

NEW HAMPSHIRE UNION LEADER

Another View -- Jason Bedrick: Gov. Hassan should respect local control in education

Jason Bedrick

June 5, 2016

Who should control how local education funds are spent: parents and local elected officials or state bureaucrats?

That's the question at the heart of the legal battle between Gov. Maggie Hassan's Department of Education and the town of Croydon, where the town voted in 2012 to expand educational options for local families.

Like many small Granite State towns, Croydon, population 651, isn't big enough to make running its own K-12 school system cost effective. Instead, the town runs a district school for kindergarten through grade 4, but long contracted with neighboring Newport to educate Croydon's older students.

When the agreement with Newport was nearing its end, Croydon officials explored other options. Recognizing that even the highest quality school is not necessarily the right fit for every child, they wanted to give parents more choices. Instead of contracting with a single school district, they decided to fund students attending whatever school, public or private, would best meet their needs.

Croydon had been spending about \$12,000 per pupil to place them in Newport's district school. The town would cover tuition at a family's chosen school up to the amount Newport charged, and the parents would make up any difference. On the other hand, if a school charged less than that, then the town would reap the savings. This year, Croydon paid for four students to attend Newport Montessori School, a private school where tuition is \$8,200 a year.

Although the taxpayers save money and, most importantly, the students' parents believe that school is the best fit for their children, the New Hampshire Department of Education ordered Croydon to immediately cease paying for students attending private schools.

The DOE argues that Croydon does not have the statutory authority to pay for students to attend private schools. The Croydon School Board's attorney, former New Hampshire Supreme Court Justice Charles Douglas III, disagrees, pointing to a statute authorizing districts to contract with other public or non-public educational institutions, which, in fact, some other districts already do.

The matter is currently being litigated, but it shouldn't have to be. Last week, the state

Legislature passed a bill, HB 1637, which clarifies that towns such as Croydon have the authority to offer their residents school choice.

If Gov. Hassan's only objection to letting parents and local communities decide how to educate their children is the supposed statutory ambiguity, she need only sign the bill when it lands on her desk to remove all doubt.

During the debate over the bill, opponents raised two main objections related to accountability and constitutionality. Neither withstands scrutiny.

One legislator claimed that there are "no safeguards for quality assurance" because private schools are not subject to all the same rules and regulations as district schools. However, this has it exactly backward.

District schools are primarily accountable to school boards and the state department of education, which promise an "adequate education" in principle but don't always deliver in practice. Private schools are subject to even greater accountability because they're held directly accountable to parents.

If a private school isn't working out for a child, the parents can take their child (and their money) somewhere else. Knowing this, private schools have a strong incentive to be responsive to the needs of students and their parents.

Opponents also claim the bill would violate the state constitution's "Blaine Amendment" provision, which states that "no money raised by taxation shall be granted or applied for the use of the schools or institutions of any religious sect or denomination."

However, in a 1955 Opinion of the Justices sanctioning the use of publicly funded vouchers at a religiously affiliated nursing school, the New Hampshire Supreme Court held this constitutional provision only forbade the state from supporting "a particular sect or denomination," but that did not mean "that members of a denomination should be deprived of public benefits because of their beliefs."

In other words, the state constitution permits students to use public funds at a religious school so long as they could use the funds at a variety of other secular or religious schools. The state constitution demands religious neutrality, not discrimination against religious groups or institutions.

As the town of Croydon has recognized, parents are the best situated to determine what is best for their children. Instead of fighting Croydon, Gov. Hassan and her administration should be encouraging other towns to follow their lead.

Jason Bedrick is an education policy analyst at the Cato Institute and a former member of the New Hampshire House of Representatives.