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Parents go to court to improve kids' schooling

Albany School districts in Albany, New York City named in filing that aims to secure better services

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Parents in Albany and New York City filed a lawsuit Monday against the Albany City School District and New York City Department of Education in an effort to gain access to better schools and tutoring for their children this year under the No Child Left Behind Act.

Charlie King, attorney for the three parents who filed the suit in state Supreme Court in Manhattan, made the announcement during a news conference outside Philip Livingston middle school, saying parents were denied their federal rights because they weren't told of better educational options for their children. He was accompanied by Charlene Wilson, whose 5-year-old grandson attends Arbor Hill Elementary School, one of the city's failing schools.

Wilson's two 15-year-old sons also went to Arbor Hill, and she said she never knew that she could send her grandson to another school or get tutoring for him.

"I was shocked when I was going through the options," she said.

Under the year-old federal law, children in failing public schools have the right to transfer to non-failing public and charter schools or receive supplemental services such as free tutoring. However, in many school systems, including Albany, some of the other schools in the city are already full. Additionally, while the law says students are supposed to be able to transfer to schools in other districts, there is no provision to force the other districts to accept transfers.

"Local education authorities have trampled upon these parental rights to transfer their children from a failing to a non-failing school," the suit states.

Superintendent Lonnie Palmer said the Albany city district worked with the state to draft a letter and it was sent to all parents, in addition to a notice in the district newsletter. He gave out copies of the letter at Monday's news conference.

Palmer added that the district has done everything it's supposed to do and is not surprised to hear about the lawsuit, which he said has more to do with political issues than legal questions.

King, who sought the Democratic nomination for lieutenant governor on Andrew Cuomo's gubernatorial ticket last year, disagreed, saying "thousands of kids and parents are in the dark" about their options.

"The simple and sad fact is President Bush passed a law that said any child who is trapped in a failing school has two options: transfer out (to a better school) or be entitled to free educational services such as tutoring. Since that time, the Albany school district has failed to meet the law," he said.

Schools fail when they don't meet state standards and show adequate progress on achievement test scores. In New York state, 487 schools were designated as failing at the beginning of the 2002-03 academic year. Three of those schools are in Albany. Schools in Ravena-Coeymans-Selkirk and Troy were on the list as well.

The lawsuit marks the second time in recent weeks that an advocacy or reform group has used the Albany schools to publicize the shortcomings of No Child Left Behind.

This month, a survey by the Brighter Choice Public School Project found that almost three-quarters of parents whose children are in Albany's three poorly performing schools don't realize their kids should be able to go to a better one.

Upon hearing that their children are attending a failing school, 79 percent indicated that they would transfer their children to another school and 92 percent said they would seek the free tutoring services to which they are entitled under federal law. Palmer said he has doubts about the accuracy of the survey.

"My child is being left behind, but not just my child -- other children too," Wilson said.

King said the lawsuit probably will be amended to include other parents from across the state. He added that he hopes the issue can be settled out of court, but he's not too confident that will happen.

Monday's lawsuit and the earlier survey illustrate how troubled schools are coming under fire from ideologically different groups under the heading of the No Child Left Behind Act.

Brighter Choice was started by many of the same people involved in Change-NY, the now-defunct conservative group that was created in the 1990s on an anti-tax platform but

then went on to work toward school reform.

Adina Berrios, a spokesman for King's law firm, said the people involved in the New York legal challenge are loosely aligned with

other public policy groups that have used the courts in efforts to secure more education funding for poorly performing schools, which typically are in impoverished communities. "It's just the beginning," Berrios said of the

efforts, including lawsuits, to enact No Child Left Behind.

◆ Staff writer Rick Karlin contributed to this story.