

Story URL: <http://news.medill.northwestern.edu/chicago/news.aspx?id=146067>

## **Lawsuit asks state to change how schools are funded**

by [Melissa Tussing](#)

*Nov 11, 2009*

**David Thigpen, vice president of policy and research at the Chicago Urban League**

Q: Why did the Urban League decide to sue the state?

It's a competitive world, and Illinois needs to be able to train all of its young people to compete economically. If you don't have the resources, it's very difficult to get the quality of education that's required. We don't want to take money away from anyone. We want to raise up the bottom. We want to make the worst schools better.

As we see it, the only way to make change happen is to have the courts force a change.

Q: Why focus on the funding of education?

A: Inequities are built into the way the state funds schools. Because the state school funding system is based on property taxes, if you live in an area that has a lot of property wealth, you can get resources by that property wealth. It indicated to us that if there's going to be any kind of systemic change, you have to get more resources to the schools that really need it.

Q: How does the issue of race come into play?

A: What we're finding is that many of the schools with low funds are majority-minority, meaning the students at these schools are predominantly minorities. Many of those schools have very limited resources. They don't have the funding to buy computers and can't pay for the best teachers. And there are very big differences in the outcomes for students who go through those school systems.

Q: What has been done before to level the playing field for funding?

A: This is very difficult political question and the state legislature has been grappling with this issue for a long, long time. There have been many bills put before legislature attempting to change, but none of them have passed.

Q: And why did the Urban League decide to dedicate the time and resources to seeing this lawsuit through?

It's understanding that it's our role as Chicago Urban League to exercise some leadership around issues that affect the African-American community disproportionately.

**Lisa Scruggs, lead counsel for the plaintiffs**

Q: Why is this specific case important?

A: In a number of ways it's a very compelling case to make. So many people for so many years have acknowledged and identified that this problem exists in the state. If you're going to have a policy or practice or laws in place and you're going to apply them in the state you have to do so in a manner that doesn't create a disparate impact based on race or gender or protected classes. The reality is, year after year, policymakers have perpetuated a system that continues to result in disparate funding.

Q: What do you think the solution should be?

It's a hard policy question. Our part is not to dictate to anyone exactly how they should solve the problem. We know, however, that the law says you can't do this in a way that discriminates. They're smart people. They will figure out a way to solve the problem and give resources to our schools.

Q: Where is the case now?

A: We're in the middle of gathering evidence. We're certainly hoping to have a trial before next summer in the Circuit Court of Cook County.

Q: What would be the implication of this case if a judge rules that Illinois' educational funding system violates the Illinois Civil Rights Act?

It would be the beginning of really providing real educational reform. It would be a watershed moment.

Q: What's been happening with this issue in the past?

Other cases in the past have been dismissed at an earlier stage, so there have been other lawsuits in the state and they have provided a solid foundation upon which we've been trying to build. The majority of the states within the union have had school funding challenges. There's a trend in last 20 years of those suits being successful.

Q: Do you have a background in education?

A: I actually have a background in education policy and studied school finance issues when I was an undergrad and grad student before I went to law school. I've been interested in these issues for a long time. As a lawyer I've tried to stay involved in education issues. I've done work with new schools, spent time working for CPS [as the senior policy adviser to Arne Duncan, former CEO of Chicago Public Schools] and really tried to stay involved in education and in school funding issues in particular.

## CHICAGO URBAN LEAGUE

**THE PLAINTIFFS:** Chicago Urban League, the Quad County Urban League and Individual Plaintiffs

### Arguments

*(from the lawsuit document)*

- It is the State of Illinois' responsibility to provide a high quality education to Illinois public school students.
- Students in schools districts where minority students make up a majority of the student population score lower on performance assessments, drop out of school more often and do not attend college at the same rates as their peers in majority white school districts.
- These results are directly tied to the funds school districts receive. Majority-minority school districts have larger class sizes, use crowded and dilapidated buildings and have larger class sizes.
- The State of Illinois has had the nation's second largest funding gap between low and high income schools since at least 2003.
- Funding for education comes mainly from local property taxes (62 percent) and not from the State (28 percent).
- In 1976, the state came up with 48 percent of the money raised for public schools. In 2004, they came up with 33 percent. In 2007, they came up with 27.8 percent.
- This system reinforces past discrimination. Low-income areas hurt by past residential segregation can't raise the funds to close the funding gap.
- The funding gap has a discriminatory impact on minority students, especially African American and Hispanics
- The state distributes an unequal level of funding to majority-minority schools, and this violates the Illinois Civil Rights Act of 2003

## STATE OF ILLINOIS

**DEFENDANTS:** State of Illinois and Illinois State Board of Education

### Arguments

*(from the State of Illinois Reply Brief Document)*

- The Illinois Civil Rights Act was enacted in 2003 and the school funding system has been re-enacted every year since 2003. Since this has happened in this sequence, you can't say that the funding system violates the Illinois Civil Rights Act of 2003.
- There is no claim that two similarly situated school districts, each entitled to the same amount of state foundational aid, actually get different amounts because of their racial composition.
- Plaintiffs are using "snippets of legislative history" to override the Illinois Civil Rights Act's plain meaning.
- The Plaintiffs are using an overly expansive interpretation of the Civil Rights Act. The act prohibits disparate-impact discrimination by a "unit" of State Government that engages in "administration," not by the enactments of the General Assembly itself.
- Local control of schools is a state interest, and local taxing decisions are at the core of local control. Local control allows for freedom of choice in educational matters and is constitutional even if it results in funding disparities among localities.
- Purposeful discrimination is essential to an equal protection claim. The plaintiffs don't allege purposeful discrimination.
- Few laws will impact all groups in a society equally. All members of race and ethnic groups can point to disparities.
- In this case, the state is sovereign. If a judgment for the plaintiff could operate to control the actions of the State or subject it to liability, the action is effectively against the State and is barred by sovereign immunity.

Melissa Tussing/MEDILL

A look at the claim by the plaintiffs and the response by the defendants.



Photo courtesy of Lali Watt, United We Learn

Members of United We Learn, an education advocacy group on the North Shore, listen to Lisa Scruggs, lawyer at Jenner and Block, and David Thigpen, vice president of policy and research at Chicago Urban League, talk about the lawsuit.