



## CITIZENS FOR COMMUNITY VALUES

*Creating an Ohio where God's blessings of life, family, and religious freedom are treasured, respected, and protected.*

October 10, 2017

TO: Chairman Andrew O. Brenner  
Members of the Ohio House Education & Career Readiness Committee

FROM: Citizens for Community Values  
Josh Brown, Esq.

RE: Support for House Bill 200

Chairman Brenner, Vice Chair Slaby, Ranking Member Fedor, and members of the House Education & Career Readiness Committee, thank you for allowing me the opportunity to provide testimony on House Bill (HB) 200, the Ohio Opportunity Scholarship Program.

My name is Josh Brown and I am Legal Counsel and Policy Director at Citizens for Community Values (CCV) a non-profit, non-partisan organization that works with lawmakers to protect life, build up families, promote parental rights and school choice, and protect religious freedom.

Today we write to indicate our **SUPPORT** for HB 200, which was introduced by Representative Kyle Koehler (R-Springfield) and would eliminate the Educational Choice Scholarship Pilot Program and Pilot Project Scholarship Program and to create the Opportunity Scholarship Program.

Ohio has a tremendous history offering families and opportunity to choose what school is right for them. However, there is still substantial room to grow our programs and improve them. Our current system focuses on a "failing schools model" and is generally geographically limited. However, there are substantial numbers of children who live in areas outside the geographically created boundaries we have already set who very much need these opportunities. HB 200 helps solve this problem by creating a separately funded, income-based, scholarship program that offsets the cost of attending a chartered non-public school for low-income families. By enacting HB 200, Ohio will take a significant step forward in offering all families something that only wealthy families currently have access to: a chance to go to the school of their own choosing.

### **The Importance of Parental Rights**

We are deeply concerned that parental rights are under assault today. Former Secretary of State, U.S. Senator, and U.S. First Lady Hillary Clinton famously penned a book entitled, "It Takes a Village to Raise a Child." MSNBC Host Mellisa Harris-Perry recently quipped, "We've always had kind of a private notion of children. Your kid is yours and totally your responsibility. We haven't had a very collective notion of these are our children . . . So part of it is we have to break through our kind of private idea that kids belong to their parents, or kids belong to their families, and recognize that kids belong to whole communities."

Mrs. Harris-Perry's view is representative of that held by many today. The view that government officials and administrators know best is the polar opposite of the American and Ohioan tradition and law. According to our courts, "The right of a natural parent to the care and custody of his children is one of the most precious and fundamental in law."<sup>1</sup> *Troxel v. Granville*, creates a "presumption that fit parents act in the best interests of their children."<sup>2</sup>

Further, "the [U.S.] Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition . . . The fundamental theory of liberty upon which all governments in this Union repose excluded any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right and the high duty, to recognize and prepare him for additional obligations."<sup>3</sup> The U.S. Supreme Court has also held, "The capacity to impart instruction to others is given by the Almighty for beneficent purposes and its use may not be forbidden or interfered with by government — certainly not, unless such instruction is, in its nature, harmful to the public morals or imperils the public safety."<sup>4</sup> This precedent has been affirmed in multiple subsequent cases.<sup>5</sup> Ohio has similar doctrine.<sup>6</sup>

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<sup>1</sup> *In re Adoption of Masa*, 23 Ohio St.3d 163, 165 (1986), citing *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

<sup>2</sup> *Troxel v. Granville*, 530 U.S. 57 (2000).

<sup>3</sup> *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925).

<sup>4</sup> *Farrington v. Tokushige*, (9 cir.) 11 F.2d 710 at 713 (1926), quoting Harlan, J., in *Berea College v. Kentucky* 211 U.S. 45, 29 S. Ct. 33, 53 L. Ed. 81.

<sup>5</sup> *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944) (It is cardinal with us that the custody, care, and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the State can neither supply nor hinder); *Griswold v. Connecticut*, 381 U.S. 479, 486 (1965) (emphasizing that the state cannot interfere with the right of a parent to control his child's education. The Court stated that the right to educate one's child as one chooses is guaranteed in the Bill of Rights and applicable to the States by the First and Fourteenth Amendments); *Wisconsin v. Yoder*, 406 U.S. 205, 233 (1972) (This case involves the fundamental interest of parents, as contrasted with that of the state, to guide the religious future and education of their children. The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring tradition . . . Thus a state's interest in universal education, however highly we rank it, is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the First Amendment, and the traditional interest of parents with respect to the religious upbringing of their children . . . This case involves the fundamental and religious future and education of their children.); *Quilloin v. Walcott*, 434 U.S. 246, 255, 54 L. Ed. 2d 511, 98 S. Ct. 549 (1978) ("We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected"); *Parham v. J. R.*, 442 U.S. 584, 602, 61 L. Ed. 2d 101, 99 S. Ct. 2493 (1979) ("Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course"); *Santosky v. Kramer*, 455 U.S. 745, 753, 71 L. Ed. 2d 599, 102 S. Ct. 1388 (1982) (discussing "the fundamental liberty interest of natural parents in the care, custody, and management of their child"); Glucksberg, *supra*, at 720 ("In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the 'liberty' specially protected by the Due Process Clause includes the right . . . to direct the education and upbringing of one's children" (citing *Meyer and Pierce, Infra.*)); *Troxel v. Granville*, 530 U.S. 57 (2000) (In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children).

<sup>6</sup> Under Ohio law, a parent has a "fundamental liberty interest" in the care, custody, and management of his or her child and an "essential" and "basic civil right" to raise his or her children. *In re Murray*, 52 Ohio St.3d 155, 156, 556 (1990).

**School Choice**

The arguments above are just a few of many reasons we support the concept of “school choice” in Ohio (we chose only to focus on those involving parental rights). Other organizations have submitted extensive testimony regarding multiple other angles as to why Ohio legislators should support school choice policies. CCV supports any legislation that empowers parents with greater educational tools.

CCV is well aware of the implications in Ohio for the state/local school funding scheme and the objections of many supporters of the current school district model. However, it is clear that educational decisions are best left to parents, not government boards and commissions, the professional education class, or government bureaucrats. Ohio’s educational system should empower parents by providing all the means necessary for them to send their children to the school of their choice.