

The Holder-Jindal Collision

The federal government attacks Louisiana school choice.

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Louisiana governor Bobby Jindal found out late on Friday, August 23. Attorney General Eric Holder was suing to block the state's school voucher program, which aims to give low-income kids in terrible schools the opportunity to attend better public schools and even private schools. The Justice Department claims the two-year-old program could interfere with federal desegregation orders in several Louisiana parishes, holdovers from the Civil Rights era.

"This was a complete shock," Jindal says. "A complete surprise."

Maybe it shouldn't have been. Liberals have been fighting the Louisiana voucher initiative, officially called a "scholarship" program, from the beginning.

"The teacher unions took us all the way to the state supreme court, and the program's still here," says Jindal. In May, the court ruled the voucher program was constitutional but that funding it through the general education budget wasn't. Jindal and the legislature made it a line item in the state budget instead.

Many in the education establishment in Louisiana—Jindal calls them the "coalition of the status quo"—protested the voucher program and other education reforms like charter school expansion and tenure reform. Some even hoped to recall him, the Republican speaker of the house, and other legislators, but the movement went nowhere.

"We're still here," Jindal says, a little defiantly. So is the voucher program, at least for this school year. What started as a pilot program in New Orleans during Jindal's first term as governor expanded to school districts all over Louisiana in 2012.

Here's how it works: Public schools receive grades, from A to F (another Jindal reform), that tell teachers, parents, and policymakers how those schools are performing. A school that receives an F has, among other problems, at least half of its students performing below grade level. Schools that receive a C or lower are considered failing schools. Low-income students attending a failing school are

eligible to apply for a voucher, and money that would otherwise go to their local school can instead be used to pay for tuition at a private school or a betterperforming public school.

Parents like the program, according to the governor's office, with 93 percent approval from parents (mostly single moms) whose kids were awarded vouchers. Ninety percent of the recipients are minorities, which in Louisiana means they are overwhelmingly black. While most of the program's students are in New Orleans, there are recipients everywhere from urban areas like Baton Rouge and Shreveport to the rural parishes north and south. Early results for the statewide program show improvement: From 2011 to 2013, students in "scholarship schools" did better on literacy and math tests than they did in their old schools, with a 7 percent increase in students performing at grade level in those areas.

Last year, 10,000 students applied for vouchers, and 5,000 received them. This year, the applicant pool jumped to 12,000, and 8,000 vouchers were awarded (the awards are made by lottery). The program's growth may explain why the feds are suddenly interested.

"It's successful," Jindal says. "The average cost is roughly about 60 percent of what we'd otherwise spend, so we're saving millions of dollars for taxpayers. Maybe they saw the growth, maybe they saw the success, maybe they saw the attention it was getting, and they decided they wanted to send a message to any other state thinking about copying this or doing this."

Other states are going down the same path as Louisiana. According to the Friedman Foundation for Educational Choice, 23 states and the District of Columbia have a total of 48 voucher and tax-credit programs designed to help poor kids in bad schools get out, including 9 new programs and 10 expanded ones in 2013.

So why is Louisiana in the crosshairs? The Justice Department claims in its petition that the voucher program violates federal desegregation orders. The motion stems from a 1975 equal protection case decided in the Fifth Circuit. The court found that the state of Louisiana could not provide money to private schools in certain school districts "in ways that further or support discrimination or segregation."

"That injunction is still in effect," DOJ's petition reads.

But as Jason Bedrick, a policy analyst at the Cato Institute's Center for Educational Freedom, put it in a blog post, DOJ cites just two examples as evidence the vouchers have reversed desegregation in public schools. The first, the predominantly black Independence Elementary in Tangipahoa Parish, lost five white students to other schools. The second, the predominantly white Cecilia Primary School in St. Martin Parish, lost six black students. The resulting changes in racial makeup, Bedrick calculates, were less than 1 percent in both schools. For DOJ, though, these changes "reversed much of the progress made toward integration."

"Though the students," Bedrick writes, "almost certainly would not have noticed a difference, the racial bean counters at DOJ see worsening segregation."

Furthermore, school choice proponents argue the data indicate voucher-accepting private schools are often less segregated than the public school systems surrounding them. Studies comparing voucher schools with public schools in Milwaukee, Cleveland, and Washington all showed higher integration in the private schools.

"Voucher programs are achieving integration in private schools voluntarily," says Robert Enlow, CEO of the Friedman Foundation.

For Jindal, DOJ's use of civil rights laws to fight the school choice effort misses the point.

"I think it's ironic the Obama administration and the Holder Department of Justice would actually try to use our civil rights laws and the same protections that were put in place to help protect minority kids to actually try to force them to stay in failing public schools," he says. "I think this is an abomination. I think it's ridiculous."

The state has until September 10 to respond to the motion, and Jindal says his lawyers are still discussing the best path forward to maintain the voucher program for the 2014-2015 school year and beyond. With education reform as the two-term governor's signature achievement and a potential presidential run for him in the next cycle, Jindal appears to welcome the fight. There's another reason, too, one that turns DOJ's segregation argument on its head. "I think education is the civil rights issue of our day," says Jindal.

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