

# Ohio education overhaul can move forward after judge denies preliminary injunction

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Ohio can transfer control of K-12 public education to Gov. Mike DeWine's administration, a visiting Franklin County judge ruled Friday.

Retired Franklin County Common Pleas Court Judge Richard Frye denied a preliminary injunction, which would have temporarily blocked the planned transfer of power from the 19-member State Board of Education to the governor's office.

Frye, who was appointed to fill in for Judge Karen Phipps while she is out of the country, followed the recommendation of Magistrate Jennifer Hunt.

The decision comes after several state board members filed a lawsuit challenging Ohio lawmakers' authority to strip the board of its power to influence K-12 education. Legislators tucked the overhaul into the state's two-year budget. Franklin County Common Pleas Court Judge Karen Phipps, a Democrat first elected in 2018, had previously put the changes on hold by twice granting a temporary restraining order.

However, the board members had to clear a higher legal standard to block the transfer of power for longer. Hunt ruled Friday that they hadn't done so.

"The plaintiffs failed to meet their burden by proving clearly and convincingly that they will sustain any of their claimed injuries under the challenged provisions. Notwithstanding the abruptness and significance of the powers transferred under the challenged provisions, plaintiffs failed to establish that they have a right to an injunction in this matter," Hunt wrote.

Attorneys for the board members had argued that state lawmakers didn't have the authority to strip the board of its powers because of a 1953 constitutional amendment and even if they did, legislators went about it the wrong way.

DeWine, represented by former Senate President Larry Obhof, contended that the 1953 constitutional amendment does not grant specific powers to the state board of education, only the right to exist. "The board does not have a right to exercise any particular powers, even those that plaintiffs believe are 'core' to its historic statutory duties," Obhof wrote.

Hunt agreed with DeWine and Obhof. The board would still review teachers' licenses, discipline and other matters.

Hunt also indicated the Ohio Department of Education had taken steps to find a new superintendent of public education, started moving staff and renamed the department when the lawsuit blocked those efforts. "These factors weigh against granting an injunction," she wrote.

The board members sued in their capacity as parents rather than elected officials. The Toledo Board of Education was also a party in the case. They argued that the board is more responsive and accessible to the public than DeWine's administration would be.