

Peter Greene, in his May 15 Curmudgucation, probes the Ohio EdChoice voucher hearing before the 10th District Court of Appeals.

Greene makes several significant observations in his review of the 10th District Court hearing one such is: “EdChoice is not about providing actual school choice; it’s just about finding ways to funnel public tax dollars to private mostly-religious schools.”

OH: A New Definition of School Choice (Moving the Goalposts Again)

Peter Greene

May 15, 2026

Around 200 school districts in Ohio sued the state over its voucher program, a program that funnels a billion dollars (give or take a few million) to private schools (most of them religious). Last summer, the Franklin County Judge Jaiza Page, ruled that EdChoice is mostly unconstitutional. That, of course, triggered an appeal (and some special legislator crankiness) and that appeal seems to have triggered a whole new definition of school choice.

The Institute for Justice, one more education privatization law shop, has been working on the state’s case, and after the Franklin County decision they were pointing at Simmons-Harris v. Goff, an old case that supported a different version of choice. They also mentioned the argument that the parental right to direct a child’s education requires a school choice system. And the state has also been claiming that having two separately operated but equally swell school systems is totally okay. Because “separate but equal” has always been a winning argument in education.

The Ohio 10th District Appellate Court panel of judges heard arguments from the parties (the school district count is now up to 330) and seemed to notice a problem with that whole “parental rights” argument.

Parents don’t actually get to choose.

Judge David Leland posited hypothetical gay parents of a student living in a rural area with just one private school. The school could reject that student, and then parental choice available would be... what?

As reported by Laura Hancock at Cleveland.com:

“All the parents do is apply to private schools,” Leland said. “The schools are the ones who make the choice. They’re the ones who decide. Unlike a public school ... the public schools have to take everybody. That’s the requirement in public education so that everybody in society would have an equal opportunity to get a good education and grow to the extent of their ability.”

That’s when the state floated its new definition of school choice:

Stephen Carney, an appellate lawyer with the Ohio Attorney General’s office, argued that parents nonetheless have a choice in applying. That’s why it’s considered school choice, he said.

Got it? Parents have a choice of where to apply, and that’s school choice.

First, that’s silly. I have a choice to apply for a mortgage for a multi-million dollar house. That’s not the same as being able to choose that house.

Second, if that’s what school choice means, then everyone in the state already had school choice before any voucher program was ever started! Every parent in the state always had the ability to apply for their child’s admission to any private school.

CC4331 5.21.26 Thursday

This is not what anyone ever thought school choice promised, though it is an accurate definition of what it delivers.

It's one more reminder that the voucher crowd is not actually interested in school choice, because they consistently avoid addressing the actual obstacles to parents who want to choose a private school--tuition cost and discriminatory policies. EdChoice is not about providing actual school choice; it's just about finding ways to funnel public tax dollars to private mostly-religious schools.

If the 10th District panel upholds the ruling against, that will simply grease the wheels carrying the case up to the state (mostly-GOP) supreme court. Can't wait to see what arguments the state uses there, but I'm betting they'll keep the wheels on those goalposts.