

Judge blocks law to move power over Ohio's K-12 education to governor's office

The decision comes after seven State Board of Education members sued to stop what they called a takeover of public education by Gov. Mike DeWine and the Republican-controlled legislature.

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Ohio's plan to change who gets to write statewide education standards is on hold after a Franklin County Court judge issued a temporary restraining order Thursday to block the law from going into effect.

"This is really about the voice of the people and that there are checks and balances and that they are able to come to us when they have issues," Ohio State School Board Member Antoinette Miranda said. "This case is really important to make sure we still have a voice for the parents, the teachers, the school districts and everybody else that benefits from education."

Miranda and six other members of the state board filed a lawsuit Tuesday saying that a plan to move control over statewide standards, textbook recommendations and strategic planning away from the partially elected board and give those duties to the governor's office was unconstitutional.

Judge Karen Held Phipps, a Democrat, didn't decide on the merits of Miranda's case. But she did issue a written decision blocking the Ohio Department of Education from moving forward with its plans to rename itself as the Department of Workforce and Education, appoint a director who would serve in Gov. Mike DeWine's cabinet, and transfer powers over education policy from the State Board of Education to that new director.

The order will last until Oct. 2, when another hearing will be held to decide whether to postpone the law indefinitely while this case works through the courts.

At the heart of their lawsuit is how much state lawmakers have the authority to change the responsibilities of the board.

Article IV, Section 4 of the Ohio Constitution states that there "shall be a state board of education" and a superintendent of public instruction. But it also states that "the respective powers and duties of the board and of the superintendent shall be prescribed by law."

The seven board members said in their complaint that the proposed changes would turn their board into "an empty shell" which goes against what the people of Ohio voted for when they created the board in 1953.

"Being a constitutionally created office means something. That's a major step that people in a state have taken," Democracy Forward attorney Madeline Gitomer said. "Other state courts have found that even when a provision allows the General Assembly or legislature to prescribe duties by law, there are still inherent and core powers that cannot be removed."

Senate Republicans, who added the changes to the state's budget, have disagreed.

"The State of Ohio is perfectly legal in doing what we do because the constitution gives us the authority to set the duties of the state school board, and we did that in the state budget," Sen. Andrew Brenner, R-Delaware, said Tuesday.

The reasons Brenner and his fellow Republicans have given for transferring powers from the board to a single cabinet appointee are that the board has been consumed by ideological fights over issues like transgender students and whether schools should address systemic racism. And it's been unable to choose a replacement for the last superintendent, who left in September 2021.

"These seven school board members have failed. Under their watch, Ohio has gone 728 days without a state superintendent," Lt. Gov. Jon Husted said.

"Their lawsuit is frivolous. It's time to end this nonsense and move forward with new leadership."