



## KASB Legal Summary of the Kansas Supreme Court's *Gannon Adequacy Decision* (March 2, 2017)

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### **I. How did we get here?**

**A. In March of 2014, the Kansas Supreme Court remanded a narrow issue to the 3-judge panel regarding the adequacy funding issue and the Rose standards; specifically, the panel was to determine “whether the public education financing system provided by the legislature for grades K-12 ‘through structure and implementation’ is reasonably calculated to have all Kansas public education students meet or exceed the standards set out in *Rose* and as presently codified in K.S.A. 2013 Supp. 72-1127.”**

**B. On December 30, 2014, the panel determined that the current educational finance system is underfunded and is not currently calculated to have all Kansas public education students meet or exceed the Rose standards, which meant current funding was inadequate under the Kansas Constitution.**

**C. Upon the passage of SB 7 (Block Grants), in the spring of 2015, the Plaintiffs filed a motion seeking declaratory judgment finding SB 7 unconstitutional and requesting injunctive relief.**

**D. When the 3-judge panel found SB 7 violated the Kansas Constitution in both adequacy and equity in June 2015, the State filed a motion requesting a stay to the panel’s rulings.**

**E. The Kansas Supreme Court granted the State’s motion and determined that the equity portion needed a swift resolution, which delayed the resolution of the adequacy issue until oral arguments were held on September 21, 2016, to determine whether the current school funding formula meets the *Rose* standards.**

### **II. What did the Supreme Court decide?**

**A. The Classroom Learning Assuring Student Success Act (CLASS) is unconstitutional in both structure and implementation.**



1. The Court determined that CLASS fails in structure because it is not a school finance formula, but rather a funding stopgap, and because it is only minimally responsive to financially important changes, such as increased enrollment.

*a) The previous school finance formula, SDFQPA, had been previously determined by the Court to be constitutionally adequate in structure.*

2. The Court held that CLASS violates Article 6 of the Kansas Constitution because it does not meet the *Gannon I* test for adequacy through implementation.

*a) The panel's findings regarding the inadequacy of funding was supported by substantial competent evidence.*

*b) Plaintiffs have proven that students are falling behind, especially certain subgroups, and that declining performance is related to declining funding.*

#### **B. Threshold Determinations (*Rose v. Morath*)**

1. The State argued that the Court should blend the prescribed *Rose* test with the irrational and arbitrary test identified in the Texas Supreme Court case, *Morath v. Texas Taxpayer and Student Fairness Coalition*.

*a) The State believes that deference should be given to the legislature and if it is acting reasonably, the system is adequately funded.*

2. The Court rejected the irrational and arbitrary standard, as well as the rational basis review supported by the State.

*a) However, the Court does indicate that even if the panel had applied the *Morath* test, the current system would still be constitutionally inadequate.*

*b) The Court makes it clear that the legislature has a myriad of choices available to perform its constitutional duty. ("In our analysis, we do not dictate to the legislature how it should constitutionally fund K-12 public school education; we only review its efforts to ensure they do not run afoul of the Kansas Constitution.")*

#### **C. Inputs and Outputs**

1. The Court did determine that alternative sources of funding should be considered when determining adequacy (LOB, Federal funds, KPERS).



2. However, the Court cautioned that the legislature must look at both inputs and outputs when determining whether funding is adequate.
3. The Court continued to stress that “total spending is not the touchstone of adequacy” and that it is not the role of the Courts to order a monetary remedy.

### **III. What did the Supreme Court order?**

**A. The Court retained jurisdiction and continued to stay the issuance of its mandate until June 30, 2017, to “give the legislature the full extent of the opportunity it created with its own 2-years-plus deadline to craft a system of school funding that comports with the constitution.”**

**1. If the legislature fails to enact a system capable of meeting the adequacy requirements of Article 6, “the state’s education financing system is constitutionally invalid and therefore void.”**

- *As was explained in Gannon II, this would mean that no constitutionally valid school finance system exists through which funds can lawfully be raised, distributed, or spent.*

### **IV. So, what does this all mean?**

**A. The Court is giving the legislature until June 30, 2017, to enact a K-12 public education financing system that is capable of meeting the adequacy requirements of Article 6, which also comports with equity mandates.**

**B. If the legislature does act and does something that has yet to be tested by the courts, it is possible this will have to go before the Court again.**

1. It is unlikely that the legislature will do nothing due to the expiration of CLASS.
2. However, like always, we must wait and see what the legislature does regarding school finance.