

The opportunity for all children to participate in a high-quality thorough and efficient system is a protected right in Ohio public common schools but not in private schools.

Soon after the beginning of statehood in Ohio, state officials determined to establish a common school system, one that is available to all youth. In fact, in 1819 the legislature appointed a Common School Commission to study the concept of schooling for all children. By 1825 the framework for the common school system was enacted by the General Assembly. The legislation provided for school districts within townships to be governed by representatives of the districts and supported by tax funds.

In 1837 the legislature employed a Superintendent of Common Schools to provide leadership for the statewide system. Although that state education office was discontinued after 3 years, the first Superintendent paved the way for ongoing state leadership in public education.

The delegates to the 1850/1851 Constitutional Convention crafted a constitutional provision requiring the state to secure a thorough and efficient system of common schools. The common school system was embedded in the Constitution which Ohioans approved in 1851.

The fundamental right to a thorough and efficient system of public common schools was enhanced in the 1912 Constitution (Article VI, section 3). This constitutional provision requires the General Assembly to make provision by law for the organization, administration, and control of the public school system supported by public funds.

Hence in Ohio, students have the protected (fundamental) right to a high-quality education. That right does not extend to students in private schools. Students can be and are selected to attend a private school but do not have a right to attend one. Many of the rights and protections afforded to students in the public common school system do not follow students to private schools.