



CAMPAIGN FOR FISCAL EQUITY, INC.

**Studies in Judicial Remedies
and Public Engagement**

**WHO'S IN CONTROL?:
THE COURTS, THE LEGISLATURE AND THE PUBLIC
IN COLORADO'S SCHOOL FINANCE DEBATE**

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and

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This paper is one in a series of case studies of education finance litigations in various states. Through these studies, we hope to understand how court-ordered remedies were implemented and to determine what role, if any, public engagement processes played in these events. Specifically, we aim to test the hypothesis that reform initiatives are most likely to succeed in states where citizens have been involved in the remedial policy-making process. For that reason, the studies will encompass a wide range of reform experiences, including those where there was much public engagement and those where there was none.

The term “public engagement” is currently used to describe a wide range of activities. CFE’s working definition of public engagement is a collaborative process in which a diverse range of individuals work together to arrive at solutions to complex social problems that a large majority of them can accept. Our hope is that this series of papers will help shape and refine our understanding of public engagement and its uses as a tool for change.

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Since the early 1980s, Colorado has seen three school funding lawsuits and three Public School Finance Acts (PSFAs) aimed at resolving the state's

appears to be at a critical juncture in its school finance debate. seeking to address the state's enormous capital construction needs, Colorado dramatically shaped the state's reform process. With a pending lawsuit amendments, and an unusually strong tradition of local control -- have conflict in the state constitution, a number of strict constitutional system. At the same time, certain factors particular to Colorado -- a seeming widespread dialogue on school finance given the complexity of the funding from equity to adequacy; and the difficulty of fostering an informed, supporting greater resources and those favoring lower taxes; a shift in focus familiar to students of school finance litigation: a struggle between those Colorado's school finance story touches on a number of themes

INTRODUCTION

by Christina Burnett
and Drew Dunphy¹

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education finance conflict. Although plaintiffs have yet to score a major victory and no court orders have been issued, this legal process has had a clear influence on legislative priorities and changes made to the funding system. Legislative hearings and other localized dialogues about funding reform have also had a subtle but important impact. Even before going to trial, the latest suit, *Giardino v. Colorado State Board of Education*, has already raised a sense of urgency among some legislators about solving the state's school funding problems.² In addition, advocates now perceive a pressing need for a broad statewide dialogue on school finance. Coupled with the pressure of litigation, this momentum for a truly informed and widespread dialogue may prove to be the missing link in Colorado's search for a funding remedy.

BACKGROUND

Constitutional Clauses and the Theme of Local Control

Many states would lay claim to a tradition of "local control," but this philosophy plays a particularly prominent role in Colorado politics, especially the politics of school finance. The strong orientation toward local political control has made questions about the state's obligation to fund educational adequacy even more complicated than in most states.³ The root of this tension can perhaps be found in the Colorado Constitution, which in fact contains two clauses relevant to these issues: an "education" clause and

² Addressing the inability of some districts to pay for construction, Senate President Tom Norton remarked, "If we don't address this, we're telling the courts to tell us to do our jobs, and that's wrong." *Needy Schools Seek a Lifeline from the State. Legislators Debate Involvement*, THE COLORADO SPRINGS GAZETTE, March 6, 1998 [hereafter *Needy Schools Seek a Lifeline*].

³ For more on the complexity of balancing local control and statewide adequacy, see Michael A. Rebell, *Fiscal Equity in Education: Deconstructing the Reigning Myths and Facing Reality*, 21 NYU REV. L. & SOC. CHANGE 691, 714-718 (1994-95).

