

TEXAS CONSTITUTIONAL PROVISIONS:

Article VII, Section 1

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.

Article VIII, Section 1-e

No State ad valorem taxes shall be levied upon any property within this State.

SCHOOL FINANCE LITIGATION TIMELINE

1973 **Rodriguez v. San Antonio ISD** (U.S. Supreme Court)

No federal fundamental right to an education enforceable via equal protection.

1989 **Edgewood v. Kirby** (“Edgewood I”)

“Efficiency . . . does not allow concentrations of resources in property-rich school districts that are taxing low when property-poor districts that are taxing high cannot generate sufficient revenues to meet even minimum standards. There must be a direct and close correlation between a district’s tax effort and the educational resources available to it; in other words, districts must have substantially equal access to similar revenues per pupil at similar levels of tax effort.”

1991 **Edgewood v. Kirby** (“Edgewood II”)

“[Senate Bill 1] insulates concentrated areas of property wealth from being taxed to support the public schools. The result is that substantial revenue is lost to the system. . . . [T]he system would be made more efficient simply by utilizing the resources in the wealthy districts to the same extent. . . .”

BUT

“Once the Legislature provides an efficient system . . . it may . . . authorize local school districts to supplement their educational resources if local property owners approve an additional local property tax.”

1992 **Carrolton-Farmer’s Branch v. Edgewood** (“Edgewood III”)

“An ad valorem tax is a state tax when it is imposed directly by the State or when the State so completely controls the levy, assessment, and disbursement of revenue, either directly or indirectly, that the authority employed is without meaningful discretion.”

BUT

“If the State required local authorities to levy an ad valorem tax but allowed them discretion on setting the rate and disbursing the proceeds, the State’s conduct might not violate article VIII, section 1-e.”

1995 **Edgewood v. Meno** (“Edgewood IV”)

Recapture system (Chapter 41) upheld as constitutional

2005 **West Orange-Cove v. Neeley** (“West Orange-Cove”)

“Meaningful discretion cannot be quantified; it is an admittedly imprecise standard. However, we think its application in this case is not a close question. . . . The current situation has become virtually indistinguishable from one in which the State simply set an ad valorem tax rate of \$1.50 and redistributed the revenue to the districts.”

COPY

EM FEB 04 2013

At 4:30p M.
Amalia Rodriguez-Mendoza, Clerk

CAUSE NO. D-1-GN-11-003130

THE TEXAS TAXPAYER & STUDENT §
FAIRNESS COALITION, et al; §
CALHOUN COUNTY ISD, et al; §
EDGEWOOD ISD, et al; §
FORT BEND ISD, et al; §
TEXAS CHARTER SCHOOL §
ASSOCIATION, et al. §
Plaintiffs §

IN THE DISTRICT COURT

JOYCE COLEMAN, et al §
Intervenors §

vs. §

200th JUDICIAL DISTRICT

MICHAEL WILLIAMS, COMMISSIONER §
OF EDUCATION, IN HIS OFFICIAL §
CAPACITY; SUSAN COMBS, §
TEXAS COMPTROLLER OF PUBLIC §
ACCOUNTS, IN HER OFFICIAL §
CAPACITY; TEXAS STATE BOARD §
OF EDUCATION, §
Defendants. §

TRAVIS COUNTY, TEXAS

COURT'S RULING

TEXAS TAXPAYER AND STUDENT FAIRNESS, et al.

The Court declares that the school finance system violates the "efficiency" provisions of Article VII, §1 of the Texas Constitution in that it fails to provide substantially equal access to revenues necessary to provide a general diffusion of knowledge;

The Court declares that the school finance system is not adequately funded and therefore fails to make suitable provision for the support and maintenance of the system in violation of Article VII, §1 of the Texas Constitution;

The Court declares the school finance system has created a state ad valorem tax in violation of Article VIII, §1-e of the Texas Constitution.

The Court declares that the school finance system does not violate Article VIII, §1(a), the equal and uniform tax provision, of the Texas Constitution.

EDGEWOOD INDEPENDENT SCHOOL DISTRICT, *et al.*

The Court declares that the current public school finance system is financially and quantitatively inefficient under Article VII, §1 of the Texas Constitution;

The Court declares that the current public school finance system is constitutionally unsuitable for the provision of a general diffusion of knowledge for low income and English Language Learner students under Article VII, §1 of the Texas Constitution;

The Court declares that low wealth school districts have been forced to tax at or near the cap of \$1.17 merely to fulfill State mandates and no longer have meaningful discretion in setting their tax rates, so as to constitute a statewide ad valorem tax.

FORT BEND INDEPENDENT SCHOOL DISTRICT, *et al.*

The Court declares that the current school finance system violates Article VII, §1 of the Texas Constitution in that it is inadequate and unsuitable because it is not structured, operated, and funded so that it can accomplish the general diffusion of knowledge.

The Court declares that the current school finance system violates Article VII, §1 of the Texas Constitution in that it is inefficient, inequitable, and unsuitable and arbitrarily funds districts at different levels below the constitutionally required level of the general diffusion of knowledge.

The Court declares that the current school finance system prevents districts from exercising "meaningful discretion" in setting their tax rates, thereby violating Article VIII, §1-e of the Texas Constitution. To the extent that Plaintiff districts could raise taxes to the statutory maximum rate, the districts would still remain unable to meaningfully use local tax dollars for local enrichment beyond the level required for a constitutionally adequate education.

CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT, *et al.*

The Court declares that the current school finance system violates Article VII, §1 of the Texas Constitution in that it is inadequate and fails to provide the resources needed to achieve a general diffusion of knowledge. School districts

must be able to finance the cost of providing for an adequate education within the range of their taxing authority that is not subject to TREs.

The Court declares that the current school finance system prevents districts from exercising "meaningful discretion" in setting their tax rates, thereby violating Article VIII, §1-e of the Texas Constitution. The Calhoun districts cannot lower taxes without compromising their ability to meet state standards, nor can they raise their taxes because they are either legally or practically unable to do so. Even at the maximum tax rate, the additional dollars would not be available for enrichment because they would be needed to fund an adequate education.

TEXANS FOR REAL EFFICIENCY AND EQUITY IN EDUCATION, *et al.*

The Efficiency Intervenors contend the public school system is unconstitutional because it is qualitatively inefficient, that is, it is not productive of results. Accordingly, they challenge the statutory cap on charter schools, the over-regulation of traditional public schools, the system for rating financial accountability, the failure to update the CEI, Tex. Ed. Code Chapter 21's control over personnel decisions, the laws governing Home Rule Charters, and the ability of a receiving district to reject a transfer student from an underperforming school under a Public Education Grant. The Efficiency Intervenors contend the public school system would be more productive of results if the Court were to declare the above practices to be unconstitutional under Article VII, §1 of the Texas

Constitution. The Court declines to so declare. The Court declares that the issues raised by the Efficiency Intervenors clearly reflect policy decisions within the sound discretion of the Legislature in shaping the public school system.

TEXAS CHARTER SCHOOLS ASSOCIATION, et al.

The Charter Intervenors contend that the Legislature has violated Article VII, §1 of the Texas Constitution by establishing an alternative method for funding open-enrollment charter school rather than funding charters in the same manner as traditional public school districts, including the provision of funding for facilities. The Court declares it is within the Legislature's discretion to fund charters differently than traditional public school districts. Any disparities do not rise to the level of rendering the entire system unconstitutional under Article VII, §1 or Article I, §3 of the Texas Constitution.

SIGNED THIS 4th day of February, 2013.

*This is not an order
which will come
later.*

*JD
2/4/13*



JOHN K. DIETZ
250th District Court