**Students have no ‘right’ to quality education, state court rules**

By [Bob Egelko](http://www.sfgate.com/author/bob-egelko/) **Updated 5:57 pm, Wednesday, April 20, 2016**



Photo credit: Liz Hafalia, *The Chronicle Left to right--First grade teacher Pamela Chinn-Scoffern, teacher Tamika Groves, and parent Joel Velasquez with his family in Pamela's classroom at Lakeview Elementary in Oakland, California, as they occupy school grounds protesting the school's anticipated closure on Monday, June 18, 2012.*

A divided state appeals court ruled Wednesday that California’s anemic level of school funding does not violate students’ constitutional right to an education of “some quality” because no such right exists.

The 2-1 decision by the First District Court of Appeal in San Francisco upheld a judge’s dismissal [of a suit](http://www.sfgate.com/education/article/Court-weighs-potential-overhaul-of-California-6788871.php) filed by some of the state’s major participants in public education — school boards and administrators, the California Teachers Association and State PTA, and nine school districts, including San Francisco and Alameda. The plaintiffs argued that a state that trails nearly every other state in per-pupil spending, staffing and student achievement violates California’s 1879 constitutional guarantee of a school system that encourages “the promotion of intellectual ... improvement.”

Similar suits have been filed in other states, and a majority have been successful, with courts in at least six states finding that their school finance systems violated students’ rights. Last year, the Washington state Supreme Court held its Legislature in contempt for failing to increase funding and imposed a fine of $100,000 a day, which is still in effect.

But the San Francisco court said the right to a public education, guaranteed by the California Constitution, does not include a right to any particular level of educational quality or funding.

An education of “some quality,” the standard asserted by the plaintiffs in the suit, is “good public policy,” Justice Martin Jenkins said in the majority opinion. But he said the state Constitution’s provisions “leave the difficult and policy-laden questions associated with educational adequacy and funding to the legislative branch,” not the courts.

The state Supreme Court first declared education to be a fundamental right in a 1971 ruling that struck down a statewide school financing system based on unequal local property taxes. But Jenkins, quoting that ruling, said the high court had found no constitutional requirement for the Legislature to fund schools “at some magic level to produce either an adequate-quality educational program or a high-quality educational program.”

In dissent, Justice Stuart Pollak said the constitutional mandate of a public school system “implies the need to maintain public schools at some minimum level of competence” — just like a criminal defendant’s constitutional right to a lawyer includes a right of effective legal representation. He said the courts could simply find that the current system falls short of the constitutional standard and leave the solution to lawmakers, with judicial oversight.

Pollak cited the plaintiffs’ evidence that California, in recent years, ranked 47th in the nation in per-pupil spending, 47th or lower in school staffing, and near the bottom in reading and math tests and high school graduation rates. The state, with more than 6 million public school students, plunged from the top to the bottom of national ranking after passage of the Proposition 13 property tax cut in 1978 and subsequent reductions in state spending.

The plaintiffs will ask the state Supreme Court to review the case, said attorney John Affeldt of the nonprofit Public Advocates. He said the court has already determined that the right to an education should enable students to graduate with the knowledge and skills needed to participate in the economy and democracy, and should take up the case “to enforce the right to a quality education.”

The ruling comes six days after an appellate court in Los Angeles upheld state laws on teacher tenure and seniority, overturning a judge’s ruling that found the laws saddled poor and minority students with incompetent teachers and violated the right to educational equality. The plaintiffs plan to appeal that ruling to the state Supreme Court.

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View the decision at <http://bit.ly/schoolsruling>.

<http://www.sfgate.com/news/article/Court-California-students-have-no-right-to-7278567.php>