

The correct standard of review for equal protection challenges to California's public school facility funding system

Overview

There are wide public school facility funding disparities between the poorest and richest school districts in California. A pending case in Alameda Superior Court, *Rodriguez v. State of California*, challenges the constitutionality of this disparity, which is inadequately addressed by California's primary state-run program for providing grant funding to local school districts for facility capital needs (the School Facility Program or SFP). Although the SFP distributes state bond money to school districts, because the bulk of school facility financing relies on local property taxes, the system necessarily produces funding inequality due to the differences in local property values. In *Serrano v. Priest* the California Supreme Court held that a similarly disparate school funding scheme violated equal protection. It should do so again here: unequal facility funding forces low-wealth districts to divert flexible operational funds into short-term facility repairs, introducing inequality into the operational funding system.

Analysis

Inequitable facility funding harms low-wealth districts

Public school facility funding covers capital needs, including new construction, modernization, seismic upgrades, and essential infrastructure.^[1] These projects require large, upfront expenditures. Close to 84% of that financing comes from local general obligation bonds backed by local property taxes.^[2] Percentage-based caps on these bonds imposed by statute function as debt limits, preventing low-wealth districts from raising sufficient funds for facilities.^[3] At the state level, the SFP

supplements this local bonding system by providing matching grants for new construction and modernization, but districts can access these funds only after demonstrating that they have secured their required local shares.^[4]

Operations funding, by contrast, supports the day-to-day functioning of schools, including salaries and benefits for teachers and staff, classroom materials, and transportation.^[5] Today, roughly 80% of that state funding comes from the Local Control Funding Formula (LCFF).^[6] LCFF equalizes operational funding by pooling state and local revenues and redistributing them based on enrollment and student-need categories.^[7] The legislature designed LCFF money to be flexible, which allows school districts to address the unique needs of their schools.^[8] In practice, LCFF often functions as an unintended stopgap for facility repairs in low-wealth districts.^[9]

The property wealth disparity between the poorest and richest districts is substantial. The assessed value for the quintile of districts receiving the least SFP modernization funding is \$798,253 per student, while the assessed value for the quintile receiving the most funding is \$2,323,063 per student.^[10] Around one-third (38%) of school districts do not have enough taxable property wealth to meet their school facility spending needs.^[11] The inability to raise money to modernize facilities creates a recurring drain on operational budgets, resulting in approximately \$199 higher maintenance costs per student in the poorest districts than in the wealthiest.^[12] Assuming an equal distribution of students in school districts, these repairs cost the poorest school districts over \$230 million more annually than repairs in the richest quintile.^[13]

This disparity creates two equal protection problems. The heavy reliance on local property taxes for school facility funding replicates the constitutional defects that led the court in *Serrano v. Priest* to invalidate the prior funding scheme.^[14] And the true operational dollar per student spent by a poor district is controlled by a tax system built on regressive property taxes — just like the system struck down in *Serrano I*.^[15] The only difference is that the wealth-based violation is one layer

removed here. Rather than limiting access to operational revenues outright, as in the pre-*Serrano* era, the regressive facility financing system forces poor districts to divert equalized LCFF operational dollars to emergency repairs. This reproduces the same district wealth-dependent disparity that *Serrano I* forbids.^[16]

The public school facility funding system uses a suspect wealth classification

In *Serrano I*, the California Supreme Court held that the public school financing system classified students on the basis of district wealth, based on three structural features.^[17] First, a district's property value was "the major determinant of educational expenditures."^[18] Next, districts with lower property values were unable to "levy taxes at a rate sufficient to produce the revenue that more affluent districts reap with minimal tax efforts."^[19] And state grants were "inadequate to offset the inequalities inherent" in the financing system.^[20] All those factors are present here.

A district's property value is the major determinant of educational expenditures

The facility funding system relies predominantly on local property wealth. In *Serrano I* over 90% of public school operational funds were derived from two basic sources: the State School Fund and local district taxes on real property.^[21] Here, the vast majority of school facility funding comes from local general obligation bonds financed through a school district's property taxes and the SFP.^[22] A minimal amount of remaining facility funding comes from local taxes on developers and need-based state grant programs.^[23] In *Serrano I* local property taxes making up 55.7% of California's educational revenues were "by far the major source of school revenue."^[24] Today, local funding comprises 84% of all school capital infrastructure spending.^[25] That makes district wealth even more of a "major determinant of educational expenditures" under the current facility finance system than under the financing system the court declared unconstitutional in *Serrano I*.^[26]

Although 2024 Proposition 2 authorized an \$8.5 billion bond for K-12 facilities

statewide, recent history shows that state support at this scale does not reduce local spending below a majority share.^[27] For example, from 2007 to 2015, when California was spending \$8.9 billion in statewide facility bonds, local general obligation bond revenue still accounted for 65% of all school-facility spending, well above the 55.7% that made up the “major source” of revenue in *Serrano*.^[28]

Districts with lower property values cannot levy sufficient taxes to produce the same revenue as more affluent districts

Just as in *Serrano I*, a district today with “a high total assessed valuation” can “levy a low tax” and end up spending “the same amount per pupil as a poorer district whose residents opt to pay higher taxes.”^[29]

Worse, the Education Code caps school district bonding capacity for facilities at 1.25% for elementary and high school districts and 2.5% for unified districts.^[30] The caps measure allowable debt as a percentage of the district’s total assessed property value, which in turn determines how much property tax revenue the district can raise to repay school-facility bonds.^[31] That limits a district’s income-generating ability to a function of its property values and the Education Code’s bonding caps, even as local money makes up 84% of facility funding.^[32]

Although other funding mechanisms exist, including developer’s fees and lease-leaseback arrangements, none of these are enough to remedy the flaw of the bonding caps and reliance on property values, given the heavy reliance on local bonds to fund facility spending.^[33] Thus, poorer districts face significant barriers to generating tax revenue equivalent to that available in wealthier districts.

School districts may apply to the California State Board of Education (SBE) for a waiver from the statutory facility bonding caps.^[34] But this escape valve does not cure the constitutional defect identified in *Serrano I*, where the court invalidated the challenged funding scheme even though voters retained the ability to raise local property taxes through an override election.^[35] Just as the court in *Serrano I* reasoned that local property tax overrides made the education financing system

more reliant on inequitable property values, so too do the waivers provided by the SBE today.^[36]

State grants are inadequate to offset the inequalities inherent in this system

The School Facility Program is even less effective at offsetting wealth disparities than the state aid in *Serrano I*. This is significant because state aid today requires substantial local matching contributions that poorer districts cannot raise.^[37] Under the SFP, the state typically funds 50% to 55% of new construction and 60% to 65% of facilities modernization.^[38] Local governments must provide the rest.^[39] But the state does not release its matching SFP funds until the school district shows it has secured its portion of the funding.^[40]

This is even worse than the system invalidated in *Serrano I*, where the state did not require districts to match state funds dollar-for-dollar.^[41] In *Serrano I*, state basic and equalization aid operated to supplement local tax revenues with no strings attached.^[42] Yet even when analyzing a state aid program that imposed fewer conditions on districts than the SFP does today, the court held that although the “aid temper[ed]” the disparity caused by the local property tax structure, “wide differentials remain[ed] in the revenue available to individual districts and, consequently, in the level of educational expenditures.”^[43]

Even if the state’s rationale for requiring a district match is administratively sensible (for example, ensuring that a district has financing in hand before commencing construction) the *Serrano I* equal protection problem remains. The SFP’s matching requirement magnifies property-wealth disparities by conditioning state aid on a district’s ability to generate substantial local capital in advance, a requirement that poorer districts are structurally unable to meet.

The concern in *Serrano I* that the scheme allowed affluent districts to “have their cake and eat it too” is equally — if not more — present in today’s facility finance system because the SFP operates on a first-come, first-served basis.^[44] Not only can the most affluent districts today issue bonds at lower tax rates and generate more

revenue, affluent districts can finance a facility project entirely with local money, and then apply for reimbursement through the SFP.^[45] Poor districts, on the other hand, must often wait years for their applications to reach the front of the SFP's clogged queue before beginning a project.^[46]

More so: affluent districts can leverage larger staff and resources to apply more quickly for SFP funding than low-wealth districts.^[47] And higher-wealth districts may be more likely to have an easier time finding developers willing to contract with the district.^[48] This allows SFP grants for affluent districts to get released faster than grants to low-income districts that are still in search of a developer.^[49] All this makes the first-come, first-served aspect of the SFP regressive.^[50] Over 19 years of SFP modernization funding, the wealthiest quintile of districts received \$5,361 per student, while the poorest quintile of districts received \$661 per student — a more than eightfold differential.^[51]

The SFP has a financial hardship provision that permits the state to provide greater matching grants to needy districts, but this money accounts for just 7% of SFP project funding.^[52] Only a fraction of students live in a district that qualifies for hardship funding under the requirement that a district have a bonding capacity of less than \$15 million.^[53] In short, the SFP not only fails to correct wealth-based disparities, it magnifies them beyond the level held to be constitutionally suspect in *Serrano I*.

The practical effects of this wealth-based program create funding disparities

Together, the SFP's matching requirements and the Education Code's bonding-capacity limits create a funding dead zone. While the most affluent districts can raise more than they need without hitting the bonding caps, once a low-wealth district has reached its bonding capacity and exhausted its matching SFP funds, it has no remaining mechanism to obtain the facilities it needs. An estimated 40% of low-wealth school districts are currently stuck in this "bonding-cap trap."^[54] This ensures that affluent districts face reduced competition for SFP funding because

low-wealth districts stuck in the bonding-cap trap cannot maximize potential SFP money. Even if a district seeks a bonding-cap waiver from the SBE, the time required to satisfy the statutory criteria and obtain approval creates delays that put a poorer district even farther behind in SFP's first-come, first-served funding system.^[55]

These features demonstrate that the modern facility finance system not only replicates but intensifies the structural defects that were suspect in *Serrano I*. Local property wealth remains the “major determinant” of facility funding.^[56] Poorer districts face similar rigid fiscal constraints to those at issue in *Serrano I*. State aid continues to be inadequate — and now comes with substantial conditions that many districts can never meet. The SFP's first-come, first-served design and the Education Code's bonding-capacity caps further entrench disparities by systematically privileging districts with high assessed valuation.

In sum, the current scheme embeds district wealth more deeply into school-facilities outcomes than did the operations system struck down in *Serrano I*. This facility funding scheme has all the features of a suspect classification.

More money will not cure the underlying wealth-based defect

Legislative reforms that merely increase available state funding cannot cure a system predicated on the state “supplement[ing] local taxes in order to provide a ‘minimum amount of guaranteed support to all districts.’”^[57] In *Serrano II* the court held that sweeping school-finance reforms intended to remedy the violations in *Serrano I* were inadequate because they failed to address the wealth-based problem underlying the public school financing system.^[58] Any system that, as in *Serrano I* and *II*, relies on district wealth disparities to determine school funding will always be constitutionally defective.^[59]

That is so here. The SFP is a supplement in scale and function to the local tax revenue districts generate to pay for school facilities.^[60] The core facility financing structure still ties educational opportunity to district wealth. The SFP therefore does not eliminate the suspect classification of district wealth. Thus, courts should apply

strict scrutiny when hearing equal protection challenges to the SFP.

The facility funding scheme violates equal protection by imposing a wealth-based burden on the fundamental right to education

As discussed above, the facility financing system relies on a suspect class (district wealth). It does so in the context of a fundamental right (education). Education is a fundamental interest because of its role as a “major determinant of an individual’s chances for economic and social success” and its “unique influence on a child’s development as a citizen.”^[61] Strict scrutiny applies to state-maintained discrimination whenever the disfavored class is suspect or the disparate treatment “infringes upon a fundamental right.”^[62] Because the school facility funding system fails that test, it violates equal protection.

To overcome strict scrutiny, the state will likely repeat the compelling interests it cited in *Serrano I*: “local . . . control of public education” and “local fiscal control” over public education spending.^[63] Both are inadequate here. The LCFF demonstrates why: it pools and redistributes local and state taxes.^[64] Far from infringing on local control of public education or public education spending, the LCFF gives school districts significant flexibility.^[65] And just as in *Serrano I*, the facility financing system at issue is tied to local property taxes, ensuring that “fiscal freewill is a cruel illusion for the poor school districts.”^[66] Like *Serrano I*, “the present financing system actually deprives the less wealthy districts” of “local fiscal choice.”^[67] Therefore, the public school facility funding system, including the SFP challenged in *Rodriguez*, fails strict scrutiny.^[68]

Conclusion

California has taken great strides to untether public school operations financing from school district wealth. It has not done the same with school facility financing. Instead, facility financing today mirrors and deepens the structural disparities condemned in *Serrano I* and *II*. A school district’s assessed valuation dictates the level of resources available to the district, creating the same suspect classification

that proved fatal in *Serrano*. As a result, the gap in district wealth excludes poor districts from core educational funding. A public school facility funding system bound to district wealth will never pass strict scrutiny.

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1. Sara Hinkley, *Moving to Equity: California School Facility Program Reform* (May 21, 2024) Center for Cities + Schools. ↑
2. *Id.* ↑
3. Ed. Code § 15102; Ed. Code § 15270; see Center for Cities + Schools, *For Equity's Sake* (July 12, 2023). ↑
4. Ed. Code § 17072.30 et seq. ↑
5. Center for Cities + Schools, *For Equity's Sake*. ↑
6. See Jonathan Kaplan, *California's Local Control Funding Formula: Next Steps Toward Equity* (Feb. 11, 2025) Learning Policy Inst. iii. ↑
7. Ed. Code § 42238.02. ↑
8. Center for Cities + Schools, *For Equity's Sake*. ↑
9. *Id.* ↑
10. Sara Hinkley, *Moving to Equity*. ↑
11. Vincent, Gebrekristos & Neinstedt, *Gauging Good Stewardship: Is California Adequately and Equitably Investing in its Public School Facilities?* (2022) Center for Cities + Schools 28. ↑
12. *Id.* ↑
13. See Vincent et al., *Gauging Good Stewardship*, at 27; Deng & Hill, *California's K-12 Students* (2026) Public Policy Inst. of Cal. ↑

14. *Serrano v. Priest* (1971) 5 Cal.3d 584, 620 (hereafter *Serrano I*); see Cal. Const., art I, § 7. ↑
15. *Serrano I*, 5 Cal.3d at 620. ↑
16. *Id.* at 620. ↑
17. *Id.* at 584. ↑
18. *Id.* at 599. ↑
19. *Id.* at 598. ↑
20. *Id.* at 594. ↑
21. *Id.* at 591. ↑
22. Brunner & Vincent, *Financing School Facilities in California: A Ten-Year Perspective* (2018) 4; see Cal. Const., art. XIII A, § 1, subd. (b), par. (3). ↑
23. Brunner & Vincent, *Financing School Facilities* at 5; see, e.g., Ed. Code, § 17375 (Full-Day Kindergarten Facilities Grant Program). ↑
24. *Id.* at 591. ↑
25. Hinkley, *Moving to Equity*; see *Serrano I*, 5 Cal.3d at 598. ↑
26. *Serrano I*, 5 Cal.3d at 598. ↑
27. Carolyn Jones, *Voters agree to fix up California schools. \$10 billion construction bond passes* (Nov. 5, 2024) CalMatters; Ed. Code § 101400 et seq. ↑
28. Brunner & Vincent, *Financing School Facilities*, at iii, 4; *Serrano I*, 5 Cal.3d at 591 n.2. ↑
29. *Serrano I*, 5 Cal.3d at 599. ↑
30. Ed. Code § 15102; Ed. Code § 15270. ↑

31. Ed. Code § 15102; Ed. Code § 15270. ↑
32. Hinkley, *Moving to Equity*; see *Serrano I*, 5 Cal.3d at 598. ↑
33. See Brunner & Vincent, *Financing School Facilities in California*, at iii. ↑
34. Ed. Code § 33050 et seq. ↑
35. See *Serrano I*, 5 Cal.3d at 592. ↑
36. See *Id.* ↑
37. Vincent et al., *Gauging Good Stewardship* at 28; *Rodriguez v. State of California* (Super. Ct. Alameda County, Dec. 18, 2025, No. 25CV150626) First Amended Complaint for Declaratory and Injunctive Relief ¶ 55 (hereafter *Rodriguez FAC*). ↑
38. Sara Hinkley, *Still Waiting for Equity: 2024 California School Facilities Bond (AB247)* (July 1, 2024) Center for Cities + Schools; Ed. Code § 17074.16, subds. a, b; Ed. Code § 17072.30, subds. a, b. ↑
39. Hinkley, *Still Waiting for Equity*. ↑
40. Ed. Code § 17072.30, subd. a; Ed. Code § 17074.16, subd. a. ↑
41. *Serrano I*, 5 Cal.3d at 593. ↑
42. *Id.* ↑
43. *Id.* at 594. ↑
44. Brunner & Vincent, *Financing School Facilities*, at iii-iv; *Serrano I*, 5 Cal.3d at 600. ↑
45. California State Auditor, *School Facilities Program: California Needs Additional Funding and a More Equitable Approach for Modernizing Its School Facilities* (Report 2021-115, Jan. 2022) 15. ↑
46. *Id.* at 9. ↑

47. Mac Taylor, *Rethinking How the State Funds School Facilities* (2015) Legislative Analyst's Office 5. ↑
48. See e.g., Cumming Group, *Navigating K-12 Construction Amid Economic Shifts* (Sept. 11, 2025) ("Given the persistent skilled labor shortage in Northern California, contractors can afford to be selective.") ↑
49. See California State Auditor, *School Facilities Program*, at 15; Ed. Code § 17072.30, subd. a; Ed. Code § 17074.16, subd. a. ↑
50. Brunner & Vincent, *Financing School Facilities*, at iv. ↑
51. *Id.* at 40. ↑
52. Lafortune & Gao, *Equitable State Funding for School Facilities* (2022) Public Policy Inst. of Cal. 6-7. ↑
53. See Center for Cities + Schools, *For Equity's Sake*. ↑
54. Center for Cities + Schools, *For Equity's Sake*. ↑
55. See Ed. Code § 33050 et seq. ↑
56. *Serrano I*, 5 Cal.3d at 598. ↑
57. *Serrano v. Priest* (1976) 18 Cal.3d 728, 775-76 (hereafter *Serrano II*). ↑
58. *Id.* at 741. ↑
59. *Id.* at 746. ↑
60. Sara Hinkley, *Moving to Equity* (May 21, 2024) Center for Cities + Schools. ↑
61. *Serrano I*, 5 Cal.3d at 605; *Serrano II*, 18 Cal.3d at 775-76; *Hartzell v. Connell* (1984) 35 Cal.3d 899, 909, 913; *Butt v. State of California* (1992) 4 Cal.4th 668, 692. ↑
62. *Butt*, 4 Cal.4th at 685-86; *Adams v. Commission on Judicial Performance*

(1994) 8 Cal.4th 630, 659. ↑

63. *Serrano I*, 5 Cal.3d at 610. ↑

64. Ed. Code § 42238.02; Center for Cities + Schools, *For Equity's Sake*. ↑

65. Center for Cities + Schools, *For Equity's Sake*. ↑

66. *Serrano I*, 5 Cal.3d at 611. ↑

67. *Id.* ↑

68. See *Rodriguez* FAC. ↑