FOR IMMEDIATE RELEASE:

State Asks NH Supreme Court to Overturn Claremont and Count Local Property Taxes as State Funding

August 17: Today, the New Hampshire School Funding Fairness Project released the following statement about the State of New Hampshire's 125-page brief in the Rand school funding lawsuit asking the New Hampshire Supreme Court to overturn or sharply narrow more than three decades of school funding precedent.

At its broadest, the State asks the Court to overturn the Claremont rulings entirely, eliminating the longstanding constitutional right to the opportunity for a State-funded adequate education. If the Court will not go that far, the State asks it to count State and local governments together so local property taxes can count toward the State's constitutional responsibility, or to declare that courts cannot review how an adequate education is costed and funded at all. The brief also offers a series of narrower ways to throw out the Rand case without ruling on those larger questions, including the standing of the plaintiffs, the legal treatment of local taxes, the parties named in the lawsuit, the evidence presented at trial, and the funding of special education.

"At the highest level, the State is asking for the current system to stay exactly as it is while taking away every meaningful way for students, taxpayers, and communities to question whether the State is doing enough," said Zack Sheehan, Executive Director of the New Hampshire School Funding Fairness Project. "The costs do not disappear because the State refuses to define or confront them. They continue to be paid through local property taxes, school budget cuts, and unequal opportunities for students. The State now wants credit for those local taxes as though that were the State fulfilling its own responsibility."

In the 1990s, Claremont and four other school districts, along with students and parents, sued the State after years of inadequate funding left communities unable to provide students with the education the State required. The resulting Claremont decisions established that the New Hampshire Constitution guarantees every child the opportunity for an adequate education funded by the State, and that the taxes used to meet that responsibility must be fair and uniform across New Hampshire.

The Supreme Court has repeatedly reaffirmed those principles. Most recently, in July 2025, the Court ruled in ConVal that the State's base adequacy funding amount was unconstitutionally low. The Court affirmed a conservative minimum threshold of $7,356.01 per student as guidance for future legislative action, while reversing the lower court's order that the State immediately begin paying that amount. The decision left the Legislature significant freedom to determine how to fix the constitutional violation while reaffirming that the violation itself was subject to judicial review.

The ConVal ruling also directly addressed the State's failure to defend the amount it was already providing. Judge David Ruoff had found after trial that "the State did not offer affirmative evidence justifying the sufficiency of the current funding level," a finding the Supreme Court said "the record confirms." The Court noted that two State experts offered no opinion about what an adequate education actually costs or why existing base aid was sufficient.

"The State now argues that Claremont created an impossible moving target and lawmakers cannot know what the courts will consider enough," Sheehan said. "But before arguing that the constitutional standard is impossible to satisfy, the State should have to show that it seriously tried to satisfy it. In ConVal, Judge Ruoff found, and the Supreme Court confirmed, that the State did not present any affirmative evidence showing that its existing funding level was sufficient."

The State also argues that these cases have allowed courts to intrude on decisions that belong to elected officials. But ConVal itself illustrates the limits courts have placed on their own role. The Supreme Court enforced the constitutional minimum while overturning the lower court's order requiring an immediate appropriation.

“In the ConVal ruling, the Court enforced the Constitution, but it did not write the State budget,” Sheehan said. “It recognized the Legislature’s role in developing a solution while preserving the judiciary’s basic responsibility to make sure constitutional rights are not ignored.”

The ConVal ruling said it was incumbent upon the legislative and executive branches to remedy the constitutional deficiency. During the next legislative session in 2026, however, lawmakers moved in the other direction. For example, they rejected SB 582, which would have increased base adequacy aid to the conservative minimum identified in ConVal. They also rejected HB 1636, which would not have raised a single tax but would have directed the NH Department of Revenue Administration to publicly study realistic options for generating the revenue needed to respond to the ruling.

Instead, lawmakers made HB 1815 a central part of their response. That law declared education a “shared responsibility” between State and local government, described local governments and school districts as “indivisible from the state,” said State and local entities function collectively, and changed the adequacy formula so that it is merely “computed toward” the cost of an adequate education. HB 1815 did not establish a new cost of adequacy or increase base adequacy funding. The State’s new Rand brief now relies directly on that language and asks the Supreme Court to adopt it as a constitutional rule.

“HB 1815 did not make the funding system more equitable, increase base adequacy aid, or reduce local property taxes,” Sheehan said. “What it did was lay the groundwork for the Attorney General to argue that local spending should now count as State spending. That is not the State meeting its responsibility. It is the State taking credit for the gap local communities are already forced to cover.”

The State’s brief begins by asserting that New Hampshire students are receiving adequate educations and that enough money already exists in the public education system. But it reaches that conclusion by combining State and local revenue and pointing to average statewide outcomes. It does not identify what the education required by State law costs, demonstrate that State adequacy funding is sufficient to pay for it, or show that SWEPT and State grants cover the constitutional minimum.

That same question remained unanswered after the Rand trial. Judge Ruoff again found that the State offered no affirmative evidence justifying the sufficiency of current adequacy funding or special education differentiated aid. The plaintiffs, by contrast, presented evidence identifying the resources schools need and what those resources cost.

“The State argues that litigation is a poor avenue for comprehensive policy formation,” Sheehan said. “But throughout ConVal and Rand, it has declined to answer the most basic questions at the center of this issue: What does the education required by State law actually cost? How much of that cost is the State paying? And who is forced to make up the difference?”

The brief’s narrower arguments follow the same pattern. The State argues that local taxes remain purely local even when they are used to meet the State’s constitutional education responsibility. It suggests that communities might be able to use meals-and-rooms distributions or other unrestricted State revenues to cover an adequacy shortfall, but does not quantify the shortfall or demonstrate that any plaintiff community received enough of those revenues to cover it. It argues that the Constitution does not require the State to cover every expense contained in every individualized education program, but does not identify which services the State should fund or measure how far current special education aid falls below that amount.

The Rand ruling from the Superior Court reached the opposite conclusion after a nine-day trial. It found that total adequacy funding and special education differentiated aid were constitutionally insufficient, that local communities must use local property taxes to bridge at least part of the resulting gap, and that the State presented no affirmative evidence justifying its current funding levels.

“At the end of the day, the State is asking the Court to make the school funding problem harder to challenge instead of actually solving it,” Sheehan said. “Families will still receive the property tax bills. School boards will still face impossible budget choices. Students will still have different opportunities depending on the property

wealth of the community where they live. Calling that ‘shared responsibility’ does not make it adequate, fair, or locally controlled.”

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The mission of the NHSFFP, a registered 501(c)(3), is to inform the public about the condition of New Hampshire public schools and their funding; to advocate for changes to make the system more equitable for students and taxpayers alike; and, if necessary, to prosecute, manage, control, and/or participate in a lawsuit challenging the constitutionality of the system for funding education in New Hampshire.

On Background:

- Claremont I and II: Established that every New Hampshire child has a fundamental right to a State-funded constitutionally adequate education and that taxes used to meet the State’s obligation must be equal in valuation and uniform in rate.
- ConVal: In July 2025, the New Hampshire Supreme Court affirmed that existing base adequacy aid was facially unconstitutional and that $7,356.01 was a conservative minimum threshold for legislative guidance. The Court reversed the immediate-payment directive, leaving the legislative and executive branches responsible for developing and funding the remedy.
- HB 1815: Signed into law on March 27, 2026, the bill created a statutory State-plus-local “shared responsibility” framework and changed the formula so the amount calculated under State law is “computed toward,” rather than declared to be, the cost of an adequate education.
- No new Supreme Court ruling has been issued: The filing is the State’s opening appellate brief. The Rand plaintiffs will file their response in October. Then there will be oral arguments, if granted, in front of the Supreme Court.

Full Rand case history: NHSFFP maintains a chronological overview of the Rand lawsuit, including major developments, court filings, decisions, and related news coverage. Visit https://fairfundingnh.org/lawsuit/