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THE POLITICAL CLIMATE IN THE CURRENT U.S. CONGRESS FOR THE PUBLIC POLICY AGENDA OF THE CATHOLIC SCHOOL COMMUNITY

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This paper discusses the political climate for addressing education policy issues in the 106th Congress, which convened in January 1999, and assesses the politics surrounding the issue of federal financial assistance for Catholic elementary and secondary education. It identifies two categories of issues: the equitable participation of nonpublic school students and teachers in federal education programs and school choice initiatives such as education tax credits or vouchers. The article draws from historical and current political trends to explain why equity for Catholic school students and teachers in education programs is likely to be achieved through the reauthorization of the Elementary and Secondary Education Act in this Congress. It also addresses the potential difficulties in pursuing a school choice agenda.

Taking the pulse of Congress on the question of federal policies affecting Catholic schools provides very limited understanding of the politics of the country on this subject because elementary and secondary education in our nation is controlled and almost entirely funded at the state and local levels of government. Indeed, federal funding under the control of the Congress comprises only about 8% of total funding for elementary and secondary education (U.S. Bureau of the Census, 1997). Furthermore, what is politically achievable at the national level of government may not be so at the state and local levels; or conversely, political achievements that are viable at the local level are not necessarily so in the Congress.

Keeping this framework in mind, we can attempt to assess the impact of the current Washington political climate on the education policy interests of

the Catholic school community. Any such assessment must take into consideration the specifics of the policy agenda being pursued. Historically, Catholic school interests in the national education policy arena have ranged from insuring that their students and teachers receive a fair share of the benefits from federal education assistance programs to creating new programs of aid to parents through tuition tax credits. In recent years the Catholic school community has supported legislation in Congress to create and fund demonstration voucher programs for school districts primarily serving low income families in the belief that school choice programs should be tested to determine their effectiveness in improving education for poor children. The political climate for achieving equity in federal education programs is significantly better than that for education tax credit or voucher legislation. For the sake of clarity, therefore, it makes sense to separate out these two categories of issues and assess the political climate for each.

Most of the major education assistance programs are authorized in federal law by the Elementary and Secondary Education Act (ESEA), passed by Congress in 1965 and revised and reauthorized by Congress every six years or so. This law is up for revision and reauthorization in the 106th Congress which convened in January 1999. In the initial enactment of this statute, the issue of equitable treatment for children attending Catholic and other religious schools was a pivotal political consideration in determining whether Congress could pass legislation to provide financial assistance for elementary and secondary education. This was resolved by creating programs which offer assistance directly to students regardless of where they attend school, thus keeping the control of financial assistance in the hands of public school authorities. Congress has continued to provide federal aid through various reauthorizations of ESEA. In fact, Congress has expanded similar requirements for nonpublic school participation to new education programs.

This has been accomplished only through the vigilance of the Catholic school community and its representatives in Washington. These Catholic school advocates have been guided by the longstanding policy of the U.S. Catholic Conference (USCC), reasserted in the Bishops' statement *Principles for Educational Reform in the United States* (1995):

When services that are aimed at improving the educational environment—especially for those most at risk—are available to students and teachers in public schools, these services should also be available to students and teachers in private and religious schools. These individuals should not be penalized for choosing to enroll or work in these schools since they also serve the common good of our nation. (p. 8)

It is probably fair to say that the political climate going into the new Congress is favorable in terms of pursuing the goals of fairness and equity in

federal education programs. However, the case will have to be made clearly and convincingly to Congress. This will be done through formal testimony prepared by the USCC staff in conjunction with the guidance of the USCC Committee on Education and presented to appropriate Congressional committees. As part of this process the professional leadership of the Catholic school community has been and will continue to be consulted. Retaining existing provisions of law which require equitable treatment of nonpublic school students and teachers hopefully will be accomplished with few, if any, problems. However, expanding these types of provisions to other existing education programs could meet with some resistance from certain quarters of the public school community. Efforts are underway with the more friendly elements of the public school community to help neutralize any opposition to incorporate these time-honored provisions into additional programs.

A tougher challenge will be providing for similar fairness in new proposals for education assistance which may emerge during this Congress. To assess the political climate for new initiatives one must look at the importance of education as one of many competing issues on the domestic agenda of both the White House and Congress. It is noteworthy that for several federal election cycles, exit polls have indicated that education (Voter News Service, 1998) is at or near the top of the list of concerns of the electorate. In the 1998 election, according to a national exit poll jointly sponsored by The Associated Press, ABC, CBS, CNN, NBC, and Fox, one fifth of all voters identified education as the issue that mattered most to them when they went to the polls. The second place issue was morality and ethics, with 18% of voters saying it was most important.

It is a mystery how voters expect the federal government to address issues related to elementary and secondary schools which, in our system of government, are primarily a state and/or local responsibility. However, President Clinton and his Democrat allies in Congress seem to have found the answer: federal assistance to reduce public school class sizes. This can be done by spending federal money to hire more teachers and build more classrooms. This is smart politics for the Democrats, because this plan dovetails with the agenda of public education interest groups.

A federal initiative to finance the hiring of public school teachers was proposed by the Clinton administration in the last Congress and immediately dismissed by the Republican leadership. However, the importance of the education issue in the election campaign cycle last fall resulted in Republican capitulation to the President on his priority of providing federal funds for hiring public school teachers. In effect, \$1.2 billion of new federal funds has been authorized and appropriated for that purpose. Unfortunately, this was done outside the context of the "child benefit" framework and without reference to nonpublic elementary and secondary education. The Democrats have demonstrated that they have the edge on the education issue, an edge sharp-

ened by the 1998 election results which weakened the Republican hold on the U.S. House of Representatives and prevented a 60-vote filibuster-proof Senate.

Consequently, as we look to the next Congress, we must confront the reality that the Democrats will continue to push for more money to hire public school teachers. Our challenge will be to convince the Congressional leadership of the need for insuring that all students and teachers benefit equally. This type of legislation could and should be written to guarantee that nonpublic school students and teachers benefit from a per capita share of the new funding, allowing local public school districts to make the final determination on how to spend this funding with a requirement that a proportional share of it be used to benefit nonpublic school students and teachers. The longstanding ESEA program authorized by Title VI of that Act would be a perfect vehicle for this. In this program, local school districts determine their own needs after setting aside a per capita fund allocated to provide services to meet the needs of nonpublic school students. This could also be accomplished within the more limited context of increasing teaching resources through hiring and training teachers.

In addition, Republican initiatives could create problems for the Catholic school community in the ESEA reauthorization process. Proposals to streamline or eliminate federal regulation of education programs, if not carefully written, could undermine or weaken the requirements for equitable nonpublic school participation. These types of proposals are usually part of so-called "block grant" or "ed-flex" initiatives being pushed by Republican members of Congress (Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1998). These will be the major challenges faced by the Catholic school community as the ESEA reauthorization process proceeds in this Congress.

Aside from ESEA reauthorization, it is realistic to expect the Republican leadership in Congress to push one or more school choice legislative proposals. As was indicated earlier, the political climate for achieving these kinds of goals is less favorable. However, recent statements by Speaker of the House of Representatives Dennis Hastert (R-IL) describing his agenda for the coming Congress have indicated that education will be a top priority. He intends to have the House reconsider several school choice proposals, including tax-free education savings accounts, and a federal scholarship program for the District of Columbia. This agenda appears to be shared by the Republican leadership in the Senate.

In addition, the emerging reality of a budget surplus could allow for new federal expenditures on education and could provide a positive political climate for creating new education programs. However, the possibility of new and significantly increased estimates for future federal budget surpluses has sparked renewed calls for major tax cuts by Republicans in Congress. The

Congressional Budget Office has released revised projections for the fiscal years 2000-2009 showing that expected surpluses may exceed earlier estimates by as much as \$700 billion over the next decade (The Congress of the United States Congressional Budget Office, 1999). These new forecasts suggest that there could be significant surpluses not only in the Social Security Trust Fund, but also in the federal government's general fund. As a result of these predictions, Congressional Republicans have endorsed across-the-board tax cuts. Education-related tax relief will have to compete with a wide range of other tax reduction proposals.

The last Congress passed legislation to create tax-free education savings accounts, allowing interest on those accounts to accrue tax free as long as the money was used to pay for elementary or secondary school costs (Educational Savings Account Bill, 1997). Unfortunately, this was vetoed by President Clinton. If new tax legislation related to education is to be considered, it should be broadened to provide a higher benefit for a larger group of people, not just those who are able to put aside savings.

A look at history may provide us with some insights to future considerations of these school choice issues in Congress. In dealing with the politics of school choice, it is important to understand that the debate around this issue has a long history. It dates back to the mid-60s when a Democratic Congress, responding to the urges of liberal reformers, enacted the first education voucher legislation which was signed into law by a Democratic President as part of his "War on Poverty" program. This was intended to be an experimental program which, unfortunately, was never fully implemented. Many years later, education vouchers re-emerged as part of the conservative agenda in the school choice debate, and a national demonstration program was proposed by President George Bush. In 1992, it was defeated in the Senate with very few Democrats voting in favor. Subsequent efforts in the Senate were not successful. After 1994, the Republican-controlled Congress supported and passed a voucher program for the District of Columbia only to encounter a presidential veto in the last Congress.

Tuition tax credit legislation was a concept created in 1972 by the Catholic school community through the work of the Bishops' Conference which secured the support of a Republican President, Richard Nixon, together with the Democratic and Republican leadership of the House Ways and Means Committee and the endorsement of the 1972 Democratic nominee for President, Senator George McGovern. In January 1973 the stage was set for a successful effort to enact tuition tax credit legislation in that Congress. Unfortunately, during that same time, a New York statute that provided a multipurpose program of aid for nonpublic education, including *tuition tax relief for parents of Catholic and other nonpublic school students* was slated for the U.S. Supreme Court. The Court decided to hear that case in 1972 and rendered its opinion in June of 1973 in the *Nyquist* decision (*Committee for*

Public Education v. Nyquist). The Court struck down the entire program, including the tax benefits, which were available *only* to parents of nonpublic school students.

The *Nyquist* decision held that educational aid laws should not be limited to parents of nonpublic school students, in order to increase their chances of success before the Supreme Court. This was confirmed 10 years later in the 1983 Supreme Court decision in *Mueller v. Allen* (1983). From this history, it is important to emphasize that: *Any education-related tax legislation must insure there is a broad class of beneficiaries as the best protection against a constitutional challenge in the courts.* The public benefit, such as a tax credit or deduction, should be made available to all citizens who incur costs in educating their children, whether in public or nonpublic, secular or religious institutions. If this dictum is followed, educational tax credits or deductions would be preferable to those linked only to tuition. It is important to note, however, that there are significant revenue loss implications for national or state treasuries if the beneficiaries are broadened from only nonpublic school parents to all parents. This change could result in a cost increase far greater than a more limited program for nonpublic school parents.

The issue of cost related to education tax credit legislation was particularly severe during the deficit years of the late 70s through the early 90s, and two attempts to pass legislation in the Congress during that time were unsuccessful. Hopefully, government surpluses and the continuing interest of voters in education can create a political climate of compromise among the different approaches in providing aid to education. The Republican agreement to allow \$1.2 billion in new expenditures for education last year indicates a willingness to compromise. Depending on how post-impeachment politics play out, there may be a window of opportunity before the year 2000 political season for some reasonable compromises. We will know fairly soon because by the fall of this year most issues will be subsumed in the political debate of the next election cycle.

The Catholic school community is likely to have mixed results with its public policy agenda in the current Congress, and Catholic schools will hopefully secure the continued participation of their students and teachers in federal education assistance programs which bring millions of dollars to hundreds of thousands of their students. A major breakthrough on the school choice front may be unlikely in this Congress, but there is steady progress on other fronts where it counts most, that is, in the states. Sooner or later Congress may catch up.

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