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## **INFORMATION UNDERLOAD:** Florida's Flawed Special-Ed Voucher Program

**By Sara Mead**

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## ABOUT EDUCATION SECTOR

Education Sector is an independent education think tank based in Washington, D.C. It is a nonprofit and nonpartisan organization devoted to developing innovative solutions to the nation's most pressing educational problems. The organization seeks to be a dependable source of sound thinking on education policy and an honest broker of evidence in key education debates in Washington and nationally.

Students with disabilities have long had the right, under the federal Individuals with Disabilities Education Act (IDEA), to attend private schools at public expense if the public schools in their community are unable to provide them with appropriate special educational services. But less than 1 percent of students with disabilities have such private placements, in part because these placements can be costly, complicated, and time-consuming to obtain under the existing law.

Florida's popular McKay Scholarships for Students with Disabilities Program seeks to tilt the balance in these students' favor. The program provides parents with an alternative to expensive legal proceedings and complicated bureaucracy—a voucher that they can use at a public or private school of their choice. Florida's legislature approved the program in 1999 and named it after a then-state senator, John McKay, who is also the father of a special-needs child.

Today, about 17,900 of Florida's estimated 402,000 students with disabilities, or a little more than 4 percent, receive McKay vouchers.<sup>1</sup> They attend 802 private schools at a total cost of nearly \$108 million. That's up from just under 1,000 students, 100 private schools, and \$6 million in costs during the program's 2000–01 debut as a statewide initiative.<sup>2</sup> The program is now the nation's second largest private school voucher initiative of any sort in terms of student participation, ranking only behind Milwaukee's 17-year-old school experiment with vouchers for low-income youngsters.<sup>3</sup> And school choice advocates promote the McKay program as a model for other states and the federal government.<sup>4</sup> Arizona, Ohio, Utah, and, most recently, Georgia have all passed similar legislation. Currently, six other states are weighing whether to follow suit.<sup>5</sup>

But despite its growing popularity, the McKay program has not yet proven that it works as either an adequate school-choice or special-education reform measure. Unlike with Florida's other school choice options, the state collects very little information from schools and students participating in the McKay program. McKay students do not have to take the annual state tests administered to public school students, and McKay schools are not required to report any information on student outcomes—which goes against the national trend toward standards

and accountability in public education. Thus, it is virtually impossible to say whether special-needs children using McKay vouchers to attend private schools are faring better, worse, or about the same as they had in their old public schools. It is also difficult to determine whether the McKay program is improving existing special-education services, since, unlike public schools, McKay schools are not required to provide these services at all.

Expanding school options for all students, those with disabilities and those without, is a worthy objective. But McKay's lack of accountability requirements and its minimal quality and service expectations make McKay a seriously flawed program. Under the current structure of the program, taxpayers have almost no knowledge of how their money is being spent, and neither taxpayers nor parents have access to solid information about the performance of different McKay schools. For parents, the stakes are very high, as they are required to give up their due process rights under IDEA if they choose to participate in the McKay program. Parents, taxpayers, and the state's special-needs children deserve better.

## How McKay Works

School choice supporters widely regard Florida as a leader in the field. It has a Corporate Tax Credit Scholarship Program for businesses that donate to privately operated voucher programs and the second-highest number of students in charter schools among the states. Its students can take a variety of courses through the state-run Florida Virtual School, and it has aggressively implemented the federal No Child Left Behind Act's public school choice and supplemental services programs for students in low-performing public

schools. And until a 2006 state Supreme Court ruling struck it down, Florida's Opportunity Scholarship Program offered private school vouchers to students whose public schools chronically failed to meet state standards.<sup>6</sup> Hence, the McKay program is part of an extensive portfolio of school choice options that the state has built over the past decade.

The McKay program began in 1999 as a one-county pilot program. A small part of then-Gov. Jeb Bush's "A+ Plan for Education," which included a new statewide school accountability system and the now-defunct Opportunity Scholarships, the McKay program attracted little of the attention or political opposition voucher initiatives usually draw. The program's namesake, John McKay, argued that the IDEA process for obtaining private placements primarily benefited children whose affluent parents knew how to work the bureaucracy, leaving those with less-savvy parents behind. "We were doing a great job of empowering the powerful," he said. "My question was, 'what about the rest of the parents?' This [McKay] program is for them." In early 2000, McKay, with little difficulty, persuaded fellow lawmakers to take the program statewide beginning that fall.<sup>7</sup>

To be eligible for a McKay voucher, students must be identified by their school district as having a disability and have an Individual Education Plan (IEP), a document required by federal law that spells out a child's needs. They must also have attended a Florida public school for at least a year. If their child is eligible, parents only need to file a non-binding declaration of intent with the Florida Department of Education and enroll their child in a participating private school in order to receive a voucher. The school takes care of the rest of the paperwork. The Florida Department of Education sends voucher checks directly to the schools in four installments throughout the school year. The checks are made out to parents, who then sign them over to the schools. Private schools in the McKay program set their own tuition, and if it is greater than the amount of the voucher, parents must cover the difference.

Unlike many voucher programs, which offer the same voucher amount to all participating students, the value of McKay vouchers varies depending on a child's disability. In Florida, school districts receive special-education funding on a per-pupil basis. Each child is assigned one of five funding levels, known as a "matrix of services," depending on the child's age and the intensity of special-education

services he or she receives.<sup>8</sup> This determines how much money a school district receives to educate that child; for children participating in the McKay program, that funding level becomes the amount of their vouchers. In the 2005–06 school year, McKay voucher amounts ranged from \$4,805 to \$20,708. Fifty-five percent of students are in the lowest matrix of services and receive the smallest voucher amount; an additional 39 percent are in the next two matrix levels and receive a similar amount of funding as the first level.<sup>9</sup>

## Lack of Accountability

As the nation's second-largest voucher program, McKay has the potential to be a valuable resource for policymakers and educators interested in the likely impacts of expanding private school vouchers or other forms of school choice. Thus, it is important to ask how the program is functioning as a school choice program and whether or not it bears out promises made by voucher advocates and concerns raised by voucher critics. These questions are essential to assessing the influence of the program, but also are important for legislators to think about as they consider similar programs in other states.

But many of the most important policy questions about McKay—in particular, what influence it has on student achievement—are virtually impossible to answer, because the state collects very little information from schools and students participating in the program. Students attending charter or magnet schools must take the same state assessments that are used to measure student performance and hold schools accountable within the public school system, while students receiving corporate tax credit vouchers must take a nationally norm-referenced test approved by the state. But McKay students are not required to take such assessments, and, as a result, we cannot know whether McKay students perform better, worse, or the same as special education students in public schools.

Questions about the quality of special-education services offered by the McKay program are also difficult to answer, because there is no requirement that schools participating in the McKay program provide such services. Essentially, all a private school has to do to receive McKay vouchers is to sign up. Schools participating in the McKay program do not have to be accredited. The law requires

**Table 1. Demographic Characteristics of McKay Voucher Students**

Race/Ethnicity	McKay Students	All Florida Special Education Students	All Florida Students
White	49%	49%	48%
Black	29%	27%	23%
Hispanic	19%	20%	23%
All Other	3%	4%	6%
Disability Diagnosis			
Specific Learning Disabled	39%	45%	
Speech Impaired	7%	14%	
Language Impaired	8%	9%	
Emotionally Handicapped	7%	7%	
Educable Mentally Handicapped	7%	7%	
Other Health Impaired*	10%	4%	
Autistic	3%	2%	
All Other**	19%	11%	

\*“Other Health Impaired” includes students with Attention Deficit Disorder (ADD), Attention Deficit Hyperactivity Disorder (ADHD), and health conditions, such as asthma, that interfere with their education and require accommodations.

\*\*Total of the following low-incidence diagnoses: Trainable Mentally Handicapped, Orthopedically Impaired, Deaf/Hard of Hearing, Visually Impaired, Hospital/Homebound, Profoundly Mentally Handicapped, Dual Sensory Impaired, Severely Emotionally Disturbed, Traumatic Brain Injured, Developmentally Delayed, Established Conditions.

Source: Florida Department of Education, *John M. McKay Scholarship Program February Quarterly Report*, March 2007, available online at [http://www.floridaschoolchoice.org/Information/McKay/quarterly\\_reports/mckay\\_report\\_feb2007.pdf](http://www.floridaschoolchoice.org/Information/McKay/quarterly_reports/mckay_report_feb2007.pdf); compare to Florida Department of Education, *Profiles of Florida Public School Districts, 2005–06*, May 2007, available online at <http://www.fldoe.org/eias/eiaspubs/pdf/ssdata06.pdf>.

private schools participating in McKay to “demonstrate financial stability,” but the evidence required for such demonstration is very weak—a school can meet the standard simply by having been open for one full year. Starting this year, schools in the McKay program must also conduct employee background checks and make student files available to auditors. But they do not have to provide any evidence of the quality of their programs or student achievement.

The lack of information on student outcomes and the absence of quality-control requirements are significant flaws in the McKay program, because they undermine both public accountability for public education funds and parents’ ability to make informed decisions about their children’s education.

When schools receive public funds to educate students, as they do in the McKay program, the taxpayers who foot the bill have an interest in ensuring that the schools are educating students effectively and serving public

aims. But without any public accountability for student performance, taxpayers have no evidence that their money is not being wasted.

Others have recognized McKay’s flaws. An editorial in Florida’s *St. Petersburg Times*, published in 2002, noted that:

“No one really knows how well the ... McKay program is working because those who oversee it are covering their eyes. ... Ask how these private schools are performing or whether students and families are happy, or even whether tax dollars are being used in accordance with state law, and the response tends to follow two paths: 1) We trust parents to make smart decisions for their students, or, 2) We don’t know.”<sup>10</sup>

And in a 2003 paper for the centrist Progressive Policy Institute, Andrew Rotherham and Sara Mead argued that

the program’s “vague” definition of accountability was “at odds with principles of NCLB, IDEA, and most state accountability systems.” Rotherham and Mead point to the President’s Commission on Excellence in Special Education’s language emphasizing the importance of accountability: “IDEA should allow state use of federal special education funds to enable students with disabilities to attend schools or to access services of their family’s choosing, *provided states measure and report outcomes for all students benefiting from IDEA funds*” (emphasis added). The paper’s authors conclude: “This is something that both the McKay program and special education voucher proposals in Congress assuredly do *not* do.”<sup>11</sup>

Still, McKay supporters argue that stronger public accountability is unnecessary because schools participating in the McKay program are accountable to parents, who can withdraw their children from the school if they are unsatisfied with the services they receive. Parents, the argument goes, are the best judges of whether or not a school is serving their children well.

But research suggests that the lack of publicly available information about school performance undermines parents’ ability to make good choices. A 2005 survey of parents in Duval County, Fla., found that significant numbers of parents of special education students—including 50 percent of those who ultimately chose to remain in the public schools and 13 percent of those in the McKay program—felt they were unable to get as much information as they wanted to choose a school for their child. More than a quarter of parents of special-needs students had not even heard of the McKay program. Several public school parents noted that lack of information about available private schools was the main reason they chose to keep their children in public school.<sup>12</sup>

School choice works best when parents have access to accurate, comparable information that allows them to comparison shop among available school options, taking into account their educational offerings, student performance, staff qualifications, and other characteristics. But even then, parents sometimes insist on choosing poor quality schools. For instance, low-performing charter schools, such as the John A. Reisenbach charter school in New York City and SouthEast Academy in Washington, D.C., have remained popular with parents, who actually protested efforts

to close these schools based on poor academic performance. This suggests that accountability to parents alone is insufficient to protect the public interest or ensure taxpayer money is used well.<sup>13</sup>

Some advocates of the McKay program argue that more robust public accountability measures would be inappropriate because the program serves students with disabilities. Certain disabilities can make it more difficult to accurately assess what students know and can do, and standard state assessments are inappropriate for students with the most severe educational needs. But most students in the McKay program have relatively minor disabilities, such as specific learning disabilities, and should be able to pass state assessments if given appropriate instruction and testing accommodations. NCLB actually requires Florida and other states to develop modified and/or alternate assessments to measure the progress of students who cannot take the regular state exam.

For decades, parents of and advocates for students with special needs have been fighting to ensure that schools are held accountable to educate their students and that children with special needs are included in state education accountability systems. The lack of accountability in the McKay program is a giant step backward.

## Private Schools’ Response

It is difficult to reach meaningful conclusions about the McKay program as a school-choice or special-education reform measure, but the program does shed light on some other important school choice debates, in particular questions about whether or not private schools will serve students who are disadvantaged or challenging to educate, and whether they will respond to vouchers by increasing school supply.

Voucher critics often argue that vouchers will exacerbate existing educational inequalities because private schools will discriminate against disadvantaged student populations—such as students with disabilities and those from low-income or racial and ethnic minority groups—something public schools are forbidden to do.

But existing evidence about the McKay program usage does not bear out these concerns. The racial and ethnic

breakdown of McKay students roughly mirrors the state's total special education population.<sup>14</sup> And 41 percent of students receiving McKay vouchers are eligible for free or reduced price lunch, an indicator of economic disadvantage, which means that although many private schools require parents to pay tuition above and beyond the voucher, there is no indication that low-income parents are prevented from using the program.<sup>15</sup>

And, the fact that some 800 Florida private schools—one-third of those in the state—are registered with the McKay program, and nearly 17,900 Florida students with disabilities use McKay vouchers to attend private schools, demonstrates that some private schools are willing to enroll students with disabilities.

There is also no evidence that these schools are “skimming” students with the least severe disabilities. With a few exceptions, students with the most common disabilities—specific learning disabilities, language, emotional, and less severe mental disabilities—are represented at similar rates among both McKay scholarship recipients and Florida's total special education population. Students with the most severe disabilities, for example those who are both blind and deaf, are too few to compare their representation in the McKay and regular special education programs, but autistic students, who often need very intense services, are actually represented in the McKay program at a higher rate than in the regular special education population.<sup>16</sup> And the percentage of McKay students with the most intense needs—those in the top two levels of Florida's five-level “matrix of services”—is roughly the same as the percentage of all special education students in these two levels.<sup>17</sup>

In fact, private schools may be more willing to serve students with more severe needs because the McKay program provides them with larger vouchers. But it is still possible that those private schools that currently see McKay students as a way to expand their market might be less willing to serve students with disabilities if vouchers were made available to a broader student population.

## Increasing Supply

Some voucher proponents argue that increasing parent choice will establish a new education marketplace, attracting new providers to open new schools to meet parent demand. There is some evidence that Florida's

constellation of voucher programs—McKay, the Corporate Tax Credit Scholarship Program, and the now-defunct Opportunity Scholarships—is having this result. Between the 1999–2001 and 2005–06 school years, the number of private schools in Florida increased more than 8 percent, from 1,916 to 2,078.<sup>18</sup>

Some of these schools have been created specifically to serve special education students in the McKay program. For example, Father Anglim Academy, a Catholic school in Fort Myers, opened in 2002 with a specific mission to serve students with disabilities.<sup>19</sup> The Blossom Montessori School for the Deaf, in Clearwater, opened in 2003 as the second school in the state to exclusively serve deaf and hearing impaired children, and the first such school in the nation to use the Montessori Method.<sup>20</sup>

The McKay program also has drawn the attention of for-profit companies. For example, in 2002 Trimaran Capital Partners, a highly diversified venture capital firm, purchased Educational Services of America, Inc. (ESA), which owned 17 Florida private schools serving students with disabilities. Trimaran has since sought to capitalize on the profit opportunities created by McKay and expand the number of its schools serving McKay students to achieve “critical mass.”<sup>21</sup>

Not all of the new schools that have opened are good ones; the lack of transparent information or public accountability has created opportunities for corrupt school operators to misuse public funds while failing to educate children. A 2001 report by People for the American Way, a national liberal public-interest group that opposes vouchers, offers numerous examples of financial mismanagement and abuse by schools in the McKay program.<sup>22</sup> For example, Art and Angel Rocker, whose AJC 2000 Management Team, Inc. ran six small church-based schools created to take advantage of McKay and other voucher programs, faced numerous allegations of corruption and failure to provide services to students before such complaints drove them out of business in spring of 2002. (Some of the schools remain open as stand-alone schools.)<sup>23</sup>

Beyond the creation of new schools, anecdotal reports suggest that some private schools are increasing their special education offerings to meet parent demand fueled by the McKay program. Catholic schools, in particular, are increasingly reaching out to students with special needs.

“It’s been the case in the past that since we couldn’t help those students, we would usually recommend another school,” said Emma Ventura, then-principal at St. Brendan Elementary School in Miami. In 2005, St. Brendan became one of the first Catholic schools in the Archdiocese of Miami to offer a self-contained elementary school program for special education students.<sup>24</sup> (About half of McKay voucher students attend religiously affiliated schools.)

Still, the McKay option remains unavailable for many families. Large urban counties like Dade, Broward, and Escambia have many private schools participating in the McKay program. But 12 of Florida’s 67 counties have no participating private schools, and 14 counties have only one participating private school.<sup>25</sup>

And, while McKay is expanding the number of private schools serving students with disabilities, the lack of public accountability or information about student achievement makes it impossible to know whether or not these private schools serving McKay students are, in the aggregate, delivering better services or improving the quality of educational outcomes for students with disabilities.

## More Problems Than Solutions

In existing research and ongoing debates, educators and policymakers primarily focus on the McKay program as a voucher initiative. But McKay isn’t simply a voucher program; it’s also being marketed as a solution to particular problems in special education, specifically the difficulties some parents face in getting needed services for their children and conflicts between school districts and parents over how to serve children with special needs.<sup>26</sup> But the available evidence suggests that McKay is not having positive impacts as a special education reform and may actually be exacerbating existing problems.

The rationale behind McKay as a special education reform is straightforward. There is widespread agreement that children with disabilities require special educational services and supports customized to their individual needs. Under federal law—the Rehabilitation Act of 1973 and IDEA—children with disabilities have a legal right to such services and school districts must provide them. In rare instances, this means that a school district that lacks capacity to meet a child’s needs must pay his

or her tuition at a special private school that can. But parents and school districts often disagree about exactly what services a child needs or is entitled to under law, and school districts can be reluctant to provide costly services or accommodations—particularly private special educational placements. Parents who are dissatisfied with how the district is serving their child have the right to appeal—such cases have gone all the way to the Supreme Court—but the appeals process is expensive, complex, and time-consuming.

McKay supporters argue that school choice offers parents of children with disabilities a more efficient and effective way to get the customized services their children need and that the option to transfer to a private school could strengthen parents’ hand in negotiating with school officials.

While this argument makes sense in theory, there is little evidence to support it in practice. If McKay is indeed offering a better way for parents to get needed services for their children, there should be fewer instances of parents challenging school district decisions. But this doesn’t seem to be the case. During the 2005–06 school year, the Florida Department of Education received 177 requests for special education due process hearings. Although this is less than the 187 such requests in 2000, the first year the McKay program operated statewide, the number of hearing requests has fluctuated over the last six years, and there is no consistent downward trend.<sup>27</sup>

Also, in their 2003 paper, Rotherham and Mead point out that if the program actually helped the parents who were the most dissatisfied and had the most difficulty getting services from their public schools, private schools would be enrolling far more students with the most severe needs, rather than serving them at a rate roughly proportionate to their share of the total special education population, as is currently the case.<sup>28</sup>

Program backers counter that parents of children with milder or less visible disabilities are the ones most likely to be unhappy with public schools because there is more room for disagreement over the scope of their services.<sup>29</sup> But all of this analysis involves a fair amount of guesswork because there is so little actual data about the McKay program and its participating students and schools. More research is needed to better understand why parents choose McKay over the IDEA process (and vice versa)

as well as to understand how school choice through the McKay program compares to IDEA's due process as a way for parents to get needed special-education services.

In the absence of meaningful student performance data, some researchers supportive of the program have used parent surveys to try to evaluate its results. For example, a 2003 report by researcher Jay P. Greene for the conservative Manhattan Institute found that parents whose children previously had used, or currently were using, McKay vouchers were much more satisfied with their experiences in private schools than they had been with their experiences in the public schools.<sup>30</sup> Such findings are hardly surprising; parents are only likely to opt into the McKay program if they are already unhappy with the services their children receive in the public schools, and other researchers have found that the mere fact of making a choice increases satisfaction with the choice that is made.<sup>31</sup>

While it is important to know why parents choose McKay over the IDEA process, national advocates for people with disabilities and Florida special educators are concerned about the fact that parents who choose to participate in the McKay program give up their due process rights to services under IDEA. Such concerns are heightened by the fact that while public schools are required by law to provide disabled students with an Individual Education Plan, services and accommodations, the U.S. Department of Education has ruled that private schools in the McKay program are not required to do any of these things.

But a clear majority of parents who participated in the Manhattan Institute survey reported that private schools were providing their children all the services required by federal law. In addition, the survey found that parents were perfectly willing to waive their federal rights under IDEA if they felt their children would receive the services they would otherwise be guaranteed to receive under the law. The researchers concluded that: "The ability to withdraw their students from public schools and place them in private schools has effectively empowered parents to ensure a level of services for their children that IDEA has often failed to ensure."<sup>32</sup>

This finding cannot be independently verified, however, because there is no aggregate, publicly available information about the services private schools are providing to McKay students. Further, parents who become dissatisfied with a private school's special

education program after enrolling, or who find that it fails to provide promised services, have little recourse other than to pull their child out of the school.

It's also possible that the McKay program could be creating perverse incentives for parents and schools that exacerbate the over-identification of students with disabilities, a serious problem in special education. Offering vouchers to children with disabilities—and only children with disabilities—creates an incentive for parents to seek out a special education diagnosis in order to get a voucher. Anecdotal evidence suggests that some parents seek out diagnoses of learning disabilities or attention deficit hyperactivity disorder (ADHD) to get their children additional help and accommodations on tests.<sup>33</sup> McKay's offer of a voucher for students with disabilities creates an even stronger incentive for parents to "game the system." And Florida psychologists who diagnose youngsters with ADHD and other disabilities have told reporters that they see some Florida parents who are seeking these diagnoses just so they can get a McKay voucher.<sup>34</sup>

Demographic data for McKay program participants also lend some credence to this concern. While most categories of disabilities are represented at similar rates in McKay and the state's total special education student population, the percentage of McKay students classified as "other health impaired," a catch-all category that includes attention deficit disorder (ADD) and ADHD, is more than twice as high as their percentage of the state's total special education population—10.3 percent for McKay versus 4.2 percent for the state.<sup>35</sup>

McKay supporters counter that any perverse incentive McKay might create for parents to seek out spurious diagnoses is countered by the increased incentive it creates for public schools to deny such diagnoses to avoid losing such students—and state funds—to private schools. But creating new incentives for schools to avoid diagnosing students with disabilities could have very serious negative impacts for children who do have disabilities and is also likely to exacerbate conflict between parents and schools—the very conflict McKay seeks to reduce—over assessing and diagnosing children for disabilities.

At the same time, it's possible public schools may actually have a financial incentive to push students with disabilities into the McKay program. In a 2003 report, the

Washington, D.C.-based libertarian Cato Institute noted that although districts lose *state* aid whenever parents use a McKay voucher to transfer children to private schools, they retain an estimated \$560 in *local* revenue whenever a student uses a voucher to depart.<sup>36</sup> Further, because school districts are obligated to spend whatever it costs to provide children with disabilities the “free, appropriate education” required by IDEA, even if that cost exceeds the amount of state and local funding they receive to educate the child, districts might also have an incentive to encourage children whose IEPs require costlier services,

as well as those who are disruptive, to switch to the McKay program.

The ultimate measure of whether McKay is working as special education reform would be its ability to improve the achievement of students with disabilities—both those in the McKay program and those remaining in public schools. Unfortunately, the lack of public reporting or accountability for students in the McKay program makes it impossible to know whether it is having a positive, negative, or no effect on these students’ learning.

## Policy Recommendations

There are two primary approaches to accountability in education: accountability that focuses on regulating inputs and processes, and accountability focused on outcomes. The current IDEA, with its many regulations and procedural and documentation requirements designed to protect the rights of children with disabilities, is an example of the former. Supporters of special education vouchers argue that vouchers are desirable because they give parents an alternative to cumbersome special education bureaucracy. But the programs they support are fundamentally flawed because they do not replace IDEA's process and input accountability with outcomes accountability. Instead, programs like McKay abandon public oversight altogether and cut parents loose to fend for themselves.

School choice advocates are promoting McKay vouchers as a model for other states and even federal special education policy; four other states—Arizona, Ohio, Utah, and Georgia—have adopted McKay-like programs, and more are considering doing so. But the lack of any public accountability in the program, combined with the dearth of evidence that it has any impact in improving student outcomes or reducing conflict between parents and educators, suggest that legislators should have serious reservations about such proposals.

That does not mean that legislators should give up on trying to expand choice and reduce bureaucracy and conflict for students with special needs and their families. But any program designed to expand choice outside the IDEA process for students with special needs must, at a minimum, meet the following criteria:

**Require private schools in the McKay program to administer state assessments, where appropriate, and publicly report the results.** Without outcome data on student performance, policymakers and the public have no way to tell whether educational programs are effective. Similarly, the failure to include schools serving McKay students in state assessments deprives parents of a valuable source of information about the schools' and their own students' performance. Most students in the McKay program should be able to take Florida's standardized state assessment. There is a small minority of students with special needs for whom such tests are truly inappropriate, but NCLB requires states to develop

alternative and/or modified assessments for these students. Private schools in the McKay program could use those assessments for students with severe disabilities, or they could develop their own.

**Provide transparent information about schools to parents and the public.** Choosing a school is difficult for any parent, but it is particularly challenging when a child has special needs. Currently, however, parents interested in the McKay program are largely on their own in finding information about participating schools, the services they provide, the quality of their staffs, and their performance. States adopting McKay-like programs should develop a statewide database of participating private schools that includes uniform, accurate, and reliable information about test scores, services offered, staff qualifications and other school features important to parents. Such a database could be administered by the state or privately by an association or cooperative of participating private schools. While private schools might initially resist requirements to submit information to such a database, in the long-run it could help them by making it easier for parents to find information about school options and pick the right school.

**Create an ombudsman for parent complaints.** When parents choose to use a McKay voucher to send their child to a private school, they surrender their due process and other rights under IDEA. If the school fails to deliver promised services, they have no recourse other than to withdraw their child from the school. It is inappropriate to subject private schools to IDEA due process and unnecessary because parents may choose to withdraw their child. But one of the benefits of IDEA's due process provisions is that it gives parents recourse in dealing with schools that chronically fail or refuse to serve students with disabilities and gives school districts a strong disincentive for such behavior. In the absence of due process, some alternative is needed to protect taxpayer and public interests from misbehaving schools. States that create McKay-like programs should also establish an ombudsman to whom parents can bring complaints about school malfeasance or misrepresentation of services. This ombudsman could also protect public funds by receiving complaints from parents, staff, and other concerned individuals about school financial irregularities, which have been a problem in some McKay schools.

**Don't tolerate schools that fail to serve students.** In general, parents and children are the primary beneficiaries

of education funds and are therefore the most invested in the choices they make. But because taxpayers are footing the bill, they also have an interest in ensuring schools that receive public funds are effective and do what they are supposed to do. Further, there is a public obligation to protect parents—before they enroll their child in a school—from school operators who would mislead them about services and fail to serve their children. Therefore, schools that chronically fail to participate in assessments, have poor student outcomes, or receive multiple substantiated parent complaints should lose their ability to receive public funds under McKay and similar programs.

**Ensure that students with disabilities have access to public school choice in a variety of forms.** Children with special needs can benefit from increased choice and customization in education, but vouchers are hardly the only way to expand choice. Magnet schools, charter

schools, and open enrollment all offer choice within the public school system, and more children currently attend schools of choice through these means than are enrolled in private schools. But children with disabilities often have difficulty accessing these choices. Policymakers should work to ensure that students with special needs have ample access to school choice within the public school system, by improving funding transferability for students with special needs, eliminating policies that allow magnet schools to pick and choose their students in ways that exclude these youngsters, holding charter schools accountable to serve students with special needs, and building the capacity of charters and other schools of choice to serve students with disabilities. In addition, policymakers should seek out applications from charter school operators—such as the acclaimed St. Coletta school for students with severe disabilities in Washington, D.C.—whose specific mission is to serve children with disabilities.

## Endnotes

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- <sup>2</sup> Florida Department of Education, Office of Independent Education and Parental Choice, *John M. McKay Scholarships for Students with Disabilities Program*, “Fact Sheet,” July 2006, available online at [http://www.floridaschoolchoice.org/Information/McKay/files/Fast\\_Facts\\_McKay.pdf](http://www.floridaschoolchoice.org/Information/McKay/files/Fast_Facts_McKay.pdf).
- <sup>3</sup> Wisconsin Department of Education, *Milwaukee Parental Choice Program Facts and Figures for 2006–07*, February 2007, available online at <http://dpi.state.wi.us/sms/choice.html>.
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- <sup>8</sup> Florida Department of Education, “Use of the Exceptional Student Education Matrix of Services,” January 2002, available online at <http://www.firn.edu/doe/commhome/pdf/matrixnu.pdf>.
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- <sup>15</sup> *Ibid.*
- <sup>16</sup> *Ibid.*
- <sup>17</sup> Florida Department of Education, *John M. McKay Scholarship Program February Quarterly Report*; Florida Department of Education, *Use of the Exceptional Student Education Matrix of Services*, January 2002, available online at <http://www.firn.edu/doe/commhome/pdf/matrixnu.pdf>.
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