

COVID-19 court filing: Private schools closures could cost taxpayers \$252M

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The Mackinac Center for Public Policy has joined an **amicus brief** supporting private school students and opposing a **lawsuit** that seeks to ban federal coronavirus relief funding from going to non-public schools.

At issue is a federal rule initiated by U.S. Education Secretary Betsy DeVos, directing the U.S. Department of Education to share federal Coronavirus Aid, Relief and Economic Security (CARES) funds between private and public schools. The Mackinac Center and many others support the measure while public school groups oppose it.

The initial brief was filed by the Wisconsin Institute for Law and Liberty, and was joined by 38 groups across the nation on behalf of more than 5 million students attending 33,000 private schools battered by COVID-19.

WILL's brief states public and private schools each face “significant expenditures” to transition to remote learning, procure personal protective equipment, clean schools, and take other safety measures for in-person instruction.

“If the Court grants Plaintiffs’ requested injunction, private schools ... will suffer the same ‘imminent and irreparable harm’ to their schools and the students they serve that Plaintiffs allege will occur without an injunction: they ‘will lose over \$150 million’ in CARES Act funds (in just the jurisdictions represented by the Plaintiffs), that Congress intended should go to them,” the brief says.

The brief cites a libertarian-leaning Cato Institute **tracker** that concluded 107 private schools have already closed permanently across the nation and estimates that switching 16,000 private school students to public school education would cost taxpayers about \$252 million.

The brief also argues private schools would be hit harder if the federal funding was revoked because Michigan public schools already receive about **\$15 billion** of annual funding.

“The \$16.5 million difference, while a mere fraction of funding for Michigan’s public schools, could be significant in the ability of private schools in Michigan to maintain viability and to provide the safe learning environment expected,” the brief says.

Michigan Attorney General Dana Nessel staunchly opposes splitting the CARES funds between private and public schools. In her capacity as attorney general, Nessel joined the six-count

lawsuit filed in the U.S. District Court for the Northern District of California that asks the court to declare DeVos's rule unlawful.

Nessel said DeVos's rule misinterprets the CARES Act's language and would "siphon" about \$16 million from Michigan's public schools to private schools.

"We cannot and will not sit on the sidelines while critical funding specifically allocated based on low-income status is allowed to be reallocated by counting students that have privileges and resources already available to them," Nessel said when joining the suit.

Nessel said that under the DeVos rule, The Detroit Public Schools Community District and Grand Rapids School District would each receive \$2.6 million less in funding.

"The CARES Act is a special appropriation to combat the effects of the novel Coronavirus Disease 2019 (COVID-19). The pandemic has harmed all our Nation's students by disrupting their education," the Department of Education wrote in the **latest rules**.

"Nothing in the CARES Act suggests Congress intended to differentiate between students based upon the public or non-public nature of their school with respect to eligibility for relief," Ben DeGrow, director of education policy at the Mackinac Center, said. He added that COVID-19 impacted all schools, so they should share funding.

"The coronavirus does not discriminate between school labels, and neither should coronavirus relief funds," DeGrow said.

"The attempt by Michigan officials and others to tip the scales against some students based on choices their families have made is especially shameful, given that public schools already have access to additional pots of federal funding. In the interest of fairness and sound policy, the court should reject the plaintiffs' claims."