

IN THE SUPREME COURT OF THE STATE OF KANSAS

CASE NO. 113,267

LUKE GANNON,

By his next friends and guardians, *et al.*,

Plaintiffs/Appellees,

County Appealed From: Shawnee

v.

District Court Case No.: 10-C-1569

STATE OF KANSAS, *et al.*

Defendants/Appellants.

REPLY IN SUPPORT OF RULE 6.09(b) LETTER

The data within Exhibit A to Plaintiffs' Rule 6.09(b) letter is already before this Court. The data, however, was presented at oral argument in a different format than it was presented in briefing. Therefore, Plaintiff provided this Court with Exhibit A to allow it to view the assessment data in the format used at oral argument.

Plaintiffs have never presented the data in Exhibit A for purposes of comparison, as made clear in briefing and argument. *E.g.* Plaintiff's Supplemental Brief, pp.15-20. The data was instead presented to demonstrate that in both 2011 and 2015, a significant number of Kansas students were not receiving an education that met the State's *own* standards, as measured by *the State's* assessments. The State's new assessments are specifically designed to measure whether students are "college ready." *See id.*, Appx. C. Results on these assessments demonstrate the current level of funding is not reasonably calculated to meet the *Rose* factors, specifically those codified at K.S.A. 2015 Supp. 72-1127(c)(1),(6),(7). *Id.* at pp.15-20.

Regardless, the points made by Plaintiffs' counsel at oral argument remain true:

Now the standard is different today, and frankly I would say that standard aligns nicely with what some people call common core - what I would call the *Rose* factors, and that is college-ready, vocational-ready . . . In terms of whether there has been a breach of that duty the constitution imposes, according to your test when you look at the standard, even when it was at trial, or today, we're falling short and we're leaving massive numbers of kids behind . . . So my point is that the State argues that Kansas students are doing well and neither the data from trial nor the data available now supports that conclusion.

This data is demonstrative of the fact that *Rose* standards are not being met. Whether this Court looks at the data presented at trial or the assessment data under the most recent standards adopted by the State, a significant number of students are not receiving an education that demonstrates compliance with the adequacy test.

Dated this 3rd day of October, 2016.

Respectfully submitted,

**/s/ Alan L. Rupe**

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day October, 2016, I electronically served the foregoing

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