

Illinois Needs to Fix School Funding

I. Introduction

The United States has a long tradition of using property taxes to fund the public schools around the country. This system of funding leads to inequity of spending between high and low poverty school districts. Unfortunately, in Illinois, school districts rely more on property taxes than the average American school district.¹ Also due to Illinois' housing history, there are many areas segregated by poverty and race. Illinois' system of funding public education is unfair, and while other states try to deal with the inequity in their education financing, Illinois has done nothing.

As Hoy McConnell, Executive Director of Business and Professional People for Public Interest ("BPI"), says, "Illinois' system [for funding public schools] is unfair to everyone in the state—taxpayers, school districts, businesses—and most importantly—Illinois school children and their families, who are not getting a fair break under the current system."² Even though the Illinois system of funding education has been found constitutional by the Illinois Supreme Court, the system is not serving the students of Illinois well and needs to be reevaluated. This paper will look at the system of funding and what Illinois' high court had to say about it. Furthermore, the paper will look at the inequity the system creates and alternative ways other states use to fund public education.

¹ Pat Garofalo, How Illinois' Flawed Funding System Short Changes Chicago's Students, ThinkProgress, Sept. 12, 2012, <http://thinkprogress.org/education/2012/09/12/835111/how-illinois-shortchanges-chicago/?mobile=nc>.

² Illinois Ranks Near Bottom in Fair Distribution of Education Funds New National Study Finds, PRNewswire, Oct. 12, 2008, <http://www.prnewswire.com/news-releases/illinois-ranks-near-bottom-in-fair-distribution-of-education-funds-new-national-study-finds-104823964.html>.

II. Constitutionality of the funding system in Illinois

In 1973, the Supreme Court held in the case of *San Antonio Independent School District v. Rodriguez* that education is not a fundamental right and that disparity in school funding among school districts does not violate the equal protection clause of the Constitution. Due to this significant ruling, arguments alleging inequality in school funding violates the United States Constitution will get parties nowhere. So it is left up to the states. As of 2004, "The highest courts in thirty-six states [had] issued opinions on the merits of funding litigation suits, with nineteen courts upholding state funding systems and seventeen declaring the systems unconstitutional."³ The number of states with lawsuits over systems of funding public education has only gone up since then. The total amount of school funding litigation shows this is a much debated topic. No state gets school financing 100% correct. People are filing suit against states all over the country because they are unsatisfied with the inequitable systems that are in existence.

Here in Illinois the issue was addressed in the 1996 of *Committee for Educational Rights v. Edgar*. Illinois school districts, school boards and students filed suit against the governor, state board of education and state superintendent of education.⁴ The plaintiffs sought declaratory judgment with respect to the constitutionality of the statutory system

³ John Dayton & Anne Dupre, School Funding Litigation: Who's Winning the War?, 57 Vand. L. Rev. 2351, 2353 (2004).

⁴ *Comm. for Educ. Rights v. Edgar*, 672 N.E.2d 1178 (Ill. 1996).

financing public schools in the states of Illinois.⁵ The Illinois Supreme Court considered the challenge against the financing system under the education clause of the Illinois State Constitution.⁶ The Illinois Constitution states:

A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities. The State shall provide for an efficient system of high quality public educational institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law. The State has the primary responsibility for financing the system of public education.⁷

The Court concluded in *Edgar* that the lack of parity in funding did not make the Illinois educational system “inefficient.”⁸ The court further decided that the fact that the Illinois constitution said education is a “fundamental goal” does not make it a fundamental right.⁹ Therefore, the court said that unless the legislature really wanted to change the system, the legislature did not have to change it. Although the Court ruled the system constitutional, the system remained unfair. Again in 2011, an attempt to challenge the system was made with litigation in the case of *Carr v. Koch*. However, it was found that the plaintiffs, the tax payers, lacked standing to file suit. So the *Edgar* ruling still stands.

⁵ *Edgar*, *supra* note 4.

⁶ *Id.*

⁷ ILCS Const. Art. 10, §1.

⁸ *Edgar*, *supra* note 4 at 1184.

⁹ *Id.*

If Illinois is going to reform its funding system, it is going to have to come from the legislature. The courts are not going to address this issue. The Court in *Edgar* said the funding system does not violate the Illinois constitution even going so far as saying this responsibility belongs to the legislative and executive branches of the Illinois government.¹⁰ When tax payers made a go of it in *Carr v. Koch*, the court stopped them before they began finding these tax payers did not have standing to file suit. According to the court, these tax payers could not even demonstrate to the court a sufficient connection to the harm from the inequitable funding of Illinois public schools.

The funding system in question is based on four things: property values, tax rates, state appropriations and federal aid, and student enrollment.¹¹ Property value and tax rates determine how much revenue a school district can raise.¹² Each year Illinois gives a fixed amount of funding for earmarked for schools.¹³ This funding is meant to “equalize” the funding of each school district.¹⁴ Other state funds, grants and federal money are also contributed to school financing but are not involved in the formula the state uses to determine aid.¹⁵ Finally student enrollment is factor in how much school districts receive from the state.¹⁶ The equalization funds provided by the state do not make the difference. The gap in funding between districts is too great, and “school districts that rely primarily on state aid have far less money to spend than districts wealthy enough to rely primarily on

¹⁰ *Edgar*, *supra* note 4 at 1207.

¹¹ Understanding School Finance, Illinois Association of School Boards, 3 (2012), available at <http://www.iasb.com/pdf/understandingsf.pdf>.

¹² *Id.*

¹³ *Id.*

¹⁴ Illinois Association of School Boards, *supra* note 10 at 4.

¹⁵ *Id.*

¹⁶ *Id.*

local property taxes.”¹⁷ The state is not adequately funding all of its schools districts.

Equalization money should actually equalize.

III. The Inequity in Illinois Funding of Public Schools

A history of discriminatory housing practices in Illinois has left the state with “acutely concentrated poverty and segregation of racial minorities.”¹⁸ “Acutely concentrated poverty” is one of the reasons Illinois has one of the highest disparities in per-pupil expenditures in the United States.¹⁹ The inequity in funding is obviously unfair to our state’s students. Take for example two schools in the Chicagoland area: Taft Elementary School in Lockport and Rondout Elementary School in Lake Forest. Rondout’s school district receives 95% of its funding based on property taxes mostly from businesses.²⁰ Rondout is able to offer Spanish in every grade, many students are given laptops, students can participate in activities such as band and chorus, and students can study art, drama or dance.²¹ Taft Elementary on the other hand offers no arts or language classes, and the school’s heating system has not been upgraded since the 1950s.²² When you look at the

¹⁷ Playing Fair with the Children of Illinois, Illinois Association of School Boards, 2 (Sept. 2012), available at

<http://www.iasb.com/pdf/playingfair.pdf>.

¹⁸ Cynthis Y. Herrera, True Equality in Illinois Education: Will This be the Year?, 17 Pub. Int. L. Rep. 124, 126 (2012).

¹⁹ *Id.*

²⁰ Lisa Black, Spending gap between state’s rich, poor schools is vast, Chicago Tribune, Nov. 7, 2011,

http://articles.chicagotribune.com/2011-11-07/news/ct-met-school-funding-gaps-20111107_1_spending-gap-taft-s-district-poorest-schools.

²¹ *Id.*

²² *Id.*

numbers, you are able to see why such a difference in education. In 2010, Taft spent \$7,023 per student versus the \$24,244 per student Rondout spent.²³

Another example of disparate spending can be seen between Chicago and the neighboring suburb of Evanston, Illinois. In 1994, there were 6,413 students who began elementary school in Evanston. By the time these students graduated in 2007, \$290 million more was spent on them than the same number of students in Chicago Public Schools.²⁴ Wealthier school districts receive 90% of their funding from local property taxes, but are able to tax themselves at a much lower rate.²⁵ This can be seen when you look at the fact that during the 2007-2008 school year the property tax paid by East St. Louis taxpayers was six times higher than the rate pay by those in the Chicago suburb of Rosemont.²⁶

These wealthier districts can afford many things to make their schools better. Examples are they attract better teachers because they can afford to pay them more, and they are able to pay for better safety measures.²⁷ Some may say giving more money to poorer districts is “throwing money at the problem,” but studies show that is not true.²⁸ As Ralph Martire, executive director for the Center for Tax and Budget Accountability,

All the data show that if you want equal academic outcomes for children who grow up in poverty, you have to spend more...It's not money in a vacuum. What they do

²³ *Id.*

²⁴ Garofalo, *supra* note 1.

²⁵ *Id.*

²⁶ Bob Sexter, Reliance on local money drives school funding imbalances, Mar. 30, 2010, http://articles.chicagotribune.com/2010-03-30/news/ct-met-school-funding-20100330_1_school-funding-reliance-on-local-money-local-control-state/.

²⁷ Garofalo, *supra* note 1.

²⁸ *Black, supra* note 20.

with it is buy more academic programs, more technology; they pay more to teachers and attract better students.²⁹

It is simple and does not take statistic to know that it is true. More money equals more opportunity for students. More opportunities for students to participate in the arts, to have high quality teachers, to use technology, to have smaller class sizes, and the list can go on and on. The unfairness of Illinois funding is that some schools can offer all of those pluses while other schools cannot even afford to replace an extremely outdated heating system.

IV. Another Way to Fund Public Education?

All states struggle with fair and equitable funding of their public schools. As previously stated, a majority of states have litigated the constitutionality of their own public education funding systems. The results have been mixed, but many states have attempted to revamp their systems. A small number of states, like Wyoming and Vermont, are using a full state funding method of financing their public schools. Other states such as Utah, New Jersey and Ohio are using what is referred to as a progressive funding system.

States that use a full state funding to pay for public schools have concluded that, "Because the duty to provide education rests solely with the state, local tax efforts must be excluded from an assessment of state's compliance."³⁰ Under a full state funding system,

²⁹ *Id.*

³⁰ Laurie Reynolds, Full State Funding of Education as a State Constitutional Imperative, 60 HASTINGS L.J. 749, 777 (Mar. 2009).

the state collects all funding and is responsible for financing public schools.³¹ A pure full state funding system eliminates all inequity in the spending by school districts.³² Though full state funding may eliminate inequality, the system is not perfect. Two potential problems it presents are: 1) the diverse needs of school districts, and 2) state set spending might be insufficient.³³ Every school district has a different make up of students. A school district with a higher percentage of special needs students is probably going to need more money per student. If you have a pure full state funding system, you cannot get extra money from local funds.

Some states use a progressive funding system. A progressive funding system means the state provides greater aid to higher poverty districts.³⁴ States that use progressive funding systems still use local revenue to pay for public schools, but the funding from the state level to each district is dispersed in a progressive manor. The state helps districts with higher poverty rates more than those with lower-poverty rates. The issue that pops up with progressive funding of public schools is the schools in the middle get left behind.³⁵ Low poverty districts have help from local revenue and still receive state funding, and high poverty districts receive a great amount of aid from the state. The districts in the middle

³¹ Chapter 9 The Structure of School Finance Systems, Old Dominion University, available at https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=20&ved=0CHIQFjAJOAo&url=http%3A%2F%2Fwww2.odu.edu%2F~wowing%2Fschool%2520finance%2520ppt%2FChapter%25209%2520-%2520Structure%2520of%2520School%2520Finance%2520Systems.ppt&ei=-EOSUZq1O4qTyQG76IGQAg&usg=AFQjCNG28uXWyzocffCM89_I2ld8CoGCiA&sig2=nVP0cuPb5A5mzWY2cLt_Qg.

³² *Id.*

³³ Chapter 9, *supra* note 31.

³⁴ Sean Cavanagh, How 'Progressive' is Your State's School Funding?, State EdWatch, Oct. 12, 2010, http://blogs.edweek.org/edweek/state_edwatch/2010/10/how_progressive_is_your_states_school_funding.html.

³⁵ Bruce D. Baker & Sean P. Corcoran, *The Stealth Inequities of School Funding*, Center for American Progress, Sept. 19, 2012, <http://www.americanprogress.org/issues/education/report/2012/09/19/38189/the-stealth-inequities-of-school-funding/>.

range do not make as much revenue as the wealthier districts and do not receive as much aid as the poorer districts. As a result, the mid-range poverty districts have the least amount of funds for their schools.³⁶

These two systems are not perfect. There are drawbacks to each one. Yet at least these states using these programs are making progress towards equitable funding of their public schools. The full state funding system takes wealthy versus poor districts out of the equation. The state is responsible for the funding and number of students and the amount needed to educate those students determines funding. Progressive funding makes a conscious effort to help the districts who cannot raise the funds. Poorer districts get more state funds at a level that makes them comparable to the wealthier districts who can afford to rely on local revenue.

V. Conclusion

While there is no clear cut answer of how to fix funding of public education in Illinois, it is clear that something has to change. Although the Illinois and Federal Supreme Courts have said that the funding system in place is constitutional, the numbers show that it leads to highly inequitable system. These disparities leave Illinois at the bottom of the list when it comes to educational funding by states. It is clearly unfair that some districts have so little to offer because the property values in their district are much lower than the values in other places. These poorer districts struggle to provide educational necessities while

³⁶ *Id.*

students in richer districts want for nothing. Illinois needs to reevaluate its plan and come up with something better.

Other states do not have it all figured out, but at least they are trying to figure out the best way to finance their schools. States are attempting to make funding more fair by using methods such as progressive funding or full state funding. These states are admitting there is a problem and attempting to do something about it legislatively. Illinois is not like these other states trying to reform their financing systems. Illinois is dependent on local property taxes which is inherently unfair. Organizations and taxpayers have attempted to use the court system to fix the problem, but they have been blocked. The Illinois legislature needs to take a look at our system which receives an “F” on the national report card for school funding fairness and has one of the highest disparities between districts in the country.³⁷

³⁷ Bruce D. Baker, David G. Sciarra & Danielle Farrie, Is School Funding Fair? A National Report Card, Education Law Center, Sept. 2010, http://www.schoolfundingfairness.org/National_Report_Card.pdf.