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What Are School Funding “Adequacy” Lawsuits?

Historical Background Lawsuits challenging state methods of funding public schools have been brought in 45 of the 50 states, and about 24 states are currently involved in active litigation. The modern era of school funding cases began with decisions in California and New Jersey in the early 1970s. An attempt to rely on the U.S. constitution for equal funding, in *Rodriguez v. San Antonio*, failed in 1973 when the U.S. Supreme Court concluded that education is not a fundamental right under the federal constitution. Since then, plaintiffs across the country have sought relief in state courts, under state constitutional provisions. The *Rodriguez* plaintiffs, for example, took their case to the Texas state courts and won.

Equity to Adequacy In the 1970s and 1980s, most of these cases sought equal funding (“equity”), but the defendant states won about two-thirds of those claims. In some states where litigation failed, advocates successfully pursued other strategies, such as amending their state constitutions. In many other states, advocates began shifting their legal strategy away from equity to claims emphasizing the right to an adequate education, and since 1989 plaintiffs have won about two-thirds of the school funding decisions. Plaintiffs have won 23 of the 27 decisions based on this “adequacy” theory.

Why Are “Adequacy” Cases Winning? These victories are built primarily on: (1) the education articles of state constitutions; (2) state standards developed as part of the standards-based reform movement; and (3) barriers to learning created by systemic resource deprivations. Each state, based on its constitution, has a duty to provide educational opportunities to all public school students. Adequacy cases have emerged because the states have raised academic standards and are holding students and schools accountable, but most have not provided the resources necessary to do the critical capacity building that enables schools to help all students reach the higher standards. In this circumstance, court decisions can embolden legislatures and governors to fulfill their state constitutional obligations to provide at least the basic educational programs and other resources that students need.

Typically, the evidence presented in court includes: the meaning of the constitution’s education article; state academic standards; missing resources, such as quality teaching, preschool, reasonable class sizes, decent facilities, and textbooks, libraries, and laboratories; and “outputs,” such as low test scores and low graduation rates. State defendants often argue that “money doesn’t matter,” poor kids can’t be expected to meet the standards, the schools that poor kids attend are OK, and scores below grade level indicate sufficient learning and sufficient resources. Fortunately for the children, most courts reject these arguments.

In a number of states, successful adequacy cases have helped move the ideals of *Brown v. Board of Education* into the twenty-first century, and led to better education and the stronger communities and economies that result from excellent schools.

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