



SCHOOL VOUCHERS, TUITION TAX CREDITS, AND TUITION TAX DEDUCTIONS

by Julie George

On June 27, 2002, the U.S. Supreme Court ruled, in a 5-4 decision, that Cleveland's school voucher program does not violate the U.S. Constitution's separation of church and state. The Court found that because the voucher program permits the participation of all schools, religious or nonreligious, and because the program's benefits are available to participating families on neutral terms, with no reference to religion, it does not violate the Establishment Clause of the First Amendment. As a result of this decision, many states, including Colorado, may revisit the school voucher topic in the 2003 legislative session.

What Are School Vouchers, Tuition Tax Credits and Tuition Tax Deductions?

School vouchers are taxpayer funded payments made to a parent, or educational institution on the parent's behalf, to pay for a child's education expenses. Currently, voucher programs are being used in Cleveland, Milwaukee, and Florida. The Cleveland school voucher program allows low-income parents to receive taxpayer funded scholarships to send their children to private, parochial, or out-of-district schools. The Milwaukee program allows low-income parents to receive taxpayer funded scholarships to send their children to private or parochial schools, and the Florida program allows students in low-performing schools to transfer to better performing public, private, or parochial schools using taxpayer funded scholarships.

Tuition tax credits are similar to vouchers in that tax dollars may be redirected toward private education. However, tax credit money is not available

up front like voucher money is. A tax credit gives taxpayers a dollar-for-dollar offset against their taxes due. Tax credit programs can be structured to give parents a credit for expenses for educating a child.

States with tuition tax credit programs include Arizona, Iowa and Illinois. Arizona has two tax credit programs. The first program allows taxpayers to receive a tax credit for making a cash contribution to a nonprofit organization that distributes academic scholarships to qualifying private schools. The second program allows taxpayers to claim a tax credit as reimbursement for fees paid to a public school for extracurricular activities. The Iowa program allows parents to claim a tax credit for each dependent's education expenses, including public school extracurricular activities. The Illinois program grants tax credits to parents with children in public or private schools for money spent on tuition, books, or lab fees. In addition, Pennsylvania has an educational improvement tax credit for corporations that donate money to educational improvement organizations or scholarship organizations.

Another option is a tuition tax deduction which allows parents to deduct a certain amount of money from their taxable income. The purpose of the tax deduction is to compensate parents for their child's educational expenses, such as tuition and books. Currently, Minnesota is the only state with a tuition tax deduction program. The program allows parents to receive a tax deduction for school expenses such as tuition, books, transportation, academic summer camps, summer school, computers, and computer software.

School Choice Options Currently Available to Colorado Students.

Parents in Colorado currently have several choices when it comes to education. These choices include:

- intra-district transfers, granted on a space available basis;
- inter-district transfers, granted on a space available basis;
- charter schools;
- magnet schools;
- home schools;
- transportation tokens for eligible students in low performing schools (this program is not currently funded);
- distance learning and virtual campuses; and
- college level courses, taken at a local college campus, for eligible high school juniors and seniors.

Currently, Colorado does not have any type of school voucher, tuition tax credit, or tuition tax deduction program. Vouchers and tax credits have been considered in the past, both by the legislature and by Colorado voters, but to date, have not been approved by either the General Assembly or the voters. Colorado voters rejected a voucher proposal in 1992 and a tuition tax credit proposal in 1998, and voucher or tuition tax credit bills have failed each legislative session they have been tried since the early 1990s.

Legal and Public Policy Issues Related to School Voucher Programs.

Blaine amendments. The Supreme Court's ruling on the Cleveland program does not necessarily resolve the legal issues surrounding vouchers in all states. Many state constitutions, including Colorado's (Article IX, Section 7), specifically prohibit state moneys from being used for sectarian purposes. These provisions are referred to as "Blaine" amendments, named after the 19th-century U.S. Representative James Blaine who pushed for such measures after the U.S. Congress failed to adopt an amendment prohibiting government funds from going to religious sects or institutions. However, Blaine amendments are open to interpretation by state supreme courts, just as

the Establishment Clause of the First Amendment is by the U.S. Supreme Court.

Some state supreme courts have ruled that school vouchers and tuition tax credits do not violate state constitutional provisions requiring the separation of church and state. In 1997, the Wisconsin Supreme Court ruled that the Milwaukee voucher program was constitutional even though it allowed eligible students to use their vouchers at religious schools. The court ruled that the voucher program gave public and private schools equal footing and allowed parents to choose where to direct the funds allocated for their children's benefit. In 1999, the Arizona Supreme Court ruled that the Arizona tuition tax credit program does not violate Arizona's Blaine amendment (Article IX, Section 10). The Arizona Supreme Court's decision states that tuition tax credits are a neutral adjustment mechanism for equalizing tax burdens and encouraging educational expenditures.

Public policy issues. In designing school voucher, tuition tax credit, or tuition tax deduction programs, lawmakers must grapple with a wide range of public policy issues, such as academic achievement and accountability, access, and choice. These issues pose the following questions:

- who will be able to participate in the program: all students, low-income students, or low-performing students;
- should students participating in voucher programs be subject to the same academic testing as public schools and will there be consequences for voucher students who do not meet certain academic standards;
- should there be parameters for participating schools regarding the acceptance of voucher student regardless of such things as the student's race, gender, disability, or religious affiliation; and
- is there a role for the state in ensuring that a sufficient number of high quality private schools participate.