

**IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT  
FRANKLIN COUNTY**

COLUMBUS CITY SCHOOL	)	Case Nos. 25-AP-000603
DISTRICT, <i>et al.</i> ,	)	25-AP-000604
	)	25-AP-000605
<i>Appellees/Cross-Appellants,</i>	)	
	)	On Appeal from the
v.	)	Franklin County Court of
	)	Common Pleas
STATE OF OHIO,	)	
	)	Common Pleas Case No.
<i>Appellant/Cross-Appellee.</i>	)	22-CV-000067
	)	

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**BRIEF OF *AMICUS CURIAE* OHIO ADVOCACY AND LEGAL  
SERVICES ORGANIZATIONS IN SUPPORT OF APPELLEES /  
CROSS-APPELLANTS**

*All parties have consented to the filing of this brief.*

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## **Interests of the Amicus Curiae**

*Amicus Curiae* are advocacy and legal services organizations committed to promoting opportunity for and protecting the rights of low-income individuals and individuals with disabilities in Ohio.

The Civil Legal Aid *Amici Curiae* parties include **Legal Aid of Southeast and Central Ohio, The Legal Aid Society of Cleveland, Community Legal Aid Services Inc., Advocates for Basic Legal Equality Inc., The Legal Aid Society of Greater Cincinnati, The Legal Aid Society of Southwest Ohio, LLC and Legal Aid of Western Ohio**. These Ohio legal aid organizations have a particular interest in this case as its outcome directly affects the rights and opportunities of low-income Ohio families. Civil Legal Aid provides representation in a broad range of civil matters to low-income Ohioans, including assistance in K-12 education law matters. Therefore, these Amici are well situated to inform the Court on this matter of great importance.

**Disability Rights Ohio** is a non-profit corporation with a mission to advocate for an equitable Ohio for people with disabilities.

**The Ohio Poverty Law Center**, a nonprofit limited liability company, provides support and assistance to the Legal Aid community through project management, policy advocacy, and training.

## **SUMMARY OF THE ARGUMENT**

The State of Ohio has long recognized public education as an important and indispensable public good. Our Constitution enshrines this value, requiring that the General Assembly will “secure a thorough and efficient system of common schools throughout the State.” Ohio Constitution, Article VI, Section 2. Over time, Ohio has codified the standards to which this thorough and efficient system of common schools should be held. The State has passed nondiscrimination laws that specifically protect students in public schools against discrimination on the basis of race, sex, sexual orientation, and disability. Laws passed at the Federal and State level ensure students with disabilities are provided an adequate public education.

While our legislature was working to create laws to protect our most vulnerable students in our common schools, our highest court recognized the importance of adequately funding them. In 1997, in *DeRolph v. State* (“DeRolph I”), 78 Ohio St. 3d 193, the Ohio Supreme Court declared the State’s school funding system unconstitutional. In the decision, one of the four major systemic flaws cited was insufficient state funding for school facilities. In 2000, in the subsequent funding case, *DeRolph v. State* (“DeRolph II”), the Court wrote: “A thorough system means that each and every school district has enough funds to operate. An efficient system is one in which each and every school district in the state has an ample number of teachers, sound buildings that are in compliance with state fire and building codes, and equipment sufficient for all students to be afforded an educational opportunity.” 89 Ohio St. 3d 1, 10 (2000).

Ohio’s EdChoice Scholarship Program threatens these core values, laws, and, most importantly, our system of common schools itself. This *Amicus* brief explains how the EdChoice Scholarship Program directly and concretely creates educational injuries to the students of Ohio and its



school districts, causing particular harm to the student Plaintiffs in this case.

This brief further focuses on three injuries created by the EdChoice Program, arguing that the EdChoice Program: 1) exacerbates the underfunding of the public schools in Ohio, specifically harming Ohio's most economically disadvantaged students and families living in Ohio's rural communities; 2) directly harms students with disabilities by removing crucial protections and services that students receive in public schools; and, finally, 3) subjects Ohio students to publicly funded discrimination at EdChoice scholarship schools.

This issue is of great public importance. The trial court found that EdChoice violated the Ohio Constitution's provision requiring a thorough and efficient system of common schools, and this court should uphold the trial court's reasoned decision.

## ARGUMENTS

### I. Plaintiffs Continue to Have Standing to Challenge Voucher Law

The State Defendant Appellants' Brief continues to raise the argument that Plaintiff Appellees lack standing, which this court should join the trial court in rejecting. According to State Defendants, *no one* has standing to challenge the expansion of EdChoice—not the District Plaintiffs whose funding is heavily impacted by EdChoice, not the Ohio Coalition whose members see the direct negative impact of EdChoice on their resources and communities, nor the families whose children attend the public schools who are harmed by this legislation.

Here, to establish standing, Plaintiffs must show that they suffered “(1) an injury that is (2) fairly traceable to the defendant’s allegedly unlawful conduct, and (3) likely to be redressed by the requested relief.” *ProgressOhio.org, Inc. v. JobsOhio*, 139 Ohio St. 3d 520, 521, 2014-Ohio-2382, 13 N.E.3d 1101, 1104.

The State Defendants attempt to argue that any budgetary injury resulting from the expansion of EdChoice is speculative. *State*

*Defendant's Appellant Brief*, pg. 49. State Defendants are wrong. As the trial court recognized, Plaintiffs established concrete budgetary injury directly caused by the expansion of EdChoice in place of fully funding the Fair School Funding Plan ("FSFP," hereinafter). Ohio courts have consistently found that standing depends on whether the plaintiffs have alleged such a personal stake in the outcome of the controversy that they are entitled to have a court hear their case. *Clifton v. Blanchester*, 131 Ohio St.3d 287, 2012-Ohio-780, 964 N.E.2d 414, ¶ 15; *State ex rel. Dallman v. Franklin Cty. Court of Common Pleas*, 35 Ohio St.2d 176, 178-179, 298 N.E.2d 515 (1973).

Unlike the Plaintiffs in *ProgressOhio.org*, none of the Plaintiffs in this case are challenging the EdChoice Voucher program on ideological grounds. They are alleging direct injury that has occurred because of EdChoice expansion and the corollary failure to fund the FSFP. As this brief argues below, the injury caused by the expansion of the EdChoice Voucher program is widespread and concrete, conferring standing on the Plaintiffs.

## II. EdChoice Exacerbates the Underfunding of Public Schools in Ohio, Directly Harming Ohio’s Most Vulnerable Students

Although Ohio’s system of school funding was found unconstitutional in 1997 in *DeRolph I*, little has been done to address the structural funding deficiencies and barriers that keep many children in Ohio who live in poverty or who have disabilities from receiving an adequate education. Underfunding has a disproportionate impact on certain communities whose members largely represent a protected class.<sup>1</sup> The Ohio Advisory Committee to the U.S. Commission on Civil Rights found, in its February 2020 Report “Education Funding and Civil Rights in Ohio,” that “[i]nadequate resources have the most significant impact on impoverished school districts, districts predominantly serving students of color, and students with disabilities.”<sup>2</sup> EdChoice compounds

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<sup>1</sup> U.S. Department of Education, Office for Civil Rights, *Dear Colleague Letter: Resource Comparability*, 2, 5 (Oct. 1, 2014), <https://www.ed.gov/about/offices/list/ocr/resourcecomparability> (accessed Nov. 12, 2025).

<sup>2</sup> Ohio Advisory Committee to the U.S. Commission on Civil Rights, *Education Funding and Civil Rights in Ohio*, Finding 2 (February 2020), <https://www.usccr.gov/files/pubs/2020/03-16-Ohio-School-Funding->

the impact of these inadequate resources on our most vulnerable students.

Since this case was initially filed in the Court of Common Pleas in 2022, conditions have deteriorated further, with the latest state budget abandoning the Fair School Funding Plan and channeling even more resources into the voucher program.<sup>3</sup> As detailed below, EdChoice violates Ohio’s thorough and efficient clause of its constitution by exacerbating education underfunding, concentrating students with the most resource-intensive needs in public schools, and, finally, draining resources from rural public schools even when rural families cannot participate in the program.

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[Report.pdf](#) (accessed Nov. 12, 2025) (hereinafter, “Ohio Advisory Committee 2020 Report”).

<sup>3</sup> Jabour, Tara, *Ohio schools face \$2B funding shortfall over next 2 years*, 10 WBNS (July 2, 2025), <https://www.10tv.com/article/news/local/ohio-schools-2b-funding-shortfall-next-2-years/530-a3dae648-4ca6-4a81-be3c-1fa123c934b6> (accessed Nov. 12, 2025).

## **A. EdChoice Diverts Resources from the Public Education Ohio is Constitutionally Obligated to Provide**

EdChoice diverts public funds from the State’s budget for public schools to support *nonpublic* schools’ provision of many of the educational resources and opportunities that their underfunded public-school counterparts cannot afford to provide. According to recent data from the Ohio Department of Education and Workforce (“ODEW”), \$283.1 million was used in FY 2025 on the traditional EdChoice scholarships and \$492.8 million on the EdChoice Expansion program.<sup>4</sup> Defendants argue that there is no harm to school districts, citing that state funding to public schools has increased during the EdChoice program. Numbers alone do not tell the story of harm, however. The “increase” in state funding has not remotely kept pace with inflation. The full amount of funding in FY 2024 was only \$1,412.3 Million,

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<sup>4</sup> Henry, Megan, *Ohio spent more than a billion dollars on private school vouchers in fiscal year 2025*, Ohio Capital Journal (Oct. 20, 2025), <https://ohiocapitaljournal.com/2025/10/20/ohio-spent-more-than-a-billion-dollars-on-private-school-vouchers-in-fiscal-year-2025/> (accessed Nov. 12, 2025).

19.9%, higher than in FY 2011.<sup>5</sup> This is far below the 38.9% rate of inflation over that same time period.<sup>6</sup>

Under the Fair Schools Funding Plan, which was abandoned by the General Assembly to pay for EdChoice expansion, funding for Ohio public schools would have increased by \$3.04 billion over the coming biennium. Instead, public schools are receiving only an additional \$281.9 million, less than 10 percent of the increase required by the FSFP.<sup>7</sup>

State underfunding comes at the direct expense of children with known needs beyond the “foundation” payment. The State, as part of the

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<sup>5</sup> Ohio Education Policy Institute, *Changes in Ohio School Foundation Funding & TPP Replacement from FY11-FY24*, <http://www.oepiohio.org/index.php/post-derolph-study-on-school-funding/post-derolph-studies-on-school-funding/changes-in-ohio-school-foundation-funding-tpp-replacement-from-fy11-fy24/> (accessed Nov. 12, 2025).

<sup>6</sup> *Id.*

<sup>7</sup> Policy Matters Ohio, *Legislators abandon Fair School Funding Plan, funnel state support away from high-poverty districts* (Sept. 23, 2025), <https://policymattersohio.org/research/lawmakers-underfund-ohio-schools-by-2-75b/> (accessed Nov. 12, 2025).

FSFP, commissioned cost studies about children with disabilities, economically disadvantaged children, and other categories of students. These studies were released between 2022 and 2025.<sup>8</sup> The plan was to implement funding increases based on true costs.<sup>9</sup> The *Special Education in Ohio: Best Practices, Costs, and Implications* study provided well-founded recommendations for funding increases for students with disabilities and changes to disability cost categories.<sup>10</sup> For example, students who qualify for special education services under the category of “emotional disturbance” are underfunded by about \$20,000 per student compared to the true costs of student educational needs.<sup>11</sup> In

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<sup>8</sup> All six categorical student cost studies are collected at <http://www.oepiohio.org/index.php/post-derolph-study-on-school-funding/fair-school-funding-cost-studies/> (accessed Nov. 17, 2025).

<sup>9</sup> Policy Matters Ohio, Ohio’s Fair School Funding Plan (2025), <https://policymattersohio.org/wp-content/uploads/2025/02/FSFP-fact-sheet-final-1.pdf> (accessed December 2, 2025).

<sup>10</sup> American Institutes for Research, *Special Education in Ohio: Best Practices, Costs, and Implications* (2022), <https://www.air.org/project/ohio-special-education-cost-study> (accessed Nov. 17, 2025).

<sup>11</sup> *Id.*



FY2024, the state share of special education student categorical funding should have increased by \$866M to thoroughly fund the true cost.<sup>12</sup> The State of Ohio did not increase categorical student funding per the recommendations of any of its own cost studies of student need, instead diverting hundreds of millions in state dollars to EdChoice.

### **B. The EdChoice Program Segregates the Most High-Need Students in Public Schools, Compounding the Inadequate Funding**

Another way that EdChoice exacerbates underfunding is by segregating students with the highest resource needs in public schools. Research shows that voucher programs concentrate students with economic disadvantages, special education needs, behavioral issues, and the need to learn English in public schools, even as revenues decline for these schools.<sup>13</sup> Because private schools are legally allowed to refuse to

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<sup>12</sup> Fleeter, H. and Browning, G, *Ohio Special Education Cost Analysis*, 57 (2024), <http://www.oepiohio.org/wp-content/uploads/2025/01/Ohio-Special-Education-Cost-Analysis.pdf> (accessed Nov. 17, 2025).

<sup>13</sup> Mead, Julie F. and Eckes, Suzanne E., National Education Policy Center, *How School Privatization Opens the Door for Discrimination*

admit or provide adequate programs for students with disabilities, English language learners, and economically disadvantaged students who may require additional resources to access equitable educational opportunities, these students most frequently remain in public schools.

Between 2001 and 2018, the percentage of economically disadvantaged students in Ohio public schools increased by almost 67%, while the funding only increased by 22.7%.<sup>14</sup> And while the base adjustment in additional funding districts receive for economically disadvantaged students is 10%, the national research suggests the real additional costs to educate economically disadvantaged students is about 30%.<sup>15</sup> When districts have student populations with concentrated levels of poverty, these gaps are stark. The state of Ohio, which enrolls 3% of

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(Dec. 6, 2018), <https://nepc.colorado.edu/publication/privatization> (accessed Nov. 12, 2025).

<sup>14</sup> Ohio Advisory Committee 2020 Report at 7 (citing Fleeter Testimony, Cleveland Transcript, p 197 line 22 – p. 198 line 8).

<sup>15</sup> Ohio Advisory Committee 2020 Report at 13-14 (citing Fleeter Testimony, Cleveland Transcript, 257 line 20 -259, line 13).

all students in traditional public schools in the country, was home to no fewer than seventeen of the country’s fifty most socio-economically segregated school district boundaries in 2020 (34%).<sup>16</sup>

Even before the EdChoice expansion, research found that EdChoice recipients were less likely to have had a history of economic disadvantage than their peers who were eligible but did not use the vouchers.<sup>17</sup> When analyzing voucher usage between groups based on economic advantage, a Fordham Institute study showed that comparatively economically advantaged students were more likely to use the voucher system.<sup>18</sup> The authors conclude these findings “may suggest there are specific features of the ways in which the [Ohio]

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<sup>16</sup> EdBuild, *Fault Lines: America’s Most Segregating School District Boundaries* 1-2 (2020), <https://edbuildna.org/content/fault-lines/full-report.pdf> (accessed Nov. 20, 2025).

<sup>17</sup> Figlio, David and Karbownik, Kryzstof, Fordham Institute, *Evaluation of Ohio’s EdChoice Scholarship Program* 12-13 (2026), [https://fordhaminstitute.org/sites/default/files/publication/pdfs/FORDHAM-Ed-Choice-Evaluation-Report\\_online-edition.pdf](https://fordhaminstitute.org/sites/default/files/publication/pdfs/FORDHAM-Ed-Choice-Evaluation-Report_online-edition.pdf) (accessed Nov. 12, 2025).

<sup>18</sup> *Id.*

EdChoice program is designed and implemented that make it more difficult for struggling students and comparatively disadvantaged families to make use of the voucher. Allowing schools to use their admissions standards almost certainly affects selection by achievement, both directly and indirectly through its attraction of comparatively motivated families.”<sup>19</sup>

As a result, EdChoice continues to amplify the concentration of economically disadvantaged students in public school districts, exacerbating the economic segregation that already plagues Ohio’s schools. Low-income students have resource-intensive needs, and these students are directly harmed by the diversion of funds to private schools and the continuing economic segregation of Ohio’s schools.

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<sup>19</sup> *Id* at 15.

### **C. EdChoice Disproportionately Negatively Impacts Rural Ohio Students and Families**

Rural Ohio students and the public schools that serve them are also directly and uniquely harmed by the expansion of EdChoice. Due to the lack of private schools in rural areas, the EdChoice program fails to offer genuine educational “choice” to most rural families. Instead, it redirects state funds away from their public schools, reducing resources for rural students while requiring these communities to subsidize other students’ private education. As a result, EdChoice disproportionately harms rural Ohio students and further substantiates the trial court’s finding that EdChoice violates Article VI, Section 2 of the Ohio Constitution.

#### **a. Rural Ohio Public School Districts Have Unique Funding Challenges**

Rural public-school districts must contend with two primary financial challenges: declining local revenue due to a constrained property tax base, and higher per-student costs. According to a Facts and Figures report released by ODEW 229 of Ohio’s 611 school districts were classified as rural, making this the state’s largest district

typology.<sup>20</sup> These rural districts struggle to raise funds locally because of their small populations and limited property values. This makes them more dependent on state funding, regardless of their local fiscal capacity.<sup>21</sup>

Rural school districts also carry higher fixed costs, especially for transportation, facilities, and building maintenance.<sup>22</sup> These fixed costs are not lower if fewer students enroll in rural schools, placing persistent pressure on lean rural budgets. Rural schools also serve fewer students,

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<sup>20</sup> Ohio Dept. of Educ. & Workforce, *Facts and Figures* (Jan 31, 2025), <https://education.ohio.gov/topics/data/frequently-requested-data/facts-and-figures> (accessed Nov. 11, 2025).

<sup>21</sup> Kaeser, Susie, *Where do Ohio's Children Receive their Education? A Review of Public, Private and Charter Use in Ohio's 88 Counties* (July 1, 2023), <https://www.lwvohio.org/post/where-do-ohio-s-children-receive-their-education> (accessed Nov. 11, 2025).

<sup>22</sup> Shoemaker DeMio, Paige, Center for American Progress, *How the School Choice Agenda Harms Rural Students* (May 12, 2025), <https://www.americanprogress.org/article/how-the-school-choice-agenda-harms-rural-students/> (accessed Nov. 11, 2025).

further increasing the instructional costs per pupil.<sup>23</sup> Rural schools grapple with additional infrastructure challenges, such as outdated facilities and limited access to affordable broadband access.<sup>24</sup> These challenges have been so acute that they have pushed certain rural districts into budget deficits, significant layoffs and state financial oversight.<sup>25</sup>

### **b. Rural Ohio Families Lack Meaningful Participation Options Under EdChoice**

For many students in rural Ohio, geographic barriers (in addition to the economic factors discussed in Section II.b above) make it impossible

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<sup>23</sup> EdTrust, *How School Vouchers Hurt Rural Communities* (2024), <https://edtrust.org/wp-content/uploads/2024/10/Vouchers-Rural-Communities-Brief-FINAL.pdf> (accessed Nov. 11, 2025).

<sup>24</sup> National School Boards Association, Center for Public Education, *How Rural School Districts Spend Education Dollars* (2025), <https://files.eric.ed.gov/fulltext/ED672721.pdf> (accessed Nov. 11, 2025).

<sup>25</sup> Johnson, Keri, *Trimble Deficit nears \$3 Million as state declares fiscal emergency*, Athens County Independent (April 10, 2025), <https://athensindependent.com/trimble-fiscal-emergency/> (accessed Nov. 11, 2025)

for them to utilize EdChoice vouchers. To begin the process of applying for an EdChoice voucher, a parent must identify a participating private (chartered nonpublic) school.<sup>26</sup> In much of rural Ohio, however, no such private schools exist, making access to EdChoice funds impossible from the outset.

Most rural areas in Ohio lack comprehensive EdChoice eligible private school options. In the 2022-23 school year, 11 Ohio counties had no private schools, and no private school students. In Ohio's 46 small-population rural counties, 15 counties had only one private school, and 14 counties had only two.<sup>27</sup> These 46 counties (over half of Ohio's 88 counties) compromised only 8% of the private schools in the state.<sup>28</sup> In the 2024-25 school year, 10 counties still had *no* EdChoice options, and

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<sup>26</sup> Ohio Dept. of Educ. & Workforce, *How to Apply for an EdChoice Scholarship*, <https://education.ohio.gov/Topics/Other-Resources/Scholarships/EdChoice-Scholarship/How-to-Apply-for-an-EdChoice-Scholarship> (accessed Oct. 31, 2025).

<sup>27</sup> *See* Kaeser, *supra* note 21.

<sup>28</sup> *Id.*



70% of counties had fewer than five voucher schools.<sup>29</sup> In some places, such as Meigs County in far southeastern Ohio, not a single EdChoice private school is available whatsoever.<sup>30</sup>

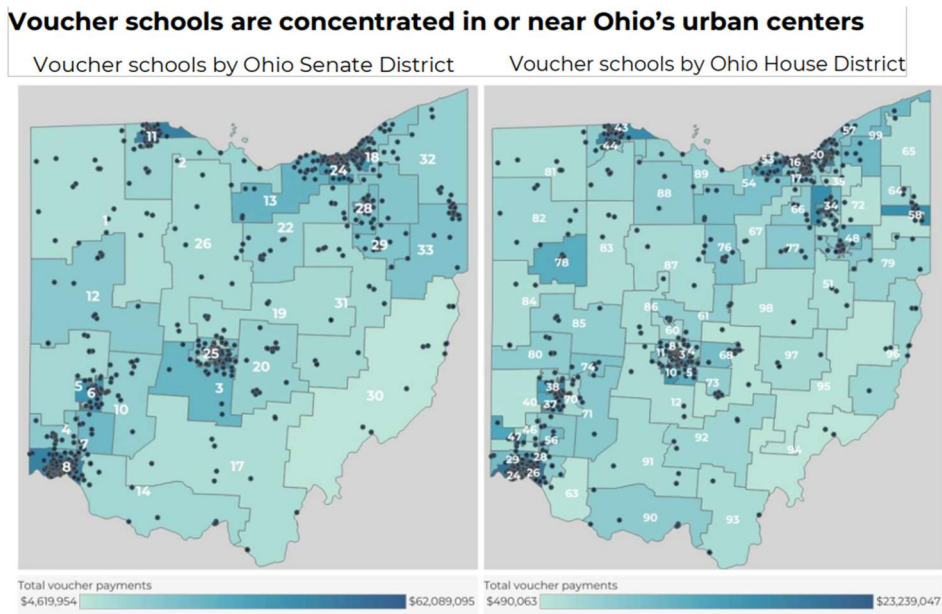


Image: Policy Matters Ohio, see *infra* Note 34.

<sup>29</sup> Millard, Katie. *Data shows education vouchers exclude Ohio's rural counties*, NBC 4 (Sept. 23, 2023), <https://www.nbc4i.com/news/politics/ohio-school-vouchers-rural-counties/> (accessed Nov. 12, 2025).

<sup>30</sup> Ohio Scholarship Providers – Interactive Directory, <https://education.ohio.gov/Topics/Other-Resources/Scholarships/Additional-Scholarship-Resources/Ohio-Scholarship-Providers-Interactive-Directory> (accessed Oct. 30, 2025).

EdChoice opportunities are even scarcer for rural high school students. During the 2022–23 school year, just 12 private schools in all 46 small-population counties served grades 9-12. Consequently, high schoolers in at least 32 counties – more than a third of Ohio’s counties – had zero opportunities to use an EdChoice voucher in the county in which they live. Whole regions, particularly in Southeast and far Northwest Ohio, offer no EdChoice-eligible private schools for high schoolers, either within their own county or any neighboring counties. For example, in far Northwest Ohio’s adjacent Williams, Defiance, Paulding, Fulton, Henry, and Putnam Counties not a single private school is available for a high schooler seeking to benefit from EdChoice school funds.<sup>31</sup> For rural high school age Ohioans, EdChoice does not fund choices, nor a system of common schooling, as the funds cannot be used in schools that simply do not exist.

In addition, it is important to note that the religious orientation of rural EdChoice private schools further restricts genuine choice. In

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<sup>31</sup> *Id.*

2022–23, only 5 of the 61 private schools in the 46 small-population counties were non-religious, and 4 of those 5 non-religious rural private schools exclusively served students with disabilities.<sup>32</sup> This means non-religious options for typical rural students are practically nonexistent, forcing families to choose between using state funds at religious institutions or forgoing EdChoice entirely.

**c. EdChoice Disparately Drains Financial Resources from Rural Ohio Public Schools**

As a result of the geographic dynamics explained above, EdChoice does not provide choice for the vast majority of rural Ohio families. Instead, it diverts state funding from their public schools, leaving Ohio rural students with fewer resources while these rural Ohio families fund the private education of others. EdChoice and state core foundation funding “come from the same line item within the State’s budget,” placing public schools and vouchers in direct competition for finite state

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<sup>32</sup> See Kaeser, *supra* note 21.

education dollars.<sup>33</sup> The General Assembly’s failure to fully fund the FSFP left a roughly \$300 million shortfall in FY 2022, which was “close to the amount of State funding for EdChoice that same fiscal year.” *Trial Court Order (hereinafter, “Order”)* at 23. As a result, the trial court found that the State has “created a system of uncommon private schools by directly providing private schools with over \$700 million in funding,” holding that EdChoice violates Article VI, Section 2 of the Ohio Constitution. *Order* at 21. As outlined above, this funding disparity has become even worse since the initial filing of this case with the 2025 state budget, which completely abandoned the FSFP.

These statewide budget dynamics land hardest on rural districts. Policies that take funds away from public schools are harmful in general to public schools across Ohio, but the harm is “especially harsh in rural counties” where every dollar and student is essential to maintain

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<sup>33</sup> R.C. 3317.022 contains the mandate to compute and distribute funding for both state core foundation funding and for EdChoice. R.C. 3317.022(A)(1), (10)(a), (E). Though state core foundation funding and EdChoice have separate funding formulas, their funding comes from the same line item within the State’s budget. *Order* at 11.

program breadth and operational scale.<sup>34</sup> State data confirms that private schools are concentrated in or near urban centers, “siphoning funds away from public schools—especially those in rural areas where few, if any, nonpublic schools exist.”<sup>35</sup> As voucher expenditures rise, districts become more dependent on local tax levies which is an especially fraught proposition for rural communities with smaller tax bases.<sup>36</sup> Because rural districts cannot easily raise additional funds locally, even minor state funding losses can trigger staff reductions, program cuts, and failure to maintain facilities. Drawing funds away from rural schools can also have consequences that reach past the realm of education, stripping rural areas of employment hubs and sources of local pride.<sup>37</sup>

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<sup>34</sup> Policy Matters Ohio Policy Brief, *Public Money for Public Schools* (February 2025), <https://policymattersohio.org/wp-content/uploads/2025/02/Vouchers-by-district-brief.pdf> (accessed Nov. 11, 2025).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Lubienski, Christopher and Brewer, T. Jameson, Indiana University Bloomington School of Education: Center for Evaluation and Education

In short, expanding a program that is largely unusable in rural counties, when much of Ohio consists of rural counties, while drawing from the same state funding line undermines the thorough and efficient requirement of the Ohio Constitution for rural public education. When statewide funding initiatives like the FSFP remain underfunded, rural districts with smaller tax bases are hit the hardest, jeopardizing their capacity to maintain facilities, provide reliable transportation, and offer quality materials and programming. The significant and disproportionate impact that EdChoice has on Ohio’s rural public schools supports the trial court’s determination that EdChoice violates Article VI, Section 2 of the Ohio Constitution. This Court should uphold that decision.

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Policy, Indiana University Center for Evaluation and Education Policy *Are School Vouchers a Rural Issue?* (May 2025), <https://education.indiana.edu/ceep/education-policy/policy-briefs/2025/are-school-vouchers-a-rural-issue.html> (accessed Nov. 21, 2025).

### **III. EdChoice Removes Crucial Protections and Services that Students with Disabilities Receive in Public Schools**

For over fifty years, children with disabilities in Ohio have relied on federal and state laws to ensure that they receive the education that they are entitled to, and are protected from discrimination and segregation in Ohio public schools.<sup>38</sup> Federally, the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. (IDEA), guarantees students with disabilities the right to a free and appropriate public education (FAPE), including an individualized education program (IEP), in the least restrictive environment, and it offers other important rights and protections. Two other laws—Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504) and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 et seq. (ADA Title II)—prohibit public schools from discriminating against students based on their disabilities. In Ohio, the companion legislation to IDEA specifying the procedures for compliance with the IDEA is Ohio

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<sup>38</sup> Yell et al., Mitchell L., *The Legal History of Special Education: What a Long, Strange Trip It's Been!*, 19 Remedial & Special Educ. 219, 220 (1998).

Revised Code 3323, and the State regulations governing education for students with disabilities are found at Ohio Administrative Code Chapter 3301-51.

The EdChoice scholarship program risks eroding established legal protections for students with disabilities in public schools. The private schools EdChoice directs public money to are not required to offer the same special education services to students with disabilities as public schools, and commonly exclude these students altogether.

**A. Discriminatory Admission and Exclusion of Students with Disabilities by Private Schools**

The children with disabilities who are able to enroll in private schools using the EdChoice voucher do not have the same individual entitlement to special education and related services they would have if enrolled in a public school. Families of students with disabilities effectively give up their rights under IDEA and other federal and state statutes in exchange for the EdChoice voucher funds. *See infra* 37-38.



And some students end up excluded from private schools because of their disabilities after enrollment.

Private schools exclude children because of their disabilities at admission and do so legally. No Ohio law nor regulation requires EdChoice private schools not to discriminate on the basis of the child's disability. The federal protections of Section 504 only require schools to make "minor adjustments" to serve the child. *See* 34 C.F.R. 104.39.

Many children with moderate or more severe disabilities are prevented from attending a single day of private school education under this definition. In addition, Section 504 applies only if the private school receives federal funding. *See* 29 U.S.C. 794. Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181-12189, excludes religious entities, including religious-run private schools, from its non-discrimination requirements. *See* 42 U.S.C. 12187. Therefore, if the school does not receive federal funds and is a religious school, no disability non-discrimination law applies and the school can deny

admission to even a child who needs only minor disability adjustments.<sup>39</sup>

Most Ohio EdChoice private schools are religious schools, so many likely do not have to provide access to children with disabilities under any law.

EdChoice private schools are legally permitted to discriminate on the basis of disability in school admissions. For example, the Diocese of Columbus describes in their admission policies that some students with disabilities can be denied admission.<sup>40</sup> In other private EdChoice schools, enrollment processes require reviewing a child’s Individualized Education Program (“IEP”) or disability plan before deciding whether to

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<sup>39</sup> Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12181-12189, excludes religious entities, including religious-run private schools, from its non-discrimination requirements. 42 U.S.C. 12187.

<sup>40</sup> The Diocese of Columbus, Office of Catholic Schools, Policy 5100. <https://files.ecatholic.com/18267/documents/2017/11/5000%20series%20policies%20-%20reviewed%2011.17-1.pdf?t=1511373298000> (accessed Nov. 25, 2025). The policy further states admission can be on a probationary basis if there is doubt about whether a child will be successful.

admit the child.<sup>41</sup> In contrast, while a public school district may review a child's IEP to determine where in the school the child can be served, they are not allowed to deny admission to the school district on the basis of a child's disability. As a result of this admissions disparity, there are private schools with no enrolled children with disabilities. For example, the only private school within Circleville City School District's boundaries had zero children with disabilities in the 2023-24 school year.<sup>42</sup> The other private school in Circleville, within the Logan Elm

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<sup>41</sup> See, for example, the admissions process for New Hope Christian Academy, which includes a full education records request and testing. <https://www.nhchristianacademy.org/welcome-center/admissions-process.cfm>. As another example, the admissions process at the only EdChoice private school in Adams County requires the parent to turn over the child's IEP or Section 504 disability plan before deciding on acceptance. <https://www.eaglesaccs.com/admissions/>.

<sup>42</sup> New Hope Christian Academy was the only EdChoice private school within Circleville City School District's boundaries in 2023-24, according to ODEW databases. Zero children with disabilities were in a private school in the Circleville City District, <https://education.ohio.gov/getattachment/Topics/Special-Education/Special-Education-Data-and-Funding/Special-Education-Part-B-Allocations/Fiscal-Year-FY-15-IDEA-Part-B-Allocation/FY24-Final-Allocations-for-IDEA-Part-B.pdf> (accessed Nov. 21, 2025).

School District boundaries, explicitly states that children can be denied for “psychological” or “academic” concerns, which are often disability-related. It also educated no children with disabilities in 2023-24.<sup>43</sup> Pre-admissions processes that can consider a review of a child’s disabilities make it clear that the school can deny a child because of their disability.

Denials and discouragement at admissions result in children with disabilities enrolling in private schools in Ohio at much lower rates than in public schools. In school year 2023-24, students with disabilities made up 5.92% of all private school students.<sup>44</sup> This includes children in EdChoice, the two disability-based private school scholarships (Autism and Jon Peterson), and non-scholarship students. In contrast, at least

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<sup>43</sup> See *id.* for links for disability data from ODEW. See admissions restrictions for Crossroads Christian Academy at <https://crossroadswarriors.org/admission/>.

<sup>44</sup> Calculated from FY24 Final Allocations for IDEA Part B, <https://education.ohio.gov/getattachment/Topics/Special-Education/Special-Education-Data-and-Funding/Special-Education-Part-B-Allocations/Fiscal-Year-FY-15-IDEA-Part-B-Allocation/FY24-Final-Allocations-for-IDEA-Part-B.pdf> (accessed Nov. 21, 2025) and Nonpublic Student Enrollment, select Fiscal Year 24, <https://reports.education.ohio.gov/report/nonpublic-data-state-enrollment> (accessed Nov. 21, 2025).

16.33% of students enrolled in public schools were children with disabilities.<sup>45</sup>

### **B. Inadequate Special Education Services and Loss of Protections in Private Schools**

Unlike in public schools, children with disabilities admitted to private schools that receive EdChoice school funds are not entitled to receive the services they need to access their education. Under the IDEA, children with disabilities in public schools are entitled to an education that incorporates their needed specialized services and instruction, in the least restrictive environment. In contrast, key IDEA provisions do not apply at all to children in private schools – such as the right to a free appropriate public education (“FAPE”), qualified special education teachers, being taught alongside nondisabled peers to the extent possible, equitable discipline procedures, and due process to

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<sup>45</sup> Calculated from Enrollment by Student Demographic (State) - Overview, choose School Year 2023-2024, <https://reports.education.ohio.gov/report/report-card-data-state-enrollment-by-student-demographic> (accessed Nov. 21. 2025).

challenge decisions and make complaints when the laws are not followed.

Students with disabilities who receive EdChoice vouchers and attend private schools are merely entitled to “a different amount of services” under the IDEA—fewer special education services, that is—than they would get if they attended public school. 34 C.F.R. 300.137, 300.138(a)(2). These services are not individualized and are limited to supplemental services, not the student’s primary educational services. The school district need not serve all eligible students unless proportionate funding might be available. 20 U.S.C. 1412(a)(10)(A)(iii)(IV). It is possible that private school children with disabilities using EdChoice vouchers will not receive any special education and related services at all.<sup>46</sup>

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<sup>46</sup> United States Department of Education, Office of Special Education and Rehabilitative Services, *OSEP QA 22-01*(February 2022), [https://sites.ed.gov/idea/files/QA\\_on\\_Private\\_Schools\\_02-28-2022.pdf](https://sites.ed.gov/idea/files/QA_on_Private_Schools_02-28-2022.pdf) (accessed October 30, 2025).

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Additionally, under the EdChoice voucher program, teachers providing these equitable services to students with disabilities need not meet “special education teacher qualification requirements.” 34 C.F.R. 300.138(a)(1).<sup>47</sup> This is a key difference between the EdChoice voucher program and other scholarship programs run by the Ohio Department of Education and Workforce, by example, the Autism Scholarship and the Jon Peterson Scholarship. Nonpublic schools receiving scholarship funds from the Autism or Jon Peterson scholarship programs are required to employ appropriately credentialed staff to work with the scholarship students. R.C. 3310.58(C) and 3310.41(E). No such right exists for students with disabilities who avail themselves of EdChoice vouchers.

While some private schools do attempt to educate students with disabilities in an inclusive environment, many explicitly do not, and may

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<sup>47</sup> United States Government Accountability Office, *Private School Choice: Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities* 8 (Nov 16, 2017), <https://www.gao.gov/assets/d1894.pdf> (accessed Nov. 25, 2025) (hereinafter, “GAO Report”).

discourage parents of students with disabilities from enrolling their children. The Catholic Conference of Ohio provides a “Q&A Document to Assist Parents of Special Needs Children.”<sup>48</sup> This document makes clear the lack of protections for students who use EdChoice vouchers to attend Catholic schools in Ohio: “Parentally-placed private school children with disabilities have no individual entitlement for services. This means no matter the need or severity of the disability, no child parentally placed in a Catholic school and/or other nonpublic school is assured academic services to meet his or her needs.”<sup>49</sup> The document continues to explain that the “least restrictive environment is not mandated upon Catholic and other private schools” and that “the [IDEA]

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<sup>48</sup> Catholic Conference of Ohio, *Q&A Document to Assist Parents of Special Needs Children and Serve As a Resource for Catholic Schools Enrolling Children with Disabilities*, <https://www.ohiocathconf.org/Portals/1/Education/Q-A-special-needs.pdf> (accessed October 30, 2025).

<sup>49</sup> *Id.* at 2.



does not place any requirement on private schools and their leadership.”<sup>50</sup>

Private schools can also discipline students with no regard for the student’s disability, leading to legal exclusions from the EdChoice school and state funding simply because of the child’s disability. In public schools, the IDEA protects students with disabilities from discipline for conduct resulting from their disabilities. *See* 20 U.S.C. 1415(k)(1)(E)-(G); *see also* 34 C.F.R. 300.530-300.536. Before a student with disabilities is expelled or suspended for more than ten days, the school, in a meeting that includes the student’s parent or caregiver, must determine as a team whether those disabilities caused the behavior at issue. 20 U.S.C. 1415(k)(1)(E)(i)(1)-(2). If the behavior is a “manifestation” of those disabilities, the school must try to address those issues without imposing long-term discipline. 20 U.S.C. 1415(k)(1)(E-F).

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<sup>50</sup> *Id.*

In private schools, students lose all of these protections.<sup>51</sup> As a result, private schools have more leeway to suspend or expel a child with a disability, even when the underlying conduct results from the child's disability. In Ohio, if an EdChoice recipient is expelled from a private school because of his or her disability, the child can actually lose eligibility for a voucher altogether if they cannot find another private school to enroll in within 30 days of their expulsion. Ohio Adm.Code 3301-11-09.

These inadequate protections and services in private school programs for students with disabilities can also lead to the exclusion of these students altogether.<sup>52</sup> EdChoice redirects public funds to private entities largely unbound by the federal laws that for generations have guarded students with disabilities' rights and futures, directly harming these students.

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<sup>51</sup> GAO Report at 8.

<sup>52</sup> Farrell, Ian, and Marx, Chelsea, *The Fallacy of Choice: The Destructive Effect of School Vouchers on Children with Disabilities*, 67 Am. U. L. Rev. 1797, 1864 (2018).

### **C. Parents of Students are Not Told and are Often Unaware that Their Children Will Lose Statutory Protections in Private Schools**

No regulations require parents to be notified about any changes to their child’s legal rights or protections upon enrolling in a private school with tuition paid for by an EdChoice voucher.<sup>53</sup> The 2017 Government Accountability Office Report found that “[p]rivate school choice programs are not consistently providing information on changes in rights under the IDEA when a child with a disability moves from public to private school, and some programs are providing *incorrect* information.”<sup>54</sup> Ohio’s EdChoice request form does not include notice to parents of these changes to family rights, despite containing a section for parents to acknowledge multiple other program aspects.<sup>55</sup>

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<sup>53</sup> GAO Report at 24, 27-29.

<sup>55</sup> *EdChoice Request Form 2025-26*, <https://education.ohio.gov/getattachment/Topics/Other-Resources/Scholarships/EdChoice-Scholarship/EdChoice-Resources/FY26-EdChoice-Request-Form.pdf.aspx?lang=en-US> (accessed Oct. 30, 2025)

As legal services and disability rights advocates, attorneys in our programs have experienced that often parents are not told, and otherwise do not learn, that their children will be giving up many of their statutory rights, services, and support if they use an EdChoice voucher to enroll in a private school. Parents of students with disabilities commonly receive little information about what will change if their children enroll in private schools; instead, parents end up waiving their children’s most important rights unknowingly.<sup>56</sup> Families with lower incomes or less education—the very families that private-school vouchers purport to help the most—are likely to be caught off guard.<sup>57</sup>

Once enrolled in a private school that is not required to offer an appropriate education or otherwise protect their rights, students with disabilities have few good options. They can stay in the private school and continue to forfeit the right to an appropriate education and risk

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<sup>56</sup> GAO Report at 17.

<sup>57</sup> Pasachoff, Eloise, *Special Education, Poverty, and the Limits of Private Enforcement*, 86 Notre Dame L. Rev. 1413, 1437-1440 (2011).

suspension or expulsion for behaviors directly related to their disability, or they can abruptly switch schools and disrupt their schooling further.<sup>58</sup> Either way, the education and development of students with disabilities suffers.

#### **D. Consequences of Exclusion: EdChoice Voucher Program Concentrates Students with Disabilities in Public Schools**

For students whose disability requires specialized educational instruction, accommodations, and related supports, a private school that provides none of these services is not an appropriate alternative, and EdChoice is not a viable option for these students.<sup>59</sup> For the students with disabilities who are rejected or expelled by private schools, they also find themselves without the option of availing themselves of the EdChoice voucher program. As a result, students with disabilities return or remain in public schools, while their nondisabled peers have the option of attending a publicly-funded private school through EdChoice.

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<sup>58</sup> GAO Report at 23.

<sup>59</sup> Raj, Claire, *Coerced Choice: Schools Vouchers and Students with Disabilities*, 68 Emory Law Journal 1037, 1066 (2019).

While the Ohio Department of Education and Workforce does not track disability demographics for the private school students who pay tuition with EdChoice vouchers, the advent and expansion of EdChoice appears to have increased percentages of students with disabilities amongst students remaining in public school. For example, Cleveland Heights school district enrolled 18.3% students with disabilities in 2016-17, and enrolled 19.3% students with disabilities in 2021-22.<sup>60</sup> Since more recent EdChoice expansions, the trend in Cleveland Heights accelerated, with enrollment of 21.6% students with disabilities in 2023-24 and 21.9% in 2024-25.<sup>61</sup> Similarly, Columbus City Schools enrolled 16.4% students with disabilities in 2016-17, enrolled 17.9% students

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<sup>60</sup> Data from <https://reports.education.ohio.gov/overview> (accessed June 27, 2022). Data found by sequence of home page, public data, enrollment, enrollment district, District – Cleveland Heights, FY 2016-17 and FY 2021-22.

<sup>61</sup> *Id.*

with disabilities in 2021-22, and enrolled 18.9% students with disabilities in years 2023-24 and 2024-25.<sup>62</sup>

Not only does EdChoice have a segregating impact by concentrating students with disabilities in public schools, if students with disabilities do avail themselves of an EdChoice voucher and enroll in a private school, they risk being directly segregated from their non-disabled peers within that private school. Without IDEA protections to ensure that students learn in inclusive settings in the least restrictive environment, students with disabilities who enroll in private schools with EdChoice vouchers may be segregated from their peers without legal recourse. Research shows that inclusive education produces the best learning outcomes for students with disabilities,<sup>63</sup> and public funds

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<sup>62</sup> Data from <https://reports.education.ohio.gov/overview> (accessed June 27, 2022). Data found by sequence of home page, public data, enrollment, enrollment district, District – Columbus City Schools, FY 2016-17 and FY 2021-22.

<sup>63</sup> National Council on Disability, *IDEA Series: The Segregation of Students with Disabilities* 9 (2018), <https://files.eric.ed.gov/fulltext/ED588494.pdf> (accessed Oct. 30, 2025).

paying for a private education without this mandate for inclusion directly harms students in Ohio.

In sum, students with disabilities are not entitled to receive the special education services they need in private schools, if they are even admitted to those schools despite their disabilities. Their families are often not informed of the gravity of the decision they are making when they accept an EdChoice voucher to enroll in private schools. In turn, EdChoice erodes decades of progress made to create inclusive, adequate education for students with disabilities—and directly harms the students and school districts in Ohio.

#### **IV. EdChoice Subjects Students in Protected Classes to Publicly Funded Discrimination**

Students at public schools in Ohio are protected from discrimination under numerous federal and state statutes. While nonpublic schools in Ohio eligible to receive vouchers must sign an “Affidavit of Intent Not to Discriminate,” this only states the school



does not intend to practice racial discrimination.<sup>64</sup> In contrast, public schools in Ohio must commit to vigorously enforce prohibitions against discriminatory harassment based on race, color, national origin, sex, disability, age (except as authorized by law), religion, ancestry, or genetic information.<sup>65</sup> Students are faced with an untenable decision: if they choose to participate in the EdChoice voucher program, they also must risk overt discrimination and exclusion.

In public schools, Title IX of the Education Amendments of 1972 requires the district not to discriminate on the basis of sex, which

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<sup>64</sup> *Affidavit of Intent Not to Discriminate*, <https://education.ohio.gov/getattachment/Topics/Ohio-Education-Options/Private-Schools/Receiving-a-Charter/Affidavit-of-Intent.pdf.aspx?lang=en-US> (accessed Sept. 25, 2025).

<sup>65</sup> R.C. 4112.02; 20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEA); 20 U.S.C. 1681 et seq.; 29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967; 29 U.S.C. 794, Rehabilitation Act of 1973, as amended; 29 U.S.C. 6101, The Age Discrimination Act of 1975; 42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended; 42 U.S.C. 2000d et seq.; 42 U.S.C. 2000e et seq., Title VI of the Civil Rights Act of 1964; 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act.

includes gender identity and sexual orientation. Private schools that do not receive funding from the federal government are not subject to Title IX regulations and may use sex-based classifications when making decisions about student access to facilities and services. A national study of a sample of private schools found that at least 14% of religious schools actively discriminate against LGBTQIA+ students.<sup>66</sup>

In addition to being insulated from the protections for students provided in Title IX, private schools are able to set their own criteria for student admission decisions. Private schools may decline to provide services to LGBTQIA+ students or discontinue services for students whose LGBTQIA+ status is disclosed after they are admitted. In a public school, if a student is bullied or harassed, they can invoke the district's state-mandated bullying and harassment policy. No such mandates exist for private schools.

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<sup>66</sup> Klein, Rebecca, *These Schools Get Millions of Tax Dollars to Discriminate Against LGBTQ students* (Dec. 15, 2017), [https://www.huffpost.com/entry/discrimination-lgbt-private-religious-schools\\_n\\_5a32a45de4b00dbbcb5ba0be](https://www.huffpost.com/entry/discrimination-lgbt-private-religious-schools_n_5a32a45de4b00dbbcb5ba0be) (accessed September 25, 2025).

These concerns also ring true for disabled students. Religious organizations, including schools, are not required to comply with the Americans with Disabilities Act or with Section 504 of the Rehabilitation Act unless they receive federal funding. *See* 42 U.S.C. § 12187. A student requiring accommodations for their disability could see those accommodations denied, no matter how minimal the accommodation. This means “not only that religious schools can fail to make their buildings physically accessible to those with disabilities, but that they can discriminate in other ways.”<sup>67</sup>

Lastly, although private schools that accept vouchers may no longer explicitly discriminate on the basis of race, private schools often use policies like dress codes as a way to exclude and push out certain students. Zion Temple Christian Academy, a private Christian school in Hamilton County, Ohio, for example, told a Black family that their son

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<sup>67</sup> Timpe, Kevin, *Private Religious Schools and Disability Discrimination*, 40 *Touro L. Rev.* 787, 795 (2025).

was not welcome at school because he wore his hair in locks.<sup>68</sup> The family had no option except to disenroll. In comparison, when the Ohio public school district Groveport Madison fired an assistant principal who refused to enforce a dress code that he believed was racially discriminatory, the Department of Justice stepped in to enforce anti-retaliation laws.<sup>69</sup> Although the Ohio legislature is currently considering a law to ban discrimination because of traits associated with hair texture and styles, this would only apply to public K-12 schools and public preschools. H.B. 415, 136<sup>th</sup> General Assembly, Bill Analysis. Private

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<sup>68</sup> Londberg, Max, ‘*Supposed to be accepting*’: *Ohio private school forces out Black children with locks, parents say*, USA Today/Cincinnati Enquirer (Aug. 18, 2020), <https://www.usatoday.com/story/news/nation/2020/08/18/ohio-private-school-discriminates-against-black-hair-styles-family-says/3389838001/> (accessed Nov. 6, 2025) .

<sup>69</sup> U.S. Department of Justice, *Justice Department Secures Settlement in Race Discrimination Suit Against Groveport, Ohio, Board of Education* (June 15, 2022), <https://www.justice.gov/opa/pr/justice-department-secures-settlement-race-discrimination-suit-against-groveport-ohio-board-0> (accessed Sept. 25, 2025).

schools, however, would continue to be unrestricted in their ability to discriminate against students based on hair texture and style.

Other discriminatory reasons that Ohio private schools have expelled or refused admission to students that could not occur in public schools include: having unmarried parents<sup>70</sup> and parents speaking out against critical race theory.<sup>71</sup>

The Supreme Court long ago held that States must “steer clear, not only of operating the old dual system of racially segregated schools, but also of giving significant aid to institutions that practice racial or other invidious discrimination.” *Norwood v. Harrison*, 413 U.S. 455, 467 (1973). Drawing on *Brown v. Board*, the Court explained that “discriminatory treatment exerts a pervasive influence on the entire

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<sup>70</sup> Hignett, Katherine, *Ohio School Expelled Siblings Because Their Mother is Unmarried*, Newsweek (April 18, 2019), <https://www.newsweek.com/adultery-school-expulsion-christian-school-ohio-religion-1400025> (accessed Nov. 14, 2025).

<sup>71</sup> Stoia, Lu Ann. *Conservative Advocate Moms Blast School for Expelling their Children*, CBS 4 News (July 9, 2021), <https://cbs4local.com/news/nation-world/conservative-advocate-moms-blast-school-for-expelling-their-children> (accessed Nov. 21, 2025).

educational process.” *Id.* at 469. Studies have confirmed this fact: discrimination has a proven negative impact on student educational achievement and well-being.<sup>72</sup> The state-sanctioned discrimination allowed by the EdChoice program harms Ohio students enrolled in the program and those left behind.

## CONCLUSION

This *amicus curiae* urges this Court to uphold the Trial Court’s Decision and rule in favor of the Appellee/Plaintiffs.

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<sup>72</sup> See Levy et al., Dorainne J., *Psychological and Biological Responses to Race-Based Social Stress as Pathways to Disparities in Educational Outcomes*, 71 AM.PSYCHOLOGIST 455 (2016).

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### **CERTIFICATE OF SERVICE**

I hereby certify that, on December 8, 2025, a copy of the foregoing *Amicus Brief* was filed and served on counsel for all parties by the electronic filing system of the Tenth District Court of Appeals, Franklin County, Ohio, Clerk of Court, pursuant to Civ. R. 5(B)(3) and Local Rule 110.

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