



## **Supreme Court Upholds Constitutionality of School Finance System**

On May 13, 2016, the Texas Supreme Court ruled unanimously that Texas' system of school finance, while imperfect, was not unconstitutional. The case, now titled *Morath, et al. v. The Texas Taxpayer and Student Fairness Coalition, et al.*, was an appeal of five separate lawsuits filed against the state alleging that Texas' system of public school finance violated the Texas Constitution.

Constitutional claims were brought by four plaintiff groups representing over 650 school districts and over 3.7 million students. Among these groups were school districts with property wealth ranging from very high to very low, as well as plaintiffs represented by the Equity Center and the Mexican American Legal Defense and Educational Fund (MALDEF). Another plaintiff group represented Texas' open-enrollment charter schools. A group of intervenors brought claims related to qualitative efficiency.

### **Trial Court Ruling**

The cases were consolidated in Travis County District Court, and tried in front of Judge Dietz. After reopening the lawsuit to consider what impact the 83rd Legislative Session may have had on his ruling, Judge Dietz issued his Final Judgment and Findings of Fact and Conclusions of Law on August 28, 2014. The trial court found as follows:

1. The Texas school finance system effectively imposed a state property tax in violation of Article VIII, Section 1-e of the Texas Constitution because school districts do not have meaningful discretion over the levy, assessment, and disbursement of local property taxes;
2. The Legislature failed to meet its constitutional duty to suitably provide for Texas public schools because the school finance system is structured, operated, and funded so that it cannot provide a constitutionally adequate education for all Texas schoolchildren, including English Language Learners (ELL students);
3. The school finance system was constitutionally inadequate because it cannot accomplish, and has not accomplished, a general diffusion of knowledge for all students due to insufficient funding; and
4. The school finance system was financially inefficient because all Texas students do not have substantially equal access to the educational funds necessary to accomplish a general diffusion of knowledge.

The trial court enjoined further funding under the current system until the constitutional infirmities were corrected. On September 26, 2014, the State of Texas filed a direct appeal to the Supreme Court, bypassing the court of appeals. On January 23, 2015, the Supreme Court granted the direct appeal.

### **Supreme Court Decision**

The Texas Supreme Court released its 100-page opinion on May 13, 2016. After a lengthy examination of the trial court record and previous school finance rulings, the Court reversed the trial court's decision that the finance system was unconstitutional on all four grounds.

### **Questions of Justiciability**

The Court began by setting a high bar: The standard of review would be reasonableness. The Court agreed with the trial court that the finance system was subject to judicial review; it is not a "political question" whether the system actually meets constitutional standards, but the Legislature is responsible for establishing the finance system, and its choices receive deference from the Court.

The Court acknowledged the standing of the plaintiff groups, holding that the plaintiffs' claims were capable of redress in that relief offered by the Court could spur action by the Legislature. The Court also held that the plaintiffs' claims were ripe for adjudication. The trial court had reopened evidence to consider 2013 legislative changes; if intervening changes in property taxes, test scores, and other relevant facts could render the court's judgment moot, no school finance case could ever be ripe for consideration, because the facts are always changing.

### **Adequacy**

The Court then examined the merits of the appeal. Texas Constitution Article VII, section 1, states, "A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools."

The Court observed that for the first time in the history of Texas school finance cases, the concept of adequacy loomed large in the appeal. The Court found the trial court's analysis and determination of constitutional inadequacy fundamentally flawed because the trial court focused on system inputs (funding) rather than system outputs (student achievement). The Court rejected the idea that a court could now, or perhaps ever, determine a minimum per-pupil amount of funding that was constitutionally required for adequate support of the public schools. The Court questioned whether one could ever prove that spending a specific additional amount of money would necessarily correlate to better educational outcomes.

According to the Court, the trial court erred in assigning a minimum dollar figure as constitutionally necessary to achieve a general diffusion of knowledge, an error that infected the trial court's adequacy analysis. The fact that the state had not, through the Legislative Budget Board or other means, made a meaningful attempt to determine the true cost of a general diffusion of knowledge did not render the system inadequate because the plaintiffs, not the state, bore the burden of proof.

The Court also considered the trial court's finding of inadequacy with respect to a particular subgroup, ELL students. The Court pointed out that this claim was the first of its kind, all previous cases having focused on the general diffusion of knowledge. The Court rejected the claim, stating that while the Court did not completely foreclose a ruling of inadequacy with

respect to a subgroup, the showing for such a ruling would have to be truly exceptional to prevent a slippery slope of subgroup claims. In addition, differences in subgroups may not be attributable to school funding inputs.

Ultimately, while acknowledging that the state finance system “leaves much to be desired,” the Court determined that the plaintiffs did not meet the burden of showing that the system was constitutionally inadequate.

### **Suitability**

Looking at the history of Texas school finance cases, the Court again set a high bar for suitability. The system would be unconstitutional only if it contained a defect so profound that the Legislature had defaulted on its responsibility such that school children were denied access to education. For the reasons described above, the Court rejected the trial court’s conclusion that the system was not suitable because it was underfunded.

### **Financial Efficiency (Equity)**

Examining past school finance cases, the Court determined that to be efficient, a funding system so dependent on local property taxes must draw revenue from all the property at a substantially similar rate up to the amount necessary to provide for a general diffusion of knowledge. Beyond that point, local school districts may supplement with additional local taxes.

The Court focused on the ratios of relative difference between wealthier and poorer districts. The ratios offered in the present case were in the range of those considered constitutional in prior cases and were well below the ratios presented when the Court found a past system unconstitutionally inefficient. Consequently, the Court concluded that the present system met the constitutional standard for financial efficiency.

### **Qualitative Efficiency**

Intervenors presented a novel claim that the finance system was qualitatively inefficient because it failed to provide for a general diffusion of knowledge with little waste. The Court acknowledged substantial overlap between this claim and the adequacy claim because both were tied to the general diffusion of knowledge. The Court applied the same high standard of review, reasonableness. Although the Court expressed support for school choice initiatives, the Court left such policy choices to the Legislature. Similarly, because the group of charter school plaintiffs failed to show the finance system was arbitrary, the Court declined to mandate the fine tuning to the finance system sought by the charter schools.

### **Statewide Property Tax**

Under prior case law, a statewide property tax is unconstitutional when it is imposed by the state or when the state so controls the levy, assessment, and disbursement, either directly or indirectly, that local authorities lack meaningful discretion. Current tax rate data did not convince the Court that school districts lacked meaningful discretion in setting local rates. The Court declined to find a constitutional flaw with the fact that the Legislature had taken steps to compress local tax rates, thereby requiring districts to hold tax ratification elections in order to tax at the statutory cap.

The Court also declined to incorporate considerations of adequacy into its analysis of the tax rate issue. In other words, the fact that state funding levels might compel local districts to tax at or near the statutory cap was irrelevant. Based on precedent and the record presented in this case, the Court limited its analysis to an examination of the statewide property tax as a whole, and did not consider whether an individual school district had made out a case under Texas Constitution article VIII, section 1-e that it was forced by the state to tax at a certain level.

**Conclusion**

Having resolved the merits of the appeal, the Court remanded the case to the trial court for the equitable awarding of legal fees. The Court concluded with an exhortation, but not a mandate, to the Legislature to fashion a finance system better suited for our growing and dynamic state.

In the words of the Court, “While Texans may desire a public education system that produces even ‘better’ results or better results more quickly, their remedy lies in the Legislature and thus in the privilege and duty that all Texans have to elect the legislators who will implement the policy choices they desire.”

*Morath, et al. v. The Texas Taxpayer and Student Fairness Coalition, et al.*, No. 14-0776 (Tex. May 13, 2016).

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