

# Public Engagement in School Reform: Building Public Responsibility for Public Education

Amanda R. Broun, Wendy D. Puriefoy, Emily Richard<sup>1</sup>

Public Education Network

## I. Introduction

Public education was a source of contention and dispute long before the Supreme Court's landmark decision *San Antonio Independent School District v. Rodriguez*,<sup>2</sup> which held that the federal Constitution contains no fundamental right to a public education. After *Rodriguez*, the scope of litigation and advocacy changed. Rather than litigate claims in federal court, plaintiffs moved to state courts to argue for educational rights under state constitutions, which do provide for a free public education. Progress has been made as a result of such litigation, but this paper will argue that the lasting systemic change sought by plaintiffs can only come about through a rebalancing of the relationship between the public and their government. Such changes in the political environment must be brought on through public engagement that leads to mobilization. Without such a shift, the political pressures that gave rise to the inequity or inadequacy that is the subject of the litigation in the first place will persist.

Though public education is a civic responsibility, dependent on public funding and oversight, the public voice is missing from the debate about education, whether in the context of litigation, policy creation, or in writing and passing legislation. This paper will

---

<sup>1</sup> The authors would like to thank Goodwin Liu and Elise Boddie for their comments and suggestions, and Brenda Turnbull for suggestions and editing assistance.

<sup>2</sup> *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973).

argue that decision-making, based on the fundamental principle of the consent of the governed, must include the public at all stages of pursuing quality public education for all students. The structure of public engagement must be intentional. It must be structured so that the public can use its knowledge to fulfill its civic responsibilities. And it must be sustained because it is the fundamental relationship between the government and the governed that sits at the heart of the constitution. Without such engagement, litigation, like expert-driven school reform, cannot realize complete fruition.

Part I starts from the premise that the public schools, as an essential institution in a democracy, must be reformed not through arid policy talk, but through action grounded in the messy process of building and recognizing public will. School policy and policymakers must be accountable to a democratically informed and engaged public. Part II of this paper outlines the framework that Public Education Network (PEN) has developed for engaging the public. Part III will examine how public engagement has been used to drive both litigation and remedy requested in one of the most long-standing and best-known education finance cases. Part IV examines how a local education fund (LEF) engaged the public in working to implement the court's order in a successful finance case. Part V will discuss the role of public engagement in developing an initiative for significant public school reform, spurring a local school board to adopt much of the initiative, and maintaining vigilance over its implementation. Part VI analyzes the possibility that public engagement may be in tension with other avenues for reform: legislation, litigation, or expert prescriptions for schools. Part VII concludes that future plans to claim a right to public education -- whether on the state, county, or city level -- must include public engagement to ensure that the policies implemented grow organically from the community they serve, and are sustained.

## **II. Public Engagement Framework**

### **a. Why is public engagement important?**

Historically, strategies and frameworks for public school reform have been handed down from policymakers, educational advocates, and members of academia. Public Education Network (PEN) has developed a framework that aims to bring the voice of the public into the debate about public school reform. This framework identifies key aspects of a movement that begins with citizen belief and awareness of issues and proceeds to active mobilization around a shared goal. PEN's vision for nurturing public engagement involves its member organizations, local education funds (LEFs), who serve as the vehicle for informing and engaging a broad spectrum of community members in public school reform. Local education funds are non-profit organizations independent of the public school system that are committed to public school reform in their area or school district. LEFs often comprise parents, civic leaders, business, advocates, and other educational activists.

As members of PEN, local education funds currently use PEN's framework to guide the work of catalyzing and channeling public engagement in school reform. LEFs help the public clearly articulate a demand for quality public education for all. They help to formulate a shared community conception of high-quality public schools and how reform should occur. And they help the public maintain vigilance over the implementation of formally enacted reforms. At every stage of public school reform, LEFs work to include the voices of the public. By so doing, they begin to create the shift in the political environment necessary to sustain change.

Before committing to the framework for public engagement, an educational advocacy organization might wonder why public engagement is particularly important when working to reform a community's public schools. Across the country, communities, states, and

individuals are pouring resources of all types into reform efforts. Many agree in general terms that reform is needed for governance, curriculum, professional development, assessments, and other aspects of school reform, but few agree on a method to effect that change. Many educational advocates and policymakers agree that standards-based reform is leading to educational progress, but many districts are struggling with a wide range of implementation challenges. Communities are looking for clear results of progress in the form of test scores, particularly in the era of the *No Child Left Behind* (NCLB) Act.

Americans have indicated that education is a high priority and have shown willingness to support reform. Still, many districts, elected officials, and school reform experts have not offered the public a clear opportunity to participate in the process of shaping and influencing policy. Public discussions about education quickly descend into heated arguments between entrenched points of view with little listening and little hope of reaching consensus on any bedrock principles. Educational policy is seldom transparent to those most affected (that is, the community); instead, common practice in school reform is to implement the strategy and vision of the current school superintendent or school board. Plans for reform are frequently implemented from the top down: new superintendents arrive in districts and bring with them their vision for the system, only to move on after a few years, the reforms only partially achieved, if that.

This is also the case at the federal level. *No Child Left Behind* (NCLB)<sup>3</sup> benefited from little public input when it was authorized, and while the law calls for more parental participation than previous versions of the Elementary and Secondary Education Act (ESEA), most of these provisions are not being implemented. PEN conducted hearings across the country for the express purpose of learning the views of parents, students, and

---

<sup>3</sup> See 20 U.S.C. § 6301 et seq., [hereinafter NCLB].

community members about the law. In these hearings, the public objected to many aspects of the law's implementation, even though it agreed with its goals. The 'disconnect' between the effects of current implementation policy and the viewpoints of the public is increasing skepticism of, and resistance to, the underlying law.<sup>4</sup>

Notably, the same disconnect can occur in the context of litigation. Just as policy makers' interests can fall out of step with the concerns of the public, so too the interests of attorneys representing a class of plaintiffs over many years can fall out of step with the interests of those being served. Derrick Bell describes this as having happened in the school desegregation context<sup>5</sup>. According to Bell, civil rights lawyers continued to argue that black children are entitled to integrated schools, while some in the plaintiff class wished to place greater emphasis on upgrading the schools' educational quality. Bell suggests that this may have happened for a variety of reasons ranging from attorneys imposing their views of what they believe to be 'best for their client', to a rigid adherence to the symbolic value and original goals of the litigation despite changes of circumstances and varying beliefs among the client class. The same kind of two-way communication between policy makers and the public suggested above is also appropriate between attorneys and the public. Public engagement not only helps the community to understand the policy or the judicial remedy sought; it also informs policy makers and attorneys about what the public demands.

A critique of the efficacy of engaging the public in decisions about educational policy is offered by those who advocate expert-driven reforms, whether they are standards-based reform and accountability, or restructuring of school finance. Such experts, in the form of

---

<sup>4</sup> See OPEN TO THE PUBLIC: SPEAKING OUT ON "NO CHILD LEFT BEHIND" (Public Education Network ed., 2005). [http://www.publiceducation.org/portals/nclb/hearings/national/Open\\_to\\_the\\_Public.asp](http://www.publiceducation.org/portals/nclb/hearings/national/Open_to_the_Public.asp).

<sup>5</sup> Derrick Bell, Jr., *Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation*, 85 YALE L.J. 470-516 (1975-76).

policy makers, attorneys, or education experts, fear that the public doesn't know enough to demand the 'right things.' These critics focus on whether or not the public identifies the particular elements of what constitutes a 'good school' instead of looking at the standard to which the public aspires, which is, simply, that each generation will do better than the one before. The fact that the public lacks specific expertise doesn't mean that there shouldn't be a debate and exchange between experts and the public. Indeed, it is through such debate and exchange that the public becomes knowledgeable, and therefore positioned to fulfill its civic obligations of demanding quality public education and holding its elected and appointed officials accountable.

**b. How do we define public engagement?**

In the face of the disconnect between community desire to support improved public schools and its ability to do so in an informed or concerted way, PEN has posited that community members would be more able to demand and support reform if they were involved in conceiving the plan for reform and monitoring its implementation. Having witnessed failed school reform in many districts, PEN believes that rather than have an expert-imposed vision of what a public school education should provide, whether that vision emanates from policy makers or courts, the vision for a public school system must also be held by communities at the grass-roots level. In order to truly reform a school system in a meaningful and lasting way, the community must participate in creating a vision for reform, articulating a plan to implement the reform and holding itself, and those charged with implementing it, accountable. Indeed, as others have pointed out, policymakers or attorneys

who fail to engage the public in their efforts often do so at their own peril, or that of their initiatives.<sup>6</sup>

PEN's vision of public engagement goes well beyond the "usual suspects," those individuals who consistently attend school board or community meetings, or members of organized constituency groups that purport to speak on behalf of all those affiliated with them. Indeed, organized groups often do not represent the parents whose children are least well served by the system. Furthermore, when such parents are organized, they are often unable to gain attention of policymakers.

Public engagement must also not be limited to elected officials or civic leaders, though their participation and support is essential to move reform forward. Instead, to shift political dynamics, a shared stake in the success of public education must be recognized. Members of the public from different walks of life must forge common cause around the most fundamental principles of school quality and must insist that their schools acquire and use the necessary resources to realize those principles.

In her chapter of *Public Schools: The Institutions of Democracy*, Wendy D. Puriefoy discusses a theoretical framework for effecting large scale change that comprises five categories of public engagement: dissemination of information, involvement, collaboration, constituency-building, and mobilization.<sup>7</sup> According to this framework, the public or the community must be continually involved and reminded of its stake in the project in order to successfully

---

<sup>6</sup> See David Mathews, RECLAIMING PUBLIC EDUCATION BY RECLAIMING OUR DEMOCRACY (2006); Stephen J. Carroll et al., CALIFORNIA'S K-12 PUBLIC SCHOOLS: HOW ARE THEY DOING? (2005); David Mathews, WHY PUBLIC SCHOOLS? WHOSE PUBLIC SCHOOLS? WHAT EARLY COMMUNITIES HAVE TO TELL US (2002); Michael Rebell and Jeffrey Metzler, Rapid Response, Radical reform: The Story of Finance Litigation in Vermont, 31 J. L. & EDUC. 167 (2002); Jonathan R. Werner, No Knight in Shining Armor: Why Courts Alone, Absent Public Engagement, Could Not Achieve Successful Public School Finance Reform in West Virginia, 35 COLUMBIA J.L. & SOC. PROBS. 61(2002).

<sup>7</sup> Wendy D. Puriefoy, *The Education of Democratic Citizens: Citizen Mobilization and Public Education*, in PUBLIC SCHOOLS: THE INSTITUTIONS OF AMERICAN DEMOCRACY 235-51 (Susan Fuhrman and Marvin Lazerson eds., 2005) [hereinafter Puriefoy].

reach the project’s goals. Puriefoy describes five categories of public engagement as they relate to public education and articulates goals for each.

According to Puriefoy, one must first define whom one means by ‘public’. For our purposes, the public consists of three groups: the community-at-large, organized stakeholders, and policymakers. PEN has further defined these three groups in its “Theory of Action,” which guided the implementation of public engagement initiatives by LEFs to address specific reform issues.<sup>8</sup> The public at large comprises all residents of a community, including parents and other community members—especially those traditionally excluded from community discussion or who may not be truly represented by an organized stakeholder group.<sup>9</sup>

The public at large is especially important for educational advocates or LEFs to engage because these people who are “the general public” or “other community members” are a large, underutilized resource. Today, only 25% of the adult population has school-age children, and yet we need the other 75% to support public education. If this 75% were to fulfill simple civic duties—such as paying taxes, voting for the school board, voting for other public officials with public education in mind, and holding elected officials accountable—great strides could be made for public education.

The second group in PEN’s definition of the ‘public’ is organized stakeholders, which include groups or individuals who influence policymakers because they control money, votes, or other sources of political power.<sup>10</sup> These ‘usual suspects,’ regularly found at community and school board meetings, are formally organized in groups such as chambers

---

<sup>8</sup> THEORY OF ACTION: PUBLIC ENGAGEMENT FOR SUSTAINED REFORM 1 (Public Education Network ed., 2001).

<sup>9</sup> *Id.* at 6.

<sup>10</sup> *Id.*



of commerce, teacher unions, the faith community, community-based civic organizations, or parent-teacher associations. Policymakers, the third group included in PEN's definition of the public, are elected and appointed officials with direct authority to make legislative or regulatory policy or to allocate resources for schools.<sup>11</sup> Examples of policymakers are state legislators, governors, state school board members, school superintendents, local boards of education, and mayors.

In PEN's vision, public engagement is not simply a matter of public information sessions for general discussion. Rather, the public draws information from experts—different views and perspectives are pulled together into a clear and coherent framework. These parts of the process require expert knowledge of school reform. A challenge for LEFs or other community groups in leading a process of public engagement is to help shape the discussion constructively through using data and expert analysis without crowding out genuine public concerns and perspectives. LEFs belonging to PEN subscribe to a basic definition of a quality public education that includes: high expectations for all students; standards aligned with curriculum, instruction, professional development and assessments; quality preschool programs; qualified teachers; external community supports; family involvement; adequate facilities and financial support; and strong leadership and governance. LEFs can use data concerning their district's performance in these areas to spur the community to lay the groundwork for community members to take informed action.

Public engagement includes several categories, from simple to far-reaching. Importantly, these categories are not linear, and are not all required for every given endeavor. Indeed, different forms of public engagement are appropriate for different goals. The simplest category is dissemination of information, whereby an organization provides those affected

---

<sup>11</sup> *Id.*

with reliable information about public schools. Examples of such information are literacy rates, school safety, the availability and quality of learning tools, school budgets, and how local schools compare with others in the state.<sup>12</sup> Goals of disseminating information are to increase awareness of problems the public schools face; to educate community members as to their potential stake in successful and reformed public schools; and to identify systemic issues and policies that may need to change. The process by which organizations distribute this information depends on the type, content, and audience. LEFs have disseminated information through inserts in local newspapers; community forums, town meetings, and other convenings; and publications either by the LEFs or by other local groups.

A second category of public engagement is involvement. Citizen involvement with schools includes informed voting on bond issues and in school board elections. It also includes direct citizen participation in the school system. Examples of direct involvement are participation in PTA and other similar organizations, principal-for-a-day campaigns, and adopt-a-school programs.<sup>13</sup>

The next category of engagement is collaboration, which means that those involved pool their resources, expertise, and contacts in pursuit of a common goal. Collaboration is a step primarily for established stakeholder groups and organizations and uses infrastructure already in place to work toward school improvement. For example, in a campaign for public school reform, collaboration would involve several educational advocacy groups throughout a state or region pooling their resources to reach a broader, state-wide audience. Similarly, an individual LEF could collaborate with one or more organizations with overlapping goals, such as a local Boys & Girls Club or a local advocacy group. Collaborations are often quite

---

<sup>12</sup> Puriefoy, *supra* note 7, at 240.

<sup>13</sup> *Id.* at 241.

successful in producing change at a local level; however, they typically lack the resources to achieve systemic change at a national level.<sup>14</sup>

Constituency-building, the next category of engagement, is a concerted effort to develop support around a specific cause or issue. Constituency building requires rallying individuals and organizations to take action by educating and motivating them to convince them of the benefits of a particular course of action.<sup>15</sup> Constituency building targets both established groups and individuals. Unlike those who engage in collaboration, targets of constituency-building efforts may not already share the organization's goals but have enough in common so that the efforts are not an exercise in futility. That is, these other groups and individuals should be somewhat amenable to the organization's cause. Building a constituency involves finding common ground between an organization and its targeted audience to demonstrate that the course of action or policy is in that audience's interest or is, at least, not in opposition to it. Constituency-building can take place in person, through public hearings or public forums, or electronically, via the Internet. MoveOn.org is a constituency-building tool for many political issues and groups.

The final category of public engagement is mobilization, which occurs when citizens take action. Mobilization is aimed at broad, systemic change and therefore requires widespread commitment. While the other levels of engagement can result in small changes within the public education system, mobilization provides the power to make larger, more fundamental changes. Says Puriefoy, "Citizen mobilization delves deeper into the fabric of our social consciousness and comes into play when the benefits of democracy apply to some but not all.... Mobilization by its very nature is designed to change the values and beliefs of

---

<sup>14</sup> *Id.* at 242.

<sup>15</sup> *Id.* at 243.

its adherents, redistribute social and political power, improve public institutions by changing the laws and structures that govern them, and change the relationship between public institutions and the public itself.... Mobilization strategies are designed to expand civil rights through new laws and within the framework of the constitution.”<sup>16</sup> Although mobilization has occurred on a very broad scale—for example, during the Civil Rights movement—it can also occur within communities where local groups garner support to change the way a social or democratic institution serves them on a daily basis.

All categories of public engagement described above are neither necessary nor suited for every initiative, but a truly effective campaign for public school reform – one that causes the kind of political shifts necessary to sustain systemic change or to claim the right to a public education – encompasses several of them. Each can play a part in creating and channeling public demand for better schools. Indeed, when a community demands from its schools and policymakers that its children receive a quality education, they claim for their children and their entire community the right denied by the *Rodriguez* court: the right to a quality public education.

### **III. New York’s Campaign for Fiscal Equity: Public Engagement in Litigation**

In one of the most famous education finance cases, *Campaign for Fiscal Equity v. State of New York*,<sup>17</sup> public engagement strategies were used during the litigation process to shape both the claims and the requested remedies. The plaintiff in the case, Campaign for Fiscal Equity (CFE), a non-profit organization that works for quality education for New York City public school students, was determined from the beginning to involve the public in the

---

<sup>16</sup> *Id* at 245, 247.

<sup>17</sup> *Campaign for Fiscal Equity v. New York (CFE I)*, 655 N.E.2d 661 (N.Y. 1995).

litigation. Before filing or even drafting the complaint, CFE looked to involve “the broad range of diverse stakeholders who are affected by education policy reforms in both the development and implementation of judicial remedies.”<sup>18</sup> CFE’s goal in involving this diverse range of stakeholders was to have them, as representatives of the public, determine the course of the litigation and the relief requested. Because these stakeholders could see their preferences driving the litigation, they would more actively participate in the implementation of any remedies won.

Litigation first focused on determining the level of education the state constitution required when it guaranteed the state’s citizens a “sound basic education.”<sup>19</sup> This phrase itself came from an earlier case, *Levittown v. Nyquist*,<sup>20</sup> where the New York Court of Appeals held that the state constitutional requirement that the state provide a free common school system in which all children could be educated meant that New York children should receive “the opportunity for a sound basic education.”<sup>21</sup> In *CFE I*, the Court of Appeals articulated a “tentative definition” of a sound basic education and then remanded the case to the trial court, charging the court to gather sufficient evidence to determine if its initial definition was adequate.<sup>22</sup>

With this charge from the court, CFE went to the public to formulate the definition. To reach the public, CFE collaborated with organizations that shared its interests, such as educational advocacy organizations, parent groups, civic organizations, and community school boards, and developed a constituency by contacting the members of these

---

<sup>18</sup> Michael Rebell. ADEQUACY LITIGATIONS: A NEW PATH TO EQUITY? 27-28 (2004), [http://www.schoolfunding.info/resource\\_center/judicialrem.php](http://www.schoolfunding.info/resource_center/judicialrem.php) (follow “Adequacy Litigations: A New Path to Equity?” hyperlink for PDF document) [hereinafter Rebell].

<sup>19</sup> *Levittown v. Nyquist*, 439 N.E.2d 359, 369 (N.Y. 1982).

<sup>20</sup> *Id.*

<sup>21</sup> Rebell, *supra* note 18, at 25.

<sup>22</sup> *Id.* at 23-4; *CFE I* at 666-7.

organizations. When first organizing this public engagement campaign, CFE planned a series of conferences to gather information about the public's definition of a sound basic education.<sup>23</sup> Although CFE filed suit on behalf of students of New York City Public Schools, it also wanted input from educational advocates and other civic organizations throughout the state. The goal was to formulate a definition of sound basic education and to advocate for changes based on that definition that would both meet the approval of and benefit school districts across the state. In this initial public engagement campaign, CFE organized a series of all-day conferences attended by representatives of approximately 100 educational advocacy, parent, and community groups.<sup>24</sup> In order to reach people beyond its existing constituency, CFE co-sponsored the forums or conferences with other statewide organizations, such as the League of Women Voters, the New York State School Boards Association, the New York State PTA, the teachers' unions, the Urban Leagues of New York State, [and] the New York State Business Council.<sup>25</sup> In addition to these new co-sponsors throughout the state, CFE also organized forums with the help of partner organizations within the city.

In response to the Court of Appeals order, one of the goals of these original conferences and forums was to formulate a definition of sound basic education. Throughout the process of defining a sound basic education, CFE tried to build consensus and continually refine its legal position based on the feedback received from the public. According to Michael Rebell, then Executive Director of CFE, "no actual votes [were] taken at public engagement forums, but active dissent [was] respected, and drafts [were] continually revised to respond to stated

---

<sup>23</sup> Rebell, *supra* note 18, at 33.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 35.

concerns of participants.”<sup>26</sup> In its tentative definition, the Court of Appeals focused on “preparation for civic participation,” rather than on preparation for employment. After holding its series of conferences and forums, however, CFE found that parents and other educational advocates insisted that employment preparation was just as important as civic preparation, if not more so.

Taking the information gained from the public engagement process, CFE returned to the trial court with recommendations for the definition. In a success for CFE, the trial court adopted a definition of a sound basic education that included “almost all of the recommendations that had emerged from the public engagement process, including the key employment issue: ‘A sound basic education consists of the foundational skills that students need to become productive citizens capable of civic engagement and sustaining competitive employment.’”<sup>27</sup> Although the State appealed the trial court’s decision, the Court of Appeals upheld the definition, including its emphasis on developing skills for sustaining competitive employment.<sup>28</sup> Specifically, the court held that students need “a higher level of knowledge, skills in communication and the use of information, and the capacity to learn over a lifetime.”<sup>29</sup> Despite the State’s claim that a sound basic education only meant having skills appropriate to the eighth or ninth grade, the New York Court of Appeals ruled that the constitutional guarantee meant a “meaningful high school education.”<sup>30</sup>

Not stopping at this rather vague definition, however, the Court of Appeals ordered the state to do the following: to “ascertain the actual cost of providing a sound basic

---

<sup>26</sup> *Id.* at 31.

<sup>27</sup> *Id.* at 31, quoting *CFE v. State*, 719 N.Y.S. 2d 475, 487 (2001).

<sup>28</sup> *Rebell*, *supra* note 18, at 32.

<sup>29</sup> *Id.* at 32, quoting *CFE v. State (CFE II)*, 744 N.Y. 2d 893, 906 (2003).

<sup>30</sup> *CFE II* at 906.

education;”<sup>31</sup> to provide a plan for reforming “the current system of school funding and managing schools [in order to] address the shortcomings of the current system;”<sup>32</sup> and to create a system of accountability to ensure that the required reforms actually take place. Recognizing the extensive nature of the task, the Court gave the State 13 months—that is, until July 30, 2004—to determine the cost of providing students with a sound basic education, to reform the current funding system to ensure that the resources necessary to provide a sound basic education are available in every school, and to create an accountability plan to ensure that the reforms actually do provide all students the opportunity to receive a sound basic education.<sup>33</sup>

During the initial public engagement effort, CFE knew that it needed public input on what remedy to request. In order to gain this input, CFE asked the following question during the public forums about sound basic education: “How precisely should the education funding system be reformed?”<sup>34</sup> CFE gave its forum participants two options: either “strict dollar equity, which would require substantial transfers of funds between rich and poor districts”<sup>35</sup>; or “major resource infusions and education improvement for students in New York City and other high need, under-funded districts, without regard for the level of expenditure elsewhere.”<sup>36</sup> Initially, participants in forums in the city favored the former funding system, but because the forums were held across the state, all participants in the engagement campaign overwhelmingly supported the latter system. CFE’s engagement of

---

<sup>31</sup> *Id.* at 930.

<sup>32</sup> *Id.*

<sup>33</sup> Some of the dates and timeline information are taken from “*CFE v. State: A Chronology*,” which is a table published by CFE and found at <http://www.cfequity.org/CFEchronology.htm> (last visited Feb. 10, 2006). Additional information has been gathered from articles on the progress of the CFE suit in the New York Times.

<sup>34</sup> Rebell, *supra* note 18, at 33.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*



stakeholder groups across the state allowed it to provide concrete information about the willingness of New York state residents, even those in affluent suburban communities who might not initially support political movements to increase financing to poorer schools, to support a more “democratic” or “egalitarian” ideal of educational adequacy through financial adequacy.<sup>37</sup>

After the *CFE II* decision was handed down, requiring the state to determine the cost of providing New York City students a sound basic education, to reform the funding system accordingly, and to create an accountability plan for monitoring both the new funding system and the progress of the reforms, CFE turned again to the public to create its own proposals ordered by the court. Returning to the organizations with which it partnered in the first engagement effort, CFE engaged in “sustained conversations about directions for reform.”<sup>38</sup>

In addition to coming to a shared goal for financial reform, CFE aimed to engage the opinion of its expanded, state-wide constituency “to develop specific proposals that [would] be submitted to the Governor and Legislature for implementation within the 13-month time frame for compliance established by the Court.”<sup>39</sup> The 13-month deadline passed before the State complied with the court’s order; however, a number CFE’s proposals were eventually adopted by the trial court in the form of a panel of three judicial referees appointed by the court. This panel was charged with presenting the trial judge with a compliance plan because the State failed to comply with the *CFE II* order. In its recommendation, the panel adopted CFE’s figure for the cost of providing New York City students with a sound basic education. In order to reaffirm its commitment to those organizations and communities involved in the

---

<sup>37</sup> *Id.* at 33-34.

<sup>38</sup> *Id.* at 34.

<sup>39</sup> *Id.* at 37.

public engagement campaign, CFE held a press conference immediately after the trial court made this decision and stated that it would continue to press for implementation of the reform and accountability plans on the state level.

As this case study has shown, CFE engaged the public throughout the ten years of ongoing litigation in *CFE v. State*. It first went to the public before filing the lawsuit or even drafting the complaint in order to shape its litigation strategy, claims, and relief requested. CFE returned again to the public to create a definition of sound basic education. Finally, CFE involved constituents from across the state in order to come up with a proposal for reforming the state's school funding mechanism. Because CFE has involved the public at every step of its litigation, it has maintained state-wide support for its proposals and has been able to come back to the court every time with solutions that are truly representative of the citizens' preferences. Unfortunately, however, CFE and the students of New York City are still waiting to receive the \$5.6 billion in operating funds and \$9.2 billion in capital development funds they were awarded; the Governor appealed the trial court's decision and claimed that the court's order constitutes a violation of separation of powers.<sup>40</sup> On March 23, 2006, the Appellate Division, 1<sup>st</sup> Department court found once again the CFE; it directed the state legislature to provide New York City schools with the previously granted \$5.6 billion in operating aid and \$9.2 billion in capital funding. The court set a new deadline of April 1, 2006, and found it "undisputed" that the State has failed to comply with previous court mandates.<sup>41</sup>

---

<sup>40</sup> Telephone Interview with Jessica Garcia, Director of Outreach and Youth Programs, Campaign for Fiscal Equity, in New York, N.Y. (Feb. 15, 2006).

<sup>41</sup> <http://www.cfequity.org/03-23-06AppellateRuling.htm> (last visited March 24, 2006).

#### **IV. New Jersey's Paterson Education Fund: Public Engagement in Implementation of a Judicial Remedy**

Although public engagement was essential in shaping the litigation goals and strategies in the Campaign for Fiscal Equity, public engagement is equally important in implementing the remedy. Because citizens must hold the state or the school district accountable, the public must be invested in the reform and knowledgeable about its progress (or lack of progress). In New Jersey, the *Abbott v. Burke*<sup>42</sup> cases aimed to ensure low-income, urban children a “thorough and efficient education,”<sup>43</sup> as promised in the New Jersey constitution. The Education Law Center (ELC) litigated the case on behalf of the New Jersey school children, and it repeatedly returned to court when the New Jersey government failed to comply with court orders. Despite a series of decisions that were far-reaching victories for public education, implementation has been difficult to accomplish on the state level. In order to garner local support, LEFs such as the Paterson Education Fund (PEF) have worked in communities to engage the public in fighting for implementation.

In the first fifteen years of the *Abbott* litigation, the court resisted specifically mandating steps to be taken or programs to be implemented by either the state Department of Education, the Governor, or the Education Commissioner.<sup>44</sup> After fifteen years of the state either failing or refusing to comply with court orders, however, the New Jersey Supreme Court ordered a special hearing to determine exactly what children in urban, inadequate

---

<sup>42</sup> See *Abbott v. Burke*, 495 A.2d 376 (1985); 575 A.2d 359 (1990); 643 A.2d 575 (1994); 693 A.2d 417 (1997); 710 A.2d (1998); 748 A.2d 82 (2000); 751 A.2d 1032 (2000); 790 A.2d 842 (2002); 798 A.2d 602 (2002); 832 A.2d 891 (2003).

<sup>43</sup> N.J. const. art VIII, § 4.

<sup>44</sup> Information about the history of the *Abbott* litigation is primarily taken from the Education Law Center's *Abbott* history timeline, found at <http://www.edlawcenter.org/ELCPublic/AbbottvBurke/AbbottHistory.htm> (last visited Feb. 10, 2006).

schools needed to receive a thorough and efficient education. In the *Abbott V*<sup>45</sup> decision, issued by the court after the special hearing concluded and the remand judge made recommendations, the court provided a detailed list of requirements, including both reforms and new programs, that would benefit children in urban districts. Specifically, the court required the state to provide funding for full-day kindergarten and preschool, for building initiatives to eliminate overcrowding, and for supplemental programs and services that would help disadvantaged students achieve at their appropriate grade level and would help remove any additional barriers that might interfere with students' learning experience.<sup>46</sup>

Despite the overwhelming victory for the plaintiffs that *Abbott V* represented, the 31 poor urban communities that had underfunded and underserved schools, known as "Abbott districts," did not immediately see changes. Although elected and appointed officials ultimately bear the responsibility for carrying out the court's decision, PEF has worked steadily to engage citizens in specific aspects of *Abbott* implementation. PEF has continued to keep its community members informed, focused, and committed to specific initiatives.

Immediately after *Abbott V* was decided, PEF used its deep involvement in the Paterson community to educate the public about the meaning of the decision. Its goal was to create dialogue, listen, and gather information from the community about the members' understanding of and hopes for implementation.<sup>47</sup> Following this first engagement of the public, PEF created an initiative called "Ensuring the Promise of *Abbott*: Leave No Child

---

<sup>45</sup> *Abbott v. Burke* (*Abbott V*), 710 A.2d 450 (N.J. 1998).

<sup>46</sup> <http://www.edlawcenter.org/ELCPublic/AbbottvBurke/AboutAbbott.htm> (last visited Feb. 10, 2006). The *Abbott IV* and *Abbott V* decisions articulated a framework for educational adequacy that demanded content-based reforms, curriculum changes, facilities and other capital improvements, universal preschool, and supplemental programs. These supplemental programs were meant to address student and school needs attributed to poverty; they included intensive early literacy programs, small class sizes, and social and health services available in the school.

<sup>47</sup> GUIDE TO PUBLIC ENGAGEMENT AND SCHOOL FINANCE LITIGATION 15 (Public Education Network ed., 2005) [hereinafter GUIDE TO PUBLIC ENGAGEMENT].

Behind.”<sup>48</sup> The vision statement for this initiative focuses on the “supplemental programs” required in the decision. It promised, “PEF will ensure the implementation of *Abbott* supplemental programs requirements by engaging the community to strengthen the linkage between school and community to create a coordinated and comprehensive set of programs and supports for high academic and social outcomes for every Paterson Public School Child.”<sup>49</sup> Included in the initiative were specific 3-year and 5-year goals for building civic capacity and creating coalitions with other community organizations.<sup>50</sup> In addition, PEF planned to implement the supplemental programs mandated in *Abbott V* in 11 community schools that would combine educational reform and school-linked social services.<sup>51</sup> After these original schools had operated for two years, PEF planned to expand the community school concept to more schools in the district, building on the successes and learning from the challenges of the earlier community schools.

Despite garnering significant support for the initiative, PEF was forced to shift gears in its implementation of “Ensuring the Promise of *Abbott*.” Because it focused on using 11 community schools as testing grounds, the initiative relied on the idea that new schools would be built and would deliver additional *Abbott*-required services. Unfortunately, because of the state’s failure to provide necessary funding, the Paterson school district did not build any new schools in the five year time frame established for the initiative.<sup>52</sup>

In response to this setback, however, PEF renewed its efforts to engage the public around the creation of community schools. PEF joined PEN’s national public engagement

---

<sup>48</sup> <http://www.paterson-education.org/schools.htm> (last visited Feb. 10, 2006).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Telephone Interview with Irene Sterling, Executive Director, Paterson Education Fund, in Paterson, N.J. (Feb. 16, 2006) [hereinafter Irene Sterling].

initiative using PEN's Theory of Action described above, with the goal of linking schools more closely with a range of services that can enable all students to succeed. PEF campaigned to engage the public in planning and mobilizing for the state funding for the construction and renovation of school facilities that *Abbott* guaranteed. Despite the state's continued refusal to provide this funding, this second initiative resulted in the Paterson school board enacting a policy supporting community schools and committing itself to work toward building them. The policy articulates "five key areas" that community schools programs will address, and it was passed unanimously even though the "members of the school board were divided on most other policy issues."<sup>53</sup>

Although Paterson is still awaiting new facilities, PEF considered both the "Ensuring the Promise of *Abbott*" and the Schools and Community initiatives limited successes. Currently, five local schools have plans to become community schools once they are able to move to new facilities.<sup>54</sup> In addition, members of the Paterson community at large are knowledgeable about community schools and about the other aspects of the *Abbott* decision. Community members, civic organizations, and education policymakers in Paterson understand what the *Abbott* mandate holds for Paterson's public schools, and they are united in their goal to continue to fight for implementation.<sup>55</sup>

In addition to the limited success in the form of increased community knowledge and the school board's commitment to community schools, Paterson has seen success in implementing other parts of the *Abbott* mandate. According to Irene Sterling, Executive Director of PEF, Paterson has achieved overwhelming success in operating preschool

---

<sup>53</sup> PATERSON EDUCATION FUND: SCHOOLS AND COMMUNITY INITIATIVE FINAL REPORT 1, 2 (Paterson Education Fund ed., 2005) [hereinafter SCHOOLS AND COMMUNITY INITIATIVE].

<sup>54</sup> Irene Sterling, *supra* note 52.

<sup>55</sup> *Id.*; SCHOOLS AND COMMUNITY INITIATIVE, *supra* note 53, at 2-4.

programs; approximately 75% of Paterson's eligible preschoolers are enrolled in state-funded preschools.<sup>56</sup> In addition, most Paterson schools offer some supplemental programs, in the form of summer school and after school programs. PEF is still, however, working for additional funding for these programs and fighting to expand the state's definition of supplemental programs to include a broader range of services.<sup>57</sup> PEF's greatest success in *Abbott* implementation has come in upgrading existing programs and educational materials. In all Paterson schools, curricula are more current, and new textbooks are being used.

Throughout its fight for *Abbott* implementation, PEF's work to facilitate communication and disseminate information about public schools and the needs of disadvantaged children led to closer collaboration with other groups that had not previously joined in working toward PEF's goals. For example, "the Paterson chapter of Habitat for Humanity shifted its stance and acknowledged the connection between improving low-income housing and improving public schools."<sup>58</sup> As proof of this recognition, Habitat allows families to earn credit toward their homes<sup>59</sup> by participating in activities to help improve the public schools; it also facilitates this participation by making information about the activities readily available to qualifying families.

Although PEF was not involved in the initial litigation that led to the *Abbott V* mandate, its focus on implementation and accountability has been instrumental in bringing reform to Paterson Public Schools. Not only has PEF engaged the public in creating plans for the

---

<sup>56</sup> Irene Sterling, *supra* note 52.

<sup>57</sup> *Id.*

<sup>58</sup> TAKING RESPONSIBILITY: USING PUBLIC ENGAGEMENT TO REFORM OUR PUBLIC SCHOOLS 53 (Public Education Network ed., 2004) [hereinafter TAKING RESPONSIBILITY].

<sup>59</sup> When a family is chosen as a homeowner, or "partner," family to receive a habitat home, they agree to invest a certain number of hours of their time in labor and community service in order to help "build sweat equity" both in their own home and in the community. The Paterson chapter counts hours working toward public school reform as community service hours for families receiving Habitat homes. <http://www.habitat.org/how/factsheet.aspx> (last visited Feb. 13, 2006).

implementation of specific *Abbott* programs and reforms, it has also served as a voice for the community when implementation has been too slow in coming. Specifically, PEF has collected data in Paterson and in other Abbott school districts that have then been used to bring “compliance” actions when funding for Abbott programs and services has been threatened.<sup>60</sup> Because of PEF’s continued presence on educational issues and its engagement of other civic organizations in its initiatives, these other organizations have come to rely on PEF to help draw connections between their own efforts and public school reforms. Successes in *Abbott* implementation have not come easily, but PEF’s continued presence in the Paterson community, its collaboration with other organizations, and its involvement in state policy discussions illustrate the possibilities of sustained public engagement for public school reform.

## **V. Alabama’s Mobile Area Education Fund: Public Engagement in Legislation**

The *CFE* and *Abbott* litigation have been ongoing for 20 and 25 years, respectively, and the organizations are still fighting for implementation of court decisions. Another approach to public school reform has been to work with legislatures and local government to change educational funding schemes and other educational policies. In Mobile, Alabama, the Mobile Area Education Fund (MAEF) has successfully engaged the public in voting and in a continuing, broadly based campaign for formulating and implementing new policies. In May 2001, Mobile county voters passed legislation that, for the first time in 40 years, approved an

---

<sup>60</sup> GUIDE TO PUBLIC ENGAGEMENT, *supra* note 47, at 15.



increase in taxes that would increase education funding.<sup>61</sup> Building on the success of the VOTE YES Campaign, MAEF turned again to the public to engage it in developing a plan for use of the new education funds to reform the schools.

In September 2001, using PEN’s Theory of Action, and as a grantee under PEN’s public engagement initiatives, MAEF “began a three-year project to build an informed coalition that [would] demand higher standards for and greater accountability from public education.”<sup>62</sup> The first step in this project was to gather information about successful public school reform programs. MAEF created the Citizens Advisory Team, which was composed of 20 parents, educators, and leaders from across the country; this Team reviewed and studied stories of successful school reform.<sup>63</sup> After conducting this survey of reform strategies, however, MAEF and the Citizens Advisory Team concluded that a reform strategy must be developed by the community itself, rather than sold to it.<sup>64</sup> That is, in order for a reform strategy to “stick,” it needed to reflect the preferences and concerns of those most affected by it—the public.

Based on this conclusion, MAEF decided to “conduct an authentic community engagement process to build a constituency that shared a common vision for change and that would hold the board of education and the superintendent accountable for results.”<sup>65</sup> In February 2002, MAEF began its campaign by listening to the public. In this first phase, MAEF held 48 “Community Conversations” during a 14-week period throughout Mobile

---

<sup>61</sup> TAKING RESPONSIBILITY, *supra* note 58, at 37; THE YES WE CAN COMMUNITY AGREEMENT: CREATING A NEW PUBLIC STORY FOR MOBILE COUNTY 1 (Mobile Area Education Fund ed., 2002) [hereinafter YES WE CAN].

<sup>62</sup> YES WE CAN, *supra* note 61, at 1.

<sup>63</sup> *Id.* at 2.

<sup>64</sup> TAKING RESPONSIBILITY, *supra* note 58, at 37.

<sup>65</sup> *Id.*

County.<sup>66</sup> These Conversations were often intimate gatherings where local hosts invited up to 15 friends and neighbors; they often took place in homes, churches, or community centers. During the Conversations, the “participants spent two hours discussing the importance of the connection between schools and community, their common goals, and the challenges” that proponents of school reform faced.<sup>67</sup> In addition to the 48 small Community Conversations, MAEF organized five larger Conversations in each of the County’s school board districts; these larger Conversations were “organized as public forums and publicized widely so that anyone who wanted to take part in the process could get involved.”<sup>68</sup> All of the conversations were recorded by MAEF representatives, and the notes were compiled and analyzed to “identify common themes that emerged from each meeting.”<sup>69</sup>

After the completion of the Community Conversations, MAEF organized four meetings where a panel of 40 “demographically-representative citizens reviewed ideas gathered from the [Community Conversations] and refined those findings.”<sup>70</sup> Because this panel was still composed of representatives of the public at large, MAEF ensured that the preferences of the County citizens were always the driving force behind conclusions and decisions. According to MAEF, the goal of these panel meetings was to “help participants begin to crossover [*sic*] some of the boundaries that divide our community and ultimately to produce a ‘Community Agreement’ that would resonate with the hundreds of Mobile County citizens who had a voice in creating it.”<sup>71</sup>

---

<sup>66</sup> YES WE CAN, *supra* note 61, at 2.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at 2-3.

Following the panel meetings, citizen-led action teams conducted an in-depth study of the key issues that the panel had named as the highest priorities for the County. Once this study was done, MAEF helped to organize “a cohesive, well-informed coalition [to] produce a ‘citizen-driven’ plan for improving education.”<sup>72</sup> The goal of this coalition and the plan it created was to provide “a ‘public voice’ that is focused, sustained, and compelling enough to drive the long-term changes needed to ensure high standards and high achievement for every child in Mobile County.”<sup>73</sup> The coalition produced the YES WE CAN Community Agreement, which did the following: defined the type of community that Mobile County citizens envisioned for themselves and their children; articulated a list of desires for the public schools; described the situation that Mobile County schools faced at the time and the conditions that created that situation; and set forth a plan for changing the situation and fulfilling their aspirations for Mobile County Public Schools.<sup>74</sup>

Once again, MAEF returned to the public to ensure that the vision it was presenting accurately reflected that of the school system’s constituents. MAEF conducted another round of Community Conversations in order to get feedback on the YES WE CAN Community Agreement. Then, in October 2002, the YES WE CAN Community Agreement was officially presented to the school board.<sup>75</sup> Although the school board did not adopt the Community Agreement, its members and other school district leaders agreed to meet with YES WE CAN leaders in order to “consider how to begin addressing each of the priority issues identified in the YES WE CAN Community Agreement.”<sup>76</sup> This

---

<sup>72</sup> *Id.* at 3.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 4-8.

<sup>75</sup> Mobile Area Education Foundation, [http://www.maef.net/pages/All/MainPage.asp?D=Yes\\_We\\_Can](http://www.maef.net/pages/All/MainPage.asp?D=Yes_We_Can) (last visited Feb. 10, 2006).

<sup>76</sup> *Id.*

cooperative effort between school district leaders and YES WE CAN members resulted in the creation of an action plan, called “PASSport to Excellence.”<sup>77</sup> The document built upon the goals, concerns, and plans of the YES WE CAN Community Agreement. In developing the action plan, the district and community also used help from an expert consultant to incorporate the Baldrige Criteria for Performance Excellence, which are “the most respected organizational improvement standards in the nation.”<sup>78</sup> The plan also adheres to the requirements for data analysis and school improvement in the No Child Left Behind Act.<sup>79</sup> The PASSport to Excellence articulates goals in five areas: Student Achievement, Quality Leadership, Communications/Parental and Community Involvement, Governance, and Equity.<sup>80</sup>

This collaboration between the school district, MAEF, and the YES WE CAN community participants culminated in Mobile County Public School System’s adoption of the PASSport to Excellence in June 2003.<sup>81</sup> Since then, Mobile County Public School System (MCPSS) and the Board of School Commissioners have worked toward the “19 continuous improvement objectives” that comprise the five key goal areas.<sup>82</sup> After adopting the PASSport, MCPSS created the “Transformed Schools Plan,” which aims to restructure and retool “the lowest performing schools in Mobile County.”<sup>83</sup> According to a report released by MCPSS, the progress made in the first year of the PASSport’s implementation was significant. Funds have been reallocated to Mobile County’s lowest performing schools

---

<sup>77</sup> MAEF, [http://www.maef.net/pages/All/MainPage.asp?D=Passport\\_to\\_Excellence](http://www.maef.net/pages/All/MainPage.asp?D=Passport_to_Excellence) (last visited Feb. 10, 2006). According to MAEF, “PASS” in PASSport stands for Public Action Spells Success.

<sup>78</sup> *Id.*

<sup>79</sup> NCLB, *supra* note 3.

<sup>80</sup> MAEF, [http://www.maef.net/pages/All/MainPage.asp?D=Passport\\_to\\_Excellence](http://www.maef.net/pages/All/MainPage.asp?D=Passport_to_Excellence) (last visited Feb. 10, 2006).

<sup>81</sup> REASONS TO BELIEVE: A PROGRESS REPORT ON THE MOBILE COUNTY PUBLIC SCHOOL SYSTEM 2003-04 1 (Mobile County Public Schools and Board of School Commissioners of Mobile County eds., 2004).

<sup>82</sup> *Id.* at 6.

<sup>83</sup> *Id.*

in order to attract high quality teachers and administrators, buy textbooks and other supplies, provide extra training for teachers, and provide any additional support necessary.<sup>84</sup> The report addresses progress being made in each of the five goal areas of PASSport, and it outlines goals and strategies for continual improvement. Because MAEF and the public it has engaged demand it, MCPSS has adopted the community's vision for public schools, and is being held accountable for implementing that vision. Indeed, with the help of community advocates who monitor the schools' progress toward their stated goals, MAEF and the Mobile community are holding both the school system and the school board accountable.

As MAEF and the Mobile County Public School System illustrate, public engagement is effective in fighting for public school reform through legislation and initiatives and in maintaining accountability for implementing the programs that are enacted. In particular, MAEF continually brought its plans, policies, and initiatives back to the Mobile community in order to ensure their support and approval of all steps taken. Because the coalitions and committees were made up of demographically diverse representatives, they were able to show the school board the broad support of the County's citizens. This support helped the school board agree on the need for public school reform and on incorporating the YES WE CAN Community Agreement into its plan.

## **VI. Analysis of Public Engagement as a Tool for Public School Reform**

As these case studies illustrate, public engagement is a vital ingredient in the democratic pursuit of better public education. Indeed, the Public Education Network has posited that the political power dynamics of a community are such that public engagement is the key to shifting power from where it usually resides, exclusively with policymakers and organized

---

<sup>84</sup> *Id.* at 7; TAKING RESPONSIBILITY, *supra* note 58, at 37.

stakeholder groups, to shared power, and responsibility, with the public at large.

Policymakers hold power by virtue of their elected office; their position gives them authority to make policy and allocate resources, and with it, the ability to favor or disfavor various constituencies. Organized stakeholder groups hold power in the form of influence wielded over policymakers where these groups control votes, resources, or both. The public at large holds no intrinsic collective power (although individuals have power over their own votes and resources) unless it chooses to use its votes, resources, or voice collectively.

Jeffrey Metzler takes this idea further, in the area of school finance policy and litigation, by arguing that there exists an “inequitable equilibrium” in which “the distribution of education resources is primarily a function of the distribution of political power in the state.”<sup>85</sup> Metzler identifies multiple types of school finance formulas that appear on their face to provide varying degrees of finance equalization. However, his analysis reveals that no one of them is more likely than another to result in equalization because their individual components are subject to significant political manipulation not readily apparent to the voting public. He uses New York as a prime example of this manipulation.<sup>86</sup> While the New York state aid formula appears to be one that considers equalization, in reality the most powerful policymakers determine in advance how much of the state school finance pot they want to drive to New York City in a given year, and then ‘back into’ a formula that reaches that result.

In New Jersey, Metzler finds that “the story of school finance reform... is that of legislatures and governors who often respond to an inequitable political equilibrium by making changes that maintain an inequitable equilibrium in the allocation of state education

---

<sup>85</sup> Jeffrey Metzler, *Inequitable Equilibrium: School Finance in the United States*, 36 *IND. L. REV.* 561, 564 (2003).

<sup>86</sup> *Id.* at 583, 584.

aid despite court orders mandating reform. Only through the continued vigilance of school finance plaintiffs representing the state's poor districts, and the state supreme court, have inter-district spending disparities been reduced in New Jersey.”<sup>87</sup> To change this dynamic, Metzler argues, “courts and reformers must dig deeper, and they must focus on *changing the political dynamics* that perpetuate the inequitable equilibrium of school finance”<sup>88</sup> (emphasis added). PEN believes that public engagement *is* the crucial element for digging deeper – for actually changing the political dynamics, since political progress cannot be made without a committed, informed, involved public.

School finance litigation, therefore, operates in a way that allows for, and perhaps even requires, public engagement. School finance litigation differs from other litigation in that the court does not have the final word in how education is funded. In many states, the legislature makes changes in allocations, and the court chooses only to evaluate what the legislature has done.<sup>89</sup> School finance litigation often includes a long process of back and forth between the courts and the legislature in which the court orders the legislature to refashion its unconstitutional school finance formula, the legislature acts, and then the court responds as to whether the revised formula passes constitutional muster. The court does not tell the legislature how to make change; the legislature is where the actual change must occur; and the court is the final arbiter of whether the change is sufficient.

This characteristic of school finance litigation reinforces the necessity for public engagement because without the shifting of political balance in the form of the support of the broader public, court orders requiring legislative action are not implemented or

---

<sup>87</sup> *Id.* at 589.

<sup>88</sup> *Id.* at 564.

<sup>89</sup> There are notable exceptions, for example, *Abbott*, in which the court played a more active role in fashioning a remedy; nevertheless, in the end, the court is dependent upon the legislature to allocate resources.

sustained. As Metzler describes, these slip back into “inequitable equilibrium.” Public engagement is necessary to ensure that legislators are held accountable when courts order them to make change.

As discussed in Part II above, some argue that experts can drive school reform more effectively without public input; that communities have no need to invent mechanisms for school reform when technical innovations in student testing, data disaggregation and analysis, and teacher professional development are sufficient. However, inclusion of the public voice is an important element of the public engagement framework because the voice of the community has been historically excluded from the debate, with the result that reform is rarely system wide, and even more rarely sustained. The example of Mobile County illustrates that a groundswell of public demand for school improvement can propel a school system to adopt sweeping reforms, and that continuing public accountability can help ensure that the system will invest hard work and hard-won tax dollars in carrying out those reforms. Expert ideas such as the Baldrige framework have a place in reform, but in Mobile they are a means of arriving at a destination, not the destination itself. Expert advice has been used in the service of a community vision. It has not been its driver.

## **VII. Conclusion**

As the preceding discussion illustrates, the complexity of public school reform and the lack of immediate results from any school reform effort make it difficult to definitively declare an initiative or program a success. PEN believes that sustained reform and subsequent improvement in public education will occur only when the voice of the public has been included in conversations about reform. An engaged community is one that demands high quality public education and works with its elected and appointed officials to



ensure that its children receive such an education. Crucial to an appreciation of PEN's conception of public engagement is the understanding that the "public" in Puriefoy's framework include the public at large as an important element. If an organization is truly embarking on a campaign to engage the public, it must include individuals who are not part of organized stakeholder groups, who have less direct connection to public schools, yet pay taxes, vote for elected officials, and vote on bond referenda and other initiatives that support public schools.

PEN's public engagement framework involves an array of parties in meaningful dialogue and collaboration to create a shared vision for public schools. Much of the impetus for educational reform both in the past and currently has come from educational advocates, academics, and elected or appointed officials, such as school board members, board of education employees or commissioners, and district leadership. These people play a crucial role in forming educational policy, and they bring critical insight and experience to any educational matter. But they are not enough to avoid a return to 'inequitable equilibrium'. When, as in school finance and reform, the problem presented requires a rebalancing of relationship between the public and its government, when the powers of citizenship are diminished and unavailable to some, the voices of policy makers and stakeholder groups cannot be the only voices in the conversation. Shared information, candid conversation, and accountability among advocates, the business community, educators, and the public at large that results in mobilization will allow true reform of public schools.