

The Ohio Coalition for

Equity & Adequacy

Of School Funding

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Status of School Funding Reform in Ohio

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Nearly one-half century ago, in 1954, the U.S. Supreme Court, in *Brown v. Board of Education*, declared that states must provide public education on an equal basis; hence, for nearly 50 years equal educational opportunity has been the law of the land. However, 30 years ago in the *Rodriguez* case, the U.S. Supreme Court rejected the claim that education is a fundamental right under the federal Constitution and thus allowed inequities in educational opportunities to continue unabated in various states throughout the nation. Therefore, school funding litigation spread across the nation, state-by-state, in attempts to correct inequities and inadequacies in educational opportunities.

School funding cases have been brought in 45 states since the 1960s. The first round of cases focused primarily on equity issues. Cases brought since the late 1980s dealt primarily with adequacy issues. Plaintiffs prevailed in about one-third of the equity cases and in about two-thirds of the adequacy cases.

Regardless of the outcome of the litigation, public schools in most states have gained financially by virtue of the pressure of suits being filed. It is unfortunate that legislatures across the country do not comply with their respective constitutional provisions for public education without outside intervention. Nationwide there appears to be a great gulf between legislatures and their constituencies regarding the level of public education funding that should be provided by state governments. School finance litigation coalitions and/or grass roots school funding advocacy organizations are in place in nearly every state.

School funding litigation in most states is not a one-time event that has a definite end point. This is due to resistance by the legislative bodies. New Jersey has been in school funding litigation for thirty years. Tremendous gains have accrued to New Jersey students because the Education Law Center has been in place to apply pressure for change. The *DeRolph* case in Ohio spanned from 1991 to 2003. The *Cincinnati v. Walter* school-funding case was decided in favor of the state in 1979 just 12 years before the *DeRolph* case was filed.

When the school funding system in Ohio was ruled unconstitutional in 1997, there was a general expectation that an appropriate remedy would follow. However, key state officials resisted the 1997 decision and each of the subsequent decisions.

More than six years ago the Ohio Supreme Court ruled that Ohio's elementary and secondary schools are neither thorough nor efficient and that the school funding system must undergo a complete systematic overhaul. The system has not been overhauled and now the plaintiffs in the *DeRolph* case have been shut out of the courts with regard to a remedy. Ohio may be the only state in the nation where the highest state court has declared the school funding system unconstitutional and then

walked away from a remedy. The U.S. Supreme Court's refusal to intervene allows this egregious situation to stand.

A brief review of how the current situation evolved may be helpful.

The Coalition plaintiffs asked the Court to rule the system unconstitutional and to declare education a fundamental right. The Ohio Supreme Court did not rule on the fundamentality issue but declared that Ohio's elementary and secondary schools are neither thorough nor efficient and ordered that the school funding system must undergo a complete systematic overhaul. Even though the Court has ruled the system unconstitutional four times, the state has refused to comply.

Although state government has refused to obey the Court order to overhaul the system, the state has established a school facilities program and has increased the percentage of the state general revenue budget allotted to public K-12 education from 34.5 in FY 1992 to 39.3 in FY 2003. Public schools have made immense financial gains due to the *DeRolph* litigation.

More important than the financial gains is the case law generated in *DeRolph I & II*. The Court has made it crystal clear that the responsibility of securing a thorough and efficient system of common schools falls upon the state. Additionally, the Court has established that "thorough and efficient" calls for a high standard of quality in all schools for all students--not just a mere system of public schools. This strong case law will bode well for future litigation.

The change in membership of the Ohio Supreme Court triggered by the November 2002 election precluded enforcement of the right of Ohio school children to a thorough and efficient system of common schools. The Coalition's petition before the U. S. Supreme Court to reinstate the rule of law was denied without comment. So what are the next steps?

The first order of business is to keep the E & A Coalition intact for future litigation, for monitoring of actions of government officials and for engaging the public in the school finance reform effort. The education community has won in the court, now we must win in the court of public opinion.

The Coalition is currently formulating a strategic plan. The first step was to survey the school superintendents. The survey revealed valuable findings that reinforced the efficacy of the Coalition's mission to secure high quality educational opportunities for all school children without diminishing opportunities for those who now live in high capacity districts. Additionally, the superintendents support the concept of standards of opportunity and a complete systematic overhaul of the school funding system. An ongoing litigation strategy is also a high priority of superintendents.

The next step in the strategic planning process is to meet with local education and community groups to identify and prioritize the Coalition's work agenda. In this process we simply must engage the general public in reforming Ohio's school funding system. While the strategic plan is being developed, the Coalition will conduct informational meetings across the state and establish a communications network of "committees of correspondence".

The political winds will ultimately shift. The membership of the Ohio Supreme Court will change. The governor's office and legislative seats will change. The education community must become involved in the rough and tumble politics of change. The current Supreme Court and legislature cannot be convinced that education is a state responsibility and that thorough and efficient is a high standard. What must be done is obvious. A change in who serves in government is required.

The Coalition is alive and well and will continue to be a viable statewide education organization committed to a complete systematic overhaul of the school funding system.