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Appeals court upholds dismissal of lawsuit against Florida voucher program

By Leslie Postal

The lawsuit challenging the constitutionality of Florida's biggest school voucher program was rightly dismissed by a lower court, the state's First District Court of Appeal ruled today.

The court said the case against the Tax Credit Scholarship Program -- brought by the state teachers union and other advocacy groups -- should not proceed because those suing had no legal standing to do so and had suffered no harm from the program.

The program provides scholarships, or vouchers, to low-income students to attend private schools. It is funded mostly by corporate donations given in exchange for credits on state tax bills.

Those who sued, the court's opinion said, "quarrel with the Legislature's policy judgment regarding school choice and funding of Florida's public schools."

But that is not a matter for the court to wade into. For those who dislike the program, the court wrote, their "remedy is at the polls."

The program, created in 2001, served nearly 80,000 students last school year, nearly 70 percent of them at private, religious schools. Advocates said the program provides an important option for parents whose children may be struggling in public school but cannot afford private school on their own.

The Save Our Scholarships Coalition, founded to fight the lawsuit, said it hopes today's ruling ends the legal challenges.

"It's long past time for all of us who care so passionately about public education to put aside our differences and work together. This sweeping ruling should compel us to focus on the real enemies -- despair, hopelessness, and the ravages of generational poverty," said Bishop Victor Curry of New Birth Baptist Church in Miami who is chairman of the Save Our Scholarships group.

The Florida Education Association said today that it was disappointed and frustrated by the courts' ruling and was studying whether to appeal to the Florida Supreme Court.

"Once again, the merits of this case aren't being argued. The court says that teachers and parents and other groups aren't allowed to challenge the constitutionality of the tax credit vouchers," said Joanne McCall, the union's president. "The courts ruled a previous voucher scheme unconstitutional. Why won't they let teachers and parents challenge this one?"

The union and other groups had argued the tax credit program was unconstitutional because it redirects taxpayer money to religious schools and creates a separate system of state-funded schools.

But the appeals court, like the circuit court last year, said the program is not funded by direct appropriations by the Florida Legislature so the plaintiffs lacked "taxpayer standing" to challenge it.