

108TH CONGRESS
1ST SESSION

H. R. 2556

To provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary or secondary schools identified for improvement, corrective action, or restructuring under title I of the Elementary and Secondary Education Act of 1965, with expanded opportunities for enrolling their children in higher-performing schools in the District of Columbia, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2003

Mr. TOM DAVIS of Virginia (for himself, Mr. BOEHNER, Mr. WELDON of Florida, Mr. LIPINSKI, Mr. SHAYS, Mr. CARTER, Mr. WILSON of South Carolina, Mr. EHLERS, and Mr. DEMINT) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary or secondary schools identified for improvement, corrective action, or restructuring under title I of the Elementary and Secondary Education Act of 1965, with expanded opportunities for enrolling their children in higher-performing schools in the District of Columbia, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “DC Parental Choice
3 Incentive Act of 2003”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) Parents are best equipped to make decisions
7 for their children, including the educational setting
8 that will best serve the interests and educational
9 needs of their child.

10 (2) For many parents in the District of Colum-
11 bia, public school choice provided for under the No
12 Child Left Behind Act of 2001 is inadequate due to
13 capacity constraints within the public schools.
14 Therefore, in keeping with the spirit of the No Child
15 Left Behind Act of 2001, school choice options, in
16 addition to those already available to parents in the
17 District of Columbia (such as magnet and charter
18 schools and open enrollment schools) should be made
19 available to those parents.

20 (3) In the most recent mathematics assessment
21 on the National Assessment of Educational Progress
22 (NAEP), administered in 2000, a lower percentage
23 of 4th-grade students in DC demonstrated pro-
24 ficiency than was the case for any State. Seventy-six
25 percent of DC fourth-graders scored at the “below
26 basic” level and of the 8th-grade students in the

1 District of Columbia, only 6 percent of the students
2 tested at the proficient or advanced levels, and 77
3 percent were below basic. In the most recent NAEP
4 reading assessment, in 1998, only 10 percent of DC
5 fourth-graders could read proficiently, while 72 per-
6 cent were below basic. At the 8th-grade level, 12
7 percent were proficient or advanced and 56 percent
8 were below basic.

9 (4) A program enacted for the valid secular
10 purpose of providing educational assistance to low-
11 income children in a demonstrably failing public
12 school system is constitutional under *Zelman v. Sim-*
13 *mons-Harris* if it is neutral with respect to religion
14 and provides assistance to a broad class of citizens
15 who direct government aid to schools solely as a re-
16 sult of their independent private choices.

17 **SEC. 3. PURPOSE.**

18 The purpose of this Act is to provide low-income par-
19 ents residing in the District of Columbia, particularly par-
20 ents of students who attend elementary or secondary
21 schools identified for improvement, corrective action, or
22 restructuring under section 1116 of the Elementary and
23 Secondary Education Act of 1965 (20 U.S.C. 6316), with
24 expanded opportunities for enrolling their children in high-
25 er-performing schools in the District of Columbia.

1 **SEC. 4. GENERAL AUTHORITY.**

2 (a) **AUTHORITY.**—From funds appropriated to carry
3 out this Act, the Secretary shall award grants on a com-
4 petitive basis to eligible entities with approved applications
5 under section 5 to carry out activities to provide eligible
6 students with expanded school choice opportunities. The
7 Secretary may award a single grant or multiple grants,
8 depending on the quality of applications submitted and the
9 priorities of this Act.

10 (b) **DURATION OF GRANTS.**—The Secretary may
11 make grants under this section for a period of not more
12 than 5 years.

13 **SEC. 5. APPLICATIONS.**

14 (a) **IN GENERAL.**—In order to receive a grant under
15 this Act, an eligible entity shall submit an application to
16 the Secretary at such time, in such manner, and accom-
17 panied by such information as the Secretary may require.

18 (b) **CONTENTS.**—The Secretary may not approve the
19 request of an eligible entity for a grant under this Act
20 unless the entity's application includes—

21 (1) a detailed description of—

22 (A) how the entity will address the prior-
23 ities described in section 6;

24 (B) how the entity will select eligible stu-
25 dents to participate in the program, including
26 how it will ensure that if more eligible students

1 participating in the program seek admission in
2 a participating school than the school can ac-
3 commodate, eligible students are selected for
4 admission through a random selection process;

5 (C) how the entity will notify parents of el-
6 igible students of the expanded choice opportu-
7 nities;

8 (D) the activities that the entity will carry
9 out to provide parents of eligible students with
10 expanded choice opportunities through the
11 awarding of scholarships under section 7(a);

12 (E) how the entity will determine the
13 amount that will be provided to parents for the
14 tuition, fees, and transportation expenses, if
15 any;

16 (F) how the entity will seek out private ele-
17 mentary and secondary schools in the District
18 of Columbia to participate in the program, and
19 will ensure that participating schools will meet
20 the applicable requirements of this Act and pro-
21 vide the information needed for the entity to
22 meet the reporting requirements of this Act;
23 and

24 (G) how the entity will ensure that partici-
25 pating schools are financially responsible; and

1 (2) an assurance that the entity will comply
2 with all requests regarding any evaluation carried
3 out under section 9.

4 **SEC. 6. PRIORITIES.**

5 In awarding grants under this Act, the Secretary
6 shall give priority to applications from eligible entities who
7 will most effectively—

8 (1) give priority to eligible students who attend
9 an elementary or secondary school identified for im-
10 provement, corrective action, or restructuring under
11 section 1116 of the Elementary and Secondary Edu-
12 cation Act of 1965 (20 U.S.C. 6316);

13 (2) target resources to students and families
14 that lack the financial resources to take advantage
15 of available educational options;

16 (3) provide students and families with the
17 widest range of educational options; and

18 (4) serve students of varying age and grade lev-
19 els.

20 **SEC. 7. USE OF FUNDS.**

21 (a) SCHOLARSHIPS.—

22 (1) IN GENERAL.—Subject to paragraph (2)
23 and (3), a grantee shall use the grant funds to pro-
24 vide eligible students with scholarships to pay the
25 tuition, fees, and transportation expenses, if any, to

1 enable them to attend the District of Columbia pri-
2 vate elementary or secondary school of their choice.
3 Each grantee shall ensure that the amount of any
4 tuition or fees charged by a school participating in
5 the grantee's program under this Act to an eligible
6 student participating in the program does not exceed
7 the amount of tuition or fees that the school custom-
8 arily charges to students who do not participate in
9 the program.

10 (2) PAYMENTS TO PARENTS.—A grantee shall
11 make scholarship payments under the program
12 under this Act to the parent of the eligible student
13 participating in the program, in a manner which en-
14 sures that such payments will be used for the pay-
15 ment of tuition, fees, and transportation expenses (if
16 any), in accordance with this Act.

17 (3) AMOUNT OF ASSISTANCE.—

18 (A) VARYING AMOUNTS PERMITTED.—Sub-
19 ject to the other requirements of this sub-
20 section, a grantee may award scholarships in
21 larger amounts to those eligible students with
22 the greatest need.

23 (B) ANNUAL LIMIT ON AMOUNT.—The
24 amount of assistance provided to any eligible
25 student by a grantee under a program under

1 this Act may not exceed \$7,500 for any aca-
2 demic year.

3 (b) ADMINISTRATIVE EXPENSES.—A grantee may
4 use not more than 3 percent of the amount provided under
5 the grant each year for the administrative expenses of car-
6 rying out its program under this Act during the year, in-
7 cluding—

8 (1) determining the eligibility of students to
9 participate;

10 (2) providing information about the program
11 and the schools involved to parents of eligible stu-
12 dents;

13 (3) selecting students to receive support;

14 (4) determining the amount of scholarships and
15 issuing them to eligible students;

16 (5) compiling and maintaining financial and
17 programmatic records; and

18 (6) providing funds to assist parents in meeting
19 expenses that might otherwise preclude the partici-
20 pation of their child in the program.

21 **SEC. 8. NONDISCRIMINATION.**

22 (a) IN GENERAL.—A school participating in any pro-
23 gram under this Act shall not discriminate on the basis
24 of race, color, national origin, or sex in participating in
25 the program.

1 (b) APPLICABILITY AND CONSTRUCTION WITH RE-
2 SPECT TO DISCRIMINATION ON THE BASIS OF SEX.—

3 (1) APPLICABILITY.—Notwithstanding sub-
4 section (a) or any other provision of law, it shall not
5 be considered discrimination on the basis of sex for
6 a school that is operated by, supervised by, con-
7 trolled by, or connected to a religious organization to
8 take sex into account to the extent that failing to do
9 so would be inconsistent with the religious tenets or
10 beliefs of the school.

11 (2) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVI-
12 TIES.—Notwithstanding subsection (a) or any other
13 provision of law, a parent may choose and a school
14 may offer a single-sex school, class, or activity.

15 (c) CHILDREN WITH DISABILITIES.—Nothing in this
16 Act may be construed to alter or modify the provisions
17 of the Individuals with Disabilities Education Act.

18 (d) RELIGIOUSLY AFFILIATED SCHOOLS.—

19 (1) IN GENERAL.—Notwithstanding any other
20 provision of law, a school participating in any pro-
21 gram under this Act which is operated by, super-
22 vised by, controlled by, or connected to, a religious
23 organization may employ persons of the same reli-
24 gion to the extent determined by that school to pro-

1 mote the religious purpose for which the school is es-
2 tablished or maintained.

3 (2) RELIGIOUS PURPOSES.—Notwithstanding
4 any other provision of law, funds made available
5 under this Act may be used for religious educational
6 purposes, and no participating school shall be re-
7 quired to remove religious art, icons, scriptures, or
8 other symbols. A participating school may retain re-
9 ligious terms in its name, select its board members
10 on a religious basis, and include religious references
11 in its mission statements and other chartering or
12 governing documents.

13 (e) RULE OF CONSTRUCTION.—A scholarship (or any
14 other form of support provided to parents of eligible stu-
15 dents) under this Act shall be considered assistance to the
16 student and shall not be considered assistance to the
17 school that enrolls the eligible student. The amount of any
18 scholarship (or other form of support provided to parents
19 of an eligible student) under this Act shall not be treated
20 as income of the parents for purposes of Federal tax laws
21 or for determining eligibility for any other Federal pro-
22 gram.

23 **SEC. 9. EVALUATIONS.**

24 (a) IN GENERAL.—

1 (1) DUTIES OF SECRETARY.—The Secretary
2 shall—

3 (A) conduct an evaluation using the
4 strongest possible research design for deter-
5 mining the effectiveness of the programs funded
6 under this Act that addresses the issues de-
7 scribed in paragraph (2); and

8 (B) disseminate information on the impact
9 of the programs in increasing the student aca-
10 demic achievement of participating students, as
11 well as other appropriate measures of student
12 success, and on the impact of the programs on
13 students and schools in the District of Colum-
14 bia.

15 (2) ISSUES TO BE EVALUATED.—The issues de-
16 scribed in this paragraph include the following:

17 (A) A comparison of the academic achieve-
18 ment of students who participate in the pro-
19 grams funded under this Act with the academic
20 achievement of students of similar backgrounds
21 who do not participate in such programs.

22 (B) The success of the programs in ex-
23 panding choice options for parents.

24 (C) The reasons parents choose for their
25 children to participate in the programs.

1 (D) A comparison of the retention rates,
2 dropout rates, and (if appropriate) graduation
3 and college admission rates of students who
4 participate in the programs funded under this
5 Act with the retention rates, dropout rates, and
6 (if appropriate) graduation and college admis-
7 sion rates of students of similar backgrounds
8 who do not participate in such programs.

9 (E) The effects of the programs on public
10 elementary and secondary schools.

11 (F) A comparison of the safety of the
12 schools attended by students who participate in
13 the programs and the schools attended by stu-
14 dents who do not participate in the programs.

15 (G) The impact of the program on stu-
16 dents and schools in the District of Columbia.

17 (H) Such other issues as the Secretary
18 considers appropriate for inclusion in the eval-
19 uation.

20 (b) REPORTS.—The Secretary shall submit to the
21 Committees on Appropriations, Education and the Work-
22 force, and Government Reform of the House of Represent-
23 atives and the Committees on Appropriations, Health,
24 Education, Labor, and Pensions, and Governmental Af-
25 fairs of the Senate—

1 (1) annual interim reports not later than De-
2 cember 1 of each year for which a grant is made
3 under this Act on the progress and preliminary re-
4 sults of the evaluation of the programs funded under
5 this Act; and

6 (2) a final report not later than 1 year after the
7 final year for which a grant is made under this Act
8 on the results of the evaluation of the programs
9 funded under this Act.

10 (c) PUBLIC AVAILABILITY.—All reports and under-
11 lying data gathered pursuant to this section shall be made
12 available to the public upon request, in a timely manner
13 following submission of the applicable report under sub-
14 section (b), except that personally identifiable information
15 shall not be disclosed or made available to the public.

16 (d) LIMIT ON AMOUNT EXPENDED.—The amount ex-
17 pended by the Secretary to carry out this section for any
18 fiscal year may not exceed 3 percent of the total amount
19 appropriated to carry out this Act for the year.

20 **SEC. 10. REPORTING REQUIREMENTS.**

21 (a) ACTIVITIES REPORTS.—Each grantee receiving
22 funds under this Act during a year shall submit a report
23 to the Secretary not later than July 30 of the following
24 year regarding the activities carried out with the funds
25 during the preceding year.

1 (b) ACHIEVEMENT REPORTS.—

2 (1) IN GENERAL.—In addition to the reports
3 required under subsection (a), each grantee shall,
4 not later than September 1 of the year during which
5 the second academic year of the grantee’s program
6 is completed and each of the next 2 years thereafter,
7 submit a report to the Secretary regarding the data
8 collected in the previous 2 academic years con-
9 cerning—

10 (A) the academic achievement of students
11 participating in the program;

12 (B) the graduation and college admission
13 rates of students who participate in the pro-
14 gram, where appropriate; and

15 (C) parental satisfaction with the program.

16 (2) PROHIBITING DISCLOSURE OF PERSONAL
17 INFORMATION.—No report under this subsection
18 may contain any personally identifiable information.

19 (c) REPORTS TO PARENT.—

20 (1) IN GENERAL.—Each grantee shall ensure
21 that each school participating in the grantee’s pro-
22 gram under this Act during a year reports at least
23 once during the year to the parents of each of the
24 school’s students who are participating in the pro-
25 gram on—

1 (A) the student's academic achievement, as
2 measured by a comparison with the aggregate
3 academic achievement of other participating
4 students at the student's school in the same
5 grade or level, as appropriate, and the aggregate
6 academic achievement of the student's
7 peers at the student's school in the same grade
8 or level, as appropriate; and

9 (B) the safety of the school, including the
10 incidence of school violence, student suspen-
11 sions, and student expulsions.

12 (2) PROHIBITING DISCLOSURE OF PERSONAL
13 INFORMATION.—No report under this subsection
14 may contain any personally identifiable information,
15 except as to the student who is the subject of the
16 report to that student's parent.

17 (d) REPORT TO CONGRESS.—The Secretary shall
18 submit to the Committees on Appropriations, Education
19 and the Workforce, and Government Reform of the House
20 of Representatives and the Committees on Appropriations,
21 Health, Education, Labor, and Pensions, and Govern-
22 mental Affairs of the Senate an annual report on the find-
23 ings of the reports submitted under subsections (a) and
24 (b).

1 **SEC. 11. OTHER REQUIREMENTS FOR PARTICIPATING**
2 **SCHOOLS.**

3 (a) **ADMISSION OF ELIGIBLE STUDENTS.**—Each
4 school choosing to participate in a program funded under
5 this Act shall accept participating eligible students on a
6 first-come, first-served basis, except that if more eligible
7 students participating in the program seek admission in
8 a participating school than the school can accommodate,
9 participating eligible students shall be selected for admis-
10 sion through a random selection process.

11 (b) **REQUESTS FOR DATA AND INFORMATION.**—Each
12 school participating in a program funded under this Act
13 shall comply with all requests for data and information
14 regarding evaluations conducted under section 9(a).

15 (c) **RULES OF CONDUCT AND OTHER SCHOOL POLI-**
16 **CIES.**—Subject to section 8, a participating school may re-
17 quire eligible students to abide by any rules of conduct
18 and other requirements applicable to all other students at
19 the school.

20 **SEC. 12. DEFINITIONS.**

21 As used in this Act:

22 (1) **ELEMENTARY SCHOOL.**—The term “elemen-
23 tary school” has the meaning given that term in sec-
24 tion 9101 of the Elementary and Secondary Edu-
25 cation Act of 1965 (20 U.S.C. 7801).

1 (2) ELIGIBLE ENTITY.—The term “eligible enti-
2 ty” means any of the following:

3 (A) An educational entity of the District of
4 Columbia Government.

5 (B) A nonprofit organization.

6 (C) A consortium of nonprofit organiza-
7 tions.

8 (3) ELIGIBLE STUDENT.—The term “eligible
9 student” means a student who is a resident of the
10 District of Columbia and who comes from a house-
11 hold whose income does not exceed 185 percent of
12 the poverty line applicable to a family of the size in-
13 volved.

14 (4) PARENT.—The term “parent” has the
15 meaning given that term in section 9101 of the Ele-
16 mentary and Secondary Education Act of 1965 (20
17 U.S.C. 7801).

18 (5) POVERTY LINE.—The term “poverty line”
19 has the meaning given that term in section 9101 of
20 the Elementary and Secondary Education Act of
21 1965 (20 U.S.C. 7801).

22 (6) SECONDARY SCHOOL.—The term “sec-
23 ondary school” has the meaning given that term in
24 section 9101 of the Elementary and Secondary Edu-
25 cation Act of 1965 (20 U.S.C. 7801).

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of Education.

3 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated to carry out
5 this Act \$15,000,000 for fiscal year 2004 and such sums
6 as may be necessary for each of the 4 succeeding fiscal
7 years.

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