SUPREME COURT OF THE
STATE OF CONNECTICUT

S.C. 18032

CONNECTICUT COALITION FOR JUSTICE IN
EDUCATION FUNDING, ET AL.

V.

GOVERNOR M. JODI RELL, ET AL.

BRIEF OF *AMICI CURIAE* THE CAMPAIGN FOR EDUCATIONAL EQUITY, TEACHERS COLLEGE, COLUMBIA UNIVERSITY, THE NATIONAL ACCESS NETWORK AND THE EDUCATION LAW CENTER

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INTERESTS OF AMICI CURIAE

The Campaign for Educational Equity at Teachers College, Columbia University ("the Equity Campaign"), the Access Network ("Access") and the Education Law Center ("ELC") are three non-profit organizations dedicated to improving adequacy and equity in education.

The Equity Campaign is committed to expanding and strengthening the national movement for quality public education for all by providing research-based analyses of key education policy issues. The Equity Campaign promotes educational equity through focused research, convening of major symposium and conferences, development of policy positions on major issues involving equity in education, and demonstrations of improved policy and practice.

Access is affiliated with the Equity Campaign and also based at Teachers College, Columbia University. Access' mission is to provide up-to-date information on developments regarding fiscal equity reform, fiscal equity litigations and education adequacy litigations to researchers, policymakers, advocates and attorneys throughout the United States. Access operates a website (www.schoolfunding.info) which is the primary source in the country for up-to-date information on litigation, remedies (including cost studies), methods for public engagement on educational equity and educational adequacy issues. Access assists those promoting education and school funding reform through workshops, conferences, consultations, and periodic e-newsletters. Michael A. Rebell is the Executive Director of both the Equity Campaign and Access. Mr. Rebell also was lead counsel for plaintiffs in New York's educational adequacy litigation, *CFE v. State of New York*, 86 N.Y.2d 475 (1995).

ELC is a not-for-profit organization based in New Jersey. ELC litigated the New Jersey education adequacy case, *Abbott v. Burke*, 119 N.J. 287 (1990), and advocates on behalf of public school children for access to an equal and adequate education under state and federal laws. ELC's work is based on a core value: if given the opportunity, all children can achieve high academic standards to prepare them for citizenship and to compete in the economy. ELC focuses on improving public education for disadvantaged children, and children with disabilities and other special needs. ELC uses a wide variety of strategies, including public education and engagement, policy initiatives, research, communications and, as a last resort, legal action.

Because of its nationwide expertise in school finance, preschool, facilities, and other areas of education law and policy, ELC has recently established Education Justice (EdJustice), a national program to advance education equity. EdJustice will collect and disseminate research, develop strategies, and provide information and technical assistance to policymakers, attorneys and other advocates seeking to improve public schools across the nation, especially those schools serving concentrations of low-income students and students of color.

PRELIMINARY STATEMENT

The question of whether schoolchildren have a substantive constitutional right to a "suitable" or "adequate" education is a matter of first impression in Connecticut. However, the issue has previously been considered by a majority of courts in other states. Twenty-seven states have reviewed this issue on its merits,[1] and twenty of those states have held that plaintiffs indeed have such a substantive constitutional right.

The trial court here held that these constitutional issues are justiciable, as it was bound to do by this Court's holdings in *Horton v. Meskill*, 172 Conn. 615, 626-27 (1977) and *Sheff v. O'Neill*, 238 Conn. 1, 13-16 (1996). Nevertheless, the Superior Court refused to allow plaintiffs to proceed to trial to establish the contours of the constitutional right and whether, on the facts alleged, it had been violated. Instead, the trial court granted defendants' motion to strike, holding that the question of the "suitability" of the education being provided to school children in Connecticut would require the court to encroach deeply "into the constitutional prerogatives of the other branches of state government." Memorandum of Decision ("MOD") at 35. These separation of power concerns echo the "political question" aspect of the justiciability doctrine as outlined in *Baker v. Carr*, 369 U.S. 186 (1962). But – having ruled that the right to an opportunity for a "suitable education" is a justiciable issue -- there was no proper basis for the trial court to have denied plaintiffs the right to proceed to trial on these "political question" grounds.

The purpose of the present brief of *amicus curiae* is to bring to the Court's attention the rulings and remedial experiences of the overwhelming majority of state courts, which have enforced the constitutional right to an adequate education without encroaching on the

[1] The seven courts that have denied relief to the plaintiffs refused to reach the question because of justiciability or separation of powers concerns (a route the trial court here expressly denounced).

constitutional prerogatives of the legislative and executive branches. Based on their extensive research, analysis and involvement in education adequacy litigations across the country, *amici* will first discuss why every state highest court that has deemed these issues justiciable and closely examined the facts has held that students do indeed have a substantive constitutional right to an adequate or "suitable" educational opportunity. *Amici* will also discuss in detail relevant aspects of the recent litigation in the neighboring state of New York. In particular, *amici* will examine the New York Court of Appeals' decision to reject a motion to dismiss plaintiffs' adequacy claims, which involved procedural issues strikingly similar to those at issue on the present appeal. Finally, this brief will demonstrate how courts in sister states, including New York, have worked effectively with the legislative and executive branches to devise practical and successful remedies in education adequacy cases.

ARGUMENT

I. EVERY STATE HIGHEST COURT THAT HAS EXAMINED THE ISSUE HAS HELD THAT STUDENTS HAVE A SUBSTANTIVE CONSTITUTIONAL RIGHT TO AN ADEQUATE OR 'SUITABLE' EDUCATIONAL OPPORTUNITY.

A. Decisions in Sister States Overwhelmingly Support Plaintiffs' Position.

More than thirty years ago, in a case involving inequities in the educational opportunities available to children in property-poor school districts, the United States Supreme Court held that education is not a "fundamental interest" under the federal constitution. *San Antonio Indep. Sch. Dist v. Rodriguez*, 411 U.S. 1 (1973). Education is, however, considered a fundamental interest under most state constitutions,[2] including that of Connecticut. *Horton v. Meskill*, 172 Conn. 615, 645 (1977). Accordingly, over the past

[2] *See, e.g., Serrano v. Priest*, 487 P.2d 1241, 1250 (Cal. 1971); *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 206 (Ky. 1989); *Leandro v. State*, 488 S.E.2d 249, 255 (N.C. 1997).

three decades, in what has been described as the most dynamic demonstration of independent state court constitutional development in American history,[3] constitutional challenges to the inequitable and inadequate funding of public education have been litigated in the state courts of 45 of the 50 states.[4]

In the early years, most of these cases, including this Court's decision in *Horton,* 172 Conn. at 626-27, were based on "equity" claims that challenged disparities in the levels of expenditure among different school districts on equal protection grounds. Since 1989, most of the cases have been based on "adequate education" claims where plaintiffs argue that state education clauses like article eighth, § 1 of the Connecticut Constitution guarantee students some basic or "adequate" level of public education. Since the current wave of adequacy litigations began, the courts have upheld plaintiffs' claims at an accelerating rate: plaintiffs have prevailed in almost 75% (20 of 27) of the final state court decisions in education adequacy cases decided since 1989.[5]

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[3] *See, e.g.*, Paul D. Kahn, *State Constitutionalism and the Problems of Fairness,* 30 VAL. U. L. REV. 459, 464-70 (1996)

[4] An up-to-date tabulation of the status of state court fiscal equity and education adequacy decisions is maintained on the website of the Access Project of the Campaign for Educational Equity, www.schoolfunding.info.

[5] Specifically, plaintiffs have prevailed in major liability decisions of the highest state courts or final trial court actions in the following 20 states: ***Alaska***: *Kasayulie v. State*, No. 3AN-97-3782 (Alaska Super. Ct. Sept. 1, 1999) (A27); ***Arizona***: *Roosevelt Elementary Sch. Dist. No. 66 v. Bishop*, 877 P.2d 806 (Ariz. 1994); ***Arkansas:*** *Tucker v. Lake View Sch. Dist. No. 25*, 917 S.W.2d 530 (Ark. 1996); *see also Lake View Sch. Dist No. 25 v. Huckabee*, No. 1992-5318 (Pulaski County Ch. 2001) (A57) (equity and adequacy claims upheld and school funding system invalidated); *Lake View Sch. Dist. No. 25 v. Huckabee*, 10 S.W.3d 892 (Ark. 2000) (pending appeal claims from prior case mooted by enactment of new funding statute); ***Idaho***: *Idaho Schs. for Equal Educ. Opportunity*, 976 P.2d 913 (Idaho 1998); *Idaho Schs. for Equal Educ. Opportunity v. Evans*, 850 P.2d 724 (Idaho 1993)); ***Kansas***: *Montoy v. State*, 120 P.3d 306 (Kan. 2005); ***Kentucky***: *Rose v. Council for Better Educ.*, 790 S.W.2d 186 (Ky. 1989); ***Maryland***: *Bradford v. Md. State Bd. of Educ.*, No. 94340058/CE189672 (Baltimore City Cir. Ct. 2000) (A1); ***Massachusetts:*** *McDuffy v. Secretary of the Executive Office of Educ.*, 615 N.E.2d 516 (Mass. 1993)); ***Montana:***

Plaintiffs' extraordinary success rate in these cases is even more remarkable when one realizes that defendants have never prevailed in any final decision in a case in which the courts fully examined at trial the evidence as to whether students were receiving an adequate education. Defense victories have occurred only when the courts have ruled that the issue was not "justiciable" or that because of separation of powers reasons a trial should not be held and the evidence of inadequacy should not even be considered.[6]

Columbia Falls Elementary Sch. Dist. No. 6 v. State, 109 P.3d 257 (Mont. 2005); *Helena Elementary Sch. Dist. No. 1 v. State*, 769 P.2d 684 (Mont. 1989); ***Missouri:*** *Comm. for Educ. Equal. v. State*, 878 S.W.2d 446 (Mo. 1994) (final trial court decision; appeal dismissed on procedural grounds); ***New Hampshire:*** *Claremont Sch. Dist. v. Governor*, 703 A.2d 1353 (N.H. 1997); ***New Mexico:*** *Zuni School District v. State*, No. CV-98-14-II (McKinley County Dist. Ct. Oct. 14, 1999) (A98); ***New Jersey:*** *Abbott v. Burke*, 575 A.2d 359 (N.J. 1990); ***New York:*** *Campaign for Fiscal Equity, Inc. v. State of New York,* 801 N.E. 2d 326 (N.Y. 2003)); ***North Carolina:*** *Leandro v. State*, 488 S.E.2d 249 (N.C. 1997)); ***Ohio*** *DeRolph v. State*, 677 N.E.2d 733 (Ohio 1997); ***South Carolina***: *Abbeville County Sch. Dist. v. State*, 515 S.E.2d 535 (S.C. 1999); ***Texas:*** *Edgewood Indep. Sch. Dist. v. Kirby*, 777 S.W.2d 391 (Tex. 1989); ***Vermont:*** *Brigham v. State*, 692 A.2d 384 (Vt. 1997)); and ***Wyoming***: *Campbell County Sch. Dist. v. State*, 907 P.2d 1238 (Wyo. 1995). *Amici*'s list of states exceeds the list in plaintiffs' brief because it includes trial court decisions that were not appealed.

[6] *See, e.g., Coalition for Adequacy and Fairness in Sch. Funding, Inc. v. Chiles*, 680 So. 2d 400, 408 (Fla. 1996) (holding that there were "no judicially manageable standards" which would not "present a substantial risk of judicial intrusion into the powers and responsibilities assigned to the legislature . . . ."); *Marrero v. Commonwealth*, 739 A.2d 110, 113-14 (Pa. 1999) (issue is nonjusticiable because the court is "unable to judicially define what constitutes an 'adequate' education or what funds are 'adequate' to support such a program.")

The vast majority of the state courts which did review the evidence and find constitutional violations viewed the separation of powers and justiciability issues very differently. As the Kentucky Supreme Court put it: "To avoid deciding the case because of 'legislative discretion,' 'legislative function,' etc., would be a denigration of our own constitutional duty. To allow the General Assembly (or, in point of fact, the Executive) to decide whether its actions are constitutional is literally unthinkable." *Rose v. Council for Better Education*, 790 S.W.2d. 186, 209 (KY 1989). *See also Columbia Falls Elementary Sch. Dist. No. 6 v. State*, 109 P.3d 257, 261 (Mont. 2005) ("As the final guardian and protector of the right to education, it is incumbent upon the court to assure that the system enacted by the Legislature enforces, protects and fulfills the right. We conclude this issue is justiciable.").

Based on this Court's unequivocal holdings in *Horton,* 172 Conn. at 626-27, and *Sheff*, 238 Conn. at 25, the court below held that the issues raised here regarding students' rights to an opportunity for an adequate or "suitable" education are justiciable. MOD at 11. Surprisingly, and without allowing or considering evidence examining the constitutional history and other relevant factual issues, the trial court summarily determined that article eighth, § 1's "affirmative constitutional obligation" *Sheff*, 238 Conn. at 25, to ensure that "[t]here shall always be free public elementary and secondary schools in the state" has no substantive content regarding an adequate or "suitable" educational opportunity that the court may define and enforce. MOD at 16-18. Because this decision is at odds with the unanimous agreement of all of the other state highest courts that have examined the issue, it is important to consider the reasons for this national consensus and to consider whether the trial court had a reasonable basis for dissenting from it.

B. The Constitutional Right to an Adequate Education Is Rooted in the Historical and Contemporary Need for an Educated Populace in a Democratic Society.

The trial court acknowledged that the large number of state courts throughout the country that have upheld students' rights to the opportunity for an adequate education include both states with "substantive" or "qualitative" language in their state constitutions like Washington and New Jersey, and states like South Carolina and New York that have more general, open language like that in article eighth, § 1 of the Connecticut Constitution. MOD at 22-28. The trial court then abruptly concluded that the decisions of the sister state courts are a "decidedly mixed bag and of limited utility" because they are "based on each state's history and the context in which the education clause of its constitution was adopted." *Id.* at 29. But this conclusion was illogical. The strong consensus of every state court that has examined this issue and concluded that its constitution calls for some basic

level of adequate education for all students is not "a mixed bag;" rather, it reflects an overarching national agreement that an educated citizenry is vital to the maintenance and the flourishing of a democratic society.

The founding fathers of the American Republic strongly emphasized the importance of schools in building the new nation. A new, broad-base approach to schooling was needed in order to develop "a new republican character, rooted in the American soil . . . and committed to the promise of an American culture." LAWRENCE A. CREMIN, AMERICAN EDUCATION: THE NATIONAL EXPERIENCE 1783-1876 3 (1980). This "new republican character" was to have two primary components. First was the implanting of "virtue," as defined by the classical notion that citizenship required a commitment to a shared public life of civic duty. GORDON S. WOOD, THE CREATION OF THE AMERICAN REPUBLIC, 1776-1787 (1969). Second was the notion that all citizens must obtain the knowledge and skills needed to make intelligent decisions. As John Adams put it:

> [A] memorable change must be made in the system of education and knowledge must become so general as to raise the lower ranks of society nearer to the higher. The education of a nation instead of being confined to a few schools and universities for the instruction of the few, must become the national care and expense for the formation of the many.

DAVID MCCULLOUGH, JOHN ADAMS 364 (2001).

The founding fathers' democratic ideals were clearly spelled out in the education clauses of most of the New England state constitutions, which were originally written in the eighteenth century and have been largely unchanged since. For example, the Massachusetts Constitution provides:

> Wisdom, and knowledge, as well as virtue . . . being necessary for the preservation of their rights and liberties . . . it shall be the duty of legislators and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and . . . public schools and grammar schools in the towns . . . .

Mass. Const. pt. II, ch. V, § 2 (1780):

The education clauses of state constitutions in most other parts of the country were written during the nineteenth century, and they were generally inspired by the common school movement that was the major education reform initiative of that era. CREMIN, *supra,* at 3. The common school movement, in essence, represented a delayed implementation of the founding fathers' educational goals. As its name implies, the common school movement was an attempt to educate in one setting all children living in a particular geographic area, whatever their class or ethnic background. These schools would replace the prior patchwork pattern of town schools partially supported by parental contributions, church schools, "pauper schools," and private schools with a new form of democratic schooling. The common school "would be open to all and supported by tax funds. It would be for rich and poor alike, the equal of any private institution." CREMIN, *supra*, at 138.

In the latter half of the nineteenth century, the fierce political battle to implement these common schools culminated in the incorporation in dozens of state constitutions of provisions that guaranteed the establishment of "a system of free common schools in which all the children in the state may be educated." N.Y. Const. art. XI, § 1 (1894). Some states further emphasized the importance of fully educating all citizens by calling for a "*thorough and efficient* system of common schools throughout the state." Ohio Const. art. VI, § 2 (1851) (emphasis added).

Although Connecticut did not amend its constitution during the nineteenth century to include explicit language guaranteeing a common school system or a thorough and efficient public school system, Connecticut clearly implemented a broad-based, democratic common school system and subscribed to the same ideals and purposes as its sister

states. In 1965, the framers of the state's present constitution explicitly recognized that Connecticut's tradition of "good schools" paralleled the "common school tradition" of New York and the other New England states and decided that the state constitution should include explicit language to acknowledge that reality. Constitutional convention delegate Simon Bernstein, the principal drafter of the present article eighth, § 1 clearly stated this precise intent:

> It was because our Constitution had no reference to our school system that I submitted my resolution and of course others were aware of the same omission in our Constitution and other similar resolutions were submitted. . . . [W]e do have the tradition which goes back to our earliest days of free good public education and we have h[ad] good public schools so that this again is not anything revolutionary, it is something which we have, it is which is practically all Constitutions in the States of our nation and Connecticut with its great tradition *certainly ought to honor this principle*.

Moore v. Ganim, 233 Conn. 557, 596 n.51 (1995). In light of the extensive "history and tradition" that Mr. Bernstein and the other delegates consciously incorporated into article eighth, § 1 of the Connecticut Constitution of 1965, the trial court's conclusion that there was no intent to incorporate a substantive adequacy concept into the Connecticut Constitution totally misreads the applicable history and the strong national pattern of interpreting adequacy clauses, whatever their precise language, to include a substantive right to an adequate or "suitable educational opportunity. [7]

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[7] The trial court's statement that an intent to incorporate an adequacy concept into the Connecticut Constitution would have required the inclusion of specific words to that effect "as do some other state constitutions," MOD at 32, is belied by the fact that the constitutions in New York and a number of other states, which, as the trial court itself acknowledged, do not contain these words, have been interpreted by their highest state courts to have clearly had such an intent. *See* MOD at 23-24.

II. RULINGS OF THE NEW YORK COURT OF APPEALS BEAR DIRECTLY ON THE SPECIFIC ISSUES RAISED IN THIS APPEAL.

The relevance of sister state decisions in education adequacy cases is well illustrated by the fact that the precise issue raised on this appeal, *i.e.*, whether the contours of the constitutional definition of an "adequate" or "suitable" education can be decided adversely to plaintiffs on a motion to strike, was specifically considered by the New York Court of Appeals. In the first of its three decisions in *Campaign for Fiscal Equity, Inc. ("CFE") v. State of New York*, the New York Court of Appeals reversed a lower court decision that had upheld a motion to dismiss plaintiffs' adequacy claims and remanded for trial. *See* 86 N.Y.2d 307 (1995).

Plaintiffs' complaint in *CFE I* had defined "sound basic education," the applicable constitutional standard,[8] in terms of the minimum statewide educational standards established by the Board of Regents and the Commissioner of Education. The complaint coupled descriptions of inadequate resources or inadequate services provided to New York City students in particular areas with an allegation that the current level of resources or services violated specific aspects of the Regents standards. For example: "[A]verage class sizes in New York City are in excess of those which the Regents and the Commissioner

[8] In New York's previous "equity" litigation, *Bd. of Educ., Levittown Sch. Dist. v. Nyquist,* 57 N.Y.2d 27 (1982), the Court of Appeals had determined that the general language of N.Y. Const. art. XI, § 1, which states that "the legislature shall provide for the maintenance and support of a system of free common schools, wherein all of the children of this state may be educated," must have "substantive" or "qualitative" meaning. Thus, the Court stated that the constitutional reference to the fact that all children are to be "educated" must be interpreted to "connote a sound basic education." *Levittown*, 57 N.Y.2d at 48. The Court of Appeals did not need to explicate the meaning of "a sound basic education" further in *Levittown* because the claim that "minimally acceptable educational services and facilities are not being provided in plaintiffs' school districts" had not been raised by the Complaint in that case. *See CFE I*, 86 N.Y.2d at 316.

consider adequate to assure that all students have an opportunity to meet the minimum standards." *CFE I* Amended Complaint ¶ 49 (A119). CFE also argued that New York City students had inadequate access to instructional materials (*Id.*, ¶ 54, A120-21), computers and other technology (*Id.*, ¶ 56, A121), and library services (*Id.*, ¶ 60, A122) in the quantities and quality required by the Regents and the Commissioner.

The Court began its analysis by emphasizing that Art XI, § 1 of the New York State Constitution, despite the generality of its language, is not merely "hortatory" and that it establishes a constitutional floor with respect to education adequacy. *CFE I*, 86 N.Y.2d at 315. Nevertheless, the Court held that the particular definition of the constitutional requirements upon which plaintiffs had based their complaint "exceed[s] notions of a minimally adequate or sound basic education." *Id.* at 317.

Rather than dismissing plaintiffs' complaint for failure to set forth an acceptable constitutional definition, however, the Court considered the over-all thrust of the complaint and determined that "there can be no question that the pertinent pivotal claim made here is that the present financing system is not providing City school children with an opportunity to obtain a sound basic education." *Id.* Nor did the Court attempt at this stage "to definitively specify what the constitutional concept and mandate of a sound basic education entails." *Id.* Instead, it sensibly concluded that: "*Given the procedural posture of this case, an exhaustive discussion and consideration of the meaning of a 'sound basic education' is premature. Only after discovery and the development of a factual record can this issue be fully evaluated and resolved.*" *Id.* at 317 (emphasis added).

In order to facilitate the detailed analysis of the meaning of the constitutional language at trial, the Court also articulated:

> .... a template reflecting our judgment of what the trier of fact must consider in determining whether defendants have met their constitutional obligation. The trial court will have to evaluate whether the children in plaintiffs' districts are in fact being provided the opportunity to acquire the basic literacy, calculating and verbal skills necessary to enable them to function as civic participants capable of voting and serving as jurors.[9]

Id. at 317-318.

The Court of Appeals' "template" did, in fact, provide meaningful parameters for the trial court's consideration of the extensive evidence compiled during a lengthy seven-month trial. It also informed the trial judge's detailed analysis of the specific skills that students would need to "function as civic participants capable of voting and serving as jurors." *Id.* at 318.[10] Based on the extensive record compiled at the trial, the high court was able to resolve the definitional differences that arose between the parties and the courts below and to articulate a final definition of the constitutional requirement that all students receive an opportunity for a sound basic education. Thus, in its final liability ruling, the Court determined that: a) the term "function productively" in the template definition impliedly contains an employment component; b) a meaningful high school level education is now all but indispensable for productive employment; and c) productive citizenship means "more

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[9] The Court also specified that:

The State must assure that some essentials are provided. Children are entitled to minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn. Children should have access to minimally adequate instrumentalities of learning such as desks, chairs, pencils, and reasonably current textbooks. Children are also entitled to minimally adequate teaching of reasonably up-to-date basic curricula such as reading, writing, mathematics, science, and social studies, by sufficient personnel adequately trained to teach those subject areas.

CFE I, 86 N.Y. 2d at 317.

[10] *See also CFE v. State of New York* (*CFE II*), 100 N.Y.2d 893, 902 (2003) ("In keeping with our directive, the trial court first fleshed out the template for a sound basic education that we had outlined in our earlier consideration of the issue.").

than being merely qualified to vote or serve as a juror, but to do so capably and knowledgeably." *CFE II*, 100 N.Y.2d 906.

In the present case, plaintiffs' appeal of the Superior Court's striking of the adequacy claims in their complaint presents the core issues in precisely the same procedural posture as the issues that were before the New York Court of Appeals in *CFE I*. The trial court here held that the complaint in this case lists "fourteen components of a suitable educational opportunity," MOD at 35, which the trial court considers an excessive definition as they would require a "deep intrusion by the court into the constitutional affairs of the other branches of government." *Id.*[11] Assuming *arguendo* that this Court accepts the trial court's determination that plaintiffs' definition of the substantive content of students' rights to "free public elementary and secondary schools" under article eighth, § 1 exceeds constitutional requirements, consistent with *CFE I*, the trial court should have: 1) denied the motion to strike, 2) provided a "template" indicating the general parameters of the appropriate Constitutional requirements, and 3) scheduled the matter for a trial at which, *inter alia*, evidence can be compiled regarding the content of an adequate or "suitable" education for Connecticut's schoolchildren in the 21st century. This Court should reverse and remand accordingly.

[11] As discussed at Pt. III below, the *amici* do not think that plaintiffs' allegations would, in fact, require any such inappropriate intrusion into the affairs of the other branches.

III. COURTS IN SISTER STATES HAVE WORKED EFFECTIVELY WITH THE LEGISLATIVE AND EXECUTIVE BRANCHES TO DEVISE PRACTICAL AND SUCCESSFUL REMEDIES IN ADEQUACY CASES.

A. The Contemporary Standards-Based Reform Movement Has Provided Courts With "Judicially Manageable Standards" for Enforcing the Constitutional Right to an Adequate Education.

A major reason why so many of the state courts have enforced the constitutional right to an adequate education in recent years is that both the need to do so and the means to do so have been brought to the fore by the standards-based reform movement. In the mid-1980's a slew of commission reports warned of a "rising tide of mediocrity" in American education that was undermining the nation's ability to compete in the global economy. *See, e.g.*, National Commission on Excellence in Education, *A Nation at Risk: The Imperative for Educational Reform* 5 (1983). In response to this challenge, the nation's governors, business leaders, and educators began to work with the federal government to articulate specific national academic goals, an effort which commenced with the 1989 National Education Summit convened by President George H.W. Bush and attended by all fifty governors. *See* MARC S. TUCKER & JUDY B. CODDING, STANDARDS FOR OUR SCHOOLS 40-43 (1998). This federal effort culminated in the federal No Child Left Behind Act ("NCLB"), 20 U.S.C. § 6301 (2001), and has been paralleled by the development of an extensive standards-based education reform approach in virtually all of the fifty states.

State standards-based reforms are built around substantive content standards in English, mathematics, social studies and other major subject areas. These content standards are usually set at sufficiently high cognitive levels to meet the competitive standards of the global economy. Further, they are premised on the assumption that virtually all students can meet these high expectations if given sufficient opportunities and resources. Once the content standards have been established, all other aspects of the