



## Testimony of Allen Gilbert, ACLU-VT executive director, March 24, 2016

Thank you for the invitation to testify on the topic of equity. I have been asked specifically to address how, from the ACLU's perspective, equity has been served since Act 60 and whether further progress is needed.

The ACLU feels that equity as defined by the Vermont Supreme Court in the *Brigham v. State* decision of 1997 has been very well served through Act 60.

The core principle of the *Brigham* decision is that students in all school districts "should be afforded a substantially equal opportunity to have access to similar educational revenues." In its decision, the court pointed out that "Money is clearly not the only variable affecting educational opportunity, but it is one that government can effectively equalize."

Act 60 satisfies this constitutional mandate. Each Vermont city or town has the capacity to raise the same amount of money per pupil for each penny on their grand lists. As such, each child is entitled to a substantially equal opportunity of access to educational revenues. The financing system created through Act 60 is considered the most equitable system in the country.

This is not to say there haven't been deviations from the court's equity mandate. The spending threshold caps provision of Act 46 is one of those deviations. But any other state focusing on school funding equity looks to Vermont for an illustration of how funding equity can be achieved. Money matters, and I believe it's fair to say we can never go back to the days when the state accepted second-class citizenship for students in property-poor towns.

Having achieved this equity, it is natural that the focus of reform efforts shift to other areas – in particular, determining why some children are more successful in school than others. Answering this question moves beyond the *Brigham* mandate to equalize the distribution of school funds. In effect, the question probes the variables left unstated in the court's observation that "Money is clearly not the only variable affecting educational opportunity...." Answering the question of how all students can be successful requires identification of what these other variables might be and gaining an understanding of how they can be controlled so all children can succeed.

This is very difficult work. And it is likely that much of it lies beyond constitutional issues. The state's constitutional responsibility in education rests in making sure the resources it provides its schoolchildren are distributed on an equal basis. As with the Vermont Supreme Court's *Baker* decision on equal marriage benefits, the mandate is that the benefit be available to all on an equal basis. This "common benefit" approach is based on Article 7 of the Vermont Constitution. But just as equal access to marriage benefits doesn't guarantee a successful marriage, neither does equal access to school funds guarantee all students will succeed in school. It is this difficult area, not directly tied to money, that you and others interested in education reform are grappling with.

Experiments are occurring all around the country to determine how government can best structure its education efforts to ensure all students succeed. Vermont is fortunate in having established fair school funding. There is no road map, however, showing how to move to the next level of school improvement.