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Education: Reform Educational Financing Inequities Today v. Cuomo

EDUCATION

N.Y. CONST. art. XI, § 1:

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

SUPREME COURT, APPELLATE DIVISION

SECOND DEPARTMENT

Reform Educational Financing Inequities Today v. Cuomo.[706]
(decided December 27, 1993)

Appellants claimed, *inter alia*, that their rights under the Equal Protection Clauses of both the New York State[707] and the Federal[708] Constitutions were violated by the state's practice of basing the financing of education on property tax valuation.[709] Furthermore, appellants contend that the state's financial scheme for education failed to satisfy the Education Article of the New York State Constitution.[710] The appellate division held that

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706. ___ A.D.2d ___, 606 N.Y.S.2d 44 (2d Dep't 1993).

707. N.Y. CONST. art. I, § 11. Section 11 states:

> No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation, or institution, or by the state or any agency or subdivision of the state.

Id.

708. U.S. CONST. amend. XIV, § 1. Section 1 states in relevant part:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Id.

709. *R.E.F.I.T.*, ___ A.D.2d at ___, 606 N.Y.S.2d at 46.

710. *Id.*; N.Y. CONST. art. XI, § 1 states: "[t]he legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated." *Id.*

disparities between property-poor and property-rich school districts are not unconstitutional, when Appellants did not allege a failure of the state to provide a sound, basic education.[711]

The appellant, maintained that gross disparities existed between low-wealth and high-wealth school districts as a result of the inequities in the distribution of approximately eight billion dollars in state aid throughout the state's seven hundred school districts.[712] As a result of these disparities, the appellants claimed they did not possess the required funds to establish comparable quality education as offered by the wealthier school districts.[713] The trial court granted the respondent's motion to dismiss.[714] This appeal to the Appellate Division, Second Department followed.[715]

The New York State Constitution, article XI, section 1, states that "[t]he legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated."[716] In 1925, in an effort to equalize educational opportunities throughout the state and sustain its obligation under the requirements of the New York State Constitution, the state implemented the Cole-Rice Law.[717] This system is the foundation of the tax distribution system that remains largely in place today. This tax system guarantees each district a *minimum* amount of state aid per pupil based on average daily attendance.[718] The system does not take into consideration the wealth or poverty of the district in its formula.[719] Individual

711. *R.E.F.I.T.*, ___ A.D. 2d at ___, 606 N.Y.S.2d at 46.

712. Reform Educ. Financing Inequities Today v. Cuomo, 152 Misc. 2d 714, 715, 578 N.Y.S.2d 969, 970 (Sup. Ct. Nassau County 1991). This action was commenced by the R.E.F.I.T., its 40 member school districts, 21 school districts from Long Island who participated individually, and several students who were enrolled in these districts. *Id.* at 45.

713. *R.E.F.I.T.*, ___ A.D.2d at ___, 606 N.Y.S. 2d. at 46.

714. *Id.* at ___, 606 N.Y.S.2d at 45.

715. *Id.*

716. N.Y. CONST. art. XI, § 1.

717. 1925 N.Y. Laws 675.

718. *R.E.F.I.T.*, 152 Misc. 2d at 720, 578 N.Y.S.2d at 973. (emphasis added).

719. *Id.*

school districts are free to supplement their budgets by the use of local taxes based on the full valuation of real property.[720] The value of local properties, thus, becomes the determinate factor in the differential of per student funds between districts.[721] Recent budget cuts in state aid have exacerbated the situation. The 1993 New York State school aid budget was reduced by $460 million dollars from the 1992 budget.[722] More than half of these cuts affected the Long Island school districts.[723] Wealthier school districts have been able to maintain their level of services as a result of available monies from a richer tax base, thereby, enabling these districts to absorb the reduced state aid.[724] Property-poor districts, on the other hand, have been unable to replace the millions of dollars lost through budget cuts, resulting in a devastating impact on their services.[725]

State imposed educational mandates have become the current dilemma facing low wealth school districts. In recent years, the State has increasingly imposed costly mandates on school districts without providing any state funds for their implementation.[726] It

720. *Id.*

721. *Id.*

722. *Id.* at 721, 578 N.Y.S.2d at 974.

723. *Id.* at 721-22, 578 N.Y.S.2d at 974.

724. *Id.* at 722, 578 N.Y.S.2d at 974.

725. *Id.* Suffolk County's William Floyd School District, the poorest district in the county, has become the top tax rate district in the state in its effort to supplement reduced state aid. Despite its $101.50 per $1000 valuation, it is unable to maintain either the services or the per pupil funding of wealthier districts. William Floyd maintains the lowest per pupil expenditure at $7,107, while in contrast other districts have been able to spend as much as $43,000 per pupil. *Id.* at 718, 578 N.Y.S.2d at 972. Furthermore, they have been forced to abandon numerous programs and have the largest class sizes on Long Island. *Id.* at 719, 578 N.Y.S.2d at 972.

726. *Id.* at 719-20, 578 N.Y.S.2d at 973. These mandates have added to the already overburdened property-poor school districts and have created an even greater disparity in the per pupil expenditures between property-wealthy and property-poor districts. *Id.* "These [property-poor] districts have been forced to finance such costly mandates as asbestos removal programs by cutting funds from operating budgets, reducing teaching and other staff eliminating educational programming, or making other sacrifices detrimental to their educational mission." *Id.* at 720, 578 N.Y.S.2d at 973.

is this system, whereby real property wealth determines the amount of state aid provided, that the appellants claimed violated the Educational Article of the New York Constitution[727] and the Equal Protection Clauses of both the New York[728] and Federal[729] Constitutions.

In reaching its decision, the court relied heavily on *Board of Education v. Nyquist*,[730] because the claim in that case closely paralleled the present case. In *Nyquist*, the constitutionality of New York's public school funding was challenged by numerous property-poor districts.[731] The taxpayers, school officials, students and boards of education of four large cities intervened and asserted constitutional violations resulting from educational and non-educational financial burdens peculiar to large cities.[732]

In *Nyquist*, the New York Court of Appeals took notice of the context in which the particular legal issues were raised. It observed that New York's per pupil expenditures were very nearly the highest in the country.[733] In addition, the court noted that although both plaintiffs attacked the inequities of the state funding, which resulted in "educational unevenness," neither party asserted that the educational services or facilities were below the state-wide minimum standards fixed by the Board of Regents.[734]

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727. N.Y. CONST. art. XI, § 1.

728. N.Y. CONST. art. I, § 11.

729. U.S. CONST. amend. XIV, § 1, cl. 3.

730. 57 N.Y.2d 27, 439 N.E.2d 359, 453 N.Y.S.2d 643 (1982).

731. *Id.* at 35-36, 439 N.E.2d at 361, 453 N.Y.S.2d at 616.

732. *Id.* Special financial "metropolitan overburden[s]" consisted of: (1) local funds for education creating an excessive demand on municipal budgets, (2) reduction in the purchasing power of the "municipal education dollar," (3) reduced state funding as a result of greater student absenteeism, inherent in large inner city schools, (4) a greater concentration of students with special educational requirements. *Id.* at 36, 439 N.E.2d at 362, 453 N.Y.S.2d at 646.

733. *Id.* at 38, 439 N.E.2d at 363, 453 N.Y.S.2d at 647. The total public elementary and secondary school expenditure for fiscal 1981-82 was $9.6 billion dollars. $4 billion of that figure was state aid, with the remainder being appropriated through local taxes. *Id.* at 38 n.2, 439 N.E.2d at 363 n.2, 453 N.Y.S. 2d at 647 n.2.

734. *Id.* at 38, 439 N.E.2d at 363, 453 N.Y.S. 2d at 647-48.

In *Nyquist*, the Fourth Amendment equal protection issue was decided within the guidelines set forth by the United States Supreme Court in *San Antonio Independent School District v. Rodriguez.*[735] In *Rodriguez*, the Court found that decisions involving public school financing fall within the scope of educational policy and as such are appropriately within legislative determination.[736] Justice Powell reasoned that educational policy was inappropriate for strict judicial scrutiny.[737] Instead, Justice Powell held that the rational basis test was the proper standard against which to examine the Texas school financing system.[738]

The court in *Nyquist*, applying rational basis scrutiny, determined that there was a rational relationship between the state's funding system and a legitimate state purpose. The interest being "the permission and encouragement of participation in and control of public schools at the local district level."[739]

The *Nyquist* court, using the reasoning articulated in *Rodriguez*, applied rational basis scrutiny to the state constitutional equal protection challenge.[740] The court concluded that the plaintiffs had failed to show the total absence of a relationship between the state's interest in "preservation and promotion of local control of education," and the present financing system.[741] The state-wide flat grant of $360 per pupil was held to be immune from attack under the Equal Protection

735. 411 U.S. 1 (1973). The case involved a class action suit brought on behalf of school children of low income families residing in property poor districts. The equal protection challenge was based upon reliance by the Texas' school financing system on local property taxation. *Id.* at 4-5.

736. *Id.* at 55.

737. *Id.* at 35. The court stated that this case did not fall within the traditional suspect class nor fundamental right classification of equal protection analysis. *Id.* at 18.

738. *Id.* at 35. The Court held that Texas' public school financing system did not effect a 'suspect class,' *Id.* at 28. Furthermore, education, although an area of immense significance was not deemed a 'fundamental right,' and as such strict scrutiny could not be applied. *Id.* at 40.

739. *Nyquist*, 57 N.Y.2d at 41, 439 N.E.2d at 365, 453 N.Y.S.2d at 649 (quoting *Rodriguez*, 411 U.S at 49).

740. *Id.* at 44, 439 N.E.2d at 366, 453 N.Y.S.2d at 651.

741. *Id.*

Clause of the New York State Constitution, because on its face, no inequality existed in this scheme of financial distribution which allocated to all districts without differentiation.[742]

Finally, the court in *Nyquist* considered the claim that the school financing system violated the Education Article of the New York State Constitution.[743] The *Nyquist* court observed that the language of the constitution "makes no reference to any requirement that the education to be made available be equal or substantially equivalent in every district."[744] Under the current system, the court noted, the average per pupil expenditure exceeds that in all other states except two, and as such, the state is meeting its constitutional requirement of providing a sound basic education.[745] More importantly, the court acknowledged:

> Because decisions as to how public funds will be allocated among the several services for which by constitutional imperative the Legislature is required to make provision are matters peculiarly appropriate for formulation by the legislative body (reflective and responsive as it is to the public will), we would be reluctant to override those decisions by mandating an even higher priority for education in the absence, possibly, of gross and glaring inadequacy . . . .[746]

The appellants in *R.E.F.I.T.* acknowledged the holding in *Nyquist*, but contended that the increased budget cuts and state mandates since the *Nyquist* decision, resulted in such a "gross and glaring inadequacy as to warrant" present judicial response.[747]

The Appellate Division, Second Department found that although the disparities between districts have widened, the appellants have not alleged the students are receiving a sub standard education.[748] In addition, it was already determined by the court of appeals in *Nyquist*, that such disparities are not

742. *Id.* at 46, 439 N.E.2d at 367-68, 453 N.Y.S.2d at 652.
743. *Id.* at 47, 439 N.E.2d at 368, 453 N.Y.S.2d at 652.
744. *Id.*
745. *Id.* at 48, 439 N.E.2d at 369, 453 N.Y.S.2d at 653.
746. *Id.*
747. *R.E.F.I.T.*, ___ A.D.2d at ___, 606 N.Y.S.2d at 46.
748. *Id.*

unconstitutional.[749] The court held that the Supreme Court, Nassau County, properly dismissed the complaint.[750]

In their evaluation of the constitutionality of public educational systems funded primarily through local property tax assessments, both the United States Supreme Court in *Rodriguez*[751] and the New York Court of Appeals in *Nyquist*[752] have reached similar conclusions. Both of these courts have established that equal protection guarantees do not extend to equal educational funding, that rational basis scrutiny will be applied to any state education funding scheme,[753] and that the legislature is the proper arena to determine the adequacy of education.

749. *Id.*

750. *Id.* at ___, 606 N.Y.S.2d at 46-47.

751. 411 U.S. 1 (1973).

752. 57 N.Y.2d 27, 439 N.E.2d 359, 453 N.Y.S.2d 643 (1982).

753. *But see* Papasan v. Allain, 478 U.S. 265 (1986) (asserting that the holding in *Rodriguez* has not "definitively settled the question of whether a minimally adequate education is a fundamental right" and if a state statute should discriminatory infringe upon that right, whether heightened scrutiny should be accorded) *Id.* at 285; *see also* Plyler v. Doe, 457 U.S. 202, 221 (1982) ("Public education is not a 'right' granted to individuals by the Constitution . . . . But neither is it merely some governmental 'benefit' indistinguishable from other forms of social welfare legislation.") (citations omitted)).