

Education Law Association Announces Award for Top Dissertation

DAYTON, Ohio, November 6, 2009 - The Education Law Association (ELA) presented its *Joseph C. Beckham Dissertation of the Year Award* at its 55th Annual Conference held in Louisville, Kentucky, October 21-24, 2009. Top government officials as well as legal and educational scholars from across the country convened for this event.

The *Joseph C. Beckham Dissertation of the Year Award* is presented annually and recognizes exemplary dissertations by doctoral students in the field of education law. To be considered, the dissertation must be conceptually clear and address an important problem; contain a comprehensive and relevant review of applicable literature; demonstrate a sound approach; present a cogent analysis of data; show significant results and discussion; and be written in a scholarly style with appropriate documentation.

This year's award went to Scott R. Bauries, J.D., Ph.D., Assistant Professor of Law at the University of Kentucky College of Law, for his study entitled "Judicial Review and the Separation of Powers in State Constitutional Litigation Challenging the Adequacy of Education Spending: Complementary Analyses and a Proposed Adjudicatory Model." The dissertation was written at the University of Florida College of Education under the guidance of Professor R. Craig Wood.

Employing both quantitative analysis and traditional legal case analysis, Dr. Bauries analyzed (1) whether a relationship could be identified between state constitutional text relating to separation of powers and judicial decisions relating to separation of powers in education finance adequacy cases; (2) whether patterns of legal reasoning existed within the complete enumeration of highest state court opinions justifying the application or rejection of separation of powers principles to preclude or allow merits adjudication; and (3) the implications that any such reasoning patterns have for the reform of adjudicatory approaches to adequacy claims.

Although separation of powers principles are considered explicitly in nearly every education finance adequacy case, Dr. Bauries found no evidence that such text in a state constitution bore relationship with judicial decision making as to separation of powers questions—such as justiciability—in adequacy cases in state highest courts. A rigorous case analysis yielded a finding that, rather than separation of powers text (and often in spite of it), judicial conceptions of education's constitutional status—that of individual right or legislative duty—appear to determine justiciability questions in most cases. However, on closer analysis, Dr. Bauries found that despite the primarily individualized justifications for engaging in merits review, and despite the ubiquitous use of individualized means of adjudicating the merits of adequacy cases, judicial approaches to remediation of the constitutional harms identified tended to be systemic, not individualized. Based on this finding, Dr. Bauries determined that a logical disconnect exists and that adjudicatory reform is warranted.

Dr. Bauries proposed a tripartite approach to the adjudication of educational adequacy claims in future litigation. The first prong would apply to "systemic adequacy" claims. The second prong would apply to educational equity or equality claims masquerading as adequacy claims, what Dr. Bauries terms "relative adequacy" claims. The final prong would apply to as-of-yet unknown claims of deprivations of "individual adequacy." Such claims should be available to individual plaintiffs in states where education is recognized as an individual right. This approach would allow judicial protection of individual rights without requiring courts to invade the legislative province of positive policy making, and each individualized decision would likely cause the legislature to make such changes willingly to avoid future individualized judgments.

Established in 1954, the Education Law Association (ELA) is a nonprofit 501(c)(3) member association headquartered at the University of Dayton. ELA promotes interest in and understanding of the legal framework of education and the rights of students, parents, administrators, school boards, school employees in public and private K-12 educational institutions, and higher education.



Contact:

Cate K. Smith, J.D., Executive Director
Education Law Association
300 College Park, Dayton, OH 45469-0528
937-229-3589 www.educationlaw.org