

Initiative 138: Constitutional Right to School Choice

Placed on the ballot by citizen initiative • Passes with 55 percent of the vote

1 Initiative 138 proposes amending the Colorado Constitution to:

- 2 • create the right to school choice for children in kindergarten through twelfth
3 grade (K-12) and create the right for parents to direct the education of their
4 children; and
- 5 • define school choice to include neighborhood, charter, private, and home
6 schools, open enrollment options, and future innovations in education.

7 What Your Vote Means

8 YES

9 A “yes” vote on Initiative 138 creates a
10 constitutionally protected right to school
11 choice for K-12 children and their parents,
12 and specifies that school choice includes
13 all forms of current and future education
14 options, including private, homeschool,
15 and public education.

16 NO

17 A “no” vote on Initiative 138 maintains the
18 current system of school choice in state
19 law.

20 Summary and Analysis of Initiative 138

21 Does Colorado law allow school choice?

22 Under Colorado law students may attend any public school for free, even if they do not live
23 in the school district. Public schools include neighborhood schools, charter schools, and
24 some online schools. Each school district has policies allowing parents to enroll students in
25 the public school of their choice. State law also permits parents to choose non-public
26 education options, such as private schools or home schools. Public schools receive public
27 funding from local and state governments. Private schools and home schools do not receive
28 any public funding.

29 What does this measure do?

30 Initiative 138 creates the right to school choice in the Colorado Constitution. The new
31 language gives K-12 children the right to school choice and equal opportunity to access a
32 quality education. The measure also creates the right of parents to direct the education of
33 their children. The measure defines school choice to include both public and private schools,
34 home schools, open enrollment options, and future innovations in education.

1 **Will the measure change school choice laws in Colorado?**

2 The measure results in no immediate change to state law, or the enrollment policies of
3 school districts. The state legislature currently makes laws to govern public education. By
4 creating a new constitutional right to school choice for children and parents, this measure
5 may lead to future changes to state law.

For information on those issue committees that support or oppose the measures on the ballot at the November 5, 2024, election, go to the Colorado Secretary of State’s elections center web site hyperlink for ballot and initiative information:

<https://coloradosos.gov/pubs/elections/Initiatives/InitiativesHome.html>

6 **Arguments For Initiative 138**

7 1) Initiative 138 guarantees that school choice is a right of parents and children. By placing
8 this right in the constitution, Coloradans affirm their commitment to a parent’s right to
9 school choice for their children, including all forms of education, both public and private.
10 A constitutional measure ensures this right can only be changed by voter approval.

11 **Arguments Against Initiative 138**

12 1) The language in the measure is vague and unnecessary. The Colorado Constitution
13 already guarantees a free public education and Colorado already has robust school
14 choice laws that allow parents to choose from many public school options, or choose to
15 educate their children in private or home schools. The measure may conflict with current
16 law and require interpretation by the courts, which could impact current school choice
17 policies and public school funding.

18 **Fiscal Impact of Initiative 138**

19 The fiscal impact will be included in the second draft.