



Court rejects union's attempt to void Florida school choice program

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Earlier this year, Florida's largest teachers union filed a legal challenge to prevent the expansion of school choice. As I [explained then](#):

The Florida Education Association is [suing](#) the state of Florida to eliminate the new [Personal Learning Scholarship Account \(PLSA\)](#) program, among other recent education reforms, including an [expansion](#) of the state's scholarship tax credit law. Modeled after [Arizona's popular education savings account \(ESA\)](#), the PLSA would provide ESAs to families of students with special needs, which they could use to pay for a wide variety of educational expenses, such as tuition, tutoring, textbooks, online learning, and educational therapy. Six families with special-needs children who would have qualified for the program are seeking to intervene as defendants in the lawsuit, represented by the Goldwater Institute's Clint Bolick.

The union's [lawsuit](#) argues that the legislation creating the PLSA, Florida's [Senate Bill 850](#), violated the state constitution's "one subject rule" because it contained a [variety of education reforms](#).

Wednesday a circuit court judge [dismissed the lawsuit](#), ruling that the plaintiffs lacked standing to sue because they could not show how they were harmed by the law. Last month, the [New Hampshire Supreme Court unanimously ruled](#) that plaintiffs lacked standing to challenge the Granite State's scholarship tax credit law because they also could not demonstrate that they suffered any harm.

However, Florida's school choice laws aren't out of the woods just yet. A slew of anti-school choice activists, including the teachers union, state school boards association, and the state PTA, [filed two](#) separate [legal challenges](#) against the state's school choice laws, alleging that they violate the state constitution's historically anti-Catholic Blaine Amendment, which prohibits

public funds from being expended at religious schools, and the state's "uniformity" clause. However, as [Andrew J. Coulson recently explained](#), the lawsuits are without merit:

The first claim, that public monies are being spent on religious education, is simply false. In addition to the U.S. Supreme Court [...] the Arizona Supreme Court, and Illinois district courts have also concluded that donations made under education tax credit programs are not public money. Black's law dictionary agrees, as the Arizona court observed.

*Plaintiffs' second argument is that the tax credit program violates Article IX, Section 1 of the Florida constitution, which states that "Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools." The Florida supreme court ruled in *Bush v. Holmes* that the state's publicly-funded school voucher system violated this clause, because "it diverts public dollars" from "the sole means set out in the Constitution for the state to provide for the education of Florida's children."*

*It is worth noting that Florida's constitution does not stipulate that the uniform system of free public schools must be the sole means of providing for children's education. On the contrary, it explicitly authorizes—in the very same sentence—such "other public education programs that the needs of the people may require." The majority on the Bush court decided to interpret away this clause, claiming that it referred exclusively to junior colleges and adult education outside K-12 schooling. Though they cited a precedent for this claim (*Board of Public Instruction v. State Treasurer*, 231 So. 2d 1, 1970), the given case does not support their contention. That precedent merely states that junior colleges and adult education happen to fall within the meaning of "other public education programs," not that they are the only programs that do so.*

Both lawsuits are likely to reach the Florida Supreme Court. If reason prevails, both will be rejected.

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