

Equity and Adequacy Concepts as Considered in School Finance Court Cases

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The Texas Supreme Court has sent the Texas school finance case back to trial to consider the suitability, adequacy and equity of the Texas school finance system. From its filing in 1984, the Texas case has generally been seen as an “equity” case. The trial set for July 2004 is generally seen as an “adequacy” case.

This article clarifies the differences and overlaps of these two legal theories. A later article will focus on the probable effect of application of the adequacy concept on the Texas system, whether that adequacy system is implemented by the courts or by the legislature.

Court cases challenging state school finance systems are usually, though not with complete accuracy, classified as either “equity” or “adequacy” challenges. Of course, these cases are always impacted by the severity of the educational conditions in the state, the constitutional language and history in the state, and the political approaches of the judges.

“Equity” Challenges to State School Finance Systems

The *equity* concept says that every school district should have the same resources to offer its students as every other district in the state. These cases are usually based on the *equal protection* clauses in state constitutions, though some courts have deduced an equity principle from the state education clauses. The Texas school finance cases relied on the Texas constitution’s education clause *efficiency* requirement, but noted the clear linkage between efficiency and equity.

Issues of equity can either focus at the school district level or the student level. The first asks whether districts have the same resources at any particular level of effort by local taxpayers. The second asks whether students in each district have access to the same level of funding, regardless of local effort.

The first major federal and state school finance cases, *Serrano vs. Priest* (1971) (*Serrano I*) and *San Antonio I.S.D. vs. Rodríguez* (1973) were equity cases, and a majority of the school cases before 1990 were equity cases.

One strength of the equity theory is the comparative ease of developing a judicially-enforceable standard of deciding whether the system is equitable and the comparative ease of explaining the situation to non-experts. There is also the possibility that the state can meet the standard without “carrot and stick” problems.

On the other hand there may be a weakness of particular state-constitutional support for equity in state school finance systems. A system based on equity also must take measures to account for the very different costs of providing educational opportunity to different groups of students and districts.

“Adequacy” Challenges to State School Finance Systems

The *adequacy* concept says that state constitutions require an educational system of a certain

definable level of quality - or at least opportunity to obtain an education of that quality - for every student. These cases are usually based on the *education* clauses of state constitutions, though some courts have imported an adequacy standard into an equity case.

Some adequacy cases challenge the adequacy of the entire state education system, while others challenge the adequacy of the school finance system in some subset of the state's districts or low wealth districts.

The first major adequacy case was the New Jersey litigation, *Robinson vs. Cahill*, and most of the school finance litigation since 1990 has been based on the adequacy theory.

A court challenge based on adequacy makes it possible to challenge the entire system of education. There is also flexibility to consider all the special costs of education in a certain district or subset of districts.

However, the adequacy theory faces the difficulty of setting judicially enforceable state standards for adequacy. States face difficulty in meeting an adequacy standard, given shifting educational theories and research on what constitutes real needs in education.

A Comparison of the “Equity” and “Adequacy” Theories

Looking at models of systems that fit either, both or neither theory can highlight the differences between the equity and adequacy theories, and the natural overlap between the theories.

Equitable, inadequate systems - In one scenario, assume that \$10,000 per student per year is adequate funding. If each school district only has \$5,000 per student per year (regardless of tax effort), this would be a perfectly equitable system, but clearly an inadequate one.

Adequate, inequitable systems - In another scenario, again assume that \$10,000 per student is adequate funding. If some districts have \$15,000 per student while others have only \$10,000, the system would at first blush be considered adequate, but certainly not equitable.

This inequity would be exacerbated if the districts with greater per student funding had lower tax rates, or the districts with the least funding had long histories of inadequate funding. In effect, such a system would change the original definition of adequacy at \$10,000 per student. The district with \$15,000 per student would completely control the market for teachers (by offering up to twice as much for teacher salaries and benefits), and the district with \$10,000 per student would find it almost impossible to attract and retain teachers.

Inadequate, inequitable systems - In a final scenario where \$10,000 per student is considered adequate, if some districts have \$8,000 per student and others have \$5,000, the system would be both inequitable and inadequate. Unfortunately, this is the example most like existing school finance systems.

A Closer Look at Adequacy Cases

Texas is quite familiar with the development of equity cases. Adequacy cases bring up new issues. First is the trouble of coming up with the proper definition of an adequate system, consistent with the state constitutional history and interpretations, and with modern needs.

The adequacy case courts have also wrestled with the relationship between the court and the legislature. The general legal rule is that courts will determine the constitutionality of a statute or government system, but give the government body, in the first instance, the power to fulfill the constitutional standard by passing new or modified legislation.

When the governmental body does not respond appropriately, the case can become a political hot potato causing a severe strain between the branches of government, and public anger at both branches of government. Courts seek to avoid this quandary by treating the legislative body with deference, yet simultaneously protecting their own jurisdiction. State courts cannot force the state legislature to pass new taxes, so their power is indeed quite limited.

Adequacy cases go beyond the equity cases and look at the actual quality of the educational system and its real effects on students. Nevertheless, courts often rely on comparisons to other districts to hold that the offerings of the state are sufficient or insufficient.

The adequacy cases also must consider whether the state must offer the opportunity to each child to receive an adequate education, or ensure that in fact all children did receive an adequate education. This difference is often described as a focus on either the inputs into the system or the outputs of the system.

Conclusion

Unfortunately, it is too early to tell if the new findings of inadequacy in some state cases will in fact lead to significantly greater funding. As the courts become impatient with stubborn legislatures, legislatures will become increasingly impatient with courts that continually say “not enough.” Legislators will argue that the legislatures, not the courts, must pass unpopular and often politically suicidal tax increases, and therefore they should make the decisions that force them to raise taxes.

In an ideal context, states would support a school finance system that provides sufficient funds to ensure that all students in all schools have access to high quality schooling, while at the same time ensuring that all students and all schools have access to equitable financial resources at whatever levels of per pupil expenditures are permitted (if supplemental local funding is allowed).

Absent this combination of both equity and adequacy, it is preferable that equity be given priority. If an equitable system is inadequately funded, all schools are equally vested in raising the level of support to an adequate level. Conversely, if a system is “adequately” funded but inequitable, no similar shared basis for improvement in equity exists.

In December 2003, a Kansas state district court declared that state’s school finance system unconstitutional on both adequacy and equity bases. The court concluded: “This case is not about the legislature, it is not about the governor, it is not about the court, it is not about the state school board, it is not about school districts, counties, cities, or towns. It is about our children!”

The absolute importance of these issues demands that we all continue to study and participate in these processes.

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