

1 03–CV–24, 03–CV–38, District of Columbia Court of Ap-
2 peals).

3 **TITLE IV—DC PARENTAL** 4 **CHOICE**

5 **SEC. 401. SHORT TITLE.**

6 This title may be cited as the “DC Parental Choice
7 Incentive Act of 2003”.

8 **SEC. 402. FINDINGS.**

9 The Congress finds the following:

10 (1) Parents are best equipped to make decisions
11 for their children, including the educational setting
12 that will best serve the interests and educational
13 needs of their child.

14 (2) For many parents in the District of Colum-
15 bia, public school choice provided for under the No
16 Child Left Behind Act of 2001 is inadequate due to
17 capacity constraints within the public schools.
18 Therefore, in keeping with the spirit of the No Child
19 Left Behind Act of 2001, school choice options, in
20 addition to those already available to parents in the
21 District of Columbia (such as magnet and charter
22 schools and open enrollment schools) should be made
23 available to those parents.

24 (3) In the most recent mathematics assessment
25 on the National Assessment of Educational Progress

1 (NAEP), administered in 2000, a lower percentage
2 of 4th-grade students in DC demonstrated pro-
3 ficiency than was the case for any State. Seventy-six
4 percent of DC fourth-graders scored at the “below
5 basic” level and of the 8th-grade students in the
6 District of Columbia, only 6 percent of the students
7 tested at the proficient or advanced levels, and 77
8 percent were below basic. In the most recent NAEP
9 reading assessment, in 1998, only 10 percent of DC
10 fourth-graders could read proficiently, while 72 per-
11 cent were below basic. At the 8th-grade level, 12
12 percent were proficient or advanced and 56 percent
13 were below basic.

14 (4) A program enacted for the valid secular
15 purpose of providing educational assistance to low-
16 income children in a demonstrably failing public
17 school system is constitutional under *Zelman v. Sim-*
18 *mons-Harris* if it is neutral with respect to religion
19 and provides assistance to a broad class of citizens
20 who direct government aid to schools solely as a re-
21 sult of their independent private choices.

22 **SEC. 403. PURPOSE.**

23 The purpose of this title is to provide low-income par-
24 ents residing in the District of Columbia, particularly par-
25 ents of students who attend elementary or secondary

1 schools identified for improvement, corrective action, or
2 restructuring under section 1116 of the Elementary and
3 Secondary Education Act of 1965 (20 U.S.C. 6316), with
4 expanded opportunities for enrolling their children in high-
5 er-performing schools in the District of Columbia.

6 **SEC. 404. GENERAL AUTHORITY.**

7 (a) **AUTHORITY.**—From funds appropriated to carry
8 out this title, the Secretary shall award grants on a com-
9 petitive basis to eligible entities with approved applications
10 under section 405 to carry out activities to provide eligible
11 students with expanded school choice opportunities. The
12 Secretary may award a single grant or multiple grants,
13 depending on the quality of applications submitted and the
14 priorities of this title.

15 (b) **DURATION OF GRANTS.**—The Secretary may
16 make grants under this section for a period of not more
17 than 5 years.

18 **SEC. 405. APPLICATIONS.**

19 (a) **IN GENERAL.**—In order to receive a grant under
20 this title, an eligible entity shall submit an application to
21 the Secretary at such time, in such manner, and accom-
22 panied by such information as the Secretary may require.

23 (b) **CONTENTS.**—The Secretary may not approve the
24 request of an eligible entity for a grant under this title
25 unless the entity's application includes—

1 (1) a detailed description of—

2 (A) how the entity will address the prior-
3 ities described in section 406;

4 (B) how the entity will ensure that if more
5 eligible students seek admission in the program
6 than the program can accommodate, eligible
7 students are selected for admission through a
8 random selection process which gives weight to
9 the priorities described in section 406;

10 (C) how the entity will ensure that if more
11 participating eligible students seek admission to
12 a participating school than the school can ac-
13 commodate, participating eligible students are
14 selected for admission through a random selec-
15 tion process;

16 (D) how the entity will notify parents of el-
17 igible students of the expanded choice opportu-
18 nities;

19 (E) the activities that the entity will carry
20 out to provide parents of eligible students with
21 expanded choice opportunities through the
22 awarding of scholarships under section 407(a);

23 (F) how the entity will determine the
24 amount that will be provided to parents for the

1 tuition, fees, and transportation expenses, if
2 any;

3 (G) how the entity will seek out private el-
4 ementary and secondary schools in the District
5 of Columbia to participate in the program, and
6 will ensure that participating schools will meet
7 the applicable requirements of this title and
8 provide the information needed for the entity to
9 meet the reporting requirements of this title;

10 (H) how the entity will ensure that partici-
11 pating schools are financially responsible;

12 (I) how the entity will address the renewal
13 of scholarships to participating eligible stu-
14 dents, including continued eligibility; and

15 (J) how the entity will ensure that a ma-
16 jority of its voting board members or governing
17 organization are residents of the District of Co-
18 lumbia; and

19 (2) an assurance that the entity will comply
20 with all requests regarding any evaluation carried
21 out under section 409.

22 **SEC. 406. PRIORITIES.**

23 In awarding grants under this title, the Secretary
24 shall give priority to applications from eligible entities who
25 will most effectively—

1 (1) give priority to eligible students who, in the
2 school year preceding the school year for which the
3 eligible student is seeking a scholarship, attended an
4 elementary or secondary school identified for im-
5 provement, corrective action, or restructuring under
6 section 1116 of the Elementary and Secondary Edu-
7 cation Act of 1965 (20 U.S.C. 6316);

8 (2) target resources to students and families
9 that lack the financial resources to take advantage
10 of available educational options;

11 (3) provide students and families with the
12 widest range of educational options; and

13 (4) serve students of varying ages and grade
14 levels.

15 **SEC. 407. USE OF FUNDS.**

16 (a) SCHOLARSHIPS.—

17 (1) IN GENERAL.—Subject to paragraph (2)
18 and (3), a grantee shall use the grant funds to pro-
19 vide eligible students with scholarships to pay the
20 tuition, fees, and transportation expenses, if any, to
21 enable them to attend the District of Columbia pri-
22 vate elementary or secondary school of their choice.
23 Each grantee shall ensure that the amount of any
24 tuition or fees charged by a school participating in
25 the grantee's program under this title to an eligible

1 student participating in the program does not exceed
2 the amount of tuition or fees that the school custom-
3 arily charges to students who do not participate in
4 the program.

5 (2) PAYMENTS TO PARENTS.—A grantee shall
6 make scholarship payments under the program
7 under this title to the parent of the eligible student
8 participating in the program, in a manner which en-
9 sures that such payments will be used for the pay-
10 ment of tuition, fees, and transportation expenses (if
11 any), in accordance with this title.

12 (3) AMOUNT OF ASSISTANCE.—

13 (A) VARYING AMOUNTS PERMITTED.—Sub-
14 ject to the other requirements of this section, a
15 grantee may award scholarships in larger
16 amounts to those eligible students with the
17 greatest need.

18 (B) ANNUAL LIMIT ON AMOUNT.—The
19 amount of assistance provided to any eligible
20 student by a grantee under a program under
21 this title may not exceed \$7,500 for any aca-
22 demic year.

23 (b) ADMINISTRATIVE EXPENSES.—A grantee may
24 use not more than 3 percent of the amount provided under
25 the grant each year for the administrative expenses of car-

1 rying out its program under this title during the year,
2 including—

3 (1) determining the eligibility of students to
4 participate;

5 (2) providing information about the program
6 and the schools involved to parents of eligible stu-
7 dents;

8 (3) selecting students to receive scholarships;

9 (4) determining the amount of scholarships and
10 issuing them to eligible students;

11 (5) compiling and maintaining financial and
12 programmatic records; and

13 (6) providing funds to assist parents in meeting
14 expenses that might otherwise preclude the partici-
15 pation of their child in the program.

16 **SEC. 408. NONDISCRIMINATION.**

17 (a) **IN GENERAL.**—A school participating in any pro-
18 gram under this title shall not discriminate on the basis
19 of race, color, national origin, or sex in participating in
20 the program.

21 (b) **APPLICABILITY AND CONSTRUCTION WITH RE-**
22 **SPECT TO DISCRIMINATION ON THE BASIS OF SEX.**—

23 (1) **APPLICABILITY.**—Notwithstanding sub-
24 section (a) or any other provision of law, it shall not
25 be considered discrimination on the basis of sex for

1 a school that is operated by, supervised by, con-
2 trolled by, or connected to a religious organization to
3 take sex into account to the extent that failing to do
4 so would be inconsistent with the religious tenets or
5 beliefs of the school.

6 (2) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVI-
7 TIES.—Notwithstanding subsection (a) or any other
8 provision of law, a parent may choose and a school
9 may offer a single-sex school, class, or activity.

10 (3) CONSTRUCTION.—With respect to discrimi-
11 nation on the basis of sex, nothing in subsection (a)
12 shall be construed to require any person or public or
13 private entity to provide or pay, or to prohibit any
14 such person or entity from providing or paying, for
15 any benefit or service, including the use of facilities,
16 related to an abortion. Nothing in the preceding sen-
17 tence shall be construed to permit a penalty to be
18 imposed on any person or individual because such
19 person or individual is seeking or has received any
20 benefit or services related to a legal abortion.

21 (c) CHILDREN WITH DISABILITIES.—Nothing in this
22 title may be construed to alter or modify the provisions
23 of the Individuals with Disabilities Education Act.

24 (d) RELIGIOUSLY AFFILIATED SCHOOLS.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, a school participating in any pro-
3 gram under this title which is operated by, super-
4 vised by, controlled by, or connected to, a religious
5 organization may employ persons of the same reli-
6 gion to the extent determined by that school to pro-
7 mote the religious purpose for which the school is es-
8 tablished or maintained.

9 (2) RELIGIOUS PURPOSES.—Notwithstanding
10 any other provision of law, funds made available
11 under this title may be used for religious educational
12 purposes, and no participating school shall be re-
13 quired to remove religious art, icons, scriptures, or
14 other symbols. A participating school may retain re-
15 ligious terms in its name, select its board members
16 on a religious basis, and include religious references
17 in its mission statements and other chartering or
18 governing documents.

19 (e) RULE OF CONSTRUCTION.—A scholarship (or any
20 other form of support provided to parents of eligible stu-
21 dents) under this title shall be considered assistance to
22 the student and shall not be considered assistance to the
23 school that enrolls the eligible student. The amount of any
24 scholarship (or other form of support provided to parents
25 of an eligible student) under this title shall not be treated

1 as income of the parents for purposes of Federal tax laws
2 or for determining eligibility for any other Federal pro-
3 gram.

4 **SEC. 409. EVALUATIONS.**

5 (a) IN GENERAL.—

6 (1) DUTIES OF SECRETARY.—The Secretary
7 shall—

8 (A) conduct an evaluation using the
9 strongest possible research design for deter-
10 mining the effectiveness of the programs funded
11 under this title that addresses the issues de-
12 scribed in paragraph (2); and

13 (B) disseminate information on the impact
14 of the programs in increasing the student aca-
15 demic achievement of participating students, as
16 well as other appropriate measures of student
17 success, and on the impact of the programs on
18 students and schools in the District of Colum-
19 bia.

20 (2) ISSUES TO BE EVALUATED.—The issues de-
21 scribed in this paragraph include the following:

22 (A) A comparison of the academic achieve-
23 ment of students who participate in the pro-
24 grams funded under this title with the academic

1 achievement of students of similar backgrounds
2 who do not participate in such programs.

3 (B) The success of the programs in ex-
4 panding choice options for parents.

5 (C) The reasons parents choose for their
6 children to participate in the programs.

7 (D) A comparison of the retention rates,
8 dropout rates, and (if appropriate) graduation
9 and college admission rates of students who
10 participate in the programs funded under this
11 title with the retention rates, dropout rates, and
12 (if appropriate) graduation and college admis-
13 sion rates of students of similar backgrounds
14 who do not participate in such programs.

15 (E) The impact of the program on stu-
16 dents and public elementary and secondary
17 schools in the District of Columbia.

18 (F) A comparison of the safety of the
19 schools attended by students who participate in
20 the programs and the schools attended by stu-
21 dents who do not participate in the programs.

22 (G) Such other issues as the Secretary
23 considers appropriate for inclusion in the eval-
24 uation.

1 (b) REPORTS.—The Secretary shall submit to the
2 Committees on Appropriations, Education and the Work-
3 force, and Government Reform of the House of Represent-
4 atives and the Committees on Appropriations, Health,
5 Education, Labor, and Pensions, and Governmental Af-
6 fairs of the Senate—

7 (1) annual interim reports not later than De-
8 cember 1 of each year for which a grant is made
9 under this title on the progress and preliminary re-
10 sults of the evaluation of the programs funded under
11 this title; and

12 (2) a final report not later than 1 year after the
13 final year for which a grant is made under this title
14 on the results of the evaluation of the programs
15 funded under this title.

16 (c) PUBLIC AVAILABILITY.—All reports and under-
17 lying data gathered pursuant to this section shall be made
18 available to the public upon request, in a timely manner
19 following submission of the applicable report under sub-
20 section (b), except that personally identifiable information
21 shall not be disclosed or made available to the public.

22 (d) LIMIT ON AMOUNT EXPENDED.—The amount ex-
23 pended by the Secretary to carry out this section for any
24 fiscal year may not exceed 3 percent of the total amount
25 appropriated to carry out this title for the fiscal year.

1 **SEC. 410. REPORTING REQUIREMENTS.**

2 (a) **ACTIVITIES REPORTS.**—Each grantee receiving
3 funds under this title during a year shall submit a report
4 to the Secretary not later than July 30 of the following
5 year regarding the activities carried out with the funds
6 during the preceding year.

7 (b) **ACHIEVEMENT REPORTS.**—

8 (1) **IN GENERAL.**—In addition to the reports
9 required under subsection (a), each grantee shall,
10 not later than September 1 of the year during which
11 the second academic year of the grantee's program
12 is completed and each of the next 2 years thereafter,
13 submit a report to the Secretary regarding the data
14 collected in the previous 2 academic years
15 concerning—

16 (A) the academic achievement of students
17 participating in the program;

18 (B) the graduation and college admission
19 rates of students who participate in the pro-
20 gram, where appropriate; and

21 (C) parental satisfaction with the program.

22 (2) **PROHIBITING DISCLOSURE OF PERSONAL**
23 **INFORMATION.**—No report under this subsection
24 may contain any personally identifiable information.

25 (c) **REPORTS TO PARENT.**—

1 (1) IN GENERAL.—Each grantee shall ensure
2 that each school participating in the grantee’s pro-
3 gram under this title during a year reports at least
4 once during the year to the parents of each of the
5 school’s students who are participating in the pro-
6 gram on—

7 (A) the student’s academic achievement, as
8 measured by a comparison with the aggregate
9 academic achievement of other participating
10 students at the student’s school in the same
11 grade or level, as appropriate, and the aggre-
12 gate academic achievement of the student’s
13 peers at the student’s school in the same grade
14 or level, as appropriate; and

15 (B) the safety of the school, including the
16 incidence of school violence, student suspen-
17 sions, and student expulsions.

18 (2) PROHIBITING DISCLOSURE OF PERSONAL
19 INFORMATION.—No report under this subsection
20 may contain any personally identifiable information,
21 except as to the student who is the subject of the
22 report to that student’s parent.

23 (d) REPORT TO CONGRESS.—The Secretary shall
24 submit to the Committees on Appropriations, Education
25 and the Workforce, and Government Reform of the House

1 of Representatives and the Committees on Appropriations,
2 Health, Education, Labor, and Pensions, and Govern-
3 mental Affairs of the Senate an annual report on the find-
4 ings of the reports submitted under subsections (a) and
5 (b).

6 **SEC. 411. OTHER REQUIREMENTS FOR PARTICIPATING**
7 **SCHOOLS.**

8 (a) **ADMISSION OF ELIGIBLE STUDENTS.**—Each
9 school choosing to participate in a program funded under
10 this title shall accept any participating eligible student on
11 a religious-neutral basis, except that if the school has more
12 participating eligible students seeking admission than it
13 can accommodate, the school shall accept participating eli-
14 gible students through a religious-neutral, random selec-
15 tion process, consistent with section 405(b)(1)(C).

16 (b) **REQUESTS FOR DATA AND INFORMATION.**—Each
17 school participating in a program funded under this title
18 shall comply with all requests for data and information
19 regarding evaluations conducted under section 409(a).

20 (c) **RULES OF CONDUCT AND OTHER SCHOOL POLI-**
21 **CIES.**—Subject to section 408, a participating school may
22 require eligible students to abide by any rules of conduct
23 and other requirements applicable to all other students at
24 the school.

1 **SEC. 412. DEFINITIONS.**

2 As used in this title:

3 (1) **ELEMENTARY SCHOOL.**—The term “elemen-
4 tary school” has the meaning given that term in sec-
5 tion 9101 of the Elementary and Secondary Edu-
6 cation Act of 1965 (20 U.S.C. 7801).

7 (2) **ELIGIBLE ENTITY.**—The term “eligible enti-
8 ty” means any of the following:

9 (A) An educational entity of the District of
10 Columbia Government.

11 (B) A nonprofit organization.

12 (C) A consortium of nonprofit organiza-
13 tions.

14 (3) **ELIGIBLE STUDENT.**—The term “eligible
15 student” means a student who is a resident of the
16 District of Columbia and who comes from a house-
17 hold whose income does not exceed 185 percent of
18 the poverty line applicable to a family of the size in-
19 volved.

20 (4) **PARENT.**—The term “parent” has the
21 meaning given that term in section 9101 of the Ele-
22 mentary and Secondary Education Act of 1965 (20
23 U.S.C. 7801).

24 (5) **POVERTY LINE.**—The term “poverty line”
25 has the meaning given that term in section 9101 of

1 the Elementary and Secondary Education Act of
2 1965 (20 U.S.C. 7801).

3 (6) SECONDARY SCHOOL.—The term “sec-
4 ondary school” has the meaning given that term in
5 section 9101 of the Elementary and Secondary Edu-
6 cation Act of 1965 (20 U.S.C. 7801).

7 (7) SECRETARY.—The term “Secretary” means
8 the Secretary of Education.

9 **SEC. 413. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated to carry out
11 this title \$10,000,000 for fiscal year 2004 and such sums
12 as may be necessary for each of the 4 succeeding fiscal
13 years.

14 This Act may be cited as the “District of Columbia
15 Appropriations Act, 2004”.

Passed the House of Representatives September 9,
2003.

Attest:

Clerk.