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Groups sue to stop public funds for private schools

[Jonathan Oosting](#), Detroit News Lansing Bureau 10:28 a.m. ET March 21, 2017



Public school and parent groups are suing the state and Gov. Rick Snyder in an attempt to block taxpayer funds from going to private schools, arguing a \$2.5 million appropriation in the current-year budget violates the Michigan Constitution and could serve as a “gateway” to school vouchers. *(Photo: Clarence Tabb Jr. / The Detroit News)*

Lansing — Public school and parent groups are suing the state and Gov. Rick Snyder in an attempt to block taxpayer funds from going to private schools, arguing a \$2.5 million appropriation in the current-year budget violates the Michigan Constitution and could serve as a “gateway” to school vouchers.

The Michigan Association of School Administrators, Michigan Association of School Boards, Michigan Parents for Schools and at least 10 other groups are expected to file a lawsuit Tuesday afternoon in the state Court of Claims, they announced at a morning press conference in Lansing.

The groups will also request a preliminary injunction in hopes of blocking the state funding until completion of a full court review.

“We think it is irresponsible to give money away to private schools when our public schools are struggling to make ends meet,” said Wytrice Harris, a mother who helps lead the 482Forward education network in Detroit.

While the Michigan Constitution generally prohibits direct or indirect aid to private schools, the Republican-led state Legislature added the funding to the current-year budget to reimburse parochial or other non-public schools for state mandates, including immunization compliance and safety drills.

The Michigan Catholic Conference and other advocates say the appropriation is legally sound because the budget specifies the private school funding is for purposes “noninstructional in character” and for “ensuring the health, safety and welfare” of students.

Snyder signed the budget in June but subsequently asked the Michigan Supreme Court for an advisory opinion on the constitutionality of the spending plan. The state's highest court decided against weighing in, leaving the door open for a legal challenge.

The governor's office declined comment Tuesday.

While the \$2.5 million appropriation for private schools is a relatively small portion of the \$16 billion education budget, critics fear it could set a precedent allowing legislators to redirect more funding in future years.

"The public has overwhelmingly rejected the use of public dollars for private schools," said Michigan Association of School Administrators executive director Chris Wigent, referencing a 2000 ballot proposal that would have created a voucher system allowing public dollars to follow students to any type of school.

Nearly 70 percent of voters opposed the ballot measure, which was supported at the time by current U.S. Secretary of Education Betsy DeVos.

"Giving \$2.5 million to private schools in this way is a backdoor voucher and will allow for other, more questionable use of public funds in the future," Wigent said.

The Michigan Constitution bans any direct or indirect "payment, credit, tax benefit, exemption or deductions, tuition voucher, subsidy, grant or loan of public monies" to non-public schools. It specifies that state funds can be used to provide transportation to a school of any kind but has usually been interpreted to block state support for educational services at private schools.

Supporters argue the funding is constitutional because it is not intended to fund actual classroom education. Instead, it's intended to help private schools cover costs associated with dozens of state mandates identified in a 2014 report prepared by the Michigan Department of Education.

"We believe that regardless of where a child attends school, they should be education in an environment that's healthy and safe — and that applies to every student in Michigan," said David Maluchnik of the Michigan Catholic Conference.

"We don't believe (the appropriation) has anything to do with curriculum or instruction or promotion of any religious curriculum, which the obviously the constitution does address."

The Michigan Department of Education [has finalized forms](#) for private schools to request reimbursement but hasn't spent any of the money yet. Because it's a reimbursement system, "we won't be getting any requests from that account until after the end of the school year," said spokesman Martin Ackley.

Jeff Donahue, an attorney representing public school groups in the new suit, said the form outlines potential reimbursement for "stuff related directly to education," including costs associated with releasing student information to parents, meeting requirements to use non-certified teachers and certifying school counselors.

“There’s a lot of things in here that are more than just health and safety,” Donahue said. “We believe on its face it’s unconstitutional, and also as applied to the specific matters.”

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