

BJC opposes Colorado voucher plan

June 25, 2014

WASHINGTON—The [Baptist Joint Committee for Religious Liberty](#) joined a lawsuit asking the Colorado Supreme Court to declare a pilot program using taxpayer dollars for private school vouchers unconstitutional.

The BJC, a religious-liberty organization that serves 15 cooperating Baptist conventions and conferences in the United States with supporting congregations across the nation, joined groups representing Jewish, Hindu and Disciples of Christ traditions in [a friend-of-the-court brief](#).



Holly HollmanThe brief says the groups have in common a “firm commitment to the principle that religious education of children is a matter best left to families and their houses of worship” and know from “long experience that the use of tax dollars to fund religious institutions and religious education impedes rather than advances the cause of religious freedom.”

For that reason, they asked the state’s highest court to find that the court of appeals made a mistake when it determined in February 2013 the “Choice Scholarship Program” that operates in Douglas County, Colo., did not violate the state’s constitution.

The program provides 500 vouchers students may use to attend private schools both within and outside Douglas County. More than three quarters of the private schools that participate in the program are religious schools.

Threat to religious liberty

“The BJC has long opposed vouchers for the threat they pose to religious liberty,” BJC General Counsel Holly Hollman said [in an article](#) in the June 2014 *Report from the Capital*. “As the brief explains, programs like the one in this case encroach on that principle by interfering with free choice in matters of conscience and making religion dependent on government.”

In 2002 the United States Supreme Court ruled 5-4 in [Zelman v. Simmons-Harris](#) a voucher program in Ohio did not violate the Establishment Clause of the U.S. Constitution. The case before the Colorado Supreme Court, however, hinges on a clause in the state constitution forbidding the use of public dollars for religious instruction in sectarian schools.

About 35 states have “no aid” provisions in their constitutions, and Colorado’s is one of the strongest, Hollman said.

The school board and state education department argued in lower courts that judges should disregard the funding ban because its passage was motivated by anti-Catholic bigotry.

The historical record

The BJC brief counters, “The historical record does not support their position.”

The brief says the “impulse toward nonsectarian public education” that led to no-aid clauses were generally seen as a “sincere effort to make public education available for children of all faiths and races, while respecting Jeffersonian notions of church-state separation.”

It also says states were enacting no-aid provisions prior to the 19th century influx of Catholic immigration, which bolstered support for an unsuccessful effort by U.S. Speaker of the House James Blaine to add a no-aid clause to the federal Constitution, earning the epithet “Blaine Amendment” to similar laws criticized as anti-Catholic.

The brief says there is no evidence Blaine had any personal animosity toward Catholicism—his mother was Catholic and his daughters went to Catholic schools—but his proposal was likely a sincere effort to deal with ongoing controversies over the proper role of public schools amid increasing diversity.