



Union Lawsuit Against Florida School Choice Programs Dismissed, But the Battle Continues

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Hundreds of Florida parents are able to celebrate the New Year with access to school choice thanks to a decision last Tuesday to dismiss the [union lawsuit](#) against the Sunshine State's Personal Learning Scholarship Accounts and expansion of the tax credit scholarship program.

[For the second time](#), Leon County Circuit Court Judge Charles Francis found that the Florida Education Association, Florida school boards, the NAACP and the League of Women Voters, among others, lacked standing to challenge the school choice options.

During the last day of the legislative session this past June, the Florida legislature passed an education bill that created the nation's second education savings account program, known in Florida as [Personal Learning Scholarship Accounts](#), and expanded Florida's thriving [tax credit scholarship program](#).

Shortly after the legislation was enacted, special interest groups filed an injunction against the scholarship accounts and tax credit scholarship program contending the legislative process in which the bill was passed did not follow procedure because it contained more than one educational program and therefore violated the "single subject" rule— despite the subject being "education."

In September, Judge Charles Francis gave the plaintiffs 15 days to rework their argument, stating that they did not provide proof of harm from the program. Last Tuesday, Francis again found that the plaintiffs [could not prove](#) how the school choice legislation caused them "special injury."

As a result, hundreds of Florida families are now able to choose an educational option that best meets the needs for their children, through Florida's personal learning scholarship accounts and tax credit scholarship program.

Modeled after [Arizona's innovative education savings accounts program](#), Florida's scholarship accounts help families of children with special-needs—defined in the statute as those with autism, cerebral palsy, Down syndrome, Prader-Willi syndrome, spina bifida, Williams syndrome or Intellectual Disability (severe cognitive impairment), along with some kindergarten students deemed “high risk” because of developmental delays— to fully tailor their child's education. Through the accounts, the state deposits 90 percent of its per-pupil state funds onto an education “debit card” that parents can use toward a variety of schooling options, including private school tuition, tutoring, curricula for home schooling, therapy, textbooks and special-education services.

Florida's 13-year-old [tax credit scholarship program](#) has enabled nearly 400,000 Florida students to attend a school of choice. In 2014, businesses contributed \$357.8 million to non-profit groups providing scholarships to 68,761 children to attend a private school of choice—most of whom are low-income minority children. Before the expansion of the program, eligible children were from households with incomes of no more than 185 percent of the federal poverty line. But under the expansion, families at 260 percent of the federal poverty line, or \$62,010 for a household of four, will be eligible for partial scholarships during the 2016-17 school year.

But despite this victory for educational opportunity, the fight for school choice in Florida is [not over](#).

According to Politico, top Florida Education Association staff will convene this week to decide whether to appeal the dismissal. And in the meantime, the union is preparing for a Feb. 9 hearing on the tax credit scholarship's constitutionality.

In August, the Florida Education Association and allies, including the Florida School Boards Association, the Parent-Teacher Association, Americans United for Separation of Church and State and others, filed another [lawsuit](#) against the tax credit scholarship program claiming that the scholarship violates the “no aid” clause and the “uniform public schools” clause of the state's constitution by allowing students to take the aid to private schools, some with religious affiliation. But this is not an accurate representation of the way tax credit scholarships work.

“Scholarship Tax Credit laws are privately administered programs that rely on the voluntary contributions of corporate taxpayers who receive tax credits in return. As the U.S. Supreme Court [ruled](#), these funds never become public funds because they do not ‘come into the tax collector's hands,’” [writes](#) Cato Institute education policy analyst Jason Bedrick.

You can read more about “no aid” clauses and similar “Blaine amendments” in-depth in a new analysis by Heritage's Lindsey Burke and co-author Jarrett Stepman in [the Journal of School Choice](#).

[Earlier this month](#), Leon County Circuit Court Judge George S. Reynolds III granted parents of scholarship children the [right to intervene](#) in the suit, despite union efforts to block their involvement.

In national debates over school choice, public education is increasingly coming to be understood not in terms of school buildings, but [delivery of educational services](#). School choice measures such as personal learning scholarship accounts and tax credit scholarships allow those who know the needs of the child best— the parents— to choose an *educational* option that best meets the needs of the child. The recent court victory will allow hundreds of Florida families to do just that.