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EDUCATION

Court orders tuition vouchers halted

The Florida Supreme Court tossed out the state's tuition voucher program that allows public money to go to private schools.

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TALLAHASSEE - In a stunning blow to the education policies that Jeb Bush has made the centerpiece of his governorship, the Florida Supreme Court struck down the state's tuition voucher program Thursday, saying it violates the state Constitution because it diverts public money to private schools.

Although the 5-2 ruling applies only to one of three voucher programs now in existence, it could place all such Florida programs in legal jeopardy.

The case involves the Opportunity Scholarship Program, which pays private school tuition for more than 700 students statewide, including 416 in Miami-Dade and 14 in Broward County.

The carefully worded ruling, written by Chief Justice Barbara Pariente, allows the program to continue until the end of the school year "in order not to disrupt the education of students." But in the fall, the program will be dismantled unless legislators find a way to restore it.

"We do not question the basic right of parents to educate their children as they see fit," Pariente wrote, noting that voucher proponents ``have a strongly held view that students should have choices."

But diverting public money to private schools undermines public schools, the ruling said: ``Our decision does not deny parents recourse to either public or private school alternatives to a failing school. Only when the private school option depends upon public funding is choice limited."

KEY BUSH POLICY

The ruling is a major setback for Bush, who won legislative approval for the voucher program as a cornerstone of his "A-plus" education policies during his first year in office in 1999.

The voucher program allows students in failing schools to take state money and use it in private schools. Bush argued that the threat of losing state money to private schools would serve as a catalyst for districts to improve low-performing schools.

Bush said Thursday that the threat has worked and schools have improved. He conceded, however, that the ruling was now the "law of the land" and called it a "sad day" for the families who now get a private school education at taxpayer expense.

He said he would press ahead to find a way to preserve the voucher programs, "as long as I'm governor," even if it means raising money privately to pay the tuition of students currently enrolled.

"I don't think any option should be taken off the table," Bush said, though he acknowledged an appeal to the federal courts is unlikely. "School choice is as American as apple pie, in my opinion. . . . The world is made richer and fuller and more vibrant when you have choices."

POSSIBLE REFERENDUM

Bush said that one possible solution is to have lawmakers place a constitutional amendment on the 2006 ballot that would permit the voucher programs. Senate President Tom Lee predicted lawmakers would move ahead with something that meets constitutional muster, and that would keep the programs intact.

Voucher opponents were jubilant about the decision, noting that they had fought the law for seven years, filing a lawsuit a day after it became law.

Ron Meyer, lead attorney for a coalition that includes the Florida Education Association, the NAACP and the American Civil Liberties Union, said the decision "means that Florida's taxpayers will not be forced to pay for schools which are unaccountable."

PARTY REACTIONS

The decision could have wide political implications. Republican voucher backers such as Rep. Ralph Arza of Miami called the ruling "cowardly" and a display of "judicial activism," while Democrats praised it and said that GOP leaders should now focus on helping public schools.

After lawmakers enacted Bush's first program in 1999 they added two others: The McKay scholarship program for disabled children, and the corporate income-tax credit program, which allows companies to give money to private groups that offer vouchers and get a credit from the state. Nearly 30,000 students are enrolled in these two other programs.

Although two lower courts ruled that the initial voucher program violated a state constitutional ban on aid to churches and religious institutions, the high court sidestepped that issue completely, ruling instead that the program violated a constitutional provision guaranteeing a "uniform" system of "free public schools."

"It diverts public dollars into separate private systems parallel to and in competition with the free public schools," Pariente wrote.

TWO DISSENT

Two justices -- Kenneth Bell and Raoul Cantero, both appointed by Bush -- dissented. Bell wrote that there was nothing specific in the Constitution that prohibits state lawmakers from offering alternatives to public schools.

Legislators said they will try to cushion the blow for families who rely on the scholarships.

Angela Mack of Miami, for example, said her oldest children would have been lost had it not been for the Opportunity Scholarships. They were not getting the support they needed at Booker T. Washington Senior High, she said, and were starting to lose interest in school altogether.

"They're not outgoing, outspoken people," she said. "They're very calm, to-themselves persons and they weren't getting what they needed."

Booker T. has never earned higher than a D on the state's schools-grading system, and its back-to-back Fs in 2002 and 2003 made hundreds of students eligible for vouchers. Taking advantage of that opportunity, Mack put her kids in a Lincoln Marti private school near her Overtown home.

Some parents, including Mack, said they will now turn to charter schools rather than return to the low-performing, district-run senior highs. Under state law, voucher users can choose another public school if they don't want to return to their failing school.

A DRAMATIC CHANGE

But Rosann Sidener, the principal at Booker T., believes that students who do return will find a very different school than the one they left. The school will reopen this fall as an all-academy school with programs in international studies, business, engineering, liberal arts and health and wellness.

Miami-Dade School Board member Frank Bolaños was skeptical, saying the "jury is still out" on whether long-struggling schools such as Booker T. and Edison High have made enough progress.

"If they return to the same chronically failing school they were in, they'll be worse off," Bolaños said.

Miami-Dade Schools Superintendent Rudy Crew, however, praised the court's ruling, saying vouchers distracted money and attention from broader school change.

"This is a question of the invasiveness of an idea that is intended and was always intended to erode the public dollar stake in public education," Crew said.

In Broward County, only 14 students receive Opportunity Scholarships from the county's three double-F schools: Lauderdale Manors Elementary, Arthur Ashe Middle and North Lauderdale Academy, a charter high school.

Broward Schools Superintendent Frank Till said the schools have made improvements, but not because of vouchers.

"I don't think the voucher has led to any of those positives," he said. "` It's never been a motivator for us. I think it was the weakest part of the [accountability] program and I'm glad it's gone."

Herald staff writer Hannah Sampson contributed to this report.