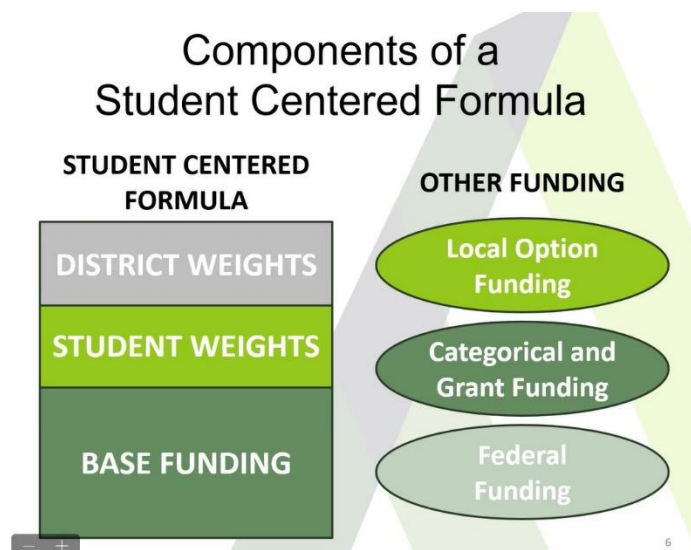


*Public comment, presented at the Jan. 13, 2025 meeting of the Steering Committee of the Commission on the Future of Public Education in Vermont, by Allen Gilbert, M.Ed., former chair of the Worcester School Board and of the Washington Central Supervisory Union Board; former president of the Vermont School Boards Association; and former executive director of the American Civil Liberties Union of Vermont.*

Thank you for the opportunity to speak. For a number of us, we have seen in the last few weeks a nimble coup by the administration to take on broad restructuring of a wide swath of Vermont education policy. The restructuring goes so far as to challenge one of the most significant legal decisions in Vermont of the last 28 years, the Vermont Supreme Court's *Brigham* decision and its focus on equal access to school funding for the children of all towns. This challenge was made clear in information provided to the Commission at its Jan. 6 meeting.



I refer to the slide “Components of a Student Centered Formula” in a Jan. 6 presentation by an Agency of Education consultant, Justin Silverstein. The slide specifically includes “Local Option Funding” as available to individual towns if they wished to spend more than other towns are able to spend – which, under *Brigham*, is not allowed.

Thank you.

*The following additional comment was not presented to the Steering Committee on the 13th, but I wish to include it here because Ms. Saunders (Agency of Education secretary), and Ms. Roy (Commission chair) disagreed with my statement concerning allowing towns to access, for their town’s use only, extra property taxes for funding their school, thereby violating rules set in the Brigham decision:*

Following my comment to the Commission Steering Committee, Ms. Roy responded that she did not think the Commission had ever considered a challenge to the *Brigham* decision. Ms. Saunders agreed. She said the slide I had referred to in the presentation was simply an example of one kind of “student

centered formula.” Local option funding might be used in some student-centered formulae, she said, but the administration has stated, from the beginning of discussions of changing Vermont’s education funding formula, that it would abide by *Brigham*. Ms. Saunders then stated that the *Brigham* decision was really more about taxpayer equity; it wasn’t focused on providing equal funding to schools.

I believe that Ms. Saunders is right in one respect – the *Brigham* decision does allow individual towns to decide how much to spend on its school. That's taxpayer equity in the sense that all voters in all towns have the opportunity to choose what funds are appropriate and reasonable for their school.

But the justices in the *Brigham* case emphatically stated that equal opportunity “does not allow a system in which educational opportunity is necessarily a function of district wealth.” *Brigham* opened a door for voters -- in poor or rich towns -- to be able to spend what they needed to provide their students with opportunities equal to others. And that message is repeated in an even more direct comment elsewhere in the decision: “The distribution of a resource as precious as educational opportunity may not have as its determining force the mere fortuity of a child's residence. It requires no particular constitutional expertise to recognize the capriciousness of such a system.”

There's further evidence that taxpayer equity wasn't the major message of *Brigham*. A claim by the *Brigham* plaintiffs that the Vermont Constitution demanded taxpayer equity based on the “Proportional Burden Clause” in Article 9 of Chapter 1 of the state Constitution, was rejected by the court. The justices said the issue hadn’t been adequately briefed by the state. The issue was left for another day. A chance to dive more deeply into taxpayer equity would have to wait. The *Brigham* decision has stood for 28 years as the state’s commitment to equity of opportunity for all Vermont school children.

Thank you.