

# Ohio charter schools seek to strip public education of constitutional protection

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In a statewide effort with national implications, for-profit charter schools and the right-wing American Legislative Exchange Council (ALEC) are attempting to amend the Ohio State Constitution. Those positioned to cash in financially are seeking to eliminate the requirement for a “thorough and efficient system of common schools throughout the state.”

The constitutional provision, adopted in 1851, provided the strongest possible mandate for the development of uniform public schools throughout the state. Eleven other US states have similar constitutional requirements to make “thorough and efficient” provisions for public schools, with eight others requiring a “general and uniform” system of schools.

Leading the effort to legally renounce Ohio’s current commitment to public education is Chad Readler, chairman of both the Ohio Alliance of Public Charter Schools and the education committee of the Ohio Constitutional Modernization Commission (OCMC), created by the state’s legislature in 2012. The Ohio Alliance of Public Charter Schools, created in 2006, is composed of 200 charter schools and was funded by the Walton Family Foundation and the Gates Foundation.

In response, public school advocates have emphasized that since US federal law does not enshrine education as a fundamental right, weakening or eliminating state constitutional strictures is a core attack. One of the chief effects of the constitutional change would be to block the use of the courts to enforce public rights or to provide oversight of educational standards, of particular importance in the state of Ohio.

The OCMC’s proposed changes to Article VI, Section 2 remove the passage stating “The General Assembly shall make such provision, by taxation, or otherwise ... [as] will secure a thorough and efficient system of common schools throughout the state” and substitutes “The General Assembly shall provide for the organization, administration and control of the public school system of the state supported by public funds ...”

This Orwellian “modernization” serves the profit interests of charter operators in two ways: by eliminating the requirement of a system of public schools *throughout the state* and by discarding the “*thorough and efficient*” standard.

Bill Phillis, longtime executive director of the Ohio Coalition for Equity & Adequacy of School Funding, said the change would virtually eliminate public accountability for school funding. “The ‘thorough and efficient’ standard has held the legislature’s feet to the fire for 160 years. Without a standard, public education could be diminished markedly and citizens would have no viable recourse via the courts,” he said.

In fact, historically the courts have relied upon the Ohio Constitution’s “thorough and efficient” language to require significant funding increases and other improvements for Ohio’s poorest school districts. A series of decisions, known as DeRolph, began in 1991 and were battled out in the courts for 12 years.

The stage was set when, in 1994, Perry County Court Judge Linton Lewis, Jr. ruled that “public education is a fundamental right in the state of Ohio” and that the state legislature had to provide a better and more equitable means of financing education.

Attorney Nick Pittner, who argued the DeRolph case for 500 poorer districts, pointed to children in the Appalachian-area of Vinton County, where the school had no cafeteria and they therefore had to cross a busy highway to eat at a diner, and to another school, where scaffolding was erected to prevent children from being hit by bricks falling from the walls.

In the 1997 DeRolph I ruling, the Ohio Supreme Court returned to the constitutional issues, stating “...The delegates to the 1850-1851 Constitutional Convention ... were concerned that the education to be provided to our youth not be mediocre but be as perfect as could humanly be devised. These debates reveal the delegates’ strong belief that it is the state’s obligation, through the General Assembly, to provide for the full education of all children

within the state.” He summed up, stating, “The facts documented in the record lead to one inescapable conclusion — Ohio’s elementary and secondary public schools are neither thorough nor efficient.”

In fact, DeRolph did lead to billions of additional state funding dollars for education in the form of building construction and renovation for over 1,000 school buildings for kindergarten through 12th grade. These new buildings “wouldn’t be there without ‘thorough and efficient,’” Phillis pointed out.

Three subsequent high court rulings in 2000, 2001 and 2002 affirmed the unconstitutionality of Ohio’s school-funding system due to inequality across districts. Eventually the court backed down, stating that Ohio had made a “good faith effort,” thus reversing the earlier rulings.

Nevertheless, the court rulings and above all the constitutional mandate remain a thorn in the side to those forces attempting to institute market-driven education throughout the state. The deliberate and systematic defunding of public education and the parallel rise of charter chain schools have dramatically intensified education inequality in the state.

Presently, 45% of the state’s school children receive free or reduced school lunches (often used as a poverty benchmark), and in seven counties (Champaign, Coshocton, Crawford, Defiance, Greene, Miami and Medina) the child poverty rate has increased 90% or more in the last decade.

Heavily hit by deindustrialization and the 2008 crash, Ohio cut state funding for education in Ohio systematically. The state model forces school districts to make up the difference through their own tax levies. While business taxes have been cut, the burden of school funding has been shifted to homeowners, rising from 46% of the total in 1991 to a whopping 70% today.

Who are the heavyweight drivers and potential beneficiaries of the constitutional rewrite? They are the American Legislative Exchange Council (ALEC) and Ohio’s wildly profitable charter school chains. A notorious corporate “reform” group (also spearheading the national assault on public workers’ pensions), ALEC seeks to “replace” public schools with “private market-driven education thrift stores.” Education historian Diane Ravitch observed, in an apt phrase, ALEC “owns the Ohio legislature,” providing statistics on the number of Ohio legislators who are members of ALEC, on ALEC “scholarships,” or attending ALEC conferences.

Among the charter operators, the key players in Ohio are William Lager and David Brennan, as well as the publicly-traded national online charter K12. The biggest charter in the state is Lager’s Electronic Classroom of Tomorrow (ECOT), a cyber or online-only charter that enrolls 14,486

students statewide, netting about \$64 million annually. ECOT schools are rated academically near the very bottom of 613 districts in the state. Lager has contributed \$1 million to state politicians since 2001, according to Ravitch.

David Brennan’s White Hat Management operates 30 schools in Ohio and is the largest chain school, collecting about \$100 million annually from state coffers for his for-profit charter empire.

Brennan and his family have donated millions of dollars to state politicians including Governor John Kasich. White Hat lobbyists have played significant roles in directly writing charter legislation. Brennan’s cyber charter, Ohio Distance and Electronic Learning Academy, graduates a scandalous 35.9% of its students. His Alternative Education Academy had a 22.8% graduation rate.

The Ohio charter industry has also been characterized by outright criminality. In June, 11 FBI agents raided Horizon Science Academy charter school in Cincinnati as part of a federal investigation into sexual misconduct and test tampering at the 19 schools managed by Concept Schools. The Dayton location of the chain has also been accused of discriminating against black students, falsifying attendance records and hiding sexual misconduct. 6,700 Ohio students attend the various Concept Schools academies.

Not surprisingly, given the role of ALEC and charter school operators in crafting state legislation, Ohio’s lax regulations hold the state’s 391 charter schools to lower performance standards than traditional public schools. Despite these diminished expectations, the state has closed 157 charters for lack of academic achievement since 2000.

The threat to eliminate state constitutional protection of public schools signals the fact that profit interests are already dismantling large swathes of public education in this country, if not its entire edifice, in the interests of monetizing education. Public education—like the right to municipal water, utilities or health care—is no longer considered by the ruling elite to be necessary for the masses of people, particularly if it can instead be packaged and sold at a profit.



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