

Virginia Media Alert:

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New Study Examines Legal Consequences of Scholarships for Students With Disabilities

A state scholarship program helping students with disabilities access a private program that would better meet their needs would have important advantages for both parents and the public, according to a new paper written by William Hurd, former Virginia state Solicitor General.

The paper, [*The Legal Consequences of a Tuition Assistance Grant Program for Students With Disabilities*](#), released today by the Thomas Jefferson Institute for Public Policy, also identifies the chief legal arguments used by opponents of such a scholarship and demonstrates why those arguments lack merit.

Special education is largely guided by the federal Individuals with Disabilities Education Act (IDEA). Hurd's paper explains the background of the IDEA and review its basic procedures. It also addresses the shortcomings of the IDEA as they relate to accessing public funds for a private placement, and identifies the chief legal arguments used by opponents of such a scholarship, demonstrating why those arguments lack merit.

Hurd notes that "Virginia is home to many excellent public schools; however, even the best public schools cannot always provide the special education needed by children with disabilities. Sometimes, it is necessary to enlist the services of private schools, instead. Private schools designed for particular types of disabilities - such as dyslexia or autism - can be especially invaluable in helping families and school districts obtain an appropriate education for their children."

He is echoed by Fairfax County School Board Member Tessie Wilson: "For the parent of a child with disabilities, ensuring that child receives the best education possible can be a time-consuming task and often includes persuading their local school system to offer a service different from that which the school is willing to provide. But many school systems tend to operate in a "one size fits all" environment, and no matter how superb a school's program may be, there will always be students with special needs who require a

more specialized education that is often too challenging for a system trying to educate a broad range of children."

"That's why Virginia needs a Tuition Assistance Grant program for special education students," argues Chris Braunlich, vice president of the Thomas Jefferson Institute. "Five states - Arizona, Florida, Georgia, Ohio, and Utah - have similar programs to lend parents a helping hand.

"But Virginia opponents of such a scholarship program have trotted out a series of fiscal and legal arguments against such a plan," said Braunlich. "[The fiscal arguments have already been refuted](#), and William Hurd does a masterful job of deconstructing the legal arguments, including opponents' tactic of charging that school systems would face a flurry of expensive lawsuits. In fact, they would not - nor have they in any of the states where just such a plan already exists."

Legislation has been introduced in several General Assembly sessions by both State Senator Walter Stosch (R-Henrico) and Delegate William Janis (R-Henrico).

Hurd concludes that a special education model offering parental choice would effectively address many of the ills in current special education law, noting that society has already recognized the public responsibility for the education of children, but that it is not always best carried out by a one-size-fits-all school system.

"Our society also recognizes, for example, that there is a public responsibility to provide health care for children whose parents are unable to provide for them." Hurd noted. "Yet, no one has suggested that children receiving such assistance should only be treated by government doctors or at government-run clinics. Instead, the parents have been allowed to select their child's medical providers from an array of public and private options, while government has provided the financial support. The health care model - parental choice and government financing - is an innovative way to provide children with disabilities with the individualized education they require. It is a model that five States have already embraced. Virginia should do so as well."

[A copy of the study may be found here.](#)