

January 26, 2018

Director of the Information Collection Clearance
Division, U.S. Department of Education,
400 Maryland Avenue SW
LBJ, Room 216-32
Washington, D.C. 20202-4537

Re: DC School Choice Incentive Program Information Collection: Docket ID Number ED-2017-
ICCD-0132

Dear Director of the Information Collection Clearance:

On behalf of the National Coalition for Public Education (NCPE), we submit these comments in response to the Notice for the comment on the “DC School Choice Incentive Program” that was published in the Federal Register on December 21, 2017. We oppose all private school voucher programs, including the DC voucher program, as authorized through the Scholarships for Opportunity and Results Act (SOAR Act) and recently renewed through the Consolidated Appropriations Act of 2017.¹ We strongly believe that the United States Department of Education (USED) must build upon its prior studies² and evaluate the voucher program in a sound and thorough manner. Where possible, this should be done to the strongest possible research design as previous studies were conducted. Where the strongest possible research design is not possible, USED should be explicit about how the change in research design may have a negative impact on the value of the outcomes compared to previous studies. These vouchers are funded by taxpayer dollars and, thus, the program should be subject to the same reporting, transparency, and accountability requirements placed on public schools. We write, therefore, to show our support for collecting the data necessary for an effective evaluation of the program.

Collecting the proper data is a vital part of performing a thorough review and analysis of the DC voucher program. And, the USED evaluations of the program to date have been essential in highlighting the shortcomings of the program. Without the last series of USED studies, parents and taxpayers would have had no way to know that the program has not led to any significant improvement for students in reading or math, and has in fact led to a negative impact on math achievement for students using vouchers.³ Nor would parents or taxpayers know the extent to which the program has failed students with disabilities.⁴ And, without the USED studies, we would not know that students participating in the program are actually *less* likely to have access to programs for English language learners, learning support and special needs programs, tutors, counselors, cafeterias, and nurse’s

¹ Pub. L. No. 115-31 §§ 901-13.

² U.S. Dep’t of Ed., [Evaluation of the DC Opportunity Scholarship Program: Impacts After One Year](#) (June 2017) (2017 U.S. Dep’t of Educ. Report); U.S. Dep’t of Ed., [Evaluation of the DC Scholarship Program: Final Report](#) (June 2010) (2010 U.S. Dep’t of Educ. Report); U.S. Dep’t of Ed., [Evaluation of the DC Scholarship Program: Impact After 3 Years](#) (Apr. 2009) (2009 U.S. Dep’t of Educ. Report); U.S. Dep’t of Ed., [Evaluation of the DC Scholarship Program: Impact After 2 Years](#) (June 2008) (2008 U.S. Dep’t of Educ. Report); U.S. Dep’t of Ed., [Evaluation of the DC Scholarship Program: Impact After 1 Year](#) (June 2007) (2007 U.S. Dep’t of Educ. Report).

³ 2017 U.S. Dep’t of Educ. Report at 11.

⁴ See *e.g.*, 2010 U.S. Dep’t of Educ. Report at 24-26.

offices, than students not participating in the program.⁵ Accordingly, the government must continue to collect the information necessary to evaluate these aspects of the program.

In addition to the information previously collected to evaluate the program, USED should expand its data collection to include quality control information, as previous studies of the program by the Government Accountability Office (GAO)⁶ and investigations by *The Washington Post*⁷ both demonstrate that the program fails in this area. Furthermore, the government should collect additional information to more accurately calculate graduation rates.

In these comments, we identify both general areas of information and specific data that we believe USED must collect to properly analyze the program.

The Program’s Continued Lack of Transparency Increases the Need for Formal Data Collection.

The DC voucher program has historically demonstrated a lack of transparency. This increases the need for USED to collect pertinent data about the program.

GAO reports from both 2007 and 2013 document that the DC voucher program has repeatedly failed to meet basic and even statutorily required accountability standards. The 2013 report concluded that the administrator of the program, the DC Children and Youth Investment Trust Corporation (Trust), has continually failed to ensure the program operated with basic accountability measures and quality controls⁸ and failed to maintain adequate records on its own financial accounting.⁹ The interim executive director of the Trust at that time even admitted that “quality oversight of the program as sort of a dead zone, a blind spot.”¹⁰ Again in 2015, the new administrator of the program was unable to provide basic program information to a Congressional oversight committee, such as what percentage of each voucher school’s population comprised students using a voucher.¹¹

These repeated failings of the program as evidenced by the GAO reports make clear that USED should take steps to provide better oversight of the program and further bolster the need for the USED to collect data not just about test scores but also about the schools and students in the program.

Due to Continuing Quality Control Problems with the Participating Private Schools, the Department of Education Should Collect Information about the Private Schools that Accept Vouchers.

The federal government should entrust neither its funds with nor the District of Columbia’s students to any private school unless the school meets basic requirements for safety and effectiveness. Yet, investigations into the program have found that quality control is “a dead zone, a blind spot.”¹² Most

⁵ *Id.* at 56, 57, 60.

⁶ U.S. Gov’t Accountability Office, GAO-08-9, [District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operations](#) 26 (2007) (2007 GAO Report).

⁷ Lyndsey Layton and Emma Brown, [Quality Controls Lacking for DC Schools Accepting Federal Vouchers](#), Wash. Post (Nov. 17, 2012).

⁸ U.S. Gov’t Accountability Office, GAO-13-805, [District of Columbia Opportunity Scholarship Program: Actions Needed to Address Weaknesses in Administration and Oversight](#) 19 (2013) (2013 GAO Report).

⁹ *Id.* at 28.

¹⁰ Lyndsey Layton, [D.C. School Voucher Program Lacks Oversight, GAO Says](#), Wash. Post (Nov. 15, 2013).

¹¹ [Reauthorizing the D.C. Opportunity Scholarship Program: Hearing before the S. Comm. on Homeland Security and Government Affairs](#), 114th Congress (2015) (testimony of Kevin Chavous, Serving Our Children).

¹² Layton, *supra* note 7 (quoting the Administrator of the program who acknowledges the “blind spot.”).

recently, an investigation by *The Washington Post* also concluded that the program lacks quality controls. It reported:

that hundreds of students use their voucher dollars to attend schools that are unaccredited or are in unconventional settings, such as a family-run K-12 school operating out of a storefront, a Nation of Islam school based in a converted Deanwood residence, and a school built around the philosophy of a Bulgarian psychotherapist.¹³

The 2007 GAO Report on the DC voucher program discovered troubling facts about the operation of program. First, the GAO found that the grant administrator had failed to ensure that the participating schools adhered to the rules of the program or even District of Columbia laws. The administrator permitted schools to participate—and allowed students to attend schools—even though they lacked a valid DC occupancy certificate, neglected to submit required financial data, and failed to submit required annual operational reports with basic information on curriculum, teachers' education, and school facilities.¹⁴ Indeed, some participating schools failed to submit information on accreditation or educational soundness, yet voucher students were directed to and then attended those schools.¹⁵ The grant administrator also paid tuition for students to some schools that actually did not charge tuition and made disbursements to other schools without requiring them to submit the proper paperwork.¹⁶ And, the 2013 GAO report found that six years later, the program still suffered the same flaws, including finding that nine of the ten schools GAO investigated still did not meet the certificates of occupancy requirement.¹⁷

Accordingly, we urge USED to collect the following information:

- whether schools have and maintain a valid certificate of occupancy issued by the District of Columbia;¹⁸
- whether schools have, are in the process of obtaining, or lack school accreditation;¹⁹
- how many years each school has been in operation;²⁰
- the percentage of enrolled students participating in the voucher program at each school;²¹
- whether schools have adequate financial resources and the financial sustainability to be in operation through the school year, and whether they comport with financial reporting requirements;²²
- whether schools have the financial systems, controls, policies, and procedures to ensure that the voucher funds will be used in accordance with the statute;²³
- whether each teacher of a core subject matter in each school is licensed and certified in that subject;
- whether every educator in each school has a baccalaureate or equivalent degree; and

¹³ *Id.*

¹⁴ 2007 GAO Report at 34-35.

¹⁵ *Id.* at 34.

¹⁶ *Id.* at 22-23, 33.

¹⁷ 2013 GAO Report at 21.

¹⁸ Pub. L. No. 112-1 at § 3007 (a)(4)(A).

¹⁹ *Id.* at § 3007 (a)(5).

²⁰ *Id.* at § 3007 (a)(4)(C).

²¹ *Id.* at § 3005 (b)(1)(K).

²² *Id.*

²³ *Id.* at § 3007 (a)(4)(E).

- whether schools will allow site visits by the program administrator.²⁴

USED should also collect additional information on the characteristics of private schools attended by voucher recipients, including admission requirements, religious mission, class size, teacher qualifications, teacher turnover, any additional requirements for attendance like policies that would effectively turn away LGBTQ students and families, tuition costs and other fees and expenses, enrollment demographics of the schools, availability of programs for English language learners and students with disabilities, attrition rates, and graduation rates of voucher and non-voucher students.

Better Data Collection Is Needed Regarding Graduation Rates

A 2010 USED study of the DC voucher program provided an analysis of graduation rates. But the study did not report graduation rates based on school records nor did the study track individual students as they advanced through the program. Instead, the report was based only on “telephone surveys with parents of students in the study forecasted to have completed the 12th grade by the summer of 2009.”²⁵ Only 316 of the 500 students forecasted to have completed the 12th grade answered the survey.²⁶ Such a process appears less than scientific and reliable. USED, therefore, should collect information to accurately determine graduation rates, including whether the students were using a voucher at the time of graduation and how many years the student participated in the program.

Additional Data Regarding Students Applying and Accepting Vouchers Should Be Collected.

The SOAR Act requires that the mandated evaluation address changes in parents’ school involvement and satisfaction. We agree that this information should be collected. Information not specifically identified by statute, but that may aid in this analysis and should be collected, includes:

- the number of students who apply for the program;
- why the interested student and his or her family seeks the voucher;
- whether the interested student is offered a voucher; and
- whether the interested student accepts or rejects the voucher and why.

The SOAR Act requires an analysis of other areas of the DC voucher program as well, including an evaluation of student academic achievement, safety, and satisfaction. Further, the statute grants USED the authority to collect data and evaluate “such other issues with respect to participating eligible students as the Secretary considers appropriate for inclusion in the evaluation.”²⁷ In order to perform an effective and accurate analysis, we request that USED collect the following information about interested students and their families:

- the number of students enrolled in the program and in what grades and schools they are enrolled;
- the number of students in the program who had previously attended schools “identified as one of the lowest-performing schools under the District of Columbia’s accountability system”;

²⁴ *Id.* at § 3007 (a)(4)(D).

²⁵ 2010 U.S. Dep’t of Educ. Report at xx fn. 6.

²⁶ *Id.* at A-6.

²⁷ Pub. L. No. 112-1 at § 3009 (a)(4)(F).

- the number of students who drop out of the program, why they drop out, how long they used the voucher before dropping out, what school they attended when they dropped out, and what school they attended after leaving the voucher program;
- the number of voucher students each private school accepting vouchers enrolls and the grades in which the voucher students are enrolled;
- the graduation rates and requirements of private schools accepting vouchers;
- whether each student using a voucher graduates from high school, whether he or she was participating in the voucher program at the time of graduation, and how many years he or she used a voucher option before graduating;
- the number of students with disabilities and the number of English language learners who applied for, were awarded, accepted, or rejected a voucher;
- the number of students with disabilities and the number of English language learners who accepted a voucher but then dropped out of the program;
- the number of schools accepting vouchers that enroll students with disabilities and English language learners and whether they provide all or some of the services required by the child's most recent IEP or 504 plan; the number of students who use a voucher to attend a religious school and the percentage of participating private schools that are religious or religiously affiliated; and
- school attendance, dropout/attrition, graduation, and college acceptance rates for students using vouchers by grade, socio-economic status, ethnicity, gender, and by voucher school.

The Data Collection Should Include Information Regarding Student Access to the Voucher Program.

Private schools participating in the DC voucher program may maintain selective enrollment policies and place admission restrictions and requirements on students that are prohibited in publicly funded schools. Indeed, private schools participating in the DC voucher program can maintain their admission standards even for voucher students. Voucher schools can reject students based on prior academic achievement, economic background, English language ability, LGBTQ status, or disciplinary history. And some religious schools may reject students based on gender. Thus, even students who qualify for a voucher may never be able to use that voucher if the schools to which they apply do not accept them or provide the services they need.

It is no surprise, therefore, that certain groups of students traditionally have less access to the schools participating in the voucher program than other students. For example, students with special needs often cannot locate a private school that can serve them: The 2010 USED report on the DC voucher program showed that a significant number of students had to reject their vouchers because they were unable to find a participating school that offered services for their learning or physical disability or other special needs.²⁸ Indeed, it also found that 21.6% of the parents who rejected a voucher that was offered to their child did so because the school lacked the special needs services that their child needed.²⁹ And, 12.3% of the parents, who accepted a voucher for their child but then left the program, cited a lack of special needs services.³⁰

²⁸ 2010 US Dep't of Ed. Report at xxv, xxvi.

²⁹ *Id.* at xxv, 24-26.

³⁰ *Id.* at .xxvi, 24-26.

Students seeking non-religious schools also have a limited number from which to choose, since most private schools participating in voucher programs are sectarian schools. In 2014, the Department of Education found that 62% of DC voucher schools, serving 81% of all voucher students, were religious schools.³¹ Furthermore, the 2008 study revealed that 8% of the students who left their voucher school did so because religious activities at the private school made the student uncomfortable.³² And 2% of students did not even accept a voucher because they did not want to attend a school that provided religious instruction.³³

In order to better assess student access to the private schools in the program, the government should collect information regarding:

- the nondiscrimination policies of each school to ensure that they meet the nondiscrimination provisions provided in Section 3008 of the SOAR Act and to determine if they comply with the DC Human Rights Act;³⁴
- whether schools separate students on the basis of sex during instruction, and if so, how do they monitor compliance with Title IX;
- whether schools seek to utilize one of the statutory exemptions that allow religious schools to engage in gender discrimination for students³⁵ or religious hiring discrimination;³⁶
- whether schools have refused to accept students or with a specific disability or counseled them not to apply (and if so, what types of disabilities);
- whether school accepting voucher students make information about what types of disability-related services they provide available to prospective families;
- whether families were made aware of their child's loss of IDEA rights when they accepted a voucher, as recommended by the Government Accountability Office;³⁷
- the tuition and other costs, above the value of the voucher, that schools charge students using a voucher;
- the admission requirements schools place upon students using vouchers, including academic testing requirements;
- whether school curricula contain religious content; and
- the reasons why students who apply for a voucher reject the voucher or leave their private school after using it.

Conclusion

In conclusion, we urge USED to collect the same data it has collected in previous years, as well as the additional data identified above, in order to properly perform the statutorily-required evaluation and increase the accountability and transparency of the program.

³¹ U.S. Dep't of Ed., [Evaluation of the D.C. Scholarship Program: An Early Look at Applicants and Participating Schools Under the SOAR Act](#), 29 (Oct. 2014).

³² 2008 US Dep't of Ed. Report at 23.

³³ *Id.*

³⁴ D.C. Code § 2-1402.41.

³⁵ Pub. L. No. 112-10 § 3008 (b)(1).

³⁶ *Id.* at § 3008 (d)(1).

³⁷ U.S. Gov't Accountability Office, GAO-18-94, [Private School Choice: Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities](#) 30 (2017).

Sincerely,

AASA: The School Superintendents Association
American Association of University Women (AAUW)
American Atheists
American Conference of Cantors
American Federation of School Administrators (AFSA), AFL-CIO
American Federation of State, County, and Municipal Employees (AFSCME)
American Federation of Teachers, AFL-CIO
American Humanist Association
Americans for Religious Liberty
Americans United for Separation of Church and State
Anti-Defamation League
Association of Educational Service Agencies
Baptist Joint Committee for Religious Liberty
Center for Inquiry
Central Conference of American Rabbis
Council for Exceptional Children
Council of Administrators of Special Education
Council of the Great City Schools
Disciples Center for Public Witness
Disciples Justice Action Network
Equal Partners in Faith
GLSEN
Interfaith Alliance
Men of Reform Judaism
NAACP
National Association of Secondary School Principals
National Bar Association
National Center for Learning Disabilities
National Council of Jewish Women
National Disability Rights Network
National Education Association
National Organization for Women
National PTA
National Rural Education Advocacy Collaborative
National Rural Education Association
National School Boards Association
People For the American Way
School Social Work Association of America
Secular Coalition for America
Southern Poverty Law Center
Texas Freedom Network
Union for Reform Judaism
United Church of Christ, Justice and Witness Ministries
Women of Reform Judaism