

Judge Defines Quality Education for Schools

If events in West Virginia are any indication, the courts will be offering even more "help" to schools in upgrading education.

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After years of litigation, Circuit Court Judge Arthur Recht issued a 244-page opinion in May 1982 that comprehensively defined "quality" education for the public schools of West Virginia.¹ If his mandates in curriculum, instruction, and supervision are carried out in the state's 55 counties, an estimated \$1.6 billion will be needed. The decision was issued by a judge who claims he "really didn't give education a great deal of thought until this trial."²

Eighteen states have been involved in similar cases dealing with students' fundamental rights to an adequate education.³ Most of these cases have examined the complex interrelationship among a school system's finances, students' equal access to education, and adequacy of educational offerings. *Serrano v. Priest*, heard by the California Supreme Court in 1971; *San Antonio Independent School District v. Rodriguez*, heard by the U.S. Supreme Court in 1973; and *Robinson v. Cahill*, heard by the New Jersey Supreme Court in 1973, are some of the more familiar forerunners of such cases.

When any of these cases resulted in changes in educational policy or school finance schemes, the courts deferred the changes to the state legislature or board of education. In *Pauley et al. v. Bailey et al.*, however, the judiciary in West Virginia set the precedent that the courts—not educators—have the power to establish quality (not minimum) standards for education in a state.

History

The case began in 1975 when Janet Pauley filed a class action suit against the state of West Virginia because her five children were not receiving quality education in the Lincoln County

schools. Her lawyer first argued before a state court that the state financing system discriminated against those counties that had less property wealth and that the Pauley children did not have access to quality education in Lincoln County, one of the poorer counties in the state. He claimed that their right to a "thorough and efficient system" of education, as required in the state's constitution, was being violated.

Although the case was dismissed for insufficient evidence, it was later appealed to and heard by the West Virginia Supreme Court in 1979. The higher court found that the state had probably not provided a thorough and efficient educational system and had failed to define and establish quality standards of education. It was then remanded to a lower court for a non-jury trial to determine the standards and address other questions, such as the constitutionality of the state finance system.⁴

For 40 days beginning in August 1981, Judge Recht took testimony from many state educational experts, then issued his opinion in May 1982. He found that the system and the financing of education in West Virginia were unconstitutional. He also presented 74 pages of "essential ingredients" of a thorough and efficient system of education, specifying quality standards for curriculum, personnel, facilities, equipment, and materials in each subject.

Curriculum

The judge detailed instructional time, curriculum goals, nature of the delivery, and specific content for each subject area. Instructional time is mandated

in minimum numbers of minutes, periods, days, or times per day or per week. For example, math is taught 55 minutes per day in grades 1-4, 275 minutes per week in grades 5-8, and 225 minutes per week in grades 9-12. Curriculum goals are also mandated. The goal of health education is "prevention of health problems"; the goals of language arts are to "develop students who are literate," who are able "to read, write, speak, hear, observe, understand, and utilize mass media (radio, television, film, print)."

Judge Recht also specified the nature of the delivery of the curriculum—whether it is supplemental, enrichment, elective, or integrated into existing curricula. Foreign language instruction, for example, begins in the third grade, three times per week, and is to be integrated into other learning experiences of the school day. Finally, the content of each subject is specified at various grade levels. For example,

Math (K-8): "number concepts, computational skills, problem solving, applying math to everyday situations, geometry, measurement (metric), probability and statistics, estimation and approximation, computer literacy (calculators), and affective domain."

Science (10-12): "Biological Science, Chemistry I, Physics . . . and electives in: Biology (anatomy/physiology), microbiology (histology), ecology (environmental science), and other microscopic areas (forestry, sanitation, taxonomy) . . . Chemistry (organic chemistry, Chemistry II) . . . Physics (electronics, basic mechanics) . . . Physical science (geology, astronomy, meteorology, earth science)."

Instructional Methodology

The text of the decision not only indicates *what* should be taught but also *how* it should be taught: "role play," "hearing and questioning classroom speakers," "making surveys," "simula-

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tion and gaming," "acting out scripts," "working on community projects," "field trips," and "viewing films." If specific methods are not cited, other requirements are: "50 percent of available instructional time is spent on involvement with . . . hands-on activities" or "60 percent lab."

Supervisors

Curriculum supervisors are required to serve county school systems or multi-county systems. They are specific subject area supervisors (rather than general elementary or secondary) and are defined as "indispensable in designing and coordinating the curriculum, reviewing and providing materials and equipment, and coordinating staff continuing education." In some instances their numbers are specified (in art, one per 50 teachers). Their qualifications, when noted, range from certification to appropriate training.

Aftermath

The state superintendent decided not to appeal the decision because it could serve "to improve education for generations to come. . . ." Instead, an advis-

ory committee was formed to develop a "master plan" in 70 days as required by the judge. The Committee of 99, composed of educators and citizens, recommended ways to upgrade the curriculum, facilities and ancillary services, and financing of education in the state over the next 17 years and presented a five-pound document to the judge on December 15 for approval. In March of 1983, the judge approved the master plan with minor modifications.

Implications

This case illustrates that comprehensive decisions about curriculum, instruction, and supervision for an entire state are within the jurisdiction of the courts. Although educational experts provided the testimony, a circuit court made the final determination of the relevant and essential ingredients of educational offerings. This same judge also claimed that he had not given education a great deal of thought until this trial.

Casual observers of the court's role in educational policy making may be shocked by such a decision. Court critics, however, may see this as a predictable instance of increasing judicial ac-

tivism. In either case, *Pauley et al. v. Bailey et al.* may provide an example and rationale for future courts to continue to intervene and "help" educators upgrade the quality of education in the public schools. □

¹*Pauley et al. v. Bailey et al.*, Civil Action No. 75-1268, Circuit Court of Kanawha County, West Virginia, May 14, 1982.

²"Courts Have to Lead Way in Education, Judge Says," *Charleston Daily Mail*, May 14, 1982, p. 7B.

³The 18 states are: Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Maryland, Michigan, Montana, New York, New Jersey, Ohio, Oregon, Pennsylvania, Texas, Washington, West Virginia, and Wyoming. For a summary of these cases, see M. M. McCarthy and P. T. Deignan, *What Legally Constitutes an Adequate Public Education?* (Bloomington, Ind.: Phi Delta Kappa Educational Foundation, 1982).

⁴For a discussion of the financial implications of this case, see R. Meckley, "Education Finance Legal Bombshells in West Virginia," *Journal of Education Finance* (in press).

⁵"99 Member Group Starts Work on Court-Ordered Master Plan," *State Ed* (a publication of the West Virginia Department of Education) 4 (October 1982): 1.

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