

Taking vouchers to school: May not help inner-city education

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Imagine a state-run voucher program that allows parents to use their vouchers at any public or private school—a Montessori-style school, say, or a John Dewey-inspired “progressive” school, or an avowedly atheistic school, or a Catholic or Jewish school. Would such a program, by including religious as well as secular schools, constitute an illegal establishment of religion?

No, it would not. That was the reasonable conclusion reached by the Supreme Court in June with its 5-4 decision upholding the constitutionality of a Cleveland program in which parents in poor school districts can choose to use state-funded vouchers at religious schools. The court ruled in *Zelman v. Simmons-Harris* that this use of vouchers “does not offend” the no-establishment clause of the First Amendment since the program serves a clear secular purpose (education); provides funds to individuals, not schools; offers parents nonreligious options; and neither encourages nor discourages the choice of the religious option. “The incidental advancement of a religious mission,” argued Chief Justice William Rehnquist, “or the perceived endorsement of a religious message, is reasonably attributed to the individual recipient, not the government, whose role ends with the disbursement of benefits.”

Zelman is clearly a landmark case in the debate over school vouchers and, more broadly, in the legal movement to accommodate church-state partnerships. But it is not likely to provoke a rapid expansion of voucher programs. For one thing, the legal parameters set by the court remain significant—voucher programs must be constructed so as to be neutral with respect to religion, and must offer nonreligious options. For another, state constitutions tend to be less flexible than the First Amendment on mixing church and state activities.

On a more practical level, most parents remain quite content with their public schools and are not clamoring for alternatives. And the question that has defined the current interest in school vouchers remains unanswered: Can vouchers help solve the crisis of inner-city education and provide better educational options for low-income families? Though voucher-using parents regularly report that they are highly satisfied with the private schools their children attend, so far there is little evidence

that vouchers are significantly improving educational performance. One benefit of the court's decision in *Zelman* is that it clears the way for some careful experiments that might begin to answer that question.