



**Testimony Before the U.S. House Committee on Education and Workforce
Subcommittee on Early Childhood, Elementary, and Secondary Education
Hearing: “Education Without Limits: Exploring the Benefits of School Choice”
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Thank you for the opportunity to offer testimony to the subcommittee on this important topic. My name is Jessica Levin and I am the Litigation Director at [Education Law Center](#) (ELC). ELC is a non-profit organization that pursues justice and equity for public school students by enforcing their right to a high-quality education in safe, equitable, non-discriminatory, integrated, and well-funded learning environments. We seek to support and improve public schools as the center of communities and the foundation of a multicultural and multiracial democratic society. To achieve these goals, we engage in litigation, research and data analysis, policy advocacy, communications, and strategic partnerships and collaborations.

At ELC, I also direct [Public Funds Public Schools](#) (PFPS). PFPS is ELC’s national campaign to ensure public funds for education are used to support and strengthen public schools. PFPS uses policy advocacy, research, and litigation to oppose the diversion of public funds to private educational uses, including all forms of private school vouchers.

The purpose of this hearing is to explore the benefits of school choice. But let me be clear: private school vouchers do not benefit students and families, nor the public. School privatizers claim that voucher programs are intended to help the most vulnerable, highest-need students obtain a better education than they can receive in public schools. But that is not actually

what happens. There is an ever-mounting body of evidence that vouchers cause great harm to those they purport to benefit—students, public schools, and the communities that depend on them—in multiple ways.¹

In reality, students who use vouchers experience worse educational outcomes than their public school peers, in private schools that are subject to few if any quality and accountability standards. Modern voucher policies originated with efforts to avoid school integration after the *Brown v. Board of Education* decision, and they continue to cause racial and economic segregation today, with the majority of vouchers used by wealthier families. Voucher students lose most of their legal protections under special education and civil rights laws, meaning voucher programs often publicly fund discrimination by private schools. Due to the diversion of public funds to vouchers, public schools have even fewer resources to meet the needs of their students, who represent ninety percent of children across the country. At the same time, high-need students, who are frequently rejected by private schools, are concentrated in public schools that welcome and serve all students, but are often already, and sometimes woefully, underfunded.

Public School Options

It is a myth that public school families lack any educational options. First, it is important to note that the overwhelming majority of children across the country attend public schools, and the vast majority of parents are satisfied with their children’s education.² Second, there are numerous public school options in addition to a student’s neighborhood school, including magnet schools, interdistrict public school choice programs, and charter schools. As with any policy, it is important that these programs are carefully designed and implemented to promote

¹ See the research collected by Public Funds Public Schools at <https://pfps.org/research/>.

² Gallup News Service, *Gallup Poll Social Series: Work and Education* (Aug. 2024) (see Question 30).

equal access and high-quality educational opportunities. For example, charter schools should be run by non-profit rather than for-profit charter management organizations.³ Furthermore, all these public education programs should be designed and managed in ways that avoid negative fiscal impacts on other public schools as well as racially segregative effects.

Because these are all public education options, students utilizing them are entitled to the same civil rights and other protections as they are in their own district schools. The schools are subject to academic and other quality standards, and they are accountable to state authorities and the public. In general, none of that is true in private education “choice” programs.

The Different Forms of Private School Vouchers

Private school vouchers come in many forms:

- Conventional vouchers pay for a student’s private school tuition with public funds.
- Education Savings Account vouchers, often called ESAs, are public funds deposited into a personal account that can be used to pay for a student’s private school tuition as well as a wide range of other private education expenses, such as tutoring, online coursework, transportation, and even homeschooling.
- Tax credit scholarship vouchers provide individuals or corporations with a tax credit, often 100% or close to it, to send money they would otherwise owe in state taxes to private organizations that hand out vouchers.
- Legislatures have recently begun to enact large-scale refundable tax credits for private education expenses, providing families who can afford to front the costs of private school with a tax credit reimbursement for those expenses.

Any of these types of vouchers can have specific eligibility criteria, such as a family income limit, or have “universal eligibility,” providing even the wealthiest families and those who have never sent their children to public school a subsidy of thousands of dollars in public funds for private education. They also have many different names, such as “hope scholarships” and

³ See, e.g., James L. Woodworth, et al., *Charter Management Organizations* 35, Center for Research on Education Outcomes (2017) (concluding that for-profit charter schools “have a significant negative effect size in math”); Know Your Charter, *For Profit Charter Schools: More Money Outside the Classroom, Less Education for Kids* (2019) (noting that for-profit charter school operators in Ohio do not produce better academic results but “have been at the forefront of Ohio’s array of charter school scandals”).

“freedom accounts.”

The shapeshifting and renaming of voucher programs is a deliberate strategy by their promoters to obscure their true nature. This is done to try to avoid legal challenges, negative policy connotations, and community and stakeholder opposition. But each form of vouchers diverts public funds to private education uses, with all the attendant harms, and they must be recognized as such.

Vouchers Lack Quality and Accountability Standards and Lead to Worse Educational Outcomes

The laws that establish and govern voucher programs are notably devoid of meaningful quality or accountability standards.⁴ Most often, there are few to no curricular requirements, teacher certification mandates, or other standards to ensure participating private schools are providing an adequate education—or really, any education at all—to voucher students. These programs also increasingly lack standardized testing and reporting requirements that would allow the public to measure their effects.

However, the data we do have on academic outcomes for voucher students is dismal. Study after study shows that vouchers not only fail to improve education outcomes, they actually have a detrimental academic impact on participating students. Studies of voucher programs in Louisiana, Indiana, and Ohio found that students who attended private schools using vouchers actually performed worse than their similar peers in public schools.⁵ In Louisiana, participation

⁴ See, e.g., Arianna Prothero and Alex Harwin, “[Private School Choice Programs Fall Short on Transparency, Accountability](#),” *Education Week* (Feb. 28, 2020).

⁵ Jonathan N. Mills & Patrick J. Wolf, [The Effects of the Louisiana Scholarship Program on Student Achievement after Four Years](#), University of Arkansas, EDRE Working Paper 2019-10 (2019); Megan Austin, R. Joseph Waddington & Mark Berends, [Voucher Pathways and Student Achievement in Indiana’s Choice Scholarship Program](#), *The Russell Sage Foundation Journal of the Social Sciences*, 20-40 (2019); David Figlio & Krzysztof Karbownik, [Evaluation of Ohio’s EdChoice Scholarship Program: Selection, Competition, and Performance Effects](#), Thomas B. Fordham Institute (2016).

in the state’s voucher program “dramatically reduce[d] academic achievement. Attending an LSP-eligible private school lower[ed] math scores by an average of 0.41 standard deviations . . . and reduce[d] reading, science, and social studies scores” as well after one year.⁶ After four years, Louisiana voucher students “performed noticeably worse on state assessments than their control group counterparts,” meaning the negative effects were not likely explained by the temporary adjustment involved in changing schools.⁷

In fact, seven of nine large-scale studies conducted between 2015 and 2019—some spearheaded by voucher advocates—found detrimental effects from voucher programs, while the remaining two showed no statistically significant effects.⁸ As ELC Senior Fellow and Michigan State University Professor Josh Cowen has explained, the negative educational effects of voucher programs are “on par with what the COVID-19 pandemic did to test scores, and larger than Hurricane Katrina’s impacts on academics in New Orleans.”⁹ Policymakers should heed the evidence.¹⁰

Vouchers Have A Racist History and Continue to Foster School Segregation

Voucher programs did not arise in significant numbers until the U.S. Supreme Court

⁶ Atila Abdulkadiroglu, Parag A. Pathak & Christopher R. Walters, *Free to Choose: Can School Choice Reduce Student Achievement*, *American Economic Journal: Applied Economics* 10(1):175–206, 176 (2018).

⁷ Mills & Wolf, *supra*, at 4.

⁸ Christopher Lubienski & Joel Malin, *The New Terrain of the School Voucher Wars*, *The Hill* (Aug. 30, 2019).

⁹ Josh Cowen, *How School Voucher Programs Hurt Students*, *Time* (Apr. 19, 2023).

¹⁰ Voucher advocates typically emphasize selected studies suggesting neutral to small positive results, but those studies suffer from critical flaws. For example, an analysis by pro-voucher group EdChoice purports to survey the existing literature and concludes most studies show vouchers have positive effects. EdChoice, *The 123s of School Choice: What the Research Says About Private School Choice Programs in America, 2019 Edition* (2019). But a National Education Policy Center review of this analysis found it to be “a misrepresentation of what research has been conducted” because it makes exaggerated claims based on studies that are cherry picked and often not peer reviewed. T. Jameson Brewer, National Education Policy Center, *NEPC Review: The 123s of School Choice: What the Research Says About Private School Choice: 2019 Edition* (EdChoice, April 2019) 8–9, 12 (2019).

invalidated racial segregation in public schools in *Brown v. Board of Education*.¹¹ The uncomfortable truth is that today's private school voucher programs "have their roots in a history of racism and school segregation" as "school vouchers became a popular tool for perpetuating the segregation the Court had ruled unconstitutional."¹² While today's voucher proponents no longer espouse segregationist goals or intent, these programs continue to have significant segregative effects.

Private schools across the country disproportionately serve white students. A 2018 report showed that, nationally, white students were "substantially overrepresented" in private schools, while Hispanic and Black students were underrepresented.¹³ In North Carolina, for example, seventy-five percent of private school students are white, compared to forty-five percent of public school students.¹⁴ Illinois is nearly the same: sixty-five versus forty-seven percent.¹⁵ Private school voucher programs funnel public funding to this inequitable system, exacerbating racial segregation of students.

A 2017 report from the Center for American Progress presents Indiana's voucher program as a "case study" in the segregating effects that persist even in the absence of overt racial motivation: "Indiana's voucher program increasingly benefits higher-income white students, many of whom are already in private schools, and diverts funding from all other

¹¹ See Kern Alexander & M. David Alexander, *American Public School Law* 219 (8th ed. 2012).

¹² Raymond Pierce, *The Racist History of "School Choice"*, *Forbes* (May 6, 2021); see also Steve Suitts, *Overturning Brown: The Segregationist Legacy of the Modern School Choice Movement* (2020).

¹³ Jongyeon Ee et al., *Private Schools in American Education: A Small Sector Still Lagging in Diversity* 15 (UCLA Civil Rights Project, Working Paper, 2018).

¹⁴ Public Funds Public Schools, *Private School Data*. Select "State" tab and choose individual state from dropdown menu. Based on survey data from National Center for Education Statistics Private School Universe Survey and Common Core of Data for Public School Students.

¹⁵ *Ibid.*

students who remain in the public school system.”¹⁶ Indeed, around sixty percent of Indiana voucher recipients came from white families, and around fifty percent had never attended a public school.¹⁷ Meanwhile, Black students’ participation in Indiana’s program had declined from twenty-four to twelve percent since its inception in 2013.¹⁸

A Century Foundation study established that Black students in Louisiana generally relied on vouchers to exit school systems in which they were overrepresented only to attend private schools where the same was true, while white students tended to leave public schools where their race was underrepresented to join schools where it was the opposite.¹⁹ As a result, “[o]nly a third of all voucher transfers in [the program] resulted in more integrated public and private schools, while the other two-thirds . . . exacerbated segregation in one or both sectors.”²⁰ The study concluded that “voucher programs on balance are more likely to increase school segregation than to decrease it or leave it at status quo.”²¹

Vouchers Largely Benefit Wealthy Families

Vouchers frequently do not come close to covering the full cost of private school tuition, let alone the expense of other essentials that are provided for free in public schools.²² Whereas public schools provide goods and services such as transportation, books, and free or reduced-price meals, these and other key resources must often be purchased separately by families using vouchers to attend private schools. Thus, vouchers simply shift the cost of many core educational

¹⁶ Chris Ford et al., Center for American Progress, *The Racist Origins of Private School Vouchers* 8 (2017).

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Halley Potter, Century Foundation, *Do Private School Vouchers Pose a Threat to Integration?* 16 (2017).

²⁰ *Ibid.* at 17.

²¹ *Ibid.* at 2.

²² See, e.g., Meghan Casey Whittaker, *The Average Voucher Doesn’t Cover Full Cost of Private School, NCLD Data Analysis Shows*, Understood (Nov. 21, 2017).

resources to families, or put them out of reach for all but the wealthiest. This reality is magnified for students with disabilities, whose education often costs several times that of a student without disabilities. Whereas few voucher programs provide more than \$10,000 per student, and often far less, sources report that private school tuition for a student with disabilities can range from \$40,000 to \$100,000.²³

Empirical evidence bears out these effects. Data from multiple states shows that the majority of vouchers are used by families who were already sending their children to private schools, without the help of a voucher.²⁴ And these tend to be more affluent families, not the low-income families that voucher proponents purport the programs target. In Arizona, a 2023 analysis showed that most education savings account voucher recipients “live in areas with median incomes ranging from \$81,000 to \$178,000,” whereas “[j]ust 5 percent come from ZIP codes where the median income is under \$49,000.”²⁵ If states continue removing eligibility criteria such as family income limits and prior public school enrollment requirements and moving toward universal voucher programs, these effects will only increase.

Vouchers Harm Rural Students and Communities

Vouchers harm often under-resourced rural public schools, with no benefit to rural students who generally do not have geographic access to private schools. Roughly one in five students attend schools in rural communities, but because rural public schools enroll fewer students and have smaller school and district operations, they cannot take advantage of the same

²³ Selene Almazan & Denise Stile Marshall, *School Vouchers and Students with Disabilities: Examining Impact in the Name of Choice* 16, Council of Parent Attorneys & Advocates (2016).

²⁴ Josh Cowen, *School Vouchers: There Is No Upside*, Albert Shanker Institute (Feb. 21, 2023) (“Despite supporter rhetoric that voucher schemes are about new opportunities, the reality is 70-80 percent of kids in states like Arizona, Missouri, and Wisconsin were already in private school before taxpayers picked up the tab.”)

²⁵ Tim Walker, *‘No Accountability’: Vouchers Wreak Havoc on States*, NEA Today (Feb. 2, 2024).

economies of scale as larger urban and suburban districts, and they have fewer resources to pay for fixed education costs, such as facility maintenance and transportation.²⁶ When rural districts lose funding due to voucher programs, which can significantly impact education budgets statewide despite little participation from rural students, it becomes much more difficult to provide quality instruction and services to the students who depend upon their rural public schools.

Moreover, public schools are often the backbone of rural communities. They play a pivotal role in social and economic activities. Residents in rural areas depend on their public schools for employment (they are often the largest employer in the community), healthcare and nutrition, and as a place for community gatherings and civic and social engagement.²⁷ When rural public schools lose resources or close due to vouchers, the entire community suffers.

Vouchers Harm Students with Disabilities

Although some of the earliest voucher programs were targeted to students with disabilities, it has become clear that the end game was universal expansion of voucher eligibility—the ostensible goal of helping students with disabilities was a foot in the door for much larger programs that would wreak havoc on state budgets and student wellbeing. Arizona and Florida are prime examples of that trajectory, starting off with limited voucher programs for students with disabilities that were continuously expanded despite evidence of their negative effects, today siphoning off billions of dollars to disastrous and unaccountable universal voucher

²⁶ Jesse Levin, et al., *Do schools in rural and nonrural districts allocate resources differently? An analysis of spending and staffing patterns in the West Region states*, (Issues & Answers Report, REL 2011–No. 099), U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory West (2011).

²⁷ Mara Casey Ticken, *School closures can hit rural communities hard*, *The Conversation* (Jan. 9, 2020); Emily Norman, *Keep Rural Schools Open: Position and Policy*, *Online Journal of Rural Research & Policy* 17:3 (2022).

programs.²⁸

And vouchers do not help students with disabilities in any case. Students who use vouchers lose most of their special education rights, and parents are often not aware that these rights have been relinquished. Private schools can and do discriminate against students with disabilities in admissions and discipline, as well as refuse to provide them the special education services they need to make progress and thrive in school.

Federal law provides three main sets of statutory protections for students with disabilities. First, the Individuals with Disabilities Education Act (IDEA) ensures public school students receive a free appropriate public education (FAPE), including a detailed individualized education program (IEP) and services delivered by certified special education teachers.²⁹ The IDEA also protects students with disabilities from segregation within the school system by requiring they be educated with their non-disabled peers to the maximum extent appropriate, in what is called the “least restrictive environment” (LRE).³⁰ Additionally, the IDEA protects students from disciplinary action, such as lengthy suspension or expulsion, based on behavior that is caused by their disabilities.³¹ Finally, the IDEA gives parents access to dispute resolution procedures, such as the right to request a due process hearing, to resolve special education disputes.³²

Second, Section 504 of the Rehabilitation Act prohibits disability-based discrimination in programs or activities that receive money from the U.S. Department of Education.³³ Section 504

²⁸ Samuel E. Abrams & Steven J. Koutsavlis, *The Fiscal Consequences of Private School Vouchers*, Public Funds Public Schools (2023); Shar Porier, *ESA Vouchers Have Cost Arizona Taxpayers Nearly \$1 Billion*, Herald Review (Jan. 31, 2024); Leslie Postal, *Florida’s Voucher Plan Could Cost Public Schools Nearly \$4 Billion*, Report Says, Orlando Sentinel (Jan. 24, 2023).

²⁹ 20 U.S.C. §§ 1401(26)(A), 1412(a)(1), (a)(4), (a)(14)(C), 1414(d).

³⁰ 20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 104.34.

³¹ 20 U.S.C. § 1415(k)(1)(E)–(G); 34 C.F.R. §§ 300.530–.536.

³² 20 U.S.C. §§ 1415(b), (f); 34 C.F.R. § 300.507(a)(1).

³³ 34 C.F.R. § 104.4(a).

also requires school districts to provide all eligible students with disabilities a FAPE in the LRE,³⁴ and it applies to a broader range of students than the IDEA.³⁵ Third, Title II of the Americans with Disabilities Act (ADA) prohibits disability-based discrimination by state and local governments, including public schools, and requires that public schools be physically accessible.³⁶

When students with disabilities use vouchers to attend private schools, they forego the vast majority of these protections. They lose the right to an individualized education designed to meet the needs of each eligible student with a disability—in other words, a student with a disability who is using a voucher gives up his or her legal right to receive the specific programs and services necessary for that student to make adequate educational progress.³⁷ Additionally, students using vouchers lose protections against unfair discipline and intra-school segregation.³⁸ And parents generally give up their rights under IDEA to receive notification of, provide input on, and seek judicial remedies regarding most changes to their children’s education and services.³⁹

Finally, Title II of the ADA does not apply to private schools. While some private schools are covered by Title III of the ADA, which prohibits discrimination in public accommodations, that statute neither limits private schools’ ability to deny enrollment to students

³⁴ 34 C.F.R. §§ 104.33(a), 104.34(a)

³⁵ See 29 U.S.C. §§ 705(20), 794; 34 C.F.R. § 104.3(j).

³⁶ 42 U.S.C. §§ 12131(1), 12132; 28 C.F.R. § 35.130(a).

³⁷ See 20 U.S.C. § 1412(a)(10); 29 U.S.C. § 794(b)(1); National Council on Disability, *Choice & Vouchers—Implications for Students with Disabilities* 59–66 (2018); Claire Raj, *Coerced Choice: School Vouchers and Students with Disabilities*, 68 Emory L.J. 1037, 1059 (2019).

³⁸ See 20 U.S.C. § 1415(k)(1)(E)–(F); 29 U.S.C. § 794(b)(1); National Council on Disability, *Choice & Vouchers*, *supra*, at 59-66.

³⁹ Raj, *supra*, at 1058–59; U.S. Department of Education, *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools* 30 (2011).

with disabilities nor requires them to provide an appropriate education or services.⁴⁰ Moreover, Title III does not cover private religious schools at all,⁴¹ even though they comprise the majority of private schools nationwide.⁴² In such schools, in the absence of state-law protections, students with disabilities are not entitled even to basic ADA accommodations, such as accessible entrances, desks, and toilets.

Parents are often unaware of the loss of these rights. A seminal GAO report found that “in school year 2016-17, 83 percent of students enrolled [with a voucher] in a [private school] program designed specifically for students with disabilities were in a program that provided either no information about changes in IDEA rights or provided information that [the U.S. Department of Education] confirmed contained inaccuracies about these changes.”⁴³ Although some voucher statutes now pay lip service to the idea that parents must be informed of the loss of federal special education rights when they participate in the program, it is unclear whether and how well this is happening. As voucher programs become universal, and safeguards in voucher laws generally decrease, the potential for lack of information or misinformation that can be devastating to families of students with disabilities only increases.

In 2020, ELC and other advocacy groups analyzed the state-collected data on the Arkansas voucher program for students with disabilities, finding “inequitable enrollment statistics, troubling data inconsistencies, and little accountability for the public funds spent on the

⁴⁰ See 42 U.S.C. §§ 12181–12189.

⁴¹ 42 U.S.C. § 12187

⁴² See Stephen P. Broughman, Adam Rettig & Jennifer Peterson, *Characteristics of Private Schools in the United States: Results from the 2015–16 Private School Universe Survey 2*, U.S. Department of Education, National Center for Education Statistics (2017).

⁴³ U.S. Government Accountability Office, *Private School Choice: Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities* (2017).

voucher program.”⁴⁴ Key findings included:

- Of those for whom data was available, there [were] significant racial disparities: 5% of voucher students were Latinx, 12% were Black, and 78% were White. Students with disabilities in Arkansas public schools, on the other hand, [were] 11% Latinx, 23% Black, and 61% White.
- Due to participating private schools’ inconsistent reporting and data collection standards, the Free or Reduced Price Lunch (FRPL) status of 44% of participating students [was] unreported. Of available data, just 30% of voucher students were eligible for FRPL, while 60% of Arkansas public school students [were] eligible.
- Only three-quarters of participating private schools [were] accredited, while a quarter [were] on some type of path to accreditation. Thus, schools participating in the voucher program [were] receiving taxpayer dollars without completing a rigorous accreditation process, let alone being held to the same accountability and reporting standards as public schools.
- Nearly 20% of voucher students [had] left their private schools, for reasons including dismissal, inability to pay tuition amounts not covered by their voucher, and lack of access to transportation.⁴⁵

As generally happens with vouchers, the evidence was ignored: Arkansas continued to operate this program and eventually enacted universal vouchers, and many other states enacted vouchers specifically for students with disabilities or programs with broader eligibility.

Vouchers Can Fund Schools that Actively Discriminate

The government should protect students from discrimination, not fund it. But students who use vouchers to attend private schools are not covered by many essential civil rights laws. Thus, voucher programs take taxpayer funds and funnel them to private schools that can and often do discriminate against students with disabilities, English learners, LGBTQ+ students, students of minority religions, and others.

Students with Disabilities

The loss of legal rights for students with disabilities who use vouchers to attend private schools is not theoretical. Many private schools, including those eligible to receive vouchers in

⁴⁴ Public Funds Public Schools, “[Public School Advocates Urge Arkansas Legislature to End Broken Voucher Program](#)” (Sept. 10, 2020).

⁴⁵ *Ibid.*

states with voucher programs, have policies that explicitly discriminate against or disadvantage students with disabilities. Here are a few of the numerous examples throughout the country of private schools with such policies:

- Our Lady of Perpetual Help School in Tennessee states, “Our Lady is not able to meet the needs of every learner. . . . In the event that we cannot meet your child’s needs, every effort will be given to assist in transitioning to another school or program.”⁴⁶
- All Saints Catholic School in Florida states that “any student with a disability does not have an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school under the Individuals with Disabilities Education Act (IDEA)”⁴⁷
- Emmanuel Christian School in West Virginia states: “ECS is not permitted to accept or retain students who. . . exhibit definite learning or behavioral disabilities.”⁴⁸

As these examples demonstrate, some private schools have admissions or other criteria that outright or in effect preclude students with disabilities from attending, while others make clear they will not provide special education services or accommodations to students with disabilities.

English Learners

Federal laws including the Equal Educational Opportunities Act (EEOA) require public schools to remove barriers that “impede equal participation by [English learner (EL)] students in [their] instructional programs.”⁴⁹ State educational agencies and public school districts are legally obligated to identify ELs who may need language assistance; sufficiently staff and support such programs; guarantee equal opportunities to participate in all curricular and extracurricular activities; avoid unnecessary segregation; monitor and evaluate students’ progress; and appropriately communicate with parents who do not speak English, among other

⁴⁶ Our Lady of Perpetual Help, *2024-2025 Student and Parent Handbook* 34 (last visited March 8, 2025).

⁴⁷ All Saints Catholic School, *2024-2025 Student/Parent Handbook* 27 (last visited March 8, 2025).

⁴⁸ Emmanuel Christian School, *Student Handbook* 6 (last visited March 8, 2025).

⁴⁹ 20 U.S.C. § 1703(f). *See also Lau v. Nichols*, 414 U.S. 563, 566–68 (1974) (upholding regulations under Title VI of the Civil Rights Act that required public schools to take “affirmative steps” to address ELs’ educational needs).

requirements.⁵⁰ But, the EEOA applies only to states and their public schools, and Title VI of the Civil Rights Act applies only to recipients of federal funding.⁵¹ As of 2019, the majority of state voucher programs provided *no* protection for students against discrimination based on language proficiency.⁵² Private schools are not obligated to enroll all voucher students who apply, and voucher schools may elect not to provide language assistance services, as two thirds of private schools participating in Washington, D.C.’s voucher program in 2017 did not.⁵³

LGBTQ+ Students and Families

Federal law protects LGBTQ+ students enrolled in public schools against discrimination based on sexual orientation and gender identity, but this does not apply to private schools unless they receive federal financial assistance.⁵⁴ Even with the receipt of federal dollars, private schools run by religious organizations may be exempt from Title IX’s sex-discrimination prohibition.⁵⁵ Many private schools enforce explicit anti-LGBTQ+ policies, and many state laws expressly allow voucher schools to base admissions decisions on their religious beliefs, which often oppose homosexuality.⁵⁶ As a result, many private schools receiving voucher funds openly

⁵⁰ U.S. Dep’t of Justice Civil Rights Div. & U.S. Dep’t of Educ. Office for Civil Rights, *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents* 8-9 (Jan. 7, 2015).

⁵¹ Julie F. Mead & Suzanne E. Eckes, National Education Policy Center, *How School Privatization Opens the Door for Discrimination* 10 (2018).

⁵² Bayliss Fiddiman & Jessica Yin, Center for American Progress, *The Danger Private School Voucher Programs Pose to Civil Rights* 3, 9–11 (May 13, 2019).

⁵³ See Tony Hana, *How School Vouchers Affect English Learners*, New America (July 24, 2017); see also Mandy McLaren & Emma Brown, *Trump Wants to Spend Millions More on School Vouchers. But What’s Happened to the Millions Already Spent?*, Washington Post (July 15, 2017).

⁵⁴ See 20 U.S.C. §§ 1681–1688; *Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021) (to be codified at 34 C.F.R. ch. 1); see also *Bostock v. Clayton County*, 140 S. Ct. 1731, 1741–42 (2020).

⁵⁵ See 20 U.S.C. § 1681(a)(3).

⁵⁶ See Kevin G. Welner & Preston C. Green, *Private School Vouchers: Legal Challenges and Civil Rights Protections* 8 (UCLA Civil Rights Project, Working Paper, 2018); Adam Mengler, *Public Dollars, Private Discrimination: Protecting LGBT Students from School Voucher Discrimination*, 87 Fordham L. Rev. 1251, 1264 (2018) (quoting Ariz. Rev. Stat. § 15-2404 (2018)).

discriminate against LGBTQ+ students and families.⁵⁷

Religious Minority Students and Families

A host of federal protections prevent public schools from discriminating against students because of their religion, but no such requirements apply to private schools.⁵⁸ To the contrary, private schools can, and do, “discriminate against students in the enrollment process (particularly in regard to religion),” and “restrict student speech” regarding religious beliefs different from those espoused by the school.⁵⁹ A large majority of private schools nationally are religious. Thus, religious minority students may have limited, if any, opportunities to attend private schools, and may face discrimination if they are admitted.

Voucher Programs Divert Funding and Resources from Public Schools and Exploding Voucher Costs Devastate State Budgets

Many public schools around the nation face chronic and severe underfunding.⁶⁰ Diverting much needed funding from public education to pay for private school vouchers exacerbates that lack of resources. For example, a 2017 study of Wisconsin’s voucher program found that its expansion posed “a significant fiscal threat to public schools.”⁶¹ Meanwhile, many voucher programs have expanded from small “experiments” to multi-billion-dollar boondoggles. A report examining voucher programs in seven states found that from fiscal years 2008 through 2019,

⁵⁷ See, e.g., Leslie Postal & Annie Martin, *Anti-LGBT Florida Schools Getting School Vouchers*, Orlando Sentinel (Jan. 23, 2020); Brian Gordon, *NC Religious Schools with Anti-LGBTQ Policies Receive Top Opportunity Scholarship Dollars*, Citizen Times (Aug. 27, 2020).

⁵⁸ See 42 U.S.C. §§ 2000c–c-9, 2000d–d-7; Cynthia Brougher, Cong. Rsch. Serv., R42626, *Religious Discrimination in Public Schools: A Legal Analysis* 5 (July 25, 2021); *Johnson v. Pinkerton Acad.*, 861 F.2d 335, 337 (1st Cir. 1988).

⁵⁹ Derek W. Black, *Preferencing Educational Choice: The Constitutional Limits*, 103 Cornell L. Rev. 1359, 1390 (2018).

⁶⁰ See, e.g., Danielle Farrie & David G. Sciarra, *\$600 Billion Lost: State Disinvestment in Education Following the Great Recession*, Education Law Center (2021).

⁶¹ Ellie Bruecker, *Assessing The Fiscal Impact of Wisconsin’s Statewide Voucher Program* 4-5, National Education Policy Center (2017).

each state dramatically increased expenditures of public funds on voucher programs, with growth in Georgia reaching 883 percent.⁶²

The threat to public education specifically and state budgets generally that is posed by voucher programs has increased dramatically as they have expanded to wider swaths of students and more than a dozen states have made them universal. The cost of universal vouchers in Arizona, far exceeding initial estimates, is putting intense strain on the state budget.⁶³ A 2021 policy brief estimated that universal vouchers could increase the total public cost of education by 11-33%, amounting to \$66-\$203 billion per year.⁶⁴

At the same time they divert funding from public education, voucher programs concentrate higher-need students, such as students with disabilities, in public schools. Reasons include those explained above: many private schools refuse to serve these students, and public schools are the only schools in which they retain their special education and civil rights. Often, students who took a voucher but did not receive the promised benefits return to public schools, but the funds that had already been diverted to the private school via a voucher do not return with them. In the meantime, the loss of those funds may have led the public school to make difficult cuts to programs and services. Thus, voucher programs leave public schools—which welcome all students and serve the vast majority of them—with fewer resources to serve a higher-need student population. In fact, particularly in states with universal vouchers, these programs are

⁶² Abrams & Koutsavlis, *supra*.

⁶³ Eli Hager, *School Vouchers Were Supposed to Save Taxpayer Money. Instead They Blew A Massive Hole in Arizona's Budget*, ProPublica (July 16, 2024).

⁶⁴ Robert Shand & Henry M. Levin, *Estimating a Price Tag for School Vouchers*, National Education Policy Center (2021).

threatening the very existence of neighborhood public schools.⁶⁵ When neighborhood schools close, students and their communities face devastating educational, social, and civic effects.⁶⁶

Private school voucher programs divert funding from methods we know help students. A robust body of peer-reviewed studies across the nation provides compelling evidence that increasing public school spending improves academic and life outcomes for students, including more years of completed education, higher wages, and reduced incidence of adult poverty.⁶⁷ These effects are more pronounced for students from low-income families.⁶⁸ In contrast, the evidence clearly shows that vouchers do not promote the goals of this Committee, and they are certainly not a solution to the challenges facing our schools and our nation.

⁶⁵ See, e.g., Amelia Ferrell Knisely, *Morrissey pushes school choice; lawmakers face 'balancing act' as counties lose public schools*, West Virginia Watch (Feb. 12, 2025).

⁶⁶ Advancement Project, *Action Kit: Stop Public School Closures* (2024).

⁶⁷ C. Kirabo Jackson, *Does School Spending Matter? The New Literature on an Old Question* (National Bureau of Economic Research, Working Paper No 25368, 2018).

⁶⁸ *Ibid.*