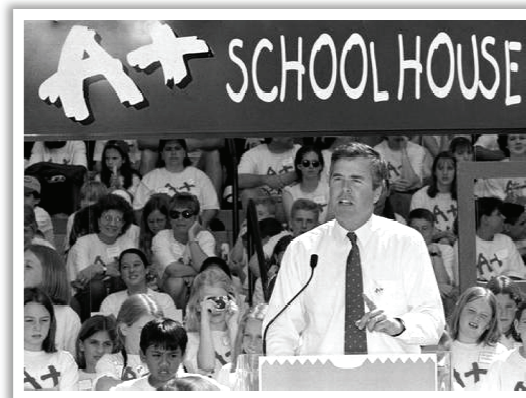


## Examining the Constitutionality of Florida’s A+ Education Plan

Florida’s Opportunity Scholarship Program’s goal is to solve the problem of failing public schools. This proposed legislation says that “a student should not be compelled against the wishes of the student’s parent, to remain in a school found by the state to be failing.” The bill proposes that any Florida student attending a public school that fails to pass the FCAT twice within four years will be able to receive a ‘voucher.’ This voucher could be used at any public or private school of their choice. Some people wondered if this proposed law would be judged “constitutional.” One major concern was that vouchers could be used in religious schools.



*“Why trap kids in failing schools?”*

– GOVERNOR JEB BUSH

(Above: Tampa Bay Times Staff File Photo, 1999)

Legislators must consider the impact any law will have on their constituents. But it is also important to consider whether the new law is allowed by the Constitution. This is because the Constitution states the nature, functions, and limits of the government. Laws cannot be enforced if they violate the Constitution. And legislators cannot, in good consciousness, approve a law that is definitely unconstitutional. For state legislators, that means you have to make sure it follows both the U.S. Constitution, as well as the State Constitution.

### FOLLOWING THE U.S. CONSTITUTION

Some people argued that the Opportunity Scholarship Program violated the First Amendment of the U.S. Constitution. Since you will be serving a state legislator, you need to make a wise decision about this bill. That means you will need to analyze the First Amendment. After reading it, think about how it relates to the bill. Then, you will make your own judgment on whether it is constitutional. *Pay particular attention to the underlined section of the amendment.*

#### **First Amendment:**

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceable to assemble, and to petition the Government for the redress of grievances.”

- 1. Directions:** Read the amendment’s text. Think about what you know about the Opportunity Scholarship Program from the information above and what you’ve learned already. **Does this proposed law go against what the First Amendment says?** *Use the space provided to explain your answer.*

## FOLLOWING THE FLORIDA CONSTITUTION

As a state legislator, you also need to make sure the law follows your State Constitution. State constitutions are more detailed than the U.S. Constitution. They also cover a wider range of rights and public issues. Below are three articles on the state’s role in education from the Florida Constitution. Below that is the “Blaine Amendment” of the Florida Constitution, which also relates to this bill. Analyze the text of each section from the State Constitution. After reading it, think about how it relates to the bill. Then, you will make your own judgment on whether it is constitutional. *Pay specific attention to the underlined portions of text.*

### Education Articles

*Article IX, Section 1a:* “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...”

-----  
*Article IX, Section 4b:* “The School board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein...”

-----  
*Article IX, Section 6:* “The income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.”

2. **Directions:** Read the articles’ text. Think about what you know about the Opportunity Scholarship Program from the information above and what you’ve learned already. **Does this proposed law go against what any of these articles or amendments say?** *Use the space provided to explain your answer.*

### “No-Aid” Provision, also known as the Blaine Amendment

*Article 1, Section 3:* “No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.”

3. **Directions:** Read the amendment’s text. Think about what you know about the Opportunity Scholarship Program from the information above and what you’ve learned already. **Does this proposed law go against what any of these articles or amendments say?** *Use the space provided to explain your answer.*