



Ohio Advisory Committee to the U.S. Commission on Civil Rights

Testimony of Agudath Israel and the Ohio Council of American Private Education

September 14, 2018

Thank you, to the Ohio Advisory Committee to the U.S. Commission on Civil Rights for the invitation to testify on the topic of: "Civil Rights and Education Funding in Ohio."

As a brief introduction, I am the executive director of Agudath Israel of Ohio, an organization that among other activities, works with and supports Jewish day schools. I also serve as the President of the Ohio Council for American Private Education.

Our panel's topic is focused on private schools and public charter schools. Chartered nonpublic schools, which is what most private schools are referred to as in Ohio, educate approximately 170,000¹ students and public charter schools educate approximately 111,000 students². Together, these important sectors educate approximately 15% of Ohio students³.

It is worth spending a few moments, to begin my testimony, with a cursory overview of Ohio's education funding system. In consideration that the topic of this panel is on funding and its consequent civil rights implications, I will limit my comments to that area. However, I would note that in the context of civil rights for Ohio students, academic and other quality measures that are embedded within state policy are important as well, and cannot be easily siloed.

As has been well documented, and other panelists can discuss the history in far greater detail than I am prepared to do, the Ohio Supreme Court issued a landmark ruling in the DeRolph case, finding that Ohio's school funding system's overreliance on property values and consequent property tax revenues, led to unconstitutional funding disparities for less wealthy districts. This ruling is referenced often in Ohio education policy circles.

Less reported however, are changes that the Ohio General Assembly has implemented, over several administrations, that address the key issues at stake in DeRolph. These changes are reflected in several noted education policy experts' findings⁴. Primarily, Ohio has made significant steps toward an equitable

¹ <http://education.ohio.gov/Topics/Data/Frequently-Requested-Data/Enrollment-Data>

² <http://education.ohio.gov/getattachment/Topics/Community-Schools/Annual-Reports-on-Ohio-Community-Schools/2016-2017-Table-2-Enrollment-History.xlsx.aspx?lang=en-US>

³ <http://www.ohiobythenumbers.com/>

⁴ http://www.edlawcenter.org/assets/files/pdfs/publications/Is_School_Funding_Fair_7th_Edit.pdf

Ohio Advisory Committee to the U.S. Commission on Civil Rights

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distribution of funding that recognizes the ability of both lower and higher wealth districts to contribute towards education. Ohio receives high marks in this regard through its implementation of a progressive funding formula.

Every school funding system has complexities. Some of these complexities are crucial to ensuring equity. Yet, some of these complexities are simply a function of politics. Ohio's system, by design, recognized the enhanced needs that certain sub groups of students (ELL, economic disadvantage, etc.) have and drives additional funding towards them.

The same is true for districts that have less capacity to provide revenue from property taxes. Take for example a hypothetical suburb which generates \$1,000,000 through 10 mills and compare it to a district that can only raise \$300,000 through the same 10 mills. The state most certainly has a responsibility to ensure a quality education in both of these hypothetical districts, irrespective of local economic realities. Ohio's funding system recognizes these disparities.

Consequently, using Ohio as an example, it is clear that a state, taking its responsibility to its students seriously, needs to look at the whole state and the various properties that differentiate districts, and distribute resources accordingly. This means, that while individual per pupil dollar amounts to different districts may vary as a function of state formulae, the state can only fulfill its constitutional responsibilities by looking at the state as a whole, and ensuring that resources, regardless of source, are driven to students according to need.

This previous discussion is crucial to dispel certain notions regarding the financial impact that school choice policies have on funding distribution. Focusing exclusively on the difference between districts and funding streams, is an inappropriate measure to gauge equity. The measure must be based on student need, with consistent state guidelines establishing what those needs are. Ohio's funding system, largely based on a per pupil funding model, is focused directly on students. This policy must be continued and strengthened to ensure the continued drive toward equity.

It follows then, that any policy that continues to drive equity, and provides a net savings to the taxpayer is desirable in maximizing educational efficiency and student success. Choice programs are inherently equitable, by providing options to families that subdue the nefarious implications of "zip code" based assignment. These student empowerment programs also contribute on a macro level toward additional education funding, and ideally enhanced equity.

Charter schools and private school choice programs have the effect of saving Ohio taxpayers hundreds of millions of dollars per year⁵. This enables Ohio's strong policies dedicated to driving equity to have additional resources that would otherwise not be existent or would require additional tax revenues

⁵ In an updated report, soon to be released by EdChoice

Ohio Advisory Committee to the U.S. Commission on Civil Rights

Testimony of Agudath Israel and the Ohio Council of American Private Education

September 14, 2018

and/or spending cuts in other areas. This is in addition to the inherent equity that is created by uncoupling students from their assigned schools.

In summary, Ohio's school choice programs provide two crucial benefits in the pursuit of equity. They provide opportunities to families and students and encourage sector wide academic improvement⁶. They also, as currently designed, lead to enhanced equity by enabling the state to efficiently use dollars that can be driven toward more equitable funding across the state.

In my experience, Ohio public schools, public charter schools, and private schools are all partners in the same mission. We all provide an important service to Ohio and its children. Supporting Ohio students requires collaboration, a focus on equity, and an agnostic approach to which school is providing this crucial public benefit.

Let's turn now to several ways that Ohio has implemented a student-centered approach to education policy. For several decades, Ohio has been a leader, with a framework of laws that enable students, at the discretion of hosting school districts, to enroll in public schools outside of their home districts. This is the mostly widely used form of "school choice" in Ohio. Ohio also has some of the oldest and largest programs that provide private school choice to students with special needs, zoned to underperforming school districts or buildings, or that are low income, which is a relatively recent reform. Ohio also has a large sector of public charter schools. This sector was notably strengthened in 2015 by House Bill 2⁷, which has led to the steady closure of many charter schools that were previously underperforming⁸. Most importantly, as noted above, Ohio's funding system and formulae is driven primarily by a focus on funding pupils, as opposed to other less equitable and inefficient methods.

In the realm of private school choice and public charter school options, there are several areas that could lead to additional equity for Ohio students.

1. Expand eligibility for private school choice to be broad based and available to all students.
2. Public charter school funding, and funding for all choice programs, should be distributed more equitably, to at least reflect the state average. If funding levels are important to education, funding needs to be targeted directly to the students who are the end users of our education spending. If the state determines the amount of funding needed to educate an individual student, that funding should follow that child to their school of choice.
3. The school funding formula, that is designed to drive equity, absent a complete funding change, must be allowed to work. The current methodology of funding distribution on a per

⁶ <https://www.educationnext.org/use-caution-in-drawing-conclusions-from-ohio-voucher-study/>

⁷ <https://edexcellence.net/articles/charter-school-reform-in-ohio-house-bill-2-at-a-glance>

⁸ <http://www.dispatch.com/content/stories/local/2016/06/19/more-charter-schools-closing-after-state-toughens-accountability.html>

Ohio Advisory Committee to the U.S. Commission on Civil Rights

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pupil basis is a positive formula. However, it is being shortchanged by the caps and guarantees that block the state funding formula from driving funding directly to students. Guaranteed funding levels to certain districts have the effect of funding phantom students that no longer live in that school district. Districts with “capped” funding amounts are educating students that are essentially not being funded by the state. Every dollar that is captured by a “guarantee” is shortchanging a child in a “capped” district⁹. If we insist, and we should, on driving dollars directly to students, our funding system needs to reflect that value.

In summary, while there is much room to improve education for Ohio students, the state has made immense strides toward achieving equity. While we do not comment here on appropriate funding levels, if a clear measure for that exists, we do insist that choice options are a key ally in the goal of equity. Ohio’s funding formula does not contribute to a disparate impact on educational access and outcomes to vulnerable subgroups, in fact it does the opposite. Other factors, such as a lack of quality options, driven at least indirectly by state policy, are a far greater contributor to disparate impacts among Ohio students. School choice policies help federally protected categories of students and are reasonably necessary to a high-quality system of education. Adopting our recommendations will address some of the disparate impacts in educational achievement that can be observed in various school districts around the state. Regardless of circumstances, no student should be destined to a specific outcome because of their zip code. We must ensure that equality of opportunity exists for all. That is a core part of the American dream, and arguably demanded by Ohio’s Constitution.

⁹ <https://edexcellence.net/articles/on-school-funding-first-kill-caps-and-guarantees>