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ABSTRACT

This study examined the benefits and drawbacks of using private and parochial schools to alleviate overcrowding in public schools. The extent of overcrowding in urban school systems; the amount of excess capacity in private schools; and the willingness of private schools to participate in a transfer program are explored. Program design, administration, and cost issues are also examined. The study was based on data collection and analysis in 22 large urban areas with overcrowded public schools. Surveys were administered to both the school districts and the private schools in spring 1997. The survey focused on the methods being used to address overcrowding and district concerns about using private schools to alleviate this problem. The private-school survey (from a representative sample of private schools in the 22 urban areas) sought information on enrollment rates, tuition and fees, additional space availability, admissions policies, student characteristics and flows, policies on religious participation, and likely decision makers for participation. Findings indicate that overcrowding appears to be a serious problem in some urban school districts. Private schools were relatively plentiful in the 22 communities, and most private schools were willing to participate in a program if they could maintain their current policies. (RJM)

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Barriers, Benefits, and Costs of Using Private Schools to Alleviate Overcrowding in Public Schools

Final Report

1998

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The chapter on constitutional and other legal issues was prepared by Stephen Freid and Karl Lahring of the Department's Office of General Counsel. The discussion of program costs and administration draws on a unpublished paper prepared by Dr. Paul Hill of the University of Washington to inform this study, entitled Administrative Costs of Education Voucher Programs. Michael Casserly and Robert Carlson of the Council of Great City Schools designed and conducted the survey of urban school districts with overcrowding. Stephen Broughman of NCES facilitated access to data from the NCES Private School Survey. Edward Dolbow and Alan Atkins of Westat performed the data tabulations and analysis used in the report. Beth Sinclair of Westat supervised the data collection and provided editorial assistance. Finally, the authors are indebted to the many representatives of public and private school organizations who provided useful comments and suggestions on the design of this study.

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Executive Summary

Many urban school systems are currently experiencing overcrowded conditions in their schools, and some policymakers have suggested that private schools could alleviate this problem by accepting some students from overcrowded schools in exchange for tuition reimbursement. Congress requested this study to examine "the benefits of using private and parochial schools as alternatives to alleviate the overcrowding in public schools and barriers to using public school dollars for tuition reimbursement." The study is also examining the extent of overcrowding in urban school systems, the amount of excess capacity in private schools, the willingness of private schools to participate in a transfer program, and program design, administration, and cost issues that should be considered if such a program were created.

Study Design

This study is primarily based on data collection and analysis in 22 large urban areas with overcrowded public schools: Baltimore City, Buffalo, Chicago, Dade County, Dallas, Detroit, Duval County (FL), El Paso, Houston, Long Beach, Los Angeles, Memphis, Milwaukee, Nashville, New Orleans, New York City, Oakland, Philadelphia, Pittsburgh, Portland (OR), San Antonio, and San Diego. . First, we identified a set of 34 school districts with large enrollments located in central cities. An initial inquiry showed that 22 of those districts had overcrowding affecting more than 10 percent of schools. All private schools located within the geographic boundaries of these 22 urban districts were then identified as well. Surveys were administered to both the school districts and the private schools in Spring 1997:

- The school district survey focused on the nature and extent of overcrowding, the methods being used to address overcrowding, and district concerns about using private schools to help alleviate overcrowding.

- The private school survey (from a representative sample of private schools in the 22 urban areas) sought information on enrollment rates, tuition and fees, additional space availability, admissions policies, student characteristics and flows, policies on religious participation (for religiously affiliated schools only), willingness to participate in a transfer program, and likely decisionmakers on participation.

Data from both surveys was merged with background data from other sources (the Common Core of Data for school districts and the Private School Survey conducted by the National Center for Education Statistics (NCES)) to examine the characteristics of private and public schools in these urban communities.

Other components of the study include:

- Survey of private school associations and organizations, soliciting their views on their member schools' willingness to accept public school students under various conditions.

- Analysis of program design and implementation issues, reviewing recent voucher programs as well as the general literature on school choice.

- Analysis of legal issues, addressing the constitutional and other legal issues that would be raised by a program that transferred public school students to private schools.

Findings

Extent of school overcrowding in large, central-city school districts

There is considerable variation in the methods that districts use to determine the existence and extent of overcrowding in their schools. The most common indicator of overcrowding among our sample of 22 urban school districts is to compare the number of students a building is designed to serve with its enrollment, but some districts use district-wide rules for computing building capacity rather than measuring the physical capacity of each building. Some districts considered other factors such as pupil/teacher ratios, use of portable buildings, or a range of quantitative and qualitative indicators.

Further, there are differences in the standards districts set for whether a certain enrollment level or class size means a school is overcrowded.

- In some districts, schools are considered overcrowded if they are operating at 80 percent or 85 percent of capacity, while in other districts, schools are not designated as overcrowded until they are operating at 105 percent or 110 percent of capacity.

- Among districts that use class size or pupil/teacher ratio indicators, the threshold for overcrowding frequently varies by grade level, with lower desired class sizes for lower grades. Here, too, there is substantial variation across districts; for example, desired class sizes at the kindergarten level range from as low as 20 students to as high as 30 students per class.

Despite those differences, however, overcrowding does appear to be a serious problem in some urban school districts.

- Using each district's own indicators and standards, we found that among 34 large urban school districts, 22 had overcrowding rates ranging from 9 percent of the schools in Philadelphia to 89 percent in Dade County.

- About two-thirds of these district have overcrowded conditions in at least 25 percent of their schools, and seven of the districts are experiencing overcrowding in more than 50 percent of their schools.

- There are sizable differences across districts in the extent of overcrowding in individual schools. The average amount by which actual enrollments exceed the capacities of overcrowded schools ranges from 10 percent to 41 percent in the nine districts that provided this information.

Characteristics of private schools located in overcrowded public school districts

Private schools are relatively plentiful in the 22 urban communities examined in this study, with over 3,000 private schools serving 774,000 students — 16 percent of total public and private school enrollments, compared to 11 percent nationally.

- **Religious affiliation.** Catholic schools are the most common private schools in these communities, enrolling 57 percent of all private school students. About 30 percent of private school students are enrolled in other religious schools and 13 percent in nonsectarian schools.

- **School size.** Private schools are considerably smaller than public schools in these urban communities — on average, roughly a third the size of the public schools. At the elementary level, private schools in these 22 communities enroll an average of 204 students, compared to 705 students in the average public school.

- **Pupil/teacher ratios.** Private schools in these communities have fewer pupils per teacher than the public schools. The average number of students per full-time equivalent teacher is 14.9 in these private schools, compared to an average of 19.5 pupils per teacher in the public schools in these districts.

  — Catholic schools have an average of 19.4 pupils per teacher, about the same ratio as in the public schools. In five of the communities, Catholic schools have pupil/teacher ratios that exceed the public school ratios in those communities.

- **Student composition.** Private schools in these 22 communities have higher proportions of minority and low-income students compared to private schools nationally, but these enrollments are still well below those in public schools in these same communities.

  — Minority students account for 43 percent of the private school students in these 22 urban communities — substantially higher than their proportion of private school enrollments nationwide (22 percent) but still well below their proportion in the public schools in these 22 communities (82 percent). In the Catholic schools, minorities are 51 percent of all students.

— Low-income students (i.e., students eligible for free or reduced-price lunches) constitute 32 percent of private school enrollments in these 22 communities, well above the national average for private schools in central cities (12 percent) but below the average for public schools in the 22 communities (64 percent).

- **Cost.** Tuition averages $3,654 across private schools in the 22 communities. Secondary schools ($4,869) are more expensive than elementary schools ($2,978), and nonsectarian schools ($5,888) cost more than Catholic schools ($2,406) and other religious schools ($3,586). Tuition revenues provide 82 percent of total operating funds for these private schools, and reliance on non-tuition revenues is particularly high in schools charging relatively low tuition.

- **Financial aid for low-income students.** Two-thirds of the schools (67 percent) offer scholarships or tuition discounts based on family financial need, and this assistance is more prevalent in schools with relatively high tuitions. Financial aid is provided to 22 percent of all students and 35 percent of low-income students in these private schools and offsets about 45 percent of tuition for the students who receive this assistance, reducing their average tuition from $3,654 to $2,001.

- **Admissions.** Private schools in the 22 communities accept 83 percent of the students who apply. About half of the schools (51 percent) maintain a waiting list, and the average number of students on the list in those schools is 25. Schools with high tuition (greater than $8,000) have considerably lower admissions rates (51 percent, compared with 91 percent in the schools with tuition below $2,000).

Private school interest in participating in a transfer program under various program conditions

Most private schools would be willing to participate in a program if they could maintain their current policies regarding curriculum, admissions, assessment, and other issues. However, their interest in participating would decline considerably if the transfer program included rules or conditions that affected their autonomy over admissions and other policies.

- **Random assignment.** If transfer students are randomly assigned to participating private schools (rather than allowing the schools to exercise control over which students they admit), the percentage of schools willing to participate declines to one-third to one-half of all private schools (the higher end of this range includes schools that are "possibly" willing to participate).

- **State assessments.** If transfer students are required to participate in the same assessments that the state requires for public school students (in order to monitor their academic progress), about one-third to one-half would be willing to participate.

- **Inclusion of students with special needs.** Only 15 to 31 percent of the private schools would participate if they were required to accept students with special needs

such as learning disabilities, limited English proficiency, or low achievement. Private school associations expressed concern about the potential numbers of special needs children who might be assigned to their schools and about the severity of the disability or other need. Some associations indicated that willingness to participate would depend on the types and severity of the disability or other special need, and whether additional funds were provided to support special services for these students.

- **Exemptions from religious instruction.** Most religious schools (86 percent) would not participate if they were required to allow transfer students to obtain exemptions from religious instruction or activities. Because religious schools comprise such a large percentage of all private schools, this condition would reduce the overall percentage of private schools willing to participate to 24 to 31 percent. The United States Catholic Conference comments that the notion of exemptions "strikes at the very nature of what a Catholic school is all about" and Christian Schools International said that "almost all our schools would not allow the exemption because every class is permeated with a Christian religious viewpoint."

Under most scenarios, religiously-affiliated schools account for about three-fourths of the schools that would be willing to participate. If, however, religious schools that participated in the transfer program were required to permit exemptions from religious instruction or activities, the number of religious schools willing to participate would decline considerably, and about two-thirds of the participating schools would be nonsectarian.

Space availability in private schools

Private schools in these 22 communities have a considerable number of spaces available. Under a transfer program that allows these schools to maintain their current policies, almost all of these spaces would be available for transfer students. If, however, the transfer program included provisions that affected the autonomy of participating private schools, the number of available spaces would decline significantly.

- **Amount of excess capacity in private schools.** Many of the private schools in these 22 communities are currently operating well below their full capacity. One-third of the schools have enrollments below 70 percent of their full capacity, and another third have enrollments between 70 and 90 percent of capacity.

  — Schools with higher tuition level are less likely than lower-tuition schools to have substantial excess capacity. Among schools with tuitions of $8,000 or more, 70 percent are operating near full capacity, whereas among schools that charge less than $2,000, only 29 percent are operating close to full capacity.

- **Total number of spaces available in private schools.** Private schools said they could accommodate an additional 150,000 students — somewhat less than the 185,000 spaces obtained if one calculates the difference between the schools' full capacities and their current enrollments.

— Religious schools account for 85 percent of the available spaces, and 57 percent of these spaces are in Catholic schools. Thus, if the transfer program included nonsectarian schools only, the number of available spaces would decline from 150,000 to 22,000.

— Schools with tuition below $4,000 account for 83 percent of the available spaces; however, only 38 percent of the spaces are in schools with tuition below $2,000, and very few (5 percent) are in schools that charge tuition of $1,000 or less.

- **Impact of possible program conditions on the number of available spaces.** Specific provisions of the transfer program could result in a much smaller number of available spaces because fewer private schools would be willing to participate.

  — If transfer students are randomly assigned to private schools, the number of spaces available for transfer students declines by about one-third to one-half, to between 63,000 and 101,000 students. If participating schools are required to accept special needs students, the number of transfer students who could be accommodated in participating schools drops even further, to between 41,000 and 66,000 students. If transfer students are required to participate in state assessments, schools willing to participate could accommodate between 67,000 and 101,000 students.

  — If the transfer program required participating religious schools to permit transfer students to be exempted from religious instruction or activities, only 33,000 to 48,000 spaces would be available in schools that are willing to participate under this condition (including both religious and nonsectarian schools). Religious schools that would <u>not</u> be willing to participate under this condition account for 95,000 (78 percent) of the available spaces in religious schools.

Potential impact of transfer program on alleviating public school overcrowding

If all of the available spaces in private schools were filled with public transfer students, the transfer program would reduce public school enrollments by 4 percent and increase private school enrollments by 17 percent. If the transfer program contained provisions for random assignment, inclusion of special needs students, state assessment of transfer students, or exemptions from religious instruction, the potential impact would decline to 1 to 2 percent of public school enrollments.

- **Private school spaces as a percent of public school excess enrollments.** In the nine communities for which detailed data on the amount of overcrowding in public schools was available, private schools could accommodate 23 percent of the excess enrollments in public schools <u>if</u> participating schools could maintain their current policies without change.

- **Variations across communities.** The potential impact of a transfer program on alleviating overcrowding varies substantially across different urban areas.

  — In communities that have relatively small overcrowding problems and relatively large private school sectors, it appears that excess capacity in private schools could be sufficient to handle all of the public school excess enrollments. Available private school spaces amount to 294 percent of the public school excess enrollments in Pittsburgh, 135 percent in New Orleans, and 105 percent in Houston.

  — In other communities, the estimated number of available spaces constitutes a much smaller percentage of public school excess enrollments (e.g., 16 percent in San Diego), and transferring students from overcrowded public schools to available spaces in private schools would have little impact on the overall size of the overcrowding problem.

- **Cost of transfer program.** The total cost of a transfer program, including tuition, transportation, categorical program services for transfer students, and program administration, is estimated at $4,575 per pupil. Some, although probably not all, of this cost might be offset by reductions in school district expenditures.

  — The average cost of tuition for the available spaces in private schools would be $2,900 if schools could maintain their current policies. Under other program conditions, the average tuition would range from $2,400 to $3,200. If the program were limited to nonsectarian schools, the average tuition would rise to $4,500.

  — Few spaces are available in schools that charge $1,000 or less; such schools account for only 5 percent of the available spaces. About 38 percent of the spaces are in schools with tuition below $2,000.

Analysis of Program Design and Implementation Issues

If a program was created to alleviate public school overcrowding by transferring some public school students to private schools, there are a wide variety of program design and implementation issues that program sponsors and administrators should consider. Some of these issues are applicable to any type of voucher program that subsidizes private school tuition, while others arise from the unique goal of this program to alleviate overcrowding. These issues include:

- **Selection and assignment of transfer students.** Would participation in the transfer program be open to all public school students, limited to students in schools with overcrowding or with the most severe overcrowding, or (as in recent voucher experiments) limited to students from low-income families? How would the transfer program affect students who already attend private schools? What issues concerning

the inclusion of special education or other special-needs students would need to be addressed?

How would participating students be assigned to specific private schools — would students be assigned randomly to private schools, would they apply to specific private schools which would then randomly select from this pool of applicants (in the event of oversubscription), or would they apply to specific private schools subject to the school's normal admissions criteria?

- **Eligibility of private schools.** Would private school eligibility be restricted in any way, such as nonsectarian schools only, schools that are located within a reasonable proximity to the public schools with overcrowding problems, or schools offering the grade levels that are affected by overcrowding in public schools? Would newly-formed private schools be eligible to participate?

- **Oversight and accountability.** Would students transferring to private schools become private school students or would they remain public school students receiving instruction in private schools? Would there be any public oversight or accountability for participating private schools? For example, would program administrators or evaluators monitor the achievement of students who transferred to private schools?

- **Transfer students' participation in religious instruction and activities.** Would transfer students be allowed to opt out of religious instruction or activities?

- **Administration of transfer program.** What administrative activities need to be undertaken by public and/or private school authorities to implement and maintain the program? How would the program handle transfer students who leave their private school? Would the transfer program establish rules concerning the handling of disciplinary problems? Who would pay for any additional costs to parents that are associated with private school attendance, such as registration fees, book and material fees, school uniforms, and before- and after-school activities?

- **Duration of transfer program.** What would happen to students and schools in the program when overcrowding no longer exists in a school district?

Analysis of Constitutional and Other Legal Issues

The primary legal issues raised by a program of tuition reimbursement to alleviate overcrowding in public schools are: (1) whether inclusion of religious schools would violate the Establishment Clause of the U.S. Constitution, which states that "Congress shall make no law respecting an establishment of religion"; and (2) the applicability and effect of the Fourteenth Amendment and civil rights laws on any such program.

- **Establishment Clause**. Previous cases have been decided using the so-called Lemon test, which has three parts: to be constitutional, a program must have a secular legislative purpose, not have the primary effect of advancing or inhibiting religion, and not foster excessive entanglement between government and religion.

  A carefully-designed transfer program would be likely to meet the first and third parts of the Lemon test. The program ostensibly would have a secular legislative purpose — namely, to relieve overcrowding in the public schools. And although it is assumed that private schools would have to meet some basic requirements to participate in the program, minimal requirements relating to health, safety, curriculum and similar matters in private schools, and the monitoring of those requirements, have been upheld in other contexts.

  Satisfying the second part of the Lemon test is more difficult. In previous cases, the Supreme Court struck down state programs that provided tuition reimbursements only for parents sending their children to private schools, concluding that these programs had the primary effect of advancing religion even though the money was paid to the parents. However, other Supreme Court decisions suggest that a program that included a broad range of schools (both public and private) for participating students to attend would be less subject to constitutional attack.

- **Civil rights.** The provision of tuition assistance to private schools raises civil rights issues under the Constitution and Federal civil rights laws. Private schools that practice racial discrimination would be ineligible to participate due to Constitutional prohibitions and the requirements of Title VI of the Civil Rights Act of 1964. Additionally, all non-religious private schools are required by the Americans with Disabilities Act to refrain from discriminating against persons with disabilities. Section 504 of the Rehabilitation Act also prohibits discrimination based on disability and requires both religious and non-religious schools to admit students with disabilities when the school can do so by making "minor adjustments" to its program. Finally, Title IX prohibits sex discrimination but allows for single-sex enrollments at non-vocational elementary and secondary schools and provides for exemptions based on religious tenets at religious coeducational schools.

Chapter 1

Study Purpose and Design

Purpose of this Study

This study of the barriers, benefits and costs of using private schools to alleviate overcrowding in public schools has been conducted at the request of Congress. The study was requested in the conference report accompanying the 1997 appropriation for the U.S. Department of Education (see Appendix A). Conferees noted a serious overcrowding problem in some urban schools and directed the U.S. Department of Education to conduct "a feasibility study outlining the benefits of using private and parochial schools as alternatives to alleviate the overcrowding in public schools and barriers to using public school dollars for tuition reimbursement." The congressional request did not outline a specific proposal for transferring public school students to private schools, so the study did not analyze the expected impact of a particular approach. Instead, the study has focused on determining the context (extent of public school overcrowding, space availability in private schools, etc.) in which a specific proposal might be developed.

The congressional request noted that there appears to be a serious problem of overcrowding in some public schools. As the conferees stated, "these [public] schools are forced to jam classrooms to overcapacity due to their districts' limited budgets, and engage in expensive capital campaigns for construction of new schools." The conferees noted that private schools in the same areas may have "more than adequate" space available to help serve these students and that the cost may be relatively low ("in some instances, for $1,000 per student"). In other words, private schools may not only be able to alleviate overcrowding, but accommodating public school students in private schools may be less expensive than the alternative of building new schools.

This study has sought to determine whether overcrowding is, in fact, a serious problem in urban school districts, and whether or not private schools can provide a means to help solve the problem. We asked officials in urban districts with overcrowded schools about the extent and duration of the problem, its causes and current remedies, and their views on implementing a program to help alleviate overcrowding by transferring some public school students to private schools. We asked officials in private schools in the same communities about their capacity, their costs, their policies, and their willingness to participate in a program to help alleviate public school overcrowding under various conditions. We also solicited the views of national organizations representing private schools on these matters. In addition, we examined the legal issues in public support for private schools, including religiously-affiliated private schools.

Study Questions

To determine the dimensions of urban public school overcrowding and establish the conditions under which private schools might help alleviate overcrowding, the study examines several

key questions. First, the study examines the nature and extent of overcrowding in 22 large urban school districts that have identified a problem with overcrowding. We then examine the characteristics of private schools located in these districts, the feasibility of using private schools to alleviate overcrowding in public schools, program design and implementation issues that should be considered if a transfer program is created, and constitutional and other legal issues that would be raised by such a program. Detailed research questions for the study are listed below.

Nature and Extent of Overcrowding in Urban School Districts

- **Definitions of overcrowding.** How do school districts define overcrowding? To what extent do districts use measures based on class sizes or pupil/teacher ratios versus the physical capacity of a building to hold students? What are the implications of different measurement approaches on the estimated size of the overcrowding problem?

- **Scope of overcrowding problem.** To what extent are urban districts experiencing overcrowding? Are there districts or regions with a particularly acute problem and others with little or no overcrowding?

- **Duration of overcrowding problem.** To what extent is overcrowding a short-term or a long-term problem? How long has the overcrowding problem existed and how much longer is it expected to last?

- **Causes of overcrowding.** What are the factors that lead to overcrowding in public schools? To what extent is overcrowding caused by increases in enrollment (due to in-migration, population shifts within a district) versus other factors such as closure of old schools, insufficient new construction, or insufficient resources to hire additional teachers?

- **Current approaches to alleviating overcrowding.** What are school districts currently doing (or planning) to address overcrowding?

Characteristics of Private Schools Located in Urban Communities with Public School Overcrowding

- **Size of private school sector.** What is the size and nature of private school education in urban communities?

- **Nature of private school education.** To what extent are private schools in these communities religious in nature? How do they compare to public schools in their enrollment sizes and pupil/teacher ratios? What is the cost of tuition and fees associated with attending these private schools?

- **Characteristics of private school students.** How do private and public schools compare in enrollment of minority and disadvantaged students?

- **Admissions procedures and outcomes.** What factors do private schools consider in their admissions processes? How selective are private school admissions? To what extent do private schools provide scholarships or subsidies for disadvantaged students?

Feasibility of Using Private Schools to Alleviate Public School Overcrowding

- **Private school capacity to accommodate transfer students.** How many public school students could be served by private schools in these communities?

- **Potential impact of a transfer program on overcrowding.** What would be the impact of the "transfer" strategy on the amount of public school overcrowding? What percentage of the public school overcrowding problem could be alleviated by utilizing available spaces in private schools?

- **Cost of a transfer program.** What would be the average cost of tuition reimbursement for students transferred to the available spaces in private schools? What would be the total cost of a transfer program, including tuition reimbursement, student fees, transportation, and administration?

Program Design and Implementation

If a program were developed to use private schools to alleviate overcrowding in public schools, there are many program design and implementation issues that would need to be addressed. This report explores a number of these issues, including:

- **Selection and assignment of transfer students.** Who would be eligible to attend private schools under the transfer program? How would students be assigned to specific private schools? How would the transfer program affect students who already attend private schools? What issues concerning inclusion of special education or other special-needs students would need to be addressed?

- **Eligibility of private schools.** What criteria, if any, would be used to determine the eligibility of private schools to participate in the program?

- **Oversight and accountability.** Would students transferring to private schools become private school students or would they remain public school students receiving instruction in private schools? Would there be any public oversight or accountability for participating private schools? For example, would program administrators or evaluators monitor the achievement of students who transferred to private schools?

- **Religious instruction and activities.** Would participating students be allowed to opt out of religious instruction or religious activities?

- **Administrative issues.** What administrative activities need to be undertaken by public and/or private school authorities to implement and maintain the program? How would the program handle transfer students who leave their private school? Would the transfer program establish rules concerning the handling of disciplinary problems? Who would pay for any additional costs to parents that are associated with private school attendance, such as registration fees, book and material fees, school uniforms, and before- and after-school activities?

- **Duration of the transfer program.** What would happen to students and schools in the program when overcrowding no longer exists in a school district?

Constitutional and Other Legal Issues

- **Establishment clause.** Would the inclusion of religious schools as an option for participating students violate the Establishment Clause of the First Amendment to the U.S. Constitution? What are the legal precedents concerning the constitutionality of a transfer program? What program characteristics might affect its constitutionality? For example, would it make a difference whether public funds were provided to parents or private schools directly, how decisions are made about which children participate and what schools they attend, or whether the participating schools were pervasively sectarian?

- **Civil rights.** What would be the applicability and effect of the Fourteenth Amendment and civil rights laws on a transfer program? Would participating private schools be required to comply with anti-discrimination laws, and if so, what are the specific requirements that would apply?

Strategies for Answering the Study Questions

In order to answer this set of study questions, we have undertaken several different data collection and analysis strategies. We have conducted three surveys: a) a survey of 22 large, central-city school districts focusing on overcrowding and the district response; b) a survey of a sample of 1,000 private schools in the same geographic areas to determine space availability and the effect of possible program conditions on schools' willingness to participate in a transfer program; and c) a survey of 28 organizations representing private schools to gain their insights about the feasibility of a transfer program. The study also re-analyzed data drawn from an 1995-96 survey of private schools conducted by the National Center for Education Statistics (NCES). In addition, the study includes a legal analysis of constitutional issues and a conceptual analysis of design and implementation issues. This section of the report outlines the procedures for identifying the survey respondents as well as each of the major strategies for answering the study questions.[1]

[1] A matrix that matches study questions with data collection strategies is included in Appendix B of this report.

Survey of urban school districts. To conduct the overall study, it was first necessary to identify a set of urban school districts, because the congressional request focused on overcrowding in urban schools. We selected the districts using three criteria: 1) the school district was in a community classified as serving a "large central city" in the NCES Common Core of Data (CCD); 2) the district was among the 110 school districts nationally with the largest student enrollment; and 3) the district was the primary school district (i.e., had the highest enrollment) in its urban area.[2] This set of criteria enabled us to focus on districts that were both urban and large in size, and to avoid including multiple districts in the same city. Based on these criteria, we identified 34 school districts for further study.

To gain an initial understanding of the extent of overcrowding in these school districts, the Council of Great City Schools (CGCS), working with the Department of Education, conducted a preliminary e-mail survey of the 34 districts (all but 3 of the 34 school districts belong to the CGCS) in February 1997. This survey asked 1) whether or not the district had a problem of overcrowding; 2) the method used by the district to determine when a school is overcrowded; 3) any formal or informal definition or criteria of overcrowding; and 4) how many schools were overcrowded — and how many students were affected — at the start of the current school year. Responses were received from 33 of the 34 districts. The CGCS inquiry showed that 23 of the 34 districts had a problem with school overcrowding of a more than minimal nature (more than 10 percent of schools were overcrowded).[3] One of these districts (Santa Ana) was removed from the study at this point because only three private schools were located within its boundaries. The remaining 22 districts — large urban districts with significant overcrowding problems — became the focus of this study (Exhibit 1).

Exhibit 1

Urban School Districts with Overcrowding that Are Included in this Study

Baltimore City	Houston	New York City
Buffalo	Long Beach	Oakland
Chicago	Los Angeles	Philadelphia
Dade County	Memphis	Pittsburgh
Dallas	Milwaukee	Portland (OR)
Detroit	Nashville	San Antonio
Duval County	New Orleans	San Diego
El Paso		

[2] NCES defines "large central city" (locale code 1) as a metropolitan statistical area with a population greater than 400,000 or a density greater than 6,000 people per square mile. Four districts were excluded because they were smaller districts in a city with more than one school district (Aldine and Cypress-Fairbanks in Houston, Ysleta in El Paso, and North East in San Antonio).

[3] The eleven districts that reported no problem — or a very limited problem — with school overcrowding were Atlanta, Boston, Cleveland, Columbus, Denver, Indianapolis, Minneapolis, Newark, San Francisco, Seattle, and Washington, D.C.

To gain detailed information on the nature and extent of public school overcrowding, a broader survey was administered to the 22 large, urban school districts selected for study. The survey was mailed to the districts in May 1997. (See Appendix C for survey form.) The data collected included:

- definitions of overcrowding used by each district;
- amount of overcrowding (numbers of schools and students affected);
- reasons for overcrowding in each of the districts;
- methods that districts were using (or planning) to alleviate overcrowding; and
- any concerns, barriers, or costs that districts wished to raise about participating in a transfer program intended to alleviate overcrowding by sending some students to private schools.

District data were compared with data on private schools in the same locations to help determine the extent to which a private school strategy could solve the overcrowding problem. Only 15 of the 22 urban school districts responded to the detailed survey. The reluctance to respond may have been due in part to concern about the possible institution of a private school transfer program. However, all but one of the districts (21 out of 22) responded to at least one of the two surveys, and the report combines information from both inquiries to describe public school overcrowding and its determinants.

Survey of private schools. To examine private schools' interest in participating in a transfer program designed to alleviate overcrowding in public schools, as well as the potential number of spaces available for additional students, we conducted a survey of private schools located in the same geographic areas as the 22 school districts. Because some of these school districts are located in cities that contain more than one school district, we identified the private schools that had the same zip codes as public schools in these cities, using the universe of private schools from the NCES Private School Survey for 1995-96 and the universe of public schools from the NCES Common Core of Data.[4] From the resulting set of 3,926 private schools, we drew a representative sample of 1,000 private schools (stratified by grade level and religious affiliation).[5]

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[4] Various types of mismatches (e.g., incorrectly entered private school zip codes, private school zip codes that did not have equivalent public school zip codes) were resolved using the city and state information and post office zip code directories. The two-step process made it possible to identify private schools in the jurisdiction of a public school district even when no individual public school was located in the same zip code.

[5] Of these 1,000 schools, we later removed 186 schools from the sample because they were preschools that served no grade higher than kindergarten (131 schools) or because they had a special education orientation (55 schools).

A survey was sent to the private schools in May 1997 (see Appendix D for survey form). Information collected through this survey included:

- current enrollment, school capacity, and the number of additional students that the school could accommodate using current facilities;
- student characteristics, including the percentage of students from low-income families, with limited English proficiency, participating in Title I, and qualifying for special education;
- school admissions policies and practices, including the use of applications, interviews, test scores, discipline records, and other factors; number of applicants and acceptances in Fall 1996, and the use of waiting lists;
- tuition and fees, including the specific areas in which additional fees are paid and the typical costs, and the percentage of total operating costs reflected in tuition and fees;
- willingness to participate in a program to accept transfer students from overcrowded public schools under various conditions; and
- who is likely to play a role in deciding whether or not the school participates in a transfer program.

The overall response rate for this survey was 50 percent. The response rate was somewhat higher for Catholic and nonsectarian schools (55 percent and 53 percent, respectively) than for other religious schools (43 percent), and was quite low for Jewish schools (19 percent).

The overall response rate was pulled down by particularly low response rates in two of the largest cities: New York (23 percent response) and Los Angeles (40 percent). In these two communities, the Catholic dioceses were reluctant to participate in the study and this resulted in very low response rates for Catholic schools in these cities (9 percent in New York and 34 percent in Los Angeles). The response rate for other religious schools in New York was also quite low (24 percent). Across the other 20 communities, the response rate averaged 78 percent for Catholic schools and 63 percent overall.

The low response rates for these groups of schools may affect the generalizability of the survey results. In some cases it may be that non-respondents are less interested in participating in a possible transfer program. To the extent this is true, the survey results would be biased in favor of overestimating private school interest in participating and the number of spaces that would potentially be available for transfer students. However, the low response from New York Catholic schools appears to be due to factors other than disinterest in participating in a transfer program, since Cardinal O'Connor of the New York Archdiocese has publicly offered to accept transfer students from overcrowded New York public schools. If Catholic schools in New York tend to have more interest in participating in a transfer program and more excess capacity, in comparison to other private schools

in that city, the low response from New York Catholic schools could cause these survey results to underestimate the number of spaces available for transfer students.

Analysis of data from the NCES Private School Survey for 1995-96. To augment and expand the information from the private school survey conducted specifically for this study, we also used data from the NCES Private School Survey for 1995-96, a survey sent to every private school in the United States, to develop a descriptive portrait of the universe of private schools in the same 22 locations. This survey provides information on the number of private schools located in each of the 22 communities, their religious affiliations (if any), enrollments, grade levels, programmatic orientation or emphasis (if any), pupil/teacher ratios, and student race/ethnicity.

Survey of private school organizations. To probe the likely issues and concerns of organizations that represent private schools, we administered a brief questionnaire to a wide range of private school associations and organizations (see Appendix E for the survey form). To develop a list of appropriate organizations to poll, we reviewed a list of 46 private school organizations maintained by the Department's Office of Non-Public Education. We eliminated organizations that were unlikely to represent potential participants in a transfer program (e.g., organizations that focus on home schooling, do not represent schools in urban areas, or represent only schools for students with disabilities). We also eliminated organizations with duplicate memberships. Using this process, we identified 28 organizations (Exhibit 2) and sent them the survey questionnaire in May 1997; 19 of these organizations responded to the survey.

Exhibit 2

Private School Organizations Surveyed for this Study

Agudath Israel	Institute for Independent Education
American Association of Christian Schools	Lutheran Church–Missouri Synod
American Montessori Society	National Association of Episcopal Schools
Association of Christian Schools International	National Association of Independent Schools
Association of Christian Teachers and Schools	National Christian Schools Association
Association of French Schools in America	National Coalition of Alternative Community Schools
Association of Military Colleges and Schools of the United States	National Independent Private School Association
Association of Waldorf Schools of North America	Oral Roberts University Educational Fellowship
Christian Schools International	Solomon Schechter Day School Association
Council of Islamic Schools in North America	Southern Baptist Association of Christian Schools
Evangelical Lutheran Church of America	United Methodist Church
Friends Council on Education	United Pentecostal Schools
General Conference of the Seventh-Day Adventist Church	United States Catholic Conference
Greek Orthodox Archdiocese of North and South America	Wisconsin Evangelical Lutheran Synod

The organization survey offered respondents open-ended questions in order to obtain more detailed responses than are possible in a survey of 1,000 private schools. Topics addressed in the survey included associations' perceptions of the extent of space availability in their member schools, the willingness of their schools to accept transfer students from overcrowded public schools under various conditions, and any other concerns or issues the organizations wished to raise.

Analysis of program design and implementation issues. There are a wide range of design issues to be considered in drafting a program of this kind. Some of these issues have already been addressed in publicly-funded voucher programs in Milwaukee and Cleveland. To gain a better understanding of these issues, the Department commissioned an analysis by Dr. Paul Hill on the administrative procedures and costs of a transfer or voucher program. To supplement the in-depth analysis of the Cleveland program, we also reviewed other voucher programs and the general literature on school choice, and prepared an analysis of the specific design issues identified in the study questions.

Analysis of constitutional and other legal issues. A program that would transfer public school students to private schools would potentially raise a variety of constitutional and other legal issues. The Department of Education's Office of the General Counsel prepared an analysis of these issues, which is included as Chapter 6 of this report.

The Preliminary and Final Reports for this Study

A preliminary report released in September 1997 presented initial findings from this study based on the survey of private school organizations, the initial e-mail inquiry of school districts, and analysis of existing data from the NCES Private Schools Survey and Common Core of Data. The preliminary report provided information on the extent of overcrowding in urban school districts, the relative size of private education in urban communities, characteristics of private and public schools, the views of private school organizations about a possible transfer program, and legal issues raised by tuition reimbursement for private school attendance.

This final report expands upon the information presented in the earlier report by incorporating additional information collected through the study's survey of private schools in urban communities areas and through the more comprehensive survey of urban school districts regarding the extent of overcrowding. This new information enables the final report to examine the central questions of this study: In urban school districts with overcrowding problems, to what extent do local private schools have spaces available to accommodate transfer students from overcrowded public schools, what is the interest of private schools in participating in a transfer program, and what impact could a transfer program have on reducing overcrowding in public schools? In addition, the final report also examines issues important to consider in the potential design and implementation of a transfer program for alleviating overcrowding.

Chapter 2

Overcrowding in Selected Urban School Districts

Chapter Highlights

There is considerable variation in the methods that districts use to determine the existence and extent of overcrowding in their schools. The most common indicator of overcrowding among our sample of 22 urban school districts is to compare the number of students a building is designed to serve with its enrollment, but some districts use district-wide rules for computing building capacity rather than measuring the physical capacity of each building. Some districts considered other factors such as pupil/teacher ratios, use of portable buildings, or a range of quantitative and qualitative indicators.

Further, there are differences in the standards districts set for whether a certain enrollment level or class size means a school is overcrowded. In some districts, schools are considered overcrowded if they are operating at 80 percent or 85 percent of capacity, while in other districts, schools are not designated as overcrowded until they are operating at 105 percent or 110 percent of capacity. Among districts that use class size or pupil/teacher ratio indicators, the threshold for overcrowding frequently varies by grade level, with lower desired class sizes for lower grades. Here, too, there is substantial variation across districts; for example, desired class sizes at the kindergarten level range from as low as 20 students to as high as 30 students per class.

Despite those differences, however, overcrowding does appear to be a serious and longstanding problem in some urban school districts. Using each district's own indicators and standards, we found that among 34 large urban school districts, 22 had overcrowding rates ranging from 9 percent of the schools in Philadelphia to 89 percent in Dade County. Fourteen of the district have overcrowded conditions in at least 25 percent of their schools, and seven districts are experiencing overcrowding in more than 50 percent of their schools. The average amount by which actual enrollments exceed the capacities of overcrowded schools ranges from 10 percent to 41 percent in the nine districts that provided this information. Overcrowding tends to be more prevalent in elementary schools in most of the districts. Few districts expect to solve their overcrowding problems any time soon.

Definitions and Measures of Overcrowding

All of the districts that provided information define overcrowding as a building-level phenomenon. Individual school buildings are the units that are said to be overcrowded. A district might be described as overcrowded or as having an overcrowding problem, but the extent of overcrowding is determined on a school-by-school basis.

Districts use a variety of methods to identify overcrowded schools, but the most common method is to compare actual enrollment with building capacity or the number of students a school has been designed to serve. When a school's enrollment exceeds its designed building capacity, the school is said to be overcrowded (or, in districts that use multiple indicators, has met one of the possible criteria for determining overcrowding). Of the 15 districts responding to the questionnaire, 13 (87 percent) indicate that they consider whether the number of students enrolled is greater than the building capacity, and eight (53 percent) indicate that this is the method used most frequently to determine school overcrowding (Exhibit 3). Another commonly used method is to observe whether or not the school must use temporary buildings (12 districts), but only two districts indicate that this is the most commonly used method to determine overcrowding. Nine districts also consider whether class sizes or pupil/teacher ratios exceed desired levels in designating a school as overcrowded, but only two of the 15 districts use this method most commonly.

Exhibit 3

Methods Used to Determine School Overcrowding
in Fifteen Urban Districts, Fall 1996

Method	Number of Districts	
	Using Method	Most Common Method
Number enrolled greater than building capacity	13	8
Use of portable buildings	12	2
Class sizes or pupil teacher ratios over desired level	9	2
Other methods	6	2

Source: Survey of Urban School Districts with Overcrowding, 1997.

Some districts have established district-wide rules for computing building capacity, rather than measuring the physical capacity of each building. These rules usually designate a maximum desirable occupancy level in permanent (as opposed to temporary) classrooms — for example, 25 students per permanent classroom — with various rules on how to deal with nonclassroom space.

Several districts do not have a single computational method for determining a school's status, but rely on results from a range of indicators. For example, one district uses four or five indicators including enrollment in relation to designed capacity, but also the number of temporary buildings, the number of waivers to class size ceilings, the number of students redirected to adjacent schools, and the utilization rate for ancillary services. Another looks at the number of programs that have been eliminated because of lack of space and the amount of substandard space being used, as well as the extent to which a school exceeds enrollment capacity. Other indicators include library space (in

relation to enrollment), transfer requests, or the extent to which the school is operating year round (to alleviate overcrowding only).

Some districts have established standards that focus on the steps that schools have taken to address overcrowding rather than the conditions that have led to those actions. For example, one district determines whether or not a school is overcrowded based upon the extent to which it must bus students to other than the closest school to home, use portable buildings, or lease additional space. Under its teachers union contract, this district is required to maintain certain class sizes, so these actions (busing, portables, leasing) are an indication of the "costs" of maintaining those class sizes. Another district designates as overcrowded any school that has four or more portable buildings, each with two classrooms.

A few districts do not appear to have formal, district-wide standards, but designate schools as overcrowded on a case-by-case basis. The case-by-case approach appears to be most common when a district uses multiple indicators. In addition, some districts designate degrees of overcrowding based on the extent to which a school exceeds capacity. Others appear to look at a school's status on several indicators and then make a judgement about its condition. One district identifies three levels of overcrowded schools based on a multiple-indicator system.

Among the districts that consider indicators such as class sizes or pupil/teacher ratios, there are differences in desired class sizes and, hence, when a school is considered overcrowded. Most of these districts set different class size standards at different grades. It is common to set separate desired class sizes for kindergarten, elementary, middle school, and high school levels. So, for example, one district responding to the survey reports desired class sizes of 23-25 students at the elementary-primary level, 25-28 students at the elementary-intermediate level, and 28-30 at the secondary level. Another district reports desired class sizes of 21 students for grades K-3 and 25 students for grades 4-12. Districts vary considerably in their class size goals, even at the same grade level. For kindergarten, for example, one district reports a new statewide standard of 20 students per class, while others report 21 students, 23-25 students, 27 students, and even 30 students as desired maximum numbers of students per kindergarten class.

Even among the districts that focus on building capacity, not all have equivalent standards for designating schools as overcrowded. Some standards are quite simple - overcrowding is said to exist when enrollment exceeds a building's capacity. Other standards designate a school as overcrowded based on a threshold in relation to capacity. In some districts, schools are considered overcrowded if they are operating at 80 percent or 85 percent of capacity, while in other districts, schools are not designated as overcrowded until they are operating at 105 percent or 110 percent of capacity. It should be borne in mind, however, that because districts compute capacity indicators differently, operating at 85 percent of capacity in one district may be equivalent to operating at over 100 percent in another.[6]

[6] For example, there are different rules across districts for how non-regular classroom space is treated in the capacity formulas, and there are also differences in the expected (or theoretical) numbers of students per classroom.

A number of districts have set standards that vary by grade level. An elementary school may be designated as overcrowded when its enrollment exceeds 80 percent of capacity while a high school in the same district may not be considered overcrowded until its enrollment exceeds capacity by 100 percent or more. One district sets different standards for special education, grades 1-2, grades 3-5, middle schools, and high schools. This approach means that a school may be considered overcrowded for some grades but not for others. Another district sets different square footage per student requirements for elementary and secondary school schools — an elementary school is overcrowded if it provides less than 80 square feet per student while a secondary school providing less than 100 square feet per student is considered overcrowded. There are also differences in the ways districts incorporate non-classroom space (halls, lunch rooms, laboratories, etc.) into their calculations. Thus, a school that is considered overcrowded based on building capacity in one district might not be so designated in another.

Extent of Overcrowding in Selected Urban Districts

Of the 34 districts in the initial e-mail inquiry, 22 indicated that they had a moderate to severe level of overcrowding. These districts had designated between 13 and 91 percent of their schools as overcrowded (see Exhibit 11 at the end of this chapter). In reading this section, it is important to bear in mind that the levels of overcrowding reported here are based on individual district standards and definitions, which vary considerably across the districts.

Several Florida and Texas districts reported some of the highest levels of overcrowded schools in our study. The greatest rate of school overcrowding was reported by Dade County (91 percent of schools), while El Paso indicated that 71 percent of its schools were overcrowded. Outside of the South, the highest rates were reported in Milwaukee (87 percent of schools) and New York City (56 percent of schools). Overcrowding appeared to be more concentrated in the South, with nine of 12 urban southern districts reporting overcrowding rates of over 30 percent of schools. For the 22 districts as a whole, 35 percent reported that 30 percent or more of their schools were overcrowded.

When we asked the 22 districts more detailed questions about the extent of overcrowding, a slightly different picture emerged than was reported in the Preliminary Report. First, three of 15 districts responding indicated that no overcrowding existed in Fall 1996 (see Exhibit 11). Two of these districts, Oakland and Buffalo, had previously indicated relatively low rates of school overcrowding in the e-mail inquiry (13 and 14 percent of schools, respectively), but one of the districts, San Antonio, had previously indicated that 53 percent of its schools were overcrowded. Of the remaining 12 districts, most reported similar numbers of schools and/or students affected by overcrowding as reported in the e-mail inquiry, but there were some exceptions. Los Angeles reported almost three times the number of overcrowded schools, increasing its overcrowding rate from 18 percent to approximately 39 percent of schools. Pittsburgh reported more than double the number of overcrowded schools, raising its percentage of overcrowded schools from 13 percent to 28 percent. Smaller increases were recorded in New York City, which reported that 62 percent of schools were overcrowded, up from 56 percent in the earlier inquiry. While the number of overcrowded San Diego schools increased only slightly, the percentage of affected students increased

from 24 percent to 35 percent. On the other hand, Nashville-Davidson reported a lower number of overcrowded schools, bringing its rate of overcrowding down from 34 percent to 19 percent, and Philadelphia reported about half the number of overcrowded schools as was reported previously, bringing its percentage of overcrowded schools down from 16 percent to 8 percent.

Nevertheless, these changes do not alter appreciably the overall observations in the Preliminary Report about the extent and geographic location of overcrowded schools. Combining data from the both the initial e-mail inquiry and the subsequent survey, about two-thirds of the districts have overcrowded conditions in at least 25 percent of their schools (Exhibit 4). Seven of these districts are experiencing overcrowding in more than 50 percent of their schools (Baltimore City, Dade County, El Paso, Milwaukee, New Orleans, New York City, and San Antonio).

Exhibit 4

Extent of Overcrowding in Individual Urban Districts, Fall 1996

School District	Percentage of Schools with Overcrowding	Percentage by Which Enrollments Exceed School Capacities
Baltimore City	53%	10%
Buffalo	0%	n/a
Chicago	29%	n/a
Dade County	89%	29%
Dallas	38%	n/a
Detroit	n/a	n/a
Duval County	23%	n/a
El Paso	71%	n/a
Houston	30%	11%
Long Beach	n/a	n/a
Los Angeles	43%	*
Memphis	33%	20%
Milwaukee	87%	*
Nashville	19%	36%
New Orleans	57%	30%
New York City	68%	22%
Oakland	13%	n/a
Philadelphia	9%	n/a
Pittsburgh	29%	14%
Portland	15%	n/a
San Antonio	53%	n/a
San Diego	26%	41%

* School capacities exceed enrollments in Los Angeles and Milwaukee.

Source: Survey of Urban Districts with Overcrowding, 1997.

There are sizeable differences across districts in the extent of overcrowding in individual schools. The proportion of schools experiencing overcrowded conditions ranges from a low of 9 percent in Philadelphia to 89 percent in Dade County. Similarly, the average amount by which actual enrollment exceeds the capacity of overcrowded schools ranges from 10 percent to 41 percent across nine of the eleven districts that provided data on school capacities (Exhibit 4). Two of the districts (Los Angeles and Milwaukee) report school capacities that are greater than current enrollments because their survey responses reflect adjustments made to accommodate more students (e.g., year-round schools, use of non-classroom space, etc.). Although these adjustments technically eliminate the status of overcrowding in these schools, they are not considered desirable from an educational standpoint.

Further, there is only a limited relationship between the percentage of overcrowded schools in a district and the extent of overcrowding in the average overcrowded school. For example, San Diego reports that 26 percent of its schools are overcrowded but that those schools are serving 41 percent more students than district officials consider to be their capacity. On the other hand, New York City reports that 68 percent of its schools are overcrowded and that these schools serve about 22 percent more students than their capacity.

While it may appear that some districts are willing to tolerate far more overcrowding in overcrowded schools than others, this may not be the case. The findings about differences in average "excess enrollment" rates in overcrowded school may reflect different policies about how to determine when schools are over capacity or overcrowded. As we have already seen, districts use different indicators and set different standards for when schools are considered overcrowded. It may be that districts that set somewhat lower thresholds for when a school is overcrowded may tolerate higher numbers of additional students in those schools. Exploring the relationship between overcrowding standards and overcrowding rates is an important issue not possible within the scope of this study, however.

Overcrowding tends to be more prevalent in elementary schools in most of the districts. Among the 12 districts reporting data on overcrowded schools, ten indicate greater overcrowding at the elementary level and two (Philadelphia and San Diego) indicate greater overcrowding in middle/junior high schools and high schools (Exhibit 5). Sizeable differences in conditions between grade levels occur in many of these districts; for example, in Pittsburgh overcrowding is present in 40 percent of elementary schools but only 7 percent of middle and high schools.

Exhibit 5

Percentage of Schools Experiencing Overcrowding, by Grade Level, in Individual Urban Districts

School District	Elementary Schools	Middle, Junior High, and High Schools
Baltimore City	57%	42%
Dade County	96%	83%
Houston	31%	28%
Los Angeles	46%	34%
Memphis	38%	25%
Milwaukee	98%	60%
Nashville	28%	0%
New Orleans	63%	43%
New York City	75%	55%
Philadelphia *	6%	16%
Pittsburgh	40%	7%
San Diego	24%	33%

* Philadelphia rates are Spring 1997.

Source: Survey of Urban Districts with Overcrowding, 1997; NCES Common Core of Data, 1995-96.

The size of the overcrowding problem also varies considerably among districts when measured as the number of students in excess of the current capacities of the public schools. Among the nine districts that provided this information, the amount of "excess enrollment" ranges from as few as 1,260 students in Pittsburgh to as many as 124,000 in New York City (Exhibit 6). When compared with actual private school enrollment levels in each of the nine cities, the public school "excess enrollment" ranges from 10 percent of private school enrollments in Pittsburgh to 149 percent of private school enrollments in Dade County. In six of these nine districts, the public school excess enrollment amounts to 39 percent or more of private school enrollments.

Exhibit 6

Number of Students Over Public School Capacities
in Relation to Total Public and Private School Enrollments,
in Individual Urban Districts

School District	Number of Students Over Capacity (Fall 1996)	Percent of Public School Enrollments (Fall 1995)	Percent of Private School Enrollments (Fall 1995)
Baltimore City	4,823	5%	25%
Dade County	69,192	22%	149%
Houston	8,318	4%	40%
Memphis	6,743	6%	39%
Nashville	3,623	5%	19%
New Orleans	8,410	10%	41%
New York City	124,103	12%	53%
Pittsburgh	1,260	3%	10%
San Diego	13,610	10%	80%
Total	240,082	12%	31%

Source: Survey of Urban Districts with Overcrowding, 1997; NCES Private Schools Survey, 1995-96.

A transfer program designed to accommodate all of the "excess" public school enrollments would, in several of these cities, be similar in size to the largest of the recent voucher experiments. The Milwaukee voucher program is expected to serve about 6,000 students in the 1998-99 school year (up from 1,600 in the previous year, in the wake of a state supreme court decision allowing the participation of religious schools), and the Cleveland program is anticipated to serve about 4,000 students.[7] However, programs intended to alleviate overcrowding in the districts with the largest amounts of excess enrollment (124,000 students in New York and 69,000 in Dade County) would have to be many times larger than existing voucher programs.

[7] Privately-funded voucher programs currently operating in 30 cities tend to be much smaller, providing vouchers to an average of 400 students in each city. The largest of the privately-funded voucher programs are in Milwaukee (4,268 students), New York City (1,200), Indianapolis (1,094), and San Antonio (850). Seven cities have programs serving between 300 and 500 students, and 19 cities have very small programs serving fewer than 300 students.

Causes of Overcrowding

Three reasons for overcrowding dominate the survey responses among districts with overcrowded schools: insufficient new school construction, rapid but uneven enrollment growth (in some areas of the district but not others), and immigration to the United States (Exhibit 7). All 12 of the districts that report overcrowded schools also report insufficient school construction, and nine of these districts also indicate that it is a main reason for overcrowding (districts were instructed to select up to two main reasons). Ten of the districts indicate rapid enrollment growth in some areas of the district but not others, and five of those districts select it as a main reason. In addition, seven of the districts cite immigration to the United States as a factor in overcrowding, and two districts — New York City and Philadelphia — indicate that it is a major factor. Seven districts also cite rapid enrollment growth at some grade levels but not others, but none cites it as a main factor.

No other reason was selected by more than half the respondents but two other factors were selected as main factors by at least one of the districts. New Orleans and Memphis cite the closure of old or deteriorating schools as a main factor. Philadelphia indicates migration from elsewhere in the United States as a main factor and three additional districts consider it a factor but not a main factor.

Exhibit 7

Reasons for Overcrowded Conditions in Twelve Urban Districts

Reason	Number Indicating a Reason	Number Indicating Main Reason
Insufficient new school construction	12	9
Rapid enrollment growth in parts of district	10	5
Rapid enrollment growth due to immigration to the U.S.	7	2
Rapid enrollment growth in some grade levels only	7	0
Rapid enrollment growth due to migration within the U.S.	4	1
Closure of older or deteriorating schools	3	2
Insufficient resources to hire additional teachers	2	0
Inability to find sufficient teachers with appropriate skills	0	0

Note: Districts could select up to two main reasons.

Source: Survey of Urban Districts with Overcrowding, 1997.

In response to an open-ended question on additional important factors in overcrowding, some districts indicate that state or local mandates to reduce class size have affected overcrowding (three districts), presumably by lowering the threshold at which a school is designated as overcrowded. Two districts (New York City and Los Angeles) indicate increases in birthrates as important factors. One district indicates that the introduction of new programs has increased overcrowding while another

indicates that difficulty in finding qualified bilingual teachers has resulted in overcrowded classrooms. One district cites a healthy economy that triggered increased enrollment.

Overcrowding problems are sometimes but not always related to recent growth in overall enrollments. During the six-year period from 1989 to 1995, six of the districts experienced double-digit increases in enrollments (Long Beach, 19 percent; Dade County, 16 percent; New York City, 14 percent; Duval County, 14 percent; Philadelphia, 14 percent; and Buffalo, 11 percent) (Exhibit 8). Other districts experienced small increases or even declines in enrollments.

Exhibit 8

Change in Enrollments in Individual Urban Districts,
Fall 1989 to Fall 1995

School District	Enrollment		Change in Enrollment	Percent Change
	Fall 1989	Fall 1995		
Baltimore City	102,820	103,547	727	0.7%
Buffalo	41,890	46,489	4,599	11.0%
Chicago	390,052	392,815	2,763	0.7%
Dade County	276,694	320,146	43,452	15.7%
Dallas	131,572	142,494	10,922	8.3%
Detroit	171,389	171,244	-145	-0.1%
Duval County	105,209	120,179	14,970	14.2%
El Paso	63,792	61,303	-2,489	-3.9%
Houston	187,839	195,311	7,472	4.0%
Long Beach	67,872	80,520	12,648	18.6%
Los Angeles	600,852	643,409	42,577	7.1%
Memphis	105,405	110,157	4,752	4.5%
Milwaukee	87,618	92,539	4,921	5.6%
Nashville	66,953	69,727	2,774	4.1%
New Orleans	78,895	82,577	127,724	4.7%
New York City	889,210	1,016,934	1,695	14.4%
Oakland	50,604	52,299	3,682	3.3%
Philadelphia	184,387	209,344	24,957	13.5%
Pittsburgh	39,477	39,376	-101	-0.3%
Portland	50,764	52,389	1,625	3.2%
San Antonio	60,203	57,188	-3,015	-5.0%
San Diego	118,450	129,737	11,287	9.5%

Source: NCES Common Core of Data, 1995-96.

However, in many of these districts, overcrowding has been a long-standing problem, and most of the districts responding to our survey indicate that they have had overcrowded schools for many years (Exhibit 9). All but two of the districts responding to this item (10 of 12) indicate that they have had overcrowded schools since at least the mid 1980s. A few indicate that the problem started 20 or more years ago.

Exhibit 9

Duration of Overcrowding in Individual Urban Districts

School District	How Long a Problem?	Anticipated End
Baltimore City	Since 1992	Don't know
Dade County	Since 1980	Don't know
Houston	Many years	Don't know
Los Angeles	Since 1974	Don't know
Memphis	20 years	2002
Milwaukee	10 years+	Don't know
Nashville	20 years	Don't know
New Orleans	40 - 50 years	Don't know
New York City	27 years	Don't know
Philadelphia	1985	Don't know
Pittsburgh	Since 1992	1999
San Diego	Many years	Don't know

Source: Survey of Urban Districts with Overcrowding, 1997.

Only two of the 12 districts, Pittsburgh and Memphis, anticipate the end of overcrowding within the next four or five years. The rest cannot state a likely endpoint.

Methods for Alleviating Overcrowding

The main ways in which districts with overcrowding are addressing the issue are 1) building new schools or renovating existing school buildings, and 2) using portable buildings. Eleven of the 12 districts with overcrowding indicate that they are building or renovating schools, and all 12 districts are using portable buildings (Exhibit 10). Two other approaches are used by more than half the districts; eight districts are renting or leasing additional space and seven districts are relying on larger class sizes than desirable.

Exhibit 10

Methods Being Used to Address Overcrowding Problems
in Twelve Urban Districts, Fall 1996

Method	Number Using Method
Using portable buildings	12
Building new or renovating schools	11
Renting/leasing additional space	8
Larger class sizes than desirable	7
Year round schooling	2
Hiring additional teachers	2
Split-day sessions	1
Reducing/eliminating electives	0
Other methods	4

Source: Survey of Urban Districts with Overcrowding, 1997.

Several of the options we asked about are used by few or no districts as means to relieve overcrowding. Only one district is using split-day sessions and two districts are using year-round schools (one additional district is trying this approach at one pilot school). Two districts are hiring additional teachers. No districts are reducing or eliminating electives. An opportunity for districts to indicate other approaches reveals that two districts are expropriating non-classroom space (support space, teacher rooms, etc.) to expand classroom space, one is combining two classes in a single classroom, one is reducing room size, one is opening charter schools, and one is reopening previously closed schools.

In short, districts are using traditional methods to address overcrowding but it is apparent that the solutions are only partially successful. As already noted, districts have cited the lack of sufficient school construction as the most important reason for overcrowding. They also see no early end to the overcrowding problem. So while construction and renovation are taking place in almost all the districts, they are not occurring at a pace sufficient to solve the overcrowding problem in most cases.

Exhibit 11

Definitions and Extent of Overcrowding in Individual Urban School Districts, Fall 1996

School District	Definition of Overcrowding	Extent of Overcrowding	
		Initial E-Mail Results	Survey Results
Baltimore City Public Schools	A school is overcrowded when enrollment is more than 85% of capacity.	85 schools (48% of schools)	85 schools (53%)
Buffalo Public Schools	District uses SEA formulas for determining effective capacity and rated capacity compared with number of classrooms and classroom site. LEA analyzes effective capacity of classroom space per building compared with enrollment projections.	10 schools (14% of schools)	No overcrowding
Chicago Public Schools	An elementary school is overcrowded when operating at or above 80% of its capacity. A high school is overcrowded when operating above 100% of its program capacity. Overcrowding is determined by updating the inventory of classrooms at each school, their size and usage; recalculating design capacities, and comparing capacities with enrollments.	176 schools (29% of schools)	No response
Dade County Public Schools	A school is overcrowded when enrollment is more than 100% of "permanent program capacity."	258 schools (91% of schools)	250 schools (89%)
Dallas Independent Schools	"A school is determined to be overcrowded when the capacity of the permanent building is less than the enrollment of the school." Permanent building capacity = (# of classrooms) times (student/teacher ratio) times (utilization factor).	74 schools (38% of schools)	No response
Detroit Public Schools	A school is overcrowded if projected enrollment is more than 100% of building capacity.	4,000-5,000 students are bused to relieve overcrowding	No response
Duval County School District	Overcrowding is based on capacity as defined by a state formula.	34 schools (23%) are more than 200 students over capacity. All middle schools are affected.	No response

Exhibit 11 (contd.)

School District	Definition of Overcrowding	Extent of Overcrowding	
		Initial E-Mail Results	Survey Results
El Paso Independent School District	"A theoretical maximum student capacity has been established for each campus based on historical student/teacher ratios utilizing the number of existing classrooms available. These capacities assume the historical distribution between regular and special program classes will continue from year to year. Actual enrollments are compared to the theoretical values." For regular programs: elementary school maximum teacher/student ratio is 22:1; for middle schools it is 25:1; for high schools the desired ratio is 25:1 but it often rises to 30:1. For special programs the ratios are grade 1, 15:1, grades 2-6, 20:1; for 7-12, 15:1.	59 of 83 schools (71% of schools)	No response
Houston Independent Schools	The district uses several criteria to determine whether a school is overcrowded. The most common indicators are: a) an excessively large enrollment that diminishes the sense and opportunity for unique student identity within the school community; b) excessive numbers of temporary rooms or buildings; c) extensive capping (i.e., redirecting students from the neighborhood to adjacent or more remote schools); d) excessive utilization or inequitable availability of ancillary or enrichment activities; and e) excessive waivers for class size or breakdown in programmatic viability.	79,051 students (38% of students)	74 schools (30% of schools)
Long Beach Unified School District		No response	No response
Los Angeles Unified School District	Once school enrollment reaches the district-calculated capacity, the school is capped. At that point, additional students are unable to enroll and are bused to other schools.	81 schools capped by Oct 4, 1996 (13% of schools)	242 schools (43%)
Memphis City Schools	"Principals are usually the first to indicate that their school is overcrowded. Facility capacity and level of utilization are identified for each school. When the enrollment exceeds the identified capacity of a school by 5% the facility is considered to be overcrowded."	50 schools (31% of schools)	50 schools (33%)

Exhibit 11 (contd.)

School District	Definition of Overcrowding	Extent of Overcrowding	
		Initial E-Mail Results	Survey Results
Milwaukee Public Schools	School is overcrowded 1) when students must attend classes in substandard space, 2) when programs must be eliminated or curtailed to provide classroom space, 3) when class sizes become very large, 4) when enrollment exceeds capacity of building.	131 schools (87% of schools)	132 schools (87%)
Nashville-Davidson Metropolitan Public Schools	Criteria: 1) number of portable classrooms; 2) enrollment projections; 3) historical transfer request data. Determination is made annually based on these criteria.	40 schools (34%) District using 481 portable classrooms.	22 schools (19%)
New Orleans Public Schools	A school is overcrowded when enrollment is more than 105% of program capacity. Program capacity = (total # of classrooms minus # of rooms for special programs) times (staffing ratio or numbers of students per teacher). Special program rooms are those to which students are not regularly assigned every day (such as a chem. lab). The district conducts formal surveys of buildings on a five-year cycle, updating as needed.	About half the schools were overcrowded based on 1995 survey.	62 schools (57%)
New York City Public Schools	"Whether a school is overcrowded is determined through a utilization formula which measures capacity based on the number of rooms in a school that are used or could potentially be used to house classes. The formula also makes allowances for those subjects that require specialized...space." (See Appendix F for a detailed description of the formula.) There are different formulas for elementary, middle, and high schools.	591 schools (56% of schools)	657 schools (68%)
Oakland Unified School District	"The formal criteria for overcrowding relates to the number of students assigned to each grade level. This ties into bargaining agreement with the teacher unions and other district standards for maximum class size. A school is overcrowded when projected enrollment exceeds the school site's capacity to accommodate additional enrollment."	12 schools (13% of schools)	No overcrowding
Philadelphia City School District	"The School District of Philadelphia has a formula for class size: K-3 = 30 per class; 4-12 = 33 per class. When all classrooms are full (and art, music, and science classes are floating) the school is designated overcrowded. This formula is spelled out in the bargaining agreement with the teachers/ union."	41 schools have bussed students, leased facilities, or portable classrooms (16% of schools)	21 schools (9%)

Exhibit 11 (contd.)

School District	Definition of Overcrowding	Extent of Overcrowding	
		Initial E-Mail Results	Survey Results
Pittsburgh Public Schools	A school is overcrowded when enrollment is over 110% of capacity. Capacity is determined by the number of classrooms available at 25 students per classroom.	11 schools (13% of schools)	24 schools (29%)
Portland (OR) Public Schools	Formal criteria based on room by room capacity determination for regular education and special education teaching stations. Current enrollment is compared to calculated capacity for current building program.	15 schools (15% of schools)	No response
San Antonio Public Schools	The definition is informal. A school is considered overcrowded with 4 or more portable classroom buildings (2 rooms per building)	48 of 90 schools (53% of schools)	No overcrowding
San Diego Unified School District	"The board has adopted an overcrowding matrix for elementary schools which ranks each school on a set of facilities standards relative to overcrowding (enrollment total, pupil population density, percentage of portable classrooms, library square footage per student). Various degrees of facilities stress are indicated. There is no official review of overcrowding for the district's middle and senior high schools." Schools are classified severely distressed, distressed, or substantially below guidelines.	36 schools in the three categories (23% of schools)	40 schools (26%)

Note: Data are for the beginning of the 1996-97 school year. When not supplied by the district, we have used 1993-94 counts of schools and 1996-97 counts of enrollment to compute percentages of schools and/or students affected by overcrowding.

Source: Survey of Urban Districts with Overcrowding, 1997, and preliminary e-mail survey conducted by the Council of Great City Schools.

Chapter 3

A Profile of Private Schools in Selected Urban Communities with Public School Overcrowding

Chapter Highlights

Private schools are relatively plentiful in the 22 urban communities examined in this study, with over 3,000 private schools serving 774,000 students — 16 percent of total public and private school enrollments, compared to 11 percent nationally. Catholic schools are the most common private schools in these communities, enrolling 57 percent of all private school students. About 30 percent of private school students are enrolled in other religious schools and 13 percent in nonsectarian schools.

Private schools are considerably smaller than public schools in these urban communities — on average, about one-third the size of public schools at the same grade level. At the elementary level, private schools in these 22 communities enroll an average of 204 students, compared to 705 students in the average public school. The private schools also tend to have lower pupil/teacher ratios, averaging 14.9 students per full-time equivalent teacher, compared to 19.5 pupils per teacher in the public schools in these districts. It should be noted, however, that the pupil/teacher ratio for Catholic schools (19.4) is about the same as in the public schools and is higher in a few of the communities.

Private schools in these 22 urban communities have higher proportions of minority and low-income students compared to private schools nationally, but these enrollments are still well below those in public schools in these same communities. Minority students account for 43 percent of the private school students in the 22 communities, compared to 22 percent of private school enrollments nationwide and 82 percent of the public school students in the 22 communities. Students eligible for free or reduced-price lunches constitute 32 percent of private school enrollments in the 22 communities, compared to 12 percent of private school students in central cities nationally and 64 percent of public schools students in the 22 communities.

Average tuition for these schools is $3,654, although secondary schools ($4,869) are more expensive than elementary schools ($2,978), and nonsectarian schools ($5,888) cost more than Catholic schools ($2,406) and other religious schools ($3,586). Tuition revenues provide 82 percent of total operating funds for these private schools, and reliance on non-tuition revenues is particularly high in schools charging relatively low tuition.

Private schools in the 22 communities accept most (83 percent) of the students that apply, although schools with higher tuitions are more selective. Two-thirds of the schools provide scholarships or tuition discounts based on financial need. Financial aid is provided to 22 percent of all students and 35 percent of low-income students in these private schools and offsets about 45 percent of tuition for the students who receive this assistance, reducing their average tuition from $3,654 to $2,001.

The Size of Private School Education in Selected Urban Communities

There are 3,136 private schools enrolling approximately 774,000 students located within the boundaries of the 22 urban school districts in this study (Exhibit 12).[8] The percentage of enrollments in these 22 urban communities in private schools (16 percent) is higher than the percentage of private school enrollments for the nation as a whole (11 percent).[9] It should be noted, however, that not all the students enrolled in private schools necessarily live within the jurisdictions where the schools are located. Some may commute from surrounding areas.[10]

While the 22 communities as a whole show a relatively high rate of private school enrollment (when compared with the national average for private education) there is considerable variation across locations. The highest rates of private school attendance are in Philadelphia and Pittsburgh, where 26 and 24 percent of all students are enrolled in private schools, respectively. Also showing relatively high rates of private school enrollments are Nashville (21 percent) and New Orleans (20 percent). Milwaukee, New York City, Buffalo, and Chicago all show private school enrollments of 17 percent or greater. At the other end of the spectrum, Long Beach, Detroit, Houston, El Paso, and San Antonio all have private school enrollment rates at or below 10 percent.

Characteristics of Private Schools

Religious or nonsectarian affiliation. In general, in these 22 communities, private school education is religious school education, and Catholic schools predominate (Exhibit 13). Nonsectarian private schools account for 27 percent of all private schools, but because these schools tend to be small in size, they only account for 13 percent of private school enrollments. Catholic schools account for 36 percent of all private schools in the 22 communities; however, they enroll 57 percent of all private school students. Other religious schools account for about one-third of both private schools and private school enrollments.

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[8] For purposes of this analysis, a school offers instruction in some combination of grades K-12. We have omitted from this analysis an additional 563 institutions that identified themselves as "early childhood program/day care center" in orientation, and offer only kindergarten (or below). We have also eliminated 209 schools with a special education emphasis. To ensure comparability, we have also omitted similar public schools.

[9] NCES, *Digest of Education Statistics 1996*, Table 57, p.70.

[10] Private school enrollments are depressed slightly, however, because the analysis omits 9,400 kindergarten students in day care/early childhood centers in the 22 communities.

Exhibit 12

Private and Public School Enrollments in Individual Urban Communities

Location	Number of Private Schools	Private School Enrollment	Public School Enrollment	Percentage of Total Students Enrolled in Private Schools
All 22 communities	3,136	774,162	4,189,724	16%
Baltimore City	84	19,671	103,547	16%
Buffalo	42	10,237	46,489	18%
Chicago	322	80,674	392,815	17%
Dade County	191	46,565	320,146	13%
Dallas	73	17,966	142,494	11%
Detroit	103	17,328	171,244	9%
Duval County	65	17,002	120,179	12%
El Paso	30	6,728	61,303	10%
Houston	139	20,559	195,311	10%
Long Beach	49	6,543	80,520	8%
Los Angeles	472	92,128	643,409	13%
Memphis	71	17,466	110,157	14%
Milwaukee	102	22,394	92,539	19%
Nashville	55	18,612	69,727	21%
New Orleans	58	20,274	82,577	20%
New York City	788	235,592	1,016,934	19%
Oakland	44	8,453	52,299	14%
Philadelphia	237	72,144	209,344	26%
Pittsburgh	54	12,543	39,376	24%
Portland	44	8,073	52,389	13%
San Antonio	27	6,152	57,188	10%
San Diego	86	17,058	129,737	12%

Sources: NCES Private School Survey, 1995-96; NCES Common Core of Data, 1995-96.

Exhibit 13

Number of Private Schools and Students, by Religious Affiliation, in 22 Urban Communities, 1995-96

Affiliation	Schools	Students
Catholic	1,203 (36%)	437,837 (57%)
Other Religious	1,205 (36%)	233,534 (30%)
Nonsectarian	728 (27%)	102,761 (13%)
Total	3,136 (100%)	774,162 (100%)

Source: NCES Private School Survey, 1995-96.

Looking at religious schools by denomination, we again see the predominance of Catholic education (Exhibit 14). Catholic schools comprise 50 percent of religious schools and 65 percent of religious school enrollments in these 22 communities. Other than Roman Catholic, there are few religious groups or denominations with a sizeable presence. The next most common religious affiliation in these communities is Jewish, which accounts for 12 percent of both religious schools and religious school enrollments. Protestant schools account for 35 percent of religious schools and 21 percent of enrollments; these schools consist primarily of nondenominational Christian (5 percent of enrollments), Lutheran (4 percent), Baptist (4 percent), and Episcopal (2 percent) schools. Schools that are affiliated with conservative Christian organizations account for 8 percent of all private schools and 5.5 percent of all private school enrollments in these communities.[11] In contrast, conservative Christian schools account for 19 percent of private schools and 14 percent of private school enrollments nationally. Finally, Islamic schools and Greek Orthodox schools each account for 1 percent or less of private school students in the 22 communities.

Exhibit 14

Number of Private Schools and Students, by Religious Group, in 22 Urban Communities, 1995-96

Religious Affiliation	Number of Schools	Percentage of Religious Schools	Percentage of Religious School Enrollment
Roman Catholic	1,203	50%	65%
Lutheran	193	8%	4%
Baptist	133	6%	4%
Episcopal	61	3%	2%
Other Christian	457	19%	11%
Jewish	291	12%	12%
Islamic	33	1%	*
Greek Orthodox	18	1%	*
Other	20	1%	1%

* Less than one-half of one percent

Source: NCES Private School Survey, 1995-96.

[11] "Conservative Christian" schools are defined as members of the Association of Christian Schools International, Accelerated Christian Education, the American Association of Christian Schools, and the Oral Roberts Educational Fellowship.

The availability of Catholic, other religious, and nonsectarian private schools varies considerably across the 22 communities (Exhibit 15). In some of these communities, Catholic schools offer most of the private education available (enrolling 88 percent of private school students in Buffalo, 81 percent in San Antonio, 80 percent in Philadelphia, 78 percent in New Orleans, 77 percent in Pittsburgh, and 75 percent in Chicago). On the other hand, Catholic schools enroll relatively small proportions of private school students in Nashville (26 percent), Memphis and Houston (31 percent each), and Duval County (36 percent).

Exhibit 15

Distribution of Private School Students, by Religious Affiliation, in Individual Urban Communities, 1995-96

	Catholic	Other Religious	Nonsectarian
Baltimore City	59%	23%	19%
Buffalo	88%	2%	10%
Chicago	75%	15%	12%
Dade County	43%	40%	17%
Dallas	40%	45%	15%
Detroit	63%	26%	11%
Duval County	36%	46%	18%
El Paso	67%	26%	7%
Houston	31%	45%	24%
Long Beach	48%	40%	12%
Los Angeles	45%	36%	19%
Memphis	31%	60%	8%
Milwaukee	62%	30%	7%
Nashville	26%	58%	16%
New Orleans	78%	10%	12%
New York City	54%	34%	12%
Oakland	59%	15%	26%
Philadelphia	80%	15%	5%
Pittsburgh	77%	11%	13%
Portland	65%	11%	24%
San Antonio	81%	10%	10%
San Diego	49%	29%	22%
All 22 communities	57%	30%	13%
National average	51%	34%	15%

Note: Percentages may not add to 100 due to rounding.
Source: NCES Private School Survey, 1995-96.

Nonsectarian schools, which enroll 15 percent of private school students nationally and 13 percent across the 22 urban communities in this study, have a much more sizeable presence in

certain communities, particularly on the West Coast and in Florida. Nonsectarian schools enroll about one-fourth of private school students in Oakland, Portland, and San Diego, and they enroll between 17 and 19 percent of private school students in Los Angeles, Baltimore, Duval County, and Dade County.

School orientation or emphasis. Most private schools in the 22 urban communities describe themselves as "regular" in their curricular emphasis, but 15 percent report having a special emphasis (Exhibit 16). Montessori schools account for 6 percent of the private schools in these communities and an additional 6 percent describe themselves as "alternative" schools (6 percent); the remaining 3 percent indicate some other special program emphasis. It should be noted that private schools serving only special education students were not included in this study; if they were, the percentage of schools reporting a special emphasis would be somewhat higher.

Schools that have a special emphasis tend to be nonsectarian. Nonsectarian schools account for two-thirds of the schools with a special emphasis, including 83 percent of the Montessori schools and 56 percent of the alternative schools. Indeed, 41 percent of the nonsectarian schools reported some kind of special orientation or emphasis. Montessori schools account for over half of all nonsectarian schools with special emphases.

Exhibit 16

Private School Orientation or Emphasis, by Religious Affiliation, in 22 Urban Communities, 1995-96

School Orientation	Regular	Montessori	Alternative	Other Special Emphasis
Total	2,665 (85%)	195 (6%)	178 (6%)	98 (3%)
Catholic	1,168 (97%)	11 (1%)	13 (1%)	11 (1%)
Other Religious	1,070 (89%)	22 (2%)	66 (6%)	47 (4%)
Nonsectarian	427 (59%)	162 (22%)	99 (14%)	40 (5%)

Source: NCES Private School Survey, 1995-96.

Private schools with special orientations are quite small (Exhibit 17). The 195 Montessori schools have an average enrollment of 51 students, and the 98 schools that indicate a special programmatic emphasis (other than Montessori) show an average enrollment of 206. Alternative schools have an average enrollment of 116.

Exhibit 17

Average Enrollment of Private Schools, by School Orientation and Grade Level, in 22 Urban Communities, 1995-96

	Regular	Montessori	Alternative	Other Special Emphasis
Total	272	51	116	206
Elementary	223	49	104	142
Secondary	467	NA	92	248
Combined	381	68	144	343

Source: NCES Private School Survey, 1995-96.

Grade level. The large majority of the private schools (2,320 or 74 percent) offer elementary grades only (some combination of grades K-8). An additional 461 schools (15 percent) offer a combination of grades higher than 8th and lower than 7th, and a relatively small number (355 or 11 percent) offer only secondary education (grades 7-12) (Exhibit 18). Elementary-only schools in the 22 locations enroll 61 percent of private school students, while secondary-only schools enroll 19 percent of the students. Schools combining elementary and secondary grades enroll 20 percent of private school students in the communities in our study.

Exhibit 18

Number of Private and Public Schools and Students, by Grade Level, in 22 Urban Communities, 1995-96

	Schools		Students	
Grade Level	Private	Public	Private	Public
Elementary	2,320 (74%)	4,064 (80%)	473,117 (61%)	2,899,833 (69%)
Secondary	355 (11%)	905 (18%)	146,992 (19%)	1,175,136 (28%)
Combined	461 (15%)	132 (3%)	154,053 (20%)	114,755 (3%)
Total	3,136	5,101	774,162	4,189,724

Source: NCES Private School Survey, 1995-96.

While Catholic schools tend to be organized as elementary or secondary exclusively (much like most urban public schools), other religious and nonsectarian schools are more likely to combine primary and secondary grades (Exhibit 19). Combined schools account for only 2 percent of enrollments in Catholic schools but 40 percent in other religious schools and 49 percent in nonsectarian schools. In contrast, secondary-only schools account for 27 percent of all students in Catholic schools but only 10 percent in other religious schools and 8 percent in nonsectarian schools.

Exhibit 19

Private School Enrollments, by Religious Affiliation and Grade Level, in 22 Urban Communities, 1995-96

Level	Catholic	Other Religious	Nonsectarian
Elementary	311,068 (71%)	117,890 (50%)	44,159 (43%)
Secondary	116,058 (27%)	23,158 (10%)	7,776 (8%)
Combined	10,741 (2%)	92,486 (40%)	50,826 (49%)
Total	437,867	233,534	102,761

Source: NCES Private School Survey, 1995-96.

Average school size in private and public schools. Individual private schools in the 22 communities are much smaller than public schools in the same locations, roughly a third the size of public schools on average (Exhibit 20). The average enrollment size for private schools is 247 students, compared with an average of 821 students per public school. There is variation among the communities, however, with average private school sizes ranging from 134 in Long Beach to 350 in New Orleans (see Appendix G). Only in New Orleans, however, does the average private school approach even half the size of the average public school. Major differences in the comparative sizes of public and private schools occur at all grade levels. Private elementary schools average 204 students, compared to 714 students in public elementary schools, and private secondary schools average 414 students, compared to 1,298 students in public secondary schools in these communities.

Exhibit 20

Average Enrollment of Private and Public Schools, by Grade Level, in 22 Urban Communities, 1995-96

	All Schools	Elementary Schools	Secondary Schools	Combined Schools
Public Schools	821	714	1,298	869
Private schools	247	204	414	334
Catholic	364	313	638	398
Other Religious	194	145	207	330
Nonsectarian	141	86	127	330

Sources: NCES Private School Survey, 1995-96; NCES Common Core of Data, 1995-96.

Catholic schools are considerably larger than other private schools in the 22 urban communities, although they are still smaller than public schools. In these communities, the average Catholic elementary school enrolls 313 students, and the average Catholic secondary school enrolls 638 students. While these may seem like small enrollments by public school standards, the average enrollment in other religious elementary schools is 145 students. Nonsectarian elementary schools are even smaller; the average enrollment is 86 students across the 22 urban areas.

Pupil/teacher ratios in private and public schools. As a whole, private schools in these 22 urban areas enroll fewer students per full-time equivalent (FTE) teacher (14.9) than do the public schools in these areas (19.9) (Exhibit 21).[12] Unlike public schools, private schools with secondary grades (secondary schools and combined schools) have lower pupil/teacher ratios than do elementary schools. Private elementary schools have 16.7 pupils per teacher compared with a pupil/teacher ratio of 14.7 to one in private secondary schools and 11.4 to one in private combined schools. In public schools, the reverse is the case — elementary schools have lower numbers of students per teacher than secondary schools (ratios of 19.5 to one and 21.1 to one, respectively).[13]

Exhibit 21

Pupil/Teacher Ratios in Private and Public Schools, by Grade Level and Religious Affiliation, in 22 Urban Communities, 1995-96

	All Schools	Elementary Schools	Secondary Schools	Combined Schools
Public Schools	19.9	19.5	21.1	18.8
Private schools	14.9	16.7	14.7	11.4
Catholic	19.4	21.1	16.4	14.3
Other Religious	12.7	12.8	11.2	13.1
Nonsectarian	9.4	10.1	9.1	8.9

Sources: NCES Private School Survey, 1995-96, NCES Common Core of Data, 1995-96.

Overall findings about the numbers of students per teacher mask sizeable differences among the private schools in the study, however. There are some private schools with pupil/teacher ratios considerably higher than the average for these communities. Catholic schools in this study show an overall pupil/teacher ratio of 19.4 to one, which is almost as high as the public school average in these communities (and higher than the national rate for Catholic schools of 18.8 students per teacher in 1993-94).[14] Among Catholic elementary schools, the rate is 21.1 students per teacher which is higher than the overall rate of 19.1 for public elementary schools in the same communities. In contrast, the other religious primary schools have a pupil/teacher ratio of 12.8 to one.

[12] National data cited in this discussion are taken from the NCES Schools and Staffing Survey, 1993-94.

[13] Pupil/teacher ratios are low in combined public schools, but such schools are not common among public schools, unlike the case for private schools. There were only 120 such schools with 103,572 students in the 22 communities.

[14] NCES (1997), *Schools and Staffing in the United States: A Statistical Profile, 1993-94*, Table A2.

Despite the overall differences between pupil/teacher ratios in public and private schools in the 22 communities, Catholic school pupil/teacher ratios are quite similar to public-school pupil/teacher ratios in many communities. There are seven communities (Chicago, El Paso, Milwaukee, New York City, Philadelphia, Pittsburgh, and San Antonio), where the pupil/teacher ratio in Catholic schools exceeds the school district pupil/teacher ratio, and one additional community (Duval County) where the ratios are the same in public and Catholic schools. Some locations with relatively large numbers of pupils per teacher in public schools (e.g., Long Beach and Los Angeles) also show relatively high ratios of pupils to teachers in Catholic schools, although the Catholic-school pupil/teacher ratios remain somewhat lower than those of the school districts.

Student Characteristics

Race/ethnicity. Minority students account for 43 percent of the private school students in these 22 urban areas — substantially higher than their proportion of private school enrollments nationwide (22 percent)[15] but still well below the proportion of minority students in the public schools in these 22 communities (83 percent) (Exhibit 22). As a percentage of total private school enrollment, African-Americans are 20 percent, Hispanics are 18 percent, Asians are 5 percent, and American Indians are less than one percent. Minority students account for half the students in Catholic schools (51 percent) but are less of a presence in both other religious and nonsectarian schools (32 percent and 39 percent of students, respectively).

Exhibit 22

Race/Ethnicity of Students in Private and Public Schools
in 22 Urban Communities, 1995-96

	Minority	African-American	Hispanic	Asian
Public schools	83%	42%	36%	6%
Private schools	43%	20%	18%	5%
Religious Affiliation				
Catholic	51%	20%	25%	6%
Other Religious	32%	19%	9%	3%
Nonsectarian	37%	20%	10%	7%

Notes: Native American students were less than 0.5 percent of enrollment in all categories. Totals may not add due to rounding.

Sources: NCES Private School Survey, 1995-96; NCES Common Core of Data, 1995-96.

[15] NCES (1997), *Private Schools in the United States: A Statistical Profile: 1993-94*, Table 2.5, p. 76.

Family income and poverty. Private schools in these 22 urban communities enroll relatively high proportions of low-income students compared to private schools nationally, but their percentage of poor students is still well below that of public schools. Low-income students (i.e., students eligible for free or reduced-price lunches) constitute 32 percent of private school enrollments in these 22 communities, above the national average for private schools in central cities (12 percent) but below the average for public schools in the 22 communities (64 percent) (Exhibit 23). The percentage of low-income students is higher at Catholic schools (37 percent) and lower in nonsectarian schools (24 percent). Fewer than half of the private schools that responded to the survey were able to provide this information, so it is possible that schools with higher rates of eligibility were more likely to respond (causing an upward bias in the average rate for private schools).

Exhibit 23

Enrollment of Low-Income Students in Public and Private Schools in 22 Urban Communities, 1996

	Percent of Students Eligible for Free or Reduced-Price Lunches
Public Schools	64%
Private Schools	32%
Religious Affiliation	
Catholic	37%
Other Religious	29%
Nonsectarian	24%

Note: Private school data is for 1996-97 and public school data is for 1995-96.

Sources: NCES Common Core of Data, 1995-96; Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Taking a broader look at family income levels, the private schools responding to our survey estimated that about 24 percent of their students come from families that earn less than $20,000 (Exhibit 24). The average family income for students in these private school is about $43,000.

Exhibit 24

Income Levels of Private School Families in 22 Urban Communities, 1996

Income Level	Percentage of Private School Families
Less than $10,000	8%
$10,000 - $19,000	16%
$20,000 - $39,000	30%
$40,000 - $59,000	24%
$60,000 -$99,000	15%
Over $100,000	7%

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997

The individual communities included in this study varied substantially in their percentages of low-income students. Among the fifteen school districts for which this data were available, the percentage of public school students eligible for free or reduced-price lunches ranged from 39 percent in Duval County to as high as 83 percent in San Antonio (Exhibit 25).

Exhibit 25

Percentage of Public School Students Eligible for Free or Reduced-Price Lunches in Individual Urban Districts, 1995-96

	Public Schools
Baltimore City	66%
Buffalo	62%
Dade County	54%
Dallas	67%
Detroit	65%
Duval County	39%
El Paso	61%
Houston	63%
Long Beach	64%
Los Angeles	72%
Milwaukee	68%
New Orleans	71%
Oakland	60%
San Antonio	83%
San Diego	63%
All 15 school districts	64%

Source: NCES Common Core of Data, 1995-96.

Private School Tuition and Other Costs

Tuition averaged $3,654 across all private schools in the 22 communities, but there was wide variation in tuition by grade level and religious affiliation (Exhibit 26). Secondary schools were considerably more costly ($4,869) than elementary schools ($2,978). Nonsectarian schools were considerably more expensive ($5,888) than religious schools ($2,406 for Catholic schools and $3,586 for other religious schools).

Exhibit 26

Private School Tuition, by Grade Level and Religious Affiliation, in 22 Urban Communities, 1996-97

Level	Average Tuition
All Schools	$3,654
Grade Level	
Elementary	$2,978
Secondary	$4,869
Combined	$5,868
Religious Affiliation	
Catholic	$2,406
Other religious	$3,586
Nonsectarian	$5,888

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

In addition to tuition, private school attendance usually involves additional costs for parents. Nearly all (94 percent) of the private schools reported at least one type of additional cost for parents, with the average amount of $158 per student (see Appendix G). Three-fourths of the schools charge a registration fee ($117 on average), and over half require parents to purchase school uniforms ($141) and books ($164). About one-third of the schools charge additional fees for instructional activities ($89), non-instructional activities ($87), and other costs ($182). A relatively small percentage of the schools (16 percent) report an additional cost to parents for transportation, but this cost is relatively high ($648 per student).

Subsidies for disadvantaged students. Private schools include students from relatively low income families and many schools offer discounts or scholarships to financially needy students. Two-thirds of the schools offer scholarships or tuition discounts based on family financial need, including 69 percent of religiously affiliated schools and 56 percent of nonsectarian schools (Exhibit 27). Schools with relatively high tuitions are more likely to offer discounts and scholarships than are lower tuition schools. Assistance to needy students is offered by 94 percent of schools with tuitions above $8,000 and 74 percent of schools with tuitions between $4,000 and $8,000, compared to 59 percent of schools with tuition of less than $2,000.

Exhibit 27

Extent of Need-Based Tuition Discounts at Private Schools
in 22 Urban Communities, 1996-97

	Percentage of Schools with Discount	Percent of Students Assisted in Schools With Discounts	
		All Students	Low-Income Students
All Private Schools	67%	22%	35%
Religious Affiliation			
Catholic	69%	24%	31%
Other religious	69%	21%	37%
Nonsectarian	56%	21%	40%
Tuition Level			
Less than $2,000	59%	23%	32%
$2,000 - $3,999	63%	21%	31%
$4,000 - $7,999	74%	25%	42%
$8,000 or more	94%	22%	45%

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

In the schools that offer tuition discounts or scholarships, 22 percent of the students receive help with tuition costs. The overall percentage of students receiving need-based assistance does not vary substantially by school level, tuition rate, or school affiliation. For children from low income families in these schools, 35 percent receive help with tuition, again with higher tuition schools offering tuition assistance to a higher percentage of low-income students compared to lower-tuition schools. Although they offer scholarships and discounts at somewhat lower rates than religiously-affiliated schools, nonsectarian schools that offer discounts appear to provide them to "low income" students at somewhat higher rates than religiously-affiliated schools.

Overall, need-based scholarships and discounts offset about 45 percent of tuition, for the students who receive this assistance, reducing their average tuition from $3,654 to $2,001 (Exhibit 28). The percentage of tuition that is offset by need-based subsidies is relatively high at both the highest and lowest tuition rates and somewhat smaller in the mid range. For the highest tuition schools ($8,000 or more), the average need-based discount provides 53 percent of tuition. Similarly, in schools with tuitions of less than $2,000, 46 percent of tuition is offset by the average scholarship. In contrast, for schools with tuitions from $2,000 to $8,000, only about 30 to 34 percent of tuition is offset by the average scholarship. Nonetheless, the typical needy student would still pay considerably more to attend higher tuition schools, even with the scholarship discount.

Exhibit 28

Percentage of Tuition Covered by Need-Based Discounts at Private Schools in 22 Urban Communities, 1996-97

Tuition Level	Average Tuition	Average Discount	Percent of Tuition Covered by Discount	Remaining Tuition After Discount
Less than $2,000	$1,334	$614	46%	$720
$2,000 - $3,999	$2,804	$831	30%	$1,973
$4,000 - $7,999	$5,392	$1,844	34%	$3,548
$8,000 or more	$12,014	$6,366	53%	$5,648
All Schools	$3,654	$1,653	45%	$2,001

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Private schools' reliance on tuition revenues to cover operating costs. Many private schools rely on a variety of revenue sources to support their operating expenses. While tuition is the largest revenue source (amounting to 82 percent of operating costs, on average) (Exhibit 29), private schools also obtain revenue from parish or congregational subsidies and grants, endowments, and fundraising efforts. Schools that are religiously-affiliated or that have relatively low tuitions tend to derive a higher proportion of their revenues from sources other than tuition. Nonsectarian schools obtain fully 91 percent of their revenues from tuition, compared to only 76 percent for Catholic schools and 83 percent for other religious schools. Schools with tuitions of less than $2,000 obtain only 76 percent of their revenues from tuition. If these schools have limited means for increasing their revenues from other sources, a substantial increase in enrollment might force them to increase the amount of tuition they charge.

Exhibit 29

Percent of Private School Operating Costs Covered by Tuition,
by Religious Affiliation and Tuition Level
in 22 Urban Communities, 1996-97

	Percent of Operating Costs Covered by Tuition
All Private Schools	82%
Religious Affiliation	
Catholic	76%
Other Religious	83%
Nonsectarian	91%
Tuition Level	
Less than $2,000	76%
$2,000 - $3,999	85%
$4,000 - 7,999	85%
$8,000 or more	90%

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Admissions Procedures and Outcomes

Admissions considerations. Private schools in these communities consider a wide range of factors in student admissions. They consider the academic ability of prospective students: 74 percent indicate that ability to perform at grade level is a consideration in admissions and 58 percent review standardized tests of potential students (Exhibit 30). They also consider behavior: 73 percent indicate that a students' previous disciplinary record is a factor in admissions. Most important are the impressions made by students and, especially, their parents. Three-fourths (77 percent) of the schools conduct interviews with prospective students and an even greater percentage — 87 percent — interview the parents of prospective students (75 percent also obtain written applications). Schools also consider whether a prospective student's siblings attend — with 60 percent indicating that they give preference to siblings of current students.

Exhibit 30

Admissions Considerations at Private Schools
in 22 Urban Communities, 1996-97

	Percentage of Schools					
		Religious Affiliation			Tuition Level	
Admission Considerations	All Schools	Catholic	Other Religious	Non-sectarian	Less than $2,000	$8,000 or more
Written application	75%	62%	87%	76%	66%	94%
Student discipline records	73%	85%	74%	51%	79%	84%
Interview with student	77%	70%	83%	79%	69%	94%
Interview with parent	87%	86%	88%	86%	88%	97%
Student Achievement						
School-developed admission test	48%	45%	57%	39%	38%	65%
Standardized achievement test	58%	67%	60%	40%	52%	81%
Ability to perform at grade level	74%	82%	76%	55%	74%	78%
Admission Preferences						
Members of religious group	34%*	49%	39%	NA	38%*	20%*
Sibling of current students	61%	65%	58%	58%	60%	78%
Child of alumni	33%	35%	31%	35%	25%	74%

* Percentage of religiously affiliated schools only.

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Nonsectarian schools are somewhat less likely than religious schools to pay attention to grade level performance ability or previous disciplinary record in admitting students. Only 55 percent indicate that ability to perform at grade level is a consideration, 51 percent consider previous disciplinary record, and only 40 percent review standardized tests of prospective students. In contrast, 82 percent of Catholic and 76 percent of other religiously affiliated schools consider student ability. Two thirds of Catholic and 60 percent of other religiously affiliated schools review standardized tests of potential students. Disciplinary records are considered by 85 percent of Catholic and 74 percent of other religiously affiliated schools. Interestingly, however, many religiously affiliated schools do not give preference to members of their religious group — only 49 percent of Catholic and 39 percent of other religiously affiliated schools indicate that they consider such a preference in admissions.

There are also some differences in admissions considerations at different tuition levels. Schools with relatively low tuition (less than $2,000) are less likely than other private schools to ask for a written application (66 percent) or interview prospective students (69 percent). Schools with high tuition (greater than $8,000) are considerably more likely to review standardized tests (81 percent), obtain a written application (94 percent), interview prospective students (94 percent), and interview parents (97 percent). They are also more likely to give preferences to siblings of current students as well as the children of alumni. In general, however, grade level performance and previous disciplinary record are considered by schools at all tuition levels at roughly similar high rates.

Selectivity. Despite the scrutiny prospective students receive, most applicants to private schools are accepted. On average, the private schools in the 22 communities accept 83 percent of the students who apply (Exhibit 31). About half of the schools (51 percent) maintain a waiting list, and the average number of students on the list in those schools is 25. Schools with high tuition (greater than $8,000) show considerably lower admissions rates than other schools, however — only 51 percent of those who apply are admitted, compared with 91 percent in the lowest tuition schools (less than $2,000).

Exhibit 31

Percentage of Applicants Accepted by Private Schools
in 22 Urban Communities, Fall 1996

	Percent Admitted	Percentage of Schools Accepting More Than 90% of Applicants
All Private Schools	83%	54%
Religious Affiliation		
Catholic	87%	68%
Other religious	84%	50%
Nonsectarian	74%	38%
Tuition Level		
Less than $2,000	91%	73%
$2,000 - $3,999	89%	61%
$4,000 - $7,999	74%	34%
$8,000 or more	51%	*

Note: Asterisk indicates too few sample cases (less than __) for reliable estimates.

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Religiously affiliated schools tend to accept a greater percentage of applicants than nonsectarian schools, but the differences are not as large as the differences in admissions based upon tuition levels. Catholic schools have the highest admission rate (87 percent), followed closely by other religiously affiliated schools (84 percent). Despite the fact that fewer nonsectarian than religious schools indicate that they consider ability or previous disciplinary record in admissions, nonsectarian schools have a slightly lower admissions rate (74 percent).

Stated somewhat differently, 68 percent of Catholic schools accept 90 percent or more of those who apply, as do 50 percent of other religiously affiliated schools but only 38 percent of nonsectarian schools. School tuition rate is inversely related to admissions rate, with 73 percent of low-tuition schools accepting 90 percent or more of applicants, compared with only 6 percent of high-tuition schools.

Chapter 4

Feasibility of Using Available Spaces in Private Schools to Alleviate Overcrowding in Public Schools

Chapter Highlights

Most private schools would be willing to participate in a transfer program that allowed them to maintain their current policies concerning curriculum, admissions, assessment, and other policies. However, their interest in participating would decline considerably if the transfer program included rules or conditions that affected their autonomy over admissions and other policies. For example, if transfer students are randomly assigned to participating private schools (rather than allowing the schools to exercise control over which students they admit), the percentage of schools willing to participate declines to one-third to one-half of all private schools (the higher end of this range includes schools that are "possibly" willing to participate). Only 15 to 31 percent of the private schools would participate if they were required to accept students with special needs such as learning disabilities, limited English proficiency, or low achievement. If transfer students are required to participate in the same assessments that the state requires for public school students (in order to monitor their academic progress), about one-third to one-half of the schools would be willing to participate. Few religiously-affiliated schools would participate if they were required to permit transfer students to be exempted from religious instruction or activities.

Space is available in private schools in the 22 communities we studied. About a third of the schools indicate that their current enrollment is less than 70 percent of their capacity. We estimate that there are approximately 150,000 spaces available in private schools in the 22 communities, and 83 percent of these spaces carry tuitions of $4,000 or less. However, specific provisions of the transfer program (as discussed above) could result in a much smaller number of available spaces — from 101,000 to as few as 33,000 — because fewer private schools would be willing to participate.

If all of the available spaces in private schools were filled with public transfer students, the transfer program would reduce public school enrollments by 4 percent and increase private school enrollments by 19 percent. If the transfer program contained provisions for random assignment, inclusion of special needs students, state assessment of transfer students, or exemptions from religious instruction, the potential impact would decline to 1 to 2 percent of public school enrollments.

In the nine communities for which detailed data was available on the amount of overcrowding in public schools, private schools could accommodate 23 percent of the excess enrollments in public schools <u>if</u> participating schools could maintain their current policies without change. In communities that have relatively small overcrowding problems and relatively large private school sectors, excess capacity in private schools could be sufficient to handle all of the public school excess enrollments. In Pittsburgh, for example, the 3,710 private school spaces amount to 294 percent of the public school excess enrollments. In other cities, the estimated number of available spaces constitutes a much smaller percentage of public school excess enrollments (e.g., 16 percent in San Diego), and

transferring students from overcrowded public schools to available spaces in private schools would have little impact on the overcrowding problem.

The total cost of a transfer program, including tuition, transportation, categorical program services for transfer students, and program administration, is estimated at $4,575 per pupil. The average cost of tuition for the available spaces in private schools would be $2,900. Few spaces are available in schools that charge $1,000 or less; such schools account for only 5 percent of the available spaces. About 38 percent of the spaces are in schools with tuition below $2,000.

Private School Interest in Participating in a Transfer Program under Various Conditions

This section combines information from the surveys of private schools and of private school organizations that were conducted for this study. The private school survey provides data on the numbers of schools that might be willing to participate in a transfer program and the number of spaces that might be available, while the more detailed responses of private school organizations help to provide insight into the perceptions, priorities, and concerns of the private school community about the feasibility of a transfer program.

The willingness of private schools to participate in a transfer program designed to alleviate public school overcrowding would likely depend on the specific design of the program and any conditions or requirements that might be imposed on participating private schools. Private schools would undoubtedly prefer to participate in a transfer program that did not require them to make any changes in their current curriculum, admissions, assessment, and other policies. However, it is possible that public policymakers would wish to impose certain requirements on participating private schools in order to achieve equity or accountability goals or to ensure the religious neutrality of the transfer program.

A number of possible requirements have been widely discussed in the literature on designing voucher programs. For example, when demand for private school education outstrips the supply, policymakers might want to ensure that access to a private school is available on an equitable basis to all eligible public school students seeking entrance, by requiring that transfer students be randomly assigned to participating private schools. Similarly, the private schools might be required to accept transfer students with special needs such as those with limited English proficiency, learning disabilities, or low achievement. To facilitate public oversight of the academic progress of transfer students, or evaluation of the relative educational effectiveness of participating private schools, policymakers might require that transfer students participate in the same assessments that the state requires for public school students. Policymakers with concerns about the separation of church and state might consider restricting the transfer program to nonsectarian schools or requiring that participating religious schools allow parents to request that their children be exempted from religious instruction or religious activities.

Because the mandate for this feasibility study did not describe the specific design or provisions of the transfer program, we asked private schools about their willingness to accept public school students in exchange for tuition reimbursement under a variety of possible conditions.

Specifically, these conditions included: 1) maintaining current curriculum, admissions, assessment, and other policies without change; 2) accepting public school students assigned randomly (that is, by lottery) from among applicants; 3) accepting students with special needs; and 4) testing transfer students using the same assessments the state requires for public schools. In addition, religious schools were asked about their willingness to participate if the program required that the schools exempt transfer students from religious instruction or other religious activities upon parental request. In order to explore the views of the private school community in greater detail, we also asked organizations representing private schools to discuss their perceptions of the willingness of their member schools to participate under each of these conditions.

The results of our survey of private schools indicate that most would be willing to participate in a transfer program that allowed participating private schools to maintain their current curriculum, admissions, assessment, and other policies. Under these conditions, 77 percent said they would be willing to participate, and only 8 percent would be unwilling (Exhibit 32). However, when any of the suggested constraints are placed on private school participation, interest in participating declines markedly. The following pages discuss private schools' willingness to participate under each of the four possible conditions raised in the survey, together with the comments of private school organizations about these conditions.

Exhibit 32

Percentage of Private Schools Willing to Participate in Transfer Program under Various Conditions, in 22 Urban Communities, 1996-97

	Definitely Willing	Probably Willing	Possibly Willing	Probably Unwilling	Definitely Unwilling
Maintain current policies	60%	17%	15%	4%	4%
Random assignment of transfer students	19%	17%	18%	18%	28%
Accept special needs students	7%	8%	16%	27%	41%
Participate in state assessments	18%	15%	24%	15%	27%
Permit exemptions from religious instruction or activities	19%	6%	8%	9%	57%

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Maintain current school policies. Private schools generally are well disposed to participating in a transfer program if they can maintain their current curriculum, admission, assessment, and other policies without change. Three-fourths (77 percent) indicate that they would

"definitely" or "probably" be willing to participate under these conditions, and an additional 15 percent say they would possibly be willing. Almost all of the private school associations say their member schools would be willing to participate under these conditions, and some indicated that maintaining their current policies would be a requirement for their members to participate. For example, the Lutheran Church–Missouri Synod comments that maintaining current policies "is vital so our mission can be fulfilled," a sentiment also underscored by the Association of Christian Schools International, which noted that maintaining these policies "would be the single most crucial requirement."

Some private schools are not interested in participating in a transfer program under any circumstances, however. Eight percent of the private schools say they would probably or definitely be unwilling even if they could maintain their current policies regarding curriculum, admissions, assessments, and other issues. Although most of the private school associations indicate that their schools would probably participate in a transfer program that enabled them to maintain their current policies, some express ambivalence or reluctance. For example, the Association of Waldorf Schools notes that their schools would be "possibly willing but [the] fine print would be examined." The General Conference of the Seventh Day Adventist Church expresses a willingness to participate, but notes that the church tries to keep the number of nonmembers to a minimum "to preserve the unique mission of our schools."

Random assignment of transfer students. If private schools were required to accept randomly-assigned students from public schools (i.e., through a lottery from student applicants), their interest in participating declines by one half. Under this condition, the percentage of schools that would be "definitely" or "probably" willing to participate declines from 77 percent to 36 percent, and 46 percent would be unwilling to participate. Some private school associations express strong opposition to this approach: the Association of Christian Teachers and Schools indicates their schools would be "not willing - they [the schools] would want to test and evaluate every student," and the Oral Roberts University Educational Fellowship said they were "NOT interested!!"

Some organizations express ambivalence toward, although not an outright rejection of, this approach. The National Independent Private School Association (NIPSA) comments: "Accepting public school transfers by lottery is difficult. Often these students do not fit into our schools because of discipline codes." However, NIPSA goes on to say that "Anything, however, is explorable with our schools. We would be happy to try to work some program if possible." In some cases, ambivalence is due to concerns about the impact of randomly assigning students on the religious mission of their schools. The Lutheran Church–Missouri Synod says they "would rather have students from families who wanted Lutheran school education" and the General Conference of the Seventh Day Adventist Church comments, "Our own parents need to keep confidence in our school mission. A lottery would hurt that process."

On the other hand, about one-third of the private schools would be willing to participate under this condition. Some associations also believe that a lottery approach would not affect member schools' willingness to participate. Indeed, the United Methodist Church comments that random assignment is the "most equitable plan if tuition comes from public funds."

Accept students with special needs. A policy of random assignment could mean that participating schools would accept any student who was assigned, including students with learning disabilities, limited English proficiency, or low achievement. However, when the private schools were asked specifically about a transfer program that would require participating private schools to accept such students, their interest in participating declined further. Under this circumstance, only 15 percent of the schools said they would be definitely or probably willing to participate, and two-thirds (68 percent) said they would be unwilling.

Private school associations expressed concern about the potential numbers of special needs children who might be assigned to their schools and about the severity of the disability or other need. Several associations pointed out that their member schools do not have the resources to care for students who require costly services. The Lutheran Church–Missouri Synod indicated that its schools would not be favorable to accepting special needs students because "most aren't equipped to provide adequate services for them." The General Conference of the Seventh Day Adventist Church noted, "If the school was large enough to afford staffing for such students, they would be open. However, most of our schools are too small to afford such staffing." Similarly, the Association of Christian Schools International said that special needs students could be accommodated "if the schools were appropriately staffed and have programs that would properly serve special needs students."

Other associations indicated that willingness to participate would depend on the types and severity of the disability or other special need, and whether or not additional funds were provided to support special services for these students. The United States Catholic Conference noted that schools' willingness could vary significantly "depending on the degree of 'special needs' and the funding provided." The Council of Islamic Schools in North America says that "Most CISNA schools could not accept learning disabled or handicapped students. Limited English and low achievement [are] acceptable to some schools."

Participate in state assessments. About one-third of the private schools would be willing to participate under this condition, while 42 percent would be unwilling (with a relatively high percentage — 24 percent — undecided ("possibly willing")). A few associations commented that the tests their schools use are more rigorous than those required in public schools. One of the private school associations said that its members would not be willing to participate under this condition "due to the very lax tests and assessments of public education." One group, the Association of Waldorf Schools of North America, raised a concern that the imposition of testing, in general, would interfere with the curriculum of the association's members. The United States Catholic Conference noted, however, "If the State assessments were the same as those used in Catholic schools, probably willing. If different, probably unwilling. Why give different tests in the same school?"

Permit exemptions from religious instruction or activities. Very few religious schools would be willing to participate in a transfer program if they were required to permit exemptions from religious instruction or activities. Eighty-six percent of the religious schools are unwilling to participate under this condition. Because religious schools comprise such a large percentage of all private schools, this condition would have a strong effect on the overall impact of a transfer program: less than one-third of all private schools would be willing to participate if this condition were imposed on religious schools.

Most associations of religious schools also express reservations about exemptions. Some private school organizations view the issue as one of logistics. Christian Schools International said that "Almost all our schools would not allow the exemption because every class is permeated with a Christian religious viewpoint." The Evangelical Lutheran Church of America expresses a similar sentiment: "This would be difficult as the religious nature of schools is not restricted to particular time structures."

Others see the issue of exemptions from religious instruction or activities as one that threatens a fundamental part of the mission of religious schools. The United States Catholic Conference comments that such an exemption "strikes at the very nature of what a Catholic school is all about." Similarly, the General Conference of the Seventh Day Adventist Church says: "This would not be acceptable. We don't make exceptions to our religious requirements including Bible instruction, attendance at religious services, or participation in service activities." The Lutheran Church–Missouri Synod speaks of the importance of "maintaining our mission and our spiritual nature which permeates our total school program."

Yet a small minority of religious schools and religious school associations are not opposed to the notion of granting exemptions. Four percent of the religious schools are definitely willing to participate under this condition, and an additional 3 percent are probably willing. The Greek Orthodox Archdiocese indicates no problem with this requirement, as does the United Methodist Church. The latter points out that its schools "generally have students from all faiths: Protestant, Catholic, Jewish, Muslim and even Buddhist students." The Council of Islamic Schools in North America notes that religious instruction in its schools is mandatory but participation in religious activities is optional. Overall, however, a requirement to permit exemptions from religious instruction or activities would dramatically reduce the number of schools willing to participate and thus the potential impact of a transfer program on alleviating public school overcrowding.

Characteristics of private schools willing to participate in transfer program. If participating schools could maintain their current policies, 2,323 private schools in these 22 communities would "definitely" or "probably" be willing to participate in the transfer program. Adding in those schools that would "possibly" be willing (461 schools) would raise the potential number of participating schools to 2,784 (Exhibit 33).

Under most scenarios, religiously-affiliated schools account for about three-fourths of the schools that would be willing to participate. If, however, religious schools that participated in the transfer program were required to permit exemptions from religious instruction or activities, the number of religious schools willing to participate would decline considerably: only 303 might still be willing — including 162 schools that would "possibly" be willing, a somewhat tenuous commitment — out of the 2,128 religious schools that would be willing if they could maintain their current policies. In other words, 86 percent of the religious schools that might be willing to participate in a transfer program would not be willing if required to make exceptions to their policies concerning religious instruction and activities. Under this scenario, about two-thirds of the participating schools would be nonsectarian.

Exhibit 33

Number of Private Schools Willing to Participate in Transfer Program under Various Conditions, by Religious Affiliation and Tuition Level, in 22 Urban Communities, 1996-97

	Maintain current policies	Random assignment of transfer students	Accept special needs students	Participate in state assessments	Permit exemptions from religious instruction/activities
All Private Schools	2,784	1,604	943	1,687	966
Religious Affiliation					
Catholic	1,086	644	395	659	191
Other Religious	1,042	551	298	627	119
Nonsectarian	656	409	251	401	656
Tuition Level					
Less than $2,000	789	556	344	608	204
$2,000 to $3,999	1,206	763	416	781	353
$4,000 or more	781	270	168	284	410

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Schools with relatively low tuitions (less than $2,000) account for 28 percent of the schools that would be willing to participate if they could maintain their current policies, and schools with tuitions of less than $4,000 account for nearly three-fourths of willing schools. The willingness of higher-tuition schools tends to decrease the most when conditions are imposed on participating schools. For example, if the schools are required to accept randomly-assigned transfer students, 70 percent of the lowest-tuition schools (less than $2,000) would still be willing to participate, compared to 63 percent of the schools with tuitions of $2,000 to $3,999, and only 35 percent of the schools with tuitions of $4,000 or more. However, if participating religious schools were required to permit exemptions from religious instruction, the program would lose a disproportionate number of the lower-tuition schools (which are more likely to be religiously-affiliated), and the higher-tuition schools ($4,000 or more) would account for 42 percent of the schools that are still willing to participate.

Space Availability in Private Schools

Number of schools with excess capacity. Many of the private schools in these 22 communities are currently operating well below their full capacity. About one-third of the schools have enrollments below 70 percent of their full capacity, and another third have enrollments between 70 percent and 90 percent of capacity (Exhibit 34).

Exhibit 34

Percentage of Private School Capacities Used for Current Enrollments in 22 Urban Communities, 1996-97

	Number of Private Schools, by Percent of Capacity		
	Less than 70%	70-89%	90% or more
Total	922 (31%)	1,038 (35%)	1,043 (35%)
Religious Affiliation			
Catholic	268 (23%)	446 (38%)	452 (39%)
Other Religious	337 (29%)	461 (40%)	352 (31%)
Nonsectarian	315 (46%)	130 (19%)	239 (35%)
Tuition Level			
Less than $2,000	321 (36%)	315 (35%)	264 (29%)
$2,000 to $3,999	412 (33%)	469 (38%)	360 (29%)
$4,000 to $7,999	169 (27%)	205 (33%)	255 (41%)
$8,000 or more	22 (9%)	48 (21%)	163 (70%)
Grade Level			
Elementary	727 (33%)	792 (36%)	694 (31%)
Secondary	50 (18%)	117 (42%)	112 (40%)
Combined	145 (28%)	129 (25%)	237 (46%)
School Size			
Less than 200	740 (52%)	419 (29%)	265 (19%)
200 - 499	181 (17%)	464 (44%)	418 (39%)
500 or more	0 (0%)	155 (30%)	360 (70%)

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Schools that are operating well below their full capacity are disproportionately small nonsectarian elementary schools with relatively low tuition levels. Schools with substantial excess capacity (i.e., enrollments below 70 percent of their capacity) account for over half of the schools with enrollments of less than 200 students; indeed, these schools have an average enrollment of 110 students, compared to average enrollment of 289 students in schools between 70 and 89 percent of

capacity and 433 students in schools operating at 90 percent of more of their capacity. Schools operating below 70 percent of their capacity) account for 46 percent of nonsectarian schools, compared to 23 percent of Catholic schools and 29 percent of other religious schools. Such schools account for one-third (33 percent) of the elementary schools, but only 18 percent of the secondary schools.

Interestingly, excess capacity is inversely related to the amount of tuition charged: the higher the tuition level, the less likely the school will have substantial excess capacity. Among schools with tuitions of $8,000 or more, 70 percent are operating near full capacity and only 9 percent have substantial excess capacity, whereas among schools that charge less than $2,000, only 29 percent are operating close to full capacity and 36 percent have substantial excess capacity.

Number of additional students that private schools could accommodate. When private schools were asked how many additional students they could accommodate, their responses tended to be less than the calculation of total capacity minus current enrollment. Overall, the difference between reported school capacities and current enrollments suggested private schools in the 22 communities could accommodate 185,000 additional students, but the number of additional students the private schools said they could accommodate was 150,000 — about 19 percent less (Exhibit 35).

Exhibit 35

Total Number of Spaces Available in Private Schools
in 22 Urban Communities, 1996-97

	Spaces Available in Private Schools	Percentage of Public School Enrollment	Percentage of Private School Enrollment
Difference between private school capacities and actual enrollment	185,000	4.4%	23.9%
Additional students private schools say they could accommodate	150,000	3.6%	17.4%

Sources: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997; NCES Private School Survey, 1995-96; NCES Common Core of Data, 1995-96.

Most of these available spaces are in schools that are religiously affiliated, charge relatively low tuition, and are currently operating well below their full capacity. Religious schools account for 85 percent of the available spaces, and 57 percent of these spaces are in Catholic schools (Exhibit 36). Thus, if the transfer program includes nonsectarian schools only, the number of available spaces would decline from 150,000 to 22,000.

Exhibit 36

Number of Private School Spaces Available, by School Characteristics, in 22 Urban Communities, 1996-97

	Number of Spaces Available	Percent of All Available Spaces	Potential Increase in Enrollments
Total	149,719		17%
Religious Affiliation			
Catholic	84,844	57%	20%
Other Religious	42,822	29%	15%
Nonsectarian	22,053	15%	17%
Tuition Level			
Less than $2,000	57,406	38%	26%
$2,000 to $3,999	66,758	45%	22%
$4,000 to $7,999	21,151	14%	9%
$8,000 or more	4,183	3%	4%
Capacity Level			
Less than 70%	79,726	55%	78%
70% - 89%	49,638	34%	17%
90% or more	15,665	11%	4%
School Size			
Less than 200	51,698	36%	41%
200 - 499	74,139	51%	23%
500 - 799	10,438	7%	5%
800 or more	8,755	6%	4%
Grade Level			
Elementary	103,981	69%	22%
Secondary	20,891	14%	17%
Combined	24,847	17%	11%

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Schools with tuition below $4,000 account for 83 percent of the available spaces; however, only 38 percent of the spaces are in schools with tuition below $2,000, and very few (5 percent) are in schools that charge tuition of $1,000 or less. Because a transfer program could potentially cause a substantial (26 percent) increase in enrollment for schools with low tuitions, which tend to rely more heavily on non-tuition revenues sources (see Exhibit 29), it is possible that these enrollment increases could result in tuition increases in these schools, unless they were able to increase their non-tuition revenues at the same rate as their enrollment growth.

Schools that are currently operating at less than 70 percent of their capacity account for 55 percent of the available spaces (although they have only 12 percent of current private school enrollments), and filling all of the available spaces in these schools would increase their enrollment by 78 percent. However, it is possible that some of these schools have substantial excess capacity because they are less attractive to students and families compared to schools that have relatively few spaces available. In such cases, it may be difficult to find sufficient public school students willing to transfer to these schools. Indeed, the experiences with the Milwaukee and Cleveland voucher programs suggest that many voucher recipients did not actually use the vouchers because they did not obtain admission to their preferred private school.

Secondary schools account for a somewhat smaller proportion of the available spaces (14 percent) compared to their proportion of total private school enrollment in the 22 communities (19 percent) and of public school enrollments (28 percent). This could be an important issue if a transfer program intended to ease overcrowding were adopted in a community that had more public school overcrowding at the secondary level than at the elementary level.

Impact of possible program conditions on the number of available spaces. The above analysis, however, assumes that all of the spaces available in private schools could be used to accommodate transfer students from overcrowded public schools, and this is almost certainly not the case. The number of private school spaces that would in fact be available for transfer students in each community — and thus the potential impact on alleviating overcrowding — would depend greatly on the parameters and design of the transfer program and on any conditions that might be imposed on participating private schools.

Under the least restrictive transfer program — one that allows participating private schools to maintain all of their current policies without change — private schools in these 22 communities would be willing to accommodate approximately 134,000 to 146,000 additional students from public schools (the higher end of the range includes schools that are "possibly" willing to participate) (Exhibit 37). The numbers of students that private schools would be willing to accept, however, declines markedly when conditions are imposed on participating schools.

Exhibit 37

Number of Spaces Available in Private Schools,
by School Willingness to Participate under Various Conditions,
in 22 Urban Communities, 1996-97

	Probably or Definitely Willing	Possibly Willing	Probably or Definitely Unwilling
Maintain current policies	134,513	11,924	1,113
Random assignment of transfer students	62,801	37,911	45,686
Accept special needs students	41,055	25,042	79,348
Participate in state assessments	66,737	34,262	44,821
Permit exemptions from religious instruction or activities	33,107	14,499	95,476

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

If participating schools are required to accept randomly-assigned transfer students, rather than being able to choose which students they accept, fewer schools would be willing to participate and the number of spaces available for transfer students declines by about one-third to one-half, to between 63,000 and 101,000 students. If schools are explicitly required to accept special needs students, the number of transfer students who could be accommodated in participating schools drops even further, to between 41,000 and 65,000 students. If transfer students are required to participate in state assessments, schools willing to participate could accommodate between 67,000 and 101,000 students.

If the transfer program required participating religious schools to permit transfer students to be exempted from religious instruction or activities, only 33,000 to 48,000 spaces would be available in schools that are willing to participate under this condition (including both religious schools as well as nonsectarian schools that would not be affected by this condition). Religious schools that would not be willing to participate under this condition account for 95,000 (78 percent) of the available spaces in religious schools.

Potential Impact of Transfer Program on Public and Private School Enrollments

Overall, the roughly 150,000 spaces available in private schools in the 22 communities amount to 4 percent of public school enrollment and 17 percent of current private school enrollment (Exhibit 38). This suggests that if all of these spaces were utilized, public school enrollment would be reduced by 4 percent and private school enrollment would increase by 17 percent.

Exhibit 38

Private School Spaces Available under Various Conditions
Compared to Total Public and Private School Enrollments,
in 22 Urban Communities, 1996-97

	Spaces Available in Private Schools	Percentage of Public School Enrollment	Percentage of Private School Enrollment
Additional students private schools say they could accommodate	149,700	3.6%	17%
Random assignment of transfer students	62,800 - 100,700	1.5% - 2.4%	7% - 12%
Accept special needs students	41,100 - 66,100	1.0% - 1.6%	5% - 8%
Participate in state assessments	66,700 - 101,000	1.6% - 2.4%	8% - 12%
Permit exemptions from religious instruction or activities	33,100 - 47,600	0.8% - 1.1%	4% - 6%

Sources: NCES Private School Survey, 1995-96; NCES Common Core of Data, 1995-96.

In actual implementation, the impact on public and private school enrollments may be substantially less, because private school willingness to participate — and thus the effective number of available spaces — may decline if any conditions are imposed on participating private schools. Moreover, the above figures include spaces in schools that say they are "possibly willing" to participate — a shaky commitment as best. Program requirements to randomly assign transfer students, include students with special needs, or participate in state assessments, would each reduce the effective number of spaces available to 1 to 2 percent of public school students and 5 to 12 percent of private school students in these 22 communities. (The low end of these ranges represents the number of spaces available in schools that are "definitely" or "probably" willing to participate, while the higher figure includes schools that are "possibly" willing.) A requirement to permit exemptions from religious instruction or activities would reduce the effective number of available spaces to 1 percent of public school students and 4 to 6 percent of private school students.

There is also considerable variation across the 22 communities examined in this study in the potential impact of a transfer program on public and private school enrollments. In Buffalo and New Orleans, using all of the available spaces would decrease public enrollments by 13 to 14 percent — and increase private school enrollments by over 50 percent (Exhibit 39). Above-average impact could also be anticipated in Milwaukee (9 percent of public school enrollments), Pittsburgh (9 percent), Philadelphia (8 percent), and Chicago (8 percent). Not surprisingly, available spaces tended to account for a higher proportion of public school enrollment in the communities with the largest private school sectors.[16] However, as discussed above, the actual impact on public school enrollments in these communities could be much lower if any conditions were imposed on participating private schools.

Exhibit 39

Private School Spaces Available Compared to Total Public and Private School Enrollments, in Individual Urban Communities, 1996-97

Location	Spaces Available in Private Schools	Percentage of Public School Enrollment	Percentage of Private School Enrollment
Baltimore City	4,081	4%	21%
Buffalo	6,217	13%	61%
Chicago	29,728	8%	37%
Dade County	14,414	5%	31%
Dallas	3,762	3%	21%
El Paso	1,819	3%	27%
Houston	8,752	4%	43%
Long Beach	3,958	5%	60%
Milwaukee	8,468	9%	38%
Nashville	800	1%	4%
New Orleans	11,369	14%	56%
Oakland	642	1%	8%
Philadelphia	15,773	8%	22%
Pittsburgh	3,710	9%	30%
Portland	637	1%	8%
San Antonio	1,399	2%	23%
San Diego	2,148	2%	13%

Note: This table excludes five of the urban communities in this study because the response rate for private schools reporting their number of spaces available was below the study average of 45 percent.

Sources: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997; NCES Common Core of Data, 1995-96; NCES Private School Survey, 1995-96.

[16] The eight communities with the largest private school sectors — that is, where private school enrollments account for 17 percent or more of all students) — are Philadelphia, Pittsburgh, Nashville, New Orleans, New York City, Milwaukee, Buffalo, and Chicago.

In other communities, using all of the available spaces to alleviate overcrowding in public schools would have a relatively small impact on public and private enrollments. In a number of communities, the total impact on public school enrollments would be 2 percent or less — Dallas, Nashville, Portland, and San Antonio — suggesting that a transfer program would have little impact on alleviating public school overcrowding in these communities.

Match between available spaces in private schools and overcrowding in public schools. An important question for this study is the potential amount of the reduction in public school overcrowding that might be achieved by transferring public school students to private schools that have spaces available for additional students. In addition, given the considerable variation across the 22 communities in the number of available spaces in private schools and in the size of the public school overcrowding problem, it would be useful to examine the potential reduction in overcrowding that might be achieved in individual communities.

However, due to the low response rates of both private schools and public school districts to the surveys conducted for this study, we have limited information available to answer these questions. Nine of the 22 school districts provided information on the amount of "excess enrollment" in public schools.[17] In two of these nine urban communities, the percentage of private schools providing information on their number of available spaces was quite low (19 percent in Memphis and 21 percent in New York City). The following analysis compares the "excess private school capacity" with the "excess public school enrollments" in these nine communities, but it is important to keep in mind that the overall estimates may be strongly affected by the estimates for New York City, which accounts for half of the excess public school enrollments across these nine communities.

Overall, across these nine districts, spaces available in private schools could accommodate 23 percent of the excess enrollments in public schools (Exhibit 40). In some of the districts, it appears that excess capacity in the private school spaces is sufficient to handle all of the public school excess enrollments; available private school spaces amount to 294 percent of the public school excess enrollments in Pittsburgh, 135 percent in New Orleans, and 105 percent in Houston. These three communities have relatively small overcrowding problems, with excess enrollments amounting to between 3 and 10 percent of all public school students. In addition, New Orleans and Pittsburgh have relatively large private school sectors that enroll between 20 and 24 percent of all students in these communities.

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[17] Fifteen school districts responded to the survey, but only nine of these were able to provide information on the capacities of their schools, which we used to calculate the number of students over capacity, i.e., the amount of enrollment reduction that would be needed to eliminate the condition of overcrowding.

Exhibit 40

Comparing the "Excess Capacity" in Private Schools with the "Excess Enrollment" in Public Schools, in Individual Urban Communities, 1996-97

	Number of Spaces Available in Private Schools	Number of Students over Capacity in Public Schools	Available Spaces as a Percent of Public School Excess Enrollment
Baltimore City	4,081	4,823	85%
Dade County	14,414	69,192	21%
Houston	8,752	8,318	105%
Memphis*	*	6,743	*
Nashville	800	3,623	22%
New Orleans	11,369	8,410	135%
New York City*	*	124,103	*
Pittsburgh	3,710	1,260	294%
San Diego	2,148	13,610	16%
Total	56,055	240,082	23%

Notes: Asterisks indicate urban communities in which the response rate (percent of private schools reporting their number of spaces available) was below the study average of 45 percent. Totals include private school spaces available in all nine communities for which data was available on the size of the public school overcrowding problem.

Sources: Survey of Urban Districts with Overcrowding, 1997; Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

In other communities, the estimated numbers of available spaces constitute a much smaller percentage of public school excess enrollments (16 percent in San Diego, 21 percent in Dade County, and 22 percent in Nashville), and transferring public school students to private schools is likely to have a smaller impact on alleviating the public school overcrowding problem.

It should be noted that the average potential reduction of 23 percent across the nine communities is near the lower end of the range for the seven communities shown in Exhibit 40. This is largely because the estimated reduction potential for New York (not reported separately due to the low response rate for private schools in that city) is well below the figures for the other seven communities. It is not clear whether the estimate accurately reflects a relatively small amount of available private school spaces or whether the estimate for New York is artifically low as a result of the low response rate, partly due to systematic non-response from Catholic diocesan schools.[18] If the non-responding schools in New York City tended to have more spaces available than the responding schools, then the "average" potential impact on overcrowding could be much higher.

[18] See Chapter 1, page 7, for a discussion of the low survey response rate for Catholic schools in New York City.

Cost of a Transfer Program

The most obvious cost of operating a transfer program would be the tuition subsidies for each transfer student, but there are other costs as well, potentially including transportation, administration of the transfer program, and evaluation of its impact. First we will estimate the average cost of tuition reimbursement for transfer students in the 22 urban communities in this study, based on the tuitions of the schools that have spaces available under various program conditions. Then we will go on to discuss other, non-tuition costs and the total estimated cost of a transfer program.

Tuition costs. If currently available spaces in private religious and nonsectarian schools were used to accommodate public school students, the average tuition cost would probably be somewhat less than the average tuition for all private schools in the study ($3,654), because a majority of the available spaces are in schools with below-average tuitions. To estimate the average tuition cost for these available spaces, we multiplied each currently-available space in a school that indicated a willingness to participate in a transfer program (under various program conditions) by the average current tuition in that school.[19] For the roughly 146,400 additional spaces in schools that indicate they are willing to participate if they can maintain their current policies, the average tuition is $2,869 (Exhibit 41).

Exhibit 41

Estimated Cost of Tuition for Spaces Available in Private Schools under Various Conditions, in 22 Urban Communities, 1996-97

Participation Policy	Number of Spaces Available	Average Tuition for Available Spaces
Maintain current policies	146,400	$2,869
Random assignment of transfer students	100,700	$2,575
Accept special need students	66,100	$2,382
Participate in state assessments	101,000	$2,463
Permit exemptions from religious instruction or activities	47,600	$3,191

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

The average tuition declines by $300 to $500 (for a smaller number of available spaces) if participating schools are required to accept randomly-assigned students or students with special needs, or to participate in state assessments.

[19] It should be noted that Exhibit 41 includes spaces in schools that gave <u>any</u> indication they might participate, even if that likelihood was limited (i.e., "possibly" willing).

If religious schools are required to allow exemptions from religious instruction or other religious activities, the number of available spaces is considerably lower and the average tuition for the remaining spaces is substantially higher than under any other condition studied. Under this condition, the number of available spaces would drop to 47,600, including 26,300 spaces in religious schools and 21,300 spaces in nonsectarian schools that would not be affected by this condition. Because nonsectarian schools, which tend to have higher tuition rates, would constitute a much greater proportion of the available spaces, the average tuition would rise to $3,191.

Of course, the actual tuition costs of a transfer program might be different, and higher, than these average tuition rates. First, as indicated earlier, available spaces tend to be concentrated in schools with relatively low tuitions that rely more heavily on non-tuition sources of revenue. Substantial increases in enrollment at these schools, unless accompanied by similar increases in non-tuition revenues, may require these schools to increase their tuition levels. In addition, available spaces are concentrated in small, religiously-oriented elementary schools which might not be the bulk of schools actually participating in a transfer program, depending on the specific parameters and provisions of the program.

If a transfer program were limited to nonsectarian schools, additional spaces would be relatively scarce and tuition costs would be considerably higher than the average current tuition across all private schools. As already noted, there are only likely to be slightly more than 21,000 additional spaces in nonsectarian private schools in the 22 communities, even when schools can maintain current policies. The average tuition for these spaces is estimated at $4,451, well above the current average for all schools (Exhibit 42). Under requirements for random assignment of transfer students or participation in state assessments, available spaces in nonsectarian schools decline to around 18,000 although average tuitions also decrease somewhat, to slightly more than $4,000. The greatest decrease in spaces occurs when nonsectarian schools are required to accept special needs students; fewer than 11,000 spaces are available across the 22 communities, although the average tuition for those spaces ($3,454) is close to the current average for all private schools in the study.

Exhibit 42

Estimated Cost of Tuition for Spaces Available in Private Schools under Various Conditions, Nonsectarian Schools Only, in 22 Urban Communities, 1996-97

Participation Policy	Total Spaces Available	Average Tuition for Available Spaces
Maintain current policies	21,000	$4,541
Random assignment of transfer students	18,000	$4,001
Accept special need students	11,000	$3,454
Participate in state assessments	18,000	$4,087

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Total cost of a transfer program. In addition to the cost of tuition reimbursement, a transfer program would involve other costs. Private school attendance frequently imposes costs on families in addition to tuition, including registration fees, books and materials, after-school programs, and school uniforms. Subsidizing transportation costs for transfer students would probably be necessary to ensure that this cost is not a barrier to participation of families least able to afford or arrange private transportation. It may also be desirable to provide publicly-supported categorical program services for students with special needs, such as limited English proficiency, learning disabilities, or low-achievement. In addition, there would be overall program costs such as the operation of an administrative office responsible for equitable and efficient implementation of the transfer program and an evaluation of the program's impact on transfer students and on alleviating the condition of overcrowding.

In a paper commissioned for this study, Dr. Paul Hill of the University of Washington has estimated the annual gross cost of a publicly-supported program that placed students in private schools.[20] Hill's total cost estimate, based on a program serving 2,000 students, was $5,425 per pupil, including per-pupil costs of $4,000 in average tuition, $600 for transportation, and $500 for categorical program services, as well as overall program costs of $400,000 to operate a local administrative office to implement the transfer program and $250,000 for an evaluation of the program's impact. We have modified this estimate slightly, based on the findings of our Survey of Private Schools Regarding Participation in a Transfer Program, reducing the estimated average tuition to $3,000 and adding an estimated cost of registration and other fees charged by private schools in the amount of $150 per pupil. This revised estimate amounts to a total of $4,575 per pupil (Exhibit 43).

Exhibit 43

Estimated Per-Pupil Cost of Transfer Program

	Estimated Cost Per Pupil
Tuition	$3,000
Fees for registration, etc.	$150
Transportation	$600
Categorical program services	$500
Administrative office	$200
Evaluation of program's impact	$125
Total	$4,575

[20] Paul Hill (1998). *Administrative costs of education voucher programs.* Unpublished paper prepared for the U.S. Department of Education, Planning and Evaluation Service.

Hill argues, however, that net costs would be lower, since some portion of tuition as well as categorical program costs and transportation are likely to be offset by lower spending in public schools. If the offset portion is 75 percent of these costs (Hill's assumption), then the cost of the program would decline to $1,500 per student. It should be noted that this net per-pupil cost is estimated as an addition to, and not a substitute for, current per-pupil expenditures of the public school district). However, this net cost estimate may be overly optimistic. To date, publicly-funded voucher programs have not been matched by comparable reductions in regular public school budgets of the magnitude estimated here. In addition, if some of the publicly-supported students are students who would not have attended public schools, then their costs would be a transfer from private (parental) sources and not a net savings to the public sector. Overall, it is not clear that a transfer or voucher program would result in reducing the total cost of publicly-provided education.

Further, Hill identifies costs that are not factored into the above estimates. State agencies may also incur administrative costs for activities such as writing regulations and providing oversight for the transfer program). School districts may also have new demands on staff time to help disseminate information about the program, transfer funds, and participate in a program evaluation (including testing and tracking of a "control group" of students who do not participate in the transfer program). Finally, it is possible that the average cost of tuition for participating private schools could increase as a result of a transfer program. Any additional reporting or accountability requirements could increase the cost of "doing business" for private schools. Perhaps more significantly, non-tuition revenues comprise a substantial proportion of total revenues for private schools (18 percent), particularly those schools with low tuitions (24 percent), and the growth in these revenues (endowment income, contributions from associated religious congregations) may not keep pace with enrollment growth resulting from the transfer program. In that case, transferring substantial numbers of students to private schools may well increase the average tuition for all private school students.

Private School Decisionmaking on Participation in a Transfer Program

Deciding whether to participate in a transfer program would involve a variety of actors in most private schools. Those most likely to be involved include principals (94 percent of schools), the school's board (69 percent of schools), and teachers (60 percent of schools) (Exhibit 44). Private schools are less likely to consult with parents in order to make a decision about participation, with only 42 percent indicating that parents would be involved.

Exhibit 44

Likely Decisionmakers for Private School Participation in a Transfer Program

	Percent of Schools Reporting Individual/Group is Likely to be Involved in Decision				
	Principal	Teachers	Parents	School's Board	Governing Body, Religious Community
All Schools	94%	60%	42%	69%	42%*
Religious Affiliation					
Catholic	98%	68%	58%	66%	36%
Other Religious	96%	59%	35%	79%	49%
Nonsectarian	83%	49%	29%	57%	na
Tuition Level					
Less than $2,000	97%	65%	45%	58%	32%*
$2,000 to $3,999	94%	69%	51%	71%	48%*
$4,000 to $7,999	93%	47%	32%	79%	48%*
$8,000 or more	97%	35%	19%	91%	42%*

* Percentage of religiously-affiliated schools only.

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

Among religiously affiliated schools, only a minority (42 percent) would involve a governing body of the religious community, although this involvement is more likely in non-Catholic religious schools (49 percent) than in Catholic schools (36 percent). In addition, 36 percent of religiously-affiliated schools indicate "other" participants in a participation decision, including diocesan officials, archdiocesan officials, departments or superintendents of Catholic education, parish councils, pastors, and other religious officials. (About 17 percent of religiously-affiliated schools indicate that the membership of the religious community would also be involved.) A small percentage of nonsectarian schools (19 percent) indicate other participants as well, including headmasters, nonprofit agencies, sponsoring colleges, corporations, and owners. Overall, nonsectarian schools are less likely to

involve teachers, parents, or a school's board in a participation decision than are religiously affiliated schools.

There are sizeable differences in the likelihood of involving parents, teachers, and private school boards in decisionmaking by tuition rate. Schools with lower tuition are considerably more likely to involve parents and teachers in decisions on whether or not to join a public school transfer program, but less likely to involve a school board. Schools with high tuition are much less likely to involve teachers or parents in decisionmaking, but considerably more likely to involve a school board. Among the schools with the highest tuition ($8,000 or greater) only 19 percent would involve parents in decisionmaking and only a little over a third (35 percent) would bring their teachers into the decision. It is possible that difference on involvement of a board reflect whether or not a board is operating at all. In general, the differences in involvement of parents, teachers, and boards suggests that there are fundamental differences in organization and operation between schools with low and high tuition, differences we are unable to explore more fully in this study.

Exhibit 45

Private School Organization Survey Responses

Name/Address of Organization	Spaces available	Maintain curriculum	Random transfer	Special needs	Assessment	Exempt religion	Other concerns
Dr. Ken Smitherman **Association of Christian Schools International** P.O. Box 35097 Colorado Springs, CO 80935	To the best of my knowledge very few, if any, of our urban schools have space available	This would be the single most crucial requirement	Least likely to accept	If the schools were appropriately staffed and have programs that would properly serve special needs students		This would be unacceptable	Since we are not a governing body our constituency is made of schools of various backgrounds. There would be varying views and positions.
Mr. David Hand **Oral Roberts University Educational Fellowship** 7777 South Lewis Ave LRC 310 Tulsa, OK 74171	Very little, as most of our schools are crowded and pressed for facilities	Might consider	NOT interested!!	NOT interested!!		Absolutely NOT	1. Governmental control and regulations 2. Restrictions on Christian and Biblical instruction
Mr. Daniel R. Vander Ark Executive Director **Christian Schools International** 3350 East Paris Avenue, SE Grand Rapids, MI 49512	They have spaces but their admission requirements almost all include that one parent must be an active church-attending Christian	Almost all would be very willing with these provisions	Only if that lottery still allowed schools to carry out each of the policies listed in a. above	Very willing, excepting if the transfer's English deficiency were so pronounced the school would have to hire a teacher skilled in a peculiar foreign language (e.g., Swahili or Arabic)	Very willing with the provision that the test itself would be easily accessible	NO. Almost all our schools would not allow the exemption because every class is permeated with a Christian religious viewpoint	
Mr. Dan Batchelor Executive Director **Association of Christian Teachers and Schools** 8855 Dunn Road Hazelwood, MO 63042	Minimal - most of our 700 Christian schools have waiting lists.	Very willing	Not willing - They would want to test and evaluate every student	Again, based on criteria [in response to previous item].	Not willing - due to very lax tests and assessments of public education	Absolutely not willing. Non-negotiable	Government control
Mr. John Scibilia Director, Division for Higher Education and Schools **Evangelical Lutheran Church of America** 8765 W. Higgins Chicago, IL 60631	Many have classroom space	Accepted most favorably	Acceptable	Acceptable within the ability of the school to serve those students with special needs well.	Most of the ELCA schools (perhaps all) already adhere to this for their current schools.	This would be difficult as the religious nature of schools is not restricted to particular time structures.	
Dr. Carl J. Moser **Lutheran Church – Missouri Synod** 133 South Kirkwood Road St. Louis, MO 63122-7295	A few	This is vital so our mission can be fulfilled.	Would rather have students from families who wanted Lutheran school education.	Not favorable - most aren't equipped to provide adequate services for them.	Not important	Not acceptable!	1. Maintaining our mission and our spiritual nature which permeates our total school program. 2. Having supportive families - not just escapees from public schools. 3. Being able to serve well those who choose to attend Lutheran schools.

Exhibit 45

Private School Organization Survey Responses

Name/Address of Organization	Spaces available	Maintain curriculum	Random transfer	Special needs	Assessment	Exempt religion	Other concerns
Father Bill Davis **United States Catholic Conference** 3211 4th Street, NE Washington, DC 20017	USCC does not represent schools directly. We do not have the data on space availability requested. The appropriate source for such information is the local Catholic (arch) diocese.	I would think generally favorable	Unable to answer accurately - may depend on local admissions policies	Depending on the degree of "special needs" and the funding provided - the answer could vary significantly	If the State assessments were the same as those used in Catholic schools, probably willing. If different, probably unwilling. Why give different tests in the same school?	Probably unwilling - Strikes at the very nature of what a Catholic school is all about.	1. Are these "transfer" students registered/ enrolled in the Catholic school or retaining public school enrollment or dual enrolled? Whose rules apply? 2. Degree of financial support – tuition and fees do not give actual per pupil costs. If actual per pupil cost is not covered, who picks up the difference? 3. What is the length of any commitment? Can students and/or schools opt in/out of the program at will. This could be very disruptive to students. 4. Degree of government supervision of the program and staffing, etc.
Dr. Dick Osbourne **General Conference of the Seventh Day Adventist Church** 12501 Old Columbia Pike Silver Spring, MD 20904	We have limited spaces in most of the cities listed on the list.	A good chance depending on the percent of total students involved. Our church tries to keep the percent of non-members to a minimum to preserve the unique mission of our schools.	Screening would be desired rather than a general lottery. Our own parents need to keep confidence in our school mission. A lottery would hurt that process.	If the school was large enough to afford staffing for such students, they would be open. However, most of our schools are too small to afford such staffing.	No problem.	This would not be acceptable. We don't make exceptions to our religious requirements including Bible instruction, attendance at religious services, or participation in service activities.	The major concern would be the right to maintain our own religious philosophy and program. If we were required to "water down" our mission, we would have no interest. We would also want to control our hiring process so that we would discriminate in hiring practices based on religious affiliation. We would not want to have separate rules for different students. For example, many of our schools have strict dress codes that do not allow the wearing of jewelry or excessive make-up. These would need to be maintained. In addition, many of our schools have strict lifestyle standards that apply to students even when they are home. These would need to be maintained.
Dr. Don Gardner **National Christian Schools Association** 9101 E. Burnside Portland, OR 97216	Our schools in Nashville, Memphis, and Portland could easily accommodate students from the public schools.	Very willing	Not likely	Possibly	Very willing	Not likely	

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Exhibit 45

Private School Organization Survey Responses

Name/Address of Organization	Spaces available	Maintain curriculum	Random transfer	Special needs	Assessment	Exempt religion	Other concerns
Dr. Peter Relic **National Association of Independent Schools** 1620 L Street NW, Suite 1100 Washington, DC 20036	No data available. School specific – depends on current enrollment and admission process.						1. Restriction on <u>any</u> aspect of running a school including: (a) curriculum, (b) admission, (c) discipline, (d) teacher certification, and (e) budget. 2. Acceptance of public monies and legal implications. Need sufficient firewall.
Dr. Lois Gerber **National Independent Private Schools Association** 6210 17th Avenue West Bradenton, FL 34209	All of our schools are very limited in space. Most are over subscribed. We have schools in Dade and Duval County, Houston, and the California area.	Probably willing	May be willing	Difficult	No problem		Accepting public school transfers by lottery is difficult. Often these students do not fit in to our schools because of student discipline codes. Anything, however, is explorable with our schools. We would be happy to try to work some program if possible.
Rabbi Robert Abramson **Solomon Schechter Day School Association** 155 Fifth Avenue New York, NY 10010	Almost all of our schools are at or near capacity.						
Dr. Aristotle Michopoulos **Greek Orthodox Archdiocese of North and South America** 50 Goddard Avenue Brookline, MA 2146	There is certain capacity (+/- 30%) available	Very good	Would probably accept	Will probably not accept. It will put a lot of demands on them.	OK	No problem there	Schools would like to have a say on the quality and caliber of students. <u>Best Option</u>: try to develop a voluntary "co-op system," e.g., let all the Greek Orthodox students have an option to attend a Greek-American school; all Catholic students attend a Catholic school, etc. This way you accomplish your goal <u>and everybody is happy</u>. Lottery is a risky idea. You are afraid of whom you are dealing with.
Mr. Ageib Bilal **Council of Islamic Schools in North America** 908 Kevin Court Panama City, FL 32404	Most CISNA member schools have moderate accommodation capacities.	Yes	No. Screening of students and families would be necessary.	Most CISNA schools could not accept learning disabilities or handicapped students. Limited English and low achievement acceptable to some schools.	Yes	Yes. Religious instruction mandatory - participation in religious activities optional.	Financial. Whether or not public funding will be made available for tuition, books, transportation, etc. and what constraints, if any will be placed on participating institutions.

Exhibit 45

Private School Organization Survey Responses

Name/Address of Organization	Spaces available	Maintain curriculum	Random transfer	Special needs	Assessment	Exempt religion	Other concerns
Dr. Joan Davis Ratteray **Institute for Independent Education** 1313 North Capital Street, NE Washington, DC 20002	Some schools are already, participating in programs that allow public school students to attend independent community-based schools.	Some schools find that some students need tutorial assistance.	There is some skepticism that this process is truly random	Schools have limited resources for special needs students. However, some parents send special needs students to independent schools because of one teaching/learning experience. Schools seem to want consideration on a case by case basis.	Some of the tests can be quite rigorous. Others are not kept up to date with current norms.		The "random lottery" is truly random and not an attempt to put the most difficult students in these schools.
Mr. David Alsop **Association of Waldorf Schools of North America** 3911 Bannister Road Fair Oaks, CA 95628	Our enrollments vary but are generally not at capacity – Best estimates is average of 20-25 students per school dispersed across grades 1-8.	Possibly willing, but fine print would be examined.	Not willing	Not willing	Not willing		1. Regulations which would compromise the freedoms currently enjoyed by the independent sector. 2. Waste of Federal education resources on lengthly court battles 3. Imposition of testing, mandatory acceptance in exchange for funds, curriculum requirement not consistent with the developmental needs of children
Col. Trevor D. Turner **United Methodist Church** Sonner Hall Front Royal, VA 22630	Since all of our schools are boarding, we have the space and can service any or all of these cities. For example, Randolph-Macon has students in 1996-97 school year from 31 states and 27 nations world-wide.	This would be necessary, but requirement are generally less stringent than most parents perceive them to be.	This is the most equitable plan if tuition comes from public funds.	This is the most difficult position to take. Public schools would gladly seek to get out of the costly special ed program. Special schools would be needed. The average private school is unable to provide adequate needs.	Yes, no problem for accredited private school to meet and exceed assessment requirements.	Yes. United Methodist Church-related schools generally have students from all faiths: Protestant, Catholic Jewish, Muslim and even Buddhist students.	

Source: Survey of Private School Organizations, 1997.

Chapter 5

Issues in Creating and Implementing a Transfer Program

Chapter Highlights

If a program was created to alleviate public school overcrowding by transferring some public school students to private schools, there are a wide variety of program design and implementation issues that program sponsors and administrators should consider. Some of these issues are applicable to any type of voucher program that subsidizes private school tuition, while others arise from the unique goal of this program to alleviate overcrowding. These issues include:

Selection and assignment of transfer students. Would participation in the transfer program be open to all public school students, limited to students in schools with overcrowding or with the most severe overcrowding, or (as in recent voucher experiments) limited to students from low-income families? How would participating students be assigned to specific private schools?

Eligibility of private schools. Would private school eligibility be restricted in any way, such as nonsectarian schools only, schools that are located within a reasonable proximity to the public schools with overcrowding problems, or schools offering the grade levels that are affected by overcrowding in public schools? Would newly-formed private schools be eligible to participate?

Oversight and accountability. Would students transferring to private schools become private school students or would they remain public school students receiving instruction in private schools? Would there be any public oversight or accountability for participating private schools? For example, would program administrators or evaluators monitor the achievement of students who transferred to private schools?

Transfer students' participation in religious instruction and activities. Would transfer students be allowed to opt out of religious instruction or activities?

Administration of transfer program. What administrative activities need to be undertaken by public and/or private school authorities to implement and maintain the program? How would the program handle transfer students who leave their private school? Would the transfer program establish rules concerning the handling of disciplinary problems?

Duration of transfer program. What would happen to students and schools in the program when overcrowding no longer exists in a school district?

This chapter examines these and other issues and considers possible implications for the design of a transfer program. The aim of this discussion is not to solve these problems, but rather to highlight their dimensions for further consideration by public policymakers and others.

Concerns Raised by School Districts

The Survey of Urban School Districts with Overcrowding provided respondents with an opportunity to voice concerns and issues in designing and implementing a transfer program. We asked the districts to identify any concerns, barriers or costs to the district in connection with a program to send public school students to private schools in exchange for tuition reimbursement. Nine of the 22 districts responded.

The districts express concern with several issues in a transfer program. Some concerns focus on the impact of such a program on public schools. Respondents in five of the districts raise concerns about the costs of setting up an infrastructure to administer the program or to transport students to private schools. Three respondents worry that such a program would upset the racial/ethnic composition of public schools and possibly jeopardize desegregation agreements.

The bulk of the concerns, however, are directed at the nature and limitations of private schools. Respondents in four districts note restrictive entrance requirements of private schools or express skepticism that private schools would accept public school students. Three respondents are concerned that special education students would not be accepted and three others comment that special programs of all types (including science programs and electives as well as programs for special needs students) are not available in private schools. Respondents in two districts believe that private schools do not have sufficient bilingual teachers to serve language minority students. One district respondent is skeptical that there is much excess capacity in private schools in that community (based on a recently conducted local survey) and also notes that private schools do not have to meet the strict earthquake standards of public schools (which had resulted in school closures and overcrowding). One respondent mentions separation of church and state as a concern.

Four districts seem willing to entertain the notion of a transfer program under certain conditions. The Milwaukee respondent, who notes that the district is currently involved in a voucher program, cites the need for accountability in a transfer program, noting that four private schools have closed in the Milwaukee experiment. The Milwaukee and San Diego respondents also mention the idea of converting private schools to charter schools as a method to alleviate overcrowding. The Houston respondent indicates that the district is currently contracting with two private schools, and the New Orleans respondent indicates that the district is renting eight buildings that were formerly private schools and has bought three former private schools in the past 15 years. San Diego is currently expanding alternative programs for high school students that are housed in non-district facilities.

Concerns Raised by Private School Organizations

Organizations representing private schools were also offered an opportunity to voice any concerns they might have about a possible transfer program, and 17 organizations responded. The concerns expressed by the associations can be grouped under three main topics: 1) government control and regulation; 2) restrictions on religious education; and 3) general design issues. This section summarizes the issues identified by these organizations.

Government control. At least six associations express concern that participating in a transfer program would bring about government control (or interference) with private schools. The Association of Waldorf Schools makes the general observation that regulations could compromise the freedoms currently enjoyed by the independent sector. It worries that, in return for public funding, schools would be required to introduce testing or curriculum requirements not consistent with the developmental needs of children. The United States Catholic Conference asks about the degree of government supervision of the program and staffing. Three respondents ask whether participating private schools would continue to maintain control over hiring. The National Association of Independent Schools expresses concern about "restrictions on any aspect of running a school including: (a) curriculum, (b) admissions, (c) discipline, (d) teacher certification, and (e) budget." It asks about the legal implications of accepting public monies and notes the "need [for a] sufficient firewall."

Religious freedom. In various ways, five associations raise concerns about whether participation in a transfer program would lead to restrictions on religious education. The General Conference of the Seventh Day Adventist Church comments: "The major concern would be the right to maintain our own religious philosophy and program. If we were required to 'water down' our mission, we would have no interest." This association also notes that its schools have strict dress codes and lifestyle standards in keeping with religious beliefs. The Lutheran Church—Missouri Synod expresses concern about "Maintaining our mission and our spiritual nature which permeates our total school program," as does the Oral Roberts University Education Fellowship, expressing concern about "restrictions on Christian and Biblical instruction."

Design of transfer program. Several associations raise questions about program design. The United States Catholic Conference raises several issues, including, "Are these 'transfer' students registered/enrolled in the Catholic school or retaining public school enrollment or dual enrolled? Whose rules apply?" and "What is the length of any commitment? Can students and/or schools opt in/out of the program at will?" Several groups voice concerns about random assignment, including concerns about enrolling students who present a discipline problem or whose families may not be supportive of the school ("not just escapees from public schools"). Some express a fear that instead of using a true lottery, public schools might try to place "difficult" students in private schools. The Greek Orthodox Archdiocese of North and South America suggests an alternative approach, a "voluntary co-op system, e.g., let all Greek Orthodox students have an option to attend a Greek-American school; all Catholic students attend a Catholic school, etc."

Two organizations raised specific questions about the extent and manner of public funding for a transfer program. The United States Catholic Conference asked about the "degree of financial support," noting that "tuition and fees do not give actual per pupil costs. If per pupil cost is not covered, who picks up the difference?" The Council of Islamic Schools in North America asks whether public funds would be made available for "tuition, books, transportation, etc. and what constraints, if any will be placed on the participating institutions." Finally, after raising its concerns, the National Independent Private School Association concluded on an optimistic note, "Anything, however, is explorable with our schools. We would be happy to try to work some program if possible."

We turn now to a more detailed discussion of the major design and implementation issues, including those identified by school districts and private school associations in response to our surveys, as well as those identified through a review of the literature on school choice and voucher programs.

Selection and Assignment of Transfer Students

There are several dimensions to consider in selecting students to participate in a private school program aimed at alleviating public school overcrowding. First, there are overall fairness issues much like those that have arisen in the recent private school voucher experiments. These include ensuring that the opportunity to attend private schools is offered equally to all eligible students and making the program available to students whose families would not otherwise have the resources to purchase private school education. In addition, however, there are different selection issues that arise because this program is aimed at addressing the overcrowding of particular public schools. If overcrowding is not equally distributed across a school district, then attention must also be paid to ensuring that the effect of the program is to alleviate overcrowding in those geographic areas and schools (within a district) where it exists. This section first examines how the program the selection issues first, and then considers how transfer students might be directed to particular private schools.

How would students be selected to participate in the transfer program? Because this transfer program would be primarily intended to alleviate public school overcrowding, it may be desirable to limit eligibility to students in the overcrowded schools only. Moreover, in order to achieve sizeable reductions in school overcrowding, policymakers may wish to restrict eligibility to students from those public schools with the most severe overcrowding problems. This focused approach would enable the district to show sizeable results for some overcrowded schools rather than only a smaller decline in district-wide enrollment.

Either of these approaches may be considered unfair by families of students in non-crowded public schools (or currently enrolled in private schools) who also wish to benefit from the tuition subsidy. Indeed, this is one of many areas where there may be conflicts between the usual goals of voucher programs and the goal of this program to alleviate public school overcrowding. Eligibility could also be open to public school students throughout the district if the district were able to adjust assignments to individual public schools once the students planning to attend private schools were known. However, this might be very difficult to implement due to the considerable time that would be needed to select and assign transfer students to private schools.

A consistent feature of the recent voucher experiments has been to limit eligibility to students from low-income families, who would not otherwise be able to afford private education without great sacrifice.[21] First, it has been assumed that in a program without income constraints, middle and upper income parents would be more likely to take advantage of public tuition subsidies for private education, leaving a greater proportion of children from poor families in public schools. In addition, it may have been easier to win political and financial support for publicly-funded tuition subsidies for students who could not otherwise afford to attend private schools. Further, low-income students in general have performed less well in public schools than their more economically advantaged peers, so their performance has been the focus of reforms by those who wish to test whether private schools are more effective. In the proposed transfer program, however, a focus on low-income students might limit the effectiveness of the transfer program for the stated goal of alleviating public school overcrowding, particularly if the public schools with overcrowding problems are not the same as the schools with high concentrations of low-income students.

Finally, if the number of eligible students is greater than the number of transfers needed or the number of spaces available in private schools, it will be necessary to determine which eligible students may actually participate in the program. In the voucher experiments, random assignment has been viewed as the fairest way to allocate what has been a scarce and desirable resource: subsidized attendance at private schools.

In addition, random selection enables stronger evaluations of the educational effectiveness of the voucher program, by enabling comparisons between the achievement of voucher recipients and non-selected applicants. In other words, random assignment helps to ensure that the voucher recipients do not differ from the "control group" of students remaining in the public schools in ways that could also affect (and explain) their academic performance in private schools. A true lottery has been difficult to achieve, however, most notably because parents must take active measures to choose program participation and there are many reasons why eligible families may choose not to participate. For example, in the first year of the Cleveland experiment, despite an initial pool of 30,000 eligible students and 6,000 applicants, vouchers were eventually offered to all qualifying applicants — because many of the randomly-selected recipients either did not meet eligibility requirements (due to income or residency), did not provide verification of income and residence, or chose not to use the voucher. In the end, parents who pursue the private school option most vigorously may differ from other parents in other ways that affect their children's performance, even when income- and achievement-neutral selection are the goals.

How would students be assigned to specific private schools? True random assignment for a voucher or transfer program is likely to be a two-stage process, with an initial lottery to select students to participate in the transfer program, and a subsequent random assignment process for assigning students to specific schools. If private schools are permitted to selectively admit transfer

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[21] The emphasis on low-income students has been the case for both publicly and privately funded voucher experiments. In the publicly-funded voucher program in Milwaukee, participation is limited to families at or below 175 percent of the national poverty rate. In Cleveland, the program as implemented is limited to families at or below 200 percent of the poverty level, with first priority to families at or below 100 percent of the poverty level. In privately-funded voucher programs, vouchers are typically offered only to students eligible for free or reduced price lunch.

students based on prior achievement, behavioral records, or other factors, this would undermine any benefits of using random assignment to select students for participation in the program, both in terms of fairness and of setting up the conditions for a strong evaluation of the program's impact on student achievement. It should be noted, however, that private schools appear to be much less interested in participating in a transfer program that uses a random assignment approach (see Chapter 4).

If a random assignment approach is used, there are several possible methods for actually linking potential transfer students with individual private schools: directly assigning transfer students to participating private schools, allowing parents to indicate their preferred private schools and then randomly distributing available spaces in private schools based on these preferences, or allowing parents of transfer students to apply directly to the participating private school (or schools) of their choice.

Directly assigning eligible students to specific private schools might seem like an authoritarian approach, but it has desirable aspects. It probably has the most potential to use all of the available private school spaces and would distribute these spaces fairly among transfer students, and it is not dissimilar from the way in which assignments to public schools are often made. However, this approach would be unacceptable to many parents, who may have strong objections to the religious orientation or educational approach of the private school to which their child was assigned. Indeed, directly assigning students to religious schools could raise additional constitutional issues that go beyond those previously raised in voucher programs where families may voluntarily choose religious schools. In addition, many parents may only be willing to have their child participate in a transfer program if they can obtain admission to their preferred private schools.

Alternatively, private schools could be treated like magnet (or charter) schools — transfer students could indicate on an application which of the participating private schools they wished to attend. Available spaces in private schools would then be randomly distributed based on these preferences. Students and their parents could then decide whether they wished to accept the offer or continue to attend the public school to which the student is assigned.

As a third possible method, parents of transfer students would apply directly to the private school or schools of their choice, and if the number of applications exceeded the number of spaces available, the schools would select randomly from these applicants. This approach appears to allow parents considerable freedom to select schools compared with the direct assignment method, but their ability to obtain admission to their preferred private schools might be limited by the supply and demand for spaces in those schools.

The latter two approaches, while probably more effective in maximizing parents' abilities to exercise choice over their child's school (compared to the direct assignment method), may be less effective in maximizing use of available private school spaces and thus in alleviating overcrowding. Parents may tend to choose private schools that are more popular and thus have fewer spaces available. Experiences with the voucher programs in Milwaukee and Cleveland suggest that many voucher recipients did not actually use the vouchers because they did not obtain admission to their preferred private school. It is possible that the transfer program's goal of alleviating overcrowding may sometimes be at odds with the more usual goal for such programs of maximizing school choice.

How would the transfer program affect students who already attend private schools? The implications for current private school students is perhaps one of the most significant ways in which this transfer program would differ from typical voucher programs that are focused primarily on student outcomes. Any proposal to use public funds to subsidize attendance at private schools, including tuition, transportation, and other costs, must consider whether to include students who are already attending private schools without the tuition subsidy.[22] From the perspective of families of current private school students, it would be unfair and inequitable to exclude these students from access to a valuable tuition subsidy, resulting in disparate benefits for two groups of private school students: publicly-supported benefits for publicly-placed students, and no benefits for those already enrolled in private schools. However, including current private school students in the "transfer program" would not serve the goal of alleviating public school overcrowding, and would certainly cause a substantial increase in the cost of the program.

Similarly, any subsidies for transportation or other costs could also raise equity issues for currently-enrolled private school students. Potentially, two students who live on the same street could attend the same private school but the transfer student would be provided with publicly-funded transportation while the other student would not.

Specific features of the design of the transfer program may also raise equity issues for students who attend private schools without the public subsidy. For example, if the transfer program requires that participating schools permit exemptions from religious instruction or activities for transfer students, some currently-enrolled students may want to receive the same exemption, potentially raising issues of differential treatment of transfer and non-transfer students within the same private school.

What issues concerning inclusion of special education or other special-needs students would need to be addressed? Both of the publicly-funded voucher programs currently in operation allow private schools to discriminate with respect to some special needs students. The experiments in Milwaukee and Cleveland do not require private schools to accept students with disabilities, although private schools are precluded from discriminating on other bases (race, ethnicity, prior educational performance or behavior). In Milwaukee, the evaluators have repeatedly recommended larger vouchers for students whose disabilities have been uncovered since they enrolled in private schools. In Cleveland, there was some effort in the design to ensure that students with disabilities who were accepted were assured the continuation of services and support. Nevertheless, evaluations of these programs suggest that publicly-supported students who enroll in private schools differ from other eligible students despite efforts to ensure otherwise.

In the case of the hypothetical transfer program considered in this report, the primary goal would be to improve conditions in public schools by giving students a less crowded environment. But if students with special needs are under-represented among transfer students (because they tend not to

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[22] The Cleveland voucher program permits current private school students to participate at a limited rate (up to 25 percent of voucher students). The Milwaukee program provides vouchers only to students who attended a Milwaukee public school in the prior year.

be admitted by the private schools), the transfer program could result in "creaming" higher-achieving students into private schools and leaving the public schools with a higher concentration of special needs students and higher per-pupil costs. To make the transfer program work for public education, there should be a concerted effort to ensure that overcrowded public schools are enhanced by the whole transfer operation, and accomplishing this means that special needs students should be included equitably in the transfer program.

However, our survey of organizations representing private schools suggests that most do not have the capacity to serve children with disabilities and many do not have the capacity to serve other special needs students (e.g., through bilingual programs). While there are some private schools that primarily (or exclusively) serve students with disabilities through contracts with public school systems, it would not be desirable to direct transfer students with disabilities to these schools as their programs are often designed specifically for students who cannot prosper in mainstream educational settings. Rather, any transfer program will have to be structured in a way that builds the capacity of private schools to meet the special needs of students with disabilities, possibly by providing higher per-pupil vouchers for these students or through supplemental publicly-provided services. Most respondents to our survey of organizations indicated that lack of resources, not lack of will, was the main reason for excluding these students at present.

Eligibility of Private Schools

What criteria, if any, would be used to determine the eligibility of private schools to participate in the program? The most contentious decision — and the one that would have the largest impact on the transfer program's potential impact on alleviating public school overcrowding — would be whether or not religious schools would be eligible to participate. Voucher advocates and opponents have battled vigorously over the question of whether public subsidies for private school tuition can be implemented without violating constitutional provisions regarding the separation of church and state, and if so, under what circumstances. For the first seven years of the Milwaukee voucher program, participation was limited to nonsectarian schools, although that restriction was recently lifted by the Wisconsin Supreme Court's decision that including religious schools would not violate the state or federal constitutions.[23] The more recently-established voucher program in Cleveland has included religious schools since its inception in 1996-97, as permitted by a court ruling pending judicial resolution of constitutional challenges to the program. Legal challenges to both programs are still ongoing.

The Milwaukee and Cleveland voucher programs have also restricted eligibility to private schools that have been certified or approved by the state, but these requirements are minimal and the terms are aimed at encouraging maximal participation of private schools.[24] In Wisconsin, for

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[23] Jackson v. Benson, no. 97-0270 (Wis. Sup. Ct. June 10, 1998).

[24] Most states do not have a formal system of accreditation that includes private schools. Some have a licensing or registration process; others exempt "church" schools; and others allow private schools to be accredited through the

example, a private school must show that it offers at least 875 hours of instruction per year and a sequential curriculum in reading, language arts, mathematics, social studies, science and health. Beyond these limited eligibility requirements, it is left up to each school to determine whether or not it would participate.

One goal of these voucher experiments has been to determine whether or not private schools offered better education than public schools, so there was a strong desire among planners to attract a wide range of schools across the communities. The proposed transfer program has a more limited goal — to relieve overcrowding in public schools. This more limited goal could also mean a more limited range of eligible schools based on geographic location or grade levels.

Restricting private school eligibility based on geographic location may be desirable depending on the distribution of overcrowded public schools within the district. As shown in Chapter 2, not all schools in the 22 school districts we have examined have overcrowded conditions, and overcrowded schools may be concentrated in certain geographic areas of the district. If the transfer program is intended to achieve its ends without extensive busing or other means to move students beyond a reasonable distance from home, then eligible private schools would need to be located within reasonable proximity to the public schools with overcrowding problems. Otherwise, it would be equally plausible to solve the overcrowding problem by moving students to public schools farther from home within the district or to neighboring districts rather than to private schools.

Restricting private school eligibility based on school grade level may be desirable if public school overcrowding in a school district is concentrated at certain grade levels. For example, the Los Angeles and Philadelphia school districts reported a very minimal problem with overcrowding among elementary schools (4 to 5 percent of schools), but a substantial problem at the secondary level (29 percent of schools). In contrast, Nashville reported that overcrowded conditions were present in 26 percent of its elementary schools but none of its secondary schools. In these cases, opening participation in the transfer program to students and schools of all grade levels would mean that some of the transfer students would have no impact on the schools that are actually experiencing overcrowded conditions.

Finally, program designers would need to decide whether newly-formed private schools would be eligible to participate. While the request for this report is concerned with the availability of space in currently operating schools, sponsors of an actual transfer program may wish to consider including newly-formed schools. The Milwaukee and Cleveland voucher programs, as well as the recent experiences with charter schools, present a mixed but generally positive picture with respect to start-up schools. While a few start-ups have failed, most such schools have continued to operate. Further study is needed to determine the conditions under which start-ups are likely to succeed or fail, and communities will need to take those conditions into account in accepting additional schools into transfer programs.

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state but do not require it.

Oversight and Accountability

Would students transferring to private schools become private school students or would they remain public school students receiving instruction in private schools? Would the public school district continue to have any responsibility for students who transfer to private schools, and if so, what responsibility? Because the goal of the proposed program is to alleviate an undesirable condition in public schools, students would be encouraged to leave those schools and attend private ones in the same communities. There might be, therefore, a level of public school responsibility for program design and implementation that does not have a parallel in the recent voucher experiments. Families may elect to take advantage of subsidized tuition, but they may see the program as a public one and expect public authorities to continue to monitor their children and the conditions under which they receive instruction. Of course, any publicly-imposed oversight or accountability will likely reduce the willingness of some private schools to participate in a transfer program (as our surveys of private schools and organizations representing private schools have indicated). Program designers would have to decide how much of a trade off is warranted, between oversight on the one hand, and mantaining as large a pool of private schools as possible on the other.

There are a variety of standards that public schools must meet that do not apply to private schools. Ironically, some of those standards affect overcrowding directly. For example, in many states and localities, public schools must restrict class sizes to certain numbers of students per teacher. In some locations these restrictions play a role in whether a school is defined as overcrowded. Ironically, students could transfer from "overcrowded" public schools to private schools with similar or even greater numbers of students per teacher. Even building codes may be different. Authorities in some California jurisdictions have pointed out that public schools not meeting earthquake standards have been closed, causing overcrowding in remaining schools. Students could transfer from these overcrowded schools to private schools not required to meet the same earthquake standards. What is the continuing public responsibility to ensure that publicly-subsidized private school students obtain education under conditions that meet public school standards?

Although the philosophy of choice and vouchers tends to emphasize parental choice (rather than bureaucratic requirements) as a means to improve school quality, the current voucher experiments do include some public accountability, and hence some public oversight has been maintained. Administrative offices staffed with public officials or contractors were created by states to administer the programs. University researchers were enlisted to conduct process and outcome evaluations. There are also some performance measures in effect. In Milwaukee, for example, participating private schools are required to meet the same state health and safety codes as public schools and at least one of four accountability standards:

1) student achievement test gains (80 percent of students make significant progress);
2) grade completion (70 percent advance to next grade);
3) daily attendance (90 percent, on average); or
4) parental involvement (70 percent of parents participate).

In addition, Milwaukee private schools are required to meet anti-discrimination standards (race, ethnicity, prior academic or behavioral record but not handicapping condition). Initially, Milwaukee

private schools could not enroll more than 49 percent of their students under the voucher program (increased to 65 percent in 1994-95 and lifted entirely as of Fall 1998). Most public school standards for items such as class size or building capacity do not appear to have been applied to the participating private schools, although some states have separate minimum standards for private schools.

In these recent experiments, students who left public schools were treated as private school students and their records were transferred to private schools but they continued to obtain certain services from public authorities. The most notable of these was federal Title I services. The federal compensatory educational program, and some equivalent state programs, was designed and enacted to apply to low-income students with an educational need regardless of the student's location. As a result, there was little doubt that these services would continue to be available and administered by public authorities. In addition, the Cleveland voucher program required the school district to provide both transportation for students with vouchers and special education services for students who would have received them had they stayed in public schools (and, presumably, to monitor these services). After legal review, the private schools were not required to accept students with handicapping conditions, however.

In the Milwaukee voucher program, the researchers conducting the state-sponsored evaluation of the program have recommended greater public accountability in the program. While noting that the program was founded on the idea that "parents can best exercise accountability... by making free choices among schools," they argued that "modest" additional regulation could help improve the program. They recommended state regulations that would increase certification standards to include: a formal school governance structure including a board of directors with terms of office, some members with no proprietary interest, and some members who are also parents. The school board should adopt bylaws, have the means to alter the governance structure as appropriate, and hold open meetings. They recommended that each school conduct an annual financial audit that meets normal accounting standards, and that all schools should be required to meet all current and future state outcome requirements including statewide tests, dropout reporting, and a school report card where it is required. It should be noted, however, that the private schools themselves might disagree about whether these regulations are modest or acceptable.

Because researchers have been separately funded (by state and private sources) to observe implementation and collect outcome data as part of voucher experiments, oversight of the voucher experiments has been fairly extensive. It has also been conducted largely outside the local public accountability framework. These evaluation and research studies are yielding a great deal of information about the status of children who transferred to private schools in these communities. There is a real question, however, of how much might be known about transfer students without ongoing state oversight. Communities have established special state-supported oversight offices to determine student eligibility and enroll schools but their role in ensuring accountability in implementation is less clear. There was some suggestion in evaluator reports of the Milwaukee case that cooperation between public authorities and private schools was greater for students who were in the same private schools under contracting arrangements (for pre-schoolers or at-risk students) than for those admitted through vouchers. Some of these schools have public school teachers present at the private schools to provide services when students with disabilities are served through private schools.

Student status will also need to be determined. As already noted, there are two sets of concerns — the ability to track students and ensure their educational performance, as well as the need to offer continuing services to which students are entitled. In the recent voucher experiments, students who received vouchers were considered private school students. Nonetheless, the evaluations that are being conducted have resulted in extensive tracking of voucher students, and methods have been developed to continue to provide those public services to which students were entitled (under federal, state, and local statutes). There would need to be agreement on which services and costs would be assumed by public and private sectors.

Would there be any public oversight or accountability for participating private schools? For example, would program administrators or evaluators monitor the achievement of students who transferred to private schools? As already noted, recent voucher experiments have included some public oversight for private schools and their transfer students. In general, private schools participating in these voucher programs have appeared willing to implement these oversight mechanisms, and standardized testing of students has been the primary method for comparing the performance of students who have taken advantage of voucher programs (and would not have otherwise enrolled in private schools). If the transfer program is aimed at alleviating overcrowded conditions in public schools, it is reasonable to argue that the solution should not come at the expense of public school students. The only way to ensure that public school students are not harmed is to determine whether their performance in private schools is at least comparable to their expected performance levels in public schools. Most of the organizations representing private schools who were polled for this report were supportive of using state-required tests in those schools, but the schools themselves were not (see Chapter 4).

It is worth noting, however, that while implementing testing may not be a barrier to private school participation, determining whether students who transfer to private schools are performing at or above expected levels is not easy. After several years of student testing, researchers are still debating the impact of the Milwaukee experiment. In Cleveland, the difficulties in establishing a random assignment system for directing public students to private schools has complicated efforts to compare performance. So while an accountability mechanism may be put in place and schools may administer the same tests to public and private school students, determining what the test results show about comparable performance of schools and students will not be an easy matter.

Beyond testing, however, private schools may be considerably less willing to accept other forms of public oversight or accountability. Rules or standards with respect to educational "inputs" are likely to result in unwillingness to participate on the part of some private schools. Among the problematic areas cited by private school organizations in response to our survey are: curriculum, discipline, teacher certification, teacher hiring, and financial audits. Organization officials argue that these are the elements that make private schools different from public schools, and many would refuse to participate in any program that sought oversight on these matters. In addition, about half the organizational officials polled thought their constituent schools would not participate in a program in which applicants were assigned randomly to private schools. They believe that the schools they represent would want to maintain their ability to screen applicants and/or maintain a student body that reflected the school's affiliation or goals.

Transfer Students' Participation in Religious Instruction and Activities

Would participating students be allowed to opt out of religious instruction or religious activities? Assuming for the moment that religiously-affiliated private schools would be included in the transfer program, could the program be designed in such a way that publicly-supported pupils could be allowed to refrain from religious instruction or activities at parental request?

A program design that allows publicly-supported pupils to opt out of religious instruction is desirable from several standpoints. First, it might help the program to meet legal requirements for public support since public funds would not be used to support religion directly. Allowing religious schools to participate would greatly expand the number of spaces available for transfer students as such schools constitute the bulk of private schools and additional student capacity in most locales. In addition, a transfer program designed in this manner might be more attractive and provide more choices to parents who would like their children to have private school opportunities but are not desirous of having their children receive instruction in a particular religion. An "opt out" provision was included in the 1995 state amendments to the Milwaukee voucher experiment, although it has not been implemented (as a court injunction had barred religious schools from participating).

But although the concept may be attractive to public authorities and some parents, it may not be workable in practice. In our survey, most of the organizations representing religiously-affiliated private schools see the possibility of this exemption as a major barrier to participation by the schools they represent. Most religious schools indicate an unwillingness to participate under this condition, and the private school associations identify several reasons for this unwillingness. First, several note that such exemptions may not be possible logistically. Religion and religious education are often infused into all aspects of the curriculum, not just included as separate religious classes or events. Further, some religiously-affiliated schools also impose behavioral rules which are related to their religious beliefs (such as rules about dress or lifestyle). Others indicate a potential problem with a regulation allowing for exemptions as a potential means for public interference with the practice of religion. They worry that public support could lead to a watering-down of religious instruction or other practices over time, as greater efforts are made to accommodate exemptions. Some argue that rules allowing exemptions strike at the heart of what makes a private religious school different from a public school, a distinction that their religious schools want to maintain.

It seems clear that religious instruction in religious schools is not analogous to sex education in public schools. Public schools often allow parents to request that their children be exempted from a sex education curriculum to which they object. For those few hours of instruction, a handful of exempted students may be sent to the library or provided with an alternative classroom activity. Sex education is not, however, a central or defining element of the overall curriculum. In religiously-affiliated private schools, religion may well be ubiquitous. It often pervades the curriculum and may dictate how secular subjects are addressed. In some instances, it also plays a critical role in the organization of studies (e.g., sex segregation for some or all classes) as well as dress and lifestyle rules. Exempting publicly-supported students from religious instruction or activity in this context would be either infeasible or would so isolate the publicly-supported students as to be unwise for their educational or social development.

A small subset of organizations representing religiously-affiliated private schools did believe that exemptions from religious instruction or activities would be possible. One organization noted that its members attract students with a wide range of religious backgrounds and have a history of such allowing exemptions. It may be useful to understand more about how these schools operate before designing an exemption policy (for example, they may have nondenominational rather than non-religious curricula). It may also be useful to examine the implementation of the Cleveland voucher experiment which did not require exemptions but did allow parents to choose the schools to which they applied.

Administrative Issues

What administrative activities need to be undertaken by public and/or private school authorities to implement and maintain the program?[25] There is clearly a need for an office or authority responsible for administering the transfer program as well as for any ongoing oversight. Administrative functions involved in implementing a transfer program might include:

- Establishment of program rules and procedures. Efficient and fair administration of the transfer program will require the establishment of clear rules and procedures governing eligibility of private schools and public school students, application processes, selection or admission of transfer students to specific private schools, and other key aspects of the program.

- Arranging for student transfers to private schools. Administrative tasks necessary to accomplish the actual transfers of students involve recruiting private schools, selecting students to participate in the transfer program, and assigning transfer students to specific private schools. Program administrators would disseminate information about the program to private schools and answer any questions they may have about participating in the program. They would also disseminate information to parents about the existence of the program, the names and nature of participating private schools, and the process for applying to participate in the program. The process of selecting students would include reviewing student applications, verifying students' eligibility to participate, and conducting the actual lottery (if there are more applicants than the transfer program can accommodate). Finally, program administrators would supervise the process by which transfer students are admitted to individual private schools.

- Administration during the school year. Program administrators would arrange for payment of vouchers or other mechanisms for paying tuition and any other costs for transfer students. They may work as a liaison between public and private schools to ensure that student records are transferred in a timely manner, supervise any publicly-provided services for transfer

[25] This section draws on a unpublished paper prepared by Dr. Paul Hill to inform this study, entitled Administrative Costs of Education Voucher Programs. Dr. Hill's paper identifies a variety of administrative tasks needed to establish and operate a voucher program, based on the experiences in Cleveland and Milwaukee.

students (possibly including transportation and categorical program services), and to address any other needs of participating private schools and transfer students.

- Evaluation of the transfer program. Although any actual evaluations may be performed by outside researchers, the assistance of program administrators will be important for obtaining the information needed to conduct a sound evaluation. Administrative tasks include keeping track of transfer students who move out of the transfer program (to return to the public schools or to move to another school district) or who move between private schools, as well as ensuring that comparable tests are administered to the appropriate groups of students (including those who remain in the program, those who exit the program, and a comparison group of students not participating in the transfer program).

In both Milwaukee and Cleveland, a special office independent from the school district was created to implement the voucher program. However, school districts will inevitably play an important role in certain critical areas, potentially including the transfer of funds and student records, student transportation, providing any publicly-supported services for transfer students, and providing data on student achievement and other information needed for an evaluation of the program. State educational agencies may be involved in designing the specific parameters of the program, overseeing program evaluations. Efficient administration of a voucher or transfer program will depend on cooperation between all of these agencies.

How would the program handle transfer students who leave their private school? Transfer students might leave the private school they attend through the transfer program for a variety of reasons. Parents might wish to withdraw their child from the school due to dissatisfaction with the school's instructional offerings or quality. A school might ask a student to leave due to disciplinary problems. A private school may close, or may wish to discontinue its participation in the transfer program.

If students who transfer are treated as private school students (as has been the case in the voucher experiments), then all subsequent voluntary movement of those students to public schools would be treated the same as that of any other private school students. Presumably, a student who withdrew from the program and returned to the public schools would be treated as any new or returning student.

However, it may be advisable to establish some a priori rules about whether transfer students who leave their private school may then transfer to another private school (and if so, whether they could transfer to another private school in the middle of a school year or must wait until the next year's admission process). For example, in the Milwaukee voucher experiment, when a start-up private school failed in the first year, the students maintained their position in the experiment and efforts were made to move them to other schools. These rules might vary depending on the reason for the student's departure from the private school, for example, whether it was due to closure of a private school, expulsion for disciplinary infractions, or a family's decision that the child's best interests would be served by changing to another school. The decision on this issue may hinge, in part, on whether there is excess demand among eligible students to participate in the program as well as

whether there continues to be overcrowding in the public school to which the student would likely otherwise be assigned.

Would the transfer program establish rules concerning the handling of disciplinary problems? It might be desirable to develop policies concerning the conditions under which suspensions or expulsions of transfer students would be allowed. Critics of voucher programs have argued that it would be unfair to allow private schools receiving public funds to "pick and choose" only well-behaved students, when public schools are obligated to "accept all comers." If participating private schools are precluded from considering prior behavioral records in the admissions process (as is the case in the Milwaukee and Cleveland voucher programs), it would seem consistent to limit their ability to suspend or expel transfer students with behavior problems, or at least to provide for certain due process protections for students threatened with suspension or expulsion. Moreover, students with disabilities who are placed in private schools under a transfer program would probably be covered by the provisions of the Individuals with Disabilities Education Act regarding disciplinary sanctions.

However, many private schools would be unwilling to alter their disciplinary codes or policies as a condition of participating in a transfer program. Private schools may feel that these policies are important to maintaining their educational standards and environment, and may also object to any program rules that require them to apply different disciplinary standards to transfer students than to their other students. Indeed, any public regulation of disciplinary policies for transfer students may have a significant impact on the number of private schools willing to participate in the program.

Who would pay for any additional costs to parents that are associated with private school attendance, such as registration fees, book and material fees, school uniforms, and before- and after-school activities? As the discussion in Chapter 3 shows, there are costs beyond tuition associated with participating in a private school. Certain of those costs are not unlike costs of parents in some public schools, especially school uniforms and some activity fees, which are often borne by parents. Some private school costs may be greater, however. For example, private school students and their families may be called upon to participate in various fund-raising events when tuition does not fully cover the costs of instruction.

If a transfer program is limited to low-income families, those parents will have a difficult time in meeting these types of additional costs. The difficulty may be compounded if parents are expected to meet some tuition costs, no matter how small (as was the case in Cleveland). One solution would be to set aside a publicly-supported fund from which parents could request help with certain non-instructional costs directly related to student activities (it would be hard to justify payments for general funds solicitations). Another would be an approach tried in Cleveland in which parents substitute volunteer work in the school for some of the additional tuition costs. This approach has the additional benefit of involving parents in the school.

Duration of the Transfer Program

What would happen to students and schools in the program when overcrowding no longer exists in a school district? If alleviating overcrowding in public schools is the sole purpose of the transfer program, then the program would presumably be terminated when the problem no longer existed. There might still be a need to establish mechanisms to ensure that students were not wrenched from their educational environments and that private schools that had grown as a result of the transfer program were not terminated abruptly when overcrowding was eliminated. These problems could perhaps be mitigated through a gradual phase out of the program (perhaps by allowing students to continue in their current schools for a year or more).

Even with the paramount goal of eliminating overcrowding, there might be reasons to continue the transfer program after that goal was accomplished. If there were evidence of population trends and/or other conditions (such as deteriorating school buildings) that might result in resurgent overcrowding in the near future, it might be advisable to continue to operate a scaled-down version of the program that could be augmented or scaled up if need be. Or, the school system might decide that there were financial or other advantages to shifting students to private schools rather than building expensive additional facilities that might only be used for a few years. In fact, if the transfer program were supported with outside funds, this could create a reverse (and possibly perverse) incentive, making school districts and taxpayers less willing to solve overcrowding problems through expensive local solutions such as building new schools.

However, there may be some who view a program of this type as more than a way to alleviate overcrowding in public schools, rather, as a test case for a more comprehensive private school voucher program. Indeed, such a transfer program would offer an opportunity for testing and refining the administrative rules and structures needed to implement a voucher system, as well as for investigating the impact of the program on student achievement. However, the program's focus on alleviating public school overcrowding may well reduce its desirability from the perspective of voucher advocates. Restricting participation to students currently enrolled in public schools seems necessary to maximize the program's impact on public school overcrowding, but may be perceived as unfair to families of current private school students. In addition, if overcrowding is limited to certain schools or grade levels in a school district, participation in the transfer program might be restricted to students in those schools or grade levels. Voucher advocates would probably prefer a program that is open to all students in the district. And because the primary goal of the transfer program would be to alleviate a resource problem — insufficient space — in public schools, this may justify a higher level of public responsibility and oversight for students transferring to private schools than has been present in recent voucher experiments. In short, the unique features of a transfer program designed to alleviate overcrowding may limit its appeal for those seeking to expand the number of publicly-funded private school voucher programs in the United States.

Chapter 6

Constitutional and Other Legal Issues[26]

The primary legal issues presented by a program of tuition reimbursement to alleviate overcrowding in public schools are: (1) whether the inclusion of religious schools as an option for participating students would violate the Establishment Clause of the First Amendment to the U.S. Constitution; and (2) the applicability and effect of the Fourteenth Amendment and civil rights laws on any such program.

Establishment Clause

The Establishment Clause states that "Congress shall make no law respecting an establishment of religion..." In the past 50 years, that simply stated constitutional limitation has been the source of numerous challenges to educational programs funded from governmental sources.

The Supreme Court has emphasized on a number of occasions that the constitutionality of a governmentally funded program under the Establishment Clause depends in large measure on the specific facts and structure of the program. See, e.g., Wheeler v. Barrera, 417 U.S. 402, 426 (1974) (The Establishment Clause requires "a careful evaluation of the facts of the particular case"). Although it is clear that the Establishment Clause would not prohibit a tuition reimbursement program that provided funds for students to attend private schools with no religious affiliation, any discussion of a tuition reimbursement program with respect to religious schools must be subject to a strong caveat. Without a specific legislative proposal to consider, much less the operational history of the program, only general observations can be made concerning the constitutionality of a tuition reimbursement program under the Establishment Clause.

In applying the Establishment Clause, the Supreme Court has developed a three-part test. Under the so-called Lemon test, a statute or program does not offend the Establishment Clause if it has a secular legislative purpose; does not have the primary effect of advancing or inhibiting religion; and does not foster excessive entanglement between government and religion. See Lemon v. Kurtzman, 403 U.S. 602, 612-13 (1971). Although the three-part test has been criticized in recent years, it remains a useful vehicle for analyzing constitutional challenges under the Establishment Clause and is a likely test that a court would use in reviewing the constitutionality of a tuition reimbursement program.

A tuition reimbursement program is likely to meet the first and third parts of the Lemon test. The program would ostensibly have a secular legislative purpose — namely, to relieve overcrowding in the public schools. It also would appear not to be overly difficult to design a tuition reimbursement

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[26] This chapter was prepared by Stephen Freid and Karl Lahring of the Department's Office of General Counsel.

program that would not foster excessive entanglement between government and religion. Although it is assumed that private schools would have to meet some basic requirements to participate in the program, minimal requirements relating to health, safety, curriculum and similar matters in private schools, and the monitoring of those requirements, have been upheld in other contexts. See Runyon v. McCrary, 427 U.S. 160, 178-79 (1976); Ohio Ass'n of Independent Schools v. Goff, 92 F.3d 419 (6th Cir. 1996), cert. denied, 117 S. Ct. 1107 (1997). Therefore, it appears that a carefully designed tuition reimbursement program would not be particularly vulnerable to attack under the first and third parts of the Lemon test.

Challenges to any tuition reimbursement program under the Establishment Clause are likely to be focused on the second part of the Supreme Court's test, with arguments that any program that includes religious schools will have the primary effect of advancing religion because government funding will be provided for those schools, or because the government will favor religious schools over other schools or will encourage attendance at those schools. Whether a court would consider a tuition reimbursement program as having a primary effect of advancing religion will depend, to a large degree, on the specific design and implementation of the program. There is no specific Supreme Court precedent on the constitutionality of a tuition reimbursement program to relieve overcrowding in public schools, but precedent exists with respect to related types of programs. The following discussion describes this existing precedent.

In both Committee for Public Education and Religious Liberty v. Nyquist, 413 U.S. 756 (1973) and Sloan v. Lemon, 413 U.S. 825 (1973), the Supreme Court struck down state programs that provided tuition reimbursements only for parents sending their children to private schools. The Court concluded that these programs had the primary effect of advancing religion even though the money was paid to the parents rather than to the schools and regardless of whether the payments were made on a reimbursement basis or were limited to low-income families. See Nyquist, 413 U.S. at 785-87; Sloan, 413 U.S. at 830-32. Further, the Court did not find it significant whether the reimbursement was limited to a portion of the actual tuition. See Nyquist, 413 U.S. at 787. The Court stated that "[t]he State has singled out a class of its citizens for a special economic benefit" and "[w]hether that benefit be viewed as a simple tuition subsidy, as an incentive to parents to send their children to sectarian schools, or as a reward for having done so, at bottom, its intended consequences is to preserve and support religion-oriented institutions." Sloan, 413 U.S. at 832; see also Public Funds for Public Schools of N.J. v. Byrne, 590 F.2d 514, 520 (3d Cir.), aff'd, 442 U.S. 907 (1979)(state statute allowing tax deduction only for parents of private school children has the primary effect of advancing religion).

The Court has also made it clear in these and other cases that direct, unrestricted cash payments to religious schools would not be constitutional. Nyquist, 413 U.S. 780 (tuition grants could not be made directly to religious schools); School District of City of Grand Rapids v. Ball, 473 U.S. 373, 395 (1985), overruled in part by Agostini v. Felton, 117 S.Ct. 1997 (1997) ("the provision of a cash subsidy to [a] religious school... is most clearly prohibited under the Establishment Clause"). As a result, there would seem to be serious constitutional problems with any tuition reimbursement program to relieve overcrowding in public schools if the program included only private school

children (or only children who would go to private schools) or if direct payments were made to private schools rather than to parents.[27]

In more recent decisions, the Supreme Court has emphasized that broad-based government programs designed without reference to religion are not easily subject to attack under the Establishment Clause. In Mueller v. Allen, 463 U.S. 388 (1983), for example, the Court upheld a state tax deduction for certain educational expenses at public or private schools, including religious schools, despite the fact that the vast majority of the beneficiaries of the deduction were parents of children attending religious schools. In concluding that the statute was constitutional, the Court relied on the deduction being equally available to public and private school children and the fact that its use was based on the individual choices of parents. The Court specifically distinguished this case from Nyquist where the public assistance was limited to the parents of private school children. See id. at 397-99. Similarly, in Witters v. Washington Dept. of Serv. for the Blind, 474 U.S. 481 (1986), the Court upheld public funds being used under a vocational rehabilitation program to finance a blind student attending a Christian college to study to be a pastor, missionary, or church youth director. The vocational rehabilitation program at issue provided aid to students with disabilities without regard to religion, or the religious nature of the school chosen, through the independent choice of the student. The Court upheld this use of public funds, as it was part of a neutral program providing benefits to a broad class of beneficiaries. See also Rosenberger v. Rector & Visitors of the Univ. of Va., 115 S. Ct. 2510, 2521 (1995)("A central lesson of our decisions is that a significant factor in upholding governmental programs in the face of Establishment Clause attack is their neutrality towards religion."); Agostini v. Felton, 117 S.Ct. 1997 (1997); Zobrest v. Catalina Foothills School District, 509 U.S. 1,8 (1993).

The government programs upheld in Mueller and Witters and similar cases share the common characteristics of providing benefits to a broad class without reference to religion and relying on the choices of individuals rather than the government or any religious institution. Therefore, to the extent that a tuition reimbursement program to relieve overcrowding in public schools had these characteristics, it would be more likely to be upheld as not advancing religion. For example, a tuition reimbursement program that included a broad range of schools (both public and private) for participating students to attend to alleviate overcrowding in their regular schools would be less subject to constitutional attack under the Establishment Clause than the programs in Nyquist and Sloan that provided tuition reimbursement only for parents of students in private schools. Similarly, a tuition reimbursement program that left to parents the decisions as to whether their children would participate in the program and what schools they would attend would more closely resemble the characteristics in Mueller and Witters than a program where governmental or private school officials made or influenced these decisions.

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[27] There would be an additional constitutional concern if the program were limited to specific private schools based on their religious-affiliations. For example, if the government arranged a tuition reimbursement program only with schools with certain religious affiliations, the program also would likely be struck down as favoring certain religious groups over groups not included in the program. See, e.g., Everson v. Board of Education, 330 U.S. 1, 15 (1947)(government cannot "aid one religion, aid all religions, or prefer one religion over another.").

In certain respects, a broad-based tuition reimbursement program to alleviate overcrowding may be viewed as similar to a school choice or voucher program, albeit the program would be for a different purpose. The U.S. Supreme Court has never ruled on the constitutionality of a school choice program, but the issue has been litigated in several state courts. In Jackson v. Benson, no. 97-0270 (Wis. Sup. Ct. June 10, 1998), the Wisconsin Supreme Court ruled that the expansion of the Milwaukee choice program to include religious schools did not violate the Federal or state constitution. In contrast, in 1997, the Ohio Court of Appeals ruled that the scholarship portion of the choice program in Cleveland, which enables students to attend alternative schools, most of which are sectarian, violated both the Federal and Ohio constitutions. Simmons-Harris v. Goff, Nos. 96APE08-982, 96APE08-991 (Ohio Ct. App. Tenth District May 1, 1997). See also Chittenden Town School District v. Vermont Department of Education, No. S0478-96RcC (Vt. Super. Ct. Rutland June 27, 1997) (school district's proposal to pay tuition for children to attend a religious high school violates the Federal and Vermont constitutions). The Ohio and Vermont decisions are on appeal to the state supreme courts in those respective states. The Ohio Supreme Court has allowed the Cleveland scholarship program to continue while it considers the merits of the case.

Although this discussion has focused on whether a tuition reimbursement program to alleviate overcrowding in public schools would be facially constitutional, the Supreme Court has recognized that government programs also can be operated in a manner that is constitutionally flawed. See, e.g., Bowen v. Kendrick, 487 U.S. 589, 620-22 (1988). Therefore, even if a tuition reimbursement program were to be found constitutional on its face, it would need to be operated in a constitutional manner. Similar to the concerns discussed above, a tuition reimbursement program would be more likely to be found constitutional as applied if it was in fact administered in a religiously neutral manner, provided a wide choice of schools (both public and private) and left decision-making authority with parents. However, a tuition reimbursement program would be constitutionally suspect if, for example, in its operation administrators gave preference to religious schools (or certain religious schools), tried to influence students to attend religious schools, or engaged in excessive monitoring of the day-to-day operations of religious schools. Although legitimate constitutional concerns may be raised with respect to the implementation and operation of any tuition reimbursement program that includes religious schools, those issues would have to be reviewed and decided on a case-by-case basis.[28]

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[28]This discussion has focused on the constitutional issues facing tuition reimbursement programs under the Establishment Clause of the First Amendment to the U.S. Constitution. Other similar challenges could be brought under state laws and constitutions, some of which have been interpreted by state courts as being more restrictive than the Establishment Clause. See, e.g., Witters v. Washington Commission for the Blind, 112 Wash.2d 363, 771 P.2d 1119, cert. denied, 493 U.S. 850 (1989)(Washington Supreme Court ruled that aid violated a provision of the state constitution that no public money could be appropriated for or applied to any religious instruction, even though the U.S. Supreme Court had ruled in the same case that there had been no violation of the Establishment Clause). While a Federal tuition reimbursement program would arguably override any contrary state law prohibitions (or could be drafted to specify whether or not it does so), a state or local tuition reimbursement program may face additional legal obstacles of this nature in certain states.

Civil Rights

Chief Justice Burger, in his opinion written for a unanimous Supreme Court under the Fourteenth Amendment in Norwood v. Harrison, 413 U.S. 455, 463 (1973), striking down Mississippi's program to provide free textbooks to students attending racially discriminatory private schools, stated: "This Court has consistently affirmed decisions enjoining state tuition grants to students attending racially discriminatory private schools."[29] The Chief Justice explained the basis for prohibiting such tuition assistance, as follows: "A State's constitutional obligation requires it to steer clear, not only of operating the old dual system of racially segregated schools, but also of giving significant aid to institutions that practice racial or other invidious discrimination." Norwood, 413 U.S. at 467.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, prohibits recipients of Federal financial assistance, which include state educational agencies and local school districts, from engaging in discrimination based on race, color, or national origin. In keeping with this statutory mandate and the Supreme Court's decision in Norwood, the Department of Health, Education, and Welfare published a policy report in the Federal Register in 1976 explaining that recipients of Federal financial assistance were prohibited from allowing students enrolled in racially discriminatory private schools from participating in the programs offered by the recipients' schools. 41 Federal Register 35553 (1976).[30] The bar to providing tuition reimbursements by state or local educational agencies to students attending racially discriminatory private schools under the Fourteenth Amendment and Title VI[31] would apply even if the assistance is first provided to the parents, who in turn spend it on tuition, because the regulations under Title VI specifically provide that a recipient may not engage in prohibited discrimination "directly or through contractual arrangements." 34 C.F.R. 100.3(b).

If the Federal government were to provide tuition grants to parents or students, those grants would be akin to the Pell Grants that currently are provided for higher education expenses. In accordance with the Supreme Court's decision in Grove City College v. Bell, 465 U.S. 555 (1984), receipt of such Federally provided tuition assistance by any school would place that school under the jurisdiction of Title VI and, thereby, would require the school to operate in a non-discriminatory manner. Additionally, the Age Discrimination Act, prohibiting discrimination on the basis of age, Title IX, prohibiting discrimination based on sex, and Section 504 of the Rehabilitation Act, prohibiting discrimination based on disability, would apply when a private school is a recipient of Federal funds. The application of Title IX and Section 504 to private schools is discussed below.

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[29] In Norwood, the Court specifically distinguished cases involving racially discriminatory private schools from those involving parochial schools and noted that "[h]owever narrow may be the channel of permissible state aid to sectarian schools... it permits a greater degree of state assistance than may be given to private schools which engage in discriminatory practices that would be unlawful in a public school system." Norwood, 413 U.S. at 470.

[30] The Department of Health, Education, and Welfare was the predecessor agency to the Department of Education, which maintains this policy interpretation of Title VI.

[31] The Supreme Court has ruled that the Constitutional prohibitions against racial discrimination under the Fourteenth Amendment necessarily are applicable under Title VI. See, e.g., Regents of the University of California v. Bakke, 438 U.S. 265 (1978).

If tuition reimbursement is subsidized only by state or local funds, and not by Federal funds, the issue of application of the civil rights laws that bar discrimination based on sex, disability or age is more complicated. Private schools that accepted the tuition would not be recipients of Federal funds and would not be directly subject to the civil rights laws. However, assuming the program is administered by a state or local public educational agency that otherwise receives Federal funds for other purposes, the Civil Rights Restoration Act of 1987 would make all of the public agency's operations subject to civil rights coverage, including administration of the tuition reimbursement program. The public agency, therefore, would be responsible for ensuring that participating private schools satisfy civil rights requirements with regard to students who are assisted under the tuition reimbursement program.

The Title IX regulations also include provisions that bar a recipient of Federal funds, such as a state or local educational agency, from providing significant assistance to any organization that discriminates on the basis of sex in providing benefits or services to students or employees. 34 C.F.R. 106.31(b)(6). It should be noted, however, that Title IX does not apply to admissions to elementary and secondary schools, except for vocational schools. Therefore, under Title IX, nonvocational single-sex elementary and secondary schools, whether public or private, are permissible. However, the Title IX regulations provide that, if a local educational agency offers single-sex education, it must provide comparable courses, services, and facilities to students of both sexes. Other requirements of Title IX also would not apply to the extent that they are inconsistent with any religious tenets of a private school.

Section 504 of the Rehabilitation Act of 1973, relating to discrimination based on disability, also has specific provisions in its regulations relating to private schools. A recipient private school — or a private school participating in a tuition reimbursement program of a state or local educational agency — is required under the Section 504 regulations to admit a child with disabilities only if it can provide the child with an appropriate education with "minor adjustments" to its program. However, the Americans with Disabilities Act (ADA) applies to all non-religious private schools, pursuant to Title II governing public accommodations. 28 C.F.R. 36.104 (ADA regulations published by the Department of Justice). Unlike Section 504, the ADA does not limit a non-religious private school's responsibility to admit students with disabilities, and the ADA applies regardless of whether the non-religious private school receives Federal financial assistance.

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Appendix A

Congressional Request for Study

It has been brought to the conferees' attention that several public urban schools around this Nation are experiencing very serious overcrowding conditions. These schools are forced to jam classrooms to overcapacity due to their districts' limited budgets and engage in expensive capital campaigns for the construction of new schools. Private and parochial schools in these urban areas may have more than adequate space available to help public schools alleviate the overcrowding situation and could provide educational services, in some instances, for $1000 per student. The conferees direct the Department of Education to provide to the Appropriations Committees by September 1, 1997, a feasibility study outlining the benefits of using private and parochial schools as alternatives to alleviate the overcrowding in public schools and barriers to using public school dollars for tuition reimbursement. The study should address the constitutional issues surrounding the use of these dollars among public, private, and parochial entities as well as other statutory and regulatory impediments.

Source: Conference Report, HR 3610, Report 104-863, September 28, 1996, p. 1060.

Appendix B

Survey Instruments

Study of Barriers, Benefits, and Costs of Using Private Schools to Alleviate Overcrowding in Public Schools

School District Survey

Survey conducted for:

Planning and Evaluation Service
Office of the Under Secretary
U.S. Department of Education

Introduction: This survey is part of a congressionally-mandated study to examine the extent to which private schools (including religious schools) might be used to alleviate overcrowding in urban public schools by accepting public school students in exchange for tuition reimbursement. The study is examining the extent of overcrowding in urban public schools and the extent to which private schools in these areas have spaces available that might be used to accommodate students from overcrowded public schools. The study will also examine the costs that would be involved in such a program (including tuition reimbursement, transportation, and administration), program design and implementation issues that would need to be considered in developing such a proposal, and the constitutional issues and other legal impediments that might be raised if such a proposal were adopted.

Technical Support: The Council of Great City Schools (CGCS) will provide technical assistance during the data collection period. If you have a question regarding these data collection forms, please contact Robert Carlson (CGCS) at (202) 393-2427.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1875-0130. The time required to complete this information collection is estimated to average 20 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Stephanie Stullich, Planning and Evaluation Service, Office of the Under Secretary, U.S. Department of Education, 600 Independence Avenue, SW, Room 4133, Washington, DC 20202.

OMB Number: 1875-0130 **Expiration Date:** 9/97

1. Enter the name, title, and telephone number of person completing survey in the space provided below:

Name:	
Title:	
Telephone Number	( ) _____-_____

2. Does your district use any of the following ways of determining whether or not a school is overcrowded, and which method is used most frequently?

	Method is used in this district Check (✔) as many as apply	Most frequently used method Check (✔) one item in this column
A. Class sizes or pupil/teacher ratios are over desired level		
B. Number of students enrolled in school is greater than building capacity		
C. Portable buildings must be used in order to accommodate all students in school		
D. Other (please specify) _____		

3. If your district uses method A above, please specify the threshold pupil teacher ratio(s) and/or class size(s) used to determine overcrowding:

4. Is your district currently experiencing overcrowded conditions, according to the method most commonly employed in your district?

Yes No

If overcrowded conditions do not currently exist in your district, please exit the survey.

5. Using the method(s) most commonly employed by your district, please provide the number of schools experiencing overcrowding in Fall 1996 and currently, the actual capacity of these schools (i.e. the total number of students that could be educated in these schools without exceeding the district's threshold for overcrowding), and the total number of students in schools with overcrowded conditions.

Please provide this information separately for elementary, middle/jr. high, high, and combined schools, using the following **definitions:**

Elementary school: beginning with grade 3 or below and with no grade higher than 8
Middle school: beginning with grade 6 or below and with no grade higher than 8
Junior high school: includes grades 7 and 8 or grades 7 through 9
High school: beginning with grade 7 or above and ending with grade 12
Combined: beginning with grade 6 or below and ending with grade 9 or above

School Level	Point in Time	Number of Schools with Overcrowded Conditions	Actual Capacity of Schools with Overcrowded Conditions	Total Number of Students in Schools with Overcrowded Conditions
Elementary	Fall 1996			
	May 1997			
Middle/Jr. High	Fall 1996			
	May 1997			
High School	Fall 1996			
	May 1997			
Combined	Fall 1996			
	May 1997			

6. How long has overcrowding been a problem in your district?

_____

_____

_____

7. When do you anticipate that overcrowded conditions will end?

_____ Estimated year
_____ Don't know

8. What are important and main reasons for overcrowding?

Possible Reasons	**Important** reason in this district Check (✔) as many as apply	**Main** reason(s) in this district Check (✔) up to two items in this column
1. Rapid enrollment growth as a result of immigration to U.S.		
2. Rapid enrollment growth as a result of migration from other areas of U.S.		
3. Rapid enrollment growth in some areas of the district but not others		
4. Rapid enrollment growth at some grade levels but not others		
5. Closure of older or deteriorating schools		
6. Insufficient new school construction		
7. Insufficient resources to hire additional teachers		
8. Inability to find/hire sufficient teachers with appropriate skills		
9. Other (specify) _____ _____		

9. What methods is the district using to address the overcrowding? (Check (✔) one box in each row only)

Possible methods for addressing overcrowding	Currently using	District has plans to use method for the 1997-98 school year	Not used/not planned
1. Building additional schools or renovating buildings			
2. Renting or leasing additional space			
3. Use of portable buildings			
4. Larger class sizes than desirable			
5. Split-day sessions			
6. Year-round schooling			
7. Reducing or eliminating some electives (or nonrequired classes)			
8. Hiring additional teachers			
9. Other (specify) _____ _____			

10. Please identify any concerns, barriers, and/or costs that might be associated with your school district's involvement in a program intended to alleviate overcrowding by sending some public school students to private schools in exchange for tuition reimbursement.

_____

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Study of Barriers, Benefits, and Costs of Using Private Schools to Alleviate Overcrowding in Public Schools

Private School Survey

Survey conducted for:

Planning and Evaluation Service
Office of the Under Secretary
U.S. Department of Education

Introduction: This survey is part of a congressionally-mandated study to examine the extent to which private schools (including religious schools) might be used to alleviate overcrowding in urban public schools by accepting public school students in exchange for tuition reimbursement. The study is examining the extent of overcrowding in urban public schools and the extent to which private schools in these areas have spaces available that might be used to accommodate students from overcrowded public schools. The study will also examine the costs that would be involved in such a program (including tuition reimbursement, transportation, and administration), program design and implementation issues that would need to be considered in developing such a proposal, and the constitutional issues and other legal impediments that might be raised if such a proposal were adopted.

Technical Support: The contractor, Westat, Inc., will provide toll-free technical assistance during the data collection period. If you have a question regarding these data collection forms, please contact Nancy Merrill (Westat) at 1-(800) 937-8281.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1875-0130. The time required to complete this information collection is estimated to average 20 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Stephanie Stullich, Planning and Evaluation Service, Office of the Under Secretary, U.S. Department of Education, 600 Independence Avenue, SW, Room 4133, Washington, DC 20202.

OMB Number: 1875-0130 **Expiration Date: 9/97**

Background

1. Enter the name, title, and telephone number of person completing survey in the space provided below:

Name:	
Title:	
Telephone Number	( ) _____-_____

2. What was your school's enrollment in grades K-12 on (or about) October 1, 1996?

Number of Students:	

School Capacity

3. What is the total number of students that could be accommodated in your school using current facilities?

Number of Students:	

Tuition and Fees

4. For the current school year, what is the standard full tuition? (Please insert NA for grade levels that are not applicable at your school. If there is more than one full tuition charged at the primary or secondary education levels, please provide an average of the various tuitions charged).

Grade Level	Annual Full Tuition
a. Kindergarten	$
b. Primary (1-8)	$
c. Secondary (9-12)	$

5. Does your school offer scholarships or tuition discounts based on family financial need?

Yes No

If yes, what percentage of students receive a scholarship or discount? _____%

What percentage of students from low-income families receive a scholarship or discount? _____%

What is the average amount of the scholarship and/or discount? $_____

6. If there additional costs for parents, please provide the typical cost per student for each of the following categories. (Please write "N/A" for items that do not apply to your school.)

Possible additional cost for parents	Typical cost per student
a. Transportation costs	
b. Uniforms	
c. Books	
d. Instructional activity fees	
e. Non-instructional activity fees	
f. Registration fees	
g. Other (please specify _____)	

7. What percentage of the total operating costs of your school is reflected in tuition and fees paid by parents? _____%

Admissions

8. Which of the following are usually considered in admitting students to your school?

Admission Considerations	Check all that apply
a. Written application	
b. School-developed admission test	
c. Standardized achievement test scores	
d. Student ability to perform at grade level	
e. Student discipline records	
f. Interview with student	
g. Interview with parent	
h. Preference for members of religious group	
i. Preference for sibling of current students	
j. Preference for children of alumni	
k. Other (please specify _____)	

9. How many students applied for admission to your school in grades K-12 for this fall (Fall, 1996)?

Number of Students:	

10. How many students were accepted for admission to your school this fall?

Number of Students:	

11. Does your school maintain a waiting list? (circle one)

Yes No

If yes, how many potential students are currently awaiting admission?

Number of Students:	

Student Characteristics

12. Please provide the percentage of students in your school who:

Characteristics	Percent of Students	Don't Know
a. are male		
b. qualify for free or reduced-price breakfast and/or lunch?		
c. are in families receiving public assistance?		
d. receive tuition discounts because they are members of the religious community with which the school is affiliated?		
e. qualify for special education placement		
f. have limited English proficiency		
g. participate in the Federal Title I program		

13. Please estimate the percentage of your students with family incomes in each of the following categories. (Percentages should total 100%)

Family Income	Percent of Students
a. $100,000 or more	
b. $80,000 - $99,999	
c. $60,000 - $79,999	
d. $40,000 - $59,999	
e. $20,000 - $39,000	
f. $10,000 - $19,000	
g. less than $10,000	
Total	100%

For religious schools only:

14. May students who are not members of the religious group with which your school is affiliated be exempted from religious instruction? (circle one)

Yes No

For all schools:

15. Under each of the conditions listed below, how willing do you think your school would be to participate in a program to accept students from overcrowded public schools in exchange for tuition reimbursement?

Conditions (circle one number in each row)	Definitely willing	Probably willing	Possibly willing	Probably unwilling	Definitely unwilling
a. Your school could maintain its current admissions, curriculum, assessment, and other policies without change	1	2	3	4	5
b. Acceptance of public school transfer students would be through random assignment (i.e., lottery) from among applicants who wish to attend	1	2	3	4	5
c. Your school would be required to accept public school transfer students with special needs who wished to attend (e.g., students with learning disabilities, limited English proficiency, low achievement)	1	2	3	4	5
d. Public school transfer students would be assessed using the same assessments that the state requires for public schools	1	2	3	4	5
e. **Religious Schools Only**: Parents of public school transfer students could request that their children be exempted from religious instruction and other religious activities.	1	2	3	4	5

16. How many additional students from overcrowded public schools could your schooi potentially accommodate using existing facilities?

Number of Students:	

17. Who would your school involve in making the decision about whether to participate in a program such as that outlined in question 15, above?

	Check all that apply
a. Principal	
b. Teachers	
c. Parents	
d. Private school board	
e. Governing body of religious community	
f. Membership of religious community	
g. Other (Please specify: _____)	

Study of Barriers, Benefits, and Costs of Using Private Schools to Alleviate Overcrowding in Public Schools

Private School Organization Survey

Survey conducted for:

Planning and Evaluation Service
Office of the Under Secretary
U.S. Department of Education

Introduction: This survey is part of a congressionally-mandated study to examine the extent to which private schools (including religious schools) might be used to alleviate overcrowding in urban public schools by accepting public school students in exchange for tuition reimbursement. The study is examining the extent of overcrowding in urban public schools and the extent to which private schools in these areas have spaces available that might be used to accommodate students from overcrowded public schools. The study will also examine the costs that would be involved in such a program (including tuition reimbursement, transportation, and administration), program design and implementation issues that would need to be considered in developing such a proposal, and the constitutional issues and other legal impediments that might be raised if such a proposal were adopted.

Technical Support: The contractor, Westat, Inc., will provide toll-free technical assistance during the data collection period. If you have a question regarding these data collection forms, please contact Nancy Merrill (Westat) at 1-(800) 937-8281.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1875-0130. The time required to complete this information collection is estimated to average 20 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Stephanie Stullich, Planning and Evaluation Service, Office of the Under Secretary, U.S. Department of Education, 600 Independence Avenue, SW, Room 4133, Washington, DC 20202.

OMB Number: 1875-0130 **Expiration Date: 9/97**

1. Enter the name, title, and telephone number of person completing survey in the space provided below:

Name:	
Title:	
Telephone Number	( ) _____-_____

2. To what extent do schools represented by your organization (that are located in the cities on the attached list) have spaces available to accommodate students from overcrowded public schools?

_____

_____

_____

3. For schools represented by your organization that have spaces available, how would you characterize the schools' willingness to accept students from overcrowded public schools in exchange for tuition reimbursement under each of the following conditions?

a. Participating schools could maintain their current curriculum, admissions, assessment, and other policies without change.

_____

_____

_____

b. Acceptance of public school transfer students would be through random assignment (i.e., lottery) from among applicants who wish to attend.

_____

_____

_____

c. Participating schools would be required to accept public school transfer students with special needs who wished to attend (e.g., students with learning disabilities, limited English proficiency, low achievement).

_____

_____

_____

d. Public school transfer students would be tested using the same assessments that the state requires for public schools.

_____

_____

_____

e. **Religious Schools Only:** Parents of public school transfer students could request that their children be exempted from religious instruction and other religious activities.

_____

_____

_____

4. What concerns would schools represented by your organization have about participating in such a program? (use additional pages, if necessary)

Appendix C

Methodology Used to Compute Capacity and Overcrowding in Selected Districts: New York City, Houston, and Philadelphia

New York City Public Schools

THE ELEMENTARY SCHOOL UTILIZATION FORMULA

Calculating the Capacity

The elementary school utilization formula measures capacity based on the number of rooms in a school that are used or could potentially be used to house classes. The formula also makes allowances for those subjects that require specialized--or cluster and funded space. Such space is subtracted from total capacity, thereby providing separate rooms for science, art, computers, and funded programs.

The number of cluster or specialized rooms is derived from a standard allocation for cluster teachers and an analysis of the elementary educational program. The number of funded rooms is derived by calculating the number of students requiring remediation, the teaching load per funded teacher, and the space required per teacher. The following steps are taken to calculate the unadjusted capacity:

1. Determine the number of rooms in each building presently in use or that could potentially be used for instruction (Pk-9, MIS, and SIE). Libraries, (used as such), offices, lunchrooms, gymnasiums, (that are not partitioned) auditoriums and less than 240 square feet rooms are excluded.

2. Rooms between 240 square feet and 499 square feet used for non-instructional purposes (including vacant rooms) are not counted for capacity and are assumed to be available for support/administrative use.

3. Each school is entitled to a room equal to or greater than 500 square feet for General Office, Principals office, audio visual, guidance, medical/nurse, supply and duplicating use. Such rooms are not counted for capacity.

4. Assign a maximum capacity to each instructional room, based upon whether they are designated as Title I or Non-Title I and upon the type of students using the room. The capacity assigned to each room reflects either the grade (Pk, K, 1, 2, 3, 4-9) or program (special education -- C.S.D. or City wide special education) occupying the room, and is changed to reflect new policy initiatives. If a room is used by an outside organization (not directly by the school), its capacity will reflect its program designation. If the outside organization is administrative (e.g., district offices) the room will be assigned a zero capacity. Full-size classrooms used by the parent (main) organization for administrative or non-teaching purposes will be included as having capacity.

   For the current year the room capacities are:

Pre-Kindergarten	36 (18 A.M. & 18 P.M.)
Kindergarten	25
Grade 1, 2, 3	25
Other Grades	
(Title I Schools)	29
(Non-Title 1 Schools)	31

C.S.D. Special Education MIS 1	15
Bilingual MIS 1	12

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C.S.D. Special Education MIS 4 & 5	10
C.S.D. Special Education MIS 2, 3 & 6-8	12
City-wide Special Education	Based on program designation
All Other Classrooms	
(Title 1 Schools)	29
(Non-Title 1 Schools)	31

5. Assign a potential capacity to each room. This is done by dividing the total square footage of the room by 35 for Pre-k and Kindergarten and 20 for grades' 1-9 and MIS 1-8. The numbers 35 and 20 represent the minimum square footage required per pupil according to the building code of the City of New York.

6. Compare the maximum and potential capacity for each room and take the lower of the two numbers. This is the capacity of that individual room.

7. The capacities of individual rooms are added to arrive at an unadjusted building capacity. This unadjusted capacity will change from year to year depending on the shifting usage of classrooms.

8. A specified number of cluster support rooms are subtracted from the unadjusted capacity and therefore not counted in capacity. The number subtracted varies depending on Title I status. It is meant to reflect the need for support rooms (rooms used by cluster teachers beyond the homerooms) required for the teaching of art, music, science, computers, etc. These subjects are taught by specialized cluster teachers and often require separate, specialized, dedicated space. The following cluster adjustments are based upon:

- The present formula used by the Board of Education Office of Budget Operations and Review to allocate cluster teachers.

- The elementary educational program.

- The recognition that finite resources cannot support separate classrooms for all assigned cluster teachers.

The cluster adjustments for Title I and Non-Title I schools are as follows:

TITLE I ELEMENTARY SCHOOLS

* UNADJUSTED CAPACITY	NUMBER OF CLASSROOMS SUBTRACTED FROM CAPACITY
GE - 1196	5
773 - 1195	4
350 - 772	3
210 - 349	2
70 - 209	1
0 - 69	0

* Excludes Pre-kindergarten and includes 50% of the kindergarten capacity

NON-TITLE I ELEMENTARY SCHOOLS

* UNADJUSTED CAPACITY	NUMBER OF CLASSROOMS SUBTRACTED FROM CAPACITY
GE - 1376	4
626 - 1375	3
376 - 625	2
126 - 375	1
0 - 125	0

* Excludes Pre-kindergarten and includes 50% of the kindergarten capacity.

9. Federal and State funds are allocated to schools for pupil remediation. The number of students requiring remediation by school has been calculated by assuming a City-wide average of 35% of students reading below the State reference point as measured by the state reading test and multiplying that percentage by the total unadjusted capacity in each school building.

One room is then assigned to funded programs for every 250 students requiring remediation. This is called the funded adjustment.

10. Subtract 1/2 classroom for use as a parent's room and 1/2 classroom for use as a teacher's room.

11. <u>To calculate the adjusted capacity</u>:

- Add the cluster adjustment and funded adjustment for each school to get the total adjustment
- Multiply the total adjustment by 29 (for Title I schools) or 31 for (Non-Title I schools) to arrive at the total capacity adjustment.
- Subtract the total capacity adjustment from the unadjusted capacity to arrive at the adjusted capacity.

12. <u>To calculate the utilization:</u>

To determine the utilization percentage for an organization, divide current enrollment by the adjusted capacity for each organization in a building. To determine building utilization, aggregate enrollments and adjusted capacities for all organizations in a building and divide the aggregated enrollment by the aggregated adjusted capacity.

THE MIDDLE SCHOOL UTILIZATION FORMULA

The middle school utilization formula differentiates between rooms that were designed for specialized purposes (dedicated rooms) and those that can be used interchangeably (non-dedicated). The formula begins with an unadjusted capacity and then applies an adjustment which is derived from the teaching load, and an analysis of the curriculum in the middle schools.

Calculating the unadjusted capacity:

1. Determine the number of rooms in each building presently in use or those that could potentially be used for instruction. Libraries, (used as such) offices, cafeterias, administrative rooms, auditoriums are excluded. Shops, gymnasium, band and typing rooms are included.

2. Rooms between **240** square feet and **499** square feet used for non-instructional purposes (including vacant rooms) are not counted for capacity and are assumed to be available for support/administrative use.

3. Each school is entitled to a room equal to or greater than 500 square feet for general office, Principals office, audio visual, guidance, medical/nurse, supply and duplicating use. Such rooms are not counted for capacity.

4. Assign a maximum capacity to each full-size classroom based upon Title I or Non-Title I designation and based upon the type of students using the room. The capacity assigned to each room reflects the class or program occupying the room and is changed to reflect new policy initiatives. If the room is used by an outside organization (not directly by the school), its capacity will reflect its program designation. If the outside organization is administrative (zero enrollment) the room will be assigned a zero capacity. Full-size classrooms used directly by the school for administrative or non-teaching purposes will be included as having capacity.

For the current school year the room capacities are:

C.S.D. Special Education MIS 1	15
Bilingual MIS 1	12
C.S.D. Special Education MIS 4 & 5	10
C.S.D. Special Education MIS 2, 3 & 6-8	12
City-wide Special Education	Based on program designation
Gymnasium:	
Title I Schools	56
Non-Title I Schools	60
All other classrooms	
Title I schools	28
Non-Title I schools	30

5. Assign a potential capacity for each instructional room. This is done by dividing the total square footage of the room by 20. Twenty represents the minimum square footage required per pupil according to the building code of the City of New York.

6. Compare the maximum and potential capacity for each room and take the lower of the two numbers. This is the capacity of that individual room.

7. Subtract 1/2 classroom for use as a parent's room and 1/2 classroom use as a teacher's room.

8. The capacities of individual rooms are added to arrive at an unadjusted building capacity.

Deriving the adjustment to capacity:

Although the school week is forty (40) periods, not all classrooms can be used for every period, every day.

DEDICATED ROOMS

The UFT contract stipulates that shop and home economics teachers will teach between 22 and 26 per periods per week. Homeroom teachers are limited to 22 periods per week. If one accepts the premise that shops and home economics rooms should be programmed only for the subjects for which they were designed, then these classrooms are in use approximately 60% of the time.

In addition to shops, other specialized teaching spaces should be assigned so that each teacher has his or her own classroom which is used to teach the specialized subject for which the room was designed. These rooms include the gymnasium, funded rooms, computer rooms, and art rooms. The following classrooms should therefore be considered as dedicated classrooms, programmed 60% of the time:

1. All shops
2. All home economic rooms
3. Gymnasium (counted as two classrooms per school)
4. Funded classrooms (three per school /one per grade)
5. Art classrooms (two per school)
6. Computer classrooms (two per school)

Establishing a ratio of dedicated rooms to total rooms:

In order to derive an adjustment factor for dedicated rooms that is applicable to all middle schools, it is necessary to determine what percentage of all classrooms used at the middle school level are assigned to dedicated use. This number was derived and determined to be 29% of all rooms in use at the middle school level are used as dedicated rooms.

Non-dedicated rooms:

If 29% of the total classrooms used by middle schools are used for dedicated use, then the remainder (71%) of the classrooms are interchangeable (non-dedicated) and can theoretically be used 100% of the time (40 periods a week).

Use of non-dedicated rooms:

While it is theoretically possible to program these rooms 8 periods a day, 5 days a week (40 periods), in practical application this proves impossible. The inability to program rooms at 100% is due to several factors:

1. All students and teachers are at lunch 1/8 of each day and thus cannot be programmed. This often occurs within 2-3 periods during the mid-portion of the school day thus making it impossible to utilize all classrooms during lunch time periods.

2. Teacher programs are structured to minimize travel time and distance between teaching periods within a school day; and to limit the number of different rooms to which a teacher is assigned within the teaching day and teaching week. This tends to maximize teaching and learning time.

3. The storage of specialized equipment and books for specific subjects limits room assignments. This is done to minimize the necessity of having teachers transport large quantities of materials and books thus reducing teaching and learning time. The science classroom is a good example.

Because of these programming limitations, non-dedicated classrooms are assumed to be programmable 90% of the time.

CALCULATION OF THE ADJUSTMENT TO CAPACITY:

If dedicated rooms comprise an average 29% of the total rooms; and these rooms are used 60% of the time, then:

$$.29 \times .6 = 17.4\%$$

If non-dedicated rooms compromise 71% of the total rooms; and these rooms are used 90% of the time then:

$$.71 \times .9 = 63.9\%$$

If one adds the percent use of each:

$$\begin{array}{r} 17.4\% \\ \underline{63.9\%} \\ 81.3\% \end{array}$$

The 81% represents the percent that all rooms can be used each day every day. Stated differently, 81% of the unadjusted capacity equals the adjusted capacity: Unadjusted Capacity (.81) = Adjusted capacity

Houston Public Schools

MEMORANDUM

TO: Bob Carlson, Council of Great City Schools, fax 202/393-2400

FROM: Max Beauregard, Senior Demographic Specialist, 713/892-6619

SUBJECT: Your request for criteria to determine overcrowding

The following are criteria that HISD has developed for ourselves and that define the problem in a way that we can approach it in a realistic manner. It would be very useful to me if you could share the results of your survey so that we can evaluate our criteria against those of other districts. If you have questions or comments, please call.

Overcrowding is difficult to define because of the variability of the schools themselves, specifically due to programmatic diversity and architectural differences. Standardized formulas have been used to attempt to consistently identify overcrowded conditions districtwide; however, they may fail to accurately portray specific situations at some schools and there may be other situations when overcrowding may be indicated artificially (when it may be a conscious, acceptable choice). There are circumstances when there has been a deliberate decision to deviate from otherwise desired standards for capacity to achieve other purposes. **Thus, there is no easy answer or single criteria to define overcrowding because of these multiple causes and the flexibility in which schools respond to them,** throughout the day, over the week, and throughout the year. Tolerance and acceptance for overcrowded conditions is relative because there is no clearly defined point, and it has been, and continues to be, pushed to the limits and beyond. Overcrowded conditions at HISD schools are well beyond the tolerated situations at other local school districts.

Approximately 79,051 students of 210,702 students (37.5% of all students) are attending in overcrowded conditions. Of these, 57% are elementary, 22% are middle school students, and 20% are high school students. Overcrowding occurs differently at each school level (elementary, middle, or high school). This analysis does not include multigrade (K-8 or 5-6) and alternative schools or programs. The most common indicators overcrowding are:

a) An excessively large enrollment that diminishes the sense and opportunity for unique student identity within the school community. As part of our capital improvements plan in 1987, an ideal school size was identified for each school level and prototype schools were designed to support the concept of small, neighborhood schools. The ideal sizes to facilitate that effort were: elementary, 750 students; middle, 1200 students, and high school, 2000-2500 students. However, many schools at all levels continue to exceed their respective threshold and thereby create an impersonal atmosphere that detracts from learning and socialization.

There are 67 elementary schools of 176 (38%) with enrollments that exceed 750 students and 13 of these have 1000-1450 students. Approximately 15,490 elementary students are in attendance at schools with an enrollment exceeding 1000 .

12 of 33 middle schools (36%) greatly exceed the enrollment threshold of 1200; 7 of these schools exceed 1400 students, and 1 additional exceeds 1700 students. This affects 17,780 middle school students.

Four high schools approach or exceed 3000 students and 1 other exceeds 3500. 15,765 high school students are affected by these conditions.

These are schools with simply too many students, independently of any other symptoms of overcrowding

b) Excessive numbers of T-room / buildings Excessive is defined as more T-rooms than 35% X the total number of all rooms at the school. Elementary schools are affected to the greatest degree of all schools with excessive T-rooms. Exceeding this amount results in overcrowding the core function: the restrooms, lockers, hallways, cafeteria, and library. Currently, there are 43 additional elementary schools (not previously counted) with 35% or more T-rooms, 15 of these have half or more of their campus composed of T-rooms. This affects approximately 30,016 students. When the core function is overloaded:

- the cafeteria requires multiple lunch periods, beginning mid-morning,
- crowded hallways create circulation or security problems,
- inadequate restrooms require shifts for use
- libraries are under-equipped and without adequate study, table, or quiet space
- valuable playground or athletic space at schools with small sites is consumed by T-rooms

Initially an absolute number of 10 T-rooms was adopted, regardless of the size of the core building. This was quickly realized as an unrealistic criterion and one that fails to recognize the capability of schools with a larger core (those originally built for 900 students) to more easily accommodate more T-rooms. A more realistic standard to determine the presence of overcrowded conditions should be based upon the relationship between the number of core rooms and the number of T-rooms, i.e. those exceeding 35% of total. Most facilities are architecturally overdesigned so that expansion of the core with T-rooms by 35% is realistic, without sacrificing comfort or operational efficiency.

c) Extensive capping, or redirecting large numbers of students from the neighborhood school to adjacent schools (or possibly other, more remote schools) where more space is available. Capping is not a unique category by which overcrowding is defined, because it is an indicator of latent overcrowding, i.e. those students within the home attendance boundary which should be accommodated, but are not. Capping occurs at a specific grade and program, although it is not uncommon for an entire school to be capped. At moderate levels, capping is an efficient operational technique because it more fully utilizes all of the classrooms of the district without overloading the schools or requiring additional construction of new classrooms. However, Although families are not usually split between schools when capping occurs, the process disrupts the continuity of attending the same school from one year to the next and it further complicates the opportunity for parental involvement. Undoubtedly this displacement can affect student achievement.

"Compound capping" occurs when capped students displace neighborhood students from their own school because it is a receiver school. The neighborhood students from the receiver school are then bumped to a third school or another, possibly remote location. Occasionally they can be exchanged or sent back to the original school, further complicating the process of school assignment for all parties. All capped students must be transported, which require additional costs and more buses, which may not readily be available. This severely complicates the efforts of Routing & Scheduling.

Information on capped conditions fluctuates greatly, therefore it is not used as a primary indicator of overcrowding.

d) Excessive utilization or inequitable availability of ancillary and enrichment activities. Utilization is an indicator of overcrowding by describing the ratio of enrollment to core capacity. The enhanced capacity of 35% T-rooms is not considered in this calculation, so utilization is not as reliable nor is it a primary indicator of overcrowded conditions, particularly when comparing schools amongst themselves. Core capacity of the school is calculated by number of rooms X 18 students/room. Although there is a state mandate limiting the pupil/teacher ratio to 22:1, the multiplier of 18 students is preferred because it allows the school to allocate some rooms for ancillary and Special Ed purposes, an important priority of HISD. However, some schools are so overcrowded that they sacrifice ancillary activities to provide basic education.

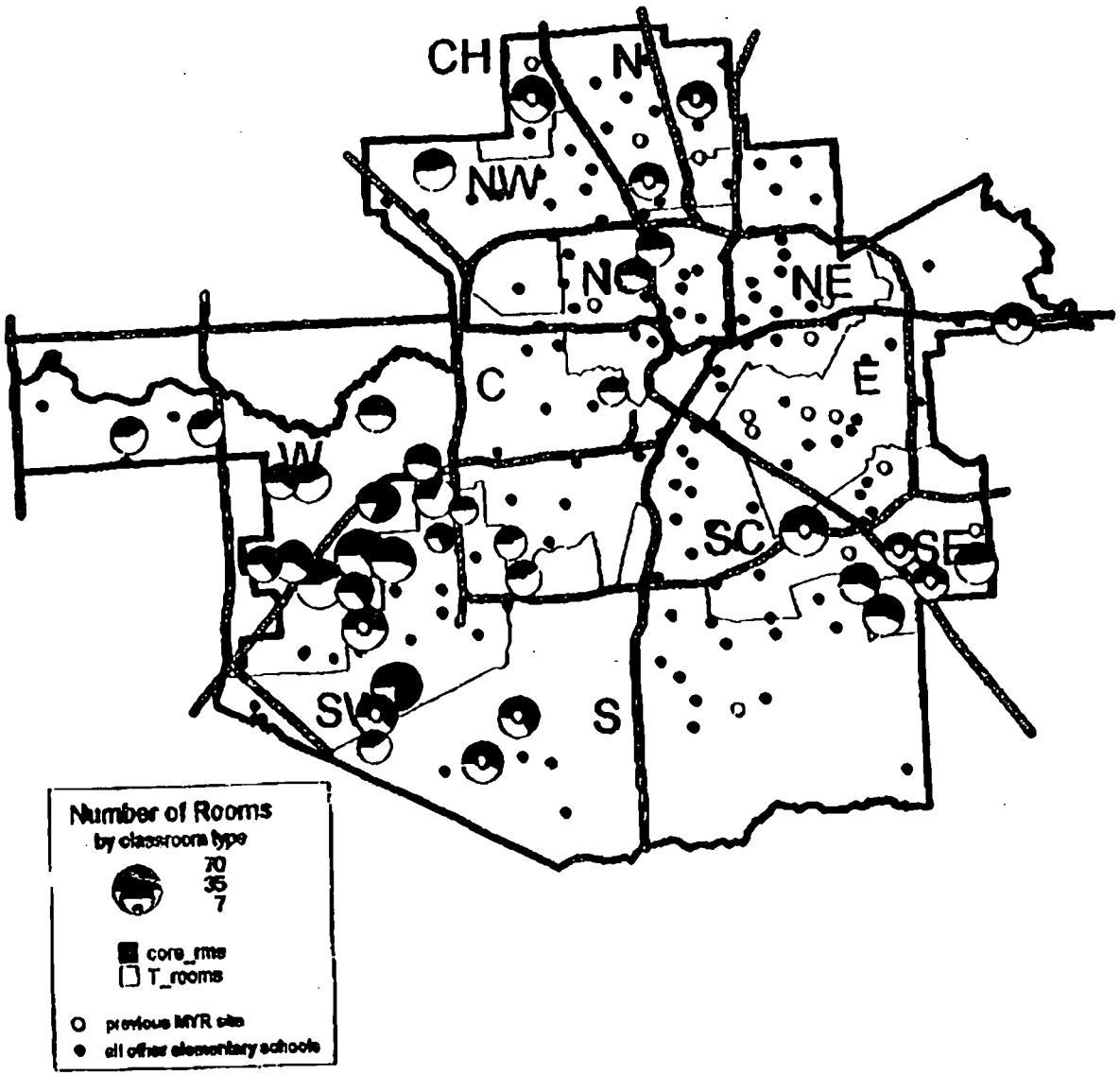
Utilization factors describe different conditions, depending on the type of school. Thus, the degree of overcrowding is not consistent nor the same for all school levels. For example, the greatest utilization at high schools is 130%, but the most overcrowded elementary is at 318% utilization. Architectural differences and the absolute number of students account for these variations in measuring techniques and criteria. Elementary schools are severely overcrowded when they exceed 160% utilization.

e) Other indicators of overcrowded conditions include excessive waivers for class size or a breakdown in programmatic viability

xc: Johnny Tates
John Taylor

Overcrowded Elementary Schools & Former MYR (multi-track year-round)

[overcrowded schools exceed 160% utilization of core capacity]
by Administrative District



Sorted by greatest degree of utilization (overcrowding).

NAME	MYR	Util96	enro96	core_rms	T_rooms	TOTROOMS
Cunningham		3.14	905	16	35	51
Walnut Bend		2.58	783	17	27	44
Park Place	yes	2.43	700	16	16	32
Bonham		2.33	1,214	29	36	64
Piney Point		2.32	961	23	30	53
Gordon		2.32	543	13	14	27
Longfellow		2.30	682	16	24	40
Harris, R. P	yes	2.24	1,089	27	24	51
Brookline	yes	2.20	1,465	37	32	69
Bonner	yes	2.12	914	24	21	45
Cornelius		2.10	1,098	29	22	51
Smith, K.		2.07	895	24	29	53
Janowski	yes	2.06	652	23	21	44
Lewis		2.04	1,104	30	23	53
Briargrove		1.97	816	23	21	44
Braeburn		1.96	1,197	34	28	62
Jefferson		1.93	765	22	24	46
Fondren		1.92	450	13	20	32
Browning		1.92	658	19	14	32
Twain		1.86	535	16	22	38
Emerson		1.86	636	25	17	42
Pilgrim		1.85	733	22	17	39
Grissom	yes	1.83	1,022	31	24	55
Wesley	yes	1.82	1,148	35	25	60
Patterson		1.80	747	23	25	48
Elrod	yes	1.79	968	30	28	57
Coop	yes	1.78	770	24	20	44
Ashford		1.78	609	19	25	44
Neff		1.76	887	28	19	47
Sutton		1.73	1,401	45	25	70
Benavidez		1.73	1,305	42	10	60
Hobby	yes	1.71	985	32	18	50
McNamara		1.70	827	27	15	42
Foerster	yes	1.65	893	30	19	49
Anderson		1.65	1,457	49	16	62
Wharton		1.61	406	14	14	28
White		1.61	611	28	15	43
Condit		1.61	639	22	8	30

Philadelphia Public Schools

B-XII
B-XIII
B-XIV
B-XV
B-XVI

T-I
T-II, Section 6
T-III, Sections 2,4,5,8,9
T-IV, Sections 1,2,3,4a,4b,5a,5b,5c,5d,6a,6b,6c
T-V, Sections 3,4,5,6,7,8,10,12,14
T-VI, Sections 2,5,7,8,9,10,11,12
T-VII, Sections 8,18,20,21,25,26
T-IX

All other provisions of this Agreement do not apply in any respect to evening school teachers.

ARTICLE T-XII
CLASS SIZE

1. The Board and the Federation recognize the desirability of reducing class size through both control of pupil-teacher ratio and maximum class size.

2a. The Board of Education has established goals of a maximum class size of thirty (30) in elementary schools and twenty-five (25) in secondary schools. As a first step toward these goals, the Board has already placed a maximum class limitation of thirty (30) in classes in the elementary school Education Improvement Program. The Board has begun the reduction of the pupil-teacher ratio in all schools. Specialist teachers, remedial teachers and administrative assistants are no longer counted in the pupil-teacher ratio.

2b. Maximum class size enrollment in regular classes shall be reduced to thirty-three (33). To achieve this reduction the sum of $8.4 million shall be expended for each school year. Of this sum up to $.3 million may be spent for the rental of classroom space needed to bring about the reduction of class size. Any amount not expended shall be expended for the purpose of providing additional classroom teachers to further lower maximum class size enrollment. A joint Federation-Board Committee will be established to monitor and study the application of these funds. This Committee will be established immediately to review matters related to class size on a continuing basis.

2c. In grades 1-3 class size shall be thirty (30).

2d. In addition to the foregoing, the Board has established the following class size maxima:

2d(i). Technical school

2d(i)(a). Shop class—twenty four (24)

2d(i)(b). Adjustment Program Class—fifteen (15)

2d(ii). Kindergarten—thirty (30)

2d(iii). EIP classes—thirty two (32)

2d(iv). Special Classes for:

Program Category and/or Level	Itinerant	Resource Room	Part Time	Full Time
Gifted Support	75	50	30	15
Learning Support	50	20	15	12
Life Skills Support	20	20	15*	12
Emotional Support	—	—	—	12
Deaf or Hearing Impaired Support	50	15	10	8
Blind or Visually Impaired Support	50	15	15	12
Speech/Language Support	90	—	—	8
Physical Support	50	15	12	12
Autistic Support	12	8	8	8
Multihandicapped Support (LSS-MH)	—	—	—	8

The above class size maxima represent state standards at the time of this Agreement. Should the Commonwealth change any standard during the life of this Agreement such changed standard shall apply.

*Currently class size is fifteen (15); however, the state maximum is eighteen (18).

3. Where the maximum class sizes established by the Board are exceeded, the principal shall give the reason in writing to the teacher of the class in which this has occurred and to the Superintendent of Schools. Where the teacher or the Federation questions the validity of the principal's reason, a grievance may be filed. Acceptable reasons for exceeding stated class size maxima may be:

3a. There is no space available;

3b. Observing the stated maximum would require placing classes on a short time schedule;

3c. A larger class size is necessary and desirable for specialized or experimental instruction.

4. The limitations of class size set forth in Section 2 of this Article shall not apply to library, music, assembly or forum type classes.

5. The parties recognize that Team Teaching may require that a teacher meet from time to time with a larger number of children than permitted by the above class size limitations. Fulfillment of such requirements shall be equitably distributed among all the teachers in the Team; and, in any event, the number of pupils assigned to a Team shall not exceed the product of the number of the teachers in the Team and the appropriate maximum number of pupils stipulated in Section 2 of this Article.

6. For the purposes of this Article, study hall shall not be considered a class.

7. No more than three (3) special education students may be assigned to regular classes only within applicable class size limits as specified above.

ARTICLE T-XIII
ELEMENTARY SCHOOLS

1. No program of an elementary specialist may be dropped from a school unless the principal gives the reasons in writing by June 1st.

2. Each elementary teacher shall receive not less than two hundred twenty-five (225) minutes of preparation time each week in addition to recess and lunch periods. When possible, a preparation period shall be at least forty-five (45) minutes long and in no case shall it be less than thirty (30) minutes. Preparation time shall be distributed as evenly as possible during the week as scheduling permits. Regularly appointed teachers shall replace those teachers who are utilizing their preparation time. Teachers shall not be required to be present when specialist teachers such as teachers of art, music, physical education are working with their pupils. This time is to be used for preparation by the teacher so relieved.

Appendix D

Supplemental Exhibits

Exhibit D-1

Number and Percent of Private Schools, by School Orientation and Level, in 22 Urban Communities, 1995-96

School Orientation	Regular	Montessori	Alternative	Other Special Emphasis
Total	2,665	195	178	98
Elementary	2,010 (75%)	177 (91%)	75 (42%)	58 (59%)
Secondary	297 (11%)	0	39 (22%)	19 (19%)
Combined	358 (13%)	18 (9%)	64 (36%)	21 (21%)

Source: NCES Private School Survey, 1995-96.

Exhibit D-2

Average Private School Enrollment, by School Orientation and Level, in 22 Urban Communities, 1995-96

School Orientation	Regular	Montessori	Alternative	Other Special Emphasis
Total	272	51	116	206
Elementary	223	49	104	142
Secondary	467	na	92	248
Combined	381	68	144	343

Source: NCES Private School Survey, 1995-96.

Exhibit D-3

Average School Enrollment in Private and Public Schools in Individual Urban Communities, 1995-96

Location	Private	Public
Baltimore City	234	613
Buffalo	244	628
Chicago	251	743
Dade County	242	1026
Dallas	246	712
Detroit	168	702
Duval County	262	801
El Paso	224	776
Houston	148	726
Long Beach	134	982
Los Angeles	195	1031
Memphis	246	730
Milwaukee	220	601
Nashville	338	596
New Orleans	350	694
New York City	299	971
Oakland	192	608
Philadelphia	304	834
Pittsburgh	232	474
Portland	183	540
San Antonio	228	555
San Diego	198	806
All 22 Locations	247	821

Sources: NCES Private School Survey, 1995-96; NCES Common Core of Data, 1995-96.

Exhibit D-4

Pupil/Teacher Ratios in Private and Public Schools,
in Individual Urban Communities, 1995-96

Name	All Private Schools	Catholic Schools	All PublicSchools
Baltimore City	13.7	16.6	17.9
Buffalo	13.0	14.4	14.6
Chicago	16.9	19.3	17.6
Dade County	13.6	18.9	19.6
Dallas	12.9	15.2	16.3
Detroit	14.7	17.1	23.7
Duval County	15.3	20.2	20.0
El Paso	15.0	18.1	15.3
Houston	11.4	13.9	16.6
Long Beach	18.0	24.6	25.3
Los Angeles	15.9	23.8	25.5
Memphis	12.9	16.0	19.4
Milwaukee	16.2	17.4	16.7
Nashville	14.1	15.4	22.3
New Orleans	14.5	15.9	21.5
New York City	14.4	20.2	19.8
Oakland	15.2	21.2	24.0
Philadelphia	18.9	22.7	19.4
Pittsburgh	14.1	17.2	16.4
Portland	13.5	16.6	18.9
San Antonio	15.1	15.8	15.9
San Diego	14.0	21.8	23.7
All 22 Locations	14.9	19.4	19.9

Sources: NCES Private School Survey, 1995-96; NCES Common Core of Data, 1995-96.

Exhibit D-5

Minority Enrollments in Private and Public Schools
in Individual Urban Communities, 1995-96

Location	Percentage of Minority Students	
	Private Schools	Public Schools
Baltimore City	35%	86%
Buffalo	15%	66%
Chicago	55%	89%
Dade County	69%	86%
Dallas	32%	88%
Detroit	76%	94%
Duval County	18%	45%
El Paso	74%	81%
Houston	41%	89%
Long Beach	52%	79%
Los Angeles	53%	89%
Memphis	24%	84%
Milwaukee	28%	76%
Nashville	10%	47%
New Orleans	43%	94%
New York City	43%	83%
Oakland	63%	93%
Philadelphia	29%	80%
Pittsburgh	16%	57%
Portland	18%	32%
San Antonio	79%	94%
San Diego	32%	70%
All 22 communities	43%	83%

Sources: NCES Private School Survey, 1995-96; NCES Common Core of Data, 1995-96.

Exhibit D-6

Percentage of Private Schools Reporting Additional Costs for Parents
and Average Amount of the Additional Cost,
in 22 Urban Communities, 1996-97

Additional Cost	Number of Schools Reporting Additional Cost	Percent of Private Schools	Average Cost
Any type of additional cost	2,939	94%	$158
Transportation	493	16%	$648
Uniforms	1,899	61%	$141
Books	1,690	54%	$164
Activity Fees:			
Instructional	1,024	33%	$89
Non-instructional	1,039	33%	$87
Registration	2,446	78%	$117
Other	962	31%	$183

Source: Survey of Private Schools Regarding Participation in a Student Transfer Program, 1997.

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