

STATE OF NEW HAMPSHIRE  
Superior Court  
Rockingham, ss.  
Case No. 215-2022-CV-00167

*Steven Rand, et al*

Plaintiffs,

v.

*The State of New Hampshire,*

Defendant.

**PLAINTIFFS' OBJECTION TO STATE'S MOTION FOR SUMMARY JUDGMENT**

NOW COME Steven Rand, Randvest, Inc., Dr. Robert Gabrielli, the Gabrielli Family Ltd. Partnership, Jessica Wheeler Russell, Adam Russell, James Lewis, and John Lunn (collectively, the "Plaintiffs"), by and through their counsel, and object to the State's Motion for Summary Judgment, stating as follows:

1. The State's summary judgment motion mischaracterizes Plaintiffs' claims and attempts to place an inappropriate legal burden on the Plaintiffs.

2. In this case, Plaintiffs seek a declaratory judgment from this Court that: "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."

First Amended Complaint at ¶ 80. (Emphasis in original).

3. Plaintiffs further seek “an order directing the State to revise its cost determination as described above, such that it will discontinue its reliance on local property taxes to meet the State's Article 83 responsibilities.” *See* First Amended Complaint – Claims for Relief, C.

4. Plaintiffs have created a record in this case demonstrating that no school district spends less than three times the State’s identified cost of adequacy and that no school district could provide an adequate education at the State’s arbitrary cost of adequacy (including both base and differentiated aid).

5. This record includes an analysis by Plaintiffs’ expert, John Freeman, Ph.D., which shows that the State’s assigned cost of adequacy for Pittsfield School District could not provide even enough *teachers* (let alone any other educational expenses). The resulting budget would also violate numerous state and federal laws, including RSA 193:E-2-a.

6. Unable to challenge Plaintiffs’ evidence on the merits, the State mischaracterizes the facts and law in its summary judgment motion.

7. In addition to mischaracterizing Plaintiffs’ case, the State asserts that Plaintiffs have the burden to “demonstrate that everything school districts spend money on falls within the definition of an adequate education the Legislature adopted.” State’s Memo. Of Law at 9. This is incorrect. Rather, Plaintiffs’ burden is to demonstrate, in the first instance, that the current adequacy amounts (base and differentiated aid) are insufficient to meet the State’s definition of an adequate education. Plaintiffs have done that.

8. The State also asserts that the Plaintiffs’ case fails because Plaintiffs have not isolated which expenditures by districts are required for adequacy. *Id.* at 9, 19. This is not Plaintiffs’ burden. However, even if it were, Plaintiffs have submitted an analysis which

demonstrates that a district could not even afford sufficient qualified teachers — a cost indisputably necessary for adequacy — using the State’s adequacy funding.

9. For these reasons, and the reasons set forth in Plaintiffs’ accompanying Memorandum of Law, the Court should deny the State’s Motion for Summary Judgment.

WHEREFORE, Plaintiffs respectfully request that the Court:

- A. Deny the State’s motion for summary judgment; and
- B. Grant other such other relief as the Court may deem proper.

Dated: Concord, New Hampshire  
August 28, 2023

Respectfully submitted,

*/s/ Natalie Laflamme*  
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Objection has been served via the court's electronic filing system to all parties of record on this 28<sup>th</sup> day of August, 2023.

/s/ Natalie Laflamme  
Natalie Laflamme