



## ***The year of school choice -- and NCLB's decline***

Bob Kellogg - OneNewsNow - 12/31/2011

The past year saw significant gains for advocates of school choice, some cheating on standardized tests -- not by students but by school officials -- and proof that candy canes can last a long time.

### **Explanation for 'overreach'**

After the Obama administration announced it was tired of waiting on Congress to reauthorize No Child Left Behind, Secretary of Education Arne Duncan started granting waivers for NCLB mandates to states who would adopt the administration's agenda on school reform. Congressman John Kline (R-Minnesota), chairman of the House Education the Workforce Committee, wrote a letter to Duncan demanding an explanation.

"As I look at that, that's an overreach; it's beyond the authority of the secretary because he is, in effect, changing education policy without congressional action," Kline pointed out.

Kline said the House had been working on a piecemeal strategy for renewing the Act, but there had been sharp disagreements between Democrats and Republicans on the best approach. With little progress, Kline said he understood why states were seeking waivers.

"The requirements of the law are pretty stringent -- getting down to the point where you've got to start firing teachers and principals and so forth," the Minnesota lawmaker admitted. "So schools, superintendents, school districts, [and] states are anxious to be relieved of that burden."

### **School choice thriving, expanding**

2011 was a banner year for school-choice advocates. More states passed school voucher and scholarship tax credit legislation than ever before. Andrew Campanella, vice president of National School Choice Week, talked with OneNewsNow.

"It took 20 years for the school-choice movement to pass 20 [private] school-choice programs into law. And this year, seven new programs were enacted," he reported. "So this is a banner year for the school-choice movement, and parents across the country are experiencing educational freedom like never before."

Campanella said most programs that were launched have been challenged in court by teachers unions and other opponents. But he explained why those lawsuits have not been successful.

"When juries see this, when judges see the motivation behind these lawsuits, they overturn these challenges," he pointed out. "And that's why the school-choice movement is alive and well; it continues to thrive, and it's expanding."

### **NCLB inspired cheating**

A national scandal was uncovered within the Atlanta Public Schools this year. It revealed teachers and administrators had been cheating and manipulating state standardized test scores to enhance the perception of student performance. Neal McCluskey of the Cato Institute suspected the district was trying to avoid being sanctioned under the No Child Left Behind Act, which he believes inspires cheating in many districts.

"What many states did, what maybe most states did, was they just set really low standards to begin with and then told everybody, all parents, 'Don't worry; your kids are proficient,'" he inferred. "So this is kind of just the most high-profile and illegal form of cheating we've seen."

An investigation that uncovered the cheating got under way when the Atlanta Journal-Constitution published a report on the improbability of the proficiency gains released by the schools.

### **The 'candy cane' case**

A long-anticipated decision was handed down by the Fifth U.S. Circuit Court of Appeals in the infamous "candy cane" case. That involved a young Texas student at the Plano Independent School District whose First Amendment rights were violated when he was prevented from handing out candy cane pens with a Christian message at a school party nine years ago. Liberty Institute president Kelly Shackelford said a different decision would have been devastating.

"That would literally have stripped away the First Amendment rights of 42 million U.S. school children overnight," the attorney noted. "So we're very grateful that the court refused to do that. They said the First Amendment does apply."

Shackelford has recently asked the U.S. Supreme Court to review the Fifth Circuit's decision, which did not hold school officials accountable for violating students' First Amendment rights.

"And so what we're doing is filing with the Supreme Court [asking them] to overturn this," Shackelford told OneNewsNow. "We can't have government officials nationwide being told that they can engage in religious discrimination against children and that there are no consequences [when they do]."

In the more than eight years that the case has been in court, it has become the symbol for what many call "the war on Christmas."