



Judge Sides with NY Archdiocese in COVID Testing Case

On November 23, Justice Wayne Ozzi of the New York State Supreme Court ruled in favor of the Archdiocese of New York in its lawsuit against the New York City Department of Education over its refusal to pay for COVID-19 testing in Catholic schools. New York state law has long required school districts to provide the same health services to nonpublic students as they provide their own, however the city has declined to do so in the case of its current COVID-19 testing regime.

This continues to be the case, even after the judge's ruling, which the city is appealing. In a strongly worded [op-ed in the New York Post](#), Michael Deegan, superintendent of Catholic schools in the Archdiocese, said: "COVID-19 doesn't discriminate among children in our community based on the schools they attend. The DOE shouldn't discriminate, either."



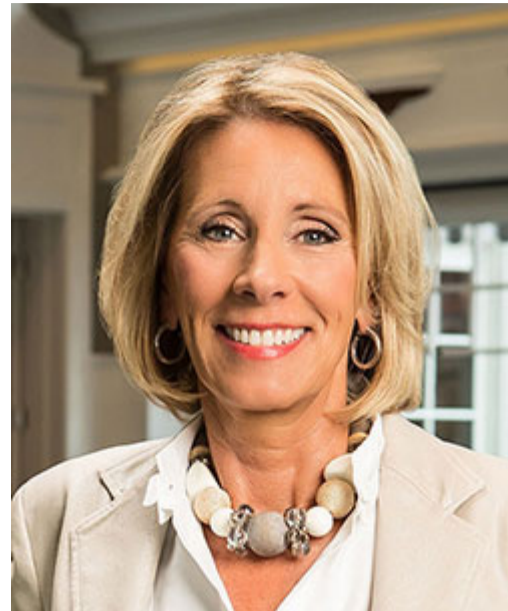
NAEP 2021 Postponed

The National Center for Education Statistics (NCES) has decided to [postpone](#) the National Assessment of Educational Progress (NAEP), sometimes referred to as the "Nation's Report Card," because of COVID-19. The NAEP 2021 assessments were scheduled to begin next month but will be delayed until 2022.

Education Department Unveils Online Portal for Transparency in CARES Act Spending

According to a US Department of Education [release](#) describing its new CARES Act information tool, "Of the \$13.2 billion Elementary and Secondary School Emergency Relief (ESSER) Fund – which was awarded to the 50 states, Puerto Rico, and Washington, D.C. – \$1.6 billion, or 12% of the total had been spent. Eight recipients had spent less than one percent of their award. Of the \$3 billion allocated to the Governor's Emergency Education Relief (GEER) Fund, a total of \$535 million, or 18%, had been spent. Thirty-four governors had yet to spend more than one percent of their allocated funding."

Education Secretary Betsy DeVos was quoted as saying, "The CARES Act was passed to provide schools the resources they needed to protect students and teachers and ensure learning continues. We awarded the CARES Act money quickly. This portal now provides transparency into what happened next. States that neglected their obligations to provide full-time education, while complaining about a lack of resources, have left significant sums of money sitting in the bank. There may be valid reasons for states to be deliberate in how they spend CARES Act resources, but these data make clear there is little to support their claims of being cash-poor."



Racine, WI Private Schools Fight to Stay Open

New York is not the only city to resist compliance with a state supreme court order siding with private schools. On November 12, the city health department in Racine, WI ordered all public and private schools within its jurisdiction to suspend in-person classes. Then, [according](#) to the outstanding folks at the Wisconsin Institute for Law & Liberty (WILL):

"The Wisconsin Supreme Court granted an original action and issued a temporary injunction blocking the City of Racine's school closure order on November 25...But after the Court's November 25 injunction, Racine's Public Health Administrator issued a communication ordering all schools, within the city limits, to remain closed for in-person learning."

In response, "WILL is asking the Court to hold the Administrator and her department in contempt and impose monetary sanctions designed to ensure their compliance with the Court's order." Stay tuned...

Kentucky School Closure Case Reaches Justice Kavanaugh

From the [Louisville Courier Journal](#):

"Associate Justice Brett Kavanaugh has asked Kentucky Gov. Andy Beshear to respond by Friday afternoon to Attorney General Daniel Cameron's request for the U.S. Supreme Court to rule on whether in-person classes at the state's religious schools can continue.

"Cameron and Danville Christian Academy, a private school in Boyle County serving about 230 students in preschool through 12th grade, are asking the Supreme Court to uphold U.S. District Judge Gregory Van Tatenhove's Nov. 25 ruling that said Beshear could not halt in-person classes at private, religious-based schools until early January.



"On Sunday, the U.S. Court of Appeals for the Sixth Circuit overturned Van Tatenhove's ruling and upheld Beshear's executive order, which requires private and public schools in Kentucky to hold only virtual classes until Jan. 4."

Ohio Expands School Choice Program

As described by the *Wall Street Journal*, "Legislation approved late last week expands eligibility for the state's private-school scholarship program to families earning up to 250% of the poverty line from 200%. Students in schools where at least 20% of families are low-income or that fall in the bottom 20% of academic performance for the past two years would also be eligible...Half of all students in Ohio would be eligible for a scholarship. Nearly 50,000 students already receive vouchers, which average around \$4,500. That's about a third as much as the state spends per pupil at public schools."



Governor Mike DeWine signed the bill into law November 27.

Making the Most of *Espinoza*

As readers of *Outlook* know, the US Supreme Court's landmark ruling in *Espinoza v. Montana Department of Revenue* has major implications for private schools. The Center for Education Reform (CER) and The Foundation for Excellence in Education (ExcelinEd) have released a [joint analysis](#) in the form of a legal memo co-authored by former Solicitor General Paul Clement. Advocates looking to put the *Espinoza* decision to good use may find it worth their time.

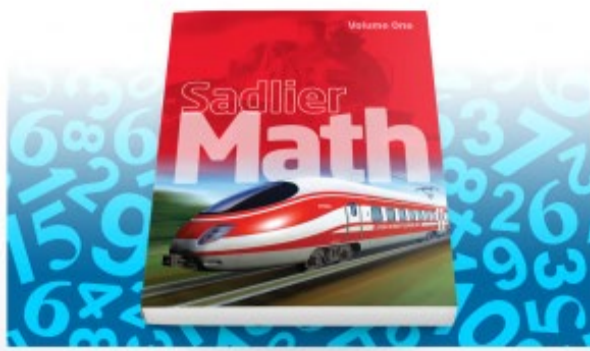
Artemis Moon Pod Essay Contest

Students interested in space may want to consider participating in NASA's [Artemis Moon Pod Essay Contest](#). The contest, which is open to all students in grades K-12, asks participants to imagine they are leading a one-week expedition to the Moon's South Pole.

Entries are due Dec. 17.



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An Uncertain Winter

Private schools have done yeoman's work educating kids this fall under a cloud of uncertainty. As summer turned to fall, there was uncertainty over how a return to the classroom would fare, even after all of the steps private schools took to implement safe learning environments.

And now, as evidenced above, there is continuing -- and growing -- uncertainty over how those in positions of authority might use their power to shut down classroom learning.

However, increasingly it seems that people with a stake in private education are not the only ones sounding notes of concern about the virtual approach. In a [piece for the Washington Post](#) titled "It's time to admit it: Remote education is a failure," Helaine Olen writes:

Whenever someone expressed concerns about the quality of remote education back in the early days of covid-19, they were all but shamed into silence. No, the spring did not go well, but that was done on the fly, with next to no preparation. No, it's not an ideal solution, but staying with in-person instruction is out of the question. There is a learning curve, we were told. We'll get this thing right with time.

Here's how that worked out: In Houston, the number of students with failing grades is exploding. In St. Paul, Minn., a high school student is almost as likely to be on track to fail a class as pass it. In the junior high and high schools of Fairfax County — one of the wealthiest counties in the United States — 1 out of 10 students flunked at least two classes, and the number was almost double that for those with disabilities. Enrollment is falling in closed school districts from coast to coast and many points in between. Some children are exiting for private schools, or private pods. Others are simply MIA.

In the vast majority of cases, remote learning is a poor substitute for in-person education — no matter what efforts are made, no matter how many teacher trainings are offered.

Meanwhile, [writing in The Atlantic](#), Nina Schwalbe, a Fellow at the United Nations University International Institute of Global Health, says: "Keeping kids out of the classroom will make recovering from the pandemic harder in the long term, while not keeping us any safer in the near term."

The coming few months will doubtless be difficult, but with each passing day, more Americans are becoming aware of what those of us in private education have known all along: our schools are in the community, serving the common good, making a real world difference in people's lives.

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Lutheran Church–Missouri Synod	Seventh-day Adventist Board of Education
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United States Conference of Catholic Bishops	Christian Schools International
National Association of Independent Schools	Council of Islamic Schools in North America
Wisconsin Evangelical Lutheran Synod Schools	National Catholic Educational Association
Council on Educational Standards and Accountability	

Affiliated State Organizations a coalition of national associations serving private schools K-12

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