

How Colorado's School Choice Measure Protects Parental Rights

1) Parents have a right to direct their child's education.

Prior to setting out the right to school choice, this measure specifically states that parents have the right to direct the education of their child. This is actually more protective than current federal constitutional precedent which recognizes the right of parents to raise and generally educate their children. A right to direct the education of your child, in the context of school choice, is a more specific right that would be recognized by Colorado and would expand parental rights in the state. Such a right would make a [lawsuit like this one](#), filed by ADF in Jeffco schools, even stronger. Additionally, nothing about how school choice rights are exercised could violate the federally recognized right for parents to raise their children. *Troxel v. Granville*, 530 U.S. 57 (2000)

2) Parents gain a private right of action.

If a school district or the State Board of Education is anti-charter and refuses to allow charters to operate, parents currently have no recourse. If this measure passes, parents would have the right to challenge a denial based on the specific right to school choice in Colorado's constitution.

3) Colorado law is already clear that children exercise rights through their parents.

Colorado has multiple court precedents demonstrating that, unless a parent loses custody of a child, a child must exercise his or her legal rights through the parent. The measure re-emphasizes this clear principle of state law by directly affirming that, in the context of school choice, parents have the right to direct the education of their child. Thus, the measure is clear that children experience this right at the direction of their mother or father.

4) Constitutional rights limit the government, not individuals.

A key understanding of constitutional law is that it sets out rights that citizens have *against the government*, or in relation to the government, not against or in relation to other individuals. Here are a few examples:

- A child has the constitutional right to liberty, including a right to ride her bike on public property, but she cannot go to court and sue her parents to force them to allow her to ride her bike on the sidewalk at 11:00pm. She has no liberty right *against her parents*. She has it against the government and must exercise it through her parents.
- A teen has the right to free speech to wear a pro-life or a pro-Obama t-shirt at school. If the government discriminates against a particular type of speech and bans it, the teen can sue, through her parents. But if his parents prohibit him from wearing the shirt to school, there is no free speech lawsuit, and no court will force the parents to allow the child to wear a shirt of his choice.
- A citizen has Second Amendment rights. The government cannot ban him from owning a gun. However, a private business owner may prohibit him from bringing a gun into his restaurant. There is no Second Amendment right against another individual; only against the government.

The scenario with the school choice measure is identical. This measure gives a right to school choice that may be exercised against a government that attempts to deny it. It may *not* be used to sue a church that won't open a private school or a parent who chooses one type of education over another for their child.