



Florida School Boards Association

The voice of education in Florida.

Proposal 45 – Provision of Education Services in Addition to Public Schools Discussion and Key Points

[Proposal 45](#) – Provision of Education Services in Addition to Public Schools by [Erika Donalds](#)
This proposal would amend Article IX, Section 1 of the Florida Constitution. The proposal would specify that no provision of the State Constitution may be construed to limit the Legislature from making provision for other educational services that are beneficial to the children and families of this state that are in addition to the system of free public schools.

Key Points

- This proposal seeks to circumvent existing constitutional safeguards and mandates, particularly those guaranteeing uniformity, efficiency and quality in Florida’s education system.
- The proposal appears to be an effort to expand on public and private school choice options but the proposal lacks quality assurance for these options that already suffer from a lack of vetting and accountability.
- The proposal would authorize the Legislature to provide for other educational services that benefit children and families, but does not define what constitutes a “benefit”, does not identify how or when such a benefit would be determined, and does not prevent the offering of such a benefit when it may be detrimental to other educational programs and services.
- The proposal would expand educational services to children and families that are in addition to the system of free public schools. This would significantly expand the scope of the public education system to include unknown and ill-defined “benefits” and would significantly increase state costs.

Discussion

Article IX, Section 1 currently provides, in part, that “The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.” The proposal seeks to allow the Legislature to make provision for educational programs that are in addition to this system of free public schools.

Florida courts have ruled on several significant cases to limit the Legislature’s authority to enact education laws because these laws violated the authority of the school board to operate, control, and supervise all free public schools within a district and/or the requirements for a uniform, efficient, safe, secure, and high quality” system of free public schools. As examples:

In *Bush v. Holmes*, the Florida Supreme Court found that the Opportunity Scholarship Program was unconstitutional because it diverted public dollars into a separate private systems that did not use the same curriculum, assessments, or teacher qualifications. This created a separate system parallel to and in competition with free public schools. This parallel system violated the constitutional uniformity requirement.

In *Duval County School Board v. State Board of Education*, the Florida First District Court of Appeal ruled that a provision granting authority to the Department of Education to establish charter schools was unconstitutional because it impinged upon the constitutional authority of school boards to operate, control and supervise all free public schools within a district.