

What Utah's History Teaches Us About Vouchers

PART 4 OF 6

BY SUTHERLAND INSTITUTE

The progressive era of education has spanned the decades and still dictates the terms of our modern public education system. The irony of the progressive era is that public schools are neither “free” in expense nor “free” in their manner of operations – this is not to find fault, only to point out the obvious nature of a government institution. These two constraints have governed the narrative of Utah’s education identity from World War II to present – every significant moment in our education history over these years has been the struggle of parents and local communities to reclaim liberties encroached upon by the State. From segregation to home schooling, from school closures to school community councils, the educational history of the modern era is checkered with valiant political and legal struggles for local educational control and freedom.

But what other kind of struggle could it be under the circumstances? Up to this point, our public education system has been defined by control, power, and coercion in the name of a higher or common social good. The public school system, as a bureaucratic institution, has only so much room for reform without giving up its authority to act for a supposed common good.

And so this period was marked by the rise of internal systemic reforms: “open enrollment” allowing students to move within the system from school to school under certain conditions; released time allowing LDS students to experience a religious influence during the school day; vocational schools to ap-

pease the “non-academic” students who will not attend a liberal arts college; private schools for families that can afford it; home schools for families seeking autonomy in their parental responsibilities; AP classes; special education programs, etc. All of these reforms were designed to let the steam of frustration and alienation out of the system while still maintaining control of the system.

Noticeably, none of these reforms have been external to the system. Little to no control was lost with any of these reforms. Even on the edges of the educational mainstream, public school authority holds sway. While the Utah State Constitution says nothing about private or home schools, the public school establishment has used its political clout to control even these outposts of educational autonomy through legislative statute – using arguments that prove, once again, that education reform is not about the best interests of the child, but about control, who has it and who exercises it. All of the arguments regarding private and home schools pertain to oversight and regulation issues, as if the public school establishment of teachers, school boards, superintendents, and other state and local administrators are to be the caretakers of *all* education in the State.

Throughout this era, parents continued to fight for control. Notwithstanding the desire of these well-meaning education professionals to provide the best public schools available for the price, the U.S. Supreme Court continued its precedent to uphold the autonomy of parents to provide the upbringing and education of their children.

Utah followed suit. On June 9, 1982, the Utah State Supreme Court issued a decision that has become the modern basis of all legal and moral understanding regarding parental rights in Utah. Then-Justice Dallin H. Oaks wrote the majority opinion for *In re J.P.* (Utah, 648 P.2d 1364). Justice Oaks upheld four staples of legal doctrine in parental rights. First, parental rights are natural and inherent. Second, Utah law recognizes the fundamental rights of parents over their children. Third, state interests do not automatically supercede parental rights. And, fourth, family autonomy is a prime bulwark against tyranny.

The last fifty years in the history of education in Utah have witnessed the struggle between advocates of progressive education (the “experts”) versus happy families and educated children. Progressive educators, in thinking they knew what was best for us, continued to push for more control over the lives of Utah families and their children, while Utah’s families, seeking the aspirations expressed by Justice Oaks for family autonomy – the right to control the upbringing and education of their own children – pushed back.

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