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## School Finance: From Equity to Adequacy

by Laura Lefkowitz

Equality has been a mantra of American public education since the common school was founded in the 19th century. The notion that all citizens are entitled to a free public education in order to gain sufficient knowledge to govern themselves and to contribute to a productive economy is a foundation principle of our democracy. Over the years, however, Americans have deliberated over what level of education is sufficient and who is responsible for providing the resources necessary to deliver it.

Policymakers, educators, parents, and other taxpayers have long engaged in debates about school funding systems. At times these disputes have found their way to court. Since the 1970s, school finance lawsuits have been filed in nearly every state, including each of the seven states in the Central Region.

Historically, these lawsuits have focused on equity issues; however, the trend in school finance litigation has shifted recently from equalizing resources across districts to providing adequate resources to meet standards and reach student achievement goals.

This policy brief examines legal challenges concerning state school finance systems and offers guidance for policymakers and educators as they seek the necessary resources to meet the educational needs of all students. An important first step for education leaders and policymakers is to help their communities define not only what they want students to know and be able to do, but also how much they are willing to pay to achieve these goals. Equally important is building partnerships with other public agencies to effectively leverage resources and minimize competition for limited public funds. By taking a proactive approach to improving school finance systems, education leaders and policymakers may be able to minimize or avoid litigation and the sometimes costly and unworkable solutions that accompany court decisions.

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## Historical Context

Traditionally, the notion of the common school in America has been deemed important to the health and welfare of the entire country, yet the responsibility for funding and delivering education largely has been left to local communities. The inherent inequity in a locally funded education system has long been apparent as the revenue available for schools has varied from district to district in proportion to the uneven distribution of wealth across a state.

Early in the 20th century the concept of a “foundation funding formula” emerged to mitigate funding inequities. Foundation funding formulas guarantee that no child receives less than a specified minimum amount of money for his or her education, regardless of the local district’s ability to pay. Disputes continue to arise over the proper foundation amounts, however. In addition, this method does not address inequities caused by the ability of some localities to raise additional tax revenue over and above the foundation amount, thus maintaining disparities among districts. Furthermore, the method may provide a disincentive for local districts to raise taxes to support education since the state will cover any shortfall.

Since the standards movement began in the late 1980s, school funding concerns have broadened even further. Of increasing importance is not only the equitable distribution of available resources, but the provision of sufficient resources to meet the goals for student learning articulated in state and local standards documents.

In the 1976 *Serrano v. Priest* case, the California State Supreme court provided the fundamental equity argument used in subsequent successful cases:

*Substantial disparities in expenditures per pupil among school districts cause and perpetuate substantial disparities in the quality and extent of availability of educational opportunities. For this reason the school financing system before the court fails to provide equality of treatment to all the pupils in the state. Although an equal expenditure level per pupil in every district is not educationally sound or desirable because of differing educational needs, equality of educational opportunity requires that all school districts possess an equal ability in terms of revenue to provide students with substantially equal opportunities for learning. (18 Cal.3d 728 L.A. No. 30398)*

## Equity Arguments

In 1971, a wave of school finance litigation began in the United States with the California case of *Serrano v. Priest*. Upon appeal in 1976, the California State Supreme Court found the state’s method of funding schools to be contrary to its constitutional guarantee of equal protection under the law. Because California’s school funding plan relied primarily on revenues generated from property taxes in each school district, revenues available to students varied along with the taxable wealth of each district. This disparity in available resources per student was deemed inequitable and, therefore, unconstitutional.

At about the same time, the case of *San Antonio Independent School District v. Rodriguez* (411 U.S. 1, 1973), was brought, in what ultimately was an unsuccessful attempt to address school funding

inequities in Texas under the Equal Protection Clause of the U.S. Constitution. In this case, the U.S. Supreme Court held that although education is one of the most important state services, it is not “within the limited category of rights recognized . . . as guaranteed by the Constitution.” Instead, the Court ruled, fundamental state taxation and education reforms are state matters. Since that time, all school funding suits have been tried in state courts and have been based upon each state’s constitutional provision guaranteeing education to all.

## The Shift to Adequacy

More recently, the basis of school finance litigation has begun to shift from equity and fairness to securing the resources necessary to provide an adequate education to all students. Adequacy lawsuits focus on how much money is needed to provide all students in a state with a constitutionally guaranteed education. These lawsuits tend to be more politically palatable than equity suits, which by their nature result in a redistribution of resources from high-wealth to low-wealth districts. Adequacy suits seek a higher level of funding for all students and thus avoid pitting districts against one another.

The trend toward adequacy litigation began with the 1989 landmark decision in *Rose v. Council for Better Education*, in which the Kentucky Supreme Court declared the state’s entire school system unconstitutional and inadequate to fulfill the education “rights” of Kentucky schoolchildren. Subsequent reforms in Kentucky, achieved through the Kentucky Education Reform Act passed by the state legislature in 1990, are among the most comprehensive and revolutionary outcomes of any school finance litigation.

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As Peter Schrag explains in his recent book, *Final Test: The Battle for Adequacy in America’s Schools* (2003), in the decade following the *Rose* decision, overall school spending in Kentucky increased 57 percent, while average American school spending increased by only 15 percent. Across Kentucky, spending gaps between rich and poor districts have disappeared. Test scores have risen and incidences of significant student achievement gains in high-poverty schools have increased, although many low-scoring, high-poverty schools still exist in the state.

Adequacy lawsuits are often based on “costing-out” studies completed by school finance consultants. There are several methods used to determine adequacy. The two most common are the “successful schools” method and the “professional judgment” method. The successful schools approach looks at those schools or districts that have achieved a high level of student performance and makes an assumption that the amount of money spent on those students should be adequate for other districts, with appropriate adjustments for variations in cost-of-living and student characteristics. In the professional judgment method, educators are asked to identify the specific instructional and curricular components necessary to deliver the state’s content standards and then economists determine the cost of providing those components.

In Kansas, for instance, a costing-out study commissioned by the state legislature based on both of the above methods indicated that the state would need to add approximately \$1 billion to the school funding base in order to provide an adequate education for all students. That study was cited in *Montoy, et al. v. State of Kansas, et al.*, a lawsuit that challenged whether the state legislature had made “suitable provision for finance of the educational interests of the state,” as required under the Kansas Constitution. In December 2003, a Shawnee County district court judge issued a preliminary decision in favor of the plaintiffs in which he declared the current school funding plan to be in “blatant violation” of the Kansas Constitution, which guarantees a “suitable education” for all students.

It is likely that states will be faced with adequacy lawsuits for some time to come. Adequacy arguments are supported by the standards movement’s principle that all children, given the right opportunities to learn, can attain high achievement levels. The No Child Left Behind Act has added even more power to the argument. For example, data regarding adequate yearly progress (AYP) and the failure of some schools to meet AYP goals may potentially be used as evidence by plaintiffs that states are funding education at inadequate levels. Although researchers disagree about the extent to which more money will lead to improved student achievement, one argument is that if large numbers of children are not achieving proficiency, they are, by definition, not receiving an adequate education.

## Guidance For Policymakers

Policymakers face three primary issues in the school finance debates: defining adequacy, weighing costs and establishing priorities, and determining who bears responsibility for providing the necessary resources to meet state constitutional guarantees.

### Defining Adequacy

Although no universally accepted definition of educational adequacy exists, when ruling on related lawsuits, state courts have attempted to provide some measurable standards of an “adequate” or “sufficient” education by which legislators can bring their school finance methods into constitutional compliance. Most courts have focused on general notions of the education system’s role in developing a citizenry capable of making democratic decisions as well as competing in the workforce. In the Kentucky case, however, the court offered a very explicit definition of adequacy as providing students with the opportunity to achieve “sufficient capacity” in seven areas including oral and written communication skills, knowledge of economic, social, and political systems, and understanding of governmental processes. This standard was the basis for development of the Kentucky Education Reform Act and has been cited in several subsequent cases in other states.

State-level policymakers who do not proactively address the need to define adequacy run the risk of having a judge impose his or her own definition on them. In working to define an adequate education, the challenge for policymakers is to strike the right balance between what most people

view as an unacceptably low standard, such as that all the knowledge and skills students need are imparted by the ninth grade (see *Campaign for Fiscal Equity v. State*, 295 2nd)<sup>1</sup>, and one that is perhaps too high, such as attempting to prepare all children to pursue advanced degrees.

A number of states have taken steps to define an adequate education. Nebraska, for example, created a Commissioner's Advisory Committee on Essential Education. The committee developed a framework for an "essential education" to be used by the State Board of Education in adopting a policy on adequacy. In order to develop a definition of an essential education, the state held a series of community engagement forums that involved about 500 educators, state board members, business leaders, and parents. Ultimately the board's definition addressed the need for every Nebraska student to reach proficiency on state standards; it also delineated the support systems that must be in place if the goal is to be met, including qualified teachers, safe and clean facilities, and additional support services to meet the unique needs of individual children.

### ***Weighing Costs and Establishing Priorities***

The process of defining the criteria of an adequate education must occur within the very real constraints presented by limited public resources. As a result of national standards-setting efforts and early community conversations on standards in the late 1980s and early 1990s, most states now have content standards, typically numbering in the hundreds, in as many as 13 or 14 "core" subjects. It was, and continues to be, difficult to adequately address all of the knowledge and skills embedded in these standards. In fact, researchers Marzano and Kendall (1999) found that schooling would have to be extended to grade 21 in order to address all of the content identified as important in standards documents.

Now may be the time for policymakers to further engage the public in defining standards in terms of not only what students should know and be able to do, but, given time and resource constraints, what content is essential, or most important, for students to learn. The purpose of such a dialogue is not to "dumb down" expectations for children, but rather to help stakeholders understand the trade-offs and make good choices about where available resources will be focused.

In addition to seeking sufficient resources for public education, policymakers have a duty to be scrupulous in evaluating how public dollars are spent. Have administrative efficiencies been

### **Guidance for Policymakers**

Be proactive in defining adequacy:

- Engage teachers, students, parents, business leaders, and other community members.
- Set the bar at the appropriate level.
- Consider available resources.

Maintain a focus on equity.

Think creatively about how to raise sustainable resources and how to allocate resources wisely.

Build partnerships and leverage resources from other public and private agencies.

<sup>1</sup> The decision was subsequently reversed by the N.Y. Court of Appeals in June 2003. See *Campaign for Fiscal Equity, Inc., et al., v. The State of New York, et al.* (1 No. 74).

maximized in every case? Are all monies targeted first and proportionately toward the areas of greatest need? Do funded programs show evidence of effectiveness and, if not, have they been modified or terminated? And, of critical importance, are available resources distributed equitably throughout the system? Regardless of the amount of resources provided for education, policymakers need to remember that students' needs vary across schools and districts, and allocation of dollars should reflect these differences.

### *Identifying Responsibility for Resources*

Some argue that the ever-increasing share of revenue provided to schools from both the state and federal governments has begun to undermine the notion of local control of education. The concept of local control has been intertwined with American public education since its inception, but today over half of local education costs are paid by states and the federal

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government. As the proportion of state and federal resources to local resources has increased, so have requirements for districts, such as “meet-or-exceed” state content standards programs, results-based accountability programs, and more public reporting of student achievement outcomes. As districts seek additional resources

beyond what they can provide themselves, they must be aware of the *quid pro quo* nature of public funding. History shows that locals will be asked to account for any state and federal dollars they use and may need to alter local regulations, including curriculum and assessment practices, in order to qualify for additional funds.

Although many states dramatically increased funding for education in the good economic times of the 1990s, as the economy weakened, competing interests and needs for public services have made sustaining these amounts for education difficult. In addition, the competition for limited resources among many worthwhile and important public agencies has often put K–12 education advocates at odds with traditional allies such as higher education, and health and social services.

One strategy for public education advocates is to work collaboratively with such agencies in proposing solutions that benefit all. For example, the Denver School-Based Health Centers, available through the joint efforts of Denver health agencies and Denver Public Schools, provide clinical services — including well-child care, immunizations, and care for illness and injury — in 12 Denver public schools, reducing the need for district-funded nurses in these schools.

Sharp distinctions traditionally have been drawn between the public and the private worlds when it comes to schools. However, as the stakes get higher for every child to achieve high standards, and resources diminish, the notion of a “hybrid” system of general school funding from both public and private sources might become more palatable. Even now, some states, such as Georgia, use lottery money for general education. The Bill and Melinda Gates Foundation has poured millions of grant dollars into a variety of initiatives to spark reform, particularly at the high school level. In Colorado, one public school system has collaborated with the city on a new

school building that will be available to the community outside of regular school hours. Funded with revenue from both the school district and the city, the school gymnasium, auditorium, and classrooms will serve both the school and the surrounding neighborhood.

## Conclusion

Dealing with the intricacies of implementing state and federal accountability systems has preoccupied school board members, administrators, state legislators, and even governors for the past several years. Now is the time for the policy community to focus on what resources will be required to leave no child behind. In many cases, more money is surely needed. But there are steps policymakers must take to quantify how much money is needed and for what purposes, in order to build a strong case for additional resources. Defining adequacy in light of time and resource constraints is the critical first step. Building partnerships with other public and private agencies, thinking creatively about new ways to finance schools, looking for cost-efficiencies, and targeting funds to the areas of greatest need are other strategies. Regardless of the strategy used, maintaining the commitment to equity is vital.

Proactively addressing school finance inequities and inadequacies may help policymakers avoid litigation and the sometimes unrealistic or unaffordable solutions that result. Lawsuits should always be the last resort in the school finance battles. Ultimately, the education policy community itself must take responsibility for reaching rational and balanced decisions about the appropriate allocation of resources for public education.

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