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Saving the schools

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State budgets this year face huge revenue losses, thanks to the recession and the end of federal stimulus money. Each threatened interest group has mobilized to try to escape any impact but none as effectively as schools, which have a special weapon: the courts.

The argument in the courts -- playing out now in New Jersey and likely soon in New York -- is simple: The state Constitution protects us from taking any share of the pain of the fiscal calamity.

The common line is that, because of budget pressures, class sizes will rise to the extent that learning is virtually impossible. In reality, until this year, class sizes across America have fallen for the last 15 years, to new lows. This ploy is simply part of the political bargaining that is designed to separate schools from any budget problem.

Indeed, school spending in America has risen continuously for over a century, with the one exception of a slight fall during the Great Depression of the 1930s.

But recent fiscal pressures have started to take their toll. In New Jersey, Gov. Chris Christie had the audacity to cut state funding for schools, reductions that amounted to some 5 percent of total school spending, with the most disadvantaged districts being shielded from the brunt of the cuts. In New York, Gov. Cuomo and the Legislature just enacted a budget that also has modest year-over-year reductions in state aid to schools -- and that also reneges on school-spending increases promised in years past.

Having lost in the media and the political bargaining, New Jersey schools turned to the courts. Garden State judges have ruled over school finance for 40 years, and the schools -- especially the highest-poverty schools -- have had a friend in court, being allowed to spend virtually whatever they want.

In 2008, the latest year for which data are available, New Jersey was the highest-spending state in the nation, with per-pupil expenditures 70 percent above the national average. The poor districts (known as "Abbott districts" after a long-running court case) spend some 2½ times the national average.

Faced with a 5 percent cut, the schools went back to the courts to describe the hardships that would result, claiming the state Constitution's educational guarantees would be violated by the lower funding.

Accompanying these claims have been news stories suggesting that class sizes might reach 40 or even, in some places, 60 students. Perspective is needed: The 5 percent cut could be accomplished by allowing pupil-teacher ratios to rise by just one student per teacher -- a change that's virtually unnoticeable by most teachers.

Such cuts would only move schools back to where they were before the recession in terms of class sizes and pupil-teacher ratios. It certainly wouldn't move them to the level of early last century or of a developing African country.

The exact impact, of course, depends on how the districts adjust. To save money, some teachers will be let go. The standard rule is LIFO: "Last in, first out" -- dismiss the newest hires.

Note, first, that this policy will lead to the maximum number of dismissals, since the youngest teachers also have the lowest salaries. Second, in most cases, it will have little impact on average teacher quality, and thus on student outcomes, because the youngest teachers average essentially as good as the oldest teachers.

One possible exception: If a school system -- like New York City's -- has recently made a major push to improve teacher quality, perhaps drastically increasing pay to attract the best possible new hires, then LIFO layoffs could remove many of the best teachers (even as the earlier-hired ones still enjoy the higher pay that helped attract the now-departed educators).

Now, consider a different policy: Lay off the *least*-effective teachers in order to meet the budget shortfall. This policy would have enormous *beneficial* effects on achievement. By estimates I have done, eliminating the bottom 5 percent to 8 percent of teachers could move achievement of US students from below the average for developed countries to near the top.

We all know a few teachers are just plain bad; students in those classes would be much better off learning from a competent or superior teacher in a slightly larger class -- and the students in that class would suffer little (if at all) from having one or two more classmates.

Now, back to the courts. They face less funding for schools, with groups of superintendents who will testify to the horrible educational ramifications. The courts are so used to measuring education in terms of spending that they tend to be swayed by such horror stories -- without ever conceiving of reforming the way schools spend their money.

New Jersey courts will soon decide whether the cut in school appropriations was legal. Part of any decision depends crucially on whether the judges consider alternative policies.

New York is probably not far behind. The courts have been heavily involved in school spending, ordering vast increases in state aid in the Campaign for Fiscal Equity decision. As a result, New York state funding for schools is second in the nation, 63 percent above the national average.

The quality of our schools is truly vital to our nation's future. We will have a very different economy in the mid-21st century, depending on whether our schools get better or not.

Yet judicial interventions simply haven't been helping. They've consistently supported the complete status quo. They have reinforced bad operating rules like LIFO policies. They have encouraged teacher salaries that are unrelated to teacher effectiveness in the classroom. They have, in sum, rewarded school administrations for never making tough decisions.

If the courts want to help out, they should not focus on the budgetary changes. They should focus on the laws and contract provisions that inhibit the provision of high-quality education to the students of New Jersey and New York.

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