



**FOR IMMEDIATE RELEASE:**  
March 12, 2009

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**Victory for School Choice:**  
**Arizona Court of Appeals Declares**  
**Corporate Tax Credit Scholarship Program Constitutional**

**Arlington, Va.**—The Arizona Court of Appeals today declared that tax credit programs that fund tuition scholarships for low- and middle-income children to attend private schools “pass constitutional muster.” The decision follows the Arizona Supreme Court’s 1999 decision in *Kotterman v. Killian*, which upheld the constitutionality of Arizona’s Individual Tax Credit Scholarship Program from an identical legal attack.

“Today’s real winners are the families who rely on Arizona’s Corporate Tax Credit Scholarship Program to attend high-performing private schools tailored to meet their children’s unique educational needs,” declared Tim Keller, executive director of the Institute for Justices Arizona Chapter. “This decision affirms that the state and federal constitutions protect the right of parents, not bureaucrats, to make the educational decisions that will forever impact their children’s lives.”

Passed in 2006, Arizona’s Corporate Tax Credit Scholarship Program encourages private companies to donate to charitable organizations that provide scholarships to low- and moderate-income families to attend private schools. Companies receive a tax credit for their donations. In 2008, the corporate contribution limit was capped at \$14.4 million. That amount will increase by 20 percent in 2009. According to the most recent figures from the Arizona Department of Revenue, in 2007, funds donated to scholarship organizations enabled 1,947 students to attend 156 private schools.

The scholarships are available only to children who transfer from a public to a private school, or those entering kindergarten. With the average corporate scholarship totaling just under \$2,400, the state saves money every time a child previously enrolled in a public school chooses to attend a private school.

“The taxpayers of Arizona also won today because every time a child transfers from a public school to a private school, the state saves thousands of dollars that would otherwise have been used to pay for that child’s education in a public school,” Keller continued. “The program is constitutional, and it is sound public policy. It is time for the ACLU to drop its spurious legal claims.”

Judge Donn Kessler filed a dissent in the case suggesting that the program violates the First Amendment to the U.S. Constitution. Judge Kessler’s reasoning misapplies the U.S. Supreme Court’s 2002 decision in *Zelman v. Simmons-Harris*, which upheld a state-funded voucher program for low-income children in Cleveland.

IJ, the nation’s leading legal advocate for school choice, is currently defending Arizona’s state-funded scholarship programs for children with disabilities and children in foster care, as well as Arizona’s individual tax credit scholarship program, and helped secure the *Kotterman* victory for school choice. The Institute also helped win a victory in the U.S. Supreme Court for school choice in Cleveland and successfully defended vouchers in Milwaukee and tax credits in Illinois.

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