



Constitutional Efficiency of Texas Schools



The Issue

Article VII of the Texas Constitution states: “A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.”

The education we provide to our children reflects not only who we are as Texans, it also shapes our future as a state. If we do not educate our children today, they will be ill-equipped to defend their liberties and rights tomorrow. This is why, as the Texas Supreme Court has said, the focus must be on results.

Since 1989, the Texas Supreme Court has ruled six times on school finance. In *Edgewood I*, the Court defined efficiency: “Efficient conveys the meaning of effective or productive of results ... with little waste.” The Court has repeated this definition in subsequent decisions, indicating that efficiency is defined by the relationship between inputs and outcomes.

Unfortunately, money has been the recurring theme when the Legislature deals with education because that has been the focus of the press, public, and interest groups. Additionally, all past litigation efforts by plaintiffs have focused only on money and how it is allocated among districts. Litigants have ignored a more fundamental problem. “Pouring more money into the system,” concludes the Court in *West Orange Cove*, “may forestall those challenges, but only for a time.” The solution to the fundamental problem is one which the Legislature—not the Court—must address. The solution is to shift the focus away from the details surrounding school finance and toward the educational benefits Texas children would be given through a system of competition.

The Court expressed a desire to address competition, but admitted that judicial constraint limited it from doing so: “It is true that the plaintiffs and intervenors here have focused on funding, but parties to a lawsuit are entitled to choose the issues to be raised. We cannot dictate how the parties present their case or reject their contentions simply because we would prefer to address others. Perhaps, as the dissent contends, public education could benefit from more competition, but the parties have not raised this argument, and therefore we do not address it.” The Court then explained that “The Legislature may well find ways of improving the efficiency and adequacy of public education—ways not urged by the parties to this case—that do not involve increased funding.”

Although the focus of all past school finance litigation has been on adequacy and equity, the court has specifically noted that these are only “implicit” constitutional requirements whereas efficiency is an “explicit” requirement of the constitution. The issue of real efficiency is now before the court for the first time. Currently it is virtually impossible to measure efficiency due to the lack of financial data which would enable meaningful cost benefit analysis and rational resource allocation decisions. Failure to collect and use financial data in an effective manner to maximize productivity is inherently inefficient.

In addition to the financial accountability problem, many state mandates and laws force districts to allocate resources in manners which fail any rational efficiency test. For example the one-size-fits-all mandates in Chapter 21, and other sections of the education code, force every district to misallocate resources which they might have been able to use more productively if given the freedom to do so.

The Texas Supreme Court, which has dealt with school finance reform for the last 30 years, has repeatedly encouraged the Legislature to make structural reforms to the system. These reforms should offer Texas children the lasting promise of an excellent education.

The Facts

- Although the state constitution requires public funding for education, it does not require that educational services be delivered by school districts, nor any other public entity.

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- In Texas public schools, academic research shows no relationship between spending levels and student achievement levels.
- Only 78.9% of high school students in Texas' public schools graduated 4 years after they began high school.
- Although student scores have improved on state tests, scores have remained relatively flat on nationally normed tests, such as the SAT & ACT, over the past several decades.
- The "Instructional Spending" category accounts for the largest section of the education budget: 57% in 2012-13, and is a very broad category including items such as teacher salaries, classroom supplies, vehicles used for instructional purposes, and all costs associated with these items.
- No adequate financial accountability system is in place, to accurately determine how billions of dollars are allocated, from a production management point of view.
- It is impossible to know if current funding levels are either equitable or adequate because no one can determine if available resources are being allocated in effective and productive manners to achieve the intended result.
- Mark Hurley, a Dallas venture capitalist, testified in the school finance trial that if a publicly traded company were to report its finances the way our schools do, then the executives would be subject to both criminal and civil penalties.
- Chapter 21 of the education code forces districts to allocate resources in less efficient manners than they could if allowed to make local choices.
- The Cost of Education Index is based on 1989 data and woefully out of date. It acts as a multiplier for all formula funding and therefore allocates hundreds of millions of dollars inaccurately and inefficiently.
- Investments in new facilities have outpaced enrollment in recent years, signaling inefficiency. According to the Comptroller's Office, debt service rose by 103% while enrollment grew by 19%.

Recommendations

- Commission an independent third party to study the efficiency and productivity of K-12 education.
- Enact comprehensive school choice legislation, allowing money to follow a child, rather than institutions.
- Redefine the state's responsibility for education under the Constitution.
- Revamp the financial accountability system so that decision makers have better access to meaningful data to maximize value in the allocation of limited resources.
- Review all state mandates and remove those which drive inefficiency.
- Sunset Chapter 21 of the Education Code.
- Update the Cost of Education Index and establish a mechanism to assure it is perpetually updated to accurately allocate scarce resources without waste.

Resources

Texas Education: Original Intent of the Texas Constitution by Kent Grusendorf, Texas Public Policy Foundation (July 2014).

Putting the Student First: School Finance in Texas by James Golsan, Texas Public Policy Foundation (July 2014).

The Mumford Model: Better School Districts Through Efficiency by Jess Fields, Texas Public Policy Foundation (May 2014).

Public School Construction Costs by Susan Combs, Texas Comptroller of Public Accounts (June 2014).

Finding Real Efficiency in Texas Public Schools by James Golsan, Texas Public Policy Foundation (Jan. 2012).

