

Hoosier Lawmaker? Vouchers, ALEC Legislative Puppets, and Indiana's Abdication of Democracy

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Abstract

“Getting poor kids out of failing schools” sounds like an altruistic cause most Americans support. However, one policy mechanism utilized to achieve that result, parental choice vouchers, has a checkered past. This descriptive analysis explores the policy-bubble created when state legislators eschewed their constitutional responsibility as noted in Article 8 of the Indiana Constitution: “to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall without charge, and equally open to all” (Indiana Constitution, 1851).

This article delves into the impact of the strong working relationship between Indiana and the American Legislative Exchange Council (ALEC), and the impact of that partnership on choice options in education. Despite multiple early promises, Indiana's voucher program no longer emphasizes enrollment of lower income students, no longer strives for improved student achievement, and no longer reduces government and its costs. The purpose of this article is to trace the philosophical roots, political interconnections, and sleight-of-hand that undergirds the interaction of ALEC, vouchers, and state government.

Key Words

ALEC, vouchers, policy

Throughout US history, blame or credit for a variety of problems and successes are laid at the feet of the nation's traditional public schools (TPS). Some critics of public schools perceive a catastrophe. "Given the breadth of our education crisis, we have to start asking not whether a particular reform is too radical, but rather whether it is radical enough" (Bolick, 2017, p.19). Critics of TPS propose a market-based approach utilizing mechanisms such as charter schools, vouchers, and tax-credits for private school tuition (Ujifusa, 2017).

TPS advocates share evidence of academic effectiveness of traditional public schools and their positive impact for diverse groups of students (Berliner & Biddle, 1995; Bracey, 2004, 2009; Covaleskie, 2007). Proponents of TPS assert that public schools teach "what will be lost to democratic life if society loses the concept of public" (Covaleskie, 2007, p. 34).

John Dewey believed that when students were actively involved in the learning process, they would learn to:

1. (B)ecome knowledge producers instead of knowledge consumers;
2. ... students are not only active participants in learning—they are educated to become active participants in democratic life instead of being spectators to a shallow form of democracy (Saltmarsh, 2007, p. 67).

While these two points of view confront each other via research and opinions, they constitute only a surface understanding of present-day US public education.

To grasp the nature of US education, one must view education at the state level. This

is imperative since the absence of any mention of education in the U.S. Constitution establishes education as a function of the states.

Focusing on Indiana, the state with the nation's largest voucher program (Barnum, 2017), our narrative investigates how the power to make decisions about the education of children is relinquished via a relationship between state legislators and the American Legislative Exchange Council (ALEC).

Indiana's abdication of responsibility and diversion from its stated Constitutional purpose as noted in Article 8 of the Indiana Constitution: "to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall without charge, and equally open to all" (Indiana Constitution, 1851) is clearly seen in the actions of the legislature at the behest of ALEC.

Foundation of Public Education

Substantial agreement exists that public education is the cornerstone of democracy and the spark plug for the engagement of citizens in its processes (Covaleskie, 2007; Mathis, 2016). State constitutions take responsibility for public education to develop the thinking and behavior required for civic dialogue and citizenship participation.

Indiana's constitution devotes Article 8 to education and lays out a Common School System for the state:

"Knowledge and learning, ... being essential to the preservation of a free government; it should be the duty of the General Assembly to encourage ... and provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all" (Indiana Constitution, 1851).

Empowering democracy continues to be a primary objective as “the goal of education was an informed and intelligent citizenry capable of making good choices with respect to the leaders and policies of the nation and the society” (Covaleskie, 2007, p. 38).

Differentiating between schooling, and education policy

Schooling is the pursuit of rote, learned, behaviors—the Lancasterian method of rule-following and obeying instructions to meet the need for disciplined workers in the Industrial Age. Education engages students in higher order thinking, authentic learning, and citizenship education (Goldstein, 2017).

Prosaic visions of public school are an American tradition. One-room school houses, apples, chalkboards, textbooks, and other artifacts of old-fashioned public school experiences are woven into homespun knickknacks, popular songs and films, and the memories of vast numbers of US citizens.

Policymaking for public education in a democracy is rooted in the active participation of informed citizens through local boards of education.

Feedback-in-democracy “recognizes that there are common problems, problems that must be discovered and defined by a process of public reflection and then solved by common action directed to secure some common good” (Covaleskie, 2007, p. 28).

To sidestep engagement with the electorate during the turbulent political interactions that arise over education, the 25 percent of state lawmakers (Graves, 2016) who are members of ALEC subscribe to the “notion that choice in a market place is ‘cleaner’ than the messy, often contentious politics of a school board” (Anderson & Donchik, 2016, p. 347).

ALEC and U.S. education

ALEC is described as “a new neoliberal knowledge regime promoted by wealthy philanthropists, corporate-funded think tanks, private ‘edubusinesses’ and their lobbyists, and other policy entrepreneurs (Ball, 2009; Scott, 2009)” [Anderson & Donchik, 2016, p. 323].

In this sense, neoliberalism is simply the idea that “competition is the only legitimate organizing principle for human activity” (Metcalfe, 2017, p. 1) and therefore, the driving philosophy of ALEC is that the market (and especially educational choice) should decide what is good education policy.

With nearly twenty-five percent of state lawmakers (Graves, 2016) as members of ALEC, much of what has become known as education reform, and the policies that establish that reform, were written first as sample laws, templates as it were, created by the members of ALEC, that transform local lawmakers “into stealth lobbyists, providing them with talking points, signaling how they should vote and collaborating on bills affecting hundreds of issues like school vouchers” (McIntire, 2012).

ALEC membership

The Charles Koch Foundation, the DeVos Foundation, the Friedman Foundation, Koch Industries, Sylvan Learning, Connections Education, and K-12 Inc., among many others, fund the work of eight (8) subject-focused ALEC task forces (Bourquein, 2017; Fischer & Peters, 2016; Underwood, 2011; Underwood & Mead, 2012). State legislators pay minimally for memberships in ALEC. Corporate and think tank memberships can cost as much as \$25,000, while a seat on one of ALEC’s task forces can cost up to \$10,000 (Underwood & Mead, 2012).

State legislators and ALEC’s agenda

One of the features that distinguishes ALEC from many other lobbying or political

organizations is that it creates legislative templates. Figure 1 shows the parallels between

one of ALEC's model bills and Indiana's Choice Scholarship Program.

	Sample Wording from ALEC	Indiana Program Wording
Title of Program	The Parental Choice Scholarship Program Act	Choice Scholarship Program
Intent of program	provide children from low and middle income families the option to attend the public or private elementary or secondary school of their parents' choice	provides scholarships to eligible Indiana students to offset tuition costs at participating schools. Students must satisfy both household income requirements and student eligibility criteria to qualify.
Special Ed Funding	Maximum scholarship ... shall be an amount equivalent to the cost of the educational program that would have been provided for the student in the resident school district	The amount an eligible choice scholarship student is entitled to receive is equal to ... any amount that a school corporation would receive ... if the eligible choice student attended the school corporation
Transfer of funds	The scholarship is the entitlement of the eligible student under the supervision of the student's parents and not that of any school.	The department may distribute the choice scholarship to the eligible choice scholarship student (or the parent ...) for the purpose of paying the educational costs ...

Figure 1. Parallels between one of ALEC's model bills and Indiana's Choice Scholarship Program.

Members of ALEC promote legislation dedicated to the introduction of market forces into schools; the implementation of vouchers, charters, and/or tax credits; the enforcement of standardized testing and school accountability based on test results; and the reduction or elimination of the authority of local school boards and districts (Underwood & Mead, 2012). The US state legislators who maintain membership in ALEC are uniformly implementing its model bills and templates. Thirty-eight states mandate standardized

achievement testing to evaluate the productivity and efficiency of schooling. These same states embrace ALEC's affinity for school choice as essential schooling and as the best pathway to improvement of test outcomes (Lubienski & Weitzel, 2008; Underwood, 2011).

ALEC and Blaine Amendments in Indiana

ALEC advises legislators how to combat three barriers to their agenda found within state constitutions: compelled support clauses,

Blaine Amendments, and uniformity clauses (Komer & Neily, 2007). Compelled Support Clauses exist in twenty-nine state constitutions prohibiting states from establishing an official religion. ALEC explains why this clause in any state constitution should not thwart school choice: “parents participating in voucher programs who select religious schools *freely and independently choose* them from a host of religious and non-religious alternatives” (Komer & Neily, 2007, p. 4).

Blaine Amendments in the constitutions of thirty-seven states are designed to stop government from directly funding religious schools. The Indiana Constitution in Article I Section 6 states, “No money shall be drawn from the treasury for the benefit of any religious or theological institution” (Indiana Constitution, 1851). ALEC asserts that these amendments should not forestall school choice because tax-credit-funded scholarships constitute “forgone tax revenue [which] does not constitute public money” (Komer & Neily, 2007, p. 5). In *Meredith* (2013), the Indiana Supreme Court agreed that, “Any benefit to religious or theological institutions in the above examples, though potentially substantial, is ancillary and indirect”.

Intensive deconstruction of state constitutions to facilitate privatization is necessary to the success of ALEC’s agenda across America, as over 80 percent of students in private schools attend a school operated by a religious organization. In Indiana, 98 percent of voucher schools have a religious affiliation (Cierniak, Billick, & Ruddy, 2015; Kaufman, 2017; Smith, 2017).

Indiana and ALEC: Leaders, Vouchers, and Schooling

The nexus between state legislatures and ALEC-generated legislation is exemplified in the organization’s relationship with Indiana

policymakers. ALEC named Indiana the best state in the nation for education policy in 2014 (Wang, 2014). Twenty-seven ALEC members populate Indiana’s General Assembly. Among this group, Representative Bob Behning has held leadership positions in ALEC. Campaign contributions during Behning’s twenty-five years of legislative service originate from ALEC-related groups like Stand for Children and Students First as well as corporations including K-12, Inc. and Education Networks of America (ChalkBeat, 2017).

Cookie-cutter legislation feeds Hoosier privatization

Observers of ALEC report that the organization “has been a legislative force working silently behind the scenes in the Indiana Statehouse” (Bourquein, 2017). Under ALEC’s guidance in Wisconsin, Indiana, and Ohio, state legislatures “introduced substantially similar bills bringing sweeping changes to each state’s collective bargaining statutes and school funding provisions” (Underwood & Mead, 2012, p. 51). Two prominent themes in Education Task Force models shape Hoosier legislation to the ALEC legislative cookie-cutter: “(a) . . . the transfer of state taxpayer dollars from public schools to private non-profit or for-profit education corporations; (b) opposition to teacher unions, tenure, and certification” (Anderson & Donchik, 2016, p. 333).

Among ALEC-originated priorities adopted in Indiana are “means-tested vouchers; special education vouchers; tax deductions for private school tuition and home-schooling expenses; and tax credits” (Underwood & Mead, 2012, p. 54).

Indiana leadership and TPS decisions

Ironically, the story of Indiana’s wholesale engagement with vouchers begins with a governor’s promise to support traditional public schools. “Gov. Daniels was asked if he planned

to support school vouchers. He responded, “that will not be a part of my proposal” (Howey, 2005).

Decisions made by Indiana’s elected officials about TPS belie the governor’s assurances. Developments included Indiana’s governor acting unilaterally to eliminate \$300 million from allocated public school funding (Carden, 2009), the legislature ending funding public schools via property taxation (Cavazos, 2014), and the executive and legislative branches opening the door to school choice via vouchers which the state calls “choice scholarships” (Colombo, 2015).

Four legislative sessions delivered ALEC’s agenda to education in Indiana:

Indiana’s 2009 voucher legislation.

Privatization of schooling in Indiana took flight in 2009 via HB 1003 that provided “choice scholarships” to eligible children who enrolled in a participating private school (Boyland & Ellis, 2015). The legislation capped state voucher dollars at \$2.5 million.

Indiana’s 2011 voucher legislation.

Governor Daniels emphasized that limitations were in place capping voucher participation at 7,500 students statewide; and requiring that voucher students attend public schools for at least a year before being voucher-eligible. He stated, “public schools will get first shot at every child. If the public school delivers and succeeds, no one will seek to exercise this choice” (Brown & McLaren, 2016).

Indiana’s General Assembly adopted this promise and increased funding to \$5 million. The cap was eventually eliminated through statute in 2013 (Boyland & Ellis, 2015).

Indiana’s 2013 voucher legislation.

Bob Behning, Chair of the Indiana House Education Committee, opened the legislative discussion during hearings on early childhood “scholarships,” the first overt voucher bill to be enacted by the Indiana General assembly, stating that the bill was about jump-starting pre-school education.

This sudden legislative frenzy for preschool education seemed completely out of place in Indiana, where little statutory attention is paid to learning for this age, where kindergarten is not required, and where full-day kindergarten programs are not funded.

Indiana’s 2015 voucher legislation.

Representative Behning introduced legislation to fund pre-school via vouchers in five selected Indiana counties during 2015 (On My Way Pre-K), and wrote legislation passed in 2017 that expanded this privatization program to fund a total of 20 counties for \$20 million and an additional \$1 million for online preschool (McInerny & Balonon-Rosen, 2017).

Expansion of this program promises that children who enroll in private pre-schools accepting vouchers are automatically enrolled in Indiana's choice scholarship program.

Indiana, ALEC, and vouchers: Continuing saga

Within three years of the legislature's removal of the enrollment cap for tax credits, Indiana's voucher program enrolled almost 20,000 students and was the second largest in the nation after Wisconsin (Boyland & Ellis, 2015, p. 26-27). As enrollment increased, so did cost to the state. From an allocation for vouchers of \$15.5 million within the 2011-2012 state budget, state support for vouchers in 2016-2017 totals \$146.1 million (IDOE, 2017).

By 2017, Indiana became "one of the most robust taxpayer-funded voucher programs in the country" (Cavazos, 2017). Because vouchers in Indiana "shift state money from public schools to pay private school tuition" (Cavazos, 2017), ALEC's intent to eviscerate traditional public education continues to receive a significant fiscal boost from Hoosier taxpayers. Between 2011 and 2017, Indiana spent a total of \$520 million on vouchers—dollars that would otherwise have supported children in traditional public schools (Schneider, 2017, p. 3a).

Promises forgotten

In the wake of Governor Daniel's abandoned promise, during the 2016-2017 school year (five years after the voucher program began), 55 percent of voucher recipients never previously attended a public school in Indiana (Colombo, 2017).

A Friedman Foundation commissioned report prior to Indiana's passage of its tax credit voucher program promised *savings* of \$17.6 million for the state by year five of the program

predicting "that demand for private schooling will be high among eligible low-income families and that large savings to the state will be realized even with modest voucher amounts" (Huerta, 2009, p. 4).

The predicted cost-savings evaporated as increasing numbers of students at private and sectarian schools received vouchers. Between 2011-2012 and 2015-2016, the cost of expanded vouchers to Hoosiers rose from an actual savings of \$4.2 million to an expenditure of \$53.2 million (IDOE, 2017), creating a burden that Indiana's taxpayers were not paying previously (Brown & McLaren, 2016).

Adding to the broken promises list, a significant portion of voucher costs "are going to wealthier families, those earning up to \$90,000 for a household of four" (Brown & McLaren, 2016). 31 percent of voucher families were not eligible for free/reduced meals and could afford private school enrollment without any state subsidy (Brown & McLaren, 2016).

Protecting ALEC's priorities

Indiana's General Assembly continues to protect and advance ALEC's priorities. House Bill 1384, authored by Bob Behning, allows private schools to avoid statutory consequences stipulating they "cannot accept new voucher students for one year after the school is graded a D or F for two straight years" (Cavazos, 2017).

Legislation allows voucher schools to appeal earned grades and consequences attached to them (Schneider, 2017.) Indiana's General Assembly further supported privatization by establishing "no financial reporting requirements for private schools that receive public funds, leaving taxpayers with less oversight and accountability than with the state's public schools" (Brown & McLaren, 2016).

Outcomes and Consequences: Schooling Overtakes Indiana

Lawmakers' abdication of quality in learning and teaching engenders "startling lousy academic results" (Bielke, 2017b).

- A 2015 study of Indiana's voucher program found students who transferred to private schools, using a voucher, experienced dramatic losses in mathematics achievement while experiencing no improvement in reading (Bielke, 2017a).
- Only a small subset of the thousands of Hoosier voucher enrollees remained in private/voucher schools for four years. Students who left voucher program schools "saw large decreases in achievement while they were using a voucher" (Barnum, 2017).
- For the 2015-2016 school year, almost 25 percent of charter schools earned an "F" grade from the state while 5 percent of TPS schools earned an "F" (Schneider & Erbacher, 2016). The virtual schools promoted by ALEC provided nothing of value for students: every online school in Indiana earned an "F" during 2016 (Cavazos, 2016).
- A 2017 study by Notre Dame and University of Kentucky researchers indicated that "across nearly all subgroups of students in the disaggregated

results, we find persistent, statistically significant negative impacts of receiving a voucher on average annual mathematics levels and gains" (Colombo, 2017).

Discarding individual rights

Dedicated to vouchers and choice, the Friedman Foundation enthused that vouchers were a step along the pathway to "abolishing the public school system" (Fischer & Peters, 2016). A year after *Brown v. Board of Education* (1954), the group's founder, Milton Friedman, issued a call for "free market schools to allow people to choose 'exclusively White schools, exclusively colored schools, and mixed schools'" (Fischer & Peters, 2016).

Vouchers were created with the expressed purpose of perpetuating school segregation by providing White families with the freedom to choose a school devoid of minority students (Tabachnick, 2015). Indiana's expansive voucher program has become increasingly White and affluent (Colombo, 2017).

ALEC's templates create programs shortchanging students with disabilities. Parents and caregivers unwittingly waive a variety of rights (guaranteed in TPS) and create inequitable conditions for themselves. Participation in voucher programs can entail the waiver of:

"the right to a free education; the right to the same level of special-education services that a child would be eligible for in a public school; the right to a state-certified or college-educated teacher; and the right to a hearing to dispute disciplinary action against a child" (Goldstein, 2017).

Virtual learning?

Mirroring a dismal national trend revealed in studies “showing that full-time virtual schools are not appropriate for most children” (Fischer & Peters, 2016), leaving their students performing significantly below students in traditional public schools (Cavazos, 2016),

Indiana’s virtual schools nevertheless earned a pass from Indiana legislators. Representative Behning not only authored Indiana’s original virtual schools law but opined they should not be penalized for poor performance (Cavazos, 2016).

Hoosier schooling benefits ALEC

By siphoning off tax dollars to enrich unproven school choice, virtual schools, and standardized vouchers, Indiana legislators abandon the state’s constitution and “decrease local control of schools by democratically elected school boards while increasing access to all facets of education by private entities and corporations” (Underwood & Mead, 2012, p. 53).

Subservient to model legislation and ALEC’s influence, “the state is not withdrawing or being hollowed out, but rather colonized by corporate interests” (Anderson & Donchik, 2016, p. 348).

Indiana students who are not financially able to attend a voucher-supported school are relegated to enrollment in under-supported TPS.

Restoring Quality: Hoosier Policymaking and Education

The outcomes of ALEC’s influences on Indiana’s statutory uniformity for schooling-- including abandonment of feedback-in-democracy, abdication of universal public education, assertion of corporate profits, and the imposition of ideology in the guise of local policymaking (Lubienski & Brewer, 2013),

speak to a need for the restoration of quality Hoosier policymaking for education.

Indiana’s legislators ignore their citizenry and legislate the segregation inherent in privatization where schools “set their own admission standards and can reject students for any reason, leading to concerns about segregation not just by race and class, but also by faith, ability and disability” (Brown & McLaren, 2016). In its allegiance to ALEC, Indiana legislators have abandoned the power of education to engage students in learning how to work well together, to understand social justice and the rights/needs of others. ALEC’s agenda abandons the common good including the necessity of learning to be “tolerant of those with whom one differs.” (Covaleskie, 2007, p. 39).

Back Home Again: The Common Good

The return of the common good to Indiana is inextricably linked with cessation of Indiana’s overinvestment in privatization, which has increased cost, societal inequity, dismal student achievement, and the deconstruction of democracy. (Higgins & Knight Abowitz, 2011).

Common good reduces state costs

Privatization under the guise of cost savings leads to a significant Catch-22: if greater enrollment occurs using vouchers, the result is increased cost for the state and less efficiency. The average private school tuition in the Hoosier state is almost \$6,500 (Huerta, 2009).

Common good requires education

Lawmakers must foster educational renewal by remembering John Dewey’s observation about the common good within education that “what the best and wisest parent wants for his own child, that must the community want for all its children. Any other ideal for our schools is

narrow and unlovely; acted upon it destroys our democracy” (p. 5) [Covaleskie, 2007, p. 33; Mathis, 2016]. To this end, traditional public schools are in position to ensure that “no child’s future is predetermined by the social and economic capital of their parents; and that

children from different backgrounds should learn together so that future citizens might escape the parochialism of class, clan, and creed” (Higgins & Knight Abowitz, 2011, p. 367).

Author Biographies

Michael Shaffer, John Ellis, and Jeff Swensson have served as school and district leaders in public education. The three have also worked together as assistant professors in educational leadership at Ball State University in Muncie, IN. Jeff Swensson and John Ellis recently retired and remain heavily invested in public education. E-mail: mbshaffer@bsu.edu; e-mail: johngellisiii@gmail.com; e-mail: sjswensson@gmail.com

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