

Deseret News

Alabama struggles with how to get kids out of failing schools

By Eric Schulzke ,

Aug. 31 2013

Alabama's attempts to help kids in failing schools was challenged this month when the Southern Poverty Law Center sued the state to halt a new scholarship and tax credit program that grants \$3,500 refundable tax credits to parents of children in failing schools.

The tax credits for parents, which essentially amount to vouchers because they translate to cash for parents with no tax liability, are available only to parents of kids in one of 78 "failing" schools, as outlined in the law, and they are only available if the child is removed from the failing school to a private school or another public school.

Alabama schools consistently score near the bottom on national tests, a problem the legislature is anxious to address. So legislators looked this year to Florida, a leader in scholarship tax credit front, and 12 other states with similar programs already in place.

But the Southern Poverty Law Center doesn't see a scholarship fund that moves the kids of motivated parents out of failing schools as an answer.

"Having 78 failing schools in Alabama is a shame," said Jerri Katzerman, an attorney with SPLC, arguing that the tax credit program is not a solution. "In fact, it's going to make it harder for those schools to break out of that cycle."

Diverting funds?

While the SPLC's legal case invokes an "equal protection" argument, the core discontent with the Alabama law centers on the diversion of funds from public schools that badly need them.

"All of this money is being diverted from the education trust fund," Katzerman said.

Public school teachers agree.

"The role of public education funding in Alabama is to educate our children, not to provide welfare to private schools," said Gregory Graves, associate executive secretary of the Alabama Education Association in a statement. "The Alabama Accountability Act takes money from all of Alabama's children that need it and redistributes it to a small number of private schools which is a clear violation of our state's constitution."

There are 51 private schools currently on the participating-schools list offered by the Department of Education. Almost all of those are either Catholic or Christian schools.

The Southern Poverty Law Center and critics like Graves argue that this diverts badly needed funds from already-struggling school districts. But defenders say that it saves the state money by moving many children to private schools, which cost much less than public education.

Defenders of scholarship tax credit programs point to Florida's popular scholarship program, now the largest such program in the country, providing tuition scholarship for 51,000 students. A 2008 study by the state's Office of Program and Policy Analysis found that that state saves \$1.49 for every dollar spent on its scholarship tax credits.

Defining failure

The state Department of Education is committed to enforcing the law as it is written, said Michael Sibley, director of communication for the department.

When the initial list of legally defined failing schools was released in June, Education Department Secretary Tommy Bice was apologetic, telling AL.com that the list would include some schools that were very bad, and would also include some making great improvement.

"You are also going to see on the list some schools that have shown unbelievable growth over the last six years that are actually models for what school improvement can look like," Bice said.

Because the statute is written to target the lowest 6 percent of schools, Katzerman argued, there will always be "feeder schools" for this credit. "And no matter how well a school performs, they'll grade you on a curve and the lowest 6 percent will be on this list."

Comparing programs

Alabama is now one of 13 states to offer some form of scholarship tax credit program, according to the National Council of State Legislatures. The basic scholarship tax credit program allows a corporation or individual to essentially earmark a piece of their tax liability to go to tuition scholarships.

The program is "means tested," which means in this case that scholarship recipients must fall below 150 percent of the state's median household income and have family income below 200 percent of the federal poverty level.

The incentives to donate vary from state to state. Some give a 100 percent credit, making the donation cost free. Others offer only smaller credits, requiring a donor to put more skin in the game. Either way, tax credits are a much juicier incentive than a tax deduction, which would only incrementally reduce tax liability for the donor.

According to the Alabama Policy Institute, Alabama's policy is mixed. Businesses get half their donation back in an income tax credit, up to 50 percent of their tax liability. Individuals get an income tax credit of 100 percent of their donation, up to half percent of their tax liability, not to exceed \$7,500.

The upshot is that for individual donors, up to a certain limit, the donation is costless.

Equal protection

To get a court to consider striking down the new law, the SPLC had to find a constitutional angle, which it accomplished by arguing the program violates "equal protection."

The SPLC's clients are families who say they cannot afford to leave the failing schools, even with the \$3,500 refundable tax credit. The effect of the law, Katzerman said, is to create two classes of students: those who

can afford to leave, and those who are "trapped in failing schools without any opportunity to transfer out."

"Two classes of students?" responds Jason Bedrick, an education policy analyst at the Cato Institute. "That already exists." Bedrick argues that rather than exacerbate the inequities, the scholarship program helps to reduce inequity. It's not a silver bullet, he argues, but neither does it make the inequity worse.