

## Review of “Disparities” and “Inequity” from prior studies and court decisions: (Jordan Hensley, 3/30/20)

The word **inequity** doesn’t show up in the [2008 report](#), even the word equity does not appear until the references. Whenever it appears, it’s in reference purely to funding, not to students.

Inequity appears twice in [Claremont II](#):

Pages 4-5:

“There is nothing fair or just about taxing a home or other real estate in one town at four times the rate that similar property is taxed in another town to fulfill the same purpose of meeting the State’s educational duty. Compelling taxpayers from property-poor districts to pay higher tax rates and thereby contribute disproportionate sums to fund education is unreasonable. Children who live in poor and rich districts have the same right to a constitutionally adequate public education. Regardless of whether existing State educational standards meet the test for constitutional adequacy, the record demonstrates that a number of plaintiff communities are unable to meet existing standards despite assessing disproportionate and unreasonable taxes. “If modern conditions make ancient divisions or plans for distributing the tax burden inequitable, it would seem to be a plain legislative duty to enact such constitutional laws as will remedy the defect.” Opinion of the Justices, 84 N.H. at 581, 149 A. at 332-33; see State v. Express Co., 60 N.H. at 247 (Doe, C.J.) (“methods of dividing the public expense, equitable enough for practical purposes in the last century, would now be good cause of complaint”). We hold, therefore, that the varying property tax rates across the State violate part II, article 5 of the State Constitution in that such taxes, which support the public purpose of education, are unreasonable and disproportionate. To the extent that the property tax is used in the future to fund the provision of an adequate education, the tax must be administered in a manner that is equal in valuation and uniform in rate throughout the State”

Page 8:

“The State’s duty to provide for an adequate education is constitutionally compelled. The present system selected and crafted by the State to fund public education is, however, unconstitutional. While the State may delegate its obligation to provide a constitutionally adequate public education to local school districts, it may not do so in a form underscored by unreasonable and inequitable tax burdens. As the State acknowledged at oral argument, several financing models could be fashioned to fund public education. It is for the legislature to select one that passes constitutional muster.”

The word **disparity** shows up twice in Claremont II (doesn’t appear in the 2008 report):

Page 4:

“Because the diffusion of knowledge and learning is regarded by the State Constitution as “essential to the preservation of a free government,” N.H. CONST. pt. II, art. 83, it is only just that those who enjoy such government should equally assist in contributing to its preservation. The residents of one municipality should not be compelled to bear greater burdens than are borne by others. In mandating that knowledge and learning be “generally diffused” and that the “opportunities and advantages of education” be spread through the various parts of the State, N.H. CONST. pt. II, art. 83, the framers of the New Hampshire Constitution could not have intended the current funding system with its wide disparities. This is likely the very reason that the people assigned the duty to support the schools to the State and not to the towns.”

Page 6:

"We emphasize that the fundamental right at issue is the right to a State funded constitutionally adequate public education. It is not the right to horizontal resource replication from school to school and district to district. The substance of the right may be achieved in different schools possessing, for example, differing library resources, teacher-student ratios, computer software, as well as the myriad tools and techniques that may be employed by those in on-site control of the State's public elementary and secondary school systems. But when an individual school or school district offers something less than educational adequacy, the governmental action or lack of action that is the root cause of the disparity will be examined by a standard of strict judicial scrutiny."