

Colorado Supreme Court Issues Decision Regarding State Education Funding System

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On May 28, 2013, the Colorado Supreme Court issued an extremely consequential decision upholding Colorado's education funding system in the case of *State v. Lobato*. The *Lobato* case arose because a number of students brought an action for declaratory and injunctive relief against the state claiming that the state's current school finance system failed to provide sufficient funding resulting in an inadequate education and that the inadequacy violated the Colorado Constitution's requirement that the state provide a "thorough and uniform system of [free] public education." In addition, the plaintiffs claimed that the local district's lack of resources, coupled with the state's constitutionally deficient funding, impaired the local districts' ability to exert meaningful control over instruction, resulting in a violation the Local Control Clause of the state constitution.

Lobato presented evidence at trial suggesting that the state had to supplement school funding with up to \$4 billion (in addition to the then \$3.5 billion in school funding) to correct the deficiency. After some procedural activity, the trial court ruled in favor of Lobato. The Colorado Supreme Court reversed the trial court, upholding the financing system. If the Colorado Supreme Court had ruled against the state and found the school finance system unconstitutional, it could have possibly placed an oversight of the school finance system in the courts of Colorado for years to come, perhaps demanding almost the entire budget for the state of Colorado for a period of time or requiring a tax increase to finance the court-ordered funding mandate.

The *Lobato* case is just one of many such suits filed across the country in which state Supreme Courts have been asked to decide whether their states' funding of the educational systems were unconstitutional. In *Lobato*, however, the Colorado Supreme Court reversed this trend of finding educational financing systems unconstitutional and found that Colorado's school finance system was rationally related to the requirement in the Colorado State Constitution that the state must provide "a thorough and uniform system of public education" to its children.

To reach its conclusion, the court first held that "a 'thorough and uniform' system of public education is of a quality marked by completeness, is comprehensive, and is consistent across the state." Importantly, the court noted that this requirement is "the constitutional floor upon which the General Assembly must build its education policy." The court then applied this definition to the current funding system and held that the single statutory framework that calculates every district's total program funding applies uniformly to all of Colorado's school districts and is complete and

comprehensive. Thus, this funding system is consistent and meets the rational basis test.

In reaching this decision, the court stated, “While we sympathize with the plaintiffs and recognize that the public school financing system might not provide the optimal amount of money to the public schools, the statutory public school financing system itself is constitutional.” In fact, the court went out of its way to note that the current system “might not be ideal policy, [but] this court’s task is not to determine” whether there are better ways to fund schools but is to “say what the law is.” The court should not, it said, “unduly [infringe] upon the policy-making power of the General Assembly.”

Because the court had earlier ruled this issue was justiciable (i.e., the courts do get to rule on whether the funding system meets the constitutional mandate), we can expect further lawsuits that try to produce sufficient evidence to prove that the test promulgated by the court is not met (in Colorado to prove a legislative enactment unconstitutional, a plaintiff must do so beyond a reasonable doubt). For the time being, however, deciding how to fund Colorado’s educational system remains in the hands of the General Assembly.

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