

The Supreme Court has released its decision in *Gannon v State*. Link and summary follow.



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DECISION: No. 113,267: Luke Gannon, et al v. State of Kansas, et al

In its [decision released today](#), the Kansas Supreme Court held the State has not shown that the school finance laws enacted during the 2017 and 2018 legislative sessions meet the adequacy requirement in Article 6 of the Kansas Constitution. But if the State chooses to make timely financial adjustments in response to problems identified with its selected plan and the accompanying calculations and then by completing that plan, the State can bring the K-12 public school finance system into constitutional compliance with the adequacy requirement. The court also held the new laws resolve the equity violations identified in *Gannon V*, the court's October 2017 decision. The court additionally held that the newly-created equity violations alleged by the plaintiffs do not exist. At the State's request, the court withheld any remedial action until June 30, 2019, to give the legislature an opportunity to make the required adjustments. This is the court's sixth decision in this lawsuit.

The new school finance laws were enacted by the legislature in response to the court's *Gannon IV* and *Gannon V* decisions. In *Gannon IV*, decided in March 2017, the court affirmed the lower court's holding that substantial funding cuts to the state's K-12 finance system beginning in 2009 led to a marked decline in student achievement, as measured by various standardized tests. The court concluded the 2015 legislature's Classroom Learning Assuring Student Success Act (CLASS) did not fix the problems, i.e., CLASS was not reasonably calculated to have all Kansas K-12 public school students meet or exceed the constitutional standards.

In *Gannon V*, the court held the State failed to meet its burden of showing that the remedial legislation enacted during the 2017 legislative session fixed the problems after *Gannon IV*. The court also held that four provisions of the new law created or exacerbated unconstitutional wealth-based inequities. But the court generally approved of the 2017 legislature's adoption of the Kansas School Equity and Enhancement Act (KSEEA).

The KSEEA provides a fixed amount of funding per student called the base aid amount. It then utilizes certain weightings, such as the at-risk student weighting, to increase that base aid funding because some

students require more resources and some districts have factors that increase costs. The KSEEA was modeled after the School District Finance and Quality Performance Act (SDFQPA)—an act that had existed for 23 years before the 2015 legislature repealed and replaced it with CLASS.

In its May 22, 2018, argument before the court, the State contended it had complied with Article 6 by returning to the basic formula and resultant funding approved by the supreme court in July 2006 when it dismissed an earlier school finance lawsuit, *Montoy v. State*. The court summarized that "the State claims it has raised education funding to at least such levels as to be firmly anchored in this self-described '*Montoy* safe harbor.'"

The State's plan to do so was presented to the court in part through an April 23, 2018, memo from the Kansas Legislative Research Department. The memo concluded that after some other modifications, the 2018 Legislature still needed to add around \$522 million of principal to reach the *Montoy* safe harbor. But the court identified two problems with the calculations presented in that memo: (1) the failure to consistently follow the memo's approach and adjust two years of funding for inflation through the approaching 2018-19 school year, which would yield a new principal amount owed to the school districts; and (2) the failure to adjust for inflation until the principal sum owed to the districts was paid in full—approximately 5 years, according to the State's plan.

The court also held that the Kansas Constitution's Article 6 equity requirement was not violated by: (1) requiring a protest petition procedure if a local school district wants to adopt a local option budget (LOB) greater than the statewide average for the preceding school year as determined by the state board of education; (2) requiring all districts to adopt a 15% LOB; or (3) requiring districts to transfer funds from their LOB to their district's at-risk and bilingual funds, based on a proportional formula. Although the court ultimately held the funding fell short of the legislature's goal of reaching the *Montoy* safe harbor, it acknowledged the "considerable amount of total funding" added in school year 2017-18 and scheduled to be added through school year 2022-23. The court stayed issuance of its order until June 30, 2019, to allow the legislature ample time to bring the school finance system into compliance with Article 6 of the Kansas Constitution. Briefs are due April 15, 2019, and oral arguments are scheduled for May 9 to review whatever remedial legislation may be enacted.

All previously filed documents are available on the [Gannon v. State case page](#).

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