



Action. Access. Progress.

1500 John F. Kennedy Blvd., Suite 802
Philadelphia, PA 19102

www.pubintlaw.org

PublicInterestLawCenter 
@PubIntLawCtr 

**Testimony of Dan Urevick-Ackelsberg
Senior Attorney, Public Interest Law Center
August 10, 2023**

Chairman Schweyer, Chairman Topper, and Members of the Committee:

I am an attorney at the Public Interest Law Center. Along with my colleagues at the Public Interest Law Center, the Education Law Center, and O'Melveny and Myers, I had the privilege to represent the six school districts, statewide organizations and families that won the school funding trial.

The Commonwealth Court's holding made plain what our Constitution requires: As the Court wrote, the duty "imposed by the Constitution is that every student receives a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of public education." *William Penn Sch. Dist. v. Pennsylvania Dep't of Educ.*, 294 A.3d 537, 964 (Pa. Commw. Ct. 2023).

And the Court explained *why* the system was unconstitutional. It was not about funding for funding's sake, but it was about *funding*. The funding to provide the necessary resources so that low-wealth school districts can have the staff, technology, curricula, and facilities that make up that contemporary, effective education for their students.

Much of the Court's decision was based upon the Commonwealth's own laws and statistics, including Level Up. The Court noted that Level Up combines both the fair funding and special education formulas' definitions of need to determine which districts are spending the least in the state relative to those needs. And in its decision, the Court used the Level Up formula as a practical way to do precisely that. It found, for example, that relative to its students' needs as identified by Level Up, the School District of Lancaster was spending the 28th least in the Commonwealth.

All told, the Court found that Level Up itself helped credibly "establish the existence of inadequate education funding in low wealth districts like Petitioners, a situation known to the Legislature." *William Penn Sch. Dist. v. Pennsylvania Dep't of Educ.*, 294 A.3d 537, 910 (Pa. Commw. Ct. 2023).

What does inadequate education funding mean? At its core, it means that educators lack the resources they need to allow all children to live up to their potential, in conditions that befit their dignity. It means insufficient numbers of teachers, counselors, tutors, and specialists. It means two classes taught at once by the same teacher at the same time. It means that when COVID hit, some schools went without remote devices for each student for a year. It means buildings with insufficient heat, unacceptable air quality, looming asbestos, aging boilers and electrical systems, and students learning in hallways and closets.

And we know that the stories of our school districts were not unique. From Allentown, to Scranton, to Erie, to Reading, to everywhere in between, in districts big and small, the stories are all the same. And they have a common culprit: we have not adequately funded our schools.

In 2017, the Supreme Court ruled for the Petitioners and sent the case back to Commonwealth Court to conduct discovery and hold a trial. When it did so, it acknowledged that you all have a tough job, stating that there are surely “many competing and not infrequently incompatible demands [you] face to satisfy non-constitutional needs, appease dissatisfied constituents, and balance a limited budget in a way that will placate a majority of members in both chambers despite innumerable differences regarding policy and priority.” *William Penn Sch. Dist. v. Pennsylvania Dep't of Educ.*, 170 A.3d 414, 464 (Pa. 2017). But a thorough and efficient system of public education is a constitutional command. And the reason why there was to be a trial is because courts have a responsibility “to monitor the General Assembly’s efforts in service of its mandate and to measure those effects against the constitutional imperative, ensuring that non-constitutional considerations never prevail over that mandate.” *Id.* Those efforts were measured at trial. They were found unconstitutional.

When we won the lawsuit, we recognized that all of you, on both sides of the aisle, had a serious task ahead of you. We didn’t create a huge school funding hole in a year, and we won’t climb out of it in one year. But schools are unconstitutionally underfunded this year. The constitutional rights of children are being violated this year. And that is especially so for the very schools and students that make up Level Up districts. And so a down payment needs to be made on fixing that system this year.

As you know, the school funding decision was not appealed. In her recent decision denying post-trial relief, the Court explained one final time what that means:

Having faced the “formidable challenge” given to the Court by the Supreme Court head on, this Court now tasks Respondents with the challenge of delivering a system of public education that the Pennsylvania Constitution requires – one that provides for every student to receive a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of public education

William Penn Sch. Dist. v. Pennsylvania Dep’t of Educ., No. 587 M.D. 2014, 2023 WL 4285737, at *6 (Pa. Commw. Ct. June 21, 2023).

We look forward to working with each of you to make this system of public education work for each child. This year, that means funding for Level Up as the first installment in a long overdue payment. Next year, it must mean a system that begins providing adequate funding for all.