

STATE OF NEW HAMPSHIRE

SUPERIOR COURT

STRAFFORD, SS.

Docket No. _____

THE CITY OF DOVER
288 Central Avenue
Dover, NH 03820

v.

THE STATE OF NEW HAMPSHIRE
107 North Main Street
Concord, NH 03301

**VERIFIED PETITION FOR DECLARATORY JUDGMENT,
PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF**

NOW COMES the City of Dover (the "City"), by and through its counsel, Bernstein, Shur, Sawyer & Nelson, P.A., pursuant to RSA 491:22, and respectfully petitions this Honorable Court for declaratory relief, preliminary and permanent injunction, stating as follows.

Introduction

1. This action is brought for declaratory and injunctive relief to enforce the City's rights under the New Hampshire Constitution, Part II, Article 83 (the Encouragement of Literature Clause), which requires the State to fund a constitutionally adequate education to every child in New Hampshire.

2. By arbitrarily limiting adequacy aid to prohibit municipalities from receiving more than 108% of the aid they received in previous years, see RSA 198:41 (Supp. 2014), the State violates its constitutional mandate to fund an adequate education to the students attending the City's schools. Dover schools are a department of the City.

3. The State persistently fails to fund education in a sufficient manner by applying the 108% cap. The State's funding policies harm communities that experience significant growth in enrollment, such as the City.

4. As a direct consequence of the cap on the adequate education grant, the City and its students are being shortchanged and deprived of funding for the fundamental right to a quality public education.

5. Taxpayers of the City are consequently also overburdened by the arbitrary cap because the City receives less state funds for its schools than it is entitled to receive under constitutional principles established in the Claremont Sch. Dist. v. Governor line of cases, *see infra*, and that should be available from the Education Trust Fund established pursuant to RSA 198:39.

Request for Expedited Status

6. This Petition involves the fundamental rights of not only Dover school children, but all children who obtain public education in this state. The interests of these children necessitate an expedited resolution of the pending constitutional challenge.

7. Moreover, the constitutional challenge raised in the instant Petition has a direct and immediate financial impact on the City as the next adequate education grant will be distributed on September 1, 2015. RSA 198:42 (Supp. 2014). The amount distributed not only affects the City's decisions regarding educational opportunities offered in its schools, but it also impacts capital improvements plans. These decisions, in turn, affect tax rate setting decisions. Thus, delay in resolving the constitutional validity of the cap imposed by RSA 198:41, III (b) creates continued financial disadvantages for the City and its taxpayers.

8. Finally, the facts asserted herein should not be the subject of serious contest as they are either known or readily determinable by the State.

