



FREQUENTLY ASKED QUESTIONS

On September 9, 2015, a group of parents whose children attend Nevada public schools filed a lawsuit challenging Senate Bill 302 (SB 302) vouchers, also known as Education Savings Accounts (ESAs). Educate Nevada Now (ENN), powered by The Rogers Foundation, is supporting the parents in their quest to defend public education. The lawsuit, *Lopez v. Schwartz*, has generated media and political attention.

Here are answers to the most frequently asked questions about the lawsuit.

Q: What Is Nevada's New Voucher Law?

A: In June 2015, the Nevada Legislature passed SB 302 establishing a controversial program to use public funding to pay for private schools and other private expenditures. These programs are commonly called "vouchers." For students who qualify, the new voucher law directs the State Treasurer to deposit taxpayer funding into private bank accounts to pay for private school tuition, tutoring, online classes, home-schooling expenses, transportation to and from private schools, and other private services.

Q: Where does the money come from to pay for vouchers?

A: The vouchers are funded by diverting the per pupil funds provided by the Legislature for Nevada public schools. The amount of the voucher is based on the statewide average per pupil amount guaranteed in the state budget to operate public schools. The vouchers are either 90% or 100% of that amount, \$5,100 or \$5,710 (the latter amount only for special education and students who qualify for free and reduced lunch) for the 2015-2016 school year. For each voucher, the State Treasurer deducts the per pupil amount from public school district budgets, which then reduces the funding available to educate public school students.

Q: Are there any qualifications to obtain a voucher?

A: To qualify for a voucher, a student has to enroll once in a public school or in a public school course for a minimum of 100 days at any time from kindergarten to grade 12. For example, a student who attends a public school for 100 days in first grade will receive a voucher every year until he or she graduates from high school. Students now in private schools or who are homeschooled can also qualify for a voucher, as long as they meet the 100-day enrollment requirement. Treasurer Dan Schwartz has exempted entering kindergartners and the military from this requirement through the regulatory process.

Q: Are there any limits on the voucher program?

A: No. The law puts no limit on the number of vouchers or the amount of funding that can be taken from the public schools to pay for vouchers. The Treasurer's office has stated that if all private school students took advantage of the program, at least \$200 million would be diverted from public schools

each year. There is also no household income limit to qualify for a voucher. This means that even Nevada's wealthiest can obtain a taxpayer-funded voucher. ENN's analysis of voucher applicant data show that as of February 2016, 81% of applicants lived in zip codes where the median family income was above \$50,000, and 28% lived in the most affluent zip codes where the median family income was above \$75,000.

Q: Why did public school parents sue to block vouchers?

A: Nevada parents sued because they are concerned that vouchers will take critically needed funding away from public schools and reduce the quality of the education their children receive in public schools. They are also concerned that lower education funding will cause cuts in teachers and programs for the over 450,000 Nevada children attending public schools across the state. Budget cuts that would have to be made as a result of ESA voucher payments would hit CCSD hard, which currently has 600 teacher vacancies, close to 80% of which are in Title I (high poverty) schools.

Q: What is the parents' legal claim?

A: The Nevada Constitution prohibits taxpayer funds provided by the Legislature for the operation of the public schools from being used for any other purpose. The parents claim that the voucher program violates this constitutional ban by diverting the funding necessary to educate their children in the public schools to pay for private school vouchers.

The parents also claim that the voucher law violates the Nevada Constitution by lowering the amount of funding provided in the State budget for public education, and by using public funds to pay for private schools that are not required to serve all students, are not subject to anti-discrimination laws, and are not accountable for student performance, unlike public schools.

Q: The ACLU also sued to block the voucher law. Is the public school parents' lawsuit different?

A: Yes. The ACLU lawsuit's, *Duncan v. State*, main claim is that the voucher law violates the Nevada Constitution by allowing public funding to be used to support private religious schools. Close to 80% of private schools in Nevada are religious schools. The ACLU lawsuit is separate from *Lopez v. Schwartz*, supported by ENN.

Q: Are the parents in *Lopez v. Schwartz* suing for money damages?

A: No. The parents are only suing to stop the voucher program and keep it from taking funding away from the education of their children in the public schools. They are not asking for any money. The attorneys representing the parents are providing their legal services for free or "pro bono."

Q: What are the next steps for the case?

A: On January 11, 2016, Judge James Wilson granted parents' motion for preliminary injunction, halting the program. The judge found the program violated the Nevada Constitution by diverting funds from public schools, and that allowing the program to go into effect would irreparably harm the public school parents and children. The Treasurer has appealed the injunction order to the Nevada Supreme Court. It is likely that the Nevada Supreme Court will rule some time in June 2016 as to whether Judge Wilson order to halt the voucher program is sound.

In March 2016, the Nevada Supreme Court rejected the attempt of a well-funded, out-of-state special interest organization to intervene, that is, become part of the lawsuit.

Judge Wilson will also decide the main issue as to whether SB 302 is constitutional. Those proceedings, “on the merits,” have not yet begun.

Q: Who is defending the voucher law?

A: Attorney General Adam Laxalt is defending the State Treasurer. Normally, attorneys directed by the Attorney General do the legal work of defending the state and its officers in all lawsuits. In this case, Attorney General Laxalt has taken the extraordinary action of seeking outside help. He has obtained approval from the State Board of Examiners to retain a Washington D.C. law firm, led by former U.S. Solicitor General Paul Clement, to assist in both the ACLU lawsuit and Lopez v. Schwartz. Up to date, Nevada Board of examiners has approved \$422,000 in taxpayer funds be used in defense of SB 302.

Q: How can I support the public school parents?

A: It is important that Nevadans, especially those with children in the public schools, learn about the voucher law and how it poses a threat to high quality public education for all Nevada children. For more information, visit the Educate Nevada Now website at educatenevadanow.com and sign up to receive ENN alerts. ENN representatives are available to present at community meetings, and to support individuals and groups in their own advocacy. Please visit the website to download our advocacy toolkit.

Who We Are

Educate Nevada Now (ENN), powered by The Rogers Foundation, is a multiyear campaign aimed at securing school finance reform and improving education outcomes and opportunities for Nevada public school children. Every Nevada child, including at-risk, English language learners, students with disabilities and other special needs, deserves the opportunity to succeed.

For more information, please visit educatenevadanow.com.

Updated March, 2016