



For Immediate Release:

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****Legislature's Voucher Program Found to Violate the Montana Constitution****

[Helena, Montana] On Tuesday morning, plaintiffs the Montana Quality Education Coalition ("MQEC") and Disability Rights Montana prevailed in invalidating House Bill 393, a 2023 bill that created an unconstitutional school voucher program for students with disabilities, taking money from public schools to give to private individuals.

The First Judicial District Court granted plaintiffs' motion for summary judgment, finding that HB 393 failed to appropriate funding as required under the Montana Constitution, Article VIII, Section 14.

"Our schools do not take lightly the constitutional imperative to provide Montana children with quality, equal education," said Doug Reisig, MQEC's Executive Director. **"Taking money from public schools for vouchers without clear limits on how much and where that money will be spent is unconstitutional, pure and simple."**

Parents could only take advantage of the funding authorized in HB 393—between \$5,000 and \$8,000 per student per year—by waiving their right to a free appropriate public education that federal law guarantees and the right to quality education that the Montana Constitution guarantees. For many students with disabilities, the voucher funds could not cover even basic educational needs, let alone more significant needs associated with different types of disabilities.

"HB 393 was a lose-lose for students with disabilities," said Tal Goldin, Director of Advocacy and attorney for Disability Rights Montana. **"The Court's decision today prevents legislative overreach, stopping one attempted incursion into public school dollars and protecting students with disabilities from losing access to free and appropriate public education in the least restrictive environment."**

In its decision, the Court explained that **"The legislature clearly knows how to enact a statutory appropriation,"** but failed to do so in HB 393. HB 393 authorized channeling money from the state general fund through local public schools and back to the Office of Public Instruction, where it was held for private individuals to spend without oversight. HB 393 authorized a limitless amount of money for private use through this spending labyrinth.

“Siphoning public school money to unaccountable individual accounts is unconstitutional, not to mention foolish. But the decision here doesn’t even address the misuse of public money because the legislature failed in the first instance to correctly appropriate funding for HB 393. And that is unconstitutional enough to stop it in its tracks,” said Rylee Sommers-Flanagan, founder and Executive Director of Upper Seven Law, which represents plaintiffs. **“Today the Court has affirmed the Montana Constitution’s decisive public education guarantee, which embodies and makes possible the American dream, ensuring that all Montana children will have access to public education and the opportunities that open up to the hard working and well educated.”**

The Court also denied Intervenor-Defendant Sue Vinton’s cross-motion for summary judgment.

Upper Seven Law, a nonprofit nonpartisan law firm based in Helena, represents the plaintiffs. A copy of the order accompanies this press release.

About the Plaintiffs:

The Montana Quality Education Coalition is a nonprofit organization headquartered in Helena, Montana, that was formed in 2001 to advocate for adequate public school funding and other public school interests before the Montana Legislature. It is an organization committed to defending the state’s constitutional guarantees with respect to free and quality public education. As one of the largest education advocacy organizations in the state, MQEC represents the interests of more than 100 school districts and six educational organizations as well as innumerable teachers, trustees, and administrators from across the state in urban and rural areas, large and small schools, and from the east to the west.

Disability Rights Montana is the federally mandated Protection and Advocacy System and Client Assistance Program for Montana, protecting and advocating for the civil, legal, and human rights of persons with disabilities of all ages and across Montana. Its responsibilities include monitoring facilities serving people with disabilities—including Montana schools—and investigating allegations of abuse and neglect in those facilities.

About Upper Seven Law:

Upper Seven Law is a Montana-based nonprofit law firm dedicated to holding the powerful accountable. Based on the belief that creativity and innovation in law are essential to advancing social justice and public interest objectives, Upper Seven takes smart risks and invests the time necessary to build foundations for long-term accountability work.