



Written by [James Murphy](#) on June 4, 2024

Utah Teachers Union Challenges School Choice in Court

Last week, the Utah Education Association (UEA), in concert with a teacher and two parents, filed a lawsuit seeking to block the state's new school-choice [program](#). The plaintiffs argue that the new Utah Fits All Scholarship program fails to meet constitutional muster in the Beehive State and takes money that would otherwise be used in the public-school system.

Kevin Labresh, a public-school psychologist and a parent, along with parent Terra Cooper and teacher Amy Barton, have joined the UEA as plaintiffs.



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Passed last year, [HB215](#) provides up to \$8,000 to Utah K-12 students through an education savings account (ESA). Those ESAs can then be used to fund private-school tuition, tutors, educational curriculum, and materials. The legislation creating the program passed overwhelmingly in both houses of the Utah legislature and was signed by Governor Spencer Cox in early 2023.

"Utah already spends less on public school students than nearly every other state," said UEA President Renée Pinkney.

"The voucher program diverts funds from already underfunded public schools, where 90 percent of our children learn, and places vulnerable students at risk by stripping away protections and accountability," Pinkney added. "This alarming situation should raise serious concerns about the future of public education in Utah."

The lawsuit is asking Judge Laura Scott of Utah's 3rd District Court to declare the new program unconstitutional and bar the state from "implementing, administering and enforcing" it.

Supporters of the program say that it offers parents greater opportunities and offers far more flexibility when it comes to the education of their children. They claim that the union is putting its shared politics before the children.

"It is disappointing that the UEA is putting politics above meeting students' and teachers' needs," said Representative Kirk Cullimor, a Republican, in a statement. "I'm confident in the constitutionality of this program, as it does not take away money from public education and ensures Utah schools continue to receive the same funding per student."

"Every parent knows that when it comes to education, one size does not fit all. The Utah Fits All Scholarship was designed so every student — regardless of their zip code, wealth, and abilities — has the opportunity to learn in a way that makes sense for them," said Republican Representative Candice Pierucci, an original sponsor of the law.

"The union's scarcity mentality, and unwillingness to prioritize Utah children, shows just how out of touch they are with Utah parents and students," Pierucci added.

Opponents of the program claim it takes money from the public schools, and believe those funds would



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be better spent improving public education in the state.

“You can’t fund two systems when you already have an underfunded public school system, and public dollars should stay with public schools,” Pinkney noted. “We know kids that attend private schools are doing so because their parents, likely, already have the resources in order to send them to those private schools, and we don’t believe siphoning public dollars for private schools is in the best interest of our public education system.”

One plaintiff, Kevin Labresh, worried especially about funding for his special-needs child. “I worry [about] kids like my son and the other [special needs] students ... they’re going to be disproportionately harmed by the voucher program because they don’t have the same protections in private settings that they would have with the public school.”

“The support and the training aren’t always there to help deal with those behaviors and at those specialized issues. So it’s an issue of equity and access.” Labresh added.

Carol Lear, a member of the Utah Board of Education who has also signed on to the lawsuit, claims that her “biggest problem” with the law is that it’s removing funds from the public coffers and that it “strips control from the State Board of Education, which the [Utah] Constitution says should have general control and supervision of public education.”

Opponents of the law believe they are buoyed by Utah’s Constitution, which contains an earmark stating that state’s income tax revenue be used only for public education. In this year’s election, voters will decide whether to remove that earmark with a new amendment. The UEA is fighting tooth and nail against the new amendment.

“If you oppose vouchers, you oppose the constitutional amendment,” Pinkney told reporters.

Lear summed up the teacher’s union position quite well when she said that new law “strips control” from the public schools. It’s not about the kids for the UEA and the other plaintiffs; it’s about control.



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