

Diane Ravitch's December 9 Blog—New Hampshire: Lawsuit Claims that Voucher Funding Violates State Constitution.

The voucher contagion has spread across the nation. In most cases, including Ohio, public education advocates are challenging the constitutionality of vouchers.

New Hampshire: Lawsuit Claims That Voucher Funding Violates State Constitution

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The State Commissioner of Education, in New Hampshire, Frank Edelblut, home-schooled his 7 children. He doesn't like public schools. He's a big supporter of "backpack funding," where students can use public funds for anything of an educational sort. At his urging, the legislature adopted a voucher plan.

But a lawsuit was recently filed claiming that the funding of the voucher plan violates the state constitution by drawing down money intended for public schools.

Garry Rayno [of inDepthNH reports:](#)

CONCORD — The new Education Freedom Account program violates state statutes by using funds earmarked for public education for private programs, according to a lawsuit filed Thursday against Education Commissioner Frank Edelblut.

The suit challenging the funding for what has been described as the most expansive voucher program in the country, claims money raised by the Lottery Commission, and money from the Education Trust Fund may only be used for adequate education grants to school districts, citing the law creating the fund in 1999.

The suit seeks an injunction blocking the state from using any more of the Trust Fund Money to fund the EFA program.

"If the state desires to operate an Education Freedom Account or similar program, whereby it grants public money for parents to utilize for private use, it must separately fund it through additional taxation or another source of funds," the suit claims, noting there currently is no mechanism for doing so.

The New Hampshire Constitution states "all moneys received from a state-run lottery and all interest received on such moneys shall, after deducting the necessary costs of administration, be appropriated and used exclusively for the school districts of the state," according to the suit, which also notes the money "shall not be transferred or diverted to any other purpose."

The law only allows the money to be used to distribute adequate education grants to school districts and approved charter schools, the suit claims.

The complaint, brought by Deb Howes as a citizen taxpayer, who is also president of AFT (American Federation of Teachers)-New Hampshire, was filed in Merrimack County Superior Court.

The complaint also claims the state is delegating its duty to provide an adequate education to a private entity, The Children's Scholarship Fund, which runs the EFA program without any "meaningful oversight" by the state.

"The state specifically earmarked this money for public education. Instead, the state is stealing from public school students in plain sight to pay for its private voucher program," Howes said. "Public school students are losing out on millions of dollars that are needed to fix leaky old buildings, purchase and maintain modern computer equipment, buy books and materials published at least in the last decade to support student learning, and provide more social and emotional assistance and other needs that will help students excel."

"If Commissioner Edelblut wants to continue with his cherished voucher program, he needs to figure out a legal way to fund it," she said, "but definitely not on the backs of public school students."

The controversial EFA program was approved as part of the two-year budget package in 2021 after it stalled in the House, but the Senate resurrected it and put it in the budget.

Since it began, it has cost much more than Edelblut told lawmakers to expect, which was essentially \$3.4 million over the biennium, but has cost \$23 million over that period.

Sold as a program to help students find different educational environments in order to thrive, instead about 75 percent of the participants attended private and religious schools prior to the program's launch last year, meaning less than 25 percent of the participants were in public schools the year before the program began.

Parents can use EFA grants for tuition and fees for private schools and private online learning programs, private tutoring services, textbooks, computer hardware and software, school uniforms, fees for testing, summer programs, therapies, higher education tuition and fees and transportation.

So the program is more expensive than expected, and 75% of the students it serves were already enrolled in nonpublic schools.

The single biggest beneficiary of the program thus far has been Amazon, presumably for books and hardware.

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