

Public Funds for Private Schooling in New Hampshire:



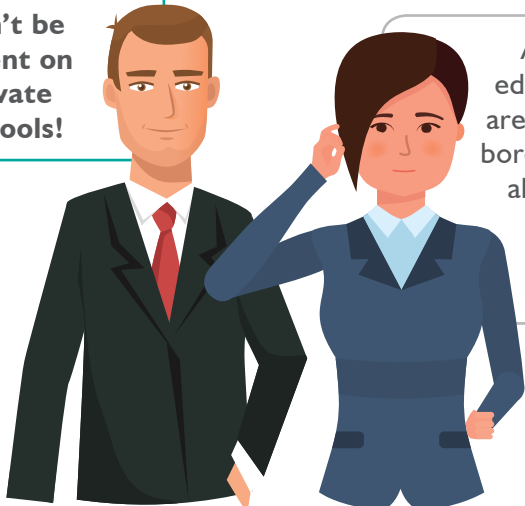
MYTHS AND FACTS

authored by Jody S. Underwood, Ph.D.



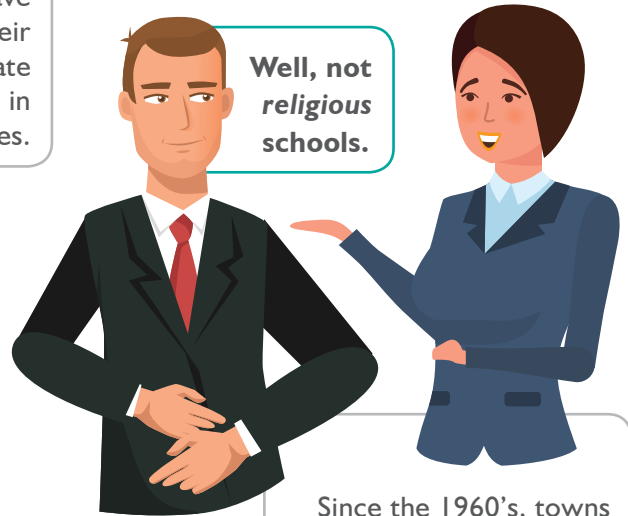
Executive Summary

Tax dollars can't be spent on private schools!

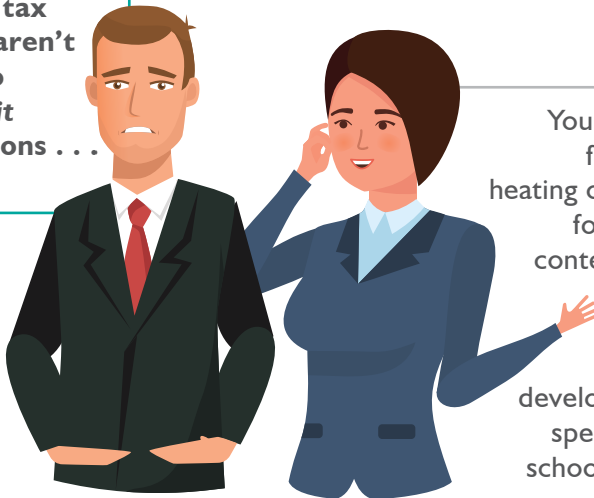


Actually, special education schools are all private, and border towns have always sent their kids to private schools in other states.

Well, not religious schools.



Okay, but at least tax dollars aren't going to for-profit institutions . . . right?



You mean except for publishers, heating oil companies, food providers, content providers, educational web sites, professional development, some special education schools, and so on?

Since the 1960's, towns like Hampton have paid for 'child benefit services', equipment and even physical education classes at religious private schools that are attended by their kids.

I may have to rethink this whole school funding issue.



Now we can have a discussion instead of an argument. Want to go get a beer?



Introduction

In 2016, I watched with astonishment as a New Hampshire Assistant Attorney General stood in court and said to the judge that “public funds cannot be spent to send public school children to private schools.”¹ It is not clear what “public school children” are, but if she meant that statutes prohibit towns from using tax money to send students to private schools, she is mistaken.

This is one of a number of inaccurate statements you may have heard about the public financing of education in New Hampshire. You may also have heard people say that tax dollars can’t be used to send students to religious schools or to pay for education services from for-profit organizations. People raise these arguments all the time in discussions about school funding, but it may surprise you to learn that they are myths and all untrue – all these things have been going on in New Hampshire for a very long time.

We can only have a productive conversation about how tax dollars should be spent once we know what really happens, and how, and why. This report will give you information, in the form of examples and supporting legislation, to help you avoid being side-tracked when these arguments are raised. It explains how three New England states and their local governments have historically used tax dollars to pay for schooling and related services from private institutions – including religious schools, for-profit organizations, and even schools in other states. It also addresses the mistaken notion that public schools are not allowed to turn away students.

MYTH 1: TAX DOLLARS CANNOT BE USED FOR PRIVATE SCHOOLS.

REALITY: New Hampshire tax dollars have long supported students attending private schools.

You may have heard that the inclusion of private schools in school choice programs is some kind of new assault on traditional education. But the three northern New England states of New Hampshire, Vermont, and Maine have all been using the school choice practice of “town tuitioning” for well over a century.² That is, when no school in a district provide particular grades, students in those grades are sent to other schools, which may be public or private, and may even be located in adjacent states. The district pays all or part of the tuition for these schools. There are some differences in how the three states implement town tuitioning: how long it has been around, who chooses the set of schools, and how much tuition the town pays. In addition, many special education facilities are private schools.

¹ Transcript of *New Hampshire Department of Education v. Croydon*, Sullivan County Superior Court, March 9, 2016.

² Underwood, J.S. & Konieczny, C. (2016). How New Hampshire provides small towns with access to schools. Granite Institute. http://graniteinstitute.org/application/files/9414/7188/6719/Granite_Institute_-_How_New_Hampshire_Provides_Small_Towns_with_Access_to_Schools_-_August_2016.pdf



HOW LONG HAS TOWN TUITIONING BEEN IN PLACE?

In New Hampshire, local control has been the standard since districts were initially established in 1885, and tuitioning was formally established in 1901 for any district that did not offer all K-12 grades.³ However, tuition contracts with private schools, including those in other states, have been used in New Hampshire since at least as far back as 1792.⁴

New Hampshire districts could send their children to private schools until 1949, when a change to one statute limited the choice to public schools and public academies (independent schools that agree to follow the state's curriculum and testing requirements), while other statutes still granted school districts the power to make contracts with "other literary institutions."⁵ Since the state statutes related to the practice of sending students to private schools were somewhat ambiguous, the legislature enacted a law in 20176 to clarify that it is legal for school districts to make contracts with non-religious private schools as part of their tuitioning programs.

In Vermont, town tuitioning started in 1869. Maine has had town tuitioning since 1873, which was updated in 1909 when the state said that towns without a high school must pay tuition at an approved public or private secondary school. In Maine, religious schools were included until 1980.⁷



3 NH RSA 194:27, Tuition: <http://www.gencourt.state.nh.us/rsa/html/xv/194/194-27.htm>

4 NH RSA 194:22, Contracts with schools: <http://www.gencourt.state.nh.us/rsa/html/xv/194/194-22.htm>

5 Ibid.

6 NH SB 8-FN, http://www.gencourt.state.nh.us/bill_status/billText.aspx?sy=2017&id=887&txtFormat=html

7 Maddaus, John, and Denise A. Mirochnik. "Town Tuitioning in Maine: Parental Choice of Secondary Schools in Rural Communities." *Journal of Research in Rural Education* 8, no. 1 (Winter 1992): 27-40. http://jrre.vhost.psu.edu/wp-content/uploads/2014/02/8-1_3.pdf



WHO DECIDES ON THE SET OF SCHOOLS PARENTS CAN CHOOSE FROM?

In Maine and Vermont, the state makes the decision about which schools are included in all tuitioning programs. In New Hampshire, the state approves schools and school districts choose from that set of schools for their tuitioning programs.

In Vermont, parents in towns that do not provide all grades choose from a large pool of public schools and more than 83 independent schools, including some outside the state, such as New Hampshire's Phillips Exeter, Holderness, Kimball Union Academy, and Hanover High School.

In Maine, parents in towns that do not provide all grades can choose from private schools or out-of-district public schools, which can be across state lines, sending some children to private K-12 schools in California, Colorado, Connecticut, New Hampshire, Massachusetts, Michigan, Montana, Pennsylvania, and Virginia.⁸ The approved private schools in New Hampshire include The White Mountain School in Bethlehem, Proctor Academy in Andover, New Hampton School in New Hampton, and Dublin School in Dublin.

In New Hampshire, the local school districts decide on a set of state-approved schools that parents can choose from, and create tuitioning contracts with them, along with policies about how they are carried out. Some NH districts are willing to make agreements with any school that parents request, and some districts limit the set of schools by some criteria that might include historical reasons.

New Hampshire towns that border other states have long tuitioned students to Vermont and Maine private (and public) schools, a practice that started long before SB 8 was enacted in 2017. An example of a border town is Lyme. Lyme maintains its own K-8 school, and has historically maintained tuition agreements to send high school children to St. Johnsbury Academy (VT, private), Thetford Academy (VT, private), Rivendell (VT, public), and Hanover High School (NH, public).⁹ Town reports in the SAU that document this practice only go back to the 1990s, and the school district policy about high school placement and tuition was adopted in 1979 (with the last revision in 1993).¹⁰ While locals remember people going to Thetford Academy as far back as 1969, records show that this practice has been around for at least 25 years.

Another example is Chatham, NH, which has historically tuitioned their children to Maine public schools for K-8, and to the private Fryeburg Academy in Maine for high school. Chatham parents have had a choice of two schools in Maine for K-8 since 1968. Students have been sent to Fryeburg Academy since 1792.¹¹

Non-border towns in New Hampshire may also make contracts with non-religious private schools. An example of a non-border town is Croydon, which has agreements with the private Newport Montessori School and Kimball Union Academy in New Hampshire, in addition to many public schools in the area.



8 "PRIVATE SCHOOLS OUTSIDE OF MAINE." Maine Department of Education. March 31, 2017. Accessed August 17, 2017. <http://www.maine.gov/education/data/tuitionrates/tuit17/ptuit17.html>

9 Lyme NH School Board Policy Manual: <http://www.lymeschool.org/schoolboard/policies/JBCCA-2.html>

10 Ibid.

11 Personal communication with the Chatham Historical Society.



WHO SETS A CAP ON TUITION?



In all three states, monies for town tuitioning are raised and appropriated at the town level.

Vermont school districts pay full tuition to public schools, up to the state-determined average tuition to approved independent schools, and full tuition to other independent schools.¹² Approved independent schools in Vermont include those run as area technical centers or that meet the same standards as public schools. For the 2017-18 school year, the average tuition for public schools is \$13,496 for elementary, and \$15,130 for middle through high school.¹³

Maine school districts pay a cap of the state-determined average tuition for private schools, though school boards can vote to pay a higher amount, even for out-of-state schools.¹⁴ Additional fees can be added to the average tuition rate for both public and

private schools, related to such things as teacher retirement and school building maintenance. For the 2016-17 school year, the average tuition for Maine private schools was \$8,482.26 for elementary, \$11,162.32 for secondary schools, and \$10,530.49 for private schools outside of Maine.¹⁵

New Hampshire tuition caps are set differently than in the other two states. Towns that border other states pay the full tuition for students attending private (or public) schools in those states, while other towns (e.g., Croydon) set a cap to the amount of tuition they will pay, leaving parents to pay the difference. This approach was voted on by Croydon town residents in 2012.

In addition, in New Hampshire tuition expenses have been reimbursed by a state-level appropriation since 1997, termed “adequacy” funds. These apply to any public school, public academy, or non-sectarian independent school in a tuition agreement. Adequacy funds are primarily based on daily attendance (a.k.a. “average daily membership” or ADM), with additional funding (“differentiated aid”) based on the number of children who qualify for free or reduced-price lunches, the number of special education students with individual education plans (IEPs), the number of English Language Learners receiving English language instruction, and the number of 3rd grade students whose reading levels are below proficient on the state assessment.

In contrast to the other two states, the 2015-16 school year average tuition for New Hampshire public schools was \$17,565.40.¹⁶ Other than prep schools, private school tuitions are significantly lower than public school tuition (median tuition is \$7,978). Even with their lower costs, private schools often provide financial aid and discounts for multiple children.¹⁷

¹² 16 V.S.A. (2017) Average Announced Tuition. <http://education.vermont.gov/sites/aoe/files/documents/edu-data-announced-tuition-report-2017-2018.pdf>

¹³ “Tuition Rates.” Agency of Education - Vermont.gov. Accessed August 17, 2017. <http://education.vermont.gov/data-and-reporting/financial-reports/tuition-rates>

¹⁴ “2016-2017 TUITION RATES FOR PRIVATE SCHOOLS.” Maine Department of Education. March 31, 2017. Accessed August 17, 2017. <http://www.maine.gov/education/data/tuitionrates/tuit17/ptuit17.html>

¹⁵ Ibid.

¹⁶ NH State Average Cost Per Pupil and Total Expenditures 2015-16 https://www.education.nh.gov/data/documents/ave_pupil15_16.pdf

¹⁷ Private School Tuition in NH <https://www.jbartlett.org/wp-content/uploads/2012/03/Choosing-to-Learn.2.pdf>



WHAT ABOUT SPECIAL EDUCATION INSTITUTIONS?

All out-of-district providers of special education programs in New Hampshire are private and have been used by school districts for a long time. There are currently 25 state-approved private schools¹⁸ used for special education programs in New Hampshire.

In short, it is simply not true that “tax dollars cannot be used for private schools.” The reality is that public money can be, and is used for some private schools under some circumstances. This opens the way to discuss which circumstances would give taxpayers the best value for our public education dollar, while giving parents and students the best results possible.

MYTH 2: TAX DOLLARS ARE NOT AND CANNOT BE SPENT ON RELIGIOUS SCHOOLS.

REALITY: Tax dollars in New Hampshire have long supported children being educated at religious schools that their families choose.

People argue whether or not it is constitutional to use tax dollars on religious schools. This report will not try to interpret the constitution, but the fact is that state statutes allow this practice.

As an example, RSA 189:49 allows New Hampshire school districts to provide child benefit services “for pupils in each public and nonpublic school in the district or in another school district in this state.”¹⁹ Following this statute, districts can pay for textbooks and instructional materials, medical and health services, school guidance and psychologist services, transportation, driver education, testing services, hot lunch program, physical education, and special education services in any of these schools.

An example is SAU 90 in Hampton NH, which proposes a warrant article at each yearly town deliberative session to raise money to support students attending Sacred Heart School, a religious private school in their town.²⁰ This school has been a part of the educational system in Hampton since 1962. While parents are responsible for tuition, which is much lower than the public schools, towns can spend considerable sums to support students who attend these schools. The approved request in 2017 was for \$39,729 for 41 students; the per pupil cost was \$968.99. The amount allocated in this particular year was for nurses (\$14,000), educational technology (\$18,729), supplies (\$2,000), and instructional materials (\$5,000). The amounts vary from year to year depending on the number of students attending Sacred Heart School, which was 41 in the 2016-17 school year; 29 attended elementary school and 12 attended junior high school.

In short, it is simply not true that “Tax dollars cannot be spent on religious schools.” The reality is that public money can be paid to some religious schools under some circumstances. This opens the way to discuss which schools under which circumstances would give taxpayers the best value for our public tax dollars.



18 NEW HAMPSHIRE APPROVED PRIVATE SPECIAL EDUCATION PROGRAMS. NH Department of Education. July 28, 2017. https://www.education.nh.gov/instruction/special_ed/documents/private_providers.pdf

19 NH RSA 189:49 Child Benefit Services, <http://www.gencourt.state.nh.us/rsa/html/xv/189/189-49.htm>

20 <https://hamptonnh.gov/wp-content/uploads/Minutes/BudgetComm/2017/Minutes/Hampton%20Budget%20Com%20-%20Minutes%20%20%2001-12-2017.pdf>



MYTH 3: MONEY EARMARKED FOR PUBLIC EDUCATION CANNOT BE PAID TO FOR-PROFIT INSTITUTIONS.

REALITY: Tax dollars in New Hampshire have long supported children being educated using services provided by for-profit institutions, including for-profit schools.

Some people argue that we should not spend tax dollars on for-profit schools. First, they apparently do not realize that tax dollars are paid to all sorts of for-profit institutions to provide such things as textbooks, educational materials, heating oil, pencils, and tests. Second, the distinction between for-profit and non-profit is often misunderstood: “non-profit” does not mean “charitable.”

District schools can buy outstanding lectures from the for-profit The Teaching Company or textbooks from a for-profit publisher from which their students can learn, but for some reason a for-profit school is frowned upon. And many people seem not to realize that some special education services are also provided by for-profit organizations.²¹ All out-of-district providers of special education programs in New Hampshire are private (see Myth 1) and two of them are for-profit institutions (Enriched Learning Center in Berlin and Parker Academy in Concord).^{22,23}

Again, non-profit does not necessarily mean charitable. Non-profit organizations can make a great deal of money. For example, the National Football League (NFL) held non-profit status from 1942 to 2015.²⁴ For an example closer to education, the non-profit Educational Testing Service recently succeeded at becoming a billion-dollar company. ETS also has for-profit arms.²⁵ Moreover, both non-profits and for-profits can, and often do, charge high prices for their products and services and provide their presidents and top management very high salaries (e.g., the NFL commissioner earned \$44 million per year), exceptional perks, benefits, and bonuses – things about which for-profits are often taken to task. Indeed, of the 82 full-time New Hampshire public school superintendents, 74 of them earn over \$100,000 annually plus benefits, with the highest salary at \$165,909.²⁶ The difference between for-profits and non-profits is just in who collects the excess revenue, i.e., whether it is paid to employees or distributed to shareholders.

In short, it is simply not true that “Money earmarked for public education cannot be paid to for-profit institutions.” The reality is that public money can be, and often is, paid to for-profit institutions for goods and services. This opens the way to discuss which circumstances would give taxpayers the best value for our public education dollar. For example, it would be interesting to discuss why public money can be used to teach teachers (e.g., DiscoveryEducation.com), but not to teach students.



21 “Approved Private Special Education Programs.” NH Department of Education. Accessed August 17, 2017. https://www.education.nh.gov/instruction/special_ed/private_sped_schools.htm

22 https://www.noodle.com/schools/nh_location/special-needs_characteristics

23 Personal communication with representatives at the institutions

24 <https://www.cbssports.com/nfl/news/nfl-ends-tax-exempt-status-after-73-years-3-things-to-know/>

25 <https://www.edsurge.com/news/2017-02-01-global-nonprofit-ets-acquires-minnesota-based-testing-company>

26 NH Superintendent and Other Admin Salaries <https://www.education.nh.gov/data/documents/salaries17-18.pdf>



MYTH 4: PUBLIC SCHOOLS CANNOT TURN AWAY STUDENTS.

REALITY: There is no school that takes all students.

Some people argue that tax money should not be used for private schools because they might turn away some students, while public schools are not allowed to do that. However, both public and private schools in tuition agreements can have admission requirements, so not all students will be admitted to either type of school. The same is true for public charter schools and special education institutions. For tuitioning contracts, it is up to the school district and the receiving school to work out mutually-agreeable acceptance criteria. It is also true that public schools can expel students, which is just ‘turning away’ after admission. Finally, some public schools are available only to families who can afford to live in those districts – a very tacit kind of admission policy.

In short, it is simply not true that “Public schools cannot turn away students.” The reality is that both private and public schools can limit the students they accept under certain circumstances. This opens the way to discuss under what conditions an institution can adopt its own admissions criteria.





Conclusion

We started by mentioning an Assistant Attorney General who misrepresented the longstanding practice of public money financing students attending private schools in New Hampshire. Such misinformation gets in the way of productive discussions about school funding mechanisms. As Mark Twain noted, “It ain’t what you don’t know that gets you into trouble. It’s what you know for sure that just ain’t so.”

If people at that level of government are misinformed, what are the chances that progress can be made?

Meaningful and productive discussions about education funding must take into account existing realities. No matter how loudly or often people say otherwise, in New Hampshire, like its New England neighbors, tax dollars are actually and legally used for students attending private schools, religious schools, and for-profit institutions – and have been for a long time. It is more important to know what value you can get from an organization than to try to generalize about what school districts can spend tax dollars on. Understanding how school financing actually works allows us to discuss and consider how tax dollars should be used to supply an adequate – or better – education.



About the Author



Jody S. Underwood, Ph.D., *Education Fellow, Granite Institute*

Jody Underwood has served on the town of Croydon School Board since 2010. She served as chair for four years; she has also served as Secretary and continues to serve as School Choice Liaison. During her time as chair, she completed the withdrawal from an AREA agreement, put into place a formal tuition agreement with the neighboring Newport school district, and met with superintendents and school board members from districts and private schools in the area about accepting Croydon students to their schools through tuition agreements. She was involved in the court case the NH State Department of Education brought to Croydon, and with getting the town tuitioning bill passed in 2017.

Dr. Underwood received her B.S. in computer science from Hofstra University, her M.S. in computer science with a focus on artificial intelligence from Rutgers University, and her Ph.D. in Education with a focus on cognitive science from The Technion-Israel Institute of Technology. She has conducted research and development around the use of technology in the classroom since 1987. Jody's work history includes artificial intelligence research at NASA, Carnegie Mellon University, Rutgers University, and Princeton University, and education research and development at Vanderbilt University, the Math Forum, and Educational Testing Service. She currently works for a small for-profit company where she designs, and manages teams to develop, games and simulations for learning and assessment. She also serves as Education Fellow at the Granite Institute, writing about and advocating for school choice in New Hampshire.



PO Box 125, Woodsville, NH 03785

603-728-8257

graniteinstitute.org  @GraniteInst

Author **Jody S. Underwood, Ph.D.** can be reached at junderwood@graniteinstitute.org

President and CEO **J. Scott Moody** may be reached at jsmoody@graniteinstitute.org

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