

## **PRESS RELEASE: State Argues Adequacy Aid Does Not Need to Reflect Real World Costs at NH Supreme Court**

**December 10:** Today, the school district plaintiffs in the *ConVal* lawsuit argued for an increase to base adequacy aid at the NH Supreme Court, and for the Superior Court's 2023 decision declaring the current levels of base aid unconstitutionally low to be upheld.

“Current levels of State education funding fall far short of the actual needs of educating New Hampshire kids, and the difference gets downshifted onto local property tax payers year after year,” said Zack Sheehan, NH School Funding Fairness Project Executive Director. “The State is long overdue to step up and deliver on its constitutional responsibility to fund education, and I expect a positive decision in this case will make that happen.”

The *ConVal* lawsuit was filed in 2019 by the ConVal School District, claiming the State was failing to meet its constitutional duty to fund education as defined by the *Claremont* decisions, and specifically that what the State paid in Base Adequacy Aid, which is paid for every single student in the state, was unconstitutionally low. Since the case was first filed, 18 other districts have joined as plaintiffs, representing about 25% of New Hampshire students.

The Superior Court issued a summary judgement order in 2019 that the statute defining an adequate education was unconstitutional as applied to the plaintiffs, but that holding was reversed by the NH Supreme Court in 2021. The Supreme Court remanded the case so that the costs and components of an adequate could be argued and based on that information a new ruling issued on whether State aid sufficiently covered those expenses.

That is what happened during the three-week trial in the spring of 2023, where a stream of school leaders made a very clear case from the witness stand that base adequacy is not enough to educate their students. The State focused on arguing for the narrowest possible definition of base adequacy that excludes essential services like transportation, school nurses, and school building maintenance, all costs that are mandated in State law. In November 2023, the Superior Court rejected the State's position and ruled that base adequacy was not only unconstitutionally low, but needed to be increased to no less than \$7,356.01 per pupil.

During the course of the trial, the court felt that "The State presented no evidence to justify the current base adequacy amount." [NHSFFP 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 had spent \$1,084,864 on outside counsel to help in its defense.

“The State has had no positive defense for the current level of base adequacy, and continues to argue for the narrowest possible definition of what goes into an adequate education, trying to exclude things like transportation, and even school buildings, from the cost of an adequate education,” Sheehan said. “Stop and think about the absurdity of the State of New Hampshire arguing in court on an icy morning that school buildings and heat are not required to provide an adequate education for our children. There is overwhelming evidence that the State is not paying enough to adequately fund education, and while we have to wait a few months for the court to issue the ruling holding that, I challenge the legislature to not wait and get to work on crafting a new, constitutional school funding system in the upcoming State budget.”