

## **February/March Issue of OEA'S Ohio Schools Weighs in on the DeRolph School Funding Case**

The 25<sup>th</sup> anniversary of the Ohio Supreme Court's decision has attracted some well-deserved attention. The Ohio Schools article adds some features to the narrative that are not reported in other venues.

### **Fixing Funding in Ohio**

#### **From DeRolph vs. State of Ohio to the Fair School Funding Plan**

*When he was a 15-year-old freshman at Perry County's Sheridan High School Nathan DeRolph was forced to take an American History exam standing up because there were not enough chairs in the classroom to accommodate students. The classroom did have three trash cans to collect water because the roof was leaking. DeRolph's experience became one of the key arguments in a 1991 lawsuit asserting that the State of Ohio had failed to honor its own constitutional mandate to provide an equitable and efficient educational system for all students.*

Three decades later, DeRolph's daughter recently graduated from high school under the same funding system his family fought against. Since the DeRolph lawsuit was filed, the Ohio Supreme Court has ruled four times in its landmark DeRolph vs. State of Ohio decisions that the state's failure to reduce school districts' reliance on property taxes to fund schools violates the state's constitution.

Looking back, DeRolph said, "I think my dad and I were both naïve in thinking that once the case was heard—if they ruled in our favor—the state would have to do something. Personally, I think that was when I really got discouraged and frustrated with the political side of school funding. To me, school funding has never been about politics. It has always been about right or wrong. I couldn't fathom how the highest court in Ohio could order something to be done and be ignored four times. If anyone else in Ohio were to ignore the Supreme Court, they'd probably be in jail."

In 1933, Ohio decided to fund public schools through what it called the school foundation formula, a method that relied heavily on property taxes. Over the course of 60 years, few legislators had an interest in overhauling state funding methods, and the state's formula for funding public education became increasingly imbalanced and inefficient and the disparities between its schools and students continued to grow.

In 1991, the year the DeRolph case was filed, Ohio was funding public schools in the same archaic manner it had during the Great Depression. The school foundation formula punished school districts with diminished tax bases, including economically drained urban districts and tax poor rural ones.

“At that time, the disparity in school funding in Ohio went from \$3,000 per pupil to \$12,000,” said Bill Phillis, executive director of the Coalition for Equity and Adequacy of School Funding representing more than 500 of Ohio’s 600-plus school districts. “Most of the poor districts were so starved for funding that they were just barely hanging on. There were districts where a 1-mill increase in property tax would only raise \$20 per pupil and, on the high end, districts where 1 mill could raise \$500 per pupil.”

The co-plaintiffs in the lawsuit spearheaded by the coalition contended that the hardships created by the existing formula for school funding clearly represented a violation of the Ohio Constitution’s requirement that the state fund public education in a “thorough and efficient” manner.

The plaintiffs had plenty of evidence representing a broad cross-section of the glaring inequities caused by funding woes across Ohio to make their case—100-year From DeRolph vs. State of Ohio to the Fair School Funding Plan Fixing Funding in Ohio -old school buildings, decades old textbooks, leaking roofs, coal bins used as classrooms. The inequities in Ohio were deeper than in many other states.

Although the DeRolph lawsuit was filed in Perry County in the late spring of 1991, legal disputes delayed the beginning of the trial until October 1993. In a month of testimony, 70 witnesses and 500 exhibits were presented before Judge Linton D. Lewis, Jr.

Judge Lewis issued a ruling affirming the plaintiffs’ contention that Ohio’s school-funding system was unconstitutional. But the State of Ohio sought relief from Judge Lewis’ decision in the 5th District Court of Appeals, contending that the legislature, rather than the courts, should determine the meaning of “thorough and efficient” funding. One year later, the appellate court overturned Lewis’ ruling.

In the midst of the legal fighting, PBS filmed the documentary *Children in America’s Schools* using Ohio as the example for the nation. Producers had initially intended to cover several states but quickly discovered that Ohio offered a dramatic representation of the broader problem. The PBS report aired in September 1996.

“State officials were absolutely embarrassed that this two-hour nationwide documentary exposed the egregious conditions that kids in Ohio were enduring,” Phillis said.

Six months later, the Ohio Supreme Court, in a 4-3 vote, overturned the appellate court’s ruling and gave the General Assembly one year to overhaul its system of school funding in a manner less tethered to property taxes.

Justice Francis E. Sweeney, writing for the majority of the Supreme Court, noted in the 1997 decision, “Obviously, state funding of school districts cannot be considered adequate if the districts lack sufficient funds to provide their students a safe and healthy learning environment.” Sweeney went on to cite a particular problem in Lawrence County schools, pointing out, “Students are subjected to breathing coal dust which is emitted into the air and actually covers the students’ desks after accumulating overnight. Band members are forced to use a former coal bin for practice sessions where there is no ventilation whatsoever, causing students to complain of headaches. Special education classes are also held in a former closet that has one bare light bulb.”

Justice Sweeney, in advising the governor and state legislature that they had one year to devise a thorough and efficient school funding system, said, “We send a clear message to lawmakers; the time has come to fix the system. Let there be no misunderstanding. Ohio’s public school financing scheme must undergo complete systematic overhaul.”

Phillis said, “The governor and speaker of the house were visibly angry about the ruling because the court had defied them. They blasted the decision and blasted the coalition. They never thought a Republican court would vote against them.

“They were angry, and that set the stage for the legislature to drag their feet. They thought if they waited long enough they wouldn’t have to do anything.”

Two years after the first Supreme Court ruling, Ohio Governor Robert Taft introduced a \$23 billion school facilities program to modernize the dilapidated infrastructure. “There was the perception on the part of some legislators that we’ve fixed school facilities and that’s all we need to do,” Phillis said of the reaction to the governor’s decision in the Ohio General Assembly.

At the time the DeRolph lawsuit was first filed, education funding had been plummeting for years.

“In 1975, 45 percent of the state budget was allocated toward education,” Phillis said. “By 1992, the percentage was down to 34.5. During this period, greater responsibilities were being placed on K-12 education— vocational education, special education—but most of the state’s commitment was going to bricks and mortar.”

Following the ruling of the Ohio Supreme Court was a series of piecemeal legislative measures designed to placate public education advocates and address some of the infrastructure problems while not quite undertaking a complete, systematic overhaul of school funding in Ohio.

In 1998, the Ohio General Assembly voted to increase the per-pupil level of support from \$3,663 to a phased-in boost that would reach \$4,414 per pupil by 2002. At the same time, however, Perry County Judge Lewis opened hearings to determine whether the state had adequately addressed the Ohio Supreme Court's ruling. Six months later, Lewis ruled that the Ohio Legislature had failed to meet the Supreme Court's mandate calling for a "complete systematic overhaul" of school funding.

The Ohio Supreme Court would concur not once, but three more times that the legislature had failed to attain a "thorough and efficient" method of school funding.

Governor Ted Strickland's administration brought a new philosophy and approach to school funding. Under Strickland, a structure was established that identified the components and cost of a high-quality education. Governor Strickland's 2009 evidence-based model of school funding was part of Ohio's House Bill 1. The model was designed to meet three policy objectives resulting from DeRolph: to develop a school funding system based on the educational needs of students; eliminate problems caused by the interaction of Ohio's school finance laws and property tax laws, and; reduce the reliance on property taxes.

"House Bill 1, "Phillis said, "was as huge, in terms of public policy change, as the 1851 Ohio Constitution. It ensured structure was in place to use the money effectively and efficiently for improved education for all kids."

In the next issue, Ohio Schools looks at school funding from House Bill 1 to the Fair School Funding Plan and the future of funding in Ohio.

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