

**Rationale and Structure for Adequate Public Education:
A Value Critical Approach**

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(ABSTRACT)

The purpose of this dissertation was to provide a functional definition of adequacy synthesized from the application of efficiency (E), equality/equity/dignity (EED), and excellence/quality (EQ) value clusters found in various state litigations pertaining to the financial systems used to distribute educational opportunity. Questions researched in this study were (a) In what manner might the tension of the paradoxical demands of community responsibility and individual rights housed within the principle of liberty be used creatively in the development of public policy? (b) How do the value clusters inherent in democracy allow for balance and affect the provision of adequate educational opportunity? (c) Using value critical analysis, how does funding litigation clarify the search for the meaning of adequate educational opportunity? (d) What themes appear throughout these cases that may be used to build consensus for the development of policy frameworks and the evaluation of present funding systems designed to provide adequate educational opportunity in a particular time and place?

As an examination of policy, legal research was used to analyze litigation in cases in which the provision of educational opportunity was challenged based on the *terms of art* under girding standards established for the delivery of public education. This study was implemented in five stages:

1. Values clusters to be examined were selected through the review of the history of educational opportunity in this nation and current literature addressing public values and education policy.
2. Through the examination of the paradox within the principle of liberty that guarantees individual rights and requires community responsibility, consideration was given to the creative tension, both principled and structural, that laid the foundation for and continues to drive the democratic process.

3. The role that policy development plays in establishing balance was outlined, noting the argumentation process used to transform knowledge through values, to create the framework necessary to take consistent action.
4. Value critical analysis examined the definition given to values clusters of efficiency (E), equality/equity/dignity (EED), and excellence/quality (EQ) as found in court cases adjudicated in the last fifty years affecting the provision of educational opportunities. Litigation was analyzed, considering the standards established for the delivery of public education in state constitutions, the value given to the *terms of art* underpinning those standards, and the definitions for those terms as established by the courts.
5. Using the information gleaned, a policy framework was developed to structure adequate educational opportunity for all children.

DEDICATION

To my family – Jeff, Nathan, Aaron, Daniel, and Jeremy – five, fine men who each in their own way encouraged me to meet the challenges and fulfill the requirements of this educational opportunity.

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I began this process while serving on the Carroll County School Board. I wanted to learn about the things we were trying to do to make a difference in the lives of children. Being a Graduate Assistant allowed me the opportunity to continue my work in K-12 education and yet have the advantage of being immersed in a research driven learning community. The completion of this Dissertation required the help and support of many people.

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CHAPTER 1: INTRODUCTION

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is the principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.¹

What the best and wisest parent wants for his own child, that must the community want for all of its children. Any other ideal for our schools is narrow and unlovely; acted upon, it destroys our democracy.²

Fairness, equality, equity, significance, dignity, excellence, quality, and efficiency in public education – all whispered as abundant possibilities heard throughout the halls of government in the continuing conversations of democracy. Written into documents essential to democracy and providing foundation and ongoing standards for policy making, these values continue to be espoused as justification for reform or for retention of the *status quo*. Consensus remains a dynamic process balancing the paradox of liberty for and liberty from, seeking both meaning and application of these fundamental principles and values. These principles and values are legislated in education clauses of state constitutions, manifest in executive actions determining the standards of input and output, and when in conflict, are examined and balanced through judicial review. Promises are fulfilled for some, yet produce empty and disappointing results for others.

The Constitution and Declaration of Independence lay a foundation for the nation with guarantees of equal treatment and promise of inalienable rights. To build a more perfect union, liberty and justice are juxtaposed. Although not spoken of in direct relationship to education in these federal documents, the principle of liberty and balancing values drive the development of policy and its practical implementation. State

¹ *Brown v. Board of Education of Topeka*, 347 U.S. 483, 493 (1954).

² John Dewey, *The Child and the Curriculum* and *The School and Society*, (1900; reprint, with an introduction by Leonard Carmichael, (Chicago: Phoenix Books, The University of Chicago Press, 1969): 7.

constitutions connect the principle and values of liberty to education with words such as “efficient,” “common,” “uniform,” “adequate,” and “quality” in their education clauses. Government implements these foundational concepts through executive, legislative, and judicial action. For example, the most recent amendments to Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) call for the nation to “leave no child behind.” Assurances are given to provide access to fair, equal, and significant education opportunity for all children. By promising to meet the needs of all children, the No Child Left Behind Act of 2002 (NCLB) seeks to close the achievement gap between minority/non-minority and advantaged/disadvantaged students. Schools, school districts, and states are held accountable through standardized assessments. Resources are to be distributed sufficiently to fulfill the promise of access through public or private educational institutions. Education policy is created without fundamental definition of the principles and values. Implementation requires that definition be given to what is fair, what is equal, and what is significant.

As both a public and private good, the provision of education brings benefit and cost to both the individual and the entire community. That is, education requires social investment.³ Two very different principles drive decision-making. The first, openly acknowledged and touted as fundamental to democracy, is that every child is guaranteed by the state the right to a public education. The second, quietly at work in policy and practice, is that government at many levels is not willing to invest the resources to provide the same opportunities for poorer children as are available to the more affluent.⁴ Most Americans agree that each child should be guaranteed the right to equal educational opportunity. Yet, individuals are clearly free to spend money on their own children in any manner they choose. High standards and outcomes are required of all children. Yet, many believe localities must maintain control to meet the needs of their children.⁵ Common schools are established and publicly supported to offer quality education throughout the

³ Richard A. King, Austin D. Swanson, and Scott R. Sweetland, *School Finance: Achieving Standards with Equity and Efficiency* (Boston: Pearson Education, Inc., 2003): 42-43.

⁴ William A. Proefriedt, “Other People’s Children: The Persistence of Disparities in School Funding,” *Education Week* (November 20, 2002): 44, 33.

⁵ Helen F. Ladd and Janet S. Hansen, eds., *Making Money Matter: Financing America’s Schools* (Washington, DC: National Academy Press, 1999): 263-264.

nation, while freedom of mobility allowed affluent citizens to settle into communities that could easily support excellent schools. Often local support is required above the minimums established at the state and national level. Unable to pool such resources, some communities become isolated by poverty and disadvantage. Clearly, the locality, the state, and the nation are faced with the challenge of fulfilling these promises as children of inner cities and many far-flung rural communities do not have the same resources and advantages as those educated in homogenous, affluent school districts.⁶ In 1897, Walter Hines Page spoke of the result of such isolation in North Carolina in his lecture “The Forgotten Man”:

In 1890, twenty-six percent of the white persons of the State were unable even to read and write. One in every four was wholly forgotten. But illiteracy was not the worst of it: the worst of it was that the stationary social condition indicated by generations of illiteracy had long been the general condition. The Forgotten Man was content to be forgotten. He became not only dead weight, but a definite opponent of social progress. He faithfully heard the politicians on the stump praise him for virtues that he did not have. The politicians told him that he had lived in the best state in the Union, told him that the other politician had some hare-brained plan to increase his taxes, ... told him to distrust anybody who wished to change anything. What was good enough for his fathers was good enough for him. Thus the Forgotten Man became a dupe, became thankful for being neglected.⁷

The nation could not then and cannot now afford to lose the resource of a child thus forgotten.

Inequalities resulting from varying abilities of students, environmental conditions, and governmental policy continue to challenge the delivery of public education. To meet the needs of the diverse population served by public schools, educational opportunity cannot simply be a function of the wealth of the particular community.⁸ Issues of resources and access to opportunities continue to haunt this system dedicated to public education as protection from tyranny, sustainer of democracy, and provider of the

⁶ Kern Alexander and Richard G. Salmon, *Public School Finance* (Boston: Allyn and Bacon, 1995): xiii.

⁷ Walter Hines Page, “The Forgotten Man,” lecture delivered at the State Normal and Industrial School for Women at Greensboro, North Carolina, June 1897 in *Public School Finance*: 10.

⁸ Julie K. Underwood, “School Finance Adequacy as Vertical Equity,” *University of Michigan Journal of Law Reform*, 2, no. 8 (spring, 1995): 495.

abundant life for all.⁹ Built upon the principles and values of American democracy, the nation has reached the consensus that universal public education is essential to the stability of the nation and the advancement of the individual. Yet questions remain as to the meaning and requirements necessary to provide adequate educational opportunity.¹⁰ The polarity of community and individual interests contained within liberty relies on the balance of foundational values to translate the ideal into human experience. Such dignity grants all the rights embedded in democracy in equal measure.¹¹ Although given slightly different nomenclature, definition, and application, the value clusters of efficiency (E), equality/equity/dignity (EED), and excellence/quality (EQ) appear consistently in current literature concerning public values in education policy and emerge and recede throughout the history of educational opportunity.

Yet, these values are often found in tension with one another with accidents of policy emphasizing one value over the others resulting in unbalanced implementation. Although accepted as fundamental to liberty, and often promised in education policy, the variation in the application of these values drives disparities in educational opportunity. The transformation required for implementation often entails a continuing effort to balance the conflicts between the responsibilities of the government and the rights of the governed. Fundamental value conflicts result from this constant push and pull on the boundaries of liberty required for justice in the financing and provision of opportunity for public school students. These conflicts find resolution through tentative and temporary consensus created in emerging policies reached at a particular place and point in time.¹² The process is dynamic, continuously seeking balance of values utilizing the structure of

⁹ “I believe in the free public training of both the hands and the mind of every child born of woman. I believe that by the right training of men we add to the wealth of the work. All wealth is the creation of man, and he creates it only in proportion to the trained uses of the community: and, the more men we train, the more wealth everyone may create. I believe in perpetual regeneration of society, in the immortality of democracy, and in growth everlasting.” Walter Hines Page, *The School that Built a Town* (New York: Harper & Row, 1952): 31 in *Public School Finance*: 10.

¹⁰ James W. Guthrie, “Enabling Adequacy to Achieve Reality: Translating Adequacy into State School Finance Distribution Arrangements” in *Equity and Adequacy in Education Finance: Issues and Perspectives* (Washington, DC: National Academy Press, 1999): 209.

¹¹ Hans A. Schieser, “Equality versus Freedom,” chap. 9 in *Rethinking Educational Equality* (Berkeley, CA: McCutchan Publishing Corporation, 1974): 134-142.

¹² James Gordon Ward, “Conflict and Consensus in the Historical Process: The Intellectual Foundations of the School Finance Reform Litigation Movement,” *Journal of Education Finance*, 24 (summer 1998): 2.

the executive, legislative, and judicial branches at each level of government. The search for stability as readjustments are made and equilibrium established in policy is reflected in judicial review and action.¹³ In the United States, such arguments of political significance arising in the process of implementation have often required answers in the courts.¹⁴ The legislative and executive branches construct policy based on the consensus established judicially that remains in place until further conflict requires that the balance of liberty be realigned.¹⁵

¹³ James W. Guthrie, Walter I. Garms, and Lawrence C. Pierce, *School Finance and Education Policy: Enhancing Educational Efficiency, Equality and Choice* (Englewood Cliffs, NJ: Prentice Hall, 1988): 39.

¹⁴ Alexis de Tocqueville as quoted in Guthrie, *School Finance and Education Policy*: 39.

¹⁵ Consider the issue of educational opportunity as applied to school attendance by a particular group of children. In *Roberts v. City of Boston*, 59 Mass. (5 Cush.) 198 (1849), the family of Sarah Roberts challenged her walk past five white schools to attend Smith Grammar School, which was reported by the evaluation committee to be in inferior condition. The court ruled for equality before the law yet held that separation was proper for both races, thus establishing the policy of separate but equal. Subsequently, the Civil War intervened and further placed concepts of equality in conflict. In an executive action issued by President Abraham Lincoln, the Emancipation Proclamation declared all men to be free. Legislatively, the conflict returned with the enactment of the 14th Amendment to the Constitution where all under national jurisdiction were promised equal protection of the laws. The questions concerning the delivery of education addressed earliest in Massachusetts in *Roberts* were confronted at the national level in 1896 in *Plessy v. Ferguson* 163 U.S. 537, 16 S. Ct. 1138 (1896). Speaking for the Court, Justice Brown concerning the separation of the races by car on trains opined that it was reasonable for states to provide transportation in a manner that met standards of “established usages, customs, and traditions of the people, with a view to the promotion of their comfort, and the preservation of the public peace and good order” as determined by legislative action. Such interpretation was transferred to education in *Cummings v. Board of Education of Richmond County, Georgia*, 175 U.S. 5282, 20 S. Ct. 197 (1899) which challenged the converting of a Black high school to a Black elementary school requiring Black children to attend private schools to attain a high school education. The Court ruled that all taxpayers should share equally in the burden of paying for services but the determination of the distribution of the revenue lay with the states. This same principle appeared in *Berea College v. Kentucky* 211 U.S. 25, 29 S. Ct. 33 (1908) that allowed the state of Kentucky to forbid the education of Blacks and Whites in the same educational institution. Although a private college established to provide nondiscriminatory education for needy students, the court ruled Berea College to be under the authority of Kentucky state law. The policy of separation for education was expanded in both the North and South to include yellow, red, and brown children in *Gong Lum v. Rice* 275 U.S. 78, 48 S. Ct. 91 (1927) requiring Mongolian children to attend Black schools. In the 1930s, the policy of separation was again disputed as the National Association for the Advancement of Colored People (NAACP) challenged the inequity or lack of facilities available for the education of Black children. The Court ruled in *Missouri ex rel. Gaines v. Canada* that the University of Missouri Law School could not exclude Black students because it was the only public law school available in the state.

Following the service of all races in World War II, the fragile consensus allowing education to be delivered in a separate but equal manner was again challenged in several states. Consensus was established in the ruling of *Brown v. Board of Education of Topeka* 347 U.S. 483, 74 S. Ct. 868 (1954) bringing together cases in Kansas, South Carolina, Virginia, Delaware, and Washington. Considering education to be an essential public and private good, the U.S. Supreme Court ruled that states must end racial discrimination in education by offering public education on equal terms “with all deliberate speed” in *Brown v. Board of Education of Topeka* 349 U.S. 294, 75 S. Ct. 753 (1955) (*Brown II*). Separate but equal no longer met the standard of democratic values. The importance of education to all citizens meant that it must be offered on equal terms. Reaction to implementation varied across the states, with Virginia going so

As seen in Figure 1, this creative tension provides a dynamic connection across the continuum of liberty.

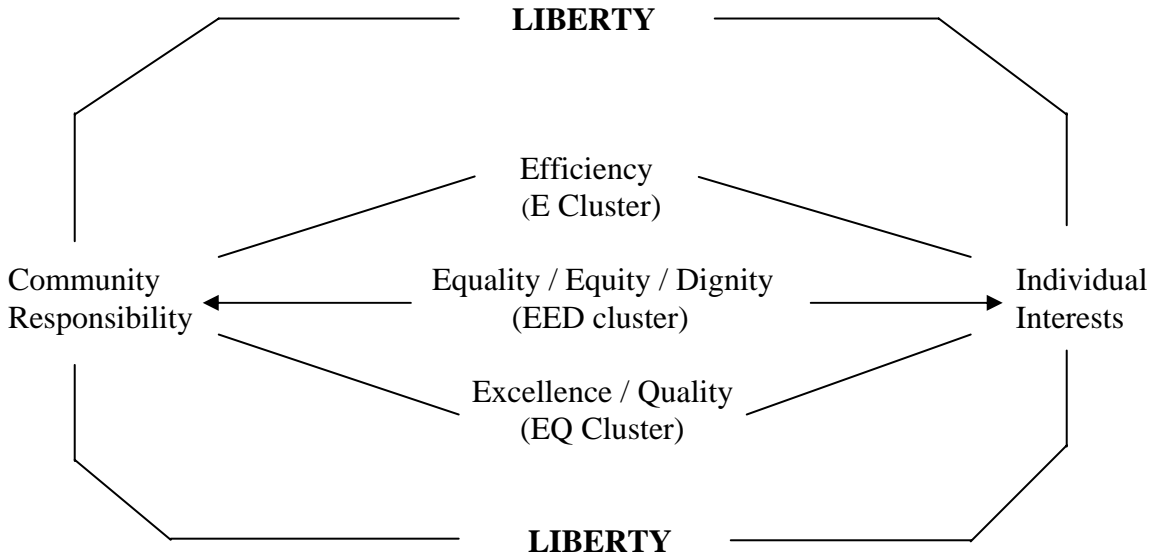


Figure 1: Balance of democratic value clusters across the continuum of liberty

far as to repeal compulsory attendance requirements allowing localities to close all public schools, both Black and White, in massive resistance. White students were given vouchers to attend private academies. Such challenges found resolution in the passage of the Civil Rights Act of 1964. The statutory provisions of Title VI required equal rights opportunities be granted to all children by withholding federal funding in cases of discrimination. Similar issues concerning educational opportunity for disabled children came into dispute in the early 1970s. With the decisions in *Pennsylvania Association for Retarded Children v Commonwealth*, 334 F. Supp 1257 (E.D.Pa.1971), 343 F. Supp. 279 (E.D.Pa.1972) and *Mills v. Board of Education of District of Columbia (PARC)* 348 F. Supp. 866 (D.D.C.1972) included all children in the promise for appropriate education. Adopting a plan developed by the District of Columbia, the court ruled that all disabled children had a right to public education. Provisions were left in place requiring a free appropriate education, an individualized education program (IEP), and due process rights becoming the foundation for additional legislative action. Section 504 of the Rehabilitation Act of 1973 and the Education for All Handicapped Children Act (EAHCA) of 1975 (Public Law 94-142) added provisions to guarantee special education services, related services, and the least-restrictive environment (LRE) for learning. Reaffirmed in 1978, 1983, 1986, 1990, and 1997, the Individuals with Disabilities Act (IDEA) provides the statute for implementation. With the coming of the 1980s, the emergence of excellence and efficiency as highlighted values began debate focused on the use of public funds to provide opportunities beyond traditional public school settings. Legislative and judicial action or inaction at the state and federal levels resulted in the passage of amendments to Title I of the Elementary and Secondary Education Act (ESEA) 20 U.S.C. 6301 et seq. 2002, Public Law 107-110 that intends to ensure fair, equal, and significant educational opportunities for all children. The thrust of NCLB Act is to lower achievement gaps between minority and nonminority and advantaged and disadvantaged children. To receive federal funding, public school districts must have 100% of their children passing state designated standardized tests by 2014. Attendance rates must be at or above 95%. Title I funding must be used to allow attendance choice for families whose children are enrolled in schools performing below standard permitting transfer to schools in both the public and private sectors. The National Education Association (NEA) and several states are considering judicial action to challenge the choice and financial requirements of this legislation. Again the boundaries of policy are in question along the continuum of liberty.

Such balance allows the extreme interpretations of liberty to speak with one voice. When addressed in this manner, adequate public education must meet the standards of equal access to quality education delivered in an efficient manner. Policy is built upon community acceptance of the responsibility to provide educational opportunities that develop the full potential of each and every citizen. When used creatively and intentionally in producing policy frameworks,¹⁶ these value clusters offer balance between individual and community needs inherent in the paradox of positive and negative understandings of liberty.

Methodology

This research uses a value critical approach to examine the decisions rendered in the court cases adjudicated in the last fifty years affecting the provision of educational opportunities. Federal and state litigation was analyzed considering the standard established for the delivery of public education, the *terms of art* under girding that standard, and the definitions for those terms as established by the courts.¹⁷ Using the information gleaned through this value critical analysis, a policy framework¹⁸ was developed to evaluate the adequacy of educational structures and create policy to provide educational opportunity for all children. In so doing, the struggle for justice in the distribution of educational opportunity moves from reaction and limitation to action built on consensus.

Significance

To this point, analysis of these cases has relied on the grouping cases by perceived type to illustrate the progression of litigation. Often described as waves,¹⁹ the

¹⁶ William N. Dunn, "Values, Ethics, and Standards in Policy Analysis," chap. 34 in *Encyclopedia of Policy Studies* (New York: Marcel Dekker, 1983): 131.

¹⁷ For another example of value analysis of *terms of art*, see Mary Jane Guy, "Common," "System," "Uniform," and "Efficient" as *Terms of Art in the Education Articles of State Constitutions: A Philosophical Foundation for the American Common School* (Ph.D. diss., Virginia Polytechnic Institute and State University, November, 1992).

¹⁸ Christopher Maseo suggests policy frameworks must include animating principles and ideas for implementation in "Frameworks of State: Assessment Policy in Historical Perspective," *Teachers College Record*, 103, no. 3 (June 2001): 373. This dissertation identifies those principles and values using them to build a policy framework to define adequacy in the delivery of educational opportunity.

¹⁹ For further discussion of wave theory, see Deborah A. Verstegen and Robert C. Knoepfel, "Equal Education Under the Law: School Finance Reform and the Courts," *Journal of Law and Politics* 14 (summer 1998): 555-589. and Julie K. Underwood, "School Finance Adequacy as Vertical Equity," *University of Michigan Journal of Law Reform* 28 (spring 1995): 493-519.

consideration of judicial action has been limited to the examination of what were judged to be similar outcomes and the implications of the application of the decision. Values are used as the criteria for classification. The creation of the value aggregates of equality, equity, or adequacy²⁰ has allowed description of trends framing a general look at actions already taken, promoting reaction rather than action. Analysis is descriptive rather than predictive. At best, solutions reflect the pendulum swing created by the tension between the extremes of on the continuum of liberty in interpreting adequacy.²¹ These approaches recognize the inclusion of value content but do not purport to include value as an element of analysis. Such solutions do not address the influence of values in the transformation of information into knowledge. Analysis is completed by generalized classification rather than by disaggregating values so that they may be used diagnostically to evaluate adequacy. As litigation has moved from the call for equality and equity to a focus on adequacy, no clear definition has been established for the “adequate provision of educational opportunity.”²² The principle of liberty and the balancing values embedded in

²⁰ Value aggregates used for analysis of funding litigation include

Equality cases - financial support to allow access to schooling for all children

Equity cases – financial support to allow access to schooling for all children + fairness in the distribution of educational benefits and burdens for all children and throughout society

Adequacy cases – financial support to allow access to schooling to all children + fairness in the distribution of educational benefits and burdens for all children and throughout society + sufficiency of the funding to provide quality education

²¹ David C. Thompson and Faith E. Crampton, “The Impact of School Finance Litigation: A Long View,” *Journal of Education Finance* 27 (Winter 2002): 786.

²² Possible definitions of equal educational opportunity that might be considered by the courts

1. Negative: Equal educational opportunity is not determined by independent variables such as wealth of parents, geographic location, race, or gender. Students of similar abilities would receive equivalent support. This approach is most useful in identifying a lack of equality.

2. Full Opportunity: Every child is given the opportunity to develop to full potential. All needed assistance is available. Resources are supplied until no further progress is made or regression occurs. Cost varies for each child regardless of race, creed, social standing, or SES. Some experts consider it to be cost prohibitive.

3. Foundation: A minimum standard is established for equal educational opportunity. When the locality cannot meet that standard with its own resources, the state must supply the resources necessary to requirements. The cost of basic education is equalized.

4. Minimum Attainment: Resources are offered until all students meet minimum standards of student achievement. Some students may require greater resources. The courts may establish a certain set of skills as the standard.

5. Leveling: Inverse investment is required to balance the abilities and background of students.

6. Competition: Acknowledges that the capacity of students may be different. The more able students should be provided more opportunity for scarce resources. This approach argues that even if educational opportunity is equalized, the results may still differ.

7. Equal Dollars Per Pupil: Investment is made in individual students. Differences in ability levels do not justify discrimination. One student receives one dollar. This standard is rigid. No consideration is given to

adequacy are blurred in interpretation rather than clarified by examination. The issue cannot be addressed effectively until consideration has been given to the values that are essential to determining the meaning of adequacy in providing educational opportunity for each student. Rather than addressing these cases simply as aggregates of equality, equity, or adequacy, the recognition of these foundational values allows resolution based on principle. Driven by these values, adequacy is no longer a minimal standard but rather equal opportunity for each and all.

Utilizing a case-by-case approach, this research has gone beyond generalized interpretation of application at a particular place to examine the value elements defined by each decision. Consensus may then be built based on the principles and values foundational in these judgments.²³ By disaggregating the cases to find the specific definition given to the standard recognized by the court, the conflict being adjudicated was analyzed at its foundation. Removal of the layers of generalization present as cases are grouped by value allows consideration of the role these foundational principles and values hold in the definition of adequacy. As independent variables, these value elements may then be used to examine current policy and design policy frameworks. Research moves from description to analysis to framework for action.

Research Questions

Questions considered include:

1. In what manner might the tension of the paradoxical demands of community responsibility and individual rights housed within the principle of liberty be used creatively in the development of public policy?

factors such as school size or geographic location.

8. Maximum Variance Ration: Resources are equalized to a higher level as an approximation of equality. Economies of scale are used determine equivalent service costs compensating for differences within and across states.

9. Classification: Programs are matched to students. Students with similar characteristics are provided with certain services. Abilities and/or interests determine classification. This approach is seen as equal treatment of equals.

Arthur F. Wise, *Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity* (Chicago: The University of Chicago Press, 1968): 147-158.

²³ For further discussion of the interaction of law, rules, standards, and principles in balance for justice, see Jean B. Crockett, "The Viewpoint of the Law: Environment and Liberty," chap. 3 in *Instructional Settings for Exceptional Learners: A Conceptual, Historical, and Empirical Examination of the Least Restrictive Environment* (Ph.D. diss., University of Virginia, May 1997): 91-163.

2. How do the value clusters inherent in democracy allow for balance and affect the provision of adequate educational opportunity?
3. Using value critical analysis, how does funding litigation clarify the search for the meaning of adequate educational opportunity?
4. What themes appear throughout these cases that may be used to build consensus for the development of policy frameworks and the evaluation of present funding systems designed to provide adequate educational opportunity in a particular time and place?

Conclusion

Debates that began with the construction and implementation of this American democratic covenant among free people continue to this day.²⁴ To sustain democracy; meet local, state, and federal output requirements; and prepare children to meet the challenges of the twenty-first century, consideration must be given to the dynamic balance that allows investment in the common good while individual needs and talents are acknowledged and used to promote democratic community.

Hannah Ardent explains this with the image of a table:

To live together in the world means essentially that a world of things is between those who have it in common, as a table is located between those who sit around it; the world, like every in-between, relates and separates men at the same time.

The public realm, as the common world, gathers us together and yet prevents our falling over each other, so to speak. What makes mass society so difficult to bear is not the number of people involved, or at least not primarily, but the fact that the world between them has lost its power to gather them together, to relate and to separate them.²⁵

This dissertation examines the paradox of principles and transforming values that have been laid upon that table.

²⁴ Proefriedt, "Other People's Children": 44.

²⁵ Hannah Arendt, *The Human Condition* (Chicago: The University of Chicago Press, 1958): 52-53.

CHAPTER 2: CREATIVE TENSION

This nation, born of paradox and hope, weaned in conflict and promise, seeking liberty and justice for all, continues to struggle to balance commitment to community and individual interests. The roots of this tension lie in the pursuit of civic virtue and embody the full spectrum of liberty. Although rarely acknowledged, the sustainability of democracy rests on the delicate balance that allows government to provide for the community while protecting individual rights and initiative.²⁶ As with any paradox, resolution requires the recognition that such work goes beyond simple logic.²⁷ Relationships because of their dynamic nature cannot always be understood in simple terms as cause and effect. Truth may lie in what appears to be an opposite function or position. Taken at face value, the tension that arises may serve to divide opinion and action and thus limit possibility. Yet, if consideration is given to such paradox at the basic levels of function and principle, the spectrum of possibility grows to encompass varying perspectives. This chapter examines

- 1) the principled and structural tensions that hold the extremes of liberty in creative relationship;
- 2) the conflict/consensus process required for balance;
- 3) the process of constitutional development of federalism and separation of powers;
- 4) literature to develop a short list of foundational values; and
- 5) the value shifts that occurred in educational opportunity from the 1600s to present times.

Throughout the process, what appears to be exclusive truth strengthens as contradiction complements understanding and contributes to solutions.²⁸

Principled Tension: Liberty

Liberty, sought as the foundation of democracy, began and still rests in political structures and decision-making processes that build upon the paradoxical principles of

²⁶ Alexander and Salmon, *Public School Finance*: 134.

²⁷ Deborah Stone, *Policy Paradox: The Art of Political Decision Making* (New York: W. W. Norton & Company, 1997): 1.

²⁸ For examples of such resolution, see Daniel Kemmis, *Politics of Place* (Norman, OK: University of Oklahoma Press, 1990): 111-113 and Roger Fisher, William Ury, and Bruce Patton, "Invent Options for Mutual Gain," *Getting to Yes: Negotiating Agreement Without Giving In*, 2nd ed. (New York: Penguin Books, 1991): 56-80.

the protection of individual rights and equal access to opportunity. Liberty, so broadly defined, drives policy decisions by intent or by omission. For example, the process of casting individual votes produces a “paradox of participation.” Individuals are encouraged to vote to express their opinion to make a difference. Yet as the number of votes increases, the impact of the individual’s choice diminishes. To vote, the citizen must be willing to submit self-interest to a combined community decision.²⁹ Debates and subsequent resolutions such as these draw from the full spectrum of democracy. The extremes of the spectrum are often spoken of as a positive or negative interpretation of liberty. In both cases, the goal is the acquisition of power, wealth, and knowledge building a platform for expanding choice whether for the individual or for the community. Across the continuum, questions revolve around issues of political control.³⁰

Historically, this nation has addressed its policy and governance, even its very existence, on these two, often, paradoxical extremes of liberty, the rights of the individual and responsibility to community. Both perspectives were clearly evident in the beginnings of American democracy. The positions taken by the leaders of that time were clearly articulated as delineating the full spectrum of liberty. What might have divided this young American confederation into individual nations drew them together into a nation of federated states through the belief that such freedom and responsibility would be built upon the Common Good. The tension between community responsibility and individual interests would be balanced with the exercise of civic virtue.³¹ From all perspectives, civic virtue laid the foundation for the preservation of liberty and the defeat of tyranny. As can be seen in Table 1, the understanding and provision of liberty rested on differing ideas about civic virtue.

²⁹ Timothy W. Luke, “Policy Science and Rational Choice Theory: A Methodological Critique,” chap. 7 in *Confronting Values in Policy Analysis: The Politics of Criteria* (Newberry Park, CA: Sage Publications Inc., 1987): 183.

³⁰ Deborah Stone, *Policy Paradox: The Art of Political Decision Making*, revised edition (New York: W.W. Norton & Company, 2002): 128-129.

³¹ Robert N. Bellah, Richard Madsen, William M. Sullivan, Anne Swidler, and Steven M. Tipton, *The Good Society* (New York: Alfred A. Knopf, 1991): 85.

**Table 1:
Role of Civic Virtue**

Civic Virtue	
<i>Republicanism</i>	<i>Federalism</i>
<ul style="list-style-type: none"> - Community values and responsibilities - Self-government based on mutual, public responsibility for community³² - Requires public engagement - Public interests sewn together with threads of civic values - “Common unity” produced community 	<ul style="list-style-type: none"> - Individual rights and interests - Common Good through peoples’ own interests - Driven by expansion of commercial and industrial society (<i>laissez-faire</i> economics) - Interests balanced through checks and balances of government - “Tyranny of the majority” feared³³

The process of development of the Constitution captured the extremes of principle, geographic conditions, and interests present in this fledgling nation.³⁴ Those who gathered in Philadelphia debated principle, not pride nor personality. Although colleagues, Thomas Jefferson and James Madison found themselves speaking of opposing views as to how these United States would step into nationhood.

Promoting Republicanism, Jefferson spoke of establishing public peace and order by informing the people. Educating the citizenry would drive government by allowing the

³² As first colonial governor of Massachusetts, John Winthrop spoke of the necessity that Pilgrims understand and share one another’s circumstances. “Wee must delight in eache other, make other’s conditions our oune, rejoyce together, labour and suffer together, alwayes having before our eyes our commission and community in the worke as members of the same body.” John Winthrop in *Community and the Politics of Place* (Norman, OK: University of Oklahoma Press, 1990): 12.

³³ Kemmis, *Community and the Politics of Place*: 9-25.

³⁴ In *Constitution Making: Conflict and Consensus in the Federal Convention of 1787* (New York: Agathon Press, 1988): 9-14, Calvin C. Jillson suggests that regional culture played a large role in the resolution of cleavages that threatened to end the process of nation building. Using factor analysis to develop a matrix of correlation coefficients for the votes taken during the Convention, Jillson found that although states tended to group in similar ways the lines of division varied depending on the issue (200-207). Also see Calvin C. Jillson, “Ideas in Conflict: Political Strategy and Intellectual Advantage in the Federal Convention,” concluding chapter in *To Form a More Perfect Union: The Critical Ideas of the Constitution* (Charlottesville, VA: University Press of Virginia, 1992): 303-356.

people to see that their interests lay in preserving relationships with one another.³⁵ This positive expression of liberty results in choice being made available for the individual through the development of community. Definition is given to such freedom by identifying and seeking the resources necessary to the exercise of effective choice.³⁶ Liberty for the individual is seen to expand as citizens engage in activities for the common good.³⁷ Such expansion is necessary to allow the full expression of human nature allowing choice to be made based on larger possibilities rather than restricted to individual needs.³⁸ Focus is placed on the community in seeking both public and private good. Resources are expected to grow with use in both competitive and cooperative actions. Private interest may be pursued while promoting the common good.³⁹ Effective choice increases as control is exercised and resources are provided to explore alternative solutions to expand community possibilities. As the resources of the community increase the variety of possibilities available to the individual expands. The process itself is seen as dynamic.⁴⁰ Forces are centripetal pulling interests together.⁴¹ Liberty may be offered in degrees balancing limitation for some with possibility for others. The positivist approach joins individual and social liberty.⁴²

On the other hand, Madison, speaking for the Federalists, insisted that the Common Good could not be built by relying solely on human nature. Divisions caused by the natural instincts of competitiveness would threaten the existence of the fledgling

³⁵ “And say, finally whether peace is best preserved “by giving energy to the government, or information to the people. This last is the most certain, and the most legitimate engine of government. Educate and inform the whole mass of the people. Enable them to see that it is their interest to preserve peace and order, and they will preserve them . . . They are the only sure reliance for the preservation of our liberty.” Letter from Thomas Jefferson to James Madison, December 20, 1787, *The Papers of Thomas Jefferson*, Vol. XII: 478 in *Community and the Politics of Place* (Norman, OK: University of Oklahoma Press, 1990): 11.

³⁶ Stone, *Policy Paradox*: 128.

³⁷ James Gordon Ward, “Conflict and Consensus in the Historical Process: The Intellectual Foundations of the School Finance Reform Litigation Movement.” *Journal of Education Finance*, 24, (summer 1998): 5.

³⁸ Donna J. Haraway, *Simians, Cyborgs, and Women: The Reinvention of Nature* (New York: Routledge, Chapman and Hall, 1991): 68.

³⁹ Stone, *Policy Paradox*: 53.

⁴⁰ *Ibid.*, 128.

⁴¹ Deborah Stone, “Altruism in Policymaking?” presentation for the CPAP, Blacksburg, VA: Virginia Polytechnic Institute and State University (April 2004).

⁴² Stone, *Policy Paradox*: 128-130. For further explanation of negative and positive liberty, see Isaiah Berlin’s “Two Concepts of Liberty,” in *Liberty: Incorporation Four Essays on Liberty* (New York: Oxford University Press, 2002): 166-217.

nation. The Federalists sought resolution of these competing interests through a system of checks and balances established by government.⁴³ Such an adversarial relationship of power and public office was needed to protect the minority from the tyranny of dominant factions.

Madison held that the selfishness of human nature could not be transformed by education and participation but rather must be directed and controlled to promote the common good.⁴⁴ Defining knowledge as property, education was the manner in which gains made through the “free use of facilities” could be passed from generation to generation.⁴⁵ From this Madisonian perspective, choice expands in the absence of control by others with individuals. Operating in competition, each individual seeks to remove the restraints imposed by others. Control is exercised through disconnection. Morality rests in the search for individual gain independent of the impact on society. Forces are perceived to move in, centrifugally spinning independently away from the center⁴⁶ Altruism is an aberration and requires explanation. Compassion for others is viewed with suspicion because it is detrimental to self-interest.⁴⁷ Danger lies in providing mutual aid. Such intervention only encourages further demands for help. It is believed that those in need will always want more. Individual rights are the best that can come from democracy.⁴⁸ Policy is developed in competition and scarcity. Abundance is sought for the individual subsequently building the common good.⁴⁹ Resources are limited and reduced with use. Policymakers focus on reducing cost while increasing individual gain.⁵⁰

⁴³ “The latent causes of faction are . . . sown in the nature of man; and we see them everywhere brought into different degrees of activity according to the different circumstances of civil society. . . . It is in vain to say that enlightened statesmen will be able to adjust these clashing interests, and render them all subservient to the public good. . . . The inference to which we are brought is, that the *causes* of faction cannot be removed, and that relief is lonely to be sought in the means of controlling its *effects*.” James Madison, “Federalist Paper No. 10” in Jacob E. Cooke, ed., *The Federalist* (Middletown, CN: Wesleyan University, 1961): 58-60.

⁴⁴ Bruce Jennings, “Interpretation and the Practice of Policy Analysis,” chap. 5 in *Confronting Values in Policy Analysis: The Politics of Criteria* (Newberry Park, CA: Sage Publications, Inc., 1987): 138-140.

⁴⁵ Kern Alexander and M. David Alexander, *America Public School Law*, 5th edition (Belmont, CA: Wadsworth Group, West, 2001): 25.

⁴⁶ Stone, “Altruism in Policymaking?” (April 2004).

⁴⁷ Haraway, *Simians, Cyborgs, and Women*: 59-60.

⁴⁸ Deborah Stone, “Altruism in Policymaking?” (April 2004).

⁴⁹ Haraway, *Simians, Cyborgs, and Women*: 68.

⁵⁰ Stone, *Policy Paradox*: 53.

Liberty is held to be an all or nothing proposition. Providing resources for others requires withdrawal of resources from the advantaged to be distributed to the disadvantaged.⁵¹ In contrast to the Jeffersonian view from Madisonian perspective, liberty was the absence of such linkage; instead liberty permits the expansion of individual opportunity unfettered by the interests of others. The right to property and privilege is guaranteed through law and due process.⁵²

The practical application of these principles required consensus. Basic to this conversation were questions of decision-making and conflict resolution. Were public problems to be addressed directly by the people of the new nation or should the burden lie in the hands of the government? Must government be created to produce solutions to protect people from each other and thus require the Common Good or would the education of citizens promote solution and development of civic virtue and thus, the Common Good? What institutions would provide the structures necessary to provide the dynamic processes of democracy?

Rather than deserting the process by disbanding the assembly, advocates of the Jeffersonian and the Madisonian perspectives chose to stay and seek a workable balance.⁵³ Recognizing that these decisions were too important for divisive votes, the founders created a structure that emerged from these Constitutional debates incorporating trust in the people as the guardians and creators of the Common Good as well as guaranteeing that individuals would be encouraged to seek their own interests. Such consensus building allowed for all to be involved in the resolution process.⁵⁴ Implementation required creative balance in both structure and foundational values.

Structural Tension: Federalism and the Separation of Power

To guarantee the continuance of these relationships, the institutions for governance set in place by the founders contain their own sets of checks and balances.

⁵¹ Ibid., 128-130.

⁵² Ward, "Conflict and Consensus in the Historical Process": 5.

⁵³ See Fred Barbash, *The Founding: A Dramatic Account of the Writing of the Constitution* (New York: The Linden Press / Simon and Schuster, 1987) for a presentation of the debates of the Convention in dialogue form based upon the actual writings of the times. Chapters are aligned with themes similar to areas of cleavage suggested by Jillson.

⁵⁴ Phillip Boyle, *School Boards in a Democratic Society*.

The strong central government desired by the Federalist to protect individual rights and interest were balanced by the representative organization and function supported by the Republicans. The factions to be disarmed⁵⁵ were institutionalized in purpose and process rather than in principle and interest. Rather than defining liberty at either extreme, government structure was developed that allows for movement across the full spectrum. Governmental bodies maintain separation rather than systematically fusing interests.⁵⁶ Challenged to bring this work together, the give and take required is not part of the structure but rather must depend on the willingness of participants to dynamically exercise liberty across the spectrum of liberty.

The three levels and branches of government established by the Constitution play different yet essential roles in the decision making process. To sustain the push and pull of these principles, the structure of the American government separates the exercise of power. By allowing voices to be heard both vertically and horizontally across several venues, more perspectives may be offered for reasoned decision making thus limiting the power of the majority. Such structure creates a tension in function that requires some balance of competing interests for action to occur.

Federalism

Vertically, federal and state government share power, holding sovereignty in particular areas of function. The federal government and various state governments work autonomously, neither able to abolish the other. Power in the federal system is shared among levels of government. In contrast to a unitary system, no one body holds sovereign power.⁵⁷ Governance itself balances the work of federal, state, and local entities. The founders viewed this as a system that controlled big government. Certain powers were given to the people at the federal and state/local levels. Believing that elections, representative government, and equal treatment under the law were not enough to guarantee individual rights, these revolutionary leaders sought such an arrangement to protect against tyranny. Above all, the rights of the individual were to be protected from

⁵⁵ Cooke, *The Federalist*: 56-65.

⁵⁶ Fowler, *Policy Studies for Educational Leaders*: 82.

⁵⁷ Frances C. Fowler, *Policy Studies for Educational Leaders: An Introduction* (Upper Saddle River, NJ: Prentice Hall, 2000): 79.

the majority. This dynamic system of governance continues to evolve as the boundaries of those powers have been and continue to be tested.

These varied American colonies came together as separate governments retaining their sovereignty as individual states. The work of the Convention was not finished until the Constitution was ratified by the states themselves. The debate kept secret at the Constitutional Convention found its way into every section of the new nation.⁵⁸ The dialogue begun in Philadelphia became paramount as individuals were elected to the ratifying conventions in each state. Newspapers provided the forum for those who spoke for and against adoption of the Constitution.⁵⁹ Centering the debate on principles, articles were signed with pseudonyms rather than being used to gain attention or acclaim for the authors.⁶⁰ The debates cemented the inclusion of the full spectrum of liberty into the fabric of the nation. To become law, the Constitution required ratification by nine states. With the addition of the Bill of Rights, all thirteen states took action to make the consensus of these revolutionaries the supreme law of the land with many state constitutions built upon its principles, values, and structures.⁶¹ The Tenth Amendment⁶² restricted federal power to areas specifically granted by the Constitution involving external activities such as treaties, international trade, war, and peace.⁶³

To protect individual interests, state governments have used their powers to create and disassemble local governments as needed to implement policies and regulations. State constitutions and statutes set the parameters of structure and power of these local

⁵⁸ Fred Barbash, *The Founding: A Dramatic Account of the Writing of the Constitution*: 209.

⁵⁹ For further description of the breadth of the debate during the ratification process, see J.R. Pole, ed., *The American Constitution For and Against: The Federalist and Anti Federalist Papers* (New York: Hill and Wang, 1987) and John P. Kaminski and Richard Leffler, eds., *Federalists and Antifederalists: The Debate Over Ratification of the Constitution*, 2nd edition (Madison, WI: Madison House, 1998).

⁶⁰ Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers* (Audio Classics, Knowledge Products) audiocassettes.

⁶¹ Fred Barbash, *The Founding: A Dramatic Account of the Writing of the Constitution*: 210-211.

⁶² “The powers not delegated to the United States by the Constitution nor prohibited by it to the states, are reserved to the states respectively or to the people.” United States Constitution, article 10.

⁶³ “The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the state governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several states will extend to all the objects, which in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State.” James Madison, *The Federalist*, no. 45.

entities. Individual rights are exercised through local control. It is at this level that citizens feel the impact of policy decisions and citizens most clearly affect the system.⁶⁴

Over time, the structure of this federalism has shifted, being molded and remolded to reflect the shifting institutional balance. Each new arrangement of shared power has reflected changes in society or was triggered by events that required a shift in responsibilities.⁶⁵ At each turn in the road, the evolution has required transitions that again confront the paradoxical elements of liberty. Each time the rebalance has retained the commitment to individual needs in the context of community.

For example, the courts have consistently judged education a function of state sovereignty citing the plenary powers granted to the states. States are required to create universal public schools to sustain democratic government as a way of ensuring the tenets of fundamental justice.⁶⁶ Federal authority has taken precedence only in cases deemed to violate rights guaranteed by the Constitution such as *Brown v. Topeka Board of Education*. The Supreme Court held that education had become integral to each child becoming a contributing citizen in the nation. The Court ruled that where offered by the states, educational opportunity must be provided on equal terms. The practice of providing educational services in “separate but equal” settings did not meet that standard. Financial incentives have been used to enforce federal standards such as the restrictions placed on Title I funding in NCLB. Ensuring “that every child have a fair, equal, and significant opportunity to obtain a high-quality education,” this legislation requires states to set standards of student achievement to be met at both the school and school division level. Failure to meet these standards results in sanctions and loses in local control of federal monies.

Separation of Powers

Horizontally, power is shared through function. At each level, three independent, equal branches, the legislative, executive, and judicial, function on a belief in

⁶⁴ Larry N. Gerston. *Public Policymaking in a Democratic Society* (Amonk, NY: M.E. Sharpe, 2002): 17.

⁶⁵ For further explanation of the chronological shifts in federalism, see Thomas R. Dye, *Understanding Public Policy*, 7th ed. (Englewood Cliffs, NJ: Prentice Hall, 1992): 300-303, and Fowler, *Policy Studies for Educational Leaders*: 79-82.

⁶⁶ Alexander and Alexander, *American Public School Law*, 5th ed.: 21, 89-90. For further discussion of the relationship of public education and political justice see John Rawls, *Political Liberalism* (New York: Columbus University Press, 1993): 212-213.

compromise. In most instances, agreement is required for policy to be developed and effectively implemented.⁶⁷ Governing in a democratic society requires that authority, power, and credit be shared. No one person or governmental body holds sovereign power. The relationships are both vertical and horizontal thus enabling correction by each body. Elected at regular intervals, the legislative branch has a clear connection to the people. Again the founders felt it prudent to temper the influence of the people with the balance of two bodies. At the federal level, these consist of the two houses of government in which representation reflects the concerns of both large and small states that are equally represented in the Senate, while size of population determines the number of Representatives in the House. With the exception of Nebraska, the states have chosen the same arrangement.⁶⁸ As initiators and sculptors of laws and statutes, legislators enable and direct policy development. The House and Senate establish departments and appropriate the funds necessary for the implementation of programs and policy. Actions taken may be the result of legislation originating in those bodies or reaction to actions taken by the executive or judicial branches. These legislative bodies are given the power to override executive action and in fact may impeach and remove the executive leadership from office.⁶⁹

With its leadership elected by the people, the executive branch designs policy and develops the regulations needed for its implementation. Drawing on the expertise of appointed advisors, the president or governor initiates legislation that often serves to bring issues to the forefront for consideration.⁷⁰ The leadership presents recommendations to the legislature during regular session or at the call of the executive branch. Laws and statutes passed by the legislature require signature by the chief executive. A veto may be used to defeat the measure, returning it to the legislature for further work or the legislative body may override the executive veto. Once signed, specialized departments in the executive branch develop regulations for implementation of new law.⁷¹

⁶⁷ Gerston. *Public Policymaking in a Democratic Society*: 9.

⁶⁸ Fowler, *Policy Studies for Educational Leaders*: 143.

⁶⁹ Thomas R. Dye, *Understanding Public Policy*, 7th ed. (Englewood Cliffs, NJ: Prentice Hall, 1992): 22.

⁷⁰ Fowler, *Studies for Educational Leaders*: 147.

⁷¹ Dye, *Understanding Public Policy*: 22.

To further balance the rights of the individual in the policy, the judiciary branch provides mechanisms for challenge and review. For the most part appointed bodies, with some terms ended only by death, the courts remain more isolated. They are intended to judge by principle and standard rather than the politics of place or time. When questions arise, the courts hold the responsibility for defining and interpreting legislative and executive actions.⁷² Given the authority to determine constitutionality, the judiciary may negate executive and legislative action as not meeting the standard.⁷³ Political questions unresolved by consensus often become the object of judicial inquiry. The recourse left to the executive and legislative branches is to reframe the resolution in terms defined by the court decision and try again.

This whirling dervish of checks and balances provides a structure for decision-making that demands relationship and requires cooperation at some level of function. The underpinning of that system lies across the breadth of liberty, maintaining government of the people yet protecting individual interests.⁷⁴ Meeting together in Congress on July 4th, 1776, the founders of the nation declared the first truth of independence to be that all men are created equal, inherently provided by their creator with certain inalienable rights to be guaranteed in concert by governmental institutions.⁷⁵ In 1787, the Constitutional Convention suggested reaffirmation of these values in the Preamble to the Constitution of the United States of America. Speaking for the people, these representatives sought to establish justice and acknowledge the necessity of the general welfare in order to form a union that would sustain the blessings of liberty.⁷⁶ The body of the Constitution set forth the balance of power establishing equal treatment under a strong central government while the Bill of Rights set in place the guarantee of individual rights.⁷⁷

⁷² Fowler, *Studies for Educational Leaders*: 151.

⁷³ *Marbury v. Madison*, 5 U.S. 137 (1803).

⁷⁴ Dye, *Understanding Public Policy*: 295.

⁷⁵ “We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the Pursuit of happiness. That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed . . .” United States Declaration of Independence.

⁷⁶ “We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty for ourselves and our posterity . . .” United States Constitution, Preamble.

⁷⁷ Phillip Boyle, *School Boards in a Democratic Society: Creating the Good Life through Public Schools*, presentation to The Virginia School Boards Association Leadership Conference (October 2003) cites the First Amendment as a clear example of the balance to strong central government in that “Congress shall

Implementation required balancing principle and values. The promise of “a more perfect union” recognized the imperative for excellence and efficiency. The recognition “that all men are created equal” and the call for the “establishment of justice” required equality. Speaking honestly and passionately to the values inherent in these varied interpretations of liberty, the consensus reached by the leaders of this experiment in self-governance reflected the full spectrum of liberty and its incumbent values dynamically defining the boundaries of policy.

Educational Opportunity

The provision of educational opportunity has been and continues to be influenced by the same tensions, both in principle and in structure. Those who came to this new land came for a variety of reasons. The values that drew them here permeated the beginnings and the evolution of institutions necessary to sustain this experiment in liberty. What has grown to be a national system of educational accountability is built on cleavages similar to those reflected in the debates at the time of the development and ratification of the Constitution. Throughout its history, universal access to education begun to sustain liberty in the United States has been grounded in the same wide spectrum of principle and values. In examining current literature addressing public values and education policy (Table 2) and the history of educational opportunity in this nation, the value clusters whispered in the body of the Declaration of Independence and the Preamble to the Constitution emerge as key to the same delicate balance in public education. Although these policy considerations use slightly different nomenclature, efficiency (E), equality/equity/dignity (EED), and excellence/quality (EQ) emerge as a value framework for policy development.⁷⁸

make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.” United States Constitution, amendment 1.

⁷⁸ As noted in Table 2, choice is also mentioned as a driving value in educational opportunity. For the purposes of this research, choice is considered to be integral in the principal of liberty embodied in both the pursuit of individual interests and the offering of expanded opportunities through community involvement.

**Table 2:
Value Clusters in Education Policy**

<i>Author</i>	<i>Value</i>	<i>Clarification</i>
Guthrie, Garms, and Pierce	equality efficiency choice ⁷⁹	One value need not negate other values. Balance among these values promotes educational opportunity for all children. ⁸⁰ To address disparities created by poverty and wealth, reforms have often been directed by adjusting the balance through intervention. ⁸¹
Kahne	efficiency equity excellence	As the central concern of educational policy analysis, efficiency is ever present with equity and excellence as topics of debate. ⁸²
Kaufman and Lewis	efficiency equity excellence choice human dignity	Values exist in a longstanding tension driven by the competing interests of stakeholders. Confusion arises when policymakers seek to meet the requirements of all children while acknowledging the differing need of each child. Balancing is difficult in times of plenty resulting if approached in an add-on, fragmented manner in a “policy thicket”. Values compete when resources are rationed during times of real or perceived scarcity. ⁸³

⁷⁹ Guthrie, Garms, and Pierce, *School Finance and Education Policy*: 22.

⁸⁰ *Ibid.*, xiv.

⁸¹ *Ibid.*, 24. Examples of such interventions include antitrust legislation, personal and corporate income tax, social security, unemployment insurance, Medicare, food and housing subsidies, and inheritance tax.

⁸² Kahne draws clear lines suggesting four perspectives for policy analysis 1) utilitarian thought, 2) rights theory, 3) democratic communitarian thought, and 4) humanistic psychology. Although emphasis is placed on different value elements in each of these approaches, proponents assert that these three basic value elements are essentials of democracy. Joseph Kahne, *Reframing Educational Policy: Democracy, Community, and the Individual* (New York: Teachers College, Columbia University, 1996): 9, 146-160.

⁸³ Martin J. Kaufman and Linda Lewis, in Chapter 11, “Confusing Each With All: A Policy Warning,” *Developmental Perspectives on Children with High Incidence Disabilities* (Mahwah, NJ: Lawrence Erlbaum Associates, Pub, 1999): 234-241. In “Social Justice in Social Dynamics,” *Social Justice* (Englewood Cliffs, NJ: Prentice Hall, Inc., 1962): 92, Kenneth Boulding suggests that equality is the fruit of development and therefore only wealthy societies can afford full access. Similarly, educational opportunity provided in fair, equal, and significant manner requires levels of funding that permit the balance of equality/equity/dignity with efficiency and excellence.

Table 2 (continued)

<i>Author</i>	<i>Value</i>	<i>Clarification</i>
Kaufman	neutral technical competence democratic legitimacy organizational efficiency	Equality Equity Efficiency ⁸⁴
Kearney	equity efficiency choice	Interaction may be complementary yet competing. Balancing of these values is the essence of policy making. ⁸⁵
Sergiovanni	equity efficiency constant excellence	Values, deeply embedded in national heritage, are interrelated in a state of tension. Emphasis on one value hinders choice the expression of the others. In the 1970s, the Johnson Administration emphasized equality/equity/dignity and sacrificed efficiency allowing inflation and interest rates to rise. Excellence disappeared as standards were lowered so that everyone could reach the goal. The release of a number of education studies ⁸⁶ in the 1980s caused excellence to become the banner for education. Rules became rigid and moved away from recognition of differences in region, needs of minorities, and place. ⁸⁷
Stone	equity efficiency security liberty	“motherhood issues” Everyone agrees in principle yet issues arise when concrete definition is required. These values are used in goal setting and as standards to evaluate present policy.

⁸⁴ H. Kaufman, “Emerging Conflicts in the Doctrines of Public Administration,” *American Political Science Review* 50, no. 4 (1956): 1057-73.

⁸⁵ Kearney, C. Philip, *Value Polarities and Complementarities in American Education Policy Making: Efficiency and Choice* (1988), AERA presentation.

⁸⁶ See Appendix B for more information concerning these studies.

⁸⁷ Thomas J. Sergiovanni, M. Burlingame, F. S. Coombs, and P. W. Thurston (Eds.). *Educational Governance and Administration*, 4th ed. (Boston: Allyn and Bacon, 1999): 6.

The application of the principles of liberty to public education evolved through the clarification of these foundational values. At times, differing value clusters moved to the forefront in response to conflict or societal shifts. The rebalancing of value clusters reflects the continuing effort to establish liberty for all. As can be seen in the Appendix A, the struggle for solution has required the exploration of differing value boundaries throughout the history. This dynamic process of clarifying foundational values required the development of solutions through the continued work of consensus. Change and adjustments were required as disagreements arose. Through action or inaction, policy resulted from the consensus reached setting value boundaries at a particular moment in time. The ebb and flow of value emphases are apparent in the tracing of education opportunity throughout the history of public education in this nation.

Now as then, the work of policymaking is the struggle to resolve the conflict of ideas. Just as ideas are the center of conflict, the shared understanding of principles and values produce action and the uniting of people to promote the achieved consensus.⁸⁸ The conflict/consensus process has and continues to establish the dimensions of educational opportunity.

Testing the Ideal of Liberty

In the search for freedom, the American colonies sought ways of working together to create a common understanding of liberty. Motivated by different concerns, all came to the new world seeking some portion of freedom and opportunity. For the nation's first 250 years, the challenge was to establish and maintain the boundaries of liberty.⁸⁹ As schools developed in the new world, public education reflected both conflict and consensus building as the ideal of liberty was tested.

Using the value cluster model suggested previously, the conflict/consensus process focused on the extremes of liberty during this period. Jefferson and Madison focused on the investment in or protection of the citizenry and therefore democracy.

⁸⁸ Stone, Deborah. *Policy Paradox: The Art of Political Decision Making*, revised ed. (New York: W. W. Norton & Company, 2002): 11.

⁸⁹ Boyle, VSBA presentation.

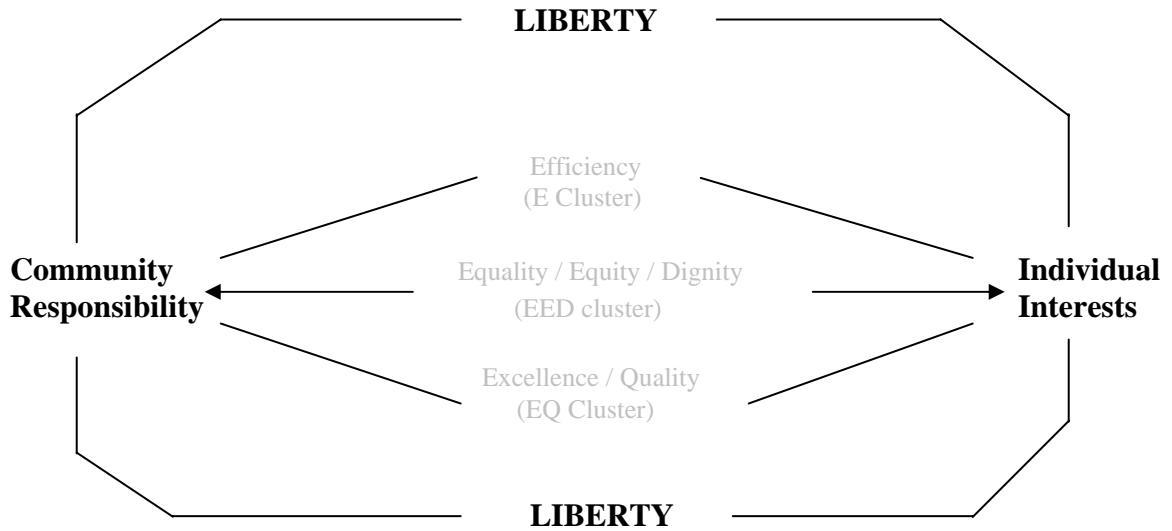


Figure 2: Balance of democratic value clusters 1640-1865

Certainly, the E, EED, and EQ value clusters provided background for the discussion even appearing as part of the decision making process in some applications of educational opportunity. But the major conflict of this period concerned what children should be educated, was universal public education required to sustain liberty, and if so, who was responsible to provide the resources to provide such services.

Colonial Period

Originally held to be the province of home and church, education quickly became necessary to sustain liberty and increase fortune. Through colonial times and the early years of the nation, distinct regional differences emerged in the provision of public education.

The earliest movement toward educational opportunity for all children occurred in New England. Those who settled in the New England colonies saw the education of all children as a necessary responsibility to sustain community. Statutes adopted in Massachusetts in 1642 assigned parents the responsibility for providing rudimentary education. In 1647, legislation was adopted requiring some towns to provide staff for schools to be funded through taxation.⁹⁰ As an integral part of the principle of liberty, efficiency began to emerge as a value as schools were established in larger towns to teach

⁹⁰ Alexander and Alexander, *American Public School Law*, 5th ed.: 22.

larger numbers of children to read and write. As religious dissenters, these colonists sought to build education on instruction that differed from that in England. The skills of reading and writing were taught rather than instruction simply promoting a particular religion. Membership in the Church was not sufficient to overcome evil. Knowledge of the Scriptures was required to defeat the work of Satan. Each member must be empowered by understanding to identify and turn away from the trickery of evil.⁹¹ By 1720, other New England colonies had made provision for such public education.⁹² What emerged from religious concern was the belief that the education of youth was key to sustainability of the community and perpetuation the structure of democracy. The first whispers of universal public education were heard in this legislation. Liberty required education for all to sustain government and promote the general welfare of society.⁹³ The foundation for involvement of the state in universal education began in the setting educational requirements and providing resources necessary to provide that educational opportunity. Local governing bodies began to tax their people to provide education at the elementary and secondary level.⁹⁴

⁹¹ “It being one chief object of that old deluder, Satan, to keep men from the knowledge of the scriptures, as in former times by Keeping them in an unknown tongue, so in these latter times by persuading from the use of tongues, that so at least the true sense and meaning of the original might be clouded by false glosses of saint-seeming deceivers, that learning may not be buried in the grave of our fathers in the Church and Commonwealth, the Lord assisting our endeavors,

It is therefore ordered. That every township in this jurisdiction, after the Lord hath increased them to the number of fifty householders shall them forthwith appoint on within their town to teach all such children as shall resort to him to write and read, whose wages shall be paid either by the parents or masters of such children, or by the inhabitant sin general by way of supply, as the major part of those that order the prudentials of the town shall appoint: Provided, Those that sent their children be not oppressed by paying much more than they can have them taught for in other towns; and

It is further ordered That where any town shall increase to the number of one hundred families or householders, they shall set up a grammar school, the master thereof being able to instruct youth so far as they may be fitted for the university: *Provided*, That if any town neglect the performance here of above one year, that every such town shall pay five pounds to the next school till they shall perform this order. Newton Edwards and Herman G. Richey, *The School in the American Social Order* (Boston: Houghton Mifflin, 1963): 57.

⁹² Alexander and Salmon, *Public School Finance*: 7.

⁹³ Alexander and Alexander, *America Public School Law*: 22.

⁹⁴ Alexander and Salmon, *Public School Finance*: 7.

Timeline: Colonial period 1601-1693

<i>Protestant Reformation War</i>		<i>Revolution</i>		<i>French and Indian War</i>
1601 English poor law		1620 Plymouth Colony		1664 New Amsterdam Becomes New York
	1607 Jamestown		1636 Harvard	
		1619 Black Slaves in Virginia	1642 Massachusetts Compulsory School law	1647 Old Deluder Satan Law
				1690 New England Primer

Source: adapted from John D. Pulliam, *History of Education in America*, 4th ed., (Columbus, OH: Merrill Publishing, 1987): 18-19.

At the other end of the spectrum, education in the southern colonies was predicated on the preservation of individual interests. Coming to these lands in search of wealth, schools were established here to serve the aristocracy. For the landed gentry, liberty was understood as the ability to provide the best education for their own children seeking to guarantee and increase their own fortune. Although willing to establish pauper schools for those in need, those in power reserved the right to use their wealth first to educate their own children. It was not until 1779 that the movement toward a system of free education offering universal access, instruction in democratic principles, and greater knowledge⁹⁵ found voice the *Bill for the More General Diffusion of Knowledge* submitted by Thomas Jefferson to the Virginia General Assembly. Addressing the dichotomy of public/private interests and responsibility, Jefferson began a debate as to the extent government - local, state, and federal - is responsible for educating its people.⁹⁶ He

⁹⁵ Alexander and Salmon, *Public School Finance*: 8.

⁹⁶ Foney G. Mullins, *A History of the Literary Fund as a Funding Source for Free Public Education in the Commonwealth of Virginia* (Ed.D. diss., Virginia Polytechnic Institute and State University, April 2001): 17-21.

believed that the best way to preserve and protect democracy was to educate people at large, regardless of wealth, birth or other accidental condition.⁹⁷ He found that his fellow planters, the wealthy, landowners of Virginia, would support public education, as long as they held the right to spend their own money to educate their children with private tutors, in exclusive schools, or by sending them abroad to receive what they considered to be the best education.⁹⁸ Though willing to provide minimal education for white, male children in the Commonwealth, most were not willing to use their tax money to educate girls or their poor neighbor's children to the same level. The question was not whether universal education was a proper ideal for democracy, but rather who was responsible and what level of opportunity was required to fulfill the covenant. The balance was found at that time by leaving the obligation to localities.⁹⁹

Although Jefferson's proposal was a step toward providing educational opportunity for all its citizenry, it was only the beginning of balancing equality, efficiency, and excellence for all. The proposal itself built a system of meritocracy. Although speaking broadly of the necessity of public education for the preservation of democracy, Jefferson's proposal only provided access to three years of schooling for all boys and girls. From the masses, the top twenty male students would then be selected to continue receiving free, public education. In this manner, Jefferson felt the top students would be separated from the "rubbish."¹⁰⁰ Even this meager effort to provide education in general diffusion failed to find importance in the eyes of his fellow planters because it lacked the commitment to local taxation necessary for its implementation.¹⁰¹ Actual implementation would have provided for the few and allowed the wealthy to pursue their individual differences.

Falling between the extremes of liberty, the populace of the Mid-Atlantic region developed a system reflecting the variety of national and religious groups settling the area. Education for the general populous was provided through a system of private and

⁹⁷ Thomas Jefferson, A Bill for the More General Diffusion of Knowledge, in *The Educational Work of Thomas Jefferson* (Cambridge: Harvard University Press, 1931): 199-205.

⁹⁸ Proefriedt, "Other People's Children": 44.

⁹⁹ Foney G. Mullins, *A History of the Literary Fund*: 20.

¹⁰⁰ Kahne, *Reframing Educational Policy*: 20.

¹⁰¹ Mullins, *A History of the Literary Fund*: 22.

church supported schools. The provision of education in this region moved away from public support sponsored by the state to parochial private education. Programs begun to provide opportunities for public education quickly became the auspices of the church. For example, although the Dutch established a small number of public schools in the Mid-Atlantic region, the parochial nature of English attitude toward education soon absorbed these schools into a system similar to that of Anglican schools prevalent throughout the area. Pennsylvania began its venture into public education by requiring parents to teach their children to read and write as well as the skills required to pursue a trade. The Governor and Councils were given the authority and charge to establish and maintain public schools. When the state failed to ensure the state support required for consensus among the diverse population of this colony to develop educational opportunities in public settings, religious schools stepped in to teach the essentials required for social, economic, and vocational growth.¹⁰²

No schools were available for the middle class. When unable to pay the tuition, parents were required to declare themselves paupers.¹⁰³ Some colonies also used the rate bill system to supplement funds available for public education. Seen as a transition from fees to tax support, parents were required to pay an amount per child to add to inadequate school funds.¹⁰⁴

Early Nationhood

At the national level, the framers of the founding documents chose not to confront public education in the policy documents. Beginning with the Articles of Confederation, the allocation of land was used to demonstrate commitment to public education.¹⁰⁵ It was the passage of land grant legislation in the 1780s that the federal government found a way to commit itself to public education. Territories were required provide for religious freedom, due process, and public education to qualify for statehood. Land was granted in sections six miles by six miles as Congressional townships. That area was then divided into thirty-six sections with the sixteenth section designated for public education

¹⁰² Edwards, *The School in the American Social Order*: 168, 177-178.

¹⁰³ Alexander and Alexander, *America Public School Law*: 23.

¹⁰⁴ Alexander and Salmon, *Public School Finance*: 7.

¹⁰⁵ *Ibid.*, 280.

providing “schools and the means of education” for the preservation of democratic government. Townships could use the land for public education or sell the property with the proceeds to be used for schooling.¹⁰⁶

During the debates of the Constitutional Convention, the founders of the nation acknowledged universal education as essential to sustain democracy, yet could not envision a federal system that made such aspirations possible.¹⁰⁷ In fact, many states had already described the relationship of education to government in their own Constitutions. The topic proved controversial as it became woven into discussions of the separation of church and state.¹⁰⁸

Timeline: Early Nationhood 1776-1812

<i>American Revolution</i>		<i>French Revolution</i>		<i>War of 1812</i>	
1776	1779	1785	1791	1805	
Declaration of Independence	<i>Bill for the More General Diffusion of Knowledge</i>	Northwest Ordinance	Bill of Rights Ratified	New York Free School Society	
1781	1781	1787	Philadelphia	1806	
<i>Articles of Confederation</i>	Battle of Yorktown	Constitutional Convention	Sunday School Societies	New York Monitorial Schools	
Adam Smith’s <i>Wealth of Nations</i>	1783	1789	1803	1812	
	Treaty of Paris ended war with England	Constitution adopted without mention of education	Louisiana Purchase	Superintendent appointed for New York State	

Source: adapted from John D. Pulliam, *History of Education in America*: 44-45.

¹⁰⁶ “[r]eligion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be forever encouraged,” Northwest Ordinance of 1787, Article III, Alexander and Alexander, *American Public School Law*: 63. For clarification of township requirements, see diagram on page 64.

¹⁰⁷ Harry G. Good and James D. Teller, *A History of American Education*, 3rd ed. (New York: The McMillan Co., 1973): 545.

¹⁰⁸ *Ibid.*, 515.

Beginnings of Free, Public Education

In the continuing struggle to find balance within the ideal liberty, the next step came as states moved to develop a system of education in which all children could receive a free education. Spoken of as common schools in several state constitutions, states began to take on the role of providing free schooling to the children of its citizenry. Taxation became the revenue to support elementary education. As the young nation expanded and spread across the land, the common school system emerged to fill the needs unmet by private and quasi-private schools.¹⁰⁹

Timeline: Beginnings of Free, Public Education 1817-1865

<i>Jacksonian Democracy</i>		<i>Missouri Compromise</i>		<i>Civil War</i>	
1817 Gallaudet School For the Deaf In Boston	1821 First American High School, Boston	1827 High School required in Massachusetts	1839 Normal School Massachusetts	1855 German speaking kindergarten	
1818 Robert Owen's Infant School	Emma Willard's School for Girls	1832 New York School for the Blind	1834 Free School Act, Pennsylvania	1840 Compulsory Education, Rhode Island	1849 New York General School Tax
1819 Dartmouth College Case	1825 Publication <i>Education of Man</i>	1837 Horace Mann Secretary of Massachusetts School Board	1852 Massachusetts compulsory education	1862 War begins Morrill Land Grant	

Source: adapted from John D. Pulliam, *History of Education in America*: 66-67.

This new approach to education was viewed through varied interpretations of liberty. On the one hand, the movement was seen as a radical attempt to promote the freedom movement using social control to promote women's rights and the abolition of slavery. From another perspective, common schools were seen as a centralized

¹⁰⁹ Ibid., 8-10.

opportunity for upward mobility for the individual through the acquisition of knowledge.¹¹⁰ Equality emerged as a force in movement toward Common Schools.¹¹¹ The frontiersmen, workers, and professional men who elected Jackson president demanded that the system of rate bill and pauper schools which discriminated against the poor be abolished and replaced with a system of truly public schools.¹¹² These experiences of early nationhood clearly demonstrated that localities chose not to provide such educational opportunities. The movement began that would ultimately place this responsibility on the states.

Regional differences again drove the development of educational opportunity. Beginning in the New England and Mid-Atlantic states, the common school movement grew through both executive and legislative activity.¹¹³ In New York, the Board of Regents established standards for secondary schools and state institutions for higher education and a state superintendent was chosen to oversee its implementation. Although limited, state funds were expended to increase the availability of public education.¹¹⁴ The advocacy of the Pennsylvania Society for the Promotion of Public Schools resulted in the passage of the Free-School Act of 1834. Although optional, the law offered state supervision and financial support as well as county and local support for those districts that established three and one half month free schools. In 1836, seventy-five percent of free school districts in Pennsylvania chose to participate.¹¹⁵

Similar conditions and the migration of settlers from the Northeast promoted educational development in the Midwest.¹¹⁶ Developments at both the state and federal levels spread the common school initiative in these areas. The Survey Ordinance enacted

¹¹⁰ James Gordon Ward, "Conflict and Consensus in the Historical Process": 3-4.

¹¹¹ "If the Act now under consideration goes into operation, the odious distinction between rich and poor, wealth and indigence, which has heretofore precluded the children of many poor, but honest and respectable parents, from a participation in the advantages of education under the present system, will be ended." (Extract from Governor Wolfe's remarks during consideration of the Free-School Act of 1834 by the Pennsylvania legislature)

¹¹² Good, *A History of American Education*: 127.

¹¹³ Carl F. Kaestle, *Pillars of the Republic: Common Schools and American Society* (New York: Hill and Wang, 1983): 182.

¹¹⁴ Good, *A History of American Education*: 127.

¹¹⁵ Ellwood P. Cubberley, *Public Education in the United States: A Study and Interpretation of American Educational History* (Cambridge, MA: Houghton Mifflin, 1962): 192-196.

¹¹⁶ Keastle, *Pillars of the Republic*: 182-185.

by Congress in 1785 required that each sixteenth section of land in each township be reserved for public schools. Ohio was the first state to be given this land grant. The Ordinance of 1787 required the states in the Northwest Territories to take the responsibility of overseeing the utilization of this property for public education. These lands could be used for schools or rented and the proceeds used to fund public education. Unfortunately, most states began with weak school laws.¹¹⁷

Although the same overtures were made in Southern states, another fifty years would pass before children in the South were offered such opportunity. The institutions of slavery and the quest to maintain the aristocracy impeded even the idea that liberty should include education on equal terms. Scattered population, and the uncertainty of an economy based on slave labor exacerbated the difficulties of providing public education similar to that developing in other sections of the young nation.¹¹⁸ Although state constitutions in the South were rewritten during reconstruction to include support for public education, it was not until home rule was returned that the citizenry of those states began to accept an obligation for universal public education. Even then, what grew in the South were public systems of education separated by race.¹¹⁹

During this period, common schools began to take the place of rate bill and pauper schools in much of the nation.¹²⁰ Families were no longer required to pay a certain rate to send each child to school or declare themselves indigent for their children to be educated by the state.¹²¹ Public elementary education expanded the available curriculum and provided teachers trained in normal schools.¹²² Although this movement toward common schools was a beginning, no state offered public education to a large percentage of its children. Many individuals and groups spoke of the principles of liberty in relation

¹¹⁷ Good, *A History of American Education*: 140-141. In Ohio, schoolhouses could only be built if approved by two thirds of the households in the district.

¹¹⁸ Keastle, *Pillars of the Republic*: 182-184.

¹¹⁹ Miley & Associates, Inc., *School District Organization in South Carolina: Evaluating performance and Fiscal Efficiency*, prepared for The Education Oversight Committee (Columbia, SC: Miley & Associates, Inc., January 16, 2003): 5.

¹²⁰ 1834 – Pennsylvania, 1852 – Indiana, 1853 - Ohio, 1855 Illinois, - 1864 – Vermont, 1867 – New York, 1868 – Connecticut, 1868 – Rhode Island, 1869 – Michigan, and 1871 -New Jersey, Cubberley, *Public Education in the United States*: 205.

¹²¹ *Ibid.*, 191, 200.

¹²² Good, *A History of American Education*: 545.

to public education during this period.¹²³ Rhetorically, substantial progress was made yet few steps were taken toward full implementation. It would be years before any state would establish the dynamic processes and structures that would lead to state support of quality public education for all children.¹²⁴ Efforts to establish a system of common schools found it difficult to move education beyond a structure that remained voluntary. Subject to local systems built upon entrepreneurial policies, financial support continued to be based on speculative sources separate from the basic budgets of states.¹²⁵ Public education clearly fell within the purview of liberty. In fact, it had proved itself essential to the sustainability of freedom. Yet, states felt little obligation to pay for educational opportunity for all children.

Community

Once individual interests and community responsibility were established as dynamic boundaries of liberty, the values underpinning the principle of liberty became the focus of the conflict/consensus process. Policymakers acknowledged the role of public education in community and as a factor in the determination of quality of life.¹²⁶ What emerged in education policy was tension juxtaposing the E, EED, and EQ value clusters.

The EED cluster promoted the advancement of all individuals as contributors to the nation regardless of ethnicity, beliefs, family background, or location.¹²⁷ The EQ cluster required an educated workforce to promote economic growth and compete internationally. In addition, the E cluster required that these services be provided efficiently in order to magnify their impact. Compulsory school attendance laws arose at this time to develop the good society efficiently. The balance of parental responsibility versus state responsibility shifted as states began to perceive education as a compelling interest in this rapidly changing nation.

¹²³ See the speeches of Horace Mann, Thaddeus Stevens, Henry Barnard, and Address: To the People of New Jersey. Cubberley, *Public Education in the United States*: 165, 112, 168, 146.

¹²⁴ Newton Edward and Herman G. Richey, *The School in the American Social Order* (Boston: Houghton Mifflin, 1963): 375-376.

¹²⁵ Keastle, *Pillars of the Republic*: 184.

¹²⁶ Boyle, *School Boards in a Democratic Society*, VSBA presentation.

¹²⁷ Lawrence A. Cremins, forward to *American Education in the Twentieth Century*, Classics in Education, vol. 52 by Marvin Lazerson (New York: Teachers College Press, 1987): vii.

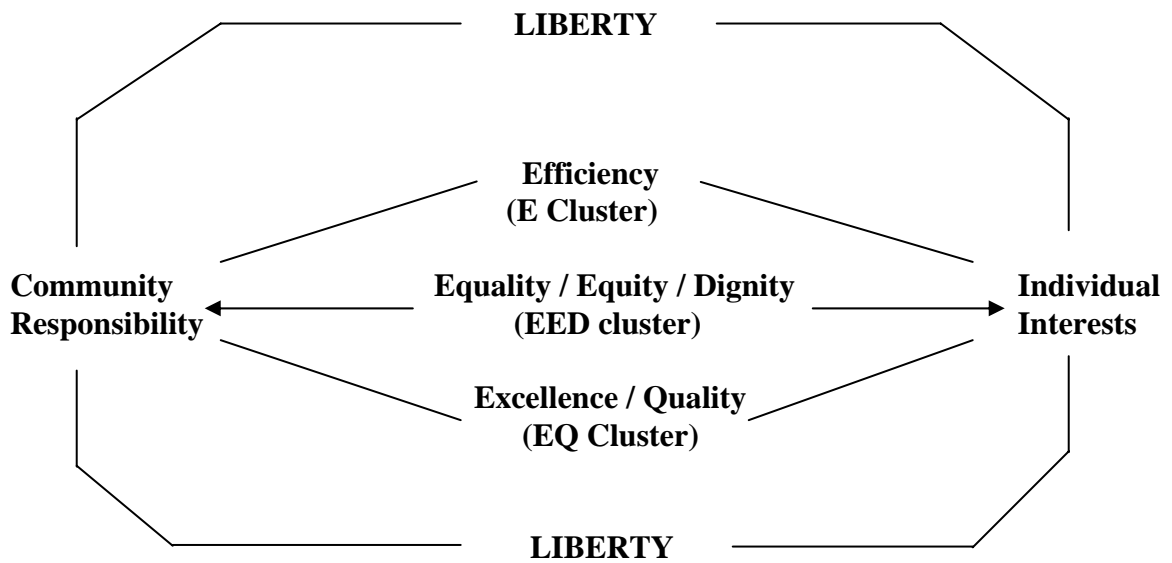


Figure 3: Balance of democratic value clusters 1865-1950

State School Systems

In the second half of the 19th century, shifts occurred in both the structural and value tension. Until this time, much of the responsibility for public education at the state level had rested in the hands of the executive branch of government. Governors, boards of education, and Secretaries of State set forth policy. The delivery of public educational opportunities lay in the hands of individuals and their interpretation of fundamental values. Control shifted to the legislative branch as state constitutions were ratified that directed these bodies to provide public education as a state function. Although many of the same phrases were used in state constitutions, diverse economic conditions and differing populations influenced interpretations of the powers given to these bodies to promote public education.¹²⁸ State responsibility for public education ranged from the detailed control established in Maryland, New York, and New Hampshire to the deferential control given to localities in some Western and Southern States.¹²⁹

¹²⁸ Illinois (1870) “provide for a thorough and efficient system of free schools where by all the children of this State may receive a good common school education”

Arkansas (1874) “a general, suitable, and efficient system of free schools”

Idaho (1890) “a general uniform, and thorough system of public, free, common schools”

Alabama (1901) “a liberal system of public schools throughout the State”

¹²⁹ Good, *A History of American Education*: 135-136.

Timeline: State School Systems 1865-1900

<i>Reconstruction</i>		<i>Urban and Industrial Growth</i>		
1865 Slavery abolished 13 th Amendment	1870 School superintendents in 28 cities	1871 Civil Rights Act of 1871, § 1938	1877 home rule in Southern States	1890 Second Morrill Act
1866 Protection of Life and Property 14 th Amendment		1872 Kalamazoo Case Tax Support Legal for High School		1880 Plessy Case legalized “separate but equal” system in the South
1869 Guarantee of Civil Rights 15 th Amendment	1870 Boar Bill National school system in the South	Blair Bill Federal financing poor states		1893 Rhode Island begins Special Education

Source: adapted from John D. Pulliam, *History of Education in America: 92-93*.

The nation divided by Civil War sought to become one nation again. Southern states were devastated by the destruction of their land, political systems, and economy, all of which had been built on slave labor. Reconstruction imposed a system based on punishment of the losers and promotion of self-interest for the victors. By 1876, this structure collapsed leaving in its wake a white population seeking to return to former relationships but with little experience with leadership in an integrated society.¹³⁰ The drive for equality embodied in the issues surrounding the Civil War found focus in the question of which level of government would be responsible for the educational opportunity throughout the nation. Bills proposing to establish a federal system of education in the South and help finance education in poor states fell short of adoption.¹³¹

¹³⁰ Pulliam, *History of Education in America: 93-95*.

¹³¹ George F. Hoar of Massachusetts introduced a bill that would have established a federal school system for the South to ensure educational opportunities for Blacks and Whites. Unable to pass the Hoar Bill, Henry Blair of New Hampshire sought to offer support through financial assistance to the poorest states. States would have exercised control of the funding. Again the Congress chose to limit its support of public

Although supporting higher education through the Morrill Acts, the federal government left responsibility and control for public education below that level to the states.

The EED cluster rose to prominence as the establishment of the system of common schools brought a growing consensus on the nature of education. In 1874, public support for education expanded with the ruling by the Michigan Supreme Court in *Stuart v. School District No. 1 of Village of Kalamazoo* allowing taxes to be collected to pay for free, public high schools.¹³² Yet during the same period in 1896, the United States Supreme Court ruled in *Plessy v. Ferguson* that separate services could be delivered to different groups under the Fourteenth Amendment. Equal protection was not determined nationally but based on custom or tradition as long as justification was “reasonable.”¹³³ This case, which allowed the separation of races on railway cars, quickly spilled into decisions concerning education. In *Cummings v. Board of Education of Richmond County, Georgia*, the United States Supreme Court ruled that federal responsibility for educational opportunity was limited to ensuring that citizens shared the tax burden equally. The question of how that tax money was used was left up to the States. *Berea College v. Kentucky* spoke even more clearly to the issue of delivery of services. In this case, the Supreme Court ruled that races could not be educated together. Founded in 1859 to provide nondiscriminatory education for needy students, Berea could only fulfill its mission if it offered classes twenty-five miles apart in physical location.¹³⁴ The theme of EED embodied in the common school movement and the freedom sought by people of all backgrounds continued to drive decision making in public education. But the boundaries of policy were set allowing, and at times requiring, the delivery of educational

education to Higher Education. At the same time, the legislative branch defeated support of elementary and secondary education by national government, the same bodies voted to provide such support to Higher Education through the Morrill Acts. Settled in this manner during the 19th century, these same issues would arise again throughout the 20th century in this process of conflict/consensus.

¹³² R. A. Rossmiller, “Equity of Adequacy of School Funding,” *Educational Policy* 8, no. 4 (December 1994): 617.

¹³³ Alexander and Alexander, *American Public School Law*: 500. Justice Brown wrote: “In determining the question of reasonableness [the legislature] is at liberty to act with references to the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable...”

¹³⁴ *Ibid.*, 500-501.

opportunities in separate physical locations. This application of the EED value cluster resulted in the provision of services in separate venues that were at times unequal, inequitable, and undignified.

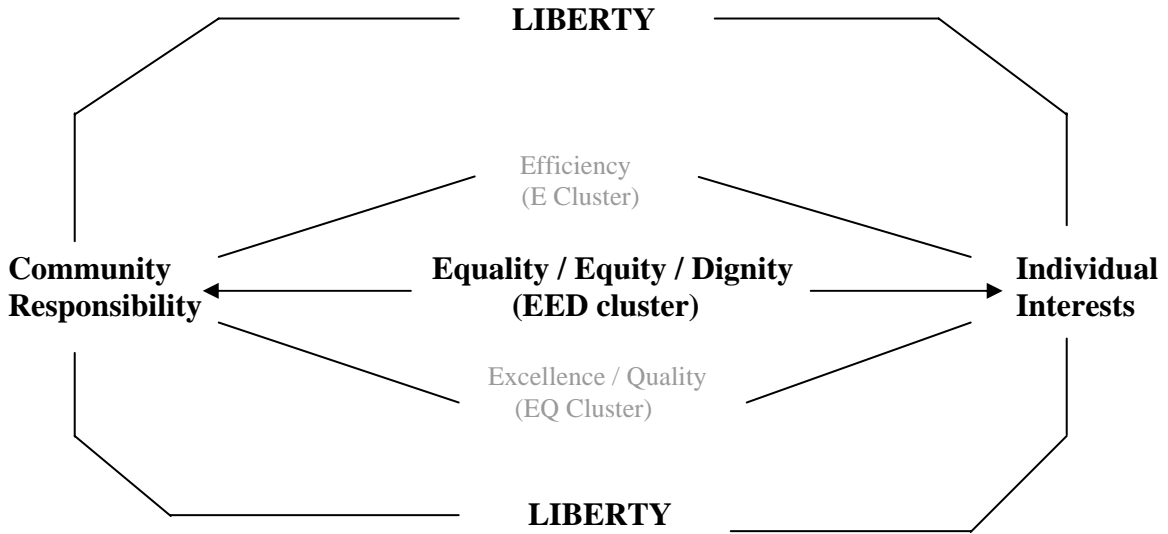


Figure 4: Balance of democratic value clusters 1869-1900

National Community

As the nation industrialized, urbanized, and attracted immigrants from across the world, community building became the focus of the nation and public education.¹³⁵ In the period from 1890 to 1950, it became imperative to integrate marginalized populations into the culture to build a national community. Conditions were rapidly changing in the recently reunited nation. Immigration increased growing from a total of fourteen million people between 1865 and 1900 an increase of one million immigrants per year after 1900. Most immigrants remained in eastern cities where they enrolled their children in schools. The newcomers, most of who came from southeastern Europe, were often semiliterate. Thousands of additional teachers and classrooms were needed to accommodate these new students.¹³⁶ In many cities, immigrants and their children constituted a majority of the

¹³⁵ Boyle, VSBA presentation.

¹³⁶ Raymond E. Callahan, *Education and the Cult of Efficiency: A Study of the Social Forces that Have Shaped the Administration of the Public Schools* (Chicago: The University of Chicago Press, 1962): 14-15.

population.¹³⁷ Public education was the means to Americanize these new citizens to the values of liberty.¹³⁸ At the same time, the population was on the move within the nation as people moved from rural to urban areas, from South to North and from East to West in search for opportunities. The census reported for the first time that more than fifty percent of the population lived in cities.¹³⁹

Education was viewed as the means to preserve the democratic way of life. Women were given the right to vote and called upon to teach the children of the nation, to translate the values of democratic community to the next generations.¹⁴⁰ Throughout this period, education policy reflected the tension among the values of EQ by providing the level of education needed to fill the positions necessary to industrialize the nation and of E by determining the most efficient manner in which to deliver these services.¹⁴¹

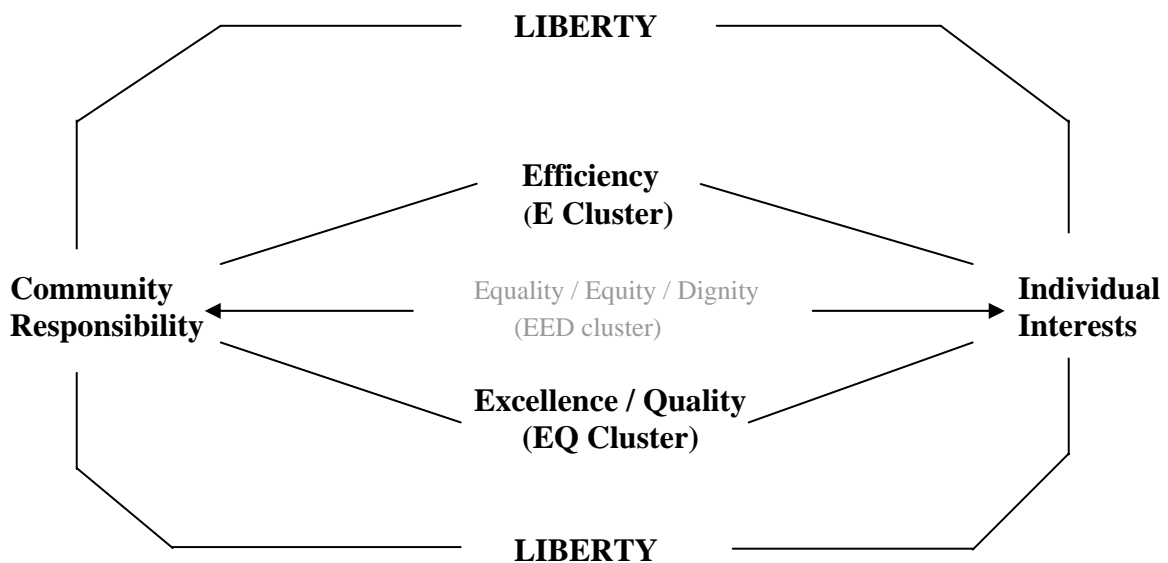


Figure 5: Balance of democratic value clusters 1900-1950

¹³⁷ Marvin Lazerson, *American Education in the 20th Century* (New York: Teachers College Press, 1987): 3.

¹³⁸ Boyle, VSBA presentation

¹³⁹ Lazerson, *American Education in the 20th Century*: 3.

¹⁴⁰ Boyle, *School Boards in a Democratic Society*, VSBA presentation.

¹⁴¹ Lawrence A. Cremins suggests that this period in the nation's history is seen by many as a time when policy focus moved from excellence (1920s) to equality (1930s) to only return to excellence (post Sputnik) to equality (the Great Society) to excellence (reports of the 1980s) in the Forward to Marvin Lazerson, *American Education in the 20th Century* (New York: Teachers College Press, 1987): vii. As the system has sought balance, Lazerson suggests the system has also focused on the question as to what might be the most efficient manner in which to deliver educational services: 3.

As schools took on the task of training young people for a rapidly expanding workforce in business and industry, the system of apprenticeship through which families passed skills from generation to generation began to disappear. Education grew from a system of preparing talented leaders to guide the nation into an instrument used to filter, train, and direct students preparing them for their roles in society. Public education developed into a three-tiered system that moved all children from elementary to secondary to higher education. The authority of individual schools to develop isolated curricula and hire teachers on the basis of affordability no longer met the needs of the nation.¹⁴² To cope with the burgeoning school population, an inflationary economy, and improve the product, leaders in business and industry called for a system of education that efficiently¹⁴³ produced the level of quality and excellence required in meeting workforce needs. The model that emerged mirrored the factory model used by business and industry, leading to the development of more standardized curricula¹⁴⁴ that

¹⁴² Oscar Handlin, "Education and The American Society" in Edith H. Grotberg (ed.), *200 Years of Children* (Washington, DC: U.S. Department of Health, Education, and Welfare, 1976): 130-131.

¹⁴³ Published in 1909 by Leonard Ayers, *Laggard in our Schools* suggested that the nation's schools were filled with retarded students with most students failing to complete the 8th grade. What was deemed to be normal year-to-year progress for that aged child was used to create an "Index of Efficiency". This formula was applied to fifty-eight cities and used to calibrate the amount of money being lost from inefficient practices such as students repeating the same grade of instruction. Social, economic, and instructional conditions were not considered as factors in this study. For more information, see Callahan, *Education and the Cult of Efficiency*: 14-18.

¹⁴⁴ The standard objectives for teachers, school boards, and administrators were based on seven Cardinal Principles for Secondary Education. These objectives were to serve as guides, not to be divided into separate offerings but rather to be included in as integral to the development of the student.

1. *Health* – Instruction should include general knowledge, development of beneficial health habits in work and play, and cooperation to promote health interests throughout the community.
2. *Command of fundamental processes* – Skills instruction should build upon knowledge in Math and English acquired in elementary school matching theory and practice.
3. *Worthy home-membership* – Applying to both boys and girls, this component of instruction included the skills necessary to sustain the family structure emphasizing the human elements of give and take.
4. *Vocation* – This training was to equip the student for the world of work developing necessary skills, relational understanding of how to work with others and society, and identify the field best for individual development and service.
5. *Civic education should develop in the individual those qualities whereby he will act well his part as member of neighborhood, town or city, State, and Nation, and give him a basis for understanding international problems* – All subjects should contribute to the student's understanding of citizenship. Students should understand the responsibility of each citizen in cooperation with others to sustain the principles underpinning democracy.
6. *Worthy use of leisure* – Equip the individual to use leisure to renew body, mind, and spirit.
7. *Ethical character* – Democratic values should be the basis of the content and instruction of all subjects and the interactions in the school. Emphasis should be placed on personal responsibility and initiative, a spirit of service, and the values of democracy.

National Education Association, *Report of the Commission on the Reorganization of Secondary Education*

incorporated classic academic achievement and practical skills needed to build community and apply knowledge in the world of work.¹⁴⁵ Knowledge, dynamic and essential to community and work as well as the pursuits of government, science, and philosophy, became the ward of all citizens.¹⁴⁶

Timeline: National Community 1910-1945

<i>World War I</i>		<i>The Depression</i>		<i>World War II</i>	
1910	1916	1919	1932	1941	
Vast Growth High Schools Defense	John Dewey <i>Democracy and Education</i>	Progressive Education Association	New Deal Education Programs	Military Training for National	
1917	1925	1930		1944	
Smith-Hughes Act expansion of vocational education	Oregon case Guaranteed Right Of Private Schools	School year 172 days All states compulsory attendance		G.I. Bill for College Tuition	
1914	1920	1935	1938	1943	1945
Smith-Lever Act Expansion of agricultural education	19 th Amendment Women guaranteed the right to vote	Social Security Act	Fair Labor Standards Act	Lanham Act Daycare for mothers employed by defense industries	UNESCO

Source: adapted from John D. Pulliam, *History of Education in America*: 124.

in Lazerson, *Education in the Twentieth Century*: 79-87.

¹⁴⁵ In her efforts at Hull House to provide community education to those disadvantaged and least favored in Chicago, Jane Addams found the importance of learning from life itself. This sense of context combining history with present conditions allowed workers to develop meaning in their lives. She found that a balance of instruction from the academic world and discussions and classes in language and literature led by members of the community gave value to the background of each person in the context of this new society. Robert N. Bellah, Richard Madsen, William M. Sullivan, Ann Swidler, and Steven M. Tipton, *The Good Society* (New York: Vintage Books, 1992): 152-153.

¹⁴⁶ “If we go back a few centuries, we find a practical monopoly of learning.... A high priesthood of learning, which guarded the treasury of truth and which doled it out to the masses under severe restrictions, was the inevitable expression of these conditions. But, as a direct result of the industrial revolution of which we have been speaking, this has been changed.... The result has been an intellectual revolution. Learning has been put into circulation.... Knowledge is no longer an immobile solid; it has been liquefied. It is actively moving in all the currents of Society itself.” John Dewey, *The School and Society* (1899), reprinted in John Dewey, *The Child and Curriculum and The School and Society* (Chicago: Chicago University Press, 1956): 24-25.

Schools by necessity began to change. The evolving system of education reflected the belief that liberty required education for all the people. For children in the cities and rural areas, the two or three years added to elementary school no longer provided sufficient training for the workforce. Child labor laws and the growth of technology pushed young people out of the workplace keeping them in school longer. Secondary schools grew from small, unregulated schools to a system of schools developed to promote upward mobility, cure social ills, and train students for work.¹⁴⁷ Enrollment in public high schools grew from less than 25,000 students in 1875 to more than 500,000 students in 1900. As the nation moved from the 19th to the 20th century, six thousand schools in the country were truly coeducational with females comprising more than half the students enrolled. The curriculum was not comprehensive but focused on preparation for college. Enrollment in secondary schools began to double every ten years finally producing a common school driven to be comprehensive by the needs of society.¹⁴⁸

Free public primary and high schools became foundational to democratic public policy in America. The unity established through the growth of public education offered a forum in which diverse understandings of liberty could be drawn together.¹⁴⁹ The level and quality of education needed in this rapidly expanding nation required discussions to return to the question of availability of schooling for all children. Scholars began to speak of not only the right to access but also of quality and expansion of opportunity as important for the welfare of the community.¹⁵⁰ In the first half of the twentieth century, equity was defined by the input of resources into the system often using per pupil spending to evaluate investment among various school districts in a state. Educational

¹⁴⁷ Lazerson, *American Education in the Twentieth Century*: 5,10,12.

¹⁴⁸ John D. Pulliam, *History of Education in America*, 4th ed. (Columbus, OH: Merrill Publishing Company, 1987): 99.

¹⁴⁹ Ellwood P. Cubberley, *Public Education In the United States: A Study and Interpretation of American Educational History* (Cambridge, MA: The Riverside Press, 1919): 281.

¹⁵⁰ "If the state deems it desirable that all its children have certain advantages it should require communities to furnish them. It is the interests of the state and of the children of the state which are to be considered, and if certain communities are not able to meet the new demands it then becomes the duty of the state to render assistance. By making greater demands than can be met the state places itself under obligations to help its poorer members to comply with demands which are or the general good but which are beyond the power of the poorer communities to meet. This is not only justice, but it is demanded by sound public policy." Ellwood Cubberley, *Schools Funds and Their Apportionment* (New York: Columbia University, 1905): 17.

opportunity was equalized if an equal amount was spent on each child.¹⁵¹ To provide education efficiently and produce the excellence required by urban development and agricultural and industrial growth, everyone paid for and received the benefits of education.¹⁵²

Free, Public Education

In the second half of the twentieth century, the nation continued to struggle with the question of access to equal educational opportunity. From 1950 to 1980, focus moved to the EED cluster, more closely examining the actual opportunities available to children.

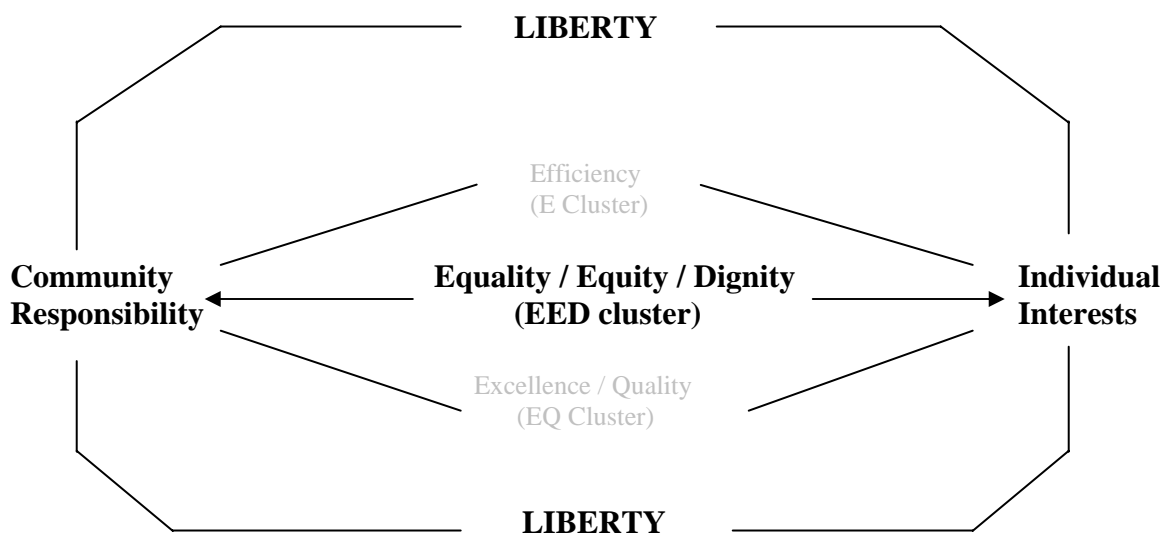


Figure 6: Balance of democratic value clusters 1950-1980

Investment in separate services no longer sufficed. With the Supreme Court decision in *Brown v. Board of Education of Topeka*, education must be delivered “on equal terms.” Whether *de jure* or *de facto*, segregation intended to separate children was not acceptable or legal in public education.¹⁵³ Segregated education and tracking based on race, gender, religion, ethnicity, and IQ tests no longer met the standard required to promote liberty. Surviving the depression and two World Wars had drawn together the diverse components of the populace. The lines separating communities in the everyday

¹⁵¹ Rossmiller, “Equity or Adequacy of School Funding”: 617.

¹⁵² Alexander and Salmon, *Public School Finance*: 3.

¹⁵³ Alexander and Alexander: 512-513.

context of education were brought into question. Access to educational opportunity was again expanded to include children of color. A system established by states to offer separate but “equal” opportunity was judged inherently incapable of meeting the educational needs of the community.¹⁵⁴ The litigation identified unmet educational needs of many minority students.

The Coleman Report issued in 1966 reached similar conclusions that segregation, whether intended to separate or the result of geographic grouping into community schools, influenced the delivery of educational opportunity. When enrolled with students with strong educational backgrounds and high aspirations, minority children, excluding Asian students, achieved at a higher level. Attitude appeared to affect achievement, with students who felt they held some control over their environment and their future, demonstrating higher achievement levels.¹⁵⁵

¹⁵⁴ Mildred Wigfall Robinson, “Financing Adequate Educational Opportunity,” *Journal of Law and Politics* 14 (summer 1998): 485.

¹⁵⁵ In 1966, James Coleman, et. al. released the results of the Equality of Educational Opportunity Report commissioned by the U. S. Department of Health, Education, and Welfare. The Coleman Report analyzed educational opportunity considering curricula, facilities, student body composition, and teachers. Curricula and facilities appeared to have little relevance to an increase in student achievement. The quality of teachers showed greater correlation with improvement in student performance increasing in the upper grades suggesting a cumulative effect. Yet the greatest difference occurred when minority students were enrolled in schools with others who believed they had some control over their education and future. For Black students, it appeared that their achievement improved significantly when enrolled with White students. Explaining James Coleman wrote “Finally, it appears that a pupil’s achievement is strongly related to the educational backgrounds and aspirations of the other students in the school. . . . Analysis indicates, however, that children from a given family background, when put in schools of different social composition, will achieve at quite different levels. This effect is again less for white pupils than for any minority group other than Orientals. Thus, if a white pupil from a home that is strongly and effectively supportive of education is put in a school where most pupils do not come from such homes, his achievement will be little different than if he were in a school composed of others like himself. But if a minority pupil from a home without much educational strength is put with schoolmates with strong educational backgrounds, his achievement is likely to increase. . . .

This analysis has concentrated on the educational opportunities offered by the schools in terms of their student body composition, facilities, curriculums, and teachers. This emphasis, while entirely appropriate as a response to the legislation calling for the survey, nevertheless neglects important factors in the variability between individual pupils within the same school; this variability is roughly four times as large as the variability between schools. For example, a pupil attitude, which appears to have a stronger relationship to achievement than do all the ‘school’ factors together is the extent to which an individual feels that he has some control over his own destiny. . . . The responses of pupils to questions in the survey shows that minority pupils, except for Orientals, have far less conviction than whites that they can affect their own environments and futures. When they do, however, their achievement is higher than that of whites who lack that conviction.

Furthermore, while this characteristic shows little relationship to most school factors, it is related, for Negroes, to the proportion of whites in the schools. Those Negroes in schools with higher proportion of whites have a greater sense of control. This finding suggests that the direction such an attitude takes may

Congress responded to the call for equality with the Civil Rights Act of 1964, followed by the Elementary and Secondary Education Act of 1965 and the Education for All Handicapped Children Act in 1975.¹⁵⁶

Timeline: Free, Public Education 1954-1980

<i>Cold War</i>		<i>Vietnam Conflict</i>			
1954 <i>Brown v. Topeka Board of Education</i>	1964 Economic Opportunity Act Civil Rights Act	1966 Coleman Report <i>Excellence in Education</i>	1975 Public Law 94-142 Education for Handicapped		
1957 Sputnik	1963 <i>I Have a Dream</i> Speech Martin Luther King, Jr	1965 Elementary and Secondary Education Act (ESEA) Head Start	1967 Bilingual Education Act	1969 National Assessment of Education Progress (NAEP)	1976 Education Appropria- tion Act
1958 National Defense Education Act	1961 Peace Corps established	1963 John Gardner <i>Can We Be Equal and Excellent Too?</i>	1970 Leon Lesser: accountability movement	1975 Comprehensive Employment Training Act (CETA)	

Source: adapted from John D. Pulliam, *History of Education in America*: 125.

Encouraged by these legislative and judicial actions, appeal to the equal protection clause of the Federal Constitution continued until the Supreme Court overturned *San Antonio School District v. Rodriguez* in a five to four ruling that the Texas system of financing public education did not violate the Constitution. The majority held that because the Constitution did not cite education as a responsibility of the Federal

be associated with the pupil's school experience as well as his experience in the larger community James S. Coleman, Ernest Q. Campbell, Carol J. Hobson, J. McPartland, A. M. Mood, F. D. Weinfield, and R. L. York, *Equality of Educational Opportunity* (Washington, DC: Government Printing Office, 1966): 22-23.

¹⁵⁶ Rossmiller, "Equity or Adequacy of School Funding": 617.

Government,¹⁵⁷ such rights and responsibilities were housed with the states.¹⁵⁸ The decision in *Rodriguez* closed appeal to the equal protection offered by the Fourteenth Amendment in the federal judiciary. Plaintiffs also failed to persuade the Court that Texas directed this discrimination against the poor as a suspect class. Using “rational relationship” as the standard for judgment,¹⁵⁹ the Court found it could not “say that such disparities are the product of a system that is so irrational as to be invidiously discriminatory.”¹⁶⁰ Resolution of similar conflict moved to state courts¹⁶¹ to be

¹⁵⁷ Justice Powell wrote for the majority of the Court: “Education, of course, is not among the rights afforded explicit protection under our Federal Constitution. Nor do we find any basis for saying it is implicitly so protected. As we have said the undisputed importance of education will not alone cause this Court to depart from the usual standard for reviewing a State’s social and economic legislation.” *San Antonio School District v. Rodriguez*, 411 U.S. 1, 93 S.Ct. 1278 (1973): 35.

¹⁵⁸ Justice Powell opined for the majority, “The consideration and initiation of fundamental reforms with respect to state taxation and education are matters reserved for the legislative processes of the various States, and we do no violence to the values of federalism and separation of powers by staying our hand. We hardly need add that this court’s action today is not to be viewed as placing its judicial imprimatur on the status quo. The need is apparent for reform in the systems which may well have relied too long and too heavily on the local property tax. And certainly innovative thinking as to public education, its methods, and its funding is necessary to assure both a higher level of quality and greater uniformity of opportunity. These matters merit the continued attention of the scholars who already have contributed much by their challenges. But the ultimate solutions must come from the lawmakers and from the democratic pressures of those who elect them. *San Antonio School District v. Rodriguez*, 411 U.S. 1, 93 S.Ct. 1278 (1973): 58-59.

¹⁵⁹ Alexander and Salmon, *Public School Finance*: 29. For further explanation of the standards required for equal protection under the law, see Box 2.2 on page 30.

¹⁶⁰ *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 93 S.Ct. 1278 (1973).

¹⁶¹ During this period, a succession of court cases sought relief from disparate spending for public education by challenging state financing systems. Equal expenditures for all children did not provide equal opportunities. *McInnis v. Shapiro*, 293 F.Supp. 327, raised the question of whether the large discrepancies in educational opportunities created by the Illinois finance system violated the equal protection guaranteed by the Fourteenth Amendment to the U. S. Constitution. The court ruled that the Fourteenth Amendment did not guarantee equal allocation of funds for public education. The differences created by property tax did not qualify as invidious discrimination. The U. S. Supreme Court concurred, ruling that the courts had no “discernable or manageable” standard to determine Constitutionality. Proper redress of these complaints lay in the General Assembly of Illinois. In *Burrus v. Wilkerson*, 310 F.Supp. 572, plaintiffs sought relief from a state funding formula that created and sustained clear disparities in educational opportunities across the Commonwealth of Virginia. Considering both the equal protection and “efficiency” clauses of the Virginia Constitution, the federal district court found the funding formula used in Virginia to be constitutional. Although recognizing the goal of the plaintiffs to provide the same educational opportunities to students throughout Virginia as “a worthy aim, commendable beyond measure,” the court ruled in favor of the defendants, finding the system to be neither invidious nor arbitrary. The court acknowledged the complaint as an “earnest and justified appeal for help,” suggesting that the General Assembly would certainly provide relief. This hands-off approach by the courts began to change with the decision in *Serrano v. Priest*; 5 Cal.3d 584, 487 P.2d 124, 96 Cal.Rptr. 601; 18 Cal.3d 728, 557 P.2d 929, 135 Cal.Rptr. 345: 776. Following a pattern similar to *Rodriguez*, the response of the California courts was different than the decision concerning the distribution of resources in Texas. Using the “strict scrutiny” test, the California Supreme Court determined that although the question could no longer be answered by the guarantee of equal protection under the federal Constitution, the present structure of financing public education did violate the provisions of the expanded equal protection offered in the California Constitution

adjudicated interpreting the principles and values found in the equal protection and education clauses of individual state constitutions.¹⁶²

Prosperity

Focus shifted in the 1980s as prosperity emerged as the criterion for achievement. Public education was seen as paramount for each and every child. The drive to wealth, success, and ownership found voice in all three clusters. If the quality of education improved and was delivered efficiently, job opportunities and earning capacity would increase. Growing distrust of government led to the application of market models to public education. Business models encouraged schools to standardize structure, assessments, instruction, resources, curriculum, and time spent in attendance. This emphasis on efficiency and quality brought the call for standards, testing, and accountability. Measurable results were considered return on investments made in public education. Standards rather than the progress of individual children became the criteria of achievement. Some viewed this approach as diminishing individual liberty for the good of the whole community.¹⁶³

The value shifts that had accelerated throughout the history of educational opportunity placed E, EED, and EQ in direct tension with one another. The emphasis on EED established through judicial and legislative action in the 1960s and 1970s was now juxtaposed with EQ, incorporating E for the progress of society and maintenance of economic competitiveness.

in art. IV, § 16 and art. I, § 7. The court reasoned that democratic access to educational opportunities could not be determined by wealth. Alexander and Alexander, *American Public School Law*: 888-889.

¹⁶² Allan R. Odden and Lawrence O. Picus, *School Finance: A Policy Perspective*, 2nd ed. (Boston: McGraw-Hill, 2000): 34.

¹⁶³ Boyle, *School Boards in a Democratic Society*, presentation VSBA.

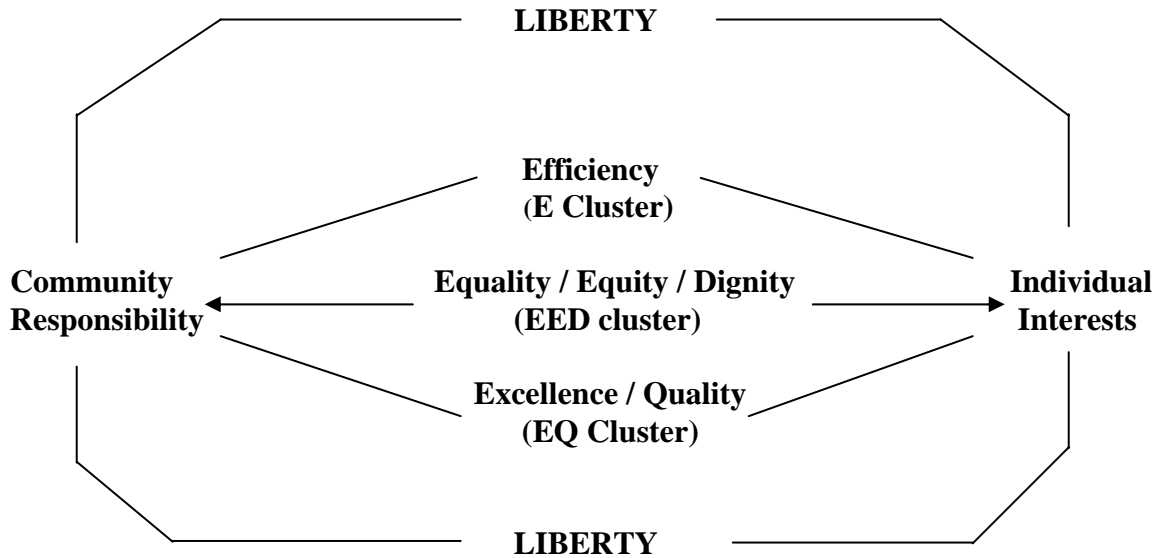


Figure 7: Balance of democratic value clusters 1980-present

Education again became the focus of a rapidly expanding nation. This time growth was not easily defined by geographic boundaries but rather focused on intellectual and economic advancement. Political leadership in public education expanded as the legislative and executive bodies initiated programs and evaluated results. States addressed the delivery of public education in legislative action and through the adoption or expansion of the education clauses in their constitutions.¹⁶⁴ At the state and federal levels, Departments of Education were established to oversee the provision of public education. In many cases, these departments quickly became the arm of the executive branch rather than independent agencies dedicated to the evaluation and creation of public policy.

¹⁶⁴ States adopting or amending education clauses included Alabama 1975, Connecticut 1965, Florida 1968, Georgia 1976, Illinois 1970, Louisiana 1974, Maine 1983, Michigan 1963, Minnesota 1974, Montana 1972, Nebraska 1972, North Carolina 1971, North Dakota 1972, Rhode Island 1965, Tennessee 1978, Virginia 1971, and Wisconsin 1972. Alexander and Alexander, *American Public School Law*: 978-982.

Timeline: World Class Education 1980-present

<i>Technology Revolution</i>		<i>End of Cold War</i>					
1980	U.S. Office of Education established	National Education Studies	1990	Goals 2000: National Education Goals	2002	Milwaukee publicly funded vouchers for private schools	No Child Left Behind Act (NCLB)
1981	Personal computers become available to individuals	1985	Standards Movement: States develop systems of assessment	1995	Trends in International Mathematics and Science Study (TIMSS)		
		1989	Massacre of students in Tiananmen Square, China	1991	Dissolution of the Soviet Union into autonomous Republics	1994	Apartheid ended in South Africa

In the early 1980s, this renewed interest by the public and private sectors produced educational studies calling for reform. Report after report, commission after commission analyzed, celebrated, criticized, examined, and re-examined all aspects of public education. The education community saw this directed inquiry as an opportunity to address issues of concern.¹⁶⁵ The debate took on a life of its own, with states and local school boards, governors, superintendents, education associations, and many others generating research. All in all, over 350 reports spoke of the condition of education.¹⁶⁶ Seven of the nine major reports suggested the essential nature of sustaining both the EQ and EED clusters for improvement in public education (Appendix B).

¹⁶⁵ “They’re playing our song. Education has taken center stage while we have their attention, we must decide what to do with the opportunity, what to ask for – how, in effect to discharge our responsibility.... [We] should move quickly to seek consensus on a program of action. The opportunity and the need have appeared at the same time. They won’t play our song forever.” Cited from an editorial in *Science* magazine in Beatrice and Ronald Gross (eds.), *The Great School Debate: Which Way for American Education?* (New York: Simon & Schuster, Inc., 1985): 17.

¹⁶⁶ Ibid.

States answered the call for reform as governors and state boards of education established performance standards.¹⁶⁷ The federal executive branch joined with governors to set national priorities. The EED and EQ themes expressed in the studies of the previous decade were reflected in the goals to be reached by the year 2000. The Goals 2000: Educate America Act sought “to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systematic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; . . .”¹⁶⁸ States were encouraged to participate by offers of grant money for projects pursuing these priorities.

While progress was made with these incentives, ten years later the president and Congress moved from encouragement to requirement with the enactment of the No Child Left Behind Act (NCLB) early in the twenty-first century. As a bipartisan action, the executive and legislative branches joined together “to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments.”¹⁶⁹ Retaining the approach taken in earlier studies and goals, NCLB offered children and families the “opportunity” for quality education. As seen in Table 3, each of these initiatives has juxtaposed the E, EED, and EQ value clusters holding them paramount in education policy making throughout the last three decades.

¹⁶⁷ By 1985, more than forty states had developed new assessment systems to evaluate academic achievement. Melissa C. Carr and Susan H. Fuhrman, “The Politics of School Finance in the 1990s”, chap. 5 in *Equity and Adequacy in Education Finance: Issues and Perspectives* (Washington, DC: National Academy Press, 1999): 147.

¹⁶⁸ Goals 2000: Educate America Act archived at www.ed.gov/legislation/GOALS2000/TheAct/index.html.

¹⁶⁹ The reauthorization of Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) was amended January 8, 2002 in what has become known as the “No Child Left Behind” Act purposed “to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind.” Public Law 107-110.

Table 3:

Values Progression in World Class Education

<i>Values</i>	<i>Education Studies</i>	<i>Goals 2000</i>	<i>NCLB</i>
EED	Connections between education and economic and social well being	Goal 3: Student achievement and citizenship	Title I: Improving academic achievement of the disadvantaged
	Public education sustains democracy		Title III: Instruction in the English language for immigrant and Limited English Proficient (LEP) students Title VII: Meeting the unique educational needs for children of Indian, Native Hawaiians, and Alaska Natives
EQ	Quality lifelong education as a universal right	Goal 2: High School graduation rate at 90% Goal 6: Adult literacy and lifelong learning	
	Quality teachers and instruction	Goal 4: Teacher education and staff development Goal 7: Safe, disciplined, alcohol and drug-free schools	Title II: High quality teachers and administrators Title IV: 21 st -century schools Title V: Parental choice and innovative instruction
E	Increase in accountability and quality leadership ¹⁷⁰	Goal 5: Mathematics/science achievement first in world Goal 1: Children ready to learn Goal 8: Parental participation ¹⁷¹	Title VI: Flexibility and accountability Title V: Parental choice and innovative instruction ¹⁷²

¹⁷⁰ Beatrice and Ronald Gross (eds.), *The Great School Debate*: 56.

¹⁷¹ The National Education Goals Report: Executive Summary, "Improving Education Through Family-School-Community Partnerships" (Washington, DC: National Education Goals Panel, 1995): 2-3.

¹⁷² *No Child Left Behind Act of 2001*, Public Law 107-110, 107th Congress, 8 January 2002: 115 STAT. 1425.

Rather than competing with emphasis placed on one particular value cluster to the disadvantage of the others, all three value clusters were established as necessary to the provision of educational opportunity by the studies, goals, and finally law. The reauthorization of the Elementary and Secondary Education Act (ESEA) in NCLB offered supports for each of the value clusters. “All,” “fair,” and “equal,” echo the values of EED; “high-quality education” reflects EQ; and “significance” suggests E by prescribing a scientific, data-driven approach. The requirements of NCLB continues to highlight the paradox of liberty, acknowledging the differing needs of each child yet judging achievement by one standard, a state determined assessment.

During this same period, the judicial branch at both the federal and state levels were required to address financial issues surrounding access to educational opportunity. Challengers to current systems of financing public schools invoked each of the value clusters to call for adequate redistribution of resources to correct disparities and inequities associated with culture, gender, geographic location, and social position. Litigation in state courts brought with it the value language housed in State Constitutions. At the federal level, the same resource issues framed the implementation of NCLB as Congress failed to allocate sufficient funding. Even with these values clearly outlined in the law and financial support guaranteed, plaintiffs have returned to the courts for resolution.¹⁷³

The policy shifts noted throughout the history of public education in the nation reflect the processes of conflict and consensus. The resolution of disagreement depended

¹⁷³ P.L 107-110 (NCLB) provides that “Nothing in this Act shall be construed to authorize an officer or employee of the Federal government to . . . mandate a state or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.” § 9527 (a) On April 20, 2005, twenty local school divisions and state education associations filed suit, *Pontiac v. Spellings*, contending that the Secretary of Education is violating the law by requiring states and school districts to comply fully with the NCLB requirements without sufficient federal funds to fund the obligations of the law. As a truly national suit, plaintiffs include the School District of the City of Pontiac, Laredo Independent School District, Leicester Town School District, Neshobe Elementary School District, Otter Valley Union High School District, Rutland Northeast Supervisory Union, Pittsford Town School District, Whiting Town School District, National Education Association, Connecticut Education Association, Illinois Education Association, Indiana State Teachers Association, Michigan Education Association, New Hampshire-NEA, Ohio Education Association, Reading Education Association, Texas State Teachers Association, Utah Education Association, and Vermont-NEA. A \$27 billion deficit has been incurred since the passage of the legislation in 2002. National Education Association, “NEA Stands Up for Children and Parents, Files First-Ever National Lawsuit Against Administration for Not Paying for Education Regulation: Parents Want Feds Accountable for Law’s Requirements” Press Release, April 20, 2005 retrieved @ www.nea.org/lawsuit/index.html.

on more than the answers to either/or questions. The nation has been transformed through internal paradox.¹⁷⁴ Moving from clarifying liberty to examining efficiency, equality/equity/dignity and quality/excellence as essential building blocks of democracy, communities were forced to struggle with the need to work together regardless of differences. As focus shifted to expanding equality across gender and racial lines, opportunity became available to more people. Questions then returned to the quality and efficiency of those opportunities. Throughout the process, the shift in value emphasis did not negate other value clusters. Rather, the balance of these values shifted again reminding policy makers of the breadth of democracy. The periods of emphasizing one or more values over others became shorter and values were often interwoven with each other. A new term, adequacy, emerged in literature and court decisions as a standard for judgment. The standard of adequacy provided a policy platform from which to call for remedy under each of the value clusters of E, EED, and EQ, singly or in combination¹⁷⁵

¹⁷⁴ Alan Dawley, *Struggles for Justice: Social Responsibility and the Liberal State* (Cambridge: Belknap Press of Harvard University Press, 1991): viii. Dawley examines such paradoxes as liberty/slavery and poverty/plenty, suggesting such relationships are driven by a divided social structure and the incongruity of progress in society with the perceived need of the state to preserve particular systems. Kenneth Boulding in "Social Justice in Social Dynamics," *Social Justice* (Englewood Cliffs, NJ: Prentice Hall, Inc., 1962): 73-92 suggests that the juxtaposition of the ideal and systems presently in place is a source of discontent (conflict) that seeks resolution through action. Citing economic development as an example, he suggests that such movement is not simply growth but rather reorganization (consensus as to change) of the system itself. Thus, the journey continues toward social justice.

¹⁷⁵ Much has been written about the application of adequacy as a standard in finance system litigation. Yet no clear method has been determined to define adequacy as a standard for implementation. For examples of the variety of presentation given to the term, see James W. Guthrie, "Investing Education Dollars: Do We Need a 'Dow Jones Index' for America's Schools," chap 6 in *Rethinking School Finance: An Agenda for the 1990s* (San Francisco, CA: Jossey-Bass, 1992): 201-224; Kenneth A. Strike, "Fiscal Justice and Judicial Sovereignty: Plotting the Logic of a Slippery Slope," *Educational Theory*, 34, no. 1 (Winter 1984): 5-27; James A. Guthrie, "Constructing New Finance Models that Balance Equity, Adequacy and Efficiency with Responsiveness," *ECS Issue Paper: Education Finance in the States: Its Past, Present and Future*, available from www.ecs.org; John Dayton, "When All Else Has Failed: Resolving the School Funding Problem," Brigham Young University Education and Law Journal (Spring 1995): 1-20; Mildred Wigfall Robinson, "Financing Adequate Educational Opportunity," *Journal of Law and Politics*, 14 (summer, 1998): 483-523; Martha S. West, "Equitable Funding of Public Schools Under State Constitutional Law," *Journal of Gender, Race and Justice*, (Spring 1999): 279-313; William H. Clune, "The Cost and Management of Program Adequacy: An Emerging Issue in Educational Policy and Finance," *Educational Policy*, 8, no. 4 (December 1994): 365-375; Margaret E. Goertz, "Program Equity and Adequacy: Issues from the Field," *Educational Policy*, 8, no. 4 (December 1994): 608-615; Deborah A. Versteegen and Robert C. Knoeppel, "Equal Education Under the Law: School Finance Reform and the Courts," *Journal of Law & Politics Symposium on Equal Education Under the Law* sponsored by the University of Virginia School of Law, Charlottesville, VA (Summer 1998): 555-589; Mary Moran, "Standards and Assessments: The New Measure of adequacy in School Finance Litigation," *Journal of Education Finance*, 25, no. 1 (Summer 1999): 33-80; Bruce J. Biddle and David C. Berliner, "What Research Says About Unequal Funding for Schools in America," Arizona State University (Winter 2002) retrieved from

with some authorities examining the question of trade offs with the adoption of certain values¹⁷⁶ while others have paired values suggesting that credibility and power grow with the combinations.¹⁷⁷ This dissertation seeks definition of adequate educational opportunity built upon the principle of liberty balanced by the value clusters of efficiency (E), equality/equity/dignity (EED), and excellence/quality (EQ).

<http://edpolicyreports.org>; Julie Underwood, "School Finance Adequacy as Vertical Equity," *University of Michigan Journal of Law Reform* (Spring 1995): 493-519; John Dayton and Anne Dupre, "School Funding Litigation: Who's Winning the War?" *Vanderbilt Law Review* (November 2004): 2351-2413; and Gary L. Peevely (ed.), "Education Funding Adequacy and Equity in the Next Millennium," Proceedings of the National Symposium, Nashville, TN (Spring 1999). For examples of consideration specific to individual states see Jon Mills and Timothy McLendon, "Strengthening the Duty to Provide Public Education," *Florida Bar Journal* (October 1998): 28-34; William Duncombe, Anna Lukemeyer, and John Yinger, "Financing an Adequate Education: A Case Study of New York" in *Developments in School Finance: 2001-2002: Fiscal Proceedings from the Annual State Data Conferences of July 2001 and July 2002*, Washington DC: National Center for Education Statistics (June 2003): 127-153; Cora True-Frost, "Beyond Levittown Towards a Quality Education for all Children: Litigating High Minimum Standards for Public Education the CRE Case," *Syracuse Law Review* (2001): 1015-1048; and John A. Nelson, "Adequacy in Education: An Analysis of the Constitutional Standard in Vermont," *Vermont Law Review* (Fall 1993): 7-54.

¹⁷⁶ In *Policy Paradox: The Art of Political Decision Making*, Deborah Stone suggests that the trade-offs associated with Equality-Efficiency do not always operate in opposition but may complement each other as the driving force of progress. For specific examples, see pages 80-85.

¹⁷⁷ Holding that no single value has sufficient power to sustain real change, Sergiovanni, et. al. recommend that values be used in pairs to promote school reform. For example, excellence and efficiency together require changes in outcomes, excellence and choice allow the demands of markets to change schools; equity and efficiency bring changes in conditions; and equity and choice frees stakeholders such as teachers and parents revitalize schools. *Educational Governance and Administration*: 11-13.

CHAPTER 3: POLICY DEVELOPMENT

A number of standards for adequacy have emerged from the debates described above. Studies have been conducted examining access to facilities, curriculum, programs, staffing, and funding resources required to provide services. Although each of these elements is essential as a piece in the puzzle, policy and its implementation create the framework uniting these fragments into action. States develop formulae and models to meet the directives set forth in constitutional promises but application of policy determines access to education opportunity. Policy analysis often occurs at this level of inquiry by addressing specific practices driven by funding structures. Although policy decisions certainly require dollars and cents for implementation, research may be more fully framed as inquiry focused on overarching policy. Examination of the framework surrounding implementation allows government to become proactive as well as reactive. Such focus encourages the building of processes and frameworks as opposed to limiting application by addressing operation by isolated action.¹⁷⁸ Without the vision of a policy perspective, rhetoric and even governments themselves may be pushed and pulled by political whim.¹⁷⁹

Policy study

Public policy is defined through a myriad of terms, foci, and metaphors.¹⁸⁰ In varied combination, each explanation contains three elements: information, values, and

¹⁷⁸ Consider the example of *Plessy v. Ferguson*. Policy was already in place establishing the frame of equality before the law in the Fourteenth Amendment and the Civil Rights Act of 1871, § 1938. Even with this foundation, twenty years later the Court moved in a totally different direction. This isolated decision allowing separate cars for racial groups on railway lines quickly spilled into policy determining the manner in which children of different races were to be educated. Calls for consideration within the frame of equality to determine adequate educational opportunity fell on deaf ears until a rising call for equality swept the nation following World War II. Focus returned to equality with the ruling in *Brown v. Board of Education of Topeka* and the enactment of the Civil Rights Act of 1964. It was the one dissenting voice of Justice John M. Harlan that called for the decision to be made based on the framework of equality. “In view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. . . . Our constitution is colorblind, and neither knows nor tolerates classes among its citizens.” Later actions seeking equality, equity, and dignity might have been quite different had the equality frame been reaffirmed by the Court at this time. From *Plessy v. Ferguson*, 163 U.S. 537, 16 S.Ct. 1138 (1896) in Alexander and Alexander, *American Public School Law*: 498.

¹⁷⁹ Alexander and Salmon, *Public School Finance*: xiv.

¹⁸⁰ For examples of the wide range of definitions given to policy see Frances C. Fowler, *Policy Studies for Educational Leaders: An Introduction*. (Upper Saddle River, NJ: Prentice Hall, 2000): 8; Lisa Driscoll, *Education Policy*, workbook developed for Governance and Policy Studies class (Blacksburg, VA: Virginia Tech, 1998); and Thomas R. Dye, *Understanding Public Policy*, 7th ed. (Englewood Cliffs, NJ: Prentice Hall, 1992): 2-3.

action. Ranging in emphasis from a call to action to simple acceptance of the inevitable, the development of policy combines descriptive and normative elements.¹⁸¹ A variety of approaches may be used to examine issues of principle, cause, effect, and impact. Such consideration allows the evaluation of action and the creation of structure to continue or change what governments do.¹⁸² Whether built on empirical reasoning or normative assumptions, this warrant¹⁸³ translates information into knowledge that suggests action.¹⁸⁴ Adapted from William Dunn's model of policy argumentation,¹⁸⁵ the elements diagrammed below suggest three possible approaches to policy research - the science model, advocacy model, and the counseling model.¹⁸⁶

In the science model, descriptive study is based on the information available. Information moves to policy claim using statistical methodology and qualifiers to translate information into knowledge. Policy analysis seeks to understand the problem before suggesting corrective action. Such traditional study of cause and effect is based on facts.¹⁸⁷ In this model, policy may serve as either a dependent or an independent variable. In the case of policy as a dependent variable, analysis considers the forces that affect the elements incorporated into the design of policy. In the case of policy as an independent variable, policy is considered as it affects people as individuals and the community.¹⁸⁸

¹⁸¹ William N. Dunn, "Values, Ethics, and Standards in Policy Analysis," chap. 34 in *Encyclopedia of Policy Studies* (New York: Marcel Dekker, 1983): 831.

¹⁸² William N. Dunn, *Public Policy Analysis: An Introduction*, 2nd ed. (Englewood, NJ: Prentice Hall, 1994): 1.

¹⁸³ For this analysis, warrant is defined as the foundational understanding of truth that answers the question "why" in policy development. Dunn, *Public Policy Analysis*: 133.

¹⁸⁴ William Dunn suggests that the process of information transformation requires "Knowledge of what is (facts), what is right (values), and what to do (action) . . ." These are the questions asked and answered through the process of policy argumentation. Dunn, *Public Policy Analysis*: 83.

¹⁸⁵ For further explanation of the William Dunn's framework for policy analysis, see Dunn, *Public Policy Analysis*: 65-68. For the purposes of this research, the model was adapted removing rebuttal to incorporate multiple warrants. Such an arrangement continues to present the full spectrum of assumptions but allows them to be considered in relationship with each other rather than forcing an either/or decision.

¹⁸⁶ William Dunn suggests different names for similar policy analysis. Designative claims use the empirical approach to ask factual questions such as "What will come from the implementation of a particular policy?" (science model). Advocative claims take a more subjective approach speaking to questions of action such as "What policy should be enacted?" (advocacy model). Evaluative claims are concerned with value questions asking, "What policy is worthwhile?" (counseling model). Dunn uses the example of the variety of interpretations given to Coleman Report to explain how the same information can lead to very different knowledge as parallel arguments are used to analyze the same data. Dunn, *Public Policy Analysis*: 92-95.

¹⁸⁷ *Ibid.*, 80-81.

¹⁸⁸ Dye, *Understanding Public Policy*: 4-5.

The researcher is reactive, reflecting only on questions that may be answered by objective inquiry. Decisions here are built upon scientific method rather than interpretation. Information takes precedence over value and intuition. Belief and actions are expected to conform to facts.¹⁸⁹

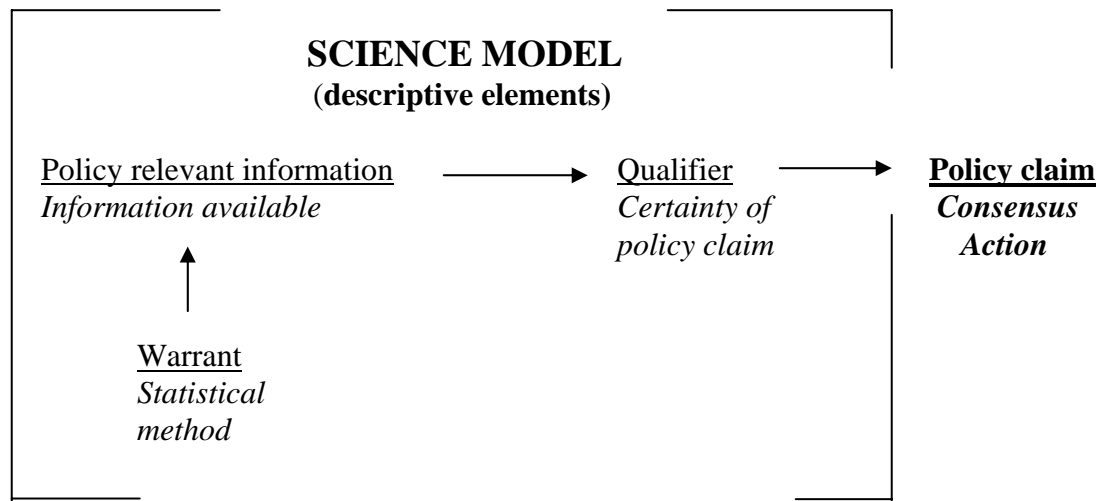


Figure 8: Elements of policy argument – Science Model

Source: adapted from Dunn, *Public Policy Analysis*: 67.

Having established this objective foundation, policy makers use descriptive methods to translate objective data through logical reasoning to develop or evaluate policy. Value plays a role as knowledge claims are examined to determine credibility. Qualification is described in terms of plausibility (“probably,” “unlikely,” “at 0.01 confidence levels). No qualifier is used when the claim is determined to be without error. In isolation, the objective approach results in policy claims based on observations and descriptions of the information available.¹⁹⁰ Educational adequacy is determined through observing and qualifying present conditions. For example in *San Antonio v. Rodriguez* (411 U.S. 1, 93 S.Ct. 1278), the Court ruled on the information provided. Conceding the disparity in educational opportunity embodied in the present system, the majority of the

¹⁸⁹ Bruce Jennings, “Interpretation and the Practice of Policy Analysis,” chap. 5 in *Confronting Values in Policy Analysis: The Politics of Criteria* (Newberry Park, CA: Sage Publications, 1987): 137-138.

¹⁹⁰ Dunn, *Public Policy Analysis*: 68, 132.

Court found no guarantee of equality to warrant relief under the Federal Constitution.¹⁹¹ Thus, the decision required no action to remedy observed disparity.

The advocacy model is a normative rather than descriptive process. Translation of information occurs based on assumptions housed in warrants. Information translated by the normative elements turn description into advocacy. The normative perspective allows examination of consequences and movement to action. Such analysis seeks solution of the problem by adding rules and expectations of reaching a goal. The relationship of ends, means, dependent variables, and independent variables becomes apparent as basic assumptions are added to the consideration.¹⁹²

Analysis moves from science producing options based exclusively on observation and prediction to advocacy promoting a particular set of beliefs. For example, self-interest and protection from other factions, purveyors of competing ideas, may become the driving force of policy development.¹⁹³ Answers to policy questions are either/or requiring constituencies to be for or against a particular solution. This approach defines justice by particular standards rather than consensus.

¹⁹¹ Justice Powell opined; “These practical considerations, of course, play no role in the adjudication of the constitutional issues presented here. . . . We hardly need to add that this Court’s action today is not to be viewed as placing its judicial imprimatur on the status quo. The need is apparent for reform in tax systems, which may well have relied too long and too heavily on the local property tax. And certainly innovative thinking as to public education, its methods, and its funding is necessary to assure both a higher level of quality and greater uniformity of opportunity. These matters merit the continued attention of the scholars who already have contributed much by their challenges. But the ultimate solutions must come from the lawmakers and from the democratic pressures of those who elect them.” 411 U.S. 1, 93 S.Ct. 1278: 58-59. Dissenting, Justice Marshall adds the warrant of quality and equality to deliberation, suggesting, “The Court today decides, in effect, that a State may constitutionally vary the quality of education which it offers its children in accordance with the amount of taxable wealth located in the school districts within which they reside. . . . More unfortunately, though, the majority’s holding can only be seen as a retreat from our historic commitment to equality of educational opportunity and as unsupportable acquiescence in a system which deprives children in their earliest years of the chance to reach their full potential as citizens. The Court does this despite the absence of any substantial justification for a scheme which arbitrarily channels educational resources in accordance with the fortuity of the amount of taxable wealth within each district.” 411 U.S. 1, 93 S.Ct. 1278: 70-71.

¹⁹² Dunn, *Public Policy Analysis*: 3.

¹⁹³ For an example of policy development as advocacy see *The Federalist 10 and 51* in which James Madison advocates for separation of powers creating an adversarial relationships within the federal system of governance. Political institutions could not be counted on to safeguard civic virtue and the rights of minorities. Institutions had to be created to guarantee protection for differing opinions. Jennings, “Interpretation and the Practice of Policy Analysis”: 138-139.

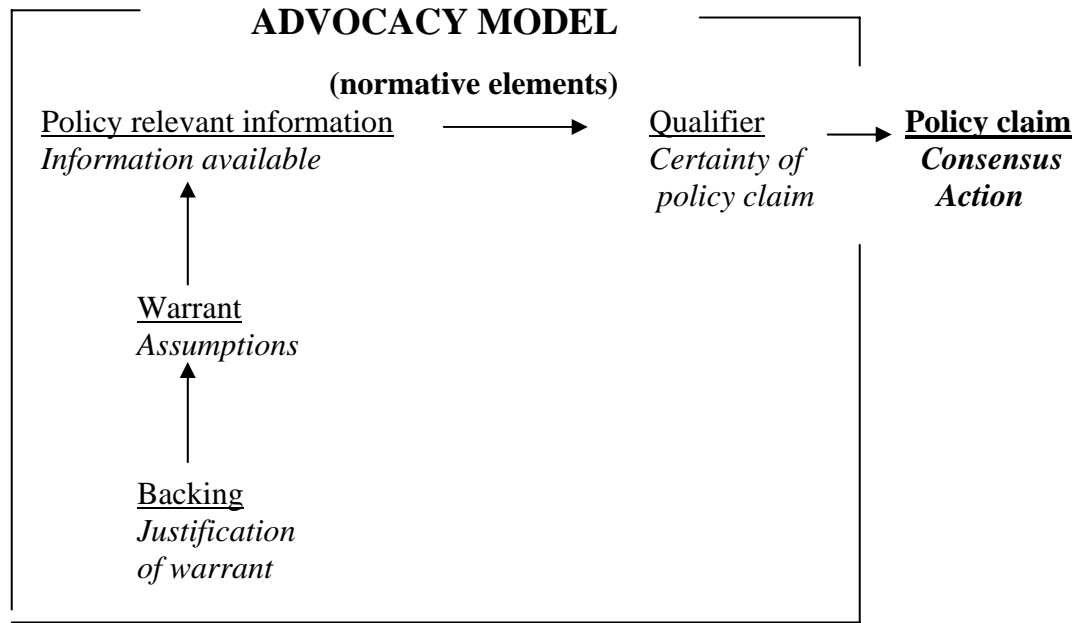


Figure 9: Elements of policy argument – Advocacy Model

Source: adapted from Dunn, *Public Policy Analysis*: 67.

With warrant as a driving force, the information available is filtered through a system of assumptions to develop policy claims. The range of information used in decision-making may diminish as knowledge that does not fit the agenda and goals is eliminated from deliberations. For example, the ruling in *Brown v. Board of Education of Topeka* (347 U.S. 483, 74 S.Ct. 686) was clearly based on the warrant of equality. The question addressed by the Court, “Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other ‘tangible’ factors may be equal, deprive the children of the minority group of equal educational opportunities?” was answered not by fact but based on the value of education to all of society. Particular information concerning the members of this class action was translated into action by the warrants of citizenship and equality.¹⁹⁴ Implementation for these particular children and

¹⁹⁴ Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is the principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. *Brown v. Board of Education of Topeka*, 347 U.S. 483, 493 (1954): 493.

the nation as a whole were left to the vagaries of “all deliberate speed.” Courage from children and their families, legislation, demonstrations, freedom marches, and deaths of both innocent and guilty have been required to progress toward fulfillment of the mandate of this decision.

The counseling model provides a third approach that incorporates both descriptive and normative elements. The values embedded in warrant serve as policy boundaries uniting various warrants toward solution. As focus moves toward the goal of resolution, the elements of descriptive and normative approaches combine to allow the study of policy to expand the possibility of solution. Examining alternative interpretations creates a forum for debate. No single answer exists in facts or selected warrant. Energy is concentrated on reaching consensus.

The counseling model allows for transformation to a new thing and not simply the balance of competing interests.¹⁹⁵ Such a third side allows and encourages the participation of everyone, insiders and outsiders alike. Disagreements and competition take place within a cooperative system that encourages expression and participation.¹⁹⁶ The key to such an approach lies in public presentation of available information, willingness of participants to share perspectives, and desire to seek alternatives that may also be argued and assessed. With participation in the process, resolution takes on meaning for both the community and the individual.¹⁹⁷

¹⁹⁵ Jennings, “Interpretation and the Practice of Policy Analysis”: 139-146.

¹⁹⁶ William Ury, *The Third Side: Why We Fight and How We Can Stop* (New York: Penguin Putnam, 2000): 19, 38-39.

¹⁹⁷ Jennings, “Interpretation and the Practice of Policy Analysis”: 147-150.

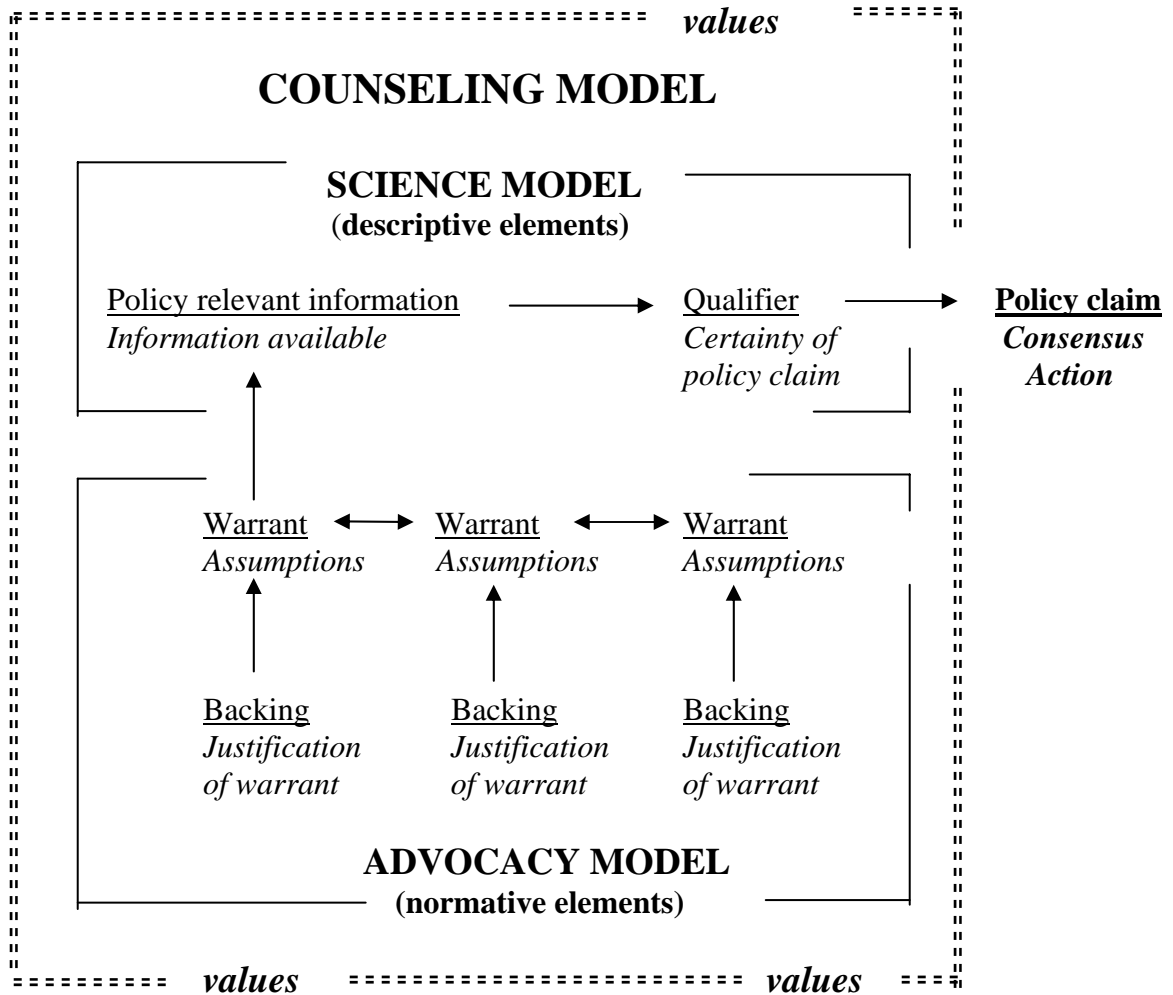


Figure 10: Elements of policy argument – Counseling Model

Source: adapted from Dunn, *Public Policy Analysis*: 67.

By using both descriptive and normative elements, the counseling model adds depth and breadth to analysis and policy claims. The full range of information coupled with multiple warrants allows inclusion of a larger constituency. For example, in *Rose v. Council for Better Education*, the Supreme Court combined descriptive and normative approaches to reach a counseled decision. Evidence was entered identifying conditions and previous efforts to meet the mandate for an efficient system of common schools for Kentucky including statistical data, reports, depositions, and volumes of oral evidence. Even the information presented by appellants conceded the disparities and inadequacy of

the common school system operating throughout Kentucky.¹⁹⁸ As in *Rodriquez*, the objective information demonstrated need for change. Yet, this court went further and examined the normative elements of the policy set in place by §183 of the Kentucky State Constitution. The court ruled according to what they held to be both the letter and the spirit of the law as intended by the framers of the Kentucky Constitution. Chief Justice Stephens, writing for the majority, opined, “The framers of our constitution intended that each and every child in this state should receive a proper and adequate education”¹⁹⁹ The definition of proper and adequate rested in the normative values of equality and efficiency. Citing *Brown* for its eloquence in setting the standard of equality, the court rested its judgment on the importance of education and the mandate that it be offered “on equal terms.”²⁰⁰ To clarify the responsibilities of the state in providing an efficient system of education, the court deferred to well-qualified experts. Citing the testimony of Dr. Richard Salmon and Dr. Kern Alexander, an efficient system was one that (1) imposed no financial hardship or advantage on any group of citizens with comparable tax efforts, (2) provided resources to localities in an adequate and uniform manner across the state, and (3) operated without wasting resources. In short, an efficient system was unitary, uniform, adequate, and properly managed.”²⁰¹

Policy frames

Each of these models uses a set of arguments to integrate descriptive and/or normative elements into a policy frame used to select, organize, interpret, and evaluate complex reality. Each mode of argumentation creates a distinct policy frame established by the focus of the warrant offered to explain information. Within or across policy frames, debate may include several perspectives built upon differing values. Such discussion requires consideration of more than one value to build consensus and move to action.²⁰² This process may be used as to clarify scientific methodology, to advocate for a particular warrant, or to create frames in which policy analysis becomes counsel as a combination of identified descriptive and normative elements. Behind each warrant lies a

¹⁹⁸ *Rose v. Council for Better Education* (790 S.W.2d 186): 196-197.

¹⁹⁹ *Ibid.*, 189-190.

²⁰⁰ *Ibid.*, 190.

²⁰¹ *Ibid.*, 210-211.

²⁰² Boyle, *School Boards in a Democratic Society*, VSBA presentation.

set of assumptions. Within these assumptions lie the values that give the policy frame legitimacy, thus setting boundaries of both process and policy. Questions as to balance, origin, amount, and effect may be addressed as framed by value. Values embedded in frame transform information so that action and solution are possible. Choices increase as principles and values are identified as elements in the decision-making process rather than being used as a sidebar in negotiation.²⁰³ Unless values are identified, misinterpretation of both descriptive and normative elements may limit resolution. When issues are addressed from different value systems, identical facts and information may be referenced to develop different solutions. The identification of values allows questions to be addressed based on a shared understanding of the transformation process.²⁰⁴

As seen in Table 4, at least eight policy frames may be used to evaluate and build public policy. Each policy frame will be discussed as it might apply to education policy.

²⁰³ Joseph Kahne, *Reframing Educational Policy: Democracy, Community and the Individual* (New York: Teachers College Press, 1996): 7-8.

²⁰⁴ Martin Rein and Donald Schon, "Reframing Policy Discourse" in *The Argumentative Turn in Policy Analysis and Planning* (Durham, NC: Duke University Press, 1993): 145-166.

**Table 4:
Policy Frames**

	MODE	BASIS	FOCUS OF WARRANT / VALUES
S C I E N C E	<i>Authoritative</i>	Authority	Expertise / <i>values established by expert</i>
	<i>Statistical</i>	Samples	Characteristics of a population estimated by means of a sample held to be representative by established rules / <i>values inherent in rules set for sample of the population</i>
	<i>Classification</i>	Membership	Similarity of members of a class based on characteristics of the majority of other members of that class / <i>values inherent in the definition of particular class</i>
	<i>Analycentric</i>	Method	Validity of analytic methods or rules / <i>values embedded in the method and rules chosen as the standard</i>
A D V O C A C Y	<i>Intuitive</i>	Insight	Inner mental states of understanding (craft rather than science ²⁰⁵) / <i>values based on judgment or insight</i>
	<i>Explanatory</i>	Cause	Generative powers (causes) and their results (effects) / <i>certain value given to the relationship of cause and effect</i>
	<i>Pragmatic</i>	Motivation Parallel cases Analogy	Motivating power of goals, <i>values</i> , intentions Similarities among cases / <i>implies shared values</i> Similarities among relationships / <i>implies shared values</i>
C O U N S E L	<i>Value critical</i>	Ethics	Justice or injustice of policies and their consequences / <i>process requires defined principles and values</i>

Source: adapted from Table 4-1 in Dunn, *Public Policy Analysis*: 102.

²⁰⁵ Sharon Vaughn and James E. Dammann contrast intuitive approaches with a scientific approach in the process of obtaining and translating information into action in “Science and Sanity in Special Education,” *Behavioral Disorders* 27, no. 2 (November 2001): 21-29.

For the authoritative argument, warrant is established by achieved or perceived expertise. Factual responses and even expressions of opinion offered by the expert are assumed to be correct, serving as a qualifier for the gathered information.²⁰⁶ For example, education experts such as teachers, administrators, and local finance officers might be used to evaluate the resources needed for a model school. Policy would then be built upon their recommendations. No formal analysis is made of the values embedded in the judgments offered by the identified authorities. The value frame remains nebulous with no formal identification. Using this approach, another set of experts in the field may hold dissimilar values establishing a different frame.

A formula is constructed for the statistical approach. Warrant is based on data gathered using a sample in which conditions are judged to in some way match a larger population. Criteria for matching may be random, established by standards of the inquiry, suggested by proposed theory, or determined by selected case studies.²⁰⁷ The underlying values used to make such judgments are not clearly defined. For example, this argument might use data concerning opportunities offered at the school to predict what the average student will need to meet a certain standard. Another sample might be constructed using another set of elements to create quite a different match to population and answer to the question. Values clearly affect such research, yet no specific values have been identified in setting the boundaries of analysis.

The classification frame uses unstated values to group schools and judges what is adequate. Warrant is qualified by membership dependent on the accuracy of match. For example, observation of successful school districts may be used to determine a weighted average of support considered adequate to guarantee achievement for a particular class of schools. Classification might change dramatically if emphasis shifted from one value to another or values in the standard were eliminated to fit the classification. Oversimplification may disguise the full complexity of needs if multiple dimensions of the issue are ignored to force a match. Again, values are an undercurrent to decision making.²⁰⁸

²⁰⁶ Dunn, *Public Policy Analysis*: 101-104.

²⁰⁷ *Ibid.*, 104-106

²⁰⁸ *Ibid.*, 106

The intuitive approach relies on the internal mental state of the providers and/or interpreters of the available information. Warrant rests on the qualification of the expert offering advice. As with the authoritative approach, such trust requires some qualification for those who offer information, inspiration, and creativity. Criteria for inclusion in the insight model may include a tested track record, understanding developed through trial and error, or implementation at a desired level of creativity.²⁰⁹ School models may be chosen because success has been achieved in other situations or because the structure is completely different from interventions already tried in that location. For example, the whole school approach seeks to develop a model of what school children need to be successful. The distribution of resources is then determined based on the creation of this newly designed model school. Such a frame implicitly requires that private opinion and insights be shared with others. Decisions are based on what the leadership believes to be best practices. Questions may remain unanswered as to what values determine the elements included in the whole school approach.

The analycentric argument bases policy decisions on the use of approved methods and rules. Warrant rests in past experience, usually on how the process has always been done. Information is interpreted correctly if the proper methods are followed or selection is made by prescribed rules. Issues are taken apart to allow for method and/or rules to be examined. Resolution is sought by designing the optimal arrangement of pieces of information.²¹⁰ For example, the distribution of educational opportunity would be driven by formula. Using this argument, the results of the implementation of the formula are not considered to be as important as maintaining the method of allocation. Inquiry centers on adherence to the present structure rather than change of method or rules. Changes are made to sustain present relationships rather than creating new structure. Values lie embedded in the method chosen or rules that set parameters.

The explanatory argument seeks to describe the relationship of cause and effect. From this perspective, certain environments result in particular consequences. Information is based on factual statements concerning nonhuman elements. Subjective

²⁰⁹ Ibid., 106-110.

²¹⁰ Ibid., 110-113.

information must be observable to be considered part of the process. Warrant rests on the belief that certain conditions will produce desired results. Policy claims are based on the assumption that causal relationships are replicable over time. Value premises motivate the relationship of cause to consequences. A change in value may completely change policy claim.²¹¹ For example, research indicating that small class size improves academic achievement may motivate education policy capping classroom enrollment producing lower student-teacher ratios. Yet, if the value component shifts to follow research that indicating larger settings get better results for the money invested, the caps on class size may be dropped in favor of a system of standardized instruction for larger groups. Policymakers may find difficulty using this causal approach for evaluation or advocacy in that relationships may occur accidentally without intent or purpose.

The pragmatic argument for policy development may take several approaches to analyze information generated from fact and opinion. The motivational approach is driven by the intentions, goals, or values of policymakers. This approach takes that which is known intuitively and seeks to demonstrate legitimacy by examining consequence. For example, desegregation may be advocated because education “on equal terms” is the right thing to do. The pragmatic argument would suggest that the policy claim is strengthened when the consequence of that policy frame is improvement in academic achievement for at risk students attending integrated schools. The comparative approach promotes the practice of adopting policies in similar circumstances based on parallel experiences. The assumption is that successful policy in a particular venue would result in successful replication when implemented under similar conditions. For example, international comparisons of academic achievement have promoted shifts in instructional method or emphasis. When assessments indicated lower achievement levels for students in the United State in the areas of math and science, grants became available at the federal level to train teachers in effective strategies of instruction in those areas comparable to those used in higher achieving programs. This approach maintains the status quo in that comparison is made with a structure already operating in the present. Values remain embedded in practice already in place. Pragmatic arguments may also be based on the use of analogy. Warrant is based on the assumption that relationships among

²¹¹ Ibid., 113-118.

policies are similar in operation. Because a solution has been reached in a particular way in one venue, the same relationship will drive resolution of similar issues. Action is guided subjectively by undefined values foundational to the relationship.²¹² For example, at several points in the history of educational opportunity, the call for efficiency and quality led to the suggestion that applying business practices to education would improve performance. If the factory model improved production of cars, it was reasoned that similar methods should improve the production of contributing citizens. Business practices developed to monitor quality were suggested as an intervention to produce zero defects in the end product of education, children.²¹³ Even with values of excellence and quality acknowledged as goals, warrants appeared to ignore differences in circumstance and process between education and business. Values serve as goals rather than frames, something to be done to produce rather than as foundational elements of the process.

As seen in Table 5, several of these value frames have been used by states in to address adequacy standards. In each of these approaches, the information available was transformed using values as a backdrop rather than as an element of change.

²¹² Ibid., 118-124.

²¹³ The Blueberry Story demonstrates transformation resulting from the recognition that different value frames drive production in business and education. “If I ran my business the way you people operate your schools, I wouldn’t be in business very long!” I stood before an auditorium filled with indignant teachers who were becoming angrier by the minute.

I represented a Business Roundtable dedicated to improving public schools. I said that public schools were antiquated and that teachers and administrators were a major part of the problem: they resisted change, hunkered down in their feathered nests, protected by a monopoly. They needed to look to business. We knew how to produce quality. Zero defects! Continuous improvement! TQM!

As soon as I finished, a woman’s hand shot up. She appeared polite, pleasant. She was, in fact, a razor-edged high school English teacher who had been waiting to unload.

She began quietly, ‘We are told, sir, that you manage a company that makes good ice cream.’

I smugly replied, ‘People Magazine chose our blueberry as “The Best Ice Cream in America,” Ma’am.’ ‘Premium ingredients?’ she inquired.

‘Superpremium! Nothing but AAA.’ I was on a roll. I never saw the next line coming.

‘Mr. Vollmer,’ she said, leaning forward with a wicked eyebrow raised to the sky, ‘when you are standing on your receiving dock and you see an inferior shipment of blueberries arrive, what do you do?’

In the silence of that room, I could hear the trap snap. I knew I was dead, but I wasn’t going to lie.

‘I send them back.’

‘That’s right!’ she barked, ‘and we can never send back our blueberries. We take them big, small, rich, poor, gifted, exceptional, abused, frightened, confident, homeless, rude, and brilliant. We take them with ADHD, junior rheumatoid arthritis, and English as their second language. We take them all! Every one! And that, Mr. Vollmer, is why it’s not a business. It’s a school.’

And so my long transformation began.”

Jamie Vollimer, VSBA presentation, November 2002.

**Table 5:
Policy Frames for Adequate Public Education**

MODE	STATE	CRITERIA
<i>Authoritative</i>	South Carolina Oregon Maine ²¹⁴ North Dakota ²¹⁵ Wyoming	Standards are established by education experts such as teachers, administrators, and local finance officers evaluating the resources needed for a model school.
<i>Statistical</i>	New York Wisconsin ²¹⁶	Data are used to predict the level of funding required for the average student to meet established standards. ²¹⁷
<i>Classification</i>	Ohio Illinois Mississippi Louisiana ²¹⁸ Pennsylvania ²¹⁹	Observation of successful school districts is used to determine a weighted average of support considered adequate to guarantee achievement for a particular class of schools.
<i>Intuitive</i>	Kentucky	Whole school approach determines what is required to provide the resources necessary for success. ²²⁰
<i>Analycentric</i>	Virginia North Carolina	Standards are set and methodology established to determine how resources will be distributed for Virginia - Standards of Quality (SOQ), for North Carolina - the Basic Education Plan (BEP).

²¹⁴ James W. Guthrie and Richard Rothstein, "Enabling Adequacy to Achieve Reality: Translating Adequacy into State School Finance Distribution Arrangements," chap. 7 in *Equity and Adequacy in Education Finance: Issues and Perspectives* (Washington, DC: National Academy Press, 1999): 220-221.

²¹⁵ North Dakota Department of Public Instruction, "Calculation of the Cost of an Adequate Education in North Dakota in 2002-2003: Using the Professional Judgment Approach" (Denver, CO: Augenblick, Palaich and Associates, 2003).

²¹⁶ Guthrie and Rothstein, "Enabling Adequacy to Achieve Reality": 220-221

²¹⁷ A number of statistical methods have been used to describe the distribution of funding across state systems of public education. For further explanation see Deborah A. Verstegen, "Financing the New Adequacy: Towards New Models of State Education Finance Systems that Support Standards Based Reform," *Journal of Education Finance*, 27 (Winter 2002): 767.

²¹⁸ Education Commission of States Issue Finance Project, *Finance: Adequacy/Core Cost Bulletin* available from www.ecs.org, 2002: 1.

²¹⁹ Education Law Center, "Shortchanging Our Children: 'Opportunity Gaps' in Pennsylvania Public Schools," *An Action Report for students, parents, educators, and community leaders*, July 2005.

²²⁰ Education Commission of States Issue Finance Project, *Finance: Adequacy/Core Cost Bulletin*: 1.

Funding structures for public education have been built and evaluated without the advantage of full analysis of the principles and values fundamental to the sustainability of democracy. None of these arguments clarified the meaning of the values that allowed interpretations to be applied in a variety of circumstances and places. Rather each value frame was dependent upon the values inherent in consideration by a particular authority, interpretation of data, comparison of groups using value criteria for classification, the impression of what resources are necessary to provide an adequate education, or the methodology required for the distribution of resources. Without a defined value frame, the adequate provision of educational opportunity has varied from the delivery of minimal resources limiting children to basic education to the full funding required to provide the access needed to develop individual potential.²²¹ Even when using a similar approach, such valueless analysis of policy questions has produced differing results.²²²

²²¹ Deborah Versteegen suggests that the interpretation of adequacy has been reflected in the outcome of court decisions. When school finance systems have been upheld, adequacy has been defined as minimal and basic. When financing has been deemed unconstitutional, adequacy has required the opportunity for quality education for all children. For further information about particular cases, see “Financing the New Adequacy”: 766-768.

²²² For example, Virginia and North Carolina both use an analycentric frame to address the delivery of quality public education. For Virginia, the Standards of Quality (SOQ) and the Standards of Accreditation (SOA) established the parameters for the contribution the Commonwealth makes to public education. For North Carolina, the standards lay in the Basic Education Plan (BEP). In both cases, the legislature is responsible for establishing the method for distribution of resources to public education.

School divisions in the southwestern sections of each state sought relief, citing inequities in the delivery of educational opportunity. The litigation in both cases addressed the EED and EQ value clusters. In Virginia, plaintiffs asked the court to declare the current method of funding public schools in violation of the Virginia Constitution in that it failed to provide the same quality of educational opportunity to children who attend public school in poorer divisions when compared to the possibilities provided for children in wealthier divisions.

In North Carolina, questions brought to the court revolved around qualitative aspects of the delivery of a sound basic education to every child in the state. Plaintiffs insisted that children in these districts did not receive a sound basic education, noting the differences in needed input to produce prescribed levels of achievement. Although presented with similar claims - that the systems in place were not working to deliver quality opportunity - the court delivered very different decisions. In *Scott v. Commonwealth*, the Supreme Court of Virginia ruled that although it could not disagree with the complaint of disparate opportunities brought by plaintiffs, the constitutional guarantee of quality educational opportunity delivered in an effective manner was not mandatory but rather aspirational. As long as the Commonwealth sought to provide quality educational opportunities, resulting inequalities were acceptable. On the other hand, the Supreme Court of North Carolina ruled in *Hoke County Board of Education v. State* that the state must provide a sound basic education for every child in the state based not only on specified inputs but also on resulting outputs. If the present allocation system was not producing quality results, then the state must readjust its spending methodology to meet the constitutional mandate. Without direct consideration of value components in these decisions, the court ruled on claims of EED and EQ quite differently. Other examples may be viewed at June 2005 at www.schoolfunding.info by accessing costing out.

CHAPTER 4: ADEQUACY VALUE FRAMEWORK

Value critical analysis is the only mode of policy development and evaluation that attempts to name and utilize values directly. In this manner, policy analysis, necessarily value dependent, also becomes value critical. Ethical rules and moral principles are recognized and identified rather than appearing in deliberations as psychological preferences or emotional expression. Information, ideas, and values may be considered and debated. Such an ethical approach provides a ground on which values may be justified.²²³ By acknowledging both objective and subjective content, examination moves beyond simple calculation. As values are recognized in the foundation of theory and practice, transformation occurs allowing policymakers to evaluate good and evil, right and wrong, innocence and guilt, justice and injustice as well as fact and fiction. Values are considered truth as well as emotion.²²⁴ Policy may then emerge as consensus built on the balance of competing values.²²⁵ Such principled negotiation allows solution to be built upon the values that lie beyond institutional or personal positioning. The search for mutual gain is based on commitment to principles. In this manner, all perspectives may be granted respect so that the goal becomes resolution rather than winning.²²⁶

Adding the value frame to the search for solution allows policymakers to expand that which is possible. As the limitations placed on deliberations by facts that ignore basic assumptions or assumptions not supported by facts are eliminated, solution becomes acceptable from a variety of perspectives. For example, a glass may be half full; yet at the same moment will also be half empty. The truth of the matter is that there is a glass and the resources in it have not changed with the differing interpretation. It is this paradox, this fuller range of understanding that expands the breadth of possibility. Questions change from “Why” to “Why not.”²²⁷ Following this approach, doing one good thing need not endanger another good thing. Previously competing values build upon one

²²³ William N. Dunn, *Public Policy Analysis*: 124-127.

²²⁴ Mark Sagoff, “At the Shrine of Our Lady of Fatima or Why Political Questions Are Not All Economic,” in James Martin Gillroy and Maurice Wade (eds.), *The Moral Dimension of Public Policy Choice: Beyond the Market Paradigm* (Pittsburgh, PA: University of Pittsburgh, Press, 1992): 381.

²²⁵ Ward, “Conflict and Consensus in the Historical Process”: 2.

²²⁶ Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, 2nd ed. (New York: Penguin Books, 1991): 83.

²²⁷ Kemmis, *Politics of Place*: 109.

another to produce more sustainable systems. Even the question being addressed may change to answer a wider variety of concerns.²²⁸ Values become more than personal judgment when incorporated by decision makers as defined boundaries. Such process may be used to promote particular perspectives on the world or to develop a fuller understanding of perceived true belief.²²⁹ This process of clarifying the elements of value allocated by society serves to identify the public, political aspects of policy.²³⁰ Such examination provides the forum to consider paradoxical values that may appear to defy reason. Recognizing and combining contradictory interpretations may indeed hold solution and truth in this dynamically evolving political creation.²³¹

As more than an effort to describe or promote a single issue, value critical analysis may use the counseling model to define policy boundaries incorporating both competing and complementing interests. As the foci in the process of policy development, value clusters provide dynamic balance and promote effective implementation.²³² Such harmony need not become stagnant but is empowered to establish and reestablish boundaries within the policy framework. Values do not lose their foundational nature with shifts in balance. Principles become no less sacred when their place in policymaking becomes dynamic rather than guaranteed.²³³ The possibility and sustainability of solutions are limited by denying that this assortment of values may operate simultaneously in decision-making. The development of policy historically and in the present represents the struggle to incorporate diverse understandings of truth into the practice of government. Examination of present policy concerning educational opportunity requires understanding the values and principles held foundational to the

²²⁸ Boyle, *School Boards in a Democratic Society*, VSBA presentation.

²²⁹ Dunn, *Public Policy Analysis*: 65-68.

²³⁰ Hank C. Jenkins-Smith, *Democratic Politics and Policy Analysis* (Pacific Grove, CA: Brook/Cole Publishing, 1990): 29.

²³¹ Discounting the production model of policymaking in which decisions are made by orderly steps of reasoning, Deborah Stone suggests that the struggle for ideas provides a broader foundation for decision-making. The rational model begins with the definition of an issue, followed by suggestions for solution that are then analyzed, selected, and developed into policy. Then action may be taken by either the executive or legislative branches of government. Other ideas emerge as challenges to the judicial branch for resolution. On the other hand, using the exchange of ideas at the beginning of the process allows individual concerns to develop into shared meaning motivating collective action. Stone, *Political Paradox*: 8-11.

²³² Kenneth A. Strike, "Is There a Conflict Between Equity and Excellence?" *Educational Evaluation and Policy Analysis*, 7, no. 4 (Winter 1985): 416.

²³³ Berlin, *Liberty*: 217.

delivery of educational services. Value conflicts and their resolution drive the search for justice.²³⁴ Drawing on historical precedents of conflict and consensus building, these same processes may be used to develop value frames for the adequate distribution of educational opportunity.

For this dissertation, the process of value critical analysis began by identifying liberty as the fundamental principle sustaining democracy. The value clusters of efficiency (E), equality/equity/dignity (EED), and excellence/quality (EQ) emerged as the driving force in the conflict/consensus process surrounding access to educational opportunity. Historically, the resolution of policy disputes often rested in the hands of the courts. Even into the 21st century, those who disagree with decisions made by those elected in the legislative and executive branches of government have sought redress through the courts.²³⁵ In litigation addressing the adequacy of educational opportunity, judicial responses have played across the full spectrum of opinion from judicial deference to other branches of government to judicial activism setting substantive or procedural standards.²³⁶ Through action or inaction, the courts have defined policy boundaries for practical application. This dissertation provides a functional definition of adequacy disaggregated from the application of the E, EED, and EQ value clusters found in the various state litigations pertaining to the financial systems used to distribute educational opportunity.

Research began with the compilation of a list of litigation that challenged state systems used to fund K-12 public education.²³⁷ Cases were eliminated from consideration if plaintiffs lost the decision. Although litigants in some of these cases offered both

²³⁴ James Gordon Ward, "Conflict and Consensus in the Historical Process": 2.

²³⁵ William E. Thro, "Judicial Paradigms of Educational Equality," commentary in *West's Education Law Reporter*, 174, no. 1-3 (2003): 1-2.

²³⁶ R. Craig Wood and John Dayton. "Education Finance Litigation: An Examination of Emerging Trends and Future Directions." In *Balancing Rights: Education Law in a Brave New World*. Papers [of the] Education Law Association (ELA) Annual Conference (48th, New Orleans, LA, November 14-16, 2002) retrieved from ERIC microfiche EA032365.

²³⁷ For a full listing of cases and their outcomes, see Jennifer Morales, "The Courts and Equity: A State-by-State Overview," *Funding for Justice: Money, Equity, and the Future of Public Education* (Milwaukee, WI: Rethinking Schools, 1997): 61-67; National School Board Association, "School Finance Litigation Table" retrieved June 2005 from <http://www.nsba.org/site/docs/33700/33652.pdf>; Paul A. Minorini and Stephen D. Sugarman, "School Finance Litigation in the name of Educational Equity: Its Evolution, Impact, and Future," chap. 2 in *Equity and Adequacy in Education Finance: Issues and Perspectives*

quantitative and qualitative information concerning the value clusters, these standards were not the ones adopted by the courts. Next, the sections of state constitutions containing the *terms of art* referenced in the court proceedings were examined to identify language relating to the E, EED, and EQ value clusters. Where appropriate, cases were sorted by state constitutional value language into value groups. In some cases, the constitutional language directly correlated with E, EED, and EQ clusters. In others, the values were found in definitions of the terms “thorough,” “common,” “general,” “convenient instruction,” “liberal instruction,” and “suitable.” Analysis groups were formed based on value clusters identifying the elements required by the court for practical application. In some cases, the court chose to develop its own value template. In other rulings, implementation required interpretation or approval of legislative or executive actions by the court.

This examination was definitional in nature; therefore, circumstances particular to individual cases were not part of this research. Information particular to time and place, such as description of parties involved, case history, and the success of implementation, were eliminated from consideration. More than an accounting of events, actions taken, dollars spent, or the aggregate grouping of cases to examine trends, this research disaggregates quantitative and qualitative elements to examine the definitions of these foundational principles and values. Case briefs include the standards set by each state in their respective state constitutions, expert testimony, state precedents that frame consideration, and the definitions delineated in the ruling brought forward by the court. Remedies ordered by the courts were then used to develop frameworks defining the boundaries of adequate access to educational opportunity.

Each value framework presents a set of warrants drawn from qualifying cases. Foundational in nature, this section of the framework delineates the basic assumptions that answer the question why. Furthermore, the framework includes a template of actions required by the courts. Implementation requirements were divided into six areas of concern including instruction, staffing, equipment, facilities, outreach, and evaluation. The warrants and performance templates from the value frames (E-frame, EED-frame,

(Washington, DC: National Academy Press, 1999): 42-43; and Meira Schulman Ferziger, “Validity of Public School Funding Systems,” *American Law Reports*, retrieved at www.westlaw.com.

and EQ-frame) were combined and then synthesized to complete the development of the adequacy framework (A-frame). The A-frame may then be used to match principle and values in the law with resource allocation at the national, state, and local levels.

The resulting case briefs and policy frameworks follow.

Efficiency Cases

Five cases were chosen to build the warrants and performance template for the efficiency frame (E-frame). As seen in the following research, the *terms of art* considered were quite different yet in each case the courts called upon the value of efficiency to support its decision. For example, Kentucky, which sought “an efficient system of common schools throughout the State,” focused on sufficient funding to produce skills, knowledge, and training to compete in education or workplace. The system was required to be unitary, properly managed, with advantage given to no one. Ohio cited the same value to require certain input to promote the potential of each individual. To develop the skills needed for lifelong learning the state must provide a safe learning environment, updated supplies and teaching materials, and expanded curricula incorporating technology into all phases of instruction. Such investment was required to promote a “thorough and efficient system of common schools throughout the state.” In Texas, “suitable provision for the support and maintenance of an efficient system of public free schools” required the state to provide a steady source of revenue to allow more local choice. Striving to provide a system for the “maintenance and support of a thorough and efficient system of free public schools,” New Jersey set out specific input and output standards. Instruction was to prepare students to reach certain competencies. Educational goals must be set, programs evaluated, facilities upgraded, and state sponsored programs of research and development used to provide dynamic, evolving educational opportunities. Funding parity became the model requiring poorer districts to be funded at the same level as high achieving districts. Arkansas commissioned an adequacy study to design a system that would “maintain a general, suitable efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education.” Areas of focus included instruction, teacher compensation and the provision of early childhood education. Different interpretations of efficiency were used to build a policy framework that speaks to both the input and output standards.

Kentucky

Standards

The General Assembly shall, by appropriate legislation, provide for an **efficient system of common schools throughout the State**. *Constitution of Kentucky 1891, Education § 183*

Precedent

The Supreme Court of Kentucky took several approaches in determining the meaning of an efficient system of common schools throughout the State. Consideration began with an examination of the debate surrounding the adoption of section 183. Tracing the meaning of education through history, the justices highlighted comments made by Delegate Beckner quoting from a report to the Kentucky legislature in 1822 describing a system of common schools as "... a system of practical equality in which the children of the rich and poor meet upon a perfect level and the only superiority is that of the mind."²³⁸ The court felt that the consensus reached through those debates set out the basic premises that determine the meaning of this section determining that

- (1) education must be provided by the State as it is essential to its prosperity;
- (2) the General Assembly must consider the provision of a system of common schools the most "vital " question presented to them;
- (3) education of children must not be minimized therefore financing must be above a *de minimis* level;
- (4) all schools and children must have the same level of educational opportunity available including the children of both rich and poor families; and
- (5) a constant search for efficiency in the system must be put in place.²³⁹

²³⁸ *Rose v. Council*, 790 S.W.2d 186: 205.

²³⁹ *Ibid.*, 206.

Expert Testimony

The court called upon a variety of experts to clarify the practical meaning of efficiency. Richard G. Salmon, professor of school finance from Virginia Tech, testified that efficiency held three components. The system

- (1) should not create a financial burden or advantage for any group,
- (2) should require systems to make comparable efforts of taxation, and
- (3) remove waste from its operation.

Kern Alexander, president of Murray State University and expert in school finance and law at the time, opined that the system must be unitary, uniform, adequate and properly managed. The only expert, a school superintendent, testified for the defendants that an efficient system was one that did the best it could with whatever funding was provided.²⁴⁰

Court Ruling

The court defined an “efficient” system of common schools as

- (1) being free and available to all Kentucky children
- (2) being substantially uniform throughout the state
- (3) providing equal educational opportunity to all Kentucky children regardless, of place or economic circumstances.

Further, the court required that the General Assembly to establish, maintain and fund the common schools of Kentucky assuring that operations included no waste, no duplication, no mismanagement, and no political influence. In addition, the General Assembly must provide a level of funding sufficient to guarantee an education to each child in Kentucky.

Holding that the existence of common schools was premised on the fact that all children in Kentucky have a constitutional right to an adequate education, the court required that offerings must include at least seven capacities including:

- (1) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;

²⁴⁰ Ibid., 210-211.

- (2) sufficient knowledge of economic, social and political systems to enable the student to make informed choices;
- (3) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;
- (4) sufficient self-knowledge and knowledge of his or her mental and physical wellness;
- (5) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- (6) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and
- (7) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

Although permission was given for setting goals at a higher level at either the local or state level, the elevation of those standards must not preclude the meeting of the minimum goals set out in the decision.²⁴¹ The court made it clear that this decision covered every aspect of public education in the State of Kentucky including but not restricted to the creation of local school districts, school boards, the Kentucky Department of Education, the Minimum Foundation Program and Power Equalization Program, school construction and maintenance, teacher certification.²⁴²

Ohio

Standards

The general assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a **thorough and efficient system of common schools throughout the state...**" *Ohio Constitution, Art. VI, § 2*

The mission of education is to prepare student of all ages to meet, to the best of their abilities, the academic, social, civic, and employment needs of the twenty-first century, by providing high-quality programs that emphasize **the lifelong skills necessary to continue learning, communicate clearly, solve problems, use information and**

²⁴¹ Ibid., 212-213.

²⁴² Ibid., 215.

technology effectively and enjoy productive employment.” State Board of Education, *Preparing Ohio Schools for the 21st Century*, September, 1990, ii.²⁴³

The Supreme Court of Ohio took the charge to examine the system of financing public education as a grave constitutional responsibility. The court saw Ohio poised at a crossroads that would determine the future of the State’s 1.8 million young people.²⁴⁴

Expert Testimony

Tracing the historical development of the terms “thorough and efficient”, Kern Alexander testified that the implementation of these values required the state to provide an education system that allowed citizens the opportunity to develop their human potential, gives opportunity to both the rich and poor, and enables society to make progress.²⁴⁵

The court cited the importance placed on education by the President of the United States as further impetus for action.

In this new land, education will be every citizen’s most prized possession. Our schools will have the highest standards in the world, igniting the spark of possibility in the eyes of every girl and every boy. And the doors of higher education will open to all. The knowledge and power of the Information Age will be within reach not just of the few, but of every classroom ...

One of the greatest sources of our strength throughout the Cold War was a bipartisan foreign policy. Because our future was at stake, politics stopped at the water’s edge. Now I ask you, and I ask all our nation’s governors, I ask parents, teachers and citizens all across America, for a new nonpartisan commitment to education, because education is a critical national security issue for our future and politics must stop at the schoolhouse door.

President William J. Clinton, *State of the Union Address*, February 4, 1997²⁴⁶

Precedent

The court cited the constitutional debates in 1850-1851 as precedent for its insistence that the education clause required the state to accept the responsibility to provide a “full, complete and efficient system of public education.” Not only was this system to be available throughout the state but also educational opportunity must be offered to every child regardless of race or economic standing. The system of education

²⁴³ *DeRolph v State*, 78 Ohio St.3d, 677 N.E.2d 733: 737.

²⁴⁴ *Ibid.*, 197.

²⁴⁵ *Ibid.*, 203.

²⁴⁶ *Ibid.*, 258.

must avoid “the mediocre but be as perfect as could humanly be devised.” The court found these same principles reemphasized in the decision in *Miller v. Korns* (107 Ohio St. 287, 297-298 140 N.E. 773, 776).

This declaration is made by the people of the state. It calls for the upbuilding of a system of schools throughout the state, and the attainment of efficiency and thoroughness in that system is thus expressly made a purpose, not local, not municipal but *state-wide*.

With this very purpose in view, regarding the problem as a *state-wide* problem, the sovereign people made it mandatory upon the General Assembly to secure not merely a system of common schools, but a system thorough and efficient throughout the state.

A thorough system could not mean one in which part or any number of school districts of the state were starved for funds. An efficient system could not mean one in which part or any number of the school districts of the state lacked teachers, building, or equipment.”²⁴⁷

Court Ruling

The court ruled that school districts “starved” for funds lacked teachers, programs, buildings, and equipment necessary to provide for a thorough education delivered in an efficient manner.²⁴⁸ With the present system of distributing educational resources, some districts have the luxury to decide how to spend extra dollars while many other have the burden of deciding which educational programs must be eliminated or how much more debt their community must absorb with another emergency loan.²⁴⁹ Local control becomes a cruel illusion when funds are not sufficient to provide for basic educational and facility needs.²⁵⁰ Realizing that money is not the only factor important to improvement in student achievement, the court insisted that the level of resources available school districts must allow students the chance “to succeed because of the educational opportunity provided rather than in spite of it.”²⁵¹ Therefore, the court required that funds be allocated at a level to

- (1) guarantee a safe, healthy learning environment;
- (2) purchase up-to-date textbooks;

²⁴⁷ Ibid., 203-204.

²⁴⁸ Ibid., 205.

²⁴⁹ Ibid., 211.

²⁵⁰ Ibid., 256-257.

²⁵¹ Ibid., 211.

- (3) provide everyday supplies such as chalk, paper, art supplies, paper clips and toilet paper;
- (4) establish student-teacher ratios at 25:1;
- (5) allow expanded curricula to include foreign language, art and music, computer courses, and honors and AP instruction; and
- (6) and provide computers and technology training.²⁵²

Texas

Standards

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.** *Texas Constitution, Article VII, § 1*

Precedent

Delegates to the Texas Constitutional Convention of 1875 spoke clearly of the need to provide education for people across the state regardless of wealth. “Efficient” was included in the education clause to guarantee sufficient funds to the districts most in need.

[Education] must be classed among the abstract rights, based on apparent natural justice, which we individually concede to the State, for the general welfare, when we enter into a great compact as a commonwealth. I boldly assert that it is for the general welfare of all, rich and poor, male and female, that the means of a common school education should if possible, be placed within the reach of every child in the State. *Chair of the education committee on behalf of the majority of the committee, 1875*²⁵³

The state followed through with this commitment in 1876 by requiring that each student receive an equal allocation of funds distributing school taxation in a uniform manner.²⁵⁴

Court Ruling

The court held that money invested in education has a direct relationship to the availability of educational opportunity. With the finance system now in place, property poor districts were required to tax at a significantly higher rate to provide the revenue

²⁵² Ibid., 208.

²⁵³ Edgewood Independent School District v. Kirby, 777 S.W.2d 391: 395.

²⁵⁴ Ibid., 396.

necessary to meet accreditation standard. High wealth districts were able to go beyond minimum standards offering expanded curricula, up-to-date technology, better libraries and library personnel, teacher aides, counseling services, lower student-teacher ratios, better facilities, parental involvement programs, and drop-out prevention programs. Also, qualified, experienced teachers and administrators are more easily attracted to and retained in wealthy districts.²⁵⁵

The present system of financing public education was neither educationally nor financially efficient. There is no “general diffusion of knowledge” when children who live in poor districts and children who live in rich districts are not afforded substantially equal educational opportunities. An efficient system would allow districts to have “substantially equal access to similar revenues per pupil at similar levels of tax effort.”²⁵⁶ Although many interests compete for available funds, the state has a unique responsibility because efficient operation of public education is constitutionally mandated. Such a system only increases the opportunities for localities. Rather than eliminating the ability of communities to exercise local control, a steady stream of revenue gives communities economic alternatives that allow greater possibility and choice.²⁵⁷

New Jersey

Standards

The Legislature shall provide for the **maintenance and support of a thorough and efficient system of free public schools** for the instruction of all the children in the State between the ages of five and eighteen years. *Constitution of New Jersey 1947*, art. XII. Education, § 1

Precedent

The *Robinson* cases produced a step-by-step clarification of adequate funding for public education in the State of New Jersey. In *Robinson IV*, the court acknowledged that money is only one of the many factors that must be examined in the consideration of the elements required for a thorough and efficient education. Other factors included

²⁵⁵ Ibid., 393.

²⁵⁶ Ibid., 398.

²⁵⁷ Ibid.

individual and group disadvantages, the use of additional techniques for the disadvantaged and handicapped, difference in the availability of qualified teachers in different localities, effectiveness in teaching methods and evaluation, professionalism at every level of the system, meaningful curricula, exercise of authority and discipline, and adequacy of overall goals fixed at the policy level.²⁵⁸

In *Robinson V*, the court was called upon to judge the adequacy of the educational system adopted by the Legislature in 1975 establishing goals and defining elements required for thorough and efficient education.

The goal of a thorough and efficient system of free public schools shall be to provide to all children in New Jersey, regardless of socioeconomic status or geographic location, the educational opportunity which will prepare them to function politically, economically and socially in a democratic society.

A thorough and efficient system of free public schools shall include the following major elements which shall serve as guidelines for achievement of the legislative goal and the implementation of this act.

- (1) Establishment of educational goals at both the State and local levels;
- (2) Encouragement of public involvement in the establishment of educational goals;
- (3) Instruction intended to produce the attainment of reasonable levels of proficiency in the basic communication and computational skills;
- (4) A breadth of program offerings designed to develop the individual talents and abilities of pupils;
- (5) Programs and supportive services for all pupils especially those who are educationally disadvantaged or who have special educational needs;
- (6) Adequately equipped, sanitary and secure physical facilities and adequate materials and supplies;
- (7) Qualified instructional and other personnel;
- (8) Efficient administrative procedures;
- (9) An adequate State program of research and development; and

²⁵⁸ *Robinson v. Cahill*, (69 N.J. 449 133, 141,31 A.2d 713): 717.

(10) Evaluation and monitoring programs at both the State and local levels.²⁵⁹

The court upheld these provisions judging these elements to be comprehensive with the addition of a stipulation requiring of sufficient fiscal support.²⁶⁰ In fact, the court reminded the Legislature that *Robinson I* warned that if the State delegated fiscal obligations to local bodies, provision must be made to compel localities to provide necessary funds. “If the local government cannot carry the burden, the State must itself meet its continuing obligation.”²⁶¹ The court did compliment the Legislature on the acknowledgement of the dynamic nature of such definition in the preface to the act. This encouragement of continued study and evaluation recognizes that sufficiency today may not prove to fulfill the same need in the future. Clearly conditions may change and experience allows evaluation of programs as to the achievement of desired results.

Because the sufficiency of education is a growing and evolving concept, the definition of a thorough and efficient system of education and the delineation of all the factors necessary to be included therein, depend upon the economic, historical, social and cultural context in which that education is delivered. The Legislature must, nevertheless, make explicit provision for the design of State and local systems by which such education is delivered and should, therefore explicitly provide after 4 years from the effective date of this act for a major and comprehensive evaluation of both the State and local systems, and the sufficiency of education provided thereby.²⁶²

Deliberations in *Robinson* moved from focus on dollar disparity in *Robinson I* the evaluation of educational opportunity in *Robinson V*.²⁶³

Court Ruling

The decisions made in *Abbott* were built upon the principles and recommendations set forth in *Robinson* focusing on discrepancy in student achievement in urban areas. The court ruled in two areas, instruction and facilities.

Instruction:

- (1) Parity Spending – *Abbott* districts should be funded at the average spending levels of I wealthier (I and J) districts in an effort to establish “horizontal equity” adjusted by an inflationary factor each year. The court retained judgment as to parity.

²⁵⁹ Provisions of N.J.S.A. 18A:7A—5 as cited in *Robinson v. Cahill*, (69 N.J. 449, 355 A.2d 129): 457.

²⁶⁰ *Ibid*.

²⁶¹ *Robinson v Cahill*, (62 N.J. 473, 303 A.2d 273): 513.

²⁶² N.J.S.A. 18A7A--2, subd. A (4) as cited in *Robinson v. Cahill*, (69 N.J. 449, 355 A.2d 129): 457.

²⁶³ *Abbott v Burke*, (119 N.J. 287, 575 A.2d 359): 308.

- (2) Whole school Design – *Abbott* districts should be required to adopt some version of proven, effective whole school reform. Adequate funding must be continued for special education, art and music to balance the unavailability of community or family resources. Alternative programs and schools at the secondary level also lie within this mandate.
- (3) Kindergarten and preschool for ages three and four– The court endorses the State’s commitment to provide full-day kindergarten programs and encourages the extension of the program to include full-day for children ages three and four whose parents request enrollment. Such early intervention will allow poor children to enter school fully prepared to begin school on level with other children in the quest for academic achievement.
- (4) Class size reduction – The court ruled that class size reduction and whole school reforms offer many of the same benefits in producing improvement in academic achievement. Seeing these approaches as alternatives, the court recommended that student teacher ratios K-3 be reduced to 21:1 when coupled with whole school reform, 15:1 without additional curricular intervention.
- (5) Summer school or extended term – The court held that an extended term effort would offer extra opportunity for students to learn at expected levels. The extended term appeared to offer more promise than increasing time to learn through extended day programs.
- (6) School-based health and social services - The court dismissed Department of Education protests that these services lay outside the purview of the educational community ruling that such services have undeniable benefits for students in the *Abbott* districts. Noting that School-Based Youth Services already provides many of these services in special needs districts, the court asked that these same services be extended to all *Abbott* districts. The present programs include services at both the elementary and secondary level.

(a) Elementary level

- i. mental health and family counseling
- ii. preventive and some primary health care,
- iii. elementary version of substance abuse prevention and counseling,
- iv. parental outreach,
- v. after school and evening recreation, and
- vi. homework help.

(b) Secondary level

- i. mental health and family counseling;
- ii. preventive and some primary health care;
- iii. employment services;
- iv. substance abuse prevention and counseling;
- v. information and referral;
- vi. after school homework help;
- vii. after school and evening recreational programming;
- viii. in school child care for pregnant teens; and
- ix. family planning and parenting information

(7) Accountability – Recognizing that both plaintiff and the State were accountable, the court acknowledged the essential nature of such evaluation to ensure high performance and restructuring.

(8) Security costs – The court ruled that any additional costs of security at the *Abbott* schools must not take from resources designated for instructional needs. Supplemental funding will be ordered if needed to meet security needs.²⁶⁴

Facilities:

- (1) All schools should be connected to a high-speed fiber-optic network and all classrooms be wired for integration of technology into the instructional program;
- (2) All elementary schools should include
 - a. adequate classroom space for class sizes of 15 in pre-kindergarten, 21 in K-3, and 23 in grades 4-5;
 - b. space or scheduling accommodations for 90 minutes of reading daily for students in grades 1-3 in class sizes of no more than 15;
 - c. toilet rooms in all pre-kindergarten and kindergarten classrooms;

²⁶⁴ As cited in Appendix I of *Abbott v. Burke*, 153 N.J. 489, 710 A.2d 450 (2002): 607-613.

- d. cafetorium and/or gymnasium with stage for breakfast, lunch, large group presentations, instrumental music and student performances;
- e. computer room for keyboard and computer instruction; and
- f. media center.

(3) All middle schools or elementary schools housing grades 7-8 should include

- a. adequate classroom space for class sizes of 23;
- b. science demonstration room(s) with demonstration table and perimeter student areas with water for all students;
- c. cafetorium and/or gymnasium with stage for breakfast, lunch, large group presentation, instrumental music and student performances; and
- d. media center.

(4) All high schools should include

- a. adequate classroom space for class sizes of 24;
- b. art room;
- c. music room;
- d. science demonstration room(s) for general science with demonstration table and perimeter student areas with water;
- e. science lab(s) with gas, water and appropriate ventilation for chemistry and physics;
- f. auditorium with stage for large group presentations, instrumental music and student performances;
- g. cafeteria for breakfast and lunch;
- h. gymnasium with bleachers and locker rooms; and
- i. media center.²⁶⁵

²⁶⁵ New Jersey State Department of Education, *A Study of School Facilities and recommendations for the Abbott Districts* (Facilities Report): 17-19.

The court concluded that costs could only be determined following a detailed review of individual school need and sensitive consideration of decisions as to renovation versus new construction. Certainly additional classroom space will be necessary to accommodate programming changes. Consideration must also be given to the inclusion of other “core” facilities needed such as gymnasiums, media centers, offices and small-group instruction centers.²⁶⁶ In conclusion, the court held that this crisis for urban education extended beyond New Jersey, in each case obvious in nature and illusive as to solution.²⁶⁷

The court again gave its attention to this matter in *Abbott VIII* calling upon the Commissioner to fully implement “whole school reform; full-day kindergarten and half-day pre-school programs for three- and four-year olds, technology, alternative schools, accountability, and school-to-work and college-transition programs; prescribe procedures and standards to enable individual schools to adopt additional or extended supplemental programs and to seek and obtain the funds necessary to implement those programs for which they have a particular need; the proposed facilities plan and timetable; secure funds to cover the complete cost of remediating identified life-cycle and infrastructure deficiencies in Abbot school buildings as well as the cost of providing the space necessary to house Abbott students adequately; and promptly initiate effective managerial responsibility over school construction, including necessary funding measures and fiscal reforms, such as may be achieved by amendment of the Educational

²⁶⁶ *Abbott* (2002): 632-633.

²⁶⁷ The court felt this description of the difficulties of urban education fairly summed up their dilemma.

“Many of the intractable problems that plague city schools are deeply rooted in the poverty , unemployment, crime, racism, and human despair that pervade the neighborhoods around them. Too often, teachers and administrators are asked to solve problems that the public and its leaders in the statehouses and city halls have lacked the will and courage to tackle.

Some urban districts are rising to meet the enormous challenges before them. Here and there, test scores are climbing, dropout rates are falling, order is returning, and children are learning. Invariably, in these pockets of success we found bold leadership imaginative initiatives, and extraordinary efforts by individual teachers and administrators.

But the problems still overwhelm the progress. And urban schools are fighting a battle they cannot win without strong support from local, state, and federal political leaders, and from voters and taxpayers outside the cities. If states, in particular, do not accept this challenge, the continuing national movement to improve schools will fail. Today, one out of every four American children - - 11 million young people - - [attends] school in an urban district.” “Quality Counts ’98 - - The Urban Challenge - - Public Education in the 50 States” in *Education Week* (January8, 1998) as cited in *Abbott* (2002): 635.

Facilities Act.”²⁶⁸ The court noted that success depended not only on the commitment of all levels and branches of government to “conscientiously undertake and vigorously carry forward” these reforms but also required local schools and districts, teachers, administrators, parents, and the children themselves to embrace the educational opportunity brought by these reforms.²⁶⁹

Arkansas

Standards

Intelligence and virtue being the safeguard of liberty and the bulwark of free and good government, the State **shall ever maintain a general, suitable efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education.**

Constitution of Arkansas 1874, Article 14. Education § 1 Free school system

Precedent

The search for a definition of adequacy in Arkansas began with a call from the General Assembly for the State Board of Education to conduct an adequacy study to clarify the level of funding required to provide “a general, suitable efficient system of free public schools.” The study was to involve those closest to education including teachers, school boards, administrators, and parents in the definition of adequacy. Despite repeated requests from the legislature, the Department of Education did not respond with proposed legislation. In 2001, Judge Kilgore responded to this seven-year silence by ordering that an adequacy study be done to devise a system of school financing based on need rather than the amount money available. In doing so, the court accepted the performance standards adopted by the General Assembly in 1997 and the decision in *Rose v. Council for Better Education, Inc.* to define “efficient” education.²⁷⁰

Court Ruling

The Supreme Court of Arkansas chose to clarify the components of adequate education by appointing Masters to evaluate the implementation of standards suggested to the court in *Lake View School District No. 25 of Phillips County v. Huckabee*, 91 S.W.3d 472. What developed from their work was “The Evidence Based Matrix”

²⁶⁸ Ibid., 473-474.

²⁶⁹ Ibid., 474.

²⁷⁰ *Lake View School District No. 25 of Phillips County v. Huckabee*, 91 S.W.3d 472: 486-488.

portrayed as the resources needed to provide and adequate education. Changes were recommended in three areas.

(1) Instruction

- (a) Enough teachers to provide a pupil teacher ration of 15:1 in K-3; 25:1 in all other grades;
- (b) Additional teachers equal to twenty per cent of the number required by student teacher ratios to provide for enrichment programs for students and planning for teachers;
- (c) Additional staff members for schools with high concentrations of poverty, to include tutors and “pupil support personnel” added to school faculty for each 100 students who qualify for federal free and reduced lunch, with a minimum of one at each school; each 100 children identified as English Language Learners (ELL) generate an additional 0.40 full-time equivalent (FTE) tutor/teacher;
- (d) Instructional facilitators at each school to help teachers improve instruction;
- (e) Adequate staff to meet the needs of children with mild and moderate disabilities;
- (f) Catastrophic funding program to provide special education to children with severe disabilities;
- (g) Elimination of instructional aide and assistant principal position; and
- (h) Increased funding for professional development, technology, instructional materials and supervisory aides.

(2) Teacher Compensation

- (a) Ten per cent (10%) salary increases to make pay comparable to surrounding southern states;
- (b) A performance based system for teachers who show growth in knowledge and skills;
- (c) Salary additions to attract teachers providing additional salary for teachers willing to work in less desirable geographic areas, subject areas where shortages exist, and for advanced graduate degrees;

- (d) Extending teacher contracts for five days to provide additional time for professional development;
- (e) Performance bonus system in which all teachers in a school earn bonuses for improvement in academic performance.

(3) Early Childhood Education Initiative

- (a) preschool available for three-and four-year olds from families with income at or below 200 per cent (200%) of the poverty level.²⁷¹

Examination of individual cases at this level of inquiry increases the strength of argument by uniting varied interpretation to expand expectations and understanding. Connections may be made linking sufficiency to results through specific input requirements. Combining these basic assumptions allows for value warrants that establish a relationship between funding and the availability of educational opportunity. Adequate resources can only promote the possibilities of local choice. Although emphasis is placed on input and the manner in which resources will be provided, the requirements of sufficiency are not clearly delineated. Similarly, the performance template spells out specific input requirements in the areas of instruction, staffing, equipment and facilities. Less direction is given to the areas of outreach and evaluation. Outreach is restricted to general pronouncements that parents and the public should be part of the process. Evaluation has no clear focus only being encouraged in the areas of student achievement, efficient operation, and research and development at the state level.

**Efficiency Framework
(E-frame)**

Value Warrants

1. Education is essential to prosperity preparing students politically, economically, and socially for democracy.
2. Educational opportunities must be free to all regardless of income, race, or location providing substantially equal access resulting from a similar tax burden.

²⁷¹ *Lake View School District No. 25 of Phillips County v. Huckabee*, 2004 WL 1406270.

3. Resources must be above a minimum level with sufficient funding to provide staff, facilities, or equipment. Overall efficiency decreases as school divisions are starved for funds.
4. Funding has a direct relationship to the availability of educational opportunity, increasing local control through choices rather than required reductions from lack of support. Students must be allowed to succeed because of resources not in spite of them.
5. When financial responsibility is delegated to localities, states must compel localities to meet those obligations or meet the need with its own resources.

Performance Template

Area	Standard	Structural response
INSTRUCTION		
	Program offerings designed to develop individual talents and abilities of pupils enhancing community or family resources	
	Foreign languages	
	Computer courses	
	Honors and AP instruction	
	Art	
	Music	
	Programs and supportive services for all pupils	
	Educationally disadvantaged	
	Special educational needs	
	Extended term effort to offer with extra opportunity to learn to expected level	
	Alternative programs and schools	
	Drop-out prevention programs	
	Pre-school programs	
	Full-day kindergarten programs	
	Full-day programs for three and four year olds from families with income at or below 200 per cent (200 %) of the poverty level	
	Proven, effective whole school reform	
	Parental outreach	
	After school and evening recreation	
	Homework help	

Area	Standard	Structural response
	<i>Added at the secondary level</i>	
	Employment services	
	Information and referral	
	In-school childcare for pregnant teens	
	Family planning and parenting information	
STAFFING		
	Student teacher ratios	
	15:1 in K-3	
	25:1 in all other grades	
	Additional staff members for schools with high concentrations of poverty	
	one additional full-time equivalent (FTE) tutor/teacher for each 100 students who qualify for federal free and reduced lunch (minimum of one per school)	
	one additional 0.40 full-time equivalent (FTE) tutor/teacher for each 100 children identified as English Language Learners (ELL)	
	Additional teachers equal to twenty per cent (20%) of the number required by student teacher ratios to provide for enrichment programs for students and planning for teachers	
	Adequate staff to meet the needs of children with mild, moderate, and severe disabilities	
	Additional teachers equal to twenty per cent (20%) of the number required by student teacher ratios to provide for enrichment programs for students and planning for teachers	
	Instructional facilitators at each school to help teachers improve instruction	
	Compensation comparable to surrounding region	
	Salary additions to attract teachers to work	
	in less desirable geographic areas	
	in subject areas with shortages	
	for advanced graduate degrees	
	Performance bonus system for	
	improvement in academic performance	
	growth in knowledge and skills	
	Extending teacher contracts to provide additional time for professional development	
	Counseling services	
	Media Specialists	

Area	Standard	Structural response
EQUIPMENT		
	Purchase up-to-date textbooks	
	Provide everyday supplies such as chalk, paper, art supplies paper clips, and toilet paper	
	Up-to-date technology	
	Provide computers and technology training	
	All schools connected to a high-speed fiber-optic network	
	All classrooms wired for integration of technology into the instructional program	
FACILITIES		
	Guarantee a safe, healthy learning environment	
	Adequately equipped, sanitary, and secure physical facilities provided with adequate materials and supplies	
	<i>Elementary</i>	
	Adequate classroom space for class sizes of 15 in pre-kindergarten, 21 in K-3, and 23 in grades 4-5	
	Space and/or scheduling accommodations for 90 minutes of reading daily for students in grades 1-3 no more than 15 students per class	
	Toilet rooms in all pre-kindergarten and kindergarten classrooms	
	Cafetorium and/or gymnasium with stage for breakfast, lunch, large group presentations, instrumental music and student performances	
	Computer room for keyboard and computer instruction	
	Media center	
	<i>Middle School (grades 7-8)</i>	
	Adequate classroom space for class sizes of 23	
	Science demonstration room(s) with demonstration table and perimeter student areas with water for all students	
	Cafetorium and/or gymnasium with stage for large group presentation, instrumental music, and student performances	
	Media center	

Area	Standard	Structural response
	<i>High School</i>	
	Adequate classroom space for class sizes of 24	
	Art room	
	Music room	
	Science demonstration room(s) for general science with demonstration table and perimeter student areas with water	
	Science lab(s) with gas, water and appropriate ventilation for chemistry and physics	
	Auditorium with stage for large group presentations, instrumental music and student performances	
	Cafeteria for breakfast and lunch	
	Gymnasium with bleachers and locker rooms	
	Media center	
OUTREACH		
	Encourages public involvement in the establishment of educational goals	
	Parental involvement programs	
EVALUATION		
	Educational goals set at both the State and local levels	
	Efficiency evaluation and monitoring programs at both the State and local levels	
	Evaluation to ensure high performance and restructuring	
	State program of research and development	
	Attainment of proficiency in	
	Basic communication skills	
	Computation skills	
	Knowledge of economic, social and political system to allow informed choices	
	Understanding of governmental process to understand community, state, and national issues	
	Knowledge of mental and physical wellness	
	Grounding in the arts to appreciate cultural and historical heritage	
	Preparation for advanced academic or vocational training	
	Academic or vocational skills to compete in academia or the job market	

Equality/Equity/Dignity Cases

Seven cases were used to build the EED framework. With the exception of Montana, *terms of art* in this cluster were not as specific an identifier referencing more general terms for adequate public education. Instead the values of equality, equity and dignity were found in the court decisions themselves. For example, the Vermont Constitution insists that “a competent number of schools ought to be maintained in each town unless the general assembly permits or provisions for the convenient instruction of youth.” Rather than quantifying that requirement to a certain number of schools for a certain number of children in certain locations, the court cited education as the only government service raised to the level of constitutional protection. The court held that there was no indication in the constitution that education was a local obligation but rather that it was the one service the state could equalize to promote political and civil rights. For Alabama, the constitutional right to education rested in the obligation to “establish, organize, and maintain a liberal system of public schools throughout the state.” Citing *Brown v. Board of Education*, the court ruled that inputs into public education must be offered on equal terms regardless of wealth or residence community. The court cited the sufficiency requirements established in Kentucky as output standards for equity in educational opportunity. In New York, issues revolved around the obligation of the state to provide “the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.” The areas of input were clearly identified to include up to date materials, facilities, and equipment. Teachers must be qualified and provided with adequate facilities and appropriate class sizes to provide quality instruction. The court recognized the need for a stable, sustained flow of resources to meet these obligations. The distribution of funding must account for the variety of costs associated with special needs and regional location. The effects of isolation caused by race and poverty must be neutralized by equitable public education. Although the decision itself was limited to New York City, the court ruled that the standards of this decision would be applied to other locations demonstrating the same needs. Output standards included measurement of school completion, student achievement, and graduation rates. The *terms of art* established by the Montana Constitution speak more directly to the EED value cluster by establishing the goal of the people to be “a system of

education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.” The legislature is required to provide “a basic system of free quality public elementary and secondary schools”. . . and “fund and distribute [the state’s share of the cost] in an equitable manner.” The court makes the connection between the availability of funding and the quality of educational opportunity. Inputs to the system include lab classes with hands on opportunities for student exploration, updated books, and programs targeted to enhance the opportunities for gifted and talented students. Using this plain value interpretation, the court challenged the state to address issues of educational opportunity before the system simply collapsed. In Arizona, “the establishment and maintenance of a general and uniform public school system” requires that school districts, counties, and the state take on the responsibility to educate all children. The state cannot delegate obligations of “general and uniform” to the localities. In Connecticut, the obligation requiring that there “always be free public elementary and secondary schools” focused the court on the harmful effects of racial and ethnic isolation compounded by poverty. The court ruled that whether *de facto* or *de jure*, segregated education was detrimental to the preservation of the democratic way of life. In Kansas, the court ruled that the obligation of the State to “provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools” meant the legislature could no longer provide resources to school districts in a manner that offered educational opportunities to some children that were not provided for all children. Citing the adequacy and equity requirements of the constitution, the court required an evaluation to determine what would be needed to provide suitable education for students throughout Kansas. Consideration of demographic and geographic differences were required as part of these calculations. Although the *terms of art* considered in each case were quite different, each decision outlined below was based on some understanding of the democratic obligation to equality/equity/dignity in public policy making specifically as it applies to public education.

Vermont

Standards

Laws for the encouragement of virtue and prevention of vice and immorality ought to be constantly kept in force, and duly executed; and **a competent number of schools ought to be maintained in each town unless the general assembly permits or provisions for the convenient instruction of youth...**

Constitution of the State of Vermont Chapter II 1793, § 68.

Precedent

Noting the state's long term commitment to equal education, the Vermont Supreme Court based its consideration of this complaint on the challenge to make the opportunity for public education available to all children of the state.

Our youth can be considered in no other light, than as children of the state, having a common interest in the preservation of, and in the benefits to be derived from, our free institutions – and possessing also, whether rich or poor, equal claims upon our patriotism, our liberty and our justice. It is, therefore, our paramount duty to place the means for obtaining instruction and information, equally with the reach of all.

Inaugural Address of Governor Samuel Crafts, *1828 Journal of the General Assembly of the State of Vermont*²⁷²

Court Ruling

The court found education to be integral to the design of the constitution guaranteeing political and civil rights. Any policy framework impinging on that right must have clear justification.²⁷³ Education was the only governmental service given Constitutional status. Other public services such as welfare, police and fire protection, and transportation were established in statutes and must therefore receive funding after obligations to education are met. Nowhere does the Constitution render funding to be a local responsibility. Access to educational opportunities should not be determined by where a child happens to live.²⁷⁴ Although equal money does not necessarily produce equal opportunity, funding differences “significantly affect opportunities to learn.”

²⁷² *Brigham v. State* (166 Vt.246, 692 A.2d 384): 266.

²⁷³ *Ibid.*, 256.

²⁷⁴ *Ibid.*, 264-265.

Acknowledging that financial support was not the only factor determining the educational opportunities available to children, the court ruled that it was an element that government could substantially equalize.²⁷⁵

Alabama

Standards

The Legislature shall **establish, organize, and maintain a liberal system of public schools throughout the state...** The public school fund shall be apportioned to the several counties in proportion to the number of school children of school age therein..." *Alabama Constitution*, Article XIV, § 256

Court Ruling

The court ruled that the deficiencies and unsatisfactory conditions in Alabama public school system rose to the level of deprivation of constitutional and statutory rights decreeing that

- (1) ... Alabama school-age children, including children with disabilities, have and enjoy a constitutional right to attend school in a liberal system of public schools, established, organized and maintained by the state, which shall provide all such school children with substantially equitable and adequate educational opportunities; and
- (2) the essential principles and features of a "liberal system of public schools required by the Alabama Constitution include the following:
 - (a) It is the responsibility of the state to establish, organize, and maintain the system of public schools;
 - (b) the system of public schools shall extend throughout the state;
 - (c) the public schools must be free and open to all schoolchildren on equal terms;
 - (d) equitable and adequate educational opportunities shall be provided to all schoolchildren regardless of the wealth of the communities in which the schoolchildren reside; and
 - (e) adequate educational opportunities shall consist of, at a minimum, an education that provides students with opportunity to attain the following:

²⁷⁵ Ibid., 256.

- (i) sufficient oral and written communication skills to function in Alabama, and at the national and international levels, in the coming years;
- (ii) sufficient mathematics and scientific skills to function in Alabama, and at the national and international levels, in the coming years;
- (iii) sufficient knowledge of economic, social and political systems generally, and of history, politics, and social structure of Alabama and the United States, specifically, to enable the student to make informed choices:
- (iv) sufficient understanding of governmental processes and of basic civic institutions to enable the student to understand and contribute, to the issues that affect his or her community, state, and nation;
- (v) sufficient self-knowledge of principles of health and mental hygiene to enable the student to monitor and contribute to his or her own physical and mental well-being;
- (vi) sufficient understanding of the arts to enable each student to appreciate his or her cultural heritage and the cultural heritages of others;
- (vii) 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;
- (viii) sufficient levels of academic or vocational skills to enable public school students 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; and
- (ix) sufficient support and guidance so that every student feels a sense of self-worth and ability to achieve, and so that every student is encouraged to live up to his or her full human potential.²⁷⁶

New York

Standards

The legislature shall provide for **the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.**

New York Constitution, article XI, § 1.

²⁷⁶ *Alabama Coalition for Equity, Inc. v. Hunt, Harper v. Hunt*, 1993 WL 204083 (Ala.Cir.Ct.): 62-63.

Precedent

In 1995, the Court of Appeals in New York State reinforced the constitutional obligation that the state must provide the opportunity for “a sound basic education” to all children.²⁷⁷ Sound basic education meant “basic literacy, calculating and verbal skill necessary to ... function productively as civic participants capable of voting and serving on a jury.” Skills must be focused on practical application by the citizenry. Students must be able to compete for jobs that would provide a livelihood. The court recognized that in most cases this required a high school diploma. Civic responsibility entailed more than simple qualification but rather “capable and knowledgeable” participation.²⁷⁸ Adequate input required:

- (1) minimally adequate teaching of reasonably up-to-date basic curricula such as reading, writing mathematics, science, and social studies, by sufficient personnel adequately trained to teach those subject areas;
- (2) minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn; and
- (3) minimally adequate instrumentalities of learning such as desks, chairs, pencils and reasonably current textbooks.²⁷⁹

The measurement of adequate output include:

- (1) school completion;
- (2) measures of student achievement including test scores; and
- (3) graduation rates.²⁸⁰

Court Rulings

In 2001, the court set parameters to guide reform requiring that the state ensure at least certain resources including:

²⁷⁷ *Board of Education, Levittown Union Free School District v. Nyquist*, 57 N.Y.2d 27 at 48, 453 N.Y.S.2d 643, 439 N.E.2d 359 (1982) as cited in *Campaign for Fiscal Equity v. State*, 100 N.Y.2d 893, 801 N.E.2d 326, 769 N.Y.S.2d 106: 902.

²⁷⁸ *Campaign for Fiscal Equity v. State of New York*, 86 N.Y.2d at 317, 63` N.Y.S.2d 565, 655 N.E.2d 661:905-906.

²⁷⁹ *Ibid.*, 909-913.

²⁸⁰ *Ibid.*, 914-918.

- (1) sufficient numbers of qualified teachers, principals and other personnel;
- (2) appropriate class sizes;
- (3) adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum;
- (4) sufficient up to date books, supplies, libraries, educational technology and laboratories;
- (5) suitable curricula, including an expanded platform of programs to help at risk students by giving them “more time on task”;
- (6) adequate resources for students with extraordinary needs; and
- (7) safe and orderly environment.

In turn, the court required defendants address shortcomings of present system such as

- (1) ensuring that every school district has the resources necessary for providing the opportunity for a sound basic education;
- (2) taking into account variation in local costs;
- (3) providing sustained and stable funding in order to promote long-term planning by schools and school districts;
- (4) providing as much transparency as possible so that the public may understand how the State distributes school aid;
- (5) ensuring a system of accountability to measure whether the reforms implemented by the legislature actually provide the opportunity for sound basic education and remedy the disparate impact of the current finance system; and
- (6) examine racial isolation in NYC.

Not only did the court find the state in violation of its own constitution, but also found that the present system of public school financing violated regulations passed by the U.S. Department of Education pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 34 C.F.R. § 100.3[b][1], [2]). Remedy must be in place by September 15, 2001.²⁸¹

²⁸¹ Ibid., 114-116.

In 2003, the court again addressed the issue of adequacy holding that unique circumstances existed in New York City. The students in New York City were held to have the most need, the highest cost, the lowest per pupil inputs, and some of the lowest outputs in the State of New York. Applying the standards set forth in the previous decisions, defendants were required to cost out the resources required and evaluate the effectiveness of interventions to deliver of a sound basic education in New York City.²⁸²

Montana

Standards

Education goals and duties.

- (1) It is the goal of the people to establish **a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.**
- (2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.
- (3) The legislature shall provide **a basic system of free quality public elementary and secondary schools.** The legislature may provide such other educational institutions, public libraries, and educational programs, as it deems desirable. It **shall fund and distribute in an equitable manner** to the school districts the state's share of the cost of the basic elementary and secondary school system.
Montana Constitution article X, § 1

Court Ruling

The Supreme Court of Montana affirmed the unchallenged decision of the district court finding that

- (1) availability of resources necessarily affects the quality and breadth of educational opportunity;
- (2) a positive correlation exists between the level of school funding and educational opportunity;
- (3) more flexibility exists in the reallocation of resources to programs needing resources in districts with higher levels of funding; and

²⁸² *Campaign For Fiscal Equity v. State of New York*, 100 N.Y.2d 893, 801 N.E.2d 326, 769 N.Y.S.2d 106: 930.

- (4) the standard for examination found the 12 paired school districts to be using funds responsibly and efficiently.

Wealthier districts were able to offer more opportunities including:

- (1) more science classes in lab which were larger and better stocked with more materials and equipment;
- (2) more hands on learning experiences in science, home economics and industrial arts programs;
- (3) larger book, periodical, reference, audio visual, and special collections;
- (4) gifted and talented programs much stronger;
- (5) facilities and maintenance projects completed as needed; and
- (6) wider range of extracurricular activities.²⁸³

Citing the provision of the Montana constitution, the court reaffirmed the guarantee to the people of Montana that its system of education would allow the development of “the full educational potential of each person.” Using a plain value interpretation of the second sentence of subsection 1, the court held that equality of educational opportunity was not simply the goal of the State but rather the only right constitutionally guaranteed.²⁸⁴ Such a guarantee required that that the school finance system built by the State rest on the needs and costs to provide educational opportunity based upon educationally relevant factors. The state need not wait until Montana’s school system collapses from inadequate resources just as it cannot judiciously tarry until “dead fish float to the surface of our state’s rivers and streams before its farsighted environmental protections can be invoked.”²⁸⁵

²⁸³ *Helena Elementary School District No. 1 v. State*, 236 Mont. 44, 769 P.2d 684: 49-50.

²⁸⁴ *Ibid.*, 53.

²⁸⁵ *Columbia Falls Elementary School District No. 6*, 2004 WL 844055 (Mont.Dist.): 32

Arizona

Standards

The legislature shall enact such laws as shall provide **for the establishment and maintenance of a general and uniform public school system** which system shall include kindergarten school, common schools, high schools, normal schools, industrial schools and a university....

Arizona Constitution article XI §, 1

Court Ruling

The Supreme Court of Arizona ruled that the legislature was permitted to structure financing of public education to rely on resources from school districts, counties and the state. Any such system of funding must result in general and uniform financing scheme to promote collective self-interest.²⁸⁶ Chief Justice Feldman wrote to specially concur that when the state requires minimum standards it must also bear the responsibility of providing a financing scheme that enable each district to have the facilities and equipment to meet the quality set forth in educational standards. The state cannot delegate the responsibility to create a “general and uniform” school system to local school districts.²⁸⁷

Connecticut

Standards

There shall **always be free public elementary and secondary schools** in the state. The general assembly shall implement this principle by appropriate legislation. *Constitution of the State of Connecticut 1965, Article Eighth, of Education, § 1*

No person shall be denied the equal protection of the law nor be subjected to segregation or discrimination in the exercise or enjoyment of his or her civil or political rights because of religion, race, color, ancestry, national origin, sex or physical or mental disability. *Constitution of the State of Connecticut, article first, § 20*

Precedent

Delegates to 1965 constitutional convention endorsed *Brown v. Board of Education* as a direct application of Article First holding “separate but equal” policies to

²⁸⁶ Roosevelt Elementary School District Number 66 v. Bishop, 179 Ariz. 233, 877 P2d 806: 243

²⁸⁷ Ibid., 246.

be unconstitutional in all applications. Noting the lack of such guarantee directly applied to public education, Article Eight was added to guarantee access to elementary and secondary public education.²⁸⁸

Court Ruling

The Supreme Court of Connecticut framed its decision acknowledging the harmful effects created by racial and ethnic isolation compounded by poverty.²⁸⁹ The court insisted that the state must remedy such segregation in public education whether *de jure* or *de facto* in nature.²⁹⁰ Whether the opportunity gap was created by the laws regulating the distribution of resources or simply by geographic location, the promise of free public elementary and secondary education coupled with the guarantee of equal protection required the State reexamine the present public school financing system. Citing both *Brown v. Board of Education* and *Plyler v. Doe*,²⁹¹ the court found fair access to unsegregated education for all schoolchildren essential to the sustainability of a democratic society. Remedy was left to the Legislature and executive branch with the court retaining jurisdiction.²⁹²

Kansas

Standards

The legislature shall provide **for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools**, educational institutions, and related activities which may be organized and changed in such manner as may be provided by law. *Constitution of the State of Kansas* 1859, Article 6 – Education §1

²⁸⁸ *Sheff v. O'Neill*, 238 Conn. 1, 678 A.2d 1267: 30-31.

²⁸⁹ *Ibid.*, 3, 39.

²⁹⁰ *Ibid.*, 30.

²⁹¹ “The American people have always regarded education and [the] acquisition of knowledge as matters of supreme importance... We have recognized the public schools as a most vital civic institution for the preservation of a democratic system of government ... and as the primary vehicle for transmitting the values on which our society tests... And these historic perceptions of the public schools as inculcating fundamental values necessary to the maintenance of a democratic political system have been confirmed by the observations of social scientists... [E]ducation provides the basic tools by which individuals might lead economically productive lives to the benefit of us all. In sum, education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to select groups are denied the means to absorb the values and skills upon which our social order rests.” *Plyler v. Doe*, 457 U.S. 202, 102 S.Ct. at 2397 cited in *Sheff v. O'Neill*: 44.

²⁹² *Plyer v. Doe*: 43

Precedent

In December 2003, the district court found the current funding system for public education to be in violation of Article 6 and the equal protection clauses of both the Kansas and US Constitutions in that it

- (1) failed to equitably distribute resources among children equally entitled to a suitable education and supplied no rational explanation of disparity;
- (2) failed to supply adequate total resources; and
- (3) dramatically and adversely effected the learning and educational performance of the state's most vulnerable and/or protected Kansas children²⁹³ as a result of general and selective under funding.

Finding no factual basis for the funding differential or the additional cost incurred to educate those children receiving more, the present system was judged irrational where “those schools with the children most expensive to educate receive the least” funding. Correlated with the “uncontroverted evidence” that all children can learn and flourish when education is properly funded and students properly taught, the court found the present system to be in clear violation of the equal protection guaranteed by the State and Federal Constitutions.²⁹⁴

Court Ruling

Tracing state activity since its prior ruling in 2003, the court found the state had made no progress by addressing the constitutional issues surrounding “the inadequate and inequitable funding formulas which disparately and adversely affect vulnerable and/or protected children, creating an “achievement gap” of shocking proportion. The court paraphrased Aesop suggesting “The mountain labored and brought forth nothing.”²⁹⁵

Frustrated with the inactivity of legislative and executive representatives, the court went on to delineate the requirements of a Constitutional funding scheme. The new Plan must not contain:

²⁹³ This class of children was considered to include the poor, minorities, physically and mentally disadvantaged, and those who cannot or nearly cannot yet speak the primary language of America.

²⁹⁴ *Montoy v. Kansas*, 2004 WL 1094555 (Kan.Dist.Ct.): 1-3.

²⁹⁵ *Ibid.*, 5.

- (1) wealth based, local funding options which cause per pupil funding disparities;
- (2) special “weights” which favor some children and some locales over others;
- (3) geographic considerations which result in unfair per pupil funding differentials not related to actual costs incurred in providing equal educational opportunities for individual children;
- (4) unnecessary complexity of the type which has previously prevented both legislators and the public from comprehending both the inequity and the inadequacy of the present school finance system;
- (5) special local or other funding authority benefiting only some children;
- (6) any funding concept which is not based on actual costs for every child;
- (7) unequalized “local” funding options, which by their nature are more available to wealthy districts both politically and in the revenues generated;
- (8) any revenue source which requires local approval, thus creating inequities between places and children. Special fund categories, such as special education, which are not tied to actual costs and which are not fully funded;
- (9) quality or performance mandates for which funds are not provided; or
- (10) any funding mechanism which deprives schools with “expensive to educate” students of the funds necessary to successfully teach them such as low enrollment weighting does in the current system. Differentials based on actual costs, for example, smaller schools are permissible provided there is no resulting disadvantage for students in other schools.

The Kansas Legislative Coordinating Council was instructed to provide for a professional evaluation of school district finances to determine the cost of a suitable education for children throughout Kansas determining the funding needed

- (1) to provide a suitable education in K-12;
- (2) for additional support needed for special education, at-risk, limited English proficient pupils and pupils impacted by other special circumstances;
- (3) to make the adjustments necessary to ensure comparable purchasing power for all districts, regardless of size or location; and
- (4) to adjust for inflation.

Referencing the adequacy and equity requirements of the Constitution, the court held that the required evaluation must include

- (1) the cost of providing comparable opportunities in the state's small rural schools as well as the larger, more urban schools, including differences in transportation needs resulting from population sparsity as well as differences in annual operating costs;
- (2) the cost of providing suitable opportunities in elementary, middle, and high schools;
- (3) the additional costs of providing special programming opportunities including vocational education;
- (4) the additional cost associated with educating at-risk children and those with limited English proficiency;
- (5) the additional cost associated with meeting the needs of pupils with disabilities;
- (6) the cost of opening new facilities; and
- (7) the geographic variations in costs of personnel, materials, supplies and equipment and other fixed costs so that districts across the state are afforded comparable purchasing power.

The court required the Legislature to follow through by finding the resources necessary to adequately fund public education. Without additional revenue, programs and services not required by the Constitution might face reduction and possible termination.²⁹⁶

Taking these obligations beyond the face value of constitutional language, these state courts have used equality/equity/dignity as the foundation in describing what is and is not permitted in the provision of educational opportunity for all their citizens. This variety of approaches was applied in the warrants and performance templates that follow creating a broader definition of this value cluster. These warrants provide a platform from which concern for the potential of the individual student also speaks for the collective self-interest. In other words, as education is provided to everyone through the EED cluster, the possibilities for the whole group improve. Racial and ethnic isolation was clearly harmful to all populations. To meet the needs of all children, funding must

²⁹⁶ Ibid., 13-15.

account for variation in circumstance and local costs. The state is the governmental body that has the ability to provide the resources for the stable source of revenue needed for long range planning. This performance template allows a more balanced approach to implementing these values into a particular place and time. Where the E-frame emphasized instruction, the EED-frame requires investment equally across all areas of investment. Again, outreach is the area with the least instruction from the courts.

Equality/Equity/Dignity Framework (EED-frame)

Value Warrants

1. Democracy requires the development of the educational potential of each person to promote the collective self-interest.
2. Each student has equal claim to liberty and justice requiring that educational opportunities must reach all children.
3. Whether *de jure* or *de facto*, racial and ethnic isolation is harmful to students of all races.
4. All students can learn and flourish when education is properly funded and students are properly taught. The most expensive children to educate must receive the highest levels of funding.
5. Funding policy must account for variation in local costs.
6. Although many factors contribute to the availability of educational opportunity, funding differences significantly affect opportunities to learn. With long range planning supported by sustained and stable funding, this aspect of the equation can be effectively equalized by the state.

Performance Template

Area	Standard	Structural response
INSTRUCTION		
	Suitable curricula expanding platform of programs to help at risk student by giving more time on task	
	Programs and supportive services for all pupils including	
	Educationally disadvantaged	
	Special Education	
	Limited English Proficiency	
	Resources for students with extraordinary needs	
	Gifted and talented programs strengthened	
	Wider range of extracurricular activities	
	More hands on learning experiences in science home economics and industrial arts programs	
	Up to date basic curricula in reading, writing, mathematics, science, and social studies	
STAFFING		
	Personnel trained to teach reading, writing, mathematics, science, and social studies	
	Qualified teachers, principals and other personnel	
	Appropriate class sizes	
	Counseling services	
EQUIPMENT		
	Adequate instrumentalities of learning such as desks, chairs, pencils and current text books	
	Up to date books, supplies, libraries, educational technology and laboratories	
	More science classes in large, well equipped labs	
	Media centers hold large collections of books, periodicals, reference, audio visual and special materials	
FACILITIES		
	Safe and orderly environment	
	Adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn	
	Adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum	
	Cost of opening new facilities	

Area	Standard	Structural response
OUTREACH		
	Transparency in the distribution of educational resources to promote public understanding	
EVALUATION		
	Long term educational planning requiring sustained and stable funding	
	Evaluation to ensure high performance and restructuring	
	Measures of Student achievement including test scores	
	Attainment of proficiency in	
	Oral and written communication skills	
	Mathematics and scientific skills	
	Knowledge of economic, social and political systems to allow informed choices	
	Understanding of governmental process to understand community, state, and national issues	
	Knowledge of mental and physical wellness	
	The arts to appreciate cultural and historical heritage	
	Preparation for advance academic or vocational training	
	Academic or vocational skills to compete in academia of the job market	
	School completion – graduation rates	

Excellence/Quality Cases

Five cases were selected to develop warrants and performance templates for the EQ framework. Although the *terms of art* referenced by these various state constitutions do not call for quality and excellence directly, the ruling in each case reflects the obligation to deliver public education in this manner. In California, the call for the legislature “to encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement” and “to provide for a system of common schools by which a free school shall be kept and supported” required the court to declare the present system of resource distribution to “invidiously” discriminate against the poor. The court found no compelling state interest to allow the continuation of such practice. The legislature was required to provide equal access to quality education. The Tennessee

court addressed the EQ value cluster by ruling that “inherent value of education” needed no modifier holding excellence and quality to be embedded in the meaning of education itself. Quality and equality in the delivery of educational opportunity was the touchstone of this decision. Equality of funding at a minimal level was not sufficient. In Washington State, the State Supreme Court ruled that the “paramount duty of the state to make ample provision for the education of all children residing within its borders” required the state to provide a dynamic education program that remained effective through changing times. For the children of Washington State, ample means quality and excellence. In West Virginia, the court carefully researched the meaning of “a thorough and efficient system of free schools” by examining literary definitions and rulings in other school finance litigation. The court found that to produce the desired student outcomes the state must provide the resources necessary to meet high quality educational standards. For North Carolina, the impetus to set EQ standards rose from the constitutional acknowledgement that “The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.” Building on earlier court decisions requiring the state to provide adequate resources for a sound basic education, the court ruled that state financial policy must insure a quality education for every child. This general direction was later challenged as evidence appeared indicating the needs of at risk students were still not met in some geographic regions. The court ruled that the state must allocate additional funding to these areas to endeavor to break the cycle of poverty and disadvantage. To meet these needs, the state must provide adequate teachers and administrators, recognize failing trends in students, and implement educational offering. Quality was to be evaluated by improvement in test scores, dropout and graduation rates, secondary preparation, employment potential, and post-secondary preparation. In each of these cases, the call for excellence and quality rose from the examination of qualitative standards with inherent obligations to weave a high level of input and output into public education.

California

Standards

A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall **encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.**

Constitution of the State of California 1879, Article IX, Education, §1.

The Legislature shall provide for a **system of common schools by which a free school** shall be kept and supported in each district at least six months in every year.

Constitution of the State of California 1879, Article IX, Education, §5.

All laws of a general nature shall have a uniform operation.

Constitution of the State of California 1879, Article I, Equal Protection, §11.

No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen or class of citizens, be granted privileges or immunities which, upon the same term, shall not be granted to all citizens.

Constitution of the State of California 1879, Article I, Equal Protection, § 21.

Court Ruling

The California Supreme Court set precedent in this decision by pairing the equal protection and education clauses of the California State Constitution. Not only was education vital to the preservation of the liberty, but also the legislature must deliver educational opportunity through a system supported in a manner to guarantee equal access to quality education to all students. Justice Sullivan spoke for the court judging that the present

Funding scheme invidiously discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors. Recognizing as we must that the right to an education in our public schools is a fundamental interest which cannot be conditioned on wealth, we can discern no compelling state purpose necessitating the present method of financing.²⁹⁷

By our holding today we further the cherished idea of American education that in a democratic society free public schools shall make available to all children equally the abundant gifts of learning.²⁹⁸

²⁹⁷ *Serrano v. Priest*, 5 Cal.3d 584, 487 P.2d 1241, 96 Cal.Rptr. 601: 589.

²⁹⁸ *Ibid.*, 619.

The court agreed with the plaintiffs that the present system of financing public education

- (1) made the quality of education for school age children in California a function of the geographical accident of the school district in which said children reside dependent upon the wealth of the children's parents and neighbors;
- (2) failed to address the difference of educational needs of children in the various school districts in the State of California;
- (3) provides students living in some school districts of the State with material advantages over students in other school districts in selecting and pursuing their educational goals;
- (4) failed to provide children of substantially equal age, aptitude, motivation, and ability with substantially equal educational resources;
- (5) required parents in these districts to pay a higher tax rate than taxpayers in wealthier school districts in order to obtain equal or in some cases fewer educational opportunities for their own children; and
- (6) perpetuated marked differences in the quality of educational services, equipment and other facilities which exist among the public school districts of the State as a result of the inequitable apportionment of State resources with a disproportionate number of school children who are black children, children with Spanish surnames, and children belonging to other minority groups residing in school districts delivering relatively inferior educational opportunity.²⁹⁹

Tennessee

Standards

The State of Tennessee recognizes the **inherent value of education** and encourages its support. The General Assembly shall provide for **the maintenance, support and eligibility standards of a system of free public schools....** *Tennessee Constitution* 1978, Article XI, § 12

Precedent

[T]he kind and quality of instruction given to the young is as important as the food furnished the people, and the public school is, in the highest sense, a public institution.... *Leeper v. State*, 103 Tenn. 500, 515, 53 S.W. 962, 965 (1899)³⁰⁰

²⁹⁹ *Ibid.*, 590.

³⁰⁰ *Tennessee Small School Systems v. McWherter*, 851 S.W.2d 139: 151.

The Chancery Court of Davidson County found a direct correlation between the dollars spent and the quality of education received by students. Presenting an audit of the Department of Education done in 1990, the Comptroller found large disparities in the funds available for education from school district to school district. Although the state has set aside funds for equalization, that portion was found to be too small to balance the many factors that affect the cost of quality of education from district to district. Comparing the actual revenues collected and potential revenues available, about half the districts were found to be performing above or below their potentials. Thirteen of the twenty school districts with the highest potential taxed below the statewide average. While at the other end of the spectrum, school districts with the lowest potential for local revenue were taxed above the statewide level. Even with these extraordinary efforts, some school districts did not have sufficient funds to provide programs such as state mandated art, music, drama, extracurricular athletic teams, more than one foreign language, AP offerings and facilities necessary for an adequate educational system. Decaying physical plants, inadequate heating, non-functioning showers, buckling floors, leaking roofs, inadequate science laboratories, outdated textbooks, and inadequate libraries were found in many of the poorer school districts.³⁰¹

Court Ruling

Defendants in the previous cases appealed the ruling to the Tennessee Supreme Court arguing that the 1978 amendment to the Education Clause established no qualitative standard by which education could be judged. The court ruled that the word education held within it an inherent value suggesting that modifiers would detract from the “eloquence and certainty of the constitutional mandate.” Such value required the General Assembly

to maintain and support a system of free public schools that provides, at least, the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life.³⁰²

³⁰¹Ibid., 144-146.

³⁰² This qualitative definition is drawn from the first definition of education found in 2nd edition of The Random House Dictionary of the English Language published in 1987.

The court judged this definition to be an enforceable standard for assessing the quality of educational opportunity.³⁰³ The essential issues of the case were held to be quality and equality in the delivery of educational opportunity not simply equality of funding. The need for resources in a particular community is influenced by many factors such as geographic features, organizational structure, management principles, and utilization of facilities. Precise quantification must examine unique need and opportunity rather than seeking sameness. Happenstance of location must not determine the quality of educational opportunity offered to a child. An adequate system provides access to educational opportunity at a level of quality above the “lowest common denominator” promoting innovation and progressive programs.³⁰⁴

Washington State

Standards

SECTION 1 PREAMBLE.

It is the **paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.**

SECTION 2 PUBLIC SCHOOL SYSTEM.

The legislature shall provide for a **general and uniform system of public schools**. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools. *Washington State Constitution* art. IX, §§ 1 and 2

Court Ruling

After careful examination of the State Constitution, the Washington State Supreme Court based its decision on the requirement that the State had one paramount duty “to make ample provision for the education of all children residing within its borders....”³⁰⁵ This obligation required the frame of dynamic process in interpreting the constitution.

However, to recognize changing times is not to change the constitution. Quite the contrary, We must Interpret the constitution in accordance with the demands of

³⁰³ *Tennessee Small School Systems v. McWhorter*: 150-151.

³⁰⁴ *Ibid.*, 156.

³⁰⁵ *Seattle School District No. 1 of King County v. State*, 90 Was.2d 476, 585 P.2d 71: 512-513.

modern society or it will be in constant danger of becoming atrophied and, in fact, may even lose its original meaning.... In short, the constitution was not intended to be a static document incapable of coping with changing times. It was meant to be and is, a living document with current effectiveness.³⁰⁶

The court held it significant that the responsibility was given to the State as a whole, involving each of the three coordinate branches of state government.³⁰⁷ Noting that the provisions of this article were not self-executing, the court held that immediate duty lay with the state legislature. Ample provision for education could only be achieved through dependable and regular tax sources. Authorizations for school divisions to hold special excess levy elections did not satisfy the constitutional mandate.³⁰⁸ Justice Utter concurred suggesting that remedy might have been addressed in the 1977 Basic Education Act. Where previous legislation only spoke generally of the programs to be offered to students, the new plan provided a detailed definition of educational opportunity.

The goal of the Basic Education Act for the schools of the State of Washington set forth in this 1977 amendatory act shall be to provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning. Those skills shall include the ability:

- (1) To distinguish, interpret and make use of words, numbers and other symbols, including sound, colors, shapes and textures;
- (2) To organize words and other symbols into acceptable verbal and nonverbal forms of expression, and numbers into their appropriate functions;
- (3) To perform intellectual functions such as problem solving, decision making, goal setting, selection, planning, predicting, experimenting, ordering and evaluating; and
- (4) To use various muscles necessary for coordinating physical and mental function.³⁰⁹

Additionally, the Basic Education Act set standards for staffing ratios and salary structures and limited the number of excess levies.³¹⁰

³⁰⁶ Ibid., 516-517.

³⁰⁷ Ibid., 512.

³⁰⁸ Ibid.: 523-524.

³⁰⁹ *Laws of 1977*, 1st Ex. Sess., ch. 359, § 2 as cited in *Seattle School District No. 1 of King County v. State*: 548.

³¹⁰ *Seattle School District No. 1 of King County v. State*: 549.

West Virginia

Standards

The legislature shall provide, by general law, for **a thorough and efficient system of free schools**. *Constitution of West Virginia, 1877, Article XII, § 1*

Court Ruling

Having reviewed definitions in encyclopedias, dictionaries, and previous school finance litigation, the Supreme Court of West Virginia synthesized its own definition of thorough and efficient to be applied throughout the state.³¹¹ The state sought to develop “the minds, bodies and social morality of its charges to prepare them for useful and happy occupations, recreation and citizenship, and do[es] so economically.”

Each child required the opportunity to develop his or her capacity of

- (1) literacy;
- (2) ability to add, subtract, multiply and divide numbers;
- (3) knowledge of government to the extent that the child will be equipped as a citizen to make informed choices among persons and issues that affect governance;
- (4) self-knowledge of his or her total environment to allow the child to intelligently choose life work to know his or her options;
- (5) work-training and advanced academic training as the child may intelligently choose;
- (6) recreational pursuits;
- (7) interests in all creative arts, such as music, theatre, literature, and the visual arts;
and
- (8) social ethics, both behavioral and abstract, to facilitate compatibility with others in this society.

Access to these educational opportunities required good physical facilities, instructional materials and personnel. Additionally, the system would be assessed by high quality

³¹¹ For further explanation of synthesis process used by the court, see *Pauley v. Kelly*, 162 W.Va. 672, 255 S.E.2d 859: 689-706.

educational standards at the state and local levels to monitor pupil, teacher, and administrative competency. In this process, waste would be eliminated.³¹²

North Carolina

Standards

The people have **a right to the privilege of education**, and it is the **duty of the State to guard and maintain that right**.

North Carolina Constitution, article I, § 15

The General Assembly shall provide by taxation and otherwise for a **general and uniform system of free public schools**, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

North Carolina Constitution, article IX, § 2(1)

Precedent

Drawing its own tradition of qualitative support for public education, the court began to speak of adequacy as a qualitative standard in the early 20th century.

[I]t is manifest that these constitutional provisions were intended to establish a system of public education adequate to the needs of a great and progressive people, affording school facilities recognized and ever-increasing merit to all the children of the State, and to the full extent that our means could afford and intelligent direction accomplish.³¹³

In 1997, the North Carolina Supreme Court continued the tradition by ruling that the privilege of education must be delivered in a manner with a qualitative standard as defined by the delivery of a sound basic education.³¹⁴ The court acknowledged that the General Assembly had begun to build a framework for a sound basic education through general statutes governing the use of funds available to the State Board of Education. As it applies to educational opportunity, State financial policy must

- (a) create a public school system that graduates good citizens with the skills demanded in the marketplace, and the skills necessary to cope with contemporary society, using State, local and other funds in the most cost-effective manner;
- (b) insure a quality education for every child in North Carolina; and

³¹² *Ibid.*, 705-708.

³¹³ *Board of Education v. Board of Commissions of Granville County*, 174 N.C. 469, 93 S.E. 1001 (1917) as cited in *Leonardo v. State*, 346 N.C. 336, 488 S.E.2d 249: 346

³¹⁴ *Leonardo v. State*: 345.

- (c) assure that the necessary resources are provided, ... from State revenue sources [to meet] the instructional expenses for current operations of the public school system as defined in the standard course of study. N.C.G.S., § 115C-408 (1994).

The court ruled that Article I § 15 and Article IX, § 2 combine to guarantee every child in North Carolina a sound basic education including the

- (a) sufficient ability to read, write, and speak the English language and a sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society;
- (b) sufficient fundamental knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student's community, state and nation;
- (c) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training; and
- (d) sufficient academic and vocational skills to enable the student to compete on an equal basis with others in further formal education or for gainful employment in contemporary society.³¹⁵

North Carolina implemented these standards by providing a high percentage of revenue from state resources causing some experts to classify the system as one approaching the level of full state funding.³¹⁶

Court Ruling

Questions arose again as the State was challenged to address the needs of at risk children. Ruling that the State had not met its obligation to a sound basic education for these children, the North Carolina Supreme Court identified factors that placed children at risk for academic failure including

- (1) poor health as early as prenatal and into childhood,
- (2) poverty,
- (3) family break up and instability,
- (4) low level of parental education,

³¹⁵ Ibid., 347.

³¹⁶ Alexander & Salmon, *Public School Finance*: 211.

- (5) parental unemployment / underemployment,
- (6) inadequate or unstable housing,
- (7) racial/ethnic minority status,
- (8) lack of English proficiency, and
- (9) crime in school or neighborhood.³¹⁷

The court opined that the needs of at risk students must be met by the investment of proper resources. By addressing these needs, the state may attempt to break the cycle of poverty and disadvantage. Interventions included reduction in class size, tutoring, more time on task, and competent and well-trained teachers with professional development to update credentials and competencies.³¹⁸

Called upon to review the interventions authorized by the State to meet the needs of at risk students, the court further clarified input and output standards essential in providing a sound basic education.

Inputs essential to delivery of services for these children required the state to

- (1) provide adequate teachers and administrators;
- (2) provide funding for each student to receive a sound basic education;
- (3) recognize failing trends in students; and
- (4) implement alternative educational offerings to correct practices that place students at risk of academic failure.³¹⁹

Results of these intervention would be judged by output including

- (1) test scores – Level III and above;
- (2) graduation rates;
- (3) dropout rates;

³¹⁷ *Hoke County Board of Education and Asheville City Board of Education v. State* (2000 WL 1639686 (N.C.Super.): 94. For a detailed review of these factors see pages 94-97.

³¹⁸ *Hoke County Board of Education and Asheville City Board of Education v. State* (2000 WL 1639686 (N.C.Super.): 100-101.

³¹⁹ *Hoke County Board of Education v. State of North Carolina and the State Board of Education* (358 N.C. 605, 599 S.E.2d 365): 628-632, 636.

- (4) secondary preparation;
- (5) employment potential;
- (6) post secondary preparation.³²⁰

The North Carolina Supreme Court affirmed the findings of the trial court which recognized the existence of a large population of at risk students in this particular area, ordered the state to reexamine educational priorities in Hoke County, and directed the state to correct any and all education related deficiencies that contribute to a student's inability to take advantage of his right to the opportunity to obtain a sound basic education. The court held that this responsibility ultimately rests with the State.³²¹ These standards were not limited to Hoke County but would also be applied to other areas demonstrating such need.

The question remains as to the extent the State will apply these principles boldly and decisively to see that all children regardless of circumstance have the educational opportunities needed to become contributing citizens in the new world economy of the twenty-first century.³²² The court recalled the words of John Adams in response to an inquiry by William Hooper as to how education should be included in the soon to be written constitution of North Carolina.

[A] memorable change must be made in the system of education[,] and knowledge must become so general as to raise the lower ranks of society nearer to the higher. The education of a nation[,] instead of being confined to a few schools and universities for the instruction of the few, must become the national care and expense for the formation of the many.³²³

Although none of the above cases find the words excellence or quality in their constitutional mandates concerning public education, each court found these values to be embedded in their requirements to provide educational opportunity. No modifier was needed because education itself was in itself imperative to the sustainability of democracy. The warrants under girding these decisions insist that the abundant gifts of

³²⁰ Ibid., 623-624, 627.

³²¹ Ibid., 638, 640.

³²² Ibid.

³²³ Ibid., 649.

learning must be available to all. Not only must education be available, but it must also reach a qualitative standard that requires all involved to be judged on competence. Clearly stated, the lowest common denominator is not excellence or quality. A regular, dependable, and sustainable source of revenue is crucial. It is only then that long range planning can make a difference for children and waste eliminated in the process. The performance template reflects a heavy emphasis on evaluation. Quality standards are required at the state and local level to monitor student, teacher, and administrative competency. Student needs must be addressed at the individual and group levels recognizing trends of success and failure. Special attention may then be paid to the needs of at risk students through alternative educational offerings in an effort to correct practices that have lead to failure. No requirements are stipulated in the areas of equipment, facilities, and outreach.

Excellence/Quality Framework (EQ-frame)

Value Warrants

1. Education is a fundamental right requiring that democratic society make the abundant gifts of learning available to all children.
2. Quality education moves beyond the lowest common denominator to promote innovation and continuous progress.
3. Quality education provides opportunities to acquire general knowledge, develop powers of reasoning and judgment, and prepare students intellectually for life in the market place as a contributing citizen.
4. Pupil, teacher, and administrative competence are monitored through high quality performance standards.
5. Ample provision for all students involves all branches of government in dynamic process with regular, dependable revenue sources used in an effective manner with waste eliminated.
6. Quantification of excellence in education must calculate unique need and opportunity with at risk students no longer encumbered by disadvantage. Children of substantially equal age, aptitude, motivation, and ability require substantially equal educational opportunities.

Performance Template

Area	Standard	Structural response
INSTRUCTION		
	Programs and supportive services for all pupils	
	At risk students	
	- poor health prenatal into childhood	
	- poverty	
	- wealth of family and community	
	- family breakup and insecurity	
	- low level of parental education	
	- parental unemployment/underemployment	
	- inadequate or unstable housing	
	- racial/ethnic minority status	
	- lack of English proficiency	
	- crime in school or neighborhood	
	Alternative educational offerings to correct practices that place students at risk of failure	
STAFFING		
	Adequate teachers and administrators	
EQUIPMENT		
FACILITIES		
OUTREACH		
EVALUATION		
	Literacy	
	Read, write, and speak the English language and knowledge of fundamental mathematics and physical science to enable students to function in a complex, rapidly changing society	
	Distinguish, interpret and make use of words, numbers and other symbols, including sound, colors shapes and textures	
	Organize words and other symbols into acceptable verbal and nonverbal forms of expression and numbers into their appropriate functions	
	Self-knowledge of total environment to allow the child to know his or her options and intelligently choose his or her life's work	

Area	Standard	Structural response
	Perform intellectual function such as problem solving, decision making, goal setting, selection, planning, predicting, experimenting, ordering, and evaluating	
	Add, subtract, multiply and divide numbers	
	Knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student's community, state and nation	
	Knowledge of government so that the child will be equipped as a citizen to make informed choices among persons and issues that affect governance	
	Academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training and compete on an equal basis with others for further formal education or gainful employment	
	Use various muscles necessary for coordinating physical and mental function and follow recreational pursuits	
	Creative arts such as music, theatre literature and the visual arts	
	Social ethics both behavioral and abstract to facilitate compatibility with others in society	
	Recognize failing trends in students	
	High quality educational standards at the state and local levels to monitor pupil, teacher, and administrative competency with waste eliminated.	

CHAPTER 5: SYNTHESIS

The resulting frameworks cross the full spectrum of liberty. Each in its time and place has enabled the implementation of public education and thus sustained the provisions of democracy. The purpose of this dissertation has been to develop a functional definition adequacy. As seen in earlier value critical analysis, many momentous decisions concerning the delivery of public education have been based on a single interpretation of a value underlying the arguments presented in the courts. In each case the combination of those decisions into a set of value warrants and performance templates expanded the meaning and implications of that particular value cluster to the provision of public education.

The next steps in the process were to combine and then synthesize the values warrants and performance templates from each value cluster into an adequacy framework. The diverse impressions associated with each cluster took on clearer function as value warrants were synthesized to provide fuller foundation for the provision of educational opportunity. Advocacy for a particular value cluster expanded to counsel as the answers to why extended to include each value cluster in the dimensions of adequacy. Arguments as to whether adequacy is efficiency or equality/equity/dignity or excellence/quality could all be answered yes. The limitations placed on definition when restricted to one value cluster disappeared expanding boundaries and therefore opportunity. By defining the elements of each cluster superficial conflicts were resolved through the consensus process. For example, the E-frame speaks of prosperity and democracy and the necessity to educate politically, economically, and socially. The EQ-frame requires that the abundant gifts of learning be made available to all children as their fundamental right. The EED-frame claims liberty and justice for all children requiring access to educational opportunity for the collective self-interest. Above minimum (E), more than lowest common denominator (EQ), high quality standards (EQ), and properly funded, properly taught (EQ) require investment in, not limitation of, opportunities in public education. Emphasizing the importance of each student to the sustainability of democracy, these value warrants speak of free to all regardless (E), harm brought to students of all races by racial and ethnic isolation (EED), accounting for variation in local

costs (EED), and unique need and opportunity (EQ). Negotiation moves beyond either/or and requires more than compromise. Solution is built and judged on the incorporation of broader boundaries.

As seen in the following compilation, value warrants expand to present four themes, Democracy, Citizenship, Liberty, and Justice; Access; Standards; and Funding. Contributions from the E-frame are noted in normal print, the **EED-frame** in bold, and the *EQ-frame* in italics.

Combined Value Warrants

1. Democracy, Citizenship, Liberty, and Justice

- Education is essential to prosperity preparing students politically, economically, and socially for democracy.
- **Democracy requires the development of the educational potential of each person to promote the collective self-interest.**
- **Each student has equal claim to liberty and justice therefore educational opportunities must reach all children.**
- *Education is a fundamental right requiring that democratic society make the abundant gifts of learning available to all children.*
- *Quality education provides opportunities to acquire general knowledge, develops powers of reasoning and judgment, and prepares students intellectually for life in the market place as a contributing citizen.*

2. Access

- Educational opportunities must be free to all regardless of income, race, or location providing substantially equal access resulting from a similar tax burden.
- **All students can learn and flourish when education is properly funded and students are properly taught. The most expensive children to educate must receive the highest levels of funding.**
- **Whether *de jure* or *de facto*, racial and ethnic isolation is harmful to students of all races.**
- **Funding policy must account for variation in local costs.**

- *Quantification of excellence in education must calculate unique need and opportunity with at risk students no longer encumbered by disadvantage. Children of substantially equal age, aptitude, motivation, and ability require substantially equal educational opportunities.*

3. Standards

- Resources must be above a minimum level with sufficient funding to provide staff, facilities, or equipment. Overall efficiency decreases as school districts are starved for funds.
- *Quality education must move beyond the lowest common denominator to promote innovation and continuous progress.*
- *Pupil, teacher, and administrative competence are monitored through high quality performance standards.*

4. Funding

- Funding has a direct relationship to the availability of educational opportunity increasing local control through choices rather than required reductions from lack of support. Students must be allowed to succeed because of resources not in spite of them.
- **Although many factors contribute to the availability of educational opportunity, funding differences significantly affect opportunities to learn. With long range planning supported by sustained and stable funding, this aspect of the equation can be effectively equalized by the state.**
- *Ample provision for all students involves all branches of government in dynamic process with regular, dependable revenue sources used in an effective manner with waste eliminated.*
- When financial responsibility is delegated to localities, states must compel localities to meet those obligations or meet the need with its own resources.

Similarly, performance templates share some elements, yet expand vision as differences are used to build a broader model on which to build consensus. For example, the EQ-frame requires little or nothing specific in the areas of staffing, equipment, facilities, or outreach yet it greatly expands the application of evaluation to the requirements of adequate education. The EED-frame reflects on each area with more general, qualitative directions for implementation whereas the E-frame issues specific, in

some cases quantitative requirements, for value application. The combination of performance templates allows fuller implementation of the principle of liberty. Specific requirements are set forward in the areas instruction, staffing, equipment, facilities, outreach, and evaluation. Again, contributions from the E-frame are noted in normal print, the **EED-frame** in bold, and the *EQ-frame* in italics.

Combined Performance Template

Area	Standard	Structural response
INSTRUCTION		
	Program offerings designed to develop the individual talents and abilities of pupils enhancing community or family resources	
	Foreign languages	
	Computer courses	
	Honors and AP instruction	
	Art	
	Music	
	Programs and supportive services for all pupils including	
	Educationally disadvantaged	
	Special Education	
	Limited English Proficiency	
	<i>At risk students</i>	
	<i>- poor health - prenatal into childhood</i>	
	<i>- poverty</i>	
	<i>- family breakup and insecurity</i>	
	<i>- low level of parental education</i>	
	<i>- unemployment/underemployment of parents</i>	
	<i>- inadequate or unstable housing</i>	
	<i>- racial/ethnic minority status</i>	
	<i>- lack of English proficiency</i>	
	<i>- crime in school or neighborhood</i>	
	Extended term effort to offer with extra opportunity to learn to expected level	
	Drop-out prevention programs	
	Pre-school programs	
	Full-day kindergarten programs	
	Full-day programs for three and four year olds from families with income at or below 200 per cent (200 %) of the poverty level	

Area	Standard	Structural response
	School-based health and social services	
	Mental health and family counseling	
	Preventive and some primary health care	
	Substance abuse prevention and counseling	
	Parental outreach	
	After school and evening recreation	
	Homework help	
	<i>Added at the secondary level</i>	
	Employment services	
	Information and referral	
	In-school childcare for pregnant teens	
	Family planning and parenting information	
	<i>Alternative educational offerings to correct practices that place students at risk of academic failure</i>	
	Alternative programs and schools	
	Proven, effective whole school reform	
	More hands on learning experiences in science, home economics and industrial arts programs	
	Up to date basic curricula in reading, writing, mathematics, science, and social studies	
	Suitable curricula including an expanded platform of programs to help at risk student by giving more time on task	
	Resources for students with extraordinary needs	
	Gifted and talented programs strengthened	
	Wider range of extracurricular activities	
STAFFING		
	Personnel trained to teach reading, writing, mathematics, science, and social studies	
	Qualified teachers, principals, and other personnel	
	<i>Adequate teachers and administrators</i>	
	Appropriate class sizes	
	Student teacher ratios	
	15:1 in K-3	
	24:1 in all other grades	
	Adequate staff to meet the needs of children with mild, moderate, and severe disabilities	
	Instructional facilitators at each school to help teachers improve instruction	

Area	Standard	Structural response
	Counseling services	
	Additional staff members for schools with high concentrations of poverty	
	One additional full-time equivalent (FTE) tutor/teacher for each 100 students who qualify for federal free and reduced lunch (minimum one per school)	
	One additional 0.40 full-time equivalent (FTE) tutor/teacher for each 100 children identified as English Language Learners (ELL)	
	Additional teachers equal to twenty per cent (20%) of the number required by student teacher ratios to provide for enrichment programs for students and planning for teachers	
	Media Specialists	
	Compensation comparable to surrounding region	
	Salary additions to attract teachers to work	
	- in less desirable geographic areas	
	- in subject areas with shortages	
	- for advanced graduate degrees	
	Performance bonus system for	
	- improvement in academic performance	
	- growth in knowledge and skills	
	Extending teacher contracts to provide additional time for professional development	
EQUIPMENT		
	Purchase up-to-date textbooks	
	Adequate instrumentalities of learning such as desks, chairs, pencils and reasonably current text books	
	Up to date books, supplies, libraries, educational technology, and laboratories	
	Provide everyday supplies such as chalk, paper, art supplies paper clips, and toilet paper	
	Up-to-date technology	
	Provide computers and technology training	
	Schools connect to high-speed fiber-optic network	
	All classrooms wired for integration of technology into the instructional program	
	More science classes in large, well equipped labs	
	Media centers with large collections of books, periodicals, reference, audio, visual and special materials	

Area	Standard	Structural response
FACILITIES		
	Adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn	
	Safe and orderly environment	
	Guarantee a safe, healthy learning environment	
	Adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum	
	Adequately equipped, sanitary, and secure physical facilities provided with adequate materials and supplies	
	<i>Elementary</i>	
	Adequate classroom space for class sizes of 15 in pre-kindergarten, 21 in K-3, 23 in grades 4-5	
	Space and/or scheduling accommodations for 90 minutes of reading daily for students in grades 1-3 no more than 15 per class	
	Toilet rooms in all pre-kindergarten and kindergarten classrooms	
	Cafetorium and/or gymnasium with stage for breakfast, lunch, large group presentations, instrumental music and student performances	
	Computer room for keyboard and computer instruction	
	Media center	
	<i>Middle School (grades 7-8)</i>	
	Adequate classroom space for class of 23	
	Science demonstration room(s) with demonstration table and perimeter student areas with water for all students	
	Cafetorium and/or gymnasium with stage for breakfast, lunch, large group presentation, instrumental music and student performances	
	Media center	
	<i>High School</i>	
	Adequate classroom space for class of 24	
	Science demonstration room(s) for science with demonstration table and areas with water	
	Science lab(s) with gas, water and appropriate ventilation for chemistry and physics	
	Cafeteria for breakfast and lunch	
	Gymnasium with bleachers and locker rooms	

Area	Standard	Structural response
	Auditorium with stage for large group presentations, instrumental music and student performances	
	Art room	
	Music room	
	Media center	
	Cost of opening new facilities	
OUTREACH		
	Encourages public involvement in the establishment of educational goals	
	Parental involvement programs	
	Transparency in the distribution of educational resources to promote public understanding	
EVALUATION		
	Educational goals set at both the State and local levels	
	Long term educational planning requires sustained and stable funding	
	Efficiency evaluation and monitoring programs at both the State and local levels	
	<i>High quality educational standards at the state and local levels to monitor pupil, teacher, and administrative competency with waste eliminated.</i>	
	Evaluation to ensure high performance and restructuring	
	Measures of student achievement including test scores	
	Attainment of proficiency in	
	Oral and written communication skills	
	Mathematics and scientific skills	
	Knowledge of economic, social and political system to allow informed choices	
	Arts to appreciate cultural and historical heritage	
	Understanding of governmental process to understand community, state, and national issues	
	Knowledge of mental and physical wellness	
	Preparation for advanced academic or vocational training	
	School completion – graduation rates	
	Academic or vocational skills to compete in academia or the job market	

Area	Standard	Structural response
	<i>Literacy</i>	
	<i>Distinguish, interpret and make use of words, numbers, and other symbols, including sound, colors, shapes, and textures</i>	
	<i>Read, write, and speak the English language, knowledge of fundamental mathematics and physical science to enable the student to function in a complex, rapidly changing society</i>	
	<i>Organize words and other symbols into acceptable verbal and nonverbal forms of expression and numbers into their appropriate functions</i>	
	<i>Add, subtract, multiply and divide numbers</i>	
	<i>Perform intellectual function such as problem solving, decision making, goal setting, selection, planning, predicting, experimenting, ordering, and evaluating</i>	
	<i>Knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices with regard to issues that affect the student personally or the student's community, state, and nation</i>	
	<i>Knowledge of government so that the child will be equipped as a citizen to make informed choices among persons and issues that affect governance</i>	
	<i>Self-knowledge of total environment to allow the child to intelligently choose life work</i>	
	<i>Academic and vocational skills to enable the student to successfully engage in vocational training or post-secondary education and compete on an equal basis with others for more formal education or gainful employment</i>	
	<i>Use various muscles necessary for coordinating physical and mental function and follow recreational pursuits</i>	
	<i>Creative arts such as music, theatre literature and the visual arts</i>	
	<i>Social ethics both behavioral and abstract to facilitate compatibility with others in society</i>	
	<i>Recognize failing trends in students</i>	

As helpful as this step may be in identifying the contribution of each value cluster, the framework in its present form is unwieldy. In too many places, the same stipulations are denoted in multiple forms. To make this framework a practical tool for analysis, those overlaps must be removed and the elements within synthesized to make them manageable. The tension often felt as one constituency calls for efficiency, while another insists on equality/equity/dignity, while others imply that quality will be lost if either one of the other values is in control, has been used creatively to address all of these concerns in the following adequacy framework.

Adequacy Framework (A-frame)

1. Democracy, Citizenship, Liberty, and Justice

- Education is essential to prosperity, preparing students politically, economically, and socially for democracy.
- Democracy requires the development of the educational potential of each person to promote the collective self-interest.
- Each student has equal claim to liberty and justice therefore the abundant gifts of learning must be available to all children.
- Quality education provides opportunities to acquire general knowledge, develops powers of reasoning and judgment, and prepares students intellectually for life in the market place as a contributing citizen.

2. Access

- Educational opportunities must be free to all regardless of income, race, or location providing substantially equal access resulting from a similar tax burden.
- All students can learn and flourish when education is properly funded and students are properly taught. The most expensive children to educate must receive the highest levels of funding.
- Whether *de jure* or *de facto*, racial and ethnic isolation is harmful to students of all races.
- Quantification of excellence in education must calculate unique need and opportunity with at risk students no longer encumbered by disadvantage. Children

of substantially equal age, aptitude, motivation, and ability require substantially equal educational opportunities.

- Funding policy must account for variation in local costs.

3. Standards

- Resources must be above a minimum level with sufficient funding to provide staff, facilities, or equipment. Overall efficiency decreases as school divisions are starved for funds.
- Quality education must move beyond the lowest common denominator to promote innovation and continuous progress.
- Pupil, teacher, and administrative competence are monitored through high quality performance standards.

4. Funding

- Funding has a direct relationship to the availability of educational opportunity increasing local control through choices rather than required reductions from lack of support. Students must be allowed to succeed because of resources not in spite of them.
- Although many factors contribute to the availability of educational opportunity, funding differences significantly affect opportunities to learn. With long range planning supported by sustained and stable funding, this aspect of the equation can be effectively equalized by the state.
- Ample provision for all students involves all branches of government in dynamic process with regular, dependable revenue sources used in an effective manner with waste eliminated. When financial responsibility is delegated to localities, states must compel localities to meet those obligations or meet the need with its own resources.

Performance Template

Area	Standard	Structural response
INSTRUCTION		
	Up to date basic curricula in reading, writing, mathematics, science, and social studies	
	Hands on learning experiences in science, home economics and industrial arts programs	
	Pre-school programs	
	Full-day programs for three and four year olds from families with income at or below 200 per cent (200 %) of the poverty level	
	Program offerings designed to develop the individual talents and abilities of pupils enhancing community or family resources	
	Foreign languages	
	Computer courses	
	Honors and AP instruction	
	Art	
	Music	
	Programs and supportive services for all pupils including resources for students with extraordinary needs	
	Gifted and talented students	
	Educationally disadvantaged	
	At risk students	
	- poor health - prenatal into childhood	
	- poverty	
	- family breakup and insecurity	
	- low level of parental education	
	- unemployment/underemployment of parents	
	- inadequate or unstable housing	
	- racial/ethnic minority status	
	- lack of English proficiency	
	- crime in school or neighborhood	
	Special Education	
	Alternative schools	
	Alternative educational curricula and programs to address needs of at-risk students	
	Extended term as an effort to offer extra opportunity to learn to expected level	
	Drop-out prevention programs	
	Wider range of extracurricular activities	

Area	Standard	Structural response
	School-based health and social services	
	Mental health and family counseling	
	Preventive and some primary health care	
	Substance abuse prevention and counseling	
	Parental outreach	
	After school and evening recreation	
	Homework help	
	<i>Added at the secondary level</i>	
	Employment services	
	Information and referral	
	In-school childcare for pregnant teens	
	Family planning and parenting information	
	Proven, effective whole school reform	
STAFFING		
	Qualified teachers, principals and other personnel	
	Personnel trained to teach reading, writing, mathematics, science, and social studies	
	Instructional facilitators at each school to help teachers improve instruction	
	Student teacher ratios	
	15:1 in K-3	
	24:1 in all other grades	
	Additional staff members for schools with high concentrations of poverty	
	One additional full-time equivalent (FTE) tutor/teacher for each 100 students who qualify for federal free and reduced lunch (minimum one per school)	
	One additional 0.40 full-time equivalent (FTE) tutor/teacher for each 100 children identified as English Language Learners (ELL)	
	Additional teachers equal to twenty per cent (20%) of the number required by student teacher ratios to provide for enrichment programs for students and planning for teachers	
	Adequate staff to meet the needs of children with mild, moderate, and severe disabilities	
	Counseling services	
	Compensation comparable to surrounding region	
	Performance bonus system for	
	- improvement in academic performance	
	- growth in knowledge and skills	

Area	Standard	Structural response
	Salary additions to attract teachers to work	
	- in less desirable geographic areas	
	- in subject areas with shortages	
	- for advanced graduate degrees	
	Extending teacher contracts to provide additional time for professional development	
	Media Specialists	
EQUIPMENT		
	Up-to-date technology	
	Purchase up-to-date textbooks, supplies, educational technology, and laboratories	
	Instrumentalities of learning such as desks, chairs, pencils and reasonably current text books	
	Provide everyday supplies such as chalk, paper, art supplies paper clips, and toilet paper	
	Provide computers and technology training	
	All schools connected to a high-speed fiber-optic network	
	All classrooms wired for integration of technology into the instructional program	
	Science classes in large, well equipped labs	
	Media centers with large collections of books, periodicals, reference, audio visual and special materials	
FACILITIES		
	Guarantee a safe, healthy learning environment	
	Physical facilities and classrooms providing enough light, space, heat, and air to permit children to learn	
	Equipped, sanitary, and secure physical facilities with adequate materials and supplies	
	Accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum	
	<i>Elementary</i>	
	Adequate classroom space for class sizes of 15 in pre-kindergarten, 21 in K-3, 23 in grades 4-5	
	Space and/or scheduling accommodations for 90 minutes of reading daily - in grades 1-3 15:1	
	Toilet rooms in all pre-kindergarten and kindergarten classrooms	
	Computer room for keyboard and computer instruction	

Area	Standard	Structural response
	Media center	
	Cafetorium and/or gymnasium with stage for breakfast, lunch, large group presentations, instrumental music and student performances	
	<i>Middle School (grades 7-8)</i>	
	Science demonstration room(s) with demonstration table and perimeter student areas with water for all students	
	Adequate classroom space for class of 23	
	Media center	
	Cafetorium and/or gymnasium with stage for breakfast, lunch, large group presentation, instrumental music and student performances	
	<i>High School</i>	
	Adequate classroom space for class of 24	
	Art room	
	Music room	
	Media center	
	Science demonstration room(s) for general science with demonstration table and perimeter student areas with water	
	Science lab(s) with gas, water and appropriate ventilation for chemistry and physics	
	Auditorium with stage for large group presentations, instrumental music and student performances	
	Cafeteria for breakfast and lunch	
	Gymnasium with bleachers and locker rooms	
	Cost of opening new facilities	
OUTREACH		
	Encourages public involvement in the establishment of educational goals	
	Transparency in the distribution of educational resources to promote public understanding	
	Parental involvement programs	
EVALUATION		
	Literacy / Proficiency	
	Distinguish, interpret and make use of words, numbers and other symbols, including sound, colors, shapes and textures	

Area	Standard	Structural response
	Read, write, and speak the English language and knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society	
	Add, subtract, multiply and divide numbers	
	Organize words and other symbols into acceptable verbal and nonverbal forms of expression and numbers into their appropriate functions	
	Self-knowledge of total environment to allow the child to intelligently choose life work knowing available options	
	Perform intellectual function such as problem solving, decision making, goal setting, selection, planning predicting, experimenting, ordering, and evaluating	
	Knowledge of geography, history, and basic Economic, social, and political systems to enable the student to make informed choices with regard to issues that affect the student personally or affect the student's community, state and nation	
	Knowledge of government so that the child will be equipped as a citizen to make informed choices among persons and issues that affect governance	
	Academic and vocational skills to enable the student to successfully engage in further education or vocational training and compete on an equal basis for gainful employment in the job market and further formal education.	
	Use various muscles necessary to coordinate physical and mental wellness and follow recreational pursuits	
	All creative arts such as music, theatre, literature, and the visual arts to appreciate cultural and historical heritage	
	Social ethics both behavioral and abstract to facilitate compatibility with others in society	
	Recognize failing trends in students	
	School completion – graduation rates	
	Educational goals set at State and local levels	

Area	Standard	Structural response
	Sustained and stable funding to allow long term educational planning	
	High quality educational standards at the state and local levels to monitor pupil, teacher, and administrative competency.	
	Efficiency evaluation and monitoring programs at both the State and local levels eliminating waste	
	Evaluation to ensure high performance and restructuring	

Implications and Application

As with all frameworks, this collection of ideas concerning adequate public education provides the structure on which to hang particular time and place. By examining funding conflicts addressed by state courts, this value critical approach interpreted the *terms of art* found in state constitutions at the foundational level. Such interpretation allowed the expansion of ideas as the value judgments offered by each court were combined to create a functional definition for each value cluster (E, EED, and EQ). Using warrants to define the reasons why such action is necessary to sustain democracy, each value cluster was found to contain a call for the advancement of the individual and a charge to the community to accept the responsibility to make it so. In a similar manner, performance templates were created using court responses that answered questions of implementation prescribing required actions or evaluating the actions taken by the executive or legislative branches. Incorporating the extremes of liberty often judged as being in conflict or paradoxical on the surface, these combined warrants and performance templates serve to transform conflict through synthesis at the value level.

The consensus built upon these value clusters allows the nation, states, localities, and schools to

1. Evaluate present policy determining the extent to which the standards of adequacy are implemented in warrants, performance, and resources.³²⁴ Warrants

³²⁴ For example, the Virginia State Constitution speaks of the obligation to provide quality public education throughout the Commonwealth. The standards for meeting these obligations are set by the Standards of Quality (SOQ) prescribed by the Virginia Board of Education subject to revision by the General Assembly. The language of the biennial budget bill determines the actual allocations of resources for education. Although Virginia added a total of one billion, two hundred eighty million dollars to the 2004-2006 Budget

are often housed in vision and mission statements while budget allocations may be translated into the performance template. Such evaluation may then be used to compare the current dimensions of access with components of the A-frame.³²⁵

2. Recognize the value elements involved in “costing out” adequate educational opportunity.³²⁶ Present applications would be inserted into the A-frame to determine the areas of application and fill in the empty spaces in the model. Warrants would lie in the justification for implementing this particular system of distributing funds. Elements to be inserted into the performance template would be found in the actions taken to apply these values to specific settings.
3. Create policy. Policymakers may use an empty frame to outline the warrants and performance elements to be included as the foundation for new recommendations. Warrants would lie in the reasons for developing new policy. Suggested interventions would fill the spaces in the performance template. The process might be used to develop new policy or be combined with initiatives already in progress.³²⁷

for public education, the Joint Legislative Audit and Review Commission (JLARC) of the Virginia General Assembly reported on January 18, 2005 that current funding levels would most probably produce a short fall of approximately one billion dollars. This discrepancy in funding levels resulted from the routine re-benchmarking required to bring funding levels into line with current cost estimates and the lack of allocations needed to fully implement present and newly adopted programs. In this instance as well as examining the areas in which Virginia is meeting the standards set by the adequacy performance template, the A-frame might be adapted to evaluate Virginia’s effort to meet its own SOQ standards. Information on the JLARC report provided by Sam Cook, Superintendent, Galax City Public Schools, 1/2005.

³²⁵ An empty template is provided in Appendix C.

³²⁶ Whether built upon statistics, expert opinion, a successful schools approach, or the attributes of a model school adding value warrants and performance templates of the A-frame to the processes of “costing out” adequate public education allows policymakers to add the power of democratic values and principle to the design or evaluation of the system calculated to distribute resources for public education. Although values are always a part of the policy process, unless acknowledged as active elements in the deliberation their influence on decision-making may be accidental rather than intentional. For example, Pennsylvania is currently in the process of “costing out” the price of closing the opportunity gaps found within the Commonwealth. Their stated goal is to make public education “available on equal terms” to all children. This evaluation is based on the warrant that large variations in school spending are consistently associated with large variations in student achievement because money buys the resources necessary to improve academic achievement. Pennsylvania chose to use the successful schools approach to determine the level of resources needed to educate students. In this case, the A-frame could be used to examine needs, warrants, and allocation of resources at the successful and unsuccessful sites. Individual schools would be evaluated and compared to address specific inadequacies. The shared value components of the A-frame provide a platform for successful translation from one school setting to another.

³²⁷ For example, Florida is now in the process of defining the elements necessary to meet the standards set by revision of the education clause approved by voters in 1998. Four fundamental changes occurred with the passage of the referendum. First, the article declared education of children to be a fundamental value of

As demonstrated by this research, laws are now in place at the state and federal levels that require adequate access to public education. Nationally, questions center on the expectations and resources provided for the implementation of NCLB. Is the opportunity for high quality education provided for all children? At the state level, questions continue to address the fulfillment of the promises housed in the state constitution and the regulatory documents prescribing the application of these standards. Are resources available to adequately keep these commitments to all children? Local governing bodies would use this framework to examine local distribution of resources from federal, state, and local sources making decisions that ultimately touch the children. Are the resources available adequate to efficiently provide high quality excellent educational opportunities in an equal, equitable, dignified manner? Localities work to meet quality standards set at the state and federal level. Many states have enacted or updated education clauses referencing one or more of the E, EED, and EQ value clusters. Federally, NCLB requires the provision of systems of public education that ensure “ that all children have a fair, equal, and significant opportunity to obtain a high-quality education, and reach, at a minimum, proficiency on challenging state academic assessments.”³²⁸

Each of these value frameworks may be used separately to evaluate or create policy focused on a single value. Yet, the greatest strength lies in the synthesis of the E-frame, EED-frame, and EQ-frames to create the A-frame transforming the functional definition of adequacy from a concept with no specific value definition to policy based

the People of Florida. Second, responsibility for the adequate provision of education for all children is the paramount responsibility of the State born by all branches of government. Third, adequate provision was defined as “uniform, efficient, safe, secure and high quality system of free public schools.” Fourth, the system must grant students a high quality education. In January 2004, the Constitutional Accountability Commission was given the charge to provide context and interpretation for the new education clause. Over 15 months, the Commission met six times in various locations across Florida to formulate standards for the implementation. Final recommendations focused on output emphasizing national comparisons of quality and expenditures as the criteria for judging Florida’s educational performance. Warrants rest on the definitions offered in the plain language interpretation of the new Florida education clause. The challenge is for the state to provide a system of public education that is efficient, safe, secure, and meets high quality standards. Performance standards are heavily weighted in the area of evaluation suggesting comparisons at the state national and international levels. Several other cells of the performance template may be filled in when elements in the class size and universal pre-kindergarten initiatives are added to the equation. “Constitutional Accountability Commission,” (August 2005): 4-5, 9, 16-18. Provided by Dr. Larry Ascher, Brevard Public Schools, 9/2005.

³²⁸ Public Law 107-110, 115 Stat. 1439, 20 U.S.C. 6301 et seq., 2001.

on the most basic tenets of liberty. Vocabulary used to advocate for efficiency, equality/equity/dignity, and excellence/quality may now speak with one voice. The inclusion of ideas from each value cluster results in the expansion of possibility. An increase in the breadth of ideas reveals a fuller spectrum of solution. The founders of this nation recognized the necessity of combining these values to create and sustain liberty. What resulted were the Declaration of Independence and the United States Constitution that have bound together diverse peoples and places for more than two centuries. Policymakers seeking to provide adequate public education must integrate the wisdom of efficiency, the justice of equality, equity, and dignity, and the power of excellence and quality to continue to prepare each citizen for the responsibilities of democracy.

REFERENCES

BOOKS

- Alexander, Kern and M. David Alexander. *America Public School Law*, 5th edition. Belmont, CA: Wadsworth Group, West, 2001.
- Alexander, Kern, and Richard G. Salmon. *Public School Finance*. Boston: Allyn and Bacon, 1995.
- Arendt, Hannah. *The Human Condition*. Chicago: The University of Chicago Press, 1958.
- Barbash, Fred. *The Founding: A Dramatic Account of the Writing of the Constitution*. New York: The Linden Press, 1987.
- Bellah, Robert N., Richard Madsen, William M. Sullivan, Anne Swidler, and Steven M. Tipton. *The Good Society*. New York: Alfred A. Knopf, 1991.
- Boulding, Kenneth. "Social Justice in Social Dynamics." In *Social Justice*. Englewood Cliffs, NJ: Prentice Hall, Inc., 1962.
- Callahan, Raymond E. *Education and the Cult of Efficiency: A Study of the Social Forces that Have Shaped the Administration of the Public Schools*. Chicago: The University of Chicago Press, 1962.
- Coleman, James S., Ernest Q. Campbell, Carol J. Hobson, J. McPartland, A. M. Mood, F. D. Weinfield, and R. L. York, *Equality of Educational Opportunity*. Washington, DC: Government Printing Office, 1966.
- Cooke, Jacob E., ed. *The Federalist*. Middletown, CN: Wesleyan University, 1961.
- Cubberley, Ellwood P. *School Funds and Their Apportionment*. New York: Columbia University, 1905.
- Cubberley, Ellwood P. *Public Education In the United States: A Study and Interpretation of American Educational History*. Cambridge, MA: The Riverside Press, 1919.
- Dawley, Alan. *Struggles for Justice: Social Responsibility and the Liberal State*. Cambridge: Belknap Press of Harvard University Press, 1991.
- Dewey, John. *The Child and the Curriculum* and *The School and Society*. 1900; reprint, with an introduction by Leonard Carmichael. Chicago: Phoenix Books, The University of Chicago Press, 1969.

- Dunn, William N. *Public Policy Analysis: An Introduction*, 2nd ed. Englewood, NJ: Prentice Hall, 1994.
- Dunn, William N. "Values, Ethics, and Standards in Policy Analysis." Chap. 34 in *Encyclopedia of Policy Studies*. New York: Marcel Dekker, Inc., 1983.
- Dye, Thomas R. *Understanding Public Policy*, 7th ed. Englewood Cliffs, NJ: Prentice Hall, 1992.
- Edwards, Newton, and Herman G. Richey, *The School in the American Social Order*. Boston: Houghton Mifflin, 1963.
- Fischer, Frank, and John Forester, eds. *Confronting Values in Policy Analysis: The Politics of Criteria*. Newberry Park, CA: Sage Publications Inc., 1987.
- Fisher, Roger, William Ury, and Bruce Patton. *Getting to Yes: Negotiating Agreement Without Giving In*, 2nd ed. New York: Penguin Books, 1991.
- Fowler, Frances C. *Policy Studies for Educational Leaders: An Introduction*. Upper Saddle River, NJ: Prentice Hall, 2000.
- Gerston, Larry N. *Public Policymaking in a Democratic Society*. Amonk, NY: M.E. Sharpe, 2002.
- Good, Harry G., and James D. Teller. *A History of American Education*, 3rd ed. New York: The MacMillan Co., 1973.
- Gross, Beatrice and Ronald (eds.). *The Great School Debate: Which Way for American Education?* New York: Simon & Schuster, Inc., 1985.
- Guthrie, James W., Walter I. Garms, and Lawrence C. Pierce. *School Finance and Education Policy: Enhancing Educational Efficiency, Equality and Choice*. Englewood Cliffs, NJ: Prentice Hall, 1988.
- Guthrie, James W., and Richard Rothstein. "Enabling Adequacy to Achieve Reality: Translating Adequacy into State School Finance Distribution Arrangements." Chapter 7 in *Equity and Adequacy in Education Finance: Issues and Perspectives*. Washington, DC: National Academy Press, 1999.
- Hadlin, Oscar. "Education and The American Society" in Edith H. Grotberd (ed.) *200 Years of Children*. Washington, DC: U.S. Department of Health, Education, and Welfare, 1976.
- Harraway, Donna J. *Simians, Cyborgs, and Women: The Reinvention of Nature*. New York: Routledge, Chapman and Hall, Inc., 1991.

- Jefferson, Thomas. "A Bill for the More General Diffusion of Knowledge" in *The Educational Work of Thomas Jefferson*. Cambridge: Harvard University Press, 1931.
- Jefferson, Thomas, letter to James Madison, December 20, 1787. *The Papers of Thomas Jefferson*, Vol. XII, p. 478. In *Community and the Politics of Place*. Norman, OK: University of Oklahoma Press, 1990.
- Jennings, Bruce. "Interpretation and the Practice of Policy Analysis." Chap. 5 in *Confronting Values in Policy Analysis: The Politics of Criteria*. Newberry Park, CA: Sage Publications, Inc., 1987.
- Jenkins-Smith, Hank C. *Democratic Politics and Policy Analysis*. Pacific Grove, CA: Brook/Cole Publishing Company, 1990.
- Jillson, Calvin C. *Constitution Making: Conflict and Consensus in the Federal Convention of 1787*. New York: Agathon Press, 1988.
- Jillson, Calvin C. "Ideas in Conflict: Political Strategy and Intellectual Advantage in the Federal Convention". Concluding chapter in *To Form a More Perfect Union: The Critical Ideas of the Constitution*. Charlottesville, VA: University Press of Virginia, 1992.
- Kahne, Joseph. *Reframing Educational Policy: Democracy, Community and the Individual*. New York: Teachers College Press, 1996.
- Kaminski John P., and Richard Leffler, eds. *Federalists and Antifederalists: The Debate Over Ratification of the Constitution*, 2nd ed. Madison, WI: Madison House, 1998.
- Kaufman, Martin J., and Linda Lewis. Chapter 11 in "Confusing Each With All: A Policy Warning", *Developmental Perspectives on Children with High Incidence Disabilities*. Mahwah, NJ: Lawrence Erlbaum Associates, 1999.
- Kaestle, Carl F. *Pillars of the Republic: Common Schools and American Society*. New York: Hill and Wang, 1983.
- Kemmis, Daniel. *Community and the Politics of Place*. Norman, OK: University of Oklahoma Press, 1990.
- King, Richard A., Austin D. Swanson, and Scott R. Sweetland. *School Finance: Achieving Standards with Equity and Efficiency*. Boston: Pearson Education, 2003.
- Ladd, Helen F., and Janet S. Hansen, eds. *Making Money Matter: Financing America's Schools*. Washington, DC: National Academy Press, 1999.

- Lazerson, Marvin. *American Education in the 20th Century*. New York: Teachers College Press, 1987.
- Luke, Timothy W. "Policy Science and Rational Choice Theory: A Methodological Critique." Chap. 7 in *Confronting Values in Policy Analysis: The Politics of Criteria*. Newberry Park, CA: Sage Publications Inc., 1987.
- Madison, John. "Federalist Paper No. 10" in Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers*. New York: B. Blackwell, 1987.
- Minorini, Paul A., and Stephen D. Sugarman. "School Finance Litigation in the name of Educational Equity: Its Evolution, Impact, and Future." Chapter 2 in *Equity and Adequacy in Education Finance: Issues and Perspectives*. Washington, DC: National Academy Press, 1999.
- Morales, Jennifer. "The Courts and Equity: A State-by-State Overview." *Funding for Justice: Money, Equity, and the Future of Public Education*. Milwaukee, WI: Rethinking Schools, 1997.
- National Commission on Excellence in Education. *A Nation At Risk: The Imperative For Educational Reform*. Washington, DC: U.S. Government Printing Office, 1983.
- Odden, Allan R., (ed.). *Rethinking School Finance: An Agenda for the 1990s*. San Francisco, CA: Jossey-Bass, 1992.
- Odden, Allan R., and Lawrence O. Picus. *School finance: A Policy Perspective*, 2nd ed. Boston: McGraw-Hill, 2000.
- Page, Walter Hines. In *Public School Finance*. Boston: Allyn and Bacon, 1995.
- Pole, J.R., ed. *The American Constitution For and Against: The Federalist and Anti Federalist Papers*. New York: Hill and Wang, 1987.
- Pulliam, John D. *History of Education in America* (4th ed.). Columbus, OH: Merrill Publishing Company, 1987.
- Rein, Martin, and Donald Schon. "Reframing Policy Discourse" in *The Argumentative Turn in Policy Analysis and Planning*. Durham, NC: Duke University Press, 1993.
- Sagoff, Mark, "At the Shrine of Our Lady of Fatima or Why Political Questions Are Not All Economic," in James Martin Gillroy and Maurice Wade (eds.), *The Moral Dimension of Public Policy Choice: Beyond the Market Paradigm*. Pittsburgh, PA: University of Pittsburgh, Press, 1992. Pp. 371-386.

Schieser, Hans A. "Equality versus Freedom." Chap. 9 in *Rethinking Educational Equality*. Berkeley, CA: McCutchan Publishing Corporation, 1974.

Sergiovanni, Thomas J., Martin Burlingame, Fred S. Coombs, and Paul W. Thurston (Eds.). *Educational Governance and Administration*, 4th ed. Boston: Allyn and Bacon, 1999.

Stone, Deborah. *Policy Paradox: The Art of Political Decision Making*, revised ed., New York: W. W. Norton & Company, 2002.

Ury, William. *The Third Side: Why We Fight and How We Can Stop*. New York: Penguin Putnam Inc., 2000.

Wise, Arthur F. *Rich Schools, Poor Schools: The Promise of Equal Educational Opportunity*. Chicago: The University of Chicago Press, 1968.

LEGAL CASES

Abbott v. Burke, 119 N.J. 287, 575 A.2d 359 (1990).

Abbott v. Burke, 153 N.J. 489, 710 A.2d 450 (2002).

Alabama Coalition for Equity, Inc. v. Hunt, Harper v. Hunt, 1993 WL 204083 (Ala.Cir.Ct.) (1993).

Berea College v. Kentucky, 211 U.S. 45, 29 S.Ct. 33 (1908).

Board of Education v. Board of Commissions of Granville County, 174 N.C. 469, 93 S.E. 1001 (1917).

Board of Education, Levittown Union Free School District v. Nyquist, 57 N.Y.2d 27 at 48, 453 N.Y.S.2d 643, 439 N.E.2d 359 (1982).

Brigham v. State, 166 Vt.246, 692 A.2d 384 (1997).

Brown v. the Board of Education of Topeka, 347 U.S. 483, 493, 74 S.Ct. 686 (1954).

Burrus v. Wilkerson, 310 F.Supp. 572 (1969).

Campaign for Fiscal Equity v. State of New York, 86 N.Y.2d at 317, 63` N.Y.S.2d 565, 655 N.E.2d 661 (1995).

Campaign for Fiscal Equity v. State, 100 N.Y.2d 893, 801 N.E.2d 326, 769 N.Y.S.2d 106 (2003).

Columbia Falls Elementary School District No. 6, 2004 WL 844055 (Mont.Dist.) (2004).

Cummings v. Board of Education of Richmond County, Georgia, 175 U.S. 528, 20 S.Ct. 197 (1899).

DeRolph v State, 78 Ohio St.3d, 677 N.E.2d 733 (1997).

Edgewood Independent School District v. Kirby, 777 S.W.2d 391 (1989).

Helena Elementary School District No. 1 v. State, 236 Mont. 44, 769 P.2d 684 (1990).

Hoke County Board of Education and Asheville City Board of Education v. State 2000 WL 1639686 (N.C.Super) (2000).

Hoke County Board of Education v. State of North Carolina and the State Board of Education, 358 N.C. 605, 599 S.E.2d 365 (2004).

Lake View School District No. 25 of Phillips County v. Huckabee, 91 S.W.3d 472 (2002).

Lake View School District No. 25 of Phillips County v. Huckabee, 2004 WL 1406270 (2004).

Leeper v. State, 103 Tenn. 500, 515, 53 S.W. 962, 965 (1899).

Leonardo v. State, 346 N.C. 336, 488 S.E.2d 249 (1997).

Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803).

McInnis v. Shapiro, 293 F.Supp. 327 (1969).

Miller v. Korns, 107 Ohio St. 287, 297-298 140 N.E. 773, 776 (1923).

Montoy v. Kansas, 2004 WL 1094555 (Kan.Dist.Ct.) (2004).

Plessy v. Ferguson, 163 U.S. 537, 16 S.Ct. 1138 (1896).

Plyler v. Doe, 457 U.S. 202, 102 S.Ct. 2382 (1982).

Robinson v. Cahill, 69 N.J. 449, 355 A.2d 129 (1976).

Rose v. Council for Better Education, 790 S.W.2d 186 (1989).

San Antonio School District v. Rodriguez, 411U.S. 1,93 S.Ct. 1278 (1973).

Scott v. Commonwealth, 247 Va. 379, 443 S.E.2d 138 (1994).

Seattle School District No. 1 of King County v. State, 90 Was.2d 476, 585 P.2d 71 (1978).

Serrano v. Priest, 5 Cal.3d 584, 487 P.2d 124, 96 Cal.Rptr. 601 (1971).

Serrano v. Priest, 18 Cal.3d 728, 557 P.2d 929, 135 Cal.Rptr. 345 (1977).

Sheff v. O'Neill, 238 Conn. 1, 678 A.2d 1267 (1996).

Stuart v. School District No. 1 of Village of Kalamazoo, 30 Mich. 69 (1874).

Tennessee Small School Systems v. McWherter, 851 S.W.2d 139 (1993).

LEGAL DOCUMENTS

U.S. Declaration of Independence.

U.S. Constitution, Preamble.

U.S. Constitution, amend. 1.

U.S. Constitution, amend. 10.

20 U.S.C. 6301 et seq., 1965

Public Law 107-110, 115 Stat. 1439, 20 U.S.C. 6301 et seq., 2001

PERIODICALS

Clune, William H. "The Cost and Management of Program Adequacy: An Emerging Issue in Educational Policy and Finance," *Educational Policy* 8, no. 4 (December 1994): 365-375.

Dayton, John. "When All Else Has Failed: Resolving the School Funding Problem," *Brigham Young University Education and Law Journal* (Spring 1995): 1-20.

Dayton, John, and Anne Dupre, "School Funding Litigation: Who's Winning the War?" *Vanderbilt Law Review* (November 2004): 2351-2413.

Duncombe, William, Anna Lukemeyer, and John Yinger. "Financing an Adequate Education: A Case Study of New York" in *Developments in School Finance: 2001-2002: Fiscal Proceedings from the Annual State Data Conferences of July 2001 and July 2002*. Washington DC: National Center for Education Statistics (2003): 127-153.

Goertz, Margaret E. "Program Equity and Adequacy: Issues from the Field," *Educational Policy*, 8, no. 4 (December 1994): 608-615.

- Kaufman, H. "Emerging Conflicts in the Doctrines of Public Administration." *American Political Science Review* 50, no. 4 (1956): 1057-73.
- Mazzeo, Christopher. "Frameworks of State: Assessment Policy in Historical Perspective." *Teachers College Record* 103, no. 3 (June 2001): 367-397.
- Mills, Jon and Timothy McLendon. "Strengthening the Duty to Provide Public Education." *Florida Bar Journal* (October 1998): 28-34.
- Moran, Mary. "Standards and Assessments: The New Measure of adequacy in School Finance Litigation." *Journal of Education Finance*, 25, no. 1 (Summer 1999): 33-80.
- Nelson, John A. "Adequacy in Education: An Analysis of the Constitutional Standard in Vermont." *Vermont Law Review* (Fall 1993): 7-54.
- Proefriedt, William A. "Other People's Children: The Persistence of Disparities in School Funding." *Education Week* (November 20, 2002): 44, 33.
- Robinson, Mildred Wigfall. "Financing Adequate Educational Opportunity." *Journal of Law and Politics*, 14 (summer, 1998): 483-523.
- Rossmiller, R. A. "Equity or Adequacy of School Funding." *Educational Policy* 8, no. 4 (December 1994): 616-625.
- Strike, Kenneth. "Is There a Conflict Between Equity and Excellence?" *Educational Evaluation and Policy Analysis* 7, no. 4 (winter 1985): 409-416.
- Strike, Kenneth A. "Fiscal Justice and Judicial Sovereignty: Plotting the Logic of a Slippery Slope." *Educational Theory*, 34, no. 1 (winter 1984): 5-27.
- Thompson, David C., and Faith E. Crampton. "The Impact of School Finance Litigation: A Long View." *Journal of Education Finance* 27 (winter 2002): 783-816.
- Thro, William E. "Judicial Paradigms of Educational Equality." Commentary in *West's Education Law Reporter* 174, no. 1-3 (2003): 1-42.
- True-Frost, Cora. "Beyond Levittown Towards a Quality Education for all Children: Litigating High Minimum Standards for Public Education the CRE Case." *Syracuse Law Review* (2001): 1015-1048.
- Underwood, Julie K. "School Finance Adequacy as Vertical Equity." *University of Michigan Journal of Law Reform* 2, no. 8 (spring 1995): 493-519.
- Vaughn, Sharon, and James E. Dammann. "Science and Sanity in Special Education." *Behavioral Disorders* 27, no. 2 (November 2001): 21-29.

Verstegen, Deborah A. "Financing the New Adequacy: Towards New Models of State Education Finance Systems that Support Standards Based Reform." *Journal of Education Finance* 27 (Winter 2002): 749-782.

Ward, James Gordon. "Conflict and Consensus in the Historical Process: The Intellectual Foundations of the School Finance Reform Litigation Movement." *Journal of Education Finance* 24 (summer 1998): 1-22.

West, Martha S. "Equitable Funding of Public Schools Under State Constitutional Law." *Journal of Gender, Race and Justice* (Spring 1999): 279-313

MISCELLANEOUS

Boyle, Phillip. *School Boards in a Democratic Society: Creating the Good Life through Public Schools*. Presentation to The Virginia School Boards Association Leadership Conference, October 2003.

Crockett, Jean B. "The Viewpoint of the Law: Environment and Liberty." Chap. 3 in *Instructional Settings for Exceptional Learners: A Conceptual, Historical, and Empirical Examination of the Least Restrictive Environment*. Ph.D. diss., University of Virginia, May 1997.

Driscoll, Lisa. *Education Policy*. Workbook developed for Governance and Policy Studies class, Blacksburg, VA: Virginia Tech, 1998.

Education Law Center. "Shortchanging Our Children: 'Opportunity Gaps' in Pennsylvania Public Schools," *An Action Report for students, parents, educators, and community leaders*, July 2005.

Guy, Mary Jane. "Common," "System," "Uniform," and "Efficient" as Terms of Art in the Education Articles of State Constitutions: A Philosophical Foundation for the American Common School. Ph.D. diss., Virginia Polytechnic Institute and State University, November, 1992.

Hamilton, Alexander, James Madison, and John Jay. *The Federalist Papers*. Audio Classics, Knowledge Products, audiocassettes.

Kearney, C. Philip, *Value Polarities and Complementarities in American Education Policy Making: Efficiency and Choice*, 1988. AERA presentation.

Mullins, Foney G. *A History of the Literary Fund as a Funding Source for Free Public Education in the Commonwealth of Virginia*. Ed.D diss., Virginia Polytechnic Institute and State University, April 2001.

- New Jersey State Department of Education. *A Study of School Facilities and Recommendations for the Abbott Districts* (Facilities Report) 17-19 cited in *Abbott v. Burke*, 153 N.J. 489, 710 A.2d 450 (2002).
- North Dakota Department of Public Instruction. "Calculation of the Cost of an Adequate Education in North Dakota in 2002-2003: Using the Professional Judgement Approach." Denver, CO: Augenblick, Palaich and Associates, 2003.
- Page, Walter Hines. "The Forgotten Man", lecture delivered at the State Normal and Industrial School for Women at Greensboro, North Carolina, June 1897. In *Public School Finance*. Boston: Allyn and Bacon, 1995.
- Peevely, Gary L. (ed.). "Education Funding Adequacy and Equity in the Next Millennium." Proceedings of the National Symposium. Nashville, TN (Spring 1999).
- Stone, Deborah. "Altruism in Policymaking?" Presentation for the Center for Public Administration and Policy (CPAP). Blacksburg, VA: Virginia Polytechnic Institute and State University, April 2004.
- The National Education Goals Report: Executive Summary. "Improving Education Through Family-School-Community Partnerships." Washington, DC: National Education Goals Panel, 1995: 2-3.
- Verstegen, Deborah A., and Robert C. Knoepfel, "Equal Education Under the Law: School Finance Reform and the Courts." *Journal of Law & Politics* Symposium on Equal Education Under the Law sponsored by the University of Virginia School of Law, Charlottesville, VA (Summer 1998): 555-589.
- Wood, R. Craig, and John Dayton. "Education Finance Litigation: An Examination of Emerging Trends and Future Directions." In *Balancing Rights: Education Law in a Brave New World*. Papers [of the] Education Law Association (ELA) Annual Conference (48th, New Orleans, LA, November 14-16, 2002) retrieved from ERIC microfiche EA032365.

ELECTRONIC SOURCES

- Biddle, Bruce J., and David C. Berliner. "What Research Says About Unequal Funding for Schools in America." Arizona State University (Winter 2002) retrieved from <http://edpolicyreports.org>.
- Education Commission of States Issue Finance Project. *Finance: Adequacy/Core Cost Bulletin* available @ www.ecs.org, 2002.
- Ferziger, Meira Schulman. "Validity of Public School Funding Systems" *American Law Reports* retrieved at www.westlaw.com.

Goals 2000: Educate America Act archived at
www.ed.gov/legislation/GOALS2000/TheAct/index.html.

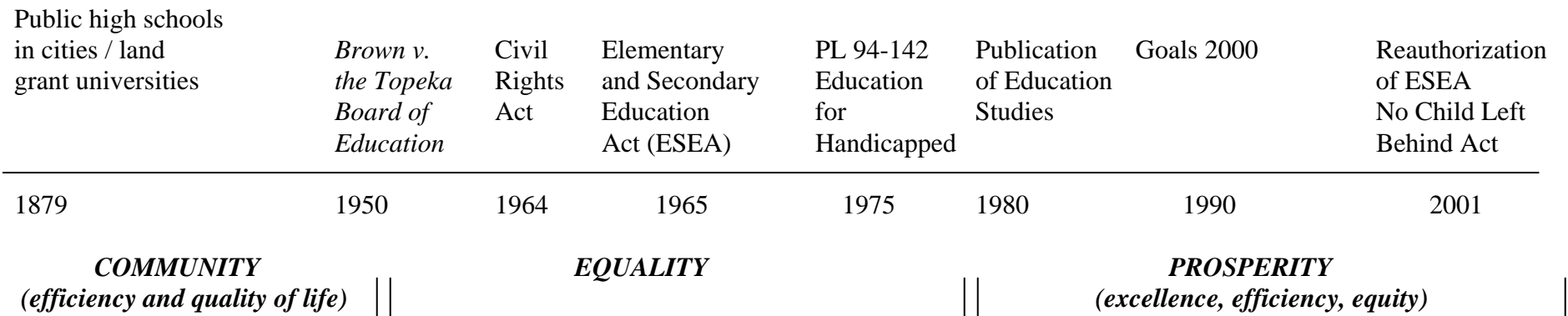
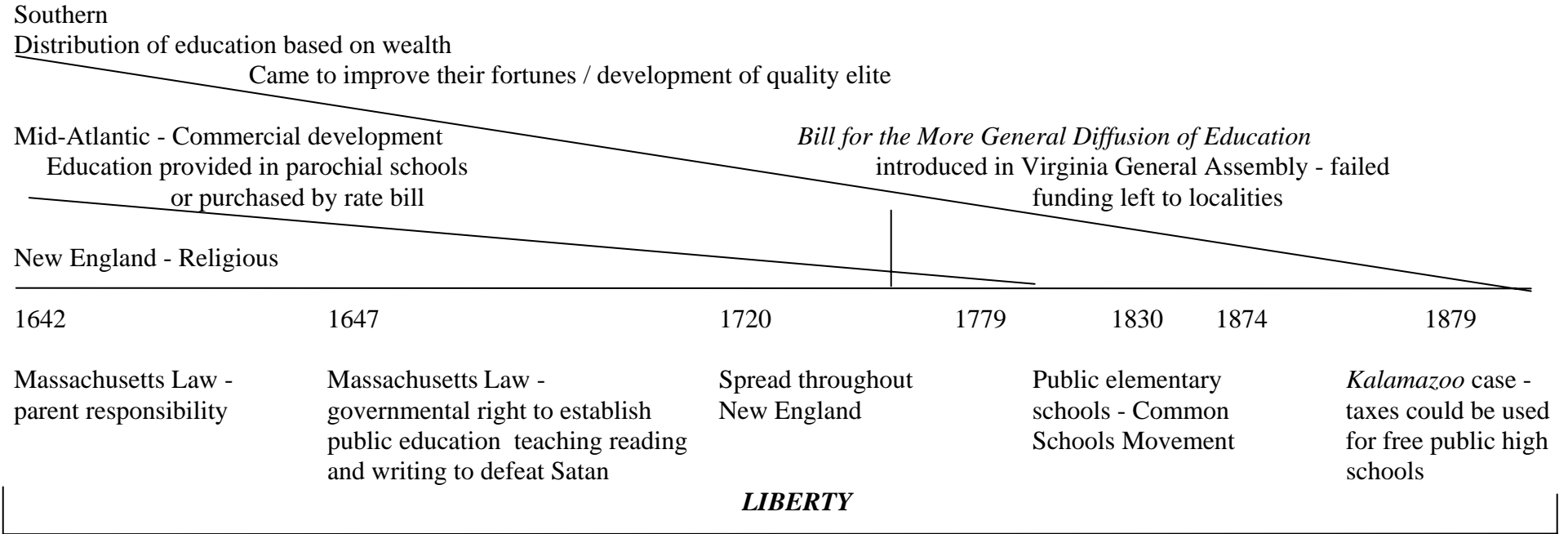
Guthrie, James A. "Constructing New Finance Models that Balance Equity, Adequacy and Efficiency with Responsiveness." ECS Issue Paper: Education Finance in the States: Its Past, Present and Future, available from www.ecs.org.

National Education Association. "NEA Stands Up for Children and Parents, Files First-Ever National Lawsuit Against Administration for Not Paying for Education Regulation: Parents Want Feds Accountable for Law's Requirements." Press Release, April 20 retrieved @ www.nea.org/lawsuit/index.html.

National School Board Association. "School Finance Litigation Table" retrieved from <http://www.nsba.org/site/docs/33700/33652.pdf>.

Prah, Pamela M. *Education Funding Draws New Lawsuits, Ballot Initiatives*, August 20, 2000 available from www.stateline.org.

Appendix A
 Historical Principle and Values in the Provision of Educational Opportunity



Appendix B
Profile of Reports Commissioned on Education in the 1980s

TITLE	ACADEMIC PREPARATION FOR COLLEGE	ACTION FOR EXCELLENCE	HIGH SCHOOL	A NATION AT RISK	THE PAIDEIA PROPOSAL	A PLACE CALLED SCHOOL	A STUDY OF HIGH SCHOOLS
	<i>What Students Need to Know and Be Able to Do</i>	<i>A Comprehensive Plan to Improve Our Nation's Schools</i>	<i>A Report on Secondary Education in America</i>	<i>The Imperative for Educational Reform</i>	<i>An Education Manifesto</i>	<i>Prospectus for the Future</i>	
Sponsor/ Author	Education Equality Project- The College Board	Task Force on Education for Economic Growth Education Commission of the States	Ernest L. Boyer The Carnegie Foundation for the Advancement of Teaching	The National Commission on Excellence in Education - US Department of Education	Mortimer J. Adler on behalf of the Paideia Group	John I. Goodlad	National Association of Secondary School Principals and the Commission of Educational Issues of the National Association of Independent Schools
Chair(s)	Not Identified	Governor James Hunt, Jr.	Ernest L. Boyer	David P. Gardner	Mortimer J. Adler	Ralph W. Tyler	Theodore R.Sizer
Task Force Members	200 high school and college teachers as members of various College Board committees and council	41 members: governors, legislators, CEO's, state and local school boards, and labor	28 members: state and local level educators, higher education, and business and professional associations	18 members: governor, legislators States Boards, local school level, higher education	22 members: National, state and local level educators	6 members: National, state, and local level	Study team of educators and educational researchers
Data Bases Utilized	Data collected from 1400 people through questionnaires and meetings, also judgments and recommendations	Task Force consensus on problems and recommendations	Field studies of 15 public high schools, data from High School and Beyond (NCES) A Study of Schooling (Goodlad)	Commissioned papers, public oral and written comment existing analyses, and descriptions of notable programs	Primarily philosophical	Questionnaires and observation in 38	Field studies of 14 public and private high schools
Time Frame of the Study	3 years	1 year	3 years	15 years	1 year	8 years	3 years
Release Date	May 1981	May 1981	September 1983	April 1981	September 1981	September 1983	January 1984
Quality / Equality	<i>"Concern for educational quality should be expressed in ways that that advance social justice. Educational quality must not lead to actions that limit the aspirations and opportunities of disadvantaged and minority youth, or that would reverse the progress that has already been made"</i>	Goal: <i>"provide quality assurance in education"</i> Goal: <i>"serve better those unserved or underserved"</i>	<i>"... in the debate about public schools, equity must be seen not as a chapter of the past but as the unfinished agenda of the future. To expand access without upgrading schools is simply to perpetuate discrimination in a more subtle form. But to push for excellence in ways that ignore the needs of less privileged students is to undermine the future of the nation. Clearly equity and excellence cannot be divided."</i>	<i>"the twin goals of equity and high quality schooling have profound and program practical meaning for our economy and society, and we cannot permit one to yield to the other either in principle or in practice."</i>	<i>"... to give the same quality of schooling to all requires a of study that is both liberal and general, and that is, in several, crucial, over-arching respects, one and the same for every child."</i>	<i>recommends the elimination of tracking and ability grouping and improved instruction to increase equity in access to quality education</i>	<i>"Lessening segregation and stereotyping by class, race, gender, and ethnicity requires not only unprejudiced attitudes ... but also changes in the structure of schooling"</i>

Source: adapted from Beatrice and Ronald Gross (eds.), *The Great School Debate: Which Way for American Education?* (New York: Simon & Schuster, Inc., 1985): 52-53, 62-63.

VITA

Patricia Anne Shope Sebens was born in Lumberton, North Carolina. She graduated from Guilford College in 1972 with an A.B. in Political Science with a concentration in International Relations. Pursuing her interest in conflict resolution, Patricia spent a year in the Peace Studies Program at Earlham School of Religion. This inquiry led to a renewed interest in education with Patricia receiving a Masters of Education with a specialty in Early Childhood Education from the University of North Carolina at Greensboro in 1976. She completed the credentials necessary for endorsement in School Counseling at Radford University in 1992. She was awarded the degree of Doctor of Philosophy in Educational Leadership and Policy Studies by Virginia Polytechnic Institute and State University in 2006.

Patricia Sebens has taught or provided counseling for students in Pre-Kindergarten through Grade 12 students at Olney Friends Boarding School, the Hebrew Academy, Lincoln County Public Schools, Mt. Airy City Schools, and Carroll County Public Schools. From 1996-2003, she was privileged to be a member of the Carroll County School Board serving as chair for five years. During that time, Patricia served on the Federal Relations Committee of the Virginia School Boards Association, presented at the annual convention, and served on the Board of Directors as President of the Southwest Region. While a doctoral candidate at Virginia Tech, she participated in the development of a distance learning course, Educational Management and Policy Design, for The Africa-America Institute by preparing instruction and the accompanying materials for the Strategic Planning Section. Patricia is presently employed as Guidance Director at Galax High School.

Patricia Sebens resides with her husband in Southern Carroll County. Her four sons are scattered pursuing careers in aerospace, aquatics, teaching, and music but return for visits to the mountains of Southwest Virginia.