

SCHOOL CHOICE: MIXED RESULTS IN FLORIDA AND NEW YORK

January was a crucial month for those interested in the subject of school choice. Our side fared poorly in Florida, but showed promise in New York. The difference between the two was evident: in Florida, the courts rendered the decision, and in New York, the Attorney General and presumptive candidate for governor, Eliot Spitzer, announced his position.

Since 1999, Florida Governor Jeb Bush has been heralding the Opportunity Scholarship Program. Designed to give the parents of schoolchildren trapped in failing schools an option—via a voucher program—whereby they could elect to send their kids to another school (public, private or parochial), the program has been the subject of intense scrutiny nationwide. But now the program will die at the end of this school year: the Florida Supreme Court voted 5-2 to kill the initiative.

Some of those opposed to the voucher program maintained that it was unfair to allow failing public schools to die. Instead, they argued that such schools should receive more money, not less. But this is exactly what happened: once a public school was deemed a failure, it became the recipient of more funding.

The Florida experiment also demonstrated that the failing schools improved under this program. For example, Jay P. Greene and Marcus A. Winters, both researchers at the Manhattan Institute, found that after a public school made the “failing” list, school administrators quickly reversed course and made the kinds of changes that allow for success: these schools witnessed an increase in student performance on state standardized tests (they improved faster than most schools).

What is deeply troubling about this decision is that it ratifies the notoriously anti-Catholic Blaine Amendment that

is written into Florida's Constitution. Thirty-seven states have this amendment: a vestige of the 19th century's raging anti-Catholicism, the purpose of the Blaine amendments is to deny any public monies to Catholic institutions.

Tragically, the Florida ruling cannot be appealed to the U.S. Supreme Court because no federal issues are involved. But this is an issue that will not go away.

Besides vouchers, another way in which school choice can be exercised is through tuition tax credits. Under this plan, parents of schoolchildren who elect to send their kids to a private or parochial school may be eligible for a tax credit. There are some lawmakers, and executives, who find this idea more attractive than school vouchers. They reason that while vouchers directly benefit the schools, tax credits go to the parents. One of those individuals is Eliot Spitzer, New York's Attorney General and presumptive candidate for governor.

When New York Governor George Pataki recently floated a tuition tax credit, Eliot Spitzer reportedly balked at the idea. Bill Donohue decided to send him the following "open letter," via a news release:

Dear Attorney General Spitzer:

Governor George Pataki recently proposed tuition tax credits for private schools, including parochial ones. I had hoped that you would support this plan, but instead you have chosen to remain non-committal. If anything, you seem to be leaning against this initiative. To be exact, you are quoted in today's New York Sun as saying, "*there will be serious constitutional issues if they [the tax credits] are used for parochial schools.*"

Your comment is somewhat surprising given your previous remarks on this subject. In May 2002, your office released a "Report on Non-Public Education" that was a model of reasonableness. The Report suggested many ways in which

private schools, including parochial schools, could receive public funds without violating the First Amendment. While voucher programs and tuition tax credits were not addressed in the Report, your own statement showed how the courts have become increasingly open to innovative programs that assist non-public schools. Indeed, the tenor of your remarks clearly depicted you as someone who was favorably disposed to such programs.

I urge you to support tuition tax credits for parents who send their children to non-public schools. After all, the Pataki proposal is designed to help students who must attend failing public schools. The proposal was made all the more poignant today in a news story in the New York Post: an African-American woman has asked a judge to award her \$26,000 so two of her children in the public schools can attend private ones (it costs New York taxpayers \$13,000 a year per student in the public schools; she has two other children enrolled in a Catholic high school). Her suit is not frivolous given the fact that her 16-year-old daughter was nearly murdered in the local public school. Nonetheless, it could have been avoided altogether had a tuition tax credit been available to her.

We are happy to report that on the day our news release, Spitzer said he supports tuition tax credits. His office confirmed this for us. This is good news given that Spitzer has a good chance of winning the gubernatorial campaign