

My Turn: Court decision a victory for parents, students, taxpayers

By Jason Bedrick

Friday, September 5, 2014

Last week's unanimous New Hampshire Supreme Court decision to reject the challenge against an educational choice law is a victory for Granite State families and taxpayers generally.

The law expands educational opportunity by granting tax credits to corporations worth 85 percent of their donations to nonprofit scholarship organizations. These nonprofits, like the Network for Educational Opportunity, help low- and middle-income parents pay tuition at a private school or an out-of-district public school or cover certain home-schooling expenses.

Anti-school choice activists contended that the law violates the New Hampshire constitution's historically anti-Catholic "Blaine Amendment," which bars the government from allocating public money to religious schools. A trial court judge partially agreed, upholding the law but limiting the scholarships to secular schools.

Last week, the state Supreme Court overturned the lower court's ruling and threw out the challenge entirely, holding that the petitioners had no standing because they failed to show "that some right of theirs has been prejudiced or impaired as a result of the program's implementation."

A few years ago, the U.S. Supreme Court likewise rejected the standing of petitioners challenging a similar scholarship tax credit law in Arizona. The court ruled that tax credits, like tax deductions and tax exemptions, are not "public money" because the funds do not "come into the tax collector's hands." Private corporations voluntarily donate to private nonprofits that aid private citizens – at no point does the government control or direct those funds.

No reasonable person believes that a church is "publicly funded" because donors who support it receive a charitable tax deduction, or even because the church receives a 100 percent property tax exemption. Likewise, the aid that families receive from scholarship organizations is not "public money" just because corporate donors received a partial tax credit.

The court's decision means parents will have greater access to educational options, which translates into greater parental satisfaction. In a survey of scholarship recipients last year, nearly

97 percent of families reported being satisfied with their chosen learning environment, including 90 percent who were “very satisfied.”

Parental choice also improves educational performance because schools are held directly accountable to parents. Just months into the program, more than two-thirds of parents reported seeing “measurable improvement in academic achievement.”

One parent described crying on multiple occasions as she watched her daughter “reach new highs” with improved confidence and academic performance at her new school.

High-quality research demonstrates that expanding access to educational options improves student outcomes. Eleven of 12 random-assignment studies – the gold standard of social science research – found that choice programs benefited all or some categories of students, especially those who were the least advantaged. Participating students performed better academically, and were more likely to graduate from high school and attend college. One study found no statistically significant difference and none found a negative impact.

The court’s decision is a clear win for parents and students, but it’s also a win for taxpayers.

A 2012 fiscal impact analysis by the Josiah Bartlett Center (my former employer) found that, if fully utilized, the scholarship program would save \$8 million over the course of two state budgets. That’s because the law caps scholarships at \$2,500 on average, which is considerably less than the state’s contribution to local public schools of roughly \$4,000 per pupil, and only a small fraction of the average \$15,600 per pupil spent by public schools statewide.

Sadly, the misguided legal challenge prevented taxpayers from realizing those savings and, worse, prevented many families from receiving scholarships. The lawsuit created an uncertainty about the law’s future that scared away donors. This year, the Network for Education raised barely a quarter of the funds that they raised last year as a direct result of the lawsuit.

The good news is that the court’s decision clears the way for the scholarship program to achieve its full potential, expanding educational options for New Hampshire families so they can live free and learn.

(Jason Bedrick is an education policy analyst at the Cato Institute and former New Hampshire state representative.)