



Jim Broadway

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## Constitution's Article X flagrantly meaningless

By Jim Broadway, Publisher, Illinois School News Service

They didn't even try to hide it in legal jargon. Delegates to the convention that drafted the [Illinois Constitution of 1970](#) and voted to approve the wording of [Article X](#), the education article, clearly meant for that language in the state's preeminent legal document to impose no financial responsibility on the state.

There are three "Sections" in Article X. Let's examine Section 1:

### "SECTION 1. GOAL - FREE SCHOOLS

*"A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities."*

**NOTE:** This first provision has figured prominently in court rulings that have pointed out that a "goal" is not a "duty." Apparently, the policymakers need only to have it in the back of their minds as something they'd like to see happen. Maybe it would be nice, but it's not a requirement. Just a goal.

*"The State shall provide for an efficient system of high quality public educational institutions and services."*

**NOTE:** The key words in this provision are adjectives. "Efficient." "High quality." They're in the eye of the beholder. They impose no tangible responsibility. The sentence is more like a slogan. Let's do it right. And what does "provide for" mean, anyway? It just means to pass some laws, call them the School Code.

*"Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law."*

**NOTE:** This is just empty rhetoric. Even in the 1960s, folks knew there's no such thing as "free" schooling. It's like a lunch; there's no such thing as a "free" one. Schooling would be paid for, but not in the same way that a lunch is paid for.

*"The State has the primary responsibility for financing the system of public education."*

**NOTE:** This is the most contentious line in Article X. What does that mean to you? Does it mean that the state will pay most of what public education costs? If you think that, you're wrong. The Supreme Court has ruled that "financing" is not the same thing as "paying." It just means *deciding who will do the paying*.

**We could go through the** next section of Article X, but we'd just see the same thing - the complete opposite of what the citizens of Illinois were told ratification of the constitution would mean. We were told a "separate" state board would keep school policy at a safe distance from the corrupting influence of politics. Hah!

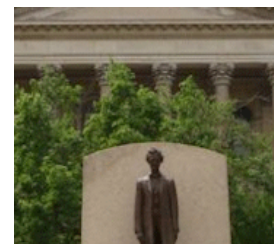
Now, in my opinion, Section 3 of Article X is clear and unambiguous:

### "SECTION 3. PUBLIC FUNDS FOR SECTARIAN PURPOSES FORBIDDEN

*"Neither the General Assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such public corporation, to any church, or for any sectarian purpose."*

This provision is violated by the state with great regularity. The "tuition tax credit" law, which benefits mostly the more affluent parents of the state and supports often sectarian private schools, is just one way. Just wait until a statewide voucher system is established and starts growing like a fungus.

**Sure, all this is by way of a prelude** to some discussion of the lawsuit that was filed on Wednesday in St. Clair County on behalf of 17 school districts that claim, and rightly so, that the state has imposed upon them an "accountability" system



while also denying them the resources they need to be accountable under it.

I am [linking you to the news release](#) announcing the lawsuit on Wednesday, but I want you to know that my explication of Article X was written before I read the release. My view of the meaninglessness of Article X (and therefore, as was surely intended, the difficulty of using it as a basis for litigation) is of long standing.

Will this lawsuit result in a court order directing the state to provide "evidence-based" funding to the schools so that they can meet the state's expectations of student achievement as expressed in the Illinois Learning Standards? I think not. But it was an excellent action, a heroic action, for the districts to file the suit.

It has seemed clear to me since the 1990s that the perpetual fight over Illinois school funding will not be settled in court. In fact, in its ruling in [Citizens for Educational Rights v. Edgar](#) (1996) the Supreme Court explicitly said that "the process of reform must be undertaken in a legislative forum rather than in the courts."

**So Wednesday's lawsuit seems to be a tilting** of a huge windmill, if all it is intended to do is get the Supreme Court to change the opinion it expressed so clearly more than two decades ago. But if the 17 districts also took their action as a way of gaining a forum in the court of public opinion, the early returns are positive.

[Reuters News Service](#), a respected source of news internationally, picked up the story. [U.S. News and World Reports](#) gave the story some excellent play. And media throughout the state - [newspapers](#) and [broadcast](#) outlets - informed readers and audiences about the suit, why it was filed and why so many children need fair funding.

The districts' story is a powerful one of educational deprivation in a truly wealthy state, of inequity on a huge scale with disastrous effects that will stay with their young victims for the rest of their lives. The lawsuit may not rest on a sound legal foundation, but it certainly has a moral foundation of undeniable depth.

It is disconcerting that murmurs about a "grand bargain" seem to have diminished at the Capitol in recent days and weeks. My sense is that a major achievement - even if it takes some political line-crossing - must happen if the legislators are to go home post-session with an ounce of dignity. The lawsuit should help.

**As important as public schools are to politicians**, the fact is the schools are not alone in this crisis. [Higher education](#) is reeling as I've never seen it. The governor seems comfortable cutting human services to the bone, and even more. For example, there's *not a dime* in his budget [for domestic violence relief](#).

The tragic realities of our dysfunctional government, and of the imperatives for policy of the most unpopular kind, need to be discussed in every possible forum. [Here's a good one, for example](#). People need to be brought to an understanding of the chasm to be spanned, of the painful policy options that are unavoidable.

They can come around. I remain confident of that.

In the spring of 1989, I directed a referendum campaign to double the property tax rate of a flood-protection district that had been a disreputable operation for years, a true den of corruption. But the alternative was to leave whole communities, residential and industrial tracts, in an unprotected Mississippi River floodplain.

No one liked the district, even though it had been cleaned up. And no one liked higher tax bills. But even more, no one liked the idea of being unable to buy flood insurance, of having floodgates blow out and inundate entire communities, of giving all that prime property back to Mother Nature to do with as she would.

On election day we got 76% of the vote. People can come around.

**Publication schedule:** You may get a newsletter on Friday, if there something substantive to report. Otherwise, you'll hear from me next on about the Tuesday after Easter. The legislature won't return until the week after that, but I'll be able to give you a preview of what the final few weeks of the session will look like.

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