A History of Legal Challenges to Public School Funding

Columbia Falls II

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Columbia Falls Elementary School District No. 6 v. State (2005)

Article X, § 1(3), Montana Constitution

The legislature shall provide a basic system of free quality public elementary and secondary schools. . . . It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

Columbia Falls Elementary School District No. 6 v. State (2005)(Cont.)

- The Montana Supreme Court held that the Legislature had not defined "quality education".

- Without a definition of "quality education", the Court could not conclude that the current school funding system was designed to provide a quality education.

2005 MONTANA LEGISLATURE

"A BASIC SYSTEM OF FREE QUALITY PUBLIC ELEMENTARY AND SECONDARY SCHOOLS"

"A Basic System of Free Quality . . ." § 20-9-309, MCA

- The educational program specified by the accreditation standards which represent the minimum standards upon which a basic system of free quality public schools is built.
- Educational programs to provide for students with special needs.
- Educational programs to implement and integrate the distinct and unique cultural heritage of American Indians into the curricula, with particular emphasis on Montana Indians.

Basic System of Free Quality . . .

- Qualified and effective teachers or administrators and qualified staff to implement the programs.
- Facilities and distance learning technologies associated with meeting the accreditation standards;
- Transportation of students.
- A procedure to assess and track student achievement in the programs established.
- Preservation of local control of schools in each district vested in a board of trustees.

Mechanism to Fund a Basic System

"Educationally Relevant Factors"

- The number of students in a district.
- Needs of isolated schools with low population density.
- Needs of urban schools with high population density.
- Needs of students with special needs.
- Needs of American Indian students.
- The ability of school districts to attract and retain qualified educators and other personnel.

Legislative Directives

§ 20-9-309(4), MCA

- Determine the costs of providing the basic system of free quality public elementary and secondary schools
- Establish a funding formula that:
  - is based on the definition of a basic system of free quality public elementary and secondary schools and reflects the costs associated with providing that system;
  - allows the legislature to adjust the funding formula based on the educationally relevant factors identified in this section;
  - is self-executing and includes a mechanism for annual inflationary adjustments;

- is based on state laws;
- is based on federal education laws consistent with Montana's Constitution and laws;
- distributes to school districts in an equitable manner the state's share of the costs of the basic system of free quality public elementary and secondary schools.

- Consolidate the budgetary fund structure to create the number and types of funds necessary to provide school districts with the greatest budgetary flexibility while ensuring accountability and efficiency.

Columbia Falls Elementary School District No. 6 v. State (2008)

Montana First Judicial District Court

Judge Jeffrey Sherlock

ISSUES

- The number of school districts budgeting at their maximum authority.
- Problems with accreditation standards.
- Problems attracting and retaining teachers.
- Cutting of educational programs.
- Deterioration of buildings.
- Increasing competition over general fund dollars between special education and general education.

ISSUES (Cont.)

- Lack of an inflationary provision in the school funding formula.
- Whether the funding provided by the State relates to the needs of providing a quality education.
- Failure to have a study to determine the costs of providing a quality education.
- Ability to provide a quality education.
- Declining share of the State's contribution to school districts.
- Provision for at-risk and gifted students.

Concerns

Special Education

- Growing Competition for general fund dollars between general and special education.
- Formula for special education funding was the same in 2008 as it was in 2004.
- Formula was based on a distribution system per-ANB and not on the number of children with disabilities.
- Funding has not kept up with costs.
- State share decreased and the local share increased.

Concerns

Teacher Recruitment/Retention

- Small school districts have difficulties attracting teachers.
- Number of teacher applicants decreased.
- Larger districts offer beginning teacher salary at $34,000, but small school districts are able to only offer $20,000 to $22,000.
- Problems with uncertified teachers.

Concerns

Accreditation

- Number of schools in "advice" or "deficiency" status.
- Non-licensed or misassigned teachers.
- Failure to provide for world language teachers.
- Failure to provide for librarians and counselors.
- Districts alleged that these accreditation problems would go away if more state money was provided.

Concerns

Cost-Based Funding

- As in 2004, the current funding formula in 2008 was political and historical, not based on true costs of education.
- Formula in 2008 added money without targeting any specific objective.
- Quality Schools Interim Committee proposed several cost-based funding options, but these were not adopted by the Legislature.
- Current formula was not self-sustaining.

Additional Problems

- Between 2005 and 2008, there were increases in ongoing funding.
  - 2005 – 0.8%
  - 2006 – 8.0%
  - 2007 – 6.5%
  - 2008 – 7.3%
  - 2009 – 1.9%
- Total state aid to school districts' general funds decreased in 2009 after increases from 2004 through 2008.
- No bright line connecting some of the determined costs to amounts allocated by the Legislature.
- The funding formula was not entirely self-executing.

Court Discussion

Inflation

- Court recognized the Legislature's adoption of § 20-9-326, MCA, and the inflationary adjustments provided to the per-ANB and entitlements.
- Court indicated that increases in funding such as payments for Quality Educator Payment was far in excess of inflation.
- Court was concerned with the Legislature's failure to inflation adjust the 4 new state funded components:
  - Quality Educator Payment
  - At-Risk Student Payment
  - American Indian Achievement Gap Payment
  - Indian Education for All Payment

Inflation

- Court also recognized that although the inflation adjustment was capped at 3%, a district's ability to earmark operating reserves and draw on other fund balances allowed for adjustments for inflationary spikes.
- Dramatic improvement from 2004.

Buildings and Capital Investment

- Evidence showed deficiencies related to school buildings
- OBPP investigation by 42 inspectors 2,100 buildings in 240 towns.
- 2005 Legislature appropriated $23M for weatherization and deferred maintenance.
- 2007 Special Session, Legislature appropriated $40M to a School Facility Improvement Account to be distributed based on the OBPP report.
- FY 2008 Legislature appropriated $30M to school districts for capital improvements and maintenance.
- One-time energy cost relief payment of $2M.
- Although one-time payments, an appropriate response.

Special Needs and At-Risk Students

- Legislature funded creation of 6 curriculum specialists with OPI to help districts develop programs and assist isolated schools without dedicated staff to address educationally relevant needs of at-risk students.
- Full-time kindergarten funded on a full-time basis, including start-up costs of $10M.
- Because of recent teacher hirings, Montana public schools' pupil-teacher ratio was lower than past decade and lower than most other states in the region.

Special Needs and At-Risk Students

- American Indian student proficiency had increased by more than 20% in reading and 10% in math.
- Special education and limited English reading score proficiency had improved by 20%.
- Legislature funded an at-risk student payment allocating supplemental funds to districts based on Title I formula at $5M annually.
- Legislature funded the American Indian Achievement Gap payment at an annual appropriation of $3.3M.

Special Needs and At-Risk Students

- Legislature provided $1.66M of ongoing funding for the Indian Education Division of OPI where bilingual and Indian education and achievement specialists assist school districts in providing services to American Indian students.
- Legislature met the educationally relevant needs of special needs students by including in the quality educator payment areas of special needs teachers beyond licensed educators, including nurses, nutritionists, physical therapists, occupational therapists, speech pathologists, audiologists, psychologists, social workers, and professional counselors.

Special Needs and At-Risk Students

- Legislature appropriated $2.8M to OPI for data system which will allow school district personnel and individualized education plan teams to manage plans for special education students.
- Increase in special education teachers during a time of decrease in special education students.

Gifted and Talented Students

- Ongoing gifted and talented funding increased to $250,000 annually.
- Funded a gifted and talented specialist at OPI.
- Provided $1M in grant money for gifted and talented services in both years of 2009 biennium.

Provisions for Teachers

- Recognizing school districts' difficulties in recruiting and retaining teachers, the Legislature funded a quality educator payment for all certified and licensed educators in Montana's schools.
- Quality educator payment increased from $2,000 in 2005 to $3,036 in 2007, and $3,042 in 2009.
- In 2009, the total quality educator payment amounted to $38M.
- In 2006-07, Montana was 2nd highest in the region for teacher salaries.

Provisions for Teachers

- From 2004 to 2008, enrollment in Montana school districts dropped by approximately 4,000 students, while the number of teachers increased in excess of 200.
- Creation of the Quality Educator Loan Assistance Program to repay up to $3,000 of student loans annually, for up to 4 years, for quality teachers who teach in schools that are impacted by critical quality educator shortages.
- The Court found that this program addressed the educationally relevant ability of school districts to attract and retain qualified educators.
- Meets educationally relevant needs of isolated schools.

State Contribution

- At the time the Montana Constitution was enacted in 1972, State support for general fund budgets was approximately 65 percent. However, at the time of the 2008 trial, the amount had slipped to 60.5 percent.
- Amount of state support increased to 63.5% in FY 2008 and 63.11% in FY 2009.
- Total state funding in 2004 was $553M, but $701M in 2009.
- One-time only money increased in excess of $76.5M.
- Ongoing state aid per-pupil increased from $3,738 in 2004 to $4,947 in 2009, in excess of inflationary trends.

State Contribution

- The legislature:
  - Increased the elementary and high school per-ANB entitlements by $250 per elementary student and $100 per high school student.
  - Provided for three-year averaging of per-ANB counts, allowing districts to respond to declining enrollment gradually.
  - Adjusted the amounts for inflation.
  - Revised the caps on district general fund budgets allowing a district to adopt the greater of a maximum general fund budget or the previous year's general fund budget.

State Contribution

- The Legislature
  - Funded the four new components (Quality Educator, At-Risk, American Indian Achievement Gap, and Indian Education for All payments).
  - Increased the Guaranteed Tax Base Aid from a ratio of 173% to 193% ($10.9M that local districts can provide in property tax relief).

Accreditation Standards

- From 2004 to 2007, number of schools with "deficiency" in their accreditation standards grew from 9% to 15%.
  - Superintendents alleged that their districts could not meet the standards based on the "base" funding provided by the state.
- Legislature funded the creation of six curriculum specialists at OPI to help districts develop programs in compliance with the accreditation standards.

Accreditation Standards

- Court noted that Montana's public schools continue to provide a quality education.
- Very few schools are unable to provide the basic educational programs required by accreditation standards.
- In 2008, out of approximately 824 schools, only 48 were in "advice" or "deficiency" status that did not provide the basic education programs .
  - World language, art, music, vocational education, science, and social studies required by the accreditation standards.
  - Most deviations were from not providing a world language program.
- The most common deviations by schools in advice or deficiency status were non-licensed staff or misassigned teachers.
  - Out of 37,643 classes taught, actual classes taught by misassigned or non-licensed staff was 566.

Court Conclusions

- Despite concerns, the Legislature has determined the cost of education:
  - QSIC study;
  - Adoption of portions of the QSIC study;
  - Per-ANB amounts appropriated in 2009 were nearly equal to that proposed in QSIC study;
  - The amount of actual funding provided by the Legislature exceeded the amount recommended by three of the four studies opining on the cost of education.

Court Conclusions

- Court recognized separation of powers and its responsibility to determine whether the school funding system is appropriate.
- Legislature has made good faith attempt to address the problems discussed by the District Court and Supreme Court in 2004.
- It is up to the Legislature to set educational standards and determine what funding is necessary to meet those standards.
- The Legislature continues to consider the programs and costs related to the basic system of free quality public elementary and secondary schools and can adjust the state's funding formula if necessary.