

New York City Conference on School Choice



CENTER FOR CIVIC INNOVATION
AT THE MANHATTAN INSTITUTE

*New York City Conference
on School Choice*

Synthesizing the Evidence:

*The State of Research on How School Choice
Effects Student Achievement*

Report from the Grassroots:

The Growing Parental Demand for Alternatives

Choice and the Constitution:

*Questions Old and New on the
Constitutionality of Vouchers*

The Future of School Choice:

*Lessons from Michigan and California &
New Models for Expanding Parental Choice*

Remarks from Leading Governors and Mayors

Co-sponsored by:

Center for Civic Innovation
at The Manhattan Institute
and Mayor Rudolph W. Giuliani

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Opening Letter

Most children living in America's inner cities do not receive a good education at their public schools. No one disputes this fact, but many disagree on what should be done to give these children the quality education they deserve. One potential solution has increasingly attracted public attention: school vouchers.

Any discussion of vouchers gives rise to passionate and heated debate. Will vouchers improve the education received by inner city students? Are they really wanted by inner cities parents, or are they being foisted upon them by outside ideologues? Are vouchers Constitutional, particularly if they can be used at parochial or other religious schools?

The Manhattan Institute and New York Mayor Rudolph Giuliani joined together to host a conference in December, 2000 to address these and other questions. This publication is an edited transcript of the conference proceedings. I thank Edward Craig for his fine editing and proofreading job and Lisa Webb for her excellent layout and graphic work on the booklet. I also thank the conference participants for their insightful and informative comments.

Henry Olsen

Executive Director, Center for Civic Innovation, The Manhattan Institute

Introduction and Opening Remarks

Henry Olsen, Moderator

*Executive Director, Center for Civic Innovation,
The Manhattan Institute for Policy Research*

Rudolph W. Giuliani

Mayor, City of New York

Gary Johnson

Governor, State of New Mexico

Frank Keating

Governor, State of Oklahoma

MR. OLSEN: Good morning. Welcome to the New York City Conference on School Choice. I am Henry Olsen, Director of the Center for Civic Innovation at the Manhattan Institute for Policy Research. We are extremely pleased to co-sponsor this conference with the New York City Mayor's office.

We are here today to talk about offering more and more families educational opportunity—giving low-income families in particular the freedom to make the kind of educational choices that middle-class and wealthy families already take for granted. This is a simple idea, but a powerful one.

We're lucky to be joined by a number of leaders of the school-choice movement: people who advocate for change at the grassroots level; educators; researchers who study the impact of existing voucher and choice programs across the country; and public officials who are leading their states, cities—and ultimately, the nation—toward a new understanding of educational opportunity. We are also going to hear a debate between the nation's leading legal

experts on the constitutionality of school choice, which is a particularly important topic given Monday's Sixth Circuit Court decision declaring Cleveland's voucher program unconstitutional.

Many talented and courageous people have played a role in building the school choice movement, but all of their voices are subordinate to one voice, and that is the voice of parents. There is a reason we emphasize parental choice. We want parents to have meaningful control over the critical decisions affecting their children's future, because they know best what is best for their children.

In fact, the reason that this movement exists—and is growing—is that there are millions of parents across the country who are demanding alternatives in education. In that spirit, the Manhattan Institute and Mayor Giuliani thought that it would be appropriate to give parents, rather than our panelists, the first word of the day. It is my pleasure and honor, then, to introduce the following short video, which we hope will give you a sense of the real voices behind the school-choice movement.

Soundtrack of video:

MALE VOICE: Like everything else, we exercise choice when we're going to buy a car or when we're going to buy a box of cereal. And what can be more important than the education of your children? Why should we not have the privilege of choice?

MAYOR GIULIANI: If we give poorer parents the same opportunity to make choices about their children's education that the most affluent parents in New York City have, let's see if that doesn't energize school districts and help to create more competition for the school system. There are a group of public schools, a group of private schools, and a group of religious schools that are included in this. Then the parents select. It makes a lot of sense to create that kind of competition. It would make sense to do that with a school district, any school district in this city, and see if it works. It involves parents in the education of their children. It gets them to start making choices about their children.

MALE VOICE: I grew up in the public school system. I grew up unchallenged. I need to give my children the most advantage and the best shove, or push, or start that I can give them.

FEMALE VOICE: The teachers, they have priority. I didn't see that the children were learning. It was a choice that just had to be made—to get her out of the situation where she was floundering and she was losing. I didn't like it.

MALE VOICE: I had to teach them in the evening. I had to teach them how to add. I had to teach them syntax. I had to teach them how to put sentences together.

MALE VOICE: But we decided to put them in a private school. We sacrificed a little bit and just transferred them to private school.

MALE VOICE: Choice is important and giving us a choice is important. But sometimes giving us a choice is nothing, if we don't have the resources.

FEMALE VOICE: When they told me I had gotten the scholarship for my daughter, I was really happy. In the Catholic school we know the children are safe. There they have that environment—the spirituality, the morality—so they're more aware to love and respect one another. And they're learning more. She just got her report card. She saw A, B+, and she's like, "Oh, my God."

YOUNG MALE VOICE: There was a great difference between public and private school. The teacher was allowed to pay attention to you. And when you asked a question, they would answer you back.

MALE VOICE: I can see their behavior change a little bit, because they are in a more structured environment during the day, and the effects of that linger on when they come home.

FEMALE VOICE: And I could see their happiness, and they know that we're making a sacrifice for them because we want the

best for them, so they try to do their best. So they can make mommy happy, too.

GIRL: I have a 100 average in spelling. Spelling's my specialty.

FEMALE VOICE: Being able to make that choice is fantastic. And that was the very best choice I have ever made.

GIRL: I want to be a lawyer when I grow up.

GIRL 2: I want to be an artist when I grow up.

BOY: I want to be an announcer with the W.W.F.

GIRL: I would like to be a lawyer and scientist.

BOY: Or maybe a referee.

MALE VOICE: Again, it's like everything else. We try to be our best consumers. And when it comes to the education of our children, we have to be the best consumers. **END OF VIDEO**

MR. OLSEN: Thank you. Without further ado, it is my great pleasure to introduce the co-sponsor of today's conference, a fighter for more accountable and responsive schools and for greater school choice, the 107th Mayor of the city of New York, Rudolph W. Giuliani.

MAYOR GIULIANI: Thank you very much, Henry, and welcome to the New York City Conference on School Choice. We're honored to have all of you here, and we hope that this event will help advance this enormously important movement.

We're also honored to have with us Governor Frank Keating of Oklahoma, Governor Gary Johnson of New Mexico, Mayor John Norquist of Milwaukee, Pennsylvania's Secretary of Education Eugene Hickok, and New York State Assembly Republican leader John Faso. And we have many distinguished guests in the audience, including the chairman of the City University of New York's board of trustees, Herman Badillo. And we're going to have many

interesting discussions with distinguished panelists throughout the day. This is an important forum and we should take advantage of it in order to advance this very important idea.

There's no question that many parents feel, quite correctly, that their children are not getting the education that they deserve and should have. That feeling is strongest among parents who are the poorest, those without the resources to buy a higher-quality education for their children.

That has many implications, but let me suggest one that's particularly important. The public-school system in America has been in many ways the great equalizer. Historically, it's been a system through which poor and immigrant children—who maybe didn't have the advantages of English language and American culture in their own home—have been able to access the American Dream by developing the tools necessary to compete and succeed in our society. In the latter part of the nineteenth century and much of the twentieth century, the American public school system was a tool of democracy. The poorest children could get a high-quality education, unleashing talents and abilities that otherwise may not have been discovered and developed. The system worked well to make the American Dream available to those who had a good education and worked hard.

We can't say that today in America—at least not in American cities. Public schools are not serving children as they once did. We don't really need public-opinion polls to figure that out. The most telling poll was a couple of years ago, when Ted Forstmann's Children's Scholarship Fund offered thousands of scholarships to students throughout the United States. Of those, 2,500 scholarships were made available in the city of New York for children who were in our public schools and whose parents wanted the option of a private- or parochial-school education.

The organization received 168,000 applications for 2,500 scholarships. *One-hundred-and-sixty-eight thousand.* That is an enormous number of parents crying out for help, crying out for an educational

option other than the one that government is forcing on them, and that their economic circumstances are restricting them to.

We're a country that cherishes the notion of freedom exercised in a responsible way—the idea of giving individuals an opportunity to make choices for themselves. It seems to me highly inconsistent that many of those who otherwise believe in freedom of choice put up tremendous resistance to *school* choice, constraining this movement from getting any further. Resistance to the idea of choice is probably worse here in New York City than in most other places. I hope that we can make this dialogue more positive.

It is absolutely true that there are enormously successful public schools in the city of New York and all over the country—not just the obvious ones that have been successful for generations, but also successful schools in places where failing schools are right next to them. They succeed against the odds. There is absolutely no reason why anyone should give up on the public school system. The idea of choice is intended to *save* public education, by opening it up to increased competition, and so unleash the innovation and creativity now stifled by a monopolistic system.

I think of the early experiments on privatization—like Phoenix, Arizona's experiment with sanitation about 20 years ago. It was an innovative idea at the time. They subdivided Phoenix into six or eight districts, and put the city's sanitation services up for bid, allowing private companies to compete against the municipal sanitation department.

In the first cycle of the contracts, the private sanitation companies won the contracts in all the city's districts. By the second and third cycle, the municipal agency starting winning contracts—first two, then three, and eventually almost all of them. Competition made them straighten out the wasteful practices that had made them inefficient and ineffective.

On a different scale and for different reasons, that's precisely what would happen if we had any one of the forms of school choice of

which you'll hear many different examples from our panelists today. But the ultimate result would be exactly the same: public schools would rise to the occasion. They would straighten out the problems that make parents not want to send their children there.

They'd straighten it out on their own and in their own way, depending on the particular school. If their problem was discipline, then they would do what is necessary to create a safe environment so that parent would feel comfortable sending their kids there—just as comfortable as religious-school or private-school parents feel. If the issue was reading, then they would be forced on their own terms to solve that problem. If it were math or science test scores, or not enough athletic programs, then they would try to solve that. The competition engendered by school choice would make each individual school concentrate on improving itself in the areas in which it's weakest. You'd think that's what schools do now. But it's not what they do.

Right now, educating children is not the main purpose of the New York City public school system. Think about that for a moment: the main purpose of the school system is not to educate children. There is a more important, overriding purpose established in the laws, court rulings, and contracts. The most important function of the New York City school system is to protect the jobs of the adults in the system. It exists for the purpose of creating, protecting and expanding jobs. Anything that adversely affects those jobs won't even be considered. Job protection is Job One. Now, in case you think that's an overstatement, let me see if I can prove it to you.

Yesterday, we had 18 schools that were put on what's known as the SURR list—a list of "Schools Under Registration Review." These are schools that are consistently failing to educate the kids within them, as measured by any standard—Regents exams, in the case of high schools; promotions and reading and math scores in the case of middle and elementary schools.

What would you do to straighten out those schools immediately?

To start with, those schools need a change in personnel. That's what would happen to a consistently failing business or inept government agency—the people running that subdivision would be replaced. Well, you can't do that in our schools. Tenure prevents you from firing teachers.

Suppose that about a third of the teachers are terrific in this school you want to straighten out. I want to pay them more money so that they stay in this difficult school and help fix it. The union's refusal to accept merit pay prevents you from giving more money to the teachers you want to keep.

On the other hand, about a third of the teachers have been here for the last five or six years and every year their kids do worse and worse. Their math scores go down, their reading scores go down, their passing rate goes down, students don't want to go to their classes. These are teachers that we either have to remove—and that takes you three or four years of a courtroom fight—or just pay less money to. Maybe less pay would discourage them and drive home the point that they're just not good at this particular line of work. But that's not an option, either; in New York, you have to pay teachers of different ability exactly the same amount of money. You pay them according to their years of service, not the quality of that service.

That's a system that puts protecting the job of the teacher first. The performance of the child is irrelevant to the job of the teacher. The salary is the same whether the teacher is a great teacher, an average teacher, or a lousy teacher. The raises are the same, whether the teacher is a great teacher, an average teacher, or a lousy teacher. And the option of removing the worst teachers is not really there because of a set of laws and contracts that protect teachers' jobs.

Protecting the jobs of the adults is not the reason our public school system exists. The education of the child is supposed to be central. Everything else flows around that. If you're doing a good job educating children, you can become a well-paid teacher. If you do a

bad job, just the opposite should happen.

Choice will allow that to happen because the evaluators of the schools will be the people who have the most interest in the schools and the education they provide to kids: the parents. Even more important than reading scores and math scores and graduation rates and all the other things that the city uses to measure performance—all of which are important—is that parents will have the opportunity to evaluate the performance of their child's school. The city can't fire a school; but under school choice, parents can. That's going to create the kind of dynamic change that we need.

I see school choice as our best hope to revive public education. If we had a major school choice program in New York City, you probably would see happen what happened in Phoenix. To start, you'd see a decline in the size of the public school system. But after a short period of time, you'd find that the public schools had survived. There'd be many good ones, and the ones that didn't succeed would rebuild themselves along lines that make them attractive to parents.

Every good school is an overcrowded school. Everybody wants to go to an excellent school. Parents are more than willing—and I certainly would be—to have their child in an excellent overcrowded school in which their child is safe and getting an excellent education. Any good school is a school that's going to draw a lot of people, and it should do it on its own terms and its own merit.

Finally, I'd like to ask you to consider the following: here we are in Times Square. If you came to Times Square ten years ago, it didn't look like this. In fact, we wouldn't even be here in this hotel. It was filled with prostitutes and drug dealers. There was no Disney Theater, and there was no *Ragtime*, and most of the hotels you see weren't here. The crime rate in this neighborhood was among the highest in the city.

Now, Times Square is flourishing and thriving. We're going to

have a great New Year's Eve celebration here in a few weeks for millions and millions of people. Families come here without any problem at all. Ten years ago, very few people thought this was possible.

The same thing is true of education. In New York City—more than any place else—we resist change. I don't know why that is. Maybe not for art, or music, or food, but certainly for government policy—we're resistant to new ideas and change. Unfortunately, all of the innovative and creative developments in education are happening elsewhere. So we're honored to have all of today's distinguished guests, who have been able to do the things I'd like to do in New York. Consider Milwaukee: there, poor parents are being given the opportunity that rich parents have to get the very best education for their child. I look forward to hearing what the mayor of Milwaukee has to say.

As a society, we don't know where the next great scientist, the next great innovator, or the next great leader is going to come from. Whether that person is going to come from a poor family or a rich family. It's a shame that we're cutting off those opportunities for ourselves. It's a shame that we're doing it in our major cities. Therefore, I look forward to the ideas that emerge from today's gathering.

I also hope that it opens the minds of the people who are so afraid of school choice—too afraid even to experiment, too afraid to try. I hope they open their hearts and minds and start to think about the idea that education is about children—about giving all children the opportunity for a better education—not about protecting jobs, and not about politics. Thank you very much.

MR. OLSEN: Our next speaker is Governor Gary Johnson of New Mexico. He's the 26th chief executive of the great state of New Mexico. He has dedicated his two terms in office to improving education for New Mexico's children. He is the parent of two children, both graduates of public high schools and now college students. During his tenure, New Mexico has passed bills for charter school expansion, and expanded annual state

standards-based testing for grades 3 through 9. He is also a strong advocate for universal school choice for all parents in New Mexico, and he has stated that when New Mexico's legislature reconvenes this January, he will champion the free-market ideal of school choice for all, in concert with the coalition of parents—of all parties, races and economic classes—who support him in this effort.

Please join me, the Manhattan Institute, and the mayor's office in giving a big, New York welcome to Governor Gary Johnson of New Mexico.

GOV. JOHNSON: I've always held that politics was a high calling. I believed that as a politician I could do good for others. Now, half of New Mexico would line up to say that I've been nothing but a scourge to the state. But in my heart, I believe that I've been given this opportunity to make a difference. And one of my greatest fears is leaving office and thinking "shoulda, woulda, coulda."

I think government has a role in insuring that everybody has an equal shot at the American Dream. I think I've been successful as governor of New Mexico: reducing taxes; building highways; addressing a decades-old prison problem; moving Medicaid to a managed-care model; operating state government more efficiently, with fewer employees. But when it comes to education—and education is a priority in New Mexico—the only thing I've done is spend more money.

Education is something that everybody promises to do better—it's everyone's priority. But all we do as governors is spend more money, and—by all measurements—we do just a little bit worse every year. I know of no other aspect of our public lives where we allow this to occur.

We need to bring competition to public education. For that, we need vouchers. We need to make public K through 12 education like higher education, where we have, in essence, vouchers. Institutions try to attract kids. Kids choose the institution they want to go to. They spend

their own tuition dollars, and many receive financing help from their schools and from federal and state governments.

I have a plan in New Mexico: give every single student in the state of New Mexico a voucher, based on the current public-school funding formula. We spend about \$6,000 a year to put a student through public education. My plan is to issue a voucher worth about \$4,000 to send each child in New Mexico to the school of their choice.

I think the government still has a role in public education to insure accountability. Any school accepting a state-funded voucher would be held accountable—its students tested to insure that they meet state standards.

Critics claim this is taking money away from public schools. Actually, it's not. In New Mexico, if the public system is currently spending \$6,000 per student and loses \$4,000 from its budget for every student with a voucher that leaves the system, you're raising the unit value for those kids that are left in the public system.

Other critics claim that \$4,000 isn't enough money to pay for private school. That's not true, either. Surprisingly, three-quarters of the private schools in New Mexico would accept a tuition payment of \$4,000. That is not the issue, either.

“What about the best and the brightest?” Critics say the best and the brightest are going to leave the schools. “The public schools will be left with the dregs.” This is just not true. The best and the brightest who are being well served are going to stay right where they are. It's the kids that aren't being well served who may get a new opportunity. We've got a whole lot of kids in public education who are diamonds in the rough. We just have to give them a chance. That's all we've got to do.

Some people say that school choice is only for the rich. No, this is about the poor. This is about giving kids a choice that they don't have now. The rich have made a choice. They're moving into the best neighborhoods. They're moving into areas with the best

schools. It's the poor who need help. They're living in areas where they don't get to choose. They're trapped.

“What about transportation? You can't transport all over the place those kids who are trapped.” There are 60 voucher programs nationwide, and transportation has just not been an issue. In New Mexico, that \$4,000 voucher includes an amount of money for transportation. Give every single student in the state a voucher. Then stand back. Schools that want to compete are going to have to provide transportation. And they will.

School choice is also about parents caring about their kid's education. “Come on, governor,” some say. “You can't legislate that.” Yes, you can. Whether an intravenous drug user, or a cardio-thoracic surgeon, a parent cares about their kids. It's just that the intravenous drug user is in a bad situation that they can't get out of. Give that parent a voucher. Give that parent a chance to make good by his or her child. And they will.

“Vouchers are unconstitutional.” No, because we're not giving public money to religious schools. We're giving money to kids and parents to determine which schools they want to go to. We've got voucher programs galore in state government. Welfare mothers essentially get a voucher for daycare, and they choose where to put their kids. That's a voucher, but no one complains if it's a private or religious daycare center. The G.I. Bill is arguably the best voucher system that the country's ever had. The G.I. Bill sowed the seeds of what we're reaping economically today by allowing all those World War II veterans to come back and go to the college of their choice—public, private, *and* religious.

Another objection: vouchers will discriminate. Interestingly, statistics show there's more integration in private schools than in public schools. I hadn't realized that myself.

So what's behind all these criticisms, these false claims? Public edu-

cation is a monopoly. Almost by definition, monopolies deliver goods and services that cost a little bit more than they should, and aren't quite as good as they might be. Is there anything that the government does better than the private sector? I can't think of a single example. Leave the government to the production of an automobile, and you know what you've got? The Russian Zil. There is not one of us that would choose the Zil over a Ford or a Dodge or a Chevy. It's a crummy car and it costs a lot of money.

"Charter schools are the answer, governor. Why don't you just back off of this voucher deal and just get behind charters?" Charters are a great idea. I back charters, but charters are the vehicle by which public schools are going to compete. Give every single student in the state a school voucher and you're going to see every single public school become a charter overnight because that's the way they'll be able to compete.

"In rural schools or in other areas, governor, there just aren't any alternatives. You can issue all the vouchers you want and there are no alternatives." A rural area has only one school? If the people there love that school, then you don't have anything to fear. But what if they don't love it? Nothing ventured, nothing gained. Why can't we have an entrepreneurial explosion in this country in the delivery of K through 12 educational services?

Look at the Internet. Some states deliver high-school competencies over the 'Net. In Oregon, it costs about \$1,800 a year to get a high-school education on the Web. This is hot stuff. We can drive just this kind of entrepreneurial explosion in education by giving every single student a voucher and standing back. In time, there will be alternatives.

In rural areas, there won't be a change tomorrow. And maybe not next year. But in a few years, there will be change—positive change.

How many of you have said "Gee, if schools were only like they were when I went to school." We didn't have a choice either. How many of us would be better off today if we'd been given a choice?

I don't know about you, but I started turning the volume down in about the ninth grade. Maybe if I'd been given a choice, I'd have done better myself.

You know, some public schools might go out of business. But school choice isn't intended to make public schools fail. This is really about making public schools better. This is about education for kids. The light bulb wasn't intended to put the candlemaker out of business. School choice is intended to create better educational opportunities for kids. Equal opportunity for all.

Now, I applaud all of you for taking time today for this topic, and I appreciate your having me here to speak. Thank you very much.

MR. OLSEN: Thank you, governor. Our next speaker is Oklahoma's 25th chief executive, two-term governor Frank Keating. He's been a leading advocate of education reform in Oklahoma and negotiated a significant education-reform bill during the final hours of the last legislative session, which included charter schools and tougher graduation requirements for Oklahoma high school students. Prior to his election as governor, he was appointed as the U.S. Attorney for the Northern District of Oklahoma by President Ronald Reagan, served as Assistant Secretary of the Treasury and Associate Attorney General, and also served as general counsel with HUD Secretary Jack Kemp.

Please join me in welcoming Governor Frank Keating of Oklahoma to New York.

GOV. KEATING: I am the product of Catholic education in Tulsa, Oklahoma—a Benedictine elementary school and an Augustinian high school. Only 3 percent of the population of Oklahoma is Catholic and there are very few Catholic schools—but those few are very successful schools.

When I was growing up, if you were a Catholic, you went to Catholic school. If you weren't Catholic, you went to public school. The

kids that couldn't make it in public school were sent to the Catholic schools. Just the opposite is true today, of course. But back then, if you couldn't make it in the Catholic schools, basically you didn't make it.

When I moved home in 1993, our kids were products of public education. But before building our house, we rented an apartment right next to Monte Cassino School, which was my Benedictine elementary school. We enrolled our son Chip there. His eighth-grade graduation from Monte Cassino was a stunning surprise. Not that he graduated—but that things had changed so much from when I was a youngster, when the Catholic kids went to Catholic school and the non-Catholics went to public school.

Here was the eighth-grade graduation filled with people. When I was there, few people went to Monte Cassino School. But this day, the graduation ceremony was filled with people. There was a Mass in the middle of the graduation service, and people were standing and sitting, standing and sitting. They didn't know quite what to do. I leaned over to the principal Sister Mary Claire and asked, "Sister, what is the problem here?" She told me that 60 percent of the parents and students were not Catholic. I asked why. She told me that they think Catholic schools are better and safer.

When I began my crusade to improve Oklahoma public education, the chairman of the board of my Augustinian high school, Cascia Hall, told me to not work too hard. He said, "Don't be too successful; we don't want to lose our huge waiting list. It is a good deal for us to have all of these kids that traditionally would not be in the Catholic school system."

My interest in school reform was not to rid the Catholic schools of the non-Catholic population. It was to make the public schools attractive and excellent and so lure back the parents that really want to be there. They don't want to have to pay twice. I know of no one who gets back their property-tax check because their children go to Catholic school. Yes, my parents paid the property taxes for public education, and they paid the tuition for me to go to a Catholic

school—but *they* were Catholic.

We try not only to attract the parents back to an excellent public-education system, but to foster the economic development that feeds off of, and into, a good school system.

When you live in New York, you sometimes forget that the Dutch once had this place, and back then, there wasn't a lot here. Those of us who come from states that are younger and that have relatively low per-capita income wonder how we can develop like you folks have. What is it that holds us back?

I had the state chamber of commerce and the economics departments of the University of Oklahoma and Oklahoma State University examine the question of what has held back our state. They examined regulatory policy and tax policy. They also examined educational policy. They concluded that we needed a lot more college graduates—no great surprise. Unfortunately, there's no way you can get a lot more college graduates—particularly in information technology and engineering—if you have an education system that doesn't provide the rigor and excellence required to move people into those fields.

I was on the West Coast about a year ago or so. Jim Barksdale, then the chairman of Netscape, was the college roommate of my chief of staff. We had breakfast with the CEOs and senior managers of a number of major information-technology companies from all over the United States. I asked them the question every governor asks: What could I do to make my state more competitive, so that your company could be more successful by being in my state?

I thought they would say, "Cut taxes," "Remove regulatory barriers." Which they did. I thought they would also say, "Improve education"—but they had already given up. They said, "You have powerful members in the House and Senate. Ask them to dramatically raise the number of B1B visas." B1B visas are for foreign-educated workers. They were saying, "Bring more foreign workers into the U.S. to fill the jobs in our economy that there aren't enough educated Ameri-

cans to fill.” They had already given up. I’m talking about the major companies that you hear about every day on the New York Stock Exchange and the NASDAQ—the economic-development engines of the American economy. They had already given up on our educational system. “Just bring in a lot more foreign workers.”

What a scourge to us as Americans. We ought to be educating our own people to fill the jobs in America.

So I went on the attack. I said that we’re going to have curriculum rigor, some of the toughest standards in the U.S. We’re going to have vouchers and charter schools and merit pay and bonus pay—competition. Oklahoma has a large rural population, and we know that if you have one restaurant in town, doubtless, it will be inadequate. If you have one laundromat or one filling station—whatever the business—if there’s no competition, it won’t be very good.

Unfortunately, because I am a Republican, the teachers unions put up all the usual barriers. The Oklahoma affiliate of the National Education Association said that I was against education. Because I want to change things, they claimed that I was against public schools, I was against the kids. Of course, I was immediately demonized because I was not a product of public education.

But a funny thing happened on the way to the legislature. My legislature is overwhelmingly Democrat, but some of them are slowly *getting religion*, so to speak, and we’re beginning to make some changes. I’m only the third Republican governor, so taking on the culture of the majority party, which is wary of taking on the teachers unions, is difficult.

Still, nobody can argue with rigor, nobody can argue with excellence, nobody can argue for a better opportunity for kids. We adopted one of the top 15 most rigorous curricula in the United States. We require every child to have four years of English and three years of math, science, and social studies. This year, Oklahoma will require six academic hours per day, moving athletics out of the school day. That was a culture shock, but

the purpose is to focus on the real reason schools exist.

My voucher proposal was a lot like Florida governor Jeb Bush's A-Plus program, but we weren't successful in securing vouchers for students in ruined public schools. We did pass a charter school law, though, and have a lot of good charter schools working. And we adopted public-school choice. In the past, in order for a student to transfer between public schools, they had to get the permission of the sending school, the receiving school, and the school district. Frequently, schools didn't want to receive kids from ruined public schools. They didn't want to have to teach them the basics.

Now, neither district can withhold permission. It's subject solely to classroom space availability. First come, first served, for the kids who live in the district. In one year, the number of transfers is up 50 percent, a result of what I think is a very effective school choice law.

What has happened as a result, and as a result of curriculum rigor over the last several years? This year, we had the highest ACT scores of any state in the south. We beat Texas. We love to beat them in football. But we love to beat them in academics even more. We beat Florida. We really want to win the Orange Bowl on January 3rd, but we like to beat Florida in academics, as well. We beat the Carolinas, Tennessee—the states in the south that are our competitors. In a three-year span, we twice had the ACT's highest-scoring high school in the U.S., and once the second-highest. That's because of curriculum rigor.

The parents understand—like the businessmen in California—that if you want to find a job when you graduate from high school, you had better be educated. You're not going to get that education unless you have competition. If you pay a physical-education teacher exactly what you pay a higher-math teacher, you're not going to have excellence in mathematics. There is simply no way that that higher-math teacher, unless he's already rich or is totally devoted to public education, will resist the siren song of private-sector money. They will leave—and we do lose a lot of them.

Our efforts at instituting merit pay have not been successful thus far, because my legislature is overwhelmingly Democratic. But we're working on it. However, the fact that we now have curriculum rigor and charter schools is a very good sign of bipartisanship. Our goal is a better-educated student body, because if they're not better-educated, they'll wind up as soda jerks instead of Netscape engineers. That's our agenda. That's our philosophy. That's our *theology*: to lift up our people by insisting on competition in education.

If you compete, you get more muscular. If you get more muscular, you'll be more successful, and you'll make more money. That's where we are, that's where we're going, and we're not going to quit until we're through.

Thanks so much.

Panel One

Synthesizing the Evidence: The State of Research on How School Choice Effects Student Achievement

John Gardner, Moderator

Board Member, Milwaukee Public Schools

Paul E. Peterson

Professor, Harvard University

Jay P. Greene

Senior Fellow, Manhattan Institute for Policy Research

Eugene Hickok

Secretary of Education, State of Pennsylvania

MR. GARDNER: I'm John Gardner. I'm the at-large or citywide director of schools in the proud city of Milwaukee, the home of the new face of public education in America. We do public education through governmental, independent, religious, home, and free-to-choose-surrounding-district sectors. We think that's the way to do public education. In fact, we think we're redefining "public education" so that it means the education of the public is the school system's primary mission.

We have with us today three distinguished Ph.D.s and long-time researchers in the academic effectiveness of educational institutions, all of whom, in different ways, have done research evaluating school choice and competition in various educational markets in America.

Paul E. Peterson is Shattuck Professor of Government at Harvard University, and he's also the editor of a forthcoming new quarterly

journal called *Education Matters*. The first issue comes out next month. You can log on to its website at www.edmatters.org.

Jay P. Greene is a senior fellow at the Manhattan Institute and the executive editor of *Education Matters*. He was the lead researcher on three intensive educational-research projects in cities that have experimented with school choice.

Eugene Hickok is the Secretary of Education in the State of Pennsylvania, as well as having a long history studying educational performance and effectiveness as professor of government at Dickinson College in Pennsylvania.

I'm proud to say that Hickok is also a school board member. Mark Twain's comments about school board members notwithstanding, you have two school board members standing up here talking about the importance of school choice.

We're going to start off with Professor Peterson.

PROF. PETERSON: Good morning. I am sure you all know the facts that are up there on the screen. We have a lot of voucher programs in the United States today. These aren't all of them, but as you know, there's one in Florida. There's the nationwide Children's Scholarship Fund that Mayor Giuliani talked about—Ted Forstmann's program. There's a program in San Antonio that the Children's Education Opportunity Foundation runs. There's one in Washington, D.C., which might become a large-scale voucher program in the next couple of years, if Congress puts its mind to it. There's one in Dayton. There's one here in New York City. Then there's the Cleveland, Ohio, program that is going through the courts, and may wind up before the Supreme Court. Then there's the Milwaukee program that we know a lot about, both the early one and the expanded one.

We've been doing evaluations of all the starred programs up there, and findings are either available or in the works. Studies of Dayton, Washington, D.C., and New York City show promising results. We have a research design that allows us to do careful estimates of the

effects of vouchers on student performance. We have information on how well those students were doing at baseline—that is, before the voucher program began. These were students in public schools that weren't doing very well. They were well below the national average, scoring in about the 20th to 30th percentile in most of these places.

We looked at students who won vouchers and compared them to students who didn't win in the voucher lottery. As in pharmaceutical studies, where some people get the pill and some people get a placebo, you have a control group to see how the pill works. The FDA requires this kind of research for new drugs. Amazingly, in education almost no intervention is studied in this way. But with vouchers, we are able to do so. We have now studied programs in Dayton, Ohio, New York City, and Washington, D.C., for two years. We know what happens by the end of the first year, and what happens by the end of the second.

The samples are large. Around 1,500 in New York City, about 1,000 in Washington, D.C., and 500 in Dayton. That's not a good size for seeing what a great big voucher program would look like, but it is large enough to see whether or not the effects on these kids are real ones or not.

We found that, on average, there was no impact for non-African-American students on math and reading tests after two years. School choice is not a magic bullet. It isn't going to transform things overnight for all kids, and we did not see any effects after two years. Maybe after three or four years we'll see effects on test scores, but not yet.

But for African-Americans, we saw big effects right away. A three-point gain in year one, and a six-point gain in year two. Something important is happening right away for the black students who switched from public schools to private schools with vouchers.

We have the results broken up by city, but because time is short, I'm going to flip through the next three slides, because I want to emphasize why we think we're getting these results for African-Americans. When we asked parents—and on the slide we just have

it for Dayton, but we have the same results in all three cities—we find that the amount of disruption in the school is much less in the private schools as compared to the public schools. The private schools are in green up there on the slide; the public schools are in blue or purple. You can also see that the amount of fighting, tardiness, cheating, property destruction, missed classes and racial conflict is much higher in the Dayton public schools these students attended before going to private schools. The same is true in New York City and Washington, D.C. On preliminary examination, we've also found that parents perceive a direct correlation between test scores and the amount of disruption within the school.

We gather this information by handing out surveys to parents asking a series of questions. Some of the questions ask how serious are discipline problems at the school. Public-school kids' parents say the problems mentioned above are serious, while private-school parents say they're not.

This turns out to be, in our opinion, the biggest factor that's affecting the differences in student performance. Class size has come up as the possible explanation for why the private schools are doing better. It is true that the class sizes are slightly smaller in the private schools than in the public schools in these three cities that the voucher kids are going to. The private schools have an average class size of about 21, the public schools have an average of 25. It's about the same in New York City and Washington, D.C., although there is slightly less of a difference in those two cities, about three instead of four. The best studies of class size reduction say you have to get a class reduction of at least eight students per class to have much of an effect. So it's unlikely that class size is an effect. When we do our own analysis of the data we can't see, in fact we get the perverse finding that you do better in large classes than in smaller classes. So we don't really feel that these small differences in class size are producing the differences. We think that the climate of the school is much more important than the class size.

One of the questions that comes up is whether a voucher really allows parents to get children into the school of their choice. The

only ones who can get these vouchers are low-income families who are at or just a little bit above the poverty line, and maybe the private schools discriminate against them. Maybe they say we don't want people from disadvantaged backgrounds. But we find that in fact if they do get a voucher, about 85 percent get into the school of their choice. We found this in Dayton, as well as in New York City and Washington, D.C.

It's true that some don't, so we asked their parents why they didn't get into the school of their choice? Sometimes space was not available, or there were transportation problems. However, the biggest factor is the cost. These vouchers were not that large. They paid about half the tuition, so one of my recommendations is, like Governor Johnson's suggestion, that you go to four thousand dollars. These were about fifteen hundred dollar vouchers and going to the four thousand dollar level is a good idea, or even a little higher, because you're not going to give everybody the choice unless you give a good-sized voucher.

What do the parents say? Do they like their voucher schools? This is about the easiest question to answer because those who are in private school are much more likely to grade their school an A than those who remained in the public schools. If you look at Dayton, about 50 percent of private school parents give an A, compared to 8 percent of the public school parents. Then if you get a cross-section of Dayton public school parents, about a quarter of those who didn't bother applying for a voucher give their school an A. About twice as high a percentage of parents who are willing to give their school an A if they're in a private school as compared to a cross-section of all the parents in the Dayton public schools. We don't have quite the same data for the other cities, but I think it's going to hold up elsewhere just as in Dayton.

We asked the parents if they were very satisfied with the class size, academic quality, school safety and parental involvement at their kid's school. Just take it from me, private school parents really like their schools; they're very satisfied. They're much more likely to say that the school is run in a way that's responsive to parents. We

also looked at the amount of homework that is asked of the students. It's much higher in the private than the public schools. The amount of communication with the parents is also greater.

One of the big criticisms of our studies that comes out in the media is that we're not comparing the same kids. But that's exactly wrong. What makes our studies really interesting is that the two groups of families that we're looking at are exactly alike. You can't explain any of our findings because of the differences in the families. Because all these families wanted a voucher, all of them tried to get into private schools. Only some of them got the voucher. A lottery decided who got the voucher.

You've got two groups of families that are exactly alike. We compared them and what we find is that for those who are lucky enough to get the voucher and go to a private school, really good things happen. They go to a more orderly school. There's more homework, there's more communication with the family. There's higher test scores if they're African-Americans. There is greater satisfaction. This suggests to me that if we're going to move forward with the school-choice movement, we need to move forward in our central cities to concentrate on those parts of the country where the problems in public education are the greatest. Thank you very much.

MR. GREENE: Hello, I'm Jay Greene, Senior Fellow at the Manhattan Institute. I come from Broward County, Florida, where I'm proud to say my vote has been counted at least three times.

There are now actually five programs that meet the "gold standard" of research design, in which students are randomly assigned treatment and control groups, as in medical research. In addition to the three programs that Professor Peterson just described to you, there are also programs in Charlotte, North Carolina, and in Milwaukee, Wisconsin, that have also been the subject of study, in which students were given access to private school by random-assignment or lottery. Two identical groups are compared in each of these cities. This allows us to know with high confidence whether those who participate in these choice programs benefit from them.

The answer is pretty clear across these five programs. This is a question that does not require a recount. It appears as if participants in these programs benefit greatly.

But two important questions remain. One: does school choice improve the quality of education for the system as a whole—not just for program participants but non-participants, as well? Or, as it’s sometimes framed, “What about those left behind?” And two: how does school choice affect integration and the civic values necessary for the proper functioning of our political system?

Let me first address the first question. Does school choice improve the whole educational system, or does it only benefit those who go to private school? There are two theories. The first suggests that school choice drains public schools of talent and resources and impoverishes the education of those left behind. The second suggests that giving families a choice motivates schools to be attentive to the needs of their children—since they can go elsewhere with their money and child—and so provides an incentive for all schools to improve.

Which of these plausible theories is supported by the evidence? I’m afraid that these five high-quality studies don’t address this question. These programs are too small and too new to see the systemic effects of school choice—although anecdotal evidence from Milwaukee suggests significant improvements in the system as a whole. Nevertheless, these five studies provide no systematic evidence that choice improves the general quality of education.

But two other studies *do* address this question. The way they address the question of whether choice improves the quality of education as a whole is that they take advantage of the fact that we already have school choice. We have school choice for some families—those who can choose where they live to obtain access to desired schools. Some can afford private-school tuition. Some can choose charter schools, inter-district school-choice programs, or homeschooling.

So the different ability of different families to gain access to these options means that we already have school choice. The question is: Will expanding school choice provide benefits to the system as a whole? Well, what if we compare different areas of the country? Compare areas of the country that have more school-choice options with areas that have fewer available options. If choice improves the system as a whole, then we should have better student outcomes where we have more choices available.

I've done a study, recently released by the Manhattan Institute, which addresses just this question. It's called the "Education Freedom Index." It measures the extent of choice available in each of the 50 states. It measures how much charter-school, private-school, homeschool, inter-district, and relocation choice is available in each of the 50 states, and comes up with an index to measure the amount of choice generally available in each state.

As it turns out, states with more available school choice have better student outcomes—better test scores—than those states with less choice. This is true even after controlling for many of the important influences on student test scores, such as family income, per-pupil spending, class size, and racial composition.

And places where broad school choice is available have better academic achievement for *all* students—choosers and non-choosers alike—than we see in those areas where fewer choices are available. That suggests that expanding school choice is likely to improve the quality of education even for students who do not themselves participate in the programs.

A second study along these lines was conducted by Harvard economist Caroline Minter Hoxby, examining different metro areas around the country. Some metro areas have a lot more school choice available than others—Boston, for example. The metro area of Boston has more than a dozen school districts to choose from. You can live in Cambridge or Somerville or Waltham. All of these different school districts are close together, so you don't have to move, change jobs, and leave your friends and family simply be-

cause you want to change schools. Because of this proximity, the cost of choice in Boston is quite low.

On the other hand, Florida's Miami-Dade County is one giant school district for the entire county. This is true of all Florida's counties: one school district per county. If you're not happy with the schools in Miami-Dade, you have to move to the next county, which almost certainly means leaving behind your job, your friends, and your family behind. Exercising choice in Miami-Dade incurs difficult costs.

Professor Hoxby's study looks at the ease of choice in all metro areas across the U.S. She finds that in those metro areas with more choices available, you have higher student test scores at lower per-pupil expenditures than you do in areas with fewer choices available. Again, it appears as if choice helps improve the quality of education for choosers and non-choosers alike.

Let me turn to the issues of integration and civic values.

Critics claim that school choice damages our democracy, even if it does improve the quality of our education. The evidence indicates the opposite is true. Private schools are on average better racially integrated than are public schools. The National Education Longitudinal Study shows that over half of public-school students are in classrooms that are more than 90 percent white or more than 90 percent minority. Only about 40 percent of private-school students are in similarly segregated school classrooms. Conversely, a third of private-school students are in classrooms that have a racial mix that's representative of the racial mix of our country, compared with only one in ten of public-school students. Private schools are actually better racially integrated than public schools.

Which makes sense if you consider that public-school assignment is based on where you live. We end up reproducing, and in fact reinforcing, the racial segregation that already exists in housing patterns. In fact, public-school segregation actually feeds housing segregation, because families are reluctant to live on the wrong side of some politically drawn line, which actually exacerbates racial segregation in housing.

Private schools are already better integrated than public schools, and will become even better integrated if school-choice programs increase minority access to private schools. Studies of the school-choice programs in both Cleveland and Milwaukee find that the private schools that voucher students attend with vouchers are better racially mixed than the public schools they left behind. While Milwaukee and Cleveland had public-school choice programs within its public-school districts before vouchers, this intra-district choice didn't increase school integration, because each city's school districts are highly racially homogenous. It took vouchers to improve integration.

What about civic values like tolerance? If students go to private schools, will they learn to be bigots? Will they learn to be religiously intolerant? Here there's more limited—but still intriguing—evidence. I conducted a study examining a national sample of Latinos from the Latino National Political Survey. The survey asked a random sample of adult Latinos where they went to school each year when they were children, and it also asked them a standard battery of tolerance questions.

Respondents were asked to name their least-liked group, and then asked whether members of that group should be allowed to engage in certain political activities, like run for elected office. As it turns out, the more private schooling that people had, the more willing they were to let members of their least-liked group engage in political activities. This is true even after controlling for the other demographic characteristics of people who had more private schooling. The privately educated were more tolerant.

The suggestion that only a system of government-operated schools can impart essential civic values, or can guarantee integration, appears to be false. These civic goals are well served by the private sector. Choice not only improves the quality of education as a whole, but accomplishes these other civic goals of schooling, as well.

SECRETARY HICKOK: Good morning and welcome. Thank you for taking time out of busy schedules to be with us this morn-

ing. One of the challenges I confront as Pennsylvania's Secretary of Education—and anyone who's serious about improving education confronts—is the fact that good, solid, data-driven research is hard to find. It is a field of public policy where research is by anecdote. We read books and stories and articles that tell us reams and reams about “best practices” and lead to fads and trends like whole language. Then we reverse ourselves and try something else.

The school-choice movement brings hard analysis to the debate. Based upon what I heard this morning, it seems to me that the research tells us that the commonly held view, of a dichotomy between support for choice and support for public education, is false. The fact is that school choice is all about changing the nature of public education for the better.

Professor Peterson demonstrated that minority students seem to be doing better. That children exercising choice and going to schools of choice seem to be doing better. Why should that surprise us? If you choose to be somewhere, then the tendency is that you're going to like being there because you exercised that choice. You're going to be more involved as a parent because you made the deliberate choice to move your child from this place to that place. The beauty of school choice is if they're not pleased they can remove the child and go somewhere else.

More choice means better results. We just heard that. I'm not going to make the argument that many of my colleagues make—although I believe in it—that choice creates competition and competition will improve everything. But with the limited amount of analysis we have so far, the data are pretty compelling. There is a direct correlation between results and opportunity.

Will school choice nourish our democracy? Some people are concerned that funding non-public schools will create a divide between the haves and the have-nots—that our society will suffer if public education, which has nourished this great democracy, suffers. Research so far tells us the opposite is the case: private schools mir-

ror our society better than public schools do.

It's not a dichotomy between supporting public education or supporting school choice. It's a change in the nature of public education that is needed. School choice must be a part of that.

We must continue the emphasis on research. One of the great accomplishments of the last five years is the emergence of serious research into the topic. We need to find ways to demonstrate what's really happening for two reasons. First, we need an educational bottom line; education as a field of public policy has been very good at eluding such a bottom line. When we have objective results, the school system has been very good at trying to make sure that those results are not part of the decision-making process.

We have student-performance numbers, but we don't want to relate student performance to teacher performance—even though we all agree that the teachers are the single most important person in the classroom. We don't want to use student performance to judge schools for outstanding or unacceptable performance. We have the data; we should not close our eyes to it.

Secondly, we need to focus on results. This spring in Pennsylvania, we will produce a report card for every school district that won't be produced by the state. Standard & Poor's will rate our schools. For the first time anywhere you will see an analysis of school performance as a function of spending. We'll be looking at results—not process, not inputs. That is a new and necessary development in education. We have always focused on spending; now we're focusing on results—what the money buys. We need to make it impossible to ignore failure, and easier to recognize success, and then to build upon success.

From where I sit as a policymaker, we are in the middle of a culture shift in education in this country. The logic of school choice is so compelling that eventually school choice will happen and public education will experience a reformation because of it. In the end, that will serve this democracy far better than any of us can envision at this early stage in the debate. Thank you.

Panel Two

Report from the Grassroots: The Growing Parental Demand for Alternatives

Jeanne Allen, Moderator

President, Center for Education Reform

T. Willard Fair,

President, Urban League of Miami

Mikel Holt,

Milwaukee Community Journal

Carol Reich,

President, Beginning with Children Foundation

Teresa Treat,

Program Director, Children First CEO San Antonio

MS. ALLEN: My name is Jeanne Allen, president of the Center for Education Reform. This is what I would call the real people's panel. No disrespect to those whom I know and love on the governors' panel or the academic panel, but this is where you hear about what real people are saying at the grassroots level.

The grassroots level is going to be critical to governing across the country, particularly with the current partisan stalemate. That's why I am so pleased to have this assignment this morning. The people in front of you are leading the charge across the board for real education reform in their areas. We will see media wars, we'll see the efforts of governors, but without the informed activism of the grassroots, nothing will occur.

I can't think of a better person to start with than T. Willard Fair. Mr. Fair is the president of the Miami Urban League. He is also a recipient of the Education Leaders Council's much-coveted "Rebel With a Cause" award. T. Willard is a great friend of public education. He is—with Governor Jeb Bush of Florida—the co-founder of Florida's first charter school, and an early advocate of that state's A+ Program, which for the first time allowed children in failing schools the right to choose another school.

The program applied to only two schools in its first year. Out of about 500 eligible children, 150 kids chose to leave the failing school, half of whom went to public schools, and the rest to private. School choice is not about public versus private. It's about educating children. The choices of parents—a child's first teacher—should be paramount.

That the African-American community in Florida now overwhelmingly supports school choice is testimony to T. Willard Fair's daring leadership. Thank you.

MR. FAIR: I've been asked to talk about some personal experiences that I've had with children and their parents. Hopefully, as we share with you these experiences, it will shed new light on the importance and the power of school choice—especially for children of color.

I was sitting in a bar in Jacksonville a couple of months ago. You meet and talk to all sorts of people in bars, people from all walks of life. As you begin to drink and think and talk to new companions, your mind wanders to topics that may or may not be important. After the third drink I started to talk with some folks about the number of people incarcerated who happen to look like me. I asked a question, "You guys are business types. You understand the economics that are associated with the pursuit of justice. Tell me, how do you determine how many prisons and prisoners' beds to build so that there's just enough to maximize your profits?"

They gave me some of those Ph.D. answers. But being a social worker, I didn't understand those, and I needed something more "grassroots." Finally, they were brave enough to tell me that they project the number of prison beds needed based on the failure rate of the fourth grade in our public-education system. I'd been drinking, but now I was sober.

It makes a lot of sense. When you look at who's incarcerated in the prison system in this country, they have in common more than just their resemblance to me; another common variable is that few of them can read. Somebody makes a lot of money off the failure of fourth graders.

I share that with you because my favorite student is a young man by the name of Neville, who came to us as part of our initial charter school, one of 60 students. You need to be in Liberty City to understand the importance of Neville—he's not unique. He represents thousands of children in our community. Neville is being raised by his grandmother. That's typical—and important to keep in mind when we talk about choice and *parents* making choices: in our communities many of those people aren't the biological parents. At our PTA meetings to talk about choice, we see many grandparents now who are involved in the decision-making process.

Like many of these folks, Neville's grandmother lives in public housing. Neville is the third or fourth generation of his family living in public housing. More importantly, Neville is a highly dysfunctional child. In the summer, there is a program designed by the City of Miami Police Department for the purpose of taking those highly dysfunctional children off the streets and into a camp-like setting for the summer. Neville's behavior is so dysfunctional that he is the only third-grade child in Liberty City to be sent home from the police camp.

Neville was enrolled and accepted at our school. We have a rule at the Liberty City Charter School that parents—be they grandparents or others—have to be actively involved in the educational pursuits of their enrolled children. Parents must do certain things

to demonstrate their commitment and level of involvement; for instance, they must do all of the paperwork associated with enrolling their child into the school. They cannot send a substitute to make that happen.

The last year that Neville was with us before he graduated, he thought that his grandmother was not going to be able to make it, because she was sick. She sent word to his mother to be at school in order to get Neville re-enrolled in our school. His mother didn't make it on time. Neville was standing outside crying, crying, crying. He wanted to be re-enrolled in Liberty City.

I'm going to close with that story. Here is a kid who got sent home from the police camp—who was destined to occupy one of those prison beds—who, two years later, is crying because he thinks he's not going to be able to go to school.

MS. ALLEN: We've asked each panelist to talk about some personal experiences before getting into a broader discussion about how school choice is impacting their communities. I'm happy to turn now to Carol Reich, who is the founder and president of the Beginning with Children Foundation. In the early nineties, Carol and her husband Joe saw a huge void for disadvantaged kids in Brooklyn, and decided to start an alternative public school. Since then, they've started a charter school that also does what their well-acclaimed alternative school has been doing for years.

MS. REICH: Thank you very much, Jeanne. I'd like to issue a disclaimer. This gentleman and I did not collude before we sat down. Clearly, our heritages are different, but our stories are going to be quite similar.

It's hard to grasp what the lives of the over 1 million children in the New York City public-school system are like. We don't often hear the voice of an individual child or the voice of an individual parent. Jeanne asked me to tell a story; I'm going to tell the story of Michael, who could be Neville's younger brother.

Six-year-old Michael came to school every day in tatters—clean tatters, but tatters nonetheless. Michael could not, as one of my grandsons said, sit on the rug to listen to a story. He could not do a task he was asked to do. He became so frustrated by the end of the day that he would bang his head on the wall. Michael was clearly headed for failure by fourth grade and for the prison bed that you just heard about. We have learned that once our children get to fourth grade, if the slope of their learning has not increased they are destined for what is called the “normal curve” of declining scores. (By the way, we need a new lexicon. That a curve of declining scores is “normal” is unacceptable. It wouldn’t be acceptable for any of the children of the people in this room, and it’s not acceptable for the children of our city.) It is a very difficult thing to turn around, so we knew we had to act immediately. The time in the life of a child is short; the time in the life of a bureaucracy is long. Neither is easy to turn around.

We had a team of special-needs people in the first school that you heard mentioned, the New York City public school. We sent them over to our charter school to see what they could do for Michael. What they decided to do was praise Michael for doing well. It seems that many of our children don’t know what *doing well* is. You get just as much attention for doing badly from an adult as you do for doing well. They can’t tell the difference.

So some of you probably are at least as old as I am and you remember this in school. Michael got a star book. In Michael’s book went a star for every time he did well. Michael’s book began to get filled up. Michael is now the leader of the students who greet the visitors to the school. He leads the tours of visitors from our supporting foundations around the school. He represents himself and his school.

One day a classmate came up to Michael and said, “Gee Michael, look at all the stars in your book. It’s almost filled. Like S&H green stamps. That’s just wonderful. You must be really, really good. Can I give you a hug?”

That's the kind of story that needs to bubble up in the system. The child doesn't have time to wait for us to decide what to do or even get the law changed. You just have to do it.

Our first school was a public school under the Board of Education of the City of New York. They permitted us to do what we needed to do in the school. Now, even the color of the walls of our school is non-government-issue. But we wanted a building that was welcoming. Our parents used to stand out on the sidewalk and didn't believe that they were welcome inside. You need parents in the school. You need them for their children and you need them to make the success of the school possible.

We have to start listening to parents. They know what they want. They're voting for school choice with their feet. We get ten or 12 applicants for every seat in our school, which in a decade of schooling means that we've turned away 1,000 children and their parents. That's too many people to turn away. They know what they want. They want exactly what you want. But we alone cannot provide it for them.

I'd like to ask all of you to join in this fight. I think it's going to be a long one—it already is long. And it's going to be expensive. But we will eventually win. Not us, but the children, and their parents.

MS. ALLEN: Everybody who's ever been involved in a movement to bring about change knows that you always look for community leadership. And you need the media to support your efforts. Mikel Holt and *Milwaukee Community Journal* provided that before Milwaukee's dynamic reform environment developed. Mikel Holt, unlike most of the other conventional press in the city, was willing to give ink to the stories of parents, children and teachers struggling to bring about change in a system impervious to change. Mikel is also the author of *Not Yet Free At Last: The Unfinished Business Of The Civil Rights Movement; Our Battle For School Choice*. Thank you, Mikel, for coming.

MR. HOLT: Thank you, and good morning. I have a problem trying to identify a single child, because right now there are 10,000 children participating in school choice in Milwaukee. I think I might know them all.

This civil rights movement started long the legislation was finally passed. It's been going on for decades. My parents were part of it. It's about education reform and accountability. My parents chained themselves to bulldozers to try to bring it about in the Milwaukee public schools. It wasn't successful. We started a movement 20 years later that was successful.

The parents and children who participate in the school-choice program in Milwaukee generally fall under three different categories.

The first category are parents—all low-income—who are seeking alternatives to the Milwaukee public school system. Even though they're low-income—which, according to some folks, means they don't have the intellectual capability to make decisions—they send their children to the alternative schools. There is a child named Pookie. I'm on the board of the school where he's enrolled, Arombay Community School. It has an African-centered curriculum. It has 80 percent low-income children. It also has a 98 percent graduation rate, and 80 percent of those children go on to college. Pookie is now in the fifth grade and he has an A average. He knows who he is. And chances are he'll probably go to college.

The second category are parents who are frustrated by the public school system, whose children, for one reason or another, are put in special education or given Ritalin. This is too common, not just in Milwaukee, but around the country. Why? Maybe because many of the public school teachers don't have high expectations for these children. Some are afraid of the children. I should note that several years ago, the state Department of Public Instruction did a state-wide survey of graduation rates for black children. In Milwaukee, it was 38 percent for black boys. It's no coincidence that many of the dropouts end up in the criminal justice system.

A second child, Tamesha, was placed in a special-education class. Tamesha's parents were upset that she was put into special ed without testing. Her mother went to the principal of the school, but got no satisfaction. She was so upset that she wrote letters to the school board, to the state superintendent, to the President of the United States, and nothing happened. So she took her child out of the public-school system. She took advantage of school choice. Now Tamesha is in a private school and is doing fine. She's not in special education and has—last I heard—a B average.

The third group of parents, and this is probably the largest category, have children who are, on average, two years behind in their studies. Sam S. White of the University of Wisconsin did a study profiling kids participating in school choice, which knocked down a lot of myths. Choice schools are not “cream-ing.” Our third child, eight-year-old Adrian, was failing first grade. He was about to be left back instead of being promoted to the second grade. His parents—parent, in this case; most participants are single parents—sent him to Arombay Community School. In one year, his grades went up so dramatically that he is at the top of his class. Now there is hope that this child, who probably would have dropped out of school, is going to graduate and be successful.

What do these parents and children have in common is that they are all part of a civil rights movement, an *educational* civil rights movement. It's a freedom train that's been traveling around the country. In Milwaukee, we've been fortunate, because it's not just black and Hispanic people on this train, and it's not just black and Hispanic people serving as conductors. Our Democratic mayor has fought hard for school choice. Our Republican governor has fought hard for school choice. We have Democrats, Republicans, Independents. We have Catholics, Protestants, Methodists, atheists. We have people who all recognize the importance of education in changing the status quo in America. They understand that in America today, we have a system of educational apartheid: two educational systems: one for the haves, and one for the have-nots.

So our educational freedom train is traveling the country. It's based on a very simple premise. The civil rights movement that my parents were involved in and that I was involved in when I was younger was to guarantee access. It was to get us to the lunch counter. The new civil rights agenda, since we're already at the lunch counter, is to make sure that our children can read the menu. Thank you.

MS. ALLEN: Finally, I'm happy to introduce Teresa Treat, who is director of the CEO program in San Antonio, Texas. Teresa has for several years run that private scholarship program, helping children stuck in San Antonio's educational apartheid. For those of you who don't know, Texas is one of the leaders in educational choice in this country in terms of private scholarship programs. They were among the first to have privately-funded scholarship programs whose numbers around the country have since grown to 60. Teresa's worked with hundreds of parents for several years, with hundreds more on waiting lists. She'll give us her views of their experiences. Teresa.

MS. TREAT: Thank you, Jeanne. I've been with the CEO foundation for seven years now. We have two programs in San Antonio. One is just two and a half years old, called the Horizon Program. Through these two programs I have met and heard from hundreds of students and their families. In the past year, we've started an organization where parents can get together and talk to each other. They realize that they are not alone in seeking educational opportunity for their children. More importantly, they realize that all students—in San Antonio, the state of Texas, and the nation—need school choice.

I've learned that there is always at least one of three main reasons why these families choose other schools: safety; a more religious or moral environment for their child; and academics.

I can tell you stories of many families brought to school choice by the safety issue. One young girl was nearly gang-raped in her classroom while the teacher stepped out for just a moment. Just this Monday, I learned of a little third-grade boy whose mother pulled

him out of public school because another boy in his class would urinate on students he didn't like, and no one would do anything.

Not all students are the same academically. We have families whose children have real learning disabilities. Their children have gone through programs designed to help them, only to come to tests in May and still not be reading. Their parents want something else. We also have gifted students who were bored and unchallenged in school, whose parents are looking for an environment where their child could excel at their favorite subjects. Then we have the simply average students. They're not used to an environment that encourages learning—"do a little bit more, not just what you have to do to get by." These students are now encouraged and nurtured in that love of learning.

One young man has been on my mind the past few weeks, a seventh grader named Luis. We received a Christmas card from him. It was his first year in our Horizon program. His card was typical, a simple thank-you for the scholarship. But further down he wrote, and I'm going to quote here, "My mother wanted me to go to your school so I thought I'd try it. I thought I was a loser, but my teacher here, he doesn't believe that. I like it here."

We have families that now say, "My son comes home and tells me about what he learned." Not what happened to the other kids at school or what happened on the playground, but what he *learned*.

We aren't just impacting the students that are in our program. After our parents' organization group meeting last week, I had one parent come back to me Thursday and say, "I'm going to go ahead and pull my child out and put him back in public school, but can I keep coming to the meetings?" I told her, of course, that she could keep coming to meetings. She said, "I'm going to go back there and I'm going to tell them what I want." Good for her. School choice impacts not just our students, but all students. That is where we need to be. Thank you.

Midday Remarks

Leaders Who Listen: Grassroots School-Choice Victories

John Norquist

Mayor, Milwaukee, Wisconsin

Bret Schundler

Mayor, Jersey City, New Jersey

MAYOR NORQUIST: What's happened in Milwaukee is a debate about who should have power over education. It wasn't an intellectual exercise or a debate about market principles. Parents in America want to have power over their kids' education. That's true of rich and poor, suburbanite or city-dweller, Republican or Democrat; when it gets down to their own children, they get serious. They're not going to be satisfied with a school that won't work for their child, a school that won't help their child become the successful person that the parents—all parents, even dysfunctional parents—want their child to become.

The movement in Milwaukee for school choice really did come from parents. One of the parents dissatisfied with Milwaukee Public Schools [MPS] would later become a member of the legislature, Polly Williams, and that made a big difference—someone who understood the situation from the standpoint of parents and had some power and was able to raise public awareness and organize parents. She started out from a very small base of angry parents, spreading the word throughout the community and raising the issue persistently, never giving up. She also convinced other elected officials, including myself.

Originally, I opposed school choice. While I was in the state senate, Polly Williams finally converted me, because I found myself mouthing arguments that I really couldn't believe, that I thought were ridiculous. Many of the arguments against school choice are based on fear; people are afraid of it for a variety of reasons, and don't want to come out and say the real reason.

Choice opponents, by and large, are people who are afraid they won't be chosen. That is understandable. Last night in the Bronx, I attended a town-hall meeting and Rudy Giuliani made the point that the top priority of the opponents of choice is employment security. "After everyone has their job, then we'll worry about the kids," was the attitude he described. But job security is something that shouldn't be taken lightly.

My sister is a teacher in MPS and doesn't agree with me on this issue, although I think I've moved her a few clicks. But she values her job. She doesn't want to be laid off. She doesn't want to have to struggle and look for another place to work, any more than anybody else would. I don't think it's a good idea to mock teachers' concern for job security. That is a legitimate concern; it just happens to not be as important as the education of children. When you have a system that's set up for the security of the employees over any other consideration, you have a real obstacle to high quality.

This morning, some of the speakers talked about the impact of monopolies. Gary Johnson from New Mexico is exactly right: a monopoly takes its customers for granted, and you tend to see lower quality and higher prices. We see that all the time, including with some of the industries that hang around Congress spending more money on lobbying than they do on research and development, like Archer Daniels Midland. They spend all their time trying to make sure that we don't import sugar from other countries so that they can keep the price of sugar high. Maybe a slightly higher price and lower quality for sugar doesn't hurt us that much, but certainly we can't afford it in K through 12 education. We need to have the highest quality we possibly can.

Who benefits from school choice? I think every supporter of school choice would say that the children benefit most from school choice. That's pretty obvious. The parents benefit from school choice, too. You have schools competing to attract the interest of kids and their parents.

But there are other people that benefit from school choice. Cities benefit from school choice. In fact, cities are uniquely the settings for school choice, because cities are where there are enough people together to create markets, where you can have multiple suppliers of goods and services and lots of consumers to buy them.

We see that with higher education in this country. It is the big cities where most of the great universities and colleges are. Not all of them, but most of them. Here in New York, you have Columbia, NYU, Fordham, City College and about 40 other colleges and institutions of higher learning.

But when you get to K through 12 education in the United States, suddenly the city is thought of as the least desirable place to be. It varies from city to city, but consider an America city that's frequently associated with urban pathology: Detroit. They have school choice in Detroit. They've had it for a long time. If you have money and kids, you leave town. You move out of Detroit to Macomb County or Oakland County and solve your problem that way—school choice based on geography. The schools left behind are dominated by the poor. The resources of the middle class, upper-middle class, and wealthy are gone. That's school choice that you'll never hear the critics of school vouchers complain about. They won't focus on that.

So we already have school choice in every major metropolitan area in this country, but school choice that doesn't work for cities. It doesn't take advantage of the natural benefits of the city: centrality of the marketplace, density of population, and diversity of population.

Just think about restaurants. Compare the restaurant options that you have in New York City with the restaurant options that you

would have if you were in Minot, North Dakota. I don't have anything against Minot, North Dakota, but there's not a lot of East Indian restaurants, for example. I'm sure there's none. But look into the ACT and SAT scores for K through 12 education and you're going to find North Dakota is right up there. Iowa and North Dakota, those are the states that compete at the high end. But they don't in terms of universities. I mean no disrespect to North Dakota or North Dakota State, but they really don't compare favorably with Columbia or NYU or Fordham in terms of the market demand to go to those places.

You'd think New York, being the biggest city and having so many people living in so small an area, would be the best possible marketplace for K through 12 education. But what's stopping that? A legally protected monopoly that many people are forced to use. If you have lots of money, you can go to a private school, or you can leave town and go to Scarsdale or another wealthy suburb where you can be assured of quality public schools. That system doesn't work very well for the city. I would argue it doesn't work very well for the country, because we're missing out on tremendous opportunities.

There are models that we can look at from other places in the world. Most of the countries in Western Europe or Canada have school choice of one kind or another. In Canada, French Catholics wanted to protect their culture and their religion and have insisted on the public system allowing Catholic-school choice; eventually, Jews won choice as well. Now in Montreal or Toronto you can go to a Jewish school, a Catholic school or a public school.

Throughout Europe, there are variations on that theme, usually caused by a desire for religious education. In Holland they created a school-choice program in 1924. They had a brief hiatus between 1940 and 1945 when they were not allowed to have any choices, but after the Nazis were gone, school choice was back and they've had it right up to this day. Holland is a well-respected western democracy and its system works well.

However, it is possible to look right here in the United States to find a school-choice system that works really well, all over the nation. That, of course, is our system of public, religious, and private colleges and universities. Pell grants, the G.I. Bill, and state tuition grants are all forms of vouchers used in higher education. From the history of these programs, it's easy to predict that public K through 12 schools, if forced to compete with private schools for tuition dollars, can and would compete. Public colleges and universities thrive, and students have used and continue to use Pell grants, the G.I. Bill, and state tuition grants to go to public institutions. So, too, could K through 12 public schools. They could thrive—but only to the extent that they serve the children and attract the positive attention of parents.

What has happened in Milwaukee? Ten years ago, because of the grassroots support that we had, and with the help of the Bradley Foundation—a conservative foundation which supplemented the limited number of vouchers that we could afford—we established a limited school-choice program. We could have no more than 1,000 students at the beginning. Vouchers couldn't be used for religious schools, and there were many strings attached. But still it was over-subscribed, and we had to establish a private voucher program to go along with it.

The program has gradually grown. Four years ago, with the governor's support we were able to get a bill through the legislature extending the school choice option to religious schools. I wasn't trying to spread religion. But if parents want to send their kids to a school where they teach a particular religion—if it's their decision, and no one is forcing them to do it—that should be allowed.

Just as you can use the G.I. Bill or Pell Grants or state tuition grant programs to go to fundamentalist Wheaton College in Wheaton, Illinois, or Jewish Yeshiva University here in New York, you should be able to use a school-choice voucher to send your kids to a religious grammar school. The “separation of

church and state” violation decried by critics of school choice happens all the time in higher education.

If a family in Milwaukee believes that their child should go to a Lutheran school that teaches creationism, that’s okay with me because at least they’ll learn how to spell *creationism*. If, later on in life, they go to college and study science and they want to question what they learned about creationism, they’ll be able to read about those ideas and discover that.

Parents in Milwaukee’s inner city want a good education for their children. Whether it’s a religious school, or a non-religious private school, or a public school, it’s their choice.

The state aid amount for public schools has gone up steadily over the years. Right now, it’s at \$5,600, and that’s the school-choice voucher amount. Ten years ago, it would have been different, but let’s say it was \$3,000. The third Friday of September was the day the State of Wisconsin counted kids for school-aid purposes. On that day, a child was worth \$3,000, and there was great effort made to get the kids to come: ice cream, movies, all kinds of things to get people in the building because on that Friday they were worth \$3,000. The following Monday, what was the child worth?

And toward kids with behavioral problems, the attitude was even more mercenary. More and more, schools labeled children as learning disabled to get more specialized aid. The focus was on the institution, not on the kids or their parents.

What has happened now is revolutionary. It’s made a difference. The public schools are getting better. There are more Montessori schools, more language-specialty schools, more schools that people want. Schools with wacky ideas that parents wouldn’t choose aren’t being created, but rather public, private, and parochial schools that parents want to choose.

As Michael Holt pointed out, over 50,000 of our families in MPS now use extended daycare. MPS is doing that because they want

parents to choose MPS, so they are improving its quality and its convenience for parents. Competition is having an effect on religious schools and private schools, as well. They are not automatically perfect, and need to continue to attract the interest of parents in Milwaukee. The equation has changed: the system no longer makes all the decisions—parents are making the decisions.

Our two voucher programs have made life in Milwaukee better. Milwaukee is a better place to be if you want to educate your kids—part of the amenity package for living in Milwaukee. We have maximized choice—including innovations like open enrollment, and opening up suburban schools to city residents—and we will continue to push the boundaries so that Milwaukee maintains this advantage.

We will continue to fight for school choice. I hope more places in the U.S. will feel its benefits—and hope especially that Cleveland is able to preserve its program. I hope eventually New York sees the benefit of school choice, so that it, too, can be one of the best places for K through 12 education—be it public, private, or parochial. Thank you.

MR. OLSEN: Thank you, Mayor Norquist. Now we'll hear from another national leader, a man who has fought for school choice in his community and across the country: the three-term mayor of Jersey City, New Jersey, Bret Schundler. Mayor Schundler was first elected at the age of 33 and has been reelected twice with progressively larger percentages of the vote in a city that is only 9 percent Republican. He is Jersey City's first Republican mayor since 1917.

He has received national acclaim for his successes in crime reduction, tax innovation, and securitization of city debt—apart from his school-choice efforts. He hasn't just talked a good game on school choice. He has been acting personally in private scholarship programs in Jersey City and has personally opened charter schools, as well as supporting the nine charter schools that currently operate in Jersey City.

Please join me in giving a warm welcome to Jersey City mayor, Bret Schundler.

MAYOR SCHUNDLER: Thank you all for caring about school choice, which I think is the most important issue in the U.S. when it comes to expanding opportunity for all of our citizens.

School choice is fundamentally not about public schools versus private schools. The issue is about who is going to have power in education. Is power going to be held by politicians or is power going to be held by parents?

I want to do a quick little survey so we can get a sense of this particular crowd. How many people in this audience believe that politicians always do what they feel is in the best interest of the public and never put their own political interest first? Would you raise your hands?

I've asked that question not only in affluent suburban districts, but I've asked that in housing projects in Jersey City's lowest-income neighborhoods. Wherever you go, you'll find that people appreciate the fact that politicians are human beings and—just like the rest of us—consider their own self-interest. Though they tell us on the campaign trail that they will always do what is right for us, they often do what is best for themselves. For instance, a politician may be susceptible to pressure from a powerful education special-interest group: if he doesn't do what they want, they'll do everything they can do to throw him out of office. That's been known to happen.

That being so, one of the reasons we don't get reform in public education isn't because we don't know what we ought to do. It's because those who have the power to effect change are afraid to do what they ought to do. I hear it all the time. "Why don't we just fix the public schools?" The answer is that those who have the power to fix the public schools are afraid to do what is right. Get the teachers union mad, and you lose the next election. If you transfer power to parents, an amazing thing

happens. Parents don't have to worry about the next election. All they care about is what is in the best interest of their children.

I live in a city that has very high percentage of low-income citizens. I used to say Jersey City is like New York, which has both rich and poor, except we don't have the rich. We are becoming economically integrated now, and I am proud of that. But the reality is that Jersey City's population is still largely poor and working class. People are struggling.

I hear people say that the problem in education—especially in poor areas—is that parents don't care about their children. I'm here to tell you, that is simply not the case. There may be a small number of parents who are in such great personal difficulty—be it with drugs or some other problem—that they are not as engaged with their children as they ought to be. But usually in those cases, family-service organizations intervene and take the children out of the home.

I'll tell you what is a more typical situation. You have a young woman who got pregnant when she was 13 or 14 years old. She had a baby and wasn't able to finish high school. Now she is working at a job that pays very little. To pay the rent she has to work a lot of hours, so there's no one home in the afternoon when her child comes home, and the child goes unsupervised for long stretches of hours. In that environment, it shouldn't surprise us the child is not doing particularly well. If she had another option, she'd take advantage of it immediately.

This idea that low-income parents don't care is absurd. They care tremendously. When New Jersey passed charter-school legislation, we began to create charter schools in Jersey City right away. The charter school I opened wasn't targeted to any particular segment of the Jersey City citizenry. It wasn't targeted toward the affluent or the poor. It was open to anybody on a first-come, first-served basis. The people who took the initiative and applied first were almost always among the lowest-income residents of my community.

A lottery system was used to choose students randomly, and the enrollment breakdown tells you who it was that applied: our school was 90 percent school-lunch eligible—which is to say, lower-income—85 percent African-American, and 80 percent from single-parent families. Those very same low-income parents who supposedly won't take the initiative if choice is offered to them. But they were the first to take the initiative. Why? Because their children weren't doing well before. The school system wasn't addressing their needs.

The school I opened included after-school programs for the young people. These parents, who are not able economically to spend the time with their child that they would like to, took immediate advantage of the opportunity to get their child into a school that could provide the supervision and direction they couldn't be there to provide.

My city is filled with people who may not have a lot of money, but who care desperately about their children. Many of them are immigrants. 50 percent don't speak English at home. They've left good jobs in the country of their birth, but they wanted something better yet for their son or daughter. They came to this country, even while not being able to speak the language, and even though they may now be cleaning floors for a living.

A babysitter I know was a high-school teacher in the Ukraine. Here, she is a babysitter making \$10 an hour because she can't speak English. She came to this country because, more than anything else in life, she wanted her child to have the opportunity that only America offers. That's a parent who cares. She doesn't make a lot of money, but she cares.

If we provide the opportunity for parents to choose what is best for their children, they are going to take that opportunity and demand the very best. It's not going to be enough for a school to meet minimum standards. They are going to demand—if they have choices—schools that do more than “good enough.” If they have real power—if educational dollars follow that parent's choice—

then the schools will provide for them what they are looking for: a safe, high-quality education for their children.

I am talking about public schools and about private schools. They are all going to work harder to provide exactly what is needed to help different children reach their potential. That's what school choice is all about: giving to the person who really cares about the child—not the one who cares about the next election, or the next collective-bargaining agreement—the power to get the help their particular child needs. Whether it's from a public school or private school—it doesn't matter. What matters is that the child gets the help that's needed.

One last point: if we do this, not only will we find that parents are providing their children the educational opportunity that should be the birthright of every American, but we are also going to discover that the taxpayers save a mint.

One of the ways I am trying to effect school choice in Jersey City is by creating a state tax benefit for charitable giving to scholarship foundations. If you give to a scholarship foundation, you now get a federal income-tax deduction. If we created a state tax credit that is worth the same amount as the federal tax benefit to a benefactor, you could raise 20 times the money now raised, according to the economic analysis we've done. Those who gave a dollar could write off 85 cents. That would be the most leveraged giving they could find—I should say the most leveraged giving *possible*. It's an opportunity to really get some bang for your philanthropic buck. Not only because of the tax benefit, but because there's no more important a goal than expanding educational opportunity for children.

We are looking at doing this in New Jersey now, and if it passes, you are going to see 80,000 more children being able to choose private-school options. Public-school overcrowding will decrease without taking one property-tax dollar from our public schools. They will have fewer children but the same budget, leaving more money per remaining child. State revenues will go down, but

the state is currently preparing to spend \$12.6 billion for new public schools to decrease class sizes, which this plan will make unnecessary. You'll save that \$12.6 billion, which is equal to a \$1 billion per year in capital-financing costs alone. You'll also save the operating costs of staffing those new public schools.

In short, you can save far more on the spending side than you lose on the revenue side with this tax credit. The net, according to our economic analysis, would be a \$500 million annual savings. It could be used to lower property taxes for every homeowner in the State of New Jersey. At the same time, our public schools would have more money per child and smaller class sizes. I don't see anything wrong with doing the right thing to help our children, our taxpayers, and our schools. Thank you.

Panel Three

Choice and the Constitution: Questions Old and New on the Constitutionality of Vouchers

Joseph Viteritti, Moderator

Professor, New York University

Clint Bolick

Vice President, Institute for Justice

Robert Chanin

General Counsel, National Education Association

Charles Fried

Beneficial Professor of Law, Harvard Law School

Elliot Minberg

General Counsel, People for the American Way

MR. OLSEN: Our next panel, “Choice and the Constitution: Questions New and Old on the Constitutionality of Vouchers,” is a particularly poignant panel, given Monday’s 2 to 1 decision by the Sixth U.S. Circuit Court of Appeals declaring Cleveland’s voucher program unconstitutional. The case is likely to end up before the Supreme Court, if not in the next term, then in the following term. We are privileged to have the country’s most knowledgeable people on these issues debating before us today. Professor Joseph Viteritti of New York University will be our moderator. I’ll turn over the introduction of the panel to Professor Viteritti.

PROF. VITERITTI: Last Monday, as the U.S. Supreme Court was hearing oral testimony on the Florida election case, a Federal appeals panel in Ohio quietly issued a 2-1 ruling that affirmed a lower-court decision declaring that the Cleveland voucher

program violates the establishment clause of the First Amendment. This is one of the many voucher cases that has been working its way through the federal and state courts over the last seven or eight years. We've seen litigation in Ohio, Wisconsin, Florida, Illinois, Arizona, Maine and Vermont. Close observers of these cases, however, believe that the Cleveland case will make its way to the U.S. Supreme Court. The high court had indicated a special interest in the case in November 1999, when it interceded to stay an injunction that sought to halt the voucher program while the case was being settled.

Today, we have a distinguished panel to discuss both this case and the broader constitutional issues. Several of them are intimately involved in both the Ohio cases and proceeding cases, and they represent a variety of perspectives.

Our first panelist is Professor Charles Fried, who is a professor at Harvard Law School. From 1995 to 1999, Professor Fried was Associate Justice of the State Supreme Court of Massachusetts, and from 1985 to 1989 he served as Solicitor General of the United States. He represented the Reagan Administration 25 times before the U.S. Supreme Court.

Robert Chanin is Chief Counsel for the National Education Association, the country's largest teachers' union. He is a senior member of the Washington, D.C., law firm of Bret, Harth and Keyser. He was lead counsel in the Ohio voucher case and has served in many of the other pending voucher cases.

Clint Bolick is Vice President and Director of Litigation at the Institute for Justice, which he co-founded in 1991. Clint represented parents in the Ohio voucher case and has also been active in most of the other litigation regarding vouchers and tax credits at both the federal and state levels.

Finally, Elliot Minberg is General Counsel and Education Policy Director of People for the American Way. Elliot was formerly a partner at the Washington law firm of Hogan and Hartson and

was co-counsel in the Ohio case. Again, he has been involved in every one of the other cases that I've mentioned. (In the spirit of disclosure I should mention that I was also an expert witness in the Ohio case, testifying on behalf of the Attorney General.)

We will start with Professor Fried.

PROF. FRIED: It always surprises and somewhat saddens me that I should be debating this issue with my friends—like my former clients, the American Civil Liberties Union—because I would have thought we would be on the same side. I would have thought we were both members of the party of liberty, but apparently not.

I hear four common objections to school choice plans. First, government loses control over the education of children. Second, government-run schools are a place where our common citizenship is learned and experienced. Third, voucher plans might unravel the public commitment to government-provided education by prompting the most highly motivated families to get out of the government-run system, causing its quality to diminish and thus causing other families to leave. And fourth, voucher plans cannot tactically or constitutionally exclude church-related schools, and providing this indirect funding to church-related schools is an establishment of religion forbidden by the First Amendment.

Only the last of these objections is a constitutional objection. The other three express policy preferences for maintaining the monopoly of public education by government-run schools. As such, they have no constitutional weight at all.

Opponents of choice avoid any direct reference to the first three objections—which I suspect are the real energy behind the opposition to such plans—and instead throw up their hands and claim the Constitution made them do it. School choice plans are portrayed as an attempt to circumvent a clear constitutional prohibition. So let's turn directly to this objection.

The First Amendment says Congress shall make no law respecting an establishment of religion. Nothing could be clearer than that this was intended only to keep the newly instituted national Congress from establishing a national church, or from disestablishing the several state-supported churches that existed before the adoption of the amendment and persisted after it. Its point was to assume the federal government's neutrality toward religion, since the various states had different religious traditions. On the state level, there was often no "wall of separation."

That is why, in contrast to the clearly prohibitory language about interferences with free exercise of religion, speech, press and assembly, the First Amendment uses the otherwise inexplicable words "respecting an establishment of religion." This historical purpose and choice of words posed a real dilemma as to how this clause of the First Amendment, which speaks only about what level of government should and should not address establishments of religion, can possibly be incorporated against the states via the due process clause of the Fourteen Amendment. That is why the Court did not tangle with the issue at all until the 1947 *Everson* case, decades after it had incorporated other provisions of the Bill of Rights into the Fourteenth Amendment. When it did so, it had recourse not to the text, but to the "wall of separation" metaphor.

It is also striking that this first and relatively recent version of the doctrine on which opponents of school choice rely was a case in which Justice Black held that reimbursing bus transportation costs to parochial schools did *not* violate the Establishment Clause. The first cases in which the clause was used to strike down state laws were fairly gross and clearly unconstitutional: religious instruction in public schools and government-imposed school prayer. It was not until the early seventies—the heyday of the Brennan Court—that the rigorist campaign against state monies flowing in any way to parochial schools was launched. Like so much else from that brief and anomalous period, it was not law for long; by the end of the same decade, the edifice had begun to be dismantled.

The last gasp of this former anti-religious rigorist mentality was explicitly overruled in 1997. Long before that, the court had in several cases allowed state aid to church-related higher education, colleges, graduate schools, something which could not be reconciled with strict separation, the supposed constitutional principle Justice Black attributed to Jefferson. Anti-religious rigorism has also been rolled back by cases allowing a blind student to use state aid to train to be a minister; state-paid sign-language translators to assist deaf students attending parochial schools; and last year, state resources used to provide computers and instructional aids to a broad range of public, private and church-related schools.

That decision had the support not only of Justice O'Connor, but also of Justice Breyer. Although they did not join Justice Thomas' broadly—to my mind, too broadly—worded plurality, they did emphasize the fact that the monies reached the schools as a result of a myriad of choices by individual parents. How much more so is this the case in school-choice plans is quite obvious.

What is the basic constitutional principle involved? Liberty—the principle on which those who should be allied with their fellow Americans in defending school choice are allied against them—and, sad to say, in that very principle's name. So long as parents are doing the choosing, it is hard to see why the indefinite words of the Constitution should be tortured to deny them that choice. All the true objections are objections of politics, policy and self-interest. It is in that arena that the battle should be fought. My hope is that that is what the Supreme Court will say when it finally addresses this subject.

The Supreme Court has proceeded case by case and refused to telegraph its decisions, instructing lower courts not to anticipate the future. That's how Justice O'Connor has treated this and other issues. Those who are interested in the recent Sixth Circuit case should remember that this case may very well be to school choice what *Bush v. Gore* in the Florida Supreme Court was to the election of 2000.

MR. CHANIN: In the seven minutes I have for an opening statement, it is not possible to make a cogent argument explaining why vouchers and other choice programs are unconstitutional. What I would like to do instead is put this issue in context by summarizing the litigation, and telling you what our legal strategy is. To do even that in seven minutes will require me to speak very quickly.

Because virtually every choice program includes sectarian private schools, our primary challenge is based on the principle of separation of church and state. In this regard, we rely not only on the Establishment Clause of the First Amendment to the United States Constitution, but on the counterpart religion clauses of the state constitutions, which often are far more explicit. But we do not limit our challenge to this ground.

Our objective is not to establish lofty principles of constitutional law or to advance the state of constitutional jurisprudence. We have a much more practical objective, which is to prevent the implementation of what our clients believe to be misguided, educationally unsound, programs. Toward that end, we challenge voucher and other choice programs on any ground that is available to us—from something as fundamental as the principle of separation of church and state, to a possible procedural defect in the legislative process by which the program was enacted.

Against that background, let me briefly turn to the case law, which for purposes of discussion can be divided into three categories. In the first category are pure voucher programs, under which money is taken from the state treasury—usually the education budget—and used to pay tuition for students to attend private schools, the majority of which are sectarian. Among the most publicized of these pure voucher programs is the Milwaukee Parental Choice Program, which was sustained by the Wisconsin Supreme Court in 1998. Although we believe the decision is in direct conflict with the U.S. Supreme Court 1973 decision in *Committee for Public Education v. Nyquist*, the high court—for whatever its reasons—denied our petition for review.

A similar type of pure voucher program was established in Cleveland in 1995, and we challenged it in state court under multiple provisions of both the federal and state constitutions. In 1999, the Ohio Supreme Court struck down the program on what some purists have called “Mickey Mouse” grounds. The program was enacted as part of an omnibus budget bill in violation of what is known as the “single-subject” rule. But I can’t really put the Ohio Supreme Court decision in the win column, because a few weeks later the Ohio legislature reenacted the program—and this time, arguably did it right procedurally.

We then filed suit in the federal district court in Ohio and challenged the reenacted program under the federal Establishment Clause. In December 1999, the district court ruled that the program is unconstitutional. The defendants appealed to the U.S. Court of Appeal for the Sixth Circuit, and, as you all know, on Monday the Sixth Circuit continued our unbroken string of federal court victories by affirming the lower court’s decision.

The most comprehensive voucher program to date is the state-wide program in Florida. Although it is presently operating on a very limited scale, it has the potential to dwarf the Milwaukee, Cleveland and all other programs, combined. We challenged the Florida voucher program in state court under the Establishment Clause, the religion clauses of the Florida constitution, and the Education Article of the Florida constitution. This Article obligates the state to “establish and maintain a high quality system of free public schools”—which we contend is the exclusive way in which public money can be used to educate children.

Over our objection, the trial court chose to deal initially only with the Education Article and, in March 2000, ruled in our favor. The intermediate appellate court reversed, but it also refused to reach the church/state issue. On November 12, 1999, we filed a petition for review with the Florida Supreme Court, but the court has not yet acted because it has been otherwise occupied.

A secondary area of litigation involves what is known as “tuitioning out.” In a few states—most notably Maine and Vermont—some small school districts that do not have their own high schools pay tuition for resident students to attend other public and private high schools in the state. This is a longstanding and non-controversial practice because sectarian schools have been excluded from the programs. The exclusion was challenged recently in three separate lawsuits—one in the Maine state court, another in the Maine federal court, and a third in the Vermont state court. We defended the exclusion, and had a clean sweep. The Maine Supreme Court, the U.S. District Court in Maine, and the U.S. Court of Appeals for the First Circuit all held that it would violate the Establishment Clause to include sectarian private schools in the Maine program. The Vermont Supreme Court did not reach the Establishment Clause issue, because it held that the inclusion of sectarian private schools would violate the prohibition in the Vermont Constitution against the use of public funds to support religious worship. Petitions for review were filed with the U.S. Supreme Court in all of these cases, and all were denied.

The third area of litigation includes various tax schemes under which people who send their children to private school or contribute to private-school education receive a tax benefit—either a credit or a reduction against state income tax. The primary beneficiaries of these tax schemes are generally sectarian private schools. Arizona and Illinois have enacted tuition tax credit statutes, which we challenged in the state courts primarily on the basis of the religion clauses of the state constitutions. We have been unsuccessful in our challenges to these tax schemes. Because there is no direct transfer of money from the state treasury to parents or private schools, these tax schemes raise the threshold question of whether public money actually is involved. We contend that the answer is “yes,” because money that otherwise would be paid to the state treasury is diverted, and used instead to pay for religious education. The Arizona Supreme Court disagreed, and in 1999 held that we are not dealing with public money until the state actually collects it. The U.S. Supreme Court refused to review the decision. An

Illinois trial court recently took the same position, and that decision is now on appeal.

As indicated, the U.S. Supreme Court to date has denied all requests for review. But that is unlikely to continue in light of what has been happening in the lower courts. The recent Sixth Circuit decision involving the Cleveland voucher program appears to be the most likely test case. We may soon find out—probably by a five-to-four vote—whether *Nyquist* is still good law.

If and when the Supreme Court agrees to hear one of these cases, it is my hope that the Court will reaffirm the position taken in 1973 in *Nyquist*. But even if it does not, the legal battle will not end. We will abandon the Establishment Clause, and continue to challenge voucher and choice programs under state constitutions on whatever grounds are available to us—from lofty principles such as church/state separation, to “Mickey Mouse” procedural issues like the single-subject rule.

MR. BOLICK: It sounds like I’m going to have a long career.

I’d like to thank Mayor Giuliani and the Manhattan Institute for sponsoring this wonderful conference and for getting us out of D.C. It’s a good day to be away from our nation’s capital: as I speak, over 100 jets filled with Washington lawyers are returning home from Tallahassee, making the city once again uninhabitable.

The discussion over the constitutionality of school choice is framed not only by the religion clause of the First Amendment, but by the equal protection clause of the Fourteenth Amendment. Forty-seven years ago, the U.S. Supreme Court issued the most sacred promise it has ever uttered: the promise in *Brown v. Board of Education* of an equal educational opportunity for every school child—rich or poor, black or white. That is what is at stake in school choice litigation.

In discussing the First Amendment context, both sides will agree that the central question is whether the establishment of religion is

the “primary effect” of any challenged program. The opponents argue that the primary effect of vouchers is religion and we argue that it is education. The question is presently at issue in the Cleveland school-choice case. So far, six courts have addressed the issue in the Cleveland case: we have won three times—including the Ohio Supreme Court—on the religion issue, and the other side has won three times—including Monday’s Sixth Circuit decision.

There were many anomalies in the decision, but I will mention briefly only three of them. First, the court determined that the amount of scholarships—\$2,500—is so low that only religious schools are attracted to participate. I think this might mark the break in the impasse over school choice. Bob and Eliot, I am willing to meet you half way and solve this constitutional crisis by doubling the amount of the voucher. Why do I get the sense that the spirit of compromise is not in the air?

Another anomaly is that the court refused to consider other choice programs in Cleveland, specifically magnet schools and charter schools that are backed by roughly \$6,000 per student. They are so financially attractive that the nonsectarian private schools in the choice program converted to charter schools. Only religious schools are unable to participate as charter schools. They are the poor cousins in the overall system of choices available to Cleveland students.

Nor did the court find persuasive the fact that suburban public schools were invited to participate in the scholarship program. Of about 24 suburban school districts, not one elected to throw an educational life preserver to the students in inner-city Cleveland, while 52 private schools elected to take \$2,500 as full payment for tuition for these youngsters. Thus, the court’s perverse decision is that because the public schools refused to participate, the private schools would be unable to fill the void.

Make no mistake about it: the need in Cleveland is urgent. The numbers one in 14 will haunt me my whole life. A child in Cleveland public schools has a slightly less than one in 14 chance of

being educated and graduating on time with senior-level proficiency. The same child in the same school system has a slightly greater than one in 14 chance of being a victim of crime inside the schools each year. When those two numbers are the same we should not be talking about choice proposals being too radical. We should be talking about them being not nearly radical enough.

Eighteen months ago, our opponents showed their true colors and betrayed their true motivations. When the plaintiffs lost the First Amendment issue in the Ohio Supreme Court, they elected to commence a new round of litigation in federal court. That did not surprise us.

What did shock us was that on Friday, the 13th of August, 1999, they asked Judge Solomon Oliver to enjoin the program on the eve of its fifth year of operation. Judge Oliver granted the injunction 12 hours before school was to start, which would have had the impact of wrenching 4,000 low-income kids out of the only good schools they had ever attended, and depositing them on the doorstep of a school system that the previous year had fulfilled exactly *zero* out of 27 state performance criteria. It would have hurt not only these kids, but the public schools as well. That is appalling for any organization that calls itself an education association, and it is most assuredly not the American way.

Fortunately, the outcry was so great that Judge Oliver reversed most of his own injunction, and last November in a highly unusual action, the U.S. Supreme Court intervened and voted five to four to dissolve the injunction altogether. As Justice Scalia observed just last Saturday in the context of the election controversy, "The issuance of this stay suggests that a majority of the Court, while not deciding the issues presented, believed that the petitioners have a substantial probability of success." We are very anxious to get to the U.S. Supreme Court.

I hear from some reporters that the posse may be circling again. The plaintiffs have charitably expressed their willingness to allow the school children to continue throughout the end of the school

year. According to press reports, they are insisting that the program be discontinued in September of its sixth year of operation, even if our appeal to the Supreme Court is still pending. Bob and Eliot, I challenge you publicly today to renounce any such scheme and to join us in agreeing to a stay. Leave these kids alone.

At bottom, this lawsuit is really not about religion. It is about power. The parents have it for the first time ever and the unions want it back. In the end, the same U.S. Supreme Court that issued the sacred promise of opportunity is not going to snatch it away from these youngsters. In the end, the kids will prevail.

MR. MINCBERG: Thank you, Joe, and thank you for the invitation to be here today. I want to say how much I appreciate how balanced this particular panel has been between opponents and proponents of school vouchers. I wish frankly the same were true with some of your other panels today, particularly those that focused on hearing what people in the grassroots really want. You heard a lot about that from Clint and others.

We at People for the American Way have worked with thousands of inner-city parents in New York, Milwaukee, Philadelphia, Detroit, and many other places, and they overwhelmingly reject the idea of school vouchers and are asking for real reform in their public schools, where the vast majority of their kids will go. If you need any evidence of that, look—as your next panel will—at what happened in California and in Michigan. In Michigan, where Clint and many others supported the voucher proposal, not only was it overwhelmingly rejected by voters, it was rejected by African-American voters and voters in Detroit—the people it was supposed to benefit—by a higher percentage than the rest of the state. In fact, despite the support of the Catholic Church, approximately 64 percent of Catholic voters in Michigan rejected vouchers.

With that as a little bit of background, let me turn as well to the legal issues. I am going to divide my remarks into a couple of categories. First: the federal Constitution. Professor Fried has talked

about liberty, an ideal with which I fully agree. But he has forgotten, in my view, what liberty really means in the context of the establishment clause. Justice Souter said it well in his opinion in *Lee v. Weisman*. There is a key liberty interest involved in that case and in cases involving taxpayer subsidy: taxpayers should not be compelled to support religions with which they disagree. That's the fundamental basis of the establishment clause going all the way back to the eighteenth century and that's the basis on which the federal courts have rejected voucher programs.

There is certainly no question that government money can find its way into religious pocketbooks. If I get a government paycheck I can send my child to religious school or contribute to a religious charity. The question is: How does it get there? Does it get there as the result of genuine neutrality and genuine independent choice by people? The Sixth Circuit decided that in Cleveland the answer to that was resoundingly no. A very small tuition means that only religious schools would participate. No public schools were required to participate, and to do so would cost them a huge amount of money when you consider the money it costs to educate people in suburban schools. Indeed this is worse than the 1973 *Nyquist* program, because in *Nyquist* you could go to any private school you wanted to, not just those that had a limited low tuition.

If you really want to talk about something, Clint, let's not talk about doubling the amount of school vouchers. Let's talk about something that would really give people choice. What if we gave to all low-income people in Milwaukee or Cleveland or other places \$7,500 that they could spend not just on private, mainly religious schools, but on rent for a better apartment—so they could have Mayor Norquist's version of school choice? They could move to a better neighborhood in Milwaukee or the suburbs. What if we did that, so that the choice would not in fact be limited to exclusively religious schools? I have yet to hear any proponents of so-called choice suggest that kind of radical proposal.

By the same token, you could do something else that I have heard a number of voucher proponents suggest, which is to eliminate public schools altogether and then take your voucher money and choose whether to go to a public, private or other school. That might be constitutional under Justice O'Connor's view of the establishment clause. But clearly the programs being suggested in Milwaukee and Cleveland and elsewhere are not consistent with that view.

None of us can truly predict what the Supreme Court will do—as we've seen only too well in the last several weeks. Clint may look as much as he wants to at Justice Scalia's statement, but Justice O'Connor has made very clear that she looks at each of these cases on their merits.

She was the one who suggested—when you are looking at the question of whether choice is genuinely independent—the analogy of the government paycheck. If you use the analogy of the government paycheck, there is no question that the Cleveland program does not provide genuine neutral choice that should pass Justice O'Connor's test under the establishment clause.

But it's also worth talking for a minute about state constitutions, as well. We've done pretty well in that area with the exception of Wisconsin and Ohio. In Vermont, Maine, and other places, the state constitutions are pretty clear. Regardless of what the federal establishment clause says, those programs will not pass muster under the state establishment clauses. It's no coincidence that they went to a referendum in Michigan because they needed to change the Michigan constitution, which in fact forbids this kind of voucher program.

An example of this is provided by the *Witters* case itself—the one Professor Fried mentioned, where a blind student was allowed in Washington to use a state vocational grant to attend a ministerial school under the federal establishment clause. That case then went to the Washington State Supreme Court. The state Supreme Court said that regardless of what the U.S.

Supreme Court said, their state's establishment clause is stricter and they said that the grant can't be used to attend a religious school. There are plenty of states—Washington is only one—where state establishment clauses clearly get in the way of voucher programs. Let me just add, by the way, there is only one way the U.S. Supreme Court can do anything about that. Some people in the last day or so have accused the U.S. Supreme Court of trampling on state supreme courts' interpretation of state law. I think even this Supreme Court—certainly Justice O'Connor—is not about to do that when it comes to state establishment clauses.

This is not the first time we've seen conservatives attempt to use the equal protection clause. We've seen that pretty recently as well. But I think it is important to talk about what Clint said with respect to the state of Ohio and the Cleveland public schools, because what really troubles me about vouchers from a policy perspective is the extent to which public authorities use voucher programs to deflect their responsibility for the public schools. Cleveland is the perfect example. As a result of a court order, for a number of years Ohio has had direct responsibility for the Cleveland public school system. All those statistics that Clint talked about are the direct responsibility of the state of Ohio.

What does the state do? Does it improve the public schools in any meaningful way? No. It allows the tens of thousands of kids there to continue to be in a bad system and provide for three or four thousand this alleged lifeline. Frankly, those 4,000 kids can and should find better opportunities within public schools, including the charter schools to which Clint refers and to which there is no federal or state establishment-clause barrier.

Many of the parents we've talked to want a lot more say in how their kids are educated. But they don't want the money to be bled off into voucher systems, which already, in our view, have done serious damage to public education in America.

I challenge Clint in a different way. I challenge Clint to support public programs to improve public education rather than supporting voucher programs, which, in our view, are destructive to our schools and destructive to our kids.

Afternoon Remarks

The “Liverwurst Solution”: A Growing Consensus on School Choice

Robert Reich

Former U.S. Secretary of Labor

MR. OLSEN: It is now my privilege to introduce the former Secretary of the U.S. Department of Labor, Professor Robert Reich. Under his leadership as Secretary, the Family and Medical Leave Act was implemented, and the Department of Labor cracked down on unsafe work sites and on fraudulent pension and health-insurance purveyors. Prior to his appointment as Secretary of Labor, Professor Reich was a lecturer at Harvard University’s Kennedy School of Government. He is a graduate of Dartmouth College with a Masters Degree with honors, has a Masters Degree from Oxford University, where he was a Rhodes Scholar, and received his J.D. from Yale in 1973. He is a man who has been steadfast in his principles throughout his entire career, both in and out of formal public service. As such, his thoughts on school choice are ones that receive great attention and merit great interest. His new book is entitled *The Future of Success*. Please join me in welcoming Secretary Robert Reich.

MR. REICH: Mr. Mayor, Manhattan Institutionalists, fellow right-wingers, thank you very much for inviting me.

First, I want to extend my congratulations to the new President-elect. This has been the most partisan period in our history since perhaps Watergate—maybe even Vietnam. Most Americans didn’t

get terribly passionate about this election, but they did get extraordinarily passionate about the last five weeks.

I want to suggest to everyone in this audience who is interested in school choice—or vouchers or however you describe it—that there is a lesson to be learned here. Americans, generally speaking, are not partisan. They are very practical. They want to roll up their sleeves and get to work on whatever problem needs solving. They don’t particularly like partisanship. They don’t like stridency. They don’t like what they see in the evening on cable television. They don’t like yelling. They don’t like slogans.

When it comes to education, particularly of our poor and working-class children, we should put aside partisan-sounding language and try to talk in a way that can be heard by all, and listen carefully to what everyone is saying. I worry that school choice is becoming one of those issues—like abortion and communism—where people have stopped thinking. Both sides are digging in and there is less and less listening and less and less practical problem-solving going on.

Let me tell you how I got to where I am intellectually on this issue. I hope both sides listen to what I say and don’t immediately object to my words. I tried floating some of these thoughts in an article in the *Wall Street Journal* earlier this fall—I think you have a copy in your conference materials. I was amazed at the result, because so many people—Republicans mostly—said “Reich is for vouchers.” So many people with whom I normally associate were angry with me, and I asked them if they had actually read the piece carefully. They said no. We get pigeon-holed. We get stereotyped. We get labeled, and that is a substitute for thought. I am going to explain to you my intellectual journey, and hopefully we can have a discussion about this.

By far the biggest obstacle to upward mobility in our very prosperous nation is the lousy schools that so many of our poor children attend. Before I divulge my remedy, I want to discuss the two main reasons why poor kids attend lousy schools. This is based on a lot of research and a lot of interviews—my four

years as Secretary of Labor traveling around to poor communities all over America. My colleagues in the cabinet very often went to conferences and went to meetings in the commercial capitals of the world: Paris, London, Hong Kong. I went to different places. I spent a lot of time in schools—just walking around schools—talking to teachers and students.

There are two big problems, and we have to be very honest about them. Neither alone can explain the entire universe of school problems. The first is that there is often not enough money. Across America, about half of school revenues come from local property taxes. Increasingly, Americans are segregating geographically by income. We now have entire communities that are rich, or upper-middle class, or middle class—working class, as we used to say—or poor. By relying on local property tax for 40 percent or 50 percent of school revenues, we are inevitably going to find unequal revenue streams, given the geographic segregation. Poor districts have lower tax bases, which translates into fewer dollars per pupil. Court-ordered state equalization formulas seeking to redress this financial imbalance have not worked.

A new analysis from the center of the National Center for Educational Statistics shows that most poor children attend schools that spend less per student than their state's average. Given this, it should not be surprising that poor schools are more run-down than schools in richer communities. They have fewer new books. Their equipment is more outmoded. Their teachers do not earn as much as teachers in richer communities, even though the challenges they face are formidable.

A new study of New York State schools shows the same pattern. Starting salaries for teachers in New York City are about 25 percent lower than those for comparable teachers in the suburbs. New York State's big urban districts are falling further and further behind in the quest to hire highly qualified teachers. It's a small wonder that, as the U.S. Department of Education of the recently reported, much of the teaching done in poor communities' schools is now done by teacher's aides without

college degrees, instead of by qualified teachers. The law of supply and demand is not repealed at the schoolhouse door.

Teaching in inner-city schools is a hard job. If we want to keep talented and committed people there, we can't rely solely on their love and compassion. We have to—as anyone who studies markets understands—pay them not less, but more.

The second reason poor kids attend lousy schools is that most other kids who are attending them are also poor. Poverty in America is becoming more geographically concentrated. The poverty-related problems of these children—including drugs, violence, unruly behavior, low self-esteem, and parents too overwhelmed to give their children the attention they need—are compounded by the presence of many other children with the same or similar problems.

Peer influences among children are enormously significant, as the parent of any teenager can attest. I have two teenage boys. They are dear and wonderful boys. Their peers are—I won't say *more* important to their daily lives than their mother and I, but they are nonetheless very important. There have been a number of studies charting this. High-school students are less likely to go to college when fewer of their classmates are college-bound. They are more likely to get into trouble with the law when more of their classmates get into trouble, and are more likely to have babies out of wedlock when more of their peers do the same.

New evidence from some of my former colleges at Harvard strongly suggests that peer effects extend beyond schools to the communities surrounding them. After a random sample of poor inner-city families in Boston received housing vouchers that enabled them to move to higher-income suburbs, children's behavior improved on many scales relative to children and families who wanted the vouchers, but lost out in the lottery. This is a good blind-control study because all the parents wanted vouchers, but it was a lottery and only some of them got them. They traced what happened to both groups of children, using a baseline of a group of different indi-

cant behaviors, and saw that the behavior of children who moved out improved considerably.

Any sane approach to giving poor kids a better education would have to respond to both of these problems. Again, I am not suggesting that these are the only reasons for poor performance in school, just that they are important reasons. Instead of giving poor kids less money per-pupil than middle-income kids get, we should give them more.

Per-pupil public expenditures in the United States now average between \$6,000 and \$7,000. Now, there is tremendous variation—from \$4,000 up to around \$11,000—and there are measurement difficulties. If you include special education, it's higher. Let's assume we average about \$7,000 per pupil. My suggestion would be to back up every child from America's poorest 20 percent of families with \$10,000 to \$12,000 in educational expenditures per year. Children from families in the next quintile would get \$8,000 to \$10,000, and so on up the income ladder.

At the same time, this would bust up the concentrations of poor and lower-income children in the same dysfunctional schools. We've already tried to do this in various ways. We've tried magnet schools. We've tried busing, which doesn't work very well for a variety of reasons. A progressive voucher is a great incentive to move poor kids out of poor schools: let any school that meets certain minimum standards compete to enroll these kids and receive the public money that follows the child. (For the sake of this discussion, let's bracket that tricky First Amendment issue about public money going to parochial schools. I am happy to talk about that, but just put it aside for the sake of this argument.) Children from families in the next to highest quintile get \$4,000 to \$6,000. Children from families in the top 20 percent of earners receive only \$2,000 to \$4,000 of public money each year. Of course, these families are free to supplement that with their own money.

This is what a progressive system of educational funding might look like. Under such a scheme, schools in wealthy suburbs will try

to lure some poor urban kids their way to meet their budgets, perhaps even sending out vans to collect them and drop them off.

Notice that I have not used the term “voucher.” It has become so loaded a term that it ends the conversation. Vouchers alone—if you are not giving more money to poor children than children of higher-income parents, if you are not setting standards for schools to achieve to be eligible for vouchers—are just going to end up sorting American children even more. You will further concentrate kids who are more needy or more troublesome in schools that are even worse than before. As every slightly better-off child runs for the exits, such schools would end up with even fewer resources per difficult child—children who are either behaviorally difficult or who need significant pedagogical attention. America would become more socially stratified.

So don’t call my proposal a voucher plan. Call it something else. Call it a liverwurst solution. My liverwurst plan is designed to get more money to poor kids and break up concentrations of poor kids in the same dysfunctional institutions. In other words, it directly addresses the core reasons why poor kids are locked in bad schools.

This will be a hard sell to say the least. It will require a coalition of conservatives—who want to give poor kids and their families more choice and who believe that market mechanisms are a powerful incentive schools should be exposed to—and liberals—who want to give poor kids more educational money. But I do believe that liverwurst is the only solution.

Thank you very much.

Panel Four

The Future of School Choice: Lessons from Michigan and California & New Models for Expanding Parental Choice

Bruno Manno, Moderator

Senior Program Associate, Annie E. Casey Foundation

Matt Miller

Syndicated Columnist

Joseph Overton

Senior Vice President, Mackinac Center for Public Policy

John Coons

Professor Emeritus, University of California–Berkeley, School of Law

John Faso

Minority Leader, New York State Assembly

MR. OLSEN: We'll now move to our final panel, devoted to a discussion of the Michigan and California situations and the future of school choice. Bruno Manno of the Annie E. Casey Foundation and the Fordham Foundation will be the moderator. He will introduce each of the panelists.

MR. MANNO: The first speaker on our panel, “The Future of School Choice: Lessons from Michigan and California & New Models for Parental Choice,” will be Matt Miller, who is a nationally syndicated columnist and a regular contributor to a variety of publications, including the *New York Times Magazine*, the *Atlantic Monthly* and other national publications.

Second will be Joe Overton, Senior Vice President of the Mackinac

Center for Public Policy in Michigan. He is also a member of the state bar of Michigan.

Next we'll hear from John Coons, Professor Emeritus at the University of California–Berkeley, School of Law.

And finally, John Faso, who, after 12 years in the New York State Assembly, was elected minority leader in 1998.

First, Matt Miller.

MR. MILLER: I approach the issue of school choice as a pragmatic progressive—not unlike Secretary Reich. My motive in reporting and writing about the voucher issue is to help poor kids. I live in L.A., and I spend a lot of time reporting on teachers, kids and the public-school system in L.A. I am convinced that Democrats and the Left have to embrace some form of choice as part of the answer to our education problem. At the rate we are going—with the kind of litigiousness and animosity we see on both sides—another generation of kids could go through the system without their inadequate schooling being improved in a meaningful way. Voucher programs that serve only a fraction of kids nationally won't change much.

I've spent days in parochial schools in L.A. If I were a parent and my child was in an unsafe and inept inner-city school in L.A., I would fight like hell to get him or her into a parochial school—and explain to my child at home to ignore any religious proselytizing that might occur.

A piece I did in the July 1999 *Atlantic Monthly* called for the school-choice and “school equity” camps to come together. We need a grand bargain between those who justly argue that poor kids need more resources—because they come to school with a lot more problems—and those who justly argue that the current system needs to be shaken up—especially the education bureaucracies in our major cities. So much of what happens in urban school systems is a battle between interest groups comprised of adults over differ-

ent shares of a pie that's meant for kids.

I am working on a profile of Roy Romer, who took over as the superintendent of schools in L.A. about five months ago. He now faces enormous problems in trying to arbitrate their current union-contract negotiation. Romer is a Democrat with impeccable pro-union credentials who has dealt with teacher negotiations before as governor of Colorado.

If you talk to all the various players, as I do, you can empathize with them—their situations and the actions they choose—because they are all caught in a dysfunctional equilibrium. It's understandable why senior teachers don't want to give up certain perks, why principals don't want to give up certain powers. The net result of this is that it is almost impossible to focus on improving classroom instruction for poor kids, which has to be the goal of education.

Looking forward, the lessons of these two failed initiatives point toward a compromise.

Tim Draper spent \$20 million of his own money on a voucher initiative in California. It was trashed at the polls, and I think rightly so. Folks realized this was a universal voucher proposal that would have given a \$4,000 voucher to every school kid in California. It was a universal system, benefiting rich and poor alike, and included no plan to assure that poorer students had a chance of being picked by the better schools. The proposal could also be criticized as being a massive subsidy to families who can already afford to put their kids into private schools.

On policy grounds, I think it was right that it was defeated. But Draper's willingness to spend so much money—for the first time, the voucher side had resources equal to the unions opposing it—represents perhaps the biggest lost opportunity to shake up urban school systems in the last 20 years. If those resources backed a plan targeted at the poorest kids in major urban school systems, where people know there are big problems, fair-minded voters in the middle would be less easily persuaded to oppose the plan by

the unions—who oppose vouchers on principal, in all their forms. That’s the way the pro-voucher folks ought to be thinking about coming back to this issue.

I’m mystified by the fact that Michigan’s plan went down so dramatically. They didn’t have anything like the resources that Draper put into California. Pro-choice folks—and all those who cared about the education of poor kids—need to think about how to raise significant resources to promote a choice plan targeted at low-income kids in specific troubled areas, so that choice can be tested for a while and a constituency can develop.

On the federal level, President-elect Bush has a sort of quasi-voucher as part of his plan for reforming the federal component of education. Under Bush’s plan, parents whose kids attend chronically failing schools can take their Title I money, combine it with state funds, and have a \$1,500 voucher that can be used for some other educational option. The problem is that these kinds of small plans are useful only to fill up Catholic school seats—the only practical use for vouchers that are scaled that low. The per-pupil size of the voucher has to be equal to or higher than current public-school per-pupil spending, in order to offer to the Left and advocates for the poor—who believe that more educational spending is needed—some incentive to support the program.

Without raising the value of the voucher dramatically, you can’t attract the left’s support. You also can’t get a real market test of whether new schools would actually form in response to these voucher plans—which, after all, is one of the claims free-market advocates make. \$1,500 doesn’t even begin to cover the capital cost of construction or the up-front investment a new school requires. Bush should be thinking about raising the voucher amount for just these practical reasons.

The other problem is that without making these plans broader, it will be impossible to separate the political coalition of minority leadership—who represent the bulk of the kids who’ll be affected—and the teachers unions. Unless the choice movement can figure

out a way to split the alliance between minority leaders and the teachers unions, nothing will happen. Minority leaders are making a rational choice not to support vouchers, because so many of the voucher plans are tiny. A proposal coming from those on the side of the political spectrum whose motives you distrust already provides little incentive to split with the teachers, who are shoulder to shoulder with you on so many other major issues that matter to your constituency—but especially if the proposal leaves out 99 percent of the families you represent. The political equation requires much bigger voucher plans covering entire cities or entire states, with whole communities getting as much or more resources than are currently available. A long-running experiment is the way to create the political momentum that could make this work.

In terms of friendly advice to Republicans, I think it's important in this context to consider the broader agenda of those who tend to champion choice. Those on the left who might otherwise be attracted to choice programs become deeply suspicious of a Republican President-elect's motives in promoting school choice when he has at the heart of his agenda a massive tax cut that ends up favoring the wealthiest members of our society. No issues exist in isolation; coalitions and alliances form in response to the entire agenda of those who are perceived to be on the other side. Those who are pro-choice should consider how Bush's tax cut is perceived in the scheme of things when you are trying to send signals to impoverished communities that choice is right for them.

One of the fascinating things about Secretary Reich's proposal is the fact that a traditional liberal—that's what Bob Reich is—is embracing a risk-adjusted payment that follows each child. The more at risk that child is, the more money goes with him. It's not a bad proposition. Especially interesting is that this is precisely the proposal Republicans are pushing on Medicare reform—the adjustment of premiums for risk. It's a harder thing to do in healthcare, but it's a very promising beginning to see a Democrat like Reich open to risk adjustment in social policy.

MR. OVERTON: Good afternoon. As Bruno mentioned, my task is to explain what happened to the voucher proposal that was on the last general-election ballot in Michigan, called Proposal 1. As I talk about it, I can't help but express gratitude to the people who were involved in the Proposal 1 effort—both those who supported it financially and those who worked very hard for it over many months.

The program that was put together by a coalition of groups had three components: a constitutional guarantee of a minimum amount of funding for public schools; required academic testing for teachers in public schools and in those private schools accepting vouchers; and vouchers targeted at districts that fail to graduate at least two-thirds of their students from ninth to 12th grade. The amount of the voucher would have been \$3,500—around half of what the public schools spend to educate students.

There was also a provision that permitted local school districts, by either a vote of the school board or a vote of the citizens in that school district, to make their district a voucher district. All they needed to do was gather a petition of 10 percent of the voters who voted in the last school-board election. In some cases, that would have been six people.

Proposal 1 was the right thing to do for Michigan. Some believe that its defeat has given the voucher movement a black eye. Consider Elliot Minberg's comments earlier: the unions are trying to spin the defeats in Michigan and in California as the death-knell of the movement. I don't believe it is in Michigan, although that perception is something that we will have to deal with.

One of the campaign managers of Proposal 1 said early on that the reason these voucher proposals had failed repeatedly in other states—and I think statewide initiatives now number over 20—is because of a lack of money. "Supporters have always been outspent by the opposition." But it's not lack of money: Proposal 1 spent about twice as much as the opposition campaign spent. I understand there are lots of off-the-book sources of support, but that is true of both sides. There is more to it than money: this plan failed

by a two to one margin. The vote statewide was 31 percent in support, 69 percent opposed.

Some have criticized Michigan for seeking a statewide initiative rather than attempting to advance school choice through the legislature. But in Michigan, we have no choice. Michigan has perhaps the most restrictive constitutional prohibition on any type of grant, loan, tax, credit, or voucher of any state in the United States. As an attorney, I admire whoever drafted the language for Article 8, Section 2 of our constitution. In order to address this issue, we need repeal provisions of Article 8, Section 2 in Michigan.

There are essentially two components to a statewide-initiative campaign. The first component is to enlist the support of financial backers and other opinion leaders. If you are successful in attracting financial supporters, you are able to take your proposal to the voters statewide through a mass-media campaign.

With respect to phase one, Governor Engler was not only not supportive of this proposal, he was actually hostile. He predicted its defeat early on, but he also worked behind the scenes among Republicans and business leaders to discourage support—particularly financial support—for the effort.

Detroit is obviously important in Michigan politics. The campaign worked with a coalition of African-American leaders in Detroit to try and bring them on board early in the campaign, which was a wise thing to do. However, when push came to shove in the latter part of the campaign, the Detroit leadership backed out. In fact, they ended up passing a resolution opposed to the school-choice proposal. So there was a lack of leadership, both in terms of financial support and among opinion leaders around the state.

The design of the mass-media campaign in phase two was flawed, as well. Combining what was assumed to be a popular teacher-testing proposal to our voucher plan backfired. It's like tying an anchor to a bouy and hoping the bouy will make it float. The pivotal issue in this campaign was the voucher. The signs as you would go around the state

all said “Vote no on Proposal 1,” “No to vouchers.” Vouchers are a loaded term, especially in Michigan: we had a failed voucher attempt back in 1978, which went down nearly three to one.

The teacher-testing component of the plan encouraged a level of voter turnout among the public-school establishment that I’ve never seen before. It’s a slap at public educators to say that poor-quality teachers are a real problem. While it may be true, it was still taken as an affront. They did not want to be tested. Many of us—including mayors and attorneys—don’t want to be continually professionally tested. There is something distasteful about it, and so they were very adamant in coming out and getting vigorously engaged in the opposition campaign at the grassroots level all over the state. Administrators in particular were exercised about the teacher-testing proposal. It is difficult to say, “Twenty-five percent of your teachers failed this teacher proficiency exam. Okay, Mr. Superintendent, what are you going to do about that in a very tight labor market?” The teacher-testing proposal diverted campaign resources and I think this is one of the key lessons.

In an initiative campaign on school choice we need to do a much better job of educating people on the issue. You can’t just say that choice is good for kids without explaining how it works; we could have done this better in Michigan, through the mass media and by getting more local leaders enlisted in the campaign. Issue campaigns are very different from candidate campaigns. You can’t play the same game. You need to get into the substance, both in educational pre-campaign work and in mass-media advertising. That’s another lesson.

We also need to consider tax credits as a possible alternative to vouchers. We have structured a program at our organization, the Mackinac Center for Public Policy, that would overcome some of the objections to tax credits—that they can’t help lower-middle-income families. In fact, Mayor Schundler’s proposal, which he spoke of earlier, is similar to the one we are advocating.

Professor John Coons' comments have since been published in America (www.americapress.org), and are adapted here with permission.

PROF. COONS: My generation has witnessed many proposals for school choice, of which a few have now taken root in law and practice. It is time to consider what successful states—such as Wisconsin—have understood that remains opaque to their brethren. Though effective and popular, the Milwaukee insight has so far eluded those who draft voter initiatives. In many states, including my own, the initiative will remain the indispensable constitutional tool for maintaining the identity of private schools. Before committing the fate of school choice to instruments that even dichards like me feel bound to reject, we must clarify our common objective.

What exactly is that larger tent of policy that could accommodate both the market enthusiast and the mainline voter? In search of this common purpose I start with two general observations about markets, the first theoretical, the other descriptive. The market is our favorite instrument, but as the public well understands and agrees, it could never become an end in itself. As John Norquist noted, to reduce schools to an analogue of banks and airlines is aid and comfort for the enemies of choice. Voters care more about the visible hand of the parent than they do about the invisible hand of Adam Smith. I will try to keep this forensic point in mind.

My point is simply this: There presently exists for many parents a very real market in state-provided education. Those who have purchased homes near popular government schools can attest to its liberating power. The full-blooded state monopoly that we all oppose prefers to focus its worst atrocities upon ordinary families and the poor. This truism may not decide who gets vouchers, but it certainly identifies the primary victims of the present regime. It also reminds us that, at least in assessing raw self-interest, the rational middle-class voter will discount the need for vouchers if he finds his own array of choices satisfactory.

So we may have to seek his sympathy on grounds broader than the market itself. Here I can suggest only a few among these human justifications. I proceed by way of six premises that deserve a larger place in this debate.

First, there is in fact no system of public schools in the U.S. In the *Oxford English Dictionary*, the adjective “public” means “accessible to all citizens,” in the manner of parks, streets, libraries, pools and museums. Heroes of the civil-rights movement have given their lives in support of this definition. But access to a state school today remains a privilege attached to residence. No Oakland child has a right to enroll in my well-chosen neighborhood school in Berkeley.

Educators like Plato might be indifferent to such balkanization by wealth. With common teaching methods and a common curriculum, you might deem segregation by social class less malignant. Uniformity among schools can help to anesthetize our sense of injustice. The problem is that America is not a homogeneous community of right-thinking Athenians. Premises two and three of mine will focus upon the implications of this diversity.

Our society lacks a common pedagogy. Its teaching professionals are in ardent, deep conflict about method. Given this indeterminacy, the system can offer no justification for consigning one child to a “whole language” school, for instance, while another is assigned to a “phonics” school.

Doesn't the common educational content mandated by the state reduce the weight of this injustice? It might, if it were in fact the case. We do find some consensus regarding mastery of the three R's plus science. In addition, we all want every child to be taught to obey the law. This consensus about substance is presently institutionalized in statutes of the 50 states that affect the curricula of private schools and homeschoolers, and the laws that define truancy. Where our society's agreement on correct content ceases, we find our third premise.

Above the minimum set in the truancy statutes, everything concerning human value that enters the curricula of government schools is up for grabs. This must be so. On the question of the good life, we are people divided. There is not and cannot be any public curriculum expressing the moral significance of specific sexual behaviors, euthanasia, war, drugs, animal rights or gender roles. The list could be extended. Each teacher will use one of six responses to all questions on such topics: “yes,” “no,” “maybe,” “I don’t know,” “decide for yourself” and “we can’t discuss it.” Lacking any public measure of correctness, each and every actual response by the teacher must be local. If the message offends, the affluent family can escape. The rest, however, remain cultural captives, a guaranteed audience for the private opinions of some local imperium.

The fourth premise is related, but broader. Even if we agreed as a people on specific moral answers, the state could invoke no consensus regarding the ultimate sources, if any, of the child’s basic obligation to respect them. Thus, in government schools the reason for being a good citizen shrinks to pure social contract. Just why contract itself should bind anyone at all remains a mystery. The teacher is impotent to invoke religious or even natural foundations. What is left is some version of Hobbes or Rawls, or nothing. Imposing such a system upon a pluralist society makes education lawless, arbitrary, and morally random. Haphazardly, the state commissions individuals to impose their own private versions of the good life. Some adult necessarily imposes his or her favorite content on the child. If he grasps this, even the most indifferent suburban voter recoils and embraces school choice, in the benevolent hope that our poorest families might escape this babble.

Here I simply assert premise number five. So long as the legal minimum is satisfied, the parent is the best one to decide for their child. There is plenty of supporting theory, but I won’t reargue it here.

These first five premises roughly express America’s institutional problem. Together, they suggest that our most salient common purpose must be the enfranchisement of the ordinary family and

the poor in an accessible market system—truly public schools, in both the private and government-run sectors.

My sixth and final premise is that choice has a wide range of benign social effects. It maximizes those human goods on which Americans do in fact agree, goods that we thus can rightly claim as public. We must learn to argue for choice in these more affirmative terms. We need to grasp and flaunt such simple and cherished concepts as the First Amendment value of free speech. Schools of choice constitute a form of media that is uniquely suited to dissemination of ideas held by people typically left unheard in the marketplace of ideas. Through its chosen school, the ordinary family can speak systematically not only to its own children, but through them to the world. Its ideas become embodied and thus transmitted. Children are the books waiting to be published by the poor. The ACLU should understand this. Perhaps one day it will.

Consider also the impact of choice upon parental responsibility, with its radiating implications for family life. The middle class knows these well and jealousy secures its own sovereignty. For the rest, however, parental sovereignty comes to an end with little Alice or Harry's fifth birthday. From that moment, the child experiences family as a vulnerable and sometime thing. The parents experience themselves as impotent. This displacement of the non-rich parent by the state is thoroughly poisonous. In collaboration with the psychological professions, you and I should learn to describe this calamity and offer school choice as therapy for the family.

There is, however, still another victim of the educational leviathan who merits our sympathy. In imitating chattel slavery, our economy of education corrupts both parties to the bondage. Those given dominion over the ordinary family are themselves rendered insensitive and venal to the same degree that their subjects are rendered evasive and shiftless. In the end, the masters find themselves equally enthralled. As we would rescue the family, so must we rescue the teacher from the role of monarch of the poor.

There are many other humane and persuasive recommendations that together we could be making for choice. These include the nourishment of inter-group tolerance, the integration of social class, racial integration—and even the liberty of the child himself, a subject on which I will here offer only this brief word. It is within the family that the voice and choice of the maturing child have their best chance for a hearing. In paradox, perhaps, parental sovereignty is the efficient cradle of the child's own autonomy.

The bottom line: we must seek those policy solutions that secure choice first and foremost for the ordinary family, especially the poor. It would take an economist to miss this point, just as it was missed yet again in California this year. Consider Proposition 38: regardless of age, handicap or family income, every schoolchild would receive a flat \$4,000 voucher. Tempting to the middle class? This would have been useful to about 1 percent of those families who are financially unable to pay an added tuition. Such a voucher would have been sufficient to start new private schools for those who can pay extra, but for them only. The Catholic bishops, who with their own schools in place stood the most to gain, said “no thanks,” reaffirming their 1981 decision to support vouchers, but only when they are properly designed. The media and public opinion took a similar pro-school choice, but anti-Prop 38 position.

Having now observed and opposed the California and Michigan debacles—meanwhile applauding Milwaukee—I would today identify specific criteria for any future proposal for school choice whether by way of initiative or statute. In general, where the benefit is to be targeted exclusively upon a disadvantaged group, the less these criteria will bind. Conversely, as eligibility for vouchers is broadened to include all children, the following six conditions become more salient.

One: public agencies—including school districts, universities, and cities—must be liberated and encouraged to form and/or operate deregulated schools that are financed only by vouchers or their

equivalent. Consumers seek this public option and market theory thus requires it.

Two: private-school identity must be protected by capping any present or future legislation effecting curriculum, hiring, or discipline—both academic and behavioral.

Three: for each level and type of student, the scholarship must be large enough to attract new private providers. The minimum may be roughly estimated at 80 percent of the average government-school per-pupil cost in each category of student.

Four: reflecting aspirations typical of today's private schools, providers would select a portion—say 20 percent—of new admissions from non-rich families and refrain from pricing them out.

Five: reasonable transportation for the poor must be subsidized.

And six: consumer information must be temporarily facilitated by an independent public system of school evaluation.

Honoring these six criteria would implement our common purpose as I conceive it. Proposals of this general design will not only make choice politically viable, but will be much less vulnerable to the sort of objections raised in Monday's decision by the U.S. Court of Appeals in the Cleveland case.

Among the many models available, my personal preference is a two-step initiative establishing a constitutional right to vouchers worth 80 percent of state-school cost for children from families of modest means, coupled with an empowerment of the state legislature to extend this same right to all families in accord with the six criteria. The middle class—that is, people like us—can be counted on to secure that extension through the political process. I would conclude, go eat Secretary Reich's liverwurst.

MR. FASO: Good afternoon everyone. I appreciate the opportunity to come before you to present a school-choice alternative that I am advancing here in New York. In New York, we do not have

the right to voter initiatives or referenda, processes which have both pluses and minuses. The Michigan and California strategy is simply not open for consideration in New York State.

However, what I have proposed—and will propose again in the next legislative session—is a \$1,500 refundable tax credit that would be available for educational expenses. It would be available to both the parents of public-school students and nonpublic-school students, and could cover items such as tutoring, SAT-review courses, an academic summer camp—even the purchase of a personal computer used in a child’s education. It could also cover tuition expenses. It is a refundable tax credit, meaning that those who do not have any tax liability due to the state at the end of a tax year would still receive the benefit equal to the amount of their expenses, up to \$1,500.

It has the advantage, I believe, of meeting some of the objections, legal and constitutional, that are raised by those who oppose school choice in New York and elsewhere. It would also be an important political victory to obtain passage of some type of school choice for both public-school parents and nonpublic-school parents—essential for building the political support necessary to enact more comprehensive school choice.

As the initial sponsor of charter schools here in New York State, I can tell you it was difficult to persuade suburban and rural upstate Republican and Democratic legislators to support a concept like charter schools; they didn’t see the need for them in their particular districts or regions. The only reason we passed a charter-school law was that Governor Pataki wisely attached to it the proposal for a legislative pay raise.

In order to build a political constituency for something like an educational tax credit, it needs to apply to more than just poor urban parents. It needs to apply to parents whether they live upstate, downstate or in the suburbs. The way we have devised this particular proposal, the refundable tax credit would phase out for those taxpayers with joint adjusted gross income over \$100,000. Folks from

other states have told me they thought that number was rather high. I have colleagues in New York, and especially in the metropolitan area, who have said to me that we really should make it a little higher. A married policeman and a nurse, for instance, might together be making \$110,000 or \$125,000. Some phase-out after a certain income level is politically necessary in order to sustain passage.

New York State now spends \$29 billion for K through 12 education. Virtually all of it comes from local and state tax sources. In the recent presidential campaign, we heard a lot about the federal role in education; most citizens are probably not aware that the federal government has little role in financing elementary and secondary education. Washington provides only between 5 and 6 percent of all of New York's \$29 billion in expenditures. The bulk of it comes from state and local sources: \$29 billion spent, and yet not a dime of it is directed by parents—with the tax code's assistance—to help their children.

New York does nothing in K through 12 education to help parents afford educational alternatives or supplementary services for their children. But consider higher education—for instance, the Tuition Assistance Program. This year, the TAP program will spend close to \$800 million in tuition assistance for college students, whether they attend a public, private or religious college.

A handful of other states have either a tax credit or a tax-reduction proposal; this proposal would be the largest of its kind in the country. A \$1,500 refundable tax credit for education expenses would get parents more involved in procuring educational services for their children. It would also provide a fair amount of tutoring work for teachers seeking to supplement their incomes.

Time and again I've heard arguments that school choice diverts resources from the public schools. But those arguments aren't made about the Tuition Assistance Program. No one gets up before the New York legislature to say that TAP's \$800 million diverts money from the SUNY and CUNY systems. Indeed, no one claims that

TAP should be used only for *public* higher education and should exclude funding to those who want to go to St. John's University, or Iona College, or another private institution.

While we try to raise standards throughout New York State, we need to extend the opportunities for parents to make educational choices and to purchase additional education services for their children.

Thank you for having us here today.



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