

PRESS RELEASE: State Presents No Defense for Low School Funding as Rand Trial Concludes

October 10: The trial in *Rand v. State of New Hampshire* concluded today, wrapping up the nine day trial during which the taxpayer plaintiffs presented their arguments as to why the State's education funding is unconstitutionally low, and the State produced no affirmative defense for its current levels of funding.

"This played out as expected, with the State producing no evidence and no positive defense in support of its current levels of funding," said Zack Sheehan, NH School Funding Fairness Project Executive Director. "The State couldn't defend how little funding it provides for public schools, so it resorted to a strategy of attempting to paint every possible alternative to our current, upside-down system as flawed."

Like in the *ConVal* case, the plaintiffs argued that base adequacy is insufficient, but they also argued that the differentiated aid the State pays to support students receiving special education services, English Language Learners, and students navigating poverty are not enough for districts to provide those students with the services they need.

Witnesses spoke to the overall cost of educating students, as well as specific components that drive costs for districts, including building maintenance and capital expenses, guidance counsellors, and the costs of delivering special education services to students with IEPs.

Special education funding is a microcosm of the larger issues caused by low State funding for education. During the 2022-23 school year, the average additional cost of providing IEP services to a student was \$29,556. This school year, the State will provide districts with only \$2,142 in differentiated aid for each student with an IEP.

Meanwhile, the State's witnesses said under oath that they did no analysis themselves on what the cost or components of an adequate education in New Hampshire should be. One of these witnesses, Jay Greene, Ph.D., testified that his hourly rate as an expert witness was \$400.

"The State is spending lots of taxpayer money to bring in these experts and outside attorneys, and the best they can do in court is try to discredit any alternative to low State funding," Sheehan said. "After spending over \$1 million on out of state attorneys in *ConVal* and having the Court write in its decision that the State presented 'no evidence' in its defense, you would hope the State would at least try something different this time around instead of continuing to waste taxpayer funds."

In its November 2023 *ConVal* decision, the Superior Court wrote that 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 *ConVal*. During the same time period, the information provided by the Attorney General's office showed it had spent over \$100,000 on *Rand*, excluding NHDOJ staff time.

The plaintiffs' argument extended beyond the insufficiency of State funding. Because the State provides so little funding, the plaintiffs argued the State is downshifting its constitutional responsibility to fund education onto local property tax payers, who pay wildly differing rates around the state in violation of the *Claremont* decisions holding that the taxes used to fund the State's education responsibility must be uniform in rate.

In lieu of closing arguments today, both parties and Judge David Ruoff agreed to have final arguments submitted in post-trial briefs, at which point the Court will take the case under advisement.

“While we wait for a decision, I challenge the legislature to take this issue seriously and start taking action to fix the way we fund our public schools now,” Sheehan said. “The legislature has the ability to change this, and the responsibility to act, and for far too many years it has failed to do so. Get started now on fixing how we fund our schools and create some relief for property tax payers and new opportunities for students at every public school around New Hampshire.”