



KNOW THE ISSUES

The Role of the Courts

THE ISSUE: Opponents of the movement for quality education often claim that the courts should not be playing a role in school finance. Determining how schools are funding is a matter for the legislature, they say. When a court rules that schools are under-funded, critics accuse them of engaging in “judicial activism” or “legislating from the bench.”

THE FACTS: **It is the essential job of the courts to ensure that state officials obey the law.**

- ☛ In accepting constitutional challenges to state education finance systems, the courts are performing their **rightful and necessary constitutional function of ensuring that legislative and executive branches obey the law.** When a court rules that the state is under-funding schools, it only does so by finding that the governor and legislature of that state have **consistently failed in their constitutional obligation** under their state constitution to provide children a meaningful chance at a quality education.

Charges of “judicial activism” have no legal basis.

- ☛ Courts rule in favor of plaintiffs in school funding litigation only in response to the failure of the legislative and executive branches to uphold the constitutional rights of children. **Upholding the rights of children is not a partisan issue.** Of the 43 states in which school finance lawsuits have been filed, state supreme courts **in only 5 states** have ruled the matter non-justiciable. State supreme courts from Massachusetts, Texas, Montana, and almost everywhere in between have upheld these lawsuits.

Courts have helped improve the quality of education for millions of children.

- ☛ Judicial involvement has, in states such as Kentucky, Massachusetts, and Arizona, led to immediate and dramatic reductions in funding disparities, improvements in school facilities, and marked improvement in student test scores.

Courts decisions are based on facts, not politics.

- ☛ Legislatures are often dominated by affluent suburban constituencies, and school funding decisions are often the result of compromises and deals that have little to do with the needs of children. When courts rule that schools are under-funded, it is only after a careful and neutral evaluation of all the facts.