

**Statement to the
Ohio Commission on Constitutional Modernization,
Committee on Education, Public Institutions, and Local Government
on the importance of an independent State Board of Education**

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Chairman Readler, Vice Chairman Gilbert, Governor Taft, and members of the Committee:

My name is Robin C. Hovis and I am a resident of Millersburg in Holmes County. Between January, 2004 and December 2012, I served nine years as a member of the state board of education. My first term on the board was by appointment of Governor Taft, and I continue to be grateful to him for giving me that opportunity. My second term was as an elected member representing the fifth state board district. I was term-limited in 2012. During my tenure on the state board, I attended about one hundred monthly two-day meetings, and for a time was chairman of one of the two major sub-committees. I was also active in the National Association of State Boards of Education, and served as the national secretary-treasurer of that organization for three years. I also was a high school teacher, and a staff member of the Ohio Department of Education for about five years in the 1980s. I mention these things so that you will realize that I have first-hand knowledge of the things I am about to describe.

There is a calamity befalling public education in Ohio. A non-partisan state governance structure for public education, which was mandated by the citizens in 1953, and which upon its implementation immediately began delivering much better state-level management of, and support for our 600+ school districts, is now mocked and treated with contempt by partisan officials.

The state board of education was established by a constitutional amendment adopted by the voters in 1953, and implemented in 1956. Many duties have been assigned to the board by the General Assembly, but the board's most important responsibility is the only one assigned to it by the Ohio Constitution, itself: the exclusive power to appoint the superintendent of public instruction to head the Ohio Department of Education.

The chief state school officer in Ohio, since the position was established in 1837, has been know by four different titles, but the job has been the same: to give strong, stable, objective leadership to public instruction in our state, so to prepare students for citizenship, employability, and the pursuit of happiness. This position is

surely one of the most important in state government. And it is for that reason that so many of us are deeply distressed by what has been happening to it in the past 25 years, and particularly in the past ten years.

I call your attention to the colored handout attached to my printed statement, and entitled *Tenure of Ohio's Chief State School Officers*.

Our first chief state school officer was Samuel Lewis, appointed by the General Assembly in 1837 to the office of State Commissioner of Common Schools. He did the job for four years. Then the duties were assigned to the Secretary of State until 1854. After that, the job was made a state-wide elective office, and another 19 people took their turn at the post. In 1913, the title was changed to State Superintendent of Public Instruction, and three more people were elected by the voters to the position. The average tenure was about three years -- not long enough for any one of them to build and consolidate much progress.

Starting in 1921, the position was re-named Director of Education, and was made an appointee of the governor. Eight more people cycled thru the position, averaging 4 years each, aligning with the term of the governor. Some governors probably made the appointment based on actual qualifications to do the job. But others surely took into account partisan considerations in deciding whom to appoint, and when to replace them. And it is unlikely that a director of education appointed by the governor from one party was ever retained in the post by a succeeding governor of another party. This system of governance for our schools clearly did not satisfy the people of Ohio.

By 1953 local school board members, superintendents, teachers, and parents were fed-up with the destabilizing influence of partisanship in public education management at the state level. A broad array of organizations joined behind the idea of installing at the state level the same model which worked well governing a local school district, namely a politically independent, non-partisan governing board. Nearly every major newspaper in the state editorialized in favor of the constitutional amendment brought to the voters. It established a separate state board of education, and vested it with the sole power to appoint the chief state school officer. The amendment passed with a solid majority.

The amendment empowered the General Assembly to fix the number of members on the new board, the length of their terms, and how they were chosen. The legislature understood very well what the public wanted by adopting the amendment, and the enabling legislation therefore provided that all members be elected by the voters on a non-partisan ballot in the general election - one from each congressional district.

And look what happened. Look what happened to the important position of Superintendent of Public Instruction. The state board acted carefully -- selecting visionary leaders who were eminently qualified and experienced, and had the respect of school leaders across the state. The revolving door of partisan appointees was stopped in its tracks! The average tenure *tripled* to 12 years! Staff positions at the department of education stopped being filled with political patronage appointees. They were hired based on their resume, and changes in the governor's office no longer threatened their careers. School districts were relieved to have stable, consistent policy development and enforcement unaffected by changes in which party controlled the General Assembly or the governor's office.

I wish this was still the case. But something unfortunate happened in the early 1990s. The General Assembly was persuaded to change the state board's membership. The board was re-constituted to have 19 voting members, eleven to be elected across the state in districts formed by joining adjacent legislative districts. The other eight members were to be appointed by the governor.

Look what happened to the average tenure of the state superintendent. It plunged from 12 years to 4.6! This was not an improvement in the system.

The adding of appointed members to the state board of education introduced the *possibility* of partisanship on the state board but, so it was hoped, did not guarantee that this would happen, and it must be said that not all governors used their appointments to make the state board partisan. Governor Taft appointed equal numbers of people from both parties, and the board stabilized. The result was the superintendence of Dr. Susan Zelman. When Dr. Zelman was appointed, Ohio ranked 26th in the nation in public education performance. When her tenure ended, we ranked 5th. She was in office for twice the average tenure of that period. The state board was left alone to do its job, and the superintendent led the department of education without interference. Governor Taft understood that some areas of our lives are not appropriate for exposure to the swinging pendulum of partisan ideology. I regret that only from the perspective of a *former* state board member, witnessing the damage now being inflicted on what was once such a high-functioning system, do I see how fortunate we were that Mr. Taft had a sense of discernment about when to press for change, and when to let a system work as it was designed. I wish his successors had studied his style more closely.

As if it was not enough just to open the door to partisanship on the state board, we apparently decided to see if we could cause even greater damage. Beginning in 2006, we entered a period -- which we are still in -- of not only partisan appointees on the state board, but of direct intervention by both the previous and the current

governor in state board actions, in the appointment of the superintendent of public instruction, and in policy decisions of the department of education. Look what happened. The pattern of direct intervention by the governor's office has further degraded the average tenure of the state superintendent to *less than two years!* Are we likely to get steady progress and improvement in education when the top leader is around for less than 24 months? Anyone in the system who is resistant to change can just wait a few months, ignoring regulations because the superintendent will change soon. State boards cannot adopt broad goals for the superintendent to pursue over time, because the board no longer really controls that appointment! We have allowed the precedent to become established that the governor names the superintendent, sustained by the fact that he can stack the state board with partisan appointees.

Susan Zelman, Deborah Delisle, and Stan Heffner each left the superintendent's office against their will, but without any act whatsoever by the state board of education to terminate their appointment. How can that be? The state constitution clearly says that the state board appoints the superintendent. But in each of these instances, the board was an embarrassed spectator at the superintendent's departure because its independence had been compromised.

Upon taking office, Governor Strickland alleged that Dr. Zelman was not "a visionary leader" (even though they had never had a conversation) and kept up the public pressure until she left. A governor had never before violated the independence of the state board and the superintendent's office. It was the beginning of the reinstatement of the "revolving door" of partisan appointments, in direct opposition of what the citizens of Ohio voted-for in adopting the state board amendment. Deborah Delisle was then appointed superintendent and is a person of ability, having subsequently served as assistant secretary of education in Washington, but because of how Dr. Zelman was pushed out, Mrs. Delisle was perceived as being a political appointee. So when Governor Kasich took office, she was a target. He appointed several new members to the state board during his first few weeks in office, an unusual situation partly brought-about by resignations of some board members at the same time as the normal expiration of some other members' terms. This block of new appointees, combined with a few elected members loyal to Kasich, gave him a controlling majority on the state board. He promptly sent staff to tell Superintendent Delisle that the board was now under his control, and she was no longer wanted.

According to Mrs. Delisle, they had never even met! She was succeeded by Stan Heffner, an experienced and competent 30-year veteran of education administration, who unfortunately neglected to mention a potential conflict of interest while giving testimony to a legislative committee.

Subsequent investigations showed that the potential conflict was never an *actual* conflict, that Heffner never benefited in an inappropriate way and there was no evidence that he even wanted-to. But that didn't really matter. Because he was now viewed as a "Kasich appointee," some partisans who had previously shown little interest in the department of education or the state board, suddenly enlarged the matter into a full-scale scandal

which toppled Mr. Heffner -- all for the goal of embarrassing Governor Kasich. Ohio lost yet another good leader for reasons which had nothing to do with education policy choices or departmental regulation of school districts. All of this is *precisely the kind of thing the public was trying to stop from happening when it voted for an independent non-partisan board!* We want a governance structure such that the superintendent of public instruction is *never* seen as an appointee of the governor or any other state official. Governors must not be able to reach over the state board, or to stack the state board politically and then remove the superintendent of public instruction to make way for an appointee of their own choosing. Nor should the governor be able to pressure the superintendent into hiring patronage employees in the department of education, under threat of being terminated. And this has been happening. In the past four years there has been unprecedented turn-over in senior positions at the state department of education. I know many of these people. They had developed intimate knowledge of the unique problems of various school districts in Ohio -- they "knew their territory" and were trusted and respected in the field. But we have lost them because they didn't have "the right views" about charter schools or teachers unions or some other policy question which suddenly became a partisan litmus test. Local school superintendents and at least two local school board presidents have told me that since this partisanship got started in state public education leadership, it has been made clear to them that their voting records have been examined, and their public criticisms in their local media about the governor's policies have been factored into policy decisions by the state on questions like whether their district's application for a waiver of some requirement will be granted. I knew Martin Essex and I worked for Franklin Walter. I am glad they are not here to witness this farce. They would not believe what we have been willing to tolerate. I am perhaps at a disadvantage in making my point, because many members of this committee may be put-off by my frustration at partisanship in education since you hold or have held partisan public offices.

So do I. I am a county chairman of a political party -- have been for almost 20 years. I have attended four national party nominating conventions as an alternate delegate. I understand partisanship. I do not think partisanship should be outlawed.

But I think it should know its place. Where would we be if the U. S. Supreme Court, which is supposed to enjoy the independence of a separate and equal branch of government, had to get the president's permission to hear certain witnesses during a trial? Where would be our economy if the Federal Reserve Board had to get approval from a congressional committee chairman, who is up for re-election, to raise or lower interest rates? Should we tolerate it?

Our society accepted long ago that the deliberations of the Supreme Court, and the stewardship of the economy, were matters of such seriousness and gravity that they had to be removed from abrupt changes of direction, revolving door leadership, and the pursuit of partisan advantage at the expense of more noble goals. So these

matters have been placed apart from the partisan arena, into the hands of people with the academic qualifications and the policy experience to do a good job over an extended period of steady leadership.

Isn't the sound, careful education of our children and grandchildren every bit as important as the regulation of interest rates?

There is a place in society for partisanship -- where ideologies are fought-out and all the players understand the rules and accept what can happen to them. But we also have the good sense to create some sanctuaries -- for the protection of that which must be treated with more care, and more consistency.

If some people want to spend their time on this earth playing partisan games and trampling over other people's lives and careers to show how powerful they are, all the while reminding us of their deeply-held Christian beliefs, then that is their choice. But must we continue to allow them to make our schools, the state board of education, and the department of education their playground for these spectacles?

During the five years of my employment on the staff of the state department of education, we were proud that our agency was different. Certain other agencies were widely known to be traditionally partisan -- with large staff turn-over when the governor's office changed hands, and with county party chairmen being consulted on hiring decisions for district offices, and so forth. Apparently people were content with that. But it was never like that at the department of education. No one got nervous if they were registered with the opposite party as the new governor. None of the 350 professional staff had a contract. We all served at the pleasure of the superintendent of public instruction. Yet no one worried about that because Dr. Walter was an honorable man and a brilliant educator with a steady hand on the tiller -- who supported his staff and knew that people could not thrive in a climate of fear. As a state supervisor who had to enforce regulations on some local districts which were trying to get around them, I did not have to worry that an angry local superintendent could threaten my job by calling his state legislator. If those things were tried, and they may have been, the independence of the state board and the superintendent stopped them at a level far above me. I never heard about it. I do not believe that staff feel that way today.

I am frustrated and angry that a system which once was working so well has become degraded and dysfunctional. It is frustrating that the legislature, as a separate and independent branch of government, has not asserted itself to stop executive overreach.

Let me conclude by pointing out some consequences of the damage we have permitted. As it becomes known among top educators that the independence of the Ohio board has been compromised and the superintendent is really an appointee of the governor, it will eliminate many of the best candidates who might otherwise be excited to come to Ohio. Who wants to leave the job they have to come to another which may be one step higher, but will leave them unemployed if the governor loses the election? And the best educational leaders are not going to apply for a position where many of their key staff appointments will be dictated to them by others.

The last time the state board had to appoint a superintendent while I was still on the board, we received only a few qualified applicants. The word had obviously spread that the position no longer had adequate independence. Judging from the average tenure of recent superintendents (1.8 years), we are unlikely to get a strong applicant for this post, because any educator whose career has brought them to the level of being ready to be superintendent of public instruction in a large state like Ohio already *knows* that the state board of education is controlled by the administration, so the Ohio superintendent really is subject to dismissal without cause. Will such circumstances attract the kind of person you want to see at the helm? Would a Franklin Walter or a Martin Essex apply for the job under these conditions?

Once the appointment of the superintendent has been completely subsumed by the governor, and state boards and General Assemblies of the future start accepting that as "the way it works," then we will see these consequences:

- 1) Department of education staff will be hired and fired based on the preferences of the governor's office. For example, Strickland and Kasich are poles apart on the question of charter schools, and of teacher unions. So in just a few weeks time, from the Strickland's electoral loss in November, to the inauguration of Kasich in January, department of education policy and enforcement would have turned on a dime on all questions of charter schools and teacher unions, and it will flip again the other way if the governor's office changes parties again next time. An independent board and state superintendent will not stop the charter school wars or other similar battles over philosophy, but it will ensure that those battles are fought in the partisan arena of the General Assembly and thru the election of governors who can sign or veto legislation and influence budgets, where such issues ought to be fought, and that meanwhile, the administration of *current* law will be methodical and fair, in the hands of a non-partisan agency. The policy pendulum may swing back and forth in the legislature where the law is being *crafted*, but not in the department of education, where the law is being *applied*!
- 2) Local school superintendents and ESC superintendents will notice that if their name shows up on the political party's donor rolls, or as a donor to the governor's campaign, their requests for help or for accommodation by the department of education will go smoothly. But if they were a donor to the opposition candidate for

governor, there will be a different attitude from the department. Suddenly their request for a waiver from the all-day kindergarten requirement might be declined.

3) If school boards adopt resolutions protesting the governor's priorities, such actions will become factors in decisions by the department of education about funding, approval of requests for exceptions to various standards, and so forth. I do not exaggerate: These things are already beginning to happen.

We can have any kind of state government we want. If those in other sectors of society are not bothered by the fact that the state agencies which support and oversee them are filled with political appointees, that is their choice. But education in Ohio broke free of that mess in 1956 and has since been above the corrupting influence of partisanship! I am not accusing one political party over the other. Both Strickland and Kasich have brought partisanship into the education system at the state level, and have been aided in doing so to one degree or another by allies in the General Assembly. Both parties are guilty.

Advocates of direct influence in public education by the governor often point out that the public elected the governor and he therefore has a mandate to make changes and lead improvement, and therefore needs direct control over every state agency. I disagree strongly. No state board of education is eager to be in a dispute with the governor. All a governor has to do to influence state board policy-making is to address the board and "make his case." The board may not embrace everything requested, but will work to find areas of compromise.

I recommend the following reforms:

1) Revise the language in the Ohio Constitution to specify that the state board shall be non-partisan, and all members shall be elected. Retain the language vesting the state board with the exclusive right to appoint the superintendent of public instruction. Further provide that the superintendent of public instruction shall be head of the agency charged with support and supervision of public schools.

2) Political parties should be barred from publishing endorsements in state board races, or including state board candidate names on their slate cards.

3) Neither the Office of Budget and Management nor the Department of Administrative Services nor the governor's office nor any other part of the executive branch may be involved in hiring decisions, nor impose salary ranges, or assert any other control over the state board or its management of the department of education.

If we can have a casino developer single-handedly write the text of an amendment to our constitution, giving himself everything he wants, and rather easily get that passed in a general election, then surely we can draft new language to strengthen our constitution's protections of an independent state board of education and superintendent of public instruction.

I get the impression that many witnesses who have testified to this committee have despaired of our current system, and called for creating something new that will work. My assertion to you is that we do not need to create a new system. This data on the chart, *Tenure of Ohio's Chief State School Officers*, shows that we already *know* how to achieve stability and sound leadership. Let us simply return to what we already know works -- to the "golden age" of the all-elected state board of education, during which time the average tenure of state superintendents was 12 years, and the department was not influenced by partisanship.

About 36 states have a state board of education. I recommend that this committee invite testimony from Kris Amundsen, Executive Director of the National Association of State Boards of Education. Kris was a state senator in Virginia. She is an expert on the various structures for state boards of education.

For the past 16 years I have taught a weekly Bible study at the Mansfield Correctional Institution. There are 2200 men there. I have had about 240 take my course. There are a total of 56,000 Ohioans behind bars. It costs us about \$26,000/year to keep each of them. Many of them attended our failing inner-city schools. When I was on the state board, Cleveland City Schools had a 46% graduation rate, and spent about 30% more per pupil than the state average. What do we think is going to happen to an 18 year old sent out from this kind of school preparation into a competitive job market or college scholarship market?! They will get crushed, and probably end-up in prison. Isn't it better to spend about \$11,000 per year *effectively* for 12 years to educate a student for success, than to spend about \$26,000 per year for 40 years to incarcerate them? This should be the aim of our state public education system. But we cannot expect the system to succeed in its mission unless the top leadership of it is stabilized by a return to an all-elected state board of education.