

NEWS RELEASES

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State of Washington Prevails in Lawsuit Against U.S. Department of Education

COURT ORDER FOLLOWS HUSCH BLACKWELL-AUTHORED AMICUS BRIEF FOR COUNCIL OF THE GREAT CITY SCHOOLS

U.S. District Judge Barbara J. Rothstein issued a preliminary injunction order in connection with the U.S. Department of Education’s recent rulemaking that would have directed hundreds of millions of dollars toward private schools and away from public school districts nationwide.

The funds, part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, were appropriated by Congress to support elementary and secondary education, including \$13 billion specifically to allow school districts to address needs arising out of the COVID-19 pandemic.

The lawsuit was filed by the State of Washington and named the Department of Education and its secretary, Betsy DeVos, as defendants. Husch Blackwell authored an amicus curiae brief on behalf of the Council of the Great City Schools, a coalition of the 76 largest urban public school districts in the country, supporting the plaintiff’s injunction request.

“This is a matter of great importance to our client as the chief voice for large urban school districts, which have been the areas most impacted by the pandemic,” said Husch Blackwell partner John Borkowski. “It was satisfying to see that so much of the legal reasoning in our brief was echoed in Judge Rothstein’s unequivocal order explaining how the Department of Education’s Interim Final Rule is contrary to the plain language and intent of the law.”

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Under the Department of Education’s Interim Final Rule, CARES Act funds would be allocated according to a different, more generous, formula for the funding of private schools than Congress established in the CARES Act. Section 18005 of the CARES Act expressly states that the funding must be allocated “in the same manner” as it is allocated in Section 1117 of the Elementary and Secondary Education Act of 1965, something the Interim Final Rule fails to do.

The Husch Blackwell team was led by Borkowski and included Aleks Rushing, Shmuli Shulman, Paige Duggins-Clay and Mary Deweese.