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Louisiana High Court Violates Parent Rights

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Ruling against state voucher program at odds with US Supreme Court Decision in Zelman

CER Press Release

Washington, D.C.

May 7, 2013

In a clear violation of the civil rights of parents and children, the Louisiana Supreme Court issued an opinion today in a 6-1 decision that the funding method employed in the Louisiana Scholarship Program is unconstitutional.

In the majority opinion, Justice John Weimer wrote in part, “The state funds approved through the unique Minimum Foundation Program process cannot be diverted to nonpublic schools or other nonpublic course providers according to the clear, specific and unambiguous language of the constitution.”

In the majority opinion of the 2002 Supreme Court case *Zelman v. Simmons Harris*, regarding a similar program in Ohio, the late Chief Justice William Rehnquist wrote, “...the Ohio program is neutral in all respects toward religion. It is part of a general and multifaceted undertaking by the State of Ohio to provide educational opportunities to the children of a failed school district.”

Rehnquist continued, “It confers educational assistance directly to a broad class of individuals defined without reference to religion, i.e., any parent of a school-age child who resides in the Cleveland City School District. The program permits the participation of all schools within the district, religious or nonreligious. Adjacent public schools also may participate and have a financial incentive to do so. Program benefits are available to participating families on neutral terms, with no reference to religion. The only preference stated anywhere in the program is a preference for low-income families, who receive greater assistance and are given priority for admission at participating schools.”

The Court determined that when choices were available and parents acted on their ability to privately choose, the Establishment Clause was not implicated.

“If indeed the Louisiana constitution, as suggested by the majority court opinion, prohibits parents from directing the course of the funds allocated to educate their child, then the Louisiana constitution needs to be reviewed by the nation’s highest court,” said Center for Education Reform President Jeanne Allen.

Allen added: “I urge Governor Jindal to file an appeal to the US Supreme Court, and ask for the justices’ immediate review of the decision. The Louisiana justices actions today violate the civil rights of parents and children who above all are entitled to an education that our Founders repeated time and time again is the key to a free, productive democracy.”

Louisiana State Superintendent John White briefly commented today that while he had not yet read the opinion (he was on Capitol Hill today testifying on federal programs), he understands the ruling to say, “it’s not that the program itself is unconstitutional, but that the funding needs to come from somewhere else.”

White added that, “we will find funding and keep fighting this.”

For more information on this and related school choice programs visit the CER [school choice FAQs page](#), as well as the [Black Alliance for Educational Options \(BAEO\)](#) and the [Institute for Justice](#).

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