

Amendment 23 school funding lawsuit debated before Colorado Supreme Court

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Arguments over whether the state has violated the intent of a constitutional amendment passed by Colorado voters were presented in front of the state Supreme Court on Wednesday.

The hearing was for a lawsuit filed last summer by a group of parents and education advocates that claims the state is unconstitutionally cutting school districts' funding by changing the formula that calculates how much each district gets.

"They say, as a matter of budgetary necessity, we are going to cap funding," Sean Connelly, an attorney for the group filing the lawsuit, told the justices. "The formula is not driving spending anymore. What's driving spending is a preset funding cap, and then they back into the numbers."

The lawsuit argues that the money is being cut from the established minimum base that districts should get per student — and it claims that is a direct violation of the state constitution's Amendment 23, which voters approved in 2000.

The amendment specifically requires an annual increase of "statewide base per-pupil funding for public education."

State attorneys argued that the per-student base has increased annually. They say officials have the flexibility to cut the same amount from money that districts get for factors such as district size, cost of living and having more at-risk students.

Attorneys for the education advocates said that even if the cuts technically are coming from those factors and not the base, Amendment 23 no longer has any effect.

"You can't monkey around with the formula to render that increase meaningless," argued Timothy Macdonald, another attorney for the group bringing the lawsuit.

Part of the lawsuit seeks to have the courts reverse the “negative factor,” which is the mathematical piece added to the school funding formula allowing the state to pay school districts less than the formula said they should get. The cut is applied across all districts evenly.

In the 2014-15 fiscal year, the negative factor allowed the state to cut funding for school districts by a total of \$880 million. Each district had a cut of nearly 13 percent.

The justices had plenty of questions for attorneys on either side, but Justice Monica Marquez ended the hearing by questioning the state attorneys on how the cuts are not a violation of the intent of the constitutional amendment.

State attorney Jonathan Fero argued that the negative factor does not reduce the base, and districts still get more money per student every year.

“The legacy portions of Amendment 23 carried on, and they still have effect,” Fero said.