

NEPC REVIEW: 12 MYTHS AND REALITIES ABOUT PRIVATE EDUCATIONAL CHOICE PROGRAMS (INSTITUTE FOR JUSTICE, AUGUST 2017)



Reviewed by:

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March 2019

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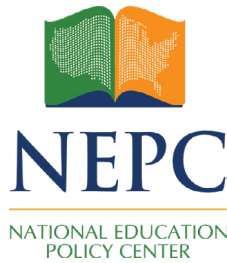
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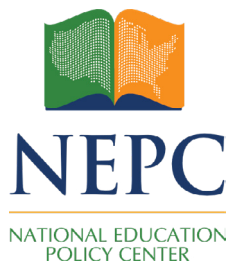
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Executive Summary

For over a quarter-century, researchers and others have vigorously investigated and debated the impact of school vouchers and voucher-like programs (such as education savings accounts and tuition tax credits/deductions). The result is a developed and sophisticated research literature on different aspects of these programs. But a recent report from the Institute for Justice (IJ) does not take advantage of this body of research, instead offering little more than a simplistic and one-sided treatment of the empirical record. Setting out 12 “myths” about vouchers, the IJ report then proceeds to systematically dismiss each “myth” in turn by presenting only evidence—much of it highly questionable—on the advantages of vouchers. Based largely on previous reports from other advocacy groups that curated evidence in order to present vouchers in a most positive light, the IJ report then repeats many of those claims, even when flaws in those reports have already been publicly explained. In doing so, the report makes claims that are not supported, and in fact sometimes contradicted, by evidence in the sources it cites. The report provides a textbook case of echo-chamber advocacy, drawing primarily on reports from other voucher advocates. Consequently, the IJ report offers nothing useful in furthering our understanding of school vouchers.



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I. Introduction

While school vouchers continue to spark controversy in the legal arena in the United States, the empirical outcomes are also highly contested. Although respected researchers have been seeking to learn about the effects of these programs, after over a quarter-century track record for voucher programs, advocates continue coordinated efforts to glean evidence that will put these programs in the best possible light.

In that tradition, a school-choice advocacy group called the Institute for Justice (IJ) has published *12 Myths and Realities about Private Educational Choice Programs*, edited by IJ attorney Tim Keller, with contributions from fellow IJ attorneys Richard D. Komer, Michael E. Bindas, Bert Gall, Erica Smith, Ari Bargil, and Keith Diggs.¹ The self-described “white paper” (referred to as the IJ “report” in this review) sets out 12 common “myths” about school vouchers and voucher-like programs such as education savings accounts and tuition tax credits/deductions, and in turn then rejects each one of these “myths.” It labels these voucher-style programs as “educational choice” which, in the report’s use of the term, does not include other types of school choice programs such as open-enrollment or charter schools, since these do not provide the same level of autonomy that private schools enjoy, according to the report.² In the IJ report’s framing, the 12 “myths” about school vouchers and voucher-like programs (hereafter “vouchers” for the sake of brevity) are set forth below. This review examines each of these 12:

1. Educational choice programs take money from an already underfunded public school system.
2. Not only is there no evidence that educational choice programs improve academic outcomes for students who participate in the programs, but recent studies show that such

programs actually harm academic performance.

3. There is no evidence that market-driven competition from educational choice programs encourages traditional public schools to improve.
4. Only the best and brightest students from affluent families benefit from educational choice programs, thus leaving the most disadvantaged and difficult to educate students in the public school system.
5. Educational choice programs exacerbate racial segregation.
6. Public schools are held accountable by state tests and curriculum mandates, while unregulated private schools are completely unaccountable.
7. Because they allow parents to enroll their children in religious schools, educational choice programs violate the principle of separation of church and state and are thus unconstitutional.
8. Educational choice programs that offer tax credits to those donating to private charities that award student scholarships are funded with public dollars.
9. Because educational choice programs fund religious schools that may teach doctrines at odds with modern scientific theories, choice students attending those schools receive less and worse science education than their public school counterparts.
10. Students with special needs are forced to give up their rights under federal law, specifically the Individuals with Disabilities Education Act (IDEA), when they participate in educational choice programs.
11. Unlike private schools, public schools must enroll all students.
12. Educational choice programs fund private schools that discriminate against students on the basis of religion, disability, sex, and sexual orientation.

The IJ casts itself as “the nation’s leading law firm dedicated to protecting educational choice programs.” While the lawyers who authored this report may have some expertise in some of the legal issues associated with school choice, they also discuss complex policy and social science questions. Yet this discussion is largely limited to referencing similar advocacy reports from like-minded choice proponents. In fact, there is a vibrant and maturing research literature on school voucher programs. While the IJ report uses some of that literature in its endnotes, on closer inspection, it becomes apparent that the report is highly derivative of earlier³ (and questionable⁴) advocacy reports done by EdChoice (formerly the Friedman Foundation for Educational Choice). Additionally, in relying on the EdChoice/Friedman reports, the IJ report neglects respected work from independent researchers, and even ignores much of the evidence and findings from the very source material the IJ report itself cites.

II. Findings and Conclusions of the Report

The IJ produced the report to “dispel and disprove...myths...so that legislators and the public can make well-informed decisions about the merits of giving parents more control over their children’s education.”⁵ The report offers no sourcing for the “myths” it sets out, and many of them are worded in straw man form, eliminating any nuance.

While there is no new evidence or analysis in the report, its overall approach is to compile counter-evidence to objections, or “myths,” to choice in order “to arm policymakers and legislators with easy access to the abundant sources of information and data” supporting choice.⁶ In providing such ammunition to policymakers and the public, the primary functions of the report appear to be to (1) frame criticisms of voucher programs in narrow terms that can be more easily countered; and (2) highlight only reports — almost always non-peer-reviewed reports from other pro-voucher organizations — that appear to provide support for vouchers, while neglecting the substantial body of independent research that undercuts these choice advocates’ claims. Thus, the report refers primarily to supporting evidence provided by other voucher proponents, but even then often ignores the evidence in the citations, much of which actually provides support or partial support for the “myths” the report seeks to challenge.

Although this review does not allow space to correct every one of the claims made by the IJ, highlighting some of the “myths” and the IJ report’s claims regarding those “myths” illustrates the strategies the IJ uses to promote an extremely favorable narrative around school vouchers.

“Myth” #1: “Educational choice programs take money from an already underfunded public school system.”

IJ claim: “No empirical study has ever found an educational choice program to cause a negative fiscal impact on either taxpayers or public schools. Moreover, inflation-adjusted funding for traditional public schools has skyrocketed in the past 40 years, with no appreciable learning gains, and there is no evidence to suggest that spending even more would produce better educational outcomes.”

Although this is a claim that the IJ report echoes from other such advocacy literature,⁷ it is simply not true to assert that “No empirical study has ever found an educational choice program to cause a negative fiscal impact on either taxpayers or public schools.”⁸ For instance, as but just one obvious example, in summarizing her widely-cited empirical study of the effects of competition, Harvard/Stanford professor and choice enthusiast Caroline Hoxby, writing in the pro-voucher *Education Next*, notes very clearly that “The Milwaukee district loses a significant amount of state aid to the voucher program...”⁹ Interestingly, the IJ report cites this study elsewhere in the report, so the authors were presumably not unaware of the finding.

Indeed, although voucher proponents such as those given voice in the IJ report like to claim that there is no “negative fiscal impact,” it is precisely these negative impacts that supposedly fuel the “choice-driven competition” model for schooling that the IJ report champions.¹⁰

After all, if public schools were shielded from negative fiscal impacts of losing students, according to the IJ report's logic, there would be little incentive for public schools to respond to the loss of students. Of course, any given choice policy could be designed with hold-harmless provisions that negate the fiscal hit taken by public schools, but these policies are rare, and fly in the face of the market-competition model. Looking at charter-school choice systems, compare the policy studied by Lafer in California,¹¹ which costs districts hundreds of millions of dollars, to the policy studied by Ridley and Terrier in Massachusetts,¹² which has hold-harmless provisions and appears to have at least short-term fiscal benefits for school districts.

Moreover, evidence cited in the IJ report actually indicates the exact opposite of what the IJ report claims. While on multiple occasions the IJ cites a couple of National Public Radio reports on Indiana's voucher program to support its claims, those reporters clearly state that Indiana's program has shifted from an effort to give options to disadvantaged public school students to a subsidy for wealthier families who have never sent their children to the public schools, thus placing what some have estimated as an additional cost of over \$50 million on the state's taxpayers.¹³ This contradiction to the IJ report's claims is clearly stated in the report the IJ cites.

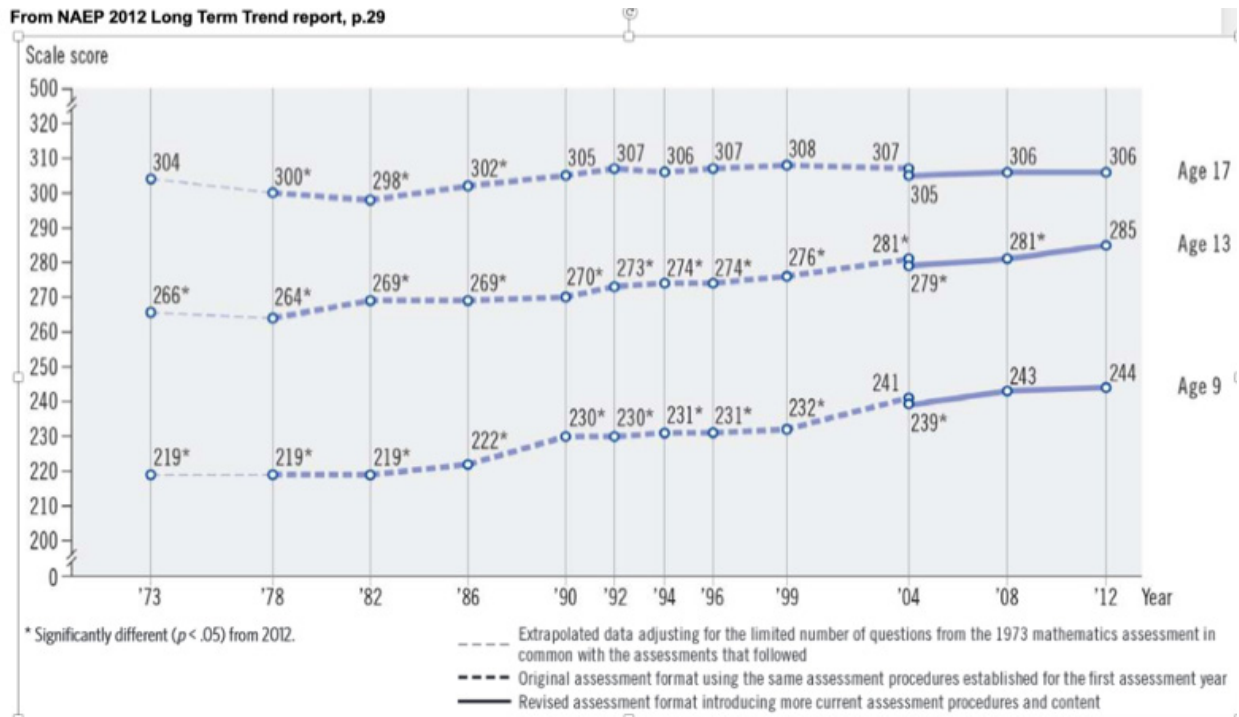
Moreover, evidence cited in the IJ report actually indicates the exact opposite of what the IJ report claims

curiously making claims about learning gains only through 2010.¹⁵

Furthermore, the secondary claim by the IJ that public school funding has "skyrocketed" while achievement has stagnated is a red herring, and has little to do with the main point regarding negative fiscal impacts of voucher programs.¹⁴ Nonetheless it is false on one point, and misleading on the other. Regarding achievement, the IJ report cites a 2005 book and a 2014 report from voucher advocates,

Moreover, an analysis of long-term data from the National Assessment of Educational Progress (NAEP), "the nation's report card," often seen as the "gold standard" of assessments,¹⁶ clearly shows achievement going up over the decades. For instance, mathematics achievement (a better reflection of school effects than reading, which is more often learned at home¹⁷) has gone up marginally (from 304 to 306) for 17-year olds from 1973-2012, but has risen substantially (by 19 points and by 25 points) for 13 and 9-year olds, respectively.

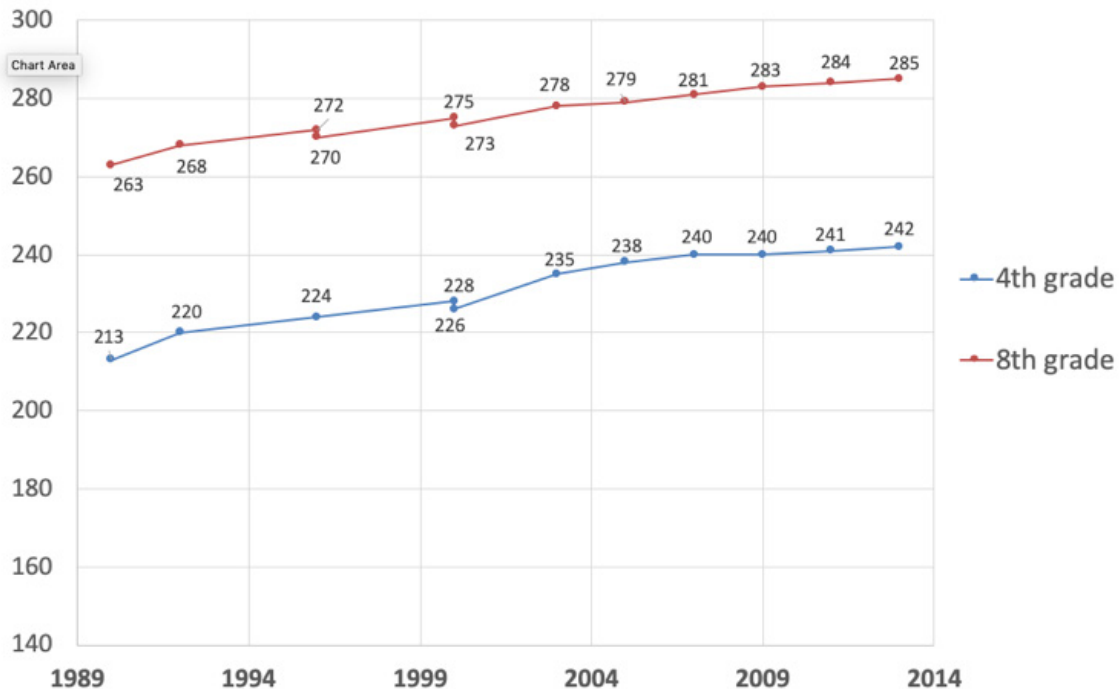
Figure 1: Long Term Trend NAEP Results, Mathematics, Age 9, 13 & 17



Source: National Center for Education Statistics

From 1990-2013, 4th grade mathematics achievement has risen 29 points, and 8th grade achievement 22 points.

Figure 2: NAEP Mathematics Achievement by Grade, 1990-2013



Source: National Center for Education Statistics

Even then, a simplistic comparison of overall spending relative to raw learning gains neglects other important factors such as additional responsibilities and costs placed on public schools. In fact, a recent comprehensive review of research shows a consistent and positive causal relationship: more money results in higher achievement (test scores and graduation rates).¹⁸

“Myth” #2: “Not only is there no evidence that educational choice programs improve academic outcomes for students who participate in the programs, but recent studies show that such programs actually harm academic performance.”
IJ claim: “The overwhelming preponderance of existing empirical evidence demonstrates that educational choice programs improve academic outcomes for those who participate in the programs.”

This claim in the IJ report exemplifies its “straw man” tactic of making a claim on behalf of its perceived opponents that pretty much no serious opponent has made, but which is overstated and is thus easier to disprove. The question here is really not one of “no evidence,” but the preponderance of evidence and, more precisely, the consensus in the research community most knowledgeable about the issue.

The bulk of this section in the IJ report is devoted to an attempt to dismiss recent voucher studies showing large negative effects, focused mainly on mathematics, for students using vouchers in larger-scale voucher programs, as in Indiana, Louisiana, Ohio and Washington, DC.¹⁹ Echoing arguments from an earlier and similar report from EdChoice/Friedman²⁰ (that has been previously critiqued²¹), the IJ report repeats speculation as to why students have lost ground after using vouchers to switch to private schools, such as the claim that, in Louisiana, “most of the eligible private schools were scared away from the program by an expectation of hostile future action from regulators [which] had a negative effect” on the program’s impact.²² However, even if such speculation were correct, it does not explain the large negative effects in longer-standing programs such as in Washington, DC. Unfortunately, since the IJ report’s primary source material (the 2016 EdChoice/Friedman report) did not deal with studies finding negative academic effects in places like Ohio and Washington, DC, the IJ also either does not bother with, or is incapable of, addressing the negative findings in those other studies, even though it cites these studies elsewhere in the report.²³

In addition to such spotty speculation, the IJ report suggests that negative effects of vouchers may have been temporary. To do this, the IJ report makes the claim that “Encouragingly, however, trends in both Louisiana and Indiana are on an upward trajectory.”²⁴ However, the source cited to support this claim provides no such evidence. Indeed, in the corresponding endnote (#19), the IJ then goes on to argue:

Recent test scores from first-year participants in Ohio and Washington D.C.’s educational choice programs show drops similar to those seen in the early years of the of the Louisiana and Indiana programs. *See Cory Turner, Eric Weddle, & Peter Balonon-Rosen, The Promise and Peril of School Vouchers, NPR (May 12, 2017).* However, there is no reason to believe that, as students persevere in their new schools, their test scores won’t continue to rise, just

like scores in Louisiana and Indiana.²⁵

There are three major problems with this amazing assertion. First, the source in the endnote offers absolutely no evidence to support the claim in the text that students accepting vouchers in Louisiana, Indiana, or anywhere else “continue to rise” or are “are on an upward trajectory.” Instead, the NPR report cited notes evidence of negative effects of using a voucher:

...“roughly like students moving from the 50th percentile down to about the 44th percentile” in math over the year... consistent with studies of voucher programs in Louisiana and Ohio. A new review of the only federally funded voucher program in the country, in Washington, D.C., also found academic declines among students who used a voucher to attend a private school.²⁶

Secondly, it is simply false to suggest that Ohio and Washington, DC voucher programs are newer than those in Louisiana and Indiana, and that therefore impacts will become more positive as the Ohio and Washington DC programs mature. Ohio’s program started in 2006, while the DC program was initiated in 2004. The statewide programs in Indiana and Louisiana that the IJ holds up as supposed examples for the others did not start until 2011 and 2012, respectively.

Thirdly and finally, the IJ report points to “preliminary findings” from a study indicating that Indiana voucher students may have recouped losses after four years in the program.²⁷ In fact, in the published version of that Indiana study, those very researchers conclude in a peer-reviewed article in the respected *Journal of Policy Analysis and Management* that there were no impacts in reading/language arts for students using a voucher to transfer from public to private schools. Furthermore, those same “voucher students experienced a *substantial average achievement loss* after attending a private school in comparison with their public school peers. The losses in math primarily accumulate during the first two years of attending a private school and *persist*,” according to the study, despite the fact that those voucher students had higher initial achievement than their peers when they left public schools.²⁸ While the IJ report made claims based only on those researchers’ “preliminary findings” when the IJ report was written, the IJ has not noted any correction to its claim in subsequent discussions of its report.²⁹ In any case, serious readers must dismiss the IJ report’s key statement in response to this supposed myth—that “there is no reason to believe that, as students persevere in their new schools, their test scores won’t continue to rise, just like scores in Louisiana and Indiana.”

In framing their achievement “myth,” the IJ report indicates that critics claim there is “no evidence” that vouchers can have positive effects, which is a ridiculous standard. Of course there is some evidence on vouchers’ effects, but it is hardly “overwhelming,” since most studies show little or no impact, or even negative impacts. As Princeton economist Cecilia Rouse and Lisa Barrow concluded a decade ago (even before the recent burst of studies showing negative outcomes), “The best research to date finds relatively small achievement gains for students offered education vouchers, most of which are not statistically different from zero.”³⁰ Although a vocal group of voucher advocates have tried to spin the evidence,³¹ most independent researchers who have examined this issue agree that, if there is any academic benefit for students in voucher programs, it is marginal at best, and even then incon-

sistent across student groups and subject areas, and vouchers have recently been linked to large negative impacts on the learning of students using them.³²

“Myth” #3: “There is no evidence that market-driven competition from educational choice programs encourages traditional public schools to improve.”
IJ claim: “There is abundant evidence that competition works and encourages traditional public schools to improve.”

The IJ report cites several reputable studies that provide evidence that voucher policies may be positively related to subsequent test score increases in public schools. However, other peer-reviewed research not cited in the IJ report indicates that competition leads to negative effects on public school performance.³³ Much of the research cited by the IJ report is based on the “black box” approach of looking only at outcomes and then assuming school employees become more “productive” because of the competitive threat, rather than within-school processes concerning how schools are actually responding to competition. Some peer-reviewed research that goes beyond this approach suggests that schools are not necessarily focusing on instructional improvements in order to compete; instead, they are putting resources and efforts into areas such as marketing.³⁴ Other research raises red flags about the harmful impact of voucher policies as they grow and transform a school sector.³⁵ Overall, “[t]he bottom line is that despite demand for clear, simple conclusions on the effects of competition from private schools, research does not yet provide these.”³⁶

“Myth” #4: “Only the best and brightest students from affluent families benefit from educational choice programs, thus leaving the most disadvantaged and difficult to educate students in the public school system.”
IJ claim: “Educational choice programs primarily aid disadvantaged students, especially those with special needs or from low-income backgrounds.”

The IJ report deals with the concern about “skimming” or “creaming” simply by noting that many choice programs are means-tested or are targeted to students with special needs. While this is by definition true of those specific types of targeted programs on which the IJ claim relies to make its case, it is inaccurate to suggest that the IJ report’s claim applies to “educational choice programs” overall, as indicated in the IJ report’s statement of a “myth.” Furthermore, according to reports cited by the IJ report, programs in some states like Georgia, Montana and Arizona have no means-testing or other real limitations on which families—no matter how advantaged—can receive the voucher.³⁷

Researchers have known for some time that families applying for choice programs tend to be more advantaged in terms of observable characteristics such as parent education level or income.³⁸ If, for example, a policy is means-tested to limit eligibility to families whose income is within 200% of the eligibility cut-off for free- or reduced-price lunch (which amounts to about \$88,000/year for a family of four), then we can expect participants to be clustered toward the upper-income level of that eligible group. Moreover, families applying for such programs are, by virtue of the fact that they are applying, demonstrating that they also have what researchers call “unobservable” qualities such as motivation, initiative, or academic inclinations compared to those who do not apply. Indeed, as policymakers have loosened regulations on these programs and expanded access beyond the earlier focus on poorer pub-

lic school students in failing schools, more advantaged families have enrolled, while the percentage of less-advantaged students declines. For instance, even according to sources cited in the IJ report, in the Indiana program, the largest in the nation,

White voucher students are up from 46 percent that first year to 60 percent today, and the share of black students has dropped from 24 percent to 12 percent. Recipients are also increasingly suburban and middle class. A third of students do not qualify for free or reduced-price meals.³⁹

Furthermore, evidence from Indiana and Louisiana also cited in the IJ report indicates that students are less likely to maintain their special education designation once they use a voucher to move to a private school, or that parents of students with special education needs are actively discouraged from using a voucher to enroll in private schools.⁴⁰

“Myth” #5: “Educational choice programs exacerbate racial segregation.”
IJ claim: “Educational choice programs promote racial integration.”

Again, the IJ report attempts to frame the “myth” in a narrow way that can be more easily dismissed, in this case by focusing only on racial segregation. Initially, it’s important to note that concerns about the segregative effects of school choice include two sectors, asking whether the choices drive segregation in the neighborhood public schools and in the choice schools. The IJ report only addresses the latter, ignoring the former. But as was indicated above, there is already evidence (some in sources cited in the IJ report) that demonstrates that these programs are associated with sorting by student ability as well as socioeconomic characteristics.⁴¹ Thus, in that regard, it is simply false to claim that “educational choice programs have never been found to increase segregation.”⁴²

With regard to racial segregation, which is the focus on the IJ claim, even the sources the IJ report cites on Indiana clearly show that the vouchers are increasingly being taken up by white, middle-class suburban families, while the share of African American families using vouchers fell by half over the first five years of the program.⁴³ To counter claims of racial segregation through school choice plans, the IJ report attempts to juxtapose the segregative nature of public schools due to student-assignment plans linked to segregated geographical jurisdictions with the *theoretical* potential of choice to allow students to cross such boundaries. Relying once again primarily on the 2016 EdChoice/Friedman report, the IJ report only repeats that report’s claims based on the small set of studies EdChoice/Friedman selected. Furthermore, there is clear evidence that educational choice, writ large, is associated with increased segregation.⁴⁴ The IJ report provides makes no effort to provide any reason why the patterns seen in other choice programs would or would not be the case with the types of choice it favors.

Finally, the report attempts to dismiss the segregationist history of vouchers by claiming that “there is no evidence that these old policies have any connection to modern day educational choice programs.”⁴⁵ In fact, the intellectual author of the modern choice movement (for whom EdChoice was previously named after) explicitly acknowledged that vouchers could be used to thwart desegregation efforts, as they then were.⁴⁶ Moreover, arguments and interests advocating for vouchers to undercut desegregation efforts are still influential

today.⁴⁷

“Myth” #6: “Public schools are held accountable by state tests and curriculum mandates, while unregulated private schools are completely unaccountable.”
IJ claim: “Public schools lack sufficient accountability to parents because their children must attend their assigned public school regardless of test scores. Private schools are directly accountable to parents and must deliver a satisfactory educational experience or lose students.”

The IJ report asserts that voucher-receiving schools are held accountable because parents can vote with their feet. Setting aside the reality that not all parents have access to transportation or information about the private schools’ educational practices, let alone their employment, spending and governance practices, the lack of oversight and accountability can leave parents in awful situations.⁴⁸

“Myth” #7: “Because they allow parents to enroll their children in religious schools, educational choice programs violate the principle of separation of church and state and are thus unconstitutional.”
IJ claim: “The U.S. Supreme Court and numerous state courts have held that religiously neutral educational choice programs that give parents a genuine choice as to where to send their children to school pass constitutional muster.”

Prior to 2002, the Establishment Clause in the U.S. Constitution posed a barrier to the expansion of voucher programs. The Court had, for instance, struck down policies in Rhode Island and Pennsylvania that allocated public funds to help pay the salaries of private school teachers.⁴⁹ But the Court has, over time, moved more and more toward an analysis that allows for public funding of private education, albeit with certain restrictions intended to ensure, e.g., that the policy does not favor one religion over another and does not favor religious education over secular education. Some state courts have nevertheless struck down voucher plans based on provisions in their state constitutions.⁵⁰ Accordingly, the IJ report would have been correct to point out that legal barriers to vouchers are much lower than they used to be, but it is not correct to state or imply that constitutional obstacles no longer exist, or are a “myth.”

“Myth” #8: “Educational choice programs that offer tax credits to those donating to private charities that award students scholarships are funded with public dollars.”
IJ claim: “Every court in the nation to consider this question, including the U.S. Supreme Court, has concluded that funds donated to private charities are private funds, regardless of whether the donation makes the taxpayer eligible for a tax deduction or a tax credit.”

The IJ report’s assertion that all courts have “concluded that funds donated to private charities are private funds, regardless of whether the donation makes the taxpayer eligible for a tax deduction or a tax credit” was somewhat true when the IJ report was originally released (although lower courts had reached the opposite conclusion). The following year, however, the Montana Supreme Court decided that tax-credited donations were indeed public

funds, and the court struck down that state's voucher-like plan.⁵¹ In fact, the argument about whether these “neo-vouchers” should be legally treated as public or private implicates the so-called *tax expenditure doctrine* and has anything but a clear answer.⁵²

“Myth” #9: “Because educational choice programs fund religious schools that may teach doctrines at odds with modern scientific theories, choice students attending those schools receive less and worse science education than their public school counterparts.”

IJ claim: “Educational choice programs fund parents, not schools. Additionally, students who attend religious schools perform well in science on national tests and private school students tend to take more science classes than students in public schools.”

Repeating the claim that these programs fund parents, not schools, feels a bit like claiming that guns don't kill people, people kill people—a distinction without much functional difference. Regarding the science claim, there is much evidence that some private schools teach science that is counter to, or far from, the commonly accepted thinking in the scientific community, such as that climate change is a hoax, or that Satan started modern psychology.⁵³ However, to counter the notion that students in such schools, paid for by taxpayers, are academically harmed by such curricula, the IJ report simply offers raw data from NAEP and the ACT, citing the Council for American Private Education as the source. The IJ report simplistically (without the necessary statistical controls) compares raw scores for Catholic and other “religious and independent” schools to those of public schools, without controlling for the fact that students in private schools tend to have access to greater economic and academic resources in the home.⁵⁴ Thus, the statistics cited largely reflect the background factors of the student populations in these different types of schools, and not necessarily the effectiveness of public or private schools, as the IJ report indicates. This suggests that either the authors of the IJ report are willfully neglecting obvious problems with such simplistic comparisons or are ignorant of basic tenets of empirical analysis. It also suggests that the IJ authors misunderstood the nature of the criticism, which focuses on belief-driven miseducation rather than overall test scores.

“Myth” #10: “Students with special needs are forced to give up their rights under federal law, specifically the Individuals with Disabilities Education Act (IDEA), when they participate in educational choice programs.”

IJ claim: “No student is ever forced to give up his or her rights under IDEA because participation in educational choice programs is strictly voluntarily.”

The IJ report presents a “myth” regarding the rights of students with special needs, and then actually goes on to provide an argument *for* that myth. While the IJ report is correct in observing the different rights for students in public and private schools, the report claims that students are not “forced to give up their rights” on transferring to a private school “because participation in educational choice programs is strictly voluntarily.”⁵⁵ But the “myth,” as framed by the IJ report, is explicitly premised on students participating “in educational choice programs.” So regardless of whether or not they enter the program “voluntarily,” they must cede their rights, according to the IJ report itself.

“Myth” #11: “Unlike private schools, public schools must enroll all students.”
IJ claim: “Although public school districts must enroll all students residing in the district’s boundaries who want to attend a school in the district, individual public schools are not required to—and do not—enroll all students.”

The IJ report is playing a semantic game here again, framing the “myth” in a narrow way by focusing on public schools, and then acknowledging the obvious: that public school *districts* must enroll all students. Interestingly, the IJ report does not attempt here to argue that private schools provide broad access or do not discriminate. Instead, the report points out that some public schools limit access as well (noting, e.g., some magnet and charter schools, plus out-of-boundary students). Taken as written by IJ, then, the statement (“Unlike private schools, public schools must enroll all students”) is indeed a myth. But a different statement concerning access would not be: “While some public schools can justifiably be criticized for limiting access, private schools are allowed to deny access almost indiscriminately, thus giving the private schools themselves the choice of whether or not to admit students with special needs, students whose first language is not English, students with same-sex parents, students struggling academically, etc.”

“Myth” #12: “Educational choice programs fund private schools that discriminate against students on the basis of religion, disability, sex, and sexual orientation.”
IJ claim: “Educational choice programs fund parents and students, not schools. Moreover, while educational choice programs do not alter private schools’ existing rights to enroll students using selective admissions criteria, they also do not exempt those schools from existing anti-discrimination laws.”

The IJ report repeatedly frames “myths” as supposedly claiming that “educational choice programs fund private schools” so that it can then respond with the argument that “educational choice programs fund parents and students, not schools.”⁵⁶ Regardless of this semantic strategy, the IJ report again actually provides support for the myth it seeks to challenge. There is, indeed, evidence that private schools in choice programs discriminate, for instance, as is indicated in sources cited in other parts of the IJ report (see above).⁵⁷

Furthermore, the IJ report frames that “myth” as one where schools in these programs “discriminate against students on the basis of ... sexual orientation.” Oddly, the IJ report then fails to make any effort to show that such discrimination does not happen, and even goes on to justify exactly that type of discrimination, arguing that “no court has ever construed ‘sex’ in the context of student admissions to include sexual orientation.”⁵⁸ That argument is immaterial to the IJ report’s stated myth, but the IJ report seeks to allow for such discrimination under the argument that prohibiting it “would result in limiting parental choice.”⁵⁹ This is an Orwellian argument in light of the fact that some voucher schools even discriminate against students based on a *parent’s* sexual orientation, thereby denying those parents a choice.⁶⁰

Considering the report’s emphatic assertion that present-day choice has no connection to the choice plans designed to discriminate in the wake of *Brown*, this defense of discrimination by voucher-receiving schools is rather striking.

III. The Report's Rationale for Its Findings and Conclusions

The report clearly states that it is intended to provide empirical justification for lawmakers and the public to promote school vouchers and voucher-like programs, thus leading with its conclusions before offering evidence. It is structured in a way that will appear to present the “myths” as honest objections to such programs, and then seeks to undercut those myths/objections with purported evidence.

The IJ produced the report to provide ammunition for proponents of choice, or to persuade people unfamiliar with the issue and evidence. While there is no new evidence or analysis in the report, its overall purpose is to highlight counter-evidence in order to undercut objections to choice. Rather than looking at all the available evidence from a body of complex research literature on the subject, the IJ report focuses almost exclusively on reports that shine the most positive light on vouchers and voucher-like programs. In doing so, the IJ report often just repeats claims already provided by an earlier advocacy report from EdChoice/Friedman Foundation for Educational Choice, doing little more than reiterating the findings and conclusions of those earlier reports.

IV. The Report's Use of Research Literature

The IJ report repackages earlier claims based on selective, non-representative sets of studies compiled by other advocacy organizations.⁶¹ Discussions of research in the report are often little more than “vote-counting” of skewed sets of studies — typically just repeating the vote-counting already done by like-minded, pro-voucher organizations. It is organized around “myths” that are supposedly used by critics of choice to attack these programs, but there are no references to anyone making these claims, so these myths appear to be framed by the IJ report in ways that are easier for the report to challenge. The report includes no attempt to justify the set of “myths” included in the report, nor particularly to acknowledge that there is substantial evidence to support the veracity of many of these myths — including in sources cited in the IJ report itself. Reading the report, one might think that there is a strong consensus finding significant positive impacts for vouchers, when in fact, independent readings of the research indicate that this is not the case.⁶²

The IJ report's plentiful endnotes might give the impression that the report is based solidly in empirical research. In fact, the report offers only a selective reading of the research, drawing primarily on other similarly selective readings of the research — much of which is not even research. While the report includes references to a number of court cases, the authors also refer liberally to reports from pro-voucher advocacy groups like Cato and ALEC, from blogs, and from news reports, all in order to find evidence for their claims. Outside of court cases and legislative acts, of the 81 citations to “research” in the report, 67 citations are sourced to what are almost invariably pro-voucher advocacy organizations such as the Manhattan Institute, the Cato Institute, ALEC, and — most frequently — EdChoice (previously the Friedman Foundation for Educational Choice). In fact, there are some 18 references to just two reports from EdChoice/Friedman Foundation,⁶³ which simply curate and promote

pro-voucher research, which the IJ report then echoes.

Contained within the over 80 endnotes in the IJ report, only 10 references are to peer-reviewed journal articles (and four are to the pro-voucher publication *Education Next*), mostly with regard to just one of the 12 “myths.” In fact, seven of the IJ report’s responses to these 12 “myths” contain zero citations to peer-reviewed research. In view of the fact that this area has seen the rise of a sophisticated and complex research literature over the last quarter-century, it is unfortunate that a report claiming to present empirical evidence so that policymakers and the public “can make well-informed decisions” on vouchers appears to be so unaware or uninterested in the voluminous research record on these types of programs. This neglect of research evidence highlights the nature of the report as an advocacy piece rather than an empirical synthesis.

V. Review of the Report’s Methods

Since this is not a research report and largely deals with evidence indirectly through earlier, similar syntheses from other pro-voucher advocacy organizations, the IJ report contains no discussion of its research methods. There is also no effort to explain the process by which research was included or excluded from the report, or even what “myths” were discussed. For instance, there is no recognition of other common criticisms of vouchers, such as the lack of transparency or in some cases accountability for how public dollars are spent, or frequently a lack of data collection from which to evaluate the efficacy of these programs. The studies cited are mostly from non-peer-reviewed sources, typically other pro-voucher advocacy organizations, and particularly EdChoice/Friedman. Thus, rather than offering any illumination on a complex issue, the IJ report instead simply presents vouchers as a panacea with no downsides.

VI. Review of the Validity of the Findings and Conclusions

Since the IJ report claims to take on “myths” so that policymakers and the public can make “well-informed decisions,” one might expect a well-informed and fair reading of the evidence. Instead, this report leaves no doubt that, since “it is designed to arm policymakers and legislators” with information in support of vouchers, it is simply seeking suitable ammunition that fits its purpose and ignoring any other evidence that does not, even when it actually includes references to such evidence.⁶⁴ Thus, the report provides a textbook case of echo-chamber advocacy, drawing only on favorable sources from like-minded advocates, and even then simply repeating the arguments made in earlier advocacy reports that have already been questioned for their intellectual integrity. That is, this is a selective reading of the evidence based on earlier selective readings of the evidence. Further, the IJ report goes on to make claims not supported by the evidence it cites, and in several cases it ignores evidence in the sources it cites that directly contradicts the IJ claims and in fact supports the

concerns that the IJ report casts as “myths.”

It is unfortunate that these types of advocacy reports are interested in ammunition, not illumination. There is no effort to engage in dialogue as would characterize a healthy research discussion about complex evidence. In such as dialogue, claims are made, tested, refuted or strengthened. But in this report there is no effort to consider the voluminous countervailing evidence that challenges this simplistic report, and no effort to acknowledge or account for the publicized problems of the earlier reports on which the IJ report is based.⁶⁵

VII. Usefulness of the Report for Guidance of Policy and Practice

This report offers nothing new to the discussion of vouchers and voucher-like programs. It simply repeats claims, many of which are misleading or outright erroneous, made in earlier reports from other voucher advocacy groups, and which have been previously challenged. Despite a stated purpose that it seeks to “arm policymakers and legislators” so that they can make “well-informed decisions,” the report is best seen as a case of one-sided voucher advocacy with a primary interest in advancing an agenda, and not elucidation.

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