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The Honorable Joseph Rafferty
Chair
Education and Cultural Affairs Committee
Maine Senate
3 State House Station
Augusta, ME 04333

The Honorable Michael Brennan
Chair
Education and Cultural Affairs Committee
Maine House of Representatives
2 State House Station
Augusta, ME 04333

Re: Oppose LD 1343 and LD 1426—Private School Vouchers Are Bad Education Policy

Dear Chair Rafferty and Chair Brennan:

On behalf of the Maine members and supporters of Americans United for Separation of Church and State, I write to urge you to oppose LD 1343 and LD 1426. These bills would create private school voucher programs that would fund private school education. Our public schools, which are dealing with economic uncertainty and increased costs due to the pandemic, should not be stripped of public funds. In addition, this bill should be rejected because vouchers don't work, fail to serve rural students, and violate religious freedom. Public dollars should fund public schools, which serve 90% of America's schoolchildren.

Maine Should Not Drain Additional Funds from Public Schools During the Pandemic

Especially at this time, when the COVID-19 pandemic has led to unprecedented challenges for our public-school system, the legislature should not direct additional funding to private schools. Public schools face mounting costs to ensure that students are able to safely and appropriately receive the education and services they need. At the same time, the state faces a \$650 million revenue shortfall.¹ If we do not sufficiently fund our public schools, there is no fall back.

Furthermore, Maine private schools have already received millions of dollars through the federal Paycheck Protection Program (PPP). Thornton Academy, for example, received between \$2 and \$5 million,² even though tuition costs up to \$48,000 a year.³ In contrast, Maine public schools, which were excluded from accessing PPP funding, received just \$44 million in Elementary and Secondary School Emergency Relief (ESSER) Funds.⁴ Private schools received

¹ Caitlin Andrews, [What Lawmakers Are Looking For in Janet Mills' Pre-recorded Budget Speech](#), *Bangor Daily News*, Feb. 23, 2021.

² [PPP Business Loans—Maine](#), CNN (last accessed Apr. 26, 2021).

³ Thornton Academy, [Tuition, Financial Aid, & Scholarships](#) (last accessed Apr. 26, 2021).

⁴ U.S. Dep't of Educ., [Elementary and Secondary School Emergency Relief Fund State Allocations Table](#) (last visited Apr. 26, 2021).

nearly 40% of the state's total CARES Act funding.⁵ Congress also recently passed another COVID relief bill that provides federal funding for assistance and services in private schools. The legislature, therefore, should not send more money to private schools when public schools face budgetary uncertainty.

Voucher Programs Don't Work

Private school vouchers do not improve educational outcomes. Studies of the Indiana,⁶ Louisiana,⁷ and Ohio⁸ voucher programs revealed that students who used vouchers actually performed *worse* on standardized tests than their peers not in voucher programs. And studies of long-standing voucher programs in Milwaukee,⁹ Cleveland,¹⁰ and Washington, DC¹¹ found that students offered vouchers showed no improvement in reading or math over those not in the program. With a record proving they don't work, there is no justification for funneling more money into vouchers.

Voucher Programs Don't Serve Rural Students

More than two-thirds of Maine's public schools are located in rural districts, and these schools serve more than half of the state's students.¹² Vouchers, however, don't provide an actual choice for students in these districts. Rural communities have few, if any, private school options. And students aren't guaranteed access to these schools, which have limited enrollment and may deny admission to students for a number of reasons. If students are able to gain admission with a voucher, they are generally still required to endure long, costly commutes. Vouchers are also especially harmful to the public school systems serving large rural areas because costs for facilities, transportation, administration, and instruction for public schools stay constant while state funding decreases.

Voucher Programs Fund Discrimination

Public schools are open to and must serve all students. Private schools accepting vouchers, however, often deny students admission or expel them for a number of reasons, including based on their religion, sexual orientation, gender identity, academic abilities, disciplinary

⁵ This figure is based on an estimate of the midpoint of PPP large loan ranges. It does not include any loans that Maine private schools may have received for amounts below \$150,000. Samantha Sokol, et al., Ams. United for Separation of Church & State, [*The Paycheck Protection Program Has Provided Billions in Federal Funds to Private and Religious Schools*](#), 6 (Jul. 29, 2020).

⁶ Megan Austin, R. Joseph Waddington, and Mark Berends, [*Voucher Pathways and Student Achievement in Indiana's Choice Scholarship Program*](#), 22, Russell Sage Found., 2019.

⁷ Jonathan N. Mills and Patrick J. Wolf, [*The Effects of the Louisiana Scholarship Program on Student Achievement after Four Years*](#), 2, Univ. of Ark., May. 2019.

⁸ David Figlio and Krzysztof Karbownik, [*Evaluation of Ohio's EdChoice Scholarship Program: Selection, Competition, and Performance Effects*](#), 32, Fordham Inst., Jul. 2016.

⁹ Patrick J. Wolf, [*The Comprehensive Longitudinal Evaluation of the Milwaukee Parental Choice Program: Summary of Final Reports*](#), 7, School Choice Demonstration Project, Univ. of Ark., Apr. 2010.

¹⁰ Jonathan Plucker et al., [*Evaluation of the Cleveland Scholarship and Tutoring Program. Technical Report 1998-2004*](#), 166, Ctr. for Evaluation & Educ. Policy, Univ. of Ind., Feb. 2006.

¹¹ Ann Webber et al., [*Evaluation of the DC Opportunity Scholarship Program: Impacts Three Years After Students Applied*](#), 4, U.S. Dep't of Educ., May 2019.

¹² Daniel Showalter et al., [*Why Rural Matters 2018-2019*](#), 112, Rural School and Community Trust, Nov. 2019.

history, or ability to pay tuition. And private schools do not have to abide by federal civil rights laws that apply to public schools. For example, students with disabilities that use a voucher would forfeit many of the protections provided to students under the Individuals with Disabilities Education Act (IDEA) because they are considered parentally placed in private schools and lose the quality and quantity of services available to students in public schools.

Moreover, private religious schools can discriminate against employees by claiming an exemption from employment nondiscrimination provisions under Title VII of the Civil Rights Act and the ministerial exception.¹³ Private religious schools have used religion as a basis to fire teachers for their reproductive health choices,¹⁴ refuse to hire a teacher because of the belief that a mother should stay at home with her children,¹⁵ and fire a teacher because he is in a same-sex marriage.¹⁶ No school that receives public funds should be able to discriminate against a student or employee because of who they are.

These Bills Would Violate Religious Freedom

Voucher programs around the country primarily fund religious schools,¹⁷ and there is no reason to believe this voucher would be different. Yet, one of the most fundamental principles of religious liberty is that government should not compel any citizen to pay for someone else's religious education. Passing LD 1343 and LD 1426 would send more money to religious schools in violation of this core religious freedom protection.

Conclusion

For all the above reasons, Americans United opposes LD 1343 and LD 1426. I have enclosed with this letter two documents outlining further some of the problems associated with vouchers. Thank you for your consideration on this important matter.

Sincerely,



Nikolas Nartowicz
State Policy Counsel

cc: Members of the Education and Cultural Affairs Committee

¹³ See 42 U.S.C § 2000e-1; *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. E.E.O.C.*, 565 U.S. 171, 194 (2012) (teacher considered a minister for purposes of ministerial exception was barred from bringing an employment discrimination suit under the ADA); see also *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049 (2020).

¹⁴ See, e.g., *Herx v. Diocese of Ft. Wayne-South Bend Inc.*, 48 F. Supp. 3d 1168 (N.D. Ind. 2014); *Ganzy v. Allen Christian Sch.*, 995 F. Supp. 340 (E.D.N.Y 1998).

¹⁵ See *Ohio Civil Rights Comm'n v. Dayton Christian Schs., Inc.*, 477 U.S. 619 (1986).

¹⁶ See Dep't of Justice, [Justice Department Files Statement of Interest in Indiana Lawsuit Brought by Former Teacher Against Archdiocese](#) (Sept. 27, 2019).

¹⁷ For example, 81% of students using a voucher in Washington, DC attend private religious schools. Jill Feldman et al., [Evaluation of the DC Scholarship Program: An Early Look at Applicants and Participating Schools Under the SOAR Act](#), U.S. Dep't of Educ., 29, Oct. 2014.

Private school vouchers take many names, including “scholarship” programs, tuition tax credits, education savings accounts, and portability schemes. Regardless of what they are called, they use public dollars to fund private schools and divert scarce resources away from the education system that serves 90% of American children.



Private school vouchers undermine public schools by diverting desperately needed resources away from the public school system, which accepts all students, to fund the education of a few, select voucher students. Given the fiscal constraints at the federal, state and local level we simply cannot afford to fund two different education systems—public and private—on our taxpayers’ dime.



Private school vouchers do not save taxpayer money. In voucher programs, the public schools from which students leave for private voucher schools are spread throughout a school district. The reduction in students from each public school, therefore, is usually negligible and does not decrease operating costs of those public schools. That is one of the reasons why some voucher programs have resulted in multi-million dollar deficits and tax increases.



Private school vouchers do not improve academic achievement. Repeated studies of voucher programs across the country show that vouchers do not result in better test scores for students, and in many states, have led to declines in academic achievement.



Private school vouchers do not lead to improvements in public schools. There are many, proven ways to improve public schools such as reducing class sizes, offering a well-rounded curriculum and increasing parental engagement. Resourcing our neighborhood public schools so that students have inviting classrooms, well trained teachers, and support services such as health care, nutrition and after-school programs will ensure our children can compete in the global economy.



Private school vouchers do not offer real choice. Vouchers give a choice to private schools, rather than parents and students. Voucher programs are governed by different laws in different states, but most allow private schools to accept taxpayer dollars but still reject students with vouchers for a variety of reasons, ranging from disability to ability to pay. And, even with vouchers, most parents still cannot afford the full cost of attending a private school.



Private school vouchers fail to provide accountability to taxpayers. Most voucher programs lack accountability measures, and according to studies of voucher programs, many also lack proper oversight to ensure they meet even the minimal standards that do exist.



Private voucher schools do not provide students with the same rights and protections they would otherwise have in public schools, such as those in Title VI, Title IX, the Individuals with Disabilities Education Act, Title II of the Americans with Disabilities Act, and the Every Student Succeeds Act. And, students who attend private schools using vouchers are stripped of the First Amendment, due process, and other constitutional and statutory rights offered to them in public schools.



Private school vouchers violate the fundamental principle of religious freedom because they fund religious education with taxpayer funds. They also threaten the autonomy of religious schools by opening them up to government audits, control, and interference.



Private voucher schools do not adequately serve students with disabilities, often failing to admit them or provide them the same quality and quantity of services available to students in public schools, including those mandated under each student's individualized education plan (IEP).



Private school vouchers do not adequately serve low-income students because the cost of tuition and fees at schools that accept vouchers generally exceeds the amount of the voucher, making voucher schools unaffordable for most low-income families.



Private school vouchers often fund poor quality schools. Because voucher programs lack accountability and oversight, vouchers often fund poor quality schools, including those that employ teachers with no credentials, operate from dilapidated buildings and lack proper facilities, and teach questionable curriculum.

The **National Coalition for Public Education** comprises more than 50 education, civic, civil rights, and religious organizations devoted to the support of public schools. The missions of NCPE's member organizations greatly vary, yet we are united in our position that Congress should not expand existing or create new federal voucher programs.

Private School Vouchers Don't Work in Rural Areas

More than one in four schools in America are rural and nearly one in five students attend a rural school, which is approximately 8.9 million students. Of those rural students, nearly half of rural students are from low-income families, more than one in four is a child of color, and one in nine has changed residence in the previous year. In 23 states, a majority of rural students are from low-income families. On average, 3.5% of rural students are considered English language learners, but many districts have much higher percentages.¹

Roughly half the nation's rural students live in just 10 states and at least half of public schools are rural in 13 states. At least one third of all schools are rural in 12 other states.² Growth in rural school enrollment continues to outpace non-rural enrollment growth in the United States, and rural schools continue to grow more complex with increasing rates of poverty, diversity, and students with special needs. Public schools, which are bound by federal civil rights laws, are the most well-equipped to serve this diversity of students.

Rural Areas Lack Actual School Choice

Unlike the typical suburban middle class or urban family, rural families have few access points to schools other than their in-district local public schools. For example, while 92% of urban families have access to one or more private schools within five miles, only 34% of rural families have access to such a choice.³

In addition to logistical challenges, there are also financial challenges. For rural states like Nebraska,⁴ adequately financing rural public schools is already difficult. Even public school choice options like charter schools, which are financed through public revenues, have yet to flourish in many rural areas. Given these challenges, voucher programs in rural states are rare. Indeed, of the most states where more than half the students attend rural schools⁵ only three (Oklahoma, Mississippi and New Hampshire) currently have voucher programs.

¹ Daniel Showalter, et al., Rural Sch. & Comty. Trust, [Why Rural Matters 2015-2016: Understanding the Changing Landscape](#) (2017).

² *Id.*

³ Kristin Blagg & Matthew M. Chingos, Brookings Ctr on Children & Families, [Who Could Benefit from School Choice? Mapping Access to Public and Private Schools](#), Evidence Speaks Reports, Vol 2 #12 (2017).

⁴ Daniel Showalter, et al., Rural School & Community Trust, [Why Rural Matters 2015-2016: Understanding the Changing Landscape](#) (2017).

⁵ *Id.*

There Are Significant Barriers to Choice in Rural Areas

Transportation is challenging. Rural schools face significant challenges in transporting children between their homes and their schools. “Rural schoolchildren were more likely than their suburban counterparts to have bus rides of 30 minutes or longer. Their rides also tended to be more arduous, traversing poorer roads and more hilly or mountainous terrain than those experienced by suburban students.”⁶ Rural districts can spend twice what urban districts spend per pupil on transportation.⁷ And there are other costs that come with longer commutes: when students spend more time commuting, that means less time to participate in extracurricular activities, do their homework, or help out at home, as well as increased safety issues for children leaving for school and arriving home in the dark.

Another major hurdle in bringing vouchers to rural communities is that the public schools are more than just places for children to learn: they serve a critical social and economic function by serving as the primary employer of small communities, offering healthcare for children and adults alike, and frequently offering food pantries, breakfast or lunch programs and night classes. A decision by a rural family to withdraw a child from the public school and enroll them elsewhere doesn’t mean that the family disconnects from the school—it simply means that the school has fewer resources to provide the non-educational benefits critical for community members.

And with lower average enrollments, rural schools encounter diseconomies of scale as they attempt to spread the cost of facilities, transportation, administration, and instruction over a smaller revenue stream.⁸ If enrollment for rural schools declines further, it will only increase the challenge of providing federally mandated programs for students in special education, English-language instruction, and ensuring students have access to school personnel and curriculum.

Private School Vouchers Are Untenable in Rural Areas

Even conservative education leaders like Chester Finn, who helmed the Thomas B. Fordham Institute, agree that private school choice is untenable in rural schools. “Choice, save for the virtual kind, is harder to make work in spread-out suburbs, small towns, and rural areas, where one seldom has workable access to multiple schools,” Finn wrote. “I strongly suspect that most Trump voters with kids—to the extent that education is on their minds—are chiefly interested in having their current schools work better, ensure a decent and prosperous future for their students, including readiness for real jobs.”⁹

⁶ Aimee Howley & Craig Howley, [Rural School Busing: ERIC Digest](#) (2001).

⁷ Kieran Killeen & John Sipple. Rural Sch. & Comty. Trust Pol. Program, [School Consolidation and Transportation Policy: An Empirical and Institutional Analysis](#) (2000).

⁸ Jesse Levin, et. al., Inst. Of Educ. Sciences Nat’l Ctr. For Educ. Evaluation & Reg’l Assistance, [Do Schools in Rural and Nonrural Districts Allocate Resources Differently? An Analysis of Spending and Staffing Patterns in the West Region States](#), (2011).

⁹ Chester E. Finn, [Do Trump Voters Want Vouchers](#), Fordham Inst., (Dec. 9, 2016).



The **National Coalition for Public Education** comprises more than 50 education, civic, civil rights, and religious organizations devoted to the support of public schools. Founded in 1978, NCPE opposes the funnelling of public money to private and religious schools through such mechanisms as tuition tax credits and vouchers.