

**NO. GV-100528**

WEST ORANGE-COVE CONSOLIDATED  
INDEPENDENT SCHOOL DISTRICT;  
COPPELL INDEPENDENT SCHOOL  
DISTRICT; LA PORTE INDEPENDENT  
SCHOOL DISTRICT; PORT NECHES-  
GROVES INDEPENDENT SCHOOL  
DISTRICT, DALLAS INDEPENDENT  
SCHOOL DISTRICT, AUSTIN  
INDEPENDENT SCHOOL DISTRICT,  
HOUSTON INDEPENDENT SCHOOL  
DISTRICT, *et al.*

Plaintiffs,

VS.

SHIRLEY NEELEY, TEXAS  
COMMISSIONER OF EDUCATION;  
TEXAS EDUCATION AGENCY; CAROL  
KEETON STRAYHORN, TEXAS  
COMPTROLLER OF PUBLIC  
ACCOUNTS; and TEXAS STATE BOARD  
OF EDUCATION,

Defendants.

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

250TH JUDICIAL DISTRICT

**FINAL JUDGMENT**

On August 9th, 2004, this case was called for trial. All parties appeared and announced that they were ready for trial. The case was tried to the Court. Based upon the evidence and arguments of counsel, the Court orders as follows:

## **Declaratory Relief**

This Court GRANTS FINAL JUDGMENT in favor of the West Orange Cove Plaintiffs,<sup>1</sup> Alvarado Plaintiffs/Intervenors,<sup>2</sup> and the Edgewood Intervenors,<sup>3</sup> on their claims for declaratory relief. Accordingly, the Court makes the following declarations (which summarize or restate those made in the accompanying findings of fact and conclusions of law):

### ***West Orange Cove Plaintiffs' Claims***

1. The Court declares that the Texas school finance system is unconstitutional in that it violates Article VIII, section 1-e of the Texas Constitution, because the \$1.50 cap on M&O tax rates has become both a floor and a ceiling, denying school districts "meaningful discretion" in setting their tax rates.
2. The Court declares that the Texas school finance system is unconstitutional in that it violates the "general diffusion of knowledge" clause (or adequacy clause) set forth in Article VII, section 1 of the Texas Constitution, because the constitutional mandate of adequacy exceeds the maximum amount of funding that is available under the State's current funding formulas.
3. This Court declares that the State's school finance system is financially inefficient, inadequate and unsuitable, in violation of Article VII, section 1 of the Texas Constitution because the school finance system fails to recognize or cover the costs of meeting the constitutional mandate of adequacy, or the Legislature's statutory definition of a comprehensive adequate program.

### ***Intervenors' Claims***

4. The Court declares that the prohibition on the use of Tier 2 funds for facilities, combined with the Legislature's failure to make the Instructional Facilities Allotment and/or Existing Debt Allotment programs statutorily permanent and the Legislature's inadequate funding of the IFA program, means that property-poor districts do not have substantially equal access to facilities funding in violation of the efficiency and suitability provisions of article VII, section 1 of the Texas Constitution.

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<sup>1</sup> The West Orange Cove Plaintiffs are those districts listed in paragraphs 2-48 of their Sixth Amended Petition, filed with the Court on July 19, 2004.

<sup>2</sup> The Alvarado Plaintiffs/Intervenors are those districts listed on pages 1-3 of their Second Amended Pleadings filed with the Court on July 26, 2004.

<sup>3</sup> The Edgewood Intervenors are those districts listed on pages 1-2 of their Second Amended Answer with Cross-Claims filed with the Court on July 22, 2004.

5. The Court declares that the current funding capacity of the Texas school finance system fails to provide Intervenor districts with sufficient access to revenue to provide for a general diffusion of knowledge to their students, in violation of the efficiency, suitability and adequacy provisions of Article VII, section 1 of the Texas Constitution, particularly when taking into account (1) the inadequacy of the weight adjustments for bilingual, economically disadvantaged, and other special needs students and (2) the greater burden borne by Intervenor districts of the inadequacy of those weights, given their student populations, which are disproportionately LEP and economically disadvantaged.

### **Injunctive Relief**

This Court GRANTS FINAL JUDGMENT in favor of the West Orange Cove Plaintiffs on their claims for injunctive relief. Accordingly, this Court:

1. ENJOINS the State Defendants from giving any force and effect to the sections of the Education Code relating to the financing of public school education (Chapters 41 and 42 of the Education Code) and from distributing any money under the current Texas school financing system until the constitutional violations are remedied. The effect of this injunction shall be stayed until October 1, 2005, in order to give the Legislature a reasonable opportunity to cure the constitutional deficiencies in the finance system before the foregoing prohibitions take effect.
2. This injunction shall in no way be construed as enjoining the State Defendants, their agents, successors, employees, attorneys, and persons acting in concert with them or under their direction, from enforcing or otherwise implementing any other provisions of the Education Code.
3. This injunction shall not bar suits for collection of delinquent taxes, penalties and interest.
4. This injunction does not impair any lawful obligation created by the issuance or execution of any lawful agreement or evidence of indebtedness before October 1, 2005, that matures after that date and that is payable from the levy and collection of ad valorem taxes, and a school district may, before, on, and after October 1, 2005, levy, assess, and collect ad valorem taxes, at the full rate and in the full amount authorized by law necessary to pay such obligations when due and payable. A school district that, before October 1, 2005, issues bonds, notes, public securities, or other evidences of indebtedness under Chapter 45 of Education Code, or other applicable law, or enters into a lease-purchase agreement under Subchapter A, Chapter 271 of the Local Government Code, may continue, before, on, and after October 1, 2005, to receive state assistance with respect to such payments to the same extent that the district would have been entitled to receive such assistance under Chapter 42 or 46 of the Education Code, notwithstanding this injunction.

5. This injunction does not limit, modify, or eliminate the authority of a school district to issue or execute bonds, notes, public securities, or other evidences of indebtedness under Chapter 45 of the Education Code, or other applicable law, before, on, or after October 1, 2005, or to levy, assess, and collect, before, on, or after October 1, 2005, ad valorem taxes at the full rate and in the full amount authorized by Section 45.002 of the Education Code or other applicable law, necessary to pay such bonds, notes, public securities, or other evidences of indebtedness when due and payable.
6. This injunction does not limit, modify, or eliminate the authority of the commissioner of education, before, on, or after to October 1, 2005, to grant assistance to a school district under Chapter 42 or 46 of the Education Code, in connection with bonds, notes, public securities, lease-purchase agreements, or evidences of indebtedness, including those described by Subchapter A, Chapter 271 of the Local Government Code.

### **Attorneys' Fees and Costs**

This Court bifurcated the issue of attorneys' fees from the trial on the merits of the plaintiffs' claims, pursuant to an order dated August 9th, 2004. Following the conclusion of the trial on the merits, the parties agreed to try the attorneys' fees issues by submissions of expert affidavits to this Court. This Court is of the opinion that the West Orange Cove Plaintiffs, the Edgewood Intervenors, and the Alvarado Plaintiff/Intervenors are entitled to reasonable and necessary attorneys' fees.

#### *West Orange Cove Attorneys' Fees*

IT IS THEREFORE ORDERED that under Section 37.009 of the Texas Civil Practice and Remedies Code, the West Orange Cove Plaintiffs shall recover from the State Defendants attorneys' fees in the sum of \$2,557,606.00, an amount that this Court finds to be both reasonable and necessary and equitable and just.

IT IS FURTHER ORDERED that the West Orange Cove Plaintiffs recover from the State Defendants appellate attorneys' fees in the following amounts that the Court also finds to be reasonable and necessary and equitable and just:

- (A) \$100,000.00 if the State Defendants seek direct review in the Texas Supreme Court but the West Orange Cove Plaintiffs ultimately prevail in the Texas Supreme Court, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date the direct appeal is perfected in the Texas Supreme Court, with all such postjudgment interest to run until the judgment against the State Defendants is paid in full; or
- (B) (1) \$100,000.00 if the State Defendants perfect an appeal from this Final Judgment to the Court of Appeals but do not prevail in such appeal, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date of the notice of appeal in the Court of Appeals; plus (2) \$25,000.00 if the State Defendants seek review in the Texas Supreme Court but the West Orange Cove Plaintiffs ultimately prevail in the Texas Supreme Court, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date a petition for review is filed with the Supreme Court of Texas; with all such postjudgment interest to run until the judgment against the State Defendants is paid in full.

*Edgewood Intervenors Attorneys' Fees*

IT IS THEREFORE ORDERED that under Section 37.009 of the Texas Civil Practice and Remedies Code, the Edgewood Intervenors shall recover from the State Defendants attorneys' fees in the sum of \$1,268,289.50, an amount that this Court finds to be both reasonable and necessary and equitable and just.

IT IS FURTHER ORDERED that the Edgewood Intervenors recover from the State Defendants appellate attorneys' fees in the following amounts that the Court also finds to be reasonable and necessary and equitable and just:

(A) \$75,000.00 if the State Defendants seek direct review in the Texas Supreme Court but the Edgewood Intervenors ultimately prevail in the Texas Supreme Court, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date the direct appeal is perfected in the Texas Supreme Court; with all such postjudgment interest to run until the judgment against the State Defendants is paid in full; or

- (B) \$75,000.00 if the State Defendants perfect an appeal from this Final Judgment to the Court of Appeals but do not prevail in such appeal, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date of the notice of appeal in the Court of Appeals; plus (2) \$20,000.00 if the State Defendants seek review in the Texas Supreme Court but the Edgewood Intervenors ultimately prevail in the Texas Supreme Court, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date a petition for review is filed with the Supreme Court of Texas; with all such postjudgment interest to run until the judgment against the State Defendants is paid in full.

*Alvarado Plaintiff/Intervenors Attorneys' Fees*

IT IS THEREFORE ORDERED that under Section 37.009 of the Texas Civil Practice and Remedies Code, the Alvarado Plaintiff/Intervenors shall recover from the State Defendants

attorneys' fees in the sum of \$222,225.00, an amount that this Court finds to be both reasonable and necessary and equitable and just.

IT IS FURTHER ORDERED that the Alvarado Plaintiff/Intervenors recover from the State Defendants appellate attorneys' fees in the following amounts that the Court also finds to be reasonable and necessary and equitable and just:

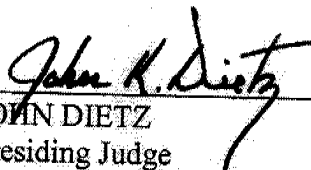
- (A) \$50,000.00 if the State Defendants seek direct review in the Texas Supreme Court but the Alvarado Plaintiff/Intervenors ultimately prevail in the Texas Supreme Court, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date the direct appeal is perfected in the Texas Supreme Court; with all such postjudgment interest to run until the judgment against the State Defendants is paid in full; or
- (B) \$50,000.00 if the State Defendants perfect an appeal from this Final Judgment to the Court of Appeals but do not prevail in such appeal, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date of the notice of appeal in the Court of Appeals; plus (2) \$20,000.00 if the State Defendants seek review in the Texas Supreme Court but the Alvarado Plaintiff/Intervenors ultimately prevail in the Texas Supreme Court, with postjudgment interest to accrue on said amount at the rate of five percent compounded annually from the date a petition for review is filed with the Supreme Court of Texas; with all such postjudgment interest to run until the judgment against the State Defendants is paid in full.

IT IS FURTHER ORDERED that all costs of court expended or incurred in this cause are taxed against the State Defendants;

IT IS FURTHER ORDERED that all writs and processes for the enforcement and collection of this judgment or the costs or court may issue as necessary;

This Judgment finally disposes of all parties and all claims and is appealable. All other relief not expressly granted is denied.

SIGNED this 30th day of November, 2004.

  
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JOHN DIETZ  
Presiding Judge