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## Fourth suit filed on school funding

### 3 local districts are among the 60 claiming inadequacy.

By Gary Scharrer, gscharrer@express-news.net  
Updated 11:39 p.m., Thursday, December 22, 2011

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AUSTIN — The state's largest school districts have filed a lawsuit claiming the public education system is inadequate and inequitable — the fourth such suit filed since the Legislature ended its session in June.

The latest suit involves more than 60 school districts, including Northside, North East and East Central, and nearly 1.6 million students. More than 500 [Texas school districts](#) representing about 3.3 million children now are involved in school funding litigation against the state.

“We wish litigation weren't necessary, but the nature of school finance just seems to be that you have this back-and-forth dialogue going on between the legislative branch and the judicial branch,” said Houston-based attorney [David Thompson](#), lead lawyer in the latest lawsuit. “It seems like a judicial decision seems to be a necessary spur to legislative action.”

Six constitutional challenges to the state's school finance system have reached the [Texas Supreme Court](#) since the landmark Edgewood vs. Kirby decision in 1989, when the court ruled that “districts must have substantially equal access to similar revenue per pupil at similar levels of tax effort.”

Per-student funding in Texas now ranges from less than \$5,000 per child in some school districts to more than \$10,000 in others.

Attorney General [Greg Abbott](#), whose office will defend the state, declined to comment on the litigation.

Each of the four school finance lawsuits claims the state is not adequately funding education, especially as student enrollment grows by about 85,000 children per year. Most of the enrollment growth is made up of low-income children, who cost more to educate.



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#### Other school funding lawsuits

**MALDEF:** The Edgewood Independent School District was the lead party in the 1984 landmark school finance case. The new case, with Edgewood as the lead party again, joined by other property-poor school districts, claims the state inadequately funds low-income and English Language Learner students “through an arbitrary funding process that does not provide the necessary resources for those students to acquire the quality education that the Texas Constitution demands.” This suit involves at least four school districts and 52,000 students. The lead attorney is David Hinojosa, Southwest regional counsel for the Mexican American Legal Defense and Educational Fund.

**Texas School Coalition:** This “Calhoun County ISD” suit is made up mostly of property-wealthy school districts, including Alamo Heights. The suit claims the state is not providing adequate funding for public education to meet constitutional standards. The suit also claims school districts have lost local control because they cannot reasonably make up the loss of state

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forbids.

This suit involves at least 58 school districts and 300,000 students. The lead lawyers are Mark Trachtenberg of Dallas and John Turner of Houston.

**Texas Taxpayer & Student Fairness Coalition:**

This suit contains the highest number of school districts and was the first filed, on Oct. 10. The suit claims the state is not adequately funding public education and that funding is inequitable. The suit also alleges the current system amounts to an unconstitutional statewide property tax. This suit involves at least 380 school districts, including San Antonio, Harlandale, South San, Judson, Southside and Southwest; and 1.3 million students. The lead lawyers are Rick Gray and Randall "Buck" Wood.

highest standards in the history of the state of Texas," said Thompson, a former general counsel for the [Texas Education Agency](#).

Texas lawmakers did not pay for enrollment growth in the 2012-13 budget and cut \$5.4 billion from public education.

A group that advocates for less spending contends Texas public schools are spending 95 percent more today than a decade ago.

"That's around four times the rate at which the student population has grown, and we have not seen substantial academic return on our investment," said [James Golsan](#), an education policy analyst for the [Texas Public Policy Foundation](#).

The debate should not focus on spending more money for education, he said.

"We do have an efficiency problem but, by definition, efficiency should mean getting the most from every dollar that goes into Texas public education, not simply putting more money into it."

Fort Bend ISD is the lead name in the Thompson suit. It has become a quintessential Texas school district, Thompson said. It's a growing school district with a diverse student population, successful schools and good

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community support, he said.

The litigation is significant, [Northside ISD Superintendent John Folks](#) said, "because if we do not file this suit and we do not win this suit, then the education of our kids is in jeopardy. The state of Texas has totally failed in its mission to fund public education."

The state's school funding system "is out of whack," said [Dan Casey](#) of Moak and Casey, an Austin-based school consulting company that will be called as expert witnesses in the trial.

Budget cuts this year exacerbated the problem, he said, adding that state leaders appear to have created a state goal of college readiness for most, if not all students — without providing resources to meet the goal.

Thompson speculated the school finance case could go to trial next fall, with a ruling before the 2013 legislative session starts. The four suits are expected to be consolidated, with all parties working together, Thompson said.

"We will have a lot more in common than any differences," he said.



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