

# Judge delays decision in Ohio's lawsuit over who controls public education

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Columbus Dispatch

Who controls the direction of public education in Ohio won't be decided this week after a Franklin County judge decided to give both sides more time to make their cases.

Judge Karen Phipps extended the due date for filings from Wednesday to Oct. 16, according to her staff attorney. And she extended a temporary restraining order blocking the law from being enacted until Oct. 20.

The decision leaves Ohio in a bit of a legal gray area when it comes to public education.

State lawmakers put a total overhaul of the Ohio Department of Education into the budget they passed in June. The sections included eliminating ODE, renaming the agency the Department of Education and Workforce, creating a new director appointed by Gov. Mike DeWine, and transferring most education policy responsibilities from the 19-member Ohio State Board of Education to DeWine's new director.

Republicans said giving control over issues like state standards, tests and policies would improve student learning and test scores because the board has been distracted from its mission by fights over culture war issues like transgender athletes.

The law was set to take effect on Oct. 3.

Then, three Ohio parents, two of whom are members of the state board, sued, saying the law was unconstitutional because it shouldn't have been added to the budget, and lawmakers don't have the right to take powers away from the board created by a vote of the people. The state board was created by a constitutional amendment passed by voters in 1953.

"Students are the most successful when families are at the table helping develop solutions," plaintiff and board member Michelle Newman said. "We cannot silence the voices of our families, of our parents of our kids, and our teachers when it comes to making education policy."

Judge Phipps thought the lawsuit had merit and temporarily blocked sections of the budget from becoming law on Sept. 21. The problem with that, in DeWine's opinion, was she didn't include the sections eliminating ODE.

That meant ODE "died" at midnight on Monday. And if the Ohio Department of Education didn't exist and the Department of Education and Workforce couldn't be created, DeWine wasn't sure who would approve voucher applications or send state dollars to local schools.

So, the governor and his legal team decided to let parts of the new agency be created. He told reporters that he wouldn't appoint a director or transfer any of the board's powers but that DEW would be Ohio's new K-12 education agency.

"That temporary restraining order meant there were to be no changes to the state of public education in Ohio until further notice," said Skye Perryman, the CEO of Democracy Forward, the group behind the lawsuit.

She told reporters DeWine's interpretation was "not a good faith reading of the court order."

Perryman stopped short of saying the governor was in contempt of court, but she made it clear that she thought DeWine should have worked with the court to modify the order as needed instead of "grandstanding."

"It is very unclear right now on the ground what the office he has created overnight entails, what the details of it are," Perryman said. "We are still trying to assess what this means."

Democracy Forward filed a motion asking Judge Phipps to clarify her order and whether the governor has violated it.