

AMERICAN CIVIL LIBERTIES UNION
OF FLORIDA
4500 BISCAYNE BLVD.
SUITE 340
MIAMI, FL 33137-3227
T (305) 576-2337
F (305) 576-1106
acluf@acluf.org
www.acluf.org



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March 4, 2005

The Honorable Tom Lee
President, The Florida Senate
The Capitol, Suite 409
Tallahassee, FL 32399

The Honorable Allan George Bense
Speaker, Florida House of Representatives
The Capitol, Room 420
Tallahassee, FL 32399

Re: Florida Universal Pre-Kindergarten (UPK)

Dear Mr. President and Mr. Speaker:

In November 2002, voters approved a constitutional amendment to provide universal taxpayer-funded pre-kindergarten for all four-year-olds in our state by the fall of 2005. Last December, the Florida Legislature met in special session to craft the framework to implement Florida's Universal Pre-Kindergarten (UPK) program.

Florida Legislature 2005 must now complete the process begun in the special session. The American Civil Liberties Union of Florida commends both the House and Senate leadership for being open to a wide range of options in the quest to develop a high quality program that potentially can become a national model. You have welcomed competing ideas from early childhood experts on how best to offer universal pre-kindergarten in an era of tight budgets. You have also actively sought the counsel of those in the public, private and faith-based communities who currently provide pre-kindergarten.

Many positive steps have been taken, yet complex decisions lie ahead.

An area of critical concern to the ACLU is the lack of a defined curriculum for UPK. While we take no position on what should be included in the curriculum and leave that to experts in the field of early childhood education, we are firmly of the opinion that religious instruction is impermissible in any taxpayer-funded UPK

and should be clearly delineated as such in the enrolled legislation. In addition, public money should not fund programs that discriminate in enrollment due to religion or disability – that is, discriminate based upon the religion of the child's parents or the child's disability.

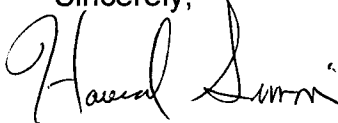
We are confident that your legal staff agrees that the First District Court of Appeal's decision in *Bush v Holmes* governs any bill enacted by the Florida Legislature addressing UPK. Although the constitutionality of government-funded religious education is currently on appeal to the Florida Supreme Court, an opinion is not expected to be rendered until several months after the Legislature has adjourned sine die and, most likely, not until after fall classes have begun.

Consequently, the applicable law for FY 2005-2006 is the en banc ruling of the First District Court of Appeal affirming that taxpayer dollars may not be used, either directly or indirectly, to fund religious instruction.

We hope that the Florida Legislature will respect, and not openly defy, the decision of the appellate court during the deliberative processes of the upcoming regular session. Regrettably, were the Legislature to authorize religious instruction in any UPK program, the results will inevitably be more litigation, unnecessary confusion to those utilizing the various public, private and faith-based programs, and a further waste of valuable resources – all to the detriment of our state's children who deserve, and now have a right to expect, a well-crafted universal pre-k program.

Thank you for your consideration. Please feel free to contact either of us if you would like any additional information or would like to discuss this issue further.

Sincerely,



Howard L. Simon
Executive Director



Larry Spalding
Legislative Staff Counsel

cc: Senator Lisa Carlton
Representative Rafael Arza