



Wyoming Department of Education

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MEMORANDUM NO. 2008 - 015

TO: School District Superintendents

FROM: Jim McBride, Ed.D. 

DATE: February 1, 2008

SUBJECT: Letter to Joint Education Committee and
Summary of School Finance Court Decision

FOR YOUR INFORMATION

Several superintendents requested that I share with them the memorandum that I gave to the Joint Education Committee members on Monday, January 28, 2008. I have attached that memo.

I am also attaching a summary, written by Michael O'Donnell, Wyoming Assistant Attorney General, of the recent Supreme Court decision on School Finance. This summary was prepared for the Management Council.

If you have questions or need additional information, please contact me.

JM:rew

Attachments: 2

MEMORANDUM

TO: Joint Education Committee

FROM: Dr. Jim McBride

DATE: January 28, 2008

RE: Moving Forward After the Affirmative Decision in Campbell

We are all quite pleased with the recent decision of the Wyoming Supreme Court that the school finance system is constitutional. The Court clearly placed this responsibility in the hands of the Legislature, and you are to be commended for the hard work and commitment you demonstrated over a process that lasted several years. During the years of intensive school reform, the Legislature set the state on a course to have one of the finest education systems in the nation.

The Wyoming Department of Education has had the responsibility to implement your work, and we are very aware of certain areas in which we are now statutorily responsible to assure that our system remains constitutional.

We have identified below four major areas in which work continues, and will continue over the next several years.

1. Finish studies that were begun by the JEC
 - a. At-risk. Continuing work to evaluate district practices in providing at-risk interventions and programs, and provide assistance to districts in implementation of these programs.
 - b. Career-Technical Education. Wyoming educators and national experts (MPR) have collaborated on a strategic plan to innovate and reform our state's career training programs in K-12 schools.
 - c. Resource allocation. We have completed the first phase of a study to review how districts use the resources provided by the block grant, consistent with the educational strategies that inform the model. Phase 2 of this study will allow us to drill down to actually compare district results, with resources allocated, and fidelity to the evidence based model.

The JEC has voted to sponsor committee bills to address the at-risk and career technical education programs. WDE requests authorization to complete Phase 2 of the resource allocation study.

2. Prepare for recalibration in 2010. This process should be mapped, with information identified and a plan in place to address the most critical economic elements of the model.

WDE has begun the process with the issues identified in this memorandum. We expect to provide a plan, complete with timelines prior to the Legislature's adjournment in March 2008.

3. Plan for and proceed with the Administrative Hearing process. The appropriate avenue for districts to air grievances connected to the implementation of the finance model is through the Administrative Hearing process.

It is important to note that WDE does not have resources budgeted for these hearings. Because we have not gone through such a hearing on school finance, we have provided a simple estimate of approximately \$20,000 per hearing. The same holds true for the School Facilities Commission, which is also subject to an administrative hearing should a district appeal a decision of that commission.

4. Complete a technical guide on the administration of the funding model. This final piece would provide districts, WDE, and others with the appropriate roadmap of the funding model. This effort is fairly extensive to begin, and would be updated annually to reflect any necessary changes.

We have begun this work, and will provide an outline and timelines during the upcoming session.



School Finance

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State's Counsel
Michael R. O'Donnell

January 24, 2008

To: Members, Management Council
From: Michael R. O'Donnell, State's Counsel
Re: State of Wyoming Prevails in School Finance Litigation

- **After 35 years of on-again off-again litigation and virtually continuous litigation over the last 10 years, the State of Wyoming has prevailed in the school finance case. ¶1, ¶4**
- **The system is constitutional. ¶2**
- **The continuing jurisdiction of the Supreme Court is ended. ¶4**
- **The Court endorses the generous response of the legislature to its decisions.**
- **Wyoming's system is comprehensive, sophisticated and meets the complex demands of delivering a thorough and efficient education to the individualized needs of Wyoming students in the 21st century. ¶2**
- **The Supreme Court has expressed its confidence that the Wyoming legislature will continue its laudable efforts into the future.**

The specifics of the Court's opinion follow:

Issue

Holding

Operations

Standard of Review

- Strict scrutiny only applies if state action results in a wealth-based disparity in education funding (§11)
- “[T]he determination of whether to require funding in excess of the level deemed adequate to meet state standards must be left to the legislature (§15)

Recalibration

- Teacher salaries, benefits and classified salaries all met *Campbell II* mandate (§§ 23, 24, 25)

Administrative Appeal

- If a district believes the block grant it receives is not consistent with the law, it may appeal the WDE’s calculation in accordance with the Wyoming Administrative Procedure Act (§ 30)

Maintenance and Operations

- State has a compelling interest in regulating the size of public school buildings to ensure both that public funds are spent wisely and that each student has the benefit of approximately similar facilities. (§ 38)
- Gradually limiting the allowable square footage does not appear to have a severe impact statewide and it is unlikely the limitations will prevent districts from providing adequate educational programs (§ 39)
- Court urges the state to provide assistance to districts to reduce the impact where excess capacity is not district’s fault (§ 40)

At Risk Students

- Court encourages the state to continue its effort to improve accuracy (§ 46)
- State developed a fair and accurate method of estimating the additional costs associated with these students (§ 47)

Vocational Education

- Court encourages Legislature to continue the study and to “exercise leadership and guidance for the districts in determining what vocational education opportunities are appropriate for Wyoming” (§ 50)

Small School Adjustment

- Satisfied the *Campbell II* mandate (§ 52)

Small Districts

- Satisfied the *Campbell II* mandate (§ 53)

Regional Cost of Living Adjustment

- RCOL cannot reduce salaries below the statewide cost of hiring personnel (§ 66)
- Adjustment must result in salaries which allow districts in areas with a high cost of living to attract and retain teachers, and recognize that housing costs are a significant component of the cost of living (§ 66)

External Cost Adjustment

- Legislature has the discretion to determine how to make the adjustment (§ 69)

- Costs must be escalated for inflation in order to assure education funding continues to adequately support the actual cost of education (§ 69)

Challengers’ Miscellaneous Objections

1. Cost as “minimalist” Approach
 - Cost as “minimalist” Approach
 - “So long as the process seeks to provide a quality education in a uniform and equal fashion, the constitutional standard has been met.” (§ 76)
 - “[G]ood faith effort to preserve and protect the constitution’s commitment to a sound public education” is required (§ 79)
2. Timeliness of State Action
 - Timeliness of State Action
 - Court recognized Campbell II deadline was too short (§ 80)
 - State acted in good faith and heeded the urgency expressed by the Court (§ 80)
3. “Cost Plus” Funding
 - “Cost Plus” Funding
 - Constitutional as long as the legislature continues to act in a responsive and responsible manner and the model is not allowed to become out-dated (§ 84)
4. Pre-school Funding
 - Pre-school Funding
 - Funding for pre-school is not required by the Constitution (§ 88)
5. “Remedy” for Alleged Funding Shortfalls and Attorney Fees
 - “Remedy” for Alleged Funding Shortfalls and Attorney Fees
 - Challengers had no authority to request attorney fees or damages (§ 89)
 - Having court function as accounting overseer serves no purpose and inappropriately injects the judiciary into executive and legislative branch functions (§ 93)

Capital Construction Constitutionality of Current Statutory Scheme

- Facially constitutional (§ 107)

Constitutionality of Current Regulatory Scheme

1. Educational Facilities
 - Educational Facilities
 - State must fund the school district’s fair share of the infrastructure necessary for the school to operate from state wealth (§ 115)
 - SFC must provide adequate space for the school to provide authorized programs (§ 117)
2. Student Activities
 - Student Activities
 - SFC is required to ensure that substantially similar activities will be provided to similarly situated students across the state (§ 125)
 - Reasonable access to substantially similar activities and their facilities determines the equity and adequacy of student activity facilities (§ 125)

3. Local
Enhancements

- Local Enhancements
 - SFC may not improperly limit the educational programs requiring space (§ 126)
 - As long as every school district has the same opportunity for innovation, local enhancement is a compelling state interest (§129)

Case-by-Case Review

- School district may seek review of “any decision denying funding if it concludes it cannot build facilities necessary to deliver the educational programs required by law” (§ 134)