

Dear Senator Coleman, Representative Fox, and Members of the Committee:

I urge you, once again, to REJECT the recommendation of the Claims Commissioner and to GRANT relief to Joanne, Peter and Matthew Avoletta, most particularly in light of the release of the Connecticut Supreme Court's decision on March 22, 2010 in the matter of Connecticut Coalition for Justice in Education Funding, Inc., et al, v. Governor Jodi Rell, et al, (SC 18032),

<http://www.jud.state.ct.us/external/supapp/Cases/ARocr/CR295/295CR163.pdf>. While the case is not directly on point with all of the issues in the Avoletta matter, it is extremely relevant to the main issues in the Avoletta case and provides a clear legal basis for recovery in court and for obtaining reversal of the Claim Commissioners decision. Unfortunately, the case was decided after the Claims Commissioner made his decision.

In that case, the Connecticut Supreme Court held that article eighth, § 1, of the Connecticut Constitution guarantees students in our state's public schools the right to a particular "minimum quality of education, namely, suitable educational opportunities." In particular, the Court concluded that

"article eighth, § 1, of the Connecticut constitution guarantees Connecticut's public school students educational standards and resources suitable to participate in democratic institutions, and to prepare them to attain productive employment and otherwise to contribute to the state's economy, or to progress on to higher education."

More importantly, and particularly relevant to this case, the Court further explained,

"To satisfy this standard, the state, through the local school districts, must provide students with an objectively "meaningful opportunity" to receive the benefits of this constitutional right. Neeley v. West Orange-Cove Consolidated Independent School District, supra, 176 S.W.3d 787 ("[t]he public education system need not operate perfectly; it is adequate if districts are reasonably able to provide their students the access and opportunity the district court described" [emphasis in original]); see also Sheff v. O'Neill, supra, 238 Conn. 143 (Borden, J., dissenting) (constitutional adequacy determined not by "what level of achievement students reach, but on what the state reasonably attempts to make available to them, taking into account any special needs of a particular local school system"). Moreover, we agree with the New York Court of Appeals' explication of the "essential" components requisite to this constitutionally adequate education, namely: (1) "minimally adequate physical facilities and classrooms which provide enough light, space, heat, and air to permit children to learn" ...Campaign I, supra, 86 N.Y.2d 317; see also, e.g., Abbeville County School District v. State, supra, 335 S.C. 68 (state constitution requires provision to students of "adequate and safe facilities ...Pauley v. Kelly, 162 W. Va. 672, 706, 255 S.E.2d 859 (1979) (provision of constitutionally adequate education "implicit[ly]" requires "good physical facilities..."

Therefore, as my clients have continued to argue, they absolutely had a fundamental right under the Connecticut Constitution to receive a free appropriate public education, a Constitutionally adequate education, in a safe school setting with adequate physical facilities and classrooms, and the state, through the Torrington Public School District, was required to provide them with an objectively meaningful opportunity to receive the benefits of this Constitutional right. Therefore, the Claims Commissioner improperly dismissed the Avoletta's claim, such that relief must be granted.