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## EDUCATION WEEK

# Union-Backed Court Challenges to School Choice Hit Snags in Florida, Louisiana

By Arianna Prothero

Teacher union-led lawsuits against school choice laws in Florida and Louisiana have hit roadblocks in recent days, highlighting some of the hurdles that unions face when challenging evolving school choice laws.

On Friday, a Louisiana district judge rejected the state teachers' union argument that the way Louisiana funded some charter schools was unconstitutional, according to the Associated Press.

The Louisiana Association of Educators sued to block funding to charter schools approved by the state education board because those schools are run outside of local systems but were still receiving funding that was supposed to be allocated to city and parish schools. At stake was about \$60 million in funding for around 30 schools statewide.

The LAE challenged the state's voucher program and won in 2012 using that same argument. But soon after state lawmakers tweaked the way the program was funded and it persists today.

Meanwhile on Monday, a Florida judge dismissed a union-backed lawsuit challenging that state's tax-credit scholarship program because the plaintiffs couldn't prove they were harmed by the law and therefore didn't have grounds to sue.

The Florida Education Association claimed that Florida's Opportunity Scholarships ultimately—and illegally—funnel state dollars to private religious institutions, albeit in a very indirect way. Through the program, the state gives tax-credits to businesses that donate money to nonprofit scholarship

organizations. Those organizations in turn give money to low- and middle-income kids to attend private schools.

"The state has a very limited role in the operation of those programs which makes it much harder to challenge as a taxpayer," let alone prove they were hurt by the law, said Josh Cunningham, a senior policy analyst with the National Conference of State Legislatures. And, he added, "There hasn't been a single tax credit scholarship program that has been successfully shut down through the courts."

However indirectly the money flows, it still often collects in religiously-affiliated schools. The FEA says that amounts to state support of a church and that Florida is essentially setting up a parallel school system when the state's constitution calls for a single, uniform one.

The Florida teachers' union, similar to its counterpart in Louisiana, had previously challenged its state's voucher program and won based on that same contention in 2006.

But whether arguments like that have any merit in the case of these other school choice programs hasn't really been tested yet.

"We haven't seen a high level court really dig into the merits of a tax-credit program because people have struggled to establish standing," Cunningham said. "It's hard to get past that first hurdle."

That doesn't mean these lawsuits are over, however. The Florida union is deciding whether to will appeal, while the Louisiana Association of Educators says it will.