

Rand, et. al v. State of New Hampshire

Taxpayers (individuals
and businesses) from

- Plymouth
- Penacook
- Hopkinton
- Newport

**State funding of education is
insufficient**



Taxes are not uniform

Steps in lawsuit (overview)

- Complaint
- Answer
- Prelim. Injunction
 - Intervention



- Discovery
- Summary Judgment
- Trial
- Appeal

Complaint

1. This is an action in which the petitioners, all of whom own real property in New Hampshire and pay local school property taxes to fund kindergarten through twelfth grade public education, seek a declaratory ruling that the State of New Hampshire improperly relies upon local taxpayers, including Petitioners, to raise the funds necessary to provide students with a constitutionally adequate education as required by Part II, Article 83 of the New Hampshire Constitution, because the State's own funding falls far shy of that amount. As a result, the funding for a constitutionally adequate public education is largely paid for by taxes that are not uniform in rate as required by Part II, Article 5 of the New Hampshire Constitution.

2. Petitioners also seek a permanent injunction that requires New Hampshire to discontinue its unconstitutional public education funding scheme, and for such other relief as is just and proper.

Complaint

80. Petitioners seek a declaratory judgment from this Court that finds and declares the following:

The State does not currently guarantee funding sufficient to cover the cost of an adequate education. As a result, New Hampshire must rely on local school taxes to bridge the gap. These local school taxes violate Part II, Article 5 of the New Hampshire Constitution because they are not uniform in rate.



81. Petitioners also seek permanent injunctive relief requiring New Hampshire to discontinue its unconstitutional public education funding scheme because they suffer irreparable harm, any harm suffered by the State is outweighed by the harm that Petitioners suffer and, finally, because an injunctive ruling for Petitioners is in the public interest.

82. Petitioners further seek an order, directing the State to adopt a revised cost determination, which accounts for the full cost of providing constitutional adequacy to all school districts and amounts to no less than the average state expenditure per pupil, with allowances for demographic and geographic diversity and that includes consideration of the costs of transportation, capital costs, and debt.

Answer

Eighth Affirmative Defense

The State alleges that school districts expend significant funds due to the provision of constitutionally unnecessary programs and services, that school districts expend significant funds on matters of local district choices, local district philosophies, and local district accounting practices, and/or that school districts expend significant funds on infrastructure and other resources that are not needed or are inefficient and/or obsolete.

14. The State admits the first sentence of this paragraph. With respect to the second sentence of this paragraph, the State admits only that the document available at the link cited in this paragraph reflects that during the 2020-2021 school year “equitable education aid” accounted for approximately 28.6% of school districts’ total net revenues. The State denies all other allegations, characterizations, or assertions contained in the second sentence of this paragraph. The State further denies that a school district’s total actual expenditures in any way reflect the cost of delivering a constitutionally adequate education.

2021-2022 Negative Tax Rate Communities

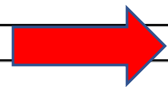
Table 3

Sources of data ----->	A	B	C	D	E	F	G	H	I
	NH DRA	NH DRA	NH DRA	NH DRA	NH DRA	NH DRA	NH DRA	Calculated	NH DOE
Locations	Equalized SWEPT Taxable Property Value	Locally Stated SWEPT Tax Rate	Equalized SWEPT Tax Rate	Amount Raised by SWEPT	Locally Stated Local School Tax Rate	Equalized Local School Tax Rate	Amount Raised by Local School Tax	Net Amount Raised for Schools (SWEPT+Local)	Total Calculated Cost of an Adequate Education
Atkinson & Gilmanton Academy Grant	\$996,035	\$1.95	\$1.66	\$1,652.00	-\$1.95	-\$1.66	-\$1,652.00	\$0.00	\$0.00
Bean's Grant	\$0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Bean's Purchase	\$0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Cambridge	\$11,097,430	\$2.01	\$1.68	\$18,653.00	-\$1.64	-\$1.37	-\$15,653.00	\$3,000.00	\$0.00
Chandler's Purchase	\$44,424	\$2.11	\$1.76	\$78.00	-\$1.97	-\$1.64	-\$78.00	\$0.00	\$0.00
Crawford's Purchase	\$275,456	\$2.11	\$1.76	\$485.00	-\$2.11	-\$1.76	-\$485.00	\$0.00	\$0.00
Dix's Grant	\$1,267,208	\$1.91	\$1.62	\$2,047.00	-\$1.91	-\$1.62	-\$2,047.00	\$0.00	\$0.00
Dixville	\$10,132,547	\$1.92	\$1.61	\$16,276.00	-\$1.88	-\$0.49	-\$16,276.00	\$0.00	\$0.00
Erving's Location	\$69,382	\$1.59	\$1.38	\$96.00	-\$1.59	-\$1.38	-\$96.00	\$0.00	\$0.00
Green's Grant	\$9,595,397	\$2.09	\$1.73	\$16,572.00	-\$2.05	-\$1.70	-\$16,572.00	\$0.00	\$0.00
Hale's Location	\$96,305,287	\$1.82	\$1.53	\$147,484.00	-\$1.82	-\$1.52	-\$147,484.00	\$0.00	\$3,786.66
Kilkenny	\$0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Livermore	\$136,600	\$1.82	\$1.82	\$249.00	-\$1.82	\$0.00	-\$249.00	\$0.00	\$0.00
Martin's Location	\$0	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Millsfield	\$10,420,678	\$2.13	\$1.78	\$18,572.00	-\$2.06	-\$0.19	-\$18,355.00	\$217.00	\$19,077.07
Odell	\$3,450,091	\$2.50	\$1.67	\$5,772.00	-\$2.50	-\$1.67	-\$5,772.00	\$0.00	\$0.00
Pinkham's Grant	\$4,983,267	\$3.02	\$1.69	\$8,438.00	-\$2.80	-\$1.61	-\$8,438.00	\$0.00	\$0.00
Sargent's Purchase	\$2,264,424	\$2.11	\$1.76	\$3,984.00	-\$2.11	-\$1.76	-\$3,984.00	\$0.00	\$0.00
Second College Grant	\$1,823,706	\$1.80	\$1.53	\$2,796.00	-\$1.80	-\$1.53	-\$2,796.00	\$0.00	\$0.00
Success	\$15,451,984	\$2.17	\$1.72	\$26,594.00	-\$2.15	-\$1.71	-\$26,594.00	\$0.00	\$0.00
Thompson & Meserve's Purchase	\$7,952,944	\$1.91	\$1.51	\$11,988.00	-\$1.90	-\$1.50	-\$11,988.00	\$0.00	\$0.00
Wentworth's Location	\$9,188,145	\$2.06	\$1.72	\$15,813.00	-\$2.02	-\$1.69	-\$15,813.00	\$0.00	\$0.00
TOTAL	\$185,455,005			\$297,549.00			-\$294,332.00	\$3,217.00	\$22,863.73

Data sources

<https://www.revenue.nh.gov/mun-prop/property/equalization-2021/documents/tax-rate-comparison.xlsx>

<https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/adequacy-fy-22-muni-summary.xlsx>



The Court in no way wishes to minimize the significance of the plaintiffs' claimed constitutional injuries. Nevertheless, the Court cannot ignore the substantial, immediate, and concrete harm that the Coalition members and their constituents would suffer if the Court were to grant the plaintiffs' request for preliminary injunctive relief. Because the Commissioner is responsible for carrying out the State's education funding scheme, the Court cannot fault the Coalition members for relying on the Commissioner's years-long practice of allowing them to retain excess SWEPT funds or offset their respective SWEPT rates. Further, the Court is mindful that the injury claimed by the plaintiffs strikes at the heart of the merits of this action. In other words, the plaintiffs will only suffer harm if they are correct in their assertion that the existing scheme runs afoul of the New Hampshire Constitution. At this preliminary stage, the Court is disinclined to impose substantial, concrete harm on the Coalition members to avoid such speculative harm to the plaintiffs.

Court's Order on Prelim. Injunction

Testimony of Comm. Edelblut (ConVal)

16 Q As commissioner of the Department of
17 Education, is the amount of funding provided
18 by RSA 198:40-a, II(a) adequate to meet the
19 provision of opportunity for an adequate
20 education pursuant to RSA 193-E:2-a?

21 A The legislature has said that is the adequate
22 amount.

23 Q Where?

1 A Well, they passed in the statute this is the
2 amount of funding for an adequate education.

3 Q Where did they say this is the amount for an
4 adequate education?

5 A I believe that that is RSA 198:40-a.

6 Q And have you done any analysis as to whether
7 any school district can actually provide a
8 constitutionally adequate education based on
9 the funding provided by RSA 198:40-a?

10 A We have not.

11 Q When you say "we have not," do you mean the
12 entirety of the Department of Education?

13 A I have not.

14 Q Are you aware of anyone who has done that
15 analysis?

16 A I am not aware of any.

Court's Order on Prelim. Injunction

Moreover, the Court notes that even where—on appeal, after a full trial on the merits—the New Hampshire Supreme Court has deemed a particular “system of financing public education unconstitutional,” it has allowed that system to “remain in effect” for a reasonable period of time “to effect an orderly transition to a new system” Claremont II, 142 N.H. at 462 (opinion dated Dec. 17, 1997) (providing that the system at issue could “remain in effect through the 1998 tax year”). Like the Claremont II court, this Court must be mindful of the practical implications of its rulings.