

PRESS RELEASE: NH Supreme Court Upholds Ruling Finding Base Adequacy Unconstitutionally Low

July 1, 2025: Today, the NH Supreme Court issued a decision in the *ConVal* school funding lawsuit upholding the 2023 Superior Court ruling that found the State's base adequate education aid is unconstitutionally low because it does not provide enough funds for school districts to be able to provide their students with an adequate education. In a massive victory for New Hampshire public schools and communities, the Court held that the State needs to increase base adequacy aid to the "conservative minimum threshold" of at least \$7,356.01 per pupil to fulfill its constitutional obligation to fund an adequate education.

"This is an exciting win for students and taxpayers all across New Hampshire, but it's not surprising," said Zack Sheehan, NH School Funding Fairness Project Executive Director. "For the past 30 years the NH Supreme Court has ruled repeatedly that the State is failing to live up to its constitutional duty to adequately fund education. This strong ruling explicitly calls out the history of legislative inaction as the backdrop for upholding the Superior Court's ruling."

The Court's ruling that the cost of a constitutionally adequate education must be greater than \$7,356.01, much higher than the current base adequacy amount of \$4,182 for the 2024-25 school year, is based on the recognition of additional costs associated with operating schools that were not appropriately budgeted for or were explicitly excluded from the definition of an adequate education. The three main components driving the difference between the current adequacy amount and the number set by the courts include student transportation, school nurses, and buildings and facilities maintenance.

The increase in base adequacy aid will shift these costs from local property tax payers to the State, reducing our heavy reliance on local property taxes to fund our schools and the heavy burdens paid by taxpayers in communities with below average property values.

The Court did overturn one specific element of the Superior Court's ruling that base adequacy be increased immediately. Instead, three of the five justices opted to defer to the legislative and executive branch to resolve the issue in a timely manner. Two justices dissented on that piece of the decision, arguing that the past 30 years of legislative inaction require the courts to take a more active role in enforcing its decision to protect the rights of New Hampshire students to a state funded, constitutionally adequate education.

From the time this case was first filed in 2019, the State presented no evidence or affirmative defense to justify the current base adequacy levels. As in the ruling from the Superior Court, the NH Supreme Court bashed the State for providing absolutely no evidence to support the current funding scheme throughout the five-year span of the case.

"This ruling reinforces the many decades of precedent that have already come from this court supporting State funding for public education," Sheehan said. "The legislature has had a responsibility to fix our school funding system ever since the *Claremont* decisions. This ruling makes it even clearer what that means and leaves no more room for excuses from the legislature."

As background, here are a few relevant quotes from the ruling:

- *“For all the reasons discussed above, we conclude that the trial court’s declaratory judgment calculation was conservative, supported by the record, and eminently reasonable.”* Page 20, paragraph 50
- *“We hold that the evidence demonstrates a significant shortfall in the State’s funding of base adequacy aid, creating a clear and substantial conflict between RSA 198:40-a, II(a) and Part II, Article 83 of the State Constitution as to all, or virtually all, of New Hampshire’s school districts. See ConVal I, 174 N.H. at 161. Accordingly, the trial court properly concluded that the plaintiffs defeated the presumption that the current level of base adequacy aid is constitutionally sufficient.”* Page 20, paragraph 51
- *“In short, rather than presenting affirmative evidence to the trial court of the sufficiency of base adequacy aid, the import of the testimony of the State’s witnesses is that it is impossible for the State to satisfy its constitutional obligation of determining the cost of the opportunity for an adequate education.”* Page 21, paragraph 55
- *“We urge the legislative and executive branches to act expeditiously to ensure that all the children in public schools in New Hampshire receive a State funded constitutionally adequate education.”* Page 28, paragraph 78

Quotes relative to the dissent regarding immediate increase in State funding:

- *“When it is alleged that the legislature has ignored this constitutional duty for decades, the judiciary must adjudicate the claim, and when proven, it must provide an appropriate remedy. This is precisely what the trial court did in this case.”* Page 34, paragraph 97
- *“In fact, as the trial court noted, one of the experts who testified, Dr. Bruce Baker, was previously hired by the legislature in 2020 “to analyze school funding issues and provide an informed recommendation.” Baker opined that the cost of providing an adequate education was \$9,964. Thus, the legislature seemingly ignored its own expert’s recommendations and instead chose to fund base adequacy aid “at less than half of his recommended level.” To us, this demonstrates that the legislature knew or should have known that \$4,100 per pupil was far too low, and therefore it should hardly come as a surprise that this figure is not constitutionally adequate.”* Page 40, paragraph 114