

**LINKING STANDARDS TO RESOURCES:
NEW JERSEY'S SCHOOL FUNDING REFORM ACT OF 2008**

In the School Funding Reform Act of 2008 (SFRA), New Jersey adopted an unprecedented public education finance formula which connects school funding to the state's broader adoption of academic content standards and performance assessments. By delivering significantly more resources to students and schools with greater educational and educationally-related needs through a "weighted" formula, the SFRA was intended to not only maintain equitable funding in higher poverty districts, but also to advance equity across New Jersey, solidifying the state's overall high ranking on school funding fairness. This policy brief describes the development and enactment of the SFRA in 2008, and the formula's implementation through 2013. The paper concludes with a discussion of how the New Jersey formula can serve as model for much-needed, and long overdue, school finance reform in states across the nation.

Defining Fair School Funding

Public education finance in the United States is exclusively controlled by the states which, through school funding laws, account for the majority of education spending from state and local revenue. Historically, it has been difficult to assess the condition of state school finance systems, but in 2010, a new set of measures were published that provide a framework

for such comparative analysis. "Is School Funding Fair? A National Report Card" (Report Card) evaluates state finance for "fairness," which is defined as a "system that ensures equal educational opportunity by providing a sufficient level of funding distributed to districts within the state to account for additional needs generated by student poverty."¹ The Report measures school finance fairness in every state to evaluate whether these "systems ensure equality of educational opportunity for all children, regardless of background, family income, where they live or where they attend school."

The Report Card uses several measures as the foundational elements of a fair finance system. First, fairness requires varying levels of funding to provide equal educational opportunities to children with different needs. Specifically, funding levels should increase relative to the level of concentrated student poverty within a state. Schools and districts with high enrollments of poor students face a multitude of challenges that require additional educational resources. For example, high quality preschool, full-day kindergarten, after-school and summer programs are all effective strategies for addressing achievement gaps between poor and non-poor students that require significant investments. Districts with high poverty levels also require staff and programs to address the greater need for security, health and social services, and other programs.

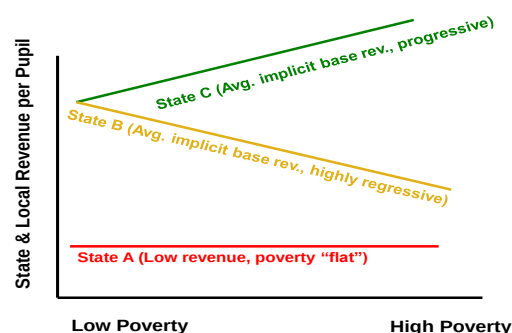
Second, fairness requires not just a fair distribution of funding to account for student needs, but also an overall funding level or base that is sufficient for all children statewide. Without sufficient base funding, even a system that allocates more for concentrated poverty

¹ Bruce D. Baker, David G. Sciarra and Danielle Farrie. *Is School Funding Fair? A National Report Card* (2012), <http://www.schoolfundingfairness.org/>.

will still be unable to provide equality of educational opportunities. Of course, sufficient funding alone does not lead to higher outcomes for students; funding must be effectively used. Successful schools, however, require resources that allow for investments in the foundational elements of schooling, such as quality teaching, small class sizes, a rigorous curriculum in a wide range of content areas, and effective interventions for struggling students.²

Comparing State School Finance Systems

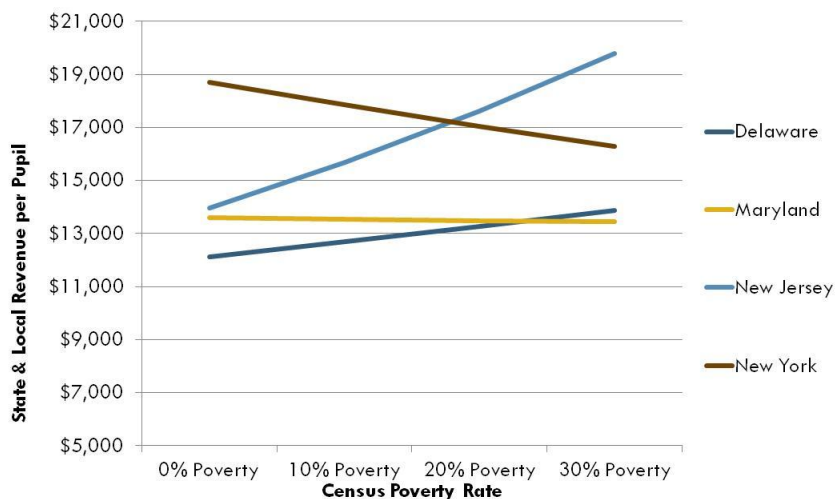
The Report Card analyzes funding fairness by categorizing states into three groups to describe the distribution of funding relative to student poverty – progressive, regressive or flat. Progressive states have finance systems that result in higher district revenues as student poverty increases, while regressive states do the opposite – poor districts actually receive less than wealthy districts. In flat states, there is no distinguishable relationship between funding and poverty. Though flat systems may not be as unfair as regressive systems, these systems similarly fail to meet the fundamental objectives of fair school funding.³ These three systems are depicted visually below:



² Bruce Baker, "Revisiting that Age-Old Question: Does Money Matter in Education?" The Albert Shanker Institute (2012), http://www.shankerinstitute.org/images/doesmoneymatter_final.pdf.

³ Baker, Sciarra, Farrie (2010).

The Report Card also groups states in small clusters to allow for regional comparisons of the state funding fairness. One example is the Mid-Atlantic Region⁴:

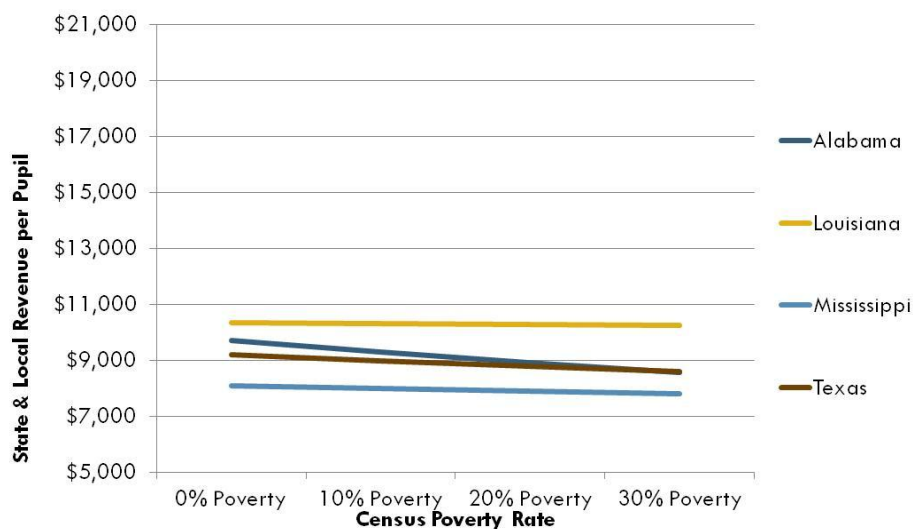


The graph clearly illustrates the nationwide pattern of funding disparities within and between states. The contrast between New Jersey and New York is stark. In New Jersey, funding increases along with poverty level, giving high poverty districts the capacity to provide students with the extra resources necessary to ensure equality in educational opportunity. In New York, funding levels are dramatically higher in low poverty districts and, correspondingly, high poverty districts have less funding despite their need for additional resources. Delaware has a mildly progressive system, but funding levels are far below New Jersey, even after controlling for regional cost differences. While the funding gap between New Jersey and Delaware's low poverty districts is relatively small, less than \$2,000 per pupil, in the highest poverty district that gap triples to almost \$6,000.

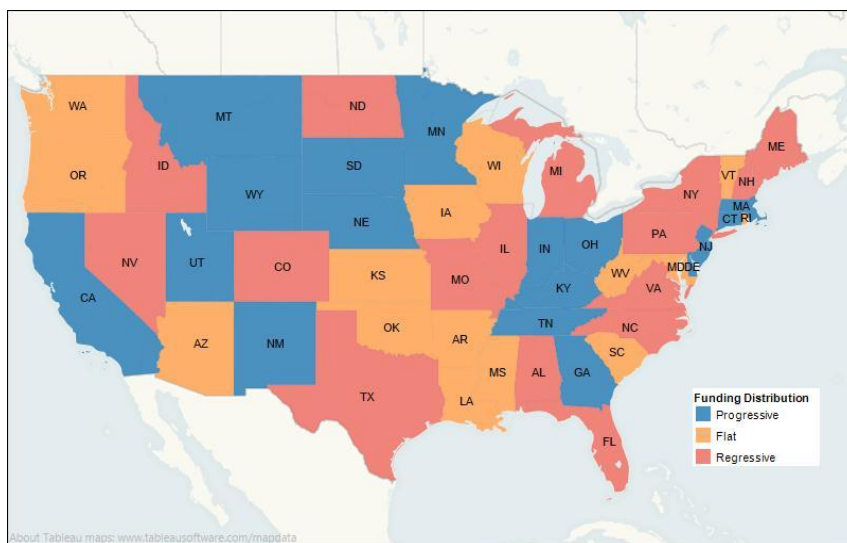
The Gulf Coast Region provides another striking comparison. Mississippi and Louisiana are low spending and provide no additional funding to high poverty districts. These systems are

⁴ Bruce D. Baker, David G. Sciarra and Danielle Farrie. *Is School Funding Fair? A National Report Card* (2012), <http://www.schoolfundingfairness.org/>.

low spending and flat. Alabama and Texas are also low-spending but regressive, a double-disadvantage to students in poor districts who receive less than peers in wealthy districts.



The Report Card shows that seventeen states have progressive funding, sixteen regressive, and the remaining flat. New Jersey is progressive, providing the highest poverty districts, on average, about \$1.60 for every dollar allocated to the lowest poverty districts. Nevada is the most regressive state. Students in high poverty districts receive only 75 cents for every dollar allocated to those in low poverty districts.



As the Report Card confirms, only a few states have finance systems that provide both a sufficient level of base funding and systemically deliver greater resources as poverty increases, i.e., a fair system. New Jersey is one of those states. This policy brief describes how New Jersey achieved funding fairness through a decades-long reform effort, culminating in the enactment of a statewide weighted formula in the School Funding Reform Act of 2008.

New Jersey's Path to Fair School Funding

In 1990, New Jersey was plagued by the glaring disparities in funding between poor and more affluent school districts that remain the dominant feature of education finance today. In 1984, the gap in per pupil expenditures between the high wealth, suburban districts and the poorest districts was \$1,140 per pupil with low wealth districts receiving only 71% of the funding in high wealth districts. These disparities resulted from New Jersey's over-reliance on property taxes to fund education and the insufficiency of state aid targeted to property-poor communities. By 2011, New Jersey had not only eliminated that disparity, but also allocated more resources to the poor districts than the more affluent. Put differently, in 20 years, New Jersey, unlike neighboring New York and Pennsylvania, had transformed its school finance system from regressive to progressive, becoming one of the few states that provide sufficient base funding for all students and higher funding to districts with greater student need.

How did this reform take place? In the complicated educational and political context of school finance, many factors were at work over this two decade span. Three, however, are central. First, the Legislature's adoption of statewide standards-based education in 1996, and subsequent implementation, played a pivotal role in New Jersey's finance reform. Second, the

reform was also fueled by the State Supreme Court's 1997 Abbott IV ruling, and the Court also performed critical oversight of the new school finance formula adopted by the Legislature ten years later. Finally, the changes were supported by the concerted and sustained efforts of parents, education stakeholders and citizens who advocated for fair funding in the Trenton statehouse and in communities across the state.

These, and other, factors led to the enactment of a new funding formula, the School Funding Reform Act (SFRA), in January 2008. With the SFRA, New Jersey successfully transitioned from funding public education largely on political considerations in the annual negotiations over the state budget to funding determinations based on the actual cost of enabling all students, including low income (at-risk) children, English language learners (ELL), and students with disabilities, to achieve state academic standards. The following sections describe New Jersey's shift from a dollar-driven to a standards-linked school funding system.

1990-2004: Setting the State for School Funding Reform

New Jersey's school funding reform begins with the State Supreme Court's 1990 Abbott II decision holding unconstitutional the Public Education Act of 1975, the then existing finance formula, as applied to 29 of the state's poorest urban, or "special needs" districts.⁵ The Court concluded that the 1975 Act perpetuated deep disparities in funding between affluent suburban districts and the special needs districts, resulting in "tragically inadequate" education for students in those districts.⁶ Noting that the State had no substantive education standards to

⁵ Abbott v. Burke, 575 A2d 359 (N.J. 1990).

⁶ School districts in New Jersey are classified according to their socioeconomic status and urbanicity. The Department of Education ranks districts into 10 groups, known as District Factor Groups (DFG), according to the socioeconomic conditions of the community. In Abbott II, the Court designated districts in the two lowest DFG

fashion a remedy, the Court, with no alternative, utilized the educational program and funding levels in the successful suburban districts as the benchmark for "adequate" funding for the special needs districts. The Court ordered that the State must provide additional aid to bring the special needs districts to the average suburban district funding level, a remedy known as "parity." The Court also ordered the State to study the students' needs in the special needs districts for additional or "supplemental" programs, and provide funding for those programs.⁷

After a failed attempt at a statewide finance formula in 1991 to comply with the Court's remedial order, the Legislature, in 1996, adopted a second formula, the Comprehensive Educational Improvement and Financing Act (CEIFA).⁸ At the heart of CEIFA was the Legislature's adoption of the first set of state academic standards in seven curriculum content areas, along with statewide assessments to measure student achievement of the standards, beginning with language arts and mathematics. Further, the CEIFA formula was based on education costs derived from a single "hypothetical school district" constructed by the State Education Department, which the State claimed would provide the funding needed to deliver the State's academic standards to all students. As the State Supreme Court observed, New Jersey, with enactment of the CEIFA formula, "appears to be the first state to try to base funding determinations on achievement standards."⁹

In the 1997 Abbott IV decision, the New Jersey Supreme Court held the CEIFA formula unconstitutional as applied to the special needs districts. In Abbott IV, the Court made three

groups also located in urban areas as "special needs" entitled to remedial relief. After Abbott II, the Legislature added two more districts to the special needs category, for a total of 31 districts.

⁷ Ibid. 408-11.

⁸ Abbott v. Burke, 693 A.2d 417, 420, (N.J., 1997).

⁹ Ibid., 429.

critical rulings that would dramatically shape future school finance reform and alter the broader educational landscape in New Jersey and beyond. First, describing the Legislature's adoption of standards-based reform as a "major step," the Court held that the State's curriculum content standards and assessments are "facially adequate" and "a reasonable legislative definition of a constitutional thorough and efficient education" for all New Jersey students. Second, the Court made clear that content standards and assessments "themselves do not ensure any substantive level of achievement" and alone "cannot answer the fundamental inquiry" of whether the CEIFA financing formula "assures the level of resources needed to provide a [constitutional] education to children in the special needs districts." Finally, the Court determined that, in order to pass constitutional muster, the CEIFA funding formula must, in a "concrete way," attempt to "link the content standards to the actual funding needed to deliver that content."¹⁰

On the basis of these principles, the Court declared the CEIFA formula unconstitutional for several reasons. First, the Court cited the use of a "hypothetical" district cost model in the formula, a model "not based on any of the characteristics of the special needs districts" nor derived from the education costs in the academically successful suburban districts. Second, the Court underscored the State's failure to present evidence that the higher spending levels allowed in the suburban districts under the formula represented "excess" spending not necessary for constitutional education, as defined by the state academic standards. Finally, the Court criticized of the formula's determination of funding levels based on a single set of education costs as "rest[ing] on the unrealistic assumption that, in effectuating the imperative

¹⁰ Ibid. 429.

of a [constitutional] thorough and efficient education, all school districts can be treated alike and in isolation from their surrounding environment.”¹¹

Having found CEIFA unconstitutional, the Court lamented that it still lacked “any constitutional measuring stick against which to gauge the resources needed” to deliver the “substantive education opportunity” defined by the State’s new content and performance standards. Consequently, the Court found it “eminently reasonable” to maintain the parity remedy for the special needs districts given the “recipe for success” in suburban districts, at least “until experience under the new standards dictates otherwise.”¹² In so doing, however, the Court made clear that parity funding was an “interim” remedy. The Court also made clear the door “was left open” for the Executive and Legislature to “devise an adequate alternative funding remedy” as long as the State could “convincingly demonstrate” that the special needs districts could meet the needs of their students at a spending level lower than the affluent suburbs or that suburban district spending contained inefficiencies not necessary to enable students to achieve state academic standards.¹³

The impact of these rulings on efforts to provide equal educational opportunities cannot be over-stated. The legislatively-enacted curriculum standards and assessments -- standards-based education -- now substantively defined the constitutional guarantee of a thorough and efficient education for all public school children. Further, to ensure all students are afforded

¹¹ Ibid. 431.

¹² Ibid. 432-33.

¹³ The Court ruled that CIEFA's categorical aids for K-12 supplemental programs and preschool were also unconstitutional because the aid amounts were not based on any study of the actual needs of the students in those districts. Ibid. 433-37. After extensive hearings, the Court, a year later, ordered funding and implementation of a package of supplemental K-12 programs and high quality preschool for three- and four-year olds. *Abbott v. Burke*, 710 A2d 450 (N.J. 1998).

the opportunity to achieve those academic standards, the state finance system must be concretely linked to the actual funding necessary to deliver those standards to students in all districts, whether rural, urban or suburban. The establishment of these core constitutional principles in 1997, therefore, set the stage for the standards-linked finance reform accomplished with the enactment of the SFRA formula in 2008.

2004-2007: Developing Standards-Linked Funding Reform

In the wake of Abbott IV, school funding in New Jersey took an unusual turn. For the special needs districts, with less than a quarter of the state’s public school enrollment, the State provided parity and supplemental funding pursuant to the Court-ordered remedy. All other districts, including many districts with significant concentrations of poor, at-risk students, remained under the 1996 CEIFA formula declared unconstitutional in Abbott IV as applied to the special needs districts. As a practical matter, the Legislature, beginning in 1999, “abided by the Court-ordered parity remedy enhanced by supplemental funding” to the special needs districts, but fell behind in funding the rest of the state under the CEIFA formula.¹⁴ Very quickly, tensions arose between “Abbott” and “non-Abbott” districts over funding, as special needs districts received annual increases under judicial branch order, while funding shortfalls accumulated in rural areas, inner ring suburbs, and mid-wealth communities.¹⁵ As this dynamic intensified, so too did the pressure to take up the Court’s invitation to develop an alternative

¹⁴ Abbott v. Burke, 960 A.2d 360, 371, (N.J. 2009).

¹⁵ Sherri C. Lauver, Gary W. Ritter, and Margaret E. Goertz, “Caught in the Middle: The Fate of the Non-Urban Districts in the Wake of New Jersey’s School Finance Litigation,” *Journal of Education Finance* 26 (2001).

funding method to replace the Abbott “interim” parity remedy with a statewide formula addressing the needs of students in all districts.

Against this political and legal backdrop, State education officials in 2003 began the process of developing a new statewide formula. The first step involved conducting a “costing-out” study using the professional judgment methodology. Using the curriculum content and performance standards, upheld as defining a constitutional education in Abbott IV, the State developed several prototypical districts to conform to New Jersey’s diverse district and school size and student demographics, including varying concentrations of at-risk and ELL students. To identify the resources needed in these prototypical districts for students to achieve state standards, three separate panels were convened, each building upon the predecessor panel’s work: educators within the State Education Department, educators and representatives selected by stakeholder groups, and, lastly, district-level administrators.¹⁶ This costing-out process yielded a set of essential resources for an elementary, middle and high school in each district model including the additional staff, programs and services identified as needed for at-risk and ELL students in the varying district concentrations. Finally, the State calculated the respective costs of these resources using 2004-05 cost data, which included a base per-pupil amount for general education students and the additional costs of programs and services for at-risk and ELL students. These resource findings and costs were formally released in a “Report on the Cost of Education” by the State Education Department in 2006, followed by public

¹⁶ For a summary of the process of creating the school funding formula see *Abbott v. Burke*, 971 A.2d 989 (N.J., 2009).

hearings to obtain input on the Report and a 2007 Addendum to update the costs with 2005-06 data.¹⁷

Next, the State retained school finance experts to review the findings and cost determinations in the Report. These experts recommended several changes, including providing additional professional development resources; defining “at-risk” to include students eligible for both the federal free- and reduced-price lunch program; using mean, not median, salary data; improving the geographic cost adjustment; and combining the base amounts for the various sized prototype districts into a single base cost.¹⁸

Lastly, the State convened another panel of experts to assist in the design of the formula, and to address several unresolved issues, such as the cost and funding method for the ambitious and far-reaching preschool program implemented in the special needs districts to comply with two separate rulings in the Abbott case.¹⁹ The costs and funding methodology for the final formula were publicly presented by the State Education Department in “A Formula for Success: All Children, All Communities,” published in December 2007.²⁰

2008: School Funding Reform Act

On January 7, 2008, the Legislature, with bi-partisan support, passed the School Funding Reform Act of 2008 (SFRA). Governor Jon Corzine signed the measure on January 13, 2008. The

¹⁷ Allen Dupree, John Augenblick, and Justin Silverstein, “Report on the Cost of Education,” New Jersey Department of Education (2006) <http://nj.gov/education/sff/archive/report.pdf>; “Updated Appendix on Report on the Cost of Education,” New Jersey Department of Education (2007), <http://nj.gov/education/sff/archive/appendix/>.

¹⁸ Allen Odden, “Final Report on the Reviews of the Report on the Cost of Education for New Jersey,” New Jersey Department of Education (2007) <http://www.state.nj.us/education/sff/archive/reports/summary.pdf>.

¹⁹ Abbott v. Burke, 748 A2d 82 (N.J. 2000); Abbott v. Burke, 790 A2d 842 (N.J. 2002).

²⁰ “A Formula for Success: All Children, All Communities,” New Jersey Department of Education (2007). <http://www.state.nj.us/education/sff/reports/AllChildrenAllCommunities.pdf>.

SFRA is a statewide “weighted student formula” designed to provide the resources as determined, through the lengthy development process, for all students, including at-risk, ELL, students with disabilities, and children in preschool, to achieve the state’s academic and performance standards. The education cost amounts used in the SFRA are as follows:

- General Education Students: the base cost amount is \$9,649 per elementary school pupil, adjusted by a middle school weight of 1.04 for an amount of \$10,035 per pupil and a high school weight of 1.07 amounting to \$11,289 per pupil.
- At-Risk Students: a weight for at-risk students adjusted on a sliding scale, ranging from .47 to .57, resulting in an additional \$4,535 for each student in districts with a concentration of FRL students up to 20%, topping off at \$6,435 per student in districts with a 60% or more FRL student concentration.
- English Language Learners: a weight for ELL students of .50 per student in all districts for an amount of \$4,825 per pupil.
- Combination Students: students who are both ELL and At-Risk have an additional weight of .125 which, when added to the sliding scale weights for at-risk students, yields a per-pupil range of \$5,741 to \$6,706.
- Kindergarten Students: the weight for kindergarten students in half day programs is 0.5, while students in full day receive the elementary base amount for general education students or 1.0.
- Preschool Children: the preschool per-pupil amounts, which vary depending on the classroom setting, are \$11,506 per pupil in public schools; \$12,934 per pupil in

community day care providers, and \$7,146 per pupil in Head Start to augment federal funds.

- Students with Disabilities: \$1,082 for students receiving special education speech-only services, and \$10,898 for all other special education pupils.²¹

Based on these cost amounts, the SFRA formula calculates each district's funding target level, or "Adequacy Budget." The Adequacy Budget is "wealth equalized," which means that the budget is based on the community's property wealth and income. The Budget includes four cost components: the base amount for general education elementary, middle and high school students; the additional weights for at-risk, ELL and combination students; two-thirds of special education costs using a census based methodology; and 100% of census-based speech only costs.²² To support the Adequacy Budget, districts receive state "Equalization Aid," which provides the difference between the district's "local fair share," or the amount districts are expected to raise from local property taxes, and the Adequacy Budget level. Aside from Equalization Aid, the SFRA has only a few categorical aids, most notably one-third special education costs, school security aid, preschool education aid, and hold harmless aid to transition districts to the new formula.

The design of the SFRA is relatively straightforward when compared with the complexity of typical finance formulas. The SFRA is driven by the determinations of the cost of resources for all students to achieve the state's academic standards, with additional resources factored-in

²¹ School Funding Reform Act, New Jersey Statutes 18A:7F-43-63 (2008).

²² The Census based methodology for funding special education and speech programs uses the statewide average classification rate to determine special education funding instead of using each district's actual classification rates. The statewide classification rates for speech and special education are multiplied by each district's total enrollment and then multiplied by the excess cost of educating special education and speech students. A Formula for Success, 15.

in the form of weights for at-risk students, LEP students, and students with disabilities. Based on the each district's student demographics, expressed as a weighted student enrollment, the SFRA calculates the total level of resources needed in each district to deliver those standards to all students – the Adequacy Budget. Funding is then calculated through a state and local share, with state aid making up the difference between the district's "ability to pay" through local property taxes and the Adequacy Budget. With the exception of a portion of special education and preschool, the SFRA combines most state aid to districts in a single aid stream – Equalization Aid – affording significant flexibility over how districts can allocate resources among its schools and students. Lastly, the formula builds-in periodic review, requiring the State Education Commissioner and the Governor to review the operation of the formula every three years, and to recommend to the Legislature adjustments to the formula's costs and weights for the following three years based on that review.

With the adoption of the SFRA in 2008, the State faced one last hurdle: convincing the Court that it had finally, after three failed tries since 1990, constructed a formula that would meet the test of constitutionality so as to warrant lifting the "interim" parity remedy for special needs districts. The Court assigned a judge to serve as a Special Master to conduct hearings to review the formula and report on his findings and recommendations. After receipt of the Special Master's Report, the Court, in the 2009 Abbott XX ruling, upheld the formula and lifted its remedial funding order, clearing the way for statewide implementation. In so doing, the Court acknowledged the long and arduous road traveled to "reach the point where it is possible to say with confidence that the most disadvantaged school children in the State will not be left out or left behind:"

The State has constructed a fair and equitable means designed to fund the costs of a thorough and efficient education, measured against the delivery of the [state academic and performance standards]. The quality of the effort and the good faith exhibited in the exercise of discretion over and over again at decision points during SFRA's development lead us to conclude that the legislative effort deserves deference. The Legislature and Executive have made considerable efforts to confront the difficult question of how to address the education needs of at-risk pupils, no matter where these children attend school. Those efforts are made all the more impressive due to the coordinate branches collective will to do so during difficult economic times when there is extreme pressure on scarce State resources.²³

2008-2014: Formula Implementation

A fair funding formula, although essential to the determination of education costs and funding amounts, does not itself ensure actual state aid at the formula-determined level. Funding from year-to-year requires the appropriation of aid, as calculated by the formula, in the annual state budget. Having experience with its co-equal branches not appropriating the funds mandated by formulas in the past, the New Jersey Supreme Court was understandably concerned that the SFRA might suffer a similar fate. The Court was also concerned about whether the SFRA would actually work when implemented, noting that “until the formula has had time to function as intended, it is impossible to know precisely what its effect will be.” These concerns prompted the Court, in giving the SFRA a constitutional green light, to impose two unprecedented conditions on the State: 1) to “fully fund” the formula for the first three years of implementation, and 2) to “diligently” review the formula after its initial three years of operation and “adjust the formula as necessary based on the results of that review,” as required by the SFRA. The Abbott XX ruling concludes with the warning that the Court “remains

²³ Abbott v. Burke, 971 A2d 989, 1008 (N.J. 2009).

committed” to “enforcing the constitutional rights of the children of this State should the formula prove ineffective or the required funding not be forthcoming.”²⁴

The State provided almost all of the funding required by the SFRA in 2008-09 and 2009-10, the initial two years of operation. However, in 2010-11, Governor Chris Christie cut \$1.1 billion and refused to appropriate an additional \$500 million increase required by the formula. In deciding an enforcement motion filed by the Abbott plaintiffs, the Court found the State had deliberately violated the “express mandate” in Abbott XX for three-years of full formula funding:

The State made a conscious and calculated decision to underfund the SFRA formula when enacting the FY 11 Appropriations Act. It was not inadvertent or a mistaken exercise of governmental authority. It directly contravened representations made by the State when procuring relief from prior judicial remedial orders.....Thus for the [special needs] districts, it was an action that directly contravened the judgment in Abbott XX, which authorized the State to substitute full SFRA funding for the parity remedy in those districts....When we granted the State the relief it requested, this Court did not authorize the State to replace the parity remedy with some underfunded version of the SFRA.²⁵

Based on this finding, the Court ordered the Christie Administration to calculate and provide aid for 2010-11 in accordance with the SFRA, but only for the special needs districts. Funding was not restored for all other districts that year, and through 2014, the statewide shortfall in formula funding reached \$5.1 billion.²⁶

Difficulties also emerged related to the statutorily required, and Court-ordered, three-year review of the formula’s operation. After significant delay, the State Education Commissioner issued the mandated “Educational Adequacy Report” to the Legislature in

²⁴ Ibid. 1006.

²⁵ Abbott v. Burke, 20 A.3d 101, 1035-36 (N.J. 2011).

²⁶ “Governor’s FY14 State Aid Proposal: The Underfunding of SFRA: FY10-FY14,” Education Law Center <http://www.edlawcenter.org/research/school-funding-data.html#FY14>.

January 2013, recommending, by and large, non-controversial cost of living and other adjustments to the base cost and other aid amounts. The Report, however, also recommended, without any justification based on the operation of the formula, reducing the weights for at-risk and ELL students, and the combination weight.²⁷ The Legislature, as authorized by the SFRA statute, passed a concurrent resolution rejecting these reduced weights, directing the higher weights in the 2008 law be continued.²⁸ In this way, the Legislature blocked the Christie Administration's attempt to use the FY 2013 and FY 2014 State Budgets to impose reductions in the At Risk and LEP weights and other "modifications" to the SFRA formula.

Finally, under the parity and other program remedies imposed under Abbott IV and Abbott V, and implemented from 1999 until 2007, the special needs districts saw measurable gains in the academic performance of their students. These districts also made substantial progress in closing the achievement gap with wealthier districts. Further, a decade of universal access to high quality preschool after 2001 has led to higher achievement in the early grades, lower special education classification rates, and lower retention rates.²⁹ However, as a result of the State's failure to fully fund the SFRA formula since 2010, it remains unclear whether the special needs districts can sustain these improvements and whether other low-income districts will realize academic benefits from the formula's targeted funding for at risk students across

²⁷ "Educational Adequacy Report," New Jersey Department of Education (2012).

²⁸ N.J. Senate Concurrent Resolution No. 134 (February 14, 2013).

²⁹ Margaret E. Goertz and Michael Weiss, "Assessing Success in School Finance Litigation: The Case of New Jersey," *Education, Equity, and the Law*, 1, The Campaign for Educational Equity, Teachers College (2009), http://www.equitycampaign.org/i/a/document/11775_edequitylawno1.pdf; W. Steven Barnett, Kwanghee Jung, Min-Jong Youn, and Ellen Frede, "Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up," *National Institute for Early Education Research*, Rutgers University (2013), <http://nieer.org/sites/nieer/files/APPLES%205th%20Grade.pdf>.

the state.³⁰ The underfunding of the SFRA, if a chronic condition, has the potential to jeopardize New Jersey's ability in the future to maintain both fair funding and its overall high standing on academic performance in comparison to other states.

Thus, the record of the implementation of the SFRA formula from 2008 through 2014 is decidedly mixed. The formula's carefully developed determinations of education costs and funding remain intact, despite efforts by the Christie Administration to reduce spending by arbitrarily lowering the weights for at-risk and ELL students and other formula modifications. These proposals have been rejected by the Legislature. Of concern, however, is the underfunding of the formula since 2011, resulting in substantial shortfalls of critically-needed state aid. Even in the face of judicial branch conditions and exhortations for performance, SFRA implementation has proved problematic, leaving the formula's promise of fair, consistent and stable funding not fully realized for many students and districts.

The National Imperative: Linking Funding to Standards

As the New Jersey Supreme Court noted in 1997, the state was the first to attempt to explicitly design a school finance formula based on the costs of the state-mandated curriculum standards and assessments. That initial effort failed because, as the Court found, the State failed to show the 1996 CEIFA formula contained a "concrete link" between cost and the funding necessary to deliver its own substantive education standards.³¹ Sent back to the drawing board and after almost a decade of work, the State finally accomplished this objective with the 2008 SFRA formula. As the Court concluded in reviewing the formula in 2009, the

³⁰ For an in-depth review of the substantial progress made by one of the special needs districts, Union City, see David Kirp, *Improbable Scholars: The Rebirth of a Great American School System and a Strategy for America's Schools* (Oxford: Oxford University Press, 2012).

³¹ *Abbott v Burke*, 693 A2d 417, 427 (N.J. 1997).

record presented by the State on the development, components, and future operation of the formula “convincingly” demonstrated that the SFRA was designed to, and would, if properly implemented, deliver “adequate resources to provide necessary educational programs consistent with state standards.”³²

The SFRA, therefore, represents a bright light in the otherwise bleak landscape of school finance in the states. The SFRA utilizes state curriculum standards not just in language arts and mathematics, but in science, social studies, arts and other content areas, as the basis for funding a statewide public education system.³³ It recognizes not only the need for staff, programs and services to enable individual at-risk students to achieve academic standards, but also the need for greater resources generated by concentrated poverty. It is also the first formula to fund universal, high quality preschool for all three- and four-year olds in poor communities.³⁴ Finally, the SFRA is the nation's first formula where the linkage between resource costs and academic standards has withstood rigorous review, in this case intense judicial scrutiny under demanding constitutional principles. By delivering significantly more resources to students and schools with greater educational and educationally-related needs, the SFRA, if properly funded and implemented, was intended to not only maintain equitable

³² Abbott v. Burke, 971 A2d 989, 993(N.J. 2009).

³³ Only a few other states utilized elements of state academic standards to determine education costs for their respective funding formulas. See Campbell Cty. Sch. District v. State, 907 P2nd 1238 (2001)(Wyoming); Montoy v. State, 102 P.3rd 1160 (2005)(Kansas); Molly Hunter, Maryland Enacts Modern, Standards-Based Education Finance System: Reforms Based on Adequacy Cost Studies, *National Education Access Network* (2002), http://www.schoolfunding.info/resource_center/MDbrief.php3.

³⁴ Ellen Boylan and Shad White, Formula for Success: Adding High-Quality Pre-K to State School Funding Formulas, The Pew Center on the States, Education Reform Series (May 2010).

funding in the state's poor districts, but also to advance equity across New Jersey's finance system, solidifying the state's overall high ranking on school funding fairness.

For these reasons, the experience and lessons gleaned from the development and implementation of the SFRA formula warrant close attention from policymakers, lawyers, parents and others concerned with inequitable school funding, and the significant impediment that inequity imposes on efforts to advance equal educational opportunities. The education policy landscape is littered with decades of failed efforts in statehouses and courtrooms to bring a modicum of equity and fairness into public education finance. Thus, there is an urgent need to reframe the discussion and debate over how to tackle the inequities that have consistently plagued school funding in far too many states over the last 40 years.

Conclusion

The SFRA offers a new framework for fundamentally altering traditional approaches to state finance reform. The formula posits the necessity of finance reform by building upon a simple logic, wholly consistent with current education improvement efforts: because states are mandating curriculum content standards, and adopting test-based accountability regimes to measure district, school and student performance in meeting those standards, the states must also put in place a finance system driven by the actual cost of giving all students an equal opportunity to achieve those standards. Put differently, if states are defining the substantive content of what all students are expected to learn, and measuring outcomes based on that content, the states must also provide students the resources needed to achieve those very same standards. This “standards-linked” frame for school finance reform upends the

longstanding, business-as-usual way in which school funding is determined in state capitols, where the debate starts and, by and large, ends with how much money is presently available and how to allocate that money among districts and schools to satisfy powerful political constituencies, with little or no regard for the resources all students need to satisfy established educational standards and mandated performance benchmarks. In this fundamental way, the SFRA stands as a remarkable accomplishment, not only for New Jersey, but the entire nation.

About Education Law Center

Founded in 1973, ELC is recognized as one of the nation's premier education advocacy organizations working on behalf of public school children for access to an equal and adequate education under state and federal laws. ELC focuses on improving public education for disadvantaged children, and children with disabilities and other special needs using multiple strategies, including public education and engagement, policy initiatives, research, communications and legal action.

ELC has achieved significant success in improving education for school children in New Jersey's high poverty urban school districts through implementation of the programs and reforms ordered by the New Jersey Supreme Court in the landmark *Abbott v. Burke* education equity case.

In addition, because of its expertise in school finance, preschool, and other areas of education law and policy, ELC provides support to attorneys and advocates in other states seeking to improve their public schools.

Education Law Center
60 Park Place, Suite 300
Newark, NJ 07102
Phone: 973-624-1815