

# **Bond Case Briefs**

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## **EDUCATION - COLORADO**

### **Taxpayers for Public Education v. Douglas County School District**

**Supreme Court of Colorado - June 29, 2015 - P.3d - 2015 WL 3948220 - 2015 CO 50**

Taxpayers and taxpayer advocacy group filed suit against Colorado Board of Education, Department of Education, county Board of Education, and school district, based on assertion that scholarship program which provided taxpayer-funded scholarships to qualifying elementary, middle, and high school students to attend private schools, including religious schools, violated Public School Funding Act and Colorado Constitution.

The District Court permanently enjoined implementation of program, and defendants appealed. The Court of Appeals reversed and remanded, based on determination that plaintiffs lacked standing to sue under Act, and that program did not violate Constitution. Petition for certiorari review was granted.

The Supreme Court of Colorado held that:

- Plaintiffs lacked standing to sue for violations of Act;
- Taxpayer standing to challenge constitutionality of statute did not apply to suit for violations of Act;
- Scholarship program violated provision of Colorado Constitution prohibiting use of public monies to aid schools controlled by religious or sectarian denomination; and
- Invalidating scholarship program would not violate First Amendment's Establishment Clause regarding government aid to religion.

Public School Finance Act did not confer legally protected interest upon taxpayers, and thus taxpayers and taxpayer advocacy group lacked standing to sue Colorado Board of Education, Department of Education, county board of education, and school district for violations of Act arising out of scholarship program that permitted qualifying elementary, middle, and high school students to use taxpayer-funded scholarships to pay tuition to attend private schools, including religious schools. Act did not create private right of action, nor could private right of action be implied, and implying civil remedy was inconsistent with over-arching purpose of Act to fulfill constitutional mandate to provide free public education to school-age children, the execution of which required both State Board and Department of Education to craft complicated procedures and devise detailed funding formulae, thus, requiring degree of flexibility for Act to function properly.

Scholarship program that permitted qualifying elementary, middle, and high school students to use taxpayer-funded scholarships to pay tuition to attend private schools, including religious schools, violated provision of Colorado Constitution prohibiting state, county, city, school district, or public corporation from ever making any appropriation, or paying from any public fund, for purpose of supporting or sustaining any school controlled by any church or sectarian denomination.

