



Terry Moe's Expert Report for School Finance Litigation

by The Honorable
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Key Points

- Americans have known their school system was broken since "A Nation at Risk" was published in 1983, yet results since then have been incremental, weak, and ineffective.
- School choice reform is essential to social and economic mobility. Accordingly, African-American supporters of school choice outnumber their opponents by almost 3-to-1. Among Hispanics, they outnumber them by almost 5-to-1.
- The incorporation of technology into education will unleash innovation and allow students to be freed from geography and social class.
- Teacher salary schedules incentivize stagnation by guaranteeing that good, mediocre, and bad teachers are all paid the same amount: there is no financial incentive to work harder or more efficiently.

In 2013, Travis County District Court Judge John Dietz began to hear yet another case about public school finance. This follows in a long line of lawsuits from the late 1980s where school districts and other plaintiffs have sought a declaration that the Texas system of public schools is unconstitutional because the state doesn't spend enough money on public education. The Texas Supreme Court has issued six rulings on school finance in these cases determining whether the state satisfies Article 7 of Texas' Constitution, which requires the state "to establish and make suitable provision for the support and maintenance of an efficient system of public free schools."

In each of these cases, the focus has been on increasing the amount of money spent on public education. However, the current case has the potential to change this trend. For the first time, a party in the lawsuit (The Efficiency Intervenors) began advancing the argument that the real problem is that Texas public schools spend the money they have inefficiently, at least in part because they lack competition. Numerous experts submitted expert reports to the court supporting this argument; the Foundation is publishing a series of summaries of these reports. Below is the summary of the report filed by Dr. Terry Moe:

According to Dr. Terry Moe, Americans have known their K-12 system was broken since "A Nation at Risk" was published in 1983. That study warned of a rising tide of mediocrity in our schools. In the 30 years since it was published, much has been done but very little has been accomplished. Moe clarifies that as a state and nation we have undergone a "whirlwind of reform," added billions in new spending, new laws, programs, structures, and curricula. Yet, he states, "the reforms of the last few decades, despite all the fanfare and lofty language surrounding them, have been incremental, weak, and ineffective in practice." Schools that fail to provide an education are inefficient by definition. Moe adds, "Children should always come first. But in America's system of public education, governed as it is by power and special interest, they simply do not." Moe concludes, "We have an education system that is not organized to be effective for children."

Dr. Moe suggests several reforms that would make Texas' school system more efficient:

Encourage school choice.

The benefits of school choice are obvious: "When parents have the right to choose, they can seek out better options for their kids. This means, most importantly, that they can leave bad schools, and that children can no longer be trapped in schools that fail... The power to leave is especially valuable to children who are poor and minority, because they are disproportionately stuck in the nation's very worst schools—which, year by year, crush their opportunities for good careers and productive futures." School choice reform is essential to social and economic mobility, which is perhaps why those who are low-income or minority support school choice more than any others. A statewide poll of Texans found that, among African-Americans, supporters of school choice outnumber their opponents by almost 3-to-1. Among Hispanics, they outnumber them by almost 5-to-1.¹ In addition, school choice would benefit *all* schools, according to Moe: "When choice enters the equation, the guarantees evaporate. All schools are put on notice that, if they don't do their jobs well, they are likely to lose children and resources. Because of choice, then, there are consequences for bad behavior. These consequences give the schools greater incentives to perform and innovate."

Promote the advance of online learning.

According to Dr. Moe, technology holds great promise for K-12 schooling and encourages innovation. In fact, the incorporation of technology into education has been, and will continue to be, inevitable. Laws which restrict expansion of virtual learning should be rescinded. This will allow education to “be freed from geography and social class: wherever students are and whoever they are, they can have access to these riches,” Moe writes. As education technology spreads, union power will weaken until they become increasingly unable to block political reforms, enabling legislators “to pursue whatever reforms seem to work best for kids.”

Eliminate labor laws that promote inefficiency.

One labor law reform that is slowly garnering the interest of school districts is the repeal of the state salary schedule. These salary schedules incentivize stagnation because they guarantee that good, mediocre, and bad teachers are all paid the same amount. Unlike other Texas industries, there is no financial incentive to work harder and more efficiently. Dr. Moe points out: “research has consistently shown that simply having a master’s degree, or accumulating additional course or professional development credits, does not make teachers more effective in the classroom.”²

Reduce the power of teachers unions.

The key vested interest in the Texas public school system is unions. “They are by far the most powerful groups in the politics of education and carry enormous weight in shaping how the schools are organized to do their work,” Moe writes. They lean hard on both local school boards and state legislators, intimidating them into torpedoing even the most commonsense reforms. Several recent studies, for example, show that bad teachers are nearly impossible to dismiss: 99 percent of teachers receive satisfactory evaluations, even in schools that are “demonstrably horrible.”³ Teachers themselves say this. Of 1,345 K-12 teachers polled by *Public Agenda*, only 28 percent say that tenure means a teacher has worked hard and proved to be a good teacher. In addition, 79 percent say that there are teachers in their school who “fail to do a good job and are just going through the motions.”⁴ Teachers are not hired, evaluated, nor paid based on their individual performance, even when they want to be.⁵ Why? Because unions say no. ★

View the full report by Dr. Terry Moe here.

*Dr. Terry Moe, a Stanford University Professor and senior fellow at the Hoover Institution, has been studying education extensively for the last 30 years. He has published numerous books and articles on K-12 education, public sector unions, and politics surrounding both. His latest book, *Special Interest: Teachers Unions and America’s Public Schools*, studies teachers unions and how they affect children’s education.*

¹ “Texas K-12 & School Choice Survey: What Do Voters Say About K-12 Education?” Texas Public Policy Foundation (23 Apr. 2013) Question 17.

² See, for example, Eric A. Hanushek and Steven G. Rivkin, “Teacher Quality,” in *Handbook of the Economics of Education*, edited by Hanushek and Finis Welch (Amsterdam: Elsevier, 2006).

³ “Teacher Protection Racket,” *USA Today* (17 July 2008); National Council on Teacher Quality, “Human Capital in Seattle Public Schools”; National Council on Teacher Quality, “Human Capital in Hartford Public Schools”; Jason Song, “Failure Gets a Pass: Firing Tenured Teachers Can Be a Costly and Tortuous Task,” *Los Angeles Times* (3 May 2009); Scott Reeder, “Diplomacy Undermines Teacher Evaluations,” *The Hidden Costs of Tenure*.

⁴ “Stand by Me: What Teachers Really Think about Unions, Merit Pay, and Other Professional Matters,” *Public Agenda*.

⁵ See, for example, the *Public Agenda* study, which found that teachers say that co-workers who work harder or in tough neighborhoods deserve higher pay. One teacher stated: “A person like me, I don’t want it. Let her have that extra \$10,000. I’ll take the easy class. But you’d have plenty of people like her that want the extra money and are willing to take a hard class.”

