



**The Kansas Supreme Court and Oral Arguments
Gannon School Finance and SB 19
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Gannon vs. State -November 2nd, 2010: lawsuit filed claiming the State violated Article 6, Sec. 6 of the Kansas Constitution by not constitutionally funding K-12 public schools. “The legislature shall make suitable provision for finance of the educational interests of the state.”

Gannon I:

- The Kansas Supreme Court reaffirmed Article 6 requires both an adequacy and an equity component be satisfied for a school finance formula to be constitutional.
- Kansas Supreme Court held CLASS Act enacted in 2015 (SB 7) does not fund public education at constitutionally adequate level
- The **adequacy requirement** is satisfied "when 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 [Rose standards]." *Gannon I* at 1170.
- The Supreme Court determined **equity requirement** is satisfied when school districts "have reasonably equal access to substantially similar educational opportunity through similar tax effort.”
- Applying the equity test the Supreme Court found current funding levels for capital outlay and supplemental general state aid were unconstitutional. *Gannon I* at 1170
- Supreme Court remanded case back to Three Judge Panel

District Court Panel Decisions- 2014-2015:

- District Court Panel’s first decision found the SDFQPA to be unconstitutional under the new test for adequacy.
- The legislature then repealed SDFQPA and enacted the CLASS Act in response to Three Judge Panel’s Decision



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- Three Judge Panel issues second decision finding CLASS Act unconstitutionally inadequate and supplemental general state aid and capital outlay state aid equalization formulas as amended by CLASS Act were inequitable and unconstitutional.



Kansas Supreme Court Order- July 24, 2015:

- Supreme Court equity and adequacy issues were at different litigation stages and bifurcated or separated the adequacy and equity issues
- Asked the parties to brief and argue issues separately

Gannon II- Feb. 11, 2016:

- Kansas Supreme Court held State failed to show sufficient evidence it complied with the Court's prior equity orders in *Gannon I*
- Court found amended supplemental general state aid and capital outlay state aid equalization formulas in SB 7 failed to cure unconstitutional wealth-based disparities between districts.
- In response, Legislature enacted Sen. Sub. for H.B. 2655 amending both supplemental general state aid and capital outlay state aid formulas.

Gannon III- May 27, 2016:

- Kansas Supreme Court held HB 2655 cured capital outlay inequities, but failed to cure supplemental general state aid inequities
- On June 28, 2016, the Kansas Supreme Court found HB 2001, passed during Special Legislative Session, cured the supplemental general state aid inequities.
- The Court retained jurisdiction over the equity issue even though it was found to be resolved.

Gannon IV Adequacy Decision -March 2, 2017

- Kansas Supreme Court held CLASS Act is unconstitutional as it inadequately funded Kansas public schools
- Court ruled CLASS Act unconstitutional because it did not meet structure or implementation requirements of adequacy test.



- Court examined the “**inputs**” to K-12 educational system- the costs and funding sources of providing an adequate system and the “**outputs**” from the system-outcomes such as student achievement
- Court stayed all orders to give Legislature opportunity to enact new school finance system prior to June 30, 2017
- State must demonstrate any new school financing system must be "reasonably calculated to address the constitutional violations" of the adequacy requirement while also satisfying the equity requirement
- If a constitutional school finance system is not enacted then Court will lift its stay and issue an order holding school finance system unconstitutional and therefor void

What We Know for Sure:

- Supreme Court recognized the Legislature has demonstrated its ability to cure constitutional infirmities noted by the Court in two prior cases.
- The Supreme Court reaffirmed its role to review legislation to ensure constitutional compliance. Quoting *Gannon III*, the Supreme Court stated, “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.”
- The Court emphasized the constitutional standard is a “minimal standard” and the State cannot fall below a system that does not have all children achieving the *Rose* competencies.
- The Supreme Court provided no specific recommendations as to the structure or implementation on the new school finance system. There is “no specific way for this funding to be achieved.”
- The State will have the burden of establishing compliance with the Court’s rulings regarding adequacy and equity

What Will the Kansas Supreme Court Rely on in Making a Decision?



- The Kansas Supreme Court will review the new school finance legislation and analyze whether it meets the equity and adequacy tests set forth in its previous Gannon decisions.
- In *Gannon IV* the Supreme Court found that the CLASS Act violated Article 6 as its structure was not reasonable calculated to have all public-school students meet or exceed the *Rose* capacities. The block grant was not a school finance formula but a “funding stopgap” as it froze funding levels for 2016 and 2017 and was only minimally responsive to important changing conditions such as increased enrollment
- In *Gannon IV* the Supreme Court reviewed the implementation of the adequacy test requirements by reviewing the inputs of the CLASS Act including the **funding sources**, **the level of funding** and the **impact of such funding** on the K-12 education system
- In reviewing the **funding sources**, the court mentioned all funding sources for the K-12 finance system should be considered such as local option budget money, federal funds, KPERS employer contributions and federal funds.
- On the **level of funding** the Court noted the BSAPP had been reduced to \$3,780 and that the State Board of Education, the 2010 Commission and both Augenblick & Myers cost study and the Legislative Post Audit Cost Study had recommended the BSAPP above this amount
- In *Gannon IV* the Supreme Court noted “The panel concluded that a BSAPP amount near \$4,654 might satisfy the Article 6 requirements- if the weightings included in the state financial aid formula were increased to align at least the weightings suggested by the LPA study consultant. It also determined that at least a\$4,980 BSAPP was required if LOB funds continued to be used, in part, to satisfy Article 6.”
- *Gannon IV* quoted *Gannon I* that “Actual costs remain a valid factor to be considered during application of our test for determining constitutional adequacy under Article 6”
- The Court stressed that “total spending is not the touchstone of adequacy” and that” it is not the role of the courts to order a monetary remedy”
- *Gannon IV* concluded the findings regarding the impact of the funding levels on the plaintiff school districts including elimination of educational programs, decreases in staffing, cuts to extracurricular activities and staff and budget cuts to technology and vocational programs impacted certain *Rose* capacities.
- The *Gannon IV* the Court reviewed the outputs of the CLASS Act including years of student achievement data, statewide test scores in math and reading, NAEP scores, ACT



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benchmark scores and high school graduation rates and concluded improvement coincided with increased school funding during and after the *Montoy* decision and noted a steady regression from school improvement since then.

- The Court noted that overall percentages of students scoring below grade level increased after 2011-2012 and there were widening achievement gaps for certain subgroups of students including African-American, Hispanic, English language learners, disabled and free and reduced lunch students. The Court also found achievement gaps for students in subgroups in the NAEP and ACT testing scores and achievement gaps in the graduation rates and college readiness data. A higher percentage of African American, Hispanic, English language learners, disabled and free and reduced lunch students were unable to graduate in four years.
- The Court concluded the State is failing to provide nearly one-fourth of all public-school students with basic skills in both reading and math and affirmed the finding that such assessment scores constitute a failure to meet the sixth and seventh *Rose* standards.
- The Court cautioned that the legislature must look at both inputs and out puts when determining whether funding is adequate.

New Deadlines:

Both parties are required to submit initial briefs on or before Friday, June 30;

The parties will then each have an opportunity to respond to the initial briefs on or before Friday, July 7;

The parties are to appear for oral argument on Tuesday, July 18 at 9:00 a.m.