

[Click to print](#) or Select '**Print**' in your browser menu to print this document.

Page printed from: <https://www.law.com/thelegalintelligencer/2018/12/18/president-donald-trump-education-and-the-american-dream/>

President Donald Trump, Education and the American Dream

Those who attain higher levels of educational achievement tend to fare better in life than their less-educated counterparts since more schooling, on average, correlates with higher incomes, better health and a longer life expectancy.

By **David J. Berney** | December 18, 2018

On Oct. 5, 2017, I received a call from a father whose son, R.J., I represented in a school case. R.J. had a learning disability. His family lived on a fixed income and lacked the resources that more affluent families have to invest in early education. As a result, by the time R.J. started kindergarten, he was behind academically, socially and emotionally. His neighborhood school had failed him. By the time I met R.J., he was in high school. He was years behind and starting to disengage from instruction. We obtained a settlement that would allow him to attend private school for the rest of his high school career. I hoped that with intensive intervention, he would close his education gap, even if he would still remain unprepared for post-secondary school or gainful employment. I hoped. But when I answered the phone on Oct. 5, 2017, I

**David J.****Berney, Berney and Sang**

could tell something was wrong. With his voice breaking, his father told me that R.J. had been killed by a stray bullet.

I have received too many calls from families sharing similar tragic news about the children I represent— children from distressed neighborhoods where crime, violence and poverty live dangerously alongside one another and opportunities to live the good life are curtailed.

I chose to become a civil rights attorney in the area of education because I believed that education was the gateway to the American dream. A defining ideal of our nation, the American dream holds that if you work hard and play by the rules, you can improve your station in life irrespective of your circumstances at birth. Today, the primary engine of the American dream is education. Those who attain higher levels of educational achievement tend to fare better in life than their less-educated counterparts since more schooling, on average, correlates with higher incomes, better health and a longer life expectancy. Because of the pivotal connection between education and life outcomes, the stakes around education are high.

Yet, for decades, experts have warned that there is a crisis in the American education system. The achievement gap between children from low-income families and more affluent ones has grown wider over the last 40 years. Our system leaves countless children behind. Children like R.J. whose families have limited means are frequently denied access to educational opportunity. As a result, most modern

presidents have made education a key priority. Lyndon B. Johnson, for example, passed the Elementary and Secondary Education Act, which provides federal funding to low-income schools. President Richard Nixon signed the Equal Educational Opportunities Act. President Gerald Ford enacted the Education for All Handicapped Children Act, which guarantees a free and appropriate public education to all children with disabilities. Jimmy Carter established the Department of Education. Bill Clinton secured passage of the Improving American's School Act and the Goals 2000 Educate America Act, which shifted education reform toward national standards and accountability metrics. George W. Bush, who sought to be known as, "the education president," signed No Child Left Behind into law. And President Barack Obama inaugurated Race to the Top and the Every Student Succeeds Act. Even Ronald Reagan, who complained about federal overreach in education, promoted the recommendations of "A Nation at Risk," a landmark study on the crisis of American education.

Therefore, as 2018 winds down and we reach the halfway point of Donald J. Trump's presidency, it is worth reflecting on what he has promised and accomplished in the area of education. Though he has not promoted education like some of his other agenda items (i.e., Obamacare repeal, trade, border security, etc.), he has advocated for neoliberal fixes to remedy the nation's education woes, such as less federal regulation and market-based reforms. Trump has accomplished a few items so far that further these aims.

First, he succeeded in getting Betsy DeVos confirmed as Secretary of Education. This was no easy feat. DeVos has no experience in public education—she has never taught, ran a school or formally studied education policy. But she has been a vocal advocate of school choice, making her an ideal messenger for Trump's agenda. (For those who don't know, school choice is a market-based idea that typically takes one of two forms: giving private school vouchers to parents to defray the cost of private

school tuition or creating more privately run charter schools to educate our nation's youth.) While education secretaries are confirmed without controversy, DeVos barely squeaked by, with Vice President Mike Pence casting the deciding vote.

Second, Trump signed tax-reform legislation that allows families to use 529 tax-deferred savings plans to pay for up to \$10,000 in K-12 private school tuition.

Finally, Trump signed legislation repealing Obama-era school accountability regulations. The legislation reduces federal oversight of public schools.

So, are any of the Trump initiatives a fix for American education and would any of them have helped R.J. or similarly situated students? And won't giving parents a different option in lieu of their underperforming neighborhood school help kids in low-income communities? Probably not. Market-based solutions are not the remedy for our education system's biggest failure—its failure to position children like R.J. for success.

Vouchers and school choice are typically aimed at helping low-income families because more affluent children generally are already receiving a quality education. But for our nation's poorer youth, there are an insufficient number of private schools available to even educate them. And even if there was an adequate supply of such schools, vouchers do not cover the costs of a private school and less wealthy families typically don't have the resources to fill the funding gap. In Philadelphia, for example, the typical private school costs anywhere between \$25,000-\$40,000 annually. And even the new 529 tax plans that Trump signed into law will predominantly benefit richer families since those families have both the money to allocate to such an account and the additional resources to satisfy tuition costs that exceed \$10,000. As a result, the voucher system and the 529 program end up being benefits for the more affluent.

Moreover, there is less accountability in private and charter schools because they are not subject to the same regulations as traditional schools. Stories abound about leaders of charter schools misappropriating funds or otherwise mismanaging school operations. Across the nation, thousands of charter schools have closed, with many shutting down mid-year because they can no longer make payroll or satisfy their debts. As a result, the children who attended these schools become educational refugees, displaced in the middle of a school year. My firm has represented a number of these children as parents scramble to find another placement for their children mid-year. And if you think private schools are a fix, typically private schools are permitted to pick and choose who they admit and are not bound by many of the laws that protect our youth.

Finally, a number of studies show that charter schools fare no better and in many cases perform worse than traditional public schools. In Philadelphia, for example, a 2018 report released by Public Citizens for Children and Youth titled "Expanding High Quality Charter School Options: Strong Charter School Legislation Matters," concluded, "Charter school students are not outperforming their traditional school peers; results are mixed at best and extremely subpar at worst." In Pennsylvania, for all "historically underperforming students," defined as children who either need special education services, are poor, or are English language learners, the report found that traditional public-school students outperformed their charter school counterparts, with 43 percent meeting standards in reading and 27 percent in math in comparison to only 34 percent and 14 percent of charter school students meeting the same proficiency standards. The test scores are underwhelming for both sets of children, but they suggest that creating more charter schools is not a panacea to our education crisis.

Now don't get me wrong. Charter schools can serve an important purpose. They can be labs for innovation. I send my children to a charter school in the city because of its one-of-a-kind Spanish immersion program. But outsourcing public school education wholesale to charter schools just won't work. While "school choice" is a good marketing slogan, it diverts attention away from the structural problems that exist within our schools.

So, if a market-based reform like school choice is not the fix for children like R.J. and the millions of other children for whom the education system is failing, what is? Clearly, additional funding that is more equitably distributed and that meets the basic cost of educating public school children is required. But equally important is early education, a discussion point that has traditionally received less attention but is now making somewhat of a comeback. Stanford researcher Sean Reardon has noted that test-score gaps between high and low-income eighth graders has essentially remained the same as the school-readiness gap among kindergartners over the last four decades. He concludes from that data that "the roots of widening educational inequality appear to lie" more in unequal opportunities in early childhood. Reardon theorizes that the best way to reduce educational inequality, therefore, is to ensure that low-income kindergartners start their educational careers on more of an equal footing with their more affluent peers.

R.J. and many of the other students I represent come from poor families and are woefully behind when they begin their education. Rarely do these children close the gap. Had their parents had the resources to invest in early education, they would fare better. The good news is that some leaders have recognized the importance of early education, including our own Gov. Tom Wolf and Mayor Jim Kenney, who have made free, quality early education a centerpiece of their agendas. Hopefully, the federal government will come to this conclusion too. Otherwise, for many, the American dream may become a pipe dream.

David J. Berney *is a senior partner with Berney & Sang. He is a trial lawyer who concentrates his practice in education law, employment discrimination and civil rights.*

Copyright 2018. ALM Media Properties, LLC. All rights reserved.