

State Constitutional Law

20 - Unique State Rights

Agenda

- Housekeeping
 - Final exam details
- Makeup classes
 - Thursday, April 25th 1:10pm - 3:10pm, Courtroom of the 90s.
 - Friday April 26th 1:10pm until 3:10pm, Courtroom of the 90s.
- School funding cases
- Unique state rights

School Funding

- Equality
- Adequacy
- Justiciability / Remedies

Adequacy Cases

Edgewood Independent School Dist. v. Kirby
777 S.W.2d 391 (Tex. 1989)

DeRolph v. State
677 N.E.2d 733 (Ohio 1997)

DeRolph v. State
754 N.E.2d 1184 (Ohio 2001)

Adequacy Cases

Columbia Falls Elementary Sch. Dist. No. 6 v. State
109 P.3d 257 (Mont. 2005)

Abbott v. Burke
971 A.2d 989 (N.J. 2009)

Citizens for Strong Schools Inc. v. Florida State Board of Ed.
262 So.3d 127 (Fla. 2019)

Citizens for Strong Schools Inc. v. Florida State Board of Ed.

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“The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education.” Florida Const. Art. IX, § 1(a)

Uniformity Clauses

Bush v. Holmes

919 So.2d 392 (Fla. 2006)

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Teacher Tenure

Vergara v. California

209 Cal. Rptr. 3d 558 (2016)

Remedy

Hoke County Board of Ed. v. State
599 S.E.2d 365 (N.C. 2004)

Claremont School District v. Governor
794 A.2d 744 (N.H. 2002)

Neeley v. West Orange-Cove Consol. Indep. Sch. Dist.
176 S.W.3d 746 (Tex. 2005)

Hoke County Board of Ed. v. State

599 S.E.2d 365 (N.C. 2004)

Trial court order:

(1) that “every classroom be staffed with a competent, certified, well-trained teacher”

(2) “that every school be led by a well-trained competent principal”

(3) “that every school be provided, in the most cost effective manner, the resources necessary to support the effective instructional program within that school so that the educational needs of all children, including at-risk children, to have the equal opportunity to obtain a sound basic education, can be met.

Claremont School District v. Governor

794 A.2d 744 (N.H. 2002)

Neeley v. West Orange-Cove Consol. Indep. Sch. Dist.

176 S.W.3d 746 (Tex. 2005)

“A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.” Texas Const., Article VII, § 1.

Big Picture – School Funding

Unique State Rights

- Privacy
- Free speech
- Civil jury trial
- Environmental rights
- Crime victims' rights
- Right to hunt and fish

Privacy

York v. Wahkiakum School District No. 200

178 P.3d 995 (Wash. 2008)

“No person shall be disturbed in his private affairs, or his home invaded, without authority of law.” Wash. Const. Art. I, § 7.

Two-part analysis

1. Was this a disturbance of one’s private affairs?
2. If so, does authority of law justify the intrusion?

Free Speech

Fashion Valley Mall v. NLRB

172 P.3d 742 (Cal. 2007)

“Every person may freely speak, write and publish his or her statements on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.”
Cal. Const., Art. I, § 2.

Compare with, “Congress shall make no law ... abridging the freedom of speech, or of the press...” U.S. Const. Am. 1.

Justify the difference under *Fashion Valley*

Protestors want to crowd out the entrance to a store, intimidating people from shopping there and costing the store \$10,000 in revenue. It is constitutional for Fashion Valley to force the protestors to protest elsewhere.

Protestors want to distribute leaflets near the store, discouraging people from shopping there and costing the store \$10,000 in revenue. It is unconstitutional for Fashion Valley to force the protestors to protest elsewhere.

State v. Stummer

194 P.3d 1043 (Ariz. 2008)

“Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.” Ariz. Const. Art. II, § 6.

State v. Stummer test for constitutionality of content-based secondary effects regulation

1. To qualify for intermediate scrutiny, State must demonstrate regulation directed at secondary effects, not speech suppression.
2. To survive intermediate scrutiny, State must show regulation does not sweep too broadly. Court must examine 1) whether regulation protects substantial government interest and 2) whether it significantly reduces secondary effects without unduly interfering with protected speech.

Civil Jury Trial

“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”
U.S. Const. Am. 7.

Sofie v. Fibreboard Corp.

771 P.2d 711 (Wash. 1989)

“The right of trial by jury shall remain inviolate, but the legislature may provide for a jury of any number less than twelve in courts not of record, and for a verdict by nine or more jurors in civil cases in any court of record, and for waiving of the jury in civil cases where the consent of the parties interested is given thereto.” Wash. Const., Art. I, § 21.

McCool v. Gehret

657 A.2d 269 (Del. 1995)