

# The Lobato Case

## *The Future for Colorado Students*

Children's Voices  
[lobatocase@gmail.com](mailto:lobatocase@gmail.com)  
Contact Mark Stevens: 303-495-8699  
720-328-5488  
<http://lobatocase.org/>

### **News Release**

Jan. 23, 2012

### ***Appeal to delay resolution of Colorado's school funding problems***

The state's formal notice of appeal in *Lobato v. State of Colorado* is an anticipated but unfortunate step in the prolonged lawsuit to fix Colorado's broken public school finance system, plaintiff's attorneys and supporters said today.

"The judge's decision in December was firm and resounding," said Kathy Gebhardt, one of the lead attorneys on behalf of Lobato. "The state is failing to meet constitutional requirements that it maintain a thorough and uniform school system. The evidence from the trial was overwhelming. The judge found the system to be irrational, arbitrary and underfunded. It's unfortunate the state will further delay a constitutionally required education for the children of Colorado, but we will defend the district court decision and, for the sake of the state's students, hope that we can move forward with all deliberate speed." Bringing the case to trial was a six-year process, she noted.

"It is clear that the state has no basis on which to defend the current school, finance system," she added. "All of the state's bases for appeal are technical arguments that do not speak to whether students are getting a constitutionally adequate education. In addition, the state's appeal does not seek guidance on how to solve the revenue implications of the district court's decision, which was its stated justification for the costly and time consuming appeal."

The appeal is in response to Denver District Judge Sheila Rappaport's 189-ruling, issued in December, that represented a sweeping legal victory for the parents and school districts that brought the case. In her ruling, Rappaport cautioned that the state shouldn't blame "current economic conditions" for the school finance crisis. The recession "made an unworkable situation unconscionable," Rappaport wrote, but the "irrational and inadequate school funding" system is over two decades old.

The appeal, said Gebhardt, prolongs repairs and short-changes students: "The state is fully aware that too few students are graduating, that student achievement has remained flat for years and that achievement gaps based on race and income are among the largest in the nation," she said. "None of this will change while state lawyers roll the dice on this appeal and delay the discussion that's required."

Added Aurora Public Schools Superintendent John Barry: “Analyses show what many of us in education know--Colorado is fast sinking to the bottom of the barrel when it comes to investing in our students and their future. Colorado is near the top five states in per capita income of the 50 states but in the bottom five states in the nation for per pupil revenue. I am conservative by nature and not an advocate for tax adjustments without very strong justifications but their needs to be a correction of some magnitude when there is such a disparity. Our students must be given a chance to be competitive in this global economy. We must signal to all that this state values its students and their future so it benefits all citizens.”

In 2008-09 (before the recession), Colorado spent \$1,809 less per pupil than the national average. K-12 spending on school finance in Colorado is an estimated \$774 million below the minimal increase required by Amendment 23. Colorado ranks at or near the bottom of states when it comes to funding special education and too many children are attending schools that are crumbling and unsafe. A recent independent statewide survey uncovered a \$17.9 billion backlog in school capital needs.

The Lobato lawsuit represented specific parents, students and 21 school districts. The majority of the state’s 178 school districts endorsed Lobato. The lawsuit was filed by Children’s Voices, a non-profit law firm dedicated to achieving equal access to a high quality public education for all school-age children in Colorado. The Mexican American Legal Defense Fund (MALDEF) entered the case as plaintiff interveners on behalf of parents in four districts.

The lawsuit led to a five-week trial in August 2011. On Dec. 9, 2011 the court ordered that the state must design, fund, and implement a system of public school finance that enables all students in the state to graduate with the knowledge and skills necessary for citizenship, post-secondary education, and participation in the workforce.

In her decision, Judge Rappaport found that Colorado’s public schools are so underfunded that children throughout the state are being denied an adequate education, in violation of the state constitutional mandate of a “thorough and uniform” system of public education. The court recognized that school districts across the state are unable to provide the educational programs, services, instructional materials, equipment, technology, and facilities necessary to assure all children an education that meets the mandates of the Constitution and the state’s standards-based education system.

More info: <http://lobatocase.org>

Follow on Twitter: @TheLobatoCase

###