



## FEA Challenges Constitutionality of the Florida Tax Credit Voucher Program

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TALLAHASSEE – The Florida Education Association (FEA), joined by other public education stakeholders and individuals, filed a lawsuit today in Tallahassee challenging the constitutionality of the state’s tax credit voucher program.

FEA is joined in the lawsuit by several individuals -- FEA Vice President Joanne McCall; state Sen. Geraldine Thompson; Bob Jones, a public school principal and immediate past president of the Florida Association of School Administrators; Rabbi Merrill Shapiro, Reverend Harry Parrott, Jr., and Reverend Harold Brockus, who are all affiliated with Americans United for Separation of Church and State. Besides those individuals, other public education stakeholders involved in this lawsuit are the Florida School Boards Association, the Florida PTA, the Florida Association of School Administrators, the Florida NAACP and the League of Women Voters of Florida. The suit names Gov. Rick Scott, the members of the Florida Cabinet, the state education commissioner and the state departments of Revenue and Education as defendants.

The tax credit voucher scheme is one of several recent attempts by the Legislature to establish a state program to pay for the education of Florida children in largely unregulated private schools, diverting for that purpose funds that otherwise would support those children’s education in the system of free public schools required by the Florida Constitution. In the *Bush v. Holmes* case in 2006, the Florida courts struck down the Opportunity Scholarship Program, a similar program that provided publicly funded vouchers to pay private-school tuition. The courts used two different reasons for declaring the Opportunity Scholarship vouchers unconstitutional both of which are applicable in the instance of the tax credit vouchers.

The First District Court of Appeal held that the vouchers violated the “no aid” clause of Article I, Section 3 of the Constitution, which prohibits taking revenue “from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.”

The Florida Supreme Court ruled that the program was “in direct conflict with the mandate in Article IX, Section 1(a) that it is the state’s ‘paramount duty’ to make adequate provision for education and that the manner in which this mandate must be carried out is ‘by law for a uniform, efficient, safe, secure, and high quality system of free public schools.’”

“The courts told the Legislature and the governor that the voucher program was illegal and provided them with two good reasons why vouchers didn’t pass constitutional muster,” said FEA Vice President McCall. “But political leaders didn’t listen and continue to expand voucher programs, like the tax credit vouchers, which are being challenged today. And their attempts to change the constitution to allow vouchers were soundly rejected by Florida voters.”

In 2001, while the Opportunity Scholarship vouchers were under challenge in the courts, the Legislature enacted the initial version of the corporate voucher program. Since its enactment, this program has been expanded on numerous occasions, with increases in the amount of the voucher and the annual expenditure cap, expansion of the eligibility criteria for obtaining a voucher, and the inclusion of more funding sources. This June, Scott signed into law a bill that included another significant expansion of the program. In addition to further increasing the dollar amount of the voucher, it expands the program by making vouchers available to children in grades 6-12 who were already attending private schools, and (beginning in 2016-17) by raising the family income level at which a child is eligible for an initial voucher to more than \$62,000 a year.

“Florida’s voucher programs are a risky experiment that gambles taxpayers’ money and children’s lives.” McCall said. “Florida’s voucher schools are largely unregulated, don’t have to follow the state’s academic standards, don’t have to hire qualified teachers and don’t have to prove to the state that they are using public money wisely. Our state’s taxpayers and students would be better served by investing to improve our lowest performing schools and helping all of the students who attend them.”

In July, FEA filed a separate lawsuit challenging the way the latest tax credit expansion became law during this year’s session. That case has not yet been heard in court.

Today’s complaint, filed in circuit court in Leon County, can be found at this link: [http://www.meyerandbrooks.com/documents/McCall%20vs%20Scott/McCall, et al. v. Scott, et al. - Complaint.pdf](http://www.meyerandbrooks.com/documents/McCall%20vs%20Scott/McCall_et_al._v._Scott_et_al._-Complaint.pdf).