



## Florida's Education Revolution

*Empowering Florida's Most Vulnerable Children with a Quality Education*

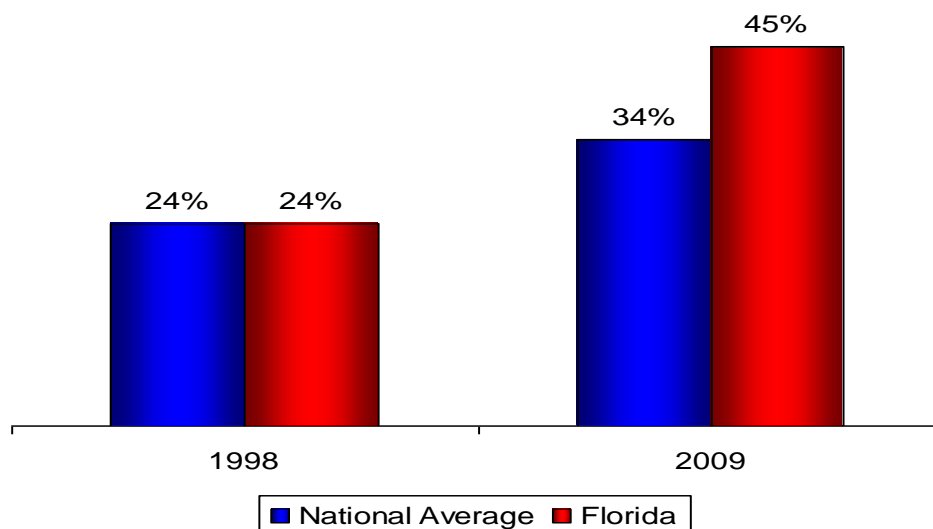
### CHOICE IN EDUCATION

The 21<sup>st</sup> century provides an unprecedented array of choices in almost every area of life except perhaps the most important area – education. Knowing that education is the proven path to prosperity, every parent should have a choice and a voice in where their child goes to school. A decade ago, Florida lawmakers began empowering every parent – regardless of their zip code – to select the quality education that best fit their child's learning style and needs. This included creating the nation's first parental choice program for students with disabilities.

### THE MCKAY SCHOLARSHIP PROGRAM

In 1999, Senate President John McKay, a father of a special needs child, sponsored the program that now bears his name: the McKay Scholarship for Students with Disabilities Program. Today, the McKay Scholarship Program is the largest school voucher program in the nation, and lawmakers in Arizona, Georgia, Louisiana, Ohio, Oklahoma and Utah have passed their own versions of the McKay Program, with further states considering similar legislation at the time of this writing. In 2009-10, 28,297 Florida children with disabilities utilized McKay Scholarships to attend 959 different private schools.<sup>1</sup> Florida's children with disabilities have made academic progress far greater than the national average, as shown in Figure 1 below.

**Figure 1: Percentages of Florida Children with Disabilities Scoring Basic or Better on the NAEP 4th Grade Reading Exam Compared to the National Average 1998 and 2009**



<sup>1</sup> Florida Department of Education, Fast Facts on McKay Scholarship Program, available online at [http://www.floridaschoolchoice.org/Information/McKay/files/Fast\\_Facts\\_McKay.pdf](http://www.floridaschoolchoice.org/Information/McKay/files/Fast_Facts_McKay.pdf).

Students with an individual education plan (IEP) or 504 accommodation plan enrolled in a Florida public school are eligible to participate in the McKay Program. Private schools meeting certain requirements, including financial soundness and compliance with nondiscrimination regulations, can participate in the program. The maximum amount of each student's voucher is equal to the total cost of educating that child in public school or the private school's tuition and fees, whichever is less.

## RESULTS OF THE MCKAY SCHOLARSHIP PROGRAM

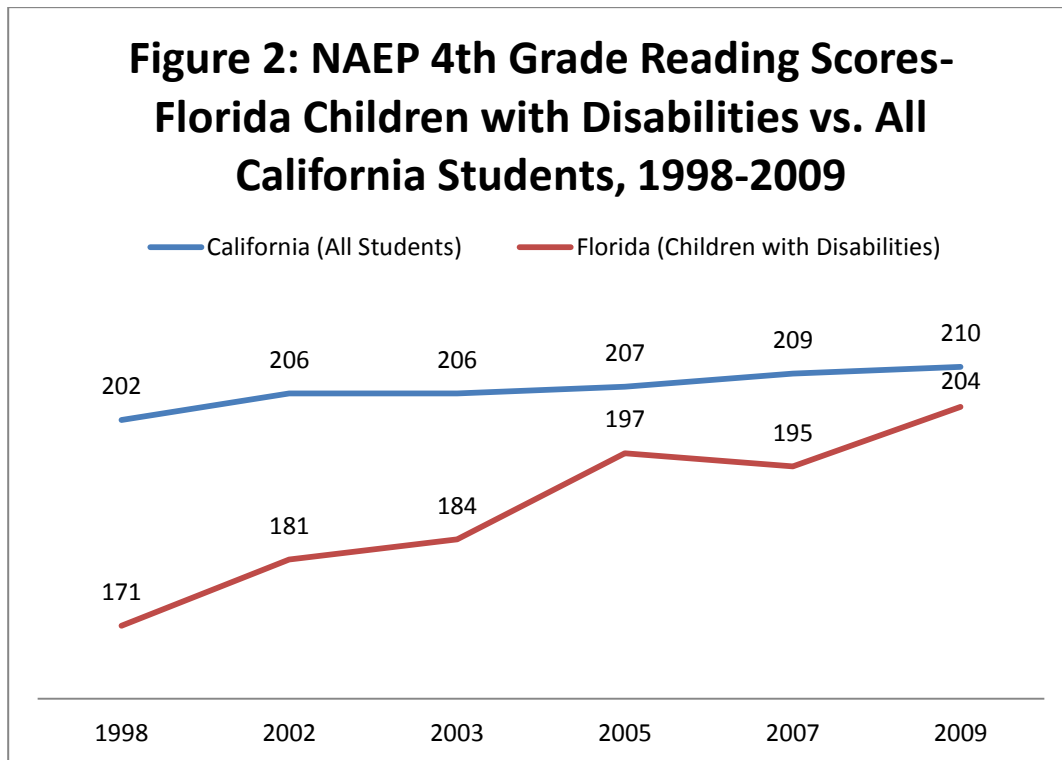


Figure 2 above presents the reading progress of Florida's special needs children compared to the statewide average for *all children* in California on the National Assessment of Educational Progress (NAEP) 4<sup>th</sup> grade reading exam. In 1998, the year before Florida's lawmakers enacted the McKay Scholarship Program and the broader suite of education reforms, Florida's special needs children scored 171- 31 points below the statewide average for all students in California. As a point of reference, students typically make approximately 10 points of progress on average on NAEP reading exams per academic year.<sup>2</sup>

Between 1998 and 2009, however, Florida's special needs children made remarkable academic progress- a 33 point gain in reading achievement. By 2009, Florida's special needs children had narrowed the gap with California's statewide average to a mere six points. Imagine that California's statewide average and Florida's children with disabilities demonstrate the same amount of progress over the next two years as the previous two years (by no means a given, and

<sup>2</sup> In other words, if we gave the 4<sup>th</sup> grade reading test to a typical group of 5<sup>th</sup> graders, we would expect them to do about 10 points better than a similar group of 4<sup>th</sup> graders, all else being equal.

highly undesirable for California). If this were to occur, Florida's children with disabilities would overtake the California statewide average, and likely the average for a number of other states as well.

Florida's children with disabilities are the only student group with an entirely funded eligibility for a full parental choice program. A statistical evaluation of the program found that children with disabilities remaining in public schools made greater average test score gains when their schools faced higher levels of competition from the McKay program. Moreover, one can only describe the cumulative impact of the Florida reforms on the academic achievement of special needs children as quite remarkable.

Just to be clear: the McKay program contributed to this progress in conjunction with a number of other policy reforms. Florida's policy of grading schools A through F, for instance, places a special emphasis on the academic progress of the lowest scoring students from the previous year's test. Florida lawmakers put a huge emphasis on scientific reading instruction methodologies and the certification of teachers in grades K-3. Beginning in 2003, Florida lawmakers required students to score a minimal level of literacy in order to advance from 3<sup>rd</sup> to 4<sup>th</sup> grade, and did not entirely exempt special needs students from the requirement.

The literacy skills of Florida students—including their special needs students—doubtlessly benefited from these policy changes as well. Furthermore, given that Florida lawmakers made multiple major policy changes simultaneously, it is impossible to say definitively how much improvement any one reform caused- including the McKay Scholarship Program.

Nevertheless, as discussed further below, solid social science evidence demonstrates that the McKay Scholarship program accounted for some improvement in special needs scores for public schools. Furthermore, scholars have measured the satisfaction of parents in the program, finding them extremely enthusiastic about the program.

We will elaborate on all of these subjects below. A true grasp of the McKay Scholarship Program's significance, however, requires some background on the promise and problems associated with American special education law and practice.

## **SPECIAL EDUCATION IN AMERICA: PROGRESS AND PROBLEMS**

Congress passed the Education of All Handicapped Children Act in 1975, which was renamed the Individuals with Disabilities Education Act (IDEA) in 1990. Congress passed this landmark legislation to prevent then widespread discrimination against children with disabilities by guaranteeing a "free appropriate public education" to children with disabilities. At the time of passage, public schools nationwide were excluding an estimated 1,000,000 children with disabilities from participating in special needs programs. While containing multiple serious flaws, IDEA stands as a crucial piece of civil rights legislation in guaranteeing the rights of special needs to students to receive an education.

Nationwide, 12.6 percent of students in public schools are in special education programs. In 2001, the Thomas B. Fordham Foundation and the Progressive Policy Institute published an edited volume on IDEA. This volume broke something of a taboo against criticizing IDEA, exposing numerous problems with special education law and practice. These problems included but are not limited to the fact that IDEA emphasizes procedure over student achievement, that an alarmingly large number of children have been inappropriately placed in special education due to poor early reading instruction, and racial bias in placement of minority children.<sup>3</sup>

Special education services have become simultaneously costly and ineffective. The process of developing a child's Individual Education Plan has been described as "an invitation to conflict" between parents and schools. School officials often seek compliance with paperwork to avoid the possibility of a lawsuit while neglecting the interests of the child. By some estimates, 40 percent of the increase in K-12 spending has gone into special education.

Special education, in short, does too little to help children with disabilities despite costing a great deal. Jay Mathews of the *Washington Post* noted that the available research "suggests that the special education system has led to widespread, if well-intentioned, misuse of tax dollars and has failed to help kids."<sup>4</sup>

Nationwide, 2% of special needs students attend private schools at school district expense. The federal Individuals with Disabilities Act requires school districts to provide a Free and Appropriate Education (FAPE) to students with disabilities. The law provides parents the ability to sue school districts for failing to provide FAPE, and private school placements represent a common legal remedy.

Court battles surrounding the special education process prove problematic on multiple levels. First, the children of wealthy parents have far more access to the courts than middle and low-income children. Attorneys specialized in the arcana of special education law and procedure command a high premium for their services. Second, school districts have complained mightily for decades about the costs of losing suits, sometimes resulting in private placements in highly specialized private facilities charging six-figure annual fees. IDEA entails a complex set of compliance requirements, and failure to provide FAPE can rest on paperwork alone.<sup>5</sup>

The McKay Scholarship Program for Students with Disabilities represents a radical departure from the normal operation of the special education system. Parents wishing to enroll in the McKay Program need only express dissatisfaction with the education their child receives, and then can transfer to a school of their choice with the state portion of their money. The McKay Program democratizes the opportunity to attend private schools to parents of all income levels by cancelling the need for specialized attorneys or litigation.

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<sup>3</sup> Chester E. Finn Jr., Andrew J. Rotherham, and Charles R. Hokanson Jr. (eds.) 2001. *Rethinking Special Education for a New Century*. (Washington, D.C.: Thomas B. Fordham Foundation).

<sup>4</sup> Jay Mathews, "When Special Education Falls Short," *Washington Post*, December 11, 2001.

<sup>5</sup> See Wolf, Patrick J and Bryan Hassel. 2001. *Effectiveness and Accountability (Part I): The Compliance Model* in Chester E. Finn Jr., Andrew J. Rotherham, and Charles R. Hokanson Jr. (eds.) *Rethinking Special Education for a New Century*. (Washington, D.C.: Thomas B. Fordham Foundation). Available on the internet at [http://www.ppionline.org/documents/SpecialEd\\_ch03.pdf](http://www.ppionline.org/documents/SpecialEd_ch03.pdf).

## **FISCAL IMPACT OF MCKAY ON DISTRICT BUDGETS**

In 2004, Stanford economist Caroline Hoxby testified to the Texas House of Representatives Select Committee on Public School Finance on education reform, and included the McKay Scholarship in her remarks. Dr. Hoxby noted that public schools have been complaining for decades that they do not receive enough money for special education. The persistent underfunding of special education forces districts to transfer millions of dollars out of general education into special education. Hoxby noted that a program allowing special needs students to transfer to private schools solely with their state money represents a financial boon to the district. Districts can either transfer less money between general and special education, or make the same transfer and spend more on the remaining special needs students.

Representatives of Texas Education Regional Service Center 20 later presented information before the House Select Committee on Public School Finance regarding the disparity between special education funding and special education spending in the San Antonio, Northside, Northeast, Alamo Heights and Floresville Independent School Districts (ISD). In each district, representatives provided figures showing that districts spent hundreds of thousands to millions of dollars more on special education services than the funding they received from state and federal sources. While school district expenditures exceeded government funding for special education, the decision to spend monies above and beyond government funds was a decision made by the districts. The exact nature of the excess expenditures is unknown. Whether additional monies were necessary or simply elective spending was not identified. Nor is it known if these expenditures were required to underwrite the cost of delivering government-mandated services.

In San Antonio ISD, Education Regional Service Center 20 figures show a disparity of \$8,163 more spent than received per full time equivalent special education student. The disparity figures for the Northside, North East, Alamo Heights and Floresville districts were \$3,536, \$4,521, \$7,992 and \$2,949 respectively.<sup>6</sup>

In short, school districts have no cause to complain about a program like McKay-so long as they have been accurately describing their need for extra funding for special needs students over the past few decades.

## **MCKAY SCHOLARSHIP PROGRAM- ACADEMIC IMPACT ON PUBLIC SCHOOLS SURVEY OF PARENTAL SATISFACTION**

A 2008 study by the Manhattan Institute studied the impact of the McKay Program on the test scores of disabled students in district public schools. The authors measured the impact of the program by examining variation in the number of private schools participating in the McKay program in the proximity of district schools. The study found a statistically significant and

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<sup>6</sup> Ladner, Matthew. 2004. *Individual Education Plan: The Case For Choice For Texas Students With Disabilities*. Report of the Texas Public Policy Foundation, available online at <http://www.texaspolicy.com/pdf/2004-04-sf-ladner-special.pdf>.

positive relationship between greater private school participation and the learning gains of public school special education students.<sup>7</sup>

A survey of McKay Scholarship Program parents conducted by the Manhattan Institute found 92.7 percent of current McKay participants are satisfied or very satisfied with their McKay schools, while only 32.7 percent were similarly satisfied with their previous public school. McKay parents found that their children's class sizes dropped dramatically, from an average of 25.1 students per class in public schools to 12.8 students per class in McKay schools. McKay program parents also reported high levels of academic satisfaction-90 percent of parents in the program said they were satisfied with their children's academic progress in the private schools; only 17 percent had been similarly satisfied in their previous public school.

In their public schools, 46.8 percent of disabled students were bothered often and 24.7 percent were physically assaulted, while in McKay schools only 5.3 percent were bothered often and 6.0 percent were assaulted. Perhaps most telling of all, more than 90 percent of parents who had withdrawn their children from the program, either because the private school didn't work out for their child or the family moved, believe it should continue to be available to those who wish to use it.<sup>8</sup>

The McKay program laid waste to the claim that private schools participating in a choice program "skim the cream" of students or that private schools "would not admit special needs students." During the 2009- 2010 school year, 20,926 students utilized McKay Scholarships, the average scholarship amount was \$7,144 and 959 private schools participated.

## **McKAY'S CHILDREN- SPECIAL NEEDS VOUCHERS GAIN GROUND NATIONALLY**

The McKay Scholarship Program inspired lawmakers in multiple states to enact similar programs. Ohio lawmakers followed the Cleveland program by passing the Autism Scholarship Program in 2003. The program is exclusively for children formally diagnosed and identified with Autism or Autism Spectral Disorders. A variety of services can be paid for by the Autism Scholarship Program, including private school tuition and other services required by the child's Individual Education Plan. The maximum value of the scholarship is \$20,000. During the 2007-08 school year, 1,000 children used scholarships at 150 service providers. In 2007, Ohio lawmakers passed legislation to expand the program to all Ohio special needs children, but Governor Ted Strickland vetoed the bill. Ohio legislators succeeded in creating a full blown special needs scholarship during the 2011 legislative session.

In 2004, the Utah Legislature passed the Carson Smith Special Needs Scholarship Program. Republican Governor Olene Walker, however, vetoed the bill. In part due to the outrage resulting from the veto, Republican voters ousted Governor Walker in Utah's unique nominating convention process. Governor John Huntsman became the Republican nominee and

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<sup>7</sup> Greene, Jay P. and Marcus A. Winters. 2008. "The Effect of Special Education Vouchers on Public School Achievement: Evidence From Florida's McKay Scholarship Program." Manhattan Institute Civic Report Number 52, available online at [http://www.manhattan-institute.org/html/cr\\_52.htm](http://www.manhattan-institute.org/html/cr_52.htm).

<sup>8</sup> Jay P. Greene and Greg Forster, "Vouchers for Special Education Students: An Evaluation of Florida's McKay Scholarship Program," Manhattan Institute for Policy Research, Civic Report No. 38, June 2003.

then governor. The Utah legislature passed the Carson Smith bill again in 2005, and Governor Huntsman signed the bill into law.

Arizona became the next state to enact a special needs voucher program. Governor Janet Napolitano became the nation's first Democratic Governor to sign a new voucher law into existence in 2005, ratifying voucher programs for special needs and foster care children, respectively. The Arizona Education Association and their allies sued and prevailed against the program in the Arizona Supreme Court. The Arizona Supreme Court ruled that the voucher mechanism violated a Blaine Amendment of the Arizona Constitution. Arizona choice advocates quickly replaced the voucher program with a corporate scholarship tax credit program known as "Lexie's Law." More recently, Arizona's choice advocates followed the implied suggestion of the Arizona Supreme Court that a program providing multiple options to parents regarding the use of funds could pass constitutional muster. In 2011, Arizona's choice supporters created the nation's first system of public contributions to education savings accounts for special needs students.

In 2007, Georgia lawmakers created the Georgia Special Needs Scholarship program. For the 2007-08 school year, 899 students used vouchers to attend 117 participating schools. Given the extremely tight timeline between the end of the legislative session in May 2007 and the beginning of the school year in August, this was an extremely short and successful start of the program. The first year of implementation enjoyed such success that the *Atlanta Journal Constitution* described the program as "a hit" among parents. In the program's 2009-2010 school year, the good news continued: the number of students participating increased to 2,550 students attending 190 different private schools.

Lawmakers in Louisiana and Oklahoma passed special needs voucher programs in 2010, and Ohio followed suit with a full program in 2011. North Carolina lawmakers passed the nation's first tax credit program for special needs students in 2011. At the time of this writing, lawmakers are considering special needs bills in Kansas, Montana, Oregon, Nevada, Tennessee and Wisconsin.

## **CONCLUSION: "INDIVIDUAL EDUCATION PLAN" REQUIRES CHOICE OVER PROVIDERS**

The McKay Scholarship Program succeeded in broadening choice and expanding opportunity to disabled children in Florida. Parents have expressed high levels of satisfaction with the program, and it has contributed to a remarkable level of improvement in the scores of children with disabilities in public schools.

The concept of an "Individual Education Plan" lies at the heart of the Individuals with Disabilities Education Act. An important missing piece of individualizing education for children with disabilities lies in the ability to choose the best education service provider to meet the individual needs of the child.

The magic of the McKay Scholarship Program and choice more generally, is that you don't actually have to use it to benefit from it. Parents of children with disabilities now have the ability to vote with their feet if they think their school has served their child poorly, or that

another school would do a better. The program became law in 1999, but in the 2008-09 school year, only five percent of children with disabilities in Florida utilized the program.

The most important thing to realize about the program: 100% of children with disabilities now have the ability to use the program if they are dissatisfied. Judging from the NAEP, Florida special needs parents have far less to feel dissatisfied about with regards to academic achievement than they would have in the past. The fact that the vast majority of parents keep McKay as a sword in a sheath, to be drawn if necessary, increases rather than lessens the power of the program.

Scholars have studied the complex interaction between the two basic choices a person has when dissatisfied with an organization of which they are a part. They can either leave the organization, or try to change the problem: Exit and Voice.<sup>9</sup> The credible ability to leave enhances the possibility of resolving dissatisfaction. Federal education law has long provided the possibility of exit for those children able to avail themselves to high-priced attorneys. The McKay Scholarship Program simply opens up the opportunity for everyone else.

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<sup>9</sup> See Hirschman, Albert O. 1970. *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States*. Cambridge, MA: Harvard University Press.