

2016

## How Limited Government vs. Large Government Debates Affect Race and Education in Cincinnati

Jonathan S. Hogue  
*Xavier University*

Follow this and additional works at: <https://www.exhibit.xavier.edu/xjur>

---

### Recommended Citation

Hogue, Jonathan S. (2016) "How Limited Government vs. Large Government Debates Affect Race and Education in Cincinnati," *Xavier Journal of Undergraduate Research*: Vol. 4 , Article 4.  
Available at: <https://www.exhibit.xavier.edu/xjur/vol4/iss1/4>

This Article is brought to you for free and open access by Exhibit. It has been accepted for inclusion in Xavier Journal of Undergraduate Research by an authorized editor of Exhibit. For more information, please contact [exhibit@xavier.edu](mailto:exhibit@xavier.edu).

# DeRolph v. State

## How Limited Government vs. Large Government Debates Affect Race and Education in Cincinnati

Jonathan S. Hogue

### **Literature Analysis**

The Philosophy, Politics and the Public Honors Programs (PPP) require students in their final undergraduate year to examine and analyze an aspect of the public. During this analysis, students are encouraged to engage philosophical, political and social commentary in order to comprise a holistic understanding of the public sphere.

For this project, the title is “DeRolph v. State: How Limited Government vs. Large Government Debates Affect Race and Education in Cincinnati.” The analysis explains racial inequality through a philosophical and political lens to ask if large or limited government philosophies affect educational standards for Cincinnati’s communities of color. Based on a review of a range of primary and secondary texts, readers will note that an active government approach is necessary for maintaining education equality in the public sphere.

The thesis’s literature derives from three sources: legal documents, social commentary and philosophical works in order to meet the multidisciplinary requirements of the PPP program.

The thesis’s legal background contains information from the Ohio Constitution, prominent law journals and documents crafted by legal teams that were a part of the *DeRolph v. State*. For example, Obhof’s extensive work in “DeRolph v. State and Ohio’s Long Road to an

Adequate Education” explains *DeRolph* in detail. The article reviews the *DeRolph* from a legal scholar’s perspective and describes information in an anecdotal form, which is beneficial for readers not accustomed to the Court’s complex language. The follow is an example: “In negative terms, [education inequality] meant that a student’s success [would] depend on circumstances outside of his or her control, such as the geographic location or wealth of the family.”<sup>1</sup>

Obhof’s work along with the Ohio Constitution and Bricker articles provide the technical and legal perspective that is necessary for readers to understand institutionalized discrimination in Cincinnati, income and race inequality that impedes the education system from providing a “through and efficient” experience for every pupil.

Following these legal explanations, the thesis contains numerous arguments from social and political commentators who follow education reforms in American politics. Readers will find sources from newspapers such as the *New York Times* and the *Atlantic*, data from Gallup polls, excerpts from academic journals, government statistics, and anecdotes from educators in Cincinnati’s most marginalized communities.

These sources are crucial to the argument because they represent the myriad of opinions that surround racism and education reform efforts. A highlighted article that represents the necessity of these articles is Wesley Hogan’s “Cincinnati: Race in the Closed City.” Hogan and others follow the legal discussion surrounding instances like *DeRolph* and explain the racial and social tensions that affect educational quality for students of color. Hogan’s article provides background on issues of inequality that range from education and housing to employment. All factors are important in showing why communities of color are marginalized in Cincinnati, and Hogan’s perspective

---

<sup>1</sup> Larry Obhof, “*DeRolph v. State* and Ohio’s Log Road to an Adequate Education,” *B.Y.U. Education and Law Journal*, (2005): 91, accessed September 21, 2015, <http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1198&context=elj>

supports the argument that communities that lack a “through and efficient” education will be victims of cyclical marginalization.

Also, Hogan and several authors take controversial stances on past policies directed at creating more inclusive cities. Hogan’s explanation of controversies and Cincinnati’s failure to fully incorporate people of color into civic life gives insights into how the city’s mistreatment of students stems from a system of government that rewards discriminatory behavior and fails to provide an education system that ignores racial biases. It also illustrates how commentary from outside contributors gives readers a balanced approach to understanding *DeRolph’s* implications.

A large section of the thesis discusses the philosophical tensions that influence political debate. Finally, readers will see arguments from John Locke and Baruch Spinoza in order to understand how conservative and liberal Cincinnatians might argue for policies in the public sphere. In the text, the thesis states, “When discussing philosophy’s placement in American politics, it is important to examine debates about how the relation of government, individual pursuits and the public’s general welfare can secure a harmonious state. In terms of a conservative versus liberal philosophical debate, literature by John Locke and Baruch Spinoza are examples of philosophy’s quest to answer political questions that align with American political ideologies.” Without this examination, the thesis would fail in its quest to explain how political ideologies affect racism and education in the public.

The goal is for readers to gain a deeper understanding of educational inequality in the Queen City. As stated by numerous scholars, there is not a single remedy to solve educational inequality or racism. However, the difficulty in finding remedies does not give citizens or government the excuse to remove themselves from the debates that are necessary to improve the lives of people in the public sphere.

## **Need For *DeRolph***

*Education then, beyond all other devices of human origin, is the great equalizer of the conditions of men, the balance-wheel of the social machinery.*<sup>2</sup>

Government is a necessary institution. There is no other body in civic society that has the ability to defend liberties, provide for the general defense and ensure that citizens' basic needs are met. Government's placement in society is secure. However, while Americans argue that government's existence is necessary, political matters outside of providing basic needs are cause for intense debate. The philosophical difference between an active, large government and a small, limited government is at the heart of American politics and how citizens allow government to manage civic institutions like education.

In 1991, a complaint filed by the Ohio Coalition for Equity & Adequacy of School Funding in Perry County challenged the constitutionality of Ohio's funding system. For the next 12 years, the plaintiffs and state officials debated about how local and state government officials should not only use government authority to support equitable education standards, but also provide districts with the authority they need to prescribe changes necessary for their pupils. An examination of this debate in Cincinnati shows that the struggle for an equitable education is a challenge city and state leaders still must address for the sake of students of color. With a careful examination of the litigation filed by the Ohio Coalition, individuals can see how limited government and large government debates affect not only personal liberties, but how people of color are disproportionately marginalized by an inequitable education funding model in Cincinnati.

---

<sup>2</sup> Gregory Fritzberg J., "School of Education at Johns Hopkins University-Schools Can't Do It Alone: A Broader Conception of Equality of Educational Opportunity," John Hopkins School of Education, last modified 2012, <http://education.jhu.edu/PD/newhorizons/strategies/topics/multicultural-education/schools-cant-do-it-alone/>.

In 1997, the Ohio Supreme Court heard arguments in *DeRolph v. State*. The Court examined communities' reliance on property taxes for funding sources and the argument that Ohio violated the state's constitution's clause that mandates "a thorough and efficient system of common schools throughout the state." The *DeRolph* court ultimately ruled the funding model was unconstitutional and instructed the legislature to reform the state's educational funding system. Almost 20 years later, little action has been taken to implement the Court's ruling

Today, Cincinnati's communities of color suffer from excessive income inequality. More than 53.1% of Cincinnati's children live in poverty. Out of the 14,000 families that live in poverty, data show that 76 percent represent Black families. For yearly salaries, Black Cincinnati families make only \$24,272 compared to the \$57,481 for whites. If school districts rely on property taxes for funding, then communities of color where a majority of the citizens are below the poverty line will suffer compared to white regions in tristate.

### **What Is A Quality Education?**

Americans agree that a quality education promotes equality in the public. Politicians, business leaders and average citizens believe in the idea that an education provides individuals the opportunity to reach their God-given potential if they properly apply themselves and work hard. Despite the rise in class and race inequality in America, across social boundaries 94 percent of citizens believe that a quality education is important to civic life.<sup>3</sup>

In its very governmental code, Ohio asserts that a quality education is necessary. "[Ohio] will secure a thorough and efficient system of

---

<sup>3</sup> Valerie J. Calderon & Susan Sorenson, "Americans Say College Degree Leads to a Better Life," Gallup.com, last modified April 7, 2014, <http://www.gallup.com/poll/168386/americans-say-college-degree-leads-better-life.aspx>.

common schools throughout the state.”<sup>4</sup> After 1975, education spending decreased, and school districts were forced to diversify ways students would receive a sufficient education. Districts proposed tax levies, petitioned state leaders for additional funding and cut local costs to meet goals, but educators’ ingenuity in raising dollars could not avoid the inequality present in Ohio’s funding models.

Judicial observer Jerry Obhof states that the struggle for an equitable education began with petitions to intervene in education funding in the 1920s. According to Obhof, 1923 *Miller v. Korns* “challenged the state’s practice of appropriating tax revenues to apportioning money raised in one school district to be spent in another district [as] unconstitutional.” In a ruling that would be strengthened with the decision *DeRolph v. State*, the Ohio Supreme Court in *Miller v. Korns* stated that the “thorough and efficient” clause “calls for the up building of a system of schools throughout the state, and the attainment of efficiency and thoroughness in that system is thus expressly made a purpose, not local, not municipal, but statewide.”<sup>5</sup>

The Court’s ruling had an immediate effect on how Ohio’s legislature addressed education inequality. In 1935, the Ohio legislature instituted the Foundation Program Funding Model and provided large sums of tax dollars to all school districts. The Foundation Program allocated to “each district a certain minimum level of funding, provided the district [met] its own minimally required effort by imposing an agreed upon minimum tax rate.”<sup>6</sup> Obhof states that in the next four decades, state legislators used their authority to increase funding at a record pace. During the 1960s and early 1970s, Ohio

---

<sup>4</sup>Ohio Const. art.VI, § 3,

<https://www.legislature.ohio.gov/laws/ohioconstitution/section?const=6.03>.

<sup>5</sup> Larry Obhof, “*DeRolph v. State* and Ohio’s Log Road to an Adequate Education,” B.Y.U. Education and Law Journal, (2005): 94, accessed September 21, 2015,

<http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1198&context=elj>.

<sup>6</sup> Ibid, 90

provided roughly one-third of the operating costs for school local districts.<sup>7</sup>

In the mid-1970s, Obhof explains, attention shifted from efficiency to equality. Thirty states were challenging the use of property taxes as the main revenue source for school funding. Ohio, not removed from the national debate, faced criticism from opponents of income inequality that argued the state's funding model in, "negative terms, meant that a student's success [would] depend on circumstances outside of his or her control, such as the geographic location or wealth of the family."<sup>8</sup>

From the 1920s-1970s, individuals argued that the Court should take an activist role, but justices engaged in judicial restraint and ruled that problems regarding funding inequalities were attributable to issues of taxation that were outside of the Court's jurisdiction.

In 1976, according to Obhof, the Court's approach to education changed when, "the Board of Education and Superintendent of Schools of Cincinnati, along with parents, students, and other individuals, brought an action for declaratory judgment against the State of Ohio."<sup>9</sup> The plaintiffs argued in *Board of Education V. Walter* that Ohio's funding scheme violated the Ohio Constitution's Equal Protection Clause and the "thorough and efficient" standard of the Education Clause. The lower courts favored the plaintiffs; however, the Appellate Court partially reversed the decision, stating that the state did not violate the "thorough and efficient" clause, but it was operating unconstitutionally in terms of the equal protections provision.

Obhof argues this legal precedent helped "the Court [to argue] that education was a fundamental right, and that there was no compelling state interest justify the disparities in funding."<sup>10</sup> Following the

---

<sup>7</sup> Ibid, 90

<sup>8</sup> Ibid, 90

<sup>9</sup> Ibid, 90-92

<sup>10</sup> Ibid, 92

Appellate Court's decision, the Ohio Supreme Court, in a continuation of legal precedent, ruled that the education disparity was a taxation issue rooted in "the way in which Ohio has decided to collect and spend state and local taxes rather than ... the way in which Ohio educates its children."<sup>11</sup> However, the Court's "unambiguous statement that it had jurisdiction in such cases ... acknowledged that it is the province of the legislature to determine a funding scheme. But, it stated that where legislative enactments violate the fundamental law (such as the requirements of the Ohio Constitution), the courts have not only the power, but also the duty, to declare such enactments invalid."<sup>12</sup>

Advocacy groups like the National Education Access Network argue the *Walter* decision was crucial to *DeRolph* because, "the court left the door open for possible future 'adequacy' litigation when it said that a funding system would violate the constitution if 'a school district was receiving so little local and state revenue that the students were effectively being deprived of educational opportunity.'"<sup>13</sup> The *Walter* Court's decision had an immediate effect on the education system. Following the Court's ruling the General Assembly created an Education Review Committee which worked in conjunction with an Equal Yield Formula legislators used when drafting education budgets. Obhof argues that Ohio legislators, following a national trend, increased standardized testing, teacher in-class goal requirements and facility updates in schools across the state in order to create a more "thorough and efficient" system. Initially, the Court deemed the legislators' actions to be constitutional. The Education Review Committee followed the Equal Yield Formula which "recommended funding of \$715 per student ... [but] was easily

---

<sup>11</sup> Ibid, 90-93

<sup>12</sup> Ibid, 93

<sup>13</sup> Molly Hunter, "Trying to Bridge the Gap: Ohio's Search for an Education Finance Remedy," *Journal of Education*, vol. 26 (2000): 75, accessed April 7, 2016, [http://www.schoolfunding.info/resource\\_center/research/judicialohio.pdf](http://www.schoolfunding.info/resource_center/research/judicialohio.pdf).

---

surpassed by establishing a funding level of \$960 per student.”<sup>14</sup> Obhof explains “schools were also eligible to receive up to an additional \$420 per student through the second tier of the formula” which convinced the Court that the legislature fulfilled its duties under the Education Clause because the Equal Yield Formula enabled districts to meet the minimum standards set by the Education Review Committee.”<sup>15</sup>

Obhof writes that three years after the *Walter* decision, the legislature eliminated both the Equal Yield Formula and the Education Review Committee that were crucial to the Court's wishes. In 1990, the legislature reintroduced the Foundation Program, which was designed to allocate \$4,000 per student in 1992. However, in the 1992-1993 fiscal year, the state inadequately provided \$2,817, and left individual districts with the job of cutting costs in order to meet the state's annual goals. While it is legal for school districts to allocate extra dollars for education budgets, Obhof claims that the issues post-*Walter* and prior funding battles left some students at a disadvantage. The inequality of district wealth and improper state education funding encouraged Ohioans to challenge the state in court in an action that would lead to *DeRolph v. State*.<sup>16</sup>

On December 19, 1991, a coalition of five Ohio school districts filed a complaint in the Perry County Court of Common Pleas regarding Ohio's funding model. The Ohio Coalition for Equity & Adequacy of School Funding, the legal team that represented the five school districts, argued that the state's existing model for education funding failed to secure high quality educational opportunities for Ohio's students because the reliance on the use of property taxes as the main

---

<sup>14</sup> Larry Obhof, “*DeRolph v. State* and Ohio's Log Road to an Adequate Education,” B.Y.U. Education and Law Journal, (2005): 93-94, accessed September 21, 2015,

<http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1198&context=elj>.

<sup>15</sup> *Ibid*, 93-94.

<sup>16</sup> *Ibid*, 90-97.

source of school district revenue encouraged inequality in the education system.

This suit against Ohio was a continuation of trend of similar lawsuits and legal precedents that were created in the 1990s. *The New York Times* reported in March of 1990 that low-income school districts across the nation were turning to the judicial branch for guidance on ways to find “equity in school finance.”<sup>17</sup> In the span of 14 months, Kentucky, Montana and Texas high courts ruled that their states’ education funding models were unconstitutional. Describing a situation that also existed in Ohio, the *Times* stated that:

Nationwide, the traditional property-tax system of raising money for education locally has been under assault for 20 years, and vast changes have resulted. In 1979, for the first time, state governments contributed more money to education nationwide than local school districts. But the state courts are finding that the legislatures have not sufficiently reduced the wide variance in spending among districts. [The result is ...] poor school districts often tax at higher rates than rich ones, the lack of valuable property means they can still fall several thousand dollars short on spending for each pupil.<sup>18</sup>

Litigation encouraged judicial activism across the country to galvanize legislative bodies. Conservatives argued this movement was fueled by “judges allow[ing] their personal views about public policy, among other factors, to guide their decisions.”<sup>19</sup> At the federal level, the House Education and Labor Committee “introduced a bill in January [1990] that would bar states from receiving federal education funds if they had big disparities in what is spent among school districts.”<sup>20</sup> For the *DeRolph* team, the national shift on education

---

<sup>17</sup> Robert Suro, “Courts Ordering Financing Changes in Public Schools,” *New York Times* (New York, New York), March 11, 1990.

<sup>18</sup> *Ibid*

<sup>19</sup> Mario Loyola “Judicial Activism Explained,” *The National Review* (New York, New York), June 25, 2013.

<sup>20</sup> Robert Suro, “Courts Ordering Financing Changes in Public Schools,” *New York Times* (New York, New York), March 11, 1990.

solidified their reasoning to challenge Ohio in court and pressure lawmakers towards adopting new laws for funding models.

On October 25, 1993, the trial in *DeRolph v. State* began. The initial trial included 70 witnesses, more than 500 exhibits and concluded after 30 days of argument. In July of 1994, Perry County Judge Linton Lewis Jr.'s ruling stated that, "education is a fundamental right and that Ohio's system of school funding is unconstitutional."<sup>21</sup> Initially, political leaders were unreceptive to Judge Lewis's ruling on the state's funding model. Republican Governor George Voinovich instructed state defendants to file an appeal against the lower court's ruling. In August of 1994, the Governor's Office, the Ohio State Board of Education and other state-sponsored education agencies argued and won an appeal of the lower court's ruling.

Following the overturned decision, the Ohio Coalition for Equity & Adequacy of School Funding filed an appeal to have the Ohio Supreme Court accept jurisdiction of the case. In January 1996, the Ohio Supreme Court agreed to the coalition's request and began hearing arguments on the *DeRolph* case. The court listened to oral arguments for seven months from members of the coalition and state officials. On March 24, 1997, the Ohio Supreme Court, in a 4-3 decision, ruled in favor of the coalition stating, "that the current funding model [is] unconstitutional and orders a 'complete, systematic overhaul' of the system with enactment required within 12 months by March 24, 1998. The Court remands the case to the trial court to conduct a hearing and issue findings as to whether the anticipated remedial legislation satisfies the mandates of the Ohio Supreme Court."<sup>22</sup> On the state's motion for Reconsideration and Clarification, the Ohio Supreme Court ruled:

---

<sup>21</sup> Bricker & Eckler LLP, "Bricker & Eckler *DeRolph v. State of Ohio* Resource Center," *Bricker & Eckler Attorneys At Law*, Bricker.com, 2014, <http://www.bricker.com/resource-center/derolph/key-resources/resource/petition-for-writ-of-certiorari-to-united-states-supreme-court-derolph-v-state-2003-429>.

<sup>22</sup> *Ibid.*

1) local property taxes may be used as part of the funding solution, but they may no longer be used as the primary source of funding for a thorough and efficient system of schools; 2) school district borrowing may continue through March 23, 1998; and 3) the Supreme Court will not retain jurisdiction of the *DeRolph* case because the trial court is in the best position to be a trier of fact and gatherer of evidence and to make decisions about the progress and constitutionality of the enacted legislation. The Supreme Court states that 'it would be the trial judge's responsibility to rule on the constitutionality of the enacted legislation and to render an opinion. Any party could then appeal that decision directly to this court for final determination.'<sup>23</sup>

Conservative commentators argue the Ohio Supreme Court's decision in *DeRolph v. State I* was an example of judicial activism. The Ohio Supreme Court, like Kentucky, Montana and Texas courts, used the judicial branch as institution to rewrite policies prescribed by elected lawmakers. For the judicial branch to instruct and give the legislature a mandate to reform education spending models was a landmark precedent in Ohio. Following the court's April decision, the judges ruled that the legislature had until July 1, 1998 to revise funding legislation. In a motion filed in March 1998, the plaintiffs argued that recommendations from state officials following the decision were "inadequate and will have no effect on the operation of the State's school funding laws."<sup>24</sup> Echoing sentiments from other school districts that filed similar petitions, the Coalition told the Court:

It is now the State's responsibility, in the remedy phase of this litigation, to purge itself of the finding of unconstitutionality by affirmatively demonstrating that it has established an 'entirely new school financing system' that is consistent with the constitution and this Court's decision of one year ago. Plaintiffs urge the Court that if the State has appropriately answered the *DeRolph* decision then the State defendants have nothing to fear from immediate judicial

---

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

review. Plaintiffs further state that if the State has not appropriately answered the *DeRolph* decision then delay is intolerable.<sup>25</sup>

In a sign of solidarity with the legislature, the court understood the reforms were a “burden of production,” but “proof must show by a preponderance of the evidence that the constitutional mandates have been fulfilled.”<sup>26</sup>

Following the Court’s mandate, the legislature failed to act. Education non-profits, school officials and state legislators, angered by inaction, filed a Brief of amici curiae<sup>27</sup> with Judge Lewis on behalf the plaintiffs in *DeRolph I*.<sup>28</sup> In retaliation, state officials filed a motion to strike portions of amici briefs submitted by legislators and the Ohio Association for Gifted Children - stating that both briefs contained “information extraneous to the record and are beyond the scope of an amicus brief.”<sup>29</sup> In February 1999, Judge Lewis ruled that the state’s response to *DeRolph I* was unconstitutional. State defendants, then Republican Governor Robert Taft, Senate President Richard Finan, and House Speaker Jo Ann Davidson filed two amicus briefs with the Ohio Supreme Court in an effort to block Judge Lewis’s ruling. Subsequently, 16 briefs were filed, which forced the Court to hear additional arguments for *DeRolph II*.

---

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Cornell University Law School: Legal Information Institute, “Amicus Curiae Definition,” accessed April 8, 2015, [https://www.law.cornell.edu/wex/amicus\\_curiae](https://www.law.cornell.edu/wex/amicus_curiae). Definition: Latin for “friend of the court.” Frequently, a person or group who is not a party to a lawsuit, but has a strong interest in the matter, will petition the court for permission to submit a brief in the action with the intent of influencing the court’s decision.

<sup>28</sup> Bricker & Eckler LLP, “Bricker & Eckler *DeRolph v. State of Ohio* Resource Center,” *Bricker & Eckler Attorneys At Law*, Bricker.com, 2014, <http://www.bricker.com/resource-center/derolph/key-resources/resource/petition-for-writ-of-certiorari-to-united-states-supreme-court-derolph-v-state-2003-429>.

<sup>29</sup> Ibid.

Similar to the previous decision, “the Supreme Court issue[d] [an] opinion holding that Ohio’s school funding system remained unconstitutional and [gave] the State until June 15, 2001 to bring the system into compliance. The Court retained jurisdiction to review the legislation enacted in response to its remedial orders.”<sup>30</sup> In a continuation of the debate, the Court allowed additional amicus briefs to be filed. Then Congressman Ted Strickland and 15 groups filed an amicus brief in support of the plaintiffs in *DeRolph II*. In response to Strickland’s efforts, five briefs were filed in support of the state. The briefs reopened arguments for the Court to review a case for *DeRolph III*.

In *DeRolph III*, the Court issued the following ruling: “Ohio’s school funding system is unconstitutional, but [the Court] orders State defendants to alter the methodology for determining the per pupil base support and accelerate the phase-in of parity aid, at which point the system will become constitutional.” In 2002, additional appeals caused the Ohio Supreme Court to rule for a fourth time on the *DeRolph* case. In *DeRolph IV*, the Court’s ruling struck down *DeRolph III* recommendations and made *DeRolph I & II* the standing law of the case. In an effort to discourage future litigation, the state filed a Complaint of Writ of Prohibition to the Court. The complaint, granted by the Court, “prohibited the trial court from conducting the status conference sought by the *DeRolph* plaintiffs and foreclosed any further proceedings in the case.”<sup>31</sup> Efforts were also made to move the discussion to the U.S. Supreme Court, but justices denied the plaintiffs’ petitions.

*DeRolph v. State* made a significant impact on how citizens viewed government’s role in managing local civic institutions. Ohioans can see how an activist Court, using a large government approach, favors greater intervention that in turn benefits the welfare of Ohio’s students. Limited government proponents, represented by Republican

---

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

leadership during the case, viewed the Court's ruling as a threat to the political autonomy of school districts to create laws that adequately reflect the needs of their students. The debate regarding the perception of limited and large government philosophies continued after the *DeRolph* ruling, but the ideas presented would not hold the same weight had it not been for the plaintiffs. These men and women challenged government to reevaluate its role in creating a "thorough and efficient" school system for all of Ohio's students.

### **Race in Cincinnati**

There is a palpable sense that Cincinnati is a divided city. Visitors to the city's urban neighborhoods observe dilapidated homes, crumbling infrastructure and signs of economic distress, while a five-minute drive in the opposite direction shows neighborhoods with well-kept parks, people walking dogs and signs of robust businesses. These differences affect the morale in a neighborhood and the manner in which citizens feel their communities have the ability to address economic and political challenges.

Following the 2008 recession, numerous non-profits, businesses and government agencies have focused on helping Black America return from the economic brink. Today, the U.S. unemployment rate is 5 percent.<sup>32</sup> For Americans outside of the general figure, the unemployment rate's dramatic fluctuations are little cause for celebration. For Hispanic and African Americans, the national rate does not represent minorities' experience. March's Hispanic unemployment rate was 5.6 percent and 9 percent for Black Americans. This 4 percentage point difference highlights racial disparities affecting funding for public education and racial inequality in America.<sup>33</sup>

---

<sup>32</sup> U.S. Department of Labor Bureau of Labor Statistics, "The Employment Situation – March 2016," *Bureau of Labor and Statistics*, BLS.gov, April 8, 2016, <http://data.bls.gov/timeseries/LNS14000000>.

<sup>33</sup> *Ibid.*

For Cincinnati's Black community, the struggle for an equitable economy has been years in the making. In "The State of Black Cincinnati," the Urban League of Greater Southwestern Ohio illustrates the disparities that impede African Americans from attaining sustained growth by citing local unemployment figures in their report for 2015. The report says, "Overall, unemployment figures have decreased significantly for workers in Cincinnati, to 4.3 percent, according to recent government figures, yet the unemployment rate for African Americans is still in double digits. African Americans continue to lack significant economic parity with Cincinnati's majority community." The Urban League finds it difficult to encourage funding for minority businesses and disagrees with Cincinnati leaders' conservative policies. Its report concludes, "This reality makes it hard for African Americans to be optimistic that genuine [economic] progress is possible."<sup>34</sup> The morale of Cincinnati's Black communities has been decimated by years of economic injustice and the lack of representation in the Cincinnati's business and non-profit sector which has created a segregated system that ignores minority citizens' needs.

Noting low community morale, the Urban League conducted a series of surveys to gauge how Black Cincinnati viewed the city's affairs. Responses to three questions stood out in the survey: Rate Cincinnati as an Inclusive and Welcoming City, Rate the Quality of Life You are Experiencing Today and Rate Your Overall Job Opportunities Currently available in Cincinnati. In each poll, more than half of Black respondents' experiences were more negative than those of whites, Hispanics or Asians questioned in the survey.

---

<sup>34</sup> Eric M. Ellis, "Do Terms 'Inclusive,' 'Conservative' Mix, Offer Hope to African-Americans," *The State of Black Cincinnati 2015: Two Cities*, (2015): 111, accessed December 5, 2015, [http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015\\_Two-Cities.pdf](http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015_Two-Cities.pdf).

## Morale & Education

For disadvantaged communities, education is a means to progress. Blighted communities of color rely on the success of a quality education to give students tools necessary to compete in an economically competitive city such as Cincinnati. The pain of poverty is not removed when students enter the classroom. For students of color, particularly Black students, personal and family issues stemming from inequality in the community impede students from retaining information and performing at the same level as counterparts in white communities. Through data and accounts from educators, community groups and non-profits, individuals can see the correlation between economic underdevelopment and the effect it has on the ability of communities of color to be educationally competitive in Cincinnati.

The Urban League reports that of the 50,000 school aged children who live in Cincinnati, “about 33,000 students, preschool to 12th grade, attend Cincinnati Public’s 55 schools.”<sup>35</sup> Data show that of Cincinnati Public School’s 33,000 students, 63 percent or nearly 23,000 students are Black and 73.4 percent or 24,000 students are from economically disadvantaged families. Cincinnati Public Schools working with a smaller tax base are at a structural disadvantage compared to affluent suburbs with larger tax bases outside of the region. This resource drought accounts for the reason why only two in ten Cincinnati public or charter school students attend high performing schools, and the district’s 73.6 percent four-year graduation rate is more than eight percent lower than the state average.<sup>36</sup>

---

<sup>35</sup> Vanessa White, “Cincinnati Schools Must Help Black Students Move Beyond the Dream,” *The State of Black Cincinnati 2015: Two Cities*,” (2015): 66, accessed December 5, 2015, [http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015\\_Two-Cities.pdf](http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015_Two-Cities.pdf).

<sup>36</sup> *Ibid*, 65.

The Urban League argues expectations about education are low because discrimination and inadequacy have become the norm for communities of color.

A K-12 education is compulsory, so we know [minority] children are held accountable for attending school. However, the community's expectations must exceed that requirement. Indeed, they must go beyond even what the state reports on an annual basis. The question is this: Is the quality of the K-12 education our students are receiving worthy of supporting the community's hopes for its youth? The community must demand evidence of whether the K-12 education our students receive adequately prepares them for college or career in a manner that motivates them.<sup>37</sup>

Education in communities of color has the opportunity to be a great equalizer if it is properly administered by civic institutions. In a discussion about disparity in the public, Wesley Hogan wrote in his 2001 article, "Cincinnati: Race in a Closed City" that Cincinnati's decline has hurt Black communities' ability to progress. "Cincinnati has been in decline for more than 40 years."<sup>38</sup> Poor Black communities lack the power to effectively respond, and there are few white allies." Note that Hogan, like the Urban League, argues that inadequate support from leaders or allies is largely responsible for the unequal conditions facing African Americans in Cincinnati.

The institution of public education should not be administered based on color, but on a child's desire and ability to learn. Black students in Cincinnati should not be required to obtain their education from an institution that lacks allies from the racial majority and operates on a funding model that disrespects their rights as citizens. As Hogan states, "Cincinnati tells us that our places require that our citizenship become defined not so much in what we are against, as in what we are

---

<sup>37</sup> Ibid, 66.

<sup>38</sup> Wesley Hogan, "Cincinnati: Race in the Closed City," *Social Policy Vol.* 32 (2001): 49, accessed December 7, 2015, <http://eds.b.ebscohost.com/eds/pdfviewer/pdfviewer?sid=284d5c2d-e545-4dbc-bce4-8c843ea8d89b%40sessionmgr112&vid=4&hid=126>.

for. More than voting or keeping abreast of current events, citizenship carries the obligation, the duty, the opportunity to serve in the ordinary, routine, quotidian moments and events of our lives.”<sup>39</sup> If civic institutions respect their role in administering a proper form of education, then communities of color can maximize their civic power to fulfill their duty to Cincinnati’s civic affairs.

Education is civic tool necessary for an equitable means of progress. Civic society does not succeed when citizens use talents selfishly, but rather works best when the city finds innovative ways to incorporate all of civic society’s talents into the social framework and create a place where everyone’s God-given abilities are nurtured and allowed to grow. It is then the role of public institutions, such as education, to work in a colorblind fashion so that communities of color do not witness “their citizenship increasingly disconnected from the people and places in which they live.”<sup>40</sup> Public institutions failing to administer a “thorough and efficient” education enhance this disconnect and codify discrimination through law and customs that have no place in Cincinnati.

### **Philosophy’s Relationship to Citizenship**

*Citizenship is the common thread that connects all Americans. We are a nation bound not by race or religion, but by the shared values of freedom, liberty, and equality. Citizenship is the common thread that connects all Americans. We are a nation bound not by race or religion, but by the shared values of freedom, liberty, and equality.*<sup>41</sup>

---

<sup>39</sup> Stanley Talmage, "A New American Cincinnati: Citizenship, Education, and Place," *Studies in American Culture Vol. 1* (2013): 26, accessed December 8, 2015, <http://eds.a.ebscohost.com/Legacy/Views/static/html/Error.htm?aspxerrorpath=/eds/pdfviewer/pdfviewer>.

<sup>40</sup> Ibid, 27.

<sup>41</sup> U.S. Citizenship and Immigration Services, “Citizenship Rights and Responsibilities,” *U.S. Department of Homeland Security, USCIS.gov*,

America is a place of diverse people and ideas. Scholars and citizens alike agree the United States and its imaginative citizenry are examples of how coalitions connect the needs of the individual to the progression of overall society. While coalition building usually takes place in political environments, Americans ignore non-political institutions' roles in educating, motivating and challenging systems of power ability to encourage social advancement. Public education is a prime example of a non-political institution that is crucial to social progression because it is necessary for the creation of a public that respects the idea of citizenship and its ability to share values which support freedom, liberty and equality among the citizenry. Cincinnati has struggled to use education to support equality in its citizenry. Today, Cincinnati's citizenry struggles to capture the essence of what an efficient education system's role is in safeguarding liberty for communities of color. Political polarization and unfair systems of power have eroded public education's ability to create virtuous students who are prepared for numerous challenges in and outside of the classroom. Regardless of conservative or liberal ideologies, the American value of equal opportunity requires government has to play a role in ensuring civic institutions, such as education, are properly supported to give every citizen the tools necessary to fulfill their civic duty.

### **American Political Ideologies & Philosophical Discussion**

To understand how civic institutions and government work together, individuals must review the political and philosophical arguments that guide popular discussion. In terms of education, local government is an active player. When citizens discuss how government should function, most responses follow a conservative or liberal approach to governance. In the article, "What Americans Mean When They Say They're Conservative," *Economist* author Connor Freidersdorf states American conservatism is "an embrace of localism, community and family ties, human scale, and a responsibility to the future [which is

---

<https://www.uscis.gov/citizenship/learners/citizenship-rights-and-responsibilities>.

supported by] a desire to be left alone by government, often coupled with a belief that being left alone is a natural right.”<sup>42</sup> Conservative principles are associated with limited government because they argue it supports individual advancement. Liberal Americans argue in favor of the concept of “a strong role of government in regulating capitalism and constructing the welfare state” for the advancement of others.<sup>43</sup> American liberalism slightly departs from the traditional definition, but it is associated with the idea of a large, active government to care for the welfare of citizens. These ideas encapsulate how Americans, particularly Cincinnatians, view government’s role in civic affairs.

When discussing philosophy’s placement in American politics, individuals must examine debates about how government, individual pursuits and general welfare secure a harmonious state. In terms of a conservative versus liberal philosophical debate, individuals can review literature from John Locke and Baruch Spinoza as examples of philosophy’s quest to answer political questions which align with American political ideologies.

John Locke’s writing had an indelible impact on Western political philosophy. During his lifetime, Locke was closely associated with the English Whig political party that argued for a strict constitutional adherence that acutely defined government’s role to balance power with the public. His philosophical contributions focused on natural rights, property and the role government has in maintaining personal liberty. In *Two Treatises of Government*, Locke argues individuals are free “to follow [their] own will in all things...and not to be subject to the inconstant, uncertain, unknown will of another man”<sup>44</sup> For conservative Cincinnatians, Locke’s words resonate with political debates on education.

---

<sup>42</sup> Conor Friedersdorf, “What Americans Mean When They Say They’re Conservative,” *The Atlantic*, (Washington D.C.), January 27, 2012.

<sup>43</sup> “Liberalism Definition,” Dictionary.com, <http://www.dictionary.com/browse/liberalism>.

<sup>44</sup> John Locke, *Second Treatise of Government* (North Chelmsford, MA: Courier Corporation, 2012): Ch.4 para 22.

Locke argues the state of nature provides individuals with undeniable rights which are separate from government's authority. In the natural world, individuals tacitly consent to a social contract or agree to follow the customs and norms supported by the public. This consent provides individuals with the ability to exercise their freedoms in ways that supersede government's ability to regulate the minute affairs of everyday life. For Lockean conservatives, state government is not a part of the community's day-to-day function. Individuals at the community level possess the ability to exercise freedom to demand remittance from, "he who has suffered the damage has a right to demand in his own name, and he alone can remit: the damnified person has this power of appropriating to himself the goods or service of the offender, by right of self-preservation, as every man has a power to punish the crime, to prevent its being committed again, by the right he has of preserving all mankind"<sup>45</sup>

Locke contends that in a state of nature everyone is his or her own judge and jury. If inequality is a public issue, Lockean conservatives argue individuals have the right and necessity to obtain remittance for wrong doings and preserve their status in the natural world. Government does not possess power to regulate local issues like educational inequality, because Locke argues, government's purpose is limited for "the preservation of property being the end of government, and that for which men enter into society."<sup>46</sup> According to a Lockean conservative, combatting education inequality is not in the state government's power. For education to properly cultivate virtuous citizens, it is important for the institution to teach in a manner which does not "harm another in his life, health, or liberty [because] all men are naturally in...a state of perfect freedom to order their actions."<sup>47</sup> The ruling handed down during the *DeRolph v. State* decision rejects devolution of power to local municipalities to allocate education funding. A conservative could argue it is the role of a virtuous education system to act in "the name of such actions as are

---

<sup>45</sup> Ibid, Ch. 2 para 11.

<sup>46</sup> Ibid, Chap 11 par. 138.

<sup>47</sup> Ibid, Ch.2, par.6 & Ch.2, par.4.

most conducive to the good of the society.”<sup>48</sup> If individuals in affluent, white municipalities are economically ahead of minority districts, then by Lockean philosophy, their funding should not be decreased to accommodate for inequalities that are outside of that community’s control, such as hiring discrimination, lack of economic development and effects of years of racial segregation. Lockean Conservatives argue these are past issues that must be resolved by individual communities by prescribing laws which reflect the needs of their residents.

For philosophically liberal Cincinnatians, Baruch Spinoza is a thinker they can cite in an effort to answer Lockean calls for restrained government in education. Writing from a religious perspective, Spinoza argues that individuals do not possess the ability to properly regulate passions on their own.<sup>49</sup> Rather, Spinoza contends it is the role of government and laws to work in an active manner for the general welfare of all citizens in the public.

Spinoza writes, “men are not always able to regulate their affairs with sure judgment.”<sup>50</sup> In Spinoza’s argument about the natural world, individuals act in ways that negate social welfare and preserve their advancement of the need of the whole. It is not the solely the fault of the individual, but the blame falls on passions which supersede the public’s ability to act in a fair and equitable manner.

In terms of education at the local level, Spinozian liberals argue affluent municipalities who pool large amounts of wealth are incapable of “pursu[ing] things and judg[ing] them to be in their interest merely because they are carried away...by their passions – which have no regard for other things.”<sup>51</sup> A lack of civic regard

---

<sup>48</sup> John Locke, “Virtue A,” *Locke Political Essays* (Cambridge: Cambridge University Press, 1997), 271.

<sup>49</sup> Definition of philosophical passions: inclination unmanageable; break the psychological.

<sup>50</sup> Baruch Spinoza and Jonathan Israel, *Theological Political Treatise* (Cambridge: Cambridge University Press, 2007), Preface, par.1.

<sup>51</sup> *Ibid.*, Ch. 5, par.8.

removes citizenship and the need for coalition building from the public. It is in the best interest of affluent school districts to encourage educational equality for the entire state because all are members of the same civic body. Spinoza's arguments are partially in agreement with Locke in the sense that both men believed freedom allowed individuals "to accept their own opinion" on affairs and argue that the beliefs of each work well "for his own gain or loss."<sup>52</sup> The difference comes from Spinoza's argument that freedom's place in civic affairs can come at a price if government is incapable of restraining passions that do not promote the general welfare. "No society can subsist without government" because the public needs "laws which moderate and restrain desires."<sup>53</sup>

Spinozian liberals would argue that the Court's decision in *DeRolph v. State* aligns with their argument that government should restrain economic and unjust passions from disrupting equitable advancement. Affluent school districts receive exorbitant funding, to some extent, because of unjust economic practices and government policies. Data show Cincinnati's communities of color have not received the same amount of economic, political and civic support as white counterparts, which in turn created a climate where communities of color fail to progress economically. In an active, large government approach, the Court's mandate that local property taxes should not be the determining factor of a child's education limits the ability of economic inequality to impede the state from administering a sufficient education system. For communities of color who are victims of unfair passions, active, large government is necessary if equality is to be maintained and citizenship of students of color is to be respected by the citizenry at large.

### **The Road Ahead**

In terms of the future, there is not one simple answer to Cincinnati's problems with education and racial inequality. The courts, Urban League and philosophical arguments represent a fraction of the

---

<sup>52</sup> Ibid, Ch.17, par.4.

<sup>53</sup> Ibid, Ch.5 par.8.

problems facing Cincinnatians of color. For this project, the purpose of the work is to argue for a more inclusive public dialogue which incorporates ideas from a myriad of sources in order to cultivate a more virtuous Cincinnati.

For Cincinnatians who battle education inequality, the fight is more complex than the data represent. For instance, in the neighborhood of Evanston, more than 68 percent of the community is Black.<sup>54</sup> In terms of economic development, a majority of Evanston's households make less than \$10,000 a year.<sup>55</sup> Lifelong residents in the community point to initiatives aimed at improving education and development, but most fail due to the lack of understanding of how racism has affected public institutions like education in Cincinnati.

Monna Beckford is a Resource Coordinator at Evanston Academy, a charter school. Her school serves students from Kindergarten through sixth grade and outperforms districts in more affluent parts of Ohio. For Beckford, the reliance on data and political rhetoric about her community fails to grasp the work that is needed to help residents improve their lives. "Racism in Cincinnati is so deep; it's as if you can cut it with a knife."<sup>56</sup>

Beckford argues that Cincinnati as a whole is working towards creating a more inclusive city, but residents of color do not have the resources or the knowledge of how to take advantage of these opportunities. "Failure falls on the state, the community and individuals in not moving together to make a more inclusive Cincinnati," but for CPS "data do not show how students perform." Beckford continues, "The state's test is too hard and uses complex language that students in underperforming schools cannot

---

<sup>54</sup> "City of Cincinnati Census & Demographic Data: 2010 Cincinnati Statistical Neighborhood Approximations (Evanston)" Cincinnati-OH.gov, last modified 2016. <http://www.cincinnati-oh.gov/planning/reports-data/census-demographics>.

<sup>55</sup> Ibid.

<sup>56</sup> Monna Beckford (Evanston Academy Resource Coordinator) interviewed by Jonathan S. Hogue, December 10, 2015.

comprehend.”<sup>57</sup> Education policies prescribed by state and local officials negate the fact that education at every level is a unique experience: “Our teachers do not have time to teach. Today it is all about testing ... and preparing [students] for testing which can disproportionately hurt students of color.”<sup>58</sup>

In the long run, education must be administered by public institutions that understand inequality and its placement in the public. Cincinnati’s students of color possess the capability to change their narrative. If citizens care about the general welfare of the city and its residents, it is the role of government to act in a way that best meets the needs of every community. This requires proper implementation of the *DeRolph v. State*, input on education reform from educators in the field and a focus on giving communities of color the ability to express citizenship through education in a manner that does not bind them by “race or religion, but by the shared values of freedom, liberty, and equality” which define American democracy.<sup>59</sup> That is the essence of a harmonious and equitable public.

## **Bibliography**

Beckford, Monna, (Evanston Academy Resource Coordinator) interviewed by Jonathan S. Hogue, December 10, 2015.

“City of Cincinnati Census & Demographic Data: 2010 Cincinnati Statistical Neighborhood Approximations (Evanston)” Cincinnati-OH.gov, last modified 2016. <http://www.cincinnati-oh.gov/planning/reports-data/census-demographics>

Cornell University Law School: Legal Information Institute, “Amicus Curiae Definition,” accessed April 8, 2015, [https://www.law.cornell.edu/wex/amicus\\_curiae](https://www.law.cornell.edu/wex/amicus_curiae).

---

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

<sup>59</sup> U.S. Citizenship and Immigration Services, “Citizenship Rights and Responsibilities,” *U.S. Department of Homeland Security*, USCIS.gov, <https://www.uscis.gov/citizenship/learners/citizenship-rights-and-responsibilities>.

Bricker & Eckler LLP, "Bricker & Eckler *DeRolph v. State of Ohio* Resource Center," *Bricker & Eckler Attorneys At Law*, Bricker.com, 2014, <http://www.bricker.com/resource-center/derolph/key-resources/resource/petition-for-writ-of-certiorari-to-united-states-supreme-court-derolph-v-state-2003-429>

Ellis, M. Eric, "Do Terms 'Inclusive,' 'Conservative' Mix, Offer Hope to African-Americans," *The State of Black Cincinnati 2015: Two Cities*, (2015), accessed December 5, 2015, [http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015\\_Two-Cities.pdf](http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015_Two-Cities.pdf).

Friedersdorf, Conor, "What Americans Mean When They Say They're Conservative," *The Atlantic*, (Washington D.C.), January 27, 2012.

Fritzberg J., Gregory, "School of Education at Johns Hopkins University- Schools Can't Do It Alone: A Broader Conception of Equality of Educational Opportunity," John Hopkins School of Education, last modified 2012, <http://education.jhu.edu/PD/newhorizons/strategies/topics/multicultural-education/schools-cant-do-it-alone/>.

Hogan, Wesley, "Cincinnati: Race in the Closed City," *Social Policy* Vol. 32 (2001): 49, accessed December 7, 2015, <http://eds.b.ebscohost.com/eds/pdfviewer/pdfviewer?sid=284d5c2d-e545-4dbc-bce4-8c843ea8d89b%40sessionmgr112&vid=4&hid=126>.

Hunter, Molly, "Trying to Bridge the Gap: Ohio's Search for an Education Finance Remedy," *Journal of Education*, vol. 26 (2000), accessed April 7, 2016, [http://www.schoolfunding.info/resource\\_center/research/judicialohio.pdf](http://www.schoolfunding.info/resource_center/research/judicialohio.pdf).

Baruch, Spinoza and Jonathan, Israel, *Theological Political Treatise* (Cambridge: Cambridge University Press, 2007).

"Liberalism Definition," Dictionary.com, <http://www.dictionary.com/browse/liberalism>.

Locke, John, *Second Treatise of Government* (North Chelmsford, MA: Courier Corporation, 2012).

Loyola, Mario, "Judicial Activism Explained," *The National Review* (New York, New York), June 25, 2013.

Obhof, Larry, "DeRolph v. State and Ohio's Log Road to an Adequate Education," *B.Y.U. Education and Law Journal*, (2005), accessed September 21, 2015, <http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1198&context=elj>.

Ohio Const. art.VI, § 3,

J. Calderon, Valeria & Sorenson, Susan, "Americans Say College Degree Leads to a Better Life," *Gallup.com*, last modified April 7, 2014, <http://www.gallup.com/poll/168386/americans-say-college-degree-leads-better-life.aspx>.

Suro, Robert, "Courts Ordering Financing Changes in Public Schools," *New York Times* (New York, New York), March 11, 1990.

Talmage, Stanley, "A New American Cincinnati: Citizenship, Education, and Place," *Studies in American Culture Vol. 1* (2013), accessed December 8, 2015, <http://eds.a.ebscohost.com/Legacy/Views/static/html/Error.htm?aspxerrorpath=/eds/pdfviewer/pdfviewer>.

U.S. Citizenship and Immigration Services, "Citizenship Rights and Responsibilities," *U.S. Department of Homeland Security*, USCIS.gov, <https://www.uscis.gov/citizenship/learners/citizenship-rights-and-responsibilities>.

U.S. Department of Labor Bureau of Labor Statistics, "The Employment Situation – November 2015," *Bureau of Labor and Statistics*, BLS.gov, December 5, 2015, <http://www.bls.gov/news.release/pdf/empsit.pdf>.

White, Vanessa, "Cincinnati Schools Must Help Black Students Move Beyond the Dream," *The State of Black Cincinnati 2015: Two Cities*, (2015), accessed December 5, 2015, [http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015\\_Two-Cities.pdf](http://www.gcul.org/wp-content/uploads/2015/08/The-State-of-Black-Cincinnati-2015_Two-Cities.pdf).