



Written by [Michael Tennant](#) on August 3, 2012

Louisiana Teachers' Union Threatens Private Schools in State School Choice Program

"Thuggery." That's the word most commonly being employed to describe the Louisiana teachers' union's latest attempt to prevent pupils from escaping their poorly performing public schools. After failing to get a judge to block the state's school voucher program, the Louisiana Association of Educators (LAE) is now threatening private schools participating in the program with lawsuits if they do not withdraw from it immediately.



"The state of Louisiana specifically designed its voucher program, the Student Scholarships for Educational Excellence, to serve low-income students trapped in failing schools," [Michael O. McShane](#) wrote at National Review Online.

In order to qualify for the program, the student had to have attended a school that was rated "C," "D," or "F" by the state accountability system and to have come from a family that makes less than 250 percent of the federal poverty line. Originally limited to Orleans Parish, the program is slated to expand statewide in August 2012. Students are allowed to take the vouchers to private schools, which do not have unionized teachers, a point of contention for the union.

The LAE first tried to get an injunction against the law authorizing the voucher program, arguing that it is unconstitutional, but District Court Judge Tim Kelley denied the request on the grounds that he did not have jurisdiction. The union then appealed to the circuit court; the case will be heard in mid-October.

Meanwhile, the LAE is trying to avoid what McShane termed "a PR nightmare": winning its lawsuit in the middle of the school year, thereby forcing all the students who have since left the union's failing schools — the state has already given out scholarships to over 5,600 of the 10,300 students who applied for them — to return to those same schools. "To circumvent this problem," he remarks, "the unions are trying to prevent students from taking advantage of the program in the first place."

Unfortunately for the union, its heavy-handed approach to avoiding one public-relations nightmare managed to create another one. Last week the law firm representing the LAE sent letters to about 95 private schools participating in the voucher program advising them to withdraw from it because the law firm and its clients believe the program is unconstitutional. One of the letters, obtained by the website [The Hayride](#), has been [posted online](#), with the name of the institution receiving the letter redacted.

"Our clients have directed us to take whatever means necessary to prevent the unconstitutional transfer of public monies to [name of school]," the letter reads.

Those means apparently include threatening participating schools with lawsuits: "The purpose of this letter is to try to avoid litigation with [name of school]. To assist us in achieving that purpose, please sign and return the attached letter to us no later than 4:00 P.M. on Friday, July 27, 2012." Should the school fail to comply by the deadline, "we will have no alternative other than to institute litigation against" the school.



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That “attached letter” was a [form letter](#) to state Superintendent of Education John White with the school’s name already filled in, stating that the school “will not accept any funds” from the voucher program until the LAE’s case is decided. How very thoughtful of the union to include it — and to threaten to sue anyone who wouldn’t affix his John Hancock to it even though no court has yet ruled on the law’s constitutionality.

“This has to be the most ham-handed, unsympathetic action anyone could conceive of,” the Hayride’s [Scott McKay](#) observed. “What the LAE ... is saying is that they don’t want kids to get a chance to go to private schools and they’re willing to sue private citizens for making arrangements to educate those kids whose parents have rejected union schools.... Playing the heavy against a bunch of little guys and parents trying to get better education for kids is what you generally DON’T do if you’re trying to win a public-policy fight — in court or elsewhere.”

Reaction in Louisiana and across the country has indeed been almost uniformly negative.

White called the union’s “scare tactics” “shameful.”

“Trying to prevent people from doing what’s right for their children is bad enough,” he told the [Lafayette Advertiser](#). “Doing it with no basis whatsoever is disgraceful.”

Louisiana Board of Elementary and Secondary Education President Penny Dastugue declared the LAE’s letter “outrageous” and encouraged “participating schools to ignore the LAE’s absurd actions and to move forward with providing children the opportunity their parents have decided is best for them,” the paper noted.

Clint Bolick of the Goldwater Institute, who has litigated on behalf of school choice across the country, told the [Pelican Post](#): “In over two decades of school choice advocacy, I’ve never seen thuggery of this magnitude. What the unions can’t accomplish in the courtroom, they’re trying to achieve through bullying schools whose only offense is offering educational opportunities to children who need them.”

Bad public relations or not, the LAE’s plan might have succeeded. As McKay opined, by suing everybody connected with the program, “you might get some people who decide to vacate the field.... These are small private schools, after all, and most of them are not going to have the resources to fight a protracted, high-profile lawsuit against, essentially, the AFL-CIO.”

What the union *didn’t* count on was someone coming to the schools’ defense; but that is precisely what the Alliance for School Choice and the Institute for Justice are doing. On July 31 they announced the creation of the Louisiana Defense Fund in response to the LAE’s bullying missive. According to an Alliance [press release](#), in a letter to schools participating in the voucher program “the Alliance made clear that the LAE has no legal claim against the private schools, and if the union tries to bring a claim, the costs necessary to defend the litigation will be paid out of the defense fund.”

“The unions and their allies have been losing in court and are now resorting to threats in a transparent attempt to minimize the exodus from failing schools they no doubt see coming. The bottom line here is that the unions’ threats are groundless,” said Institute for Justice attorney Bill Maurer. “And the fund means private schools can stay the course, welcome in children from across the state, and give them the kind of high-quality education the union-dominated educational establishment has proven itself incapable of delivering up until now without having to worry about the cost of defending themselves from a frivolous suit.”

With the announcement of the defense fund, the LAE’s thuggish efforts to prevent students from



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escaping failing union-dominated schools are sure to fail. What's more, the LAE must now face the prospect of forcing those same students back into failing schools if it wins its lawsuit — exactly the scenario it sought to forestall. As a result, the union looks, in McShane's words, "less like an organization with the best interests of children in mind and more like a power-hungry interest group that will stop at nothing to maintain its hegemony." Which is exactly what it is: Just ask Wisconsin Governor [Scott Walker](#).



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