

Good Morning,

It has come to my attention that the Upper Arlington School Board is considering joining litigation to strike down the EdChoice Scholarship program.

The case of school vouchers was long ago litigated in an Ohio case that was upheld by the U.S. Supreme Court. It is on the basis of that successful litigation that the EdChoice Scholarship was created and structured. I know because I created it in 2005 when I served as Speaker of the Ohio House of Representatives.

In *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), the US Supreme Court, 22 years ago, addressed the federal constitutionality of school voucher programs. The US Supreme Court ruled that the voucher program in Cleveland, Ohio, did not violate the Establishment Clause of the First Amendment. The *Zelman* case has been cited over 240 times by federal and state courts, including 14 times by the US Supreme Court in the years since. It is good law that has been relied on repeatedly and extensively throughout the country.

Prior to the US Supreme Court's ruling, the Ohio Supreme Court ruled in 1999 that the voucher program did not violate state constitutional provisions around school funding found in Oh. Const. Art. VI, § 2, the Uniformity Clause of Oh. Const. Art. II, § 26, or the State or Federal Constitutional Establishment Clause. *Simmons-Harris v. Goff*, 86 Ohio St. 3d 1, 4 (1999) (reversed on other grounds). *Simmons-Harris* is good law on these points.

In an effort to convince you to appropriate funding for this lawsuit, advocates will explain to you that they are challenging the program on different grounds. This of course is nonsense, as the Supreme Court of Ohio has already established the fact that the program is constitutional, and furthermore, it is well established that the Ohio constitution delegates appropriation authority to the General Assembly subject to the approval or disapproval of the Governor.

There are approximately 130,000 students across the state of Ohio who are enrolled in schools through the EdChoice Scholarship. Most of these are lower-income families and do not have the means other than through the EdChoice Scholarship to send their child to a school that serves them best. I have met many of these children and their families who are thriving in their new educational environment.

Furthermore, your actions also serve as an attempt to deny 348 Upper Arlington families and students currently using a state voucher as their choice of education for their children, many of which are attending other schools because of autism or other special needs.

Before you proceed with the lawsuit, I encourage you to take the time to visit with these families and listen to their stories. I would be happy to bring them to visit with you if you are interested.

After you hear their stories, I believe you will have a difficult time explaining to them why they should be denied the ability to send their child to a school of their choice and that you know better than they do about what is in the best interest of their children.

If after reading this email, you choose to fund this lawsuit, you will knowingly be wasting thousands of dollars on attorney fees for a lawsuit that has no chance of succeeding in an attempt to thwart the will of students and families who pay the property taxes that fund Upper Arlington schools.

This lawsuit would cost the taxpayers of Upper Arlington twice – once when the school board sues, and the second when defending the lawsuit.

Additionally, I'd like to point out that the state, through the current operating budget, has made a historic investment into K-12 public schools: \$9.6 billion in FY 2024 and \$9.9 billion for FY 2025. This amount does not include the hundreds of millions of dollars schools get in state funding for literacy programs, technology, broadband, healthcare, and other specific programs. Upper Arlington was also awarded Career Technical Education Equipment Grant funding - \$496,154 for IT & Advanced Manufacturing.

I share this in the hope that you will choose not to join this lawsuit which would be a waste of tax dollars and serve to further divide the community.

Sincerely,
Jon Husted