

LITIGATION - LOBATO ADEQUACY/COSTING OUT PROCESS AND USES

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Court Ruling

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- Received on Friday at 4:30 – December 9th – in favor of the Plaintiffs
- Current system is unconstitutional, and does not meet the “Thorough and Uniform” clause nor the “Local Control Clause”

Lobato

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- Suit filed in 2005 claiming the current system of funding was not meeting the “thorough and uniform clause of free public schools” and the “local control clause”
- 2009 – Supreme Court ruled that the court was the right venue to decide issue and that trial date would be set in 2011
- August 2011 – 5 week trial – 21 district plaintiffs, parents and MALDEF

Ruling Cited

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- The Court therefore concludes that the entire system of public school finance, including the PSFA, categorical programs, and capital construction funding, is not rationally related to the mandate of the Education Clause.
- There is no evidence that any School District is managing its finances ineffectively. There is no evidence that any School District lacks the knowledge necessary to improve student achievement.

Ruling Cited – cont.

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- The Court therefore concludes that Colorado public school children are not receiving the thorough and uniform educational opportunities mandate by the Education Clause.
- The Court concludes that the irrational and inadequate school funding system prevents school districts from implementing the Education Clause mandate at a local level in violation of the local control mandates of Article IX, sections 2 and 15.

Citing

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- Current economic conditions, however, are not the source of the school finance crisis. They have made an unworkable situation unconscionable. But Colorado's history of irrational and inadequate school funding goes back for over two decades.
- the public school finance system is irrational, arbitrary, and severely underfunded.
- this Court shall review the stay upon application of either party submitted no earlier than the conclusion of the 2012 legislative session.

Cite Specific to Reforms

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- The impact of irrational and inadequate funding is not, however, limited to rural and urban poverty School Districts. The Court finds that all School Districts are unable to provide the early childhood and kindergarten programs that are critical to student achievement. All School Districts are unable to provide the classroom time, professional training, and instructional interventions that are critical to meet the expectations of CAP4K, the Education Accountability Act, and SB 10-91.

Cite – cont.

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- All School Districts are unable to provide the classroom time, professional training, and interventions critical to the education of under-served student populations, including students at-risk of academic failure, non-English speaking students, students with disabilities, students of minority racial and ethnic heritages, students of low-income families, and gifted and talented students. All School Districts lack the funding necessary to meet the increased expectations of the current revisions to standards-based education, and particularly CAP4K, the Education Accountability Act, and SB 191.

Moving Forward

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- How to solve the problem
- What other work needs to be done
- What work has been done and reflects the issues that need to be addressed in the ruling?

History of “Costing Out”

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- Initial litigation and costing out analysis
- APA – involved in almost 20 states – results implemented in MD, PA, NJ, OH, MS, and others
- Rational basis for funding formulas
- How they have evolved as education standards and reforms implemented
- Each process reflects constitutional and changing statutory requirements

Costing Out Methods for Lobato

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- 3 approaches – add value and balance
 - Successful School District
 - Evidence Based
 - Professional Judgment
- Study looks to identify the base cost and adjustments needed to fund K-12 education
 - Does not include capital, transportation or food service
- Each approach provides pieces of information

Successful School District

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- How was success defined?
- Who chose successful districts?
- What information is obtained?
- What information is missing?
- How can information be used?

- Measures a group of districts defined by the state at a point in time that are successful (reforms not fully implemented)

Evidence Based

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- How was it used?
- What is “evidence based”?
- What are it’s strengths?
- What are it’s weakness’?

- It provides a check and balance to Professional Judgment decisions
- Does not reflect a state’s requirements

Professional Judgment

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- Created 18 panels
- Over 80 educators
- All work reviewed, other than last panel
- Individuals participating on panel were recognized education leaders
- Individuals represented all parts of state, types of districts and educator expertise
- Panels discuss resources needed, not dollars

Professional Judgment - cont

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- What is done with panels work?
- How is work utilized?
- What is in the “base amount”?
- How are “weights” arrived at?
- How are different size districts needs reflected?
- How are cost pressures addressed?
- What is not included?

Costing Out Analysis Reflects

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- The resources needed to fulfill all requirements, inclusive of recent reforms such as Educator Effectiveness, CAP4K, Accountability and Accreditation (1 years growth for every student), ICAP, ASCENT and post secondary workforce readiness
- Assumes full implementation of reforms and what is needed to have students be successful based on accountability

Base Amount

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- Base amount: What a student with no special needs in a district with no unique circumstances must have to meet the expectations of the constitution and the statutes
- Items included: Longer days and years for most students – staff development – computer for 4th grade and up – materials – supplies – competitive salaries – full day kindergarten – 3 & 4 year old pre-school

Weights – What and How Much

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- At-risk
- Special Education
- English Language Learners
- Gifted and Talented
- Size
- Cost of Living/personnel adjustment

- The amount? Who gets what?

What Do Numbers Represent?

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- Numbers are a “rationale” basis for creating a new formula
- New formula is tied to academic and accountability expectations
- Supports a “standards based system”
- Numbers need to be reevaluated when system changes and should be reevaluated every 5 years

What Are the Numbers?

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- SSD base is - \$6,051
- PJ base is - \$7,738
- Size adjustment – 1.00 to 2.27
- Special Education
 - Mild - .73 to 1.24
 - Moderate – 1.69 to 2.37
 - Severe – 5.20 to 6.96
- At-Risk - .35
- ELL - .47 to .56
- Gifted & Talented - .25 to .30

What Are the Numbers?

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- SSD – \$1.5 billion above current with override monies counted, \$2.1 billion without overrides
- PJ - \$3.7 billion above current with override monies counted, \$4.3 billion without overrides
- Important to remember SSD measured what was happening in districts deemed best, but not necessarily meeting all standards. PJ looked at what was needed to meet all standards.
- Does not say where money should come from.

Moving Forward to Modeling

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- What decisions must be made by policy makers?
 - What students are counted? Pre school – kindergarten – full/part time – 5th year
 - What is proxy for at-risk? Free lunch (current) or add reduced lunch, those not proficient
 - What is proxy for ELL and how long will support last? (currently 2 years)
 - What is proxy for GT?

Other Decisions

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- What adjustment for a districts size?
- What adjustment for regional differences and for doing business?
- How to account for online? Small attendance centers?
- How to address transportation, capital, alternative ed, career and technical education?

Formula Should Address

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- Base amount should reflect dollars needed to attract and retain high quality staff and to implement new educator effectiveness
- Weights should reflect dollars needed to implement interventions for special needs students
- Base amount should include preschool, kindergarten and concurrent enrollment populations

Results - Lobato

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- Costing out reflects potential remedies for plaintiffs – solutions are possible
- Costing out is rational – connecting funding formula to reforms and standards based system
- Costing out honors constitution, accountability and accreditation system – districts decide how to organize and deliver education