

## **PRESS RELEASE: State Struggles to Defend Low Education Aid in NH Supreme Court Filing**

**August 20:** Last night, the State filed its initial briefs to the NH Supreme Court in the *ConVal* school funding lawsuit, arguing that the minimum base adequacy number proposed by the Superior Court, an increase from \$4,100 per pupil to \$7,356.01, was wrongly decided.

“Once again, this filing makes clear that the State lacks any affirmative defense for its unconstitutionally low base adequacy number,” said Zack Sheehan, NH School Funding Fairness Project Executive Director. “This brief offers no argument for keeping \$4,100 on the merits of that amount, and instead tries to justify it by using the narrowest possible definition of adequacy that does not take into account the realities of actually running a school and educating students.”

The main point of the State’s argument is that the Superior Court infringed on the powers of the legislature and included items in its cost that were not explicitly listed in the statute that defines adequacy. This is despite these services, like transportation and school nurses, being required by other statutes and administrative rules. The State also claims that the base adequacy amount could not be challenged on its own, and other forms of State aid, like extraordinary needs grants, should have been included.

However, even including all of the pieces of the State’s adequacy formula (base adequacy, differentiated aid, extraordinary needs grants, and hold harmless grants), the average State grant during the 2023-24 school year was only \$6,768 per pupil, still well below the actual average cost to educate a New Hampshire student, which exceeds \$20,000 a year.

“Throughout this case, the State has never mounted any real defense of why its base adequacy number is right, only that every other number is wrong, and every methodology used to reach those numbers is wrong” Sheehan said. “Those arguments will continue to fail, but the State continues to use taxpayer money to present them in court and in its filings.”

In its decision in the case, the Superior Court wrote that it felt the State presented “no evidence to justify the current base adequacy amount.” The NH School Funding Fairness Project filed a [Right-to-Know request](#) with the NH Attorney General’s Office and learned that between the filing of the case in 2019 and December 1, 2023, the State spent \$1,084,864 on out of state attorneys to help with the defense in the case.

The plaintiffs have until October 7 to file their response. The State will then have 20 days to file a brief in reply to the plaintiffs ahead of oral arguments taking place later in the fall.

“The Superior Court stepped in and set a bare minimum base adequacy amount to protect the right of New Hampshire students to a State-funded, adequate education from a legislature that has failed for 30 years to appropriately address the State’s school funding shortcomings,” Sheehan said. “The base amount outlined in the Superior Court’s rulings will not solve the issue, but it is a step in the right direction. The State has failed every single time school funding questions have made their way to the New Hampshire Supreme Court, and I don’t expect that to change with this case.”