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MEMORANDUM

TO: The Pennsylvania House of Representatives

FROM: Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

DATE: November 20, 2019

RE: OPPOSITION TO HOUSE BILL 1800 P.N. 2599 (TURZAI)

Bill summary

[HB 1800](#)¹ P.N. 2599 requires any Pennsylvania district in receivership (Harrisburg) to provide scholarship grants worth up to \$8,200 to enroll children in private or other public schools, half of which would be provided by the school district and half provided by the state. Grants could be used to pay tuition at any private or public school, including for students already attending private and religious schools. It also provides transportation to the nonpublic school or participating public school. Public schools would have the ability to opt-out of receiving Harrisburg students, and private schools would retain full discretion to offer admission to children that meet their requirements. HB 1800 also prohibits the Commonwealth from:

- ❑ Prescribing the course content or admissions criteria for a religiously affiliated school.
- ❑ Compelling a nonpublic school or participating public school to accept or enroll a student.
- ❑ Imposing additional requirements on a nonpublic school not authorized by statute.
- ❑ Requiring a nonpublic school to accept or retain a student if the nonpublic school does not offer programs or is not structured or equipped with the necessary facilities to meet the special needs of the student or does not offer a particular program requested.

On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to vote 'no' on House Bill 1800 for the following reasons:

Vouchers undermine church-state separation and threaten religious freedom

Privatizing public education has serious consequences for students, civil rights, equality, and religious liberty. Public schools, which serve 90 percent of the country's students, are obligated to serve all students equally. The ACLU-PA opposes private school vouchers because they primarily fund religious education with public money, infringing on the religious freedom enshrined in our state constitution.² Given that [63% of Pennsylvania's private schools are sectarian](#),³ incentivizing families to enroll their children in private schools means the state incentivizes enrollment in private religious schools.

Religious schools, which receive the overwhelming majority of taxpayer-funded vouchers, not only require students to receive religious instruction and attend services, but also integrate their religious beliefs in everything they teach students. Many religious voucher schools, for example, [teach creationism](#)⁴ in science class. They also [incorporate religious worship](#)⁵ into the curriculum in the form of chapel, daily prayer, or daily scriptural readings and infringe upon basic principles of religious liberty by providing public funds for sectarian proselytizing.

¹ <https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&sInd=0&body=H&type=B&bn=1800>

² Using taxpayer money to fund religious education violates [Article 3, Section 15 of the Pennsylvania Constitution](#): "No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school."

³ <https://www.privateschoolreview.com/pennsylvania>

⁴ <http://www.pbs.org/independentlens/blog/hundreds-of-voucher-schools-teach-creationism-in-science-classes/>

⁵ <https://www.aclu.org/blog/religious-liberty/religion-and-public-schools/should-taxpayers-fund-schools-where-students>

To be sure, parents have a right to direct the religious education of their children and to send their children to religious schools. But they are not entitled to religious education provided at taxpayer expense.

Voucher programs enable taxpayer-funded discrimination

Unlike public schools, private voucher schools do not have the same [obligations](#)⁶ as public schools to protect students from harassment and discrimination. They can discriminate against students based on [religion](#), [gender](#),⁷ [LGBT status](#)⁸ (in Georgia, [more than 100 schools that discriminate](#) against LGBT students are eligible for taxpayer funds), [disability](#)⁹ (Milwaukee [systematically excludes](#)¹⁰ students with disabilities from participating and segregates them in public schools in disproportionate numbers), academic achievement, and disciplinary history. And many religious schools that receive taxpayer-funded vouchers also discriminate in [hiring and admissions](#).¹¹ In fact, according to [a 2016 report issued by the Government Accountability Office](#),¹² only four voucher programs across the country required private schools to accept all students with vouchers.

Voucher programs fail to improve educational outcomes and are rarely held accountable

[Numerous studies](#) already present plenty of evidence of the ways that vouchers do not advance educational equity or better outcomes. Studies of voucher programs in [Florida](#)¹³, [Louisiana](#)¹⁴, [Ohio](#)¹⁵, and [Milwaukee](#)^{16,17} found negligible - even [negative](#)¹⁸ - impacts on students' academic performance. And there are myriad other reasons why taxpayer-funded vouchers are bad policy, including rampant [fraud and abuse](#), [lack of quality control](#), and [increased property taxes](#).

In Pennsylvania's OSTC and EITC programs, standards and accountability mechanisms are virtually [non-existent](#).¹⁹ Private schools in Pennsylvania [do not have to be accredited](#),²⁰ only registered with the state, and curriculum guidelines are limited to proscribed subjects being taught for the required amount of time. Pennsylvania taxpayers provide funding for students to attend private schools but do not require that either the schools or the scholarship students participate in state achievement tests, nor do they require reporting on scholarship student demographics. In fact, PA [explicitly prohibits](#)²¹ state government from asking for any achievement data about EITC scholarship students.

There are many costs associated with private school voucher programs, including the cost of undermining students' civil rights. Public money should be used to serve all of the public, and any schools that receive public investment must be required to protect the rights of all students. Voucher programs are not a viable school choice option if they fail to adequately serve and protect the rights of students. If private school voucher programs are going to be funded by Pennsylvania taxpayers, they must be open to accepting all students, and they must include the same civil liberties protections and avenues of recourse that exist for students attending public schools.

For these reasons, we urge you to vote 'no' on House Bill 1800.

⁶ <https://www.educationnext.org/private-schools-allowed-discriminate/>

⁷ <https://www.americanprogress.org/issues/education-k-12/reports/2019/05/13/469610/danger-private-school-voucher-programs-pose-civil-rights/>

⁸ <https://www.southerneducation.org/publications/gataxdollarsfinanceprivateschools/>

⁹ <https://www.nclod.org/wp-content/uploads/2017/10/SV-ESA-TI-White-Paper.pdf>

¹⁰ <https://www.aclu.org/racial-justice/justice-department-says-state-voucher-programs-may-not-discriminate-against-students>

¹¹ <https://nepc.colorado.edu/publication/privatization>

¹² <https://www.gao.gov/assets/680/678994.pdf>

¹³ http://www.floridaschoolchoice.org/pdf/FTC_Research_2011-12_report.pdf

¹⁴ <https://educationresearchalliancenola.org/files/publications/ERA-Policy-Brief-Public-Private-School-Choice-160218.pdf>

¹⁵ https://edex.s3-us-west-2.amazonaws.com/publication/pdfs/FORDHAM%20Ed%20Choice%20Evaluation%20Report_online%20edition.pdf

¹⁶ <https://www.wsj.com/articles/do-school-vouchers-work-milwaukees-experiment-suggests-an-answer-1517162799>

¹⁷ <http://www.jsonline.com/news/education/118820339.html>

¹⁸ <https://www.brookings.edu/research/on-negative-effects-of-vouchers/>

¹⁹ <https://www.pennbpc.org/still-no-accountability>

²⁰ <https://www2.ed.gov/about/offices/list/oii/nonpublic/pennsylvania.html>

²¹ [Act of 46 2005, pg. 62 at http://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?syear=2005&sind=0&body=H&type=B&bn=0628](http://www2.ed.gov/about/offices/list/oii/nonpublic/pennsylvania.html)