
SCHOOL VOUCHERS IN NORTH CAROLINA

THE FIRST THREE YEARS

A REPORT ISSUED BY:
CHILDREN'S LAW CLINIC
DUKE LAW SCHOOL
DURHAM, NORTH CAROLINA
March 2017

© Children's Law Clinic 2017
Duke Law School
Box 90360
Durham, NC 27708-0360
919-613-7169
www.childedlaw.org

Jane R. Wettach, Clinical Professor of Law, Director

The Children's Law Clinic gratefully acknowledges the contributions of law students Tara Burns and Nicole Scully in the preparation of this report.

SCHOOL VOUCHERS IN NORTH CAROLINA

THE FIRST THREE YEARS

Beginning with the 2014-15 school year, school vouchers have been available in North Carolina through the Opportunity Scholarship Grant Program. This report summarizes the state's experience with the voucher program to date, and makes recommendations for the future.

EXECUTIVE SUMMARY

- ❖ In 2013, the NC General Assembly enacted the Opportunity Scholarship Grant Program to make taxpayer-funded grants, or vouchers, available to low-income students to assist with payment of tuition at private schools. A voucher can be a grant of up to \$4,200 per year.
- ❖ The number of children receiving vouchers has increased from approximately 1,200 in the first year to 5,500 in 2016-17. The General Assembly has authorized an additional 2,000 vouchers for each year over the next decade, bringing the total to 25,000 by 2017.
- ❖ The Opportunity Scholarship Grant Program is funded through general revenues. The initial annual appropriation was \$10 million; the current annual appropriation is \$60 million; the anticipated annual appropriation by 2027 is \$145 million. At this rate, the total expenditure by 2027 will be \$900 million.
- ❖ Approximately 93% of the vouchers have been used to pay tuition at religious schools.
- ❖ Based on limited and early data, more than half the students using vouchers are performing below average on nationally-standardized reading, language, and math tests. In contrast, similar public school students in NC are scoring above the national average.
- ❖ Accountability measures for North Carolina private schools receiving vouchers are among the weakest in the country. The schools need not be accredited, adhere to state curricular or graduation standards, employ licensed teachers, or administer state End-of-Grade tests.
- ❖ Because private schools receiving vouchers are not required to administer the state tests nor to publish detailed achievement data, researchers will be unable to develop thorough and valid conclusions about the success of the program at improving educational outcomes for participating students.
- ❖ The North Carolina voucher program is well designed to promote parental choice, especially for parents who prefer religious education for their children. It is poorly designed, however, to promote better academic outcomes for children and is unlikely to do so.

INTRODUCTION

In 2013, the North Carolina General Assembly created the Opportunity Scholarship Program, joining 10 other states or cities with similar programs. The program provides an opportunity for certain North Carolina families to withdraw their children from public schools and get a scholarship from the state to assist with the payment of tuition in a private school. These scholarships, also known as vouchers, were first available for the 2014-15 school year and have continued to be available since then. The program is administered by the North Carolina State Education Assistance Authority (SEAA).¹

The General Assembly appropriated \$10 million for the program for the initial year. The appropriation has continued and expanded for following years. The General Assembly has now authorized the SEAA to make at least 2,000 additional scholarships available every year. The program costs North Carolina taxpayers \$45 million this year; by 2027, it is expected to cost \$145 million a year.

Voucher programs are part of the educational reform movement that favors giving parents more choice in their children's education. The idea is that parents, especially low-income parents, should have the opportunity that wealthier parents have to remove their children from failing public schools and find a better alternative in the private school market.

While data on the program is still very limited, this report presents what is currently known about the students and schools that have participated in the program. Because of the design of the system, the public will never be able to have comprehensive data about the performance of the students who have vouchers and are enrolled in private schools. Instead, only the aggregate performance of students at schools that enroll more than 25 voucher students is available to the public. Some early data from those schools is included here.

VOUCHER PROGRAM DESIGN

Opportunity scholarships are taxpayer-supported vouchers of up to \$4,200 a year that may be used by a student to pay the tuition at a private school. Scholarships are available for students in families with limited income. Currently, the income limit for a family of four is approximately \$60,000 per year.² Priority is given to students from families with lower incomes.³ If the tuition at the selected private school is higher than the voucher, the parent is responsible for the additional tuition; if it is lower, then the voucher covers only the amount charged. Families with incomes in the top quarter of the income range are eligible for only 90% of the tuition or \$4,200, whichever is less. The average voucher granted has been about \$4,000 per year.

Most students in financially-eligible families are eligible to participate, so long as they previously attended public school or are entering kindergarteners or first graders.⁴ If more

students apply than the number of vouchers that are available, a lottery is used to determine which students will be awarded a voucher. However, once a student has qualified for a scholarship, that student may continue to get one for future semesters through high school graduation. The application process occurs online through the website of the SEAA (www.ncseaa.edu). It begins each year on February 1.

Students may enroll in any private school in North Carolina, whether religious or non-religious, that is registered with the North Carolina Division of Non-Public Education within the NC Department of Administration⁵ and is willing to admit the student and accept a voucher in payment of tuition. The general requirements for private schools in North Carolina are that they keep attendance and immunization records, operate at least nine months of the year, and annually administer nationally-standardized tests to students in third, sixth, ninth, and eleventh grade.⁶ North Carolina does not regulate the nature of instruction at private schools; each school is free to determine the type of curriculum that will be offered and the credentials of the teachers. Private schools may operate without any type of accreditation.

Private schools that accept Opportunity Scholarships as payment for tuition must adhere to the requirements for all private schools, as well as certain additional requirements. The additional requirements are as follows:

- Schools must administer a nationally-standardized test to students in all grades, beginning with third grade. While test data must be submitted to the state, the data are not publicly available. If a school has enrolled more than 25 students receiving vouchers in a particular year, the school must report to the SEAA the aggregate test performance of the voucher students; such aggregate data is a public record. The law does not require that the data be reported for any particular categories of students; all grade levels may be reported together.
- Although only the limited test data described above is publicly available, schools accepting vouchers are required to share each student's test scores with the student's parents. The schools are also required to provide an annual written explanation of the child's progress. This contrasts with public schools, which provide written reports to parents four times per year.
- Schools must conduct a criminal background check for the staff member with the highest decision-making authority and provide the report to the SEAA; the SEAA is to ensure that the staff person has not been convicted of certain crimes relating to student safety and integrity.
- Schools must report to the SEAA the graduation rates of the voucher students. Schools are not required to adhere to the graduation standards for North Carolina, but must report the rates "consistent with nationally recognized standards."
- Schools receiving more than \$300,000 in voucher payments in a year must contract with a certified public accountant to perform a financial review. The law does not

specify whether that review is to be made public. SEAA rules require that the financial review be provided to the SEAA within 90 days of the end of the school’s fiscal year.

- Schools must report to the SEAA the amount of tuition and fees charged to enrolled students.
- Schools participating in the program may not discriminate on the basis of race, color, or national origin.

If the SEAA determines that a school has failed to meet the requirements of the law, it may bar the school from receiving future scholarship payments.

LEGAL CHALLENGE TO THE PROGRAM

The Opportunity Scholarship Program was the subject of a legal challenge just after the law was passed. The program was initially halted by a state Superior Court Judge, but was eventually approved by the North Carolina Supreme Court. In upholding the program, the North Carolina Supreme Court rejected arguments that the design and funding of the program violated the North Carolina Constitution.⁷

COSTS OF THE PROGRAM

The Opportunity Scholarship Grant Program is funded from general appropriations. While the original law required that each school district’s per pupil allocation be reduced by the number of students leaving the district to attend private school with a voucher, this provision was repealed in 2014.

The initial appropriation for the program was \$10 million for its initial year, 2014-15. This increased by 63% in the second year, to \$17 million, and by 238% in 2016-17, to \$60 million. The purpose of the large increase in 2016-17 was to “forward fund” vouchers for future years, creating an Opportunity Scholarship Grant Fund Reserve that can be used only for the awarding of scholarships and administering the program. Thus, the appropriation for 2016-17 is divided between the allocation for the current year and the next. The following chart shows the expectation for future funding, which is correlated with 2,000 additional students receiving a voucher each year. According to the 2016 budget figures, the program will top out at \$145 million per year after 2027-28.⁸

Fiscal Year	Appropriation
2017-18	\$ 44,840,000
2018-19	\$ 54,840,000
2019-20	\$ 64,840,000
2020-21	\$ 74,840,000

2021-22	\$ 84,840,000
2022-23	\$ 94,840,000
2023-24	\$ 104,840,000
2024-25	\$ 114,840,000
2025-26	\$ 124,840,000
2026-27	\$ 134,840,000
10-year total	\$ 898,400,000

STUDENT PARTICIPATION IN THE PROGRAM

The Opportunity Scholarship Program was in effect for half of the 2014-15 school year, and for the following two years. The SEAA is required to report each year to the Legislative Joint Education Oversight Committee on the demographics of the participants. The following information is taken from those reports as well as from other data published on the SEAA website and the website of the NC Division of Non-Public Education.⁹

OVERALL PARTICIPATION

The number of students applying to participate and the number who eventually were awarded a voucher has increased each year since the program's inception. The following chart shows that the number of applicants from year 1 to year 2 increased by 56%, while the increase in applicants from year 2 to year 3 was just 8%.

Year	Number of New Applicants	Number of Eligible Applicants*	Number of Voucher Recipients**
2014-15	5,558	4,218	1,216
2015-16	8,675	6,109	3,682
2016-17***	9,394	6,027	5,432

*Students may be denied eligibility because their family's income is too high, because they did not previously attend public school, or because they otherwise do not fit an eligibility category.

**Eligible applicants may not receive a voucher because there are more eligible applicants than available vouchers or because they ultimately decline an offered voucher. In the first year, vouchers were distributed only for the second semester.

*** As of 2/1/17

GRADE LEVEL DISTRIBUTION

The statute reserves a portion of the funds available for children entering kindergarten and first grade. Those students are given priority in future years. As a result, the program is currently weighted toward younger children. The breakdown for 2015-16 is as follows:

Grade Level	Number of Recipients	Percentage of All Recipients
Kindergarten	579	16%
1st Grade	564	16%
2nd Grade	307	9%
3rd Grade	322	9%
4th Grade	296	9%
5th Grade	288	8%
Elementary grades – Total	2,356	68%
6th Grade	278	8%
7th Grade	259	7%
8th Grade	181	5%
Middle School grades - Total	718	20%
9th Grade	153	4%
10th Grade	127	3%
11th Grade	82	2%
12th Grade	24	1%
High School grades - Total	386	11%
All recipients	3,460*	99%

*This was preliminary data. Total recipients for 2015-16 exceeded this total by 222 students; additional grade level data is not available. The percentages do not add up to 100% due to rounding.

DISTRIBUTION BETWEEN RELIGIOUS AND SECULAR SCHOOLS

The voucher program has been most popular with families who prefer religious education. In all three years, about 93% of the vouchers were used to pay tuition at religious schools. The

following chart shows the distribution of voucher at religious and secular schools during the first three years.

Year	Total Recipients	Using Vouchers at Secular School	Using Vouchers at Religious School
2014-2015	1,216	85 (7%)	1,131 (93%)
2015-2016	3,682	251 (6.8%)	3,431 (93.2%)
2016-2017	5,432	400 (7.4%)	5,032 (92.6%)

RACIAL AND ETHNIC DISTRIBUTION

While students from all ethnic groups have applied for and received scholarships, the program has been somewhat more popular with African American students. African-American students have applied in higher numbers relative to their representation in the public school population. White and Hispanic students have applied in lower numbers relative to their representation in the population. This trend has lessened since the first year, however, with the percentages moving closer toward their overall percentages in the public school population.

Year	African-American recipients*	Biracial Recipients**	White Recipients***	Hispanic recipients****	Other *****
2014-15	623 – 49%	109 – 9%	333 – 27%	105 – 8%	46 – 4%
2015-16	1,295 – 37%	311 – 9%	1,366 – 39%	294 – 8%	194 – 6%
2016-17	1,902 – 35%	542 – 10%	2,244 – 41%	516 – 9%	228 – 4%

*African-Americans make up about 25% of the public school population in NC

** NC does not report a biracial category in school population figures

*** White students make up about 50% of the public school population in NC

**** Hispanic students make up about 17% of the public school population in NC

***** Other ethnicities make up about 8% the public school population in NC; this number may include some that are reported as “biracial” in the figures from the SEAA.

The data do not show, however, racial and ethnic breakdowns of the various schools. Previous research on North Carolina private schools in general showed that more than 30% of private schools in North Carolina are highly segregated (more than 90% of students of one race) and 80% enroll more than half of the same race.¹⁰ Without data on racial enrollments in voucher schools, it is not clear whether vouchers contribute to school segregation. Because of the overall data on private schools, however, the voucher program may well be contributing to increasing school segregation.

SCHOOL PARTICIPATION

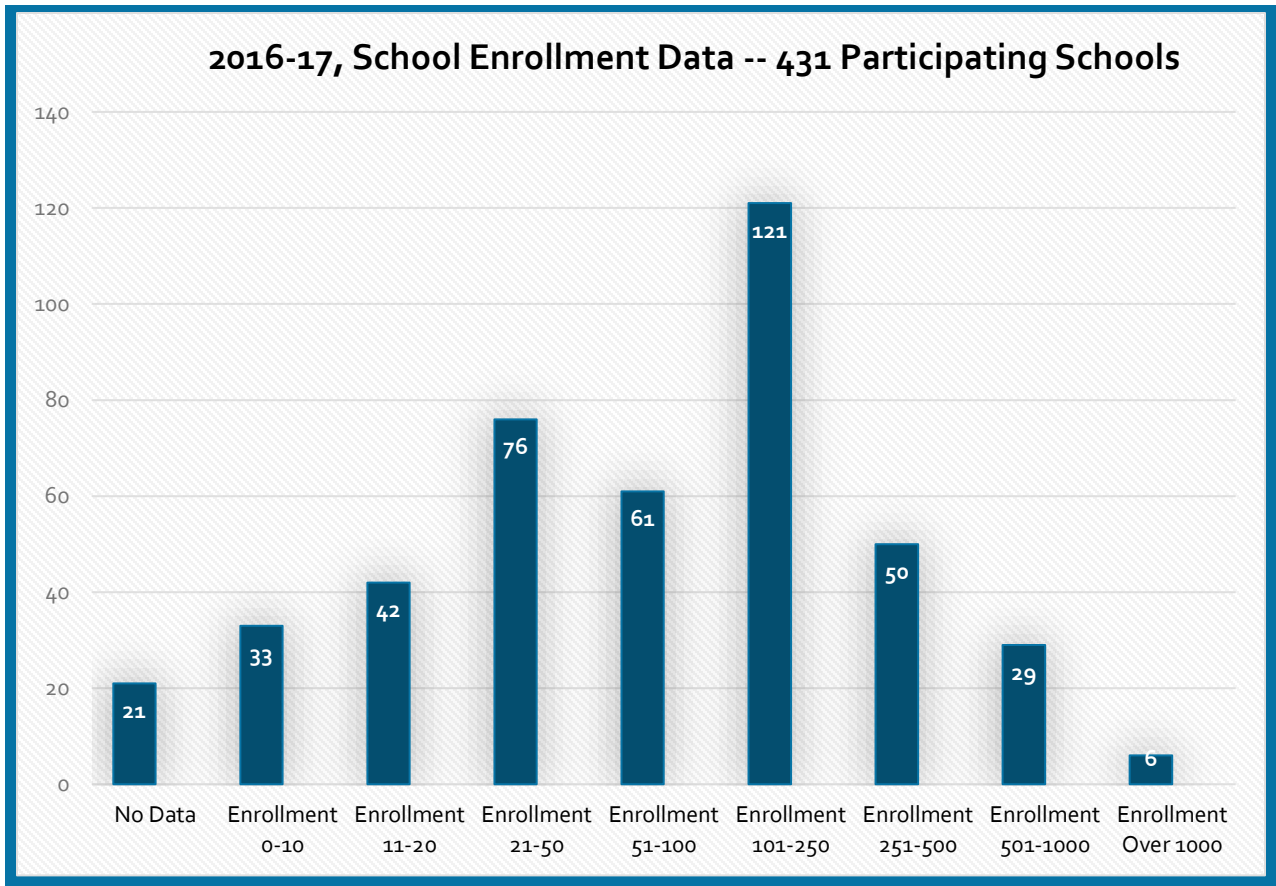
The number of private schools participating in the program by enrolling at least one student with a tuition voucher rose after the first year, but was stable during the second two years.

Year	Total number of NC private schools	Number of schools willing to accept vouchers	Number of schools with recipients enrolled
2014-2015	720	333	224
2015-2016	742	429	328
2016-2017	Data not available	431	349

Of the participating schools, less than 20% were secular schools; more than 80% were religious schools. This does not line up exactly with the percentages of vouchers used at religious schools versus secular schools (93% at religious schools), because several religious schools enrolled large numbers of students.

Year	Number of schools with voucher recipients enrolled	Number of secular schools with recipients enrolled	Number of religious schools with recipients enrolled
2014-15	224	33 (15%)	191 (85%)
2015-16	328	54 (16%)	274 (84%)
2016-17	349	65 (19%)	284 (81%)

The participating schools range in size from very small to large. As the following chart shows, six of the participating schools enroll more than 1,000 students. The most typical size for a participating school is between 100 and 250 students. However, 33 schools (7%) have ten or fewer students, with another 42 (9%) enrolling 20 or fewer students. Together, that means that nearly a fifth of the schools accepting vouchers have total enrollments of 20 or fewer students.



The five schools with the largest enrollment of students with vouchers in each year, together with the aggregate amount received in voucher payments on behalf of the students, are as follows:

Year	School and location	Number of students using vouchers	Amount received in voucher payments
2014-15	Greensboro Islamic Academy - Greensboro	67	\$ 279,300
	Word of God Christian Academy -Raleigh	47	\$ 180,600
	Victory Christian Center School - Charlotte	37	\$ 155,292
	Concord First Assembly Academy – Concord	30	\$ 118,230
	Freedom Christian Academy – Fayetteville	26	\$107,204
2015-16	Trinity Christian School - Fayetteville	131	\$519,750

	Greensboro Islamic Academy - Greensboro	94	\$ 373,800
	Word of God Christian Academy – Raleigh	95	\$ 347,400
	Fayetteville Christian School - Fayetteville	81	\$ 285,437
	Tabernacle Christian School – Monroe	72	\$ 272,042
2016-17	Trinity Christian School - Fayetteville	164	\$342,090
	Fayetteville Christian School - Fayetteville	124	\$ 246,838
	Word of God Christian Academy – Raleigh	124	\$ 390,074
	Greensboro Islamic Academy - Greensboro	112	\$ 229,740
	Liberty Christian Academy – Richlands	95	\$ 349,294

The two secular schools with the largest voucher enrollment in 2014-15 were the Burlington School in Burlington, and the Wayne Country Day School in Goldsboro. Each school enrolled seven students with vouchers. In 2015-16, Wayne Country Day School in Goldsboro enrolled 20 voucher students. In 2016-17, Highlander Academy, in Red Springs, was the secular school with the most voucher students. It enrolled 30 students with vouchers.

ACADEMIC PERFORMANCE OF VOUCHER STUDENTS

The law requires all schools with students enrolled in the program to administer, at least once a year, a nationally-standardized test to voucher students in all grades, beginning with third grade. The chief administrative officer may select the test to be administered. The test must measure achievement in English grammar, reading, spelling, and math. The law requires that “test performance data” be provided to the SEAA by July 15 of each year. The law does not spell out how the data is to be provided, whether by individual scores or only as aggregate data. The SEAA does not collect demographic data on the test takers specifically, so it does not have the ability to see the test results by grade level, race, ethnicity, or sex.

AGGREGATE, PUBLIC DATA

The law states that most of the data is not a public record. However, a small subset of the data -- the aggregate test performance of voucher students enrolled at schools where more than 25 students receive vouchers – is a public record. The data currently collected and made available as a public record includes the name of each school that enrolls more than 25 students with

vouchers, which test was administered, the number of test takers, and the percent of the test takers who scored above and below the 50th percentile (as determined by the test makers) on the test in reading, language, and math. When the number of students taking the test is fewer than five, no aggregate data is reported. Last year, ten percent of the schools reported data.

2014-15

For the 2014-15 school year, just six schools reported aggregate data, reporting results for 172 test takers.¹¹ (This represents less than one percent of the participating schools and 14% of all students with vouchers.) There is no data on grade level, except that all test takers were in third grade or above. Overall, in the aggregate, 52% scored below the national average on the tests. The breakdown by subject is as follows:

In reading, 54% below; 46% at or above

In math, 53% below, 47% at or above

In language, 48% below, 52% at or above

Only one school reported that the majority of voucher students scored at or above the 50th percentile in all subjects (Freedom Christian Academy, Fayetteville, with 20 test takers, reporting 55% at or above the mark in reading; 80% at or above in language, and 60% at or above in math). The school with the poorest showing was Word of God Christian Academy, Raleigh, with 30 test takers, reporting 70% scoring in the lower half of all test takers nationally in reading and 83% scoring in the lower half in math.

2015-16

For the 2015-16 school year, 34 schools reported aggregate data, reporting results for 817 test takers. This represents ten percent of the participating schools and 22% of the students with vouchers. Overall, in the aggregate, 54% scored below the national average on the tests. The breakdown by subject is as follows:

In reading, 55% below; 45% at or above

In math, 53% below, 47% at or above

In language, 54% below, 46% at or above

In this group, 10 schools of the 34 reported a majority of test takers scored at or above the 50th percentile in all three areas.¹² In other words, in more than two-thirds of the schools, most students scored below the 50th percentile. The school with the highest scores was Al-Iman Islamic School in Raleigh, with 23 test takers, posting scores as follows: reading – 91% at or above the 50th percentile; language – 91% at or above the 50th percentile; math – 83% at or above the 50th percentile.¹³ Seven schools¹⁴ reported that more than three quarters of the voucher-supported students scored below the national average in reading; five schools

reported that more than three quarters of the voucher students scored below the national average in math.¹⁵

PUBLIC SCHOOL COMPARISON

Although it is not an “apples-to-apples” comparison, the most recent data shows that comparable students who remained in public schools are scoring better than the voucher students on national tests. Data from the National Assessment of Educational Progress (NAEP) for 2015 shows that, as a group, the North Carolina public school children who were eligible for free and reduced lunch scored above the national average in 2 of 4 categories: 4th grade reading, 4th grade math; exactly at the national average for 8th grade math; and slightly below the national average for 8th grade reading.

NAEP does not report the percentage of students that score at or above the national average. Rather, it reports average scores for reading and math for 4th graders and 8th graders. With regard to North Carolina public school children who are eligible for free & reduced priced lunches,¹⁶ we have the following data:

Student group	National average	NC Public School Students
4 th grade reading	209	215
4 th grade math	229	234
8 th grade reading	253	249
8 th grade math	268	268

Because the law allows the private schools to select their own tests, requires only a very small percentage of the test scores to be made public, and allows the public data to be reported only in aggregate form, no accurate comparisons can be made. The law requires the SEAA to report on the “learning gains or losses” of the voucher students and “compare, to the extent possible” with the learning gains or losses with similar public school students. Due to the nature of the data that will be produced by the private schools – which will never be comparable to public school data -- it is unlikely that any truly valid comparison will be possible.

The law also requires the SEAA to report on “the competitive effects on public school performance on standardized tests as a result of the scholarship grant program.” This type of study is likewise difficult, due to the many factors that may affect the increase or decrease in student test scores and the challenge of isolating the impacts to one factor, such as the existence of private school vouchers. The SEAA is to contract with an independent research organization by 2018 to engage in the studies.

OVERSIGHT OF ALL PRIVATE SCHOOLS
















































In comparison to most other states, North Carolina's general system of oversight of private schools is weak. North Carolina's limited oversight reflects a policy decision to leave the quality control function primarily to individual families. Under North Carolina law, private schools are permitted to make their own decisions regarding curriculum, graduation requirements, teacher qualifications, number of hours/days of operation, and, for the most part, testing. No accreditation is required of private schools.

All private schools must notify the state Division of Non-Public Education, within the Department of Administration, of their intent to operate, providing a name, address and chief administrator. They must obey all state and local health and safety regulations and must keep attendance and immunization records. They must operate nine months of the year, but the length of the school day is left to the administration. Finally, they must administer an annual test to 3rd, 6th, and 9th graders. The test, which must be a "nationally-standardized test or other equivalent measure"¹⁷ may be selected by the head of the school. It must measure achievement in the areas of English grammar, reading, spelling, and mathematics. Private high schools must also administer a test to 11th graders "to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society."¹⁸ Again, the test may be selected by the head of the school and must be a nationally standardized test or equivalent measure. The school must establish a minimum score in verbal and quantitative skills that must be obtained to be graduated from high school; the state does not judge the adequacy of that score. The required records and test scores must be maintained for one year and made available upon request to a representative of the state. Due to the number of private schools in North Carolina (742 in 2015-16) and the limited staff in the Division of Non-Public Education, most schools are not annually requested to provide their records; many go for years without providing any data. The state has no power to shut down any private school, regardless of how poor their student achievement data are.

OVERSIGHT OF PRIVATE SCHOOLS ACCEPTING VOUCHERS

North Carolina, like several other jurisdictions, operates a two-tiered accountability system, with more requirements placed on schools accepting vouchers. Even with this second tier, however, the requirements are minimal as compared to the other jurisdictions. For North Carolina private schools accepting vouchers, the additional requirements described on page 3 of this report are added.

As the chart below shows, most states require schools accepting vouchers to be accredited in some fashion, use the state-approved curriculum or an equivalent, employ only licensed or certified teachers, participate in the state testing program, and operate for as many hours and days of school as public school are operated. Most other jurisdictions also require that the schools accepting vouchers make their testing data public, and several have a mechanism that denies future vouchers for schools that cannot demonstrate acceptable educational results over a period of time.

Requirements for non-public schools participating in school voucher/scholarship programs					
Jurisdiction	Accreditation or State Approval	State Required or Defined Curriculum	Required Teacher Qualifications	Required Participation in State Testing Program	Operation for the Same Number of Hours/Days as Public School
Arizona		 1			
Cleveland					
D.C.					 2
Indiana					
Louisiana					
Maine				 3	
Milwaukee					
Ohio				 4	
Vermont					
Wisconsin					
N Carolina					

- 1 Any student with a voucher must be educated in reading, grammar, math, social studies and science.
- 2 Instructional days and hours must be approved by D.C. Board but the regulations do not specify the numbers.
- 3 If 60% of students are publicly funded, school must participate in the state testing program.
- 4 For all high schools and for any school in which 65% of students are getting vouchers.

ANALYSIS

The Opportunity Scholarship Grant Program is still in its early stages in North Carolina. With fewer than 6,000 children participating, out of the 1.5 million school-age children in the state, its overall impact on the state's education system is limited. Nevertheless, given that the program is slated to grow significantly over the next ten years, North Carolina policy makers are well-served to take a preliminary look at the program.

IS THE PROGRAM SERVING ITS PURPOSES?

Unlike some laws, the law creating the Opportunity Scholarship Grant Program does not set out its purpose. Generally, however, voucher supporters identify "parental choice" as one of the most significant values advanced in support of voucher programs.¹⁹ Voucher programs are said to give parents who could not otherwise afford private school the same choice that wealthier parents have: the right to choose the school they believe will provide the best education for their children. Supporters of vouchers believe that parents should be able to remove their children from failing or low-performing schools and enroll them in schools where they will be better educated or to remove them from public school in favor of a religious education.²⁰ In addition, supporters suggest that the public schools will improve with the competition from private schools attracting local students.²¹

The program in North Carolina provides some choice to some parents to enroll their children in private schools. Because the size of the voucher is low compared to the tuition at many of the high-end college preparatory private schools,²² those schools are not typically accessible to low-income families even with voucher help. Religious schools and small schools tend to have lower tuitions that are more within reach of a family with a \$4,200 voucher. Both family preferences and tuition structures appear to account for the fact that 93% of vouchers are used at religious schools. Thus, the most successful outcome of the program to date is that it has given some parents who prefer religious education for their children assistance in obtaining that type of education.

The program in North Carolina is not limited to families whose children were or would be enrolled at low-performing public schools, nor does the program have any program features that channel students into schools with better academic outcomes than the public schools in which the students would otherwise be enrolled. In fact, there is no requirement that the participating private schools meet any threshold of academic quality.

THE MOST SUCCESSFUL
OUTCOME OF THE
PROGRAM TO DATE IS
THAT IT HAS GIVEN
SOME PARENTS WHO
PREFER RELIGIOUS
EDUCATION FOR THEIR
CHILDREN
GOVERNMENT
ASSISTANCE IN
OBTAINING RELIGIOUS
EDUCATION FOR THEIR
CHILDREN.

Thus, to the extent that the program was established to provide options for better academic outcomes for children, nothing in the program’s design assures or even promotes that outcome.

The national data suggests that the students using vouchers are unlikely to gain much academic advantage in any event. Studies of similar voucher programs in other jurisdictions show that overall, children who choose vouchers to attend private school do no better, and in some cases, considerably worse, than the children who remained in public school.

TO THE EXTENT THE
VOUCHER PROGRAM
WAS ESTABLISHED TO
PROVIDE OPTIONS FOR
BETTER ACADEMIC
OUTCOMES FOR
CHILDREN, NOTHING IN
THE PROGRAM’S
DESIGN ASSURES OR
EVEN PROMOTES THAT
OUTCOME.

A recent study commissioned by the Thomas B. Fordham Institute published in July 2016 drew this conclusion about the EdChoice program in Ohio: “The students who use vouchers to attend private schools have fared worse academically compared to their closely matched peers attending public schools. The study finds negative effects that are greater in math than in English language arts. Such impacts also appear to persist over time, suggesting that the results are not driven simply by the setbacks that typically accompany any change of school.”²³

Another recent study of the Louisiana Scholarship Program (LSP) found that the voucher students experienced dramatic academic declines after they left the public schools. The report concluded: “An LSP scholarship user who was performing at roughly the 50th percentile at baseline fell 24 percentile points below their control group counterparts in math after one year and 8 percentile points

below in reading. In year 2, LSP scholarship users continued to score below their control group counterparts by 13 percentile points in math.”²⁴ The early and very limited data about the academic outcomes for North Carolina voucher children suggest that those outcomes will be in line with the national data, although nothing can be said with any certainty at this time.

In short, North Carolina’s voucher program is serving the purpose of providing some low-income families the choice to obtain a religious education for their children. It does not appear to be serving the purpose of producing better academic outcomes for those students.

IS THERE ENOUGH ACCOUNTABILITY TO THE PUBLIC?

Because voucher programs, like the one in North Carolina, are supported through tax revenues, the public has a stake in knowing whether the money spent represents a sound investment. In addition, because attendance at a private school meets the state’s compulsory education requirement, the state has a stake in being assured that the education offered meets basic standards.

As noted earlier in this report, North Carolina has traditionally left private school decisions to parents and has not intervened to protect children from attendance at poor quality private schools. Thus, North Carolina has no accreditation or approval system that imposes minimum standards on private schools. Nor does it require private school students to participate in any of the state testing embraced over the last several decades that produces significant data about the academic outcomes of children in public school.

The state’s generally weak system of oversight applies as well to private schools that accept vouchers, although a few additional requirements apply to these schools. Overall, the program lacks the type of accountability that would allow the public to make an informed judgment about the investment being made. Following are the limitations of the few additional accountability measures built into the program:

- **Annual testing, rather than triennial testing.** While this additional frequency of testing will produce more information for parents, it produces little to allow the public to make judgments. The only publicly-available test data²⁵ is from schools that enroll more than 25 voucher students. For 2015-16, the data covered just ten percent of the schools, meaning that the public cannot know anything about the academic outcomes in more than 90% of the participating schools. Also, the data produced by the covered schools is so general that only very limited observations can be made. As noted above, a school’s report contains only the name of the test administered, the number of students taking the test, and the percentage of the students – at all grade levels and with all subgroups of students combined -- who have scored above or below the 50th percentile of the national takers of the test. Finally, there is no mechanism that allows the state to withhold vouchers from schools that produce poor test results.

- **Independent research.** The law requires that by 2018, the SEAA must contract with an independent research organization to analyze the “learning gains or losses of students receiving scholarship grants . . . on a statewide basis and . . . compare, to the extent possible . . . to public school students with similar socioeconomic backgrounds . . .” It must also analyze the competitive effect on the public schools. The report must be made available to the Joint Legislative Education Oversight Committee, to allow the Committee to make ongoing recommendations to the General Assembly. Despite this provision, it is unlikely that the research will provide any valid comparisons or truly informative results. The legislative decision to

PUBLICLY-AVAILABLE DATA ABOUT STUDENT OUTCOMES IN VOUCHER SCHOOLS WAS AVAILABLE FROM ONLY 10% OF THE SCHOOLS ENROLLING VOUCHER STUDENTS IN THE 2015-16 SCHOOL YEAR.

allow the private schools to continue to select their own tests, instead of requiring the voucher students to participate in the standard state End-of-Grade tests, means that no researcher will ever be able to make an “apples-to-apples” comparison between public school and voucher students. With regard to the competitive effects, other researchers have found it quite difficult to make valid findings, due to the difficulty of isolating the impact of the voucher program on the nearby public schools.²⁶ Further,

THE LEGISLATIVE
DECISION TO EXEMPT
VOUCHER STUDENTS
FROM PARTICIPATING IN
THE STANDARD STATE
END-OF-GRADE TESTS
MEANS THAT NO
RESEARCHER WILL EVER
BE ABLE TO MAKE AN
“APPLES-TO-APPLES”
COMPARISON BETWEEN
PUBLIC SCHOOL AND
VOUCHER STUDENTS.

the delay in the hiring of any research organization until 2018, combined with the length of time any researcher will need to collect, analyze, and report the data, means the public will not have any benefit from this type of independent research for more than five years into the program.

- **Financial review.** Financial reviews are required only for schools receiving more than \$300,000 in vouchers. In 2014-15, no school met that threshold; in 2015-16 and 2016-17, just three schools met the threshold. Thus, no financial review is required for the vast majority of the schools receiving taxpayer money. For the affected schools, the SEAA has the power to withhold vouchers if the review documents “significant findings” regarding the school’s administration of voucher money, until “the findings are resolved.” Neither the law nor the

program rules make clear what findings would trigger a withholding of funds, nor what would resolve the findings. With regard to the rest of the schools, the law does nothing protect students from the impact of a school’s financial mismanagement, such as a precipitous mid-year closing of a school, nor does it protect the nearby public schools from the difficulties of having to immediately absorb those children.

- **Criminal background checks.** Private schools enrolling voucher students must submit a criminal background check of the head of the school (to be exact, “the staff member with the highest decision-making authority”). The law states this background check is “to ensure” that the person has not been convicted of certain crimes judged to pose a threat to the safety or staff or students, or does not have the integrity to fulfill his or her duties. The law does not, however, give the SEAA the power to withhold voucher payments to a school that has a head-of-school with a criminal background. Its only authority is to withhold funds if a school does not provide it with the background

check. Nor does the law require background checks of any other employees. (It is worth noting that state law does not require criminal background checks of public school employees. Instead, it leaves the decision about such checks to the individual school districts. Virtually all school districts in North Carolina conduct criminal background checks on all employees prior to hiring, although the overall system for conducting criminal background checks was considered to be very poor according to one study.²⁷

- **Discrimination.** Schools accepting vouchers are forbidden from discriminating on the basis of race, color, or national origin. They may, however, discriminate on the basis of religion, disability, sex, sexual orientation, gender identity, or any other characteristic. This permission to discriminate certainly will not be used by all of the schools receiving vouchers, yet it seems likely that at least some interested children will be unable to participate in the program due to discriminatory enrollment practices.

CONCLUSION

The Opportunity Scholarship Grant Program is slated to rapidly expand over the next decade and consume an increasing amount of taxpayer resources. It is incumbent on the General Assembly and the public to look closely at the program to determine if this expansion, or even the program's continuation, is merited.

As noted here, the North Carolina program is not designed to accomplish one of the main goals that its proponents express: to provide an escape mechanism for students in failing public schools so they can thrive in a more successful educational environment. The North Carolina program allows for participation in the program by children who are *not* in failing schools and by private schools that *do not* offer a more academically promising education. The state's very limited oversight of private schools in general and the exemption of voucher students from the state testing scheme leave the public with no way to engage in a valid evaluation of the program's success or lack of it. At the same time, even if the state became aware of significant deficiencies in the participating schools, the law provides no mechanism for those schools to be denied continued receipt of voucher support.

The design of North Carolina's program – as well as the way it has been used to date – is more suited to goals that do not relate to academic outcomes for children. The two most successful aspects of the program are that it allows for unfettered choice for participating parents regarding the schools their children will attend and that it provides state support for religious education. The program has no checks to protect children from the choices of their parents, which could include the choice to send a child to a fringe school that does virtually nothing to prepare a child for active participation in our democratic society after graduation, or may even

undermine such participation. While surely most parents will not choose such an outcome, that such an outcome is supported by taxpayer resources is profoundly problematic.

The research of programs from other states is now nearly unanimous in showing that students in voucher programs do not have better educational outcomes than children in public schools. Strikingly, all of these studied programs have even more oversight and accountability measures built into their design than does North Carolina's. Thus, it seems highly unlikely that the program in North Carolina will produce different and better results than the ones produced around the country.

Nevertheless, should the state continue to offer school vouchers, it should seriously consider amendments to the program that will improve both its accountability to the public and its potential for providing the promised opportunity for the participating students to obtain a better education. The most important amendments include the following:

- Require all participating schools to offer a curriculum that is at least equivalent to the curriculum used in the North Carolina public schools, providing instruction in English language arts, mathematics, social studies, science, physical education, arts education, foreign languages, and technology skills; alternatively, design an accreditation system that holds schools to strong academic standards.
- Require all participating schools to set reasonable qualifications for teachers.
- Require that students receiving vouchers participate in the state End-of-Grade testing program, and that the schools receiving voucher support publicly report data in the same manner as is required of public schools.
- Require all participating schools to offer at least the same number of hours and days of education as are offered by the public schools.
- Prohibit all forms of discrimination in schools accepting voucher support.
- Require limited financial reviews of all schools, with more extensive reviews for schools receiving more than \$50,000 in voucher support.
- Strengthen the oversight role of the SEAA and/or the Division of Non-Public Education such that schools that consistently fail to provide an adequate education are denied continued voucher payments.

Openness to various strategies for educational reform should be embraced by everyone who cares about our children and the future of North Carolina. Yet reform efforts need careful study, with an eye toward strategies and programs that promise to improve student outcomes and build stronger communities. The Opportunity Scholarship Grant Program, as currently designed, fails to offer such promise.

ENDNOTES

¹ North Carolina also offers scholarship Grants to children with disabilities. That program, which operates separately from Opportunity Scholarship Grant Program, is not discussed in this report.

²The law states that the limit is calculated by multiplying the federal limit for free and reduced price lunches in public schools by 133 percent. Interestingly, the state has published figures for eligibility that are 134 percent of the federal lunch limits. NC has published the following eligibility limits for the 2017-18 school year:

family of 2 - \$39,959; family of 3 - \$50,243; family of 4- \$60,528; family of 5 - \$70,813. Families with incomes between the limit for the federal lunch program and 133 percent of that limit are eligible for only 90 percent of the tuition at the chosen school, should that amount be less than \$4,200.

³ Following the distribution made to renewing students, at least 50% of the remaining funds must be awarded to students residing in families with incomes of less than the amount set for qualification for free and reduced lunches in the federal program. No more than 40% of the remaining funds may be used for eligible students entering either kindergarten or first grade.

⁴ More precisely, a student must meet one of the following criteria to receive a scholarship:

1. have attended a public school or Department of Defense school in the previous semester,
2. have received a scholarship the previous semester,
3. be entering kindergarten or first grade,
4. be in foster care,
5. be the child of a parent on active duty in the military,
6. have been adopted within one year prior to application.

⁵ The NC Department of Public Instruction has no oversight of private schools.

⁶ Schools must keep the records of the testing for a year and must be made available for inspection by a representative of the state Division of Non-Public Education. The Division is not required to make inspections on any particular schedule; testing results of the students, even in aggregate form, need not be publicly reported.

⁷ The United States Supreme Court held in 2002 that voucher programs do not violate the Establishment Clause of the First Amendment to the United States Constitution. The challengers in that case argued that because the vast majority of the voucher money went to pay tuition at religious schools, the program resulted in unconstitutional government support of religion. The Court rejected that position, saying that because it was the parents, and not the government, who were choosing to use the vouchers at religious schools, the voucher program itself did not represent government support of religion.

⁸ NC General Assembly, Session 2015, Session Law 2016-94, House Bill 1030, available at <http://ncleg.net/Sessions/2015/Bills/House/PDF/H1030v8.pdf>, page 68.

⁹ <http://www.ncseaa.edu/> ; <http://ncadmin.nc.gov/about-doa/divisions/division-non-public-education>

¹⁰ "Characteristics of North Carolina Private Schools," a report issued by Children's Law Clinic, Duke Law School, February 2014, available at https://law.duke.edu/news/pdf/characteristics_of_private_schools-preliminary-2-11.pdf

¹¹ The following schools reported data. The name of the school is followed by the total number of test takers and the test used:

Greensboro Islamic Academy, Greensboro, 51, The Iowa Tests
Word of God Christian Academy, Raleigh, 30, Terra Nova
Victory Christian Center School, Charlotte, 28, Terra Nova
Concord First Assembly Academy, Concord, 23, Terra Nova
Freedom Christian Academy, Fayetteville, 20, Terra Nova
Fayetteville Christian School, Fayetteville, 20, Terra Nova

¹² Alamance Christian School, Graham; Al-Iman School, Raleigh; Fayetteville Christian School, Fayetteville; First Wesleyan Christian School, Gastonia; Freedom Christian Academy, Fayetteville; Greensboro Islamic Academy, Greensboro; High Point Christian Academy, High Point; Rockwell Christian School, Rockwell; St. Raphaels Catholic School, Raleigh; Trinity Christian School, Fayetteville.

¹³ Al-Iman School uses a test from the Northwest Evaluation Association; it is the only school that uses this test. The test focuses more on progress than achievement.

¹⁴ Community Baptist School, Reidsville; Cornerstone Christian Academy, Statesville; Mount Zion Christian Academy, Durham; Tabernacle Christian School, Monroe; Victory Christian Academy; Gastonia; Gospel Light Christian School, Winston-Salem; Star Christian Academy, Smithfield.

¹⁵ Bible Baptist Christian School, Matthews; Cornerstone Christian Academy, Statesville; Tri-city Christian Academy, High Point; Word of God Christian Academy, Raleigh; Gospel Light Christian School, Winston-Salem.

¹⁶ The NAEP data is also different from the private school aggregate data in that the category for NAEP is "eligible for the school lunch program." In North Carolina, the students in the group tested can come from families with incomes of up to 133% of the eligibility criteria for the lunch program.

¹⁷ North Carolina General Statute § 115C-549 and 115C-557.

¹⁸ North Carolina General Statute § 115C-550 and 115C-558.

¹⁹ The organization Parents For Educational Freedom in North Carolina strongly supports the voucher program. Its President, Darrell Allison, had this to say when the legislature recently voted to expand the Opportunity Scholarship Grant Program, "Hard working, tax-paying families all across North Carolina now have the ability to plot their children's academic path, not by others who approach education from a one-size-fits all model, but as they, parents, see fit." <http://pefnc.org/news/governor-signs-budget-that-funds-historic-expansion-of-opportunity-scholarships-program/>

²⁰ The new U.S. Secretary of Education, Betsy DeVos, has been a long-time supporter of parental choice programs. Here is what she said in a 2013 interview with Philanthropy Roundtable: "This confluence of

events [noting an acceleration of new voucher programs] is forcing people to take note, particularly because of the public's awareness that traditional public schools are not succeeding. In fact, let's be clear, in many cases, they are *failing*. That's helped people become more open to what were once considered really radical reforms—reforms like vouchers, tax credits, and education savings accounts.” http://www.philanthropyroundtable.org/topic/excellence_in_philanthropy/interview_with_betsy_devos

²¹ The national organization edCHOICE, which supports a variety of school choice programs, declares on its website that “Sound research has demonstrated consistently that school choice policies improve public school performance.” https://www.edchoice.org/school_choice_faqs/how-does-school-choice-affect-public-schools/

²² For example, the tuition at Ravenscroft in Raleigh ranges from \$14,440 for kindergarten to \$23,445 for grades 6 – 12; tuition at Greensboro Day School ranges from \$16,630 for kindergarten to \$22,500 for grades 9 – 12; tuition at Durham Academy ranges from \$13,880 for kindergarten to \$24,040 for grades 9 – 12.

²³ *Evaluation of Ohio's EdChoice Scholarship Program: Selection, Competition, and Performance Effects*, July 2016, available at <https://edexcellence.net/publications/evaluation-of-ohio%E2%80%99s-edchoice-scholarship-program-selection-competition-and-performance>.

²⁴ *The Effects of the Louisiana Scholarship Program on Student Achievement After Two Years*, February 2016, available at <http://www.uaedreform.org/downloads/2016/02/report-1-the-effects-of-the-louisiana-scholarship-program-on-student-achievement-after-two-years.pdf>.

²⁵ The test data that is public is not published on the website of the SEAA as is other data about the program. Instead, it is available only through a public records request.

²⁶ Researchers Cassandra Hart and David Figlio commented in describing their Florida study on competitive effects, “It is notoriously difficult to gauge the competitive effects of private schools on public school performance.” <http://educationnext.org/does-competition-improve-public-schools/>

²⁷ Steve Reilly, “Broken discipline tracking systems let teachers flee troubled pasts,” USA Today, 2/14/16 available at <http://www.usatoday.com/story/news/2016/02/14/broken-discipline-tracking-system-lets-teachers-with-misconduct-records-back-in-classroom/79999634/>



Children's Law Clinic

A legal project of Duke Law School
focused on protecting children

Duke Law School, Box 90630, Durham NC 27708
919-613-7169 • www.childedlaw.org