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Trial in Pennsylvania school funding lawsuit now set to begin October 12

One-month shift in start date allows for updating of petitioner testimony.

Trial in a historic lawsuit challenging Pennsylvania's school funding system is now scheduled to begin on October 12.

Commonwealth Court Judge Renée Cohn Jubelirer announced the new trial date, a month later than the previous start date of September 9, during an August 17 pretrial conference. The later date will allow superintendents and other petitioners who filed the case against state officials additional time to provide up-to-date specifics to supplement the evidence and testimony gathered during earlier stages of the litigation.

Trial will be held in Courtroom 3002 of the Pennsylvania Judicial Center in Harrisburg. Attorneys expect the trial to extend through much of the fall. At previous pre-trial conferences, the judge has said that trial will be held five days a week, and that a livestream will be available to the public.

In an [August 11 ruling](#), the court ordered petitioners to supplement any responses that should be updated in light of the passage of time since the fact discovery phase of the case concluded. For example, superintendents will provide information on how long-standing inadequacies in their districts were exacerbated by the COVID-19 crisis. In the pretrial conference, the parties agreed that postponing the trial date by a month allowed sufficient time for all parties to prepare, submit, and review the updated information.

The rescheduling of the start of trial in the case comes as schools across the state are preparing for the start of the school year while the Delta variant of COVID-19 is surging in Pennsylvania. A final pretrial conference is tentatively scheduled for Sept. 29 where any implications of COVID surge for the conduct of the trial will be discussed.

“The updated information only reinforces the undeniable reality of Pennsylvania’s school funding system: Students who need the most get the least, because of where they live. Students in low-wealth districts were disproportionately impacted by lack of sufficient school resources during the pandemic,” said Maura McInerney, legal director for the Education Law Center-PA. “Since we filed the case, the disparities have only grown. Our legislative leaders have acknowledged this reality but refuse to comply with their constitutional duty to provide a quality public education to all children, regardless of local wealth.”

“The last 18 months have laid bare the profound inequities that Pennsylvania children grapple with,” said Dan Urevick-Ackelsberg, staff attorney at the Public Interest Law Center. “The General Assembly’s failure to live up to their constitutional duty to support strong public schools in every community will still be on trial this fall — and we’ll prove that the potential of kids across our state has been shortchanged for far too long.”

Petitioners in the case are six school districts (William Penn, Greater Johnstown, School District of Lancaster, Panther Valley, Shenandoah Valley, and Wilkes-Barre Area), the Pennsylvania Association of Rural and Small Schools, the NAACP-Pennsylvania State Conference, and four public school parents. They are represented by the Education Law Center, Public Interest Law Center, and O'Melveny.

The case was filed in 2014 in Pennsylvania Commonwealth Court against state legislative leaders, state education officials, and the governor for failing to uphold the General Assembly's state constitutional obligation to provide a "thorough and efficient" system of public education. Petitioners also assert that the massive inequality this system fuels between poor and wealthy school districts discriminates against students in low-wealth communities, violating their right to equal protection in the Pennsylvania Constitution.

According to the latest U.S. Census data, Pennsylvania has fallen from 44th to 45th in the nation in the share of school funding that comes from the state, at 38 percent, leaving school districts heavily reliant on local wealth. As a result, the poorest Pennsylvania school districts on average spend \$4,800 less per pupil than wealthy school districts, despite paying higher relative property tax rates. This spending gap, one of the widest in the nation, has steadily grown.

An expert report prepared for the court by Penn State professor Matthew Kelly found that public schools need \$4.6 billion in additional funding to be able to give their students a shot at reaching state academic standards, according to a benchmark written into the Pennsylvania School Code. Underfunding is widespread: 86% of Pennsylvania students attend schools that are not adequately funded according to this calculation. This underfunding also exacerbates inequity — Kelly's report found that students in poverty who attend poorly funded schools are significantly less likely to attend and graduate from college than their peers in well-funded schools.

The state's dependence on local wealth to fund schools and the resulting deep inequality disproportionately affect students of color. Black and Latino students are concentrated in the least wealthy districts, with 50 percent of Black students and 40 percent of Latino students attending schools in districts that are in the bottom 20 percent for local wealth.

Learn more about the case at FundOurSchoolsPA.org.

The Public Interest Law Center uses high-impact legal strategies to advance the civil, social, and economic rights of communities in the Philadelphia region facing discrimination, inequality, and poverty. We use litigation, community education, advocacy, and organizing to secure their access to fundamental resources and services in the areas of public education, housing, health care, employment, environmental justice and voting. For more information, visit www.pubintl.org or follow on Twitter @PubIntLawCtr.

The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness. For more information, visit elc-pa.org or @edlawcenterpa on Twitter.