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*Cheating Our Future:  
How Decades of Disinvestment  
by States Jeopardizes Equal  
Educational Opportunity*

**June 2015**



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This report is for the students who deserve better from all of us.

The authors and publisher are solely responsible for the accuracy of statements and interpretations contained in this publication.



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# Foreword

**Wade Henderson**  
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The compact between our public education system and students and their families is simple but essential. If students attend school, pay attention to their teachers, and do their homework, the school will make sure that they graduate fully prepared for college, career, and a family-sustaining job.

But far, far too often, the system is failing to hold up its end of the bargain. In a time of economic growth and rising state and federal revenue, we are leaving the nation's most vulnerable public school children behind.

In too many places—urban, suburban, and rural—our schools are struggling to find the resources they need to serve all children well. This is especially true in communities that serve students most at-risk, including children from low-income families and children of color.

And yet, these children are becoming the primary population of public schools in the 21<sup>st</sup> century. As the Southern Education Foundation recently reported, for the first time, the majority of students in the nation's public schools are growing up in low-income families. And a majority of public school students are students of color.

Public education in America, then, is increasingly about educating our poorest, most disadvantaged, children. But our policies and funding formulas ignore this simple fact, leading to a massive failure to meet the challenge before us.

The evidence from across the country is clear and compelling: our nation must dramatically increase the resources available for public education and, simultaneously, change the way those resources are distributed so that there is true equity in America's classrooms.

By equity, I mean providing the resources essential to serving all students well, including those who are behind

or disadvantaged. It means all students having the same educational opportunities. It must mean all schools having the tools and supports needed to help each student meet higher academic standards and become prepared for college, technical training, and the workforce after high school.

To thrive in an increasingly competitive global marketplace, our economy demands it.

That's why two of the nation's leading nonprofit advocacy organizations—The Leadership Conference on Civil and Human Rights (and our sister organization, The Leadership Conference Education Fund) in Washington, D.C., and the Newark, N.J.-based Education Law Center (ELC)—are publishing this critical report. We're releasing the report simultaneously with ELC's fourth annual "Is School Funding Fair? A National Report Card," a state-by-state report on how equitably states fund preK-12 education.

These reports are part of a long-term effort by The Leadership Conference and ELC to bring attention to the deep disparities in educational opportunities across the country and to advocate for the funding and resources our schools need, not simply to offer a basic education, but to enable all students to meet higher standards.

These reports show that, in far too many states, our nation's schools are in dire straits. They also show that states and the federal government are not meeting the challenge. Instead, they're often letting unacceptable situations go unaddressed.

Consider some of the alarming situations we found in four states we visited for this report:

- In Pennsylvania, the massive budget cuts in recent years are depriving students in Philadelphia of

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a quality education, including special education students whose access to supports are required by federal law. And across the state, the differences in what schools can offer from district to district are clearly visible—all because the state essentially has no school funding formula that can help the state’s neediest students.

- In Mississippi, state leaders are breaking state law repeatedly by failing to provide even the required baseline of funding that could rescue students in some of the nation’s poorest school systems. Voters will decide in November 2015 whether to strengthen the commitment to education in the state’s constitution.
- In South Carolina, following a court case heard in the same county where the first of the *Brown v. Board of Education* cases began, the state is now required to offer rural students better opportunities to help them escape “educational ghettos,” as the court described some school systems.
- In Colorado, rural school districts lost a court challenge over school funding, but nearly everyone in the state knows that the playing field isn’t equal. Other legal challenges are under way, although state lawmakers also are hearing about the lack of resources available to suburban school systems, which may spur statewide action.

The glaring inadequacies from school to school and district to district can no longer be ignored. As one advocate in Mississippi explained, parents have “had it!”

This is the challenge we all face. No matter your background or political leanings, no matter what state, city, or town you live in, we can all agree that each and every single child in America deserves the best education that we can provide.

What does ensuring that there is more equity in education mean? It means we must do better for our children by making the necessary investments that will enable them to be the citizens we need them to be to move our nation forward.

Let’s get to work.

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## Introduction

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In what is probably the single most important decision on educational equity since *Brown v. Board of Education*, the U.S. Supreme Court ruled in 1973 in *San Antonio Independent School District v. Rodriguez* that state funding formulas for public schools based on local property taxes do not violate the U.S. Constitution. The Court also held that education was not a fundamental right under the Constitution.

Today, it is clear that the ruling was nothing less than a license for states and localities to perpetuate the inequalities of opportunity and outcomes that have hobbled American democracy from generation to generation. Indeed, *Rodriguez* undermined the fundamental principle of *Brown*: that each and every child has a right to a high quality education, and separate and unequal systems violate that right.

*Rodriguez* forced students and advocates in underfunded and under-resourced schools and school districts to try to redress inequitable education by challenging school funding formulas under state constitutions that guarantee a thorough and efficient education or have strong equal protection provisions. Since 1973, The Leadership Conference on Civil and Human Rights, Education Law Center, and countless other advocates have worked to improve public education using this strategy.

And there has been some success. Many state courts have ruled that the funding systems are unconstitutional. But too often, state legislators and governors have been unwilling to invest the resources necessary to meet the requirements of their state constitutions, in spite of court orders to do so.

More than four decades after *Rodriguez* and more than 61 years after the *Brown* decision in 1954, the nation finds itself at an historic crossroads. Even as high school graduation rates have climbed higher than 80 percent

and more students proceed to higher education, too many students are being left behind. The differences between the quality of the education we provide for poorer students and their more affluent peers is growing starker with each passing year.

In all but a few states, the inequities in public education are significant and growing. African-American, Latino, Native American and low-income students are disproportionately assigned to under-resourced schools and classes that provide diminished prospects for academic success when compared with their more privileged peers. For example, according to the latest data from the U.S. Department of Education, more than 40 percent of schools that receive federal Title I money to serve disadvantaged students spent less state and local money on teachers and other personnel than schools that don't receive Title I money at the same grade level in the same district.

A recent report by Education Trust found that the highest poverty districts in our country receive about \$1,200 less per student than the lowest poverty districts. In addition, districts serving the largest number of students of color receive about \$2,000 less than the districts serving the fewest.

At the same time, we're seeing demographic shifts that have radically altered the makeup of our public schools. For the first time, a majority of public school students are students of color, according to the Center for Education Statistics. And recent data from the Southern Education Foundation reveals that low-income students are now a majority of the schoolchildren attending the nation's public schools.

These demographic realities have vast implications for education policy, especially school funding. The lack of adequate and equitably distributed resources for schools

has created a crisis in many states. And advocates across the nation are beginning to say enough is enough.

To build more awareness and support for improving schools' access to adequate and equitable funding, The Leadership Conference has partnered with the nonprofit Education Law Center (ELC) to investigate school resource gaps across the country. ELC's annual report card on school funding in each state has drawn attention to these issues over the years, and its legal work has made a major difference in educational opportunities for students in their home state of New Jersey and many others.

In this report, The Leadership Conference decided to examine the deficits in school funding and resources to document the wide disparities in students' educational opportunities from state to state. What we found was disturbing and wrong, and it must be fixed now. Our findings in this report are not exaggerated; they are as plain as day.

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## *Chapter I: Higher Expectations: The New Challenge for Public Schools*

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As has been the case for far too long, America's public schools are inequitably funded. The recent drive toward higher standards—and for the first time, setting the same high expectations for all students—is a move in the right direction. But the outdated system of have and have-not schools cannot continue if all students are to be expected to meet the same high standards. Equity for all students cannot be reached without adequate and equitable funding from state and federal governments.

Even before the introduction of the Common Core State Standards (and states' own versions of them), school funding was in crisis in many states. The new set of expectations follows years of neglect in many urban and rural school systems—and in some neighborhoods and communities within more affluent school districts.

Our failure to provide the financial resources, well-prepared educators, and adequate technology and facilities—especially as we expect so much more from our schools and our students—is undermining our nation's goals of improving academic achievement and building a stronger workforce. We're especially leaving out our most underprivileged students, who now in many cases are the majority served by public schools, which further hinders the civil rights of low-income families, people of color, and entire communities.

To fix the situation will take not only more funding in some cases, distributed more fairly to schools with an emphasis on the neediest students, but also new accountability measures to ensure funding is used efficiently and effectively.

Leaders must work toward major changes in how schools are funded to address the lack of equal educational opportunity for too many students. Among the current challenges schools face:

- **Lack of preparation for college and career:** A lack of adequate planning and resources by many states to prepare for and invest in professional learning and support for teachers is hindering the implementation of higher academic standards (including the Common Core State Standards) to help guide classroom instruction. And more and more students in public schools are coming from low-income families—or need special services because they are learning English as a second language or have a disability. Preparing students to succeed in higher education without the need for remediation and to enter the labor market prepared for the demands of 21<sup>st</sup> century careers will take additional targeted supports and interventions.
- **Greater needs—but level funding:** Most states do not provide equitable funding for students from low-income families, students who are learning English, or those who need special education services. These services require substantially higher costs for schools, but most states don't provide schools with sufficient funding to cover these costs. This practice potentially runs afoul of federal civil rights laws in education. In addition, many states have not restored major school budget cuts made during the most recent economic recession.
- **A widening gulf between districts:** The dependence on local property tax revenue for public schools in most states has led to vast inequities from district to district. In Colorado, state-imposed local tax caps have been maxed out for years and bankrupt rural districts have no avenue to find new resources. This puts students at a major disadvantage simply because of where they live.
- **Southern blues:** Mississippi hasn't met its own basic school funding levels required under state law

for most of the past decade, resulting in one of the nation's worst-funded education systems.

- **A hidden inequity:** Many students in high-poverty communities still don't have the support systems and expanded learning time that many more affluent students enjoy—including after-school programs, tutoring and mentoring, summer activities and field trips, or opportunities to learn outside the classroom. Many students will need these kinds of supports to meet higher standards and pursue good jobs and higher education.

Addressing these emerging challenges requires more than court decisions in children's favor. Following widespread protests after the police shootings of unarmed African-American young people, the nation is reflecting on protestors' central message that "Black lives matter," which is at the core of an emerging civil and human rights movement focused on criminal justice. As protestors hit the streets to bring attention to police brutality against young persons of color, a new movement to demand equality in education is needed as well—and may be beginning.

Such a movement can be spurred by court decisions but also requires attention from researchers and academics, from grassroots activists and national education organizations, and thoughtful approaches to convincing policymakers and the public about the new challenges our nation faces in education.

### **New financial crises brewing for schools in many states**

There are many new developments in states where advocates are pushing for greater equity in education. For example:

- After layoffs of about 3,800 educators and staff in Philadelphia, **Pennsylvania** state lawmakers may finally address the decimated budget of one of the nation's largest school districts, serving about 131,000 students. The state's Republican governor recently lost re-election largely because of education funding cuts.
- A statewide movement in **Mississippi** has begun in response to the legislature's continued disregard for state law requiring a minimum amount of school funding. Rural districts are destitute, and growing suburban systems cannot keep up with building needs. Voters will decide on a constitutional amendment in November 2015 to mandate that legislators follow the law.
- **South Carolina** legislators have convened an expert panel of lawmakers, educators, and others to determine a new school funding plan. This follows 20-plus years of courtroom wrangling, which peaked in late 2014 when the state Supreme Court ordered lawmakers to finally deal with the crisis.
- **Colorado's** near-bankrupt rural school systems sued the state over a lack of adequate funding—and were joined by some urban districts. After victory at the state trial court level, the decision was overturned on appeal. Now, advocates are pushing for legislative changes and a new lawsuit is challenging the state's failure to fund schools in response to inflation, as required by the state constitution.

## Pennsylvania schools face severe inequities after drastic budget cuts

Principal Will Wade stood before the faculty at the Promise Academy at Martin Luther King Jr. High School and asked a critical question facing educators here: “Do we have traumatized students at this school?”

“Yes,” most educators replied in unison, speaking matter-of-factly.

“We are their support,” said Wade, speaking in the clean but well-worn school’s common hallway area. “This is the trauma center.”

After the meeting, at which teachers shared tips for how to handle unruly students professionally and compassionately, some of the educators circled around a table to discuss the devastating inequities their students face compared with students in neighboring, more affluent school systems.

How do they know? They’ve seen the differences for themselves.

Nicola Jefferson, a second-year teacher at MLK who oversees the arts program, was amazed when she first arrived here. She previously ran a nonprofit organization and had visited schools in more affluent nearby communities just outside Philadelphia.

“I couldn’t believe it. I just didn’t know what it was like,” Jefferson said. “This really is a social justice issue for me that really angers me.”

So, what’s it like here?

The differences are most stark for students with disabilities. About 40 percent of the 1,180 students at MLK High have some type of disability. But severe budget cuts two years ago dismantled many of the supports this northwest Philadelphia school offered to some of the neediest students in the country.

Now, classes that had two teachers (one there to offer extra support to students with disabilities) have only one. Class sizes are larger: up to 40 students. Career courses such as automotive technology dried up. Counselors were laid off. Extensive summer programs and after-school tutoring programs stopped. Teacher salaries were cut by about \$10,000 because they were no longer paid for after-school or summer hours.

After a few years of having much of what they needed (under a federal school improvement grant that helped them implement the small-school model called the

Promise Academy), MLK now seems a shell of its former self.

“There’s great irony in our segregation and our poverty” considering the school is named for MLK, said English-as-a-second-language teacher Peggy Bradley. “It seems illegal, doesn’t it?”

School attendance is a vivid problem in the Philadelphia schools, according to Wade. About 81 percent of students come to school every day at MLK, which Wade said isn’t that bad compared to some district schools. Many students miss school because of tough situations at home, teachers here said.

“A lack of funding means we are not able to provide the services our students so desperately need,” said Lynda Hicks, a psychiatric social worker at MLK, one of the few support roles left for students. The school needs behavioral therapists and other services for students, she said.

“For the special education population, during my lifetime in teaching, I’ve seen students go from hope to despair,” Hicks said. “We are not preparing a workforce for Philadelphia or for the Commonwealth of Pennsylvania.”

Many students at MLK have had rocky experiences in life and school. Some have spent time in the juvenile justice system, and some are in foster care or group homes. Some students with disabilities go undiagnosed, Hicks said.

Neighboring suburban districts—including where Wade’s own two children, 18 and 16, attend school—have additional classroom teachers and other services for special education students, he said. Meantime, MLK has taken in special education students from a neighboring high school that joined this city’s large charter school sector and now doesn’t serve students with disabilities, Wade said.

“I think part of the problem is the way the funding is done,” said basketball coach and Spanish teacher Jose Alverino, who has taught in other countries and finds Philadelphia’s situation perplexing. “The rich kids are getting everything in the classroom. The poor kids are not getting the same.”

“It’s almost intentionally economically and racially targeted,” Bradley said.

Mark Wolfson, a math teacher who for a time left MLK to join the nearby Upper Darby schools, said he's seen class sizes kept under 20 elsewhere for students with disabilities—and even then they have an extra teacher in the room. “And they were concerned that was too large of a class,” he said.

There's no librarian in the MLK library who can help students do research and use technology, said English teacher Susan Grick. Teachers buy their own classroom printers.

Alverino said his children's school in another district has a pool. Students can become licensed lifeguards and take rowing. They have up to four years of Advanced Placement history courses.

“When I was in high school in Chicago, we had all those things in the public schools,” Principal Wade lamented. But the schools here don't anymore.

#### **How it happened**

Even with the challenges, the staff at MLK doesn't seem like the kind to give up. They're hopeful that new Pennsylvania Gov. Tom Wolf will work with the Republican-led legislature to fix school funding problems across Pennsylvania once and for all. A statewide school funding commission has been touring the state in early spring 2015 to gather ideas for a new funding formula. But there's no guarantee of a solution before the next school year.

For decades, Pennsylvania did not have a functional school finance formula that distributed state funds to school districts either adequately or equitably, according to the Philadelphia School Funding Campaign, an advocacy group pushing state leaders to address the problem. Hundreds of school districts lacked adequate funding, and distribution of funds was unpredictable and inefficient.

In 2006, the legislature authorized a “costing-out study” to determine the resources needed to help all students achieve the state's academic standards. Act 114 of 2006 required the study to address two issues—adequacy and equity. Results of the costing-out study were the foundation for a new school finance formula that began in 2008, which took into account the number of students and factors such as poverty levels and local tax effort.

Then Gov. Tom Corbett took office in 2011 and the state abandoned use of the funding formula, leaving Philadelphia and hundreds of other districts in a lurch. As of April 2015, school funding was distributed

to schools based on what each district received the previous year—with additional supplements for some districts if lawmakers can get them passed.

The impact on the Philadelphia schools was deep and brutal. The school district laid off more than 3,000 educators and staff and closed dozens of schools across the city, many in poor neighborhoods, despite parents' loud cries of protest. Most schools in better-off neighborhoods survived.

Without greater and more equitably distributed funding, schools all across the state are going without the resources they need, according to state education advocacy groups.

Some communities have few businesses and low home values and therefore little local property tax to help schools. Cities including Philadelphia certainly are wealthier, but serve students almost entirely from low-income families, making the cost of teaching students to the state standards higher than in other communities and more expensive than the city can fund on its own.

The latest data from the Pennsylvania Department of Education show per-pupil spending across the state ranged from about \$8,700 to nearly \$23,000 for the 2012-2013 school year. That's a difference of \$357,000 a year for a class of 25 students. Also, the state provides a lower percentage of funding for schools than most other states—only about 36 percent—and local revenue comprises a larger share.

Back at MLK, the school whose football team's journey after the merger with rival Germantown High was shown in the documentary *We Could Be King*, the funding has been spent. Unless state leaders can work out a deal to do better by MLK's students, they're stuck.

Jefferson, the arts coordinator at MLK, has served in international crisis situations in Rwanda and elsewhere. She compares many Philadelphia students' situation to those in troubled lands.

She's working with religious groups in the city to advocate for changes, saying, “this is unacceptable. There's no way our country can continue this way.”

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## *Chapter II: From the Courtroom to the Classroom*

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In the past four decades, cases challenging inequitable and inadequate school finance have been filed in 45 states, according to Molly Hunter, the director of Education Justice, ELC's national program. In many of these cases, but not all, the courts have struck down the state's school finance system. But securing a remedy has proved more difficult. In some states, school funding has improved, only to be cut when the next economic downturn strikes. In other states, legislators find ways to delay action, prompting further litigation. Often, these cases can take decades to win and sometimes years to agree on a remedy. While litigation can move a state toward a solution, it's often insufficient to secure lasting change.

The dilemma schools face is clear: more is expected of all students academically. And the demographics of our students have changed; the Southern Education Foundation and others point out that low-income students form the majority of public school enrollment for the first time in recorded U.S. history. Also, resources for schools have remained stable, or worse, actually declined—especially in low-wealth communities. The same levels of funding—distributed to schools in outdated ways—won't work anymore.

“If we have a new diverse majority, it's a very different challenge today... both because of who's in school and because of what schools need to do,” said Kent McGuire of the Southern Education Foundation, which works to advance equity and excellence in education for all students in the South.

While an important tool, litigation isn't enough. Political support and grassroots campaigns must be part of the solution. Without the support of powerful political allies, or greater understanding of the policy issues among the general public, or more political power in the hands of people in low-income communities, school-equity battles have little chance of succeeding.

### **Percentage of low-income students at record levels, keep increasing**

Students from low-income families now represent a growing majority of the school children attending the nation's public schools, the Southern Education Foundation has found in its policy research. The U.S. has a child poverty rate higher than all but five Organisation for Economic Co-operation and Development (OECD) nations, including Chile, Mexico, and Israel. And income inequality is greater and has increased faster than in most developed nations, OECD data show.

State-by-state data collected by the National Center for Education Statistics show that 51 percent of the students across the nation's public schools came from low-income families in 2013.

In 40 of the 50 states, students from low-income families comprised no less than 40 percent of all public school children. In 21 states, children eligible for free or reduced-price lunches were a majority of the students in 2013.

Most of the states with those low-income majorities served by public schools are in the South and West. Thirteen of the 21 states are in the South, and six of the 21 states from the West. Mississippi has the nation's highest rate of students from low-income families, with 71 percent. That means nearly three out of every four public school children in Mississippi met that threshold. The nation's second-highest rate was found in New Mexico, at 68 percent, in 2013.

This urgent challenge must be addressed because the nation's increasingly diverse student population—and the fact that now a majority of public school students come from low-income families—needs a stronger support

system to meet the most rigorous academic requirements in U.S. history.

While public schools have made significant progress in recent years, many students are still left behind. This alarming fact threatens our civic health and economy and our nation's future—and impacts all of our communities.

“The good news is the kind of stark resource differences, they're so vivid, that it's realistic to see more activity on the horizon,” said McGuire. “The difference between today and 15, 20 years ago was that the states were none too explicit about what kids needed to know and be able to do.”

“There's a lot of kind of pent-up frustration and demand for action” out there, McGuire said.

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## *Chapter III: Equity Now, More than Ever*

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In 1970, President Richard Nixon called for the nation to move away from relying on property taxes as the main source of revenue for public schools. He signed an executive order appointing the President’s Commission on School Finance, which later called for that reform and many others.

“We must make the nation aware of the dilemmas our schools face, and new methods of organization and finance must be found,” Nixon argued. “We have neglected to plan how we will deal with school finance, (and) we have great instability and uncertainty in the financial structure of education.”

Since then, much has changed in American education—while some things haven’t. Inequities and a reliance on property taxes for education funding remain in most states and communities. Places with more businesses and higher residential property values can raise more money locally for public schools. Poorer communities cannot. Some states step in and attempt to make up the difference—but that was before some remarkable changes set in.

In the past 40 years, an abundance of data on student achievement, school attendance, demographics, and graduation rates have been collected by federal and state governments. Progress in education overall is undeniable. High school graduation rates have reached 80 percent nationally for the first time, and college enrollment rates are higher than ever. More students can take advanced courses to be prepared for college.

But gaps remain in student achievement and in the destinations students are reaching. The economy requires higher levels of education from more Americans than ever before. Therefore, schools need adequate resources in every case to help all students meet higher academic standards and graduate better-prepared for their next

steps in life. And while many states have determined the resources required to help all students meet these ambitious goals, few states have enacted those levels of funding for schools, according to ELC.

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## *Chapter IV: How the Supreme Court Blocked Equity*

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The U.S. Supreme Court ruled in 1973 that it was constitutional to use property taxes as the basis for school financing. In *San Antonio Independent School District v. Rodriguez*, the court held that the city's school finance system did not violate the Fourteenth Amendment's equal protection clause. In ruling 5-4 against the parents of three Mexican American students, the court said explicitly that states could use property taxes to fund schools, despite inequities from district to district, and specified that education is not a "right" under the U.S. Constitution.

"The need is apparent for reform in tax systems which may well have relied too long and too heavily on the local property tax.... But the ultimate solutions must come from the lawmakers and from the democratic pressures of those who elect them," wrote Justice Lewis F. Powell for the court majority. Interestingly, the same court ruled courts could not reach beyond one school district to enforce desegregation laws, opening the doors to more segregated schools in the years—and decades—to come.

While the *Rodriguez* decision shut the federal courthouse door to challenging inadequate state school funding, the federal government still plays an important policy role. With the passage of the No Child Left Behind Act of 2001 (the most recent version of the Elementary and Secondary Education Act, or ESEA), states were required for the first time to provide statewide academic standards that all districts were expected to help students meet. Much debate surrounded this law, but federal spending on education has increased since No Child Left Behind was enacted, although states and local taxes still make up the overwhelming majority of funding for public schools.

While new congressional leaders in 2015 are calling for a relaxing of federal education requirements on the states in the new ESEA, The Leadership Conference

and other advocacy groups have called for the federal government to keep up the pressure on states. President Obama's administration has used the U.S. Department of Education's Office for Civil Rights more actively than its preceding administration to enforce provisions of ESEA and civil rights law. The Department of Education also issued new guidance under Title VI that requires school districts to avoid racial discrimination in student discipline and educational resources—and has worked with districts to enforce those provisions. But without the leverage found in ESEA, states may not be required to show improvement in student achievement for each major demographic group and for special education students and those learning English as a second language—or even to measure such progress annually.

The Center for American Progress, the National Education Association, and others have found that states have not responded appropriately to higher academic standards, advances in technology, and the professional learning needs and support needs of teachers and school leaders who are directing schools through these transitions.

Despite clear evidence that high-quality early education can help poor children and others prepare for school, the National Institute for Early Education Research has found that most states still do not offer high-quality prekindergarten to all students whose families wish to enroll them. In some states, pre-K availability is limited while in others the quality of early education programs is weak.

All students deserve access to expanded learning time, including stronger classroom instruction, before- and after-school programs, extracurricular activities and academic support programs that many affluent students can access on their own or in their well-off schools. Students in poor neighborhoods or from low-income families often lack the economic capacity to afford or be able to find transportation to such programs, which create

built-in inequities. Students from low-income families deserve the same educational experiences as their better-off peers. In some cases, schools or community groups need to narrow that gap.

More resources alone—even when more equitably distributed—won’t solve the school-equity challenge. Schools and districts cannot push for better and more equitable funding if they don’t show they can use public investments wisely. And inequities, discrimination, and disparities are not always connected to money; they’re historically found even within well-funded schools and school districts.

School systems need to make better use of the school day, and ensure funds are targeted to programs that are proven to help raise student achievement and that clearly

offer students additional educational opportunities. All-too-precious school funding must be used efficiently, and some school systems can make greater strides toward this goal.

New approaches in education—including setting higher state standards, measuring students’ progress, and requiring schools to improve—haven’t fully addressed issues of equity for all students. Neither has the growth trend of charter schools, online learning, and new approaches to teacher and school leader preparation. Philanthropic support has been massive for higher standards and new approaches to student learning. Nevertheless, the situation remains unfair for too many students. Assessment and governance do not raise achievement. Effective instruction and sufficient supports clearly do.

### A “chicken coop” in a Mississippi school

#### **Lawmakers’ failure leads to statewide ballot drive**

Until last year, when the football players at tiny Carroll County’s only high school needed to get dressed for a game here, they stepped into an old chicken coop.

Chicken wire was replaced by a thin plywood wall to form a makeshift room in a shed. It was attached to an old cement-block building where agricultural classes once were held.

Then, when a mother in the majority African-American school system pleaded with the majority-White school board to do something about the embarrassing situation, she was admonished.

The board president’s response was, “Well, we just don’t have to have football if y’all don’t want to dress down there.”

That’s how elected county Superintendent Billy Joe Ferguson remembers it. He’s got plenty of other evidence to show that White leaders in his town, his county, and across his state really don’t give a lick about children who attend public schools—especially if they’re children of color or from low-income families.

“All that was between you and the sun was a sheet of tin,” Ferguson recalled of the old coop-turned-locker room.

High-poverty rural districts are not the only ones in Mississippi lacking adequate resources. Even more affluent, growing school districts badly need more funding to keep up with building needs, leaders across the state say.

Parents, advocates, and educators here say the blame falls mostly on state legislators who have failed to provide the minimum amount of school funding required by state law.

Only twice in the past 20 years has the state met its obligation under law to provide specific school-funding levels as required by the Mississippi Adequate Education Program (MAEP), passed in 1997. The state is one of only a handful nationally to not provide a statewide pre-K program, despite the state’s low levels of education and high levels of poverty. (A new pilot pre-K program has begun in a few districts.)

In response, a movement is growing and political winds may be shifting in the state.

#### **A movement is stirring**

In 2014, advocates gathered an incredible 200,000 signatures to allow voters in November 2015 to decide whether to amend the state constitution requiring full funding of preK-12 schools in the state. Specifically, the ballot question asks whether Mississippians want to require the state to provide an adequate and efficient education for all students.

But lawmakers have muddied the waters. In early 2015, they approved a separate ballot question to appear alongside the original referendum. Advocates are challenging that second question—which many claim is deliberately confusing—in court.

“It is reckless beyond belief to underfund Mississippi schools to the degree which we’ve done,” said Dick Molpus, an education and civil rights advocate and former secretary of state of Mississippi who ran

for governor in 1995. “The Mississippi legislature in my opinion has grossly misread the public’s feelings about ensuring quality in public schools.”

Of the new movement to address inadequate and inequitable funding, Molpus said, “It is a momentum unlike anything I’ve ever seen in this state.”

Patsy Brumfield, a former longtime journalist in Tupelo for the progressive, nonprofit newspaper *The Northeast Mississippi Daily Journal*, agreed to lead the petition drive last year and now heads a campaign called Better Schools, Better Jobs, promoting this fall’s ballot initiative.

Beyond the better-organized ballot campaign, Brumfield says other grassroots of public school parents and educators across the state—including Republicans—provide ample evidence that Mississippians are ready for change.

“The public is enraged. They are furious at the legislature for refusing to fund the public schools. It’s not like it’s optional,” she said. “They’re the ones that passed this formula. These are their numbers and they will not abide by their own law.”

“Why wouldn’t you want to provide the resources for the next generation of workers?” Brumfield continued. “This is about money, this is about the economic future of the state. Forget the morality of it.”

#### **Beyond the chicken coop**

“This is it. No heat, no water,” Ferguson, the superintendent in Carroll County said, walking into the old chicken coop locker room. A spring shower pattered onto the tin roof.

Last year, the school district finally did something about the chicken coop. Ferguson, aided now by a majority-Black school board, was able to borrow enough money to build a modest new locker room facility by the old football stadium at J.Z. George High School, named for a local lawyer who helped write the state constitution.

The school also has a new metal building that serves as the band hall. Carrollton had no marching band program from 1974 to 2007. “We didn’t even have a piano,” Ferguson said.

Now, the concert and marching bands win state awards. Senior Sergio Rodriguez is one of the state’s best young oboe players and has earned a scholarship to Arkansas State University.

But the district has little else.

“We can’t afford to give every child a textbook to take home,” said Rana Mitchell, the deputy superintendent here—and the district’s only full-time central office employee.

To help manage the district’s budget woes, Ferguson has made an unprecedented decision—to cut his own salary from \$87,000 to \$18,000, the lowest amount that allows him to keep state retirement benefits. He’s cut the district’s number of counselors down to one.

With just over 1,000 students in the whole county, virtually all from low-income families, Carroll County must share local resources and parent support with a private school that serves White students almost entirely. Carroll Academy sits a half-mile from Ferguson’s office and the town square—one of hundreds of private schools that opened across the South in the 1960s in response to desegregation efforts in majority-Black counties. About 60 percent of the public schools’ students are African-American, almost everyone else White and poor.

Marshall Elementary School in a downtrodden neighborhood of neighboring North Carrollton needs a significant upgrade, Ferguson said during a tour of the community in his pickup truck. “I can’t find a date on that building,” he said of a portion of the school, the rest of which was built in 1956 as a new Black school in an effort to sustain separate but equal schools.

In the nearby bus yard, Ferguson shows that most of the district’s school buses are 15 years old or more. You can tell because all of the buses have slightly different shades of yellow on their hoods; all have been repaired and patched up. At times, the county has had to borrow buses from neighboring counties.

Ferguson grew up on a dairy farm near Carroll County’s other community of any size, Vaiden, 20 miles away, where the film “Mississippi Burning” was made. He closed the school in Vaiden and an elementary school, then borrowed enough money using credit from an old gravel pit in the county to renovate and enlarge Carrollton’s high school in 1998. After a tornado damaged the new school’s gym, the school board let the building sit unrepaired for two years.

“We would love to offer Advanced Placement courses. We have none. . . . We lost our foreign language last year. . . . One teacher volunteered her planning period to teach Spanish I,” Mitchell said.

Mitchell commutes about 40 miles each day from another small town to work in Carrollton, a hard-to-find but historic little town where scenes of the Oscar-winning film “The Help” were filmed.

Carrollton’s a good place to have filmed the movie, set in 1960s Mississippi during the civil rights movement. A Confederate battle flag still flaps on the courthouse grounds, across the street from the school district office. It was this same courthouse where, in 1886, 20 African-American citizens were gathered and murdered by White residents.

While it’s easy to hang the despicable acts of history out for display in a community like this, unfortunately issues of race still dominate everyday life here today.

“I think education funding is the civil rights issue of our time,” said Mitchell, the deputy superintendent, whose students made a video about their plight, which she showed to perplexed educators in her doctoral program.

#### **Finally taking action**

Nancy Loomer founded and runs the nonprofit Parents’ Campaign for Mississippi’s Children in Jackson. A mother in Clinton, outside Jackson, she began to realize a decade ago how direly schools needed more resources in the state and started an organization that has grown into a critical lobbying group in the state.

“Parents are furious,” said Loomer, giving the example of parents in Ocean Springs on the Gulf Coast, where the school system may cut the International Baccalaureate program. “In 68 school districts, the amount of funding received from the state is less than what is required to cover the cost of teachers’ salaries and benefits.”

Loomer’s organization has run district-by-district numbers showing how much underfunding the MAEP has cost all communities across the state. In total, she estimates the state has underfunded schools by \$1.7 billion since fiscal year 2008.

Dwight J. Luckett, who recently retired as the superintendent of the poor, 3,350-student Canton district just beyond the new Nissan auto plant and Jackson’s wealthy northern suburbs, said his district was due an additional \$9 million from MAEP over the past four years.

“Can you imagine what I would have done with \$9 million for children?” Luckett said.

Voters in Mississippi won’t even know the final ballot language for the school funding referendum—or both

of them—until September, complicating things for education advocates. They’re training people in every county across the state to lead local campaigns to get the measure passed.

“We’re going to be successful,” said Brumfield of Better Schools, Better Jobs. “We are just hard-headed enough.”

Molpus, who owns a large timber company and said he can’t convince other companies to move to Mississippi because of a lack of skilled workers, said the nation will be watching his beloved state this fall.

“The opponents of public schools have overplayed their hand. I see some lighthouses beginning to shine in our state,” he said. “This is an issue that transcends the color of a person’s skin and political party. Because of those two things, there’s hope.”

#### **A portion of Carroll County, Miss., Superintendent Billy Joe Ferguson’s letter to Mississippi Gov. Phil Bryant (R)**

“Dear Governor,

... Think of an Old Testament city under siege as a metaphor for our school district as I describe the wretched conditions that exist here:

- Three times this year, Carroll County School District has borrowed buses from neighboring school districts in order to run our 18 bus routes. ...
- We do not have enough to fully up-to-date textbooks. ...
- The newest building at the elementary school was constructed in 1956 and has a 23-year-old roof. There are several portable classrooms that are nearing 20 years of age and one is older than 20 years. ... We do not have enough money to meet all repair needs for our aging and aged buildings. ...
- One thing that I have done to help is to accept a yearly salary of \$18,000. I have no secretary and accept no reimbursement for travel. ...”

—Billy Joe Ferguson, Superintendent, Carroll County Schools

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## Chapter V: *Working through the Courts and the 50 States*

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America has 50 state systems of public education and the states determine, by and large, the level and distribution of education funding. As ELC’s national report card shows, most states do not equitably fund public education by distributing more education funding to schools with greater needs. Worse, many states cut education budgets substantially during the financial crisis in recent years. And too few states had restored those cuts by 2015, exacerbating local school budget woes, especially in areas with little property tax base to fund public schools—and in areas where enrollment growth is booming.

To remedy the overall situation, school districts and parents have sued state governments over the past few decades, demanding funding sufficient to provide a genuine educational opportunity or fairer distribution of funds. Fourteen states are currently defending themselves in educational opportunity school funding cases. These suits have succeeded to varying degrees; although plaintiffs have won two-thirds of the cases since 1989, some of them were delayed for many years. When plaintiffs win, court-mandated school funding reforms result in better funding and higher student achievement, but some states later experience significant backsliding. Therefore, plaintiffs often file new cases in these states, such as the Texas case currently on appeal to the state Supreme Court.

A few cases have resulted in satisfactory statewide funding overhauls. In New Jersey, the *Abbott v. Burke* case has resulted in one of the nation’s most ambitious and far-reaching efforts to improve public education for poor children and children of color. In fact, the *Abbott* decisions have been called the most important equal education rulings since *Brown v. Board of Education*. The rulings cover 31 low-wealth, urban school districts—some of which, including Camden and Newark, traditionally

were among the poorest in the United States. To ensure the children in these schools a “thorough and efficient” education as required by the New Jersey Constitution, the *Abbott* rulings directed a comprehensive set of improvements, including adequate K-12 education funding, universal preschool for all 3- and 4-year old children, supplemental or at-risk programs, and better curriculum and instruction.

In Kentucky, a school-finance court ruling led to the 1990 passage of one of the nation’s most sweeping education reform laws, making resources more adequate and much more equitable. Many state advocates would say it has helped Kentucky advance tremendously. The new law set the first statewide academic standards, raised teacher salaries, and required performance-based assessments to measure student progress. It also initiated early childhood education programs, extensive professional development, and family resource centers in schools.

Certain other states haven’t seen as much progress. In Ohio, legislators at first responded favorably to a court ruling in 1997, but then began to retreat. The state solved one aspect of its unconstitutional system by investing billions of dollars in school facilities, but remains out of compliance with the court’s orders requiring a new school finance system.

The New York legislature’s response to a school finance decision by the state’s highest court is an example of solid reform. In 2007, the legislature adopted the Foundation Formula to fund the essential resources to provide the opportunity for a sound basic education for all New York school children, in districts as large as New York City and to small upstate cities and rural communities. The formula was expressly designed to make sure every school (not just every district) has sufficient resources to offer that opportunity and uses an accountability system to measure whether that opportunity is actually being provided.

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New Jersey responded to the *Abbott* rulings in similar fashion. The state conducted extensive studies to determine the actual cost of delivering rigorous academic standards to all students, including the cost of early childhood, after-school, and other programs and services for low-income students, English language learners and students with disabilities. Based on these cost studies, the legislature adopted a new formula—the School Funding Reform Act of 2008—designed to provide districts with the funding necessary for all students, including those most at-risk, to achieve the Common Core and other state academic standards.

These cases show that advocates need a combination of strategies to help improve school funding and to make educational opportunities more equitable for all students. Beyond the courts, advocates pushing more change need greater philanthropic support, well-organized political and public information campaigns, and significant interest and follow through from educators and other supporters.

In Washington state, the state Supreme Court is mandating that legislators fix the state’s school funding system no later than the year 2018. A lower court ruling that the state Supreme Court upheld relied on the state constitution, which declares, “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders.”

In Kansas, a district court ruled that school funding for Kansas schools “is inadequate from any rational perspective.” The court specifically suggested that lawmakers increase spending by at least \$802 per student, with additional funds for several at-risk student populations. In other words, the state must provide greater equity in educational opportunities—and provide additional support for needy or underserved students when necessary. As a result, the governor and state lawmakers enacted changes to the state’s school-finance formula. But a large state budget deficit remains and the courts may need to rule again in the case if the governor and legislature do not adequately or equitably fund schools in compliance with the state constitution.

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## *Chapter VI: How the States are Faring*

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The Education Law Center’s (ELC) 2015 report, “Is School Funding Fair? A National Report Card,” a companion to this report, shows that nearly all states have reduced the fiscal effort made to fund schools, despite economic growth in most states. Only a few states target funding for students in low-income families or other groups who may need additional services in schools, according to David Sciarra, ELC’s executive director and a veteran lawyer working on school funding cases across the country.

The ELC report touts funding for early education as a critical component of a fair and equitable education system. But states vary in the degree to which early education programs are available to young children across the socioeconomic spectrum. For example, only about one-third of Nevada’s students have access to high-quality preschool, and nine states don’t provide any preschool programs at all.

The ELC report calls high-quality teachers “a fundamental component of an equitable and successful school system.” Because salaries and benefits of teachers make up the bulk of school budgets, a fair school funding

system is required to maintain an equitable distribution of high-quality teachers in all districts—and therefore needs to pay teachers adequately. Most states’ average teacher salaries were far below their peers in other fields, according to the ELC report. Nationally, teachers beginning their careers at age 25 earn about 80 percent of other professionals’ average salaries.

High-poverty schools often require more educators and support staff to address the challenges of serving low-income students. These schools can benefit from smaller class sizes, literacy and math specialists, instructional coaches, and social services like counselors and nurses. But in many cases, schools serving mostly students from low-income families do not have the resources to provide additional staff.

While the need for greater equity in education funding and additional resources in many states and communities is significant, there are encouraging signs of possible change in several states where students struggle the most. “These are poor kids, and that same terrain is where we spend the least,” McGuire of the Southern Education Foundation said of many states’ lack of effort.

### **In South Carolina, decades of court battles may finally lead to more funding for schools**

Elderly but strong, former U.S. Secretary of Education Richard Riley stepped up to the podium on an afternoon in March 2015 to address a panel of leaders in his home state of South Carolina.

“You truly have a significant, even generational, opportunity to get this job right,” Riley told those assembled in a legislative committee room in a

building next to the State House, where the Democrat served two terms as governor in the 1970s and early 1980s.

He was speaking to a special committee appointed by the state’s relatively new Speaker of the House Jay Lucas, a small-town Republican. Members are tasked with coming up with a remedy to a state Supreme

Court ruling from late 2014 requiring the legislature to provide more equitable funding for rural school districts across the state.

The suit, *Abbeville v. State of South Carolina*, was first filed in 1993 and is named for the county that alphabetically comes first among those that sued.

“Twenty-one years is a long time to wait for a solution,” said Riley, who served eight years as education secretary under President Bill Clinton.

After a local court ruled in favor of rural districts in 2005—resulting in some greater state spending on early education in rural districts—there’s finally reason for hope for public education advocates here.

The optimism isn’t unfounded, given the remarks of some Republican leaders at the school funding commission’s hearing in February 2015.

“The Corridor of Shame is certainly no stranger to me,” Speaker Lucas told the commission. Lucas, a resident of Hartsville, a larger town surrounded by poor rural communities, told the commission it’s time for change.

He chose the commission members because of their “unwavering support for public education,” he said, promising the work is “not a fool’s errand... although the challenge is great.”

Lucas said the state Supreme Court’s language in 1998 upholding the *Abbeville* case and returning it to a lower court didn’t go far enough. The court established a constitutionally required level of education that the state must provide: “minimally adequate.”

“I disagree strongly, wholeheartedly with this standard,” Lucas said. “South Carolina should not think in terms of minimums.”

Elected Republican State Superintendent of Education Molly Spearman, a moderate and former legislator, remarked that the commission could help convince lawmakers to approve a solution “that we probably should have done a long time ago.”

Even Rep. Dwight Loftis, a Republican from Greenville, near where BMW has a huge auto plant, agreed. The current House economic development committee chairman said he sees the “need for an increased skill pool of educated workers in South Carolina,” although then he also complained about how much rural districts often spend.

And two former state education superintendents, Republican Barbara Nielsen and Democrat Inez Tenenbaum, agreed.

The “court says students are grouped by class in educational ghettos,” Tenenbaum said, adding the state could begin with providing high-quality preschool for all children. “Children who live in poverty need additional supports to be successful,” she said.

“We’re going to try our best,” said Rep. Rita Allison, a Republican lawmaker and former school board member from Spartanburg County, who chairs the commission.

### History repeating itself

A favorable outcome could help fulfill the legacy of another historic court case that happened in the early 1950s in South Carolina.

Nearly a hundred miles from the state capital, in the tiny town of Summerton, along Interstate 95 in remote Clarendon County, a brave group of parents led by local minister and teacher, the Rev. J.A. DeLaine, sued the local school system demanding an adequate bus to transport Black students up to six miles away in the countryside into town for high school. The White town fathers at the time dismissed the suit out of hand.

Then a young lawyer named Thurgood Marshall came to town to help Summerton’s children. He filed the case *Briggs v. Elliott*, named for gas station attendant Harry Briggs and his motel housekeeper wife Eliza, who along with other parents of schoolchildren sued local superintendent R.M. Elliott.

The rest is history. *Briggs v. Elliott*, although it didn’t do much to desegregate schools or improve education for Black students at least in the short term, was one of four cases combined into *Brown v. Board of Education*—and was the one most prominently argued at the U.S. Supreme Court and highlighted in the 1954 landmark ruling declaring segregated schools illegal.

No matter: It wouldn’t be until the late 1960s before Summerton finally gave in. After a few years of relative desegregation, White families flocked to a new White segregationist academy started by the local white Baptist church, just as they did in most majority-Black counties across the South, from Virginia to East Texas.

Lawyer Steve Morrison, who has now passed away, argued that South Carolina could make amends to rural people of color by ruling favorably in the *Abbeville* case.

“The time has come for [the dream of] those courageous parents who signed the petition in *Briggs v. Elliott* to be realized,” Morrison said during opening arguments for the full *Abbeville* trial in 2005, held at the Clarendon County courthouse in the county seat of Manning.

That’s the weight of history that the state battles today in dealing with its public schools, especially in poorer rural areas and urban neighborhoods where suburban wealth and economic booms like those around Charleston (home to a huge Boeing plant) and Greenville-Spartanburg (home to a huge BMW auto plant and other industry) haven’t begun to reach.

It’s also the weight rural educators—and students—feel every day.

“We’ve got the school system we deserve,” said education activist Bud Ferillo. He’s helped the world know a little about the goings-on here. Ferillo produced two documentaries on the poor state of rural schools in South Carolina. His film “Corridor of Shame” was shown on many PBS stations across the country and led then-Senator Barack Obama to visit some of the districts during his presidential campaign. Later, as president, he would welcome a student from Dillon and introduce her during the State of the Union.

#### Hope for ‘Corridor of Shame’?

The so-called Corridor of Shame includes places like Clarendon County, but also Dillon County, crossed by I-95 along the North Carolina border. The area may be best known to travelers as home to South of the Border, a rest stop with bright lights, miniature golf, motels, vacant gambling parlors, and a 10-story observation tower shaped like a sombrero—from which you can’t see much of anything except flat farmland.

A few miles from that curiosity sits the county seat of Dillon, population 6,800, with a town square and courthouse. The town’s oldest school building, in use through 2013, was visited by then-U.S. Senator Barack Obama during his first presidential campaign.

In Superintendent Ray Rogers’ office, he spreads out photos from that day, when he showed the future president around the old campus where the district’s headquarters remain. The old main building of J.V. Martin Middle School dated to 1896, had a boiler literally loaded with coal through a trap door on the back of the school, and later saw its bell tower partially collapse, dumping a load of bird droppings onto an employee’s desk.

The superintendent remembered how then-Senator Obama said, “Heck, Ray, what’s up with these learning cottages?”

He was speaking of the many portable classrooms that were still in use at the time. Now they house some of the district office. “He didn’t like the concept” of the portables, Rogers recalled. “They looked like hell.”

Students here still need better places to attend school. East Elementary School in Dillon is a stately, two-story building, dating to 1926. But the youngest of the school’s 590 students can’t go upstairs because it’s against fire codes, the hallways aren’t heated, and some classes are too big—one 2<sup>nd</sup> grade class has 29 students this year. There’s a need for more classroom books, newer technology, and reading coaches to work with students and teachers.

“You’re in the heart of the have-nots. It’s just inequality for funding in rural areas,” Rogers said. “There’s good people up there but they don’t know how the other half lives.”

If the Dillon School District 1—which serves about 4,200 students, 90 percent of whom come from low-income families and about three-fourths of whom are children of color—had more resources, Rogers knows what he’d do.

“I’d love to pay the same as the best districts in South Carolina. Our kids need the best because they’ve been deprived,” he said, noting that local taxpayers, most of whom are poor, can’t afford much more locally. They need help from the state. “It doesn’t take a Philadelphia lawyer to know that funding schools and giving kids a good education costs less than jails or the welfare line.”

“We can’t afford to pay the people who work here the same salary as other places,” Rogers said. That means some teachers don’t stay in Dillon long. They can make thousands more a year in neighboring Florence County, where industry is growing along I-95, or Horry County, home to Myrtle Beach resorts and outlet malls.

Dillon has made progress. In 2007, taxpayers approved a 1-cent local sales tax for schools. Rogers used that and a U.S. Department of Agriculture loan to raise \$65 million for a new middle school, a new auditorium and renovations to athletics fields in a town that has produced many state championship football teams.

“I’m at the end of my career. I just think of all the kids that have been denied decent schoolrooms and classes to go to,” Rogers said.

Lynn Liebenrood, the director of student services, lamented that the Dillon district only has one Advanced Placement course, calculus, in both high schools, which share the teacher. Her young grandson in Greenville and niece in wealthy Lexington County School District 1, outside Columbia, have much better opportunities than the students in Dillon, she said. In those more affluent schools, all middle and high school students have their own iPads that store their textbooks. They have access to more than 30 AP and many career courses. Her niece has taken Spanish since the third grade.

In Dillon, they can offer one foreign language, in high school, and could easily serve 150 more children in pre-K classes, Liebenrood said.

“We’ve had to cut art and music in the primary schools” to balance the budget, Rogers said. “There’s

good people in South Carolina. They just don’t know the plight of the poor kids.”

Still, this may be a new day in the state that was first to secede before the Civil War and has a Confederate battle flag flying on the front lawn of the State House, near the George Washington statue that Union forces brick-batted during the burning of Columbia.

In its ruling, the state Supreme Court outlined some of the glaring shortcomings in many rural districts in South Carolina. Student achievement and graduation rates still lag, the court found. Transportation for students is inadequate; some students face bus rides of two hours or longer each way, a violation of state policies. Many rural schools don’t have the same percentages of highly qualified or certified teachers, and sometimes can’t offer the same array of classes as in wealthier districts.

“Providing equity may require extra investments and the creation of targeted incentive funds and support for the plaintiff schools,” Riley told the commission. “Rural, low-wealth districts cannot do it alone.”



East Elementary School in Dillon, S.C., was built in 1926 and still houses about 590 students. The school, about 40 miles northeast of Myrtle Beach, lacks heating in its hallways, doesn’t meet all fire codes, needs technology infrastructure and more.

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## *Chapter VII: The Start of an Equity Movement*

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Today, America faces more global economic competition, and employers are consistently demanding better-educated workers to keep a competitive edge. The Georgetown University Center on Education and the Workforce has found that by the year 2020, 65 percent of all U.S. jobs will require some level of college or technical training.

These trends are happening as most states have adopted the Common Core State Standards to inform classroom instruction. The standards require critical-thinking skills and urge educators to incorporate reading, writing, and math into all subjects. The standards demand more of American students than ever before, and educators need to be fully prepared for these changes and the technology and other resources the standards require.

Students of color, to an overwhelming degree, disproportionately attend underfunded and under-resourced schools. The Education Fund found in its 2013 report “[Still Segregated: How Race and Poverty Stymie the Right to Education](#).” The report argues that the result of these inequities is that students whose families already face hardship are placed at an even greater disadvantage. The Education Fund’s report noted that addressing these issues would be an important step forward in bringing the United States closer to fulfilling its obligations under international human rights treaties, such as the International Convention on Civil and Political Rights, as well as the Convention on the Elimination of All Forms of Racial Discrimination.

Students from low-income families and communities of color still face many hurdles to getting a good education. Other groups of students remain largely underserved: English learners, students with disabilities, and migrant and homeless students. More equitable educational opportunities and better support systems for these students will help more Americans to pursue college and good careers, and this will benefit everyone.

### **Shared Civil Rights Principles for the Reauthorization of the Elementary and Secondary Education Act)**

In early 2015, The Leadership Conference and dozens of its members and allies focused on education released a [set of principles](#) for renewal of the Elementary and Secondary Education Act (ESEA), currently known as the No Child Left Behind Act. In the principles, the groups highlight the important and historic role the federal government has played since the 1965 passage of the ESEA in promoting educational opportunity and protecting the rights and interests of students disadvantaged by discrimination, poverty, and other conditions that may limit their educational attainment. The groups say that this role must be maintained in any bill to reauthorize the ESEA, along with ensuring that each state adopts college and career-ready state standards, that students have equal opportunity to meeting those standards, aligned statewide annual assessments, and a state accountability system to improve instruction and learning for students in low-performing schools.

One of the best ways to pursue educational excellence for all students is through equitable educational resources. Without them, many of our nation’s students don’t have a fair chance to prepare for college and a meaningful career.

Calls for change are coming from many different quarters. Providing equitable resources to schools also will help the nation advance toward the goals outlined by the national Equity and Excellence Commission, appointed by the Secretary of Education, which released its report and recommendations in 2014. As the commission’s report described, gaps in opportuni-

ties and outcomes start long before children enter the schoolhouse door:

“No longer can we consider the problems and needs of low-income students simply a matter of fairness...Their success or failure in the public schools will determine the entire body of human capital and educational potential that the nation will possess in the future. Without improving the educational support that the nation provides its low-income students—students with the largest needs and usually with the least support—the trends of the last decade will be prologue for a nation not at risk, but a nation in decline...”

The commission’s recommendations for the immediate term regarding equity include the need for states to define for all students “the teaching staff, programs and services needed to provide a meaningful educational opportunity to all students of every race and income level, including English-language learners and students with disabilities, based on evidence of effective education practices. They should also determine and report the actual costs of resources identified as needed to provide all students a meaningful educational opportunity based on the efficient and cost-effective use of resources.”

The commission also recommended:

- Improving school funding and efficiency, including research and data gathering on costs of essential resources
- Attention to teacher and school leadership quality, including enforcement actions by the U.S. Department of Education’s Office for Civil Rights (OCR)
- Ensuring access to high-quality early education
- More efforts in high-poverty communities in educating/engaging parents and families, improving health outcomes and expanding learning time
- New accountability measures including a focus on racial segregation within states, districts and schools

The Education Fund urged the nation to pursue similar goals in its 2014 report, “[Reversing the Rising Tide of Inequality: Achieving Educational Equity for Each and Every Child](#).” That report—which was issued to highlight the Excellence and Equity Commission’s report—suggests goals for advocates to push federal and state governments to take action on the Commission’s recommendations, including:

- Setting a dedicated equity funding stream in the renewed ESEA

- Ensuring heightened OCR enforcement, and more OCR investigations of districts with major disparities
- Requiring the Common Core State Standards or another version of higher college- and career-readiness standards in every state and reliable annual assessments to measure student progress
- Ensuring a heightened focus on teacher-equity issues at the regulatory level. (Equitable distribution of teachers is required under Title I of ESEA for poor students and students of color and by Title VI of the Civil Rights Act of 1964. These requirements are basic education and civil rights provisions and should remain part of the law.)
- Implementing a Race to the Top-style grant program dedicated to school-finance equity
- Strengthening the federal Perkins Act with a focus on improved career-tech programs in high-demand careers in low-wealth communities
- Working toward a constitutional amendment guaranteeing each American child a good education that leads more students to college and meaningful careers
- Developing a united front in the states among civil rights and education advocates, state leaders, business leaders, labor, faith communities and others to push for full compliance with court orders on bolstering school funding
- Pushing for state-level legislative hearings on inequities in education
- Grassroots organizing and investment in existing movements to push for more educational equity and improvements

## In Colorado, schools deal with the aftermath of devastating court loss

Colorado's school funding system provides equity. The problem: Schools almost everywhere in the state are grossly underfunded--and local communities can't do much about it.

The question is what to do about it.

Lawyer Kathy Gebhardt of the nonprofit law firm Children's Voices keeps trying through the courts and working with educators and parents across the state.

After a major victory in the longstanding *Lobato v. State of Colorado* case in 2013, when the trial court ruled in favor of the many shortchanged school districts in the state, it was a banner day for most education advocates in the state.

Then the state Supreme Court overturned the ruling in 2014 and hope deflated.

"It was such a disappointment, it was like a grieving process. How could anyone in their right mind rule against it?" said Shila Adolf, the superintendent of the 130-student Bethune schools, based in a little windswept community just a few blocks long in any direction near Interstate 70, two-and-a-half hours east of Denver near the Kansas border.

Each year, Adolf's district borrows money from its reserves to balance the budget. It has now gone through half those reserves in the past several years. One day, they will run out.

Last year she cut about \$213,000 from the budget to ensure salaries alone were below the state's contribution of funds. "We cleared it by like \$600," she said. "Truthfully, we're cut as tight as we can possibly be."

The federal Perkins Act funds don't even provide a school district of this size with enough funds even for one career-technical instructor. The state doesn't help, either.

It's a "tragedy," said Adolf, who sends a few interested students to towns about eight miles away for some career-tech exposure.

But in this community where 78 percent of students come from low-income families, 44 percent are Latino and nearly 100 percent graduate—there are no career-tech classes. One unlicensed instructor does come to lead a woodworking class each day.

She would ask local taxpayers to raise millage even further than they have already. But the increase allowed by state law would only raise about \$30,000 and needs to be saved for an emergency, according to Adolf.

They badly need all-day kindergarten, according to Adolf. Pre-K is a half day, three days a week. Bethune shares an art teacher with the Idalia schools, 30 miles away; the teacher makes the trip because his grandson attends school here. "The opportunities are not equitable," she said.

They hold a school carnival to pay for sports uniforms and other extras, raising more than \$20,000 a year. "They don't like tax increases here, but will play bingo like crazy," Adolf said.

Seven schools in the region share a school nurse and "we really don't have a media center," she said of the school's tiny library. The school offers six-man football among other sports. There's no stadium or lights. "Bring your chair," Adolf said.

What else does Bethune School need? A wider variety of classes, said senior Ricky Barraza, who'll attend New Mexico State University.

Some say consolidate with neighboring districts. The school might be able to offer a couple of additional programs but "it wouldn't save us much money," Adolf said. "And my community matters."

Adolf sometimes considers moving to a community closer to Denver or Fort Collins. Her sister teaches in Jefferson County, one of the state's largest districts, bordering Denver. She'd be closer than 65 miles from a movie theater or 50 miles to a Wal-Mart (the closest is in Goodland, Kansas).

"We're doing well with what we've got. The problem is, how long can we go on with what we've got?"

The legal wrangling over school funding in Colorado has taken many twists and turns.

In 2006, Children's Voices filed the *Lobato* lawsuit, which asserted the state hadn't met its constitutional obligation to provide an adequate, "thorough and uniform" system of free public schools in Colorado.

In 2011, a lower court ruled the state's school-finance system unconstitutional. But the Colorado Supreme Court, which earlier had ruled that the judiciary is

well-equipped to answer the question in the lawsuit, overturned the lower court's decision.

Voters passed Amendment 23 in 2000 to reverse a decade of budget cuts experienced by Colorado school districts throughout the 1990s. During that decade, Colorado's education spending did not keep pace with the inflation rate.

But because of the economic downturn and Colorado's resulting budget crisis, Amendment 23 was not fully implemented through 2011, advocates say. Seeking ways to cope with falling revenues, the legislature reinterpreted Amendment 23 in a way that "allowed" them to cut education funding for three years through a much-maligned mechanism called the "negative factor."

The funding level approved by the legislature for the 2014-15 school year was \$900 million below what advocates say is required by Amendment 23. Starting in 2009, in order to make across-the-board cuts from all districts, the legislature added a new "budget stabilization" or "negative factor" to the School Finance Act formula.

In effect, the legislature now decides how much it wants to spend on school finance, and then adjusts the negative factor to meet that funding target. Notably, the legislature did not make the cuts by simply scaling back the factors (e.g., reducing the percentage added for each at-risk student). Instead, cuts are made from each district's per-pupil amount by the percent necessary to get to the desired funding target.

Then in June 2014, a group of parents, education groups, and school districts filed the *Dwyer v. Colorado* case, seeking a judicial declaration that the legislature's interpretation and the "negative factor" are unconstitutional.

Elsewhere in rural Colorado, some districts are even more remote and financially broke than Adolf's district on the eastern prairie.

In Dolores County, where Bruce Hankins serves as the superintendent and elementary school principal of the 270-student district bordering Utah, taxpayers will try to pass a local override in November 2015 to fill the budget gap.

His district pays \$27,500 for a starting teacher—thousands less than in Jefferson County—which hasn't changed in eight years, Hankins said.

"I need everything," he said, mentioning technology, curriculum, staffing, building maintenance, and transportation. Districts like his and Bethune are too small to need full-size school buses. They drive large SUVs with multiple rows of seats to pick up students for school and transport them for activities. His newest vehicle has 150,000 miles on it, he said.

"The real issue is, basically people in Denver have no idea what life is like in Dove Creek," Hankins said of the town where he lives. One school in his district, in the town of Rico, is two hours' drive from Dove Creek. The communities are eight hours drive from Denver.

"I've asked my board for a helicopter," he joked.

The school funding woes stretch into urban and suburban portions of the state, too.

That includes the 30,000-student Boulder Valley school district, which includes the college town of Boulder, northwest of Denver, home to the University of Colorado and the wealthy communities around it.

"Even though we're in the best situation in the state, we still don't have enough money to do the things we want to do," said Laurie Albright, president and long-time member of the Boulder Valley school board.

Her district needs more reading specialists to work with students who are behind in literacy—and the many who are just learning English in the first place.

Why did Albright's school board vote unanimously to join rural districts in the *Dwyer* case? She and other suburban parents have learned more about the plight of those in rural communities across the state.

"It's horrifying to me. How are they going to raise enough money?" Albright said. "They can't."

Students from low-income families need a greater share of resources to help them succeed in school and life, she said. "I've got low-income kids and yes we do put more money into them (in our district)," Albright said. "It is a civil rights question."

Even more affluent school systems don't have the resources they need to address adequately the impact of family poverty on children's education, Albright said. If Colorado ever does solve the problem, she said, the state will take a step toward providing the "kind of society we all want."

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## Conclusion

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We offer this report to speak with one voice on behalf of all our children—girls and boys, students of color, students not yet proficient in English, those who have disabilities or are homeless or migrant, those in the criminal or juvenile justice systems, and those living in foster care, living on the streets, or living in the shadows.

Although schools in many communities have made progress and Americans are better educated than ever before, there are many signals that the nation has more work to do. Consider:

- Nearly half of African-American and Latino 4<sup>th</sup> graders struggle with basic reading skills.
- Just 20 percent of low-income eighth graders score proficient or above in math.
- One in four Latino ninth graders doesn't graduate four years later. For African-American and Native students, the figure is closer to one in three.

Our nation's leaders can and must do better. Sixty-one years ago in *Brown v. Board of Education*, a unanimous Supreme Court underscored the importance at that time of equal educational opportunity. These words still ring true today:

*"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 a 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."*

State governments have failed to adequately and equitably resource schools. And yet, too often, the burden and the blame for educational outcomes has fallen on students, their families and teachers. But as this report shows, states are perpetuating a system that doesn't provide enough resources to ensure that students (and their teachers) can succeed. If we are to build a public education system that prepares our children to take advantage of every opportunity that a 21<sup>st</sup> century economy offers, we must create the public will to push state policymakers to make the necessary investments that will lead to success for each and every child. Otherwise, we're just cheating our future.



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## *Recommendations: Taking Action as a Nation*

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The Leadership Conference Education Fund and Education Law Center make the following recommendations for policymakers, advocates, and allies designed to help build a stronger equity movement in education and to address longstanding disparities in educational opportunity:

### **For State and Local Policymakers**

- Comply with rulings from state supreme courts regarding the constitutionality of state educational funding.
- Report data on per-pupil expenditures publically so that it is accessible to parents, advocates and the media.
- Fund districts and schools through weighted student funding formulas that provide additional funding to areas of concentrated poverty and those educating a larger share of English Learners and other students facing additional challenges.

### **For Federal Policymakers**

- Require transparent reporting of, and plans to address disparities in, real school and district per-pupil expenditures, as well as student access to other critical educational resources (including effective teaching and rigorous courses).
- The Department of Education should use its enforcement authority under the Civil Rights Act, as outlined in its Title VI school resource equity guidance, to intervene when schools and districts are unfairly denying students access to critical educational resources.

### **For Federal, State, and Local Advocates and Allies**

- *Research on equity in education.* Using new support and through federal grants or other programs, scholars and advocates need to be encouraged—as does the U.S. Department of Education—to help

determine the steps needed for more equitable educational opportunities to be made available for all of the nation’s students, no matter where they live, and especially in underserved urban and rural areas.

- *Educating policymakers.* Achieving educational equity and guaranteeing all children have access to a quality public education will require substantial political will. It will require the courage to embrace an urgent national equity agenda recognizing the collective investment in each child. Policymakers need to understand why they must buck the tide and support funding for new or existing programs, to make quality improvements in these programs, and at times to make hard choices that will not be universally popular.
- *Educating the public.* Far too many Americans—even parents of public school students and educators who work in these schools—do not understand the policy issues around equity. Major funding needs to be provided for national and state-specific public information and advocacy campaigns that can help the public understand the plight of schools in low-wealth communities and the need for greater attention from state and federal leaders. We need an outcry and protests like the ones drawing attention to inequities in criminal justice.
- *Philanthropic support.* Advocates—including the more than 200 organizations that are members of The Leadership Conference coalition—should work together to convince major foundations, donors, and higher learning institutions to invest in a new equity movement. Without this support, efforts to improve educational opportunities for the growing majority of students from low-income families and from minority groups will not succeed. Education reform has too often ignored the resource issue. It’s time to refocus.

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