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## Ad Majorem Dei Gloriam: A Performance-Based Argument for Educational Tuition Vouchers

Ronald J. Tocchini

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# Ad Majorem Dei Gloriam<sup>1</sup>: A Performance-Based Argument for Educational Tuition Vouchers

## I. INTRODUCTION

Arguments regarding educational tuition vouchers remain among the most hotly contested issues of contemporary social thought. Lawmakers, social scientists, and parents all strongly debate the merits of implementing a choice-based educational system. At the root of many such arguments lies the position that privately-funded Catholic schools consistently outperform their public counterparts, and, by way of *a priori* reasoning, provide a good example of competitive market results in primary

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1. Literally, "To the Greater Glory of God" (Latin). This phrase embodies a popular theme in Roman Catholic ideology. Cf. *Society of Jesus* or "*Jesuits*"; see e.g. Patrick A. Heelan, S.J., *Ignatian Discernment, Aesthetic Play, and Scientific Inquiry*, in *MINDING THE TIME 1492 - 1992: JESUIT EDUCATION AND ISSUES IN AMERICAN CULTURE* 3-17 (William J. O'Brien ed., 1992). In the minds of many Americans, Jesuit schools epitomize everything good (and bad) about Catholic schooling. Among the latter negative perceptions of parochial schools lies the opinion that Jesuits encourage an elitist social tradition. Such a paradigm runs counter to classic American notions of social equality.

This criticism of Catholic elitist philosophies may best be illustrated by the following anecdote.

Sometime during the late eighteenth-century, all of the Catholic religious leadership met in Rome. Apparently, these good men were concerned about which of their different orders was most in favor with God. After arguing for six days on the merits of their respective callings, they decided to settle their disagreement by praying for a directly Divine response. Most remained awake through the seventh night, but all had fallen asleep by dawn. Upon awakening, they discovered the following note:

My Dear Children,

I cherish you all equally.

Love,

God, S.J.

While the story pokes fun at a specific religious order, it also serves to illustrate the perception that Catholic schools generally install an inappropriate feeling of superiority in their students. Perhaps this perception explains some of the deeper reasons why America has never implemented a tuition voucher program that would fund parochial schools.

and secondary education—results that would arise out of publicly-funded *curricula* if a voucher system were ever to be implemented. This comment seeks to examine some of the reasons behind parochial schools performance.

Section II sets forth some of the history and relevant American caselaw on voucher proposals. Section III covers quantitative studies comparing public and parochial schooling. Part IV attempts to explain the performance differentials outlined in the previous section (III). Finally, a brief conclusion (Section V) relates the previously-discussed causal factors to the topic of educational tuition vouchers.

## II. TUITION VOUCHER DEVELOPMENTS IN HISTORICAL AND CONSTITUTIONAL CONTEXTS

Educational choice is not a new idea.<sup>2</sup> Although the concept first arose in the eighteenth century,<sup>3</sup> modern popular ideas for tuition vouchers find their roots in arguments presented by the economist Milton Friedman.<sup>4</sup> Friedman started the modern political debate by arguing that all primary and secondary schools, whether state-funded or private, be eligible for a voucher composed of public funding.<sup>5</sup> Today, many political variations of the original concept exist; however, the fundamental reasoning behind all such proposals focuses on forcing schools to compete for public funding.

In the typical example of a voucher system, parents utilize some tangible example of state funding (i.e. a “voucher”) to choose which educational institution their child will attend. The chosen school appropriates the voucher and utilizes the public funding attached to the voucher to provide the student with an education. Generally, then, the terms “school choice” and “educational choice” imply a parental privilege to select the school that their children will attend, with financial support from local, state and/or federal governments.<sup>6</sup>

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2. See, e.g., Philip T.K. Daniel, *A Comprehensive Analysis of Educational Choice: Can The Polemic of Legal Problems Be Overcome?*, 43 DEPAUL L. REV. 1 (1993) (hereinafter “Daniel”).

3. See ADAM SMITH, *AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS* 716-740 (Edwin Cannan ed., First Modern Library ed. 1937) (5th edition, 1741).

4. See MILTON FRIEDMAN, *CAPITALISM AND FREEDOM* 85-108 (1962); see also Milton Friedman, *The Role of Government in Education*, in *ECONOMICS AND THE PUBLIC INTEREST* 123-144 (Robert A. Solo, ed., 1955).

5. *Id.*

6. See Daniel, *supra* note 2, at 9 (noting that “local school districts such as East

The reasoning inherent in such a plan appeals to Americans' most basic ideas of propriety and value. Schools forced to compete for tuition dollars will (or so the argument goes) improve their services to attract the maximum number of student voucher dollars. This competitive result would presumably then meet with the same type of public approval and positive social utility found in other competitive markets.<sup>7</sup>

Throughout this paper, I use the terms "voucher", "tuition voucher", and "educational tuition voucher" to imply a program that funds all educational institutions, as opposed to one that discriminates between private religious institutions and non-religious schools. This concept is not without controversy, and not only for reasons relating to the Establishment Clause.<sup>8</sup> Providing a family with a fixed amount of funding to attend the school of their choice arguably allows more families to choose elite private schooling (by supplementing their voucher with private disposable income) at the expense of less wealthy students, thus engendering a pronounced social dichotomy in education. Mathematically, this argument sounds appealing; however, it neglects to address the specific mission statements of many religious schools.<sup>9</sup>

A fundamental part of the current set of arguments surrounding tuition vouchers is whether vouchers violate the Establishment Clause.<sup>10</sup> During the 1950s and 60s, the desegregation ruling resulting from the Supreme Court's

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Harlem in New York City have established choice programs", (citing David L. Kirp, *What School Choice Really Means*, ATLANTIC MONTHLY, Nov. 1992, at 119) ("analyzing the reasons behind the achievements of the East Harlem program").

7. For instance, the quality of food generally available to all Americans, relative to food prices as a percentage of American *per capita* income, is generally a good example of competitive market results in American stores.

8. See *infra* note 9.

9. See, e.g., the dedication in footnote, *supra*.

10. See, e.g., U.S. CONST. amend. I, § 1. This paper addresses such concerns peripherally, and it only nominally develops the pertinent American common law on tuition vouchers; for a more cogent treatment of Establishment issues in this field, see Michael J. Stick, *Educational Vouchers: A Constitutional Analysis*, 28 COLUM. J.L. & SOC. PROBS. 423 (1995) (hereinafter "Stick"); see also Peter J. Weishaar, *School Choice Vouchers and the Establishment Clause*, 58 ALB. L. REV. 543, 571 (1994) ("School choice vouchers would not survive any of the three existing tests under Establishment Clause analysis.").

*Brown*<sup>11</sup> decisions prompted voucher proposals that would have effectively circumvented Chief Justice Warren's admonition to desegregate "with all deliberate speed."<sup>12</sup> The Court dealt the constitutionality of school choice a stiff blow in 1968. *Green v. County School Board of New Kent County*<sup>13</sup> rejected a plan that facially encouraged the free exercise of parental choice.<sup>14</sup>

It is against [the] background [of racial desegregation that] we must measure respondent School Board's 'freedom of choice' plan to achieve that end. The School Board contends that it has fully discharged its obligation [to offer a nonracist-based educational system] by adopting a plan in which every student, regardless of [her] race, may 'freely' choose the school [s]he will attend. The Board attempts to cast the issue in its broadest form by arguing that its 'freedom-of-choice' plan may be faulted only by reading the 14th Amendment as universally requiring 'compulsory integration,' a reading it insists the wording of the Amendment will not support. But [what] is involved here is the question [of] whether the Board has achieved the 'racially nondiscriminatory school system' [that] *Brown II* held must be effectuated. [School] boards [at the time *Brown II* was decided that were] operating state-compelled dual systems [were] clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination would be eliminated root and branch. [The Board's] first step [in compliance with this directive] did not come [until] 10 years after *Brown II* directed the making of a prompt and reasonable start. [These] delays are no longer tolerable. [The] burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work now. [There] may well be instances in which [educational choice] can serve as an effective device. . . . [I]f there are reasonably available other

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11. See *Brown v. Board of Education*, 347 U.S. 483 (1954) (*Brown I*) (constitutional ruling on racial segregation in schools); and see *Brown v. Board of Education*, 349 U.S. 294 (1955) (*Brown II*) (implementation of the prior constitutional ruling). For examples of caselaw reflecting other proposals that were designed to avoid desegregation, see *infra* notes 13 and 19.

12. *Brown*, 349 U.S. at 294. Daniel notes that "many southern states attempted to create state-supported voucher systems for white families who sent their children to segregated private schools." *Supra* note 2, at 4; citing Henry M. Levin, *Market Approaches to Education: Vouchers and School Choice*, 11 ECON. EDUC. R. 279, 280 (1992)).

13. 391 U.S. 430 (1968).

14. Daniel, *supra* note 2, at 4-5 (noting *Green*, 391 at 440 n. 5).

ways [that promise] speedier and more effective conversion to a unitary, nonracial school system, "freedom of choice" must be held unacceptable.<sup>15</sup>

It is a tragedy that tuition vouchers were initially associated with the horrible aspects of racial prejudice. Notwithstanding their role in the politics of race, however, debates over vouchers were far from over.<sup>16</sup> The First Amendment's Establishment Clause came to present a further barrier to the implementation of voucher plans.<sup>17</sup> The problem with the Establishment Clause, as with most areas of constitutional law, lies in the clause's proper interpretation.

Interpretations of the Establishment Clause fall between two polar positions: strict neutrality and strict separation. Proponents of strict neutrality contend that the First Amendment prohibits government from using religious classifications either to confer benefits or impose burdens [upon religious institutions]. Under this theory, so long as no religious classifications are employed, government programs may benefit religion. The doctrine of strict separation, however, prohibits any government aid to religion. Somewhere in the broad expanse between these polar positions lie the Establishment Clause decisions of the Supreme Court.<sup>18</sup>

*Lemon v. Kurtzman*<sup>19</sup> established a three-part test<sup>20</sup> for analyzing alleged Establishment Clause violations: (1) the challenged statute must have a secular legislative purpose;<sup>21</sup> (2) the challenged statute's primary effect must not be one that advances or inhibits religion or the practice thereof;<sup>22</sup> and (3) the

15. See *supra* note 13 at 437-38 (quoting *Brown v. Board of Education*, 349 U.S. 294 (1955), and in turn quoted in GERALD GUNTHER, CONSTITUTIONAL LAW, 729-31 (12th edition, 1991)).

16. See Daniel, *supra* note 2, at 5.

17. The Establishment Clause states, "Congress shall make no laws respecting an establishment of religion . . ." See Establishment Clause comment, *supra* note 10.

18. See Stick, *supra* note 10, at 432 (quoting Philip Kurland, *Of Church and State and the Supreme Court*, 29 U.CHI. L. REV. 1, 96 (1961), and Laurence H. Tribe, AMERICAN CONSTITUTIONAL LAW 1166 (1988)) ("Strict separation theory is derived from the Jeffersonian image of a 'wall of separation between Church and State.'").

19. 403 U.S. 602 (1971).

20. As noted in Stick, *supra* note 10, at 432-33.

21. *Id.*; citing *Lemon*, 403 U.S. at 612-13 (and in turn citing *Walz v. Tax Comm'n*, 397 U.S. 664, 674 (1970), *Board of Educ. v. Allen*, 392 U.S. 236, 243 (1968), *School Dist. v. Schempp*, 374 U.S. 203, 222 (1963)).

22. Stick, *supra* note 10, at 432-33.

challenged statute must not have resulted in excessive government involvement with religion.<sup>23</sup> All three of the test's prongs must be met for the challenged action to survive the Court's Constitutional scrutiny.<sup>24</sup>

When a voucher proposal involves funding parochial schools (among others), it then follows that the proposal must pass the *Lemon* test, and the concerns that our society associates therewith. Whether the proposal will pass *Lemon* is a topic of ongoing debate.<sup>25</sup> However, apart from esoteric judicial tests, few people disagree that the present performance levels of public school students leave room for improvement. While subsidizing parochial or other religious schools may violate constitutional barriers between churches and the State, socio-economic data show that parochial schools do a better job of educating their students at a lower cost than their government-funded counterparts.<sup>26</sup>

### III. EDUCATIONAL PERFORMANCE LEVELS

In 1983, the Department of Education issued a highly critical assessment of the American public educational system's current condition.<sup>27</sup> The report made some interesting points: "schools [face] a 'rising tide of mediocrity' . . . '[f]or the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach, those of their parents[.]'"<sup>28</sup>

Statistics paint a bleaker picture. In 1980, the Department of Education sponsored an extensive study<sup>29</sup> of high school students which showed that private school students in general, and Catholic school students in particular, scored consistently

23. *Id.*

24. *Id.* Stick notes that the *Lemon* test has not always been applied by the Court in its Establishment Clause decisions, and tracks some of the current Court members' (e.g., Justices O'Connor and Scalia) more refined arguments of the *Lemon* test's inherent ambiguities. *Id.* at 457-64. He also notes recent attempts to utilize Equal Protection arguments in favor of subsidizing parochial schools with vouchers. *Id.* at 461-62 ("Milwaukee Parental Choice Program").

25. *Id.*

26. See *Infra* Note 27.

27. See NATIONAL COMM'N ON EXCELLENCE IN EDUC., UNITED STATES DEP'T OF EDUC., A NATION AT RISK: THE IMPERATIVE FOR EDUCATION REFORM, A REPORT TO THE NATION AND THE SECRETARY OF EDUCATION (1983) (hereinafter "RISK").

28. Daniel, *supra* note 2, at 6-7, quoting RISK at 5, 11.

29. Which later became (in part) the basis for the report quoted *supra* in note 27.

better on standardized tests than did their public-school counterparts.<sup>30</sup> Coleman and Hoffer (1987)<sup>31</sup> note that “[t]he magnitude [of the score differentials] was about one grade level. For Catholic schools, but not in other private schools, *this effectiveness was especially pronounced for students from disadvantaged backgrounds: those with less well-educated parents, blacks, and Hispanics.*”<sup>32</sup>

Public schools were not, and presumably are still not, producing students with skill levels comparable to that of their parochial counterparts. While an argument may be made that there exists a difference in student learning potential between the two educational systems (e.g. parochial schools get the intellectual “cream of the crop”), such performance figures seem to initially indicate that private Catholic schools might be doing a better job. Additionally, Coleman and Hoffer note the potential “cream of the crop” weakness in the original score differentials, but point out that a later survey (1982) compares achievement levels in the two systems, and thus reduces the original limitation of comparing students with similar family backgrounds at one-time performance potentials.<sup>33</sup>

Comparing achievement growth between the two populations can help deflate some of the logical criticisms made regarding student potential in a parochial school setting. Regardless of any initial, or baseline, ability on the part of a given student, strong growth in her performance would presumably demonstrate the presence of a significant educational factor. In other words, smart students do not get smarter on their own. They must be taught well in order for their achievement levels to increase.<sup>34</sup>

#### A. Comparing Public and Private School Performance

The Department of Education’s 1980 study yielded surprising results.<sup>35</sup> Researchers gathered data from “what [was] perhaps the most complete listing of American public and

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30. As noted in JAMES S. COLEMAN AND THOMAS HOFFER, PUBLIC AND PRIVATE HIGH SCHOOLS: THE IMPACT OF COMMUNITIES, xxiii - xxiv (1987) [Prologue; hereinafter “Coleman and Hoffer”].

31. *Id.*

32. *Id.* at xxiv (emphasis added).

33. Coleman and Hoffer, *supra* note 32 at xxv.

34. *Id.*

35. James S. Coleman *et al.*, HIGH SCHOOL ACHIEVEMENT: PUBLIC, CATHOLIC, AND PRIVATE SCHOOLS COMPARED, 10 (1982).



private high schools in existence."<sup>36</sup> The final sample size was 1,015, purporting to represent a universe of 20,316 schools.<sup>37</sup> Specifically, the final realized sample size was composed of 893 public schools,<sup>38</sup> 84 Catholic schools,<sup>39</sup> and 27 other private schools.<sup>40</sup> The study included 30,280 high school sophomores and 28,450 seniors in the final sample. Attempting, in part, to alleviate initial criticisms of the 1980 study's numerical results, a follow-up study was conducted in 1982. These later data allowed researchers to compare high school achievement growth over the two-year period between studies.<sup>41</sup>

In 1980, sophomores were given six standardized topical tests, and seniors were given tests in three subject areas.<sup>42</sup> Specifically, the topical areas covered in the sophomore-level tests were (1) reading comprehension; (2) vocabulary; (3) mathematics; (4) science; (5) civics; and (6) writing. The study tested seniors in reading comprehension, vocabulary, and mathematics, "with some items identical to those in the sophomore tests."<sup>43</sup>

Results showed that the presence of a Catholic education in a student's biographical data has a greater achievement effect on test performance in reading comprehension, vocabulary, mathematics, and writing, but not in science or civics.<sup>44</sup> However, Coleman and Hoffer note no strong inferences can be drawn regarding the *general* achievement effects of private schools, because of a small sample size, potential response bias, and population heterogeneity in non-Catholic private schools.<sup>45</sup> The only valid inference one may make is that the smaller parochial sample outperformed the larger public school sample.<sup>46</sup>

[The] analysis focuses on growth in achievement between sophomore and senior years in the areas covered by the six standardized tests. In this analysis, we will include the other private sector despite the . . . [heterogeneity and bias] problems of the sample. We do recognize that the sample is flawed, but

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36. *Id.*

37. *Id.* at 12.

38. 88% of the total sample.

39. 8.3% of the total sample.

40. 2.7% of the total sample.

41. COLEMAN AND HOFFER at xxv.

42. COLEMAN AND HOFFER at 59.

43. *Id.*

44. *Id.* at 60.

45. *Id.*

46. *Id.*

we also recognize that the flaws in the sample are likely to have a less strong impact on growth in achievement than on levels of achievement. For if there is similarity of functioning among the other private schools, but wide differences in backgrounds of students in the different schools of this sector, then it is the level of achievement that should be more affected by variations in the sample, while the growth (particularly when measured by controlling on backgrounds of students in the sample) should be less affected. Nevertheless, it is important to keep in mind that[,] because of the sample, inferences about the other private sector are less firm than are inferences about the public and Catholic sectors.<sup>47</sup>

The 1982 achievement results, notwithstanding the 1980 test's weaknesses,<sup>48</sup> provide significant evidence of a greater growth in knowledge over the two year interim between the first and second survey tests.<sup>49</sup> Among the three categories of schools reported,<sup>50</sup> per-pupil expenditures are lowest in Catholic schools,<sup>51</sup> and the Catholic sector consistently outperforms public students in grade-level knowledge gains.<sup>52</sup> Specifically:

Table 1: Public Performance Gains v. Catholic Performance Gains<sup>53</sup>

<i>Test</i>	<i>PublicGains</i>	<i>CatholicGains</i>
<i>Vocabulary</i>	1.75	2.10
<i>Reading</i>	1.01	1.34
<i>Mathematics</i>	1.46	2.39
<i>Science</i>	0.79	0.93
<i>Writing</i>	1.31	1.46
<i>Civics</i>	0.84	0.83

#### IV. WHY DO PAROCHIAL STUDENTS OUTPERFORM THEIR PEERS?

Private schools must compete for funding. They receive little, if any, public funding for their educational endeavors.<sup>54</sup> Do their increased performance levels imply that a school forced

47. *Id.*

48. *Id.* at 59-60.

49. In other words, between the sophomore's original scores and their later senior-year scores.

50. (1) Public; (2) Catholic, and (3) non-Catholic private schools.

51. COLEMAN AND HOFFER at 35-36.

52. *Id.* at 63-82.

53. *Id.*

54. *See, e.g., supra* note 10, discussing the Establishment Clause.

to compete for funding will deliver a better product to its students? Or are there some inherent qualitative differences between parochial schools and their public counterparts that better explain the performance differential? What inefficiencies are realized in public schools (or are overcome in Catholic institutions) that prohibit a sector from producing students that perform better for less money? Answers, while necessarily conjectural in nature, focus on social variables present in the functional communities that support Catholic schools.<sup>55</sup> Coleman and Hoffer define the term "functional community" to imply a "structural consistency between generations . . . a community in which social norms and sanctions, including those that cross generations, arise out of the social structure itself, and both reinforce and perpetuate that structure."<sup>56</sup>

Such communities add to the resources otherwise available to parents in their dealings with the school, child supervision, and in their control over their children's interactions with both adults and other children.

The feedback that a parent receives from friends and associates, either unsolicited or in response to questions, provides extensive additional resources that aid the parent in monitoring the school and the child, and the norms that parents, as part of their everyday activity, are able to establish act as important aids in socializing children. . . . the relative inflexibility of the Catholic schools' [curricula] - an inflexibility which the functional community surrounding the Catholic school seems to support - has been able to withstand the curriculum watering-down and course content watering down that occurred in American high schools in the 1970s. If this conjecture is correct, it indicates one of the mechanisms through which a functional community surrounding a school has its effectiveness: through providing sufficient reinforcement by the adult community of the school's demands to allow the school to withstand diversionary influences from the outside. And if this conjecture is correct, it indicates a strength in the functional community that surrounds religiously[-]based private schools that does not exist in the value community surrounding independent private schools.<sup>57</sup>

In sum, it might then be said that the social community supporting parochial schools relies upon and involves itself in a

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55. COLEMAN AND HOFFER *Supra* Note 32 at 7.

56. *Id.*

57. *Id.* at 7, 94.

support network to a greater extent than those people sending children to public schools. Values and attitudes regarding education, peer association, and general morals are not only more likely to be specifically encouraged in a Catholic school student's home, but seem to have a higher probability of being encouraged in all homes of a given parochial school population, and, perhaps just as importantly, will also be enforced and taught at school.<sup>58</sup> Concepts of a rigid curriculum are both imposed at Catholic schools and supported by parents, and thus (presumably) allow for a greater efficiency in the delivery of a parochial student's education — more “bang” for less “buck.”<sup>59</sup>

What about the functional community that surrounds a typical public school? Traditionally, American education has been viewed from one of two general orientational perspectives.<sup>60</sup> The second underlies the basis for private schooling in general and Catholic schools in specific:

This second orientation to schooling sees a school as an extension of the family, reinforcing the family's values. The school is *in loco parentis*, vested with the authority of the parent to carry out the parent's will. The school is, in this orientation, an efficient means for transmitting the culture of the community from the older generation to the younger. It helps create the next generation in the image of the preceding one.<sup>61</sup>

The first educational orientation, however, is significantly different, and it is one to which most public school systems subscribe. Schools, the hypothesis goes, are

society's interest for releasing a child from the blinders imposed by accident of birth into this family or that family. [*sic*] Schools have been designed to open broad horizons to the child, transcending the limitations of the parents, and have taken children from disparate cultural backgrounds into the mainstream of American culture. They have been a major element in social mobility, freeing children from the poverty of their parents and the low status of their social origins. They have been a means of stripping away identities of ethnicity and social origin and implanting a common American identity.<sup>62</sup>

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58. *Id.* at 7-13.

59. *Id.*

60. *Id.* at 3.

61. *Id.* at 3-4.

62. *Id.* at 3. Some of these definitional aspects remain applicable in a parochial setting.

Are these two orientations fundamentally incompatible? At first glance, perhaps, but when the community is merely an extension of the basic family unit and is a homogeneous collection of individuals, then both concepts of an education are definitionally equivalent.<sup>63</sup> America, however, has rarely, if ever, been a homogeneous collection of individuals. In practical terms, then, there is a conflict between the two orientations.<sup>64</sup>

Notwithstanding value-based opinions regarding the inherent utility of either paradigm, the parochial orientation seems to provide better results. This may simply be the result of the higher parental involvement that, by definition, will always occur in this second orientation's setting.

But what about inherent student potential? Are Catholic schools able, because of their particular functional community's support, to discriminate between students of differing skill levels when they decide which students to accept? Intuitively, one might be tempted to answer yes; however, Coleman and Hoffer take these factors into consideration, focusing at one point on achievement in "disadvantaged and deficient families."<sup>65</sup> "Disadvantaged" children may be defined as those typically belonging to an ethnic or subculture status traditionally associated with a general lack of educational resources that are needed for educational development.<sup>66</sup> On the other hand,

an increasing fraction of families has structural and functional deficiencies. The structural deficiencies lie primarily in what were once called 'broken homes,' but are now called 'single-parent families.' . . . The functional deficiencies lie in the increased self-interest of parents, the decreased personal investment in activities of the family as a unit, and the decreased parental involvement with the children.<sup>67</sup>

Coleman and Hoffer then classify these latter children as being from a deficient family structure, as opposed to being strictly disadvantaged. Both disadvantaged and "family-deficient"<sup>68</sup> parochial school children outperform their public school

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63. *Id.* at 4.

64. *Id.*

65. COLEMAN AND HOFFER *Supra* Note 31 at 118.

66. *Id.*

67. *Id.* at 119.

68. *Id.*

counterparts in achievement growth.<sup>69</sup> While not conclusive, this point does strengthen the assertion that, regardless of ethnic or economic background, all students do better in a parochial setting.

It may very well be appealing to cast the voucher debate in terms of neoclassical economic thought, or instead in the arena of constitutional law. However, Catholic schools do not outperform their public counterparts because of competitive market dynamics; nor should anyone argue that Catholic schools and their associated functional communities are somehow qualitatively superior to other religious communities. Parochial schools do better because their students learn in an environment that is fully supported in all of the social aspects of their lives — religious, familial, and scholastic — thus, “To the Greater Glory of God” implies an extremely personal commitment. From the school’s perspective, it implies a moral duty to teach and to guide; from the students’ perspective, it implies an internal impetus to excel.

#### IV. CONCLUSION

Although private schools outperform their public counterparts, this result does not support competitive market arguments for tuition vouchers. However, the increased performance levels in parochial schools can still support a universal voucher proposal. Assuming that the functional community hypothesis Coleman and Hoffer put forth is correct, one may logically conclude that localizing school funding (in the form of a voucher) could well engender similar results in all types of schools. Were Congress to accept this causal hypothesis as a justification for universal voucher funding, the potential problems such a system would have with the Establishment Clause would arguably disappear. In essence, the argument would not be one of church-state separation or racial separation (as it never should have been); nor should it explicitly involve free market economic theories. Rather, the issue is similar to those articulated in conservative federalism arguments — when funding is provided from a social distance, performance suffers. Localizing the delivery of public subsidies via parental choice begins to improve the functional community’s involvement in its childrens’ education. If the Coleman and Hoffer empirical results are valid inferential statistics, this involvement will lead

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69. *Id.* at 121-25.

to increased performance for less cost to the public. Furthermore, allowing this proposed involvement in all scholastic settings, regardless of religious affiliation, maximizes the potential functional community's involvement. School funding is thus properly left in the arena of learning and in the interest of all our children.

*Ronald J. Tocchini*<sup>70</sup>

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70. Adjunct Professor of Business Management, Utah Valley State College, School of Business Management (Orem, UT); Managing Editor, B.Y.U. Education and Law Journal (1995-96). J.D., J. Reuben Clark Law School, Brigham Young University (1996). This work describes the benefits that a religious functional community can render in the life of a child. The author accordingly wishes to thank the Sisters of Mercy and the Christian Brothers for their outstanding efforts in teaching the poor and the wayward of this world; furthermore, their dedication and humility provide an excellent example for all people, whether believers or "gentiles." Any mistakes in this work are certainly not attributable to a lack of quality or effort on their part with regard to *my* education — some of us simply start life out a bit more poor or wayward than others. *Signum Fidei*.