

Citizens for Strong Schools, Inc. vs. Fla. State Bd. of Educ.,
Case No. 09-CA-4534 (Fla. 2d Jud. Cir., J. Reynolds)

Synopsis of Plaintiffs' 273-page Proposed Order, filed Apr. 27, 2016

In this action originally filed in 2009, Plaintiffs Citizens for Strong Schools, Inc., Fund Education Now, Inc., Eunice Barnum, Janiyah Williams, Jacque Williams, Sheila Andrews, Rose Nogueras, and Alfredo Nogueras allege that the State is breaching its constitutional duty to provide a uniform, efficient, safe, secure and high quality system of free public schools that allows students to obtain a high quality education, as required by Article IX, Section 1(a) of the Florida Constitution. The Court conducted a non-jury trial from March 14 to April 8, 2016. Plaintiffs presented 37 witnesses (2 plaintiffs, 17 school district personnel, 9 Department of Education employees, and 9 experts), and submitted 23 depositions into the record. Defendants presented 13 witnesses (6 Department of Education employees, 1 legislative staff, 1 AdvancEd employee, a former Commissioner, 1 school district finance officer, and 3 experts). The parties jointly submitted 5,371 exhibits. The trial was televised and the archives can be viewed at www.thefloridachannel.org.

The evidence showed a tale of two education systems. The State submits that the system is world-class, where more children than ever are graduating, have access to advanced programs and challenging coursework, and are leading the nation in certain metrics of achievement. Plaintiffs showed that the system is failing, where more than a million children do not pass required statewide assessments, thousands attend persistently low-performing schools, and the quality of their education is dependent on their race, ethnicity, geography or socioeconomic status. While both tales may be true, this case is about the million or more children that are not succeeding in school.

A considerable number of children come to school not ready to learn, without having the background that children from wealthier households have. There is a clear disparity in the performance of economically disadvantaged students versus those who are not economically disadvantaged. In order to provide educational opportunity to all children as the Florida Constitution requires, school districts need to respond to children's needs at whatever level they are to make that educational opportunity meaningful. Testimony showed that in addition to effective teachers, a team of professionals is necessary to support the needs of low performing students. For students to be able to achieve academically, behavioral supports and social-development tools are needed as well as flexibility in instruction time, including small classes and groups, individualized tutoring, extended day, and summer school.

Student achievement at the statewide level shows that in 2014, 58% of students Grade 3 through 10 passed the FCAT 2.0 Reading, which means that over a million students cannot read at grade level. Only 36% of students in foster care and 37% of students experiencing homelessness passed the reading assessment.

There is a wide disparity in student achievement among districts. In St. Johns, 76% of third graders pass compared to 56% statewide and 35% in Hamilton; 75% of St. Johns tenth graders pass compared to 55% statewide and 26% in Gadsden. Disaggregated by subgroup, in Glades, only 8% of African American third graders passed; in Hamilton, 17% of Hispanic students passed; in Glades, 28% of economically disadvantaged passed; in Osceola, 6% of English Language Learners passed; and in Lafayette, an alarming 0% of students with disabilities passed. The worst achievement gap between African-American and White third graders is in Glades with a 52% difference; and for tenth graders in Jefferson there is an enormous 74% difference in achievement.

Florida's high school graduation rate is 77.8% statewide, with 67.9% of African American students, 55.1% of students with disabilities, 55.8% of English Language Learners, and 39% of homeless students graduating. Franklin had the lowest graduation rate at 49%, with three other school districts below 60%. On the other hand, four districts had graduation rates over 90% with Dixie the highest at 96.9%.

The primary mechanism for funding the operating costs of Florida K–12 schools is the Florida Education Finance Program ("FEFP"), a complex funding formula that includes state and local funds that was enacted in 1973. The FEFP was designed prior to the development of content standards and the aligned state assessments that guide public education today. Neither the Legislature nor the Department of Education have ensured that education financial resources are aligned with student performance expectations. The FEFP has been amended over time, but the State has not conducted a cost analysis to determine if the amount funded is adequate to ensure that all students can achieve on Florida's standards.

Voter approved funding produces inequities among the school districts as voters have approved referenda in some districts and rejected referenda in others. Additionally, the amount that 1 mill produces in revenue varies widely depending on the property wealth of the county. For example, 1 mill is worth over \$225 million in Miami-Dade, but only \$224,084 in Liberty. Relying on the whim of voters is not a reliable and dependable source of revenue. Relying on private grants also is not a reliable and dependable source of revenue as they are competitive (grant awards are not assured), come and go, and usually are time limited.

The State fails to recognize that some school districts are in fiscal crisis and do not have healthy fund balances, and that as a result children's educational needs are suffering. Gadsden has been in fiscal recovery for three years with hiring and spending freezes to the point that it is concerned with buying pencils and pens. Superintendents, school board members and teachers from across the state testified that school districts do not have sufficient resources to establish the conditions necessary to deliver a high quality education for all students. As demonstrated by various statewide organizations, this is a statewide problem, and not just the trivial complaints of a few.

A high quality education system is not complacent with mediocrity, nor does it accept persistently failing schools and glaring achievement gaps as foregone conclusions. The State has failed in its duty to identify and turn around struggling schools, allowing a startling number of schools to evade identification because of flaws in the implementation of the school grading system and tolerating years of poor performance by schools without any meaningful intervention designed to help the schools turn around, much less improve student performance.

Plaintiffs seek a declaration from the Court that the State is not meeting its duty under Article IX, Section 1 of the Florida Constitution by failing to:

- 1) determine how much it costs to deliver a high quality education to all students,
- 2) align the educational financial resources with student performance expectations,
- 3) adequately provide sufficient resources for a high-quality education for all students,
- 4) enforce school improvement,
- 5) ensure efficiency,
- 6) ensure uniform opportunity across the state to obtain a high quality education for all students,
- 7) establish a valid and reliable accountability system, and
- 8) ensure that the McKay Scholarship Program is uniform and free.

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