

SUMMARY: *CCJEF v. RELL* RULING

On September 7, 2016, Connecticut Superior Court Judge Thomas Moukawsher ruled in the longstanding case of *Connecticut Coalition for Justice in Education Funding (CCJEF) v. Rell*. Judge Moukawsher's ruling was notable for the breadth of education policy issues it discussed. In addition to school finance, the ruling touched on the relationship between the State and local governments as it relates to public schools; elementary and secondary education standards; teacher evaluation, hiring, and compensation; and special education identification and spending. As the Connecticut School Finance Project is devoted solely to issues related to school finance in Connecticut, this one-pager focuses only on Moukawsher's ruling as it relates to school finance.

QUESTION BEFORE THE COURT¹

After concluding in a plurality decision in 2010 that the state's 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 to contribute to the state's economy, or to progress on to higher education," the Connecticut Supreme Court returned the case to the Superior Court. In remanding the case, the Connecticut Supreme Court instructed the Superior Court to determine whether the standards and resources for public education in Connecticut are adequate and provide "the public school students in this case with constitutionally suitable educational opportunities."

FINDINGS ON CONNECTICUT SCHOOL FUNDING²

Judge Moukawsher found the State's level of funding for public schools constitutional because it spends more than the bare minimum funding level required under article eighth, § 1 of the Connecticut Constitution, and because the plaintiffs failed to meet "their burden to show beyond a reasonable doubt that Connecticut lacks minimally adequate teaching and curricula nor [did they prove] it by a preponderance of the evidence." Finding the judiciary is "constitutionally unfit to set the total amount of money the state has to spend on schools," Moukawsher ruled further that although "[t]he courts may impose reason in state spending," it is up to the Connecticut General Assembly to decide how much the state spends on public education. However, in finding the State's level of funding constitutional, Moukawsher noted that "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."

FINDINGS ON CONNECTICUT'S SCHOOL FINANCE SYSTEM³

Although finding that the State spends more on public schools than the bare minimum funding level required, Moukawsher ruled the State 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." Moukawsher found Connecticut's school finance system—particularly the Education Cost Sharing formula—was not "rational, substantial and verifiable" and failed to address the gaps in school resources and community wealth found across Connecticut. Additionally, Moukawsher noted that a "rational education plan" must have a "substantial and verifiable link between educating children and the means used to it," and "without consciously and logically marshaling education aid...the state cannot be said to have a formula at all."

FINDINGS ON CONNECTICUT'S SCHOOL CONSTRUCTION SPENDING⁴

In regards to school construction, Moukawsher found the State's system for school construction spending unconstitutional for failing to rationally relate to students' needs. The Superior Court ruling criticized state school construction spending and stated "Connecticut keeps on spending and does so without following any rational criteria for what should be built or renovated and what shouldn't." To be found constitutional, Moukawsher ruled "school construction spending must be connected substantially, intelligently, and verifiably to school construction needs aimed at helping students learn" and "there must be a legitimate goal and a rational, substantial, and verifiable plan to achieve it."

ORDERS ON SCHOOL FINANCE⁵

Moukawsher proposed no policies or solutions to the areas he ruled unconstitutional, rather he noted it's the State's job to develop rational policies and "[t]he court will judge the state's solutions, and if they meet the standards described in this decision, uphold them." Moukawsher ordered the State to submit, within 180 days from the ruling, a rational plan to distribute state education dollars to the Superior Court for Moukawsher's review. Moukawsher's ruling allowed the plaintiffs 60 days to comment on the State's proposed remedies, once submitted, and propose alternatives.

WHERE CASE STANDS NOW

On September 15, Connecticut Attorney General George Jepsen filed a petition for a direct appeal to the Connecticut Supreme Court of Moukawsher's ruling. In its appeal, the State called Moukawsher's ruling "uncharted and legally unsupported." The appeal also called Moukawsher's requirement that Connecticut's school finance system be "'rationally, substantially, and verifiably' connected with educational need," "entirely made up" and said it gives the judiciary "broad control over educational policy" and allows the Superior Court to appoint itself "as the ultimate arbiter not only of the Constitution, but also of the State's educational policy."⁶

In a statement regarding the State's appeal, Jepsen argued the Superior Court's ruling "exceeded its authority and the standards articulated by the Connecticut Supreme Court," and that Moukawsher's decision would "wrest educational policy from the representative branches of state government." However, Jepsen noted the Superior Court ruling "identified profound educational challenges that remain and must continue to receive serious and sustained attention—and action—at every level of government," and reminded policymakers that the State's appeal does not prevent them from addressing those challenges and he urged them to do so.⁷ Governor Dannel Malloy also urged legislative action, despite the State's appeal, writing: "It would be prudent to address the systemic problems in our educational system, particularly fair funding, in a serious manner once and for all in the 2017 legislative session. Legislative action is always preferable to a judicial decision. Let us take this opportunity to act on behalf of all of our students. We know that we do not need to wait for the legal outcome to start improving outcomes for our students."⁸

The State's petition to appeal was granted on September 20 by Connecticut Supreme Court Chief Justice Chase T. Rogers, who also agreed to have the Court review all portions of Moukawsher's ruling,⁹ including his finding that the State of Connecticut spends more on schools than the bare minimum funding level required, which CCJEF argued should be reviewed if the Court granted the State's petition to appeal.¹⁰ In addition to granting its appeal, the Connecticut Supreme Court also granted the State's request for a stay of Moukawsher's 180-day deadline to submit proposed changes to address the parts of Connecticut's education system he found unconstitutional.¹¹ No hearing for the case has been set.

¹ Sullivan, M. & Moran, J. D. (2016). *OLR Backgrounder: CCJEF v. Rell* (2016-R-0177). Hartford, CT: Office of Legislative Research. Retrieved from <https://www.cga.ct.gov/2016/rpt/pdf/2016-R-0177.pdf>.

² Memorandum of Decision, *Connecticut Coalition for Justice in Education Funding, Inc. v. Rell*, Superior Court, judicial district of Hartford, Docket No. XO7 HHD-CV-14-5037565-S (September 7, 2016). Retrieved from <http://www.jud.ct.gov/CCJEFvRell.pdf>.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Defendants' Petition for Certification, *Connecticut Coalition for Justice in Education Funding, Inc. v. Rell*, Supreme Court, S.C. 160124, Docket No. XO7 HHD-CV-14-5037565-S (September 15, 2016). Retrieved from http://www.ct.gov/ag/lib/ag/press_releases/2016/20160915_ccjef_cgs52-265aappealpetition.pdf.

⁷ State of Connecticut, Office of the Attorney General. (2016). *Statement from AG Jepsen on Next Steps in CCJEF v. Rell* [Press release]. Retrieved from <http://www.ct.gov/ag/cwp/view.asp?Q=585612&A=2341>.

⁸ State of Connecticut, Office of the Governor. (2016). *Gov. Malloy Statement on Attorney General's Decision to Appeal Ruling in CCJEF v. Rell* [Press Release]. Retrieved from http://portal.ct.gov/Departments_and_Agencies/Office_of_the_Governor/Press_Room/Press_Releases/2016/09-2016/Gov_Malloy_Statement_on_Attorney_General_s_Decision_to_Appeal_Ruling_in_CCJEF_v_Rell/.

⁹ Granting Defendants' Petition for Certification to Appeal, *Connecticut Coalition for Justice in Education Funding, Inc. v. Rell*, Supreme Court, S.C. 160124, Docket No. XO7 HHD-CV-14-5037565-S (September 20, 2016). Retrieved from <http://civilinquiry.jud.ct.gov/DocumentInquiry/DocumentInquiry.aspx?DocumentNo=11094613>.

¹⁰ Plaintiffs' Opposition to Defendants' Petition for Certification, *Connecticut Coalition for Justice in Education Funding, Inc. v. Rell*, Supreme Court, S.C. 160124, Docket No. XO7 HHD-CV-14-5037565-S (September 19, 2016). Retrieved from <http://civilinquiry.jud.ct.gov/DocumentInquiry/DocumentInquiry.aspx?DocumentNo=11094601>.

¹¹ Staying Proceedings While on Appeal, *Connecticut Coalition for Justice in Education Funding, Inc. v. Rell*, Supreme Court, S.C. 160124, Docket No. XO7 HHD-CV-14-5037565-S (September 20, 2016). Retrieved from <http://civilinquiry.jud.ct.gov/DocumentInquiry/DocumentInquiry.aspx?DocumentNo=11094624>.