

Jennifer R. Clarke (Bar No. 49836)
Michael Churchill (Bar No. 04661)
PUBLIC INTEREST LAW CENTER OF
PHILADELPHIA
1709 Benjamin Franklin Parkway
Philadelphia, PA 19103
Telephone: 215-627-7100

Maura McInerney (Bar No. 71468)
Rhonda Brownstein (Bar No. 46866)
David Lapp (Bar No. 209614)
Cheryl Kleiman (Bar No. 318043).
EDUCATION LAW CENTER
1315 Walnut St., Suite 400
Philadelphia, PA 19107
Telephone: (215) 238-6970

Aparna Joshi (*pro hac vice* forthcoming)
Matthew J. Sheehan (Bar No. 208600)
O'MELVENY & MYERS LLP
1625 Eye Street, NW
Washington, D.C. 20006
Telephone: (202) 383-5300

Brad M. Elias (*pro hac vice*
forthcoming)
O'MELVENY & MYERS LLP
Times Square Tower
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIAM PENN SCHOOL DISTRICT;
PANTHER VALLEY SCHOOL
DISTRICT; THE SCHOOL DISTRICT OF
LANCASTER; GREATER JOHNSTOWN
SCHOOL DISTRICT; WILKES-BARRE
AREA SCHOOL DISTRICT;
SHENANDOAH VALLEY SCHOOL
DISTRICT; JAMELLA AND BRYANT
MILLER, parents of K.M., minor; SHEILA

No. _____

**PETITION FOR REVIEW
IN THE NATURE OF
AN ACTION FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

[caption continued from previous page]

ARMSTRONG, parent of S.A., minor;
TYESHA STRICKLAND, parent of E.T.,
minor; ANGEL MARTINEZ, parent of
A.M., minor; BARBARA NEMETH,
parent of C.M., minor; TRACEY
HUGHES, parent of P.M.H., minor;
PENNSYLVANIA ASSOCIATION OF
RURAL AND SMALL SCHOOLS; and
THE NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED
PEOPLE—PENNSYLVANIA STATE
CONFERENCE,

Petitioners,

v.

PENNSYLVANIA DEPARTMENT OF
EDUCATION; JOSEPH B. SCARNATI
III, in his official capacity as President Pro-
Tempore of the Pennsylvania Senate;
SAMUEL H. SMITH, in his official
capacity as the Speaker of the
Pennsylvania House of Representatives;
THOMAS W. CORBETT, in his official
capacity as the Governor of the
Commonwealth of Pennsylvania;
PENNSYLVANIA STATE BOARD OF
EDUCATION; and CAROLYN
DUMARESQ, in her official capacity as
the Acting Secretary of Education,

Respondents.

TO:

Rep. Samuel H. Smith
139 Main Capitol Building
PO Box 202066
Harrisburg, PA 17120

Sen. Joseph B. Scarnati III
Senate Box 203025
292 Main Capitol
Harrisburg, PA 17120

Pennsylvania State Board of
Education
333 Market Street
Harrisburg, PA 17126

Gov. Thomas W. Corbett
225 Main Capitol Building
Harrisburg, PA 17120

Pennsylvania Department of
Education
333 Market Street
Harrisburg, PA 17126

Carolyn Dumaresq
Secretary of Education
333 Market Street
Harrisburg, PA 17120

NOTICE TO PLEAD

You are hereby notified to file a written response to the enclosed Petition for Review within thirty (30) days from service hereof or a judgment may be entered against you.

/s/ Matthew J. Sheehan
Matthew J. Sheehan, Esquire

Date: November 10, 2014

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days after this complaint and notice are served, by entering a written appearance, personally or by attorney, and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court

without further notice for any money claimed in the complaint or for any other claim or relief requested by the petitioners. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

MidPenn Legal Services
213-A North Front Street
Harrisburg, PA 17101
(717) 232-0581

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

AVISO

USTED HA SIDO DEMANDADO/A EN CORTE. Si usted desea defenderse de las demandas que se presentan mas adelante en las siguientes paginas, debe tomar acción dentro de los próximos treinta (30) días despues de la notificación de esta Demanda y Aviso radicando personalmente o por medio de un abogado una comparecencia escrita y radicando en la Corte por escrito sus defensas de, y objeciones a, las demandas presentadas aquí en contra suya. Se le advierte de que si usted falla de tomar acción como se describe anteriormente, el caso puede proceder sin usted y un fallo por cualquier suma de dinero reclamada en la demanda o cualquier otra reclamación o remedio solicitado por el demandante puede ser dictado en contra suya por la Corte sin mas aviso adicional. Usted puede perder dinero o propiedad o otros derechos importantes para usted.

USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE UN ABOGADO, LLAME O

VAYA A LA SIGUIENTE OFICINA. ESTA OFICINA PUEDE PROVEERLE INFORMACION A CERCA DE COMO CONSEGUIR UN ABOGADO.

SI USTED NO PUEDE PAGAR POR LOS SERVICIOS DE UN ABOGADO, ES POSIBLE QUE ESTA OFICINA LE PUEDE PROVEER INFORMACION SOBRE AGENCIAS QUE OFREZCAN SERVICIOS LEGALES SIN CARGO O BAJO COSTO A PERSONAS QUE CUALIFICAN.

MidPenn Legal Services
213-A North Front Street
Harrisburg, PA 17101
(717) 232-0581

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

TABLE OF CONTENTS

	Page
INTRODUCTORY STATEMENT	1
JURISDICTION.....	8
PARTIES.....	8
A. Petitioners.....	8
1. The School District Petitioners	9
2. The Individual Petitioners.....	12
3. The Petitioner Entities.....	24
B. Respondents.....	27
GENERAL ALLEGATIONS	31
A. The Pennsylvania Constitution Establishes Education as a Fundamental Right and Guarantees Equal Access Thereto.	31
B. Respondents Have Adopted Measureable Standards Defining What Constitutes an Adequate Education.....	32
1. Adoption of Statewide Academic Standards	33
2. Adoption of Statewide Academic Assessments	37
C. Respondents Have Adopted Other Statewide Regulations Defining the Elements of an Adequate Education	42
D. Respondents Have Calculated the Cost of Providing an Adequate Education.	44
E. In 2008, Respondents Adopted a New Funding Formula in Response to the Costing-Out Study.	49
F. In 2011, Respondents Abandoned the Funding Formula and Drastically Cut Education Spending.	52
G. Respondents Have Limited the Ability of School Districts to Raise Enough Local Revenue to Provide an Adequate Education to All Students.....	55
H. Subsequent Budgets Failed to Restore the 2011 Cuts to Education Spending.....	56

TABLE OF CONTENTS
(continued)

	Page
I. Respondents Are Not Providing Sufficient Funds to Maintain a Thorough and Efficient System of Public Education.....	64
1. Student Performance on State Assessments Indicates That Pennsylvania Students Are Not Receiving an Adequate Education.	64
2. School Districts With Significant Funding Gaps Have Dramatically Reduced or Eliminated Education Programs and Services Necessary to Provide an Adequate Education.	72
a. Insufficient and Undertrained Staff	74
b. Inadequate Educational Programs	85
c. Insufficient Materials, Equipment and Facilities	91
4. PARSS Members and Other Districts Have Also Eliminated Programs and Services Necessary to Enable Students to Meet Proficiency Standards.	97
5. The General Assembly Has Failed to Adequately Support Pre-Kindergarten Education.....	101
J. Respondents Have Adopted a Funding Arrangement That Fails to Provide Children With an Equal Opportunity to Obtain an Adequate Education.	105
K. Respondents Have Adopted a Funding Arrangement That Is Irrational and Wholly Divorced from the Actual Costs of Providing an Adequate Education.....	113
FIRST CAUSE OF ACTION FOR VIOLATION OF THE PENNSYLVANIA CONSTITUTION’S EDUCATION CLAUSE.....	117
SECOND CAUSE OF ACTION FOR VIOLATION OF THE PENNSYLVANIA CONSTITUTION’S EQUAL PROTECTION CLAUSE	119
PRAYER FOR RELIEF	120

PETITION FOR REVIEW IN THE NATURE OF AN ACTION FOR DECLARATORY AND INJUNCTIVE RELIEF

Petitioners, by and through their counsel, for their Petition for Review in the Nature of an Action for Declaratory and Injunctive Relief against Respondents, state and allege as follows:

INTRODUCTORY STATEMENT

The good Education of Youth has been esteemed by Wise men in all Ages, as the surest foundation of the happiness both of private Families and of Common-wealths. Almost all Governments have therefore made it a principal Object of their Attention, to establish and endow with proper Revenues, such Seminaries of Learning, as might supply the succeeding Age with Men qualified to serve the publick with Honour to themselves, and to their Country.¹

1. From the earliest days of the Commonwealth, Pennsylvania has recognized a societal interest in public education—a charge that Respondents here are sworn to carry out. Under the Pennsylvania Constitution, Respondents have an obligation to support a thorough and efficient public school system that provides all children an equal opportunity to receive an adequate education. Through legislation and regulation, Respondents have established state academic standards that define precisely what an adequate education entails. But rather than equip children to meet those standards and participate meaningfully in the economic, civic, and social life of their communities, Respondents have adopted an irrational and inequitable school financing arrangement that drastically underfunds school

¹ Benjamin Franklin, Proposal Relating to the Education of Youth in Pennsylvania (1749), available at <http://www.archives.upenn.edu/primdocs/1749proposals.html>.

districts across the Commonwealth and discriminates against children on the basis of the taxable property and household incomes in their districts. In adopting this arrangement, Respondents have violated Article III, Section 14, of the Pennsylvania Constitution (the “Education Clause”), which requires the General Assembly to “provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.” They have also violated Article III, Section 32 (the “Equal Protection Clause”), which requires Respondents to finance the Commonwealth’s public education system in a manner that does not irrationally discriminate against a class of children.

2. The General Assembly’s delegation of much of these duties to local school districts cannot elude its ultimate responsibility under the Education Clause and the Equal Protection Clause. Through this lawsuit, Petitioners seek to hold the General Assembly responsible for and accountable to its constitutional mandate.

3. Respondents are well aware that the current school financing arrangement does not satisfy that mandate. In 2006, recognizing its constitutional duty to ensure adequate school funding, the General Assembly passed Act 114, which directed the State Board of Education to conduct a comprehensive statewide “costing-out” study to determine the “basic cost per pupil to provide an education that will permit a student to meet the State’s academic standards and assessments.” Upon the study’s completion in 2007, Respondents learned that 95% of the

Commonwealth's school districts required additional funding, a shortfall that totaled \$4.4 billion. In response, the General Assembly approved a bill in 2008 that established funding targets for each school district and a formula for distributing education funds in a manner that would help ensure that all students could meet state academic standards. Even with a financial crisis sweeping the nation, Respondents were able to rely on that funding formula to begin to more equitably distribute state funds and federal stimulus money, which collectively increased funding for school districts by more than \$800 million over three years. Beginning in 2011, however, Respondents abandoned the funding formula, slashed funding to districts by more than \$860 million, and passed legislation to severely restrict local communities from increasing local funding. Meanwhile, the cost of meeting state academic standards continued to rise, opening a perilous and widening gap between the actual resources provided to school districts and the resources necessary to provide children in Pennsylvania an adequate education.

4. These funding cuts have had a devastating effect on students, school districts (especially less affluent school districts), teachers, and the future of the Commonwealth. The latest figures from the 2012–13 school year indicate that more than 300,000 of the approximately 875,000 students tested, including the children of the individual Petitioners in this action, are receiving an inadequate education—by Respondents' own definition—and are unable to meet state

academic standards. Specifically, these students are unable to achieve proficiency on the Pennsylvania System of Standardized Assessment (“PSSA”) exams, which the General Assembly modified in 1999 to track state academic standards and measure student performance in reading, writing, math, and science.

5. Because of insufficient funding, Petitioner school districts are unable to provide students with the basic elements of an adequate education, such as appropriate class sizes, sufficient experienced and effective teachers, up-to-date books and technology, adequate course offerings, sufficient administrative staff, academic remediation, counseling and behavioral health services, and suitable facilities necessary to prepare students to meet state proficiency standards. In fact, the superintendent of the state’s largest school district has stated publicly that school staffing levels in 2013-14 were insufficient to provide students an adequate education.

6. Nor do Petitioner school districts have adequate resources to prepare students to pass the Keystone Exams, which measure student performance in math, science, and English. Achieving proficiency or higher on the Keystone Exams (or an equivalent project-based assessment) is a graduation requirement for all Pennsylvania students in the class of 2017 and beyond. Yet over 50% of students in the Commonwealth are currently unable to pass the Keystone Exams. Many of those students will leave high school without a diploma, hindering their ability to

enter the workforce or “serve the needs of the Commonwealth.” The existing system of public education is therefore neither thorough nor efficient, as measured by the Commonwealth’s own academic standards and costing-out study.

7. What is worse, the very low levels of state funding and unusually high dependence on local taxes under the current financing arrangement have created gross funding disparities among school districts—an asymmetry that disproportionately harms children residing in districts with low property values and incomes. In fiscal year 2011, local sources provided 60% of the money that funded public education, while state appropriations accounted for only 34%. That year, only three states contributed a smaller percentage of the cost of public education than Pennsylvania.

8. As a consequence, total education expenditures per student now range from as little as \$9,800 per student in school districts with low property values and incomes to more than \$28,400 per student in districts with high property values and incomes, according to the Pennsylvania Department of Education’s 2012–13 data.² This unconscionable and irrational funding disparity violates the Equal Protection Clause because it turns the caliber of public education into an accident

² Unless otherwise noted, throughout this Complaint, “per student” is based upon Average Daily Membership (“ADM”) as reported by the Pennsylvania Department of Education. ADM refers to “all resident pupils of the school district for whom the school district is financially responsible.” It includes students in charter schools. *See* http://www.portal.state.pa.us/portal/server.pt/community/financial_data_elements/7672.

of geography: Children in property- and income-poor districts are denied the opportunity to receive even an adequate education, while their peers in property- and income-rich districts enjoy a high-quality education.

9. This funding disparity is not justified by any difference in student needs. To the contrary, those students with the highest needs (*e.g.*, English-language learners, students living in poverty) receive the fewest resources to prepare them to succeed. Nor is it justified by a desire to maintain local control over education. Any such “control” is illusory under the current financing arrangement because districts with low property values do not actually control the amount of resources at their disposal or the standards to which their students are held. In fact, many low-wealth districts have higher tax rates than property-rich school districts. In other words, it is not tax effort that explains the difference in funding. Rather, these underfunded districts are in areas so poor that, despite their high tax rates, they simply cannot raise enough money to improve education without more assistance from the state.

10. Petitioner Panther Valley School District (“Panther Valley”), a property-poor district, is a prime example of the funding disparity. In 2012–13, Panther Valley’s equalized millage rate of 27.8—the 27th highest of the Commonwealth’s 500 school districts—raised revenue of approximately \$5,646 locally per student. Property-rich Lower Merion School District (“Lower

Merion”), on the other hand, raised revenue of approximately \$23,709 locally per student—four times more than Panther Valley—with an equalized millage rate of just 14.7, *almost half* of Panther Valley’s.

11. Although the state has made some effort to close that gap, contributing twice as much per student to Panther Valley as it did to Lower Merion, that still left Panther Valley with less than half the combined state and local funding of Lower Merion: \$12,022 per student versus \$26,700. Respondents cannot reasonably claim that \$12,022 is adequate to educate a Panther Valley student—not when the State Board of Education’s own costing-out study showed that Panther valley needed \$13,427 per student based on 2005–06 costs. Over the past nine years, of course, those costs have only grown.

12. Given Respondents’ failure to address the funding crisis—and the ongoing harm their failure has inflicted on children throughout the Commonwealth—Petitioners ask this Court to declare the existing school financing arrangement unconstitutional and find that it violates both the Education Clause and the Equal Protection Clause. An objective framework for such an inquiry already exists. The state academic standards and student performance measures developed by Respondents beginning in 1999, as well as the costing-out study they commissioned, provide judicially manageable standards by which the Court can assess whether the General Assembly has maintained and supported “a thorough

and efficient system of public education to serve the needs of the Commonwealth,” as required by the Pennsylvania Constitution.

13. Petitioners also seek an injunction compelling Respondents, after being given sufficient time to design, enact, and implement a school financing arrangement consistent with the Constitution, to halt any funding arrangement that (i) does not provide necessary, sufficient, and appropriate funding that ensures all students have an opportunity to obtain an adequate education and meet state academic standards, and (ii) irrationally discriminates against children who live in school districts with low property values and incomes.

JURISDICTION

14. This Court has original jurisdiction over this action pursuant to 42 Pa.C.S. § 761(a). This Court may grant declaratory relief pursuant to 42 Pa.C.S. §§ 7532, *et seq.*, and may grant injunctive relief pursuant to 42 Pa.C.S. §§ 7531, *et seq.*

PARTIES

A. Petitioners

15. Petitioners in this action include (i) Pennsylvania public school districts from large and small communities throughout the Commonwealth (the “School District Petitioners”), (ii) individuals who are the parents or natural guardians of children currently attending public schools within the Commonwealth (the “Individual Petitioners”), and (iii) organizations with members that are either

public school districts or parents adversely affected by Respondents' failure to comply with the Education and Equal Protection Clauses or that have had to divert resources from other activities because of that failure.

1. *The School District Petitioners*

16. Each of the School District Petitioners is a public school district established under Pennsylvania law, 24 P.S. §§ 2-201 *et seq.*, and mandated by statute to provide each of its students with a public education in accordance with state standards and regulations.

17. Petitioner William Penn School District (“William Penn”) is a public school district located in Delaware County, Pennsylvania, and serves students who reside in the Boroughs of Aldan, Colwyn, Darby, East Lansdowne, Lansdowne, and Yeadon. According to the 2010 Census, the school district served an estimated total population of 42,100. In 2012–13, approximately 78.13% of William Penn’s students were considered economically disadvantaged, 16.84% required special education, and 3.76% were English-language learners. In addition, in the 2013–2014 school year, 78.47% of students received either a free or reduced-price lunch. In 2012–13, William Penn had a tax base of \$214,438 in market value per weighted average daily membership (“WADM”), the 88th lowest in the state.³

³ “Weighted average daily membership (WADM) is the term used for the assignment of weight by grade level to ADM. The current weighting is half-time kindergarten at 0.5, full-time kindergarten and elementary (grades 1–6) at 1.0, and secondary (grades 7–12) at 1.36.” *See* http://www.portal.state.pa.us/portal/server.pt/community/financial_data_elements/7672.

18. Petitioner Panther Valley is a public school district located in Carbon County, Pennsylvania, and serves students who reside in the Boroughs of Coaldale (Schuylkill County), Lansford, Nesquehoning, and Summit Hill (Carbon County). According to the 2010 Census, the school district served an estimated total population of 12,600. In 2012–13, approximately 64.56% of Panther Valley’s students were considered economically disadvantaged, 17.17% required special education, and 1.15% were English-language learners. In addition, in the 2013–14 school year, 76.74% of students received either a free or reduced-price lunch. In 2012–13, Panther Valley had a tax base of \$177,840 in market value per WADM, the 45th lowest in the state.

19. Petitioner The School District of Lancaster (“Lancaster”) is a public school district located in Lancaster County, Pennsylvania, and serves students who reside in the City of Lancaster. The City of Lancaster is the Commonwealth’s eighth-largest city. According to the 2010 Census, the school district served an estimated total population of 75,000. Lancaster serves an extremely diverse population, with approximately 84% of students in 2012–2013 being minorities. In 2012–13, approximately 82.43% of Lancaster students were considered economically disadvantaged, 17.80% required special education, and 17.01% were English-language learners. In addition, in the 2013–14 school year, 80.92% of

students received either a free or reduced-price lunch. In 2012–13, Lancaster had a tax base of \$221,470 in market value per WADM, the 94th lowest in the state.

20. Petitioner Greater Johnstown School District (“Greater Johnstown”) is a public school district located in Cambria County, Pennsylvania, and serves students who reside in the Townships of West Taylor and Stonycreek and the city of Johnstown. According to the 2010 Census, the school district served an estimated total population of 27,600. In 2012–13, approximately 80.44% of Greater Johnstown’s students were considered economically disadvantaged, 18.40% required special education, and 0.61% were English-language learners. In addition, in the 2013–14 school year, 82.07% of students received either a free or reduced-price lunch. In 2012–13, Greater Johnstown had a tax base of \$158,122 in market value per WADM, the 30th lowest in the state.

21. Petitioner Wilkes-Barre Area School District (“Wilkes-Barre”) is a public school district located in Luzerne County, Pennsylvania, and serves students who reside in Bear Creek Township, Borough of Bear Creek Village, Borough of Laflin, Buck Township, City of Wilkes-Barre, Laurel Run Borough, Plains Township, and Wilkes-Barre Township. The City of Wilkes-Barre is the Commonwealth’s thirteenth-largest city. According to the 2010 Census, the school district served an estimated population of 59,900. In 2012–13, approximately 68.56% of Wilkes-Barre’s students were considered economically disadvantaged,

17.33% required special education, and 6.5% were English-language learners. In addition, in the 2013–14 school year, 65.54% of students received either a free or reduced-price lunch. In 2012–13, Wilkes-Barre had a tax base of \$290,037 in market value per WADM, the 190th lowest in the state.

22. Petitioner Shenandoah Valley School District (“Shenandoah”) is a public school district located in Schuylkill County, Pennsylvania, and serves students who reside in the Boroughs of West Mahanoy and Shenandoah.

According to the 2010 Census, the school district served an estimated population of 7,900. In 2012–13, approximately 77.03% of Shenandoah’s students were considered economically disadvantaged, 20.47% required special education, and 8.21% were English-language learners. In addition, in the 2013–14 school year, 77.44% of students received either a free or reduced-price lunch. In 2012–13, Shenandoah had a tax base of \$111,562 in market value per WADM, the 4th lowest in the state.

2. *The Individual Petitioners*

23. Jamella and Bryant Miller, as parents, bring this action on behalf of K.M., a minor, and on their own behalf. The Millers reside in Lansdowne, Pennsylvania, located within the boundaries of Petitioner William Penn School District.

24. K.M. is 11 years old and is enrolled in the sixth grade in the Ardmore Avenue Elementary School, which she has attended since kindergarten. Despite K.M.'s love of school, she has struggled in the classroom.

25. The student body at Ardmore has significant educational needs. There are approximately 550 students at Ardmore, and 72% are economically disadvantaged. Over 15% of students require special-education services, and over 10% are English-language learners.

26. Ardmore lacks adequate educational technology and staffing, particularly paraprofessionals, to provide K.M. and other students the level of instruction needed to meet state standards.

27. The school is not able to provide any foreign-language instruction. The school does not have any dedicated, fulltime music, art, library, or physical education teachers. Rather, those teachers split their time with another school. The school has a guidance counselor only three days a week, and a social worker, who is shared between four elementary schools, only a half-day each week. There is no assistant principal or dean of students to help with behavior issues. There are insufficient bilingual tutors to communicate with ESL students in their native languages.

28. Ardmore does not have sufficient money to pay staff to provide extra tutoring for K.M. and other struggling students, either during the school day or

after school, nor does it have funding for buses to take students home if they were to participate in such programs.

29. Due to the absence of tutoring or remedial help at school, K.M.'s parents have had no choice but to resort to paying their own money to hire a private tutor to help with K.M.'s education.

30. K.M. was evaluated under the Pennsylvania System of School Assessment during the past three school years (3rd, 4th, and 5th grade). She scored less than proficient in math two of the three years, and she has never attained proficiency in reading or writing. In 2012–2013, only 49% of K.M.'s schoolmates were proficient in math, and only 51% were proficient in reading.

31. As set forth herein, K.M.'s inability to attain proficiency on the PSSAs is the direct result of the Commonwealth's failure to provide her school and school district with sufficient resources.

32. Sheila Armstrong, as parent, brings this action on behalf of S.A., a minor, and on her own behalf. Ms. Armstrong resides in Philadelphia, Pennsylvania, located within the boundaries of the School District of Philadelphia ("Philadelphia").

33. S.A. is 12 years old, and loves music and drawing cartoons, which he can do freehand from memory. S.A. is an economically disadvantaged student. He also suffers from asthma.

34. S.A. is enrolled in the seventh grade in the Spring Garden School, which he has attended since fifth grade. From kindergarten through fourth grade, S.A. attended the William Henry Harrison School, but was forced to transfer when Philadelphia closed the school due to budget deficits. There are 271 students in grades K–8 at Spring Garden School, and 100% are economically disadvantaged. Over 11% of students receive special education, and 3.69% are English-language learners.

35. Spring Garden School is housed in an 80-year-old building with significant facility needs. The school lacks central air conditioning, and the electrical circuit is not able to support multiple window AC units running simultaneously. There is no auditorium that can seat all students, and classrooms are too small to comfortably fit class sizes that reach as many as 32 students. The school does not have working bathrooms on every floor. It also has old computers and too few textbooks to send home with students. The school needs updated textbooks, which it cannot afford.

36. Recent budget cuts have resulted in the loss of noon-time aides, a student dean who handled student discipline, a guidance counselor, and the community-relations liaison. This year, there is no music teacher, only an itinerant strings teacher who comes to the school for a half-day every other week. The school has only a half-time librarian and a half-time guidance counselor, and no

foreign-language teachers. A school nurse is available only one day a week. The district has also eliminated summer school programs for students other than 12th graders seeking additional credits to graduate.

37. S.A. has struggled in school. With large class sizes and a very needy student population, Spring Garden is not able to provide the extra tutoring and individualized support that he requires. He cannot take textbooks home to reinforce concepts he learns in school. He also lacks access to a school nurse to help him treat his asthma on four out of five school days.

38. S.A. was evaluated under the Pennsylvania System of School Assessment during the past four school years (3rd, 4th, 5th, and 6th grades). He has never attained proficiency in math, and failed to attain proficiency in reading in three of the four years. In 2012–2013, only 33% of students at Spring Garden were proficient in math, and only 36% of students were proficient in reading.

39. S.A.'s inability to attain proficiency on the PSSAs is the direct result of the Commonwealth's failure to provide his school and school district with sufficient resources.

40. Tyesha Strickland, as parent, brings this action on behalf of E.T., a minor, and on her own behalf. Ms. Strickland resides in Philadelphia, Pennsylvania, located within the boundaries of the School District of Philadelphia.

41. E.T. is 12 years old and enjoys basketball, dance, and acrobatics. E.T. is an economically disadvantaged student.

42. E.T. is enrolled in the seventh grade in the Commodore John Barry School, a K-8 school which he has attended since first grade. There are over 800 students in grades K–8 at Barry. 96% of students are economically disadvantaged, and over 7% receive special education.

43. Tyesha is the president of the Barry Home and School Association. She volunteers at Barry nearly every school day, trying to raise additional funds through the HSA by coordinating fundraisers, such as bake sales, pretzel sales, and raffles. These funds help the school pay for trips, books, supplies, and enrichment activities that are not covered by the school's limited budget. Because of her presence at the school, Tyesha is in consistent contact with E.T.'s teachers and school administrators to help E.T. in any way she can.

44. While E.T. loves his teachers and school, he has struggled academically. His class sizes at Barry range between 32–33 students. Barry does not have money to pay staff to provide the extra tutoring and individualized support that E.T. and other students need. Barry also lacks the resources to provide E.T. with up-to-date textbooks that he can take home to reinforce what he learns at school. Barry lacks adequate staffing, in particular secretarial staff and support staff, to monitor the lunch room, hallways, and school yard. As a result of

diverting teaching staff for these purposes, instruction time is reduced to the detriment of students, including E.T.

45. Although E.T. attended an after-school homework and tutoring program until fifth grade, that program has been cut because of funding deficiencies.

46. E.T. was evaluated under the Pennsylvania System of School Assessment during the past four school years (3rd, 4th, 5th, and 6th grades), and has never attained proficiency in any of these assessments. In 2012–2013, only 21% of students at Barry were proficient in math, and only 22% of students were proficient in reading.

47. E.T.'s inability to attain proficiency on the PSSAs is the direct result of the Commonwealth's failure to provide his school and school district with sufficient resources.

48. Angel Martinez, as parent, brings this action on behalf of A.M., a minor, and on his own behalf. Mr. Martinez resides in Lancaster, Pennsylvania, located within the boundaries of the School District of Lancaster.

49. A.M. is 10 years old, and loves playing video games and riding bikes. A.M. is an economically disadvantaged student.

50. A.M. is enrolled in the 5th grade in the King Elementary School, a K–5 school in the School District of Lancaster. There are over 570 students in grades

K–5 at King, 93% of which are economically disadvantaged. Over 15% of students require special education, and 23% are English-language learners.

51. Mr. Martinez and his wife are very involved parents at King. They volunteer to organize activities at the school, and work hard to ensure that A.M. completes his school assignments on time.

52. A.M. loves his teachers and works hard at school, but he has struggled academically. Class sizes at King average around 25 students. Due to recent budget cuts, the school eliminated all second-language instruction. The librarian has been cut to one day a week. After-school tutoring programs, which were once available to all students, are now limited to 80 students. And due to a lack of supplies, students are rarely permitted to take textbooks home.

53. The school building, built in the late 1960s, suffers from constant facilities problems. Air conditioner units are constantly breaking down, there are leaking toilets, cracked floors, and issues with asbestos. The school is only able to afford, and the building is only outfitted to sustain, minimal educational technology, with only one computer lab with 29 computers for all 570 students. Unlike neighboring wealthy districts, there are no smart boards in any of the classrooms.

54. A.M. struggles with reading and, without access to guidance from a librarian, he will bring home picture books from the school library rather than

grade-appropriate books. While A.M. is struggling, there are many other students in the school with even greater needs, and the school's limited resources are prioritized elsewhere. For example, the school prioritizes small-group instruction for students scoring even lower than A.M.

55. A.M. was evaluated under the Pennsylvania System of School Assessment during the past two school years (3rd and 4th grades). He has scored proficient in math both years, but he is not able to score proficient in reading. In 2012–2013, only 49% of students at King were proficient in math, and only 33% of students were proficient in reading.

56. A.M.'s inability to attain proficiency in reading on the PSSAs is the direct result of the Commonwealth's failure to provide his school and school district with sufficient resources.

57. Barbara Nemeth, as parent, brings this action on behalf of C.M., a minor, and on her own behalf. Ms. Nemeth and C.M. live in Johnstown, Pa., within the Greater Johnstown School District. C.M. qualifies for the free- and reduced-lunch program.

58. C.M. attends West Side Elementary School, where she is in the 5th grade. 83% of students at West Side are economically disadvantaged.

59. During third and fourth grades, C.M.'s final grades in language arts and math were Ds. Her PSSA scores in 2014 (4th grade) were "below basic" in

reading, math, and writing. In 2012–2013, only 49% of students at West Side were proficient in math, and only 46% were proficient in reading.

60. Because of limited funds, West Side Elementary School is only able to offer C.M. limited help. A reduction in the number of teachers has caused class size to grow from 18–20 students to approximately 27 students in C.M.’s 5th grade class. The school is unable to provide C.M. any additional tutoring or assistance during school. Tutoring in reading is only available for the lower grades, and the school no longer has any classroom aide who can provide assistance in math. In sum, classroom teachers are left without support.

61. Greater Johnstown can now employ only one librarian for two schools. As a consequence, last school year West Side Elementary closed its library in January for the rest of the year while the librarian covered another school. This will happen again this year.

62. Similarly, the art teacher is available only half of the year, limiting the programs available to students.

63. In technology, C.M.’s school of 800 students has a total of 30 computers in the entire building. The technology teacher is also available for only half of the year.

64. West Side Elementary raises money to offer an after-school Homework Helper program called “TLC—Trojan Learning Center,” but it is

staffed with only 3 tutors for 200 students and is dependent upon outside funding for survival. There is no summer school program at West Side Elementary, so students like C.M., who would benefit from summer programs, have to attend the Summer in the City program run by Cambria County Child Development at the East Side Elementary School in another part of the city. Because of the lack of funds, the district is not able to provide transportation for students enrolled in that program, limiting the number of students able to use it. C.M. was able to attend a summer youth mentoring program called Outdoor Odyssey two years ago, but her family could not afford to pay the program's cost this last year.

65. Due to reductions in staff, classroom resources, tutoring and access to technology, C.M. has struggled academically. As a consequence of her academic struggles and increases in class size, C.M. is also becoming disruptive. She no longer likes going to school or doing homework. Outside of school, however, she remains very positive.

66. As set forth below, C.M.'s inability to meet state proficiency standards is directly affected by Respondents' failure to provide her school and district with sufficient resources in compliance with the Pennsylvania Constitution.

67. Tracey Hughes, as parent, brings this action on behalf of her minor child, P.M.H., and on her own behalf. Ms. Hughes, a single mother, and her son live in Wilkes-Barre, Pennsylvania, within the Wilkes-Barre Area School District.

P.M.H. is 13-years-old and in his second year at E.L. Meyers Junior/Senior High School, where he is currently in 8th grade. Previously, he attended the Dr. David W. Kistler Elementary School in the Wilkes-Barre Area School District.

68. In 2012–2013, 72% of students at E.L. Meyers JHSH were economically disadvantaged, 21% were eligible for special education, and 7% were English-language learners. Only 45% of students were proficient in math and only 53% were proficient in reading.

69. P.M.H. did well in school through 4th grade, performing in math at the advanced level on the PSSA, and at the proficiency level in reading and writing.

70. Over time, his classes increased in size to over 30 students, and he received less direct support. At the same time, P.M.H.'s teachers faced additional challenges in the classroom, including changing student enrollment and an increase in transient students moving into the district for short periods. Because of funding cutbacks, school books are shared between classes and cannot be brought home for study.

71. In 5th grade, P.M.H.'s math PSSA level dropped to basic and stayed at that level in the 6th and 7th grades. In 7th grade, his reading PSSA also dropped from meeting state standards to the basic level.

72. Wilkes-Barre was unable to provide P.M.H. any tutoring or other assistance during school, and it has no after-school tutoring program with qualified teachers, and no free summer school program. A peer assistance program offered one day a week was frequently without student tutors.

73. As set forth below, P.M.H.'s inability to meet state proficiency standards is directly affected by Respondents' failure to provide his school and district with sufficient resources in compliance with the Pennsylvania Constitution.

74. Districts attended by the Individual Petitioners are referred to collectively as the "Attended Districts."

3. *The Petitioner Entities*

75. The Pennsylvania Association of Rural and Small Schools ("PARSS") is a statewide membership organization composed of approximately 150 second-, third-, and fourth-class public school districts and 13 Intermediate Units in Pennsylvania. The organization was founded in 1985 by a group of school districts that was concerned about the lack of equity and fairness in the funding of smaller, poorer districts by the Commonwealth. The mission of the organization is "promote equal opportunity for quality education for all students in every school and community in Pennsylvania."

76. PARSS provides organizational, technical, and management support to rural school districts, and conducts legislative advocacy and in-service training

and education on issues impacting rural school districts. It also works to provide rural school districts, their students, and their communities with the support and tools necessary to have a voice in the legislature and statewide.

77. PARSS is harmed because it has had to re-allocate and spend limited funds to advocate for a new school financing arrangement. In its advocacy effort, PARSS has developed informational materials and resources to educate its members and the public about school funding issues. It has also hired a public relations consultant and joined statewide coalitions to advocate for increased school funding in the legislature.

78. Many of PARSS' member districts are harmed by the current inadequate funding because, with the resources available to them, they are unable to provide the additional educational services necessary to enable them to prepare all their students to meet the state's proficiency standards. Because of inadequate funding, many PARSS member districts are cutting educational programs, which are vitally necessary in order to meet state standards.

79. The NAACP Pennsylvania State Conference ("PA-NAACP") is a non-partisan organization operating in Pennsylvania and is affiliated with the National Association for the Advancement of Colored People operating across the United States. PA-NAACP has approximately 10,000 members in 30 units across the state, including units within the boundaries of the various School District

Petitioners: Darby Unit within the William Penn School District; the Johnstown Unit within the Greater Johnstown School District; the Lancaster Unit within the School District of Lancaster; and the Wilkes-Barre Unit within the Wilkes-Barre Area School District.

80. PA-NAACP is dedicated to ensuring that all students in Pennsylvania have an equal opportunity to obtain a high-quality public education. It has worked tirelessly to remove barriers to the participation of minority students on a fully equal basis, and to ensure that all students receive the services they need to succeed. Its Agenda for Education in Pennsylvania provides an ambitious blueprint for action, declaring that “[w]e maintain that for most of us, education is the gateway to the economic mainstream. As well, our public schools are the only civil institution where our diverse population: persons of difference races, creeds, and cultures, are assured to be brought together and to learn the commonness of our humanity.”⁴

81. In furtherance of these purposes, PA-NAACP and its branches conduct programs on educational matters to educate its members, school officials, and citizens on effective practices, as well as on working with diverse populations. Each May, in partnership with the Media Area Unit, PA-NAACP conducts its Conference on the State of Education in Pennsylvania. The conference is designed

⁴ Pa. State Conference of NAACP Branches, Agenda for Educ. in Pa. (2010-2011), *available at* <http://pastatenaacp.org/wp-content/uploads/2011/08//AGENDASEPT30-rev.pdf>.

to teach and equip Units, parents, and educators on current issues in education and on how to advocate for the educational needs of students.

82. PA-NAACP and its branches also have organized direct action when state practices threaten the education of students, such as recent public demonstrations in York County resulting from the result of drastic underfunding in that district.

83. The PA-NAACP and its members are aggrieved by Respondents' actions and omissions described in this Petition because they substantially impede PA-NAACP's ability to further its goals and institutional purpose of improving educational opportunities for students by diverting resources of its chapters and members to addressing the actions and failures of the Respondents. Members of the PA-NAACP and its branches are parents of children enrolled in public schools in Pennsylvania who, on behalf of their children, have suffered harm from the actions described in this Petition.

B. Respondents

84. Respondent Pennsylvania Department of Public Education (the "Department of Education") is empowered by statute to "[a]dminister all laws of the Commonwealth with regard to the establishment, maintenance, and conduct of public schools."⁵ This power includes distributing appropriations to establish and

⁵ 71 P.S. § 351, § 352, and § 1037 (2014).

maintain public schools; prescribing courses of study; administering testing; establishing academic standards; requiring and receiving reports from school districts; and classifying schools.

85. The mission of the Department of Education is to academically prepare children and adults to succeed as productive citizens and ensure that the technical support, resources, and opportunities are in place for all students to receive a high quality education. The Department of Education has an office located at 333 Market Street, Harrisburg, Pennsylvania 17126.

86. Respondent Joseph B. Scarnati III is President Pro Tempore of the Pennsylvania Senate and is charged with responsibility under the Education Clause. Under Article III, Section 14, the Senate must provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth. Under Article III, Section 11 and Article VIII, Sections 12 and 13, the Senate also determines yearly appropriations for public schools. Senator Scarnati is responsible for referring every bill and joint resolution which may be introduced in the Senate or received from the House of Representatives to the appropriate standing committee. Senator Scarnati is sued in his official capacity and has an office located at Senate Box 203025, 292 Capitol Building, Harrisburg, Pennsylvania 17120.

87. Respondent Samuel H. Smith is Speaker of the Pennsylvania House of Representatives and is charged with responsibility under the Education Clause. Under Article III, Section 14, the House must provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth. Under Article III, Section 11 and Article VIII, Sections 12 and 13, the House also determines yearly appropriations for public schools. Speaker Smith presides over sessions of the House and signs all bills and joint resolutions passed by the General Assembly. Speaker Smith is sued in his official capacity and has an office located at 139 Main Capitol Building, PO Box 202066, Harrisburg, Pennsylvania 17120.

88. Respondent Governor Thomas W. Corbett is vested under Article IV, Section 2 of the Pennsylvania Constitution with “supreme executive power” and must ensure that “laws be faithfully executed.” Governor Corbett is also responsible under Article IV, Section 8 for appointing the Secretary of Education and members of the State Board of Education. He is also responsible for submitting an annual State budget to the General Assembly, approving legislative appropriations, and supervising the executive departments that administer regulations and programs governing the school districts. As the chief executive officer of the Commonwealth, Governor Corbett has responsibility for ensuring that school districts across the Commonwealth have sufficient resources to assure

that their students receive a public education in accordance with state standards and the Pennsylvania Constitution. Governor Corbett is sued in his official capacity and has an office located at 225 Main Capitol Building, Harrisburg, Pennsylvania 17120.

89. Respondent Pennsylvania State Board of Education (the “State Board”) is the regulatory and policy-making board for basic and higher education in the Commonwealth and is responsible for adopting “broad policies and principles, and establish[ing] standards governing the educational program of the Commonwealth.”⁶ As such, the State Board has adopted academic standards and state-wide assessments to “facilitate the improvement of student achievement and to provide parents and communities a measure by which school performance can be determined.”⁷ The State Board also has the duty to make reports and recommendations and give guidance to the Governor and school districts. The chairman and minority chairman of the education committees of both houses of the General Assembly are ex officio members of the State Board with full voting privileges. The State Board has an office at 333 Market Street, 1st Floor, Harrisburg, Pennsylvania 17126.

90. Respondent Carolyn Dumaresq is Pennsylvania’s Acting Secretary of Education and is responsible for the administration and supervision of the

⁶ 24 P.S. § 26-2603-B (2014).

⁷ 22 PA. CODE § 4.2 (2014).

Department of Education. The Secretary of Education is the only cabinet official required by the Pennsylvania Constitution under Article IV, Section 8(a).

Secretary Dumaresq is being sued in her official capacity and has an office located at 333 Market Street, Harrisburg, Pennsylvania 17126.

GENERAL ALLEGATIONS

A. The Pennsylvania Constitution Establishes Education as a Fundamental Right and Guarantees Equal Access Thereto.

91. The Education Clause of the Pennsylvania Constitution provides that “[t]he General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.”

92. The Education Clause creates a fundamental right for each and every school-age child in Pennsylvania to attend free public schools that provide all students an opportunity to obtain an adequate education. As defined by Pennsylvania law, an adequate education must “prepare[] students for adult life by attending to their intellectual and developmental needs,” . . . “challenging them to achieve at their highest level possible,” and preparing them “to become self-directed, life-long learners and responsible, involved citizens.”⁸ An education that fails to prepare children in accordance with state law to participate meaningfully in the civic, economic, social, and other activities of our society and to exercise the

⁸ 22 PA. CODE § 4.11.

basic civil and other rights of a citizen of the Commonwealth of Pennsylvania is constitutionally inadequate.

93. The General Assembly has created school districts as its instrumentalities to comply with the constitutional mandate to provide a thorough and efficient system of public education. Accordingly, the Education Clause imposes upon Respondents a duty to provide school districts with the financial resources necessary and appropriate to ensure that all resident children have an opportunity to obtain an adequate education. A school financing arrangement that fails to provide school districts with sufficient resources to satisfy that constitutional mandate is unconstitutional.

94. The equal protection requirements in Article III, Section 32 of the Pennsylvania Constitution guarantee all children residing in Pennsylvania equal treatment by the General Assembly, including an equal opportunity to obtain an adequate education. A school financing arrangement that denies children residing in school districts with low property values and incomes the opportunity to obtain an adequate education, while providing sufficient resources to children in school district with high property values and incomes, is unconstitutional.

B. Respondents Have Adopted Measureable Standards Defining What Constitutes an Adequate Education.

95. Before 1999, Pennsylvania had no statewide academic standards and no process for measuring what individual students were learning or whether it was

sufficient. Rather, each school district set its own curriculum, which was limited only by state requirements concerning the total number of instructional hours and required courses (*e.g.*, math, English, social studies). Thus, prior to 1999, the Commonwealth had not established standards by which a thorough and efficient system of education could be objectively measured.

96. This changed dramatically beginning in 1999 when, for the first time, the General Assembly adopted academic content standards through the passage of Chapter Four of the Pennsylvania Code, and then linked assessments and accountability to those standards.

97. Since 1999, the General Assembly has supervised the expansion and improvement of statewide academic standards. Over the last two years, for example, the Commonwealth adopted graduation exam requirements (the “Keystone Exams”) and upgraded and replaced several academic standards with the Pennsylvania Common Core State Standards, which are based on the national Common Core.

1. *Adoption of Statewide Academic Standards*

98. Chapter Four of the Pennsylvania Code was intended to “establish rigorous academic standards and assessments . . . to facilitate the improvement of student achievement and to provide parents and communities a measure by which

school performance can be determined.”⁹ “Academic standards” are defined as statements of “[w]hat students should know and be able to do at a specified grade level,” and they focus on essential “concepts, knowledge, and skills” necessary for students to succeed.¹⁰ “Assessments” are defined as “valid and reliable measurement[s] of student performance on a set of academic standards in a subject area that captures student understanding of the set as a whole and the central concepts, knowledge and skills of each content area.”¹¹

99. This standards-based education system defined, for the first time, the education content that Pennsylvania’s system of public schools must teach to all students in grades K–12 in order to prepare them to be effective citizens and to meaningfully participate in our democracy and economic life. In other words, the standards-based education system was the General Assembly’s articulation of what an adequate public education system must accomplish.

100. To develop this system, the General Assembly delegated to the State Board of Education the authority to promulgate, as state regulations, certain academic standards. These academic standards are the cornerstone of the

⁹ 22 PA. CODE § 4.2.

¹⁰ 22 PA. CODE § 4.3.

¹¹ 22 PA. CODE § 4.3.

standards-based education system, and became effective only after review and approval by the House and Senate Education Committees.¹²

101. The State Board first promulgated academic standards for mathematics, reading, writing, speaking and listening in 1999. Between 2002 and 2006, under the authority and approval of the General Assembly, the State Board promulgated academic standards for seven additional content areas, including (i) science and technology, (ii) environment and ecology, (iii) social studies (history, geography, civics and government, and economics), (iv) arts and humanities, (v) career, education, and work, (vi) health, safety, and physical education, and (vii) family and consumer science.

102. The role of the General Assembly in this process was significant. The State Board (which includes the majority and minority chairs of each House and Senate Education Committee) gave notice in August 1998 of its intention to establish academic standards for students in public schools and the means by which to assess and measure whether students were meeting those standards. The State Board published the proposed academic standards in the Pennsylvania

¹² The State Board of Education promulgates regulations through a regulatory process. This process includes publication of the proposed rule in the Pennsylvania Bulletin, which allows for public notice and comment before the final regulations are sent to the Independent Regulatory Review Commission, the State Attorney General, and the House and Senate Education Committees for final approval.

Bulletin.¹³ In response to the invitation for comments, the House and Senate Education Committees each held two-day public hearings on the proposed regulations. Following the hearings, the committees submitted their comments to the State Board.

103. Based on those comments, the State Board prepared a final set of regulations, which were approved by the House Education Committee on November 10, 1998, and the Senate Education Committee on November 19, 1998. The State Board thereafter promulgated Academic Standards and Assessments that set forth statewide requirements for instruction, graduation, strategic planning, and assessment, effective January 16, 1999, and published in the Pennsylvania Bulletin.¹⁴

104. Throughout that process and continuing to the present, the General Assembly has recognized that the students' ability to meet academic standards is the measure of whether the system of public schools is serving the needs of the Commonwealth.

105. The General Assembly has also been integral in improving and revising academic standards. On March 1, 2014, the State Board, with approval from the General Assembly, officially implemented the Pennsylvania Common Core. The Common Core—a set of academic standards in mathematics and

¹³ 28 PA. BULL. 3875 (Aug. 8, 1998).

¹⁴ 29 PA. BULL. 399 (Jan. 16, 1999).

English, language arts and literacy—was developed by the National Governors Association and the Council of Chief State School Officers. The State Board tailored the Common Core to meet the Commonwealth’s specific needs, resulting in the Pennsylvania Common Core Standards. The Pennsylvania Common Core Standards “reflect the organization and design of the PA Academic Standards,” but replaced existing academic standards in those particular areas.¹⁵ Other academic standards not covered by the Pennsylvania Common Core remain in force.¹⁶

106. The academic and core standards are found in Appendices A-2, B, C, D, and E to Chapter Four of the Pennsylvania Code. These appendices describe what students should know and be able to do by the end of select grade levels for each of the academic and core standards. They do so in chart format, indicating the benchmark knowledge and skills necessary to qualify as attaining proficiency. In effect, these charts represent the legislature’s determination of what a child should learn in a “thorough and efficient system of education.”

2. *Adoption of Statewide Academic Assessments*

107. Pennsylvania’s academic standards are not mere theoretical ideas or aspirational goals. Students are required to demonstrate that they are achieving proficiency in each academic content area through both local and statewide

¹⁵ Guiding Strategies & Key Questions, *available at* <http://static.pdesas.org/content/documents/Four%20Guiding%20Strategies%20and%20Key%20Questions%2012.1.2013.pdf>.

¹⁶ See 22 PA. CODE § 4.12.

assessments, and they face practical consequences (such as retaking tests or being unable to receive a diploma) if they do not meet state academic standards. School districts are also held accountable for providing an education that meets state academic standards. Districts receive grades based in part on the percentages of students meeting proficiency and the growth in those percentages. Teachers, principals, and administrators are also evaluated, in part, on whether students are meeting state standards.

108. Under the Pennsylvania Code, each school district must design a local assessment system to “[d]etermine the degree to which students are achieving academic standards” and how the school district will “provide assistance to students not attaining academic standards at the proficient level or better.”¹⁷ School districts must use these local assessments to “improve curriculum and instructional practices and to guide instructional strategies.”¹⁸

109. Since 1999, the Commonwealth has also implemented a statewide assessment system to “[d]etermine the degree to which school programs enable students to attain proficiency of academic standards” and to “[p]rovide information to State policymakers, including the General Assembly and the Board on how effective schools are in promoting and demonstrating student proficiency of

¹⁷ 22 PA. CODE § 4.52(a)(1).

¹⁸ 22 PA. CODE § 4.52(a)(2).

academic standards.”¹⁹ The State evaluates proficiency in academic standards by administering the Pennsylvania System of School Assessment (PSSA) exams and the Keystone Exams.²⁰ Thus, these exams are a legislatively approved means to measure whether the public school system is “thorough and efficient” and whether students are learning the skills and acquiring the knowledge that the legislature has deemed necessary “to serve the needs of the Commonwealth.”

110. The PSSA exams are standards-based, criterion-referenced assessments that test student proficiency in reading, writing, and math (based on the common core standards in Appendix A-2) as well as science (based on the academic standards in Appendix B). Pennsylvania students in grades 3 through 8 are assessed for proficiency in English language arts and math, and proficiency in science and technology, and environment and ecology are tested in grades 4 and 8.²¹ Levels of proficiency in mastering these standards are categorized as (i) advanced; (ii) proficient; (iii) basic; and (iv) below basic.²²

111. In 2010, the State Board implemented the Keystone Exams, which replaced the PSSAs for eleventh graders and are slated to become a critical

¹⁹ 22 PA. CODE §§ 4.51(a)(2), (3).

²⁰ 22 PA. CODE §§ 4.51a–4.51b.

²¹ 22 PA. CODE § 4.51a(c).

²² 22 PA. CODE § 4.51a(a)(4).

component of Pennsylvania’s high school graduation requirements by 2017.²³ This 2010 rulemaking, which was reviewed by the House and Senate Education Committees, provided for the “development” of ten Keystone Exams as a component of statewide graduation requirements. The rulemaking also required schools to provide supplemental instruction to students who were not proficient in the academic standards assessed by the Keystone Exams, and created an alternative, project-based assessment for students who are unable to demonstrate proficiency on a Keystone Exam.

112. The Keystone Exams are composed of multiple-choice and constructed-response questions and are administered three times a year. Students receive a scaled-score of advanced, proficient, basic, or below basic based upon the student’s raw points total. If a student does not pass the Exam, he or she may retake it.

113. Starting in the 2012–13 school year, the Keystone Exams replaced the eleventh grade PSSAs in math, reading, and science. Students take the exams at or

²³ 40 PA. BULL. 240 (Jan. 9, 2010). “The General Assembly laid a statutory foundation for the development of Keystone Exams in the act of June 30, 2012 (P. L. 684, No. 82) (Act 82).” As stated in the Pennsylvania Bulletin published on March 1, 2014:

Act 82 amended Section 121 of the School Code to require, subject to annual appropriations, that the Department of Education [] develop and implement Keystone Exams in the following subjects: Algebra I, Literature, Biology, English Composition, Algebra II, Geometry, United States History, Chemistry, Civics and Government, and World History. Act 82 further directed the [State] Board to promulgate regulations necessary to implement Section 121 of the School Code.

44 PA. BULL. 1131 (Mar. 1, 2014).

near the end of a Keystone-related course, and the results will be held until their junior year for accountability purposes and until their senior year for graduation purposes. Beginning in the 2016–17 school year, high school students will be required to demonstrate proficiency in Algebra I, Biology, and Literature in order to graduate. Beginning in the 2018–19 school year, students will be required to demonstrate proficiency in English Language Arts in order to graduate. And beginning in the 2019–20 school year, students will also be required to demonstrate proficiency in Civics and Government in order to graduate.

114. Because the failure to demonstrate proficiency in identified subjects can be the basis for denying a student a high school diploma, the Keystone Exams directly impact and impose new accountability measures on all students and affect their ability to access post-secondary education and obtain employment.

115. Student performance on the PSSA Exams, the Keystone Exams, and local assessments is also part of the evaluation systems for teachers, principals, and administrators mandated by the legislature in Act 82.²⁴ And the Pennsylvania School Performance Profile, which is used to hold Title I schools accountable under Pennsylvania’s waiver to the No Child Left Behind Act and to “provide the public with information on how public schools across Pennsylvania are

²⁴ 24 P.S. § 11-1123.

academically performing,” is also based in part on student performance on assessments.²⁵

C. Respondents Have Adopted Other Statewide Regulations Defining the Elements of an Adequate Education

116. The Pennsylvania School Code further defines what constitutes a “thorough and efficient system of education” by mandating that schools provide certain basic resources and services to students.

117. Pursuant to a statute adopted by the General Assembly, school districts must have sufficient numbers of qualified professional employees to enforce the curriculum requirements of Chapter Four of the Pennsylvania Code and “employ the necessary qualified professional employees, substitutes and temporary professional employees to keep the public schools open in their respective districts in compliance with the provisions of this act.”²⁶

118. Pursuant to regulations authorized by the General Assembly and promulgated by the State Board of Education, school districts must provide:

- A. Planned instruction at every grade level in “[t]he arts, including active learning experiences in art, music, dance and theatre;”²⁷

²⁵ Pennsylvania Department of Education, School Performance Profile, Executive Summary, *available at* http://www.portal.state.pa.us/portal/server.pt/community/pennsylvania_department_of_education/7237/p/1604316.

²⁶ 24 P.S. § 11-1106.

²⁷ 22 PA. CODE § 4.21(e)(requiring that the arts “be provided to every student every year in the primary program”); 22 PA. CODE § 4.21(f) (requiring that the arts “be provided to every student

- B. A “comprehensive and integrated K-12 program of . . . student services,” including “[d]evelopmental services for students that address their developmental needs,” such as guidance counseling;²⁸
- C. Planned instruction in “[v]ocational-technical education, . . . “[b]usiness education, including courses to assist students in developing business and information technology skills,” . . . “[w]orld languages, . . . [and] “[t]echnology education” to every student in high school;²⁹
- D. Programs for English-language learners “for the purpose of facilitating the student’s achievement of English proficiency and the academic standards”;³⁰
- E. “Health, safety and physical education” at every grade level;³¹
- F. “[A]ids, services and accommodations that are designed to meet the educational needs of protected handicapped students as

every year in the intermediate level program”); 22 PA. CODE § 4.22(c) (requiring that the arts “be provided to every student in the middle level program”); 22 PA. CODE § 4.23(c) (requiring that the arts “be provided to every student in the high school program”).

²⁸ 22 PA. CODE § 12.41(a)–(b). In addition, these student services must be “an integral part of the instructional program at all levels of the school system.” 22 PA. CODE § 12.41(c)(1).

²⁹ 22 PA. CODE § 4.23(d).

³⁰ 22 PA. CODE § 4.26.

³¹ 22 PA. CODE §§ 4.21(e)(6), (f)(8); 4.22(c)(7); 4.23(c)(8); 4.27.

adequately as the needs of non-handicapped students are met;”³²

G. Special education for “children with disabilities” that “enables them to be involved in and progress in the general curriculum”;³³ and

H. Special education for “[s]tudents who are gifted” that “that enables them to participate in acceleration or enrichment, or both, as appropriate.”³⁴

119. A system of public education that fails to provide all students with these basic resources, which the General Assembly and state regulations mandate as necessary, is not “thorough and efficient” within the meaning of the Pennsylvania Constitution.

D. Respondents Have Calculated the Cost of Providing an Adequate Education.

120. In July 2006, the General Assembly passed Section 15.1 of Act 114, which directed the State Board to conduct a costing-out study to determine “the basic cost per pupil to provide an education that will permit a student to meet the

³² 22 PA. CODE § 15.1.

³³ 22 PA. CODE § 4.28(a).

³⁴ 22 PA. CODE § 4.28(b); 22 PA. CODE § 16.2 (“This chapter specifies how the Commonwealth will meet its obligations to suspected and identified gifted students who require gifted education to reach their potential.”).

State’s academic standards and assessments.” Governor Rendell signed the bill on July 11, 2006.

121. Act 114 required the costing-out study to evaluate both the adequacy and equity of the existing school funding arrangement. The Act defined “adequacy” as “whether sufficient resources, both State and local, are being committed to meet established performance standards and assure academic success for all.” Equity was defined as “whether public resources being committed to education are distributed in such a way that all children, regardless of race, gender, ethnicity, disability, socioeconomic status, and geography, have an equal opportunity to succeed in school.”³⁵

122. In October 2006, the State Board issued a request for proposals to select a contractor to conduct “a comprehensive Statewide costing out study.” The State Board ultimately selected Augenblick, Palaich, and Associates, Inc. (“APA”), an experienced firm that has prepared similar studies in more than 20 other states.

123. The State Board created a special committee to oversee the costing-out study. Members of the special committee, including chair Dr. James E. Barker, held several meetings with APA to discuss overall project goals, assemble data, and resolve methodological issues. The State Board also approved key research decisions that played a central role in APA’s analysis, such as selecting a

³⁵ 24 P.S. § 25-2599.3(b).

performance target or “standard” by which all public schools in the Commonwealth would be measured in the costing-out study.

124. The State Board, in conjunction with APA, selected the Pennsylvania Accountability System as the performance target for the study. The Pennsylvania Accountability System’s key goals were that all students: (i) meet state standards in 12 academic areas;³⁶ and (ii) score “proficient” or above on reading and math PSSA exams by the year 2014. APA used “a variety of nationally recognized research approaches” to calculate the costs associated with achieving those goals.³⁷

125. APA identified three key cost elements for Pennsylvania schools: (i) the “base cost” of educating an average student in the Commonwealth to meet state performance expectations (excluding food service costs, transportation costs, costs associated with community services, capital costs, or debt service); (ii) the cost “weights” for the additional expense of educating students with special needs (including economically disadvantaged students, special education students, gifted students, and English-language learner (“ELL”) students) to meet performance

³⁶ The Commonwealth has adopted content standards in 12 disciplines: (1) arts and humanities; (2) career education and work; (3) civics and government; (4) economics; (5) environment and ecology; (6) family and consumer sciences; (7) geography; (8) health, safety and physical education; (9) history; (10) mathematics; (11) reading, writing, speaking and listening; and (12) science and technology. Augenblick, Palaich & Assocs.Inc., *Costing Out the Resources Needed to Meet Pennsylvania’s Public Education Goals* 4 (Dec. 2007) (hereinafter “Costing Out Study”), available at http://www.pde.state.pa.us/portal/server.pt/community/research_reports_and_studies/19722/education_costing-out_study/529133.

³⁷ *Id.* at 29.

standards and to effectively educate the Commonwealth's gifted and talented students; and (iii) additional "cost factors" associated with differences between school districts in terms of their size, enrollment change, urban or rural location, and cost of living differences across the state. These factors were consistent with the General Assembly's mandate in Act 114.

126. APA drew the following conclusions with respect to the "adequacy" of Pennsylvania's 2005–06 funding arrangement: (i) the statewide costing-out estimate for each district to reach the student proficiency goal and other performance expectations was \$21.63 billion, which was \$4.38 billion (25.4%) higher than actual spending on comparable items in 2005–06; (ii) the average total costing-out estimate per student was \$11,926, while Pennsylvania school districts spent on average only \$9,512 per student in 2005–06 (a spending shortfall of \$2,414) with 167 districts having a spending shortfall greater than \$3,000 per student; and (iii) there were 471 out of 500 Commonwealth school districts that spent less than their costing-out estimate, meaning only 30 school districts (5.9%) spent equal to or above their costing-out estimate of what is necessary for students to meet performance expectations. APA also concluded that the Commonwealth's least wealthy districts were the furthest from their costing-out estimates: on average, the poorest 20% of districts would need to raise spending by 37.5%, while the wealthiest 20% would need to raise spending by only 6.6%.

127. APA drew the following conclusions with respect to the “equity” of Pennsylvania’s 2005–06 funding arrangement: (i) there is a substantial variation in wealth between school districts in Pennsylvania; (ii) state aid to each school district is fairly consistent once all cost pressures are taken into account (*e.g.*, number of students with special needs, differences in district size); (iii) local revenue is almost twice as much as state revenue, which overwhelms whatever equity there is from state aid; (iv) to raise local revenue, poorer districts have the highest tax effort, while the wealthiest districts generally have the lowest effort; and (v) state and local taxes for schools are 6–12% lower than those collected in six nearby states.

128. Based upon this equity analysis, APA concluded that: “If additional revenues are needed to improve student performance, such funds should be collected at the state level and allocated by the state through a formula that is sensitive to the needs and wealth of school districts. ***By focusing on state funding in this way Pennsylvania will be better able to reduce the inequities caused by the current heavy reliance on local revenues***” (emphasis added).³⁸

129. The costing-out study reflects Respondents’ recognition that proficiency on state assessment tests is the standard by which to measure whether the public education system is thorough and efficient and serving the needs of the

³⁸ Costing Out Study, *supra* note 22, at vi.

Commonwealth. It also demonstrates that the cost—on a district-by-district basis—of maintaining a thorough and efficient education system is readily calculated.

E. In 2008, Respondents Adopted a New Funding Formula in Response to the Costing-Out Study.

130. In response to the costing-out study, the Commonwealth adopted an education funding formula that aimed to reduce the inadequacies and inequities in the resources available for public education. In doing so, the General Assembly concluded that the current school finance system was failing to meet its goals and needed additional state funding in order to provide an adequate public education. That conclusion is consistent with empirical research showing that an adequate and equitable school funding system produces improvements in student outcomes.³⁹

131. On July 4, 2008, the General Assembly passed Act 61, a broad amendment to the Pennsylvania School Code that implemented a new “Basic Education Funding” plan for calculating the funding that each school district would receive. Passing unanimously in the Senate and with overwhelming support in the

³⁹ See, e.g., Bruce D. Baker, *Evaluating the Recession’s Impact on State School Finance Systems*, Education Policy Analysis Archives, Vol. 22, No. 91, Sept. 15, 2014 (explaining that “a sizeable and growing body of rigorous empirical literature validates that state school finance reforms can have substantive, positive effects on student outcomes, including reductions in outcome disparities or increases in overall outcome levels”) (available at <http://dx.doi.org/10.14507/epaa.v22n91.2014>).

House,⁴⁰ the Act was regarded as a “key first step in basic education funding for student achievement”⁴¹ and was passed “in furtherance of the General Assembly’s long-standing commitment to providing adequate funding that will ensure equitable State and local investments in public education and in order to enable students to attain applicable Federal and State academic standards.”⁴²

132. Act 61’s funding formula for the basic education subsidy sought to distribute money by recognizing that different students in different communities require different levels of state investment to meet academic standards. The funding formula (which did not include special education funding, charter reimbursement funding, or accountability block grant funding) determined a district “adequacy” amount in accordance with the costing-out study’s weightings and then subtracted the actual spending to determine the district shortfall. The formula then determined a “State funding” share of this shortfall based on the fiscal strength of the district (aid ratio) and the district’s tax effort. It also set the state appropriation at one-sixth of the additional state share.

⁴⁰ Act 61 passed the Senate 50-0 and the House 191-11. *See* Senate Legislative Journal, 192nd General Assembly, Session of 2008, No. 54 at 2428-2429 (July 4, 2008); *see also* House Legislative Journal, 192nd General Assembly, Session of 2008, No. 55 at 1921-1925 (July 4, 2008).

⁴¹ House Legislative Journal, 192nd General Assembly, 2008 Session, No. 545 at 1923 (July 4, 2008) (statement from former Rep. John Siptroth). The relevant provisions of the funding plan were incorporated into statute as 24 P.S. §§ 25-2501(3), (26)-(30) (definitions); 24 P.S. § 25-2502.48 (titled “Basic Education Funding for Student Achievement”); and 24 P.S. § 25-2502.49 (titled “Accountability to Commonwealth Taxpayers”), repealed in 2011.

⁴² H.B. 1067 (Session of 2007).

133. Under this funding formula, the Governor and General Assembly increased the 2008–09 basic education funding by \$274.7 million.⁴³ This was a 5.5% increase in the amount appropriated in the 2007–08 budget, and was intended to be the first step in a six-year, \$2.6 billion proposed funding plan to help school districts make progress towards their adequacy target.

134. The General Assembly continued to use Act 61’s funding formula in 2009 and 2010, both to calculate the size of the state appropriation and the distribution to the districts. During these two years, basic education funding continued to increase, growing by approximately \$300 million in 2009 and \$355 million in 2010. The Commonwealth, however, relied heavily on federal stimulus money under the American Recovery and Reinvestment Act (“ARRA”) to fund this increase and to replace state-raised revenue previously appropriated to education. And by the time the federal stimulus money expired in 2011, the Commonwealth had substituted federal funds for \$480 million in state revenues for basic education. At that time, Pennsylvania ranked 47th lowest amongst all states in the share that the state contributed to the cost of education. While Pennsylvania appropriated approximately 34% of the cost of K–12 education, other states averaged a contribution rate of 45%.

⁴³ H.B. 1067, Bill Summary.

F. In 2011, Respondents Abandoned the Funding Formula and Drastically Cut Education Spending.

135. When the ARRA stimulus money expired in June 2011, the Commonwealth was left with a need to replace \$1.04 billion in federal money in its 2011–12 education budget. But instead of filling that gap by redirecting additional state funds to education, the Governor proposed a dramatic \$1.2 billion cut to major subsidies and grant programs in his 2011 budget, including the basic education subsidy, Accountability Block Grants, the Educational Assistance Program, School Improvement Grants, and charter school reimbursements.

136. The Governor sent the proposed budget cuts to the General Assembly as Act 1A, and the floor divided over the constitutionality of the draconian cuts. Speaking out against Act 1A, one legislator noted that a thorough and efficient system of education was “one of the few, if not the only obligation enshrined in [the Pennsylvania] Constitution that th[e] General Assembly has”⁴⁴ and that the budget proposed in Act 1A would “destroy public education.”⁴⁵

137. Notwithstanding a divided floor, the House of Representatives passed Act 1A on June 29, 2011, by a vote of 109-92. The Senate made some

⁴⁴ House Legislative Journal, 195th General Assembly, Session of 2011, No. 37 at 1091 (May 24, 2011) (statement from Rep. Steve Santarsiero - D Bucks County).

⁴⁵ House Legislative Journal, 195th General Assembly, Session of 2011, No. 56 at 1680 (June 29, 2011) (statement from Rep. Steve Santarsiero - D Bucks County).

restorations, but left more than \$860 million of the proposed \$1.2 billion cuts intact.

138. Among the grant programs that sustained major cuts were the basic education subsidy (reduced by \$420 million) and Accountability Block Grants (reduced by \$160 million). Accountability Block Grants support education initiatives to improve student achievement, such as full-day kindergarten and other programs, tutoring assistance, and class-size reduction programs. The poorest school district have borne the brunt of these cuts.

139. District schools are required to pay for the cost of resident students who attend charter schools, even when those students have not previously attended the school district. The 2011 budget completely eliminated the allocated \$224 million in partial reimbursements to school districts for these costs of students attending charter schools—the lion’s share of which had helped the poorest school districts.

140. The 2011 budget also eliminated several other grant programs, including (i) the Education Assistance Program (\$47 million), which provided PSSA tutoring services for elementary and secondary school students; (ii) School Improvement Grants (\$11 million), which low performing schools needed to help raise student achievement; and (iii) Science It’s Elementary (\$7 million), which was a significant initiative that aimed to improve elementary science instruction

across the Commonwealth. The 2011 budget also flat-funded special education for the fourth straight year at \$1.027 billion.

141. In passing the 2011 budget, the General Assembly abandoned the funding formula created in Act 61 and Pennsylvania became one of only three states without a predictable and long-term school funding formula. Instead, the General Assembly opted to institute annual funding formulas that have proven vulnerable to political decision-making, with last-minute appropriations to a handful of individual school districts.

142. By its actions, the General Assembly forced Pennsylvania's poorest residents to bear the brunt of the budget cuts (and reversed the 2008 bipartisan effort to give all students an equitable and adequate opportunity to meet the state's education standards). According to the Pennsylvania Budget and Policy Center, districts with "more than 50% of students categorized as low-income had per-student cuts of \$883 on average in 2011–12, *more than five times higher* than districts with a quarter or fewer low-income students, whose cuts totaled \$166 per student on average."⁴⁶ On average, low-income students lost 50% more funding than high-income students. The 2011 budget cuts therefore dramatically widened the education spending gap between students with differing income levels.

⁴⁶ Pa. Budget & Policy Ctr. Staff, Pa. House Budget Locks in Most of the School Funding Cuts (June 21, 2013), *available at* <http://pennbpc.org/pa-house-budget-locks-most-school-funding-cuts> (emphasis added).

G. Respondents Have Limited the Ability of School Districts to Raise Enough Local Revenue to Provide an Adequate Education to All Students.

143. Since 2006, the Commonwealth has substantially limited the ability of local school districts to raise revenue from local sources. Special Section Act 1 of 2006 (“Act 1”) limits, with a few exceptions, the ability of school districts to raise real estate property taxes beyond a cost of living percentage calculated by the Department of Education, known as the Act 1 Index. This law exacerbates the inequality of the 2011 budget cuts (and reinforces the need for the Commonwealth to increase its share of public education funding) because the low-wealth school districts that experienced the largest funding cuts in 2011 cannot make up for those cuts due to their limited ability to raise property taxes.

144. In fact, in 2011–12, the Commonwealth set the lowest base index to date—1.4%.⁴⁷ And while the General Assembly reduced education funding that year by more than \$860 million, it tightened the allowable exceptions to exceed the Act 1 Index. This meant that although school districts lost millions of dollars in state funds, low-wealth school districts could only recoup a small percentage of that money even if they raised property taxes by the maximum amount permitted

⁴⁷ The Act 1 Index consists of (i) the base index and (ii) the adjusted index. “The base index is calculated by averaging the percent increases in the Pennsylvania statewide average weekly wage and the Federal employment cost index for elementary/secondary schools.” Additionally, the base index for low-wealth districts “is adjusted upward by multiplying the base index by the sum of 0.75 and [the district’s market value/personal income aid ratio (MV/PI AR)]. See http://www.portal.state.pa.us/portal/server.pt/community/property_tax_relief/7452/act_1_index/510332.

by law (unless they went to the public for approval of a larger tax increase). High-wealth districts, by contrast, experienced much smaller state funding cuts yet could raise significantly more local money under Act 1. For example, a 1.4% increase in property taxes in Lower Merion produces far more revenue than a similar adjusted 2.1% increase in property taxes in Panther Valley.

H. Subsequent Budgets Failed to Restore the 2011 Cuts to Education Spending.

145. The General Assembly has failed to fully restore the deep spending cuts enacted in the 2011–2012 budget.

146. The 2012–2013 education budget added back \$40 million, which was distributed to only sixteen school districts. Otherwise, the 2011–12 basic education budget cuts were left intact and none of the eliminated grant programs were reinstated.

147. The 2013–2014 budget retained 81% of the 2011 budget cuts. Overall, the budget added \$122.5 million to basic education funding, with \$90 million being distributed to all 500 districts under a funding formula and the remaining \$30 million (which was added by the legislature at the end of the enactment process) being distributed to only 21 select districts that did not differ in need from many other districts not receiving special treatment.

148. The 2014–2015 budget does not increase the basic education subsidy, but adds \$100 million in classroom grants, which are restrictive in their use and

distributed according to a funding formula that takes into account market/aid ratio, poverty, and English language proficiency. It also included \$20 million in new special education funding. Notwithstanding these new initiatives, at least 54% of per-student-cuts to classroom programs will remain four years after they were enacted. The budget is still approximately \$580 million below funding levels prior to the 2011 budget cuts (excluding partial reimbursements for pension costs) and far below what is necessary to support a thorough and efficient system of public education as identified by the General Assembly through its costing-out study.

149. Moreover, the combined funding increase since 2011–2012 (\$282.5 million) does not increase overall classroom spending or improve the quality of education in Pennsylvania because those funds will be entirely exhausted by school districts' rising pension obligations, which will require them to make far more than \$282.5 million in additional unreimbursed contributions. School districts' mandatory contributions to the Public School Employees' Retirement System (PSERS) have risen from approximately \$652 million in 2011 to roughly \$1.4 billion in 2013. Thus, while the amount of money the Commonwealth distributes to districts for instruction remains hundreds of millions of dollars less than pre-2011 levels, the school districts' unreimbursed spending on pension obligations has soared, meaning that even less money is flowing to classrooms than it would appear from the overall budget allocations. In sum, the proposed increase

in state spending is not nearly enough to cover rising pension costs, as more money is currently being taken out of the classroom than is being put back in by state appropriations.

150. Furthermore, the fundamental adequacy issues raised here are not being addressed by the new Basic Education Funding Commission. Created by the General Assembly with the passing of Act 51 on June 4, 2014, the Commission is tasked with “develop[ing] a basic education funding formula and identify[ing] factors that may be used to determine the distribution of basic education funding among the school districts in this Commonwealth.”⁴⁸ The eight factors identified in Act 51 to be considered by the Commission, however, do not include the cost of meeting state standards, the current adequacy of funding for districts, or a state adequacy target. In fact, a Commission member stated that it was her position—and that of the House Republican Caucus, which she represents—that the “commission charge is not to set a so called ‘adequate level of basic education funding’” but to determine only how any additional funds will be distributed. Following such a course, the Basic Education Funding Commission will do nothing to ensure that children in the Commonwealth will receive an adequate education.

⁴⁸ H.B. 1738 (Session of 2007).

151. Despite some effort to increase education funding and address the dire state of public education in the Commonwealth, many school districts—including the School District Petitioners, the Attended Districts, and many of Petitioner PARSS’s members—continue to suffer and are desperately in need of more funding to provide an adequate education for their students.

152. The inadequacy of current education funding is illustrated by the widening gap between the each School District Petitioner’s adequacy target for the 2010–11 school year, as determined by the legislature’s former funding formula, and its actual expenditures for that year:⁴⁹

- A. William Penn’s adequacy target for the 2010–11 school year, as determined in accordance with the legislature’s formula, was \$77,366,639.38. William Penn’s actual spending for the 2008–2009 school year was \$55,529,847.32, which means that it had an adequacy shortfall of \$21,836,792.06. This resulted in a per pupil adequacy gap of \$3,849.23, the 51st highest per student gap in the Commonwealth. Although the state has ceased

⁴⁹ When the 2008 funding formula was adopted following the 2007 Costing-Out Study, the state calculated each school district’s adequacy target and adequacy shortfall for each school year from 2008–2009 to 2010–2011. When this formula was abandoned by the General Assembly in 2011, the state stopped publishing these calculations, leaving the 2010–2011 school year as the most current state-calculated adequacy gaps.

calculating the district's adequacy target, the adequacy gap has only widened since 2010–11.

- B. Panther Valley's adequacy target for the 2010–11 school year, as determined in accordance with the legislature's formula, was \$22,732,791.81. Panther Valley's actual spending for the 2008–2009 school year was \$12,678,738.79, which means that it had an adequacy shortfall of \$10,054,053.02. This resulted in a per pupil adequacy gap of \$5,813.19, the 5th highest per student gap in the Commonwealth. Although the state has ceased calculating the district's adequacy target, the adequacy gap has only widened since 2010–11.
- C. Lancaster's adequacy target for the 2010–11 school year, as determined in accordance with the legislature's formula, was \$169,487,436.18. Lancaster's actual spending for the 2008–2009 school year was \$116,156,111.93, which means that it had an adequacy shortfall of \$53,331,324.25. This resulted in a per pupil adequacy gap of \$4,737.76, the 11th highest per student gap in the Commonwealth. Although the state has ceased calculating the district's adequacy target, the adequacy gap has only widened since 2010–11.

- D. Greater Johnstown's adequacy target for the 2010–11 school year, as determined in accordance with the legislature's formula, was \$41,000,916.01. Greater Johnstown's actual spending for the 2008–2009 school year was \$26,422,574.00, which means that it had an adequacy shortfall of \$14,518,342.01. This resulted in a per pupil adequacy gap of \$4,494.94, the 18th highest per student gap in the Commonwealth. Although the state has ceased calculating the district's adequacy target, the adequacy gap has only widened since 2010–11.
- E. Wilkes-Barre's adequacy target for the 2010–11 school year, as determined in accordance with the legislature's formula, was \$90,593,918.76. Wilkes-Barre's actual spending for the 2008–2009 school year was \$68,722,947.99, which means that it had an adequacy shortfall of \$21,870,970.77. This resulted in a per pupil adequacy gap of \$2,953.64, the 164th highest per student gap in the Commonwealth. Although the state has ceased calculating the district's adequacy target, the adequacy gap has only widened since 2010–11.

- F. Shenandoah’s adequacy target for the 2010–11 school year, as determined in accordance with the legislature’s formula, was \$16,150,314.17. Shenandoah’s actual spending for the 2008–2009 school year was \$9,080,757.57, which means that it had an adequacy shortfall of \$7,069,556.60. This resulted in a per pupil adequacy gap of \$5,949.15, the 3rd highest per student gap in the Commonwealth. Although the state has ceased calculating the district’s adequacy target, the adequacy gap has only widened since 2010–11.
- G. Philadelphia’s adequacy target for the 2010–11 school year, as determined in accordance with the legislature’s formula, was \$2,839,834,816.17. Philadelphia’s actual spending for the 2008–2009 school year was \$1,896,293,353.22, which means that it had an adequacy shortfall of \$943,541,462.95. This resulted in a per pupil adequacy gap of \$4,566.85, the 14th highest per student gap in the Commonwealth. Although the state has ceased calculating the district’s adequacy target, the adequacy gap has only widened since 2010–11.
- H. By comparison, based on the 2010–11 basic education funding data, Lower Merion’s adequacy target for the 2010–11 school

year, as determined in accordance with the legislature's formula, was \$75,210,328.18. Lower Merion's actual spending for the 2008–2009 school year was \$109,924,490.63, which means that it had an adequacy shortfall of \$0.

- I. By comparison, based on the 2010–11 basic education funding data, Radnor Township School District's ("Radnor") adequacy target for the 2010–11 school year, as determined in accordance with the legislature's formula, was \$41,214,572.84. Radnor's actual spending for the 2008–2009 school year was \$47,441,609.34, which means that it had an adequacy shortfall of \$0.
- J. By comparison, based on the 2010–11 basic education funding data, Tredyffrin-Easttown's adequacy target for the 2010–11 school year, as determined in accordance with the legislature's formula, was \$66,281,732.46. Tredyffrin-Easttown's actual spending for the 2008–2009 school year was \$69,690,342.36, which means that it had an adequacy shortfall of \$0.
- K. The following table summarizes the information in this paragraph:

School District	Adequacy Target (2010–2011)	Actual Spending (2008–2009)	Adequacy Shortfall	Adequacy Gap Per Pupil	Statewide Rank for Adequacy Gap Per Pupil
William Penn	\$77,366,639.38	\$55,529,847.32	\$21,836,792.06	\$3,849.23	51
Panther Valley	\$22,732,791.81	\$12,678,738.79	\$10,054,053.02	\$5,813.19	5
Lancaster	\$169,487,436.18	\$116,156,111.93	\$53,331,324.25	\$4,737.76	11
Greater Johnstown	\$41,000,916.01	\$26,422,574.00	\$14,518,342.01	\$4,494.94	18
Wilkes-Barre	\$90,593,918.76	\$68,722,947.99	\$21,870,970.77	\$2,953.64	164
Shenandoah	\$16,150,314.17	\$9,080,757.57	\$7,069,556.60	\$5,949.15	3
Philadelphia	\$2,839,834,816.17	\$1,896,293,353.22	\$943,541,462.95	\$4,566.85	14
Lower Merion	\$75,210,328.18	\$109,924,490.63	\$0	\$0	N/A
Radnor	\$41,214,572.84	\$47,441,609.34	\$0	\$0	N/A
Tredyffrin-Easttown	\$66,281,732.46	\$69,690,342.36	\$0	\$0	N/A

I. Respondents Are Not Providing Sufficient Funds to Maintain a Thorough and Efficient System of Public Education.

1. *Student Performance on State Assessments Indicates That Pennsylvania Students Are Not Receiving an Adequate Education.*

153. Statewide data indicates that students in Pennsylvania are unable to meet the state’s own academic standards on a systematic and statewide basis. In fact, hundreds of thousands of students are not able to meet state proficiency standards.

154. When the Keystone Exams were administered in 2013, 36% of students who took the Algebra I exam scored basic or below basic, 25% of students who took the Literature exam scored basic or below basic, and 55% of students who took the Biology exam scored basic or below basic.

155. Beginning in 2017, many of the students who cannot achieve proficiency on the Keystone Exams will not be allowed to graduate high school. If percentages remain constant, beginning in 2017, only 45% of Pennsylvania students—at most—will graduate high school by passing the Keystone Exams. The remaining students will either need to pass an equivalent project-based assessment, receive a waiver from the Keystone exam requirement, or leave high school without a diploma, even if they have passed all their required courses. Ultimately, without an influx of greater resources to ensure improved instructional interventions and increased learning opportunities, high school graduation rates will plummet.

156. Based upon 2012–13 Keystone Exam Results, an even greater proportion of students in Petitioner School Districts and Attended Districts are unable to meet established state standards:

- A. 65% of students in William Penn did not score proficient or above in Algebra I, 51% in Literature, and 88% in Biology. If this percentage remains constant, beginning in 2017, no more

than 12% of William Penn students will be allowed to graduate high school by passing the Keystone Exams.

- B. 59% of students in Panther Valley did not score proficient or above in Algebra I, 39% in Literature, and 78% in Biology. If this percentage remains constant, beginning in 2017, no more than 22% of Panther Valley students will be allowed to graduate high school by passing the Keystone Exams.
- C. 71% of students in Lancaster did not score proficient or above in Algebra I, 57% in Literature, and 88% in Biology. If this percentage remains constant, beginning in 2017, no more than 12% of Lancaster students will be allowed to graduate high school by passing the Keystone Exams.
- D. 43% of students in Greater Johnstown did not score proficient or above in Algebra I, 22% in Literature, and 77% in Biology. If this percentage remains constant, beginning in 2017, no more than 23% of Greater Johnstown students will be allowed to graduate high school by passing the Keystone Exams.
- E. 61% of students in Wilkes-Barre did not score proficient or above in Algebra I, 44% in Literature, and 77% in Biology. If this percentage remains constant, beginning in 2017, no more

than 23% of Wilkes-Barre students will be allowed to graduate high school by passing the Keystone Exams.

F. 55% of students in Shenandoah did not score proficient or above in Algebra I, 18% in Literature, and 64% in Biology. If this percentage remains constant, beginning in 2017, no more than 36% of Shenandoah students will be allowed to graduate high school by passing the Keystone Exams.

G. 60% of students in Philadelphia did not score proficient or above in Algebra I, 47% in Literature, and 80% in Biology. If this percentage remains constant, beginning in 2017, no more than 20% of Philadelphia students will be allowed to graduate high school by passing the Keystone Exams.

157. Student performance on the Pennsylvania System of Standardized Assessment (“PSSA”) exams is also poor. Performance improved during the years following the Costing-Out Study and the coinciding increase in funding under the 2008–2011 formula. However, performance has declined following the 2011 budget cuts. The declines in student performance were typically greater in school districts that experienced the greatest cuts. These results demonstrate that the failure to meet statewide proficiency standards is not confined to a relatively few districts, or confined to isolated schools with ineffective operations, but instead

reflects a systematic and statewide failure by the Commonwealth to provide a thorough and efficient system of public education that serves the needs of the Commonwealth.

158. For the 2011–12 school year, the Department of Education established target goals for the percentage of a district’s students who should score proficient or above at 81% in reading and at 78% in math. Based upon 2011–12 statewide testing data, 71.94% of districts reporting test results fell short of the adequacy level in reading and 38.48% fell short of the adequacy level in math; 38.48% of districts failed to reach the adequacy level in both math and reading.

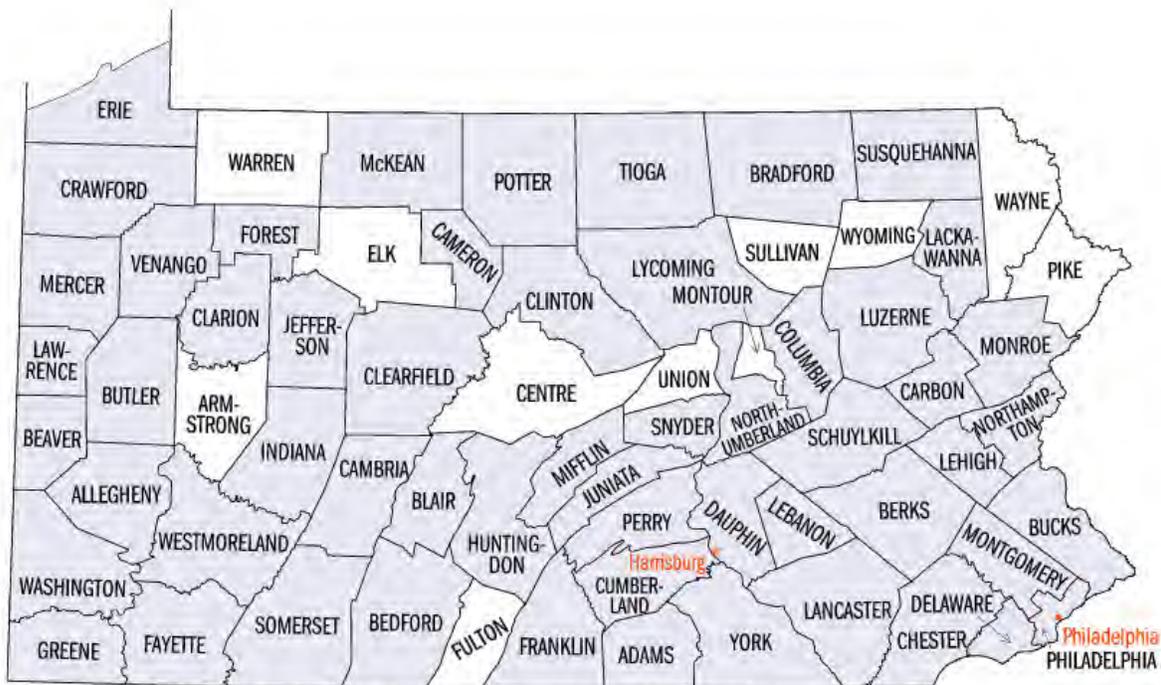
159. For the 2012–13 school year, the Department of Education reduced target goals for the percentage of a district’s students who should score proficient or above in reading to 70% and in math to 73%. Yet even with that lower bar, 2012–13 statewide testing data shows that 32.46% of districts reported test results are not at the adequacy level in reading, 29.66% were not at the adequacy level in math, and 26.25% were not at the adequacy level in both math and reading. Moreover, 72% of the districts had at least one school that did not meet the adequacy levels in reading or math.

160. If the 2011–12 target goals of 81% and 78% proficiency in reading and math, respectively, are applied to 2012–13 school year, the results of the funding cuts become quite stark: 78.76% of districts reporting test results are not

at the adequacy level in reading, 47.70% are not at the adequacy level in math, and 47.70% are not at the adequacy level in both math and reading.

161. These poor-performance numbers demonstrate that hundreds of thousands of Pennsylvanians from across the Commonwealth and in school districts of all sizes are not obtaining the skills that the Commonwealth has deemed necessary to succeed as a citizen in our society.

162. In fact, based upon the 2012–13 testing data, fifty-six of Pennsylvania’s sixty-seven counties contain at least one school district that had failed to meet state proficiency standards in either math or reading. These counties are shaded in grey in the below graphic and are spread across the Commonwealth.



163. In addition, a vast majority of students who are identified as educationally at-risk, including English-language learners, do not meet the proficiency level on statewide assessments and have declined in academic performance. According to data released for the 2011–12 school year, only 17.9% of ELL students scored “proficient” or above in reading (compared with 23.8% in 2010–11) and only 35% scored proficient in math (compared with 41.9% in 2010–11).

164. Moreover, an August 2014 study conducted by the Pennsylvania State Education Association (“PSEA”) found that PSSA reading and math scores in grades 3–6 declined across all school districts, following the enactment of state budget cuts in 2011–12. The study also observed that the decline in PSSA scores was steepest among the most impoverished districts because “the poorest districts are the most reliant on state funding and have the least ability to replace it.”⁵⁰

165. The Petitioner School Districts and Attended Districts are representative of the statewide problem. A substantial percentage of their students are scoring basic or below basic in reading and math.

⁵⁰ See Pa. State Educ. Assoc. Research Div., *Budget cuts, student poverty, and test scores: Examining the evidence* 8 (Aug. 15, 2014), available at http://www.psea.org/uploadedFiles/LegislationAndPolitics/Key_Issues/Report-BudgetCutsStudentPovertyAndTestScores-August2014.pdf.

166. Based upon 2012–13 statewide testing data:

- A. 56% of students in William Penn scored basic or below basic in math, and 53% of students scored basic or below basic in reading.
- B. 40% of students in Panther Valley scored basic or below basic in math, and 39% of students scored basic or below basic in reading.
- C. 45% of students in Lancaster scored basic or below basic in math, and 53% of students scored basic or below basic in reading.
- D. 47% of students in Greater Johnstown scored basic or below basic in math, and 49% of students scored basic or below basic in reading.
- E. 47% of students in Wilkes-Barre scored basic or below basic in math, and 48% of students scored basic or below basic in reading.
- F. 40% of students in Shenandoah scored basic or below basic in math, and 41% of students scored basic or below basic in reading.

G. 54% of students in Philadelphia scored basic or below basic in math, and 57% of students scored basic or below basic in reading.

167. For each subject and every district the percentage of students failing to reach proficiency in 2012–13 was an increase over 2011–12, except for math in Panther Valley and reading in Shenandoah.

168. Administrators in the Petitioner School Districts do not believe that they can meet the state’s proficiency goals or meaningfully increase the percentage of students scoring proficient or above without additional resources.

2. *School Districts With Significant Funding Gaps Have Dramatically Reduced or Eliminated Education Programs and Services Necessary to Provide an Adequate Education.*

169. In response to the 2011 budget cuts and increasing mandated non-instructional expenses, many school districts, including the Petitioner School Districts, the Attended Districts and many PARSS members, have been left with no alternative but to dramatically reduce or eliminate education programs and services.

170. According to the Pennsylvania Association of School Business Officials (“PASBO”) and Pennsylvania Association of School Administrators (“PASA”), rising costs have besieged school districts across the state; 75% percent of school districts statewide decided to reduce instructional programming in the

2013–14 school year; 47% of school districts expected to increase class size in 2013–14; 30% of school districts planned to delay the purchase of textbooks; 22% of school districts planned to reduce or eliminate programs that provide extra help or tutoring for struggling students in 2013–14; and 13% of school districts planned to eliminate summer school programs, which provide students the opportunity to make up academic credit that will allow them to be promoted to the next grade level or to graduate on time.⁵¹

171. According to PASA and PASBO, for the past several years school districts have been forced to:

- A. increase class sizes;
- B. lay-off teachers;
- C. eliminate or significantly reduce essential course offerings that make up part of a thorough and efficient system of education, including art and music;
- D. eliminate or significantly reduce staff positions, including school counselors, librarians, nurses, assistant principals, computer lab technicians, instructional aides, custodians, and secretaries;

⁵¹ PASPO/PASA Report: Third Consecutive Year of Cuts to Student Learning Opportunities As Sch.Fins. Continue to Weaken (June 2013), *available at* <http://www.pasa-net.org/SchoolFinanceReport6-5-13.pdf>.

- E. reduce supplemental instruction in core academic areas, including after-school and summer-school programs;
- F. eliminate or significantly reduce professional development and training for teachers, including teachers in core academic areas;
- G. eliminate or significantly reduce preschool and early childhood programs operated by school districts; and
- H. eliminate or significantly reduce programs for gifted students mandated by state law to enable them to meet their academic potential.

172. In short, the inadequacy, inequality, and inefficiency of the Pennsylvania school financing arrangement render a substantial portion of school districts unable to sustain needed educational programs and services or to provide all of their students with a realistic opportunity to obtain an adequate education that prepares them for participation in the economic, social, and civic life of our society.

a. Insufficient and Undertrained Staff

173. Because of the problems with Pennsylvania's current school financing arrangement, a substantial number of school districts, including the Petitioners School Districts, the Attended Districts, and many PARSS members, are unable to

provide sufficient numbers of qualified teachers, principals, counselors, nurses, librarians, and instructional aides to meet the needs of their students.

174. As a result, a substantial number of school districts, including the Attended Districts, have been forced to significantly increase class sizes so that teachers are no longer able to provide adequate amounts of one-on-one instruction or differentiated instruction to meet the widely varying needs and skills present among students. In some districts, teacher-student ratios are now 1:32, with no instructional aides.

175. Without sufficient numbers of principals and assistant principals, the Petitioner School Districts, Attended Districts, and many PARSS members can neither provide adequate instructional leadership to teachers nor adequately address student safety issues.

176. Without sufficient numbers of librarians, Petitioner School Districts, Attended Districts, and many PARSS members are unable to provide adequate instructional support and the opportunities for children to learn to become independent learners. Many schools, including schools in Attended Districts, have closed their libraries to students because of lack of staffing.

177. Without sufficient numbers of counselors, nurses and, as appropriate, social workers, Petitioner School Districts, Attended Districts, and many PARSS members are unable to sufficiently address the physical and mental health needs of

students so they are able to learn effectively and not divert teachers' attention from the needs of others.

178. Without appropriate numbers of paraprofessionals, including bilingual consultants, one-to-one aids, etc., Petitioner School Districts, Attended Districts, and many PARSS members are unable to provide the classroom support to teachers that is essential to providing students with greater needs—including special education students, English-language learners, and students in their early elementary years—with an adequate education.

179. As a result of insufficient numbers of trained, qualified, and experienced staff, the curriculum and instruction provided to students in Petitioner School Districts, Attended Districts, and many PARSS members is inadequate, resulting in many students not receiving the instruction they need to obtain an adequate education, including learning the material set forth in state academic standards.

180. Insufficient revenues have deeply affected Lancaster, which has drastically downsized its personnel.

181. Lancaster has eliminated over 100 teaching positions and over 20 administrative staff positions, resulting in both larger class sizes and reductions in specialized personnel (*e.g.*, technology coaches, and world language teachers).

182. The reduction in Lancaster's teachers and staff has increased the ratio of students to teachers in Elementary and Middle School classes (grades 3–8) to 28:1. High school classes have average student-teacher ratio of 30:1, and kindergarten through second grade have an average student-teacher ratio of 25:1.

183. The number of librarians in Lancaster has been reduced from 20 to 5, and all technology coaches were eliminated. This means that the few remaining librarians have to double as technology coaches, which, in turn, leads to a significant reduction in library and technology services overall.

184. As of 2011, Lancaster instituted a hiring and salary freeze for all administrators along with a salary freeze for paraprofessionals, and in 2012 implemented a hiring and salary freeze for all teachers. All employees were affected. Teaching staff experienced a one-year freeze, while administrators and municipal works experienced a two-year freeze. This has negatively impacted the district's future ability to attract teachers and administrators.

185. Insufficient funds have also deeply affected Panther Valley. Between the 2010–11 and 2013–14 school years, Panther Valley has drastically reduced its teachers:

- A. Elementary school teachers have been reduced through attrition or furlough approximately 10.4% from 58 to 52;

- B. Middle school teachers have been reduced through attrition or furlough approximately 6.5% from 31 to 29;
- C. High school teachers have been reduced through attrition or furlough approximately 11.5% from 35 to 31;
- D. All district librarian positions were eliminated, impacting 1800 students; and
- E. All elementary school technology teacher positions were eliminated, impacting 700 students.

186. In fact, the reductions to the Panther Valley staff were so severe that for a month the school board meetings were attended mostly by faculty protesting the cuts. Unsurprisingly, faculty morale is at an all-time low and fewer teachers have volunteered their time to supervise extra-curricular activities and events, such as, offering after school help, or meeting with parents after the school day ends.

187. Panther Valley also faces challenges educating a growing ELL student population. Because of financial constraints the school district is unable to provide its teachers with sufficient professional development, technology, and curricular resources to support its students and ELL program.

188. Budget cuts have also deeply affected Greater Johnstown, a school district already challenged with a large number of students living in homes in which other family members are incarcerated, or contending with substance-abuse,

or mental-health issues. In total, 25 teacher and two support positions have been eliminated. For example, Greater Johnstown's Eastside Elementary School is able to provide just one counselor, principal, and assistant principal to support 800 such students. Moreover, kindergarten and first-grade classrooms in Greater Johnstown are overcrowded, with just one teacher for every 25 students. Ratios at the middle school level are much the same, with one teacher for every 27 students in the sixth grade, and one for every 24 students in the seventh and eighth grades.

189. Current teachers have been faced with a half-year pay freeze and a one-year "step" freeze. These compensation freezes, coupled with increasing class sizes, have resulted in plummeting staff morale.

190. Greater Johnstown has also been forced to eliminate two librarian positions at the elementary school level due to lack of funding. As a result, the school district now must share two librarians across four schools and has had to make cutbacks to its Reading Intervention program.

191. Budget cuts have also deeply affected William Penn, a school district in which 80% of the students come from economically disadvantaged backgrounds, many of whom are homeless or in foster care.

192. In total, William Penn has been forced to eliminate 57 teacher positions, 5 administrators, and 12 support staff. For example, since 2012, William Penn has been unable to provide full-time guidance counselors in any of its

elementary schools. Current counselors divide their time across multiple schools, visiting different schools on different days. And in 2012, William Penn reduced social worker coverage in its secondary schools. William Penn was also forced to cut all of its reading specialists and coaches in 2011, and to eliminate a high school librarian position in 2010–2011.

193. Due to reduced staffing levels, William Penn has also had to implement a limited master class schedule. Unable to allocate staff to cover seven periods each day, William Penn's schedule has been reduced to six periods.

194. Moreover, William Penn's classrooms are overcrowded, with just one teacher for every 23 students at the secondary level and one for every 25 students at the elementary level.

195. Wilkes-Barre has also suffered as a result of state budget cuts. The school district was forced to reduce its staff by eliminating several instructional support positions and leaving open positions from retired teachers vacant. Formative assessment tools and building department chairs were also eliminated. As a result, district morale is extremely low.

196. Budget cuts have also greatly affected Shenandoah. The school district was forced to furlough 10 teachers and 5 staff during the 2012–13 school year due to a loss in funding. As a result, class sizes have increased and students receive less attention, including special education and gifted and talented students.

197. According to the School District of Philadelphia, in response to revenue cuts, it has eliminated, as of the 2014-2015 school year, in response to revenue shortfalls it has eliminated 7,588 positions (nearly one-third of its 2010-11 workforce of 23,762) including:

- A. 180 principals or assistant principals (40% reduction);
- B. 3,519 total teachers (33% reduction)
- C. 417 Special Education teachers (22% reduction);
- D. 185 Career and Technical Education teachers (37% reduction);
- E. 48 teachers of English-language learners (14.7% reduction)
- F. 412 counsellors, student advisors, or social service liaisons (54% reduction);
- G. 424 noontime aides (25% reduction);
- H. 318 secretaries (51% reduction);
- I. 726 supportive service assistants (60% reduction);
- J. 79 school police officers (23% reduction); and
- K. 104 school nurses (35% reduction).

198. According to the School District of Philadelphia, it operates 214 schools, serving approximately 131,000 students, who as a result of budget cuts are left with only:

- A. 66 itinerant instrumental music teachers;

- B. 3 full-time equivalent librarians; and
- C. zero (0) gifted education teachers.

199. Even prior to these dramatic reductions, the state declared Philadelphia in “financial distress” within the meaning of Act 46 of 1998. Four other school districts have more recently been declared in “financial distress” under Act 49 of 2012. Ironically, despite the clear role that inadequate state funding has played in creating Philadelphia’s financial problems, the legislation passed by the General Assembly includes no requirement that financially distressed districts like Philadelphia receive additional funding. To the contrary, cuts to state funding have disproportionately impacted the School District of Philadelphia.

200. Last year, Dr. William Hite, the Philadelphia superintendent, stated unequivocally that the district was not providing students with a “thorough and efficient public education” because the district’s resources were “inadequate and insufficient to educate children.”⁵² In public pleas for additional funding this year, Dr. Hite explained that the requests would “only allow the District to return to the inadequate and insufficient resources schools had last year.”⁵³ Respondent Department of Education has echoed his concerns, stating in a verified petition that

⁵² <http://www.newsworks.org/index.php/local/education/69571-superintendent-hite-talks-fiscal-crisis-renaissance-school-votes-and-the-future-of-philly-education>

⁵³ <https://webapps.philasd.org/news/display/articles/2204>

Philadelphia operated at “insufficient and unsustainable levels” in 2013-14 and that it would operate at the same levels this year unless it received additional funds or concessions from its unions.⁵⁴

201. Respondent Department of Education has also admitted that Philadelphia’s funding crisis has led to “deplorable conditions” and that the district’s staffing levels are “woefully inadequate.” According to pleadings filed jointly by Philadelphia, the School Reform Commission (the “SRC”) and Respondent Department of Education on October 6, 2014 in *School Reform Commission v. Philadelphia Federation of Teachers, Local 3, AFT, AFL-CIO*:

Due to a lack of funds, the School District has been operating at a bare-bones level for some time. A lack of funding for the 2013–2014 fiscal year caused the School District to make drastic cuts to its staff for the second time in three years. As a result, during the 2013–2014 school year, the number of guidance counselors, school nurses, teachers and school police were at rock-bottom levels; the ranks of assistant principals had been thinned to levels that are not sustainable; cutbacks to cleaning and facilities maintenance negatively affected school environments; budgets for books and school supplies also suffered; and advanced placement courses, career and technical education programs, as well as art classes all had to be curtailed.

In August 2014, facing once again the prospect of a lack of sufficient funding, the School District went through yet another round of cost-cutting, yielding another \$32 million in savings. This meant that, upon the opening of the current school year in September, the deplorable conditions that prevailed during the prior school year continued in place; and the School District, by its calculations, still needed additional funding for the 2014–2015 fiscal year of as much as

⁵⁴ *Sch. Reform Comm. v. Phila. Fed’n of Teachers Local 3, AFT, AFL-CIO* No. 47 E.M. 2014 (Pa. filed Apr. 3, 2014) (Action for Declaratory Judgment, Para. 36).

\$49 million just to be able to operate at that same insufficient and unsustainable level of services.

...

Even if the cigarette tax were to yield enough to close the funding shortfall this year, that level of funding would do nothing this year to enable the School District to remedy the unsatisfactory conditions that have prevailed since the cutbacks that it had to make last year.

Prudence also requires the SRC and the School District to plan for the future and to anticipate fiscal issues on the horizon. The School District's revenues this year included one-time funding of \$45 million. As a result of this, and ever rising costs, the School District is looking at a projected funding shortfall for the next fiscal year (2015–2016) of \$71 million, even after taking account of funds expected from a full year of cigarette tax revenues. Two of the major cost-drivers of the deficit are state-mandated contributions to employee pensions and employee health care costs.

Given its annual funding problems, the School District for several years has been forced to try to wrest savings from its largest expense category—personnel costs. Between the 2010–11 school year and the beginning of the 2013–14 school year, the School District reduced its full-time staff by a full one-third. Although additional funding received after the schools opened last year allowed the School District to ameliorate the staffing crisis to a limited degree, the staffing levels last year were, and at the present time still are, woefully inadequate. No further savings can be generated in this fashion; on the contrary, at this point the lack of staff is one of the main School District problems that needs fixing.⁵⁵

202. School districts that receive adequate funding, in contrast, have not been forced to make similar staff reductions. Lower Merion, for example, employs 630 full-time teachers, who are supported by a staff of more than 500, and each of

⁵⁵ Complaint at 12–15, *Sch. Reform Comm'n et al. v. Phila. Fed'n of Teachers Local 3, AFT, AFL-CIO*, No. 518 M.D. 2014 (Pa. Commw. Ct. filed Oct. 6, 2014).

its ten schools is supported by both a guidance counselor and a psychologist. At the secondary level in Lower Merion, the student-to-professional staff ratio is 11:1, and the average class size across the school district is approximately 21 students. Meanwhile, Lower Merion serves far fewer students with severe educational needs, including only 8% economically disadvantaged students. In comparison, Petitioner School Districts and Attended Districts serve between 64–83% economically disadvantaged students, and they do so with far fewer resources.

b. Inadequate Educational Programs

203. Because of the problems with Pennsylvania’s current school financing arrangement, Petitioner School Districts, Attended Districts, and many PARSS members are unable to provide the educational programs, instructional time, course offerings, and supplemental/intervention programs necessary to enable all of their students to meet state standards. Indeed, the situation has only worsened in recent years as costs have risen and funding has been only partially restored.

204. Petitioner School Districts, Attended Districts, and many PARSS members have been forced to cut or eliminate a range of courses and educational programs (and the teachers who taught them), including art, music, drama, physical education, health and drug education and electives, such that students—including children of the Individual Petitioners—are not receiving a well-rounded education,

which will prepare them for civic, economic, and social success in accordance with state regulations and standards.

205. These school districts have also been forced to cut or eliminate educational programs for gifted and talented students; Advanced Placement and other high-level courses designed to prepare high school students for success in college; vocational and career technical courses designed to prepare students for a successful career; and intervention programs for struggling students and English learners who are not yet proficient on the content standards. Student populations that are becoming increasingly diverse in terms of learning ability, racial and ethnic background, dominant languages, and socio-economic levels, and students at risk of academic failure in particular, are not provided with the programs they need to be successful and to obtain an adequate education.

206. In an effort to save costs at the elementary-school level, Lancaster has cut summer tutoring and enrichment programs, leaving summer remediation available only to high school students. Elective Programs have also been reduced.

207. Foreign language courses have essentially been cut out of the curriculum in Lancaster. Prior to the budget cuts, language classes were available to 60% of the district's student body. Now languages are restricted to eighth-grade honors and only Spanish is offered.

208. Similarly, while traditional art, music, and physical education courses are offered in Lancaster, most of these electives are limited in size and only 50% of the students have access to wood or metal shop, computer/technology classes, drama, and journalism classes.

209. Lancaster has also cut a number of extracurricular activities and has reduced funding to athletic programs by 10% over the past three years.

210. Because of inadequate funding, Panther Valley has reduced its staff in music, physical education, band/orchestra, foreign languages, journalism, and home economics.

211. Panther Valley has also been forced to completely cut a myriad of other programming, including all tutoring, graphic design, wood and metal shop, CPR training, first aid, driver's education theory, SAT preparation, yearbook, and newspaper. It has also eliminated funding for drama and musical productions and reduced its home economics and journalism course offerings.

212. To further cut costs, Panther Valley eliminated the sports of golf, swimming, and cross country during the 2012–2013 school year.

213. In an effort to cut costs, Greater Johnstown has made cutbacks to its art program, sharing one teacher across two elementary schools. And at the high-school level, foreign language programming has been reduced as well. Athletic programs have faced a ten percent across-the-board cut in funding.

214. The vocational programs, offered by Greater Johnstown, have also been hard hit by budget cuts. Specifically, the electrical program has been cut by half, while the accounting, multi-media, and general office-keeping courses have been eliminated entirely.

215. Cost-cutting measures have also left Greater Johnstown unable to offer science lab classes to students. And although teachers try, when possible, to offer lab experience in other classes, limited funding makes this difficult.

216. Previously offered every day, after-school programming has also suffered due to budget cuts. Greater Johnstown is no longer able to support a full-week schedule with current funding levels.

217. While students in Greater Johnstown, faced with home-life challenges, are often in need of intervention or remediation services, the lack of funding has left Greater Johnstown unable to staff remediation classes and intervention systems, or acquire the necessary resources and materials to support these classes and systems.

218. Budget cuts have also greatly affected Greater Johnstown's ability to provide special education services to students in need. The school district has been forced to eliminate three special-education teacher positions at the elementary school level in the last three years. As a result, Greater Johnstown's current staff is

forced to take on maximum caseload assignments, leaving no funding or resources to devote to special education innovation and technology.

219. Greater Johnstown's ELL student population has also been affected by budget constraints. For example, Greater Johnstown is unable to provide any translation and interpretation services to ELL students at its Johnstown Middle School. This lack of services leaves students and families with limited proficiency in the English language unable to effectively communicate with staff or participate in school meetings and other activities.

220. The lack of funding has also hampered Wilkes-Barre's ability to provide remediation services, especially at the elementary school level. The school district was forced to eliminate its elementary summer school, which was utilized for remediation of economically disadvantaged students. Although elementary school students receive remediation services through Title I, it is not adequate to meet the needs of the district's growing and historically underperforming student population. On average, students entering the district are below grade level. For example, 48% of kindergarten students, entering the district, are below benchmark according to DIBELS testing. This is compounded by the fact that 30% of the student population is transient.

221. In addition, Wilkes-Barre was forced to eliminate certain programs, including dual-enrollment, due to funding shortages.

222. Within William Penn, almost all after-school remediation programs have been cut, as has all after-school bus transportation.

223. In 2011, William Penn was also forced to eliminate all ninth-grade athletic programs. Furthermore, the coaching staffs for the still existing athletic programs have been reduced to bare minimum levels.

224. Shenandoah has also been forced to cut elective programming, including its art, physical education, music, library, and after-school tutoring. In many cases, these responsibilities now have to be shouldered by individual classroom instructors, in addition to their normal tasks.

225. Philadelphia has eliminated numerous tutoring programs, including all summer school programs except those for twelfth-grade students who need only one or two courses to graduate, as well as all clubs, sports, and music programs for the 2013–14 school year. In addition, advanced placement courses, career and technical education programs, and art classes have been severely curtailed.

226. In contrast, school districts that receive adequate funding have not been forced to make similar cuts to their educational programs.

227. Lower Merion also offers an array of summer programs to all students, from kindergarten through the twelfth grade, which enable its students to continue their educational process year-round.

228. Unlike Petitioner School Districts that have been forced to cut or substantially reduce foreign languages, Radnor Township begins world language instruction in the sixth grade with an exploratory course where students sample Spanish, French, German, and Latin so that they can make an informed choice about future study.

229. Radnor Township also offers approximately 24 advanced-placement courses in addition to a significant number of departmental courses, including art studio, sculpture, pottery, film analysis, philosophy and writing, public speaking, cooking, advanced textile arts and fashion design, music theory, guitar, genetics, bioethics, aerospace engineering, theater, and several courses specifically designed for students that have failed to score proficient on the Keystone Exams.

c. Insufficient Materials, Equipment and Facilities

230. Because of Pennsylvania's inadequate and inequitable system of school funding, Petitioner School Districts, Attended Districts, and many PARSS members are unable to provide some of the materials, equipment, and facilities needed by their students.

231. Specifically, many students in Pennsylvania do not have adequate access to textbooks and other classroom resources; instructional equipment, including computers, software, and internet access; audio-visual equipment and resources; and instructional materials, such as workbooks and library books, all of

which are an integral part of a thorough and efficient system of education. As a result, students are forced to use outdated instructional materials, share instructional materials, go without homework, and attempt to learn the content standards while lacking sufficient access to necessary supporting materials (such as library books, laboratory equipment, or computers).

232. Petitioner School Districts are also unable to maintain their school facilities in a manner that ensures they are clean, safe, and functional. This was true before the 2011 budget cuts, but the situation has worsened in recent years as these districts have had to defer necessary repairs and modernization, cut custodial hours, and slash maintenance budgets. Unsafe and/or unclean school facilities, where often basic systems such as heating and ventilation do not function properly, or bathrooms are unclean and/or in disrepair, pose a barrier to students' ability to learn and teachers' ability to teach and, therefore, deprive students of their opportunity to obtain a meaningful education.

233. In Lancaster, the furniture is in poor condition, with desks, chairs, tables, and labs in need of repair or replacement. Many of the projectors are broken or need replacement bulbs, and many of the desktop computers are more than five years old, making them technologically obsolete. In addition, a large portion of its textbooks are more than 10 years old, and material replacement cycles have been repeatedly delayed due to insufficient funds. The district and its

schools must choose between having enough books for every child and purchasing a limited number of new textbooks. The middle school science department, for example, had to cobble together teaching materials and workbooks for years until the district was finally able to purchase new materials for the 2013–14 school year. Other material supplies like paper, folders, notebooks, and consumables have also been reduced over the past several years, and some schools in the district have had to ration paper in order to make their supply last through the end of the year.

234. In Panther Valley, budget cuts have precluded the school district from undertaking much needed facilities repair projects. For example, the fifty-six-year-old Panther Valley Elementary School is in need of a new roof. Furthermore, the elementary school is overcrowded. But instead of expanding the current building, Panther Valley has been forced to place children in twelve modular classrooms.

235. In Greater Johnstown, the school district is unable to provide students with adequate materials or facilities due to budget cuts. For example, budget cuts have left Johnstown Middle School unable to purchase any new texts or other materials for the past two years. As a result, teachers have been forced to develop all instructional materials used in grades six through eight.

236. Johnstown Middle School itself is 87 years old and in need of a complete renovation. The auditorium is unsafe for student use as its roof is collapsing and many of its seats are broken, leaving sharp objects exposed. The

rest of the school is in no better condition, needing new windows, electrical wiring, and plumbing. Throughout the school, the walls and ceiling are deteriorating, resulting in plaster falling from both. Classrooms have unstable flooring in need of replacement and doors that do not lock. Some restrooms are unsafe for use and have had to be closed.

237. In addition, all classroom furniture is in need of replacement at Johnstown Middle School. Both student and teacher desks are old and in poor condition. Classrooms are also in need of new chalkboards and updated televisions. The current televisions are approximately thirty years old and very few of them function at all.

238. Beyond outdated and non-functioning televisions, classroom technology is nonexistent due, in large part, to the fact that classroom power supplies are outdated and in need of a complete overhaul. As a result, Johnstown Middle School is able to support just three computer labs for all students. Computer lab time is almost completely occupied by meeting the needs of diagnostic testing, leaving little-to-no time for any other use.

239. In Wilkes-Barre, the school district is unable to provide its students with safe facilities, up-to-date instructional materials, or new technology. All of the buildings in the school district are in need of major repairs, ranging from roof replacements to major renovations. Even though buildings are deteriorating and

considered unsafe by district administrators, the school district has no choice but to continue using them.

240. Moreover, Wilkes-Barre has severely limited the purchase of many new instructional materials, which are necessary for preparing students for the Keystone Exams. The school district has also been unable to replace desks and replacement parts, such as projector bulbs, in its classrooms. The majority of technology at the schools are 10–11 years old, which substantially limits student use.

241. William Penn's aged facilities, many of which have not been renovated for decades, are in need of major updates. The oldest building in William Penn, Penn Wood High School, Green Avenue Campus, was built in 1927, and has not been renovated since 1981, more than thirty years ago, except for repairs for fire damage in April 2013. Even the newest construction in William Penn, the Aldan and Park Lane Elementary Schools, were built nearly forty years ago in 1978.

242. In William Penn, schools of all levels are in need of new roofs. Six schools will also need new windows.

243. Budgetary constraints have also forced William Penn to forego purchasing new textbooks and materials. As a result, outdated textbooks, some more than seven years old, are still in circulation, despite the fact that they are not

in keeping with the requirements established by Pennsylvania Common Core. William Penn High School students are prohibited from taking these textbooks home because if students lose them, William Penn is unable to replace them in a timely manner.

244. Philadelphia has significantly reduced its use of textbooks, eliminated its budget for school supplies and materials, and delayed needed repairs and remediation of its buildings, many of which present health risks due to mold problems. According to the state's own pleadings in a recent case, "cutbacks to cleaning and facilities maintenance negatively affected school environments."

245. In March 2012, an initial review of environmental hazards was completed in a sampling of 32 district schools by Philadelphia in partnership with the Health and Welfare Fund and the National Institute for Occupational Safety and Health (NIOSH), a federal agency. The study found pervasive dampness, mold or water damage. In 23 of the 32 studied schools, there was dampness, mold, or water damage in more than a third of the rooms. In a tragedy last school year, a 12-year-old student in one of the schools cited by the study died from an asthma attack that started in the school on a day when no nurse was on duty.

246. School districts that receive adequate funding, in contrast, are able to maintain their facilities and provide their students with necessary materials and equipment. For example, all kindergarten and first-grade Lower Merion students

are provided with iPad access, and all ninth graders are issued personal laptops at the beginning of their high-school tenure to maintain for the next four years.

4. *PARSS Members and Other Districts Have Also Eliminated Programs and Services Necessary to Enable Students to Meet Proficiency Standards.*

247. Many of PARSS member districts have had to make similar cuts harmful to student learning. For example, a majority of PARSS' member school districts have reported that budget cuts have negatively impacted their districts over the past three years in the following ways:

- A. A significant percentage of PARSS school districts have experienced increases in class sizes.
- B. A significant percentage of PARSS school districts have been forced to lay-off teachers.
- C. A significant percentage of PARSS school districts have eliminated or significantly reduced essential course offerings that make up part of a thorough and efficient system of education, including art and music.
- D. A significant majority of PARSS school districts have eliminated or significantly reduced staff positions, including school counselors, librarians, nurses, assistant principals,

computer lab technicians, instructional aides, custodians, and secretaries.

- E. A majority of PARSS school districts have reduced supplemental instruction in core academic areas, including after-school and summer-school programs.
- F. A significant percentage of PARSS school districts have eliminated or significantly reduced professional development and training for teachers, including teachers in core academic areas.
- G. Many PARSS school districts have eliminated or significantly reduced preschool and early childhood programs operated by school districts.
- H. Many PARSS school districts have eliminated or significantly reduced programs for gifted students mandated by state law to enable them to meet their academic potential.
- I. Many PARSS school districts undertook a major construction project based on approval for reimbursement from the Commonwealth through a process known as PlanCon (Planning and Construction), but have been unable to pay off

the debt accumulated under the program due to the Commonwealth's failure to reimburse their school district.

- J. Many PARSS school districts report lacking up-to-date books and technology.
- K. Many PARSS school districts report lacking adequate resources to prepare students to pass the Keystone Exams, the high school graduation tests in math, science, and English.
- L. A significant percentage of PARSS school districts lack sufficient administrative staff.
- M. A significant percentage of PARSS school districts lack counseling and behavioral health services.
- N. Many PARSS school districts lack suitable and/or up-to-date facilities, buildings, and laboratories.

248. Individual PARSS member school districts have reported a range of unique negative impacts resulting from reductions in state funding. Here are just a few examples:

- A. As a result of budget cuts, PARSS member Fannett-Metal School District, located in Franklin County, furloughed six teachers (12.5% of its instructional staff) and was forced to reduce its graduation credit requirements from 27 to 24.5. The

District eliminated academic courses, its K–12 Music Education program, and Junior High Sports. Budget cuts also resulted in increased class sizes and the inability to offer any AP curriculum. Instead, the District must rely on college partnerships and online learning to provide most college preparatory classes. Fannett-Metal School District also cannot afford renovations or upgrades to its buildings: its high school is 60 years old and its elementary school is 40 years old. The original boilers are still in operation, building roofs leak, its driveways and parking lots are in dire need of repair, and its one gymnasium is very small, creating safety concerns.

- B. As a result of budget cuts, PARSS member Claysburg-Kimmel School District located in Blair County was forced to eliminate all supplement programs, including all after-school and summer-school instruction. The District is also unable to offer preschool or any elementary-level physical education.
- C. As a result of budget cuts, two PARSS members, Susquehanna Community and Forest City School District, both located in Susquehanna County, have required their Superintendents to also serve as principal of their respective elementary schools.

D. As a result of budget cuts, PARSS member Susquehanna Community limited its full-day K4 program to a half-day K4 program and did not replace 80% of the teachers who have retired over the last five years.

5. *The General Assembly Has Failed to Adequately Support Pre-Kindergarten Education.*

249. The General Assembly has recognized the importance of high-quality, inclusive pre-kindergarten programs as a necessary service to ensure that all students enter school ready to learn and have the opportunity to obtain an adequate education.

250. Pennsylvania has two dedicated state funding streams for pre-kindergarten programs: (1) Head Start Supplemental Assistance Program (HSSAP) and (2) Pre-K Counts (PKC). HSSAP awards grants to federal Head Start providers and PKC were adopted to expand the number of children who would have the opportunity to experience a high quality pre-kindergarten program with the goal of “preparing young children for school and [] help[ing] close the achievement gap between groups of students in the K–12 educational system.”

251. The Pennsylvania Department of Education has characterized early education through PKC as opening the doors of opportunity for every child to do well in school, in the workforce, and in life.⁵⁶

252. Pursuant to regulations promulgated under the statute, Pre-K Program applicants “must target . . . their enrollment to children who are most at risk.”⁵⁷ These programs must “offer a minimum of 180 days of developmentally appropriate instructional practices and activities for students” and comply with specific program and classroom requirements.⁵⁸

253. According to data issued by the Department of Education in June 2011, fourth-year outcomes demonstrated that children who participate in Pennsylvania PKC enter kindergarten with “appropriate academic and social skills and ready to learn; and continue to achieve in school through second grade.” Specifically, during the 2010–2011 school year, the percentage of children who were proficient in Language and Literacy increased from 15% in the fall to 75% in the spring; the percentage of children who were proficient in Mathematical

⁵⁶ “Children who come to kindergarten without all the skills they need often stay behind and struggle in school. Quality pre-kindergarten prepares children for reading and math, but also for paying attention, following directions and getting along with others... By enrolling your child in quality pre-kindergarten, your child has a better chance of being ready for kindergarten and grade school. This strong early start in pre-kindergarten means they have a better chance of doing well in school, going on to college or career training, and getting a good job.” *See* http://www.portal.state.pa.us/portal/server.pt/community/pre_k_counts/8742.

⁵⁷ 22 PA. CODE § 405.21.

⁵⁸ *See* 22 PA. CODE §§ 405.41, 405.42.

Thinking increased from 13% in the fall to 74% in the spring, and the percentage of children who were proficient in Scientific Thinking increased from 13% in the fall to 74% in the spring.

254. Despite the adoption of PKC and the Department’s consistent acknowledgements that quality pre-kindergarten programs are essential services, the level of funding to support PKC is inadequate to provide enough high-quality programs for all students.

255. The number of state-funded “slots” is wholly inadequate to serve the needs of a large majority of the eligible children, and particularly fails to address the needs of those who are most educationally at risk, and often reside in low-wealth districts.

256. During the 2013–14 school year, approximately 53,000 Pennsylvania children benefitted from high-quality, publicly-funded pre-kindergarten. That number represents less than half of the 126,000 children who were “income-eligible” for state-funded pre-kindergarten in 2013, and who were not served at all. Overall, the children served by the state-funded programs represents only 18%—or about 1 in 6—of the nearly 300,000 three and four year-olds in the state. As a result, approximately 244,000 children lack access to publicly-funded, high-quality pre-kindergarten every year.

257. Pennsylvania's Department of Education has concluded that high-quality early education programs are essential for preparing children for reading and math and increases a child's ability to pay attention and follow directions and to develop social skills.

258. Students with access to high quality pre-kindergarten are more likely to advance in grade and have reduced need for special education services. Beyond preparing young learners for academic success, the Department of Education has recognized that high-quality pre-kindergarten provides economic benefits, including increased likelihood of going to college or finding employment.

259. The lack of adequate funding for pre-kindergarten programs across the state is a particular barrier for low-wealth school districts that enroll higher percentages of low income students, English-language learners, and other at-risk students.

260. These districts do not have the capacity to independently raise funds for high-quality pre-kindergarten programs, so many simply do not provide any. These already resource-strapped school districts are then confronted with a larger number of students entering kindergarten less prepared to learn.

261. Many districts including Petitioner Districts, have been faced with a choice between spending less per pupil than necessary to provide high-quality Pre-K programs or using general operating funds to provide quality Pre-K

programs, which adversely impacts their ability to provide adequate educational opportunities for K-12 students.

J. Respondents Have Adopted a Funding Arrangement That Fails to Provide Children With an Equal Opportunity to Obtain an Adequate Education.

262. Pennsylvania's school funding arrangement irrationally discriminates against students living in school districts with low property values and incomes by denying them the opportunity to obtain an adequate education and by denying them educational opportunities because their schools have only a fraction of the resources available to students in districts with high property values and incomes.

263. Approximately 87% of Pennsylvania's public education budget is funded through a combination of state appropriations and local property taxes; approximately 13% comes from the federal government.⁵⁹

264. In Fiscal Year 2011, local sources provided 53% of the money that was utilized to fund public education, and state appropriations accounted for only 34.2%. Other state governments, in contrast, provided on average 44% of education funds. In fact, only three states contributed a smaller percentage of money than Pennsylvania to fund public education.

265. The funds that the Commonwealth contributes to public education are sometimes allocated to school districts based, in part, upon the aid ratio. The aid

⁵⁹ In Fiscal Year 2011, 12.7% of money to fund education in Pennsylvania came from the federal government.

ratio is a general term for three different numerical values—market value (“MV”) aid ratio,⁶⁰ personal income (“PI”) aid ratio,⁶¹ and market value/personal income aid ratio⁶²—each of which are calculated in accordance with Section 2501(14) and (14.1) of the School Code. The aid ratio reflects the wealth per student in the district.

266. For example, in 2012:

- A. Tredyffrin-Easttown had \$7,960,932,334 of market value property and an MV aid ratio of 0.1000, while Shenandoah had \$151,197,214 of market value property and an MV aid ratio of 0.8583.
- B. Tredyffrin-Easttown had \$3,172,127,654 of personal income and a PI aid ratio of 0.1000, while Shenandoah had \$100,113,584 of personal income and a PI aid ratio of 0.7682.
- C. Tredyffrin-Easttown had a market value/personal income aid ratio of 0.1500 (the state minimum/adjusted up from 0.1000),

⁶⁰ The market value aid ratio is calculated by dividing the school district’s market value of taxable real property by the district’s weighted daily average membership.

⁶¹ The personal income aid ratio is calculated by dividing the personal income for the school district by the district’s weighted daily average membership.

⁶² The market value/personal income aid ratio is calculated by adding 60% of the market value aid ratio to 40% of the personal income aid ratio. The state arbitrarily sets the minimum at 0.1500 for districts which would be less. In 2014–15, twenty districts benefited from the minimum MV/PI aid ratio.

while Shenandoah had a market value/personal income aid ratio of 0.82226.

267. The market value/personal income aid ratio represents the relative wealth of a district in relation to the state average and is expressed in terms of percentage. The higher the percentage the poorer the district and the more money it will receive from the Commonwealth.

268. Selected 2014–15 MV/PI aid ratios are:

- A. William Penn - 0.7083
- B. Panther Valley - 0.7538
- C. Lancaster - 0.6982
- D. Greater Johnstown - 0.7761
- E. Wilkes-Barre - 0.6504
- F. Shenandoah - 0.8221
- G. Philadelphia - 0.7373
- H. Lower Merion - 0.1500
- I. Radnor - 0.1500
- J. Tredyffrin-Easttown - 0.1500

269. The dependence on local resources to fund public education in Pennsylvania disproportionately impacts poorer districts because they can only raise

a fraction of the funds of wealthier school districts due to the lower wealth per student of their tax base.

270. In the Commonwealth, local resources are derived mostly from property taxes, which are set by each individual school district and based on assessed property values determined by the county. Property tax rates in Pennsylvania are referred to as millage rates and are determined in mills. One mill is equal to 1/1,000 of a dollar; for every \$1,000 in taxable value a property owner will pay \$1 in taxation.

271. Because taxes are imposed on assessed values, and assessed values vary in relation to actual market value from county to county, the state has created a Tax Equalization Board to convert all assessed values to actual market values and then to calculate the tax rates on the market value. This creates an equalized millage rate that can be compared across counties.

272. Because the market value of property varies drastically across the Commonwealth, the amount per student that can be raised with a one equalized mill tax varies greatly. School districts with low property values and higher property taxes are typically able to raise less local funds than school districts with high property values and lower property taxes.

273. In 2012–13, the equalized millage rate for William Penn was 30.9, the 11th highest in the Commonwealth. That year, William Penn raised

\$43,291,230.13 locally and its ADM was 5,604.586. This equated to an amount raised locally of \$7,826.29 per student.

274. In 2012–13, the equalized millage rate for Panther Valley was 27.8, the 27th highest in the Commonwealth. That year, Panther Valley raised \$9,647,229.21 locally and its ADM was 1,793.821. This equated to an amount raised locally of \$5,646.03 per student.

275. In 2012–13, the equalized millage rate for Lancaster was 24, the 65th highest in the Commonwealth. That year, Lancaster raised \$70,341,996.56 locally and its ADM was 11,428.427. This equated to an amount raised locally of \$6,629.91 per student.

276. In 2012–13, the equalized millage rate for Greater Johnstown was 17.3. That year, Greater Johnstown raised \$9,890,312.00 locally and its ADM was 3,145.675. This equated to an amount raised locally of \$3,458.29 per student.

277. In 2012–13, the equalized millage rate for Wilkes-Barre rate was 21.1. That year, Wilkes-Barre raised \$54,066,692.73 locally and its ADM was 7,556.965. This equated to an amount raised locally of \$7,471.32 per student.

278. In 2012–13, the equalized millage rate for Shenandoah was 26.8, the 33rd highest in the Commonwealth. That year, Shenandoah raised \$4,064,798.24 locally and its ADM was 1,171.197. This equated to an amount raised locally of \$4,011.48 per student.

279. In 2012–13, the equalized millage rate for Philadelphia was 20.2. That year, Philadelphia raised \$866,850,705.53 locally and its ADM was 202,134.440. This equated to an amount raised locally of \$4,839.40 per student.

280. By comparison, the 2012–13 equalized millage rate for Lower Merion was 14.7—*lower* than any of the Petitioner School Districts. In 2012–13, Lower Merion raised \$180,779,189.19 locally and its ADM was 7,707.812. This equated to an amount raised locally of \$23,708.52 per student.

281. By comparison, the 2012–13 equalized millage rate for Radnor was 13.8—also *lower* than any of the Petitioner School Districts. In 2012–13, Radnor raised \$68,098,847.00 locally and its ADM was 3,685.420. This equated to an amount raised locally of \$19,418.38 per student.

282. By comparison, the 2012–13 equalized millage rate for Tredyffrin-Easttown was 11.7—also *lower* than any of the Petitioner School Districts. In 2012–13, Tredyffrin-Easttown raised \$93,242,338.90 locally and its ADM was 6,627.286. This equated to an amount raised locally of \$14,437.35 per student.

283. The following table summarizes the information in paragraphs 273-82:

School District	Equalized Mills	Local Funds Raised	ADM	Local Funds Raised Per ADM
William Penn	30.9	\$43,291,230.13	5,604.586	\$7,826.29
Panther Valley	27.8	\$9,647,229.21	1,793.821	\$5,646.03

School District	Equalized Mills	Local Funds Raised	ADM	Local Funds Raised Per ADM
Lancaster	24	\$70,341,996.56	11,428.427	\$6,629.91
Greater Johnstown	17.3	\$9,890,312.00	3,145.675	\$3,458.29
Wilkes-Barre	21.1	\$54,066,692.73	7,556.965	\$7,471.32
Shenandoah	26.8	\$4,064,798.24	1,171.197	\$4,011.48
Philadelphia	20.2	\$866,850,705.53	202,134.440	\$4,839.40
Lower Merion	14.7	\$180,779,189.19	7,707.812	\$23,708.52
Radnor	13.8	\$68,098,847.00	3,685.420	\$19,418.38
Tredyffrin-Easttown	11.7	\$93,242,338.90	6,627.286	\$14,437.35

284. Due to the low state share and high dependence on local taxes, there is a high degree of, and growing inequality in, public spending per pupil among districts—ranging from approximately \$9,800 to \$28,400⁶³ in total expenditures per student, and from \$5,300 to \$19,900 in Actual Instructional Expense per weighted student.

285. As described above, the inequality in public spending among districts results in vast disparities in the services and resources available to students.

⁶³ Several rural or traditionally poor school districts are included among the districts with the highest total expenditures per student. These anomalies reflect one-time high levels of “Other Expenditures and Financing Uses” which the Department of Education defines as “expenditures for the disbursement of governmental funds not classified in other functional areas that require budgetary and accounting control. These include debt service payments (principle and interest) and transfers of monies from one fund to another.” *See* http://www.portal.state.pa.us/portal/server.pt/community/summaries_of_afr_data/7673/glossary_for_expenditures/509030.

286. Due to the low state share and high dependence on local taxes, the General Assembly has imposed vastly different tax burdens on taxpayers in different districts, seeking to spend the same amount per student.

287. The low state share and high dependence on local taxes also caused the 2011 funding cuts to have a disproportionate impact on the Commonwealth's poorest districts. In fact, in Pennsylvania's 50 poorest districts, the average state funding cut per student from 2010–11 through 2014–15 is \$474.85—nearly five times higher than the average student funding cut in the 50 wealthiest school districts (\$94.58 per student).⁶⁴

288. As a result of this spending divide, whether students receive an adequate education or access to the full range of educational opportunities in Pennsylvania is largely dependent on the fortuity of the property values and incomes in their school district. Students in property- and income-poor districts are not given an opportunity to receive an adequate education where all students can meet state standards, while their peers in property- and income-rich districts receive a high-quality education.

289. The boundaries, and therefore the wealth, of school districts is under the control of the General Assembly. The General Assembly also controls what kinds of property, businesses transactions, and services may be taxed by the

⁶⁴ Students in Poorest School Districts Hit Hardest by Corbett Funding Cuts, PSEA.org, available at <http://www.psea.org/general.aspx?id=10789>.

districts to provide resources for students' education. The inequality in local resources for education among districts is the result of legislative choices, as is the high dependency upon local resources.

K. Respondents Have Adopted a Funding Arrangement That Is Irrational and Wholly Divorced from the Actual Costs of Providing an Adequate Education.

290. Despite the clear, constitutional mandate in the Education Clause and the findings of the costing-out study, Respondents have abandoned the funding formula adopted in 2008, and now appropriate education funds without making any effort to determine the level of funding needed to provide *all* students with the opportunity to obtain an adequate education.

291. The current funding arrangement does not consider (i) the "base cost" of educating an average student in the Commonwealth to meet state performance standards; (ii) the cost "weights" for the additional expense of educating students with special needs (*e.g.*, economically-disadvantaged students, English-language learners) to meet performance standards; (iii) the additional "cost factors" associated with differences among school districts in terms of their size, enrollment changes, urban or rural location, and cost-of-living differences across the state; or (iv) the ability of local taxpayers to pay the amounts necessary, above and beyond state appropriations, to provide an adequate education to students in their district.

292. Indeed, neither the determination of a particular district's level of funding nor the overall amount of state funds allocated to public education is based on any analysis of the cost of providing students with an adequate education that meets the state academic standards. The current funding arrangement is, therefore, wholly irrational.

293. Since the Commonwealth abandoned the 2008 funding formula, it at times has distributed funds based on criteria using 13 different specially designed formulas that, in effect, favored certain districts over others.⁶⁵ For example, although districts with higher numbers of ELL students received an additional \$14.5 million for the 2013–14 school year and those with high concentrations of students in charter schools received an additional \$4 million, Philadelphia was not allocated any additional funds in 2013–14, even though it contains nearly half the charter students in the Commonwealth and one-quarter of ELL students. In addition to the charter and ELL formula supplements, the 2013–14 budget included a special supplement for growing districts, a small district supplement, a rural district supplement, a second-class county school district supplement, a third-class county district supplement, and other such specialized categories.⁶⁶ But these formula supplements were not distributed fairly across the state. Instead, six of the thirteen one-time formulas were written in such a manner so as to only benefit *one*

⁶⁵ H.B. 1141, P.L. 408, No. 59 Cl. 24 (Act 59) (July 9, 2013).

⁶⁶ *Id.*

district each. In all, the Commonwealth distributed one quarter of the entire basic education funding increase in 2013–14 to only 21 select districts out of 500 total districts—an arbitrary decision that was not supported by any legislative record of special need.

294. The current funding arrangement is not justified by any legitimate desire for local control over education. Any such “control” is illusory under the current arrangement because districts with low property values and incomes do not actually control either the standards to which their students are held or the amount of resources at their disposal.

295. In fact, most have higher tax rates than property-rich school districts, yet are able to raise only a fraction of the revenues needed to provide an adequate education. As noted above, for example, the 2012–13 equalized millage rate for Panther Valley is 27.8, which raised \$5,646 per student locally. In comparison, the 2012–13 equalized millage rate for Lower Merion is 14.7—slightly more than half of Panther Valley’s rate—yet Lower Merion raised \$23,708 per student locally—more than four *times* as much as Panther Valley.

296. Since 2006, the Commonwealth has substantially limited the ability of local school districts to raise revenue from local sources. As described above in Paragraph 143, Act 1 limits the ability of school districts to raise real estate property taxes beyond a percentage predetermined by the Department of

Education—the Act 1 Index—unless it obtains a Department of Education exception or voter approval.

297. In 2011–12, the same year that the General Assembly reduced funding to districts by more than \$860 million, the Department of Education, pursuant to statute, calculated the Act 1 Index at 1.4%, the lowest to date. In 2012–13 and 2013–14, the Act 1 Index was 1.7%, and the index for 2014–15 has been set at 2.1%. This means that while property-poor school districts lost millions of dollars in state funds, they could recoup only a small percentage of that money because the tax increase necessary to raise those lost dollars exceeds the Act 1 limits. It also means that districts cannot close the adequacy gaps shown in the General Assembly’s 2008 costing-out study and the Department of Education’s subsequent calculations from 2009 to 2011 in accordance with a legislatively determined formula.

298. By limiting the amount of revenue Petitioner School Districts and PARSS member districts can raise from local sources, Act 1 hampers the ability of Petitioner School Districts and PARSS member districts to raise revenues to offset state education funding cuts, or to overcome prior district administrations’ policies. When coupled with the inability of property- and income-poor districts to raise additional revenues with higher property taxes, local control over education funding in Pennsylvania is a myth.

299. There are many alternative funding methodologies available that could maintain local control over education while ensuring that every child in Pennsylvania has an equal opportunity to receive an adequate education. Among other things, the Commonwealth could raise funds for education through other forms of taxation and distribute those funds to local school districts to spend as they see fit. In short, there is no justification—much less a compelling justification—to maintain the current school funding arrangement and the vast inequalities in student opportunity that accompany it.

**FIRST CAUSE OF ACTION
FOR VIOLATION OF THE PENNSYLVANIA CONSTITUTION’S
EDUCATION CLAUSE**

300. Petitioners re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 299 above as if set forth fully herein.

301. Article III, Section 14 of the Pennsylvania Constitution requires the General Assembly to “provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.”

302. Through enactment of statewide academic standards and assessments, including the PSSA Exams and the Keystone Exams, Respondents have defined the content of a public education system that “serve[s] the needs of the Commonwealth,” and in the process have defined the level of proficiency that

individual students must attain in order to receive an adequate education and achieve civic, economic, and social success.

303. Moreover, the Commonwealth's academic Common Core standards set forth a prescribed course of study and a uniform educational progression from grade to grade, and form a core, fundamental element of the Commonwealth's current system of public education.

304. Respondents have violated their constitutional duties by failing to provide the Petitioner School Districts, the Attended Districts, and the PARSS member districts with resources sufficient to enable the districts to ensure that all students, including the Individual Petitioners, have an opportunity to obtain an adequate education that prepares them to meet state academic standards and prepares them for civic, economic, and social success.

305. The current levels and allocation of public-school funding are irrational, arbitrary, and not reasonably calculated to ensure that all Pennsylvania school children have access to an adequate education that prepares them to meet state academic standards and prepares them for civic, economic, and social success.

306. As a result of all the foregoing, Pennsylvania's public-school-financing arrangement is not a "thorough and efficient system" and violates the Education Clause of the Pennsylvania Constitution.

**SECOND CAUSE OF ACTION
FOR VIOLATION OF THE PENNSYLVANIA CONSTITUTION'S
EQUAL PROTECTION CLAUSE**

307. Petitioners re-allege and incorporate by reference the allegations set forth in paragraphs 1 through 306 above as if set forth fully herein.

308. The Pennsylvania Constitution establishes education as a fundamental right of every Pennsylvania student and, therefore, imposes a duty on the Commonwealth to ensure that all students have the same basic level of educational opportunity. The Commonwealth has a duty to operate its public school system so that every student has the same fundamental opportunity to meet academic standards and to obtain an adequate education that prepares the student for civil, economic, and social success.

309. Moreover, the Equal Protection Clause of the Pennsylvania Constitution requires equal treatment of all persons under the law and prohibits the General Assembly from irrationally enacting laws that benefit a select few.

310. By adopting a school-financing arrangement that discriminates against an identifiable class of students who reside in school districts with low incomes and property values, and by denying those students an equal opportunity to obtain an adequate education that will prepare them for civil, economic, and social success, Respondents have violated the constitutional guarantees of equal protection in Article III, Section 32 of the Pennsylvania Constitution.

311. There are many other funding methodologies available that would support a legitimate state interest in maintaining local control without discriminating against students residing in school districts with low incomes and property values.

PRAYER FOR RELIEF

WHEREFORE, Petitioners, and each of them individually, respectfully request that the Court:

312. Declare that public education is a fundamental right guaranteed by the Pennsylvania Constitution to all school-age children, residing in the Commonwealth;

313. Declare that the Education Clause, Article III, Section 14 of the Pennsylvania Constitution, imposes upon Respondents an obligation to adopt a school-financing arrangement that is reasonably calculated to ensure that all students in Pennsylvania have an opportunity to obtain an adequate education that will enable them to meet state academic standards and participate meaningfully in the economic, civic, and social activities of our society;

314. Declare that the Education Clause, Article III, Section 14 of the Pennsylvania Constitution, requires Respondents to provide school districts with the support necessary to ensure that all students in Pennsylvania have the opportunity to obtain an adequate education that will enable them to meet state

academic standards and participate meaningfully in the economic, civic, and social activities of our society;

315. Declare that the existing school-financing arrangement fails to comply with the mandate of the Education Clause, in violation of the rights of the Petitioners;

316. Declare that Article III, Section 32 of the Pennsylvania Constitution imposes upon Respondents an obligation to adopt a school-financing arrangement that does not discriminate against students based on the amount of incomes and taxable property in their school districts;

317. Declare that the existing school-financing arrangement violates Article III, Section 32 of the Pennsylvania Constitution by providing students, who reside in school districts with high property values and incomes, the opportunity to meet state standards and obtain an adequate education and to access expanded educational opportunities, while denying students who reside in school districts with low property values and incomes those same opportunities;

318. Declare that the education funding disparity among school districts with high property values and incomes and school districts with low property values and incomes is not justified by any compelling government interest and is not rationally related to any legitimate government objective;

319. Declare that Respondents, through the implementation of the Pennsylvania school-financing arrangement, have violated and are violating the constitutional rights of each and all of the Petitioners;

320. Enter permanent injunctions compelling Respondents to establish, fund, and maintain a thorough and efficient system of public education that provides all students in Pennsylvania with an equal opportunity to obtain an adequate education that will enable them to meet state academic standards and participate meaningfully in the economic, civic, and social activities of our society;

321. Enter permanent injunctions compelling the Respondents, after a reasonable period of time, to develop a school-funding arrangement that complies with the Education Clause and the Equal Protection Clause, to cease implementing a school-funding arrangement that does not assure that adequate, necessary, and sufficient funds are available to school districts to provide their students with an equal opportunity to obtain an adequate education that will enable them to meet state academic standards and participate meaningfully in the economic, civic, and social activities of our society;

322. Retain continuing jurisdiction over this matter until such time as the Court has determined that Respondents have, in fact, fully and properly fulfilled its orders;

323. Award Petitioners their costs of this action, including reasonable attorneys' and expert witness fees, to the full extent permitted by law; and

324. Grant such other and further relief as the Court may deem just and proper.

Dated: November 10, 2014

Respectfully Submitted,

By: /s/ Jennifer R. Clarke

By: /s/ Maura McInerney

Jennifer R. Clarke (Bar No. 49836)
Michael Churchill (Bar No. 04661)
PUBLIC INTEREST LAW CENTER OF
PHILADELPHIA
1709 Benjamin Franklin Parkway
Philadelphia, PA 19103
Telephone: 215-627-7100

Maura McInerney (Bar No. 71468)
Rhonda Brownstein (Bar No. 46866)
David Lapp (Bar No. 209614)
Cheryl Kleiman (Bar No. 318043)
EDUCATION LAW CENTER
1315 Walnut St., Suite 400
Philadelphia, PA 19107
Telephone: (215) 238-6970

Attorneys for Plaintiffs William Penn School District, Panther Valley School District, The School District of Lancaster, Greater Johnstown School District, Wilkes-Barre Area School District, Shenandoah Valley School District, Jamella and Bryant Miller, Sheila Armstrong, Tyesha Strickland, Angel Martinez, Barbara Nemeth, Tracey Hughes, Pennsylvania Association of Rural and Small Schools, and the National Association for the Advancement of Colored People—Pennsylvania State Conference.

Attorneys for Plaintiffs Jamella and Bryant Miller, Sheila Armstrong, Tyesha Strickland, Angel Martinez, Barbara Nemeth, Tracey Hughes, Pennsylvania Association of Rural and Small Schools, and the National Association for the Advancement of Colored People—Pennsylvania State Conference.

By: /s/ Matthew J. Sheehan

Aparna Joshi (*pro hac vice*
forthcoming)
Matthew J. Sheehan (Bar No.
208600)
O'MELVENY & MYERS LLP
1625 Eye Street, NW
Washington, D.C. 20006
Telephone: (202) 383-5300

Brad M. Elias (*pro hac vice*
forthcoming)
O'MELVENY & MYERS LLP
Times Square Tower
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000

*Attorneys for Plaintiffs William Penn
School District, Panther Valley
School District, The School District of
Lancaster, Greater Johnstown School
District, Wilkes-Barre Area School
District, Shenandoah Valley School
District, and Pennsylvania
Association of Rural and Small
Schools.*

VERIFICATION

I, Joseph Bruni, hereby state:

1. I am the Superintendent of William Penn School District, a Petitioner in this matter;
2. I verify that the statements made in the foregoing petition about the District are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

A handwritten signature in cursive script that reads "Joseph Bruni". The signature is written in black ink and is positioned above a solid horizontal line.

**Joseph Bruni,
Superintendent**

DATED: 11-3-14

VERIFICATION

I, Dennis Kergick, hereby state as follows:

1. I am the Superintendent of Panther Valley School District, a Petitioner in this matter;
2. I verify that the statements made about Panther Valley School District in the foregoing petition are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements made in the petition and this verification are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

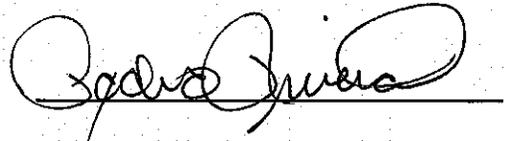
Date: Nov. 4 2014

Dennis R Kergick
DENNIS KERGICK

VERIFICATION

I, Pedro A. Rivera, hereby state:

1. I am the Superintendent of The School District of Lancaster, a Petitioner in this matter;
2. I verify that the statements made in the foregoing petition about the District are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



**Pedro A. Rivera,
Superintendent**

DATED: _____

11/5/14

VERIFICATION

I, Gerald L. Zahorchak, hereby state:

1. I am the Superintendent of the Greater Johnstown School District, a Petitioner in this matter;
2. I verify that the statements made in the foregoing petition about the District are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



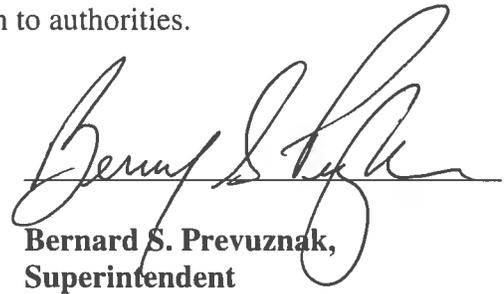
**Gerald L. Zahorchak,
Superintendent**

DATED: 11/03/2014

VERIFICATION

I, Bernard S. Prevuznak, hereby state:

1. I am the Superintendent of the Wilkes Barre Area School District, a Petitioner in this matter;
2. I verify that the statements made in the foregoing petition about the District are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



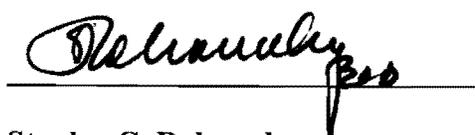
Bernard S. Prevuznak,
Superintendent

DATED: 11-5-2019

VERIFICATION

I, Stanley G. Rakowsky, hereby state:

1. I am the Superintendent of the Shenandoah Valley School District, a Petitioner in this matter;
2. I verify that the statements made in the foregoing petition about the District are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



**Stanley G. Rakowsky,
Superintendent**

DATED: 110614

VERIFICATION

I, Jamella Miller, hereby state:

1. I am a petitioner this action;
2. I verify that the statements made in the foregoing petition about myself and my daughter are true and correct to the best of my knowledge, information, and belief;
and
3. I understand that the statements in the petition are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



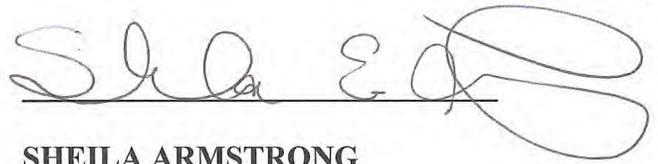
JAMELLA MILLER

DATE: 11/6/2014

VERIFICATION

I, Sheila Armstrong, hereby state:

1. I am a petitioner this action;
2. I verify that the statements made in the foregoing petition about myself and my son are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in the petition are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

A handwritten signature in cursive script, appearing to read "Sheila Armstrong", written over a horizontal line. The signature is fluid and somewhat stylized.

SHEILA ARMSTRONG

DATE: 11/07/14

VERIFICATION

I, Tyesha Strickland, hereby state:

1. I am a petitioner this action;
2. I verify that the statements made in the foregoing petition about myself and my son are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in the petition are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Tyesha Strickland

TYESHA STRICKLAND

DATE: 11/7/2014

VERIFICATION

I, Angel Martinez, hereby state:

1. I am a petitioner this action;
2. I verify that the statements made in the foregoing petition about myself and my son are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in the petition are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.


ANGEL MARTINEZ

DATE: 11-7-14

VERIFICATION

I, Barbara Nameth, hereby state:

1. I am a petitioner this action;
2. I verify that the statements made in the foregoing petition about myself and my ^{Daughter} ~~son~~ B.M. are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Barbara Nameth

BARBARA NAMETH

DATED: 9/24/14

VERIFICATION

I, Tracey Hughes, hereby state:

1. I am a petitioner this action;
2. I verify that the statements made in the foregoing petition about myself and my ~~daughter~~^{son} are true and correct to the best of my knowledge, information, and belief;
and
3. I understand that the statements in said complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



TRACEY HUGHES

DATED: 9/24/14

VERIFICATION

I, Joseph Bard, hereby state as follows:

1. I am the Executive Director of the Pennsylvania Association of Rural and Small Schools ("PARSS"), a Petitioner in this matter;
2. I am authorized to make this verification on behalf of PARSS;
3. I verify that the statements made about PARSS in the foregoing petition are true and correct to the best of my knowledge, information, and belief; and
4. I understand that the statements made in the petition and this verification are subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date:

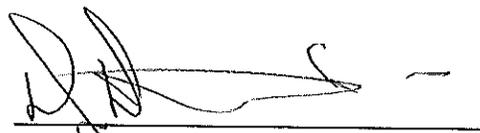
1/3/14


JOSEPH BARD

VERIFICATION

I, Dwayne D. Jackson, Sr., hereby state:

1. I am the President of the NAACP Pennsylvania State Conference, a Petitioner in this matter;
2. I verify that the statements made in the foregoing petition about the NAACP Pennsylvania State Conference are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in said complaint are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



DWAYNE D. JACKSON, Sr.

DATED: 10/30/14

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

:
:
:

PROOF OF SERVICE

I hereby certify that I am this 10th day of November 2014 serving the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121:

Service

Served: Robert M. Tomaine, Jr.
Chief Counsel
Office of General Counsel
Service Method: Certified Mail
Service Date: 11/10/2014
Address: 333 Market Street, 9th Floor
Harrisburg, PA 17126
Phone: 717-783-6563
Representing: Respondent Pennsylvania Department of Education

Served: Sen. Joseph B. Scarnati III
Senate President Pro Tempore
Service Method: Certified Mail
Service Date: 11/10/2014
Address: Senate Box 203025
292 Main Capitol Building
Harrisburg, PA 17120
Phone: 717-787-7084

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PROOF OF SERVICE

(Continued)

Served: Rep. Samuel H. Smith
Speaker of the House
Service Method: Certified Mail
Service Date: 11/10/2014
Address: 139 Main Capitol Building
PO Box 202066
Harrisburg, PA 17120
Phone: 717-787-3845

Served: Governor Thomas W. Corbett
Service Method: Certified Mail
Service Date: 11/10/2014
Address: 225 Main Capitol Building
Harrisburg, PA 17120
Phone: 717-787-2500

Served: Karen Molchanow
Executive Director, State Board of Education
Service Method: Certified Mail
Service Date: 11/10/2014
Address: 333 Market Street, 1st Floor
Harrisburg, PA 17126
Phone: 717-787-3787
Representing: Respondent Pennsylvania State Board of Education

Served: Carolyn Dumaresq
Secretary of Education
Service Method: Certified Mail
Service Date: 11/10/2014
Address: 333 Market Street
Harrisburg, PA 17120
Phone: 717-783-6788

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PROOF OF SERVICE

(Continued)

Served: Kathleen Kane
Office of the Attorney General
Service Method: Certified Mail
Service Date: 11/10/2014
Address: 16th Floor, Strawberry Square
Harrisburg, PA 17120
Phone: 717-787-3391

By: /s/ Matthew J. Sheehan
(Signature of the Person Serving)

Person Serving: Matthew J. Sheehan
Attorney Registration No: 208600
Law Firm: O'Melveny & Myers LLP
Address: 1625 Eye Street N.W.
Washington, DC 20006
Representing: Petitioner William Penn School District
Petitioner Panther Valley School District
Petitioner The School District of Lancaster
Petitioner Greater Johnstown School District
Petitioner Wilkes-Barre Area School District
Petitioner Shenandoah Valley School District
Petitioner Pennsylvania Association of Rural and
Small Schools

By: /s/ Jennifer R. Clarke
(Signature of the Person Serving)

Person Serving: Jennifer R. Clarke
Attorney Registration No: 49836
Law Firm: Public Interest Law Center of Philadelphia

Address: 1709 Benjamin Franklin Parkway
Philadelphia, PA 19103

Representing: Petitioner William Penn School District
Petitioner Panther Valley School District
Petitioner The School District of Lancaster
Petitioner Greater Johnstown School District
Petitioner Wilkes-Barre Area School District
Petitioner Shenandoah Valley School District
Petitioner Jamella and Bryant Miller
Petitioner Sheila Armstrong
Petitioner Tyesha Strickland
Petitioner Angel Martinez,
Petitioner Barbara Nemeth
Petitioner Tracey Hughes
Petitioner Pennsylvania Association of Rural and
Small Schools
Petitioner National Association for the
Advancement of Colored People—
Pennsylvania State Conference.