

## **PENNSYLVANIA SCHOOL FUNDING LITIGATION Frequently Asked Questions**

### **Q: What is the lawsuit about?**

A: Hundreds of thousands of students across the state – including in Philadelphia – lack basic educational supports and services. Students go without functioning school libraries, up-to-date textbooks and curriculum materials, reasonable class sizes, guidance counselors, nurses, career and technical education, college prep classes, academic tutoring programs, and more. And despite the tireless efforts of dedicated school leaders, teachers, support staff, and parents, the diminishing resources in too many of our schools prevent many Pennsylvania students from meeting academic standards set by the state.

The state legislature has an obligation to ensure that every student – not only those living in select zip codes – receive the basic resources they need. However, our state provides a smaller share of funding for education than almost all other states. This causes districts across Pennsylvania to be overly reliant on local funding and has created gross disparities between rich and poor school districts. Pennsylvania has one of the widest funding gaps between low-wealth and high-wealth districts in the country. A typical high-wealth school district spends \$3,778 more per student than a typical low-wealth school district, and that gap has been growing.

The Public Interest Law Center, the Education Law Center of Pennsylvania, and O’Melveny & Myers LLP have joined together to file a lawsuit on behalf of six school districts, five parents, and two statewide organizations against legislative leaders, state education officials, and the governor. We are asking for a court order that will force the legislature to comply with the state constitution and ensure that all students receive access to a high-quality public education.

### **Q. Who is responsible for ensuring high-quality education?**

A: The state constitution makes the General Assembly responsible for ensuring a thorough and efficient system of public education. A thorough and efficient public education system must ensure that all students have access to a quality education that provides essential resources to enable all students to meet state standards and

participate meaningfully in the economic, civic, and social life of their communities. This system should drive additional dollars to the students with the most significant needs.

The state has consistently failed to meet this basic responsibility and continues to do so. In fact, it does not even assess how much money is needed. Consequently, across the state, in urban and rural communities alike, the state is not providing our schools with the necessary resources and tools principals and teachers need to educate our children for the Pennsylvania of the 21<sup>st</sup> century.

Our lawsuit seeks to create a long-term solution to the inadequacy and inequity of our current system.

**Q: What are our legal claims?**

A: There are two claims. First, the state has a legal obligation under the PA Constitution to “provide for the maintenance and support of a thorough and efficient system of public education” for all students.

A “thorough and efficient” public education is one that is adequately supported, comprehensive, and effective so that all of Pennsylvania’s children have the opportunity to meet state academic standards.

The state has set academic standards that define what is required for a “thorough and efficient” public education, but it has failed to maintain and support the system with enough funding to ensure that every school district has the essential resources for students to meet those standards.

Second, the current method of funding has resulted in significant resource disparities that discriminate against students living in districts with low property values and incomes. This irrational funding disparity violates the Equal Protection provisions in our state constitution because children in low-wealth districts are being denied the opportunity to receive an adequate education, while their peers in high-wealth districts are receiving a high-quality education.

**Q: Who is bringing this case?**

A: Plaintiffs in the case include:

- Six school districts: William Penn School District, the School District of Lancaster, Panther Valley School District, Greater Johnstown School District, Shenandoah Valley School District, and Wilkes-Barre Area School District. All of these districts have a high proportion of children in poverty and are unable to raise enough money through local property taxes to make up for the lack of adequate state funding.

- The Pennsylvania Association of Rural and Small Schools, a group of approximately 150 small and rural school districts and 13 Intermediate Units across PA.
- The NAACP Pennsylvania State Conference, an organization dedicated to ensuring the political, educational, social, and economic equality of rights of all persons and eliminating race-based discrimination.
- Families whose children attend under-funded and under-resourced schools in the Philadelphia, William Penn, Greater Johnstown, and Wilkes-Barre school districts.

**Q: Who is being sued?**

A: The leaders of the House and Senate, the Secretary of Education and Department of Education, the State Board of Education, and the Governor. They are called “indispensable parties” under the law because they each play a role in any remedy that may be fashioned by the court. Legally they all must be included in the lawsuit.

**Q: What are you asking for in the lawsuit?**

A: We’re asking the court to:

- (1) Declare that the current system of funding our schools does not comply with the state constitution; and
- (2) Order the defendants to cease using a funding system that does not provide adequate funding for all students and which discriminates against low-wealth districts; and
- (3) Order the defendants to create and maintain a constitutional school funding system that will enable all students to meet state academic standards and does not discriminate against low-wealth school districts.

**Q: What is the current status of the case?**

A: The case is proceeding in Pennsylvania Commonwealth Court. In December 2018, the court issued a briefing and trial scheduling order setting the timeline for Pennsylvania students to finally have their day in court. The parties are currently in the pre-trial phase known as discovery when each party is gathering evidence to support their case through documents, witness statements, and other means. Though physical offices and the court are not open due to the coronavirus pandemic, counsel in this case are working remotely, and the parties are able to continue moving forward with discovery, depositions, and development of expert reports. Fact discovery is set to be completed

by July 16, 2020, and the case is tentatively scheduled for trial in late 2020 or early 2021. This trial schedule is not unusual for a case of this breadth and magnitude.

**Q: What has happened in the case so far?**

In November 2014, we filed suit in Commonwealth Court. Commonwealth Court initially dismissed the case in April 2015, saying that courts cannot get involved in school funding issues. We appealed and in September 2017, the Pennsylvania Supreme Court ruled that the claims in the case are subject to judicial review. It returned the case to Commonwealth Court for further proceedings.

State officials have attempted to have the case dismissed before trial several times. In May 2018, Commonwealth Court overruled the state's preliminary objections to the lawsuit. In August 2018, Commonwealth Court dismissed a claim by Senate President Pro Tempore Scarnati that the adoption of a fair funding formula in 2016 rendered our case moot. In our briefs contesting this claim, we found that state funding available for classroom expenses had actually decreased since we filed the lawsuit in 2014, and gaps between low- and high-wealth districts had grown.

In December 2018, Commonwealth Court ordered the parties to follow a set schedule for exchanging information to ensure that the case proceeds in a timely and efficient manner before trial. The parties are in the process of completing the various steps in the court's briefing and trial scheduling order. Over the past year, the parties have engaged in fact discovery, taken and defended depositions, interviewed and prepared witnesses, and met with experts who will submit reports to the court.

**Q: Even if the court rules in your favor, isn't it the legislature that ultimately must decide to allocate the money?**

A: Yes. The legislature has the power to fix this problem now, but so far, they have failed. A court ruling will compel the legislature to do what it has been unwilling to do.

**Q: How do you know that money will really make a difference?**

Research shows that when it comes to student achievement, funding matters quite a bit. Numerous studies show that when more funding is allocated and targeted to schools based on student needs, student performance improves. The studies also show important benefits of increased resources for students that need them like economic growth, and reductions in unemployment and social service programs.

For instance, a national study showed that for children from poor families, increasing per-pupil spending by 20 percent in all 12 school-age years increases family income by 52 percent.

The same report also showed that the effect of increasing school investments by 20 percent in all school-age years is enough to completely eliminate the family income gap between children from low-income families and those from high-income families.

In Pennsylvania, a 2011 study examined state standardized test scores between 2003-04 and 2010-11. In the 50 lowest-achieving districts, standardized test scores increased, on average, by 50 percent over the eight-year period – as education funding in those same districts increased by approximately 40 percent. More information on the effects of school funding on school performance in Pennsylvania can be found in the Education Law Center’s 2017 report, [“Money Matters in Education Justice.”](#)

This case, then, is about the state providing sufficient resources that students and schools need to enable districts to provide all students with an adequate education, including funding sufficient staff and effective programs students need in order to graduate and be prepared for higher education or employment.

**Q: What about the Basic Education Funding Commission? Did the new funding formula solve this problem?**

A: No. While the school funding formula adopted by the legislature in 2016 is certainly a step in the right direction, it does not come close to solving Pennsylvania’s education funding problem. The formula added new weights to certain district student populations, taking into account factors like poverty and percentage of English Language Learners, to guide the distribution of a portion of state education funding. But the formula, developed by the state legislature’s Basic Education Funding Commission, only recommended how funding should be distributed, not how *much* funding is needed to ensure adequacy. In other words, adoption of the school funding formula did not itself deliver any additional money for schools. Furthermore, a formula is only as good as the dollars sent through it. The formula only applies to increases in state funding over the 2014-15 baseline, a small fraction of the education budget—only 2% of Pennsylvania’s total education budget last year, or 11% of basic education funding. Focusing on distribution of funds without ensuring that those funds are adequate will not solve this crisis.

Anyone who doubts that low-wealth schools and their students are still suffering acutely from this state’s lack of investment need only to visit an underfunded school. The harm caused is obvious: crumbling buildings, overcrowded classes, and a lack of technology that lead the children of this Commonwealth to learn in conditions that belie their dignity and potential. Our filings in response to Senator Scarnati’s claim of mootness included affidavits from leaders in our petitioner districts, reporting how a lack of adequate funding has continued to deprive their students of support and resources that high-wealth districts take for granted. It is clear that any measures taken by the state legislature since we filed our lawsuit in 2014, including adopting a funding formula, have

not addressed the reality of Pennsylvania's inadequate and inequitable school funding system.

**Q: What will be the impact of this lawsuit on property taxes?**

A: In our suit, we highlight that, on average, taxpayers in low-wealth districts pay much higher property tax rates than taxpayers in high-wealth districts—and yet still have less money for students. This is one of the many disparities between low-wealth and high-wealth districts. Our case does not ask the court to eliminate property taxes, but does charge that this discrepancy is part of the Pennsylvania school funding system's violation of the state constitution's Equal Protection provisions. We are asking the court to fix these violations.

**Q: If you win in Commonwealth Court, can't state officials still appeal a court order?**

A: Yes. An appeal to the Pennsylvania Supreme Court is a possibility, but we are hopeful the legislature will respond to the court's order, look at the evidence, listen to their constituents, and fix the problem. The legislature does not have to wait for the courts to tell them to start addressing this crisis. They have the legal obligation to solve the school funding crisis and the power to do so right now.

**Q: What can I do to help?**

A: You have already taken the first step towards getting involved simply by becoming more informed! There are many ways that advocates can help us change the status quo for Pennsylvania school funding.

Increasing public understanding that Harrisburg is underfunding our schools is the most important step advocates can take. You can submit a letter to the editor or op-ed to your local newspaper. This helps build awareness in the community about the issue, as well as demonstrate that there is popular support for our lawsuit and increased funding for education from those who are informed. Additionally, you can ask your local school board, religious organization or other community groups to pass a resolution in support of the lawsuit's goal of better state funding.

Finally, you can join the [PA Schools Work](#) campaign, a non-partisan coalition of dozens of organizations across the state dedicated to supporting students with full and fair funding for public schools. This campaign is entirely separate from our lawsuit, but the goals are the same: to ensure that Pennsylvania adopts and maintains an adequate and equitable system of school funding.

Remember, even before a final decision is reached in our case, the state legislature has the power to change the way we fund schools. Advocacy from the community has the power to help make that change happen. We must work on multiple fronts to address this issue. Every day the legislature delays solving this crisis – whether through political intransigence or legal objections -- is a day in which hundreds of thousands of students across the Commonwealth remain in grossly underfunded schools.