



Senator A. Shane Massey
Majority Leader
311 Gressette Building
Columbia, SC 29201

Senator Greg Hembree
Chairman, Education Committee
404 Gressette Building
Columbia, SC 29201

Dear Senators Massey and Hembree:

We, the undersigned civil rights and education equity-based organizations listed below, write to express our serious concerns with S.556, the Equal Opportunity Education Scholarship Account Act (EOESA). Diverting taxpayer dollars, and/or public benefits, to private schools not only directly threatens the sustainability of public schools, but also contradicts the state's mandate to invest in and support South Carolina's public school students. Article XI, Section 4 of the South Carolina Constitution states, "No money shall be paid from public funds nor shall the credit of the State or any of its political subdivisions be used for the direct benefit of any religious or other private educational institution."¹ Yet, the EOESA provides a direct pathway for private schools to receive public funds, which at a minimum breaks the spirit, if not the letter, of South Carolina's constitution.

Additionally, the authorization of the EOESA would siphon taxpayer dollars away from the public school system and harm all students, but especially those who have been historically underserved. It would exacerbate a parallel educational system, one public and one private, while simultaneously contributing to the underfunding of the current public school system. As the South Carolina General Assembly considers the EOESA, please review our most serious concerns listed below.

1. The proposed legislation is duplicative and wastes taxpayer dollars.

As you know, South Carolina already operates the Education Credit for Exceptional Needs Scholarship program, which is a tax-credit scholarship program that cost the state nearly \$12 million in lost tax revenue in 2017.² The proposed EOESA, which is a duplication of the Exceptional Needs Scholarship, would redirect **\$680** million from public schools to private ones within the first two years of its implementation.³ Additionally, much of the language in S.556 is dedicated to serving students with disabilities, despite the fact that such a program already exists in the state. We believe that instead of dedicating taxpayer dollars toward a redundant program, directing

¹ "Article XI: Public Education." South Carolina House of Representatives.
<https://www.scstatehouse.gov/scconstitution/A11.pdf>.

² "South Carolina - Educational Credit for Exceptional Needs Children." EdChoice.
<https://www.edchoice.org/school-choice/programs/south-carolina-educational-credit-for-exceptional-needs-children/>.

³ "Statement of Estimated Fiscal Impact." South Carolina Revenue and Fiscal Affairs Office, October 2, 2019.
https://www.scstatehouse.gov/sess123_2019-2020/fiscalimpactstatements/S0556_2019-10-02_updated.pdf.

state investment toward improving special education services in public schools would help more students with disabilities realize significant short- and long-term gains and meet the Profile of the South Carolina Graduate.

Furthermore, the Individuals with Disabilities Education Act (IDEA) already includes a provision that allows students with disabilities to access a private school with the full cost of tuition covered if their neighborhood public school is unable to meet their unique needs.⁴ Additionally, any scholarship operated by Exceptional SC and the proposed EOESA that does not pay the full cost of tuition would force families to pay the difference in tuition. Passage of S.556 would not only force participating children with disabilities to forgo a free private education for a subsidized one, but it would also require participating families to choose between federally-guaranteed civil rights protections and protections not mandated in private schools.

2. Existing ESA (school vouchers) research does not support positive academic outcomes and may actually have adverse effects on students.

Because many ESAs are new and many programs lack evaluation and reporting requirements, there is a lack of research on how effective these programs are. Research on vouchers is the closest comparison because vouchers also allow students to use public funds for education at private schools. [Studies](#) have shown that no clear academic advantage exists for students attending private schools with school vouchers as compared to similarly situated students attending public schools. In fact, in some states, participation in school voucher programs had negative effects on student achievement, with students enrolled in the Louisiana Scholarship Program increasing their chances of failing math by 50 percent⁵ and students in Indiana using school vouchers to attend private schools consistently scoring lower on reading and math tests than their public school peers.⁶ As such, we believe that fully funding public education in the state and providing students in disadvantaged subgroups with the resources they need to demonstrate improved educational outcomes would be a more appropriate use of taxpayer dollars.

3. Private schools are not required to adhere to the same oversight, accountability, and reporting requirements as public schools and should therefore not be supported with taxpayer dollars.

Private schools do not face the same requirements as public schools related to state-approved academic accountability, publicly reported budgets or performance outcomes required of public schools, and do not adhere to requirements for transparency of open meetings and records laws as public schools. In Section 58-8-180(D)(1)(2)(3)(4), S.556 bars the state government from regulating the operations and education program of participating private schools, stripping the regulatory powers of state and local education agencies and making accountability and evaluation an option, rather than a requirement, for a group of schools receiving taxpayer dollars. By effectively denying governmental agencies the legal authority to regulate and monitor the

⁴ Individuals with Disabilities Act Statute: 20 U.S.C. 1412(a)(10)(B).

<https://www.law.cornell.edu/uscode/text/20/1412>

⁵ Abdulkadiroğlu, Atila, Parag A. Pathak, and Christopher R. Walters. "Free to Choose: Can School Choice Reduce Student Achievement?" *American Economic Journal: Applied Economics* 10, no. 1 (2018): 175–206.

<https://doi.org/10.1257/app.20160634>.

⁶ Dynarski, Mark. "On Negative Effects of Vouchers." *Brookings.edu*. The Brookings Institution, July 12, 2017.

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

activities of participating private schools, S.556 gives private schools “maximum freedom” to operate in a way that may exacerbate opportunity and achievement gaps already present for low-income students, students of color, and students with disabilities in South Carolina. The bill also stipulates that participating schools are prohibited from discrimination based on race, color, disability or national origin, but fails to account for the fact that private schools are inherently selective entities that may still restrict the ability of some students to attend based on physical characteristics, such as maintaining hair braids or cornrows.

In conclusion, we remind you that South Carolina’s Every Student Succeeds Act Consolidated State Plan goal is “by 2035, 90 percent of students will graduate ‘college, career, and citizenship ready’”.⁷ However, as of 2018, not **one** of the 80 plus school districts in South Carolina produced high school graduates with an average ACT score aligned with those admitted to the University of South Carolina.⁸ Any school improvement investments in education should be centered on research-based practices, such as high-quality early childhood education, personalized learning, effective professional development to support a diverse and well-prepared teacher workforce, and comprehensive wraparound supports—not efforts that disinvest in public schools and effective practice.

We appreciate the opportunity to offer feedback on S.556 and urge you not to move this bill forward. If you have any questions or would like to schedule a meeting regarding the contents of this letter, please do not hesitate to reach out to Fred Jones, Director of Government Affairs and Public Policy at the Southern Education Foundation, at fjones@southerneducation.org or (404) 991-6777. We look forward to hearing from you soon.

Sincerely,

Fred Jones
Director of Government Affairs and Public Policy
Southern Education Foundation

Ali B. Titus
Policy and Communications Director
ACLU of South Carolina

Otha Meadows
President and CEO
Charleston Trident Urban League

cc: Chairwoman Rita Allison, Vice Chairman Robert Brown, Rep. Jerry N. Govan, Jr., and Sen. Vincent Sheheen

⁷ “Consolidated State Plan - State of South Carolina.” Every Student Succeeds Act (ESSA) - South Carolina Department of Education. South Carolina Department of Education, May 2018.
<https://ed.sc.gov/newsroom/every-student-succeeds-act-essa/essa-state-plan-amendment-feb-2020-final/>.

⁸ SEF analysis of South Carolina’s Department of Education 2019 ACT results.