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SUPREME COURT OF THE UNITED STATES

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HORNE, SUPERINTENDENT, ARIZONA PUBLIC
INSTRUCTION *v.* FLORES ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 08–289. Argued April 20, 2009—Decided June 25, 2009*

A group of English Language-Learner (ELL) students and their parents (plaintiffs) filed a class action, alleging that Arizona, its State Board of Education, and the Superintendent of Public Instruction (defendants) were providing inadequate ELL instruction in the Nogales Unified School District (Nogales), in violation of the Equal Educational Opportunities Act of 1974 (EEOA), which requires States to take “appropriate action to overcome language barriers” in schools, 20 U. S. C. §1703(f). In 2000, the Federal District Court entered a declaratory judgment, finding an EEOA violation in Nogales because the amount of funding the State allocated for the special needs of ELL students (ELL incremental funding) was arbitrary and not related to the actual costs of ELL instruction in Nogales. The District Court subsequently extended relief statewide and, in the years following, entered a series of additional orders and injunctions. The defendants did not appeal any of the District Court’s orders. In 2006, the state legislature passed HB 2064, which, among other things, increased ELL incremental funding. The incremental funding increase required District Court approval, and the Governor asked the state attorney general to move for accelerated consideration of the bill. The State Board of Education, which joined the Governor in opposing HB 2064, the State, and the plaintiffs are respondents here. The Speaker of the State House of Representatives and the President of the State Senate (Legislators) intervened and, with the superintendent (collectively, petitioners), moved to purge the contempt order in

*Together with No. 08–294, *Speaker of Arizona House of Representatives et al. v. Flores et al.*, also on certiorari to the same court.

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light of HB 2064. In the alternative, they sought relief under Federal Rule of Civil Procedure 60(b)(5). The District Court denied their motion to purge the contempt order and declined to address the Rule 60(b)(5) claim. The Court of Appeals vacated and remanded for an evidentiary hearing on whether changed circumstances warranted Rule 60(b)(5). On remand, the District Court denied the Rule 60(b)(5) motion, holding that HB 2064 had not created an adequate funding system. Affirming, the Court of Appeals concluded that Nogales had not made sufficient progress in its ELL programming to warrant relief.

Held:

1. The superintendent has standing. To establish Article III standing, a plaintiff must present an injury that is concrete, particularized, and actual or imminent; fairly traceable to the defendant's challenged action; and redressable by a favorable ruling. *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 560–561. Here, the superintendent was a named defendant, the declaratory judgment held him in violation of the EEOA, and the injunction runs against him. Because the superintendent has standing, the Court need not consider whether the Legislators also have standing. Pp. 8–10.

2. The lower courts did not engage in the proper analysis under Rule 60(b)(5). Pp. 10–34.

(a) Rule 60(b)(5), which permits a party to seek relief from a judgment or order if “a significant change either in factual conditions or in law” renders continued enforcement “detrimental to the public interest,” *Rufo v. Inmates of Suffolk County Jail*, 502 U. S. 367, 384, serves a particularly important function in “institutional reform litigation,” *id.*, at 380. Injunctions in institutional reform cases often remain in force for many years, during which time changed circumstances may warrant reexamination of the original judgment. Injunctions of this sort may also raise sensitive federalism concerns, which are heightened when, as in these cases, a federal-court decree has the effect of dictating state or local budget priorities. Finally, institutional reform injunctions bind state and local officials to their predecessors’ policy preferences and may thereby “improperly deprive future officials of their designated legislative and executive powers.” *Frew v. Hawkins*, 540 U. S. 431, 441. Because of these features of institutional reform litigation, federal courts must take a “flexible approach” to Rule 60(b)(5) motions brought in this context, *Rufo, supra*, at 381, ensuring that “responsibility for discharging the State’s obligations is returned promptly to the State and its officials” when circumstances warrant, *Frew, supra*, at 442. Courts must remain attentive to the fact that “federal-court decrees exceed appropriate limits if they are aimed at eliminating a condition that does not violate [fed-

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eral law] or . . . flow from such a violation.” *Milliken v. Bradley*, 433 U. S. 267, 282. Thus, a critical question in this Rule 60(b)(5) inquiry is whether the EEOA violation underlying the 2000 order has been remedied. If it has, the order’s continued enforcement is unnecessary and improper. Pp. 10–14.

(b) The Court of Appeals did not engage in the Rule 60(b)(5) analysis just described. Pp. 14–23.

(i) Its Rule 60(b)(5) standard was too strict. The Court of Appeals explained that situations in which changed circumstances warrant Rule 60(b)(5) relief are “likely rare,” and that, to succeed, petitioners had to show that conditions in Nogales had so changed as to “sweep away” the District Court’s incremental funding determination. The Court of Appeals also incorrectly reasoned that federalism concerns were substantially lessened here because the State and the State Board of Education wanted the injunction to remain in place. Pp. 14–15.

(ii) The Court of Appeals’ inquiry was also too narrow, focusing almost exclusively on the sufficiency of ELL incremental funding. It attributed undue significance to petitioners’ failure to appeal the District Court’s 2000 order and in doing so, failed to engage in the flexible changed circumstances inquiry prescribed by *Rufo*. The Court of Appeals’ inquiry was, effectively, an inquiry into whether the 2000 order had been satisfied. But satisfaction of an earlier judgment is only one of Rule 60(b)(5)’s enumerated bases for relief. Petitioners could obtain relief on the independent basis that prospective enforcement of the order was “no longer equitable.” To determine the merits of this claim, the Court of Appeals should have ascertained whether the 2000 order’s ongoing enforcement was supported by an ongoing EEOA violation. Although the EEOA requires a State to take “appropriate action,” it entrusts state and local authorities with choosing how to meet this obligation. By focusing solely on ELL incremental funding, the Court of Appeals misapprehended this mandate. And by requiring petitioners to demonstrate “appropriate action” through a particular funding mechanism, it improperly substituted its own policy judgments for those of the state and local officials entrusted with the decisions. Pp. 15–18.

(c) The District Court’s opinion reveals similar errors. Rather than determining whether changed circumstances warranted relief from the 2000 order, it asked only whether petitioners had satisfied that order through increased ELL incremental funding. Pp. 18–20.

(d) Because the Court of Appeals and the District Court misperceived the obligation imposed by the EEOA and the breadth of the Rule 60(b)(5) inquiry, this case must be remanded for a proper examination of at least four factual and legal changes that may war-

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warranting relief. Pp. 23–34.

(i) After the 2000 order was entered, Arizona moved from a “bilingual education” methodology of ELL instruction to “structured English immersion” (SEI). Research on ELL instruction and findings by the State Department of Education support the view that SEI is significantly more effective than bilingual education. A proper Rule 60(b)(5) analysis should entail further factual findings regarding whether Nogales’ implementation of SEI is a “changed circumstance” warranting relief. Pp. 23–25.

(ii) Congress passed the No Child Left Behind Act of 2001 (NCLB), which represents another potentially significant “changed circumstance.” Although compliance with NCLB will not necessarily constitute “appropriate action” under the EEOA, NCLB is relevant to petitioners’ Rule 60(b)(5) motion in four principal ways: It prompted the State to make significant structural and programming changes in its ELL programming; it significantly increased federal funding for education in general and ELL programming in particular; it provided evidence of the progress and achievement of Nogales’ ELL students through its assessment and reporting requirements; and it marked a shift in federal education policy. Pp. 25–29.

(iii) Nogales’ superintendent instituted significant structural and management reforms which, among other things, reduced class sizes, improved student/teacher ratios, and improved the quality of teachers. Entrenched in the incremental funding framework, the lower courts failed to recognize that these changes may have brought Nogales’ ELL programming into compliance with the EEOA even without sufficient incremental funding to satisfy the 2000 order. This was error. Because the EEOA focuses on the quality of educational programming and services to students, not the amount of money spent, there is no statutory basis for precluding petitioners from showing that Nogales has achieved EEOA-compliant ELL programming in ways other than through increased incremental funding. A proper Rule 60(b)(5) inquiry should recognize this and should ask whether, as a result of structural and managerial improvements, Nogales is now providing equal educational opportunities to ELL students. Pp. 29–32.

(iv) There was an overall increase in education funding available in Nogales. The Court of Appeals foreclosed the possibility that petitioners could show that this overall increase was sufficient to support EEOA-compliant ELL programming. This was clear legal error. The EEOA’s “appropriate action” requirement does not necessarily require a particular level of funding, and to the extent that funding is relevant, the EEOA does not require that the money come from a particular source. Thus, the District Court should evaluate

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whether the State’s general education funding budget, in addition to local revenues, currently supports EEOA-compliant ELL programming in Nogales. Pp. 32–34.

3. On remand, if petitioners press their objection to the injunction as it extends beyond Nogales, the lower courts should consider whether the District Court erred in entering statewide relief. The record contains no factual findings or evidence that any school district other than Nogales failed to provide equal educational opportunities to ELL students, and respondents have not explained how the EEOA can justify a statewide injunction here. The state attorney general’s concern that a “Nogales only” remedy would run afoul of the Arizona Constitution’s equal-funding requirement did not provide a valid basis for a statewide *federal* injunction, for it raises a state-law question to be determined by state authorities. Unless the District Court concludes that Arizona is violating the EEOA statewide, it should vacate the injunction insofar as it extends beyond Nogales. Pp. 34–36.

516 F. 3d 1140, reversed and remanded.

ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, and THOMAS, JJ., joined. BREYER, J., filed a dissenting opinion, in which STEVENS, SOUTER, and GINSBURG, JJ., joined.