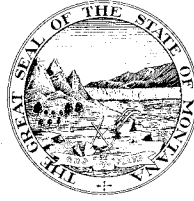


ATTORNEY GENERAL
STATE OF MONTANA

Steve Bullock
Attorney General



Department of Justice
215 North Sanders
PO Box 201401
Helena, MT 59620-1401

April 3, 2012

Ms Nancy Sweeney
Clerk of District Court
Lewis And Clark County Courthouse
P.O. Box 158
Helena, MT 59624-0158

Re: Montana Quality Education Coalition v. The State of Montana
Cause No. ADV-2011-1076

Dear Ms. Sweeney:

On behalf of the parties in the above entitled action, I submit the attached Consent Decree for consideration and approval by Judge McCarter.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Ali Bovington".

ALI BOVINGDON
Chief Deputy Attorney General

**MONTANA FIRST JUDICIAL DISTRICT COURT,
LEWIS & CLARK COUNTY**

| | | |
|---------------------------|---|------------------------------|
| MONTANA QUALITY EDUCATION |) | Cause No. ADV-2011-1076 |
| COALITION, |) | |
| |) | |
| Plaintiff, |) | |
| |) | <u>CONSENT DECREE</u> |
| v. |) | |
| |) | |
| THE STATE OF MONTANA, |) | |
| |) | |
| Defendant. |) | |
| |) | |

I. INTRODUCTION.

A. This Consent Decree is made and entered into by and between the State of Montana (“State”) acting through the Montana Attorney General’s office and the Montana Quality Education Coalition (“MQEC”).

B. MQEC filed a Complaint in this action alleging that the State failed to comply with state law regarding the funding of public elementary and secondary schools in Montana by failing to fund the inflationary increase mandated by MCA

§§ 20-9-309, 20-9-326 and *Columbia Falls Elementary School District No. 6 v. State*, 2005 MT 69, 326 Mont. 304, 109 P.3d 257.

C. The Complaint against the State seeks a declaratory judgment and an Order compelling the State to provide Montana's public elementary and secondary schools with the statutorily mandated inflationary adjustment as required by law.

II. BACKGROUND.

D. In 2005 the Montana Supreme Court found that Montana's school funding system was not grounded in "principals of quality." *Columbia Falls Elem. Sch. Dist. No. 6 v. State*, 2005 MT 69, ¶ 31. The court held that because the legislature had not defined what "quality" meant it could not conclude that the current system is designed to provide a "quality" education. *Id.* Noting that Article X, Section 1(3), explicitly requires the legislature to fund a "quality" educational system, the court deferred to the legislature to provide a threshold definition of what the term quality means and what the public schools clause requires. *Id.*

E. Following the court's decision, the 2005 legislature enacted MCA § 20-9-309, which defines a "basic system of free quality public elementary and secondary schools."

F. Pursuant to that definition the legislature shall establish a funding formula that is "self-executing and includes a mechanism for annual inflationary

adjustments.” MCA § 20-9-309(4)(b)(iii). MCA § 20-9-326 provides the formula by which annual inflation adjustments are to be calculated.

G. The primary school funding bill in the 2011 legislative session was Senate Bill (“SB”) 329. Included within SB 329 were the statutory inflationary adjustments for schools. Also included in SB 329 was a coordinating instruction that made funding of the full statutory inflationary adjustment contingent upon passage of certain provisions contained in House Bill (“HB”) 316.

H. The provisions of HB 316 were unrelated to school funding. That bill was vetoed by the governor on May 5, 2011.

I. When the governor vetoed HB 316, the coordinating instruction in SB 329 took effect and the inflationary adjustment for schools in state fiscal year (“FY”) 2013 was reduced from a 2.43% increase calculated pursuant to the formula set forth in MCA § 20-9-326 to 1.6%, resulting in a shortfall in Base Aid of approximately \$4.6 million, and a corresponding restriction in Base, Maximum, and Adopted Budget Authority for school districts. This adjustment was not reflected in HB 2.

J. The coordinating instruction of SB 329 violates the legislature’s school funding formula, which is intended to be “self-executing” and “include a mechanism for annual inflationary adjustments.”

K. The parties recognize and agree, and the Court by entering this Consent Decree finds, that implementation of this Consent Decree will execute the legislature's school funding formula, which is intended to be "self-executing" and "include a mechanism for annual inflationary adjustments" and will avoid litigation between the parties, provide the necessary and required annual inflationary adjustments for public elementary and secondary schools and is in the public interest.

THEREFORE, IT IS ORDERED, ADJUDGED and DECREED as follows:

III. JURISDICTION AND VENUE.

1. This Court has personal jurisdiction over the parties and jurisdiction over the subject matter of this action pursuant to Montana law. Venue is proper in the First Judicial District Court, Lewis & Clark County. The parties will not challenge the terms or validity of this Consent Decree or contest this Court's jurisdiction to enter or enforce this Consent Decree in this or any subsequent proceeding arising from it.

IV. PARTIES BOUND.

2. This Consent Decree is binding upon the State, MQEC and its successors and assigns.

3. The undersigned representative of the State certifies that she is fully authorized to enter into the terms and conditions of this Consent Decree and execute and bind the State to this document.

V. FUNDING OF INFLATIONARY ADJUSTMENT.

4. The State agrees that Montana's school districts' budget limitations for general fund budgets, including each school district's BASE budget, as defined in MCA § 20-9-306(3), maximum general fund budget, as defined in MCA § 20-9-306(9), and general fund budget without a vote, as provided for in MCA § 20-9-308, will be adjusted using a 2.43% inflation factor on the basic and per-ANB entitlements for FY 2013 and that the Office of Public Instruction (OPI) shall revise and republish preliminary data sheets utilizing the revised inflation factor of 2.43% for FY 2013.

5. The State further agrees to make payments to school districts for FY 2013, as calculated under paragraph 4 of this Decree, in accordance with the schedule provided for in MCA § 20-9-344.

6. For purposes of preparing and submitting a budget for the 2015 biennium, the present law base for the basic and per-ANB entitlements for each year of the biennium shall be calculated based on the amounts determined under paragraph 4 of this Decree, adjusted as provided for in MCA § 20-9-326.

7. Nothing in this Consent Decree shall be construed as prohibiting, altering, or in any way limiting the ability of MQEC to seek remedies or sanctions available by virtue of the State's violation of this Consent Decree.

VI. RETENTION OF JURISDICTION.

8. This Court shall retain jurisdiction of this matter for the purpose of entering such further order, direction, or relief as may be necessary or appropriate for the construction, implementation, resolution of disputes, or enforcement of this Consent Decree.

VII. EFFECTIVE DATE.

9. The effective date of this Consent Decree shall be the date upon which the Consent Decree is entered by the Court.

VIII. MODIFICATION

10. Any modification that materially alters a requirement of this Consent Decree must be approved by the Court.

11. The provisions of this Consent Decree are not severable. The parties consent hereto is conditioned upon the entry of the Consent Decree in its entirety without modification, addition, or deletion except as agreed to by the parties.

12. Economic hardship or a change in financial circumstances of the State shall not serve as a basis for modification of this Consent Decree.

IX. FINAL JUDGMENT.

13. The State of Montana consents to the entry of this Consent Decree without further notice.

14. This Consent Decree constitutes the final, complete and exclusive agreement and understanding of the parties with respect to the settlement embodied in the Consent Decree. The parties acknowledge that there are not representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree.

15. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute a final judgment between and among the State of Montana and MQEC and MQEC's Complaint shall be dismissed with prejudice. The Court finds there is no reason for delay and therefore enters this judgment as a final judgment under M.R.Civ.P. 54 and 58.

SO ORDERED this ____ day of April, 2012.

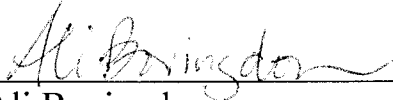
Honorable _____,
District Court Judge

c: counsel of record

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of *Montana Quality Education Coalition v. State of Montana*, Cause No. ADV-2011-1076

FOR THE STATE OF MONTANA:

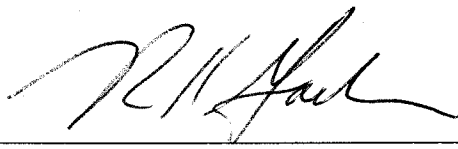
Date: 04/03/12



Ali Bovington,
Attorney General's Office

FOR THE MONTANA QUALITY
EDUCATION COALITION:

Date: 3/30/12



Brian K. Gallik, on behalf of Plaintiff