

FOCUS ON: SCHOOL FUNDING

10/12/06

The New Hampshire Supreme Court made a very significant ruling on school funding on September 8, 2006. All school board members need to be aware of this decision and its implications. This is a summary of what you should know and where you can find additional information.

THE RULING

On September 8, 2006, the New Hampshire Supreme Court ruled that the State had failed to define a “constitutionally adequate education” in enacting the most current school funding system, and consequently, there was no way for it to determine whether the State was meeting its constitutional obligation to adequately fund an adequate education (consistent with previous decisions of the Court) for all students in the State.

WHAT IT MEANS

The Court directed the Legislature to: 1) define, with specificity, the components of a constitutionally adequate education, 2) determine the cost of funding such education, 3) ensure that any tax plan that supports the components of an adequate education be done through a uniform tax , and 4) implement a system for accountability and review of the educational standards. The deadline for the Court’s order is June 30, 2007.

The Supreme Court decision did not immediately invalidate the current funding formula. The current funding system will remain in effect this fiscal year. If the Legislature does not meet this deadline, or if the Court determines that the plan is not acceptable in future litigation, the Court will take further action to enforce the State’s obligation to provide a constitutionally adequate education. This means the Court may: invalidate the current school funding system, and/or appoint a special master to define a constitutionally adequate education, and/or remand the case to trial court, in order to determine the cost of funding adequate education.

HISTORICAL BACKGROUND – CLAREMONT CASES

In 1993, the Supreme Court made its first ruling in the series of Claremont Education Funding Lawsuits. A group of property-poor school districts and taxpayers filed suit against the State, alleging that the system by which the State financed education violated the State Constitution. The Court held that it was the State’s duty to provide a constitutionally adequate education to every educable child in public school in the State, and to guarantee adequate funding of that education.

The issues of adequate education and funding were revisited in 1997, when the Court ruled that the school funding system in place was unconstitutional – it required some property taxpayers to pay up to four times the amount paid by taxpayers in other towns. The Court left the task of defining a constitutionally adequate education to the Legislature and the Governor.

The complex formula for defining how to divide funds among districts changed in 1997 and 1999, and included factors such as property wealth, income wealth, tax effort, the cost of various school programs, and percentage of proficient student NHEIAP scores. In 2006, the Legislature again revised the funding formula and called it the Equitable Education Formula. This current formula distributes aid based on three main provisions: (1) local tax capacity, (2) state tax capacity, and (3) targeted aid. The plan includes a statewide property tax that is set to raise \$363 million annually.

In the most recent funding case, the Court determined that the “standards” set forth in current law do not provide adequate reviewable and enforceable guidelines that can determine whether the State is providing a constitutionally adequate education.

For more detailed information on the Claremont Lawsuits, click on the Web links at the end of this article.

NHSBA’S ROLE IN SCHOOL FUNDING

The New Hampshire School Boards Association has a long history of supporting the need to define and fund a constitutionally adequate education, by adopting and committing to the following resolutions:

RESOLUTION 6 – Focuses on the actual definition, and corresponding cost, of an adequate education. NHSBA urges the Legislature to address the need for a definition and corresponding cost of an adequate education and to develop an Adequate Educational Funding distribution formula consistent with the Claremont decisions.

RESOLUTIONS 7 and 10 – Both acknowledge the need for additional revenue dedicated solely for education and used for the purpose of meeting the State’s obligation to help support public education. NHSBA supports an equitable and sustainable tax plan.

RESOLUTION 4 – Acknowledges the budget and funding process school districts must follow, and proposes that legislative changes affecting school funding should not take effect *after* the budget and school district meeting process is completed. NHSBA opposes any new educational funding legislation which takes effect any earlier than the next biennium. School boards need time to work appropriately within the new legislation.

As our “guiding lights” on school funding matters, NHSBA has consistently utilized the following criteria to review any proposed funding formulas and proposals concerning state adequacy aid for education: 1) formulas should be fair to all school districts and taxpayers, 2) the State must provide adequate and sustainable funding, 3) components of the formula should reflect identifiable and accurate data points, 4) any change in funding must be constitutional and conform to Court decisions.

WHAT YOU CAN DO AS A BOARD MEMBER

Defining and funding a constitutionally adequate education is critical to every school district in New Hampshire. Given the Court’s most recent decision, and its strong directive and timeline to the Legislature, NOW is the time to have the “school board” voice heard loud and clear. It has never been more important that you educate yourself on this issue, and that you tell your local legislators, and the public, of the impact that any proposed resolutions have on your local school budget and tax rate. Please consider the following options as ways to express your thoughts to your legislators and local constituents:

- 1) Adopt a school board resolution calling for a timely legislative response (to meet the June 30, 2007 deadline).
- 2) Secure community support by hosting informational meetings, and by writing editorials for local newspapers.
- 3) Hold a Candidate’s Night at one of your school board meetings before November’s election, to allow for open dialogue and debate among the candidates surrounding this issue. Be sure to ask direct questions to each candidate on how they propose to help “fix” the school funding crisis.

Here are a few questions to consider asking candidates:

- Among the issues that must be addressed during the 2007 legislative session is the State's duty to provide and fund an adequate education. Where do you rank this issue among the other issues the Legislature must deal with?
- What is your position on the State's duty to provide and fund an adequate education?
- Do you have an opinion on whether the New Hampshire Constitution requires the State to define, cost out, fund in a constitutional manner, and account for an adequate education?
- Have you read the New Hampshire Supreme Court's most recent decision on education, the case of *Londonderry School District v. The State*?
- If so, do you agree with the Court's decision that the Legislature and Governor must define an adequate education?
- Is this an issue you will personally devote time to if elected?
- What type of legislative process would you want to use to define an adequate education? Do you envision a role for professional educators?
- Would you vote for a constitutional amendment to remove the courts from reviewing educational laws?

If NHSBA can assist you, in any way, with getting the word out on these critical school funding issues, please feel free to contact us at 603-228-2061.

Check out these Web sites for further information:

(These Web sites are listed for information only and are not specifically endorsed by NHSBA.)

Supreme Court 9/8/06 ruling: www.courts.state.nh.us/supreme/opinions/2006/index.htm

(go to September 8, 2006 and click on the 2006-258 link)

Claremont cases: www.claremontlawsuit.org/claremont_court_decisions.htm

New Hampshire Communities for Adequate Funding of Education: www.nhcafe.org