



Private Schools Deserve a Fair Share of CARES Funds

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Just last month a longstanding dispute between public and private educators came to a head in a federal lawsuit, *Michigan v. DeVos*. Public schools believe they should receive the majority of public dollars, state and federal, allocated to K-12 education and private schools argue they have an equal right to those dollars. So, on July 7, Michigan, Wisconsin, California, New Mexico, Maine and D.C. sued Sec. Betsy DeVos over the allocation of funding to K-12 schools via the Coronavirus Aid, Relief and Economic Security (CARES) Act.

The CARES Act allocated \$16 billion in grants for public and private schools affected by the coronavirus, and specifically requires districts to provide “equitable services” to “students and teachers in non-public schools.” In other words, public schools must allocate funds equally to private schools—and that is what the U.S. Department of Education directed states to do. But the states interpret the CARES Act to say funding should be allocated based on the number of low-income private school students in a district, and the total number of public school students. This dispute puts millions of dollars at stake for private schools.

The Wisconsin Institute for Law & Liberty made this argument in a July 29 amicus brief—the only brief filed in favor of DeVos and the education department in the Michigan case. Thirty-eight state and national association and advocacy groups signed onto our brief, including the National Catholic Educational Association, Agudath Israel of America, Council for American Private Education, Council of Islamic Schools in North America, Goldwater Institute and Mackinac Center, just to name a few.

Initially, DeVos issued guidance to states on equitably distributing the funds between sectors. However, since guidance is not law, some states, like Wisconsin, said they were going to reject the guidance and distribute more money to public schools. DeVos followed that up with a legally binding rule, effective July 1, for states to require districts to divide the money according to the same standards between public and private schools. This triggered the initial lawsuit.

Private schools are an integral part of education across the country, educating about 10% of students and accounting for 25% of schools in the U.S. They have contributed to education in every state and have changed the course of many students' lives. In 2013, when Blessed Sacrament, a Catholic school in the Bronx was closing, Supreme Court Justice Sonia Sotomayor, who had attended that school said, “The Catholic schools have been a pipeline to opportunity for generations.”

Many private schools serve primarily low-income families. According to the National Center for Education Statistics, over 20% of private school students nationally come from poor and near-poor families. Without a doubt, the expansion of school choice programs across the country, including the first modern voucher program 30 years ago in Wisconsin and more recently, the tax credit scholarship expansion, have made it possible for low-income families to receive private education.

As more parents have flocked to private schools, research conducted by the Urban Institute and the School Choice Demonstration Project has found that private school students receive an education that leads to increased rates of high-school graduation, college acceptance and college graduation.

While the states argue that public schools have been uniquely affected by the pandemic, we know that the pandemic has not discriminated against those it has affected both directly and indirectly. Schools across the board have experienced the burden of scrambling to get resources to their students and families and ultimately help students learn during this time. Private schools and their families have experienced serious financial hardship. According to the CATO Institute, 115 private schools have closed since the start of the state shutdowns in March.

Unfortunately, this could be the fate of many other private schools if they don't get financial help. And if private schools are forced to close their doors, it won't just hurt families, but both state and local budgets will feel the impact. *EdChoice* calculated that if just 10% of private-school students were to migrate back into the public system, state and local budgets throughout the U.S. would need to come up with an additional \$6.7 billion.

Private education is critical to the education ecosystem in our country. Millions of families across the country depend on it. To deliberately cut private schools off from federal relief intended to mitigate the effects of a pandemic would be short-sighted and ideologically rigid. It is our hope the courts decide in favor of DeVos.