

## FAQ: 301 Funding Case (updated August 2014)

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345 East Palm Lane

Phoenix, AZ  
85004-1532

(602) 264-1774

(800) 352-5411

FAX  
(602) 240-6887

Web site:  
[www.arizonaaea.org](http://www.arizonaaea.org)

On Friday, July 11, 2014, Superior Court Judge Katherine Cooper ruled that the Arizona Legislature must make inflation adjustments consistent with the statutory requirements of 15-901.01, which was part of the voter-approved Proposition 301 from the 2000 election. This FAQ aims to answer the most common questions concerning that ruling.

### What did the judge actually rule?

Judge Cooper made the following determinations:

1. The legislature must adjust **all** components of the state funding formula (the transportation **and** the more substantial base level funding) for inflation each year in the manner prescribed by statute.
2. The legislature must reset the base levels for fiscal years 2009-2014 to what they would have been if they had been adjusted for inflation.
  - a) For FY 2013-14, this base level should be \$3559.62 (instead of the \$3,326.54 that the legislature approved last session).<sup>1</sup>
3. The revenue control limit for school districts in fiscal years 2009-14 must be corrected with the appropriately adjusted base levels for those years.
4. An evidentiary hearing will be held regarding the inflationary funds not provided in FY 2009-2014. (This is the separate “back pay” issue for lack of a better term.)

### How much money will resetting the base level bring to Arizona Public Schools?

Resetting the base level for inflation, as the statute required, will add over \$317 million dollars for the 14-15 fiscal year.

### What is the “back pay” issue?

The legislature did not adjust the base level for inflation for the FY 2009-2014, as required by law. That failure deprived K-12 public schools of approximately \$1.3 billion dollars during that period. Judge Cooper ordered an evidentiary hearing concerning the inflationary funds not provided in FY 2009-2014, and that hearing date will be determined on July 18, 2014. The hearing will determine whether the back pay for past years is justified and whether the state is in the position to pay back what it owes.

### When will school districts obtain the increased funding?

Unfortunately, despite the repeated victories in this case, schools will still have to wait on a few matters before they can expect to receive any money. First, we must wait to see whether the state will appeal Judge Cooper’s ruling as to the base level. Also, we have to wait for the results of the evidentiary hearing on the “back pay” issue.

Finally, to receive any additional funding, we must wait until the legislature acts to move the requisite funds to come into compliance with this ruling and the Supreme Court Decision or any settlement negotiation that the parties enter into. For the legislature to act prior to the next regular legislative session, the governor would have to call a special session.

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<sup>1</sup> Plaintiffs’ proposed order requests that the base level for FY 2014-2015 be \$3,609.45, as the inflation factor was 1.4%.

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### **Why do schools have to wait so long to receive the money required by law?**

Under the Constitution, the branches of government must be separate. Thus, a court can order that the legislature pay what it determines to be owed to the schools for the current and prior budget year as a matter of law. However, as Judge Cooper acknowledges in her minute entry, the courts cannot tell the legislature how to pay the money owed. Once a final order to pay is given, the legislature must find the money from sources in the budget to satisfy it. The legislature has to be in session to make decisions on how to spend money, so unless the governor calls a special session, Arizona schools will have to wait until the regular session begins in 2015.

### **Can this case settle more quickly?**

It possibly could settle more quickly. The Plaintiffs have tried repeatedly to resolve this case, and they have even have offered to waive the back pay, if the state would agree to reset the base level. Unfortunately, the legislature does not appear willing to enter into settlement negotiations to resolve the litigation by funding education as required by law.

### **Why are we back in Superior Court? Didn't the Arizona Supreme Court already decide this case?**

On September 26, 2013, the Arizona Supreme Court ruled that by passing Proposition 301, the voters constitutionally directed the legislature to annually adjust all components of the base level for K-12 public school funding for inflation. Thus, the legislature's failure to adjust the base level funding for inflation violated the Voter Protection Act. The decision emphasized that the Voter Protection Act limits the legislature's power to modify voter initiatives and referenda. Then the Supreme Court remanded the case to the Superior Court for a judgment implementing its decision. Judge Cooper was charged with implementing this Supreme Court ruling. However, the State of Arizona, Senate President Andy Biggs and Speaker of the House Andy Tobin argued that the 2013 Arizona Supreme Court decision did not require either resetting the base level to account for inflation or any payment of back pay.

### **Who brought this case?**

AEA members brought this case as part of a coalition with the Arizona School Board Association, the Arizona Association of School Business Officials, and the Arizona Small and Rural Schools Association. This coalition values the tremendous work of our attorneys Don Peters and Tim Hogan.

### **What if I have more questions about this lawsuit?**

AEA members can email AEA General Counsel Samantha Blevins at [samantha.blevins@arizonaea.org](mailto:samantha.blevins@arizonaea.org)

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