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F3 NewsFlash™

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Court of Appeal Split Decision Upholds Dismissal of Case That Challenged Adequacy of Funding California's Public Schools

In a long awaited decision in the *Robles-Wong v. State of California* cases, on April 20, 2016, a divided panel of the California Court of Appeal held that sections 1 and 5 of Article IX of the California Constitution "evince no constitutional mandate to an education of a particular standard of achievement or impose on the Legislature an affirmative duty to provide for a particular level of education expenditures." (*Campaign for Quality Education v. State of California* and *Robles-Wong v. State of California*, *consolidated* (4/20/16, Case Nos. A134423 and A134424, respectively).) The 2-1 decision upheld a lower court judgment dismissing the cases.

The Plaintiffs originally filed their lawsuits in 2010 in the Alameda County Superior Court. The suits were widely supported by education groups, and Plaintiffs included organizations representing school districts (the California School Boards Association), school teachers (the California Teachers Association), parents (the state PTA), community activists, taxpayers, and actual students. Both complaints argued that the California Constitution provides each student with the right to a quality education, and that the State legislature is violating those rights by failing to adequately fund public education.

Alameda County Superior Court Judge Steven Brick dismissed both lawsuits. In a lengthy opinion from January of 2011, Judge Brick concluded that, while the allegations pointed to a number of concerning facts regarding the adequacy of funding, the California Supreme Court had already rejected the argument that Section 5 included any particular financing requirement. As a result, Judge Brick concluded that it would be impossible to allege a violation under Article IX of the California Constitution related to funding and the Legislature has the authority and discretion to fund public education as it sees fit. The Plaintiffs appealed.

After a more than four year wait, the majority on the Court of Appeal panel agreed with Judge Brick. Expressly recognizing that the California Supreme Court had not addressed the issue of "whether the right to an education of 'some quality' is enshrined" in the State Constitution, the Court of Appeal first held that students *should* receive an education of 'some quality.' However, the majority did not equate this with a funding requirement, explaining that Section 1 only declares a general purpose to promote education, and Section 5 only requires that the legislature create "a system of common schools." The majority opinion also cited prior California Supreme Court decisions, including the 1970's decision in *Serrano v. Priest*. (20 Cal. 3d 25, 36, fn.6.) The majority further concluded that under the California Constitution, schools do not have to perform to a particular standard or be particularly effective in meeting the constitutional goals set forth in sections 1 and 5 of Article IX. Finally, the majority characterized Plaintiffs' suits as "a public policy claim" that is properly resolved in the halls of the Legislature, not in the Courts. Both the concurring and dissenting opinion noted the action taken by the

Legislature in 2013 in this regard, with the enactment of Proposition 30 and the implementation of the Local Control Funding Formula (LCFF) that followed.

In a 22 page dissent, Justice Pollack wrote it was "obvious" that the constitutional mandate to provide a public school system "implies the need to maintain public schools at some minimum level of competence," explaining that, if the Constitutional right to an education is to have any meaning, there is an implied minimum qualitative level of education that satisfies the constitutional right.

The dissent further notes that, even though courts may have difficulties in "determining the precise parameters" of an education system that would be permissible, courts are still able to determine when a party's actions fail to meet constitutional standards. Finally, the dissent comments that the majority of other states that have considered whether there is a minimum standard of education and whether it is a proper question for the courts to address, have answered both questions affirmatively.

As of this writing, no announcement has yet been made about an appeal to the California Supreme Court. However, the split decision and rationale supporting the competing views in the decision suggest the possibility of an appeal to the California Supreme Court. Whether or not an appeal is pursued, the decision indicates an ongoing reluctance by California courts in recent cases to wade into what are perceived as education policy matters. Indeed, the majority opinion encourages advocates in this area to focus their fight on the California Legislature and to advocate for legislative changes that more clearly provide for "qualitative or funding elements that may be judicially enforced," rather than raising constitutional arguments with the courts.

If you have any questions regarding this matter, please call one of our six offices.

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