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September 23, 2016

Dear Parents, Staff and Concerned Citizens:

As you are most likely aware, there has been extensive press coverage regarding the recent court's ruling regarding the CONNECTICUT COALITION FOR JUSTICE IN EDUCATION FUNDING v. RELL, ET AL.

The following is a summary of the ruling as prepared by the Connecticut Association of Public School Superintendents in which the ruling is discussed in simple terms. This discussion also explains the probable impact on all of Connecticut schools districts' in the future.

Summary of Court's Ruling

The Court directs the state to propose changes to its education system in the following areas and provides the following judicial guidance for doing so in a way that will meet constitutional muster:

1. **Clarify the relationship between the state and local government in education and clearly recognize the state's primacy in this area**
 - a. Eliminate any statutes interfering with the state's ability to provide a rational education system.
 - b. Identify areas in which lesser or greater direct state control through the state Board of Education or Department of Education is warranted.

2. **Establish a rational and verifiable educational aid formula and school construction program**
 - a. However much funding the state devotes to its education system, that funding must be allocated in a manner that is rationally, substantially and verifiably connected to creating education opportunities for children.
 - b. The state may not "misallocate" education funds away from areas of greater need to areas of lesser need.
 - c. The state cannot meet its educational duties under the constitution without adhering to a reasoned and discernible formula for distributing state education aid.
 - d. That formula must apply educationally-based principles to allocate funds in light of the special circumstances of the state's poorest communities.
 - e. This applies to both educational programming funds as well as school construction funds.

3. **Establish a definition of elementary and secondary education**
 - a. Establish clear objective and mandatory statewide criteria for a High School diploma
 - b. These criteria must include a method of verifying that students have achieved certain educational objectives, such as mastery of subject matter and acquisition of skills.
 - c. Cites the example of Massachusetts's statewide standard test
 - d. Establish a definition of an elementary education rationally related to developing the basic literacy and numeracy skills needed for secondary school
 - e. Students must demonstrate acquisition of these foundational skills before matriculating to secondary school.

4. **Establish new standards for hiring, firing, evaluating, and paying education professionals**
 - a. Comply with ESSA requirement linking teacher evaluation to evidence of student growth
 - b. Teacher compensation may not be based only on seniority and advanced degrees.
 - c. Compensation must include some component or components related to teaching needs and teaching skill.
 - d. Arcane rules regarding Superintendent contracts that push them out of districts with unnatural regularity

5. **Reform funding, identification, and educational services standards for special education**
 - a. Establish new standards concerning special education which rationally, substantially and verifiably link special education spending with elementary and secondary education
 - b. Schools must identify and focus efforts on those disabled students who can profit from some form of elementary and secondary education.
 - c. The state must establish standards to address this issue.
 - d. Non-education-related “social services,” including medical services, should not be paid out of the education budget.
 - e. Establish objective criteria for identifying specific categories of disability and standard procedures and methods of ensuring compliance with them
 - f. Goal is to “ensure uniformity, accurately label, set reasonable goals and use reasonable means to carry them out”
 - g. Establish reasonable monitoring of over-identification and under-identification

Statement of Basic Principles:

The Connecticut constitution, in article eighth, §1, says: *“There shall always be free public elementary and secondary schools in the state. The general assembly shall implement this principle by appropriate legislation.”*

- Because it is specifically enumerated in the constitution, in Connecticut, elementary and secondary education is a fundamental right
- To be constitutional, the state's chief educational policies do not have to be richly funded, but they must at least be rational, substantial, and verifiable. “While only the legislature can decide precisely how much money to spend on public schools, the system cannot work unless the state sticks to an honest formula that delivers state aid according to local need.” (p. 2) (emphasis added)
- The state is responsible for the condition of our schools: Its duty to educate is non-delegable.

The Court identified two complementary, though competing, declarations of what the constitutionally required education entails:

“Three justices [of the Supreme Court] said the education provision meant that the constitution guarantees Connecticut's public school students educational standards and resources suitable to participate in democratic institutions, and to prepare them to attain productive employment and otherwise contribute to the state's economy or to progress on to higher education. . . . [This] plurality said it would strike down an educational program inadequate to prepare children for college, careers, and democracy.”

However, Justice Palmer, by contrast, said he would not even find a constitutional adequacy violation unless the irrationality point had been reached, and the state's program is so lacking as to be unreasonable by any fair or objective standard.

This means that the most the four justices agreed on was that irrational public school resources and standards are unconstitutional.

In applying this standard, the Court looked to a New York court opinion interpreting a similar educational guarantee in the New York constitution. The New York court listed what it considered basic enough features from which to discern whether the educational system met the rationality test:

“...minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn. Children should have access to minimally adequate instrumentalities of learning such as desks, chairs, pencils, and reasonably current textbooks. Children are also entitled to minimally adequate teaching of reasonably up-to-date basic curricula such as reading, writing, mathematics, science, and social studies, by sufficient personnel adequately trained to teach those subject areas.”

The Court, after finding that Connecticut not only met but exceeded the “New York” standard for a constitutionally rational educational system, nevertheless then went on to examine several aspects of the state’s educational system to determine if they were rational in their own right. The Court concluded that the state’s education funding system, educator evaluation and compensation, special education system, and standards related to elementary and secondary education were unconstitutionally “irrational.”

Some of the major points made by the Court are identified below:

Clarifying the relationship between the state and local government in education and clearly recognizing the state’s primacy in this area

The Court placed the responsibility for providing the constitutionally required education squarely on the state. While the state may enlist the assistance of others, such as towns, it may not shed its ultimate responsibility for providing for the educational needs of Connecticut’s children. The Court dismissed the state’s position that education is by right a local affair, and the Court notes that the state can’t use statutes that it has passed itself as justification to claim “powerlessness” and leave municipalities in a place of primacy over education where real problems exist.

Indeed, the Court pointed to state interventions in Bridgeport, Hartford, New London, Windham and Winchester as examples where the state has recognized its duty and acted accordingly.

Establishing a rational and verifiable educational aid formula and school construction program

“The courts may impose reason in state spending, but beyond a bare minimum they may not dictate how much to spend. Whatever the state spends on education it must at least spend rationally.”

While the Court found that the state spends more than the bare minimum on schools, it held that “beyond a reasonable doubt, Connecticut is defaulting on its constitutional duty to provide adequate public school opportunities because it has no rational, substantial and verifiable plan to distribute money for education aid and school construction.”

The Court found that the state is ignoring the statutory ECS formula and distributing aid such that poorer and needier districts are losing education funds while wealthier higher performing districts are receiving increased education funding.

The Court also called into question the fact that the state is funding a school construction “building boom” while the school age population is shrinking. It found that what criteria and rules have been established are frequently overruled by legislators helping their individual districts. This appears to have no rational criteria, instead being driven by political expediency as a sort of “legislative free for all.”

Implications: The language related to the ECS funding formula appears to be some of the most persuasive in the opinion and will hopefully lead to the reestablishment of a clear formula (whether the ECS formula or a new formula) that is adhered to and that rationally distributes available education funding where it is needed most.

With respect to school construction, this language supports the ongoing efforts by DAS to revise the school construction application process and to adopt new guidelines and standards for school construction projects.

Defining Elementary and Secondary Education

“Any spending plan rationally, substantially, and verifiably linked to teaching children must not only be deliberate, it must be aimed at what the constitution promises: a free elementary and secondary education. A spending scheme really can't be said to be aimed at elementary and secondary school education when the state doesn't even enforce a coherent idea of what these words mean.”

The Court found that the state hasn't set a meaningful standard level of achievement meriting graduation. It finds the various statutory graduation criteria ill-defined and lacking in any objective measure of accomplishment. The Court criticizes on-line work as a poor substitute for credit hours in class.

“A new system is constitutionally required to rationally, substantially, and verifiably connect an education degree with an education.” “Among the poorest, most of the students are being let down by patronizing and illusory degrees.”

Implications: Despite the disparaging tone that the Court levels at the High School Graduation Task Force, the Court's call for establishing objective criteria that measure student mastery of material prior to matriculation (and for providing time for students to develop such mastery at their own pace) is in line with the need for a Student-Centered approach to education and Mastery-Based Learning strategies.

Educator Pay and Evaluation

“The way educators are hired, fired, paid, and evaluated isn't sensibly linked to its value in teaching children.”

The Court finds that under the current system (or “non-system”) of teacher evaluation in Connecticut there is no way to know who the best teachers are and no rational and substantial connection between their compensation and their effect on teaching children.

The court finds beyond a reasonable doubt that the state is using an irrational statewide system of evaluation and compensation for educational professionals and therefore denies students constitutionally adequate opportunities to learn.

Implications: This provides an opportunity for PEAC to offer TEVAL standards that meet both the requirements of ESSA and state constitutional requirements.

With respect to the teacher compensation issue, I would not anticipate major changes that require renegotiation of existing teacher collective bargaining agreements, however some form of incentive pay may be increased into high-need areas.

Finally, while the statutory limit on Superintendent contracts was mentioned in passing in the decision, it would seem unlikely that the Court's opinion on the subject would have great authority.

Special Education

This portion of the Court's opinion is the most draconian (and likely a violation of federal law) as the Court essentially says that the state need not provide any educational services to certain profoundly disabled students who are found to be unable to benefit from elementary or secondary education. (pp.76-77, 80-81)

“There are two problems with special education serious enough to warrant constitutional concern.

- *First is the problem of spending education money on those in special education who cannot receive any form of elementary*

or secondary education.

- *Second is the evidence that shows that getting picked for special education in this state is mostly arbitrary and depends not on rational criteria but on where children live and what pressures the system faces in their name.”*

However, the foundation of the Court’s argument in this section does raise a couple of important points:

First, the Court recognizes the problems inherent in special education crowding out spending on general education in the state. (p.75)

Second, the Court cites to a 1984 DC Circuit court opinion interpreting the predecessor of IDEA (the EAHCA) as recognizing that public resources are finite and that the Act “does not secure the best education that money can buy; it calls upon the government, more modestly, to provide an appropriate education for each [disabled] child.” (p.79)

Implications: While the Court’s suggestion that the severely disabled may be effectively excluded from the state’s special education programs likely violates the clear mandates of both IDEA and the ADA, this section of the opinion is sure to ignite discussion of the current state of special education in Connecticut.

One outcome of the opinion may well be an increased openness to consider alternative methods of funding special education and, perhaps, addressing the long-standing problem with the state’s current due process burden of proof rules.

Please feel free to contact me with any questions.

Thank you for your continued support.

Very truly yours,



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