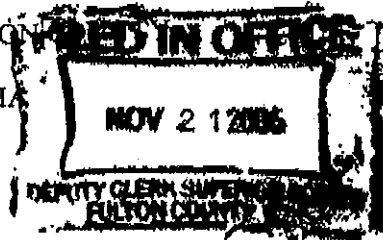


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IN THE SUPERIOR COURT OF FULTON
STATE OF GEORGIA



CONSORTIUM FOR ADEQUATE
SCHOOL FUNDING IN GEORGIA, INC.,
et al.,

Plaintiffs

v.

STATE OF GEORGIA, et al.,
Defendants.

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Civil Action No. 2004CV91004

ORDER

Plaintiffs contend that the State of Georgia has failed to satisfy its constitutional mandate to provide to the citizens of the Plaintiff school districts an adequate public education, which, the State denies. The Court requested that the parties address the standard that should be applied to determine this question. Having reviewed the briefs submitted and considered the arguments of counsel, the Court finds as follows: Paragraph I of Article VIII, Section I of the Georgia Constitution states that

[t]he provision of an adequate public education for the citizens shall be a primary obligation of the State of Georgia. Public education for the citizens prior to the college or postsecondary level shall be free and shall be provided by taxation.

The leading case in which the Georgia Supreme Court has considered the reach of the State's obligation under this constitutional provision is McDaniel v. Thomas, 248 Ga. 632, 644 (1981). In that case, the Court declared that an adequate education is one which is "designed to produce individuals who can

function in society.” The McDaniel Court went on to state that “it is primarily the legislative branch of government which must give content to the term ‘adequate.’”

Id.

As required by the Supreme Court in McDaniel, we look to the State statutes to see what the legislative branch has done to give content to the words “adequate education”. A review of the legislation and the current financial commitment of the State to the local school districts shows that the State has made policy decisions that recognize its responsibility to provide the citizens with an adequate education. In the McDaniel case, the evidence was that the State’s financial funding was massive – in excess of one billion dollars. In this case, the State suggests that if, at the present time, the State is providing an amount of financial support, increased for inflation, enrollment and other factors, that is as large as that provided in the McDaniel case, then this evidence may be dispositive of the case. This argument is not persuasive. The McDaniel Court actually held that “in the absence of evidence to show that existing state funding for public education deprives students in any particular school district of basic education opportunities, cross-appellants’ contention that low wealth districts fail to provide an ‘adequate education’ must be rejected.” Id. The McDaniel Court thus held that the State had not disregarded its constitutional command to provide an adequate education for its citizens. In the McDaniel Court’s view, there was no evidence (not insufficient evidence or slight evidence, but no evidence) that a lack of State funding deprived the students in any particular school district of an adequate education.

Here then, following McDaniel, if the Plaintiffs are able to produce evidence that shows that the current State funding for public education is so low that "it deprives students in any particular school district of basic educational opportunities", then they will have made their case. Conversely, if Plaintiffs are unable to make that showing, or if they are unable in some other way to show that the State has failed to discharge its mandate under the Georgia Constitution to provide an adequate education to its citizens, then they cannot prevail. To put it another way, evidence that shows how the State has actually performed in relation to the constitutionally mandated "adequate education", as that phrase has been given meaning and content by the actual sovereign legislative actions of the General Assembly and the regulations of the State Board of Education, will be critical.

The parties have expressed different views on the question of what funding counts on the issue of whether there is sufficient constitutionally required funding of public education by the State. If there were no money available to fund public education in Georgia except that of the State, then only the State money would count. On the other hand, if other monies are available from any source – federal, local, private (which we know to be the case) – then the State need only provide the balance of whatever is necessary to ensure that an "adequate education" is provided.

McDaniel tells us that an adequate education includes basic educational opportunities for its students. Again we must defer to legislative and administrative enactments to determine these basic educational opportunities.

Whether these basic educational opportunities do, in fact, exist and, if not, whether the absence is due to a lack of necessary State funding or some other State deficiency will be relevant. Additionally, students' graduation rates and test performance scores will be considered to the extent they reflect a lack of necessary funding or other deficiencies of the State. But again, as indicated above, these rates and scores will be persuasive only if they can be tied to the absence of necessary funding or to some other factors under the control of the State.

SO ORDERED, this 21st day of November, 2006.


ELIZABETH E. LONG, SENIOR JUDGE

cc:

Amy Mil Totenberg

Thomas Alan Cox
Weekes & Candler LLP
One Decatur Town Center, Suite 300
150 East Ponce de Leon Avenue
Decatur, GA 30030

David C. Long
333 Lowell Avenue
Mill Valley, CA 94941-3845

Rocco E. Testani, Esq.
Alfred A. Lindseth, Esq.
Sutherland, Asbill, & Brennan
999 Peachtree St., N.E., Suite 2300
Atlanta, GA 30309-3996

Stefan E. Ritter, Esq.
State Law Department
40 Capitol Square, S.W.
Atlanta, GA 30334-1300