



Are School Finance Lawsuits Effective?

Many recent critical reforms in state school finance systems have been catalyzed by the courthouse, not the statehouse. Advocates for equity-focused school finance reforms often consider legal action as the best path to significant policy changes.

Federal Rulings Catalyzed State-Level Litigation

Unlike state constitutions, there is no clause in the U.S. Constitution that establishes a right to K-12 public education. Some plaintiffs have attempted to litigate K-12 funding equity issues in federal courts, but those efforts have been rebuffed in two key U.S. Supreme Court rulings. These rulings establish a clear legal precedent: The federal courts will not intervene to address educational inequities generated by state structural elements, such as funding formulas or school district lines.

- ***San Antonio Independent School District v. Rodriguez***:¹ In a 5-4 ruling, the majority of the court held that there was **no federal right to education** and that the school finance system in Texas did not violate the equal protection clause of the 14th Amendment, even though the property tax-reliant funding system produced significant funding inequities among school districts.
- ***Milliken v. Bradley***:² The court held that federal judges could not order a multidistrict desegregation plan that included all the metropolitan Detroit area to address segregation issues in a single district (Detroit). This ruling signaled that no matter how segregated by wealth or race school district lines are, the federal government would not consider them unconstitutional.

State-Level Lawsuits on Adequacy and Equity Grounds

While federal courts demur on K-12 education finance issues, state courts across the country have seen scores of education finance lawsuits. From 1970 to 2009, there were 100 school finance lawsuits at the state level.³ During that period, Delaware, Hawaii, Mississippi, Nevada, and Utah were the only states that did *not* have any school finance litigation.

State-level school finance litigation efforts primarily seek to address some combination of two fundamental concepts:⁴

ADEQUACY | *Is the state spending enough money on schools to meet its constitutional responsibilities?*⁵
Example: *Abbott v. Burke (New Jersey)*⁶

EQUITY | *Does the state's education finance system fulfill its constitutional responsibility to provide for the education of all students in the state?*
Example: *Serrano v. Priest (California)*⁷ and *Edgewood ISD v. Kirby (Texas)*⁸

Outcomes of State Finance Lawsuits

School finance litigation efforts have a mixed track record of success. Between 1993 and 2013, 29 of 56 state school finance lawsuits produced rulings that overturned some or all of their states' school funding systems.⁹ There is evidence that litigation can have a significant impact on school finance, as seen in the "Abbott districts" in New Jersey,¹⁰ but the wheels of justice turn slowly, and litigation is usually a long path to reform. There is no guarantee that successful litigation will produce equitable reform of state school finance systems.

Cases spend years in court. When plaintiffs win a school finance lawsuit, policymakers still have to determine how to turn a judicial ruling into laws and policies that can be implemented across a state's public school system. So a favorable ruling may take additional years to translate into impact on school funding. In addition, remedies and guidance from the court may not fulfill plaintiffs' or advocates' goals, which can result in further legal action or an incremental, but incomplete, improvement in equity.

Legal action is one tool in the advocacy toolbox. It can be slow, resource-intensive, and unpredictable — but so can policy change in the statehouse. The threat of a lawsuit alone can sometimes spur legislatures into action. But it can also backfire and stall out reform as an issue winds its way through courts. The preferred approach would be policy change that rapidly remedies inequity and ensures every public school has the resources to meet every student's needs. However, in states where legislatures are unwilling to take on critical school finance problems, lawsuits may be the most, or only, effective path forward for advocates.



QUESTIONS FOR ADVOCATES

- How have lawsuits shaped the school finance landscape in your state?
- Is there current school finance litigation in your state? If so, what are the primary arguments, what is the anticipated timeline for a ruling, and what has been the reaction of policymakers to the suit?
- What is required to build the political will to enact needed school funding reforms in your state? What policy, advocacy, or legal strategies are likely to be most effective?

Splitting the Bill is a crash course in the essentials of school finance equity for advocates and others interested in reforming state education finance systems. Learn more and read the other briefs in this nine-part series at www.bellwethereducation.org/publication/splitting-the-bill.

Endnotes

- 1 “San Antonio Independent School District v. Rodriguez,” Oyez, accessed September 15, 2021, <https://www.oyez.org/cases/1972/71-1332>.
- 2 “Milliken v. Bradley,” Oyez, accessed September 15, 2021, <https://www.oyez.org/cases/1973/73-434>.
- 3 “Education Finance Statistics Center (EDFIN)—Litigation: School Finance Litigation, by Year, Case, and Status, by State: 1970-2009,” National Center for Education Statistics, accessed September 15, 2021, <https://nces.ed.gov/edfn/litigation.asp>.
- 4 Carmel Martin, Ulrich Boser, Meg Benner, and Perpetual Baffour, “A Quality Approach to School Funding: Lessons Learned From School Finance Litigation,” Center for American Progress, November 13, 2021, <https://www.americanprogress.org/issues/education-k-12/reports/2018/11/13/460397/quality-approach-school-funding/>.
- 5 Martin, Boser, Benner, and Baffour, “A Quality Approach,” <https://www.americanprogress.org/issues/education-k-12/reports/2018/11/13/460397/quality-approach-school-funding/>.
- 6 “The History of Abbott v. Burke,” Education Law Center, accessed September 15, 2021, <https://edlawcenter.org/litigation/abbott-v-burke/abbott-history.html>.
- 7 “Serrano v. Priest,” Stanford Law School, accessed September 15, 2021, <https://scocal.stanford.edu/opinion/serrano-v-priest-27628>.
- 8 “Edgewood ISD v. Kirby,” The Texas Public Policy Project at the University of Texas at Austin, accessed October 13, 2021, <https://texaspolitics.utexas.edu/educational-resources/edgewood-isd-v-kirby>.
- 9 “Download Data,” School Finance Indicators Database, accessed September 15, 2021, <https://www.schoolfinancedata.org/download-data/>.
- 10 Martin, Boser, Benner, and Baffour, “A Quality Approach,” <https://www.americanprogress.org/issues/education-k-12/reports/2018/11/13/460397/quality-approach-school-funding/>.

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About the Authors

Alex Spurrier

Alex Spurrier is an associate partner at Bellwether Education Partners in the Policy and Evaluation practice area. He can be reached at alex.spurrier@bellwethereducation.org.

Bonnie O'Keefe

Bonnie O'Keefe is an associate partner at Bellwether Education Partners in the Policy and Evaluation practice area. She can be reached at bonnie.okeefe@bellwethereducation.org.

Jennifer O'Neal Schiess

Jennifer O'Neal Schiess is a partner at Bellwether Education Partners in the Policy and Evaluation practice area. She can be reached at jennifer.schiess@bellwethereducation.org.

About Bellwether Education Partners

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