

RESPONSE TO THE OPPONENTS' CHARGES AS A RESULT OF THE HEARING ON JANUARY 20, 2011

I. 25% of the scholarship in the OSA may be given to students currently enrolled in nonpublic schools.

The charges from the opponents fail to take into account the following facts:

1. The students receiving the scholarships who are currently in nonpublic schools must meet both the criteria of poverty and residence in a district with a chronically failing school.
2. Those students are “one paycheck away” from becoming public school students.
3. Their transfer to a public school would once again necessitate greater expense to New Jersey’s taxpayer.

II. Scholarship recipients who are special needs students somehow “waive their right” to special education as a result of the legislation.

The opponents have distorted this issue. The federal government, under the terms of the Individuals with Disabilities Education Improvement Act (IDEIA), has created a designation for nonpublic school students called an Individualized Services Plan (ISP). A student in a public school receives an Individualized Education Plan (IEP). The former means that the child only receives a limited number of services. This distinction would be true for any current classified student (regardless of the Opportunity Scholarship Act) who wishes to transfer to a nonpublic school.

Currently, there are over 33,000 classified students in nonpublic schools who are receiving an ISP. The services that they receive are limited by the amount of federal and state dollars available to them. Parents have clearly chosen the option of a nonpublic school over a public school for their classified child, in spite of the fact that the federal government does not provide them with the same classification for services.

The New Jersey Catholic Conference and other nonpublic school groups have consistently fought for greater services for students having an ISP. Several years ago, legislation was passed to counteract a federal requirement that any state dollars for nonpublic school classified students be an offset against the “proportionate share” available to nonpublic school students under IDEIA. Nothing in the Opportunity Scholarship Act changes the categories in any way, because the federal classification is the problem in efforts to expand services to nonpublic school students. Nonpublic schools are not opposed to accepting classified students; however, the students will never receive an IEP unless the IDEIA law is amended. States that wish to provide a nonpublic school option for students who are not succeeding in their public school (e.g. Utah and the McKay scholarship in Florida) have addressed this issue by supplying a separate funding stream.

The Opportunity Scholarship Act only requires that this distinction be explained to parents at the time of the application for the scholarship. A similar explanation is given to any public school student who currently transfers to a nonpublic school. Therefore, the Opportunity Scholarship Program simply reiterates the explanation of the difference between an IEP and an ISP for the parents.