

Dan Heintz, school board member in Cleveland Heights|University Heights, teacher at Chardon, and Ohio Coalition for Equity and Adequacy of School Funding/Vouchers Hurt Ohio Steering Committee member had an interview, Vouchers Were Ruled Unconstitutional. Now What? published in the April-May issue of Ohio Schools.

Read this excellent interview below.

[Vouchers Were Ruled Unconstitutional. Now What?](#)

Ohio's public schools continue to be underfunded. But rather than focusing on the public schools that serve 90% of students in Ohio, including 95% of Ohio students with disabilities, lawmakers have diverted more than a billion dollars in critical funding from public schools to pay for private school tuition vouchers. A Franklin County judge ruled last summer that the voucher program is unconstitutional. The case is now before the Ohio 10th District Court of Appeals.

Educator **Dan Heintz** (Chardon EA), who is also a member of the Cleveland Heights-University Heights Board of Education, sits on the steering committee for the Vouchers Hurt Ohio lawsuit. He recently shared an update on where the case stands and what comes next.

The Vouchers Hurt Ohio coalition filed its lawsuit in January 2021, raising five constitutional claims against the EdChoice voucher program. Franklin County Judge Jaiza Page ruled in the coalition's favor on three of those claims. She sent a fourth to trial and gave the fifth to the state.

“It was a great summer for public education in Ohio,” Heintz said. The case was decided on summary judgment, meaning both sides agreed the written record was enough for the judge to rule without a trial. Judge Page is known for her thoroughness. “She reads every word on every page, she follows every link, and she's extremely considerate of everything that's in front of her,” Heintz said.

Both sides completed their appellate briefs in January 2026. The case now sits with a three-judge panel at the 10th District Court of Appeals. The coalition is asking the appeals court to reconsider the one claim Judge Page gave to the state. Heintz expects oral arguments this summer.

“We are extremely confident that when they do reconsider, we're going to take all four claims and we will be successful in the court of appeals this coming summer,” he said.

What the Five Claims Say

Heintz said the Ohio Constitution is not ambiguous. It requires the legislature to fund one system of common schools. Count One in the Vouchers Hurt Ohio lawsuit argues

that the EdChoice vouchers effectively create a second, publicly funded school system. Judge Page agreed.

Heintz pointed to the weight of that constitutional language. "When constitutions are written, these are documents that come through so many eyes, and every word is debated and debated and debated. The importance of the word 'a system of common schools' is important. It is clear their intention was that there be a singular system of common schools, and that system be funded by the state legislature.

"The state's rebuttal is that the vouchers go to parents, not schools, and he said. "We should vilify the legislature that is making this possible." argument Heintz does not find persuasive. "Ohio's voters have a right to be certain that their tax dollars are being spent for the public good," he said. "When these people were writing our Constitution, they were writing a constitution for the public good, not the private good."

Count Two focuses on the legislature's failure to fully fund public schools. Heintz read directly from Article Six, Section Two of the Ohio Constitution: "The General Assembly shall 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, but 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."

"This is a separation of church and state issue as much as anything else," Heintz said. "We're sending a billion dollars a year, probably north of a billion dollars a year, of taxpayer money to private schools. Ninety-plus percent of those private schools are religious schools. You can't have the language of the state constitution and those vouchers. You just can't."

The funding disparity makes that concrete. Cleveland Heights University Heights receives about \$2,400 in state money per student. A student who transfers to a private school using an EdChoice voucher generates \$8,700 in state funding. Heintz described the state's position plainly: "They're saying that they value a student in the Cleveland Heights-University Heights Public Schools \$2,400 worth. But if that student transfers to a private school, then they will value that student at \$8,700. And that's bananas."

Count Three addresses resegregation. The students leaving for private schools are, by a wide margin, white students. That pulls white students out of public school classrooms and leaves those classrooms more segregated than the communities they serve. In Cleveland Heights-University Heights, the students in classrooms are majority minority and majority poverty. The community itself is neither.

Private schools that accept vouchers frequently reject students with IEPs and 504 plans. They can also dismiss students and send them back to public schools. About 14 percent of students statewide receive special education services. In Heintz's district, that number is 20 percent. "The schools who accept vouchers don't accept kids who

have IEPs and 504s very often,” he said. “They also reject kids based on religion, on sexual orientation, on disability. And they will dismiss kids easily and send them back to us, often coming back with a deficit, because they haven't exactly thrived in the private schools.”

Count Four is the religious funding claim, grounded in the same constitutional language from Count Two. Count Five is the Equal Protection claim, the one the coalition lost at the trial court level and is now asking the appeals court to reconsider. That claim argues Ohio citizens hold all power under the constitution and that the legislature cannot fund a separate and unequal school system.

When the state eliminated income requirements for vouchers two budget cycles ago, voucher use skyrocketed. Private school enrollment did not. That gap reveals who is using the program.

“These are not families escaping failing public schools,” Heintz said. “These are families who are fleeing a tuition bill.”

Heintz doesn't blame those families. “If somebody gave me an \$8,700 coupon to buy a Jeep I was already going to buy, I'd use the coupon,” he said. “We should vilify the legislature that is making this possible.

”Ohio spends over a billion dollars a year on these vouchers with no transparency and no accountability. Private schools receiving that money are not subject to Freedom of Information Act requests or audited by the state. “We have a billion dollars going into a black hole,” Heintz said. “They have absolutely no accountability to taxpayers for that billion dollars.”

Meanwhile, families earning \$50,000 a year are subsidizing the private school tuition of families earning \$500,000 a year. Heintz calls this the donor class problem. “Why else would the family of Les Wexner have their children's tuition underwritten by people like you and me?”

The Path to the Supreme Court

The Vouchers Hurt Ohio coalition is the same group that brought the DeRolph case to the Ohio Supreme Court 30 years ago. That case found the state's school funding system unconstitutional because it relied too heavily on property taxes. It led to roughly 1,600 school buildings being constructed and the creation of the Ohio Facilities Construction Commission.

Bill Phyllis, who led the DeRolph case, is involved in this one too. The Supreme Court in DeRolph was five Republicans and two Democrats who ruled on the law. Heintz draws confidence from that history. “The law is clear as day, and when the law is on your side, you want what's called a strict constructionist judge. If the words on the page are all that matter, we win five out of five counts. There's no question.”

This case differs from DeRolph in one key way. DeRolph asked the court to order the legislature to fix the problem. The legislature largely ignored that mandate. This time, the coalition is asking for injunctive relief, meaning a court order to stop writing the checks. "It is an absolute full stop," Heintz said. "Nobody can say no to that."

The coalition only needs to win one claim to secure that injunction. It is taking three wins to the appeals court, seeking a fourth, and will bring whatever it earns to the state Supreme Court.

About 300 school districts have joined the coalition so far, and more are signing on. The Axe the Tax movement, which opposes the property tax burden on Ohio homeowners, has begun adopting the coalition's arguments. "We're having these different organizations who might not hang out a lot together, all pursuing the same goal. And it's just been a fascinating thing to see."

"I invite people to read the state constitution for themselves and find wiggle room in there. There's no wiggle room. The law is on our side."

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Go to vouchershurtohio.com to learn more about the Vouchers Hurt Ohio coalition and find tools to advocate to make sure your school district is included is involved.

<https://www.ohea.org/april-may-2026-ohio-schools/>

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