

Establishing Permanent Funding for Charter Schools Required Defending New Orleans from a Constitutional Challenge

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Where we started: The Minimum Foundation Plan is a method the State of Louisiana uses to fund public education. After the State and the City of New Orleans created numerous charter schools in Orleans Parish, teachers' unions initiated a lawsuit alleging that The Minimum Foundation Plan was unconstitutional. The plaintiffs claimed that the charter schools were not public schools and that, under the plain language of the Louisiana Constitution, the State could only fund Parish or City schools.

Our strategy – plus more: The McGlinchey trial team developed a three-prong strategy. First, the State was required to fund an education for all students who attend public schools. Second, the requirement to fund all public-school students trumped any conflict that the public school be parish or city school and that there was a state law that said Charter schools were public schools. Third, in order to minimize the expense of the case, it was agreed with plaintiffs' counsel that only 16 parish representatives would testify (since the testimony of the other 30 plus parishes would be the same). The trial story revolved around the fact that the parishes wanted to keep the funding provided by the State, but wanted the charter schools (who had no other source of funding) to do the work of educating the children. In short, they wanted something for nothing. The reason, of course, was that the parishes wanted to put the charter schools out of business by cutting off the funding.

Upshot: The McGlinchey trial team won in the trial court on every point, and the ruling was upheld by the Louisiana Supreme Court. As a result of this landmark litigation, Louisiana continues to lead the nation in developing charter schools.