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Voucher Litigation in Kentucky Moving Forward

Public Funds Public Schools reports on the litigation.

Advocates to Kentucky Supreme Court: Vouchers Hurt Students and Schools

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Public Funds Public Schools (PFPS) and leading education and civil rights advocates filed a “friend of the court,” or *amicus curiae*, [brief](#) with the Kentucky Supreme Court providing the growing body of research demonstrating the many ways private school voucher programs harm students—especially the most vulnerable—and undermine states’ fulfillment of their obligation to provide public education as guaranteed by their constitutions.

Kentucky’s highest court will soon decide a lawsuit challenging a law establishing a tax credit funded voucher program to be administered not by the state, but by unregulated third-party organizations.

“Our brief soundly debunks the claim that vouchers promote ‘school choice’ for families. In fact, voucher programs place all the decision-making power about whom to admit and how to serve them in the hands of the private organizations that will distribute the vouchers and the private schools receiving voucher funds,” said Jessica Levin, Education Law Center Senior Attorney and Director of the PFPS campaign.

The bill establishing the voucher program, HB 563, was narrowly passed in 2021 by the Kentucky Legislature over Governor Andy Beshear’s veto. The program would provide \$25 million annually in tax credits to individuals and corporations in exchange for their contributions to organizations that give out vouchers for private school tuition and other private education expenses.

There are almost no restrictions on the voucher-granting organizations or the private schools that would accept the vouchers. The voucher schools are not held to any substantive quality or accountability standards and are permitted under the voucher law to discriminate based on characteristics such as race, religion, disability, and LGBTQ status.

A lawsuit challenging the voucher law was filed last year by public school parents and districts, as well as the nonprofit Council for Better Education, asserting that the law violates numerous provisions of the Kentucky Constitution. A state trial court concluded that the voucher law violates the prohibition in the Constitution on laws that single out particular individuals or geographic locations because it allows vouchers in only nine Kentucky counties. The court also found the law violates the Constitution’s requirement that funds raised or collected for education be spent only in the public schools unless otherwise approved by voters.

The trial court issued an injunction barring the state from implementing the unconstitutional voucher program. The case is now on appeal.

PFPS joined forces with the American Federation of Teachers, the Kentucky Conference of the NAACP, Pastors for Children, Pastors for Kentucky Children, and the Southern Education Foundation in an *amicus* brief highlighting the myriad negative effects of voucher programs on student achievement, school integration, antidiscrimination protections, and public school funding. The brief concludes by explaining the many ways voucher programs harm

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the public education systems that welcome and serve all students. The organizations submitting the *amicus* brief were represented pro bono by the firm Stites & Harbison.

PFPS, a national campaign of Education Law Center and the Southern Poverty Law Center, works with allies across the country to support litigation opposing vouchers and preserving public funding for public education. Read our recent *amicus* [brief](#) in the U.S. Court of Appeals for the Fourth Circuit.

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