



**“Poverty, ‘Meaningful’ Educational Opportunity and the Necessary Role of the Courts,”**  
by Michael A. Rebell. See the full article in *North Carolina Law Review*, June 2007

Through state standards-based reform and No Child Left Behind, the United States has made an extraordinary commitment to ensure that all children will meet challenging academic standards. To date, however, state and federal policies fail to deal with the enormous impediments to learning posed by poverty.

This article argues for a commitment to “meaningful educational opportunity” that would require a comprehensive range of in-school and coordinated out-of-school services to the millions of children living in poverty. This theory of “meaningful educational opportunity” is rooted in federal equal educational opportunity laws and court decisions and in the state education adequacy cases.

The needed reforms, which are feasible and affordable, cannot be achieved without the involvement of the courts to enforce constitutional education provisions. Through effective collaboration between the three branches of government, challenging educational objectives can be attained.

### **I. Impediments to Learning Created by the Conditions of Poverty**

- The U.S. has the highest rate of child poverty and the fewest social safety nets among the developed nations of the world. Lack of health care and housing has a negative impact children’s ability to learn.
- Over 70% of black and Latino students attend segregated schools; over 60% attend high-poverty schools.
- Inadequate education leads to higher crime rates, higher health care costs, and lower economic productivity.
- To improve learning opportunities, we need a policy agenda of “**comprehensive educational equity**,” including equity in educational resources, early childhood education, health, nutrition, and housing.

### **II. Money Matters**

- The children with the greatest needs often get the fewest educational resources.
- There is a **consensus among academic and legal experts that “money matters.”** Additional money for education, if spent well, leads to higher student achievement. In 29 of the 30 cases in which state courts have considered the issue, courts ruled that money matters, highlighting resource deprivations and inadequate funding as causes of low performance.

### **III. Implementing *Brown*’s Vision of Equal Educational Opportunity**

- In *Brown v. Board of Education*, the Court introduced a vision of “**equal educational opportunity**” and found that segregation imposes a barrier to *meaningful* educational opportunity.
- The Supreme Court started drawing back from the vision of *Brown* as early as the 1970’s, with a series of rulings that sharply limited the scope of *Brown*.
- Since the 1970’s, plaintiffs have brought legal challenges to school finance systems in state courts. “Equity” lawsuits focused on unequal funding; more recent “adequacy” lawsuits claim that states are not providing sufficient funds for all students to have “adequate” educational opportunities.

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#### IV. Meaningful Educational Opportunity

- No Child Left Behind's goal of "proficiency for all" by 2014 is unachievable and should be recast as "**meaningful opportunities for all**," defined explicitly in terms of resources, practices, programs and services.
- State court decisions in education finance cases often articulate **skills** necessary for **gainful employment** and **civic participation** as well as essential **resources** such as effective teachers and principals, adequate facilities, appropriate class sizes, and more time on task. Federal law should require states to determine what specific resources are necessary and to provide those resources.
- A revised NCLB should also require high-poverty school districts to work with public agencies and community-based organizations to provide out-of-school services, such as early childhood education, health, nutrition, and academic enrichment programs.
- For educational opportunity to be truly meaningful, integration must be back on the table. All children are better prepared for work and civic life when they have experienced integrated education.
- State education finance systems must be based on student need and not politics. States should use cost studies to determine the funding needed to provide meaningful educational opportunity.
- How to spend money **in the ways that matter most** must move to the forefront of research and policy.

#### V. The Necessary Role of the Courts

- Court decrees in many of the adequacy cases have led to notable successes, more equitable school funding, more equitable school facilities, and higher student achievement.
- "**Charges of judicial activism...have little doctrinal or empirical substance.**" Across the political spectrum, people go to court to challenge government decisions they disagree with or to enforce rights.
- Court decisions are often more rational and evidence-based than legislative decisions, and people have begun to look to courts resolve complex issues of science and public policy.
- Other branches of government have failed for decades to solve major social problems, often because state legislatures are dominated by affluent, suburban constituencies.
- Successful policy making requires "**continuing interchanges and often continuing involvement of all three branches of government.**" Stakeholders in education finance reform should take a "**comparative institutional perspective**" of the strengths of each branch of government. Courts can provide a neutral forum for reviewing the validity of government actions and are good at pushing state legislatures, state education departments and school districts to do their jobs well.