

INVEST IN PUBLIC SCHOOLS

END INEFFECTIVE PRIVATE SCHOOL VOUCHER PROGRAMS

JANUARY 2020



SUMMARY

In 2015, the Mississippi Legislature passed and the governor signed Senate Bill 2695, “The Equal Opportunity for Students with Special Needs Act.”¹ The act established an Education Scholarship Account (ESA) voucher, which sends public money to private schools. The voucher was set up as a five-year pilot to test the effectiveness of voucher programs in Mississippi, and it will end in 2020. In the 2020 legislative session, lawmakers will decide whether to continue funding this voucher program or allow public dollars to remain in public schools.

Mississippi’s ESA voucher is administered by the Mississippi Department of Education’s Office of Special Education. Under this voucher program, students with disabilities who have an Individualized Education Program (IEP) may use a voucher to pay for tuition or fees to an eligible private school, or for other

expenses, including textbooks, tutors, online learning programs, school supplies, or technology.²

This brief summarizes what is known about Mississippi’s voucher program after nearly five years, as well as recent studies on similar voucher programs across the country.

A JOINT LEGISLATIVE COMMITTEE FOUND THE PROGRAM DOES NOT ENSURE STUDENTS WITH DISABILITIES RECEIVE NEEDED SERVICES

Three years into the program, in December 2018, Mississippi’s Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) released a review of the program.³ The PEER report concluded that Mississippi’s voucher program “lacks the accountability structure needed to ensure that [private] schools enrolling [voucher] students meet statutory requirements and that students with disabilities are receiving the services they need and progressing toward their [special educa-

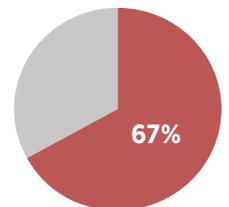
tion] goals.”⁴ PEER also reported that for fiscal year 2018, the state spent over \$2 million on the program.⁵

\$2 MILLION

is the amount the state spent on the program for fiscal year 2018, according to the report done by PEER.

The report noted that, one-third of private schools participating in the ESA voucher program had no special education staff in 2018, and 67 percent indicated that they received services from the *public school* district, primarily for speech therapy.

What’s more, approximately one-third of funds for ESA vouchers were unused because parents either could not



The percentage of private schools that indicated they received services from the public school district.

find a private school to meet their child’s needs or private schools refused to admit voucher students.

The PEER report also highlighted the following problems with the voucher program:

- There is no obligation for the state or private schools to monitor whether students are receiving the special education services they need.

- There is no obligation for the state or private schools to monitor whether students are progressing toward their IEP goals.⁶

- The voucher law prohibits imposing any regulations whatsoever on private schools.⁷

- The lack of an application process for participating private schools means schools can participate in the program without undergoing even token scrutiny.⁸

This lack of accountability is evident in the administration of the program by the Mississippi Department of Education (MDE).⁹ Unlike other states with ESA voucher programs, Mississippi has not adopted comprehensive procedures for administration of its voucher program. For example, Mississippi does not require documentation verifying whether a child has withdrawn from public school and does not require written notification when a parent withdraws their child from a voucher school during the school year.¹⁰

PEER found that the MDE has not prioritized students with active IEPs as required under law. This means

that the student population ostensibly targeted under the law — students with IEPs — “have been denied the first opportunity for an ESA over students already enrolled in a nonpublic school without active IEPs.”¹¹

PEER also found that the MDE has failed to establish either an online or telephonic service for reporting fraud, both of which are required under the law.¹² PEER noted that states with similar programs have made fraud reporting a priority. As PEER notes, “[t]he lack of a written procedure could result in an unfair and inconsistent application of penalties, decisions, etc., when dealing with instances of fraud.”¹³

In addition to these issues, PEER noted that Mississippi’s program lacks an appeal process.¹⁴ This means that neither parents nor providers may appeal eligibility or reimbursement decisions made within the program. This is problematic because PEER found that MDE has overpaid parents, made several data entry errors and failed to collect documentation required to verify allowable expenses.¹⁵ In other words, a program with a track record of making reimbursement errors does not have a mechanism that would allow participants to question those errors.

Despite compliance gaps and the lack of an accountability, Mississippi’s ESA voucher comes at a high annual cost for a state with limited resources.¹⁶

MISSISSIPPI’S VOUCHER PROGRAM LACKS BASIC ACCOUNTABILITY REQUIREMENTS; RANKS AMONG THE WORST

In November 2017, the U.S. Government Accountability Office (GAO) released a report analyzing the accountability mechanisms of 27 voucher programs across the country.¹⁷ Of the ESA voucher programs examined by the GAO, Mississippi’s ranked among the worst for measuring academic performance, program administration, and fiscal viability.¹⁸

The report found that, across the country, voucher programs are failing students and taxpayers. Even when vouchers are purportedly intended for the most vulnerable children, including students with disabilities, the GAO report shows that these programs do not provide students with the most basic protections. What’s more, many students with disabilities and their families are never told that, by taking the voucher, they lose almost all of their civil rights protections — from their right to receive special education and related services to the student’s rights regarding discipline procedures and the least restrictive environment requirements.

Moreover, the GAO report found that unlike public schools, many private voucher schools are not required to have even basic accountability mechanisms, like regular academic testing to measure students’ progress, public reporting about student outcomes, and simple financial management or review.

While the GAO found testing to be the most common academic accountability method used to measure the performance of voucher programs nationwide,¹⁹ Mississippi’s ESA statute contains

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no state testing requirement.²⁰ The absence of testing makes it impossible to monitor the academic performance of voucher students and to make comparisons to public school students. However, as discussed later, recent studies demonstrate that voucher programs across the country fail to provide better academic outcomes for students.

Similar to the PEER report, the GAO study found many other deficiencies in Mississippi’s voucher program. While most voucher programs evaluated by the GAO required participating private schools to employ teachers, paraprofessionals and specialists with specific qualifications or credentials,²¹ Mississippi’s was one of the few that does not have minimum requirements for private school teachers.²²

Even where Mississippi has placed minimal requirements on private schools – such as health and safety codes – the GAO found that the state does not visit them to ensure compliance.²³

The GAO found that Mississippi’s ESA voucher program also underperforms in the area of financial accountability. While a majority of the programs audited by the GAO require private schools to provide proof of fiscal soundness in order to participate in their state’s programs,²⁴ Mississippi’s does not.²⁵ As a result, a private school could participate in the state’s ESA voucher program without demonstrating its short-term viability or ability to repay any funds owed to the state.

NATIONALLY, VOUCHER PROGRAMS DO NOT IMPROVE ACADEMIC OUTCOMES

Studies of voucher programs across the country have continually found that private school voucher students show no meaningful improvement in test scores compared to public school students. In fact, studies show that voucher programs often negatively impact academic achievement.²⁶

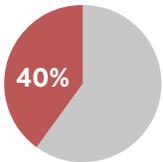
A new four-year study on the effects of Louisiana’s private school voucher program on student achievement, conducted by researchers at the University of Arkansas, found that the negative effects are persistent, not temporary. After four years of the Louisiana Scholarship Program (LSP), a publicly funded private school voucher program, students using vouchers experienced “large negative effects,” especially in math.

Specifically, “[a]fter four years, students using LSP vouchers to enroll in LSP participating private schools performed noticeably worse on state assessments than their [public school] control group counterparts.” Further, a new analysis of the private schools in Louisiana’s voucher program found that not a single school

received an “A” or a “B,” based on the grading scale for public schools.²⁷

In Alabama, 57 private schools – about 40 percent of the private schools receiving tax dollars through the state’s tax credit voucher program – could not meet accreditation standards and were eliminated from the voucher program in 2018.²⁸ And according to a 2018 University of Alabama study, voucher students show no meaningful improvement in test scores as compared to public school students.²⁹

These findings are not isolated. These most recent studies build on decades of research showing that private school vouchers do not improve student achievement, and lack the evidence to support public investment.



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CONCLUSION

Private school voucher programs across the country have not helped students, and Mississippi’s is no exception. The legislature was prudent in setting up a pilot when the ESA voucher program was introduced, and the five-year assessment of its effectiveness must be rigorous and complete.

PEER determined that the program does not work. Those negative findings are corroborated by the 2017 GAO report. The program lacks basic accountability mechanisms and does not meet the needs of many students with disabilities. What’s more, voucher programs in other states – including programs in neighboring Louisiana and Alabama, which have stronger accountability requirements – have failed students.

In light of these findings, the ESA voucher program must sunset in 2020. The Mississippi legislature should devote the state's scarce resources to the public schools, which go underfunded year after year. The state's public schools must have the resources required to meet the needs of all students. There are a number of best practices that research has demonstrated improve student outcomes, including smaller class sizes, increased access to technology, and more school counselors. The ESA voucher program, however, is demonstrably not one of them.

It is incumbent upon Mississippi legislators to move on from the failed ESA voucher program and work to ensure that the state's resources are used to further the success of all of the state's children.

ACKNOWLEDGMENTS

Public Funds Public Schools is a national campaign supported by the Southern Poverty Law Center, Education Law Center, and Munger, Tolles & Olson LLP that strives to ensure that all public funds for education are used to maintain and support public schools. Visit our website at pfps.org.

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ENDNOTES

¹ Miss. Code Ann. §§ 37-181-5, et seq.

² Miss. Code Ann. §§ 37-181-5, et seq.

³ PEER Committee, Report to the Legislature: A Statutory Review of Mississippi's Education Scholarship Account Program, #628 (December 11, 2018).

⁴ Id. at 29.

⁵ Id.

⁶ Id. at 30-32.

⁷ Id. at 35-36.

⁸ Id. at 29-30.

⁹ Id. at 37-39.

¹⁰ Id.

¹¹ Id. at 39.

¹² Id. at 40-41.

¹³ Id. at 40.

¹⁴ Id. at 40.

¹⁵ Id. at 41-43.

¹⁶ Id.

¹⁷ U.S. Government Accountability Office, Private School Choice, Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities, <https://www.gao.gov/assets/690/688444.pdf> (November 2017).

¹⁸ Id. at 39-42.

¹⁹ Id. at 11.

²⁰ Id. at 40.

²¹ Id. at 13-14.

²² Id. at 40.

²³ Id.

²⁴ Id. at 14-16.

²⁵ Id. at 40.

²⁶ See, e.g., <https://www.epi.org/publication/school-vouchers-are-not-a-proven-strategy-for-improving-student-achievement/>

²⁷ <https://www.nola.com/education/2019/05/louisiana-promised-children-a-way-out-of-bad-public-schools-then-steered-thousands-to-d-and-f-grade-private-campuses.html> "Louisiana promised children a way out of bad public schools. Then steered thousands to D and F grade private campuses, nola.com (May 9, 2019)"

²⁸ https://www.al.com/news/2018/07/57_private_schools_dropped_fro.html "57 private schools dropped from AAA scholarship program for lack of accreditation, al.com (March 7, 2019)"

²⁹ https://revenue.alabama.gov/wp-content/uploads/2018/09/AAA_Report_Independent_Research_2016-2017.pdf "Evaluation of the Alabama Accountability Act: Academic Achievement Test Outcomes of Scholarship Recipients 2016 - 2017, The Institute for Social Science Research, The University of Alabama (2018).

About Public Funds Public Schools

Efforts to undermine public education by promoting the use of public funds for private education – including through various kinds of private school vouchers (traditional private school vouchers, tax credit vouchers, and education savings account vouchers, among others) must be met with a robust, sustained response to safeguard the nation's public schools.

Public Funds Public Schools is a national campaign supported by the Southern Poverty Law Center, SPLC Action Fund, Education Law Center, and Munger, Tolles & Olson LLP that strives to ensure that all public funds for education are used to maintain and support public schools. PFPS uses a range of tools to protect and promote public education, including litigation, advocacy, and research.

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