

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

COLUMBUS CITY SCHOOL	)	Case No. 25AP-000603
DISTRICT, <i>et al.</i> ,	)	
	)	
<i>Appellees/Cross-Appellants,</i>	)	On Appeal from the
	)	Franklin County Court of
v.	)	Common Pleas, Case No.
	)	22CV000067
STATE OF OHIO, <i>et al.</i> ,	)	
	)	
<i>Appellants/Cross-Appellees.</i>	)	
	)	

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***AMICI CURIAE* BRIEF OF PUBLIC FUNDS PUBLIC SCHOOLS,  
COUNCIL OF PARENT ATTORNEYS AND ADVOCATES, AND  
HONESTY FOR OHIO EDUCATION IN SUPPORT OF  
APPELLEES / CROSS-APPELLANTS**

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

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Eric H. Zagrans (0013108)  
Zagrans Law Firm LLC  
1640 Roundwyck Lane  
Columbus, Ohio 43065-8416  
(440) 452-7100 (telephone)  
eric@zagrans.com (e-mail)  
*Attorney for Amici Curiae*

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 42 U.S.C. § 12101 *et seq.* .....3  
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 42 U.S.C. § 12187 .....22

**Other Authorities**

Atila Abdulkadiroglu, Parag A. Pathak & Christopher R. Walters, *Free to Choose: Can School Choice Reduce Student Achievement?*, American Economic Journal: Applied Economics (2018) ..... 17  
 Samuel E. Abrams & Steven J. Koutsavlis, *The Fiscal Consequences of Private School Vouchers*, Public Funds Public Schools (Mar. 2023) .6  
 Advancement Project, *Action Kit: Stop Public School Closures* (2024).....32  
 Gerard Albert & Kate Payne, *As schools lose students, Broward’s superintendent grapples with possibility of closures*, WLRN Public Media (Nov. 21, 2023) ..... 7  
 Selene Almazan & Denise Stile Marshall, *School Vouchers and Students with Disabilities: Examining Impact in the Name of Choice*, Council of Parent Attorneys & Advocates (2016)..... 28-29  
 Megan Austin, R. Joseph Waddington & Mark Berends, *Voucher Pathways and Student Achievement in Indiana’s Choice Scholarship Program*, The Russell Sage Foundation Journal of the Social Sciences, (2019) ..... 17  
 T. Jameson Brewer, *NEPC Review: The 123s of School Choice: What the Research Says About Private School Choice: 2019 Edition*, National Education Policy Center (June 2019)..... 19  
 Stephen P. Broughman et al., U.S. Dep’t of Educ., Inst. of Educ. Scis., *Characteristics of Private Schools in the United States: Results from the 2015–16 Private School Universe Survey* (Aug. 2017).....22

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Molly Bryden & Bailey Williams, *The End of the Fair School Funding Plan*, Policy Matters Ohio (updated Sept. 8, 2025) ..... 11

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Joshua Cowen, *How School Voucher Programs Hurt Students*, Time (Apr. 19, 2023) ..... 11, 18

Amanda Danks et al., *Special Education in Ohio: Best Practices, Costs, and Policy Implications*, American Institutes for Research (Nov. 2022)..... 10, 12

Stephen Dyer, *Private School Parents Hurt Their Kids by Taking Free Government Money*, 10th Period (Mar. 17, 2025) ..... 16

EdChoice, *The 123s of School Choice: What the Research Says About Private School Choice Programs in America, 2023 Edition* (2023). 18

*Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021) .....25

Danielle Farrie & David G. Sciarra, *600 Billion Lost: State Disinvestment in Education Following the Great Recession*, Education Law Center (2021)..... 31

David Figlio & Krysztof Karbownik, *Evaluation of Ohio’s EdChoice Scholarship Program: Selection, Competition, and Performance Effects*, Thomas B. Fordham Institute (2016)..... 16

Howard Fleeter, *On the Money: Senate/Conference Committee FY26-27 Budget School Funding, Cash Balance Cap & Other Property Tax Changes*, Hannah News Service (June 27, 2025) ..... 11

Jason Fontana & Jennifer L. Jennings, *The Effect of Taxpayer-Funded Education Savings Accounts on Private School Tuition: Evidence from Iowa*, EdWorkingPaper No. 24-949 (Apr. 2024)..... 27

Brian Gordon, *NC Religious Schools with Anti-LGBTQ Policies Receive Top Opportunity Scholarship Dollars*, Citizen Times (Aug. 27, 2020) .....26

Michael Griffith & Dion Burns, *Funding Student Needs: A Review of State Funding Policies for English Learners and Students From Low-Income Backgrounds*, Learning Policy Institute (Jan. 2025)..... 12

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Tony Hanna, <i>How School Vouchers Affect English Learners</i> , New America (July 24, 2017).....	24, 25
Douglas Harris & Gabriel Oliver, <i>The Effects of Universal School Vouchers on Private School Tuition and Enrollment: A National Analysis</i> , National Center for Research on Education Access and Choice (Sept. 2025).....	30
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C. Kirabo Jackson, <i>Does School Spending Matter? The New Literature on an Old Question</i> , Nat’l Bureau of Econ. Rsch., Working Paper No. 25368 (2018) .....	13
C. Kirabo Jackson, Cora Wigger & Heyu Xiong, <i>Do School Spending Cuts Matter? Evidence from the Great Recession</i> , American Economic Journal: Economic Policy (2021).....	14
Alex Jacobson et al., <i>Ohio English Learner Cost Study: An Assessment of the Costs to Implement English Learner Programs in Ohio’s Schools</i> , WestEd (Dec. 2022) .....	10
Rucker Johnson, <i>School Funding Effectiveness: Evidence from California’s Local Control Funding Formula</i> , Learning Policy Institute (Aug. 2023) .....	13
Grace King, <i>Iowa City schools losing \$1.3 million in revenue because of private school vouchers</i> , The Gazette (Apr. 22, 2024).....	8
Amelia Ferrell Knisely, <i>Morrisey pushes school choice; lawmakers face ‘balancing act’ as counties lose public schools</i> , West Virginia Watch (Feb. 12, 2025) .....	32
Daniel Kreisman & Matthew P. Steinberg, <i>The Effect of Increased Funding on Student Achievement: Evidence from Texas’s Small District Adjustment</i> , Journal of Public Economics (2019) .....	14
Jesse Levin et al., <i>Study of the Educational Costs of Serving Students Who Are Economically Disadvantaged</i> , American Institutes for Research (Aug. 2025).....	9, 10, 12
Beth Lewis, <i>Neighborhood schools are closing across Arizona. It’s</i>	

*because of vouchers*, AZMirror (Oct. 6, 2025).....32

Christopher Lubienski, *NEPC Review: The 123s of School Choice: What the Research Says About Private School Choice Programs, 2023 Edition*, National Education Policy Center 3 (Oct. 2023) ..... 18

Christopher Lubienski & Joel Malin, *The New Terrain of the School Voucher Wars*, The Hill (Aug. 30, 2019)..... 18

Megan Mallicoat, *3 Duval elementary schools will close soon; 3 more after a year*, JAX Today (Nov. 5, 2024)..... 7

Mary McKillip, *Universal Vouchers to Cost Florida Nearly \$4 Billion in 2024-25 School Year*, Education Law Center (2024) ..... 7

Mary McKillip & Norin Dollard, *Florida’s Hidden Voucher Expansion: Over \$1 Billion from Public Schools to Fund Private Education*, Education Law Center & Florida Policy Institute (Sept. 2022) ..... 6

Mary McKillip & Theresa Luhm, *Investing Additional Resources in Schools Serving Low-Income Students: Evidence for Advocates*, Education Law Center (Apr. 2020)..... 12-13

Mandy McLaren & Emma Brown, *Trump Wants to Spend Millions More on School Vouchers. But What’s Happened to the Millions Already Spent?*, Washington Post (July 15, 2017) ..... 24

Julie F. Mead & Suzanne E. Eckes, *How School Privatization Opens the Door for Discrimination*, National Education Policy Center (Dec. 2018) ..... 24

Adam Mengler, *Public Dollars, Private Discrimination: Protecting LGBT Students from School Voucher Discrimination*, 87 Fordham L. Rev. 1251 (2018) ..... 26

Jonathan N. Mills & Patrick J. Wolf, *The Effects of the Louisiana Scholarship Program on Student Achievement after Four Years*, University of Arkansas, EDRE Working Paper 2019-10 (2019) ..... 17

National Center for Learning Disabilities, *Private School Vouchers, Education Savings Accounts, and Tax Incentive Programs: Implications and Considerations for Students With Disabilities* (2024)..... 26, 27

Ohio Department of Education & Workforce, *2025-2026 EdChoice Expansion Award Amounts by Federal Poverty Level* ..... 28

Ohio Department of Education & Workforce, *Scholarship Paid*

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Ohio Department of Education & Workforce, *Scholarship Payments*,  
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Leslie Postal & Annie Martin, *Anti-LGBT Florida Schools Getting School Vouchers*, Orlando Sentinel (Jan. 23, 2020) ..... 26

Private School Review, *Find Schools – Ohio*,  
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Public Funds Public Schools & Advancement Project, *Save Neighborhood Schools – Say No to Private School Vouchers!* (Apr. 2025) ..... 32

Claire Raj, *Coerced Choice: School Vouchers and Students with Disabilities*, 68 Emory L.J. 1037 (2019)..... 21, 22

Emily Rauscher, *Does Money Matter More in the Country? Education Funding Reductions and Achievement in Kansas, 2010–2018*, AERA Open (2020)..... 14

Casey Tolan, Rene Marsh & Nelli Black, *Arizona is sending taxpayer money to religious schools – and billionaires see it as a model for the US*, CNN (June 19, 2024)..... 9

U.S. Dep’t of Educ., *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools* (Apr. 2011) ..... 22

U.S. Dep’t of Justice Civil Rights Div. & U.S. Dep’t of Educ. Office for Civil Rights, *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents* (Jan. 7, 2015)..... 23-24

U.S. Gov’t Accountability Office, *Private School Choice: Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities* (Nov. 2017) ..... 21, 22

Dave Wells, *\$10,700 Per Student: The Estimated Cost of Arizona’s Private School Subsidy Programs*, Grand Canyon Institute (Sept. 2018) ..... 8

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Kevin G. Welner & Preston C. Green, *Private School Vouchers: Legal Challenges and Civil Rights Protections*, UCLA Civil Rights Project (2018).....26

Stuart S. Yeh, *The Cost-Effectiveness of Five Policies for Improving Student Achievement*, 28 Am. J. Evaluation 416 (2007) ..... 7

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## STATEMENT OF INTEREST OF *AMICI CURIAE*

The *amici curiae*—Public Funds Public Schools, the Council of Parent Attorneys and Advocates, and Honesty for Ohio Education (“*Amici*”)—respectfully submit this brief in support of Plaintiffs (“Appellees/Cross-Appellants”) to provide the Court with important information about the negative effects of private school voucher programs, which undermine states’ ability to fulfill their constitutional obligation to provide high-quality public education to all students. *Amici* draw on their longstanding experience and expertise in civil rights, disability rights, and education law and policy to provide the Court with this crucial context.

**Public Funds Public Schools** (“PFPS”) is a national campaign to ensure that public funds for education are used to support and strengthen public schools. PFPS opposes all forms of private school vouchers and other diversions of public funds to private education. PFPS is a partnership between Education Law Center (“ELC”) and the Southern Poverty Law Center (“SPLC”). ELC, based in Newark, New Jersey, is a nonprofit organization founded in 1973 that pursues justice and equity for

public school students by enforcing their right to a high-quality education in safe, equitable, non-discriminatory, integrated, and well-funded learning environments. SPLC, based in Montgomery, Alabama, is a nonprofit civil rights organization founded in 1971 that serves as a catalyst for racial justice in the South and beyond, working to advance human rights. PFPS has participated as *amicus curiae* before numerous state and federal courts in matters involving private school voucher programs.

**Council of Parent Attorneys and Advocates** (“COPAA”) is a not-for-profit organization for parents of children with disabilities, their attorneys, and advocates. COPAA provides resources, training, and information for parents, advocates, and attorneys to assist in obtaining the free appropriate public education such children are entitled to under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* Our attorney members represent children in civil rights matters. COPAA also supports individuals with disabilities, their parents, and advocates, in attempts to safeguard the civil rights guaranteed to those individuals under federal laws, including the Civil Rights Act of 1871, ch. 22, 17 Stat. 13 (codified as amended at 42 U.S.C. § 1983), Section 504 of the

Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* COPAA brings to the Court the unique perspective of parents, advocates, and attorneys for children with disabilities. COPAA has previously filed briefs as an *amicus curiae* in numerous cases in the U.S. Supreme Court and across the country.

**Honesty for Ohio Education** (“Honesty”) is a nonpartisan statewide coalition dedicated to ensuring that every Ohio student has access to a high-quality, fully resourced, and inclusive public education. Honesty works to protect students’ rights, uphold educational equity, and defend the integrity of Ohio’s public schools by advancing honest, accurate instruction and opposing policies that divert critical resources away from public classrooms. Founded as a collaborative network of families, educators, advocates, and community leaders, Honesty promotes safe, supportive, non-discriminatory learning environments where all students can thrive. Honesty has engaged extensively in legislative, administrative, and public education advocacy

across Ohio, and supports plaintiffs seeking to safeguard public education funding and uphold students’ constitutional rights.

### **SUMMARY OF ARGUMENT**

Ohio’s Constitution is clear—the State must provide all Ohio’s children access to a “thorough and efficient” public education, and to realize that guarantee, it must adequately fund its public schools. Ohio Const. art. VI, § 2; *DeRolph v. State*, 78 Ohio St. 3d 193, 212 (1997). By diverting scarce resources from public schools to private entities, the EdChoice voucher program imperils that Education Clause guarantee.

Ohio’s EdChoice universal voucher program allows all families, regardless of their income level or prior enrollment in public school, to use public funds for private school tuition. Private school voucher programs come in various forms, but research and experience show that they always undermine critical funding for public education. This results in a reduction of resources for public school students, state budget deficits, and increased burdens on taxpayers.

Vouchers cause particular harm to the most vulnerable students. Students with disabilities, multilingual learners, and economically

disadvantaged students face unique challenges in educational access, and additional funding is required to ensure they have the opportunity to receive a constitutionally adequate education. Research shows that increasing public school funding improves academic and life outcomes, particularly for students from low-income families. However, vouchers undermine the ability of districts, particularly those serving high need students, to adequately address the unique needs of these students. Additionally, voucher programs like EdChoice deprive students with disabilities, multilingual learners, and LGBTQ+ students of crucial legal protections and educational services.

## **ARGUMENT**

- I. Voucher Programs Threaten the State’s Ability to Fulfill its Constitutional Duty to Provide Adequate Public Education to All Children, Including Vulnerable Student Populations**
  - A. Research and Empirical Evidence Show that Vouchers Undermine Funding for Public Education, Leaving Public Schools with Fewer Resources and Increasing Costs to Taxpayers and the State**

In states with voucher programs, voucher costs almost inevitably increase over time, public school funding declines, and the burden on

taxpayers and state budgets rises. A report examining private school voucher programs in seven states, including Ohio, found that from fiscal years 2008 through 2019, each state dramatically increased expenditures of public funds on vouchers, with growth in Ohio reaching 416 percent.<sup>1</sup> Since then, Ohio's voucher program and its cost have only continued to expand as the program moved toward now-universal eligibility. Another report, on voucher spending in Florida, found that public school funds diverted annually to vouchers increased by approximately \$1 billion between 2019-20 and 2022-23.<sup>2</sup> Florida's now-universal voucher

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<sup>1</sup> Samuel E. Abrams & Steven J. Koutsavlis, *The Fiscal Consequences of Private School Vouchers*, Public Funds Public Schools 4, 14 (Mar. 2023), [https://pfps.org/assets/uploads/SPLC\\_ELC\\_PFPS\\_2023Report\\_Final.pdf](https://pfps.org/assets/uploads/SPLC_ELC_PFPS_2023Report_Final.pdf).

<sup>2</sup> Mary McKillip & Norin Dollard, *Florida's Hidden Voucher Expansion: Over \$1 Billion from Public Schools to Fund Private Education*, Education Law Center & Florida Policy Institute 1 (Sept. 2022), <https://edlawcenter.org/assets/Florida/Florida-Hidden-Voucher-Expansion.pdf>.

program cost almost \$4 billion in 2024-25<sup>3</sup> and created budget crises that set off school closures and mass layoffs in districts across the state.<sup>4</sup>

Moreover, public schools, including Ohio's, receive state funding largely based on the number of students enrolled. Thus, when a student takes a voucher and leaves their local district to attend a private school, the public school's funding decreases. However, many "fixed" costs, such as facilities, staff, and programs, remain the same.<sup>5</sup> Because a school district cannot operate at a deficit, "[w]hen revenues are reduced, expenditures must also be reduced."<sup>6</sup> For example, after losing an estimated \$1.3 million in revenue to the state's voucher program, Iowa

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<sup>3</sup> Mary McKillip, *Universal Vouchers to Cost Florida Nearly \$4 Billion in 2024-25 School Year*, Education Law Center (2024), <https://public.tableau.com/app/profile/mary.mckillip/viz/FLvouchers-5-2024/FloridaVoucher2023-24?publish=yes>.

<sup>4</sup> See, e.g., Gerard Albert & Kate Payne, *As schools lose students, Broward's superintendent grapples with possibility of closures*, WLRN Public Media (Nov. 21, 2023), <https://www.wlrn.org/education/2023-11-21/browards-schools-enrollment-closure>; Megan Mallicoat, *3 Duval elementary schools will close soon; 3 more after a year*, JAX Today (Nov. 5, 2024), <https://jaxtoday.org/2024/11/05/3-duval-elementary-schools-will-close-soon-3-more-after-a-year/>.

<sup>5</sup> Stuart S. Yeh, *The Cost-Effectiveness of Five Policies for Improving Student Achievement*, 28 Am. J. Evaluation 416, 426 (2007).

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

City Community School District closed an elementary school, delayed curriculum purchases, reduced staff, and increased class sizes.<sup>7</sup> Thus, vouchers impede the ability of public schools to adequately serve their students, who then attend schools with fewer resources, programs, and educational opportunities.

Finally, taxpayers feel the devastating financial impact of vouchers. For example, a 2018 Arizona study found that, instead of the promised savings, vouchers cost taxpayers 75% more than public school education.<sup>8</sup> When Arizona instituted universal eligibility for vouchers in 2022, the program “blew a massive hole in Arizona’s budget,”<sup>9</sup> and fueled declines

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<sup>7</sup> Grace King, *Iowa City schools losing \$1.3 million in revenue because of private school vouchers*, *The Gazette* (Apr. 22, 2024), <https://www.thegazette.com/k/iowa-city-schools-losing-1-3-million-in-revenue-because-of-private-school-vouchers/>.

<sup>8</sup> Dave Wells, *\$10,700 Per Student: The Estimated Cost of Arizona’s Private School Subsidy Programs*, *Grand Canyon Institute* 4 (Sept. 2018), [https://grandcanyoninstitute.org/wp-content/uploads/2018/09/GCI\\_Policy\\_Private\\_School\\_Program\\_Costs\\_2018\\_Sept\\_5\\_2018.pdf](https://grandcanyoninstitute.org/wp-content/uploads/2018/09/GCI_Policy_Private_School_Program_Costs_2018_Sept_5_2018.pdf).

<sup>9</sup> Eli Hager, *School Vouchers Were Supposed to Save Taxpayer Money. Instead They Blew a Massive Hole in Arizona’s Budget*, *ProPublica* (July 16, 2024), <https://www.propublica.org/article/arizona-school-vouchers-budget-meltdown>.

in public school enrollment costing districts hundreds of millions of dollars in per-pupil funding.<sup>10</sup>

**B. Ohio Must Improve Funding for its Public Schools, Particularly Those Serving Economically Disadvantaged Students, Rather than Undermining Them with Vouchers**

Ohio's public schools have long suffered from insufficient funding. In 1997, 2000, and 2002, the Ohio Supreme Court held that the State's school funding system was not constitutionally adequate. *DeRolph*, 78 Ohio St. 3d at 212; *DeRolph v. State*, 89 Ohio St. 3d 1, 35-36 (2000); *DeRolph v. State*, 97 Ohio St. 3d 434, 435 (2002). The State has not remedied this problem in the intervening years. A 2025 study commissioned by the Ohio Legislature found that the State is not funding economically disadvantaged students at an adequate level to meet the State's own education objectives.<sup>11</sup> The study estimated that the State is

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<sup>10</sup> Casey Tolan, Rene Marsh & Nelli Black, *Arizona is sending taxpayer money to religious schools – and billionaires see it as a model for the US*, CNN (June 19, 2024), <https://www.cnn.com/2024/06/19/politics/arizona-private-school-vouchers-invs/index.html>.

<sup>11</sup> Jesse Levin et al., *Study of the Educational Costs of Serving Students Who Are Economically Disadvantaged*, American Institutes for Research 8 (Aug. 2025),

providing insufficient school funding for economically disadvantaged students by \$3,294 per pupil.<sup>12</sup> Previous legislatively-commissioned studies found that the State is also providing insufficient funding for students with disabilities<sup>13</sup> and multilingual learners.<sup>14</sup> Indeed the plaintiffs put forth detailed evidence that, as a result of insufficient state school aid, many Ohio public school districts are unable to provide essential educational resources for their students.<sup>15</sup>

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<https://education.ohio.gov/getattachment/About/Annual-Reports/Economic-Disadvantage-Finance-Study-American-Institutes-for-Research.pdf>.

<sup>12</sup> *Id.*

<sup>13</sup> Amanda Danks et al., *Special Education in Ohio: Best Practices, Costs, and Policy Implications*, American Institutes for Research 3-4 (Nov. 2022), <https://education.ohio.gov/getattachment/Topics/Special-Education/Sections/Accountability-and-Funding/Special-Education-Cost-Study.pdf>.

<sup>14</sup> Alex Jacobson et al., *Ohio English Learner Cost Study: An Assessment of the Costs to Implement English Learner Programs in Ohio's Schools*, WestEd 53-59, 63 (Dec. 2022), <https://education.ohio.gov/getattachment/Topics/Student-Supports/English-Learners/English-Learner-Programs/English-Learners-Cost-Study.pdf>.

<sup>15</sup> Plaintiffs' Motion for Summary Judgment with Incorporated Memorandum in Support at 13-19.

Ohio's biennial budget, passed by the Legislature in June 2025, underfunds the last stage of a six-year phase-in of the State's school funding formula by \$2.86 billion.<sup>16</sup> At the same time, funding for private school vouchers is set to increase by \$327 million over the FY26-27 biennium—\$45 million more than the increase allocated to traditional K-12 districts that serve roughly eight times as many students as do private schools.<sup>17</sup> In FY25, the total cost of EdChoice vouchers was \$776 million, reflecting an increase of approximately \$100 million from the prior year.<sup>18</sup> Instead of wasting state funds on vouchers, which are ineffective and unaccountable (as discussed below),<sup>19</sup> Ohio must improve funding for the

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<sup>16</sup> Molly Bryden & Bailey Williams, *The End of the Fair School Funding Plan*, Policy Matters Ohio (updated Sept. 8, 2025), <https://policymattersohio.org/research/lawmakers-underfund-ohio-schools-by-2-86b-in-fy26-27/>.

<sup>17</sup> Howard Fleeter, *On the Money: Senate/Conference Committee FY26-27 Budget School Funding, Cash Balance Cap & Other Property Tax Changes*, Hannah News Service 6 (June 27, 2025), <https://hannah.com/ShowDocument.aspx?ItemID=139683>.

<sup>18</sup> Ohio Department of Education & Workforce, *Scholarship Payments*, <https://reports.education.ohio.gov/report/nonpublic-data-scholarship-payments> (last visited Dec. 5, 2025).

<sup>19</sup> See, e.g., Joshua Cowen, *How School Voucher Programs Hurt Students*, Time (Apr. 19, 2023), <https://time.com/6272666/school-voucher-programs-hurt-students/>.

public schools its constitution guarantees, which are open to all and serve the vast majority of students.

**C. Students with Elevated Needs Require Additional Funding, and Research Shows Increased Funding Improves Academic and Life Outcomes, Especially for Economically Disadvantaged Students**

Students come to school from different socioeconomic backgrounds and with diverse learning needs, requiring different types and levels of support to access adequate and equitable educational opportunities.<sup>20</sup> For example, students with disabilities, multilingual learners, and economically disadvantaged students often face unique challenges—including the need for specialized instruction and accommodations, language support, and additional resources to overcome socioeconomic barriers—which are more costly than general education expenses.<sup>21</sup>

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<sup>20</sup> Levin et al., *supra* note 11, at 16.

<sup>21</sup> See, e.g., Danks et al., *supra* note 13, at 26-31, 111-12; Michael Griffith & Dion Burns, *Funding Student Needs: A Review of State Funding Policies for English Learners and Students From Low-Income Backgrounds*, Learning Policy Institute 5-6 (Jan. 2025), <https://learningpolicyinstitute.org/product/funding-school-needs-report>; Mary McKillip & Theresa Luhm, *Investing Additional Resources in Schools Serving Low-Income Students: Evidence for Advocates*, Education Law Center 1-2 (Apr. 2020),

Reliable research consistently demonstrates that increasing school funding leads to improved student achievement and other positive outcomes. Studies conducted across the nation over many decades provide “compelling evidence that there is a positive causal relationship” between increased spending and the academic and life outcomes of students, including higher educational attainment, increased earnings, and a reduction in adult poverty.<sup>22</sup> Moreover, the positive effects of increased school spending are more pronounced for students from low-income families.<sup>23</sup> For example, a study of school finance reform in California found that a \$1,000 per-pupil funding increase for three consecutive years led to a full grade-level of improvement in math and reading achievement across all grades.<sup>24</sup> A study in Texas found that a 10% increase in

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[https://edlawcenter.org/assets/files/pdfs/publications/Investing\\_in\\_Students\\_Policy\\_Bri.pdf](https://edlawcenter.org/assets/files/pdfs/publications/Investing_in_Students_Policy_Bri.pdf).

<sup>22</sup> C. Kirabo Jackson, *Does School Spending Matter? The New Literature on an Old Question*, Nat’l Bureau of Econ. Rsch., Working Paper No. 25368 9 (2018), <http://www.nber.org/papers/w25368>.

<sup>23</sup> *Id.* at 6.

<sup>24</sup> Rucker Johnson, *School Funding Effectiveness: Evidence from California’s Local Control Funding Formula*, Learning Policy Institute 31-32 (Aug. 2023), <https://learningpolicyinstitute.org/product/school-funding-effectiveness-ca-lcff-report>.

spending led to improved reading and math scores, reduced dropout rates, and improved graduation rates. These gains accrued in later grades with greater exposure to funding increases and were largely concentrated in poorer districts.<sup>25</sup>

Research also shows that spending *cuts* have resulted in lower test scores, lower college attendance rates, and larger achievement gaps by poverty level and race.<sup>26</sup> Moreover, a study of state funding reductions in Kansas between 2010 and 2018 showed that funding cuts had more severe negative effects on achievement in rural districts.<sup>27</sup>

Adequate and equitable funding for public schools improves academic achievement and graduation rates, and leads to better life

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<sup>25</sup> Daniel Kreisman & Matthew P. Steinberg, *The Effect of Increased Funding on Student Achievement: Evidence from Texas's Small District Adjustment*, *Journal of Public Economics* 136 (2019), <https://doi.org/10.1016/j.jpubeco.2019.04.003>.

<sup>26</sup> C. Kirabo Jackson, Cora Wigger & Heyu Xiong, *Do School Spending Cuts Matter? Evidence from the Great Recession*, *American Economic Journal: Economic Policy* 304 (2021), <https://files.eric.ed.gov/fulltext/ED664520.pdf>.

<sup>27</sup> Emily Rauscher, *Does Money Matter More in the Country? Education Funding Reductions and Achievement in Kansas, 2010–2018*, AERA Open 15 (2020), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9385189/>.

outcomes, particularly for economically disadvantaged students. Private school voucher programs divert funding from educational programs and services that are empirically proven to help students and promote equal access to educational opportunity.

## **II. Vouchers Lead to Worse Educational Outcomes, Strip Students of Legal Protections, and Drain Money from Public Schools that Serve All Students**

### **A. Vouchers Lead to Worse Educational Outcomes for Students, Including Those Participating in Ohio's EdChoice Voucher Program**

Available data reveal that academic outcomes for voucher students are dismal. Study after study shows that vouchers not only fail to improve education outcomes, they actually have a detrimental academic impact on participating students.

A 2025 analysis of Ohio's state testing data found that on all proficiency tests, students using a voucher for one year or less are about 75% proficient, but three years later they are only 54% proficient—which would rank in the bottom one-fifth of all Ohio public school

districts.<sup>28</sup> The analysis also looked at proficiency rates by subject, finding that there was no subject in which voucher students improved their proficiency over three years.<sup>29</sup> A prior study of Ohio’s EdChoice voucher program funded by the Thomas B. Fordham Institute, a pro-voucher think tank, found that voucher students who attend private schools “have fared worse academically compared to their closely matched peers attending public schools...Such impacts also appear to persist over time, suggesting that the results are not driven simply by the setbacks that typically accompany any change of school.”<sup>30</sup>

The poor academic outcomes for Ohio’s voucher students are consistent with evidence from states across the nation. For example, studies in Louisiana and Indiana found that students who attended private

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<sup>28</sup> Stephen Dyer, *Private School Parents Hurt Their Kids by Taking Free Government Money*, 10th Period (Mar. 17, 2025),

<https://10thperiod.substack.com/p/private-school-parents-hurt-their>.

<sup>29</sup> *Id.*

<sup>30</sup> David Figlio & Krysztof Karbownik, *Evaluation of Ohio’s EdChoice Scholarship Program: Selection, Competition, and Performance Effects*, Thomas B. Fordham Institute 2 (2016),

<https://fordhaminstitute.org/ohio/research/evaluation-ohios-edchoice-scholarship-program-selection-competition-and-performance>.

schools using vouchers also performed worse than their public school peers.<sup>31</sup> In Louisiana, participation in the state’s voucher program “dramatically reduce[d] academic achievement. Attending [a] [voucher]-eligible private school lower[ed] math scores by an average of 0.41 standard deviations . . . and reduce[d] reading, science, and social studies scores” as well after one year.<sup>32</sup> After four years, Louisiana voucher students “performed noticeably worse on state assessments than their control group counterparts.”<sup>33</sup>

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<sup>31</sup> Jonathan N. Mills & Patrick J. Wolf, *The Effects of the Louisiana Scholarship Program on Student Achievement after Four Years*, University of Arkansas, EDRE Working Paper 2019-10 42 (2019), <https://bpb-us-e1.wpmucdn.com/wordpressua.uark.edu/dist/9/544/files/2019/04/Mills-Wolf-LSP-Achievement-After-4-Years-final-ut3mor.pdf>; Megan Austin, R. Joseph Waddington & Mark Berends, *Voucher Pathways and Student Achievement in Indiana’s Choice Scholarship Program*, *The Russell Sage Foundation Journal of the Social Sciences*, 36 (2019), <https://www.jstor.org/stable/10.7758/rsf.2019.5.3.02>.

<sup>32</sup> Atila Abdulkadiroglu, Parag A. Pathak & Christopher R. Walters, *Free to Choose: Can School Choice Reduce Student Achievement?*, *American Economic Journal: Applied Economics* 176 (2018), <https://pubs.aeaweb.org/doi/pdfplus/10.1257/app.20160634>.

<sup>33</sup> Mills & Wolf, *supra* note 31, at 4.

In fact, seven of nine large-scale studies conducted between 2015 and 2019—some spearheaded by voucher advocates—found detrimental effects from voucher programs, while the remaining two showed no statistically significant effects.<sup>34</sup> The negative educational effects of voucher programs are “on par with what the COVID-19 pandemic did to test scores, and larger than Hurricane Katrina’s impacts on academics in New Orleans.”<sup>35</sup>

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<sup>34</sup> Christopher Lubienski & Joel Malin, *The New Terrain of the School Voucher Wars*, The Hill (Aug. 30, 2019), <https://thehill.com/blogs/congress-blog/education/459400-the-new-terrain-of-the-school-voucher-wars/>.

<sup>35</sup> See Cowen, *supra* note 19. Voucher advocates consistently highlight selected studies suggesting neutral to small positive results, but those studies suffer from critical flaws. For example, an analysis by pro-voucher group EdChoice purports to survey the existing literature and concludes most studies show vouchers have positive effects. EdChoice, *The 123s of School Choice: What the Research Says About Private School Choice Programs in America, 2023 Edition* (2023), <https://www.edchoice.org/wp-content/uploads/2023/07/123s-of-School-Choice-WEB-07-10-23.pdf>. But a National Education Policy Center review of EdChoice’s analysis found that it relies on a “flawed approach that obscures important differences in studies and can create a misleading narrative about the research evidence.” Christopher Lubienski, *NEPC Review: The 123s of School Choice: What the Research Says About Private School Choice Programs, 2023 Edition*, National Education Policy Center 3 (Oct. 2023), [https://nepc.colorado.edu/sites/default/files/reviews/NR%20Lubienski\\_0](https://nepc.colorado.edu/sites/default/files/reviews/NR%20Lubienski_0)

## **B. Vouchers Harm Vulnerable Students and Fund Schools that Actively Discriminate**

### **1. Students with Disabilities**

Students who use vouchers lose most of their state and federal special education rights, and parents are often not aware that these rights have been relinquished. Unlike public schools, private schools are permitted to discriminate against students with disabilities in admissions and discipline; they often do so in policy or practice. Private schools also regularly refuse to provide students with the special education services they need to make progress and thrive in school.

Federal law provides three sets of statutory protections for students with disabilities. First, the Individuals with Disabilities Education Act (“IDEA”) ensures public school students receive a “free appropriate

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public education” (“FAPE”), including a written “individualized education program” (“IEP”) and services delivered by certified special education teachers. 20 U.S.C. §§ 1401(26)(A), 1412(a)(1), (a)(4), (a)(14)(C), 1414(d). The IDEA also protects students with disabilities from segregation within the school system by requiring, to the maximum extent appropriate, that their education take place together with their non-disabled peers in the “least restrictive environment” (“LRE”). 20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 104.34. Additionally, the IDEA protects students from discipline, such as lengthy suspension or expulsion, based on behavior caused by their disabilities. 20 U.S.C. § 1415(k)(1)(E)–(G); 34 C.F.R. §§ 300.530–.536. Finally, it gives parents the right to request a due process hearing to resolve special education disputes. 20 U.S.C. §§ 1415(b), (f); 34 C.F.R. § 300.507(a)(1).

Second, Section 504 of the Rehabilitation Act prohibits disability-based discrimination in programs that receive federal financial assistance. 34 C.F.R. § 104.4(a). Section 504 also requires school districts to provide all eligible students with disabilities a FAPE in the LRE, 34 C.F.R. §§ 104.33(a), 104.34(a), and it applies to a broader range of students than the

IDEA, *see* 29 U.S.C. §§ 705(20), 794; 34 C.F.R. § 104.3(j). Third, Title II of the Americans with Disabilities Act (“ADA”) prohibits disability-based discrimination by state and local entities, including public schools, and requires that public schools be physically accessible. 42 U.S.C. §§ 12131(1), 12132; 28 C.F.R. § 35.130(a). State laws, including Ohio’s, also provide substantial protections to students with disabilities in public schools. Ohio Rev. Code ch. 3323.

When students with disabilities use vouchers to attend private schools, they forego the vast majority of these protections. They lose the right to an individualized education that meets their specific needs, as well as protection against unfair discipline and intra-school segregation. *See* 20 U.S.C. §§ 1412(a)(10), 1415(k)(1)(E)–(F); 29 U.S.C. § 794(b)(1).<sup>36</sup> And parents typically give up their IDEA rights to receive notification of, provide input on, and seek judicial remedies regarding most changes to

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<sup>36</sup> *See also* U.S. Gov’t Accountability Office, *Private School Choice: Federal Actions Needed to Ensure Parents Are Notified About Changes in Rights for Students with Disabilities* 8-9, Tbl.2 (Nov. 2017), <https://tinyurl.com/ye5v5vzd> [hereinafter GAO, *Notified*]; Claire Raj, *Coerced Choice: School Vouchers and Students with Disabilities*, 68 Emory L.J. 1037, 1059 (2019).

their children’s education and services.<sup>37</sup> Often, there is no notice to parents of the loss of these rights.<sup>38</sup>

Finally, Title II of the ADA does not apply to private schools. Disability accommodations under Title III of the ADA are required in private schools only if they would not change the fundamental nature of the program or result in difficulty or expense constituting an “undue burden.” 42 U.S.C. §§ 12182(b)(2)(A)(ii)-(iii). Moreover, Title III does not cover private religious schools at all, 42 U.S.C. § 12187, even though they comprise the majority of private schools nationwide<sup>39</sup> and in Ohio.<sup>40</sup>

Besides this loss of rights, private schools may have admissions criteria that effectively bar students with disabilities, while others provide no special education services or disability accommodations. Those that do

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<sup>37</sup> See Raj, *supra* note 36, at 1058-59; U.S. Dep’t of Educ., *Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools* 30 (Apr. 2011), [tinyurl.com/s6ww83kw](http://tinyurl.com/s6ww83kw).

<sup>38</sup> GAO, *Notified*, *supra* note 36, at 24-29.

<sup>39</sup> See Stephen P. Broughman et al., *Characteristics of Private Schools in the United States: Results from the 2015–16 Private School Universe Survey*, U.S. Dep’t of Educ., Inst. of Educ. Scis. 2 (Aug. 2017), <https://tinyurl.com/6d22ubk5>.

<sup>40</sup> Private School Review, *Find Schools – Ohio*, <https://www.privateschoolreview.com/ohio> (last visited Dec. 5, 2025).

enroll students with disabilities may charge additional fees for special education services that public schools must provide for free, which will often be borne out of pocket by parents rather than covered by a voucher.

## 2. English Learners

Federal laws including the Equal Educational Opportunities Act (“EEOA”) require public schools to remove barriers that “impede equal participation by [English learner (“EL”)] students in [their] instructional programs.” 20 U.S.C. § 1703(f).<sup>41</sup> State educational agencies and public school districts are legally obligated to identify ELs who may need language assistance; sufficiently staff and support such programs; guarantee equal opportunities to participate in all curricular and extracurricular activities; avoid unnecessary segregation of ELs; monitor and evaluate EL students’ progress; and appropriately communicate with parents who do not speak English, among other requirements.<sup>42</sup> But, the

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<sup>41</sup> See also *Lau v. Nichols*, 414 U.S. 563, 566-68 (1974) (upholding regulations under Title VI of the Civil Rights Act that required public schools to take “affirmative steps” to address ELs’ educational needs).

<sup>42</sup> U.S. Dep’t of Justice Civil Rights Div. & U.S. Dep’t of Educ. Office for Civil Rights, *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents* 8-9 (Jan. 7, 2015),

EEOA applies only to states and their public schools.<sup>43</sup> Private schools are not obligated to enroll all students who apply, and voucher schools may elect not to provide language assistance services. For example, two thirds of private schools participating in Washington, D.C.'s voucher program in 2017 did not provide language assistance services for students or families whose language spoken at home is not English.<sup>44</sup> Other barriers—including the difficulty in navigating the enrollment process for

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<https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-el-201501.pdf>.

<sup>43</sup> Julie F. Mead & Suzanne E. Eckes, *How School Privatization Opens the Door for Discrimination*, National Education Policy Center 10 (Dec. 2018), <https://nepc.colorado.edu/publication/privatization>. Moreover, Title VI of the Civil Rights Act, 42 U.S.C. § 2000d *et seq.* prohibits discrimination on the basis of race, color, and national origin only in programs and activities receiving federal financial assistance.

<sup>44</sup> See Tony Hanna, *How School Vouchers Affect English Learners*, New America (July 24, 2017), <https://www.newamerica.org/education-policy/edcentral/how-school-vouchers-affect-english-learners/>; see also Mandy McLaren & Emma Brown, *Trump Wants to Spend Millions More on School Vouchers. But What's Happened to the Millions Already Spent?*, Washington Post (July 15, 2017), [https://www.washingtonpost.com/local/education/trump-wants-to-spend-millions-more-on-school-vouchers-but-whats-happened-to-the-millions-already-spent/2017/07/15/ab6002a8-6267-11e7-84a1-a26b75ad39fe\\_story.html](https://www.washingtonpost.com/local/education/trump-wants-to-spend-millions-more-on-school-vouchers-but-whats-happened-to-the-millions-already-spent/2017/07/15/ab6002a8-6267-11e7-84a1-a26b75ad39fe_story.html).

parents who are not native English speakers—may also result in the exclusion of ELs from voucher schools.<sup>45</sup>

### 3. LGBTQ+ Students

Federal law protects LGBTQ+ students enrolled in public schools against discrimination based on sexual orientation and gender identity, but this does not apply to private schools unless they receive federal financial assistance. *See* 20 U.S.C. §§ 1681–1688.<sup>46</sup> Even with the receipt of federal dollars, private schools run by religious organizations may be exempt from Title IX’s sex-discrimination prohibition.<sup>47</sup> Many private schools enforce explicit anti-LGBTQ+ policies, and many state laws expressly allow voucher schools to base admissions decisions on criteria consistent with the schools’ religious tenets, which often include opposition to

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<sup>45</sup> *See* Hanna, *supra* note 44.

<sup>46</sup> *Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021) (to be codified at 34 C.F.R. ch. 1); *see also Bostock v. Clayton County*, 140 S. Ct. 1731, 1741-42 (2020).

<sup>47</sup> *See* 20 U.S.C. § 1681(a)(3).

homosexuality.<sup>48</sup> As a result, many private schools receiving voucher funds openly discriminate against LGBTQ+ students and families.<sup>49</sup>

### C. Voucher Programs Largely Benefit Wealthy Families

Vouchers frequently do not cover the full cost of private school tuition, let alone the expense of other essentials that are provided for free in public schools.<sup>50</sup> Thus, most vouchers go to families whose children

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<sup>48</sup> See Kevin G. Welner & Preston C. Green, *Private School Vouchers: Legal Challenges and Civil Rights Protections*, UCLA Civil Rights Project 8 (2018), [https://civilrightsproject.ucla.edu/wp-content/uploads/2018/03/Welner-Green-JT\\_022818-for-post.pdf](https://civilrightsproject.ucla.edu/wp-content/uploads/2018/03/Welner-Green-JT_022818-for-post.pdf); Adam Mengler, *Public Dollars, Private Discrimination: Protecting LGBT Students from School Voucher Discrimination*, 87 Fordham L. Rev. 1251, 1264 (2018) (quoting Ariz. Rev. Stat. § 15-2404 (2018)).

<sup>49</sup> See, e.g., Leslie Postal & Annie Martin, *Anti-LGBT Florida Schools Getting School Vouchers*, Orlando Sentinel (Jan. 23, 2020), <https://www.orlandosentinel.com/2020/01/23/anti-lgbt-florida-schools-getting-school-vouchers/>; Brian Gordon, *NC Religious Schools with Anti-LGBTQ Policies Receive Top Opportunity Scholarship Dollars*, Citizen Times (Aug. 27, 2020), <https://www.citizen-times.com/story/news/local/2020/08/27/nc-private-school-vouchers-help-fund-anti-lgbtq-policies-face-lawsuit/3359423001/>; Plaintiffs' Motion for Summary Judgment with Incorporated Memorandum in Support, Exhibit R, Admission Policies at 3-4.

<sup>50</sup> See National Center for Learning Disabilities, *Private School Vouchers, Education Savings Accounts, and Tax Incentive Programs: Implications and Considerations for Students With Disabilities* 16 (2024), [https://nclld.org/wp-content/uploads/2024/01/2024-19-Vouchers-Report\\_2024-Final.pdf](https://nclld.org/wp-content/uploads/2024/01/2024-19-Vouchers-Report_2024-Final.pdf).

are already attending private schools, and who can afford to cover the cost themselves. This is particularly true for universal voucher programs, like Ohio's, that have no significant eligibility limitations.

Tuition rates alone are often prohibitive, even with a voucher. One report found that, across states, vouchers created a tuition shortfall between \$500 and \$13,775; and if the family chose a specialized school serving students with learning disabilities, that number jumped upwards of \$28,000.<sup>51</sup> Another study found that the implementation of Iowa's voucher program led private schools to increase tuition prices, and these increases were largest in schools where all students were eligible to receive vouchers.<sup>52</sup>

In Ohio, the average private school tuition is \$9,373 for elementary schools and \$13,451 for high schools.<sup>53</sup> But voucher amounts under Ohio's EdChoice universal voucher program range between \$616.60 and

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<sup>51</sup> *Id.* at 17.

<sup>52</sup> Jason Fontana & Jennifer L. Jennings, *The Effect of Taxpayer-Funded Education Savings Accounts on Private School Tuition: Evidence from Iowa*, EdWorkingPaper No. 24-949 8 (Apr. 2024), <https://edworkingpapers.com/sites/default/files/ai24-949.pdf>.

<sup>53</sup> Private School Review, *supra* note 40.

\$6,166 for elementary school students and \$840.80 and \$8,408 for high school students.<sup>54</sup>

Moreover, public schools provide for free many services and resources, such as transportation, books, and free or reduced-price meals, that often must be purchased separately by families using vouchers to attend private schools. Thus, vouchers simply shift the cost of many core educational resources to families or put them out of reach for all but the wealthiest. This reality is magnified for students with disabilities, whose education often costs several times more than that of a student without disabilities. Few voucher programs provide more than \$10,000 per student, and often (as in Ohio) far less, but that private school tuition for a student with disabilities can range from \$40,000 to \$100,000 per year.<sup>55</sup>

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<sup>54</sup> Ohio Department of Education & Workforce, *2025-2026 EdChoice Expansion Award Amounts by Federal Poverty Level*, <https://education.ohio.gov/getattachment/Topics/Other-Resources/Scholarships/EdChoice-Expansion/EdChoice-Expansion-Resources/EdChoice-Expansion-Award-Amounts-FY26.xlsx.aspx?lang=en-US> (last visited Dec. 5, 2025).

<sup>55</sup> Selene Almazan & Denise Stile Marshall, *School Vouchers and Students with Disabilities: Examining Impact in the Name of Choice*, Council of Parent Attorneys & Advocates 16 (2016),

Empirical evidence bears out the reality that vouchers are not realistically available to most low-income Ohio families. Data provided by the Ohio Department of Education shows a significant increase in the percentage of higher income students participating in the state's EdChoice voucher program since 2014. By 2025, 88% of voucher recipients were from higher income households.<sup>56</sup> Moreover, data from multiple states show that the majority of vouchers are used by families who were already sending their children to private schools without the help of a voucher.<sup>57</sup> And these tend to be more affluent families, not the

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[https://cdn.ymaws.com/www.copaa.org/resource/resmgr/docs/Policy\\_Docs/COPAA\\_Voucher\\_paper\\_final\\_R6.pdf](https://cdn.ymaws.com/www.copaa.org/resource/resmgr/docs/Policy_Docs/COPAA_Voucher_paper_final_R6.pdf).

<sup>56</sup> Ohio Department of Education & Workforce, *Scholarship Paid Participants (State) – EdChoice*, <https://reports.education.ohio.gov/report/nonpublic-data-state-scholarship-participants> (last visited Dec. 5, 2025).

<sup>57</sup> Josh Cowen, *School Vouchers: There Is No Upside*, Albert Shanker Institute (Feb. 21, 2023), <https://www.shankerinstitute.org/blog/school-vouchers-there-no-upside> (“Despite supporter rhetoric that voucher schemes are about new opportunities, the reality is 70-80 percent of kids in states like Arizona, Missouri, and Wisconsin were already in private school before taxpayers picked up the tab.”); *see also* Indiana Department of Education, *Choice Scholarship Program Annual Report: Participation & Payment Data: 2024-2025* 11 (2025), <https://www.in.gov/doe/files/2024-2025-Annual-Choice-Report.pdf> (finding that 70% of voucher recipients in 2024-25 had never attended

low-income families that voucher proponents and programs claim they serve. A recent national analysis of universal school voucher programs found that “the lion’s share of universal voucher awards seems to go towards families with students already in private school, likely making the tax and subsidy system less progressive.”<sup>58</sup>

#### **D. Voucher Programs Divert Funding and Resources from Already Underfunded Public Schools**

As discussed above, many of Ohio’s public schools face chronic and severe underfunding. Diverting much needed funding from public education to pay for private school vouchers exacerbates that lack of resources. Ohio public schools, like those in other states, receive state funding at least partly based on the number of students enrolled. Thus, when students leave a public school district, that district’s funding is

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an Indiana public school, a three percentage point increase from the prior school year).

<sup>58</sup> Douglas Harris & Gabriel Oliver, *The Effects of Universal School Vouchers on Private School Tuition and Enrollment: A National Analysis*, National Center for Research on Education Access and Choice 45 (Sept. 2025), <https://reachcentered.org/publications/the-effects-of-universal-school-vouchers-on-private-school-tuition-and-enrollment-a-national-analysis>.

reduced accordingly. Voucher programs provide incentive for students to leave public schools and attend private schools. Moreover, evidence shows that states with less money in the public fisc invest less in public schools.<sup>59</sup>

At the same time that they divert funding from public education, voucher programs concentrate higher-need students, such as students with disabilities, in public schools. Reasons include those explained above: many private schools refuse to serve these students, and public schools are the only schools in which they retain their special education and civil rights. Often, students who took a voucher but did not receive the promised benefits return to public schools, but the funds that had already been diverted to the private school via a voucher do not return with them. In the meantime, the loss of those funds may have led the public school to make difficult cuts to programs and services. Thus, voucher programs

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<sup>59</sup> Danielle Farrie & David G. Sciarra, *600 Billion Lost: State Disinvestment in Education Following the Great Recession*, Education Law Center 2 (2021), [https://edlawcenter.org/assets/\\$600%20Billion/\\$600%20Billion%20Lost.pdf](https://edlawcenter.org/assets/$600%20Billion/$600%20Billion%20Lost.pdf).

leave public schools—which welcome all students and serve the vast majority of them—with fewer resources to serve a higher-need student population. In fact, particularly in states with universal vouchers, these programs are threatening the very existence of neighborhood public schools.<sup>60</sup> When neighborhood schools close, students and their communities face devastating educational, social, and civic effects.<sup>61</sup> Public schools need more, not fewer, resources in order to educate all students, particularly their most vulnerable.

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<sup>60</sup> See, e.g., Amelia Ferrell Knisely, *Morrissey pushes school choice; lawmakers face ‘balancing act’ as counties lose public schools*, West Virginia Watch (Feb. 12, 2025), <https://westvirginiawatch.com/2025/02/12/morrissey-pushes-school-choice-lawmakers-face-balancing-act-as-counties-lose-public-schools/>; Beth Lewis, *Neighborhood schools are closing across Arizona. It’s because of vouchers*, AZMirror (Oct. 6, 2025), <https://azmirror.com/2025/10/06/neighborhood-schools-are-closing-across-arizona-its-because-of-vouchers/>.

<sup>61</sup> See e.g., Public Funds Public Schools & Advancement Project, *Save Neighborhood Schools – Say No to Private School Vouchers!* 1, 3 (Apr. 2025), [https://pfps.org/assets/uploads/Save\\_Neighborhood\\_Schools\\_\\_\\_Say\\_No\\_to\\_Private\\_School\\_Vouchers\\_\\_\\_FINAL\\_.pdf](https://pfps.org/assets/uploads/Save_Neighborhood_Schools___Say_No_to_Private_School_Vouchers___FINAL_.pdf); Advancement Project, *Action Kit: Stop Public School Closures* 17-18 (2024), [https://advancementproject.org/wp-content/uploads/2024/05/AP-SchoolClosureActionKit\\_FINAL.pdf](https://advancementproject.org/wp-content/uploads/2024/05/AP-SchoolClosureActionKit_FINAL.pdf).

## CONCLUSION

For the foregoing reasons, this Court should rule in favor of the Appellees/Cross-Appellants.

Dated: December 8, 2025

Respectfully submitted,

/s/ Eric H. Zagrans

Eric H. Zagrans (0013108)  
Zagrans Law Firm LLC  
1640 Roundwyck Lane  
Columbus, Ohio 43065-8416  
(440) 452-7100 (telephone)  
eric@zagrans.com (e-mail)

*Attorney for Amici Curiae*

## CERTIFICATE OF SERVICE

I hereby certify that, on December 8, 2025, a copy of the foregoing 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.

/s/ Eric H. Zagrans

Eric H. Zagrans

Franklin County Ohio Court of Appeals Clerk of Courts- 2025 Dec 08 9:27 PM-25AP000603