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STILL SEPARATE AND UNEQUAL: ILLINOIS EDUCATION FUNDING

by JAY H. ROWELL

A lawsuit filed this summer contends that Illinois' heavy reliance on property taxes to fund education violates the civil rights of minority children.¹ "We have an educational system in Illinois that discriminates against minority children, and those who should be held responsible for overseeing this are doing nothing about it," says Chicago Urban League chief Cheryl Jackson who filed the suit.²

But prior court decisions point to an uncertain fate for the Urban League's lawsuit.³ An early attempt at education reform through the federal courts failed when the U.S. Supreme Court held that education is not a fundamental right.⁴

More specifically, the Court held that a reliance on local property taxation which provides less revenues, and thereby inequality, is not a sufficient basis for striking down the entire educational system.⁵

Attempts in forty-four state courts nationwide have yielded mixed results.⁶ Plaintiffs challenging similar property tax formulas have won victories in twenty-six states.⁷ What makes the Urban League's suit look less promising is that earlier attempts in Illinois have failed.⁸

At issue is how much money schools spend per student in a system funded by local property taxes.⁹ In 2004-2005, the wealthiest district in the state, Rondout School District 72 in Lake Forest, generated \$26,356 per pupil from property taxes. Ford Heights School District 169, the poorest district in the state, generated only \$5,548 per pupil even with a property tax rate five times higher than Rondout's because their property value is significantly lower.¹⁰

A 1996 Illinois case, *Committee for Educational Rights v. Edgar*, first brought this issue before the Illinois courts. The plaintiffs argued that students in districts poorly funded by property taxes did not receive a high quality education as required by the Illinois Constitution, and, therefore, the state needed to provide more funding.¹¹ Their argument was buttressed on two portions of the Illinois Constitution.¹² First, that "[t]he State has the primary responsibility for financing the system of public education" and "[t]he State shall provide for an efficient system of high quality public educational institutions."¹³

The Illinois Supreme Court rejected the constitutional arguments stating that "[i]t would be a transparent conceit to suggest that whatever standards of quality courts might develop would actually be derived from the constitution in any meaningful sense."¹⁴ The court went on to hold that the quality of a legal education is for the legislature, not the courts, to decide.¹⁵

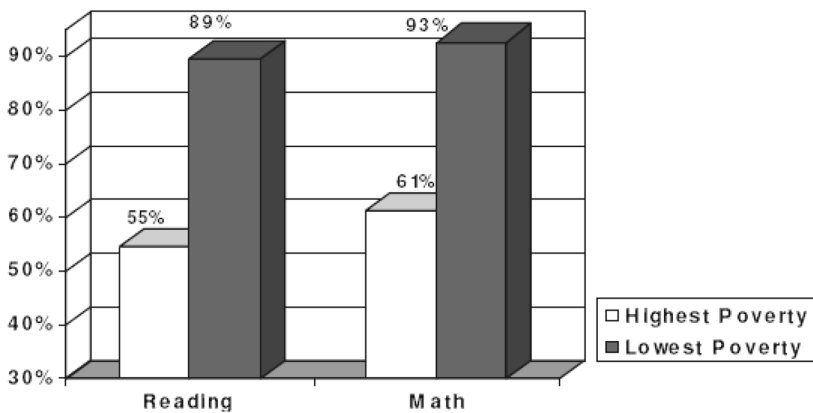
Three years later, the court rejected another attempt to secure equal educational funding in Illinois.¹⁶ The case of *Lewis E. v. Spagnolo* came before the Illinois Supreme Court on the basis of a due process argument not made in *Edgar*.¹⁷ This argument was based off of the *Youngberg v. Romeo* case where the Supreme Court found that due process obligated the state to provide an involuntarily committed person, because of the restraint on his or her liberty, a certain level of services.¹⁸ The plaintiff argued that Illinois' compulsory education law, by mandating children to attend school, was such a restraint on lib-

erty that it placed an affirmative duty on the state to provide a quality education.¹⁹ The court disagreed and made sure to strongly reaffirm its holding in *Edgar* that education funding is a matter for the legislature and not the courts to decide.²⁰

The Urban League's Ms. Jackson does not find the court's reliance on the legislature warranted, stating that "[w]e have little faith in the legislative process."²¹ In their suit, the Urban League argues that not only has the situation deteriorated since the Illinois Supreme Court decided the other cases, but that the legislature has also failed to act.²² They point out statistics that show the percentage of state funding for public school districts has declined from a high in 1976 of 48.4 percent²³ to 36 percent in 2006.²⁴ The statistics also show that Illinois ranks 49th nationwide in the education funding provided to public schools by the state.²⁵

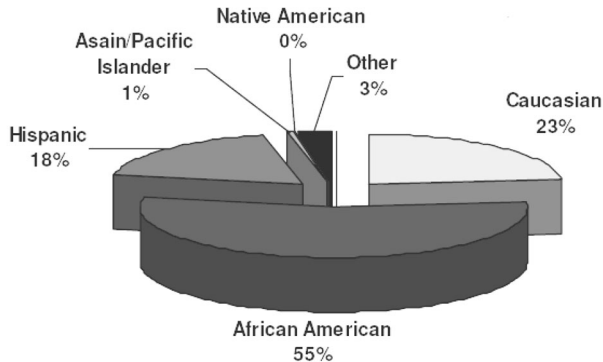
State Senator James Meeks, who recently led a boycott of the Chicago Public Schools to force the Governor to address education funding said, "[w]hen a child lives in property poor Harvey, property poor Ford Heights, the state has an obligation to make sure those children have an education."²⁶

Advocacy groups like A+ Illinois point out that Illinois' school funding gap is inextricably linked to its student achievement gap.²⁷ Schools with the lowest levels of poverty out-perform their poor peers on the Illinois Standard Achievement Test by over 30 percent.²⁸



Percentage of 6th grade students meeting or exceeding the 2006 ISAT Standards²⁹

The lack of state funding disproportionately impacts minority school districts.³⁰ Low-minority concentration districts in Illinois spent on average \$1,154 more per pupil than districts with a high concentration of minority students.³¹ The chart below shows that the vast majority of Illinois' poorest schools are teaching minority students.³²



Racial Breakdown of Poorest Illinois Public School Districts³³

“Our research shows when per pupil spending goes from \$5,000 to \$7,000 that test scores go up across the board,” said Center for Tax and Budget Accountability Executive Director Ralph Martire.³⁴ “Unfortunately, there is a cumulative effect to underfunding a kid’s education every year, K-12, which is reflected in the increasing income gap between whites and minorities,” Martire added.³⁵

The Urban League hopes that research on the racial composition of schools and standardized test performance in poor school districts will make the case.³⁶ In addition, the Urban League contends that federal law, through the No Child Left Behind Act, requires a fair and equal opportunity to obtain a high quality education for all children.³⁷

How the court will react is unclear. Unfortunately, Illinois’ track record on resolving this issue outside the courts is clear. “The furthest an education funding reform bill ever got was passing out of one chamber of the General Assembly only to die in the other,” said former Illinois Senate Education Chairperson Miguel del Valle who served in the General Assembly for 20 years.³⁸

A 1985 attempt to address education funding failed when the General Assembly went back to the old financing scheme only two years later.³⁹ In 1996, the Governor's convened panel of experts on education funding and politics issued recommendations for fixing education funding. These recommendations were declared dead within 48 hours by leaders in the Illinois Senate and House.⁴⁰ More recent attempts, such as Senate Bill 750 which provides more money for education by more than offsetting a reduction in local property taxes with an increase in income tax, have not even made it out of legislative committees.⁴¹

Even a 1992 attempt to amend the Illinois Constitution to strengthen the language in Article 10 on education fell 3 percent short of the 60 percent approval margin required for passage.⁴² Major business organizations opposed the amendment by labeling it the "Blank Check Amendment," charging there was little proof it would improve education, but that there was no doubt it would increase taxes.⁴³ This was confirmed by "the Governor coming out publicly a few days before the vote and saying [the amendment] will require a tax increase, which killed it," said del Valle.⁴⁴

"This is a 30-year problem, the system of funding education," said Senator Meeks,⁴⁵ and no one is sure when it will be solved. But Mayor Daley, for one, sees no reason why courts would not mandate change in the state's school funding formula since "they mandate everything else."⁴⁶

NOTES

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