behalf of educational choice.

Unfortunately, it seems that the IRS and the Treasury Department failed to get the memo. As detailed in the cover story of the September 2018 edition of *Outlook*, the IRS has proposed regulations that have the potential to harm long-existing tax credit scholarship programs in the states.

CAPE submitted written comments to the IRS in opposition to the proposal, as did some CAPE member organizations, including Agudath Israel of America, the Association of Christian Schools International, the National Association of Independent Schools, and the U.S. Conference of Catholic Bishops.

The IRS is holding a hearing on the proposed regulations in Washington, DC on November 5. Stay tuned for more updates on this important issue.

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