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Answer Sheet

Federal judge halts Betsy DeVos's controversial rule sending coronavirus aid to private schools

By
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A federal judge in Washington state temporarily blocked Education Secretary Betsy DeVos from enforcing a controversial rule that directs states to give private schools a bigger share of federal [coronavirus](#) aid than Congress had intended.

In a lawsuit filed by the state, U.S. District Judge Barbara J. Rothstein on Friday issued a preliminary injunction and castigated the Education Department over the July 1 regulation about the distribution of federal funds. The money, about \$13.5 billion, was included for K-12 schools in Congress's March \$2 trillion-aid package — known as the Cares Act — to mitigate economic damage from the pandemic.

Rothstein slammed the Education Department for arguing that states would not suffer irreparable damage if forced to implement the rule and said there was cause to put a preliminary injunction on the rule while the broader issues are worked out.

The department claim that the state faces only an economic inquiry, which ordinarily does not qualify as irreparable harm, is remarkably callous, and blind to the realities of this extraordinary pandemic and the very purpose of the Cares Act: to provide emergency relief where it is most needed," Rothstein wrote.

The Education Department did not respond to a request for comment about the decision.

U.S legislators from both parties said that most of the funding was intended to be distributed to public and private elementary and secondary schools using a formula based on how many poor children they serve that had long been used for distributing federal aid.

But in April, DeVos said she wanted money sent to private schools based on the total number of students in the school – not how many students from low-income families attended. That would have sent hundreds of millions of dollars more to private schools than Congress intended.

Critics blasted the plan, saying DeVos was pushing her agenda to privatize the public education system and build up alternatives to public schools.

When the rule went into effect on July 1, it had been modified from DeVos's original plan. It limited the aid going to private schools, saying school districts charged with distributing Cares Act funding could base the amount for private schools on the number of poor students enrolled.

But public schools could then use Cares Act funding only to help poor students—a directive that opponents said was not a real alternative for school districts. The **Council of the Great City Schools**, a nonprofit organization that serves as the voice for the 76 largest urban public school districts in the country, said in an amicus brief that the rule would divert hundreds of millions of dollars “of desperately needed funds” from public schools serving at-risk students.

Private schools also were eligible to receive loans- which could be forgiven-through another part of the Cares Act, the Paycheck Protection Program, which public districts could not tap.

Private schools, including some with endowments worth of millions of dollars, obtained PPP funds. For example, Sidwell Friends Schools, where former presidents Bill Clinton and Barack Obama had sent their daughters, won \$5 million in PPP funding, which was intended to help small businesses and low-wage workers during the pandemic. Sidwell has a \$52 million endowment but says it is restricted in how it can be used.

The Washington lawsuit was not the only one filed against the Education Department's new rule. Eight states, including DeVos's home state of Michigan, as well as the District of Columbia and four school districts sued the education secretary in July.

At a hearing held virtually last week before U.S District Judge James Donato in San Francisco, Michigan Assistant Attorney General Neil Giovanatti called DeVos a “Reverse Robin Hood” who was trying to take from the poor and give to the rich. The lawsuit says DeVos does not have the authority to dictate how the Cares Act money should be distributed.