

EDUCATION

Newton board files legal action against state for school funding

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TRENTON -- Ten school districts and four municipalities from across New Jersey, including the Newton Board of Education and the Town of Newton, filed legal action in the form of a petition to the state education commissioner demanding equitable school funding distribution.

During a press conference in the Statehouse on Friday afternoon, attorney Allan P. Dzwilewski, from the Schwartz Edelstein Law Group in Whippany (Morris County), said the petition had been filed and served to both Kimberley Harrington, the state education commissioner, and the state Attorney General's Office.

The Newton Board of Education is the lead petitioner, joined by school boards representing the districts of Chesterfield, Emerson, Jamesburg, Kingsway Regional, Little Ferry, North Brunswick, Middlesex, Swedesboro-Woolwich and Wallington. The municipalities of East Greenwich Township, Borough of Swedesboro and Woolwich Township are supporting municipalities, as is the Town of Newton, listed on the petition. More than 30 individual taxpayers are also listed as petitioners.

The petition of appeal seeks a declaratory judgment to force the education department to comply with directions from the state Legislature, including the School Funding Reform Act, or SFRA, for the upcoming fiscal year.

Harrington is the only named respondent on the petition. A spokesman for the state Department of Education said funding is allocated directly in the final Appropriations Act (the state budget) passed by the state Legislature and then signed by the governor. The spokesman said the Education Department did not have a comment on the petition.

Harrington, as education commissioner, "is responsible for apportioning State Aid among the local school districts," according to the petition.

The school districts and supporting communities represent a group of 96 school districts throughout the state that say they are overtaxed and severely underaided, defined as receiving less than 70 percent

of their state aid and taxed above 100 percent of their local fair share. Newton received just 60 percent of its state aid in the current fiscal year while the town's taxpayers paid 48 percent more than what New Jersey deems its local fair share.

Newton Public Schools Superintendent G. Kennedy Greene said the state's "school funding problem is directly responsible for its property tax problem."

"For example, in Newton our taxpayers are contributing 48 percent above their fair share -- over \$4 million more -- just to maintain an adequate school budget," Greene said on Friday afternoon. "The petitioners from all of our communities are contributing more than their fair share too, and in some cases, are not able to provide even the basic necessities for their students -- all because the state is not providing full or fair school funding."

Greene said that although the funding shortfall is usually reported as more than \$1 billion annually, it is actually closer to \$2 billion when adjustment aid is factored into the equation, "which creates wildly unjust tax hardships on New Jersey communities."

"The state of New Jersey has a fundamental obligation to fully fund its own school aid formula and an even greater moral obligation to distribute what it does fund without bias or prejudice," he said.

"These steps must begin in earnest in order to reduce the unreasonable tax burden that has overwhelmed many communities for over 40 years."

Newton Board of Education President Stella Dunn connected the district's failed \$19 million ballot referendum in September to the angst taxpayers and voters in Newton felt as a result of the overtaxed and underaided burden placed on them by the state. She noted that in 2016 and 2017, nearly 70 percent of construction-related ballot referenda in New Jersey passed, but of the 23 that failed, 21 occurred in school districts that were either underaided, overtaxed or both.

"The point is that the state's decision to overaid many districts at the expense of the majority is creating unfair tax burdens in communities like ours," Dunn said. "This discourages necessary facilities improvements that would improve our children's education."

Dunn went on to say that Newton would never be able to make significant improvements to the district's buildings or educational programs until "this inequity in state aid and property taxes is corrected."

Newton Mayor Wayne Levante said that too much money was going to overaided districts, including the formerly called Abbott districts, and that the state was not using taxpayer money in an acceptable way.

"Taxpayers around the state should be outraged that tax dollars are being utilized in this fashion," Levante said. "I know people in my area are not happy with it at all. Change is tough, and I know we can't just tax our way out of this problem, but if we don't make responsible changes to the system and the way funding system works, the long-term financial health is in big trouble."

The four-count petition claims the overfunding some districts at the expense of others violates the SFRA since it is neither "equitable" nor "predictable". The petition goes on to claim that the methodology used by the education commissioner is "arbitrary, unreasonable and capricious with no rationale relationship to any recognized educational or economic need." By placing a tax burden greater than dictated by the SFRA on the residents within the filing districts, the commissioner violated due process rights of taxpayers, the petition alleges. Finally, the petition charges that the education commissioner engaged in "de facto rule making" by developing a funding methodology inconsistent with state law.

Just under an hour before the petitioners held their press conference on Friday afternoon, Gov.-elect Phil Murphy announced his nomination of Asbury Park Schools Superintendent Lamont Repollet to be the next commissioner of the state Education Department. Murphy, who will be sworn in as the state's 56th governor on Tuesday, pledged during his campaign to fully fund state aid but provided no details on how to pay for the more than \$1 billion shortfall.

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