



LIFT Perspective

Individual Liberties Series

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The School Choice Imperative: Must parents accept failure and still pay high property taxes?

Recommendations

Amend the Education Code (Section 29.202) so that the Public Education Grant program is replaced by a comprehensive, public-school choice program for which all students, including those schooled privately or at home, are eligible, regardless of the academic performance of either the student or the school he attends.

Add a chapter to the Education Code expanding the Virtual School Pilot project established by Senate Bill 975 (77R) into a statewide, distance-learning network. Public schools or charter schools rated academically “exemplary” or higher would be able to contribute courses to the network, while any student in the state would have access to the courses provided by the network.

The Education Code should be amended so that a school-choice voucher program is created for all students who have special educational needs and are exempt from the Texas Assessment of Knowledge and Skills (TAKS) test under Education Code Sections 39.027(a)(1)&(2) and 39.027(b). The program should specifically focus on ensuring that all autistic students are able to receive a voucher and choose their school.

Background

A new vision for public education is imperative. The social, demographic, and economic conditions evident in 1854 with Governor Elisha Pease’s signing of the Common School

Law do not exist today. The state is wealthier and more urbanized; rapid transportation is available; instantaneous communications are commonplace; various forms of management techniques to make organizations more effective have been successfully implemented in the private sector; choice and competition are proven to work; knowledge is more freely acquired and almost universally exchangeable. Despite this, the public education system, at its core, remains rigid and monopolistic. It is time for a change in the operational structure of public education, and that means exploring options for school choice.

The Performance of Texas Public Schools

This need for change is underscored by the Texas Education Agency's (TEA) 2006 Adequate Yearly Progress (AYP) report, which revealed that 19 percent of Texas schools failed to meet federal AYP requirements.¹ Although this represents a slight improvement since 2005, one-fifth of public schools are still failing Texas students and their families.

Additionally, only 7 percent of Texas schools were rated "exemplary" by TEA in 2006, while nearly half (48.8 percent) were rated only "acceptable" or "unacceptable."² To be rated "acceptable" by TEA requires that 60 percent of students pass the TAKS English/Social studies exam, that at least 40 percent pass the TAKS math exam, and that only 35 percent or more pass the TAKS science exam. Despite these low targets, 294 campuses fell short and were rated "unacceptable." The broadly poor performance of Texas public schools begs for an opportunity for students and parents to assume greater control over the education that students receive.

The Texas high-school dropout rate provides further evidence of a failing public-education system. An *Austin American-Statesman* editorial (February 4, 2007) reported that researchers have determined "the [dropout] figure for students who leave school without a diploma is 33 percent — and an even higher 40 percent for African Americans and Latinos."³ This underscores the poor performance of many Texas public schools, and provides further evidence of the need for parents and students to be able to exercise choice in education.

For conservatives, choice in education is a philosophical imperative. The fact that almost one-fifth of Texas public schools fail to meet federal minimum standards makes it all the more absurd that parents are not given a real opportunity to exercise choice over the school their children attend. Mandating which school a student must attend (even if it is a failing school) is worse than a parent making a bad choice about where to send the student.

¹ "19 Percent of Texas Schools Fail to Meet Federal Standards," KVIA.com, August 17, 2006; <http://www.kvia.com/Global/story.asp?S=5295931>

² Texas Education Agency Press Release, August 1, 2006.

³ "True Dropout Rates May Be Surprising," *Austin American-Statesman*, February 4, 2007.

The Imperative for Choice

In practice, more than 4.5 million Texas children were enrolled in the public school system or a charter school in the 2005-06 school year.⁴ This situation arises because families cannot use their tax dollars to choose their schools. In theory (and constitutionally), parents can choose between educating their child in a public school, a charter school, a private school, or at home. In reality, however, this choice is restricted to those who can afford private school, or those who have the time, skills, and money necessary to home-school their child after mandatory school-district taxes are paid.

In 2006, the statewide average school-district property-tax bill on the average appraised value of a homestead (\$108,438) was \$1,685; for a homestead appraised at \$300,000, the tax was \$4,661.⁵ Property-tax bills of this size create a significant financial impediment for parents who would like to have their children educated in the private sector. Research suggests that the average annual cost of private education in Texas is around \$8,000 per year.⁶ Many private schools cost much less. This cost would be considerably more affordable for many parents if they were not burdened with such an excessive property-tax liability.

Parents are required to pay for public education (through school-district property taxes); it follows that they should be given the opportunity to exercise choice over where and how this money is spent. This would be best achieved by implementing a comprehensive, public-school choice system under which parents would have the opportunity to send their children to any public school.

Strengthening Parental Involvement

The state usurps the right of parents to direct the education of their children by assigning children to specific, government schools regardless of the parents' preferences. However, research shows that allowing parents to exercise choice over their child's school will increase parental involvement in the education of their children – something which correlates positively with student attainment.

A study published by the Northwest Regional Educational Laboratory, which summarizes a wide range of research into parental involvement in education, concluded that:

The research overwhelmingly demonstrates that parent involvement in children's learning is positively related to achievement. Further, the research shows that the more intensively parents are involved in their children's learning, the more beneficial are the achievement effects. This holds true for all types of parent involvement in children's learning and for all types and ages of students.⁷

⁴ Texas Education Agency Student Enrollment Data.

⁵ Statement from Comptroller Strayhorn Regarding Certification of House Bill 1; <http://www.cpa.state.tx.us/news/60524statement.html>

⁶ "A Consensus on Choice?" Texas Public Policy Foundation, October 7, 2005.

⁷ "Parental Involvement in Education," Kathleen Cotton & Karen Reed Wikelund, NWREL.

Focusing particularly on the types of parental involvement that are most likely to improve student performance, a study published by Laurence Steinberg, professor of psychology at Temple University, reveals that:

The type of parental involvement that matters most is not the type of involvement that parents practice most often – checking homework, encouraging children to do better, and overseeing the child’s academic program from home...Our research shows that the type of involvement that makes a real difference is the type that actually draws the parents into the school physically – attending school programs, extracurricular activities, teacher conferences...When parents take the time to attend a school function – time off from an evening activity or time off from their own jobs – they send a strong message about how important school is to them, and, by extension, how important it should be to their child.⁸

These findings relate specifically to school choice. If parents are required to choose their child’s school each year it is more likely that they will visit the school – to meet with teachers, evaluate the academic environment and so on –while they are deciding on a school, and after enrollment. This process, as Steinberg concludes, will reinforce in children the importance of education to their parents.

School choice would also force indifferent parents to start thinking about the education of their children even if that means their children are to stay enrolled in the local public school.

Individual Choice is Inherent in Existing State Programs

Individuals make choices every day. Some of those choices are good, while others are bad. Even so, choice is embedded in many state programs. Medicaid beneficiaries, for example, are not required to see a particular doctor; CHIP enrollees have a choice of health plans; food-stamp recipients are not assigned where to buy groceries; drivers are not directed to travel on specific, state roads; and parents and students have complete, unfettered choice in deciding which college or university to attend. In nearly every aspect of life, people are free to choose their way and are expected to do so. With most government programs, the state provides financial aid to those who qualify, yet it allows recipients to decide where to spend the money.

Given these points, it is an aberration in state policy to insist that a child be educated in a particular public school. This is not an argument to end public schools, but merely to emphasize that public money is often spent by individuals and families who receive public assistance, or by private companies who contract with state agencies, yet no one dares claim that those programs are “drained” of resources, as is disingenuously claimed by school-choice opponents. Under a comprehensive, public-school choice program, every dollar that is currently spent on public education would still be spent in the public-

⁸ “Beyond the Classroom: Why School Reform Has Failed and What Parents Need To Do,” Laurence Steinberg, Touchstone, New York, 1997.

education system. However, parents and students, who are the most important stakeholders, would have greater control and choice over the education they receive.

Recommendations:

➤ **Public School Choice**

Currently, the only programs through which school choice is available in Texas are No Child Left Behind and the Public Education Grant program (PEG). However, the PEG program is extremely limited, and has serious flaws. To be eligible for PEG, students must attend a school in which at least 50 percent of students have not passed either the TAKS test or its predecessor, the Texas Assessment of Academic Skills test (TAAS), in two of the three preceding years. If they meet this requirement, students can opt to attend another school either in the same or a different school district. However, the chosen school is not required to accept them.⁹

The PEG program should be replaced with a comprehensive, public-school choice program for which all students in Texas are eligible, regardless of the academic performance of their current school. Using the PEG program as a framework, any child—not just those attending a low-performing school—should be permitted to choose any public school.

Replacing the PEG program with one in which any students can participate, regardless of the assessed performance of their current school, removes the parental-notification barrier that is inherent in the present PEG program. Currently, parents need to be informed that the poor performance of their school qualifies it for the PEG program, in order for them to take advantage of the program. A comprehensive, public-school choice program would remove these barriers because students could choose to transfer at any time, regardless of the measured academic performance of their current school. Parents would not need to be notified that their school's performance was sufficiently poor that their child could be transferred.

Despite the deficiencies in the PEG program, it is clear that state law already permits public-school choice without regard to the academic performance of a student's school. The Education Code (Section 25.033) holds that:

The parent or person standing in parental relation to any student may by petition in writing either:

- (1) request the assignment or transfer of the student to a designated school or to a school to be designated by the board;
- or,
- (2) file objections to the assignment of the student to the school to which the student has been assigned.

⁹ Texas Education Code, §29.201 to 29.205

However, this right to request the transfer of a student is undermined by a provision in Section 25.034(e), which ultimately restricts the right of a student to transfer to a situation in which the student's Constitutional rights are being denied:

The board must grant the request made in the petition unless the board determines that there is a reasonable basis for denying the request. The decision of the board, either with or without hearing, is final unless the student, or the parent, guardian, or custodian of the student as next friend, files exception to the decision of the board as constituting a denial of any right of the student guaranteed under the United States Constitution.

To ensure that all students are able to participate in the school-choice program, schools and districts should not be permitted to reject transfers. Furthermore, school districts should be required to provide transportation to any school in the district. If a student wishes to attend a school in another district, the responsibility for transportation should rest with the parents.

Should overcrowding result from a comprehensive, public-school choice program, campuses should utilize temporary classrooms, which are already used in fast-growth districts where construction and renovation do not keep pace with enrollment growth. Limited classroom space should not be held out as an excuse to deny entrance for a student, or as a nefarious method to undermine the purpose of the school-choice program.

[Please see TCCRI's LIFT Perspective "Stop Climbing Debt Mountain: A New Approach to Financing School Facilities," for recommendations to improve school districts' ability to finance the construction and maintenance of new facilities.]

➤ **Distance Learning**

In addition to introducing comprehensive school-choice and voucher programs, the state should further improve choice in public education by implementing a statewide distance-learning network. Specifically, the Virtual School Pilot project established by Senate Bill 975 (77R) and the framework provided by Plano ISD's eSchool¹⁰ and Houston ISD's Virtual School¹¹ should be used as the basis for developing a statewide network. Since being established in 2001, the Plano ISD eSchool has provided courses to more than 2,000 high school students.¹² Both Plano and Houston's e-learning networks offer a range of courses to students, each of which costs between \$200 and \$300 and count toward graduation. Course credits are transferable.

Despite these notable exceptions, Texas lags behind many other states with regard to electronic distance-learning networks. The Florida Virtual School, created by the Florida Legislature in 1997, is the largest virtual school in the nation and provides courses for

¹⁰ <http://www.planoisdeshschool.net/pages/about.html>

¹¹ <http://vschool.houstonisd.org/info/index.html>

¹² Plano ISD eSchool Brochure; 2005.

school districts across Florida, as well as other states. According to the *American School Board Journal*:

The Florida Virtual School ... began as a collaborative effort between two counties that were having problems with overcrowding, lack of qualified teachers, and a high dropout rate. A virtual school seemed the perfect solution to leveling the playing field for students in high-need areas who did not have the same resources as others in the state. As a result, the Florida Virtual School was established in 1997 as a partnership of six districts, 15 teachers, and 77 students. Today, the school serves more than 10,000 students, including home-schooled and private school students, in 65 Florida districts. Sixty-six courses are offered for students in grades eight through 12.¹³

Virtual high schools exist in other states, such as Kentucky and Illinois.¹⁴ Texas has much room to grow in offering distance-learning opportunities like those available in other states.

Many university and higher-education colleges make their K-12 courses available online. The University of Nebraska-Lincoln Independent Study High School is a good example of this phenomenon, just as the Basehor-Linwood Virtual Charter School in Kansas is a notable example of a charter school that provides state-funded virtual classes for home-schooled students across the state.¹⁵

Research commissioned by the U.S. Department of Education and carried out by the North Central Regional Educational Laboratory in October 2004 concluded:

Evidence to date convincingly demonstrates that, when used appropriately, electronically delivered education—"elearning"—can improve how students learn, can improve what students learn, and can deliver high-quality learning opportunities to all children.¹⁶

In the light of this conclusion, legislators should expand the Virtual School Pilot project into a statewide, distance-learning network. A chapter should be added to the Education Code, requiring:

- the establishment of criteria for electronic courses and programs;
- the creation a list of approved courses for provider school districts; and,
- that this list be made available to the public.

¹³ "A Virtual Tour of Virtual Schools," *American School Board Journal*, September 2002; <http://www.asbj.com/specialreports/0902Special%20Reports/S5.html>

¹⁴ *Ibid.*

¹⁵ "Virtual Schools: Trends and Issues, A Study of Virtual Schools in the United States," Tom Clark Ph.D, Distance Learning Resource Network, October 2001.

¹⁶ "The Effects of Distance Education on K-12 Student Outcomes: A Meta-Analysis," North Central Regional Educational Laboratory, October 2004.

Only public schools or charter schools rated academically “exemplary”¹⁷ should be permitted to provide courses for the virtual school network. Any student enrolled full-time in a school district or charter school would be allowed to take one or more courses available on the virtual network.

The legislature should establish an initial maximum per-student course cost of \$400. This amount plus 20 percent (a maximum of \$480 per course), would be paid to the “home” district in which a student participating in the distance-learning network is enrolled. The home district would be required to pay the approved cost to the district or charter school providing the electronic course, which would serve as the incentive for schools to provide courses for the distance-learning network. Students’ home districts would keep the additional 20 percent to fund the provision of facilities and hardware (such as computer labs with Internet access) that would enable students in the district to effectively make use of the distance-learning network.

When the virtual school network is operational, students would be able to enroll in a combination of courses offered electronically by the virtual network, and courses taught in the traditional way by their “home” school district. Courses studied on the virtual network should be accredited and would count toward high-school graduation in the same way as those studied in a traditional classroom environment. By ensuring that only “exemplary” schools are able to contribute courses to the virtual network, the system would allow all students, regardless of the performance of their “home” school district, to have access to the highest quality of education provided in the state. Equally, through a distance-learning network, a broader curriculum would be made available to all students, since they could enroll in courses provided by the virtual network in addition to those taught in their school district.

A distance-learning network would be particularly beneficial because it directly addresses the challenges that school districts face with regard to classroom space and transportation. Students who are dissatisfied with the quality of education they receive in their local school would be able to study courses on the virtual school network without placing any burden on a new school in terms of classroom space or transportation costs. Additionally, through a virtual-school network, school districts could share the costs of providing courses that they would not otherwise be able to afford. Further benefits of a distance-learning network include:

- Transportation cost savings, especially in rural districts;
- Students who have dropped out or are at risk of dropping out of regular schooling would have an additional option for completing their studies;
- Improvements for home-schooled students, who would have access to the best resources the distance-learning network can provide; and,

¹⁷ Charter schools are rated using a system that accounts for factors such as student performance and drop-out rates. Charter schools are then classified as exemplary, recognized, acceptable, or low-performing. Public schools are rated on a scale that classifies them as exemplary, recognized, academically acceptable, or academically unacceptable.

- Strongly performing students could accelerate their achievement by studying courses above their grade level.

➤ **Voucher Program for Students with Special Educational Needs**

As noted above, programs such as Medicaid and CHIP show that the state need not mandate the specific provider of a government-sponsored service. With Medicaid specifically, although state hospitals exist, Medicaid recipients are not directed exclusively to them.

Therefore, it is clearly incongruous with other areas of state policy to insist that children eligible for special-education programs be educated in state-run public schools, or that they be denied state funding if they wish to be educated in a non-government school. In 2006, students with special educational needs in Texas numbered more than 509,000¹⁸; a voucher program that allows these students to be educated in any school chosen by their families – public or private – would ensure that the particular educational needs of these children can be met in the best way possible.

Underscoring the point that choice is particularly important for students with special educational needs, U. S. Rep. Jim DeMint (R-S.C.) argued in 2003 that: “If there has ever been an opportunity to make a good, rational, and compassionate argument for money following students, it is in the area of special education. More than any other, special-needs students need customized, personal service.”¹⁹

Therefore, a voucher program for any student exempt from the TAKS test under Education Code Sections 39.027(a)(1)&(2) and 39.027(b) is recommended. The value of the voucher should equal the cost of educating the child in a public school, but could be put toward the cost of educating the child in any public, private, or charter school.

Furthermore, TEA reports that over the past five years the number of children in Texas diagnosed with various degrees of autism has almost doubled. The number stood at more than 17,000 in the 2005-06 school year. Given this growth, it is recommended that this group be the first to receive education vouchers if the special-education voucher program outlined above is introduced.

Conclusion

Individual choice is commonplace in most government programs. Medicaid recipients can choose where they receive treatment, just as TANF and food-stamp recipients can choose the stores from which they purchase goods. Public education stands out as a policy area in which the state constricts the ability of parents and students to choose the school they attend using state money.

¹⁸ The State of Texas Children 2006, Center for Public Policy Priorities, 2006; http://cPPP.org/factbook06/texas_profile.php?fipse=99999

¹⁹ “Parental Choice in Education for Special Needs Students,” *The Heritage Foundation*, April 29, 2003; <http://www.heritage.org/Research/Education/wm234.cfm>

Given this, and the benefits that increased parental involvement in the education process will yield, reforms that deliver genuine and statewide school choice are both timely and necessary. Specifically, a comprehensive, public-school choice system would enable the parental choice and involvement that is required. To further augment this choice, the state should take advantage of improving communications technology to develop a statewide, distance-learning network to offer a broad curriculum delivered through the best public or private instruction.