



Allan E. Parker's Expert Report for School Finance Trial

by The Honorable
Kent Grusendorf &
Michael Barba

Key Points

- Parker contends that the judicial branch must step in and declare the current system constitutionally inefficient, otherwise the systemic problems will never be resolved.
- Once the court declares the public school system unconstitutional, the legislature should introduce a variety of competitive mechanisms, especially school choice.
- Money is consistently pursued as the solution to failing schools because money serves the interests of adult stakeholders.

In 2013, Travis County District Court Judge John Dietz began to hear yet another case about public school finance. This follows in a long line of lawsuits from the late 1980s where school districts and other plaintiffs have sought a declaration that the Texas system of public schools is unconstitutional because the state doesn't spend enough money on public education. The Texas Supreme Court has issued six rulings on school finance in these cases determining whether the state satisfies Article 7 of Texas' Constitution, which requires the state "to establish and make suitable provision for the support and maintenance of an efficient system of public free schools."¹

In each of these cases, the focus has been on increasing the amount of money spent on public education. However, the current case has the potential to change this trend. For the first time, a party in the lawsuit (The Efficiency Intervenors) began advancing the argument that the real problem is that Texas public schools spend the money they have inefficiently, at least in part because they lack competition.² Numerous experts submitted expert reports supporting this argument; the Foundation is publishing a series of summaries of these reports. Below is the summary of the report filed by Allan Parker:

Allan Parker's expert witness report argues that public schools are constitutionally inefficient. This inefficiency is caused in large part by the control maintained over schools by state government, which prevents the school system from adapting to student demand. Mr. Parker advocates for changes that allow more student choice and freedom.

Parker contends that the judicial branch must step in and declare the current system constitutionally inefficient; otherwise the systemic problems will never be resolved. The reason for this is that those who are most harmed by the system—low-income students—cannot correct the fundamental problem. In this regard, the situation is similar to racial segregation. He concludes, "low-income students and parents are structurally unable to correct the system, having the least amount of political power and the least capacity to organize politically to correct the system. As a result of this structural inequality, *they will always suffer* in ways for which simply pouring more money into the system cannot adequately compensate. ... These students must be protected."³

Should the courts declare the public school system constitutionally inefficient, the Texas Legislature should remedy the inefficiency by introducing a variety of competitive mechanisms, especially school choice. According to Parker, this would eliminate gross waste in the bureaucratic administration of the school system and ensure that students receive an education that will serve them throughout their life.

Currently, the state government runs an inefficient system of schools because it is a monopoly that represents private interests, such as superintendents, teacher associations, and school boards, rather than students and their parents.⁴ This prevents the system from responding to local needs. To illustrate how student interests are taking a backseat to private interests, Parker describes two trends in the Texas school system:

- Expenditures have increased by 95.3 percent over the last decade, five times faster than the 19.7 percent student enrollment growth.
- Administration has grown faster than either student or teacher growth over the last decade: "from 1998-99 to 2009-09, the number of teachers in Texas rose from 256,276 to 325,809, a 27.1 percent increase. During the same period, the number of administrators rose from 18,531 to 25,130, a 35.6 percent increase."⁵

continued

According to Parker, money is consistently pursued as the solution to failing schools because money serves the interests of non-parental adult stakeholders. Parker observed that the Texas Supreme Court provided three possible solutions to inefficiency. In *West Orange Cove II*, the court held, “There is substantial evidence, which again the district court credited, that the public education system has reached the point where continued improvement will not be possible absent significant change, whether that change take the form of [1] increased funding, [2] improved efficiencies, or [3] better methods of education.” The court also indicated that the Texas constitution’s efficiency clause requires that schools monitor both inputs *and* outcomes. It is inadequate to give attention solely to funding, yet this is what Texas has done in the past. The Texas Supreme Court observed that the state defendants agreed: “The State defendants contend that the district court focused too much on ‘inputs’ to the public education system—that is, available resources. They argue that whether a general diffusion of knowledge has been accomplished depends entirely on ‘outputs’—the results of the educational process measured in student achievement. We agree that the constitutional standard is plainly results-oriented.”⁶

As evidence that increasing funds have not resolved the problems encountered by students, Parker cites statewide attrition rates, which measure the percent of students who leave high school without earning a diploma. The study found a 14 percent attrition rate for white high school students in the freshman class of 2009-10. This means that 14 percent of this class left school before they graduated in 2012-13. Among blacks, the attrition rate was 26 percent. Among Hispanics, the rate was 33 percent.

The fact that attrition rates remain unacceptably high even though funding has doubled in the last decade is a symptom of the fact that the Texas school system “focuses primarily on the political needs of political controllers” and not on offering “basic service to the consumers, such as teaching children to read, write, and do math sufficiently.” In many cases, parents who want to enroll their children in alternate schools cannot because of regulations. In particular, Parker critiques Chapter 21 of the Texas Education Code. This chapter in the Code promotes inefficiencies through universal teacher pay increases, entry restrictions, strict class size rules, and meaningless appraisal processes. It also results in a cumbersome termination process which allows the continued work of inefficient and unproductive teachers. In the meantime, over 100,000 children have gotten in line to exit the Texas school system and choose their own charter school.⁷ The focus needs to be on these students, not those who keep cashing in on failing schools. ★

View the full report by Allan Parker [here](http://www.txbiz.org/resources/presentations.aspx) (<http://www.txbiz.org/resources/presentations.aspx>).

Allan Parker is President of the Justice Foundation. He graduated with a Bachelor of Arts in Economics with honors from the University of Oklahoma, then went on to the University of Texas Law School and graduated number one in his class with honors. After his education, Mr. Parker became a partner with a law firm that represented numerous school districts and was involved with personnel terminations, due process hearings and cases before the Commissioner of Education. Mr. Parker taught Education Law & Civil Procedure at St. Mary’s University School of Law from 1987-1993 in San Antonio.

¹ *Edgewood I, II, III, & IV; West Orange Cove I, West Orange Cove II.*

² *Texas Taxpayers and Student Fairness, et. al. v. Michael Williams*, Plea of Intervention by the Efficiency Intervenors.

³ Expert Report filed by Allan Parker on behalf of the Efficiency Intervenors by Allan E. Parker, Jr., in *Texas Taxpayers, et. al. v. Michael Williams*.

⁴ Parker notes that the government has created a monopoly in education through its compulsory tax collection and attendance laws.

⁵ Expert Report filed by Allan Parker on behalf of the Efficiency Intervenors by Allan E. Parker, Jr., in *Texas Taxpayers, et. al. v. Michael Williams*.

⁶ *West Orange Cove II.*

⁷ The Texas Charter Schools Association [reports](http://www.txcharterschools.org/) (<http://www.txcharterschools.org/>) that “more than 101,000 additional students” were on their waiting lists in 2012.

