

Denis Smith, in a February 10 [Ohio Capital Journal](#) article, argues that HB671 (if enacted) is a violation of the first amendment.

HB671 would be unconstitutional under the Ohio Constitution and a violation of the first amendment, Denis asserts.

The state defendants in the EdChoice voucher case seem to understand they cannot win the case in court; hence, they are, in desperation, trying to legislate away the funding stream of the plaintiffs. These shameful public officials will be challenged vigorously.

[Ohio GOP legislation threatens First Amendment](#)

[Denis Smith](#)

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The U.S. Education Department announced a proposed agreement with Republican-led states to permanently eliminate the Biden-era SAVE plan. (Catherine Lane/Getty Images)

State Rep. Jamie Callender, come on down! Join the rest of your bullying GOP colleagues as they continue the assault on democracy in Ohio.

After all, it was no less than House Speaker Matt Huffman who famously said in 2022 that [“we can kind of do what we want.”](#) It seems that Callender has taken Matt Huffman’s observation to heart. Here’s why.

On Feb. 3, the otherwise mild-mannered representative from Lake County introduced Ohio [House Bill 671](#), a measure that would cut state funding from any school district that singly or with others challenges the distribution of state funds to private and religious schools under the education voucher program.

Come to think of it, this is much worse than bullying. Callender’s bill is [“legislative extortion,”](#) a term former Democratic Ohio state Rep. Steve Dyer used in alerting the state’s citizens about the measure introduced in the House.

Here is how the extortion would work, according to the language of the bill:

“The Department of Education and Workforce shall release withheld funds to the school district only upon the termination of the legal action or the district’s withdrawal from the action.”

If we apply our [Science of Reading](#) skills by examining that passage, the phrase “only upon the termination of the legal action” could not be clearer in its meaning and intent.

Callender’s bill is designed to intimidate school districts that are part of two coalitions challenging a law that is taking more than \$1 billion state tax dollars per year otherwise used to support public schools and transferring those funds to private and religious schools for voucher student tuition. The coalitions, the [Ohio Coalition for Equity & Adequacy of School Funding](#) and its partner, [Vouchers Hurt Ohio](#), represent more than half of the state’s school districts that are joined in testing the constitutionality of the universal school voucher program.

According to Dyer’s analysis, if the bill passes, it would affect the funding for about 700,000 students enrolled in the districts that joined the lawsuit challenging the constitutionality of the universal voucher program. Worse yet would be the probable insolvency of innumerable public school districts that would not be able to increase their local millage levels through district ballot measures to support necessary higher property tax rates.

Callender’s attempt to intimidate districts supporting the lawsuit stands in stark contrast to the decision of Judge Jaiza Page of Franklin County Common Pleas Court, who heard the coalitions’ challenge to state funding of non-public schools.

In June 2025, Page ruled in part that the state universal voucher program was unconstitutional because it violates language that called for the support of a system of common schools. Moreover, the fact that the Ohio Constitution in [Article VI, Section 2](#) states that “no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state,” helped determine the issue in favor of the plaintiffs, viz., the Ohio E&A Coalition and Vouchers Hurt Ohio. In Ohio, the beneficiary of most of the voucher funds are religious schools, with parochial schools receiving the lion’s share of state voucher funds.

As expected, the voucher case will eventually find its way to the Ohio Supreme Court, with a stop at the 10th District Court of Appeals.

No means no. No religious sects get no state funds. Is there any science in reading that?

In *Citizens United v. Federal Election Commission*, the [Supreme Court ruled in 2010](#) that prohibitions on corporate independent expenditures and electioneering communications are bans on speech. Such spending on advertising, according to the court, was a form of protected speech and could not be restricted under the First Amendment. Political spending was equated with speech, with some limits.

If we could use that same reasoning, the restrictions placed on school districts who have chosen to join together and expend funds to stop the misuse of other public funds (but may be punished for doing so under HB 671) might be a violation of their First Amendment rights of speech, assembly and petition, à la *Citizens United*.

Indeed, any court that might hear on appeal a Callender-type case where funds might be withheld from parties joined in a lawsuit due to their membership in a group involved in litigation should be reminded that the Supreme Court advised in 2010 that money is speech. And by threatening to withhold funds appropriated for public education from districts that are party to a lawsuit, that might appear to be a violation of their First Amendment rights to petition for redress.

In the spirit of *Citizens United*, withholding money appropriated for public school districts that are part of a coalition is a violation of the First Amendment right of speech and assembly. Moreover, HB 671 and its threat to school districts who are members of the coalitions could amount to [prior restraint](#), a primary holding of this Supreme Court ruling. This matter has evolved from policy to the political realm because of the GOP’s adversarial stance toward public education and favoritism toward private and religious schools. Republicans should be mindful of these words from the *Citizens United* decision: “political speech must prevail against laws that would suppress it, whether by design or inadvertence.”

But with Jamie Callender’s attempt in HB 671 to quash dissent by extortion and punish school districts through withholding funds, he and the legislature by considering this bill may be violating the First Amendment.

Public school districts who are not yet members of the two coalitions, take note.

“Corporations are people, too” was the cry heard after *Citizens United* as Republicans rejoiced in the Court’s extension of First Amendment rights to these entities. If only Ohio Republicans could imagine public school districts as having the same First Amendment rights as corporations.