



## The Moral Case for School Choice

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### Key Points

- Benefits of school choice are often described solely in economic terms, while moral benefits are not taken seriously. School choice would protect rights and liberties and promote greater equality.
- Rights and liberties are protected through the General Diffusion of Knowledge because citizens learn to distinguish threats to their liberty and necessary exercises of lawful authority.
- Simple equality is compatible with liberty or tyranny. In public education, raising the bar on equality means encouraging—not merely tolerating—a parent’s decision to seek out the greatest education.

Individuals who are entrenched against improvements that can be made in public education often overlook the benefits that increased school choice will provide. There are financial benefits, such as increasing teacher salaries,<sup>1</sup> but the moral benefits are often not treated seriously. School choice would both preserve and promote the values we hold dear. These values were given shape in the first declaration of the American people: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights...” This short paper will illustrate how school choice would both preserve liberties and rights and promote greater equality.

### Preserve Liberties and Rights

According to the Texas Constitution, state legislators are required to support and provide funds for education because a general diffusion of knowledge is essential to the preservation of the liberties and rights of the people.<sup>2</sup> In this way, the Texas Constitution enumerates the goal of education in the explicitly moral terms of liberty and right. But how can knowledge protect the people?

The language of our state constitution originates in A Bill for the More General Diffusion of Knowledge—House Bill 79 of one of the first Virginia Congresses.<sup>3</sup> This bill explained why education protects rights: “experience hath shewn, that even under the best forms, those entrusted with power have, in time, and by slow operations, perverted it into tyranny; and it is believed that the most effectual means of preventing this would be, to illuminate, as far as practicable, the minds of the people at large, and more especially to give them knowledge of those facts, which history exhibiteth, that, possessed thereby of the experience of other ages and countries,

they may be enabled to know ambition under all its shapes, and prompt to exert their natural powers to defeat its purposes.”

In our representative government, the people guide our lawmakers because lawmakers are public servants. In turn, the general diffusion of knowledge guides the people. It arms people to know and value their rights: they see and provide for invasions against them by distinguishing between oppression and the necessary exercise of lawful authority. The people, who can distinguish liberty and anarchy, will rally around the former and combat the latter. Every Texan must be able to judge for him or herself which laws secure their liberty and rights. As children grow up, this ability proves crucial both to their private happiness and their healthy participation in life. This was the purpose of House Bill 79 when it was proposed by Thomas Jefferson. James Madison, for his part, supported Jefferson’s work to promote public education in a private comment to another mutual friend: “Your old friend, Mr. Jefferson, still lives, and will close his illustrious career by bequeathing to his Country a magnificent Institute for the advancement and diffusion of knowledge; **which is the only Guardian of true liberty**, the great cause to which his life has been devoted.”<sup>4</sup>

Texas clearly agreed with both Madison and Jefferson when the Convention of 1875 settled on the language now contained in Article VII, Section 1 of our Constitution.

In 2005, the Texas Supreme Court threw its full authority behind the idea that knowledge protects rights and liberties. It declared, “the truth of the axiom had long been, *and remains*, beyond doubt.”<sup>5</sup>

continued.

**Table 1: What “General Diffusion of Knowledge” Requires**

<p><b>Section 4.001(a):</b> “The mission of the public education system of this state is to ensure that all Texas children have access to a quality education that enables them to achieve their potential and fully participate now and in the future in the social, economic, and educational opportunities of our state and nation. That mission is grounded on the conviction that a general diffusion of knowledge is essential for the welfare of this state and for the preservation of the liberties and rights of citizens.”</p>	<p><b>Section 28.001:</b> “It is the intent of the legislature that the essential knowledge and skills developed by the State Board of Education under this subchapter shall require all students to demonstrate the knowledge and skills necessary to read, write, compute, problem solve, think critically, apply technology, and communicate across all subject areas. The essential knowledge and skills shall also prepare and enable all students to continue to learn in postsecondary educational, training, or employment settings.”</p>
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The accomplishment of a general diffusion of knowledge is the standard by which our public education laws must be judged. In the same 2005 case, the Texas Supreme Court explained what exactly a general diffusion of knowledge requires. To do this, it quoted the two parts of the Texas Education Code shown in **Table 1** above.

These sections, taken together, “properly inform the construction and application of the constitutional standard of a general diffusion of knowledge.”<sup>6</sup> These words are deliberate, not rhetorical. They define exactly what a general diffusion of knowledge requires. Does the current public education system fulfill the standard? “There is substantial evidence,” the Texas Supreme Court concluded after surveying educational outcomes,<sup>7</sup> “that the public education system has reached the point where continued improvement will not be possible absent significant change, whether that change take the form of increased funding, improved efficiencies, or better methods of education.”<sup>8</sup>

It must be noted that increased funding—in the Court’s opinion—is a shortsighted answer. They say explicitly: “We remain convinced, as we were 16 years ago, that defects in the structure of the public school finance system expose the system to constitutional challenge. Pouring more money into the system may forestall those challenges, but only for a time. They will repeat until the system is overhauled.”<sup>9</sup> To avoid this, they offer an alternative: “Perhaps,” they say, “public education could benefit from more competition.”<sup>10</sup>

The Texas Supreme Court reveals the moral imperative for school choice: morality requires the protection of each individual’s rights and liberties. Liberty requires a general

diffusion of knowledge. Knowledge requires education. Public education is currently inadequate to the task. An essential part of inadequacy is the lack of competition.

**Promote Greater Equality**

School choice would also preserve and promote greater equality, which itself is a cornerstone of our way of life. In every election, we recommit ourselves to equality. In elections, our goal is to find legislators and policymakers who will act in accord with what the majority of voters decide. Our belief is that there is more wisdom in many citizens than in any one of us alone.<sup>11</sup> The benefit of this regime is that the people are protected from the abuse of power by an unelected individual. The cost is that individuals who are in the minority and disagree with the majority are left in a tenuous position. This is a danger of democracy, and we must continually remind ourselves of the result, which was stated frankly by the *Federalist Papers*: “Hence it is, that Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security, or the rights of property; and have in general been as short in their lives, as they have been violent in their deaths.”<sup>12</sup>

Accepting the costs and benefits of our way of life, we should promote a greater equality. Equality can be achieved through two solutions: raise all men to greatness or level all men to the lowest common denominator. History clearly indicates that freedom yields the former, whereas tyranny produces the latter. Texans are equal in republican government, but we would also be equal under tyrannical government. In the former, it is because we are everything; in the latter it is because we are nothing. Therefore we ought to ask ourselves how we can preserve

and protect a republican government. The primary means to do so is to enact laws which not only tolerate—but promote—the ability of Texans to distinguish themselves. Every individual ought to be given an equal opportunity to do so.

Currently, our Texas Education Code merely tolerates this: individual families are allowed to strike out on their own to educate their children. Yet there is no incentive offered by the state to do this. With the exception of charter schools, parents who seek out a non-public school must pay twice for their child's education: once in the form of a property tax to the government and again in the form of tuition to the non-public school. The result is that about 6 percent of children are educated by schools that are not run by the government.<sup>13</sup> A Texas Education Code which promotes an individual family's decision to strike out on their own and find the best education for their children would raise the standard of equality.

Nor is there any shortage of Texans who want to do this: over 101,000 students are on waiting lists to attend charter schools throughout our state.<sup>14</sup> Far from diminishing the benefits we now derive from our system, school choice would continue to guarantee universal public education and foster a diversity of great schools.

## Conclusion

Every Texan wants his or her rights and liberties protected. Every parent wants an excellent education for their children. No one opposes universal public education.<sup>15</sup>

**A discussion of school choice always involves objections that are not based on the merits of school choice. These objections are animated by passions and prejudices which inhibit the ability to find the truth.**

But the proposal to achieve these goals through school choice affects *status quo* institutions and touches many private interests. Therefore, a discussion of school choice always involves objections that are not based on the merits of school choice. These objections are animated by passions and prejudices which inhibit the ability to find the truth.<sup>16</sup>

It's common sense that people whose wealth and reputation are tied up with the established system would oppose innovation. The question is whether the private interest of the *status quo* should outweigh the benefits of liberty and equality. An answer to this question is crucial. As Thomas Jefferson noted, "I think by far the most important bill in our whole code is that for the diffusion of knowledge among the people. No other sure foundation can be devised, for the preservation of freedom and happiness."<sup>17</sup> ★

## Endnotes

<sup>1</sup> See *Teachers Win: A Case for School Choice*.

<sup>2</sup> Article 7, Section 1 states: "A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools."

<sup>3</sup> See "A Bill for the More General Diffusion of Knowledge" (accessed 14 Aug. 2014).

<sup>4</sup> Letter to George Thomson (20 June 1825).

<sup>5</sup> *West Orange Cove II*, emphasis added. The explanation of why the general diffusion of knowledge protects liberties and rights is often absent from our discourse. See, for example, the district court's verbal ruling on the most recent school finance case, pgs. 6-7.

<sup>6</sup> *West Orange Cove II*.

<sup>7</sup> In its survey, the Court mentioned achievement gaps, dropout rates, college preparedness, teacher compensation, and standardized test scores.

<sup>8</sup> *West Orange Cove II*. The Court itself was notably silent on the conclusions of this statement when it decided *West Orange Cove II* 10 years ago. It stated, "an impending constitutional violation is not an existing one, and it remains to be seen whether the system's predicted drift toward constitutional inadequacy will be avoided by legislative reaction to widespread calls for changes."

<sup>9</sup> *West Orange Cove II*. The Court continued: "The Legislature may well find many ways of improving the efficiency and adequacy of public education that do not involve increased funding."

<sup>10</sup> *West Orange Cove II*. The Court does not elaborate on what this implies because "the parties [to the lawsuit] have not raised this argument and therefore we do not address it."

<sup>11</sup> See *Democracy in America*, 1.2.7.

<sup>12</sup> Federalist 10. Federalist 10 also explains five developments in political science that can be used to mitigate the dangers of popular government: 1) distribute power into distinct departments, 2) introduce legislative checks and balances, 3) institute a judiciary and allow judges to hold office during good behavior, 4) elect officials to represent the people in the legislature, 5) enlarge the size of the nation.

<sup>13</sup> According to the National Center for Education Statistics, there were 5,000,470 students enrolled in the K-12 Texas school system in fall 2011. See Table 203.20, "Enrollment in public elementary and secondary schools, by region, state, and jurisdiction: Selected years, fall 1990 through fall 2023." There were 285,320 students enrolled in private K-12 schools. See Table 205.80, "Private elementary and secondary schools, enrollment, teachers, and high school graduates, by state: Selected years, 2001 through 2011." National Center for Education Statistics (accessed 9 Aug. 2014).

<sup>14</sup> "PolitiFact Texas: Dan Patrick says 100,000 are on waiting list to attend Texas charter schools," *Austin American-Statesman* (accessed 9 Aug. 2014).

<sup>15</sup> Universal public education must be defined with impartiality, as it was explained by the Texas Supreme Court in *Edgewood IV*: "In Senate Bill 7, the Legislature fulfills its mandate to provide a general diffusion of knowledge by establishing a regime administered by the State Board of Education. The Constitution does not require, however, that the State Board of Education or any state agency fulfill this duty. As long as the legislature establishes a suitable regime that provides for a general diffusion of knowledge, *the Legislature may decide whether the regime should be administered by a state agency, by the districts themselves, or by any other means.*"

<sup>16</sup> For example, "vouchers" illicit steep opposition when it has been suggested that they could be given to individual families, but no opposition is found when they are used by the Texas Education Agency (TEA). Specifically, Section 7.055 of the Texas Education Code outlines the powers and duties of the Commissioner of Education, who is the head of the TEA. Subsection (b)(7) states, "The commissioner may issue vouchers for the expenditures of the agency..." On one hand vouchers are opposed; on the other they are the law of the land. Vouchers *per se* are not opposed. The idea that the state should vest the ownership of them to parents is opposed. See Texas Education Code, Sec. 7.055. Commissioner of Education Powers and Duties (accessed 9 Aug. 2014).

<sup>17</sup> Letter to George Wythe Paris (13 Aug. 1786).

