

**EDGEWOOD INDEPENDENT SCHOOL  
DISTRICT v. KIRBY**

Supreme Court of Texas, 1989.  
777 S.W.2d 391.

MAUZY, JUSTICE. \* \* \*

There are approximately three million public school children in Texas. The legislature finances the education of these children through a combination of revenues supplied by the state itself and revenues supplied by local school districts which are governmental subdivisions of the state. Of total education costs, the state provides about forty-two percent, school districts provide about fifty percent, and the remainder comes from various other sources including federal funds. School districts derive revenues from local ad valorem property taxes, and the state raises funds from a variety of sources including the sales tax and various severance and excise taxes.

There are glaring disparities in the abilities of the various school districts to raise revenues from property taxes because taxable property wealth varies greatly from district to district. \* \* \* The 300,000 students in the lowest-wealth schools have less than 3% of the state's property wealth to support their education while the 300,000 students in the highest-wealth schools have over 25% of the state's property wealth; thus the 300,000 students in the wealthiest districts have more than eight times the property value to support their education as the 300,000 students in the poorest districts. \* \* \* Edgewood I.S.D. has \$38,854 in property wealth per student; Alamo Heights I.S.D. in the same county, has \$570,109 in property wealth per student.

The state has tried for many years to lessen the disparities through various efforts to supplement the poorer districts. Through the Foundation School Program, the state currently attempts to ensure that each district has sufficient funds to provide its students with at least a basic education. Under this program, state aid is distributed to the various districts according to a complex formula such that property-poor districts

receive more state aid than do property-rich districts. However, the Foundation School Program does not cover even the cost of meeting the state-mandated minimum requirements. Most importantly, there are no Foundation School Program allotments for school facilities or for debt service. \* \* \* Low-wealth districts use a significantly greater proportion of their local funds to pay the debt service on construction bonds while high-wealth districts are able to use their funds to pay for a wide array of enrichment programs.

Because of the disparities in district property wealth, spending per student varies widely, ranging from \$2,112 to \$19,333. Under the existing system, an average of \$2,000 more per year is spent on each of the 150,000 students in the wealthiest districts than is spent on the 150,000 students in the poorest districts.

The lower expenditures in the property-poor districts are not the result of lack of tax effort. Generally, the property-rich districts can tax low and spend high while the property-poor districts must tax high merely to spend low. In 1985-86, local tax rates ranged from \$.09 to \$1.55 per \$100 valuation. The 100 poorest districts had an average tax rate of 74.5 cents and spent an average of \$2,978 per student. The 100 wealthiest districts had an average tax rate of 47 cents and spent an average of \$7,233 per student. \* \* \* Many districts have become tax havens. The existing funding system permits "budget balanced districts" which, at minimal tax rates, can still spend above the statewide average; if forced to tax at just average tax rates, these districts would generate additional revenues of more than \$200,000,000 annually for public education.

Property-poor districts are trapped in a cycle of poverty from which there is no opportunity to free themselves. Because of their inadequate tax base, they must tax at significantly higher rates in order to meet minimum requirements for accreditation; yet their educational programs are typically inferior. The location of new industry and development is strongly influenced by tax rates and the quality of local schools. Thus, the property-poor districts with their high tax rates and inferior schools are unable to attract new industry or development and so have little opportunity to improve their tax base.

The amount of money spent on a student's education has a real and meaningful impact on the educational opportunity offered that student. High-wealth districts are able to provide for their students broader educational experiences including more extensive curricula, more up-to-date technological equipment, better libraries and library personnel, teacher aides, counseling services, lower student-teacher ratios, better facilities, parental involvement programs, and drop-out prevention programs. They are also better able to attract and retain experienced teachers and administrators.

The differences in the quality of educational programs offered are dramatic. For example, San Elizario I.S.D. offers no foreign language, no pre-kindergarten program, no chemistry, no physics, no calculus, and no

college preparatory or honors program. It also offers virtually no extra-curricular activities such as band, debate, or football. At the time of trial, one-third of Texas school districts did not even meet the state-mandated standards for maximum class size. The great majority of these are low-wealth districts. In many instances, wealthy and poor districts are found contiguous to one another within the same county. \* \* \*

Article VII, section 1 of the Texas Constitution provides:

A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools. \* \* \*

The State argues that, as used in article VII, section 1, the word "efficient" was intended to suggest a simple and inexpensive system. \* \* \* While there is some evidence that many delegates wanted an economical school system, there is no persuasive evidence that the delegates used the term "efficient" to achieve that end. It must be recognized that the constitution requires an "efficient," not an "economical," "inexpensive," or "cheap" system. The language of the Constitution must be presumed to have been carefully selected. The framers used the term "economical" elsewhere and could have done so here had they so intended.

There is no reason to think that "efficient" meant anything different in 1875 from what it now means. "Efficient" conveys the meaning of effective or productive of results and connotes the use of resources so as to produce results with little waste; this meaning does not appear to have changed over time. One dictionary used by the framers defined efficient as follows:

Causing effects; producing results; actively operative; not inactive, slack or incapable; characterized by energetic and useful activity  
\* \* \*

N. Webster, *An American Dictionary of the English Language* 430 (1864). \* \* \* Considering "the general spirit of the times and the prevailing sentiments of the people," it is apparent from the historical record that those who drafted and ratified article VII, section 1 never contemplated the possibility that such gross inequalities could exist within an "efficient" system. At the Constitutional Convention of 1875, delegates spoke at length on the importance of education for *all* the people of this state, rich and poor alike. \* \* \*

The 1876 Constitution provided a structure whereby the burdens of school taxation fell equally and uniformly across the state, and each student in the state was entitled to exactly the same distribution of funds. The state's school fund was initially apportioned strictly on a per capita basis. Also, a poll tax of one dollar per voter was levied across the state for school purposes. These per capita methods of taxation and of revenue distribution seem simplistic compared to today's system; howev-

er they do indicate that the people were contemplating that the tax burden would be shared uniformly and that the state's resources would be distributed on an even, equitable basis.

If our state's population had grown at the same rate in each district and if the taxable wealth in each district had also grown at the same rate, efficiency could probably have been maintained within the structure of the present system. That did not happen. Wealth, in its many forms, has not appeared with geographic symmetry. The economic development of the state has not been uniform. Some cities have grown dramatically, while their sister communities have remained static or have shrunk. Formulas that once fit have been knocked askew. Although local conditions vary, the constitutionally imposed state responsibility for an efficient education system is the same for all citizens regardless of where they live.

We conclude that, in mandating "efficiency," the constitutional framers and ratifiers did not intend a system with such vast disparities as now exist. Instead, they stated clearly that the purpose of an efficient system was to provide for a "general diffusion of knowledge." (Emphasis added.) The present system, by contrast, provides not for a diffusion that is general, but for one that is limited and unbalanced. The resultant inequalities are thus directly contrary to the constitutional vision of efficiency. \* \* \*

By statutory directives, the legislature has attempted through the years to reduce disparities and improve the system. There have been good faith efforts on the part of many public officials, and some progress has been made. However, as the undisputed facts of this case make painfully clear, the reality is that the constitutional mandate has not been met.

The legislature's recent efforts have focused primarily on increasing the state's contributions. More money allocated under the present system would reduce some of the existing disparities between districts but would at best only postpone the reform that is necessary to make the system efficient. A band-aid will not suffice; the system itself must be changed.

We hold that the state's school financing system is neither financially efficient nor efficient in the sense of providing for a "general diffusion of knowledge" statewide, and therefore that it violates article VII, section 1 of the Texas Constitution. Efficiency does not require a per capita distribution, but it also does not allow concentrations of resources in property-rich school districts that are taxing low when property-poor districts that are taxing high cannot generate sufficient revenues to meet even minimum standards. There must be a direct and close correlation between a district's tax effort and the educational resources available to it; in other words, districts must have substantially equal access to similar revenues per pupil at similar levels of tax effort. Children who live in poor districts and children who live in rich districts must be afforded a substantially equal opportunity to have access to educational

funds. Certainly, this much is required if the state is to educate its populace efficiently and provide for a general diffusion of knowledge statewide.

Under article VII, section 1, the obligation is the legislature's to provide for an efficient system. In setting appropriations, the legislature must establish priorities according to constitutional mandate; equalizing educational opportunity cannot be relegated to an "if funds are left over" basis. We recognize that there are and always will be strong public interests competing for available state funds. However, the legislature's responsibility to support public education is different because it is constitutionally imposed. Whether the legislature acts directly or enlists local government to help meet its obligation, the end product must still be what the constitution commands—i.e. an efficient system of public free schools throughout the state. This does not mean that the state may not recognize differences in area costs or in costs associated with providing an equalized educational opportunity to atypical students or disadvantaged students. Nor does it mean that local communities would be precluded from supplementing an efficient system established by the legislature; however any local enrichment must derive solely from local tax effort.

Some have argued that reform in school finance will eliminate local control, but this argument has no merit. An efficient system does not preclude the ability of communities to exercise local control over the education of their children. It requires only that the funds available for education be distributed equitably and evenly. An efficient system will actually allow for more local control, not less. It will provide property-poor districts with economic alternatives that are not now available to them. Only if alternatives are indeed available can a community exercise the control of making choices. \* \* \*