

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	<b>EFILED Document</b> <b>CO Denver County District Court 2nd JD</b> <b>Filing Date: Jul 11 2011 4:13PM MDT</b> <b>Filing ID: 38624102</b> <b>Review Clerk: Rafaelita M Almazan</b>
<b>Plaintiffs:</b> ANTHONY LOBATO, et al., and  <b>Plaintiff-Intervenors:</b> ARMANDINA ORTEGA, et al.  v.  <b>Defendants:</b> THE STATE OF COLORADO, et al.	<p style="text-align: center;">▲ <b>COURT USE ONLY</b> ▲</p> Case No.: 05CV4794  Courtroom: 424
<b>COURT ORDER</b>	

**THIS MATTER** is before the Court pursuant to Plaintiffs’ Motion *in limine* to Exclude Evidence of Non-Education Appropriations and TABOR Provisions. The Court has reviewed the Motion, Response, Reply, case file and applicable statutory and case law. In consideration thereof, the Court makes the following findings and orders:

**ISSUE PRESENTED**

Plaintiffs move to exclude evidence and arguments concerning non-education appropriations by the General Assembly and the TABOR amendment’s revenue restrictions, arguing such would be irrelevant, confuse the issues and waste time. Defendants respond that such evidence is relevant under the rational basis standard and rules of constitutional harmonization, exclusion would unfairly prejudice the Defendants and exclusion would constrain this Court with an illogical and misleading view of the legislature’s K-12 funding discretions.

**ANALYSIS**

The Court finds that while fiscal pressure may explain *why* students’ rights have been violated, it has no bearing on the issue *whether* students’ rights have been violated. That is, Defendants cannot, as a legal matter, excuse the legislature’s failure to comply with the mandates of the Education Clause by pointing to seemingly difficult decisions.

The evidence of non-education appropriations and the effects of TABOR are distinct from students or the actual quality of the education they receive. The quality of the public school system provided to students must stand or fall on its own. The quality of that system cannot logically be saved or enhanced by the legislature’s desire to spend money on other programs or tax credits.

The Court notes that because Plaintiffs address TABOR revue restrictions in both their complaint and expert disclosures, does not render such evidence relevant or material to the issue before the Court.

Accordingly, Plaintiffs' Motion *in limine* to Exclude Evidence of Non-Education Appropriations and TABOR Provisions is **GRANTED**.

**SO ORDERED** this 11th day of July, 2011.

BY THE COURT

*Sheila A. Rappaport*

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Sheila A. Rappaport  
District Court Judge