

## **Carson v. Makin Supreme Court Decision**

### **Frequently Asked Questions**

#### **What does the recent Supreme Court decision mean?**

In Carson v. Makin, the Supreme Court held that Maine could not exclude sectarian schools from approval for the receipt of public funds for tuition purposes because they are sectarian. In other words, a sectarian school that meets all of the other requirements for approval for the receipt of public funds for tuition purposes must be approved in the same manner as a non-sectarian school.

Schools who meet the requirements for school approval for tuition purposes are then eligible to receive state and local tax dollars from the school administrative units (SAUs) who do not operate a school to serve certain grade levels and either contract with specific schools or allow choice of schools to meet their responsibility for providing a public education for resident students.

This decision applies only to those SAUs that do not operate local public schools at a certain grade level span and do not have contract in place with nearby public or private schools.

For example, if your SAU does not have a high school, the SAU where the student resides still raises funds from local property taxes and receives state tax dollars to support resident students and uses those funds to pay tuition at selected public or approved private schools.

#### **What is required for school approval for tuition purposes?**

For a private school to receive taxpayer funded tuition, the school must apply for and meet school approval requirements outlined in statute [Title 20-A, §2951: Approval for tuition purposes \(maine.gov\)](#).

When the board of directors of a private school decides to apply for state approval as a tuition-receiving provider of public education, the board is agreeing that the school will meet the requirements outlined in statute (Title 20-A, §2951).

#### **Is my child eligible to attend a private school using taxpayer-funded tuition?**

Students residing in communities that do not operate public schools at certain grade levels may be eligible to attend a private school – sectarian or nonsectarian - at taxpayer expense. There are currently three different ways for local communities to deliver public education to their students: use tax dollars to operate local schools; use tax dollars to contract with nearby public or state-approved private schools as the education provider; or use tax dollars to allow a student to attend a public or state-approved private schools. Only students in this third category are eligible to attend approved private schools using taxpayer-funded tuition.

#### **Do all religious schools in Maine qualify for publicly funded tuition?**

Each year, schools wishing to receive public tuition apply for approval under Title 20-A, 2951: Approval for Tuition Purposes. The SCOTUS decision deems the inclusion of "nonsectarian" as a condition for tuition eligibility to be unconstitutional, and so this requirement will be stricken from the approval requirements. In order for a private school (including secular, religious, or sectarian schools) to receive public tax dollars to cover tuition costs in Maine, the school's governing body must apply for approval and certify that the school meets all other statutory requirements.

When the board of directors of a private school decides to apply for state approval as a tuition-receiving provider of public education, the board is agreeing that the school will meet the requirements outlined in statute (Title 20-A, §2951).

### **Do parents receive the funds to apply toward tuition? Do parents receive reimbursement for tuition costs?**

The local SAU releases school funds, which are a combination of state and local tax dollars raised for the purpose of supporting a public education for resident students, directly to the selected public or approved private school to pay tuition costs, up to a "Maximum Allowable Tuition" rate ([Title 20-A, §5806: Secondary school students; private schools \(maine.gov\)](#)). Some communities vote to provide additional local tax dollars to cover higher tuition costs for their resident students.

Parents do not receive the school funds directly, nor do they receive reimbursement from the SAU.

### **Who pays the tuition costs for students who are eligible for school choice?**

Local tax dollars, based on local property valuation and supplemented by State taxes, are raised to cover the costs of providing public education in each community. Those funds cover tuition costs instead of covering costs for operating a local school in some communities.

### **Does my SAU have to agree to cover tuition costs at the school of my choice?**

Most SAUs either operate their own schools or contract with nearby schools to ensure a high-quality public education for resident students. Open choice is not available in most communities. Maine state funds, combined with locally raised property taxes, are used by SAUs to meet the constitutional responsibility of each town to provide public education for resident students. The school board and administration in each SAU, informed by local referenda, decide whether it is possible to operate local schools. If an SAU is unable to operate a local school for any grade span, that SAU may decide to contract either with nearby schools who are approved for receipt of publicly funded tuition or allow families to choose a school that has been approved for receipt of publicly funded tuition.

### **Additional Resources**

Frequently Asked questions regarding Private School Approval for Receipt of Public Funds:  
<https://www.maine.gov/doe/funding/reports/tuition/faqs>

Private School Approval: <https://www.maine.gov/doe/schools/schoolops/privatechoolapproval>