



# Raising our Voices for Children

Children's Alliance  
of New Hampshire

**Bill:** CACR 18  
**Public Hearing:** Senate Judiciary, April 3  
**Speaker:** Ellen Shemitz, President, Children's Alliance of NH, in opposition

My name is Ellen Shemitz, and I am the President of the Children's Alliance of New Hampshire. On behalf of the Children's Alliance, I thank you for this opportunity to speak to our children's right to an adequate public education.

The Children's Alliance is a statewide, nonpartisan child advocacy organization. We promote policies and practices that enable all children to lead healthy and productive lives and to reach their full potential.

Educational opportunity is essential to healthy child development and success.

Educational opportunity is equally essential to workforce preparedness and a thriving state economy.

As the Governor has so often stated, ensuring educational opportunity for every child in the state is not just our moral responsibility, it is smart fiscal policy.

Professor Ross Gittell of the Whittemore School of Business has provided local and regional data that quantifies the critical importance of quality education for all children. Professor Gittell has tracked broad changes in New England and New Hampshire economy that dramatically reduce opportunity for less educated individuals to obtain jobs that can support family. He has linked these changes to a "fraying" of the social fabric as the middle class disappears. In context of these macro-economic trends, Professor Gittell recommends investment in quality education.

This call for investment is supported by the data on current educational outcomes- which indicates that we are leaving behind about 1/4 of our students, under our existing educational system with current state and local school expenditures:

- Over 25% of third graders scored below basic in language arts. With math only slightly better.
- Over 25% of tenth graders scored below basic in math- with language arts slightly better.

Certainly, we can all agree that leaving so many children behind is unacceptable. Any state program or policy must focus on raising the floor - so that all students have an opportunity to succeed.

The proposed constitutional amendment, CACR 18, does not meet this test due to a number of unintended consequences.

### First- Proposal will not advance goal of equal educational opportunity

CACR 18 has been discussed in very pragmatic terms- with a focus on reducing the state obligation to fully fund the educational opportunity essential to every child in the state.

At the same time, proponents of the resolution have acknowledged the need to provide the best education possible for all our children. Many would like the constitutional promise of adequacy to be interpreted as a constitutional promise of educational excellence.

The amendment will not advance that cause. Why? Because the amendment would reduce the state obligation to fund public education to an obligation to fund only one half of the costs of an "adequate education," with adequacy being quite different from excellence.

While the definition of adequacy remains a work in progress, it is clear that adequacy will not be defined as excellence. Rather, definitions, whether HB 927 or recommendations of the joint legislative task force, focus on core resources - a subset of current services and programs- that should be assessed as adequate. Rough estimates of HB 927 are that it would fund about 50% of the aggregate costs of education.

Given that limited definition . . . any proposal to amend our Constitution to fund ½ of the costs of adequacy means state would fund ½ of ½ of the current costs of education. That is, the amendment would reduce the overall state obligation to fund approximately 25% of the current costs of education. That would put us last in the nation for the percent of state funding of education (which currently ranges from 30 % (Nevada) to 90% (Hawaii)). Surely placing New Hampshire last for its support of our students and our workforce is an unintended consequence.

#### Second- No End to Uncertainty-No End to Litigation

The Amendment has also been described as an effort to end ongoing uncertainty about school funding from community to community. It would have the opposite effect. The Amendment limits judicial review to whether state distributed (in the aggregate) ½ costs of adequacy. The Amendment does not provide any standards for the distribution of those monies.

Distribution will vary year to year, depending on the composition of the legislature. It will be impossible to predict funding from year to year, and there will be even less certainly for individual towns. Towns that lack political muscle would be at a disadvantage in terms of funding. There would winners and losers each year, who would come back and fight again. . . and again.

#### Third- Undermines Fundamental Right

As noted above, amendment would limit judicial review. By limiting review to a matter of dollars, the Amendment would overturn the status of public education as a fundamental constitutional right. Considered in this light, the Amendment must be viewed with the closest of scrutiny. Surely our Constitution should only be changed to extend or protect the rights of our children, families and communities. This proposal would have the opposite effect- amending the Constitution in a way that would dilute the fundamental right to education.

#### Fourth- Violates Balance of Powers

The fourth unintended effect flows from this dilution of rights. By limiting judicial review, the proposal would immunize the legislature from judicial protection for towns and for children. This is the very erosion of the balance of powers which caused passed legislatures to frown on past efforts to amend the Constitution.

#### Fifth- Not necessary- Can already target

Finally, the Amendment is not necessary to target education funding. Existing law already allows for targeted funding. We can do what the Governor wants to do, that is we can "have more flexibility," without an amendment. The state is not required to send the same aid to every community. The state must pay for adequacy, as defined, and then may target aid to poorer communities as necessary. Indeed it is this principal which legislators seem to be embracing with definition of adequacy that distinguishes between core adequacy and services for enhanced needs schools.

In closing, we urge the Committee to consider the unintended consequences of the proposal. And we would urge the Committee to find the proposal premature. The proposal is based on a concern about the ability to fund the full costs of adequacy. But without a definition of adequacy, that concern remains conjecture. And amending our Constitution, eliminating fundamental rights, is far too important a proposition to rest on speculation or conjecture.

Thank you.