

FOR IMMEDIATE RELEASE:
June 27, 2014

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State Sued for Defying Voters' Promise to Colorado's Kids

Families, Teachers, and Districts Sue to Enforce Amendment 23's Constitutional Requirement for Support for Education in Good Times and Bad

DENVER—Seeking to enforce the will of Colorado voters who demanded minimum school funding, citizens from around Colorado today filed suit against the state in order to protect their rights under the Colorado Constitution.

Amendment 23 was passed by voters in 2000 after the state had fallen increasingly behind other states in funding public education. It required, at a minimum, that the state gradually catch up to its own 1988 spending level and then hold steady. Yet despite this clear mandate for minimal annual increases in education funding, the state violated Amendment 23 starting in 2010 by repeatedly cutting education funding using a mechanism called the “negative factor.” Instead of honoring the voters’ intent for increased investment in education, the state has cut education funding by over a billion dollars per year.

“The voters did not trust the State to maintain funding for K-12 education, so they passed a constitutional amendment to force the State to do so. Although the State complied for a decade, when times got tough, they sacrificed our kids by slashing funding by \$1 billion,” says Tim Macdonald, co-lead attorney on the case.

Communities have seen painful results of these cuts. In places like Kit Carson school district, struggling families have had to dig deep into their pockets in order to fundraise for basic educational necessities as well as “luxuries” like instruments and uniforms so that their children can have a music program. New and updated books are non-existent and administrations have been unable to replace retiring teachers in core classes. For example, schools that were able to provide reading classes to students before the budget cuts are no longer able to provide them to younger students.

All across the state, painful budget cuts have resulted in the loss of educational opportunities for students that are vital to preparing them for post secondary education and the workforce.

“The General Assembly’s misinterpretation of Amendment 23 has resulted in drastic cuts in educational services and programs in direct contradiction of the voters’ intent when they passed Amendment 23,” explained co-lead attorney Kathleen Gebhardt, Executive Director of Children’s Voices. “This isn’t theoretical. The cuts have caused great and lasting harm to schools and children around the state. Jobs have been lost, programs have been cut, and students have lost out on individual attention and critical interventions.”

When Colorado's voters approved Amendment 23, they expected the legislature to act in good faith, sharing the voters' commitment to healthy public schools. Because the legislature has failed the voters and failed to uphold the Constitution, it is necessary to turn to the courts. As citizens, we all have a right to expect our government to act responsibly and honorably and to uphold clear constitutional rights.

"As voters, we thought we were approving a positive factor for education, but instead the state gave us a negative factor. Our students are losing opportunities to help prepare them for the workforce. This reality is all too real for students around the state and we cannot wait any longer to keep the promise Colorado made to its kids fourteen years ago," said Lindi Dwyer, lead Plaintiff in the suit, "The state can't just ignore the constitution."

"Colorado is near the bottom of the nation in funding education. The Legislature's continuing failure is depriving the state's children critical resources needed to succeed in school," said leading education rights attorney David Sciarra of Education Law Center. "Given the Legislature's refusal to act, it's time for the court to step in and safeguard the education rights of Colorado's 1 million public school children."

Children's Voices: Children's Voices is a non-profit law firm that advocates on behalf of school-age children in Colorado for equal access to a high quality public education. Our work is based on the core value that a quality education is critical if Colorado's children are to participate meaningfully in the civic, political, economic, social and cultural activities of our society and the world. In addition to litigation, we use a variety of strategies, including education, legislative advocacy, research, and communication to fulfill our mission