

NATIONAL REVIEW

Obama's War on School Choice

He puts the wishes of teachers' unions ahead of the needs of low-income minority students.

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It's National School Choice Week, which means hundreds of thousands of parents, students, teachers, and Americans of all kinds are attending more than 16,000 events nationwide celebrating policies that give children greater educational opportunity. Unsurprisingly, none of the more than 230 government proclamations recognizing NSCW this year came from the White House. For the sixth consecutive year since NSCW began, the Obama administration has resolutely ignored it.

One might think this omission should be surprising. The primary beneficiaries of school-choice policies are key Democratic constituents: low-income minorities. As Martin Luther King III explained last week at a rally supporting Florida's scholarship-tax-credit program: "What school choice does is essentially create options, particularly for poor and working families, that they would not necessarily normally have." In a state that's 56 percent non-Hispanic white, 30 percent of Florida's nearly 80,000 tax-credit scholarship recipients are black, and 38 percent are Hispanic. According to *Education Next's* 2015 survey, more than 60 percent of blacks and Hispanics nationwide favor school-choice policies.

And yet the Obama administration's silence really isn't surprising at all, because there is an even more powerful Democratic constituency that opposes school choice: the teachers' unions.

According to data from OpenSecrets.org at the Center for Responsive Politics, the National Education Association and the American Federation of Teachers (the nation's two main teachers' unions) are the fourth- and sixth-largest organizational donors to the Democratic party since 2002. Combined, they would be the third-largest donor, behind the Service Employees International Union and ActBlue.

Unfortunately, the Obama administration is not merely silent about school choice. Since coming into power, the administration has actively opposed policies that empower low-income minorities to enroll their children in the schools of their choice. Obama's proposed budgets repeatedly zeroed out funding for the Washington, D.C., Opportunity Scholarship Program, even though a gold-standard study found that the D.C. voucher recipients were 20 percentage points more likely to graduate from high school than students who applied for but did not receive a voucher through the voucher lottery. Last year, more than 95 percent of the D.C. voucher recipients were black or Hispanic.

The program survived only because of its champions in Congress, particularly former House speaker John Boehner, who ensured that the program would continue to receive funding. However, the program is set to expire later this year, and while the latest omnibus bill funds it for fiscal year 2016, it failed to reauthorize the program, spurring the *Wall Street Journal* in December to wonder “how Nancy Pelosi prevailed despite Republican majorities in both houses.”

Sadly, the Obama administration’s hostility to letting low-income minorities choose their own schools extends far beyond the nation’s capital. In 2013, the Obama administration cynically exploited a four-decades-old desegregation lawsuit in an attempt to halt or at least exercise control over Louisiana’s school-voucher program for low-income students assigned to failing public schools.

Noting that nine out of ten voucher recipients were black, a *Washington Post* editorial declared in September 2013 that it was “bewildering, if not downright perverse, for the Obama administration to use the banner of civil rights to bring a misguided suit that would block these disadvantaged students from getting the better educational opportunities they are due.”

The Obama administration’s lawsuit claimed that the school-choice program could have a negative impact on desegregation efforts. However, the only two cases it cited in its petition were one disproportionately black public school that lost five white students and one disproportionately white school that lost six black students. The racial composition of the two schools shifted by less than 1 percent in each case, imperceptible to everyone except for the racial bean counters at the Obama White House.

In fact, two studies subsequently found that the voucher program was improving racial integration. A study by Ph.D. students at the University of Arkansas found that the vouchers “overwhelmingly improve integration in the public schools that students leave (the sending schools), bringing the racial composition of the schools closer to that of the broader communities in which they are located.” Likewise, a second study sponsored by the state of Louisiana found that the voucher program improved racial integration in 16 of the 34 districts under federal desegregation orders and had little to no impact on the remainder.

This should be no surprise, since students are assigned to public schools based on where their parents can afford to live. Wealthier families can afford either to live in districts with decent public schools or to pay private-school tuition. Low-income minorities, for the most part, cannot, leading to a public-school system that is highly segregated de facto, if no longer de jure. School-choice programs tend to have a positive impact on racial integration because they primarily offer minority families entrance into schools they could not otherwise afford.

Fortunately, the courts prevented the Obama administration from blocking the schoolhouse doors. Last November, the Fifth Circuit Court of Appeals threw out the suit in a blistering decision by Judge Edith Jones, who called the administration’s argument “disingenuous.” The majority held that the lower court’s order complying with the administration’s wishes went “beyond correcting — and indeed has nothing to do with — the

violation originally litigated in [the case]” and noted that even the Department of Justice admitted that its position “amounted to a fishing expedition.”

The Pelican State isn't the only place where the Obama administration has pursued creative but ultimately ineffective legal strategies to restrict school choice. Late last month, the DOJ quietly terminated a four-year investigation into the oldest school-voucher program in the nation. The investigation stemmed from complaints by the American Civil Liberties Union and Disability Rights Wisconsin, which claimed in 2011 that Milwaukee's voucher program supposedly discriminated against children with disabilities.

As the DOJ eventually realized, these charges were unfounded. Milwaukee's voucher program not only bars discrimination against students with disabilities, it also requires private schools to accept students using a lottery. There is no evidence that schools violated these provisions of the law. Indeed, the results of a five-year study of the program “confirmed that no measure of student disadvantage — not disability status, not test scores, not income, not race — was statistically associated with whether or not an 8th-grade voucher student was or was not admitted to a 9th grade voucher-receiving private school.”

The DOJ's case had rested on the flimsiest of evidence, such as a 2013 press release from the Wisconsin Department of Public Instruction — a bureaucracy notorious for its opposition to school choice — claiming that “about 1.6 percent of choice students have a disability.” That statistic was misleading at best. Because the law did not authorize the department to collect that information, it derived that figure from the number of students given accommodations on the state exam.

But as Patrick Wolf, the lead researcher on the team that conducted the longitudinal five-year study on the voucher program, explained, it is “well-known that only a minority of all students with disabilities are given testing accommodations,” so the department's estimate was “clearly both an invalid and unreliable measure of the true student disability rate” in the voucher program. Wolf's team estimated that the true number of voucher students with disabilities was more than 11 percent. With no evidence of discrimination and no actual complaints from families of students with disabilities, the DOJ had little choice but to throw in the towel.

It's unclear how much of its dwindling political capital the administration will spend in its lame-duck year on fighting against school choice. President Obama is likely to veto any stand-alone school-choice legislation, whether it's a reauthorization of the D.C. Opportunity Scholarship Program or Senator Ted Cruz's proposed D.C. education-savings-account program.

With limited time and little to show for its efforts over the past seven years, perhaps the administration will refrain from launching any new attacks on school-choice programs. Either way, the low-income minorities who see school choice as a pathway out of poverty for their children shouldn't forget who it was that was blocking their way.

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