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Legislature and Governor tell PA Supreme Court it cannot enforce state constitution requiring support of a thorough and efficient system of schools

Harrisburg, Pa. –Attorneys for the state legislature and the executive branch told the Pennsylvania Supreme Court this week that the Court is powerless to decide whether or not the state system of funding public schools violates the state Constitution.

Those statements came in briefs supporting the Commonwealth Court’s dismissal of *William Penn School District vs. Pennsylvania Dept. of Education*, a lawsuit claiming that the state’s system of funding public education is so inadequate and unequal that it violates state constitutional provisions requiring a “thorough and efficient system of public education” and equal treatment under the law. The suit was filed a year ago by seven parents of children in underfunded public schools across Pennsylvania, six school districts including William Penn, Panther Valley, Lancaster, Greater Johnstown, Wilkes-Barre Area and Shenandoah Valley, the Pennsylvania Association of Rural and Small Schools (PARSS), and the NAACP Pennsylvania State Conference. The Public Interest Law Center and the Education Law Center of Pennsylvania are representing these petitioners.

“Pennsylvania’s children and families need accountability. As the budget impasse continues and school districts are literally running out of money, it is particularly galling now for the legislature and the executive branch to claim that they are free to do whatever they want without any constitutional oversight. We are talking about the most fundamental right of our Commonwealth – the opportunity to receive a quality public education no matter where you live,” said Jennifer R. Clarke, executive director of the Public Interest Law Center.

“Pennsylvania’s public education system is broken due to the failure of our legislature to adequately and more equitably fund our schools. Our children are paying the price,” said Maura McInerney, senior attorney with the Education Law Center. “Gov. Wolf has made repeated public statements that the General Assembly is failing to adhere to its constitutional obligation, including recently vetoing a school funding bill, because, in his own words, ‘*it fails to meet our constitutionally required obligation of providing a thorough and efficient system of education.*’ Yet the Executive Branch claims in its brief that ‘there can be no serious question’ that the School Code already meets the constitutional requirement. It does not.”

In April, the Commonwealth Court dismissed the case, citing previous cases which it said require that school funding issues must be left solely to the political process. On September 18, the districts and parents appealed to the Pennsylvania Supreme Court, telling the high court that the availability of a high-quality public education in Pennsylvania will continue to be a “function of community wealth rather than a constitutional guarantee” unless there is judicial intervention. The parents and districts are asking the Pennsylvania Supreme Court to reverse the Commonwealth Court’s decision and to send the case to a full trial where they can present evidence that the state legislature has failed to adequately and equitably fund the public schools as required by Pennsylvania’s state constitution.

“We are confident that the Supreme Court will reject the notion that our Constitution’s language expressly requiring the General Assembly to ‘support’ a quality system of public education for all of Pennsylvania’s school children is meaningless and unenforceable. The Executive Branch and the Legislature have ignored these rights for too long and we look forward to presenting this case to the Court,” continued McInerney.

Lacking judicial oversight, the legislative process has underfunded rural, suburban and urban schools all over the Commonwealth. According to the petition filed by the districts and parents last year, the General Assembly has set state standards that define what content children need to learn in order to be fully educated, but has then failed to pay what is necessary to provide the schooling students need in order to meet those standards. The state’s own 2007 Costing Out Study calculated how much it actually costs for children to acquire that necessary knowledge. And yet, Pennsylvania officials have failed to ensure that all districts have the resources necessary to provide the education students need to meet state proficiency standards. In the 2012-2013 school year, fewer than half of the state’s students were able to pass the Keystone graduation exams and three-quarters of school districts operated one or more schools that could not meet targets for proficiency on the Pennsylvania System of Standardized Assessment (PSSA) exams.

The districts and parents will file a reply brief within three weeks. Lawyers for the districts and parents expect the high court will hear oral argument in early 2016. The full court, including the newly-elected justices Wecht, Dougherty and Donohue, is expected to review the case.

All case documents can be viewed here: <https://edfundinglawsuit.wordpress.com/>

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The Education Law Center of Pennsylvania works to ensure that all children in Pennsylvania have access to a quality public education, including poor children, children of color, children with disabilities, children in the foster care and juvenile justice systems, English language learners, and other vulnerable children. For more information visit www.elc-pa.org or follow on Twitter @edlawcenterpa.

The Public Interest Law Center uses high-impact legal strategies to improve the well-being and life prospects of vulnerable populations by ensuring they have access to

fundamental resources including a high-quality public education, access to health care, employment, housing, safe and healthy neighborhoods and the right to vote. For more information visit www.pubintl.org or follow on Twitter @PubIntLawCtr.