

**U.S. Commission on Civil Rights Hearing:  
Public Education Funding Inequality in an Era of  
Increasing Concentration of Poverty and Resegregation**

**May 20, 2016**

**Testimony delivered by Joseph R. Rogers, Jr.  
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Good morning, commissioners, distinguished guests, and members of the public. My name is Joe Rogers, Jr., and I serve as the Director of Public Engagement and a senior researcher with the Campaign for Educational Equity at Teachers College, Columbia University.

The Campaign for Educational Equity is a nonprofit research and policy center that uses legal analysis, research, policy development, and public engagement to advance the right of all children to meaningful educational opportunities and to define and secure the full range of resources, supports, and services necessary to provide these opportunities to socioeconomically disadvantaged children.

On behalf of our executive director, Michael Rebell, and our entire team, thank you for shining a light on the tragic, shameful educational inequities that continue to waste the potential of millions of children throughout this nation and, in turn, the potential of the nation itself.

This morning, I am here to provide an historical and current legal context for this issue and to offer a couple of examples of how my colleagues and I are working to advance the necessary policy reforms and meaningful public-engagement initiatives that are key to achieving true and lasting educational justice for children who have been systematically shortchanged by society.

Since 1973, when the United States Supreme Court, in *Rodriguez v. San Antonio Independent School District*, closed the federal courts to litigants seeking to overcome fiscal inequities in education, lawsuits challenging state methods of funding public schools have been launched in 45 of the 50 states. Since 1989, plaintiffs have prevailed in over 60% of the final liability decisions in these cases. Plaintiffs' claims have largely been based on provisions in state constitutions, many of which date back to the 18th and 19th centuries, that speak of the states' obligations to provide all students an "adequate education" or a "sound basic education."

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<sup>1</sup> Please note that the views of The Campaign for Educational Equity do not necessarily reflect the views of Teachers College, its trustees, administration or faculty.

Not surprisingly, state courts found that most school districts that serve predominantly students of color and students living in poverty lacked adequate funding to provide their students the opportunity to achieve the targets that the states themselves had set. In these “adequacy” cases, courts focus on the substance of the education students are actually receiving in the classroom rather than on comparing the amount of funds that are available to each school district, as in the equity cases.

Essentially, what the court orders have done in these cases is to require the states to ensure that schools—and especially schools in urban and rural areas with high poverty rates—have the resources to provide their students a fair opportunity to meet the state’s own academic expectations as set forth in the state standards and the federal accountability requirements. They have ordered states to revise their education-finance systems to ensure that districts with low property tax wealth will have sufficient funding to provide all of their students the opportunity for a sound basic education.

A major study published by the National Bureau of Economic Research (NBER) in January 2015 considered the impact of state court decisions in 28 states between 1971 and 2010.<sup>2</sup> It concluded that school-finance reforms stemming from court orders have tended both to increase state spending in lower-income districts and to decrease expenditure gaps between low- and high-income districts. The authors also discussed the effects of court-ordered funding reforms on students’ long-term success. The researchers found that a 20% increase in annual per-pupil spending for K–12 students living in poverty leads to almost one more year of completed education. In adulthood, these students experienced 25% higher earnings, and a 20 percentage-point decrease in adult poverty. The authors posit that these results could reduce at least two-thirds of the so-called achievement gap of adults who were raised in low- and high-income families.

Students and parents living in poverty, and disproportionately students of color, are the public stakeholders most directly affected by educational inequities and educational-rights violations, yet they seldom have access to user-friendly legal and research-based information that would allow them to play more active and effective roles in the struggle for educational justice. The best legal decisions and policy reforms will always fall short of their goals if these students and families lack the tools and information that they need in order to mobilize their communities and hold governmental authorities accountable for delivering at least the educational opportunities required by law.

For this reason, two years ago, the Campaign for Educational Equity began producing a series of *Know Your Educational Rights* handouts that we use in collaborations with parent and student groups throughout New York City and beyond. In addition, this school year we worked with parents to adapt our school-resource data-collection tools to create a set of “resource inventories” that they have begun using to document and publicize confirmed or suspected educational-rights violations. Finally, a full-length play written and performed by a group of NYC public high

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<sup>2</sup> Jackson, C. K., Johnson, R., & Persico, C. (2015). *The effects of school spending on educational and economic outcomes: Evidence from school finance reforms*, NBER Working Paper, No. 20847. Washington, DC: National Bureau of Economic Research. Retrieved from <http://www.nber.org/papers/w20847>.

school students who learned about their rights through our Know Your Educational Rights initiative, is inspiring audiences throughout New York State to learn more about educational inequities and take steps to remedy them.

In 2013, the bipartisan, national Equity and Excellence Commission, a congressionally authorized body (on which our executive director Michael Rebell served as a member), issued detailed recommendations to Congress on adequate and equitable state funding for education.<sup>3</sup> Among other things, the Commission's report, *For Each and Every Child*, proposed that all states

- Identify and publicly report 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 educational practices.
- Determine and report the actual costs of delivering these resources cost effectively.
- Adopt a school-finance system that will provide equitable and sufficient funding for all students to achieve state standards.
- Ensure that their finance systems are supported by stable and predictable sources of revenue to provide meaningful educational opportunities on an ongoing basis.
- Develop systems to monitor and ensure that districts and schools use funding effectively to enable all students achieve state standards.

The Commission also recommended that the federal government do the following:

- Direct states to adopt school-finance systems that will provide a meaningful educational opportunity for all students.
- Target significant new federal funding to schools with high concentrations of students living in poverty and provide financial incentives to states do the same.
- Provide incentives for states to reduce the number of schools with concentrated poverty.
- Provide grants to assist states in developing methodologies to determine the cost of providing meaningful educational opportunities, and improving the availability of data on finance and student performance.
- Consider expanding the federal government's authority to address longstanding and persistent issues of inequity in school finance, including new enforcement measures that stop short of withdrawing funding from students most in need.

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<sup>3</sup> Equity and Excellence Commission (2013). *For each and every child—A strategy for education equity and excellence*. Washington, DC: U.S. Department of Education.

In enacting the *Every Student Succeeds Act*, Congress ignored all of school-funding-reform recommendations. In addition, ESSA authorizes minimal 3% annual Title I increases for the next few years, and it is not clear that Congress will appropriate even those amounts. While the law does include two new provisions that deal with equity in funding,<sup>4</sup> both provisions relate to intra-district matters and do not deal with the critical (and much larger) issue of whether these districts—and all other districts in their respective states—are presently receiving adequate state-level funding. Unless and until suitable provision for adequate and equitable funding is included in ESSA, Congress's intention that "Every Student Succeeds" will remain wishful thinking.

In conclusion, as our full written testimony details, the battlegrounds for educational equity have largely shifted to the states. However, to achieve true fairness in educational opportunity and to afford millions more students a chance to fulfill their potential and to contribute to the nation's success, the federal government must also play a significant role in leveling the school-resource playing field.

To that end, we recommend that the Commission on Civil Rights

1. Widely disseminate information about the equity and adequacy litigations in the state courts and the many successful reforms that have resulted from them.
2. Recommend that states and school districts develop effective mechanisms for informing parents and students of their educational rights and engaging them in securing those rights.
3. Endorse and widely disseminate the findings and recommendations for both state action and federal action of the Equity and Excellence Commission.
4. Recommend that Congress revise the *Every Student Succeeds Act* to include additional federal funding and the federal directives, incentives, and enforcement set forth in the recommendations of the Equity and Excellence Commission.
5. Conduct and/or commission additional research on equity and adequacy of funding and on the availability of essential educational resources at the school level.

Thank you again for inviting the Campaign for Educational Equity to participate in this hearing. I look forward to answering your questions.

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<sup>4</sup> Every Student Succeeds Act of 2015, 20 U.S.C.A. §6301 et seq.