

# **Bond Case Briefs**

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## **SCHOOLS - MISSOURI**

### **Breitenfeld v. School Dist. of Clayton**

**Supreme Court of Missouri, En Banc - June 11, 2013 - S.W.3d - 2013 WL 2631061**

Parents of students enrolled in accredited public school district brought action against that district and the transitional school district in which students resided, which had lost accreditation, for declaratory judgment that transitional district was required under “Unaccredited District Tuition Statute” to pay for students’ tuition in accredited district. The circuit court granted summary judgment to districts. Parents appealed. The Supreme Court of Missouri reversed and remanded.

On remand, taxpayers from districts were allowed to intervene to argue that statute violated constitutional amendment’s prohibition against unfunded mandates, and taxpayers named state as a defendant. The circuit court determined that statute was unconstitutional as applied to defendant districts and entered judgment in favor of accredited district on its counterclaim against one parent for tuition owed. That parent and the state appealed. The Supreme Court, on its own motion, transferred case from the court of appeals.

The Supreme Court of Missouri held that:

- An increased cost of performing an existing activity or service cannot itself result in an unfunded mandate in violation of constitutional amendment, abrogating *School District of Kansas City v. State*, 317 S.W.3d 599;
- Tuition-payment provision of statute at issue did not impose a “new” or “increased” activity or service on either unaccredited district or accredited district, as necessary to create an unfunded mandate;
- Tuition-payment provision did not shift a state tax burden to a local entity so as to create unfunded mandate;
- Record did not support a finding that provision imposing new mandate on an unaccredited district to provide transportation to resident pupils who attended an accredited school in another district increased costs to taxpayers of unaccredited district, as necessary to constitute an unfunded mandate;
- Defense of impossibility did not apply with respect to one parent’s claim seeking payment of tuition for two students; and
- Trial court did not abuse its discretion in permitting taxpayers to intervene on remand.