

The National Coalition

for

Public Education

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On behalf of the National Coalition for Public Education (NCPE), we write to submit comments regarding the “Notice of Proposed Information Collection Requests” (Proposed Rule), which was published in the Federal Register on Friday, April 29, 2011. NCPE did oppose the passage of the Scholarships for Opportunity and Results Act (SOAR Act),¹ but now that Congress approved extension of the DC voucher program, we believe that it must be administered properly. We write, therefore, to show our support for collecting the data provided for in the Proposed Rule, which would be used to determine the eligibility of students and to evaluate the program, including information on parental satisfaction and school involvement, both of which are required by the provisions of the SOAR Act. We also write to urge the Department of Education (Department) to collect additional data not included in the Proposed Rule: First, the Department should collect additional information needed to properly perform other aspects of the statutorily mandated evaluation.² Second, the Department should collect data on participating schools to ensure they meet the minimum standards set out by the SOAR Act.³

Data Collection Concerning Interested Students

The Proposed Rule seeks comments on a data collection that will be used to “determine the eligibility of those students who are interested” in receiving a voucher to attend a private school. The Proposed Rule, however, does not specify what information the Department will collect to make such a determination. We agree that the Department must collect information about students to determine eligibility, including:

- the income of the interested students' household;⁴
- whether the interested student receives assistance under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et. Seq.);⁵
- the current residency of the interested student;⁶ *(e.g., does the student reside in DC);
- the school the interested student had attended last year,⁷ including

¹ Congress passed this Act as part of the compromise continuing resolution for FY 2011. HR 1473 Section C.

² HR 1473 Division C § 3009(a).

³ *Id.* at § 3007 (4).

⁴ *Id.* § 3013 (3)(B).

⁵ *Id.* at § 3013 (3)(A).

⁶ *Id.* at § 3013 (3).

- whether that school is a private, charter, or public school; and
- whether that school had been “identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 6316);”⁸
- whether the interested student previously participated in the voucher program;⁹ and
- whether the interested student’s household includes a sibling or other child who is already participating in the DC voucher program.¹⁰

The Proposed Rule also recommends collecting certain family demographic information because they are important indicators of school success. This information should include:

- information on student demographics, including grade level, socio-economic status, ethnicity, English Language Learner (ELL) status, disability, gender, attendance record, and student mobility (how many schools the student has attended).
- information on family demographics, including mother’s level of educational attainment, parental employment, annual family income, number of children, and months of residential stability.

The Proposed Rule also requires the collection of information regarding parental satisfaction and school involvement at the time of application for a voucher because “the authorizing statute requires the mandated evaluation to address changes in parents’ school involvement and satisfaction.” Again, we agree that this information should be collected. Information that may also aid in this analysis and should be collected, includes:

- the number of students who apply for the program;
- why the interested student and his or her family seeks the voucher;
- whether the interested student is offered a voucher; and
- whether the interested student accepts or rejects the voucher and why.

The SOAR Act also requires an analysis of other areas of the DC voucher program, including an evaluation of student academic achievement, safety and satisfaction. Further, the statute grants the Department the authority to collect data and evaluate “such other issues with respect to participating eligible students as the Secretary considers appropriate for inclusion in the evaluation.”¹¹ In order to perform an effective and accurate analysis, we request that the Department collect the following information about interested students and their families:

⁷ *Id.* at § 3006 (1)(B).

⁸ *Id.* at § 3006 (1)(B).

⁹ *Id.* at § 3006 (1)(B).

¹⁰ *Id.* at § 3006 (1)(C).

¹¹ *Id.* at § 3009 (a)(4) (F).

- the number of students enrolled in the program and in what grades and schools they are enrolled;
- the number of students in the program who had previously attended schools in need of improvement;
- the number of students who drop out of the program, why they drop out, how long they used the voucher before dropping out, what school they attended when they dropped out, and what school they attended after leaving the voucher program;
- the number of students each private school accepting vouchers enrolls and the grades in which the voucher students are enrolled;
- the graduation rates and requirements (for what? Graduation? Aren't they required to meet the DC graduation requirements? of private schools accepting vouchers;
- whether each student using a voucher graduates from high school, whether he or she was participating in the voucher program at the time of graduation, and how many years the or she used a voucher before graduating;
- the number of students with disabilities and the number of English language learners who applied for, were awarded, accepted, or rejected a voucher;
- the number of students with disabilities and the number of English language learners who accepted a voucher but then dropped out of the program;
- the number of schools accepting vouchers that enroll students with disabilities and English language learners and whether they provide the necessary services for these students; the number of students who use a voucher to attend a religious school and the percentage of participating private schools that are religiously affiliated; and
- school attendance, dropout/attrition, graduation, and college acceptance rates for students using vouchers by grade, SES, ethnicity, gender and by voucher school.

The Department of Education Should Also Collect Information about the Participating Voucher Schools

Statutorily Required Accountability Requirements

In addition to collecting information about the students who are interested in the program, the Department should collect information about the private schools that wish to participate in the program. The federal government should entrust neither its funds nor the District of Columbia's students with any private school unless it meets basic requirements of safety and effectiveness. Accordingly, we urge the Department to collect the following information:

- whether the school has and maintains a valid certificate of occupancy issued by the District of Columbia;¹²
- whether the school has, is in the process of obtaining, or lacks school accreditation;¹³
- how many years the school has been in operation;¹⁴

¹² *Id.* at § 3007 (a)(4)(A).

¹³ *Id.* at § 3007 (a)(4)(B).

- whether the school has adequate financial resources and the financial sustainability to be in operation through the school year;¹⁵
- whether the school has the financial systems, controls, policies, and procedures to ensure that the voucher funds will be used in accordance with the statute;¹⁶
- whether each teacher of a core subject matter in the school has a baccalaureate or equivalent degree and where the degree was awarded;¹⁷ and
- whether the school will allow site visits by the administrator of the program.¹⁸

The Department should also collect additional information on the characteristics of private schools attended by voucher recipients, including admission requirements, religious mission, class size, teacher qualifications, teacher turnover, additional requirements for attending students and families, tuition costs, enrollment demographics of the schools, availability of programs for English language learners and students with disabilities, attrition rates, and graduation rates of voucher and non-voucher students.

The need for the Department to collect this information has been bolstered by reports issued by the Government Accountability Office (GAO) and by revelations made in a Congressional hearing that many voucher schools—some still receiving voucher money—have failed to meet some basic statutory requirements.

The 2007 GAO Report on the DC voucher program discovered troubling facts about the operation of program. First, the GAO found that the grant administrator had not ensured that the participating schools adhered to the rules of the program or even DC laws. For example, the administrator permitted schools to participate—and allowed students to attend schools—even though they lacked a valid DC occupancy certificate, failed to submit required financial data, and failed to submit required annual operational reports with basic information on curriculum, teachers' education, and school facilities.¹⁹ Indeed, some participating schools failed to submit information on accreditation or educational soundness, yet voucher students were directed to and attended those schools.²⁰

The grant administrator also paid tuition for students to schools that actually did not charge tuition and made disbursements to other schools without requiring them to submit the proper paperwork.²¹

At a hearing that took place in September of 2009, the Senate Appropriations Subcommittee on Financial Services and General Government examined the DC voucher

¹⁴ *Id.* at § 3007 (a)(4)(C).

¹⁵ *Id.* at § 3007 (a)(4)(C).

¹⁶ *Id.* at § 3007 (a)(4)(E).

¹⁷ *Id.* at § 3007 (a)(4)(F).

¹⁸ *Id.* at § 3007 (a)(4)(D).

¹⁹ US Gov't Accountability Office, *District of Columbia Opportunity Scholarship Program: Additional Policies and Procedures Would Improve Internal Controls and Program Operations*, Pub. No. 08-9 at 34-35 (Nov. 2007) (GAO Report).

²⁰ *Id.* at 34.

²¹ *Id.* at 22-23, 33.

program.²² Senator Durbin revealed in the hearing that even though the 2007 GAO Report cited the Academy for Ideal Education as lacking a certificate of occupancy, the school continued to receive federal voucher money.²³ Indeed, 84 of its 101 students used a voucher during the 2008-2009 school year.²⁴ The school ultimately closed. Senator Durbin also pointed out that the administrator's program's materials regarding teacher qualifications conflicted with testimony to the subcommittee.²⁵

Furthermore, the most recent U.S. Department of Education study of the DC voucher program provided an analysis on graduation rates. But, the study did not report graduation rates based on school records or by tracking students as they proceeded through the program. Instead the report was based only on "telephone surveys with parents of students in the study forecasted to have completed the 12th grade by the summer of 2009."²⁶ Only 316 of the 500 students forecasted to have completed the 12th grade answered the survey.²⁷ Such a process appears less than scientific and reliable.

The need for the Department to collect this data on participating private schools, therefore, is supported both by the statutory requirements and by the program's troubled history of ensuring that such schools meet these requirements

Statutory Non-Discrimination Requirements

The Department should also collect information regarding the anti-discrimination policies of each school to ensure that they meet the nondiscrimination provisions provided in Section 8 of the SOAR Act. The Department should request each school's official nondiscrimination policy and inquire as to whether the school seeks to utilize one of the statutory exemptions that allow religious schools to engage in gender discrimination for students²⁸ or religious hiring discrimination.²⁹

Additional Data Collection Is also Supported by the Program's Troubled History of Accountability and Transparency Problems.

NCPE requests that the Department collect the data identified above not just because it is either mandated or authorized by the SOAR Act, but also because the program has historically demonstrated a lack of accountability and transparency.

For example, the 2009 Appropriations subcommittee hearing chaired by Senator Durbin, revealed that the program administrator originally refused to report to the Subcommittee³⁰ and then may have inaccurately reported the number of students

²² *A Review and Assessment of the Use, Impact, and Accomplishments of the Federal Appropriations Provided to Improve the Education of Children in the District of Columbia: Hearings Before the Subcomm. on Financial Services and General Government of the S. Comm. on Appropriations*, 111th Cong. (2011) (Subcommittee Hearing).

²³ *Id.* at 58, 154-155.

²⁴ *Id.* at 155.

²⁵ *Id.* at 153-154.

²⁶ US Dep't of Educ., *Evaluation of the DC Opportunity Scholarship Program: Final Report* at xx fn. 6.

²⁷ *Id.* at A-6.

²⁸ HR 1437 § 3008 (b)(1).

²⁹ *Id.* at § 3008 (d)(1).

³⁰ Senator Durbin explained that "When we contacted your office and said . . . "Send us the names and addresses of the schools that participate in the voucher program; how many students you acknowledge are part of that program in each of the schools—just by number; how many of the teachers in each of the schools have college degrees; how many of

participating in the program. When the Subcommittee could not obtain the information from the administrator, it was surprised to discover that the Department also lacked the information.³¹ Because of the administrator’s original refusal to provide a count and the Department’s inability to do so, Senator Durbin’s staff was forced to contact each individual school and ask how many voucher students attended.³² That count indicated that “for the last school year there are 389 missing students³³ and, thus “about \$3 million worth of D.C. opportunity scholarships unaccounted for.”³⁴ The administrator refuted this assertion. Regardless, a congressional committee providing oversight to the program should not have such difficulty obtaining information about the number of students participating in a federal taxpayer funded program.

The GAO report also raised concerns about the administration of the program. The report criticized the grant administrator for providing inaccurate, misleading, and incomplete information to parents about the participating schools.³⁵ Indeed, the administrator incorrectly reported information on some schools that could have significantly affected parents’ choice of schools, such as the percentage of teachers who had at least a bachelor’s degree and tuition rates.³⁶

These revelations make clear that the Department should take steps to provide better oversight of the program and further bolster the need for the Department to collect the data identified above by NCPE.

Conclusion

In conclusion NCPE urges the Department to collect data about the students and private schools participating in the voucher program in order to properly perform the statutorily required evaluation, determine the eligibility of participating private schools, and increase the accountability and transparency of the program.

Sincerely,

Maggie Garrett
Co-chair of NCPE

Noelle Ellerson
co-chair of NCPE

the teachers in each of the schools have been judged safe, in terms of the fire safety code, for example, but the District of Columbia”—that you declined, and said, “I won’t provide that information.” Subcommittee Hearing at 50-51.

³¹ *Id.* at 51.

³² *Id.*

³³ *Id.* at 4.

³⁴ *Id.* Before the second date of the hearing, the administrator provided a count of students and argued that the information provided by the schools was not the accurate count. *Id.* at 136-141 (written testimony of Mr. Cork and correspondence between Mr. Cork and Senator Durbin).

³⁵ GAO Report at 36.

³⁶ *Id.*