

Great Lakes Center for Education and Research: When publicly funded schools exclude segments of the public

Posted on Thursday, Dec 6, 2018

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EAST LANSING, Mich. (Dec. 6, 2018) – In Indiana, a private religious school receiving over \$6.5 million in public funds via the state’s voucher program placed an LGBT counselor on leave because she had married her same-sex partner. In Milwaukee, where students with disabilities constitute 12-20% of public school enrollments, they constitute only 2% of enrollments in private schools participating in the city’s voucher program. Similarly, charter schools enroll a lower percentage of students with disabilities (particularly more severe disabilities) when compared to traditional public schools. In response to these and other issues of access and discrimination, some defenders of these schools have argued that the schools have broken no laws—and they are often correct. How can this be?

To answer that question, professors Julie F. Mead of the University of Wisconsin and Suzanne E. Eckes of Indiana University authored a policy brief, titled *How School Privatization Opens the Door for Discrimination*, which analyzes discrimination in an era of education privatization.

The brief’s review of relevant laws reveals that voucher and charter school programs open the door to discrimination because of three phenomena. First,

federal law defines discrimination differently in public and private spaces. Second, state legislatures have largely neglected issues of discrimination while constructing voucher laws; charter laws are better, but they fail to comprehensively address these issues. Third, because private and charter schools are free to determine what programs to offer, they can attract some populations while excluding others.

After briefly examining the history of discrimination in schools, the brief analyzes each of these three enabling factors and then outlines recent developments. Finally, based on its analyses, the brief offers the following recommendations to help address the issue of publicly funded programs currently failing to serve all segments of the public:

1. Congress should amend federal anti-discrimination laws to clarify that states supporting charter schools and states directly or indirectly channeling public funds to private schools must ensure that those programs operate in non-discriminatory ways.
2. Federal agencies should explore whether governmental benefits should be withheld from private schools failing to meet non-discrimination standards.
3. State legislatures should include explicit anti-discrimination language in their state voucher laws to ensure that participating private schools do not discriminate against students and staff on the basis of race, color, sex, race, class, gender, gender identity, sexual orientation, disability, ethnicity, national origin, or primary language.
4. State legislatures should adopt or amend charter school laws to ensure that policies and practices are reviewed throughout the process of approval and renewal. Schools failing to attract and retain reasonably heterogeneous student populations should be directed to address the problem and should be considered for non-renewal if the problem is not corrected.

Find *How School Privatization Opens the Door for Discrimination*, by Julie F. Mead and Suzanne E. Eckes, at: <http://greatlakescenter.org/>

This policy brief was made possible in part by the support of the Great Lakes Center for Education Research and Practice (<http://greatlakescenter.org/>).

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