

State Supreme Court Rules That Education Funding Meets Minimum Adequacy Standard; No Equal Protection Violation Against Students from Neediest School Districts

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On Wednesday, January 17, the Connecticut Supreme Court issued its highly anticipated [decision](#) regarding the adequacy of education funding from the State. In Connecticut Coalition for Justice in Education Funding, Inc. v. Rell, 2018 WL 472325 (2018), the court ruled that the State met its obligation to provide “minimally adequate” funding to school districts across Connecticut, and did not deny equal protection to students from the neediest districts. In so ruling, the State’s highest court partially reversed Superior Court Judge Thomas Moukawsher’s September 2016 [decision](#), which held that Connecticut is “defaulting on its constitutional duty to provide adequate public school opportunities because it has no rational, substantial, and verifiable plan to distribute money for education aid.” The decision is the culmination of more than twelve (12) years of litigation dating back to 2005, when CCJEF and a group of representative families first filed suit alleging that inadequate funding violated students’ state constitutional rights to “suitable and substantially equal educational opportunities” and equal protection under the law. The plaintiffs largely represented minority families and others residing in school districts long perceived as underfunded by the combination of State spending and local property taxes. The decision is particularly impactful as Connecticut continues to reel from a deficit of more than \$200 million, while also struggling to create and implement an education funding scheme that is both more equitable and predictable to local and regional school districts.

Nearly eight years ago, in a March 2010 [plurality opinion](#), the Connecticut Supreme Court recognized that the State constitution “guarantees Connecticut’s public school students educational standards and resources suitable to participate in democratic institutions, and to prepare them to attain productive employment and otherwise to contribute to the state’s economy, or to progress to higher education.” The court, citing Campaign for Fiscal Equity, Inc. v. State, 86 N.Y.2d 307 (1995), then concluded that the essential components of a minimally adequate education include: (1) minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn; (2) minimally adequate instrumentalities of learning such as desks, chairs, pencils, and reasonably current textbooks; (3) minimally adequate teaching of reasonably up-to-date basic curricula such as reading, writing, mathematics, science, and social studies; and (4) sufficient personnel adequately trained to teach those subject areas.



The case was sent back to the superior court where, in September 2016, Judge Moukawsher ruled that, despite “anecdotal evidence” of physically deficient facilities, inadequate supplies, and other shortcomings in certain school districts, the plaintiffs ultimately failed to prove that the amount of State education funding was less than minimally adequate. Judge Moukawsher also rejected the plaintiffs’ claim that the distribution of education funding denied equal protection to students from needy school districts, noting, among other things, the significant “tilt” toward increased funding for those same school districts since 2012.

Despite these holdings, however, Judge Moukawsher ultimately ruled that the State still violated the plaintiff students’ right to suitable educational opportunities because its funding scheme was not “rationally, substantially, and verifiably connected to creating educational opportunities for children.” Irrational spending on school construction and special education, as well as arbitrariness in the way educators are “hired, fired, paid, and evaluated,” were cited among other shortfalls in the State’s funding scheme. Judge Moukawsher also highlighted the achievement gap between students in wealth and needy school districts, and called for a new funding formula to deliver State aid according to local need. Judge Moukawsher ordered the State to propose a remedial funding scheme within 180 days, but both the plaintiffs and the State appealed the decision to the State Supreme Court.

By a narrow 4-3 margin, the State Supreme Court affirmed Judge Moukawsher’s findings that the amount of State education funding was minimally adequate under Campaign, and that students from the neediest school districts were not denied equal protection based on the allocation of State funding. The court, however, held that Judge Moukawsher erred in applying the “rational, substantial, and verifiable” standard to the State’s funding scheme. This new standard, the court held, was not supported by prior case law, and resulted in a violation of the “separation of powers” between the courts and the legislature. That is, while it is the proper function of the judiciary to determine whether State is providing minimally adequate funding as articulated in Campaign, “courts simply are not in a position to determine whether schools ... would be better off expending scarce additional resources on more teachers, more computers, more technical staff, more meals, more guidance counselors, more healthcare, more English instruction, greater preschool availability, or some other resource.” “Such judgments,” the court emphasized, “are quintessentially legislative in nature.”

The court recognized that the plaintiffs “painted a vivid picture of an imperfect public educational system ... that is straining to serve many students who, because their basic needs for, among other things, adequate parenting, financial resources, housing, nutrition and care for their physical and psychological health are not being met, cannot take advantage of the educational opportunities that the state is offering.” At the same time, however, the court reasoned that “[i]t is not the function of the courts ... to create educational policy or to attempt by judicial fiat to eliminate all of the societal deficiencies that continue to frustrate the state’s educational efforts. Rather, the function of the courts is to determine whether the narrow and specific criteria for a minimally adequate educational system under our state constitution have been satisfied.”

In a separate opinion partially disagreeing with the majority, Justice Palmer, Robinson, and Sheldon asserted that the Campaign test “requires not only that the state provide the essential components of a minimally adequate education, including facilities, instrumentalities, curricula,

and personnel, but also that some reasonable effort be made to ensure that those modalities are designed to address the based educational needs of at-risk learners in underprivileged communities.” Reasoning that the State may have violated one or more components of Campaign based on the aforementioned legal standard, the three dissenting justices recommended sending the case back to the lower court for a new trial.

In an official statement, CCJEF vowed to “pursue all legal remedies” to have the decision “reconsidered and overturned.” Echoing the sentiment of the dissenting justices, CCJEF asserted that a new trial is necessary to clarify “still disputed and unresolved issues,” and added that “a case of this landmark magnitude should not be left dangling on such a close vote.” A motion for reconsideration may be filed within ten (10) days of the receipt of the court’s decision, so local and regional boards of education, school administrators, and other interested parties are advised to keep abreast of important developments in the coming days.

In his own official statement, Connecticut Attorney General George Jepsen hailed the court’s decision, reiterating that the trial court exceeded its authority and that, absent a constitutional deficiency, “education policy decisions rest with the representative branches of government.” At the same time, Attorney General Jepsen recognized that the trial court’s ruling “did identify profound educational challenges that deserve continuing significant and sustained action on the part of our State’s policymakers.” In a similar sentiment, Governor Dannel Malloy emphasized the State’s continuing obligation to “ensure that funding is distributed in a rational manner based on student need, reflecting student poverty and demographic shifts in our communities.” The Governor also reaffirmed that “the urgency to continue the fight to distribute greater educational dollars where there is the greatest need has not diminished.” Absent new developments in the judicial arena, it is now up to the legislature to maintain this urgency and to develop and implement an education funding scheme that delivers on longstanding promises of equity and serves to help school districts close the opportunity gap for Connecticut students.

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Before joining Berchem Moses PC, Mr. Khalil served as a legal intern for the Center for Children's Advocacy in Hartford, CT, where he managed a large caseload of juvenile clients in the areas of abuse and neglect, special education, juvenile delinquency, and immigration. He also worked as a legal administrative specialist for the State of Connecticut Office of the Attorney General in the Child Protection Department, representing DCF in OTC proceedings, case status conferences, in-court reviews, and assisting in TPR proceedings. In this role, he drafted numerous motions and appellate briefs.

During law school, John Khalil was the Symposium Editor for the Connecticut Public Interest Law Journal and received the CALI Excellence for his work with the Center for Children's Advocacy. He also served as a research assistant for Professor Emeritus Kent Newmyer, with whom he published a comprehensive history of University of Connecticut School of Law.