

JUDGE SCOTT MCCOWN

EDGEWOOD: ORDER TO PREPARE TO CUT OFF STATE FUNDS
TO PUBLIC SCHOOLS, JAN. 11, 1993

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II.

To anticipate and avoid problems, the Commissioner of Education and the Comptroller of Public Accounts are ORDERED to consult with the appropriate officials in states where the courts have threatened or have been forced to close schools.

III.

The Commissioner is ORDERED to advise each central education district of its obligations under the court order. No county education district can release any funds to any school district beginning June 1 unless the legislature has acted. The Commissioner is ORDERED to advise each school district of the imminent cut off of state funds, including CED funds, and assist them in planning to curtail or shut down school.

IV.

Should the court's injunction take effect on June 1, all funds that would have been distributed but for the order of this court shall be considered sequestered funds protected and controlled by this court. The Comptroller is ORDERED to devise a plan for the safekeeping and accounting of all such sequestered funds, including sequestered CED funds.

V.

Under the Miscellaneous provisions of the Revised Interlocutory Order, no contractual obligation incurred before September 1, 1993, is affected by that order. Responsibility for paying any such obligation, however, rests upon the school district that incurred the obligation. School districts and others have

been on notice since June 1, 1987, when this court's original order was issued, that state funds would ultimately be cut off if a constitutional system were not enacted, and have continued to contract at their own peril.

Creditors are free to seek judgments against any defaulting school district and seek collection of any judgment as allowed by law. See Crystal City I.S.D. v. Bank of Dallas, 727 S.W. 2d 762, 763 (Tex. App.--Dallas 1987, no writ) and National Surety Corp. v. Friendswood I.S.D., 433 S.W. 2d 690, 693-94 (Tex. 1968).

If a judgment creditor is unable to collect his judgment from the responsible school district, and the judgment creditor thinks that his judgment should be paid from sequestered state funds, including CED funds, he may apply to this court for an order authorizing payment of his judgment from sequestered funds. The Comptroller, however, shall not release any sequestered funds except by order of this court, and no CED shall release any sequestered funds except by order of this court.

VI.

The state may have obligations imposed by federal law to fund certain programs. The Commissioner is ORDERED to review federal law to determine if there are any such federal requirements. The Commissioner and the Comptroller are ORDERED to file a plan by May 1, 1993, to release sequestered funds to school districts only to the extent required to ensure compliance with federal law. Where state funding is required by federal law to obtain federal funds, but is not required if federal funds are foregone, sequestered

funds shall not be released.

VII.

Where the state has guaranteed bonds of any school district before September 1, 1993, the guarantee shall be honored as set forth in the Miscellaneous provisions of the Revised Interlocutory Order. The Commissioner and the Comptroller are ORDERED to file a plan by May 1, 1993, to release sequestered funds only to the extent required to avoid any bond default by any school district.

VIII.

The Commissioner and the Comptroller are ORDERED to determine each school district's fund balance and ensure that each balance is exhausted before any sequestered state funds, including CED funds, are released to fund any federally required program or to avoid any bond default.

IX.

This case is hereby set for hearing on June 1, 1993, at 9:00 a.m. in the courtroom of the 250th District Court to determine whether a constitutionally sufficient plan to fund public education has been enacted, and if it has not, to determine whether the plans of the Commissioner and Comptroller for operating under the court's injunction should be approved. Any objection to the plans must be filed by May 15, 1993.

Signed this 11TH day of January, 1993.



F. SCOTT McCOWN
Judge Presiding