

## AN INITIATIVE FOR FAMILY CHOICE IN EDUCATION

### I. THE FOLLOWING SECTION SHALL BE ADDED TO ARTICLE IX OF THE CALIFORNIA CONSTITUTION

#### 1. Purpose

The People of California have adopted this section to improve public education and to increase the authority of parents and teachers.

It is their further purpose:

- a. To empower every family to choose among different kinds of schools;
- b. To eliminate the use of property taxes for schools;
- c. To place a constitutional limit on school expenditures;
- d. To eliminate the administrative costs of excessive regulation;
- e. To decentralize the public administration of education;
- f. To protect freedom of religion but aid no religion;
- g. To protect children against discrimination on the basis of race, creed, gender, or family income.

#### 2. Family Rights

Every family shall have the right:

- a. To enroll its children in public schools, independent public schools, or schools not administered by government but which meet the standards specified in this section;
- b. To choose among such schools in a manner unaffected by family income;
- c. To petition its school district of residence to establish independent public schools governed by combinations of parents, teachers, trustees, and others.

### 3. Elimination of Property Tax for Schools

Except to the extent that ad valorem taxes or special assessments are necessary to pay the interest and redemption charges upon debts of any school district existing on June 3, 1980, including reserve or sinking funds required in connection with such indebtedness, no taxes or assessments upon property shall be used for the support of elementary or secondary education after school year 1981-82.

### 4. Limits Upon Public Expenditure

For school years 1980-81 through 1986-87 the total public cost of elementary and secondary education in all common schools shall not exceed the total public cost of elementary and secondary education in 1979-80 adjusted and compounded for changes in the consumer price index and total school age population. The Controller shall authorize no payment in violation of this sub-section and where necessary shall prorate uniformly the value of subventions and of educational certificates. Public cost here and in sub-section 14 shall mean every cost to state and local government of conducting elementary and secondary education in the relevant year as determined by the Department of Finance according to law; it shall not include the costs of funding employee retirement benefits which are unfunded on June 3, 1980.

### 5. Limit Upon Central Administration

Appropriations for administration of the State Department of Education shall not exceed one half of one percent of the total public cost of education as defined in sub-section 4.

### 6. Classification of Common Schools

Parents and guardians are entitled to choose among three classes of common schools for education in grades kindergarten through twelve.

These shall be known as public schools, independent public schools, and family choice schools; together they shall constitute the common schools of California. Public schools are those publicly owned, funded and administered and not certified to redeem education certificates issued by the state. Independent public schools are those organized by school districts, community colleges, or public universities and which are certified to redeem educational certificates. Family choice schools are those privately organized and certified to redeem educational certificates.

7. Admission to Independent Public and Family Choice Schools

Parents or guardians of school age children may enroll them in any independent public school or any family choice school. This right is subject to the authority of every such school to set its enrollment limit at each grade level and to limit applications to children of either gender. The school may exceed its enrollment limit at each grade level by five percent; it may be directed by law to do so where the total number of places in the common schools of an area is insufficient to serve the pupil population. Where applications to any school exceed its enrollment limit, a public agency designated by the Legislature shall select by lot among all its timely applicants. However, pupils attending a school at the time it becomes certified shall have priority as shall their siblings. Children and siblings of former students and children of full-time employees of such schools shall enjoy similar priority. With reasonable notice a child may transfer during the school year from any school to any independent public or family choice school with available places. Subsequent enrollment rights of pupils validly dismissed from a school shall be regulated by statute. Appropriate free education is guaranteed every child who is subject to

compulsory education. Common schools shall transport their pupils in accord with reasonable conditions and limits upon cost to be fixed by law.

8. Admission to Public Schools

In assigning pupils to public schools, and in considering requests for transfer to any public school located within or outside the applicant's district of residence, boards of education, both district and county, shall give substantial weight to family choice. The Legislature shall with appropriate legislation facilitate transfers to public schools chosen by the parent or guardian.

9. Pupil Rights and Discipline

A pupil subject to compulsory education who attends an independent public or family choice school may continue in that school unless she or he derives no substantial educational benefit or is responsible for grave or habitual misconduct related to school which seriously impairs the education of others. No pupil enrolled in a common school shall suffer discrimination on the basis of race, religion, or gender. The Legislature shall enact uniform standards of procedural due process for common schools and provide for independent review of dismissals.

10. Independent Public Schools

All school districts, community colleges and public universities are authorized to establish independent public schools. Each school shall be organized as a separate public non-profit corporation. It shall employ personnel with such qualifications as its responsible officers deem appropriate. Governing boards of such schools may include, but are not limited to, faculty, principal, pupils, parents and guardians of pupils, independent trustees, and any combination of such individuals. The form of governance for each school shall be determined by the

organizing authority. Except as stated in this section, independent public schools shall be operated according to the laws affecting family choice schools.

11. Parental Petition for Independent Public Schools

Parents may petition their school district for the establishment of an independent public school or schools. The Legislature shall facilitate this right, and petitioning parents shall have standing to challenge unfavorable decisions. Parental petitions shall propose the grades to be included, the form of the governing body of the corporation and the educational goals of the school. School districts shall grant such petitions and lease available facilities to the corporation at cost whenever:

- a. The signatories affirm their intention to apply to the proposed school and waive alternate choices for the initial year;
- b. The signatories represent pupils sufficient in number to make adequate enrollment probable, the number one hundred per school or thirty per grade being deemed sufficient unless otherwise provided by law; and
- c. Such school can operate without additional cost to the public or substantial hardship to other pupils.

12. Family Choice Schools

Each family choice school shall organize under California law as either a public benefit or mutual benefit corporation and may be neither a religious corporation nor a corporation sole.

13. Certification of Schools

Independent public schools and family choice schools shall be certified upon proper application to an agency designated by law. A school whose application satisfies the curriculum requirements and standards

for teaching personnel fixed by law for private schools on July 1, 1979, shall be entitled to immediate certification; the Legislature may not augment such requirements and standards. Certification shall continue so long as such school complies with this section. A certified school may neither advocate unlawful behavior nor engage in unlawful hiring practices. The deliberate provision of false or misleading information to public agencies or to individuals shall be forbidden. Every certified school shall be subject to reasonable requirements of law including disclosure regarding its curriculum and teaching methods, the qualifications of its teachers, and its use of resources. The Legislature may require standardized testing and publication of results where it deems such results to indicate quality of instruction; it may establish a minimum standard of competency in language and mathematics for the high school diploma for all common schools.

No school shall be ineligible to redeem certificates because it teaches moral or social values, philosophy, or religion, but religion may not be taught in public schools or independent public schools; a curriculum may be required by any school, but no pupil shall be compelled to profess political, religious, philosophical or ideological belief or actively participate in ceremony symbolic of belief. The Legislature shall encourage diversity among schools. Health and safety standards applicable to independent public and family choice schools shall not be more restrictive than the standards imposed upon facilities of private schools on July 1, 1979.

No school shall suffer decertification or other penalty except upon proof of substantial violation of law after notice and opportunity to defend. Agencies responsible to initiate and conduct decertification proceedings shall be designated by the Legislature.

#### 14. Educational Certificate

Every child of school age is entitled to a certificate redeemable only for educational purposes in independent public and family choice schools. Any provision in this Constitution notwithstanding, the Legislature may facilitate redemption of such certificates through establishment of individual school drawing accounts or otherwise. Certificates shall be adequate for a thorough education as defined by the Legislature. They shall be equal for every child of similar grade level and circumstance and shall reflect the reasonable cost of the transportation guaranteed by sub-section 7. The redeemable amount may also differ by such factors as grade level, curriculum, bilingualism, special needs and handicaps, variations in local cost, need to encourage racial desegregation, and any other factor deemed appropriate by the Legislature so long as the right of every child to enroll in any school remains unaffected by his or her family's capacity to purchase education. Schools shall accept no fees or consideration other than state certificates nor impose any other financial burden except in a manner accommodating family capacity to discharge the burden. Where during a school year a pupil transfers or ceases to attend a common school the Legislature shall provide for an appropriate division of the certificate.

#### 15. Average Cost Per Pupil

The average public cost per pupil enrolled in independent public and family choice schools shall approximate ninety percent of that cost in public schools.

#### 16. Information to Parents

The Legislature shall assure provision of adequate information through sources independent of any school or school authority.

Non-literate parents and others with special information needs shall receive a grant redeemable for the services of independent education counsellors.

17. Employee Rights

The Legislature shall provide on reasonable conditions, for continuation and funding of retirement and other benefits for employees who transfer from public schools to independent public schools and may do so for employees of public schools who transfer to family choice schools. Employees of independent public and family choice schools shall have the same right to bargain collectively as those employed by public schools, but the bargaining unit shall not be larger than the employing school corporation.

18. Educational Facilities

The Legislature is authorized to establish programs of loans, guaranteed loans, or similar aids for common schools designed to promote the acquisition, creation, expansion or maintenance of educational facilities serving public educational objectives; family choice schools may participate to the extent they serve such objectives. No capital aid may be extended where facilities are available which are adequate for the educational use intended. Excess space in common schools shall be available to other common schools at actual cost.

19. Federal Aid

The Legislature shall ensure that Federal aid, within the limits of Federal law, advances the objectives of this article.

20. Transitional Provisions

The Legislature shall promptly implement this section, ensuring eligibility for educational certificates of one fourth of all pupils in school year 1982-83, and a similar additional number yearly thereafter



21. Termination by the Legislature

Ten years after all children have become eligible for educational certificates and thereafter the provisions of this amendment may be repealed or modified by statute receiving the affirmative vote of two-thirds of the elected members of both houses of the Legislature.

22. Severability of Invalid Provisions and Applications

Should any provision of this amendment be held invalid under the federal Constitution, the balance of its provisions shall continue as the law of California. If particular applications to specific schools be held invalid, it shall remain the law for all valid applications to such schools. In the event of partial invalidity the Legislature shall adopt a system of family choice which conforms to the purposes of this amendment to the maximum degree consistent with the Constitution of the United States.

II. ARTICLE IX, SECTION 5, IS HEREBY REPEALED.

III. ARTICLE IX, SECTION 6, IS AMENDED AS FOLLOWS:

The provisions of the fourth paragraph of Section 6 of Article IX beginning "Except that there shall be" and ending "\$2,400" are hereby repealed.

IV. ARTICLE IX, SECTION 8, IS AMENDED AS FOLLOWS:

The words "common schools" in this section shall be replaced by the words "public schools or independent public schools."