

South Carolina Supreme Court rules vouchers in South Carolina unconstitutional.

The South Carolina ruling is straightforward and compelling:

1. JUSTICE HILL: Before us is a challenge by Petitioners to the constitutionality of 2023 Act No. 8 (S. 39), known as the Education Scholarship Trust Fund (Act). We hold portions of the Act violate South Carolina's constitutional prohibition against the use of public funds for the direct benefit of private educational institutions.
2. The Federalist No. 78 (Alexander Hamilton). We take a final moment to address whether Petitioners have failed to successfully mount a facial challenge to the Act. We hold today Petitioners have demonstrated there is no factual application where it is constitutional for ESTF funds to be used for tuition at private educational institutions. Therefore, to the extent this is a facial challenge, Petitioners have satisfied their burden.

Article XI, Section 4 of the South Carolina Constitution clearly states that public funds cannot be used for any religious or other private educational institution.

No money shall be paid from public funds nor shall the credit of the State or any of its political subdivisions be used for the direct benefit of any religious or other private educational institution

An observation by the court majority is:

Our General Assembly knew how to draft an amendment to present to the people that would allow public funding for private schools, but it did not. With the replacement of Article XI, Section 9 with Article XI, Section 4, South Carolina expanded the constitutional prohibition on public funding for religious education to a constitutional prohibition on public funding that directly benefits any private school.

Ohio's constitutional language against the use of public money for private religious schools is just as compelling as the South Carolina Constitution:

The General Assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the State; but, no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this State. (Article VI, Section 2)

All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction. (Article I, Section 7)

SC high court rejects GOP vouchers, says taxpayer dollars can't pay private tuition **Seanna Adcox**

Wed, September 11, 2024, at 11:09 AM EDT·3 min read

COLUMBIA — The state Supreme Court has thrown out South Carolina's fledgling K-12 voucher program as unconstitutional, leaving GOP leaders scrambling on how to

In a 3-2 split decision, the state's high court ruled taxpayer dollars can't be used to pay for private school tuition. What that means for the nearly 3,000 students already enrolled is uncertain. The state Education Department had no immediate answers.

The program already in place for this school year violates the state constitution's prohibition against public dollars directly benefiting private schools, writes Justice Garry Hill for the majority.

The decision represents a major — and shocking — upset for South Carolina's ruling Republicans, who were confident the law two decades in the making would be upheld.

Hill's opinion concludes by disputing the dissent authored by Chief Justice John Kittredge, whose recent promotion was seen as making the court that already traditionally agreed with the Legislature more conservative.

"The dissent claims our decision 'pulls the rug out' from under the feet of the General Assembly and 'ultimately, the feet of the students the law was designed to serve,'" Hill writes. "Our duty is to serve the Constitution, the supreme policy of our land. As such, our obligation is not to allow a rug to cover up well marked constitutional ground, no matter how inconvenient that ground may prove to be.

"The entire concept behind the Constitution and the rule of law is that the end cannot justify the means," he continued.

Joining Hill are former Chief Justice Don Beatty, who retired this summer, and acting Justice James Lockemy, a retired judge who filled in on the case.

Their ruling agrees with attorneys for the South Carolina Education Association and NAACP.

"We are grateful that our court has confirmed that public funds are confined for public good," said SCEA President Sherry East. "We have been anxiously awaiting this decision, and we are happy with the outcome."

However, she added, "My next fear is that this comes up again in January."

The law Republicans celebrated with much fanfare last year capped an effort that began with then-Gov. Mark Sanford in 2004.

It provided \$6,000 scholarships toward tuition, tutoring, transportation and other K-12 school-related expenses. The law capped participation in the first year at 5,000 Medicaid-eligible students. Actual participation was lower: Of the more than 7,900 applicants for this school year, [2,880 K-12 students](#) were eligible and approved.

Advocates thought they found a workaround to the constitution's ban on tax dollars directly benefiting private education by putting the money into a "trust fund" for parents to allocate. The first \$1,500 allotment has already been transferred to each student's account.

But the majority opinion dismissed the state's argument that the direct beneficiaries were students, not private schools.

"The tuition benefits directly subsidize the educational function of private schools," he wrote. And "the size of the tuition benefit is significant."

GOP leaders had no contingency plan for how to handle such a ruling. Unanswered questions include whether the state needs to be reimbursed, and if so, whether the private school or parent would have to pay.

CC3882 9.23.24 Monday

“Families cried tears of joy when the scholarship funds became available for their children, and today’s Supreme Court ruling brings those same families tears of devastation,” said state Superintendent Ellen Weaver, who before being elected led the group that’s been pushing for the school choice legislation.

“The late timing of the initial filing and subsequent ruling on this case midway through the first quarter of the new school year wreaks havoc on the participating students and their families,” she said in a statement.

This is a developing story. Check back for details.

[South Carolina Daily Gazette](#)

SC high court rejects GOP vouchers, says taxpayer dollars can’t pay private tuition

[SC high court rejects GOP vouchers, says taxpayer dollars can’t pay private tuition \(yahoo.com\)](#)

[Click here](#) to read the court’s full opinion.