



## **Detroit Right to Literacy Ignores the Potential of School Choice**

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A 2016 lawsuit re-emerged last month that, if successful, could be the first to codify a fundamental right to literacy. But proponents ignore the possibility that competition within education may be a more effective solution to the challenges students face.

The lawsuit began in 2016, when several Detroit students sued the State of Michigan for the Detroit Public School system's failure to provide them with access to literacy. The complaint asserts that the system's lack of textbooks, classroom resources, sanitary environment, English Learner instruction, qualified teachers, and prevalent unaddressed trauma imperiled students' ability to learn.

Perhaps more significantly, the complaint argues that because literacy is essential to achieving success in higher education, the workplace, and as an informed citizen, it is a fundamental right.

“The unique importance of literacy to civic, political, and economic participation means that effectively excluding a discrete class of children from the right to an opportunity to attain literacy stamps them with a badge of indignity that will profoundly affect them for the rest of their lives,” the plaintiffs wrote.

U.S. District Court Judge Stephen J. Murphy III disagreed, writing:

Under Plaintiffs' reasoning, if the State's failure to provide a good or service to a person results in a limitation of future opportunities and social stigma, the good or service must be a fundamental right. Yet the same could presumably be said for a person who must go without a sanitary place to live, or must live in an abusive home—and neither of those implicate a fundamental right.

Ultimately, Murphy concluded, the Constitution does not provide judicial remedies for every social and economic ill. Nor should it. To call upon the state to provide these remedies suggests inviting the state into American homes, finances, and relationships—especially those with whom the prevailing political party disagrees—to tell Americans how to live. This sounds little like the freedom our Founders sought to guarantee. The students appealed Murphy's ruling to Cincinnati's Court of Appeals where it was heard again last month.

But beyond Constitutional challenges, a right to literacy poses practical difficulties as well.

Plaintiffs suggest that a lack of resources is to blame for the environment that inhibits their access to literacy. Laurence Tribe, a professor of constitutional law at Harvard

University said the case is an opportunity to give the federal court system a chance to consider what he calls a “massive body of evidence” demonstrating what under-funded schools do to the children attending them, including making them a “permanent underclass.”

If funding is to blame, then more funds should fix the problem. But Detroit already receives more funding per pupil than most Michigan school districts. In the 2016-2017 year, when the lawsuit was filed, The Detroit Public Schools Community District ranked in the top 5 percent for per-pupil funding by district in Michigan (45<sup>th</sup> out of 838 districts), receiving \$14,754 per pupil—\$4,758 more than average (\$9,996 per student). Yet, students tied with Cleveland for the lowest performance in the nation on the 2017 National Assessment of Educational Progress.

So where is all of Detroit’s money going? In 2017, the Office of the Inspector General found that a former director of grant development fraudulently billed the district for \$1.275 million. A tutorial company fraudulently charged the district for \$684,644, and an illegal bribery and kickback scheme involving twelve Detroit Public Schools principals, an assistant superintendent, and a vendor cost the district \$2.7 million. That’s not to mention Detroit’s ballooning debt payments.

A right to literacy is unlikely to remedy these challenges quickly or effectively. Lawsuits could require more funding for schools and judges could demand changes to school systems, but success would take time and require the judiciary to oversee educational improvement.

Conversely, competition could inspire schools to improve themselves and better serve Detroit’s students. If Michigan revisited its constitutional amendment prohibiting state dollars from following students to schools of their choice, the state could implement school choice programs such as voucher programs or Education Savings Accounts. These programs would allow state funding to follow students to the schools that serve them best. If Detroit schools don’t provide access to literacy, students could use state funds to pay for schools that do. And as Detroit loses students—and funding—to schools that offer better opportunities, the system would be incentivized to cut down on waste, fraud, and debt to provide the kind of quality education that attracts students to its programs.

The research bears this out. In 20 out of 21 empirical studies, the Cato Institute found that competitive pressure from school choice programs improved test scores for students who remained in traditional public schools. In addition, more than 20 evaluations found that these programs resulted in state and district-level financial savings.

While students are right to be frustrated with Detroit public schools, choice in education is a more efficient way to achieve the literacy they seek.