



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

Constitutionality of Wisconsin School Aid Formula

A divided state supreme court has held that the state school aid formula is constitutional. The case, *Vincent v. Voight* (2000 WI 93) was decided on July 11, 2000. The case was initiated by various Wisconsin students, parents, teachers, school districts, school board members, citizens and the President of the Wisconsin Education Association Council.

DECISION OF COURT

The court addressed two main issues raised by the petitioners

1. Whether the state school finance system is unconstitutional under Wis. Const. art. X, s. 3--the Uniformity Clause of the education article; and
2. Whether the state school finance system is unconstitutional under Wis. Const. art. I, s. 1--the Equal Protection Clause.

The petitioners contended that the school finance system violated both of the constitutional provisions because the formula fails to equalize access to financial resources among school districts.

The supreme court, in a divided opinion, concluded that the petitioners did not prove beyond a reasonable doubt that the current state school finance system violates either of the constitutional provisions. Further, after analyzing the current school finance system, the

court concluded that it more effectively equalizes the tax base among districts than the system upheld in the most recent state school aid case, *Kukor v. Grover*.¹

The petitioners also challenged the statutory revenue limits claiming that they were unconstitutional under art. X, s. 3 because the revenue limits most severely affect school districts with decreasing student populations, or those with many high needs students. The court concluded that the revenue limits do not adversely affect the constitutionality of the school finance system. The opinion notes that revenue limits do not absolutely bar school districts from increased spending, since the limits can be exceeded after a local referendum to raise the limits

RIGHT TO SOUND BASIC EDUCATION

The majority opinion, authored by Justice Crooks, further held that: "Wisconsin students have a fundamental right to an equal opportunity for a sound basic education. An equal opportunity for a sound basic education is one that will equip students for the roles as citizens and enable them to succeed economically and personally."²

The opinion indicates that the Legislature has articulated a standard for equal opportunity for a sound basic education in the statutes as "the opportunity for students to be proficient in mathematics, science, reading and writing,

geography and history, and for them to receive instruction in the arts and music, vocational training, social sciences, health, physical education and foreign language, in accordance with their age and aptitude.”³ The opinion states that an equal opportunity for a sound basic education acknowledges that students and districts are not fungible and takes into account districts with disproportionate numbers of disabled students, economically disadvantaged students and students with limited English language skills. The court concludes, however, that so long as “the Legislature is providing sufficient resources so that school districts offer students the equal opportunity for a sound basic education as required by the constitution, the state school finance system will pass constitutional muster.”

CONCURRING OPINIONS

The court was not unanimous in its conclusion. Three justices (Justices Abrahamson, Bablitch and Bradley) concurred in the opinion of Justice Crooks only with regard to the articulated standard for determining the constitutionality of a sound basic education. These three judges

would have sent the case back to the lower court for a determination on the facts of whether the current formula meets the newly articulated standard. They did not concur in the portion of the opinion concluding that the current formula meets the constitutional standard.

Three justices (Justices Prosser, Sikes and Wilcox) concurred in the conclusion of the opinion of Justice Crooks that the current formula was constitutional but did not concur in the portion of the opinion articulating the right to an equal opportunity for a sound basic education. Because a majority of the court supported the opinion of Justice Crooks, that opinion is considered the opinion of the court.

The memorandum was prepared on July 31, 2000, by ***Russ Whitesel, Senior Staff Attorney***, Legislative Council Staff.

¹ 148 Wis. 2d 469 (1989).

² *Vincent*, at par. 3.

³ *Vincent*, at par. 3, citing ss. 118.30 (1g) (a) and 121.02 (L) (1997-98).

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