

# Orlando Sentinel

## High court hears voucher challenge

By Linda Kleindienst

TALLAHASSEE -- Supporters and opponents of Florida's private-school voucher program squared off in front of the Florida Supreme Court on Tuesday while about 1,500 voucher advocates rallied outside.

Justices zeroed in on the question of whether giving public money to private schools squares with the state's constitutional mandate to maintain a public school system.

"Where does the Legislature get the authority to have other forms of education other than the public education?" Justice Peggy Quince asked lawyers for the state and Gov. Jeb Bush.

At the center of the court battle is the Opportunity Scholarship Program, a critical element of Bush's education agenda, enacted in 1999 during his first year in office. The program offers taxpayer-funded private-school vouchers to children enrolled in public schools that have received two F grades during a four-year period.

This past school year, more than 700 students took that opportunity.

Voucher opponents contend the program violates the state constitution in two ways -- by taking tax money from the public-school system and handing it to private schools, and by letting state dollars fund student tuition at religious schools.

Florida's constitution requires the state to provide a "uniform, efficient, safe, secure and high quality system of free public schools" and prohibits any money from the state treasury being used "directly or indirectly in aid of any church, sect or religious denomination or . . . any sectarian institution."

If the money goes to a student who signs the voucher over to a private school, asked Justice Harry Lee Anstead, "How can that comply with this express mandate, only to the support and maintenance of free public schools? Wouldn't you agree that it appears to be the intent of the drafters [of the constitution] that any money appropriated for schools . . . can only go to the system of free public schools?"

Ruth Holmes Cameron, the retired elementary-school teacher who filed the legal challenge along with a coalition of teachers and civil and civic groups, said she was encouraged by the justices' line of questioning during the hearing.

"I think it's pretty clear. You can't ask the taxpayers to fund more than one system of education," said Cameron, a 35-year veteran of Escambia County schools who contends state money shouldn't go to private schools when public schools need it.

But voucher supporters insist there is nothing in the constitution that prohibits the Legislature from funding private programs, especially if they fill a public need.

"We want to give every student a chance to succeed, not just those whose parents can afford to send them to private or parochial schools," said Bush, pointing out that 61 percent of the Opportunity Scholarships go to black students and 33 percent go to Hispanics.

Barry Richard, representing Bush in the lawsuit, said legislators have the "quintessential power" to spend money as they want.

Voucher proponents contend the threat of students leaving failing public schools has helped boost test scores and school grades throughout the state. A few years ago, there were 78 failing schools; last year, there were 14.

Although the court case deals only with the Opportunity Scholarship Program, advocates say that it could have far-reaching effects on the McKay Scholarship Program for disabled students and other state programs that funnel dollars to private and religious institutions that perform state services.

"A lot of people are saying the sky will fall. That is sheer nonsense. They're just trying to scare the court," said Howard Simon, executive director of the ACLU of Florida.

There was no indication when the court will rule on the case.

National pro-voucher groups brought about 1,500 parents and students to Tallahassee to show support for Opportunity Scholarships. One of them, Surond Robertson of West Palm Beach, said she hoped her presence would help convince justices of the important role that private-school vouchers play in her family's life.

Robertson worried that a decision against the voucher plan could affect a similar program for the disabled, the McKay Scholarship Program, which is used by more than 12,000 students whose parents don't think they have made adequate progress in public schools.

"Thank God for this program. My children weren't doing as well as they should, but now my son is on the honor roll and my daughter is doing well," said Robertson, whose children have language-comprehension difficulties and attend Redemptive Life Academy in West Palm Beach.

"If they stop these programs, it will hinder our children from going to the next level."