



NJ School Choice Alliance

The Opportunity Scholarship Act (OSA) and Education Innovation Fund Pilot Q&A — (3-21-10)

What is the OSA?

The Opportunity Scholarship Act (OSA) is a pilot corporate tax credit scholarship bill that will fund scholarships for low-income students attending the state's lowest performing, chronically failing public schools. The scholarships would enable students to attend out-of-district public schools, or non-public schools anywhere in the state, that choose to participate in the program.

How is the OSA funded?

Corporations that pay corporate income taxes in New Jersey would be allowed to take a 100% tax credit against their state income tax obligation for donations made to the OSA scholarship fund.

Who is eligible to receive a scholarship?

A low-income student attending, or eligible to attend, a chronically failing public school as defined by The Act. Low-income is defined as *no more than* 2.5 times the federal poverty level, based on family size. For example, a family of four to be eligible to participate, their income *could not exceed* \$55,000 annually.

What happens when OSA leave their schools?

The difference in state aid contributions for that student is deposited in a pilot Education Innovation Fund, managed by the State Department of Education. Monies from this fund will be distributed to districts to spur the reform of their worst schools through a competitive grant process, similar to President Obama's Race to the Top program.

Are there programs like the OSA in other states?

The OSA is modeled on Pennsylvania's highly successful Educational Improvement Tax Credit program. The program is oversubscribed by businesses annually, with over 2,300 companies contributing \$260 million to date, allowing 33,000 Pennsylvania children over

the life of the program to attend participating schools of their parent's choosing. Other states with such programs are Arizona, Rhode Island, and Florida.

Additionally, states like Ohio and Florida have also passed scholarship programs targeted at students in chronically failing schools. Over 80,000 students are currently enrolled in Ohio's EdChoice scholarship program.

Are there other programs like the OSA in New Jersey?

Both in New Jersey and nationally, there is a well-established history of government funding for students to attend public or non-public schools of their own choosing. In New Jersey, children can attend preschools, special education providers, and colleges chosen by their families and paid for by the state.

Additionally, New Jersey has a long history of tried and failed urban education reforms. The children in the state's worst schools, all 205 of them, should not have to wait one more day to gain access to functioning schools, wherever they may be.

What districts have chronically failing schools?

There are 31 school districts with at least one chronically failing school. They are Asbury Park, Atlantic City, Bellville, Beverly City, Bridgeton, Camden, East Orange, Elizabeth, Franklin Township, Hoboken, Irvington, Jersey City, Lakewood, Neptune, New Brunswick, Newark, Orange, Passaic City, Paterson, Paulsboro, Perth Amboy, Plainfield, Pleasantville, Rahway, Red Bank Borough, Roselle Borough, Salem, Trenton, Wildwood, Willingboro, and Woodbury.

How are the chronically failing schools in these districts performing?

A chronically failing school is one where 40% or more of students failed both the state's math and language arts assessments for the last two years, or 65% or more of students failed either of these same tests for the last two years. Of the 205 schools in the state that meet this standard, 181 are traditional public schools, three are vocational, and 21 are charter.

Is government aid to private and religious schools constitutional?

Yes. Indirect aid to non-public schools, such as under the OSA, is perfectly legal and does not violate the "establishment clause" of the United State's Constitution. Programs such as the OSA were upheld by the U.S. Supreme Court in the landmark *Zelman v. Simmons-Harris* decision, which analyzed the City of Cleveland, Ohio's school choice program.

Parent choice is the key factor making programs like the OSA constitutional. The 1971 case *Lemon v. Kurtzman* (The Lemon Test) also upholds such programs which grant "indirect," parent-directed aid to non-public schools.

It is worth noting that the State already funds non-public and religious schools through aid programs for transportation, textbooks, nursing and technology. Additionally, the State's widely lauded preschool program, out-of-district placements for special needs students in non-public schools under I.D.E.A., and numerous college scholarship programs also allow students to select non-public and religious schools with public funding.

How is the program managed locally?

The OSA provides for the creation of Scholarship Organizations (S.O.). A board with one member appointed by the Governor, one by the President of the Senate, and one by the Speaker of the Assembly, will choose the S.O. The bill provides for one S.O. per county, but an S.O. may administer more than one county. The S.O. will be responsible for a variety of tasks related to the implementation of the OSA program including:

- (1) managing the scholarship application process for the pilot school district;
- (2) reviewing and verifying the residence and income of a scholarship applicant;
- (3) compiling an inventory of vacancies in participating schools available for potential scholarship recipients;
- (4) conducting necessary student selection lotteries;
- (5) monitoring the enrollment of scholarship students in eligible schools and allocating scholarship funds to those schools.

What assurances are in the OSA to guarantee equal access and student civil rights?

The OSA specifically prohibits any discrimination on the basis of race, academic ability, disability, or athletic ability during the admissions process. In fact, participating non-public schools are held to the same standards as traditional public schools in this regard.

What if more students apply for scholarships than there are spaces in their grade levels available at a participating school?

In the event that more children apply for admission under the pilot program than there are openings at a participating school, a lottery will be used to determine which children are selected for admission, except that preference for enrollment may be given to siblings of students who are already enrolled in the participating school. This process is the same as NJ Charter Schools must follow.

How much are each of the scholarships worth?

Scholarships are a percentage of the average per-pupil costs in all districts with chronically underperforming schools, and are approximately \$6,000 for students in grades K-8, and \$9,000 for high school students. Total scholarship dollars cannot exceed

the maximum amount of corporate tax credits allowed in a given year of the pilot program.

What if the actual tuition is more than the amount of the scholarship?

Participating public and non-public schools must accept the scholarship as payment in full. The OSA forbids participating schools from charging families any more for tuition than it receives from the program's scholarships.

Can students already enrolled in non-public schools participate?

No more than 25% of scholarship dollars can be used by low-income students currently attending non-public schools. The remaining 75% will provide scholarships for students currently attending chronically failing public schools. If there are any scholarship funds remaining after public school students in chronically failing schools have applied, any low-income student residing in a district with a failing school may apply for a scholarship.

Will there be a study or report done on the effectiveness of the OSA pilot program?

Yes. The OSA provides for a study to be performed by researchers with expertise in urban education, exploring such topics as:

- (1) the academic achievement of scholarship recipients based on test results and other educational indicators;
- (2) the impact of the pilot program on achieving savings for State taxpayers;
- (3) the impact of the program on student enrollment patterns; and
- (4) parental satisfaction with the pilot program.

Are there any admissions tests required at participating private schools?

No. Participating private schools are forbidden from using entrance exams to determine school admission. However, these schools may assess students at their time of entry to determine their educational levels so they may be better served academically.

Will the participating private schools have to give standardized tests like the public schools?

Yes. Under the OSA, any participating, non-public school must administer an annual test to scholarship recipients that is aligned with the New Jersey Department of Education's Core Curriculum Content Standards.

Tax Credit Scholarship Programs Around the Nation

Arizona

Individual School Tuition Organization Tax Credit

Program Type: Individual scholarship tax credit

Student Eligibility:

- None specified in law
- May be determined by School Tuition Organization (STO)
- Private school students also eligible

Corporate School Tuition Organization Tax Credit

Program Type: Corporate scholarship tax credit

Student Eligibility:

- Family income cannot exceed 185 percent of the federal free or reduced-price lunch program limit (\$72,557 for a family of four in 2008)
- Attended public school the previous year or entering kindergarten

Florida

Corporate Tax Credit Scholarship Program

Program Type: Corporate scholarship tax credit

Student Eligibility:

- Qualify for the federal free or reduced- price lunch program (\$39,220 for a family of four in 2008)
- Attended a Florida public school the previous year or entering kindergarten or first grade

Georgia

Georgia Scholarship Tax Credit Program

Program Type: Corporate and individual scholarship tax credit

Student Eligibility: Attended a Georgia public school in previous year or entering pre-kindergarten or kindergarten

Iowa

Individual School Tuition Organization Tax Credit

Program Type: Individual scholarship tax credit

Student Eligibility:

- Family income must not exceed 300 percent of federal poverty guideline (\$63,600 for a family of four in 2008)
- Private school students also eligible

Pennsylvania

Educational Improvement Tax Credit

Program Type: Corporate scholarship tax credit

Student Eligibility:

- Family income cannot exceed \$50,000, with an additional \$10,000 allowed for each additional dependent
- Private school students also eligible

Rhode Island

Rhode Island Corporate Scholarship Tax Credit

Program Type: Corporate scholarship tax credit

Student Eligibility:

- Family income cannot exceed 250 percent of the federal poverty guideline (\$53,000 for a family of four in 2008)
- Other criteria determined by Scholarship Granting Organization
- Private school students also eligible

Failing Schools Scholarship Programs

Ohio

Educational Choice Scholarship Program

Program Type: Failing schools scholarship

Student Eligibility:

- Current public school students assigned to a school that has been in Academic Watch or Academic Emergency for two years of a three-year period
- Students scheduled to enter kindergarten in one of these schools also qualify
- Priority is given to returning and low-income applicants
- Current public school students