

Ohio's EdChoice leaves students behind

by Sarah Wiley, staff attorney

All of Ohio's children deserve a quality education and the chance to succeed.

This ideal is the premise of Ohio's education law, a premise which is enshrined in the Ohio constitution.

It also embodies fundamental principles of equality, inclusion, and justice.

So, what happens when an educational system is designed that benefits some children at the expense of others?

The Ohio Constitution requires the General Assembly to "secure a thorough and efficient system of common schools throughout the state." This means that Ohio must provide equitable educational opportunities for all school-age children living in Ohio.

The Ohio Supreme Court, however, has found the manner in which Ohio funds schools (relying primarily on local property taxes) to be unconstitutional four times, in 1997, 2000, 2001, and 2002 (DeRolph I - IV). The Supreme Court held that the state is obligated to ensure that every school district in Ohio has adequate funding.

The EdChoice program makes this existing problem even worse, by taking money away from the public school system.

[EdChoice](#) is a publicly funded scholarship program that provides financial support to students in underperforming public school districts, so parents can choose to send their children to a private school instead.

This may seem harmless at first glance. It gives kids the option for better performing schools and even offers financial support to parents who wouldn't be able to afford that on their own.

But nothing is ever simple.

First, the money for EdChoice vouchers comes directly out of public school's budgets. For each child who uses an EdChoice voucher, the state reduces their funding to that district. And they reduce it by more than they would normally contribute per student. This leaves schools with even less money to operate with and impacts the services, materials, and teachers the district can afford to provide to remaining students.

And leaving public schools with fewer resources has a racial impact. Public schools tend to be more diverse than [private schools, where 66%](#) of students are white, compared with 47% in public schools. But could EdChoice be helping this problem, by giving students of color the option to attend better performing and better resourced private schools?

Looking into [the Ohio Department of Education's own data](#) shows that EdChoice is used disproportionately by white students. Additionally, the higher a percentage of non-white students in a school district, the higher the rate of white students using EdChoice vouchers is. As a result, Ohio's [already racially segregated schools](#) become even more so.

Take Cleveland Heights School District, for example. The city's population is just under 40% Black, while its public school enrollment currently sits at just under 72% Black. Without EdChoice vouchers, public school enrollment would shift to 54.6% Black, which is much more in line with the city's overall demographics.

We also can't ignore the impact a program like this has on low-income students and families. Ohio already has some of the most economically segregated schools in the country, meaning students from wealthier families tend to go to the same schools, and students from low-income families tend to go to different schools. In fact, more than a third of the 50 most economically segregated districts in our country are in Ohio

But EdChoice could help provide a pathway for low-income students to attend better resourced and better performing schools, right?

In fact, when you compare [data from ODE](#), families using the EdChoice program tend to be better off financially than other families in the district. This is likely because these families are better able to devote the resources to sending their child to a private school, like providing private transportation to school and tutoring their children to score higher on entrance exams.

All of this is further complicated when you consider the impact to the students who do, in fact, get a voucher to attend a private school. An [evaluation](#) of the EdChoice program found that students who used vouchers to attend private schools fared

worse on state exams, compared to their closely matched peers remaining in public schools.

Protections afforded to students in public schools also may not be available to them at private schools. While public schools are forbidden from discriminating against students -- based on, race, color, national origin, sex (including sexual orientation and gender identity), disability, age (except as authorized by law), religion, ancestry, or genetic information -- schools accepting EdChoice vouchers are only prohibited from discriminating on the basis of race, color, national or ethnic origin. So, schools accepting public funds are permitted to refuse admission to a student based on their sex, sexuality, disability, religion, etc., or, if they do admit them, are permitted to treat them differently than other students.

Additionally, public schools are required to provide a “free, appropriate public education” (known as FAPE) to students with disabilities under federal and state law. This is commonly known as special education and ensures that students with disabilities are able to learn.

Private schools accepting EdChoice vouchers do not have these same requirements. They don’t have to provide special education services, or even admit students with disabilities in the first place. Without these services, students with disabilities will often be unable to succeed in school and may be disciplined (or even expelled) for behavioral issues.

As a result, many students with disabilities will lose out on educational opportunities through the EdChoice program, and public schools will be left with a higher concentration of disabled students and less money to provide them with the services they need.

Understandably, parents and caregivers want the very best for their children. That includes the very best opportunities for them in school. But EdChoice does not provide for that.

Further, we shouldn't flee from the challenges that face under-performing schools. We should fix what is broken.

This article is part of Legal Aid's ["Big Ideas" series](#).

Sidebar:

Community Legal Aid was one of several advocacy organizations that submitted an amicus brief in *Columbus City School District et al v. State of Ohio et al*.

[Read the full brief.](#)

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