

**Susan Tebben's April 29 article in the Ohio Capital Journal highlights the Senate President's ongoing attempt to avoid answering a few questions about vouchers.**

The Senate President has spent in the range of two decades as a legislator in a crusade to force tax-funded vouchers on Ohio taxpayers. His crowning achievement came to pass in June 2023 when he was successful in stuffing universal vouchers into the state budget bill (HB33). His notorious public statement—"we kind of do what we want"—is consistent with his position that he doesn't have to explain his legislative conduct to the plaintiffs in the EdChoice voucher lawsuit.

**Senate President brings plea to avoid private school voucher questioning to Ohio Supreme Court**

BY: [SUSAN TEBBEN](#) - APRIL 29, 2024 4:55 AM

Ohio's Senate leader is taking his fight to avoid answering questions about the state's private school voucher program to the Ohio Supreme Court.

Senate President Matt Huffman filed an appeal on April 23 with the state's highest court related to a lawsuit [seeking to eliminate the "EdChoice" private school voucher program](#) from the state.

Public schools and advocates have signed on to the suit in the Franklin County Court of Common Pleas saying the funding of the program violates the state's constitutional duty to properly fund the public schools.

In the lawsuit, parties have asked Huffman and others they consider connected to the private school voucher program and its funding to answer questions in depositions. In March 2023, Huffman was served with a subpoena to attend an April deposition "on his knowledge of school funding in Ohio and his involvement in the enactment and expansion of the EdChoice program" through the [budget bill passed in 2021](#).

But the Senate leader argued that [he was protected from the questioning](#) by the Speech and Debate Clause of the Ohio Constitution, which "creates a testimonial privilege protecting legislators from judicially-compelled questioning," according to court documents.

Huffman also argued that his "individual beliefs and opinions on the EdChoice program are not relevant." Lower court documents note that he was "allegedly a major proponent of the EdChoice legislation."

Last December, Franklin County Common Pleas Judge Jaiza Page ruled that Huffman could get out of the in-person deposition, but said legislative privilege "does not extend to all conduct related to the legislative process, but attaches only to meetings, processes, conversations and documents which are an integral part of the deliberative and communicative processes by which legislators participate in legislative or committee proceedings."

Though Huffman was not ordered to submit to an in-person deposition, Page allowed the plaintiffs in the case to submit a maximum of 20 written questions to the Senate president, limited to "matters that do not implicate legislative privilege."

The judge allowed private voucher challengers to request "identities of entities and individuals, and other information, related to off-the-record communications about the passing of H.B. 110 (the 2021 budget bill) between those entities and individuals, and Huffman."

"If the plaintiffs believe that Huffman's answers to written deposition questions demonstrate that an in-person oral deposition of Huffman is likely to provide additional information ... the plaintiffs may request reconsideration of this order," Page wrote.

The court did say Huffman could make another motion to get out of answering the questions once he's been given the written deposition.

Huffman appealed the decision to the Tenth District Court of Appeals, who dismissed it last month, leading to the new filing with the Ohio Supreme Court.

“He appeals because the Ohio Constitution by its plain language, protects him from being ‘questioned elsewhere’ for his legislative activities,” attorneys for Huffman wrote in the April 24 court filing. “The Tenth District’s decision fails to protect this privilege.”

The appeal, and previous arguments against Huffman being questioned, cite the clause of the state constitution that states senators and representatives “shall be privileged from arrest in all cases, except treason, felony or breach of the peace” and when it comes to speech or debate occurring in either chamber during a session of the General Assembly, “they shall not be questioned elsewhere.”

Huffman argues the intent of the framers of the constitution in establishing the Speech and Debate clause should be “controlling” in the lawsuit, and allowing the questioning “could have a far-reaching chilling effect on Ohio’s legislators.”

“Of course, compelling legislators to testify about their legislative communications would allow them to be questioned ... about their confidential discussions, negotiations and deliberations with other legislators and constituents that necessarily contribute to legislators’ decision-making processes,” the appeal states. “One can easily imagine the future mischief this precedent would invite.”

Going further in his appeal to the state supreme court, Huffman said the constitutional challenges in the overall lawsuit do not “hinge on questions about the legislative process.”

The appeal asks the Ohio Supreme Court, should it agree to take up the case, to reverse the decision of the appellate court.

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