



PARSS Legislative Update February 10, 2023

Court Rules School Funding Unconstitutional; Dems Gain Control of House

The big news last week was expected to be the special elections for three Allegheny County vacant seats in the House. However, Commonwealth Court Judge Renee Cohn Jubelirer's Commonwealth Court decision in the school funding case scooped the special elections.

The years-in-the-making decision clearly declared the current school funding system unconstitutional by not providing equal protection of all students in the Commonwealth. Not clear at all is what happens next. First, there could be an appeal, delaying any discussion of restructuring school funding. Once the expected appeal concludes its process, and assuming the decision is upheld, then the executive and legislative branches of state government need to design a different school funding system. Again, it is very unclear what changes would pass constitutional muster. Additionally, there is no timeline for implementing the changes.

The decision says that. "The Court is in uncharted territory with this landmark case. Therefore, it seems only reasonable to allow Respondents, comprised of the Executive and Legislative branches of government and administrative agencies with expertise in the field of education, the first opportunity, in conjunction with Petitioners, to devise a plan to address the constitutional deficiencies identified herein."

One obvious response would be to direct additional resources to poorer districts. However, Judge Jubelirer's decision opens the door to other types of remedies.

“The options for reform are virtually limitless. The only requirement, that imposed by the Constitution, is that every student receives a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of public education.”

There are three immediate takeaways from the decision. First, no change, especially a potential new funding system for schools, is imminent. Second, it is doubtful that a straight-forward remedy of additional funding will be the sole solution given the potential price tag estimated in testimony to be \$4.6 billion. If that is the cost of constitutionality, it cannot be a one year remedy. Expect a long-term ramp up if a significant increase in state aid to schools can be agreed to by the Legislature and Governor. Given the potential price tag and the political complexity of the distribution of funds to schools, non-financial remedies will also be on the table whatever they may be. No doubt, the landmark decision raises many important questions for schools.

If you are more than a little curious (and perhaps a speed reader) you can read the 786 page opinion by [clicking here](#).

Shifting to the House of Representatives, questions have been answered. With Democrats easily retaining the three Allegheny County seats, they will have 102 votes in the 203 member House. (The House Republicans lost a vote when Rep. Lynda Schlegel Culver (R-Northumberland) was elected to the Senate reducing Republican seats in the House to 100. Speaker Mark Rozzi (D-Berks) has called the House back into session on February 21 to consider a constitutional amendment and a related bill to open a window for filing suits for child molestation where the statute of limitations has elapsed. While order in the House should be forthcoming, the questions around whether Rep. Rozzi will remain speaker creates certain drama when the House returns to Harrisburg.