



# THE BUCKEYE INSTITUTE

## **Comments Before the Ohio Advisory Committee to the United States Commission on Civil Rights Regarding Education Funding in Ohio**

**September 14, 2018**

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My name is Greg R. Lawson. I am the research fellow at **The Buckeye Institute**, an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states. I am honored by the invitation to discuss education spending and civil rights in Ohio.

## **Introduction**

Even after two decades of steady increases, Ohio’s spending on elementary and secondary public education has failed to reduce the academic achievement gap between white and minority students. Commonly thought to be a symptom of school funding sources and their inherent inequalities, the state has tinkered with funding sources and formulas and spent billions of taxpayer dollars to upgrade schools, hire teachers, and improve a stale bureaucracy in an effort to find a cure. To no avail.

Academic studies strongly suggest that Ohio’s approach to spending may in fact be misguided. Simply spending more money on education is not a genuine solution and has been shown to do little to reduce long-standing academic achievement gaps between minority and white students.

The Cato Institute’s multi-decade study, for example, compared increases in total spending on education in every state with the results of those states’ students on the National Assessment of Education Progress (NAEP).<sup>1</sup> According to Cato, NAEP scores remained relatively flat for 40 years. Similarly, a recent paper for the National Bureau of Economic Research (NBER) found that spending more money on school districts may help close gaps between districts, but does little to close achievement gaps between individual students—particularly for the average low-income, minority student—the very students who need the most help.<sup>2</sup>

Ohio’s own NAEP results confirm this stubborn reality. The reading achievement gap for Ohio’s fourth and eighth grade minority students did not close appreciably between 2002 and 2017 despite major funding increases into the school system.<sup>3</sup> For example, eighth grade African-American students had a 30-point scoring gap in reading when compared to white students in 2017, versus a 27-point gap in 2002.

Given such shortcomings, state policymakers should fundamentally re-think Ohio’s tried-and-failed approach to public school funding. Rather than tinkering with the present funding formulas, policymakers should look for ways to better address the academic needs of students as individuals, instead of the needs of schools, districts, and systems that happen to contain students. Ohio should move to a student-centric approach that empowers parents to make more decisions and have more control over their children’s education, allowing parents, teachers, and students to craft a flexible, individually tailored learning environment suited to each child.

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<sup>1</sup> Andrew J. Coulson, *State Education Trends: Academic Performance and Spending over the Past 40 Years*, Cato Institute, March 18, 2014.

<sup>2</sup> Julien Lafortune, Jesse Rothstein, and Diane Whitmore Schanzenbach, *School Finance Reform and the Distribution of Student Achievement*, working paper 22011, National Bureau of Economic Research, February 2016.

<sup>3</sup> U.S. Department of Education, *The Nation’s Report Card: 2017 Reading State Snapshot Report, Ohio Grade 4*, April 2018; and U.S. Department of Education, *The Nation’s Report Card: 2017 Reading State Snapshot Report, Ohio Grade 8*, April 2018.

As part of that revised approach, Ohio should adopt innovative Education Savings Accounts (ESA) that would allow state and local education funds to be used by families on the individual educational needs of each student.<sup>4</sup>

ESAs will enhance—and, in some cases, create—market competition in sectors of the education field. Such competition will enrich the student’s education experience by creating incentives for cost-effective, innovative education materials and services designed for each student’s unique attributes and requirements.

A robust rethinking of public education funding could address a number of perennial problems with Ohio’s current system and, more importantly, begin to close the persistent academic achievement gaps and re-segregation concerns that have plagued our state-run schools for years.

### **Public School Funding and the Ohio Supreme Court**

Ohio’s Constitution requires the General Assembly to “make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state...”<sup>5</sup> How that “system of common schools” may be “secured” remains an open and hotly contested question.

Regrettably, a landmark decision issued by the Ohio Supreme Court in the late-1990s failed to answer that question and it continues to cast a dark shadow of doubt over how Ohio may “secure” or fund its public schools. *DeRolph v. State of Ohio* was the culmination of a lengthy court battle regarding the constitutionality of Ohio’s education funding formula that, up until *DeRolph*, had relied more on local property taxes to fund schools than state revenues. Ohio courts had previously held that education is a fundamental right under the state Constitution, and *DeRolph* ruled that Ohio must conduct a “complete systematic overhaul” of the funding system to address the state’s overreliance on local funding in order to address educational disparities and the deplorable schoolhouse conditions in some communities throughout the state.<sup>6</sup>

In a subsequent case, the Ohio Supreme Court clarified that although local property taxes could remain one source of public school funding, they could not be the primary source.<sup>7</sup>

Litigation on the subject continued for several years, yielding more high court rulings finding the state’s funding strategies unconstitutional despite significant sums of state tax dollars for school buildings and repairs, as well as heavier state funding funneled into the funding formula itself.<sup>8</sup>

By 2003, the state Supreme Court foreclosed further litigation on *DeRolph*-related matters,<sup>9</sup> abiding by its usual practice of awaiting challenges brought against new legislation or, in this case, funding formulas. Thus, many believe that the underlying constitutional questions raised by

<sup>4</sup> Lindsey Burke and Greg R. Lawson, *Education Savings Accounts: Expanding Education Options for Ohio*, The Buckeye Institute, May 31, 2017.

<sup>5</sup> Ohio Constitution, Art. VI, Sec. 2.

<sup>6</sup> *DeRolph v. State of Ohio* (1997), 78 Ohio St. 3d 193, 1997-Ohio-84, 677 N.E.2d 733.

<sup>7</sup> *DeRolph v. State of Ohio* (1997), 78 Ohio St. 3d 419, 1997-Ohio-87, 678 N.E.2d 886.

<sup>8</sup> **Ohio Facts 2016: K-12 Schools**, Legislative Service Commission (Last visited August 24, 2018).

<sup>9</sup> *DeRolph v. State of Ohio* (1997), 78 Ohio St. 3d 434, 2002-Ohio-6750, 780 N.E. 2d 529.

and related to *DeRolph* remain open for further review even though no new constitutional challenges to the current funding formula are pending.

### **Public School Funding After *DeRolph***

Despite the ruling in *DeRolph*, Ohio still relies heavily on local property taxes to fund its public schools. Such reliance maintains the inherent funding disparities between school districts that reflect the disparate wealth of the communities that each district serves. As long as local revenues play a large role in school funding, there will always be disparate public school funding. Nevertheless, even adjusting for inflation, Ohio's public school funding for K-12 education has increased dramatically since *DeRolph*.

A new report by Ohio school-funding expert Howard Fleeter, using data provided by the Legislative Service Commission (LSC) and The Ohio Department of Education, found that core state funding for education more than doubled from \$3.7 billion in Fiscal Year 1998 to nearly \$8.1 billion in Fiscal Year 2018.<sup>10</sup>

The Fleeter report also found that between Fiscal Years 1999 and 2019, the lowest-wealth school districts received a total funding increase of both state and local resources of 29.4 percent (adjusted for inflation).<sup>11</sup> Critically, the lowest-wealth districts received more than 50 percent more *state-only* inflation-adjusted dollars in Fiscal Year 2019 than Fiscal Year 1999, while the highest-wealth districts received only 18.9 percent more over the same period.<sup>12</sup> Thus, the state has gone to great lengths to address *DeRolph*'s concern over the funding inequities that inevitably flow from disparate property tax bases.

According to the LSC, for example, Ohio spent more than the national average in Fiscal Year 2014 on a per-student basis, \$11,354 per-student in Ohio vs. \$11,009 nationally.<sup>13</sup> This was an increase in Ohio's per-pupil spending from approximately \$6,000 in Fiscal Year 1998,<sup>14</sup> and ranked Ohio 20<sup>th</sup> nationally in per-pupil spending—ahead of each of its neighbors, except Pennsylvania.<sup>15</sup>

Not only did state per-pupil spending increase, but by the end of Fiscal Year 2016, the School Facilities Commission had disbursed \$11.3 billion to improve schools, especially those in lower-wealth areas.<sup>16</sup> And Ohio does not spend on its students at the expense of its teachers. Teacher salaries in Ohio remain competitive with those in neighboring states, ranking ahead of Kentucky, Indiana, and West Virginia, while trailing only Michigan and Pennsylvania.<sup>17</sup>

Ultimately, however, with local school district funding still tethered to local property tax bases for operating revenues, closing the total funding gap between high-wealth and low-wealth school districts appears nearly impossible for the foreseeable future.

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<sup>10</sup> Howard Fleeter, *20 Years of School Funding Post-DeRolph*, Ohio Education Policy Institute, August 2018.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> **Ohio Facts 2016: K-12 Schools**, Legislative Service Commission (Last visited August 24, 2018).

<sup>14</sup> **Ohio Facts 2004: K-12 Schools**, Legislative Service Commission (Last visited September 11, 2018).

<sup>15</sup> **Ohio Facts 2016: K-12 Schools**, Legislative Service Commission (Last visited August 24, 2018).

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

## Ohio’s Persistent Academic Achievement Gaps

Ohio’s significant increase in school funding over the past several decades has yielded some marginal improvements to overall academic outcomes, but it still has largely failed to close achievement gaps between white and minority students. According to the nation’s report card, the NAEP scale, Ohio’s regrettable and massive achievement gaps between white and minority students show few signs of narrowing.<sup>18</sup>

**Ohio 8<sup>th</sup> Grade NAEP Achievement Gaps in 2017**

Race	Average NAEP Reading Score	Average NAEP Math Score	Reading Gap	Math Gap
White	274	295	0	0
African-American	244	254	30	41
Hispanic	260	279	15	17

Source: National Assessment of Education Progress  
 Note, scores differ from text due to rounding.



NAEP scores provide a standard for measuring academic achievement across the country. Ten points on the NAEP’s 500-point scale is equivalent to approximately one grade level of learning progress. Based on NAEP achievement scores, African-American and Hispanic students in Ohio are well behind their white peers in eighth grade reading and math.<sup>19</sup> Furthermore, less than 25 percent of fourth and eighth grade children eligible for free and reduced lunches were proficient in reading or math.<sup>20</sup>

In 2002, toward the end of *DeRolph*-related school funding litigation, Ohio eighth graders’ average NAEP score in reading was 268.<sup>21</sup> By 2017, the average NAEP score was still 268 with approximately 39 percent of Ohio eighth graders at or above the NAEP proficient level in reading—not appreciably better than the 35 percent rate in 2002.<sup>22</sup>

Even worse, major reading achievement gaps persist between low-income and minority students, and their non-minority, and more affluent peers. In 2017, eighth grade African-American

<sup>18</sup> Lindsey Burke and Greg R. Lawson, *Education Savings Accounts: Expanding Education Options for Ohio*, The Buckeye Institute, May 31, 2017.

<sup>19</sup> Similar gaps exist in fourth grade as well.

<sup>20</sup> U.S. Department of Education, *The Nation’s Report Card: 2017 Reading State Snapshot Report, Ohio Grade 4*, April 2018; U.S. Department of Education, *The Nation’s Report Card: 2017 Mathematics State Snapshot Report, Ohio Grade 4*, April 2018; U.S. Department of Education, *The Nation’s Report Card: 2017 Reading State Snapshot Report, Ohio Grade 8*, April 2018; and U.S. Department of Education, *The Nation’s Report Card: 2017 Mathematics State Snapshot Report, Ohio Grade 8*.

<sup>21</sup> U.S. Department of Education, *The Nation’s Report Card: 2017 Reading State Snapshot Report, Ohio Grade 8*, April 2018.

<sup>22</sup> *Ibid.*

students had an average NAEP reading score that was 30 points lower than that of white students.<sup>23</sup> This performance gap was not significantly different from the 27-point gap 2002. Meanwhile, Hispanic students had an average score that was 15 points lower than that of white students.<sup>24</sup> Students who were eligible for free or reduced-price school lunch, an indicator of low family income, had an average score that was 31 points lower than that of students who were not eligible.<sup>25</sup>

A similar story exists for eighth graders in math. African-American eighth grade students had an average score that was 41 points lower than that of white students, significantly worse than the 34-point gap in 2002.<sup>26</sup> And Hispanic students had an average score that was 17 points lower than that of white students.<sup>27</sup> Again, those students eligible for free or reduced-price lunch scored 36 points lower than those not eligible.<sup>28</sup>

Thus, significant and unfortunate academic achievement gaps persist in Ohio along racial and income-level lines, even as the state has significantly increased taxpayer funding for the lowest-wealth school districts. Something has to change.

### **Closing the Gaps: An Alternative to Failure**

The apparent failure of ever-increasing public education funding to close the significant and persistent academic gaps between whites and minorities, and wealthy and poor students has caused some to question whether the answer lies not in how much money is spent on education, but in *how* that money is spent.

Like most states, Ohio uses billions of tax-payer dollars every year largely to fund school “systems” rather than individual students. Academic achievement gaps that never seem to close should give policymakers a reason to question this approach to public education. Perhaps it is time for public funds to “follow” the student rather than just a school system.

Although out of the ordinary, such a proposal is not unprecedented or even very novel. Ohio charter schools, voucher programs, and scholarships, for example, fund individual students rather than systems to some degree already. In each of these cases, however, only the state-specific tax dollars—and no local funds—technically flow to students.<sup>29</sup> Fully allowing local funds to fund individual students, without the embedded complexities in the current school funding formula, may begin to move the proverbial needle in the effort to close the academic achievement gaps across the state.<sup>30</sup>

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<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> The current funding methodology for charter schools and vouchers, where only state dollars technically follow a student to the charter or private school, complicates this. This is because many local districts maintain they are then compelled to backfill local dollars to plug budget gaps caused by losing state dollars due to charge offs for local tax capacity embedded in the state school funding formula.

<sup>30</sup> *Ibid.*

To that end, The Buckeye Institute supports extending Ohio's use of ESAs,<sup>31</sup> which are specialized accounts administered by the state on behalf of parents for purchasing educational products or services, to further empower parents to customize their child's education. ESAs give parents control over how to spend the state-paid share of their child's education funding, and create incentives for them to find the best education options at competitive prices.

Extending ESAs to include funding from both state and local education spending pools would be even bolder, and likely even more effective. It would move Ohio further away from funding the state and local education bureaucracies, permit total education funding to flow more freely and directly to families and students, and help address lingering questions raised by *DeRolph* regarding Ohio's disparate school funding schemes.

Finally, an ESA-driven funding model would help reverse the re-segregation identified by this Commission's recent report<sup>32</sup> by empowering parents to send their students to a range of different schools, obtain services from a range of different providers, and allow for a customizable learning package for students rather than school systems. In the end, such an approach would unleash parents and students from the tried-and-failed government-imposed constraint of "education by zip code."

Thank you for the opportunity to testify. I would be happy to answer any questions you might have at this time.

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<sup>31</sup> Lindsey Burke and Greg R. Lawson, *Education Savings Accounts: Expanding Education Options for Ohio*, The Buckeye Institute, May 31, 2017.

<sup>32</sup> U.S. Commission on Civil Rights, *Public Education Funding Inequity: In an Era of Increasing Concentration of Poverty and Resegregation*, January 2018.

***About The Buckeye Institute***

*Founded in 1989, The Buckeye Institute is an independent research and educational institution – a think tank – whose mission is to advance free-market public policy in the states.*

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