

# Kansas School Finance Case Progression

**1. The *Mock* case. (filed 12/1989).** *Mock v. State of Kansas* No. 91-CV-1009 Shawnee County District Court 31 Washburn L.J. 489 (no appeals taken)

This case resulted in a finding that the school finance formula was unconstitutional and the adoption of a new statewide school finance formula. The case also included adoption of the principle that education is indeed a statewide funding obligation and that the formula should be based, not upon politics, but upon the actual costs to educate kids. This case resulted in a massive drop in Kansas median school mill levies... more equitably spreading the burden of school finance and producing over a 38% drop in Kansas property taxes.

**2. The *USD 229* case. (filed 1992)** *U.S.D. No. 229 v. State*, 256 Kan. 232 (1994)

The new formula was tested in the *U.S.D. 229* case. The new formula was found to be constitutional but not without continuous monitoring. The court used the factors from the Kentucky *Rose* case as the measuring stick for adequacy. It also declared that the will of the legislature in school funding decisions must be respected "unless we can say that it is very wide of any reasonable mark." This case provided the standards for future legal challenges.

**3. The *Robinson* case. (filed 5/21/1999)** 117 F. Supp. 2d 1124 (D. Kan. 2000) 295 F. 3d 1183 (10<sup>th</sup> Cir. 2002) Cert. denied 539 U.S. 926 (U.S. 2003)

**The *Montoy* case. (filed 12/14/1999)** *Montoy v. State*, 275 Kan. 145 (2003) (*Montoy I*); *Montoy v. State*, 278 Kan. 769 (2005) (*Montoy II*); *Montoy v. State*, 279 Kan. 817 (2005) (*Montoy III*); and *Montoy v. State*, 282 Kan. 9 (2006) (*Montoy IV*)

These companion cases again tested the underfunding of the formula, Robinson in

federal court and *Montoy* in state court. The federal case eventually deferred and was stayed while *Montoy* proceeded. The *Montoy* case generated a finding that the funding scheme "stands in blatant violation of Article 6 of the Kansas Constitution." The legislature responded and increased statewide school funding by \$755M, phased in over a three year period (2006-2009). The components in the formula were adjusted to a more accurate cost-based scheme and away from a politically based scheme. It went up to the Kansas Supreme Court five times in a three year period. The Supreme Court dismissed the case upon legislative adoption of a phased-in three year funding increase plan.

**4. The *Petrella* case (filed 12/10/2010)** *Petrella v. Brownback* 697 F.3d 1285 (10<sup>th</sup> Cir. 2012), 980 F. Supp. 2d 1293, (D. Kan. 2013) 787 F.3d 1242 (10<sup>th</sup> Cir. 2015) Cert. denied 136 S. Ct. 588 (U.S. 2015)

This case was a federal court case filed by parents in a wealthy Kansas City suburb. It asked that a new federal constitutional right be created to allow local districts to levy unlimited local taxes to support schools. It was based upon an undecided footnote in the United States Supreme Court case of *San Antonio vs. Rodriguez*, 411 U.S. 1 (1973). Alan and John intervened to defend the structure and equity of the school finance system in Kansas. The matter was first dismissed on standing grounds. The parents then appealed to the 10th Circuit which reversed and sent it back for further proceedings. The trial court then issued a ruling of law denying a preliminary injunction and ordering that the standard the court would use to judge the case would be the rational basis standard. The plaintiffs unsuccessfully appealed to the 10th Circuit for a second time. After a failed United States Supreme Court certiorari petition, the plaintiffs dismissed the case.

**5. The Gannon case. (filed 11/2/2010)** *Gannon v. State*, 298 Kan. 1107 (2014) (*Gannon I*); *Gannon v. State*, 303 Kan. 682 (2016) (*Gannon II*); *Gannon v. State*, 304 Kan. 490 (2016) (*Gannon III*); *Gannon v. State*, 305 Kan. 850 (2017) (*Gannon IV*); *Gannon v. State*, 306 Kan. 1170 (2017) (*Gannon V*); *Gannon v. State*, 308 Kan. 372 (2018) (*Gannon VI*); *Gannon v. State*, 309 Kan. 1185 (2019) (*Gannon VII*)

The economy soured in 2009 and the legislature chose to renege on the settlement agreed to in *Montoy*, and the cuts to schools began. *Montoy* saw a \$755M increase in funding, and the pre-Gannon cuts totaled \$511M. Funding went up \$755M then down \$511M. *Gannon* was filed to reverse the cuts. It was tried in June of 2012 to a finding of unconstitutionality. On appeal, the Supreme Court bifurcated the issues of adequacy and equity, affirming the unconstitutionality of the equity provisions and remanding the adequacy provisions back for further proceedings.

The legislature attempted compliance with the equity mandates. The first two legislative attempts were deemed insufficient by the Kansas Supreme Court but equity compliance was finally achieved after a special legislative session in 2016 dedicated to school finance was called to avert a statewide school shutdown.

The trial panel reheard portions of the adequacy case and reaffirmed its ruling that the Kansas system was unconstitutional for failure to provide enough resources for all Kansas children to meet adequacy standards. The Kansas Supreme Court affirmed this trial court finding in its March 2, 2017, *Gannon IV* ruling that the school finance system was again unconstitutional on adequacy grounds.

After the Supreme Court's *Gannon IV* ruling, the Kansas Legislature attempted to craft a funding bill that would again avert a statewide school shutdown. At the end of the 2017 legislative session, the Legislature injected an additional \$293M in funding to the school

system. This fell \$600M short of the \$893M deemed necessary by the Kansas State Board of Education. The Kansas Supreme Court issued its *Gannon V* decision October 2, 2017 finding the level of funding to be unconstitutionally low and finding some added provisions to the formula to be inequitable.

The 2018 legislature addressed *Gannon V* in two bills that cured the new equity violations and adopted a five year phased-in funding increase totaling \$546M per year upon full phase-in. The five year phase-in, however, ignored the effects of inflation during the five year period. The Supreme Court in its June 25, 2018 *Gannon VI* opinion found the remedy to be inadequate and unconstitutional due to the failure to fund inflationary increases during the phase in period.

The 2019 legislative session addressed the inflationary shortfall identified in the *Gannon VI* opinion. It added an additional \$85M to school funding for inflation.

The Supreme Court considered the entire plan in its *Gannon VII* opinion and found the state to finally be in constitutional compliance, assuming that the phased-in increases are actually implemented through 2022-23. The court retained jurisdiction during this phase-in period to assure implementation, a step the court had failed to take at the conclusion of *Montoy*.

The *Gannon* series of cases required 7 trips to the Kansas Supreme Court and 8 separate bills over 7 legislative sessions to cure the constitutional deficiencies. The total *annual* increase in school funding will be \$1.038 billion dollars per year when fully phased in. This is a 21.7% increase over 2013-14 spending or a \$2,231 per pupil increase in spending.

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