

August 25, 2020

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Charles Schumer  
Minority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Nancy Pelosi  
Speaker of the House  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, D.C. 20515

RE: Oppose Funneling Coronavirus Relief Funds to Private Schools

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, and Minority Leader McCarthy:

As you negotiate the current coronavirus relief bill, we urge you to support public education and oppose mechanisms to spend public dollars on private schools, including through private school voucher programs. We recognize the hardship many students and families are currently facing as a result of the COVID-19 pandemic. It is during this challenging time that the federal government should focus on providing more resources to our public schools, which serve the vast majority of our nation's students, particularly students from under resourced communities and students of color, rather than siphoning limited resources to private schools.

In particular, we oppose provisions in the "Health, Economic Assistance, Liability Protection, and Schools Act" (HEALS Act) and the "Delivering Immediate Relief to America's Families, Schools and Small Businesses Act" that would fund private schools with federal funds. Congress has already provided private schools with billions of dollars in relief funds, including for wealthy schools with high tuition, large endowments, and affluent students.<sup>1</sup> Yet, these bills would provide even more money to private schools by setting aside a percentage of the public school funding for direct grants to private schools.

In addition, the HEALS Act would authorize federal emergency relief funding to state tax credit voucher programs. Private school voucher programs undermine our nation's public schools by diverting desperately needed resources away from the public school system to fund the education of a few, select students in private, often religious schools. Furthermore, this scheme is not designed to address pressing issues schools and students are facing due to COVID-19, such as assisting schools to reopen their buildings safely; instead the proposal is merely exploiting the pandemic in an attempt to

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<sup>1</sup> Samantha Sokol, et al., Ams. United for Separation of Church & State [The Paycheck Protection Program Has Provided Billions in Federal Funds to Private and Religious Schools](#), 5 (Jul. 29, 2020).

pass a federally funded voucher program that Congress would otherwise be unable to pass as a standalone bill.

The pandemic has led to unprecedented challenges for our public school system. Public schools now face mounting costs to ensure that students are able to safely and appropriately receive the education and services they need, while at the same time, these schools are facing significant revenue loss at the state and local level as a result of the economic recession. Congress should not direct funding away from our public schools to fund private schools. If we do not sufficiently fund our public schools, there is no fall back.

Accordingly, we urge you to reject language in any coronavirus relief legislation that would fund private schools with public funds.

### **Many Private Schools Have Already Received Federal COVID-19 Relief Funding**

Despite the fact that many private schools have already received federal funding to address concerns related to the pandemic, the HEALS Act and Delivering Immediate Relief to America's Families, Schools and Small Businesses Act would divert significant resources away from our public schools to fund private schools.

Congress has already assisted small businesses and nonprofit organizations, including private schools, by providing them forgivable loans of up to \$10 million to cover payroll and other operational expenses through the Paycheck Protection Program (PPP). Many private and religious schools have utilized this program and received significant amounts of government funding: According to analysis of the data released by the Treasury Department that catalogued PPP recipients of loans over \$150,000, at least 5,678 private schools have received funding totaling between \$2.67 billion and \$6.47 billion.<sup>2</sup> In contrast, public schools, which are excluded from accessing PPP funding, have only received \$13 billion in direct aid under the CARES Act despite educating more than 50 million students.<sup>3</sup> That means private schools, which only serve one-tenth the number of students, have already received funding equivalent of up to half of the money allocated for public school districts.

The CARES Act has assisted private schools in other ways, as well. The CARES Act provides certain benefits to private schools that public schools cannot access, including payroll tax credits for paid sick or family leave for employees and the employee retention payroll tax credit for keeping staff employed. Private schools also benefit from the equitable services provision in the CARES Act, which the Department of Education has misinterpreted to provide a disproportionate amount of funding for private schools, potentially stripping public schools of up to \$1.35 billion.<sup>4</sup> And the Department of Education is allowing private schools to receive emergency relief funding through the creation of a "microgrants" private school voucher program and through the GEER fund, which some state governors are using as a mechanism to fund their private school voucher programs.

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<sup>2</sup> *Id.* at 1.

<sup>3</sup> Enrollment of students in K-12 schools in the fall of 2019 was 50.8 million students in public schools 5.8 million students in private schools. Nat'l Ctr. for Educ. Statistics, [Fast Facts](#) (last visited Aug. 12, 2020).

<sup>4</sup> Michael Griffith, [COVID-19 and School Funding: What to Expect and What You Can Do](#), Learning Policy Inst. (June 10, 2020).

The impact of these provisions together have provided private schools with large sums of money, especially relative to the small population of students they educate. For example, in Florida, private schools have received between \$156 million and \$383 million in PPP loans and will also receive \$45 million in GEER funds through private school vouchers, for a total of between \$200 million and \$428 million.<sup>5</sup> In contrast, the total funding provided for Florida public schools under the CARES Act was \$770 million,<sup>6</sup> even though public schools educate 88% of students in Florida.<sup>7</sup> In many states, there are examples of private schools receiving significantly more relief money per student than the local public school district.<sup>8</sup>

### **Private Schools Have Access to Private Funds that Public Schools Do Not**

When private schools face financial downturns, they have inherent fiscal advantages because they can access private funding that public schools cannot. For example, private schools can apply for private or general commercial loans, refinance or renegotiate existing debt obligations, reach out to alumni and foundations for money or assistance, or have denominations and parishioners that can sustain their schools. Given these advantages, it is inappropriate to insist private schools need additional federal emergency relief funds.

Furthermore, although many private schools are claiming financial hardship, some private schools—which are not held to the same health and safety or education standards as public schools and are able to take in additional students—are reporting an uptick in student enrollment despite the downturn in the economy.<sup>9</sup> For other private schools, the pandemic has surely exacerbated financial problems, but the pandemic is not entirely responsible for these schools' declines in enrollment and struggles to maintain financial viability. Enrollment in private schools has been declining even before the onset of the coronavirus pandemic. From 1999 to 2017, the number of private school students across the country has not grown, but actually decreased from 6 million to 5.7 million.<sup>10</sup>

### **Public Funding for Private Schools Undermines Students' Rights and Protections**

Unlike public schools, which are open to all students from a diverse range of communities in our society, private schools often deny students admission or expel them for a number of reasons, including based on their religion, sexual orientation, gender identity, academic abilities, disciplinary history, disability, or ability to pay tuition. Private schools also do not provide the same rights and protections for students including those in federal civil rights laws such as in Titles IV and VI of the Civil Rights Act, Title IX of the Education Amendments Act of 1972, the Individuals with Disabilities Education Act, and Title II of the Americans with Disabilities Act. And students who attend private schools do not have the same free speech and religious freedom protections under the First

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<sup>5</sup> Ron Matus, [Florida Setting Aside \\$45 Million in Relief for Private Schools, Low-Income Private School Families](#), RedefinEd (June 11, 2020).

<sup>6</sup> U.S. Dep't of Educ., [Elementary and Secondary School Emergency Relief Fund State Allocations Table](#) (last visited Aug. 14, 2020).

<sup>7</sup> Fla. Dep't of Educ., [Florida's Private Schools 2017-18 Annual Report](#) (2018) (For the 2017-18 school year, student enrollment was 370,166 students (11.6%) in private schools and 2,833,115 students (88.4%) in public schools.).

<sup>8</sup> Sokol, *supra* note 1 at 3-4 (For example, in Ohio, the private Laurel School received between \$2 and \$5 million in PPP funds for its enrollment of 620 students. In contrast with the CARES Act funding for the public school districts in which its campuses sit, the Laurel School received the equivalent of at least 34 times the amount of funding per student than the nearby public school districts received.).

<sup>9</sup> See Helen Lyons, [As Plans For Reopening D.C. Region Schools Remain Uncertain, Some Families Are Looking At Private Education](#), DCist (July 28, 2020).

<sup>10</sup> Nat'l Ctr. for Educ. Statistics, [The Condition of Education, Private School Enrollment](#) (last updated May 2020).

Amendment, the same due process or other constitutional and statutory rights guaranteed to them as in public schools, or the same clear systems for oversight, reporting violations, or enforcing penalties for noncompliance as children and families attending public schools.

Many private schools also fail to provide adequate services for students most in need, including students with disabilities, low-income students, and students who are English learners. In particular, private schools often fail to provide students with disabilities the same quality and quantity of services available to students in public schools, including those mandated under each student's individualized education program.

### **Conclusion**

Now, more than ever, our public schools need our support. Congress has already created a situation where private K-12 schools have received a disproportionately large share of federal resources when compared to public schools. Accordingly, the next coronavirus relief legislation should support our public schools, rather than siphoning funding away from the public schools to fund private schools through direct grants or voucher programs. We oppose provisions in the HEALS Act and Delivering Immediate Relief to America's Families, Schools and Small Businesses Act to fund private schools, and we support the language in the "Health and Economic Recovery Omnibus Emergency Solutions Act" (HEROES Act) that would prevent the creation of private school voucher programs and other mechanisms to funnel public dollars to private schools.

Sincerely,

AASA, The School Superintendents Association  
African American Ministers In Action  
American Atheists  
American Federation of Teachers  
American Federation of State, County, and Municipal Employees (AFSCME)  
American Humanist Association  
Americans United for Separation of Church and State  
The Arc of the United States  
Association of Educational Service Agencies  
Association of School Business Officials International (ASBO)  
Baptist Joint Committee for Religious Liberty (BJC)  
Center for Inquiry  
Clearinghouse on Women's Issues  
Council for Exceptional Children  
Council of Administrators of Special Education  
Council of the Great City Schools  
Feminist Majority Foundation  
Freedom From Religion Foundation  
GLSEN  
Interfaith Alliance  
NAACP

National Association of Elementary School Principals  
National Association of Federally Impacted Schools  
National Association of Secondary School Principals  
National Association of School Psychologists  
National Center for Learning Disabilities  
National Disability Rights Network  
National Education Association  
National PTA  
National Rural Education Advocacy Collaborative  
National Rural Education Association  
National School Boards Association  
Network for Public Education  
People For the American Way  
Public Funds Public Schools  
Secular Coalition for America  
Union for Reform Judaism