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DETERMINING ADEQUACY: HOW COURTS ARE REDEFINING STATE RESPONSIBILITY FOR EDUCATIONAL FINANCE, GOALS, AND ACCOUNTABILITY

*Regina R. Umpstead**

I. INTRODUCTION

Headlines during the past two decades have read that courts have struck down their state's school finance systems as unconstitutionally inadequate. In fact, twenty-one out of the twenty-six states in which courts have considered adequacy claims have had rulings that were favorable to adequacy plaintiffs.¹ In these rulings, states have been directed by the courts to redesign their school finance systems, fix outdated facilities, and introduce new programs and curriculum. As a consequence of the significant actions being taken in various states, adequacy has a ubiquitous presence in the educational policy arena. In spite of all of the discussion and action, it is not always clear what courts envision as "adequate" when they strike down a state's educational system for not meeting that constitutional standard.

The meaning of the term educational "adequacy" is ambiguous because, like many other legal theories, it has been built in a piecemeal fashion from the numerous state court

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1. The definition of adequacy cases used in this article include only those where the court relied upon its state constitution's education clause to find some aspect of its educational system unconstitutional. There are a few cases that meet this definition that have not been included in this article because they were either decided at the trial level or are currently pending and were therefore too difficult to obtain. See Appendix 1 for a list of included cases. See also National Access Network, Access: Education Finance Litigation, http://www.schoolfunding.info/news/news/lit_news.php3 (last visited Jun. 1, 2007) (listing funding litigation history for all states in the nation).

decisions around the country that have found their state's educational system to be insufficient to meet its constitutional duty in some respect. This ambiguity is situated in various aspects of the decisions. First, since the adequacy decisions are made at the state level, every one is unique to the state in which it is made. Each individual state's education clause, education funding system, legal and political history, and the role the various branches of state government play in the decision making process impact the definition of adequacy. Second, plaintiffs in adequacy lawsuits bring different combinations of causes of actions, arguments, supporting evidence, and requests for relief in their individual cases. Third, the deciding courts utilize different underlying approaches, understandings, and language to define what type of education their state constitution requires.

Despite these differences, commonalities in approaches to defining "adequacy" can be identified. For instance, the underlying concepts, elements, and goals of "adequacy" can be delineated. In this sense, adequacy is commonly defined as a level of resources or inputs that is sufficient to meet defined or absolute, rather than relative, output standards, such as a minimum passing score on a state achievement test.² It is an outcome-oriented strategy. The adequacy approach emphasizes the quality of education itself and asks what inputs are needed to attain a desired level of achievement.³ In addition, the features that distinguish it from other finance concepts, particularly equity, can be explained. In this sense, school finance experts recognize adequacy's focus on educational outputs in absolute levels of achievement rather than the relative distribution of educational inputs,⁴ and lawyers classify arguments as either "adequacy" if they are based on state education clauses or "equity" if they are based on equal protection clauses.

At their core, adequacy lawsuits are designed to garner increased educational funding to enhance the education offered within a state, typically with a focus on the poorer school districts. Yet in their broadest sense, adequacy cases go beyond

2. EQUITY AND ADEQUACY IN EDUCATION FINANCE: ISSUES AND PERSPECTIVES 23 (Helen F. Ladd et al., eds., 1999) [hereinafter EQUITY AND ADEQUACY].

3. Larry J. Obhof, *Rethinking Judicial Activism and Restraint in State School Finance Litigation*, 27 HARV. J.L. & PUB. POL'Y 569, 583 (2004).

4. EQUITY AND ADEQUACY, *supra* note 2.

this basic finance purpose and reformulate a state's responsibility for and treatment of its public educational establishment, encompassing the finances, goals, and accountability for the outcomes of education.

This article addresses the complexity of educational adequacy by examining the various definitions of "adequacy" used by the courts. Since definitions are important in law, other law and education finance commentators have examined the issue of the definition of adequacy from different perspectives.⁵ This article extends the work done in these previous articles by outlining the full reach of adequacy as including a state's educational finance system, educational goals, and accountability mechanism. It also provides a deeper

5. Josh Kagan identified five types of adequacy definitions or approaches the courts have employed to determine whether a state's educational system is constitutionally adequate. They include the following: (1) relying on "existing standards and established output measurements;" (2) "future legislative definition;" (3) "a laundry list of outputs" the state must produce; (4) a series of educational inputs to ensure an adequate opportunity to learn; and (5) a list of educational inputs and outputs. Josh Kagan, *A Civics Action: Interpreting "Adequacy" in State Constitutions' Education Clauses*, 78 N.Y.U. L. REV. 2241, 2249-57 (2003).

James Liebman and Charles Sabel examined the definitions of adequacy through the lens of the remedies imposed by the courts and found that courts take one of three possible approaches to creating workable definitions of adequacy and measures of progress in achieving it. They either (1) "extract standards specifying very general goals for the states' schools from expert accounts of well-functioning schools" (it may then fall to the legislature to translate these goals into a workable plan for educational reform); (2) "select one or more detailed models of successfully reformed schools" (school districts found to be violating their constitutional obligations then are required to choose a model or an unlisted alternative that delivers superior results); or (3) issue "a sibylline rejection of solutions that do not meet its adequacy standard, while remaining silent as to the specifics of that standard or how to comply with it." James S. Liebman & Charles F. Sabel, *A Public Laboratory Dewey Barely Imagined: The Emerging Model of School Governance and Legal Reform*, 28 N.Y.U. REV. L. & SOC. CHANGE 183, 205-06 (2003).

Deborah Versteegen examined the school finance court decisions to determine what factors contributed to the success of the lawsuits. She identified a bifurcated theory of adequacy based on the definition of the state educational goals articulated by the courts. When the lawsuits were unsuccessful, the courts "invoke[d] an age-old minimalist standard of adequacy set down in the 1920s" that says because all students have access to a minimum, basic education, the system of funding is not unconstitutional despite disparities in quality of education and financing. When the adequacy lawsuits were successful, the educational responsibilities of the state were defined more broadly "in the context of the information age and a global economy" that equips children to function in this environment. Deborah A. Versteegen, *The Law of Financing Education: Towards a Theory of Adequacy: The Continuing Saga of Equal Educational Opportunity in the Context of State Constitutional Challenges to School Finance Systems*, 23 ST. LOUIS U. PUB. L. REV. 499, 507-09 (2004).

look into the detail from the various state court decisions about the underlying definitional components in the areas of the relevant constitutional provisions, school finance language, educational opportunity guarantees, and educational goals.

The analysis begins in Section II with a brief history of the school finance movement. Section III explores the adequacy lawsuits by examining their constitutional underpinnings, the resulting state duties towards public education, and the evidence of inadequacy observed. Section IV surveys the three components of adequacy articulated by the courts with respect to funding, educational attainment goals, and accountability features. Part A identifies the common characteristics of adequacy as they relate to sufficiency of funding to provide a high minimum quality education and the required educational opportunity offered to all students. Part B discusses the educational goals of training the future citizens, workers, and participants in our country's political system. Part C investigates the required accountability for meeting the educational goals.

The article concludes in Section V, finding that although the adequacy lawsuits can be broadly conceived as encompassing the three components of educational funding, goals, and accountability, it is the requirement that a state government provide sufficient funding for a basic quality education that dominates the court decisions. This funding requirement can be classified, in most states, as promoting a baseline level of funding that can be supplemented, either to provide additional financial assistance to schools that have higher educational costs or as a supplement that local residents are permitted to supply to their district. The educational goals portions of the decisions reflect the breadth of the goals Americans desire for our educational system to pursue, and can be broadly conceived as encompassing intellectual, professional, and political pursuits. Although courts have outlined broad educational goals, holding the state accountable for achieving them through a formal accountability system is not a common component of the adequacy decisions. Despite this fact, the importance of more carefully defining and achieving the goals of our educational system is likely to grow with the national push towards more standards and accountability in education.

II. A SUMMARY OF THE HISTORY OF SCHOOL FINANCE LITIGATION

Educational adequacy is a legal theory that calls for the provision of a high-minimum quality education to all of the students in a state. Most scholars mark its beginning with the 1989 state court decisions in Kentucky, Texas, and Montana that declared their educational finance systems inadequate and unconstitutional based on their state education clauses.⁶

The decisions in Kentucky, Texas, and Montana served as a break from previous school finance litigation that had already undergone two different waves wherein the challenges to the state educational systems were based on legal theories of equity. Wave one, which spanned the years of the late 1960s until the 1973 Supreme Court decision in *San Antonio Independent School District v. Rodriguez*,⁷ was characterized by federal equal protection challenges to the state education systems.⁸ These equality or equity suits were concerned about the vast financial resource differences between high-property-wealth and low-property-wealth districts and argued that all children were entitled to have the same amount of money spent on their education ("horizontal equity").⁹ In *Rodriguez*, the U.S. Supreme Court effectively ended this line of argument when it upheld the Texas educational finance system against a federal equal protection clause challenge, saying that students living in poor property-wealth school districts were not an identifiable class of suspect persons and that education is not a fundamental right under the U.S. Constitution.¹⁰

After *Rodriguez* foreclosed the federal avenue, the challenges to the constitutionality of state education finance systems shifted to the state courts and the individual states' constitutional provisions.¹¹ Prominent from 1973 to 1989, the

6. EQUITY AND ADEQUACY, *supra* note 2, at 56.

7. *San Antonio Independent Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973).

8. See William E. Thro, *Issues in Education and Policy: Judicial Analysis During the Third Wave of School Finance Litigation: The Massachusetts Decision as a Model*, 35 B.C. L. REV. 597, 600-01 (1994); Joseph S. Patt, *School Finance Battles: Survey Says? It's All Just a Change in Attitudes*, 34 HARV. C.R.-C.L. L. REV. 547, 557-59 (Summer, 1999); EQUITY AND ADEQUACY, *supra* note 2, at 35-41.

9. EQUITY AND ADEQUACY, *supra* note 2, at 18-20.

10. *Rodriguez*, 411 U.S. at 28, 35.

11. Thro, *supra* note 8, at 601-03; Patt, *supra* note 8, at 559-61; EQUITY AND ADEQUACY, *supra* note 2, at 41-55.

plaintiffs in wave two cases reasoned that education was a fundamental right under the state education clause, so any governmental interference must be examined under the strict scrutiny analysis of the state equal protection clause. They highlighted the inequitable method for funding public schools that made the amount of resources available to local school districts dependent upon the property wealth located in that district. Plaintiffs sought to eliminate this spending gap between high-wealth and low-wealth districts, relying on the horizontal equity concept of equal revenues for every district or on a vertical equity notion that all districts should have equality of educational opportunity in the sense that students in districts with higher needs should have more money spent on their education than those with lesser educational needs (“vertical equity”).¹² A few plaintiffs also contended that the state’s education clause required access to educational opportunities.¹³ These cases were the precursors to the adequacy movement as we see it today.¹⁴

In the adequacy lawsuits of wave three, plaintiffs have argued that: (1) their state education clause requires that a specific substantive level of education, which is defined by state standards or goals, be provided to all students within the state; (2) this quality of education is not currently being supplied; and, therefore, (3) the state has violated its constitutional duty with respect to education as embodied in its education clause; and (4) the court should impose a remedy.¹⁵ This focus on funding to meet specific educational outcomes or standards is a significant shift from the horizontal and vertical equity arguments from the previous two waves of litigation, which focused on the relative amounts of funding among groups of students or districts within the state.

Under adequacy arguments, when state finance systems have been found unconstitutionally inadequate for not providing the required substantive level of education to the students in the state, the courts have ordered states to

12. EQUITY AND ADEQUACY, *supra* note 2, at 20–21.

13. *Robinson v. Cahill*, 303 A.2d 273 (N.J. 1973); *Seattle Sch. Dist. No. 1 v. State*, 585 P.2d 71 (Wash. 1978); *Pauley v. Kelly*, 255 S.E.2d 859 (W.Va. 1979).

14. Steve Smith, *Education Adequacy Litigation: History, Trends, and Research*, 27 ARK. L. REV. 107, 111 (2004).

15. *Thro*, *supra* note 8, at 602–04; *Patt*, *supra* note 8, at 561; EQUITY AND ADEQUACY, *supra* note 2, at 56–62.

reconstitute them and to provide to the school districts the amount of money needed to offer a constitutionally adequate education for all of their students. In certain states, this may require the retooling of the whole educational system including its finance, goals, and accountability measures. This process has proven to be difficult to implement, as demonstrated by protracted litigation in states such as New Hampshire, New Jersey, New York, Ohio, and Texas.¹⁶

Most commentary has acknowledged 1989 as the beginning of the adequacy movement, and identified an adequacy lawsuit, at least initially, by the plaintiffs' exclusive focus on a state's education clause violation without an accompanying equal protection argument. However, plaintiffs, both before and after this date, have brought equal protection claims in addition to their education clause claims in their educational finance lawsuits. Therefore, this article considers a court decision an adequacy case if (1) the plaintiffs argued a state duty to provide an adequate education under the education clause of the state constitution, (2) the court agreed that there was a duty, and (3) the court found a possible or actual violation of that duty. Thus, the adequacy cases discussed here include a few decisions before 1989 and some after that date that might not traditionally be considered adequacy cases but that do include the basic educational theory promoted by the adequacy movement.¹⁷

III. THE COURTS' CONCEPTIONS OF ADEQUACY

Adequacy lawsuits are a response in general to the wide differences in the quality of education that is provided to students throughout a given state and in particular to the poor quality education that certain students receive. Because education is at least partly funded through local sources in most states,¹⁸ children who reside in districts with a lower

16. See Appendix 1 for a list of cases.

17. These cases include decisions from Alabama, Alaska, Arizona, Arkansas, Idaho, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, South Carolina, Texas, Washington, West Virginia, and Wyoming. See Appendix 1 for a list of cases.

18. MAKING MONEY MATTER: FINANCING AMERICA'S SCHOOLS 53 (Helen F. Ladd & Janet S. Hansen eds., 1999).

ability to raise education revenues receive a lower quality of education than children living in districts that are able to raise more funds to devote to education.¹⁹ These poorer districts, adequacy proponents contend, are not financially able to provide students with an adequate education. Adequacy proponents desire to enforce the state's responsibility to offer a basic quality education to all students regardless of where they reside within the state.

The foundation of the educational adequacy argument is the idea that the individual state constitutions require the state government to establish, maintain, and sufficiently fund a quality public education system so that students can meet specific educational outcomes or standards. This duty is a constitutional priority that must be fulfilled by the state and cannot be subject to local differences that undermine the quality of the education provided. After a court identifies that a duty to educate exists, it must define the state's responsibilities under this duty. This is often done in reference to educational standards or goals that are created either by the court, the state legislature, or the state education agency. Once these obligations are articulated, the court must determine whether they are being fulfilled. At this stage, evidence of the condition of the state's school buildings, the quality of its staff, and the state of its educational programs is considered. If the education provided is insufficient to attain the state's standards and goals, the court finds a constitutional violation and orders the state to improve its educational programs in order to perform its responsibility to educate its youth.

A. The State Constitutional Duty to Provide a Public Education

In an adequacy lawsuit, the court is asked to interpret its state constitution's education clause to identify and enforce the state's duty to establish and maintain its public education system at the constitutionally required level of financial and academic sufficiency. Almost every state constitution requires its government to institute and sustain a system of public

19. See, e.g., *McDuffy v. Sec'y of the Executive Office of Educ.*, 615 N.E.2d 516, 552 (Mass. 1993); see also *Helena Elementary Sch. Dist. No. 1 v. State*, 769 P.2d 684, 690 (Mont. 1989) (discussing the conclusion that spending disparities between school districts means unequal educational opportunities).

schools.²⁰ Yet each state constitution is unique, so the specific language used to create and describe the government's obligation for public education must be examined in light of the state's legal and political history to determine whether a duty exists for the state to provide an education to its populace and, if so, what this duty entails.

The adequacy courts begin their analysis by examining the basic pronouncements on public schooling in their respective state constitutions to determine the components of the state's duty. At their most basic level, the state constitutions require that the government "establish and maintain" a public education system. Beyond the provision of and support for public education, adequacy courts must identify the level of quality that this system must exhibit.

To identify a level of quality, most courts rely on the constitutional language that describes the schools the state must furnish. Initial legal scholars on this topic suggested that this descriptive or "quality" component of the state's education clause could be used as a predictor to determine whether an adequacy lawsuit was likely to succeed because the language could be organized into categories according to its strength.²¹

20. Requirements for supporting public school systems are found in the following state constitutions: ALASKA CONST. art. VII, § 1; ARIZ. CONST. art. XI, § 1; ARK. CONST. art. XIV, § 1; CAL. CONST. art. IX, § 5; COLO. CONST. art. IX, § 2; CONN. CONST. art. VIII, § 1; DEL. CONST. art. X, § 1; FLA. CONST. art. IX, § 1; GA. CONST. art. VIII, § 1, ¶ 1; HAW. CONST. art. X, § 1; IDAHO CONST. art. IX, § 1; ILL. CONST. art. X, § 1; IND. CONST. art. VIII, § 1; KAN. CONST. art. VI, § 6(b); KY. CONST. § 183; LA. CONST. art. VIII, § 13(B); ME. CONST. art. VIII, pt. 1, § 1; MD. CONST. art. VIII, § 1; MASS. CONST. pt. 2, ch. V, § 2; MICH. CONST. art. VIII, §§ 1-2; MINN. CONST. art. XIII, § 1; MO. CONST. art. IX, § 1(a); MONT. CONST. art. X, § 1; NEB. CONST. art. VII, § 1; NEV. CONST. art. XI, §§ 1-2; N.H. CONST. pt. 2, art. LXXXIII; N.J. CONST. art. VIII, § 4, ¶ 1; N.M. CONST. art. XII, § 1; N.Y. CONST. art. XI, § 1; N.C. CONST. art. IX, § 2(1); N.D. CONST. art. VIII, §§ 1-4; OHIO CONST. art. VI, § 2; OR. CONST. art. VIII, § 3; PA. CONST. art. III, § 14; R.I. CONST. art. XII, § 1; S.C. CONST. ANN. art. XI, § 3; S.D. CONST. art. VIII, § 1; TENN. CONST. art. XI, § 12; TEX. CONST. art. VII, § 1; UTAH CONST. art. X, § 1; VT. CONST. § 68; VA. CONST. art. VIII, § 1; WASH. CONST. art. IX, §§ 1-2; W. VA. CONST. art. XII, § 1; WIS. CONST. art. X, § 3; WYO. CONST. art. I, § 23 and art. VII, § 1. The following state constitutions permissively allow state legislatures to support public school systems: ALA. CONST. art. XIV, § 256; MISS. CONST. art. VIII, § 201; W. VA. CONST. art. XII, § 1. Iowa's constitution is the only state constitution to make no provisions for educational responsibilities.

21. William Thro has categorized the state education clauses language into three different groups that reflect the quality requirement contained within. At the low end of the spectrum are the "establishment provisions" that require the state to maintain a system of public schools. In the middle are the "quality provisions" that include a quality qualifier for the educational system. At the high end of the spectrum are the "high duty provisions" that make education a priority among other government

Yet, not all states have quality language in addition to the “establish and maintain” clause, and no correlation has been shown between the purported quality language in the constitution and the likelihood of success in an adequacy lawsuit. In practice, adequacy lawsuits have been successful across the quality spectrum. The constitutional language in the successful adequacy cases range from a state with an education clause that mandates only that a public school system be “established and maintained,”²² to two states in which the interests of education must be “cherished.”²³

The wide range of language used in state constitutions to describe the state’s duty with respect to education is represented below. The constitutional language in the successful adequacy lawsuits describes either the quality of the educational system to be provided or the system’s purpose as follows:

free – New York, South Carolina,²⁴

liberal – Alabama,²⁵

uniform – New Mexico, North Dakota,²⁶

general and uniform – Arizona, Minnesota, North Carolina, Oregon, South Dakota, Washington,²⁷

complete and uniform – Wyoming,²⁸

general, uniform, and thorough – Idaho,²⁹

as nearly uniform as practicable – Wisconsin,³⁰

services. Thro, *supra* note 8, at 539–40 (referring generally to classifications used by Erica B. Grubb, *Breaking the Language Barrier: The Right to Bilingual Education*, 9 HARV. C.R.-C.L. L. REV. 52, 66–70 (1974); Gershon M. Ratner, *A New Legal Duty for Urban Public Schools: Effective Education in Basic Skills*, 63 TEX. L. REV. 777, 814–16, n.143–46 (1985)).

22. ALASKA CONST. art. VII, § 1.

23. MASS. CONST. pt. 2, ch. V, § 2; N.H. CONST. pt. 2, art. LXXXIII.

24. N.Y. CONST. art. XI, § 1; S.C. CONST. art. XI, § 3.

25. ALA. CONST. art. XIV, § 256. The current version of this constitutional section no longer includes this language.

26. N.M. CONST. art. XII, § 1; N.D. CONST. art. VIII, § 2.

27. ARIZ. CONST. art. XI, § 1; MINN. CONST. art. XIII, § 1; N.C. CONST. art. IX, § 2(1); OR. CONST. art. VIII, § 3; S.D. CONST. art. VIII, § 1; WASH. CONST. art. IX, § 2.

28. WYO. CONST. art. VII, § 1.

29. IDAHO CONST. art. IX, § 1.

30. WIS. CONST. art. X, § 3.

efficient – Texas, Kentucky,³¹

general, suitable and efficient – Arkansas,³² and

thorough and efficient – Maryland, New Jersey, Ohio, West Virginia, Wyoming,³³

guarantee equality of educational opportunity to all – Montana,³⁴

make suitable provision for the finance of the educational interests – Kansas,³⁵ and

cherish the interests of literature and the sciences – Massachusetts, New Hampshire.³⁶

No clear pattern emerges from examining these provisions. The adequacy courts have found a basic quality requirement that was not being met even when the state is only required to provide a free or no cost education,³⁷ an efficient education,³⁸ and when it must cherish the interests of literature and the sciences.³⁹ In essence, these courts have held that whenever a state is required to establish and maintain a public education system, regardless of the particular language used to describe it, it must meet basic quality standards.

In the unsuccessful adequacy lawsuits, the specific language of the state education clauses has not been determinative of the case outcome. Instead, the courts have focused on separation of powers issues and rejected the adequacy proponents' request for the court to define what constitutes an adequate education or adequate funding because, in the courts' view, this determination is a responsibility of the state legislature.⁴⁰ The courts that have

31. KY. CONST. § 183; TEX. CONST. art. VII, § 1.

32. ARK. CONST. art. XIV, § 1.

33. MD. CONST. art. VIII, § 1; N.J. CONST. art. VIII, § 4, ¶ 1; OHIO CONST. art. VI, § 2; W. VA. CONST. art. XII, § 1; WYO. CONST. art. VII, § 9.

34. MONT. CONST. art. X, § 1(1).

35. KAN. CONST. art. VI, § 6(b).

36. MASS. CONST. pt. 2, ch. V, § 2; N.H. CONST. pt. 2, art. LXXXIII.

37. *See, e.g.*, *Abeville County Sch. Dist. v. State*, 515 S.E.2d 535, 540 (S.C. 1999).

38. *See, e.g.*, *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 215 (Ky. 1989).

39. *See, e.g.*, *McDuffy v. Sec'y of the Executive Office of Educ.*, 615 N.E.2d 516, 553–54 (Mass. 1993).

40. *Coal. for Adequacy & Fairness v. Chiles*, 680 So. 2d 400, 407–08 (Fla. 1996); *Comm. for Educ. Rights v. Edgar*, 672 N.E.2d 1178, 1193 (Ill. 1996); *Charlet v. State*, 713 So. 2d 1199, 1206 (La. 1998); *Marerro v. Pennsylvania*, 709 A.2d 956, 965–66 (Pa.

declined to pass judgment on their state educational system on adequacy grounds have dealt with constitutional language that is very similar to the language addressed by the adequacy courts. These states have education clauses that require the government to do the following:

make adequate provision for a uniform system of public schools – *Florida*,⁴¹

provide an efficient system of high quality public educational institutions and services – *Illinois*,⁴²

provide a minimum foundation of education in all public elementary and secondary schools – *Louisiana*,⁴³

provide for a thorough and efficient system of public education – *Pennsylvania*,⁴⁴ and

secure to the people the advantages and opportunities of education – *Rhode Island*.⁴⁵

There is no appreciable difference between these underlying constitutional provisions and those interpreted by the courts in adequacy lawsuits that were successful. In fact, the constitutional language to support the argument for providing a quality education seems stronger in these states than in many of those where adequacy lawsuits have been successful. But these courts have avoided a determination of quality by focusing on the separation of powers issue.

In sum, numerous courts have found a duty to provide an adequate education to the children of their state based on the education provisions in their state constitutions. This duty has been established across the spectrum of the strength of the quality language that describes the state's responsibility toward public schooling. Yet a few state courts have declined to step into the educational adequacy arena, perceiving it as an interference with the state legislature's role to provide for public education in the state.

1997); *City of Pawtucket v. Sundlun*, 662 A.2d 40, 57–59 (R.I. 1995).

41. FLA. CONST. art. IX, § 1; see *Coal. for Adequacy*, 680 So. 2d at 405. Since this decision, the Florida Constitution has been revised to include even stronger language regarding the State's responsibility for education.

42. ILL. CONST. art. X, § 1; *Edgar*, 672 N.E.2d at 1183.

43. LA. CONST. art. VIII, § 13B; *Charlet*, 713 So. 2d at 1203.

44. PA. CONST. art. III, § 14; *Marerro*, 709 A.2d 956, 958.

45. R.I. CONST. art. XII, § 1; *Sundlun*, 662 A.2d at 49–50.

B. Evidence of an Inadequate Education

Plaintiffs have brought lawsuits that highlight the inadequacies in the current systems by detailing problems with the objects of education: the resources/inputs available in the schools and/or the results/outputs of education. The financial inputs of education are the items that figured prominently in the previous equity lawsuits of the first and second waves. Adequacy cases are sometimes characterized by their reliance on an output rather than input analysis as a basis for finding inadequacy of educational effort. The concept of adequacy, as one that strives to provide a high minimum quality of education to all students, would seem to naturally focus the inquiry into the sufficiency of the state's educational effort by examining the accomplishments of its students — the most frequently used output measure. Yet the adequacy courts have continued to place a heavy emphasis on educational input measures.

The quality of education supplied though these inputs and outputs is contrasted with a statement of what students should learn through their education, the education provided by other, usually wealthier, districts in the state, and/or with surrounding states that supply their students with quality facilities, staff, equipment, supplies, and course offerings. If the quality of the inputs and outputs within the districts in question are significantly lower than that in the comparison set, an inadequate education is being provided.

On the input side, courts have found the following elements relevant to the inquiry: insufficient numbers of trained teachers,⁴⁶ large class size and high student-teacher ratios,⁴⁷ shortages of school staff,⁴⁸ inadequate educational supplies,⁴⁹

46. See, e.g., *Lake View Sch. Dist. No. 25 v. Huckabee*, 91 S.W.3d 472, 489 (Ark. 2002); *McDuffy v. Sec'y of the Executive Office of Educ.*, 615 N.E.2d 516, 553 (Mass. 1993); *Campaign for Fiscal Equity v. State (Campaign III)*, 801 N.E.2d 326, 333 (N.Y. 2003); *DeRolph v. State (DeRolph I)*, 677 N.E.2d 733, 745 (Ohio 1997).

47. *Opinion of the Justices No. 338 (Opinion)*, 624 So. 2d 107, 133 (Ala. 1993) (quoting from lower court decision, which is included as an appendix to this opinion); *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 197 (Ky. 1989); *McDuffy*, 615 N.E.2d at 553; *Campaign III*, 801 N.E.2d at 335; *DeRolph I*, 677 N.E.2d at 744; *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1253 (Wyo. 1995).

48. *Opinion*, 624 So. 2d at 133; *DeRolph I*, 677 N.E.2d at 761 (Douglas, J., concurring).

49. See, e.g., *Opinion*, 624 So. 2d at 131–32; *Lake View*, 91 S.W.3d at 489–90; *Campaign for Fiscal Equity v. State (Campaign II)*, 719 N.Y.S.2d 475, 513 (App. Div.

scarce equipment,⁵⁰ limited course offerings,⁵¹ inadequate curricula or teaching of basic subjects,⁵² school buildings that are overcrowded, in disrepair, or lack basic necessary components,⁵³ schools that do not meet accreditation standards,⁵⁴ disparities in amounts of money spent per students among different districts within the state,⁵⁵ disproportionate tax burdens among districts within the state,⁵⁶ and significantly lower amounts spent on education than in other states.⁵⁷

In fact, the Ohio Supreme Court based its 1997 adequacy decision on overwhelming evidence of insufficient educational inputs, saying that “many districts are ‘starved for funds,’ and lack teachers, buildings, or equipment. These school districts, plagued with deteriorating buildings, insufficient supplies, inadequate curricula and technology, and large student-teacher ratios, desperately lack the resources necessary to provide students with a minimally adequate education.”⁵⁸

Output measures that have been used by the courts as a basis for finding the quality of the education provided inadequate include low standardized test scores,⁵⁹ high

2001); *DeRolph I*, 677 N.E.2d at 744.

50. *Opinion*, 624 So. 2d at 134; *Lake View*, 91 S.W.3d at 489–90; *Campaign II*, 719 N.Y.S.2d at 514; *DeRolph I*, 677 N.E.2d at 742.

51. See, e.g., *Opinion*, 624 So. 2d at 131–32; *Lake View*, 91 S.W.3d at 490; *Rose*, 790 S.W.2d at 197; *McDuffy*, 615 N.E.2d at 553; *Campaign II*, 719 N.Y.S.2d at 500–01 (discussing the defunding of art and physical education and the important role these courses play in “supporting a sound basic education”).

52. *Opinion*, 624 So. 2d at 121–22; see also *Kasayulie v. State*, No. 3AN-97-3782 CIV (Alaska Super. Ct. 1999); *Roosevelt Elementary Sch. Dist. No. 66 v. Bishop*, 877 P.2d 806, 808 (Ariz. 1994); *McDuffy*, 615 N.E.2d at 553.

53. See *Columbia Falls Sch. Dist. No. 6 v. State*, 109 P.3d 257, 263 (Mont. 2005); *Campaign II*, 719 N.Y.S.2d at 500–08; *DeRolph I*, 677 N.E.2d at 742; *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1255 (Wyo. 1995).

54. *Opinion*, 624 So. 2d at 127–28.

55. *Id.* at 116; *Rose*, 790 S.W.2d at 199; *McDuffy*, 615 N.E.2d at 552; *Helena Elementary Sch. Dist. No. 1 v. State*, 769 P.2d 684, 686 (Mont. 1989); *Abbott v. Burke (Abbott II)*, 575 A.2d 359, 374 (N.J. 1990); *Hoke County Bd. of Educ. v. State*, 599 S.E.2d 365, 373 (N.C. 2004); *DeRolph I*, 677 N.E.2d at 758–59; *Edgewood Indep. Sch. Dist. v. Kirby (Edgewood I)*, 777 S.W.2d 391, 392 (Tex. 1989).

56. *Claremont Sch. Dist. v. Governor (Claremont II)*, 703 A.2d 1353, 1356 (N.H. 1997); *DeRolph I*, 677 N.E.2d at 745–46; *Edgewood I*, 777 S.W.2d at 393.

57. *Opinion*, 624 So. 2d at 138; *Lake View Sch. Dist. No. 25 v. Huckabee*, 91 S.W.3d 472, 488 (Ark. 2002).

58. *DeRolph I*, 677 N.E.2d at 745.

59. See, e.g., *Lake View*, 91 S.W.3d at 488–89; *Rose*, 790 S.W.2d at 197; *Bradford v. Md. State Bd. of Educ.*, Case No. 95258055/CL20251, slip op. at ¶¶ 101–105 (Balt

dropout rates among high school students,⁶⁰ low graduation rates,⁶¹ high college remediation rates,⁶² and insufficient preparation for the workforce.⁶³ For example, in a 2004 decision, North Carolina's Supreme Court found that

“an inordinate number of Hoke County students ha[d] consistently failed to match the academic performance of their statewide public school counterparts and that such failure, measured by their [academic] performance. . . , their dropout rates, their graduation rates, their need for remedial help, their inability to compete in the job markets, and their inability to compete in collegiate ranks [constituted a] clear showing that they ha[d] failed to obtain a Leandro-comporting education.”⁶⁴

Thus, courts have considered the quality of both the outcomes of education such as student test scores and graduation rates along with the more traditional concern for the inputs of education that include money, supplies, equipment, curricula, buildings, and staff when making their determinations about the suitability of the state's educational efforts.

IV. THE COMPONENTS OF AN ADEQUATE EDUCATIONAL SYSTEM

The three components of educational adequacy that have been addressed by the courts are funding, goals, and accountability. The intent of the proponents of the adequacy lawsuits is to find the current level of state funding for education and the quality of education provided

City Cir. Ct. Aug. 20, 2004) (stating that Baltimore City student performance is not up to par with state requirements, or state averages, “at every grade level and on every test”); *Hoke*, 599 S.E.2d at 383; *Campaign for Fiscal Equity v. State (Campaign III)*, 801 N.E.2d 326, 339–40 (N.Y. 2003). *But see* *Columbia Falls v. State*, 109 P.3d 257, 263 (Mont. 2005) (holding that good student performance on standardized achievement tests are not the only measurement of a quality education system).

60. *Opinion*, 624 So. 2d at 136–37; *Bradford*, Case No. 95258055/CL20251, slip op. at ¶¶ 113–114; *Hoke*, 599 S.E.2d at 384.

61. *Lake View*, 91 S.W.3d at 488; *Bradford*, Case No. 95258055/CL20251, slip op. at ¶ 115; *Hoke*, 599 S.E.2d at 384; *Campaign III*, 801 N.E.2d at 336–37.

62. *Opinion*, 624 So. 2d at 137; *Lake View*, 91 S.W.3d at 488; *Hoke*, 599 S.E.2d at 385.

63. *Hoke*, 599 S.E.2d at 384.

64. *Id.* at 386. *Leandro* is the previous North Carolina court decision that found the educational system to be inadequate. *See Leandro v. State*, 488 S.E.2d 249 (N.C. 1997).

constitutionally insufficient. To do this, many courts have defined the goals of a constitutionally adequate education, (i.e. the qualities, skills, and characteristics a child would need to effectively function in society today), as a way of measuring the sufficiency of the funding and the educational program. In addition, a few courts have acknowledged that just having funding and standards is not enough to guarantee the desired results; a system to hold schools accountable for accomplishing the learning is also needed.⁶⁵

A. Funding

At the core of the adequacy lawsuits is their challenge to the existing state school finance systems. A foundational principle in adequacy cases is that there is a causal link between the amount of money spent on education and the educational opportunity offered to the students. One court noted, “[I]ncreased educational resources, if properly deployed, can have a significant and lasting effect on student performance.”⁶⁶

The adequacy decisions clarify the states’ responsibility for funding their public school systems. They declare that it is a state, not a local, duty to adequately fund the schools in light of the state constitution’s requirement that its government establish and maintain the public education system.⁶⁷ Because of the constitutional stature of the duty to educate, a few courts have declared it to be the state’s first funding priority over the provision of all other government services.⁶⁸ In addition, some

65. *Claremont Sch. Dist. v. Governor (Claremont IV)*, 794 A.2d 744, 751 (N.H. 2002).

66. *Campaign for Fiscal Equity v. State (Campaign II)*, 719 N.Y.S.2d 475, 525 (App. Div. 2001); see also *Opinion*, 624 So. 2d at 140–41; *Lake View*, 91 S.W.3d at 498; *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 198 (Ky. 1989); *McDuffy v. Sec’y of the Executive Office of Educ.*, 615 N.E.2d 516, 552 (Mass. 1993); *Abbott v. Burke*, 575 A.2d 359, 363 (N.J. 1990) (“Money can make a difference if effectively used, it can provide students with an equal educational opportunity, a chance to succeed.”); cf. *Edgewood Indep. Sch. Dist. v. Kirby (Edgewood I)*, 777 S.W.2d 391, 393 (Tex. 1989) (“The amount of money spent on a student’s education has a real and meaningful impact on the educational opportunity offered that student.”).

67. See *Opinion*, 624 So. 2d at 146; *Lake View v. Huckabee*, No. 1992-5318, slip op. at § III, ¶ 49 (Ark. Ch. Ct. May 25, 2001); *Roosevelt Elementary Sch. Dist. No. 66 v. Bishop*, 877 P.2d 806, 813 (Ariz. 1994); *Rose*, 790 S.W.2d at 205; *McDuffy*, 615 N.E.2d at 548; *Claremont Sch. Dist. v. Governor (Claremont II)*, 703 A.2d 1353, 1356 (N.H. 1997); *DeRolph v. State (DeRolph I)*, 677 N.E.2d 733, 745 (Ohio 1997).

68. *Rose*, 790 S.W.2d at 211; *Seattle Sch. Dist. No. 1 v. State*, 585 P.2d 71, 91

courts have held education funding cannot be reliant on local capacity to fund.⁶⁹ The revenue sources must be dependable, not derived from discretionary levies or taxes that voters can choose not to enact.⁷⁰ A number of states do allow for local revenues to be part of the basic funding for an adequate education,⁷¹ but their reliance on local funding sources cannot be the cause of the disparities among districts in the state⁷² or be based on unreasonable and inequitable tax burdens.⁷³

At its essence, educational adequacy requires each district within the state to have enough money to offer its students a basic quality education. This is an absolute level of sufficiency rather than a relative standard like that traditionally associated with the educational finance equity cases of the past, which centered on comparing spending across districts. The level of funding provided by the state must be enough in every district to afford the substantive level of education that is mandated by the state constitution.⁷⁴ To establish this standard, the courts have called for sufficient educational financial support to do the following:

to provide an adequate education,⁷⁵

to meet the constitutional mandate,⁷⁶

to provide basic education,⁷⁷

(Wash. 1978); *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1279 (Wyo. 1995).

69. See, e.g., *Rose*, 790 S.W.2d at 211; *McDuffy*, 615 N.E.2d at 555 (Mass. 1993); *Campbell*, 907 P.2d at 1274; *DeRolph I*, 677 N.E.2d at 745, 747.

70. *Seattle*, 585 P.2d at 97.

71. *Claremont II*, 703 A.2d at 1360; *Robinson v. Cahill*, 303 A.2d 273, 292 (N.J. 1973); *Leandro v. State*, 488 S.E.2d 249, 256 (N.C. 1997); *Edgewood Indep. Sch. Dist. v. Meno*, 917 S.W.2d 717, 730 (Tex. 1995), *modified opinion of Edgewood Indep. Sch. Dist. v. Meno (Edgewood IV)*, 893 S.W.2d 450 (Tex. 1995).

72. *Lake View*, No. 1992-5318, slip op. at § III, ¶ 49; *Roosevelt*, 877 P.2d at 815; *DeRolph v. State (DeRolph II)*, 728 N.E.2d 993, 1013 (Ohio 2000).

73. *Claremont II*, 703 A.2d at 1360.

74. See *Opinion of the Justices* No. 338, 624 So. 2d 107, 165-66 (Ala. 1993); see generally *Pinto v. Ala. Coal. for Equity*, 662 So. 2d 894 (Ala. 1995); *Montoy v. State (Montoy II)*, 102 P.3d 1160, 1164 (Kan. 2005); *Rose*, 790 S.W.2d at 213; *Abbott v. Burke (Abbott II)*, 575 A.2d 359, 368 (N.J. 1990); *Campaign for Fiscal Equity v. State (Campaign I)*, 655 N.E.2d 661, 667 (N.Y. 1995); *Edgewood IV*, 917 S.W.2d 717, 730-31.

75. *Rose*, 790 S.W.2d at 213.

76. *McDuffy v. Sec'y of the Executive Office of Educ.*, 615 N.E.2d 516, 556 (Mass. 1993).

77. *Seattle Sch. Dist. No. 1 v. State*, 585 P.2d 71, 95 (Wash. 1978).

to provide equal access to a sound basic education,⁷⁸

to offer “the opportunity for a sound basic education” in every school,⁷⁹ and

to ensure enough money so that students have a chance to succeed because of the educational opportunity provided, not in spite of it.⁸⁰

In this manner, adequacy requires the state governments to furnish the money for a basic quality education in all of the districts throughout the state.

The sufficiency of a state’s school funding can be defined (1) by its provision of educational inputs as one in which “each and every school district in the state has an ample number of teachers, sound buildings . . . , and equipment sufficient for all students to be afforded an educational opportunity,”⁸¹ or (2) by the system’s outputs as one in which the “amount of revenue per pupil enable[s] a student to acquire knowledge and skills necessary to participate productively in society”⁸²

Adequacy requires the state to provide equality of educational opportunity to each student to achieve the constitutionally mandated level of education. It does not require strict horizontal equity so that each child within the state will have the same amount of money spent on his or her education.⁸³ Vertical equity funding disparities are allowed by several adequacy courts to compensate for differences in regional costs and student needs that translate into higher costs to supply the same quality of education throughout the state.⁸⁴ Numerous courts also allow for local communities to

78. *Leandro v. State*, 488 S.E.2d 249, 256 (N.C. 1997).

79. *Campaign for Fiscal Equity v. State (Campaign III)*, 801 N.E.2d 326, 348 (N.Y. 2003).

80. *DeRolph v. State (DeRolph I)*, 677 N.E.2d 733, 746 (Ohio 1997).

81. *DeRolph v. State (DeRolph II)*, 728 N.E.2d 993, 1001 (Ohio 2000).

82. *Lake View Sch. Dist. No. 25 v. Huckabee*, No. 1992-5318, slip op. at § III, ¶ 47 (Ark. Ch. Ct. May 25, 2001).

83. *Roosevelt v. Bishop*, 877 P.2d 806, 814 (Ariz. 1994); *Abbott v. Burke*, 575 A.2d 359, 369 (N.J. 1990); *DeRolph I*, 677 N.E.2d at 746; *Edgewood Indep. Sch. Dist. v. Kirby (Edgewood I)*, 777 S.W.2d 391, 397 (Tex. 1989).

84. *Opinion of the Justices No. 338*, 624 So. 2d 107, 115 (Ala. 1993); *Montoy v. State (Montoy II)*, 102 P.3d 1160, 1164–65 (Kan. 2005); *Bradford v. Md. State Bd. of Educ.*, Case No. 95258055/CL20251, slip op. at ¶ 38–39 (Balt. City Cir. Ct. Aug. 20, 2004); *Robinson v. Cahill*, 303 A.2d 273, 297–98 (N.J. 1973); *Abbott*, 575 A.2d at 375; see also *Campaign for Fiscal Equity v. State (Campaign II)*, 719 N.Y.S.2d 475, 517 (App. Div. 2001) (stating that while the State is required only to “provide the

supplement the basic quality education required by the state constitution to provide for a better-than-adequate education.⁸⁵ Even though these adjustments and supplements will result in unequal revenues across districts, the courts that allow them have found that they are consistent with the state's constitutional duties to provide its citizens with an adequate education.

Looking at the twenty-one adequacy court decisions represented in the table below,⁸⁶ a total of thirteen states⁸⁷ specifically allow for variance in funding among districts. Three of these provide for regional and student population cost differences,⁸⁸ five states permit localities to supplement state established minimum district funding levels,⁸⁹ and the remaining five states sanction both types of funding variations.⁹⁰

opportunity for a sound basic education," that opportunity "must be placed within reach of all students," and the State is not relieved of its constitutional obligations "when public school students present with socio-economic deficits"); *Campaign III*, 801 N.E.2d at 348; *Edgewood I*, 777 S.W.2d at 398; *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1278-79 (Wyo. 1995).

85. *Lake View*, No. 1992-5318, slip op. at § III, ¶ 125; *Roosevelt*, 877 P.2d at 815; *Montoy v. State*, 112 P.3d 923, 937 (Kan. 2005) *supplemental opinion of Montoy II*, 102 P.3d 1160 (Kan. 2005); *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 211-12 (Ky. 1989); *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1274 (Wyo. 1995); *Claremont Sch. Dist. v. Governor (Claremont II)*, 703 A.2d 1353, 1360 (N.H. 1997); *Robinson*, 303 A.2d at 298; *Leandro v. State*, 488 S.E.2d 249, 256 (N.C. 1997); *DeRolph I*, 677 N.E.2d at 746; *Edgewood I*, 777 S.W.2d at 398.

86. This table categorizes states based on a specific reference to the relevant issue within a court's decision. Other states may permit supplemental educational revenues or adjustments within the context of adequacy, but it is not specifically mentioned within a court decision.

87. Alabama, Arizona, Arkansas, Kansas, Kentucky, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Texas, and Wyoming.

88. Alabama, Maryland, and New York.

89. Arkansas, Kentucky, New Hampshire, North Carolina, and Ohio.

90. Arizona, Kansas, New Jersey, Texas and Wyoming.

	Vertical Equity	Localities Can Supplement \$
*Alabama	Yes	
*Alaska		
Arizona	Yes	Yes
*Arkansas		Yes
Idaho		
Kansas	Yes	Yes
Kentucky		Yes
Maryland	Yes	
Massachusetts		
Montana	No	
New Hampshire		Yes
New Jersey	Yes	Yes
New Mexico		
New York	Yes	
North Carolina		Yes
Ohio		Yes
South Carolina		
Texas	Yes	Yes
Washington		
*West Virginia		
*Wyoming	Yes	Yes

* Denotes Court decisions that are based in part on state equal protection clauses.⁹¹

To accomplish the funding of an adequate education, most states begin with an equalization of revenues concept, similar to that promoted by horizontal equity. Adequate educational funding promotes this revenue equalizing principle by:

91. See Appendix 1 for case names.

eliminating large disparities in funding – *Kentucky*,⁹² *Montana*,⁹³ *New Jersey*,⁹⁴ and *Texas*,⁹⁵ or in educational offerings – *Kentucky*⁹⁶ between richer and poorer school districts,

providing substantially equal educational revenues to rich and poor districts – *New Jersey*⁹⁷ and *Texas*,⁹⁸

assuring comparable funding to every school district – *New Hampshire*,⁹⁹

funding in an equitable manner – *Montana*,¹⁰⁰

distributing funds equitably and evenly – *Texas*,¹⁰¹ and

supplying “sufficient funds to educate children on substantially equal terms” – *Arizona*.¹⁰²

Once a base level of funding is determined, courts in eight states provide for the adjustment of educational revenues to account for differences in the cost of educating students in specific regions or groupings.¹⁰³ The Kansas Supreme Court calls for a financing formula with equitable distribution relative to the actual costs of education.¹⁰⁴ Similarly, the Arkansas County Chancery Court explained that the dollar amount that is “adequate” is a function of many variables, including the purchasing power of a dollar in a given locality, characteristics of students, and other factors such as population sparsity and school size.¹⁰⁵

92. *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 216 (Ky. 1989).

93. *Helena Elementary Sch. Dist. No. 1 v. State*, 769 P.2d 684, 690 (Mont. 1989).

94. *Abbott v. Burke (Abbott I)*, 495 A.2d 376, 388 (N.J. 1985).

95. *Edgewood Indep. Sch. Dist. v. Kirby (Edgewood I)*, 777 S.W.2d 391, 397–98 (Tex. 1989).

96. *Rose*, 790 S.W.2d at 198, 213.

97. *Abbott v. Burke (Abbott II)*, 575 A.2d 359, 408 (N.J. 1990).

98. *Edgewood I*, 777 S.W.2d at 397.

99. *Claremont Sch. Dist. v. Governor (Claremont II)*, 703 A.2d 1353, 1360 (N.H. 1997).

100. *Helena Elementary Sch. Dist. No. 1 v. State*, 769 P.2d 684, 690 (Mont. 1989).

101. *Edgewood I*, 777 S.W.2d at 398.

102. *Roosevelt Elementary Sch. Dist. No. 66 v. Bishop*, 877 P.2d 806, 814 (Ariz. 1994).

103. Alabama, Arizona, Kansas, Maryland, New Jersey, New York, Texas, and Wyoming.

104. *Montoy v. State*, 112 P.3d 923, 937–39 (Kan. 2005), *supplemental opinion of Montoy v. State (Montoy II)*, 102 P.3d 1160 (Kan. 2005).

105. *Lake View Sch. Dist. No. 25 v. Huckabee*, No. 1992-5318, slip op. at § III, ¶ 47

Finally, a total of ten adequacy courts allow for the supplementation of educational revenues by localities.¹⁰⁶ The Kansas Supreme Court explained that once the legislature has provided suitable funding for the state school system, there may be nothing in the constitution that prevents the legislature from allowing school districts to raise additional funds for enhancements to the constitutionally adequate education already provided.¹⁰⁷

Adequacy can be characterized as requiring substantial equality of educational funding throughout the state at a level that permits a basic quality education to be supplied.¹⁰⁸ It generally does not obligate a state to supply equal amounts of financial resources to each district. Instead, it calls for a basic level of funding necessary to provide the required level of educational quality. This amount can be supplemented based on regional and student group cost differences and local revenue enhancement.

*B. The States' Teaching Responsibilities — Education Goals*¹⁰⁹

Courts that have been asked to consider adequacy challenges interpret their state constitutions' education clause to determine whether a duty to educate exists and what it entails. Of the state courts that have addressed the issue, ultimately all of the courts have found a governmental obligation to educate the children within the state. The courts stipulate that children be given the following types of education:

(Ark. Ch. Ct. May 25, 2001).

106. Arizona, Arkansas, Kansas, Kentucky, New Hampshire, New Jersey, North Carolina, Ohio, Texas, and Wyoming.

107. *Montoy*, 112 P.3d at 937.

108. But see *Leandro v. State*, 488 S.E.2d 249, 256–57 (N.C. 1997), in which the court rejects this particular wording when it calls for equal access to a sound basic education but not substantially equal funding or educational advantages in every district. This court allows for local supplementation and discusses the impracticality of attempting to equalize funding or educational advantages across the state. *Id.* at 256–57.

109. This discussion is limited to the education goals created and adopted by the courts. Other educational goals that were developed by the state legislature or department of education are not included here.

adequate education – Arkansas,¹¹⁰ Kansas,¹¹¹ Kentucky,¹¹² Maryland,¹¹³ Massachusetts,¹¹⁴ New Hampshire,¹¹⁵ and Ohio,¹¹⁶

a minimally adequate education – Alabama,¹¹⁷ New York,¹¹⁸ and South Carolina,¹¹⁹

a basic education – Washington,¹²⁰

a sound basic education – New York,¹²¹ and North Carolina,¹²²

a quality education – Alabama,¹²³ Montana,¹²⁴ and Wyoming,¹²⁵

a proper education – Wyoming,¹²⁶

a suitable education – Kansas,¹²⁷

a high quality education – West Virginia,¹²⁸ or

a thorough and efficient education – New Jersey.¹²⁹

110. *Lake View Sch. Dist. No. 25 v. Huckabee*, 91 S.W.3d 472, 492 (Ark. 2002).

111. *See Montoy*, 112 P.3d at 937.

112. *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 211 (Ky. 1989).

113. *Bradford v. Md. State Bd. of Educ.*, Case No. 95258055/CL20251, slip op. at ¶ 57 (Balt. City Cir. Ct. Aug. 20, 2004).

114. *McDuffy v. Sec'y of the Executive Office of Educ.*, 615 N.E.2d 516, 519 n.8 (Mass. 1993). In this case the court uses the term “adequate” but thinks it is redundant with the term “education.”

115. *Claremont Sch. Dist. v. Governor (Claremont I)*, 635 A.2d 1375, 1376 (N.H. 1993).

116. *DeRolph v. State (DeRolph I)*, 677 N.E.2d 733, 745 (Ohio 1997).

117. *Opinion of the Justices No. 338*, 624 So. 2d 107, 154 (Ala. 1993).

118. *Campaign for Fiscal Equity v. State (Campaign I)*, 719 N.Y.S.2d 475, 520 (App. Div. 2001).

119. *Abbeville County Sch. Dist. v. State*, 515 S.E.2d 535, 540 (S.C. 1999).

120. *Seattle Sch. Dist. No. 1 v. State*, 585 P.2d 71, 95 (Wash. 1978).

121. *Campaign for Fiscal Equity v. State (Campaign I)*, 655 N.E.2d 661, 665 (N.Y. 1995).

122. *Leandro v. State*, 488 S.E.2d 249, 254 (NC 1997).

123. *Opinion of the Justices No. 338*, 624 So. 2d 107, 154 (Ala. 1993).

124. *Helena Elementary Sch. Dist. No. 1 v. State*, 769 P.2d 684, 689 (Mont. 1989).

125. *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1258 (Wyo. 1995).

126. *Id.* at 1259.

127. *Montoy v. State (Montoy II)*, 102 P.3d 1160, 1164 (Kan. 2005).

128. *See Pauley v. Kelly*, 255 S.E.2d 859, 878 (W. Va. 1979).

129. New Jersey – all *Robinson* and *Abbott* decisions. *See* Appendix 1.

Although the manner in which the required education is described differs, ultimately, all of the courts call for schools that meet educational standards and accomplish their educational goals. As one court explained, the state has a “duty to ensure that the public schools achieve their object and educate the people.”¹³⁰

The courts use similar language to describe the level of access to education required by the states’ constitutions. The basic requirement is that the state must educate all children¹³¹ and that each child must have a chance to succeed because of the educational opportunity provided by the state, not in spite of it.¹³² To describe the level of educational opportunity that the states need to offer, the courts stipulate that each child be given:

an opportunity – New York,¹³³ North Carolina,¹³⁴ and South Carolina,¹³⁵

the same opportunity and access – Kentucky,¹³⁶

a substantially equal or equitable opportunity – Alabama,¹³⁷
or

an equal opportunity – Arkansas,¹³⁸ Kentucky,¹³⁹
Montana,¹⁴⁰ New Jersey,¹⁴¹ and Wyoming.¹⁴²

130. *McDuffy v. Sec’y of the Executive Office of Educ.*, 615 N.E.2d 516, 526 (Mass. 1993).

131. *Id.* at 553.

132. *DeRolph v. State (DeRolph I)*, 677 N.E.2d 733, 746 (Ohio 1997).

133. *Campaign for Fiscal Equity v. State (Campaign I)*, 655 N.E.2d 661, 666 (N.Y. 1995).

134. *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1997).

135. *See Abbeville County Sch. Dist. v. State*, 515 S.E.2d 535, 541 (S.C. 1999).

136. *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 211 (Ky. 1989).

137. *Pinto v. Ala. Coal. for Equity*, 662 So. 2d 894, 896 (Ala. 1995).

138. *Lake View Sch. Dist. No. 25 v. Huckabee*, 91 S.W.3d 472, 492 (Ark. 2002).

139. *Rose*, 790 S.W.2d at 212.

140. *Helena Elementary Sch. Dist. No. 1 v. State*, 769 P.2d 684, 689–90 (Mont. 1989).

141. *See Robinson v. Cahill*, 303 A.2d 273, 295 (N.J. 1973) (holding that the state has an “obligation to afford all pupils that level of instructional opportunity which is comprehended by a thorough and efficient system of education . . .”).

142. *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1266 (Wyo. 1995). This language is typically thought of in reference to the equal protection clause of the state constitutions. Alabama, Arkansas, West Virginia, and Wyoming are states in which the courts specifically found state equal protection clause violations in addition to an

However the courts describe it, this opportunity is the right of all children to have access to an adequate education. It encompasses the basic components of education — including teachers,¹⁴³ curricula,¹⁴⁴ facilities,¹⁴⁵ and instruments of learning¹⁴⁶— so that children living in all areas of the state, regardless of the wealth of the communities within which they live or their own personal economic circumstances, are presented with the opportunity to acquire the essential competencies that equate to an adequate education,¹⁴⁷ thereby allowing them to achieve basic educational equality with their more advantaged peers.¹⁴⁸

Access to education does not mean, however, that each district will have equality in educational resources or financing. The North Carolina Supreme Court explained that although access to an adequate education must be provided equally in every school district, the constitution does not require substantially equal educational programs in all school districts. In some instances, the playing field must be leveled by providing poorer districts with more money. In others, the educational opportunities in a community will be supplemented beyond the level of an adequate education through voluntary local funding. Thus, the term “substantial equality” most accurately describes the level of educational opportunities required by the adequacy courts.¹⁴⁹ The substantial equality of opportunity is found in the state’s provision of an adequate

education article or adequacy violation. Therefore, it is not surprising that all of these states use a variation of the equal opportunity language to specify the type of access to education required. Montana’s education clause specifically requires equal educational opportunity. The New Jersey plaintiffs brought an equal protection clause challenge, but the courts decided only on education clause grounds.

143. *Helena*, 769 P.2d at 691. Although the court chose not to address specific elements that constitute an “equal educational opportunity,” it did name teachers as one of the “additional factors” that are a “significant part of the education of each person in Montana.” *Id.*; see also *Campaign for Fiscal Equity v. State (Campaign I)*, 655 N.E.2d 661, 666 (N.Y. 1995).

144. *Lake View Sch. Dist. No. 25 v. Huckabee*, 91 S.W.3d 472, 500 (Ark. 2002); *Campaign I*, 655 N.E.2d at 666.

145. *Lake View*, 91 S.W.3d at 500; *Campaign I*, 655 N.E.2d at 666.

146. *Lake View*, 91 S.W.3d at 500; *Campaign I*, 655 N.E.2d at 666.

147. *Pinto v. Ala. Coal. for Equity*, 662 So. 2d 894, 896 (Ala. 1995); *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 211 (Ky. 1989).

148. *Abbott v. Burke*, 575 A.2d 359, 403 (N.J. 1990).

149. *But see Leandro v. State*, 488 S.E.2d 249, 256–57 (N.C. 1997) (stating that so much variation cannot be considered “substantial equality”).

education within the reach of all students¹⁵⁰ within the state while inequality in the amount actually spent on the education and the supplemental programs offered may vary from district to district.

1. What this duty entails — expectations for student performance

While it is clear that states have a duty to provide an education to their children, the parameters of what this education encompasses are not immediately obvious. The training of students through education may be understood in its totality as comprising:

all that series of instruction and discipline which is intended to enlighten the understanding, correct the temper, and form the manners and habits of youth, and fit them for usefulness in the future. In its most extended signification it may be defined, in reference to man, to be the act of developing and cultivating the various physical, intellectual, aesthetic and moral faculties.¹⁵¹

Translating this broad definition into practice, the courts have identified three general roles that public education is intended to prepare students to perform in society. Schools should develop the intellectual, emotional, and moral capabilities of students as individuals, workers, and participants in our political system. As one court noted, “The State’s constitutional duty . . . embraces broad educational opportunities needed in the contemporary setting to equip our children for their role as citizens and as potential competitors in today’s market as well as in the marketplace of ideas.”¹⁵²

*a) Role as citizens/individuals — intellectual pursuits
Alabama, Kentucky, Massachusetts, New Hampshire,
New Jersey, New York, North Carolina, South Carolina,
Texas, Washington, West Virginia*

As one of its primary goals, education should prepare children to function as individual adults who possess a basic understanding of the world, who are capable and self-aware,

150. Campaign for Fiscal Equity v. State (*Campaign II*), 719 N.Y.S.2d 475, 517 (App. Div. 2001).

151. Seattle Sch. Dist. No. 1 v. State, 585 P.2d 71, 94 (Wash. 1978).

152. *Id.*

and who interact with others in a complex and rapidly changing society.

Many courts have indicated that a basic understanding of our complex society should be promoted in the public schools by teaching what has traditionally been seen as the academic subjects.¹⁵³ This includes a foundational knowledge of the fields of mathematics,¹⁵⁴ physical science,¹⁵⁵ and language arts.¹⁵⁶ It also encompasses an awareness of and ability to appreciate music,¹⁵⁷ visual art,¹⁵⁸ performance art,¹⁵⁹ and literature.¹⁶⁰

In addition to this basic academic knowledge, some courts have directed the schools to educate the whole person, focusing not only their minds, but also their bodies and their emotions. Promoting knowledge of oneself¹⁶¹ and understanding of one's physical and mental health¹⁶² is an important component of a child's education. In addition, every student should receive support and guidance so he or she feels a sense of self-worth, an ability to achieve, and encouragement to live up to his or her full human potential.¹⁶³ Moreover, courts call for students

153. Of course these subjects are also important to train students who are participants in our government and economy.

154. *Campaign for Fiscal Equity v. State (Campaign I)*, 655 N.E.2d 661, 666 (N.Y. 1995); *Leandro*, 488 S.E.2d at 255; *Abbeville County Sch. Dist. v. State*, 515 S.E.2d 535, 540 (S.C. 1989).

155. *Leandro*, 488 S.E.2d at 255; *Abbeville*, 515 S.E.2d at 540.

156. *See Campaign I*, 655 N.E.2d at 666 (N.Y. 1995) ("Children are also entitled to . . . reasonably up-to-date basic curricula such as reading, writing . . ."); *Leandro*, 488 S.E.2d at 255; *see also Abbeville*, 515 S.E.2d at 540 (stating that the abilities of reading, writing, and speaking English should also be taught).

157. *See Abbott v. Burke (Abbott II)*, 575 A.2d 359, 397 (N.J. 1990); *Pauley v. Kelly*, 255 S.E.2d 859, 877 (W. Va. 1979).

158. *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 212 (Ky. 1989); *McDuffy v. Sec'y of the Executive Office of Educ.*, 615 N.E.2d 516, 554 (Mass. 1993); *Abbott II*, 575 A.2d at 364; *Claremont Sch. Dist. v. Governor (Claremont II)*, 703 A.2d 1353, 1359 (N.H. 1997); *Campaign for Fiscal Equity v. State (Campaign I)*, 719 N.Y.S.2d 475, 500 (App. Div. 2001); *Pauley*, 255 S.E.2d at 877 (W. Va. 1979).

159. *Campaign II*, 719 N.Y.S.2d at 500-01; *Pauley*, 255 S.E.2d at 877.

160. *Abbott II*, 575 A.2d at 397; *Pauley*, 255 S.E.2d at 877.

161. *Pinto v. Ala. Coal. for Equity*, 662 So. 2d 894, 896 (Ala. 1995); *Rose*, 790 S.W.2d at 212; *McDuffy*, 615 N.E.2d at 554; *Claremont II*, 703 A.2d at 1359; *Pauley*, 255 S.E.2d at 877.

162. *Pinto*, 662 So. 2d at 896; *Rose*, 790 S.W.2d at 212; *McDuffy*, 615 N.E.2d at 554; *Claremont II*, 703 A.2d at 1359; *Seattle Sch. Dist. No. 1 v. State*, 585 P.2d 71, 94 (Wash. 1978); *see also Pauley*, 255 S.E.2d at 877 (defining education as "the development of mind, body and social morality . . .").

163. *Pinto*, 662 So. 2d at 896.

to interact with others in society. To facilitate compatibility with others, students should learn oral and written communications skills¹⁶⁴ and social ethics or morality.¹⁶⁵

To this end, courts envision future adult citizens who are equipped to fully participate in the life of their community and society.¹⁶⁶ With their academic foundation, self-knowledge, and interactive skills, these adults will be able to inquire, study, evaluate, and gain maturity and understanding,¹⁶⁷ to function at the state, national, and international levels,¹⁶⁸ to appreciate their cultural and historical heritage,¹⁶⁹ and the cultural heritage of others,¹⁷⁰ to share their ideas with others,¹⁷¹ and to exercise their First Amendment freedoms.¹⁷² They will also be capable of monitoring and contributing to their own physical and mental well-being.¹⁷³ If successful, the state will have cultivated the intellectual, aesthetic, and moral faculties of each individual child.¹⁷⁴

b) *Competitors in the market — career pursuits*

Alabama, New York, South Carolina, West Virginia

The adequacy courts have identified preparation of students to compete for and perform in their future career pursuits as one of the main goals of education.¹⁷⁵ These pursuits fall into two categories: academic and vocational. In the academic realm, students compete for acceptance into post-secondary education programs. In the job market, students vie for gainful employment. The preparation of students for their future career pursuits is accomplished by the education system

164. *Id.*; *Rose*, 790 S.W.2d at 212; *McDuffy*, 615 N.E.2d at 554; *Claremont II*, 703 A.2d at 1359; *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1997).

165. *Seattle*, 585 P.2d at 94; *Pauley*, 255 S.E.2d at 877.

166. *Abbott v. Burke (Abbott II)*, 575 A.2d 359, 397 (N.J. 1990).

167. *Seattle*, 585 P.2d at 72.

168. *Pinto*, 662 So. 2d at 896.

169. *Id.*; *Rose*, 790 S.W.2d at 212; *McDuffy*, 615 N.E.2d at 554; *Claremont II*, 703 A.2d at 1359.

170. *Pinto*, 662 So. 2d at 896.

171. *Abbott II*, 575 A.2d at 397.

172. *Seattle*, 585 P.2d at 94.

173. *Pinto*, 662 So. 2d at 896.

174. *Seattle*, 585 P.2d at 94.

175. *See, e.g.*, *Pauley v. Kelly*, 255 S.E.2d 859, 877 (W. Va. 1979) (describing an efficient education system as one that prepares its charges to pursue “useful and happy occupations”).

through the development of scholastic and employment skills.¹⁷⁶ Students should receive “sufficient training or preparation for advanced training in academic or vocational skills”¹⁷⁷ so that they may engage in and contribute to the economy.¹⁷⁸

The courts have described their desire to produce adults who are competitive in these fields in different ways. First, some are concerned with students’ career decision-making process, saying that students should be equipped “to choose and pursue life work intelligently”¹⁷⁹ and that they should be prepared “for useful and happy occupations.”¹⁸⁰ Second, others want students who are successful in securing their desired positions, saying that they should be prepared to compete on an equal basis with others¹⁸¹ or to compete favorably with their counterparts in surrounding states,¹⁸² across the nation, and throughout the world¹⁸³ in academics or in the job market. Third, courts want students who can competently perform the tasks they undertake. Schools should develop students who can successfully engage in post-secondary education or vocational training¹⁸⁴ and sustain competitive employment.¹⁸⁵

176. The vocational skills have not been defined by the courts. Academic skills include the foundational knowledge of mathematics, physical science, and language arts.

177. *Pinto*, 662 So. 2d at 896; see also *Abbeville County Sch. Dist. v. State*, 515 S.E.2d 535, 540 (S.C. 1999) (stating that the South Carolina Constitution requires that students “have the opportunity to acquire . . . academic and vocational skills”); *Pauley*, 255 S.E.2d 859, 877 (calling for the “development in every child to his or her capacity of . . . work-training and advanced academic training as the child may intelligently choose”).

178. *Campaign for Fiscal Equity v. State*, 719 N.Y.S.2d 475, 485 (App. Div. 2001).

179. *Pinto*, 662 So. 2d at 896; *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 212 (Ky. 1989); *McDuffy v. Sec’y of the Executive Office of Educ.*, 615 N.E.2d 516, 554 (Mass. 1993); *Claremont Sch. Dist. v. Governor (Claremont II)*, 703 A.2d 1353, 1359 (N.H. 1997).

180. *Pauley*, 255 S.E.2d at 877.

181. *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1997).

182. *Rose*, 790 S.W.2d at 212; *McDuffy*, 615 N.E.2d at 554; *Claremont II*, 703 A.2d at 1359.

183. *Pinto*, 662 So. 2d at 896.

184. See *id.* (“Students [should be given] the opportunity to attain . . . sufficient training, or preparation for advanced training, in academic or vocational skills, and sufficient guidance, to enable each child to choose and pursue life work intelligently [and] sufficient training, or preparation for advanced training . . . to compete favorably with their counterparts in Alabama, in surrounding states, across the nation, and throughout the world, in academics or in the job market.”); *Rose*, 790 S.W.2d at 212 (stating the same standard as the *Pinto* court); *McDuffy*, 615 So. 2d at 554 (stating the

c) *Marketplace of ideas—political system – political pursuits*
Alabama, Kentucky, Massachusetts, New Hampshire,
New York, North Carolina, Washington, West Virginia

The third key goal of the education system, as defined by the adequacy courts, is to train students to be future participants in the American political system. To do this, public schools should teach students basic history and geography,¹⁸⁶ and provide them with a fundamental knowledge of economic, political¹⁸⁷ and social systems.¹⁸⁸ Schools should also familiarize students with the government¹⁸⁹ and governmental processes¹⁹⁰ of their state and of the nation.

The aim is to develop productive citizens who are capable of civic engagement¹⁹¹ through intelligent and effective involvement in our political system.¹⁹² This takes two forms, first, as members of a jury¹⁹³ and second, as voters.¹⁹⁴

To serve on juries, individuals need to be capable of being impartial, learning unfamiliar facts and concepts, deciding complex matters that require verbal, reasoning, math, and science skills, and communicating and reaching decisions with their fellow jurors.¹⁹⁵

As engaged voters who participate in our political system,

same standard as the *Pinto* court); *Claremont II*, 703 A.2d at 1359; *Leandro*, 488 S.E.2d at 255; *Abbeville County Sch. Dist v. State*, 515 S.E.2d 535, 540 (S.C. 1999) (stating that every student must have the “opportunity to acquire . . . academic and vocational skills”).

185. *Campaign for Fiscal Equity v. State*, 719 N.Y.S.2d 475, 487 (App. Div. 2001).

186. *Leandro*, 488 S.E.2d at 255; see also *Pinto*, 662 So. 2d at 896 (including history, but not geography); *Abbeville*, 515 S.E.2d at 540 (requiring that students be given the opportunity to acquire, inter alia, a fundamental knowledge “of history and governmental processes”).

187. *Pinto*, 662 So. 2d at 896; *Rose*, 790 S.W.2d at 212; *McDuffy*, 615 N.E.2d at 554; *Claremont II*, 703 A.2d at 1359; *Leandro*, 488 S.E.2d at 255; *Abbeville*, 515 S.E.2d at 540.

188. *Pinto*, 662 So. 2d at 896; *Rose*, 790 S.W.2d at 212; *McDuffy*, 615 N.E.2d at 554; *Claremont II*, 703 A.2d at 1359; *Abbeville*, 515 S.E.2d at 540.

189. See *Pauley v. Kelly*, 255 S.E.2d 859, 877 (W. Va. 1979).

190. See *id.*

191. *Campaign for Fiscal Equity v. State (Campaign II)*, 719 N.Y.S.2d 475, 487 (App. Div. 2001).

192. *Seattle Sch. Dist. No. 1 v. State*, 585 P.2d 71, 94 (Wash. 1978).

193. *Campaign for Fiscal Equity v. State (Campaign I)*, 655 N.E.2d 661, 666 (N.Y. 1995).

194. *Campaign II*, 719 N.Y.S.2d at 485.

195. *Id.*

these young adults will be able to understand the issues that affect their community, state, and nation,¹⁹⁶ to contribute to¹⁹⁷ and make informed choices¹⁹⁸ regarding these issues as they relate to them personally¹⁹⁹ or affect their community, state, and nation.²⁰⁰ They will also be able to choose “among persons and issues that affect [their] own governance.”²⁰¹ Ultimately, the goal here is to produce citizens on whom the government may rely to meet its needs and to further its interests,²⁰² thereby ensuring the survival of our open political system²⁰³ by producing intelligent and capable members of our political community.

C. Accountability

The third component of adequacy discussed by the courts is accountability. This concept demands that states not only provide high standards and sufficient funding for education, but that they also are held responsible for achieving the substantive level of education required by their constitution. One court defined it in this manner:

Accountability means that the State must provide a definition of a constitutionally adequate education, the definition must have standards, and the standards must be subject to meaningful application so that it is possible to determine whether, in delegating its obligation to provide a constitutionally adequate education, the State has fulfilled its duty.²⁰⁴

Accountability is the least developed element of the

196. *Pinto v. Ala. Coal. for Equity*, 662 So. 2d 894, 896 (Ala.1995); *Rose v. Council for Better Educ.*, 790 S.W.2d 186, 212 (Ky. 1989); *McDuffy v. Sec'y of the Executive Office of Educ.*, 615 N.E.2d 516, 554 (Mass. 1993); *Claremont Sch. Dist. v. Governor (Claremont II)*, 703 A.2d 1353, 1359 (N.H. 1997).

197. *Pinto*, 662 So. 2d at 896.

198. *Id.*; *Rose*, 790 S.W.2d at 212; *McDuffy*, 615 N.E.2d at 554; *Claremont II*, 703 A.2d at 1359; *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1996); *Pauley v. Kelly*, 255 S.E.2d 859, 877 (W. Va. 1979).

199. *Leandro*, 488 S.E.2d at 255.

200. *Pinto*, 662 So. 2d at 896; *Leandro*, 488 S.E.2d at 255.

201. *Pauley*, 255 S.E.2d at 877.

202. *McDuffy*, 615 N.E.2d at 555.

203. *Seattle Sch. Dist. No. 1 v. State*, 585 P.2d 71, 94 (Wash. 1978).

204. *Claremont Sch. Dist. v. Governor (Claremont IV)*, 794 A.2d 744, 751 (N.H. 2002).

adequacy lawsuits,²⁰⁵ yet it serves the important function of putting into place a system for monitoring the state's progress towards and compliance with its constitutional responsibility to provide an adequate education to all of its children.²⁰⁶ As one court noted, "If the State cannot be held accountable for fulfilling its duty, the duty creates no obligation and is no longer a duty."²⁰⁷

The mechanisms for holding states responsible for fulfilling their constitutional responsibilities for public education can be implemented through the adoption of a formal accountability system or through a series of rulings by the courts on whether the government has fulfilled its obligations with respect to the state educational system. Two states with adequacy lawsuits have adopted formal accountability systems and in two others, courts have called for the creation of one.²⁰⁸ In at least six states, plaintiffs have utilized the court system to hold states accountable for providing adequate educational opportunities to their children.²⁰⁹

V. CONCLUSION

Adequacy can be seen as another advance in the school reformers' quest to utilize the legal system to secure an education system that better serves the needs of all children within a state. With courts in twenty-one of the twenty-six states that have considered adequacy claims finding support for the legal theory of adequacy, these reformers have largely succeeded in the goal of enlisting state courts to advance their desire for sufficient funding for a quality education for all

205. See *Abbott v. Burke*, 693 A.2d 417, 428–29 (N.J. 1997).

206. See *Lake View Sch. Dist. No. 25 v. Huckabee*, No. 1992-5318, slip op. at § III, ¶ 48 (Ark. Ch. Ct. May 25, 2001) ("[T]here must be an effective accountability system that holds the schools accountable for results."); *Claremont IV*, 794 A.2d at 751; *DeRolph v. State (DeRolph II)*, 728 N.E.2d 993, 1018–20 (Ohio 2000).

207. *Claremont IV*, 794 A.2d at 751.

208. The Massachusetts and Ohio Legislatures adopted formal accountability systems. *Hancock v. Comm'r of Educ.*, 822 N.E.2d 1134, 1137–38 (Mass. 2005); *DeRolph II*, 728 N.E.2d at 1017–18. The New York courts call for the development of one. *Campaign for Fiscal Equity v. State (Campaign III)*, 801 N.E.2d 326, 345–47 (N.Y. 2003). The New Hampshire Court calls for a meaningful accountability in its decision. *Claremont IV*, 794 A.2d at 758.

209. Arizona, New Hampshire, New Jersey, New York, Ohio, and Texas have a series of adequacy court decisions. See Appendix 1 for a list of cases.

students within a state. The decisions, however, form a patchwork of legal precedence on adequacy that was created by the often ambiguous state constitutional education provisions, in light of the underlying state school finance systems and the evidence of inadequacy within the existing public school systems.

To develop a better understanding of the theory of adequacy, this paper examined these decisions to identify their similarities and differences, providing a comparative analysis on several key aspects of adequacy theory, cross-referenced to the outcomes in individual states. The result is a set of similarities that is intended to provide the reader with a deeper understanding of adequacy and the requirements governing state provision of a high minimum quality education.

Although this paper is organized around the three components of adequacy—funding, educational goals, and accountability—these categories are not required to be addressed in a successful adequacy case. Adequacy as a theory is most often associated with its financial component because these lawsuits, at their essence, have a primary goal of obligating the states to spend more money on their public school systems. This goal can be met without defining the specific educational goals the state should pursue in the education of its children and without providing for an accountability mechanism to guarantee that its standards are attained. In fact, many would argue that these two functions fall within the authority of the legislatures, not the courts.²¹⁰

And so, the educational funding question continues to serve as the focus of the adequacy lawsuits as courts attempt to determine whether their state is providing sufficient financial resources to fund a high minimum quality education. This adequate funding level could be represented by either horizontal equity, substantial equality in access to financial resources, or vertical equity, obligating the state to offer a comparable base level of educational opportunity to its students throughout the state. Interestingly, the adequacy rulings typically do not mandate the same level of funding in

210. See, e.g., *Coal. For Adequacy and Fairness v. Chiles*, 680 So. 2d 400, 407–08 (Fla. 1996); *Comm. For Educ. Rights v. Edgar*, 672 N.E.2d 1178, 1193 (Ill. 1996); *Charlet v. Louisiana*, 713 So. 2d 1199, 1205 (La. 1998); *Marerro v. Pennsylvania*, 709 A.2d 956, 965–66 (Pa. 1997); *City of Pawtucket v. Sundlun*, 662 A.2d 40, 57–59 (R.I. 1995).

every district. Instead, they recognize the state's ability to provide extra funding for districts whose student population or physical location translate into higher costs to provide the same level of educational programs as in other districts. In some instances, they also permit local communities to supplement the educational offerings in their school districts beyond the base-level adequate education supplied by the state.

Several adequacy courts did address the relevant educational goals that should be pursued by the state. They envision an educational system that prepares students to assume their three primary roles in society as citizens, workers, and participants in the political system. These courts want schools to develop students as individuals who are prepared to engage in intellectual pursuits. They should have a general knowledge about academic subjects, our culture, and our society. Students should also be prepared to compete for jobs and entrance into higher educational institutions. They must be trained to assume their roles as productive members of our society. In addition, these courts see the survival of our democratic form of government as dependent upon our future members' ability to intelligently analyze and choose among the issues and alternatives presented to them in their roles as voters and members of juries.

The issue of holding states accountable for actually achieving the educational objectives delineated in a few of these cases is something that is not satisfactorily addressed by most of these decisions. While many courts are motivated by their desire to not overstep their bounds into an area that is controlled by the legislature, it seems as if more could be done with this issue. Even in the current climate of standards-based accountability in this country, which has been heightened by the No Child Left Behind Act, the accountability measures undertaken by the states through testing and reporting of results do not begin to address the breadth of the educational goals that the adequacy courts describe.²¹¹ It is possible that these broad intellectual, political, and career goals are meant to be merely hortatory, ideals that we ascribe to in our democratic society. It is also likely that these goals would be

211. The No Child Left Behind Act requires only "yearly student academic assessments that include . . . mathematics, reading or language arts, and science." 20 U.S.C. § 6311(b)(3)(A).

very difficult to measure. However, if these are the actual goals of the American educational system, more attention should be paid to determining how and whether they are being accomplished in the educational program offered to our children in our public schools.

In this way, the adequacy wave of the school finance reform movement progresses beyond the previous two waves of reform with an exclusive focus on the finance of education through measurements of educational inputs, tackling a broader array of the significant challenges faced by public schools. It encompasses not only the financial issues, but also the relevant educational goals and achievement results of the students. With so many state courts siding with adequacy reformers, one should expect to see further pushes in other states to use adequacy rulings to drive substantive education reform in years to come.

APPENDIX 1

Alabama

Ala. Coal. for Equity v. Hunt, CV-90-883-R & CV-91-0117-R (Ala. Cir. Ct. March 31, 1993), *in appendix of* Opinion of the Justices No. 338, 624 So. 2d 107 (Ala. 1993) (finding public education system unconstitutional under education and equal protection clause).

Pinto v. Ala. Coal. for Equity, 662 So. 2d 894 (Ala. 1995) (affirming circuit court decision regarding the unconstitutionality of public education system).

Ex parte James, 836 So. 2d 813 (Ala. 2002) (*sua sponte* dismissal of equity funding case).

Alaska

Kasayulie v. State, NO. 3AN-97-3782 CIV (Alaska Super. Ct. Sept. 1, 1999) (holding that the method of financing capital funding projects for education was unconstitutional under both the education and equal protection clauses).

Arizona

Roosevelt Elementary Sch. Dist. No. 66 v. Bishop, 877 P.2d 806 (Ariz. 1994) (finding unconstitutional the financing scheme for public school facilities under the education clause).

Roosevelt Elementary Sch. Dist. No. 66 v. Bishop, 74 P.3d 258 (Ariz. 2003) (reversing the lower court's judgment due to insufficient evidence of inadequate funding for public school facilities).

Hull v. Albrecht, 950 P.2d 1141 (Ariz. 1997) (new capital funding system not sufficient to meet education clause requirements).

Hull v. Albrecht, 960 P.2d 634 (Ariz. 1998) (new capital funding system still not sufficient to meet education clause requirements).

Arkansas

Lake View Sch. Dist. No. 25 v. Huckabee, No. 1992-5318 (Ark. Ch. Ct. May 25, 2001) (declaring the public school system inequitable and inadequate under the equality and education provisions).

Lake View Sch. Dist. No. 25 v. Huckabee, 91 S.W.3d 472 (Ark. 2002) (affirming the lower court decision).

Idaho

Idaho Sch. for Equal Educ. Opportunity v. State, 976 P.2d 913 (Idaho 1998) (remanding case for trial on potential violation of education clause for facilities funding).

*Kansas*²¹²

Montoy v. State (*Montoy II*), 102 P.3d 1160 (Kan. 2005) (lack of suitable funding for middle and large districts with high minority, at-risk, and special education population violates education clause), *supplemental opinion at* 112 P.3d 923 (Kan. 2005) (new financing system still unconstitutionally inadequate because of over-reliance on local revenues).

Montoy v. State (*Montoy III*), 138 P.3d 755 (Kan. 2006) (case dismissed because legislature in substantial compliance with court order on school finance formula).

Kentucky

Rose v. Council for Better Educ., 790 S.W.2d 186 (Ky. 1989) (declaring school system unconstitutional under education clause).

Maryland

Bradford v. Md. State Bd. of Educ., Case No. 95258055/CL20251 (Baltimore City Cir. Ct. Aug. 20, 2004) (finding the Baltimore school system unconstitutionally inadequate).

Massachusetts

McDuffy v. Sec'y of the Executive Office of Educ., 615 N.E.2d 516 (Mass. 1993) (declaring the educational system unconstitutional under the education clause because it fails to provide education without regard to the fiscal capacity of the community or district in which the children live).

Hancock v. Comm'r of Educ., 822 N.E.2d 1134 (Mass. 2005) (rejecting the conclusion that the State is not meeting its educational obligations, terminating jurisdiction in the case).

Montana

Helena Elementary Sch. Dist. No. 1 v. State, 769 P.2d 684 (Mont. 1989) (finding that Montana's public school funding system violates its education clause).

Helena Elementary Sch. Dist. No. 1 v. State, 784 P.2d 412 (Mont. 1990) (delaying the effect of 1989 decision until 1991 to give legislature time to adopt new educational funding scheme).

Columbia Falls Sch. Dist. No. 6 v. State, 109 P.3d 257 (Mont. 2005) (finding the educational product of the public school system constitutionally deficient and the funding

212. Montoy v. Kansas (*Montoy I*), 62 P.3d 228 (Kan. 2003) (overturning summary disposition and remanding case to trial).

insufficient).

New Hampshire

Claremont Sch. Dist. v. Governor (*Claremont I*), 635 A.2d 1375 (N.H. 1993) (finding the public school finance system violated the education clause).

Claremont Sch. Dist. v. Governor (*Claremont II*), 703 A.2d 1353 (N.H. 1997) (finding the educational funding system unconstitutional because of the differing tax burdens between districts).

Claremont Sch. Dist. v. Governor (*Claremont III*), 744 A.2d 1107 (N.H. 1999) (declaring the phase-in feature of property tax system unconstitutional).

Claremont Sch. Dist. v. Governor (*Claremont IV*), 794 A.2d 744 (N.H. 2002) (holding that accountability is an essential component of the State's educational duty, and the current accountability system constitutionally deficient).

New Jersey

Abbott v. Burke (*Abbott I*), 495 A.2d 376 (N.J. 1985) (remanding case to administrative agency).

Abbott v. Burke (*Abbott II*), 575 A.2d 359 (N.J. 1990) (finding a violation of the education clause in the poor urban districts).

Abbott v. Burke (*Abbott III*), 643 A.2d 575 (N.J. 1994) (holding the Quality Education Act unconstitutional for failing to achieve financial parity for regular education expenditures between special needs districts and richer districts).

Abbott v. Burke (*Abbott IV*), 693 A.2d 417 (N.J. 1997) (finding the Comprehensive Educational Improvement and Finance Act insufficiently addresses the needs of special needs districts, is not calculated in a manner that relates to student needs, does not address facilities deficiencies, and does not address the extra educational needs of poor students).

Abbott v. Burke (*Abbott V*), 710 A.2d 450 (N.J. 1998) (ordering the implementation of improvement plan that includes preschool).

Abbott v. Burke (*Abbott VI*), 748 A.2d 82 (N.J. 2000) (finding that the preschool program is not properly implemented in the poor, urban districts).

Abbott v. Burke (*Abbott VII*), 832 A.2d 891 (N.J. 2003) (ordering the implementation of the mediated settlement between the parties).

Abbott v. Burke (*Abbott VIII*), 857 A.2d 173 (N.J. 2004)

(relaxing the requirements for certification of preschool teachers subject to specified conditions).

Abbott v. Burke (Abbott IX), 862 A.2d 538 (N.J. 2004) (ordering the parties to participate in mediation).

Robinson v. Cahill (Robinson I), 303 A.2d 273 (N.J. 1973) (finding the New Jersey education funding system unconstitutional because it violates the education clause's "thorough and efficient" requirement).

Robinson v. Cahill, 306 A.2d 65 (N.J. 1973).

Robinson v. Cahill, 339 A.2d 193 (N.J. 1975).

Robinson v. Cahill, 351 A.2d 713 (N.J. 1975).

Robinson v. Cahill, 355 A.2d 129 (N.J. 1976).

Robinson v. Cahill, 358 A.2d 457 (N.J. 1976).

New Mexico

Zuni Sch. Dist. v. State, CV-98-14-II (N.M. Dist. Ct. Oct. 14, 1999).

New York

Campaign for Fiscal Equity v. State (Campaign I), 655 N.E.2d 661 (N.Y. 1995).

Campaign for Fiscal Equity v. State (Campaign II), 719 N.Y.S.2d 475 (App. Div. 2001).

Campaign for Fiscal Equity v. State (Campaign III), 801 N.E.2d 326 (N.Y. 2003).

Campaign for Fiscal Equity v. State (Campaign IV), 816 N.E.2d 50 (N.Y. 2006).

North Carolina

Leandro v. State, 488 S.E.2d 249 (N.C. 1997).

Hoke County Bd. of Educ. v. State, 599 S.E.2d 365 (N.C. 2004).

Ohio

DeRolph v. State (DeRolph I), 677 N.E.2d 733 (Ohio 1997).

DeRolph v. State (DeRolph II), 728 N.E.2d 993 (Ohio 2000).

DeRolph v. State (DeRolph III), 754 N.E.2d 1184 (Ohio 2001).

DeRolph v. State (DeRolph IV), 780 N.E.2d 529 (Ohio 2002).

South Carolina

Abbeville County Sch. Dist. v. State, 515 S.E.2d 535 (S.C. 1999).

Texas

Edgewood Indep. Sch. Dist. v. Kirby (Edgewood I), 777 S.W.2d 391 (Tex. 1989).

Edgewood Indep. Sch. Dist. v. Kirby (Edgewood II), 804

S.W.2d 491 (Tex. 1991).

Carrollton-Farmers Branch Indep. Sch. Dist. v. Edgewood Indep. Sch. Dist. (*Edgewood III*), 826 S.W.2d 489 (1992).

Edgewood Indep. Sch. Dist. v. Meno (*Edgewood IV*), 893 S.W.2d 450 (Tex. 1995), *modified opinion at* Edgewood Indep. Sch. Dist. v. Meno, 917 S.W.2d 717 (Tex. 1995).

West Orange-Cove Consol. I.S.D. v. Alanis, 107 S.W.3d 558 (Tex. 2003).

Neeley v. West Orange-Cove Consol. I.S.D., 176 S.W.3d 746 (Tex. 2005).

Washington

Seattle Sch. Dist. No. 1 v. State, 585 P.2d 71 (Wash. 1978).

West Virginia

Pauley v. Kelly, 255 S.E.2d 859 (W. Va. 1979).

Pauley v. Bailey, 324 S.E.2d 128 (W. Va. 1984).

Wyoming

Campbell County Sch. Dist. v. State (*Campbell I*), 907 P.2d 1238 (Wyo. 1995).

State v. Campbell County Sch. Dist. (*Campbell II*), 19 P.3d 518 (Wyo. 2001).

State v. Campbell County Sch. Dist. (*Campbell III*), 32 P.3d 325 (Wyo. 2003).