

Education

1. *Roosevelt Elementary School District, et al. v. State of Arizona*

This action was filed in Maricopa County Superior Court in October 1999. The four school district plaintiffs alleged that the state had failed to fully fund the Building Renewal Fund under Students FIRST for fiscal year 1999-2000. The Building Renewal Fund is intended to provide annual funding to school districts for major repairs and renovations. The Fund is based upon a formula taking into account the age of a school district's buildings, their size and renovations that have been completed.

In 2000, the parties filed motions for summary judgment. The plaintiff school districts alleged that the state had simply estimated the amount of funding that would be necessary for Building Renewal Funds in fiscal year 1999-00 and that once it had obtained the appropriate data, the state's estimate was \$27 million less than should have been provided to the Building Renewal Fund. In October 2000, Judge Susan Bolton determined that the plaintiffs had established that the state violated the Students FIRST statute by failing to fully fund the building renewal formula but that the plaintiffs would have to prove an impact on facilities necessary for student achievement in order to establish a violation of the Arizona Constitution.

In 2001, the plaintiffs amended their complaint to include an additional allegation regarding further legislative cuts to Students FIRST for fiscal year 2000-2001. In December 2001, the legislature made further cuts to the Building Renewal Fund in the amount of \$61 million. In May 2002, Judge Edward Burke held that not only had the plaintiffs established a constitutional violation for fiscal year 1999-2000 but that the \$61 million reduction was so devastating that it violated the Arizona Constitution without further proof of its impact.

The state appealed the judgment to the Arizona Court of Appeals. The *Roosevelt* case was later consolidated with the *Somerton* case and oral argument was heard by the Court of Appeals in both cases on June 11, 2003.

2. *Somerton Elementary School District, et al. v. State of Arizona.*

In May 2002, the legislature reduced the Building Renewal Fund under Students FIRST for fiscal year 2002-2003 by \$90 million. The

next month, four school districts filed this action alleging that the reduction was unconstitutional. The plaintiffs moved for a preliminary injunction and a hearing on that motion was held in the trial court on September 30, 2002. In October, Judge Edward Burke held that the \$90 million reduction was unconstitutional and judgment to that effect was entered in December 2002.

In January 2003, the state appealed the judgment. The plaintiffs moved to consolidate the *Roosevelt* and *Somerton* cases on appeal and also moved to expedite their treatment. The Court of Appeals consolidated the cases and accelerated oral argument which was held on June 11, 2003.

3. *Flores v. State of Arizona* (U.S. District Court, Tucson)

This action was filed in 1992 alleging that the state has failed to properly support funding for English language learners in Arizona's public schools. Additionally, the complaint alleged that the state had failed to monitor school districts' compliance with applicable state and federal law. The action was filed under the Equal Education Opportunities Act that requires the state and school districts to take appropriate action to help students overcome language barriers that impede their equal participation in the educational process. The action was also filed under Title VI of the Civil Rights Acts and its implementing regulations alleging that administration of the AIMS test discriminated against students on the basis of their race because minority students failed the test in disproportionately high numbers.

In January 2000, Judge Marquez found for the plaintiffs on their claim that the state did not adequately fund ELL programs. Judge Marquez denied relief to the plaintiffs on their Title VI claim.

In July, the parties submitted a Consent Order to the court for its approval with regard to non-funding issues that had not been tried to the court. The Consent Order requires new procedures for reassessment of ELL students and significantly greater monitoring by the state of school districts' compliance with the law. The parties could not resolve the issue of whether ELL students should receive instruction in basic core subjects from teachers with bilingual or English as a Second Language ("ESL") endorsements.

Additionally, the plaintiffs filed a motion for post-judgment relief in which they sought an order from the court directing the state to conduct a cost study to determine the amount of funding that is

necessary to fully support ELL programs. The state responded that it does not object to a cost study but that one cannot be completed prior to 2002. The plaintiffs maintained that a cost study can be completed prior to 2001 so that the Legislature can take appropriate action in its next regular session. The court granted the plaintiffs' motion and directed that a cost study be performed and provided to the legislature. The cost study was provided to the legislature but no action was taken. The plaintiffs then filed a motion with the court requesting that a deadline be set for compliance with the judgment. The court granted the motion and established a deadline for compliance.

In December 2001, the legislature met in special session and enacted interim legislation that, among other things, doubled the amount of funding for English language learners and provided additional funds for compensatory instruction, teacher training, etc. Additionally, the legislature commissioned another cost study that is to be completed and provided to the legislature by August 2004.

4. *Crane Elementary School District, et al. v. State of Arizona.*

In September 2001, the Center filed an action on behalf of four school districts contending that the school finance system is unconstitutional because it fails to provide the programs and funding that students who are at-risk of failing need in order to achieve the state's academic standards. The state has retained two private law firms to represent it in this matter. The state filed a motion to dismiss the case claiming that the Constitution does not require it to provide additional funding for students who need additional help in order to achieve the state's academic standards. The plaintiffs contend that programs like pre-kindergarten, all-day kindergarten, summer school, tutoring and other strategies, if implemented, can provide at-risk students with the same opportunity to achieve the state's academic standards as other students.

The trial court denied the state's motion to dismiss. The state filed a special action in the Court of Appeals. After hearing oral argument in March 2003, the Court of Appeals declined to accept jurisdiction of the case. The state then filed a petition for review with the Arizona Supreme Court which is pending.

In the meantime, the trial court has set trial in the case for March 16, 2004. The state has listed over 70 witnesses that it intends to call in its defense.

