

1 **JFNA AND SCHOOL CHOICE**

2 For the past two years, JFNA’s formal public policy priorities have stated that JFNA supports  
3 “public education while cultivating healthy, vibrant, and affordable Jewish day schools.” The  
4 meaning of this phrase was not spelled out and JFNA has not yet engaged in any advocacy on the  
5 issue. With the new Administration’s documented interest in school choice and the increasing  
6 perception that some within the organized Jewish community have taken more moderate  
7 positions in favor of this approach, 2017 seemed an opportune time for JFNA to consider  
8 measures to help families with primary and secondary education (K-12) decisions and possibly  
9 obtain additional public incentives or resources that could make a day school education  
10 affordable for more Jewish families.

11 The issue of school choice, which in this context means the whole array of alternative venues  
12 and public-funding mechanisms separate from traditional public schools, has, in the past, been a  
13 divisive area for the organized Jewish community. The election rekindled a debate within our  
14 community on the impact that school choice has on public education and the growing focus on  
15 the increasingly costly, but critically important, role that day school education plays in securing a  
16 vibrant Jewish community in the future. In launching this work group, JFNA recognized that  
17 consensus might not be feasible, but thought it worthwhile to explore many facets of this issue.

18 **I. Background**

19 In the three years after the release of the Pew Research Center survey on the American Jewish  
20 community, the organized Jewish community continues to wrestle with its implications. The  
21 continued rise in intermarriage, falling birthrates and growth in disaffiliation from synagogues  
22 have caused many leaders to promote communal efforts that feature enriched Jewish educational  
23 content with some of the leading preachers for lifelong engagement found to be Jewish youth  
24 group, significant interaction with Israel, Jewish overnight camp, and day school education.  
25 While local Jewish communities may promote all of these, day school education can be costly,  
26 often making it unaffordable or a hardship, even for families with comparatively high incomes.

27 One interesting response to the Pew findings is the 2015 “Statement on Jewish Vitality,” signed  
28 by 70 leading and very diverse rabbis, Jewish organizational executives, and academics, which  
29 states that “American Jewry now stands at a crossroads. Our choices are stark: we either accept  
30 as inevitable the declining numbers of engaged Jews, or we work to expand the community and  
31 improve the quality of Jewish life going forward.” The first action item within the Statement  
32 recommended that: “Several states have adopted tax policies that offset school tuition. The  
33 Jewish community should support such efforts and find other ways to make day schools more  
34 affordable.”

35 Traditional Jewish public policy had long viewed government support for religious schools, in  
36 the form of tax breaks and/or direct funding, as an existential threat to the constitutional  
37 guarantee of separation of church and state which is deemed essential to protect the religious  
38 liberty of minorities, including Jews. Increasingly, however, there are a variety of school choice  
39 options available throughout the country, including educational savings accounts offered at the  
40 federal and state level, tax credit scholarships, vouchers, and various individual state tax credits  
41 and deductions. The Supreme Court has ruled that vouchers (*Zelman v. Simmons-Harris*, 2002),  
42 tax-credit scholarships (*Arizona Christian School Tuition Org. v. Winn*, 2011), and individual tax

43 deductions for educational expenses (*Mueller v. Allen*, 1983) are constitutional. Although legal  
44 challenges continue, particularly in state courts, some components of the Jewish community  
45 including a significant number of federations now favor school choice proposals, while others in  
46 the community remain opponents.

47 In the spring and summer of 2017, JFNA convened a work group under the auspices of the  
48 Domestic Policy and Government Affairs Council that focused on school choice issues and  
49 achieved consensus on federal tax policy and other incentives to make day school education  
50 more affordable while continuing to sustain quality public education.

## 51 **II. Public Schools**

52 The emphasis of JFNA’s School Choice Work Group was on identifying resources that can be  
53 utilized to support Jewish day schools, helping to make their cost affordable. Despite this  
54 emphasis, having quality and well-funded K-12 public school systems, which undergirds support  
55 for democratic institutions while educating most children in the United States including a  
56 significant majority of Jewish children, is exceptionally important to Jewish Federations for a  
57 variety of moral, equitable, and practical reasons. JFNA urges federal, state, and local  
58 governments to take all appropriate actions to ensure that local public schools receive equitable  
59 funding to engender excellent educational opportunities.<sup>1</sup>

## 60 **III. Publicly-funded Secular Services**

61 Private schools around the country, including many Jewish day schools, already receive public  
62 support from local school districts and other local, state and federal government sources for a  
63 number of important secular services. Such support comes in the form of the public entity  
64 providing in-kind services or materials to the private school or by directly paying for, or  
65 reimbursing, these supports. Existing public supports utilized by day schools include the  
66 following:

- 67 • Disability and special education services provided in private schools (or allowing private  
68 school students to access disability services in public schools)
- 69 • Access to public school sports and other activities
- 70 • Meals for low-income students
- 71 • Transportation (buses or other vehicle) services

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<sup>1</sup> Since its legislative enactment in 1975, the Individuals with Disabilities Education Act (IDEA) has become an increasingly important part of the education framework for students with disabilities. The landmark initiative strives to ensure that students with disabilities receive a free and appropriate public education tailored to their individual needs. Through IDEA, students with disabilities may be served in public schools or, if not suitable, in other settings, including private schools, with tuition paid for by the public school system. In certain communities IDEA pays the tuitions for some students with disabilities who receive their education in day schools. For others, it pays for day school students to receive appropriate services in public schools. The Work Group did not focus on IDEA, although JFNA believes that the federal government should provide robust funding to fully implement the IDEA, instead of merely requiring an under-funded mandate.

- 72 • Public health nurses, school psychologists, immunization programs and other supports to
- 73 comply with health and safety requirements
- 74 • Secular text books
- 75 • Energy efficiency windows or equipment
- 76 • Access to internet services
- 77 • Supplies, gym equipment, computers and other forms of technology hardware
- 78 • Teachers for secular studies
- 79 • Security enhancements
- 80 • Police patrols

81 JFNA favors expanding the types of publicly-funded services and supports already accessed by  
82 Jewish day schools, as long as they are not used to pay for religious practices, religious teaching,  
83 or religious materials that violate the separation of church and state embodied in the First  
84 Amendment. Without recommending what types of publicly-funded secular services and  
85 supports federations may wish to pursue at the local and state levels, JFNA will advocate for  
86 additional financial support from the federal government for these purposes.

#### 87 **IV. Tax Incentives**

88 Tax incentives to promote School Choice (including tax credits for tuition scholarships and tax  
89 deductions that cover some of the costs of private school education) have expanded at the state  
90 and local levels in recent years and are currently available in 20 states. These tax programs allow  
91 individuals or corporations to direct tax revenue towards particular educational institutions,  
92 which in turn provide direct assistance to qualified families for private school subsidies. Under  
93 these incentive programs, federal, state and local governments do not register a preference as to  
94 which particular institutions receive the funding and do not directly transfer funds to those  
95 educational institutions.

96 Tax-Credit Scholarships allow taxpayers (individual or corporate) to receive full or partial tax  
97 credits when they donate to nonprofit entities that provide private school scholarships, mostly for  
98 lower income recipients. These kinds of tax credits have been launched in 17 states -- Alabama,  
99 Arizona, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Montana, Nevada, New  
100 Hampshire, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Virginia.  
101 Those in Pennsylvania and Florida have already resulted in tens of millions of dollars of  
102 scholarship funds being directed to Jewish day schools. A number of states limit eligibility for  
103 these scholarships to family income at 250 – 300% of the federal poverty level.

104 Individual tax credits and deductions allow parents to receive state income tax relief for  
105 approved educational expenses, which can include private school tuition, books, supplies,  
106 computers, tutors and transportation. So far eight states have authorized these types of tax  
107 incentives -- Alabama, Illinois, Indiana, Iowa, Louisiana, Minnesota, South Carolina, and  
108 Wisconsin.

109 Federal tax law does not currently provide for a direct income tax deduction or credit for private  
110 primary and secondary education expenses. Well-known “Section 529 plans” allow taxpayers to  
111 establish accounts to which non-deductible contributions (at the federal level) are permitted to  
112 grow tax-free with proceeds available to be used for qualified higher education expenses. (Note

113 that contributions to Section 529 plans are tax-deductible in certain states.) There are no income  
114 limits imposed for taxpayers who can establish a Section 529 plan. Currently, taxpayers may  
115 contribute up to \$14,000 annually per account or make up to a \$70,000 lump sum payment that  
116 could be spread over five years. There are also lifetime contribution limits of \$235,000 -  
117 \$500,000 as determined by individual states.

118 There is a similar, but more limited education benefit permitted by Section 530 of the tax code  
119 called Coverdell Education Saving Accounts, which can currently be used for elementary  
120 and secondary education. Similar to Section 529 plans, nondeductible contributions up to  
121 \$2,000 per year per account can be made to Coverdell accounts and the balance can grow  
122 tax-free. Eligibility for Coverdell accounts is limited to \$110,000 for a single taxpayer and  
123 \$220,000 for joint taxpayers.

124 Without recommending what types of tax incentives individual Jewish Federations may wish to  
125 pursue at the local and state levels, JFNA promotes the expansion of federal tax incentives that  
126 can reduce the cost of a day school education. These include, but are not limited to, the following  
127 mechanisms:

- 128 1) Individual and corporate tax credits at the federal level contributed to an education  
129 intermediary to be utilized for scholarships. The federal program could be structured  
130 similarly to those currently available in the states.
- 131 2) Individual tax credits and deductions at the federal level that can be used by tax payers to  
132 deduct up to \$10,000 per child in approved K-12 educational expenses, including private  
133 school tuition.
- 134 3) The expansion of the federal Section 529 education tax plans to allow their use for K-12  
135 primary and secondary school education expenses with separate lifetime contribution  
136 limits for K-12 and higher education.
- 137 4) The expansion of the Coverdell Education Savings Accounts that shield up to \$14,000  
138 per year in contributions (or a lump sum payment of up to \$70,000 which can be spread  
139 over five years) from tax liability. Taxpayer income limits governing eligibility for  
140 Coverdell accounts should be substantially raised.

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## 142 **V. Federal Vouchers**

143 School vouchers are publicly-funded scholarships that pay for students to attend private schools.  
144 Vouchers are typically funded through a combination of state and local education funds that  
145 would otherwise be directly used to support public education. While vouchers can sometimes  
146 cover the full cost of tuition in a private school, they range between \$2,000 and \$5,000 per  
147 recipient student in the states that have them: Colorado, Florida, Indiana, Louisiana, North  
148 Carolina, Ohio and Wisconsin. There are a few other states that have voucher programs  
149 specifically directed towards students with disabilities: Arkansas, Georgia, Mississippi,  
150 Oklahoma, and Utah. At the federal level, the District of Columbia Opportunity Scholarship  
151 Program provides scholarships to low-income children for tuition and other fees at participating  
152 private schools. This program currently provides \$8,000 in scholarships for K-8 education and  
153 up to \$12,000 for high school.

154 In most cases, once a parent requests a voucher from the local school district, funding flows  
155 directly from the government to private schools, including both religious and non-religious ones.  
156 Thus expanded federal voucher programs could allow more students to attend private and  
157 parochial schools. However, while vouchers are parentally directed, they represent the  
158 purposeful withdrawal of dedicated education funding from the public school system (rather than  
159 general tax revenue or other public funding not specifically set aside for education purposes) and  
160 the direct payment of those funds from the public entity to private schools. In many cases, the  
161 full value of the voucher ensures that it can only be used by lower income students in religious-  
162 based schools that are typically (and often not in the case of Jewish pluralistic or community day  
163 schools) less expensive than other private schools.

164 Ultimately, the work group did not reach a consensus on the federal voucher issue. Accordingly,  
165 JFNA takes no position on federal policy related to school vouchers, the use of U.S. Department  
166 of Education resources to fund school vouchers, or individual Jewish Federations' stances on  
167 school vouchers.

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