

COPY

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

SHELBY COUNTY BOARD OF EDUCATION,

Plaintiff,

v.

WILLIAM HASLAM, in his official capacity as GOVERNOR OF THE STATE OF TENNESSEE; RON RAMSEY, in his official capacity as SPEAKER OF THE TENNESSEE SENATE; BETH HARWELL, in her official capacity as SPEAKER OF THE TENNESSEE HOUSE OF REPRESENTATIVES; CANDICE MCQUEEN, in her official capacity as TENNESSEE COMMISSIONER OF EDUCATION; B. FIELDING ROLSTON, in his official capacity as CHAIRMAN OF THE TENNESSEE STATE BOARD OF EDUCATION; MIKE EDWARDS, in his official capacity as MEMBER OF THE TENNESSEE STATE BOARD OF EDUCATION; ALLISON CHANCEY, in his official capacity as MEMBER OF THE TENNESSEE STATE BOARD OF EDUCATION; LONNIE ROBERTS, in his official capacity as MEMBER OF THE TENNESSEE STATE BOARD OF EDUCATION; CAROLYN PEARRE, in her official capacity as VICE-CHAIR OF THE TENNESSEE STATE BOARD OF EDUCATION; LILLIAN HARTGROVE, in her official capacity as MEMBER OF THE TENNESSEE STATE BOARD OF EDUCATION; WENDY TUCKER, in her official capacity as MEMBER OF THE TENNESSEE STATE BOARD OF EDUCATION; CATO JOHNSON, in his official capacity as MEMBER OF THE TENNESSEE STATE BOARD OF EDUCATION; WILLIAM TROUTT, in his official capacity as MEMBER OF THE TENNESSEE STATE BOARD OF EDUCATION; and SARA HEYBURN, in her official capacity as EXECUTIVE DIRECTOR OF THE TENNESSEE STATE BOARD OF EDUCATION,

Defendants.

COMPLAINT

COMES NOW, the Plaintiff, in the above-captioned matter, and for its Complaint against Defendants, states and alleges as follows:

Case No. 15-1048-TT

FILED
2015 AUG 31 AM 10:11
CLERK AND MASTER
DAVIDSON CO. CHANCERY CT
DCAM

Att. - Margo Everett

From: Road Runner
Jason - (615) 248-2212

Parties

1. Plaintiff Shelby County Board of Education (“SCBE”) is the local board of education which, pursuant to T.C.A. § 49-1-102(c), governs and operates the Shelby County School District (the “District”), which is the local public school system located in and around Memphis, Tennessee. SCBE brings this action on behalf of itself, the District, its teachers, and their students.

2. Plaintiff SCBE possesses the power to sue and be sued pursuant to state statute.

3. Defendants are officials of the State of Tennessee, which is charged with the constitutional and statutory obligation of providing all students in Tennessee with an adequate and equitable free public education.

4. Defendant William Haslam is the Governor of the State of Tennessee and has both the constitutional and statutory obligation to enforce the laws of this State. In particular, Governor Haslam is vested under Article III, Section 2 and Section 10 of the Tennessee Constitution with “supreme executive power” and must ensure that “the laws be faithfully executed.” Governor Haslam also is responsible under T.C.A. § 49-1-301(a)(3) to appoint members of the State Board of Education. As the chief executive officer for the State of Tennessee, Governor Haslam has responsibility for ensuring that schools districts have sufficient resources to assure that their students receive a public education in accordance with state standards and the Tennessee Constitution. Governor Haslam is sued in his official capacity. He has an office located at State Capitol, 1st Floor, 600 Charlotte Avenue Nashville, TN 37243.

5. Defendant Ron Ramsey is the Speaker of the Tennessee Senate and Beth Harwell is the Speaker of the Tennessee House of Representatives; their respective legislative chambers have the constitutional responsibility to fund Tennessee’s public education system. Under Article

XI, Section 12 of the Tennessee Constitution, the Senate and House of Representatives (the General Assembly) must “provide for the maintenance, support and eligibility standards of a system of free public schools.” Defendant Ron Ramsey and Defendant Beth Harwell are sued in their official capacities and maintain offices at Legislative Plaza, 301 6th Avenue North, Nashville, TN 37243.

6. Defendant Candice McQueen is the Commissioner of Education and has the primary responsibility of formulating policies and regulations for consideration by the State Board of Education. Defendant Candice McQueen is being sued in her official capacity and maintains an office at 710 James Robertson Parkway, 1st Floor, Nashville, TN 37243.

7. Defendants B. Fielding Rolston, Mike Edwards, Allison Chancey, Lonnie Roberts, Carolyn Pearre, Wendy Tucker, Lillian Hartgrove, Cato Johnson, and William Troutt are members of the Tennessee State Board of Education, and Sara Heyburn is the Executive Director of the Tennessee State Board of Education, and these Defendants have the authority under T.C.A. § 49-1-102(a) to promulgate rules and regulations establishing the standards of operations for public schools throughout the State. The State Board of Education also has the authority under T.C.A. § 49-3-305(a) to establish rules and regulations governing the funding of Tennessee’s public schools. These Defendants are being sued in their official capacities and the Tennessee Board of Education’s office is located at 710 James Robertson Parkway, 1st Floor, Nashville, TN 37243.

Jurisdiction and Venue

8. This action is brought pursuant to the Tennessee Declaratory Judgment Act, T.C.A. §29-14-101 *et seq.*, which grants jurisdiction over Plaintiff’s claims seeking a declaration

that the State and the Defendants have breached their duties to provide a free, adequate, and equitable education arising under the Tennessee Constitution and Tennessee statute.

9. Venue is proper in this court pursuant to T.C.A. §4-4-104 and T.C.A. § 20-4-101.

Relevant Facts

Introduction

10. According to the 2010 United States census, Shelby County and the City of Memphis enjoy the largest county/city populations in Tennessee.

11. The District has been continuously making drastic cuts because of a lack of funding. Despite the District's dire efforts to find efficiencies and makes cuts so as to not directly impact students, the cuts and lack of funding has done just that. The lack of funding has directly impacted Plaintiff SCBE's ability to provide all of its students with a free, adequate, and equitable education pursuant to the Tennessee Constitution and Tennessee statute. For instance, in 2015-2016 alone, three hundred and sixty-seven (367) positions (including 41 central office positions) have been eliminated from the District's general fund budget. Of the numerous positions that have been cut over the years, many were much needed supports for students and schools such as teachers, teaching assistants, social workers, guidance counselors, reading intervention teachers, and other support staff. Additionally, seventeen (17) schools have been closed since 2013.

The District's Student Population

12. African-American, Hispanic, and Asian-American students are enrolled in large percentages in large school districts such as the Shelby County School District. The District does not receive sufficient funding to provide all of these students with an education that would

allow them to achieve the outcomes mandated by the Tennessee Constitution given the high-density urban setting in which the District operates.

13. Students of non-U.S. origin are disproportionately enrolled in large school districts such as Shelby County Schools. The District does not receive sufficient funding to provide all of these students with an education that would allow them to achieve the outcomes mandated by the Tennessee Constitution given the high-density urban setting in which the District operates.

14. Students with disabilities are disproportionately enrolled in large school districts such as Shelby County Schools. The District does not receive sufficient funding to provide these students with an education that would allow them to achieve the outcomes mandated by the Tennessee Constitution given the high-density urban setting in which the District operates.

15. Many of the schools in the District have extremely high poverty rates. During the 2012-2013 school year, the economically disadvantaged student population was 84.3%.¹ More than 40,000 (36%) of the District's students have a household income (family of 4 or more) of less than \$10,000 per year. In fact, nearly all of the District's schools are considered Title I schools, and a large number of the District's schools have over 90% economically disadvantaged student populations. For example, during the 2013-2014 school year, the economically disadvantaged student population was 98.5% for B.T. Washington High School, 98.2% for Caldwell-Guthrie Elementary School, and 98.4% for Winchester Elementary School. Due to the high poverty and environmental issues, many of the District's students require significant academic, emotional, and social supports. The majority of these students are minority students. Because of the lack of funding, the District is unable to provide many of these impoverished,

¹ Tennessee Department of Education, School District Profile, 2012-2013 Memphis City Schools (pre-merger), available at <http://tn.gov/education/topic/report-card>.

mainly-minority students with an education that would allow them to achieve the outcomes mandated by the Tennessee Constitution given the high-density urban setting in which the District operates nor an education that is substantially equal to the education received by other students in the State.

16. The District has significant emerging Vietnamese, Hispanic, and African populations. The families and students within the District speak nearly 50 different languages amongst themselves.

The State’s Constitutional and Statutory Duties

17. The constitutional responsibility for educating school children is a responsibility owed statewide. As the Tennessee Supreme Court held in *Tennessee Small School Sys. v. McWhorter*, 851 S.W.2d 139 (Tenn. 1993) (“Small Schools I”), the Tennessee State Constitution provides a fundamental right to education to all Tennessee schoolchildren; a right that includes access to (1) “substantially equal educational opportunities to all students” and (2) “at least, the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life.” *Small Schools I*, 851 S.W.2d at 140, 150-151. Thus, the Tennessee Supreme Court has held that the Tennessee Constitution requires that the State provide both an equitable and an adequate education to all children in Tennessee, for free. As the Supreme Court held, this fundamental right is an enforceable standard that compels the State to design and fund such an education system. *Id.* at 151.

18. This fundamental right represents a positive duty imposed on the State of Tennessee, its Legislature, and the officials of the executive branch to provide sufficient resources to allow all Tennessee schoolchildren to achieve these constitutionally-mandated outcomes.

19. Money makes a difference in the educational outcomes of Tennessee public school students. As the Tennessee Supreme Court held in *Tennessee Small Schools Systems v. McWherter*, 894 S.W.2d 734 (Tenn. 1999)(“Small Schools II”), one of the “most important components of any education plan” is teacher salaries that are important for teacher employment and retention. *Small Schools II*, 894 S.W.2d at 738. Teacher salaries are but one of many items that are directly controlled by the amount of funding provided by the State of Tennessee.

20. The Tennessee Supreme Court has also required that the actual costs of funding an education must be taken into account when determining an adequate level of funding for public schools. In *Tennessee Small Schools Sys. v. McWherter*, 91 S.W. 3d 232 (Tenn. 2002)(“Small Schools III”), the Court found that the State’s salary equity plan did not provide sufficient equalization of teacher salaries, because the salary equity plan did not contain similar annual review and cost determinations as the BEP (as it existed at that time) did. *Small Schools III*, 91 S.W.3d at 239-240.

21. The State of Tennessee funds its public schools, grades K-12, through a State constitutionally mandated statewide system of school funding, including, but not limited to the Basic Education Plan (BEP), codified at T.C.A. 49-1-102 *et seq.* Pursuant to this scheme, all public school districts in the State are allotted funds to operate their educational programs according to the school funding scheme.

22. The BEP, as it has been operated since 1992 in one form or another, is driven by resource input calculations, without particular regard to outcome objectives or constitutionally sufficient regard to empirical evaluation of how costs of achieving common, modern outcome goals vary from one child to the next or due to a child’s differing socio-economic, demographic, or geographic circumstances.

23. The BEP formula calculates staffing for each school (and thereby each district), in accordance with staffing ratios with respect to enrollments (Average Daily Membership).

24. The formula then assigns salaries to staff by type and determines total staffing costs as a function of quantities and salaries. Other non-personnel costs are similarly determined.

25. Currently, pursuant to statute, the State is supposed to fund 70% of the “instructional components” costs (teachers, librarians, principals, social workers, etc.); 75% of the “classroom components” (textbooks, classroom materials and supplies, technology, etc.); and 50% of “non-classroom components” (technology coordinators, school secretaries, custodians, etc.) However, the State has not fully funded the BEP to the statutorily required level, thereby forcing Plaintiff SCBE and its constituency to shoulder additional costs. For instance, a majority of teachers are forced to purchase essential supplies (pencils, paper, crayons, etc.) and resources for the many of their students. These teachers tend to pay out of pocket several hundreds of dollars each year. Additionally, teachers are forced to volunteer a large amount of time after school hours and on the weekends in order to obtain professional development, complete administrative paperwork, or assist their struggling students. These challenges, accompanied with increased workloads, oftentimes result in low staff morale and teacher burn-out with negative consequences on the quality of education the District’s students are provided.

26. The State has also instituted mandates, including testing requirements, without providing any funding for the District to adequately comply with those mandates. For example, beginning 2015-2016, the State has instituted an online assessment testing program, namely TNReady; however, it has ceased to provide funding for keyboarding classes that would train students to use the testing apparatus. Thus, large populations of the District’s students,

particularly those that are economically disadvantaged, have not been properly prepared for the State mandated online assessment.

27. Many District schools do not have the technological infrastructure to support the State's online testing mandate. During pilot test runs, many schools experienced school-wide computer failures and crashes due to the school's outdated wiring and low capacity infrastructures. The District lacks funding to upgrade these schools' technological infrastructures. Further, there are many schools that do not have a sufficient number of computers to even allow the students to complete the online assessment.

28. In sum, Defendants have failed to provide the minimal requirements for an education as required by the Tennessee Constitution. Indeed, the State has even failed to meet the lower requirements it set for itself under the BEP and its unfunded mandates.

The State's Breach of Its Constitutional and Statutory Duties

Necessary Interventions

29. To adequately educate all students, schools with a majority of their students at non-proficient levels in reading and math need specific interventions to improve and maintain performance. This includes providing these schools with additional teachers directly focused on reading and math, tutors in those areas, and professional development on pedagogical issues. These specific interventions are crucial and have been proven to work in the District. However, they can only be provided when the funding exists. Often times, targeted funds are directed at these schools for a limited time for purposes of providing these specific interventions. But, as soon as the school improves its performance, such funding is cut, and performance dwindles.

30. The District previously employed "interventionists" – tutors that offer reading support to the students. There is a correlation in the district between declining reading scores

and the district's loss of interventionists. Moreover, the District is, under current funding levels, unable to provide the following necessary services in a consistent manner: "hands on" foundational help and education to parents regarding effective reading learning strategies.

31. The District has been forced to eliminate many instructional and educational programs. For instance, Germantown High School utilized COMPASS, a successful computer generated lesson that allowed struggling students to recover credits or improve low grades. The funding for the COMPASS program has been cut. Without the COMPASS program, Germantown High School's graduation rate is at risk to drop.

32. Additionally, many students suffer from cuts to the District's Career and Technical Education ("CTE") programs. The District has been forced to eliminate CTE services to middle schools and the Comprehensive Education Program providing services to special needs students. Lack of funding in this area has also resulted in outdated or insufficient equipment and diminished opportunities to obtain vocational and technical skills. In fact, contrary to the Tennessee Constitution and statutes requiring students to be provided a free, adequate, and equitable public education, students are forced to purchase their own necessary vocational items such as lab coats and vocational training kits.

33. The District's elective courses and educational programs have been negatively impacted by cuts or eliminations, including art, music and drama, history, and life skill classes. As a result, many students are not receiving a well-rounded education that will prepare them intellectually for a mature life as required by the Tennessee Constitution.

34. Many children in disadvantaged populations, similar to those in Tennessee and Shelby County, often begin kindergarten behind their peers. A substantive body of research has shown that these children benefit from quality pre-k programs and early childhood intervention

by way of higher scores on achievement tests (especially reading), higher attendance rates, reduced grade retention, and reduced need for special education.

35. The District currently offers pre-k education for certain children in lower socioeconomic or disadvantaged populations. However, because of a lack of adequate State funding, the District is unable to offer seats for all children in need of early childhood education. For instance, as of July 2015, the District had 695 families on the pre-k waiting list.

Insufficient Staffing Due To Inadequate Funding From the State of Tennessee

36. The District has made millions of dollars in cuts over the last several years, including staffing cuts to central office, instructional and instructional support positions that had to be made during each of those years. Most recently, the District suffered \$125 million dollars in budget cuts where hundreds of educators were laid off. The staff reductions have affected the quality of educational services the District is able to offer its students.

37. The District has been forced to increase class sizes. Increased class sizes, accompanied with a high number of at-risk students and rigorous state academic standards, prevent teachers from being able to provide adequate amounts of differentiated instruction to meet the widely varying needs and skills of their students. In many classes, there are 30 to 35 students in core classes required for graduation, with no educational assistants.

38. Many high schools do not have sufficient staff dedicated to creating student schedules. This will oftentimes result in students not having their proper classes for one to four weeks at the beginning of the school year, which in turn causes the students to lose significant instructional time and affect their academic achievement in those classes.

39. The State requires two years of the same foreign language in order to graduate. However, staffing reductions have negatively impacted the schools' ability to keep students on

track to graduate. For instance, SCS high schools have often encountered situations such as only having twenty spots available in a Spanish II class, but having many more students that need to take the class. This results in non-seniors being taken out of the class to make room for seniors that need the class that year.

40. Specific “cadre” leaders in subject areas, such as literacy, have been demonstrated to be an effective intervention that leads to improved student achievement.

41. Principals are often required to act in roles beyond that of instructional leaders because the “wraparound” needs of the students they serve are so great. Principals are forced to address “wraparound” needs (which include ensuring that children are properly fed, clothed and groomed, that the school grounds are safe and clean for the children, and that any parents’ issues or concerns are dealt with). Plaintiffs cannot afford to employ “cadre” leaders to support the principals as instructional leaders under current levels of funding, however.

42. The District reduced or eliminated administrative support for principals. Principals are oftentimes stretched thin and forced to wear “many hats.” For instance, in addition to addressing the “wraparound” needs of their students and parents, principals also are responsible for implementing a very rigorous teacher observation and evaluation model, handling disciplinary matters, providing coaching and instructional leadership to their teachers, and handling day to day administrative duties. Many principals do not have adequate support such as sufficient assistant principals, instructional support staff, guidance counselors, and secretarial staff, to adequately address all of the issues the schools face on a day to day basis.

43. Instructional Leadership Directors (“ILDs”) have been shown to be an effective tool in improving teachers’ performance which leads directly to improved student achievement.

44. The District is served by eleven ILDs who oversee the 177 schools in the district. These ILDs each have 13-15 principals they are responsible for coaching and mentoring. The current ratio of ILDs to principals is insufficient to adequately support teaching and learning.

45. Educational assistants who provide tutoring to both students and teachers have been shown to greatly increase students' academic achievement and mitigate the impact of high teacher-student ratios.

46. The District has been forced to reduce the number of educational assistants; 300 educational assistant positions have been eliminated over the past several years.

47. Without an appropriate number of paraprofessionals, including educational assistants, one-on-one aids, etc., the District is unable to provide the classroom supports to its teachers that are essential in providing for students with greater needs—including special education students, at-risk students, English Language Learners (“ELL”), and students in their early elementary years—with an adequate education.

48. The District has not been able to provide schools with a sufficient number of counselors, nurses, social workers, and behavioral specialists to adequately address the physical and mental health needs of its students that affect the educational needs of those students. The District has a large number of students that deal with physical or environmental issues that must be addressed before the District is able to address the students' academic needs. For instance, many students are dealing with issues such as witnessing or being the victim of abuse at home; being homeless; living in foster homes; being forced to take care of other siblings; not having sufficient means to purchase essential school supplies, school uniforms, or food; dealing with family issues of substance abuse; witnessing violence in their neighborhoods, and being recruited by gangs.

Professional Development

49. Professional development of teachers and administrators can improve their performance, which leads directly to improved student achievement.

50. Professional development has been adversely impacted by the State's unconstitutionally low levels of funding. While there is increased accountability for teachers' performance, there are increasingly fewer opportunities for professional development in all areas. Training on classroom management skills, which is not being provided at an appropriate level because of the underfunding of education, is even more important given the increasingly large class sizes that have resulted from the underfunding.

51. Professional development specifically targeted to teaching pedagogies has also been negatively affected. For example, the District is not able to purchase certain proven reading strategy training materials for all of their teachers.

School Closures

52. Continuity of schooling, in both physical space, and a child's cohort, has been shown to directly impact the level of achievement students reach.

53. The district has been forced to merge school populations by closing schools, in many cases due to lack of funding. This results in a loss of teachers and principals and also results in increased class size, security incidents, and expenses. Furthermore, students are often merged into a building that meets capacity requirements but does not have adequate resources to serve the populations to be educated at that facility, such as special education students.

Community Engagement

54. Parental engagement has been shown to be one of the most important drivers of academic achievement in school districts that service high-density urban populations.

Particularly, parental involvement has been found to lead to the success of students and even to successful schools. Parental involvement is extremely important in student achievement.

55. Parental involvement has been shown to benefit students, schools and parents. Students with parents who are involved in their school have fewer behavioral problems and better academic performance, and are more likely to complete secondary school than students whose parents are not involved in their school.

56. Low income parents of students often need support and direction in order to assist their children in school and engage in meaningful parental involvement.

57. The current underfunding prevents the District from effectively engaging with the community it serves. For example, the District's Division of Family and Community Engagement is only able to employ one-tenth to one-fourth of the staff that a similarly-sized district in other areas would employ. The functions performed by the Division of Family and Community Engagement are especially important in communities with at-risk students where partnerships with community organizations, philanthropic groups, government agencies, principals, teachers, and parents are crucial to providing an education to those students.

58. The District's Division of Family and Community Engagement is unable to create helpful programs such as a "family academy" that would provide an opportunity to connect parents to resources to build their households and empower themselves to create a good environment for learning for their children.

59. Lack of funding has led to a lack of parental support for the District's growing Vietnamese, Hispanic, and African populations. The parents within the District speak nearly 50 different languages amongst themselves. The District does not have sufficient language fluency to support these parents and their students – even for Spanish speakers.

Social and Behavioral Supports

60. Children with the demographic characteristics that many of the students in the District possess (high poverty and non-English speakers) have been shown to need additional social and behavioral supports in order to successfully access educational opportunities and achieve at a sufficient level.

61. The District cannot adequately address the behavioral and social challenges faced by its students because of the lack of funding provided by Defendants; this leads directly to poor academic performance by those students.

62. Most of the schools within the District are forced to share a behavioral specialist, who can visit each school approximately once per week, and whose focus is limited to dealing with only the most severe issues.

Poor Physical Facilities

63. Physical facilities have been shown to have a direct impact on student achievement. Students and staff perform at a higher rate in buildings with little or no deferred maintenance. Instead of making operational decisions based on education, the District is forced to make operational decisions based on a lack of resources. When the District is not funded adequately the cuts are demanded from facilities, reducing the ability to maintain buildings properly.

64. While the District is committed to assuring that its facilities are safe, basic janitorial services often cannot be adequately and efficiently provided. Oftentimes the District's buildings' heating and air conditioning will not function for weeks at a time. Schools, or portions thereof, have been closed because mold issues could not be remediated because of lack of funding. In addition, many facilities have leaky roofs, outdated or dilapidated plumbing

systems, insufficient technological infrastructures and missing or damaged ceiling panels. Some schools have been forced to set garbage cans in the hallways and classrooms to catch water that is leaking from the pipes or the roof.

Underfunded Transportation

65. The lack of adequate funding has caused transportation and other operational issues for the District. SCBE has been forced to make unfortunate decisions in an attempt to “keep the cuts as far away from the classroom as possible.” As a result, the operations side of the district is often cannibalized in a way that cuts services “to the bone” and has a deleterious effect on students’ academic performance.

66. The District is unable to provide an adequate number of bus monitors on many buses.

67. Start times that are too early can keep students from getting the sleep they need for health, safety, and academic success. The American Academy of Pediatrics recognizes insufficient sleep in adolescents as an important public health issue that significantly affects academic success of middle and high school students. A substantial body of research has demonstrated that delaying school start times is an effective countermeasure to, among other things, poor academic achievement.

68. The American Academy of Pediatrics strongly urges high schools and middle schools to aim for start times that allow students the opportunity to achieve optimal levels of sleep (8.5–9.5 hours) and to improve physical and mental health, safety, academic performance, and quality of life.²

² American Academy of Pediatrics, Policy Statement, School Start Times for Adolescents, ADOLESCENT SLEEP WORKING GROUP, COMMITTEE ON ADOLESCENCE, AND COUNCIL ON SCHOOL HEALTH.

69. According to the Center for Disease Control, schools that have a start time of 8:30 AM or later allow adolescent students the opportunity to get the recommended amount of sleep on school nights. Insufficient sleep is common among high school students and is associated with, among other things, poor academic performance.

70. Due to insufficient funding to support transportation, the District is only able to use a “three bell time” system, with schools starting as early as 7:00 AM, which means that many of the middle and high schools must start at an earlier time that undermines the academic achievement of middle and high school students. This is purely a financial decision and it has a negative effect on student performance.

Co-Curricular Activities

71. Participating in co-curricular (also known as extracurricular) activities leads to at least three major positive implications: increased critical thinking, enhanced development, and positive social behaviors.

72. According to the National Association of Secondary School Principals, students who participate in co-curricular activities achieve higher grades, are more motivated, have fewer discipline problems, are less likely to drop out of school, and are more likely to graduate and apply to college. The benefits are particularly significant for at-risk students, for whom co-curricular activities have been found to reduce juvenile crime, provide a sense of connectedness to the school, increase self-esteem, and create positive social networks they might otherwise not have. Activities can represent an important way to engage students who are at risk of dropping out.

73. Tennessee and Shelby County students and/or their parents should not bear the financial responsibility for any school or school district sponsored programs, activities or courses

– regardless of when such programs, activities or courses are offered. However, as noted by the National Association of Secondary School Principals, with shrinking budgets, “schools have been struggling to keep activities available to students and have tended to make up for shortfalls by charging fees in order to maintain these offerings.” This trend has been coined “Pay for Play.” Tennessee’s Pay-for-Play system that requires students to pay any cost of participation deprives District students of educational equity and violates the Tennessee Constitution’s guarantee of a free public education.

74. The lack of adequate transportation and facilities also hampers the District’s ability to support co-curricular activities for the District’s children. Transportation for co-curricular activities is scarce and many times unavailable. The lack of transportation disproportionately affects the economically disadvantaged students and families that do not have the means to transport their children back and forth to practices, games, and events. The lack of adequate facilities means that many children cannot participate in co-curricular activities because the school they attend does not have the necessary facilities (football field, tennis court, etc.) to support those activities.

Student Safety and Attendance

75. Students are unable to achieve the outcomes set forth in the Tennessee Constitution when their schools are unsafe or attendance issues prevent them from accessing educational opportunities.

76. The District is not able to employ a sufficient number of truancy officers for the number of students with attendance issues. And, the truancy officers the district does employ can only be employed for ten months out of the year because of budget constraints. This is insufficient to ensure that students attend class when school resumes in the fall. This creates a

vicious cycle that results in further defunding to the District. Because truancy officers are not available to work with children and their families during the summer, those students do not show up for school in the fall; because the schools' headcount is thereby diminished, the school receives even less funding from the State.

77. The District faces additional truancy issues because it cannot employ sufficient social workers and guidance counselors to address the underlying causes of truancy, such as poverty, family trauma, and gang-related issues. For example, the District has eliminated all family specialists; it previously employed between 40 and 50. The district has also been forced to reduce its behavioral specialists.

78. The District has not been able to upgrade, repair or replace a number of camera systems, provide needed training for its officers, and has been forced to reduce security support staff, which could result in serious safety issues at many of the District's schools.

79. Gang activity is highly prevalent in some communities served by the District. Many of the gangs found in Shelby County boast significant juvenile membership, which ultimately leads to gang-related issues infiltrating local school systems. The District's students often encounter gang activities such as violence, pressure, and intimidation in their communities and in their schools.

80. The District is unable to address gang activity in a comprehensive manner because it cannot provide prevention and community engagement services at all grade levels, and cannot provide intervention and suppression services at higher grade levels. The District's successful gang intervention and prevention program, the Gang Resistance for Saving Society's Youth (G.R.A.S.S.Y.) program, was cut due to lack of funding and, the District has not been able to fully implement and operate the program in all the necessary schools.

81. The District's security officers are no longer provided with specific training to deal with the populations that the District educates. For example, Crisis Intervention Training is not presently available to all officers.

82. The District has implemented a successful program, the School House Adjustment Program Enterprise ("SHAPE") that has been proven to work in the schools where it has been implemented. This program allows the student to avoid arrest and/or jail time and to receive anger management training or other behavior modification training. Unfortunately, this program has been implemented in less than twenty schools. Children who go to schools without a SHAPE program must go to jail for similar offenses, such as fighting at school.

Life Skills Courses and Alternative Education

83. Life and social skills courses are crucial to ensuring that students are intellectually prepared for a mature life. Alternative education opportunities are also necessary to provide students in the District's high-density urban setting with an adequate education.

84. Life and social skills courses, such as the Family and Consumer Science classes, have been cut. These courses provided nutrition education and home skills that prepared students intellectually for a mature life on their own.

85. The BEP formula only provides for one alternative school per district. However, given its large population, demographics, and truancy rates, the District must provide additional alternative schools in order to attempt to provide an adequate education to many children who might otherwise be incarcerated. However, the State does not mandate that children attend an alternative school if they are suspended or expelled from their home schools. While the SCBE believes that mandating attendance at alternative schools would benefit students by keeping them

connected to the school system in an appropriate setting for them, the SCBE is unable to do so because of the lack of adequate transportation funding.

86. The lack of funding for alternative schools makes it impossible for the alternative schools to have the smaller student-teacher ratios necessary to allow for better teaching strategies and social services. And, funding generated for the students at the alternative schools is actually provided to their home school and thus the alternative school is left without funding. Thus, although alternative schools often need more staffing and security, SCBE is unable to provide such things because of the lack of funding.

87. Transportation is not available for students attending alternative schools in grades higher than fifth grade because of funding. As a result, many students who could otherwise attend an alternative school cannot do so because of a lack of transportation.

The State's Failure to Fund Education Has Resulted in Harm to the District's Students

88. Tennessee is consistently among the lowest spending states in the nation in K-12 public schooling. This is not the result of Tennessee being a low-income, low wealth state – Tennessee also ranks poorly when the share of gross state product allocated to elementary and secondary education is considered.

89. Tennessee also ranks poorly when compared to other states with regard to targeting of additional staffing to higher poverty districts, such as the Shelby County School District.

90. Tennessee also ranks poorly with regard to teachers' wages when compared to other states.

91. Overall, compared to neighboring states, adjusted for income levels, low income children in Tennessee perform relatively poorly on nationally standardized tests, especially at the fourth grade level.

92. The present funding formula fails to take into account the actual costs of funding an education; for example, the needs of students in poverty, special education students, or English language learners. In order to provide an adequate education, the District should receive additional funding to educate more costly students with additional needs given its high-density urban setting.

93. The District faces challenges educating an increasing population of English Language Learners (“ELL”). Due to the State’s failure to adequately provide funding, the District is unable to provide its teachers with sufficient professional development, technology, and curricular resources to support its students and the ELL program. For instance, Treadwell Middle School has experienced an influx of ELL students, including refugee students from Honduras and Yemen. Many of the students that came in had never spoken, read, or written the English language and the school was not equipped with sufficient staff, resources, or intensive programs to fully support these students. This lack of funding continues despite recent influxes of non-native English speakers into the district.

94. Despite the Court’s clear guidance to the State regarding its constitutional duties, while the General Assembly in 2007 amended the BEP to include the cost of teachers within the funding formula, and provided that amounts should be adjusted based on recommendations from the BEP Review Committee, the State has consistently ignored the recommendations of the BEP Review Committee made pursuant to T.C.A. §49-1-302(4) (B) and T.C.A. §49-3-351(a).

95. Indeed, on November 1, 2014, the BEP Review Committee reported that the BEP formula suffered from several flaws that:

- a. led to insufficient funding for the costs of salaries and insurance that local school boards must pay;
- b. failed to provide 75% of classroom expenses as required by Tennessee law;
- c. used an underestimated class size ratio to determine the number of positions to be funded;
- d. failed to provide for adequate professional development and teacher mentoring;
- e. failed to provide for adequate classroom teaching materials; and
- f. failed to provide for increased use of technology, both in equipment and personnel, especially given State-mandated testing requirements.

96. The BEP Review Committee found that education was being underfunded by hundreds of millions of dollars in Tennessee.

97. Shelby County Schools and its students have directly suffered from the harms identified by the BEP Review Committee.

98. A correlation exists between the State's insufficient and inequitable school funding scheme and unsatisfactory education outcomes experienced by African-American, Hispanic, and Asian-American students throughout the State in comparison to outcomes experienced by white students. A similar correlation exists between the State's school funding scheme and unsatisfactory outcomes experienced by disabled students in comparison to the outcomes experienced by non-disabled students. Likewise, a correlation exists between the school funding scheme and unsatisfactory outcomes experienced by students of non-U.S. origin in comparison to outcomes experienced by students who are of U.S. origin. This contrast in

educational outcomes between white and non-disabled students and the racial minorities, students with disabilities and non-U.S. origin students described above has existed throughout the time period that the BEP has been in operation.

99. Given the low level of funding provided to districts such as Shelby County Schools by operation of the BEP, Plaintiff SCBE must seek other local sources of funding and the Shelby County Board of County Commissioners is required to levy additional taxes on its behalf. A correlation exists between district wealth and the ability to raise income in a school district and that district's ability to raise such outside funds. School districts with high district wealth and property values raise much more local funds than those districts, such as Shelby County Schools, with comparatively low incomes and property values.

100. African-American, Hispanic, and Asian-American students are disproportionately enrolled in school districts, such as Shelby County Schools, with comparatively low incomes and property values.

101. Similarly, students of non-U.S. origin are disproportionately enrolled in school districts, such as Shelby County Schools, with comparatively low incomes and property values.

102. Likewise, disabled students are disproportionately enrolled in school districts, such as Shelby County Schools, with comparatively low incomes and property values.

103. Despite the increased needs of its students, the District funds a higher percentage of the amount spent per pupil through local funding than all but 20 districts in the State. Thus, local Shelby County taxpayers are forced to shoulder a much larger percentage of the cost to educate children than most of the State. A correlation exists between the lower amount of state funding received and the unsatisfactory education outcomes experienced by minority students, students of non-U.S. origin and disabled students (as well as many non-disadvantaged students).

104. Furthermore, the funding system as it is presently operated is also irrational. For example, the SCBE incurs administrative costs resulting from the operation of charter schools, but receives no funding from the State to offset these costs. At the same time, the State-operated Achievement School District receives a 3% administrative fee, demonstrating that the Legislature has clearly carved out different sets of rules for the ASD than for the District.

105. The Tennessee Legislature's continued funding of Tennessee's public K-12 schools at such low levels impacts less wealthy districts, such as Shelby County Schools, even more than wealthier districts that can raise more in local funding to "fill the gaps." This creates even greater disparity and more unsatisfactory education for disabled, non-U.S. origin and minority students.

Count One: Adequacy of Funding Under the Tennessee Constitution

106. Plaintiff incorporates by reference the allegations contained in paragraphs 1-105 above as though fully set out herein.

107. Article XI, Section 12 of the Tennessee Constitution, as interpreted by the Tennessee Supreme Court, compels the Defendants to provide a free public education that, at a minimum, provides students with the opportunity to acquire general knowledge, to develop the powers of reasoning and judgment, and generally to prepare students intellectually for a mature life.

108. By failing to adjust the BEP formula to take into account the actual costs of providing this constitutionally-mandated level of education, the Legislature has violated and continues to violate Article XI, Section 12 of the Tennessee Constitution.

109. The State's failure to even fund the BEP formula as it exists today further exacerbates the State's violation of the Tennessee Constitution.

110. Furthermore, the actual costs of providing an adequate education to Tennessee school children will continue to increase especially given Tennessee's recent change to its new education standards.

111. Defendants have failed to provide a free public education in accordance with the fundamental rights as defined by the Tennessee Supreme Court by failing to take into account the actual costs of providing an adequate education, which have increased and continue to increase.

112. Plaintiff SCBE has been directly harmed by Defendants' failure to comply with the Tennessee Constitution because the current school funding scheme does not provide a suitable education for general education pupils, especially minority students, at-risk pupils, special education pupils, and bilingual pupils such as those educated in the Shelby County Schools.

113. This is borne out by the poor achievement of students in Shelby County Schools. In almost every subject, the majority (or near majority) of Shelby County Schools' students are below proficient as demonstrated by TCAP results.

114. These results demonstrate that the State has failed to provide even a minimal level of education to Shelby County Schools' students because more than half of those students have difficulty reading and writing at a high school level. Most Shelby County Schools' children have clearly not acquired general knowledge, have not been able to develop the powers of reasoning and judgment, and have not generally been prepared intellectually for a mature life because of the State's failure to provide a constitutionally adequate education.

115. Defendants have consciously ignored such data, and the statutorily-required recommendations of the BEP Review Committee, in their failure to fund education to

constitutional standards.

116. Plaintiff SCBE does not have enough money to fund the education that state and federal laws require them to provide.

- a. Budget cuts have resulted in scaling back of programs, including, but not limited to: educational support in before-and-after school programs, intervention programs for struggling students, extra-curricular programs, athletic programs, summer school, fine arts, vocational and career technical programs, Advanced Placement courses, and foreign languages.
- b. Budget cuts have resulted in significant reductions in professional development, delays in purchasing textbooks, eliminations of crucial instructional support positions, increased pupil-teacher ratios, and the closure of educational buildings.
- c. Tennessee does not provide adequate resources to meet federal burdens under the Equal Education Opportunity Act of 1974, which requires all school districts to “take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.”
- d. Plaintiffs have suffered adverse educational outcomes as a result of Defendants’ actions, which include, but are not limited to: poor standardized test scores, high dropout and truancy rates, and victimization from violent crimes at school.

117. The current finance formula fails to make suitable finance provisions for financing the education of public school students, in violation of the Tennessee Constitution, Article XI, Section 12. In practice, the Defendants have underfunded Plaintiff SCBE and have deprived their students of a constitutionally adequate education.

Count Two: Equity of Funding Under the Tennessee Constitution

118. Plaintiff incorporates by reference the allegations contained in paragraphs 1-115 as though fully set out herein.

119. Defendants' failure to adequately fund education has a disproportionate effect on Plaintiff SCBE and the Individual Defendants in violation of the Tennessee Constitution, Article I, Section 8, and Article XI, Section 8's equal protection clauses. The current formula, through its structure and implementation, results in poorer communities, such as those served by SCBE, bearing additional costs locally despite the need to educate more high-cost children. The formula thus impermissibly discriminates based upon district wealth and impermissibly moves the State away from a cost-based funding formula.

120. The inequitable distribution of funds is a critical factor in determining whether a school finance formula can be deemed constitutional. *Small Schools I*, 851 S.W.2d at 154-55. The Defendants cannot shift their constitutional responsibility to local communities such as SCBE without violating the equal protection clauses of the Tennessee Constitution. *Id.*

121. Defendants' actions in underfunding education through failing to modify the BEP based on actual costs and by failing to fully fund the BEP have been disproportionately borne by Plaintiffs as follows:

- a. Shelby County Schools has difficulty providing the incentives necessary to hire, train, and retain strong teachers and administrators. Many of the best teachers, as a result of increased incentives, leave the district for charter schools or more affluent districts elsewhere in the State or in neighboring states.

- b. Other more affluent districts are also able to provide better learning and testing technologies to students and have personnel to train students and teachers on the testing technologies.
- c. Shelby County Schools' achievement scores also suffer disproportionately because of the lack of equitable funding that would take into account the increased needs of the students served by Shelby County Schools.

122. As the results demonstrate, Shelby County Schools' children are not only being deprived of a suitable education by the State, but they are being provided a worse education than their peers in other (often wealthier) districts. Thus, the State's education formula, through its structure and implementation, is not "geared toward achieving equality in educational opportunity for students" as required by the Tennessee Constitution. *Small Schools III*, 91 S.W.3d at 242-43

123. Defendants have therefore failed to "compl[y] with [their] constitutional obligation to maintain and support a system of public schools that affords substantially equal educational opportunities to *all students* in this state." *Id.* at 238.

Count Three: Violation of Tennessee Constitution by Imposition of School Fees

124. Plaintiff incorporates by reference the allegations contained in paragraphs 1-123 above as though fully set out herein.

125. Article XI, Section 12 of the Tennessee Constitution, as interpreted by the Tennessee Supreme Court, compels the Defendants to provide a free public education.

126. The Tennessee legislature, pursuant to TCA 49-2-110 (c), delegated to the Tennessee Board of Education the power to grant school districts the right to charge Tennessee

students fees for “attending the public school” and using school district equipment “while receiving educational training.”

127. The Tennessee State Board of Education has adopted Rule 0520-01-03 (14), entitled “School Fees.” The Rule allows Tennessee students to be charged (1) “fees for activities that occur during regular school hours..., including field trips, any portion of which fall within the school day; or activities outside regular school hours if required for credit or grade;” (2) “fees for activities and supplies required to participate in all courses offered for credit or grade, including interscholastic athletics and marching band if taken for credit in accordance with local board policies...;”

128. As set forth specifically in paragraphs 69 through 72 Defendants, by and through the Tennessee State Board of Education, has adopted a “pay to play” policy wherein students are asked to pay certain fees to participate in, among other things, co-curricular activities, educational labs, educational field trips and career and technology classes. These activities form an integral part of providing students with the opportunity to acquire general knowledge, to develop the powers of reasoning and judgment, and generally to prepare students intellectually for a mature life.

129. The charging of school fees for public education is contrary to and an affront to Article XI, Section 12 of the Tennessee Constitution, in that students and their parents are being asked to pay for an education that is by law free. Student fees are designed as a make-up for Defendants’ failure to adequately fund public education.

130. As further evidence of the compulsory nature of the school fees, Rule 0520-01-03 (14) (d) sets forth a “Fee waiver process” for students “eligible for free and reduced lunch.”

131. It is unconstitutionally vague in that insofar as it avers that both 1) Districts can not charge tuition for resident students; and 2) Districts can, by policy, assess a fee for accessing educational programs but can not require that the student pay the fees. The rule requires the student to affirmatively request a waiver from a school fee that the student is not legally responsible for paying. Further, Rule 0520-01-03 (14) does not encompass a similar waiver process for students who are not eligible for free and reduced lunch, even though those students are also entitled to a free public education.

132. Because Rule 0520-01-03 (14) is in direct conflict with the Tennessee Constitution, the Court should adjudicate the Rule unconstitutional on its face.

133. Because Rule 0520-01-03 (14) has a chilling effect on students accessing a free public education, the Court should adjudicate Rule 0520-01-03 (14) unconstitutional as applied to Shelby County students.

Count Four: Violation of Tennessee Constitution by Imposition of School Fees (Equal Protection)

134. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 133 above as though fully set out herein.

135. Tennessee Constitution, Article I, Section 8, and Article XI, Section 8 provides schools and students in public schools with equal protection under the law.

136. Rule 0520-01-03 (14) is specifically harmful to SCBE students because as a result of their poverty and the historic under education of the urban communities, many students are discouraged from involvement in co-curricular activities and classes that require school fees.

137. Because Defendants expect students to pay school fees to support education programs, Defendants intentionally fail to adequately fund among other things, co-curricular

activities, educational labs, educational field trips and career and technology classes. As such, Rule 0520-01-03 (14) has a chilling effect on students accessing public education.

138. Such harms are particularly detrimental to Plaintiff SCBE and its students because as a result of the Defendants' refusal to adequately fund these important activities, if SCBE does not request and receive funds from students and their parents or guardians, the valuable co-curricular activities, educational labs, educational field trips and career and technology classes will not be available.

139. Such harms are further particularly detrimental to Plaintiffs SCBE and its students because as a result of the Defendants' refusal to adequately fund these important activities and the associated poverty index of Shelby County, SCBE co-curricular activities, educational labs, educational field trips and career and technology classes equal to other Tennessee school districts.

140. While it is expected that students and parents will raise money to supplement their educational experience, SCBE students are often relegated to navigating dangerous streets and intersections in an effort to seek donations for basic equipment, supplies and transportation to co-curricular activities, educational labs, educational field trips and career and technology classes.

141. While it is expected that coaches, faculty sponsors and other educators will voluntarily use their personal resources for small items to enhance the learning experience, SCBE coaches, faculty, sponsors and other educators often expend hundreds of dollars per year providing basic equipment, supplies and transportation to co-curricular activities, educational labs, educational field trips and career and technology classes.

142. In adopting Rule 0520-01-03 (14), Defendants knew that it would have a disparate impact on the quality of public education in minority and poor communities such as Shelby County, and acted with deliberate indifference.

143. Because Rule 0520-01-03 (14) is in direct conflict with the Tennessee Constitution and deprives plaintiffs of equal protection, the court should adjudicate the Rule unconstitutional on its face.

144. Because Rule 0520-01-03 (14) has a chilling effect on poor and minority students accessing a free public education, the court should adjudicate Rule 0520-01-03 (14) unconstitutional on its face.

Count Five: Failure to Comply with Mandates of T.C.A. § 49-1-102(a)

145. Plaintiff incorporates by reference the allegations contained in paragraphs 1-144 above as though fully set out herein.

146. T.C.A. § 49-1-102(a) provides in material part that “the system of public education in the State shall be governed in accordance with laws enacted by the General Assembly and under policies, standards, and guidelines adopted by the State Board of Education that are necessary for the proper operation of public education in Kindergarten through Grade 12 (K-12).”

147. The Defendants, however, have ignored the State’s own laws governing the operation of Tennessee’s public schools. For example, T.C.A. § 49-3-307(a) provides that the State is to include in its BEP appropriations a number of cost components in its funding formula. Additionally, T.C.A. § 49-3-356 requires that the State fund 75% of classroom costs. To date, however, the General Assembly has failed to include a number of these components, including

12 months of insurance, and is funding only 70% of the classroom costs, resulting in a funding shortfall of approximately \$166 million statewide.

148. Furthermore, T.C.A. § 49-3-307(b) provides that the State was to begin phasing in compliance with these components following the adoption of Chapter 369 of the Public Acts of 2007. To date, it has taken no steps to phase in these components, resulting in additional funding shortfalls of approximately \$600 million statewide.

149. The Defendants' failure to follow the State's own laws is irrational and arbitrary, and this failure is an abdication of the Defendants' constitutional duty to provide for a system of free public education as set forth in Counts One and Two. Moreover, this failure perpetuates a system that provides substantially unequal educational opportunities to the students of Tennessee, which disproportionately impacts the District's students. Accordingly, this Court should direct the Defendants to follow the law and provide funding to the District according to the State's own policies and statutes as amended pursuant to this Court's Order with regard to Counts One and Two.

Count Six: Violation of Tennessee Constitution by Imposition of Unfunded Mandates

150. Plaintiff incorporates by reference the allegations contained in paragraphs 1-149 above as though fully set out herein.

151. Article II, Section 24 of the Tennessee Constitution provides in material part that "no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the State share in the cost."

152. Since the amendments to the BEP in 2007, not only has the State failed to implement its own funding statute but also the State has adopted increasingly rigorous academic standards for Tennessee's students and accountability measures for local boards of education.

The State has, nevertheless, failed to provide any funds to offset the costs a local board of education must incur in order to comply with the State's standards.

153. For example, the State has mandated statewide testing that is required to be done on computers, while providing no additional funding for the purchase of sufficient computers to allow students to prepare for and take those examinations, nor for the personnel required to maintain and train teachers and students in the computers' use.

154. Such harms are particularly detrimental to Plaintiffs SCBE and its students because years of insufficient funding have left the District's technological infrastructure depleted and have deprived students of necessary keyboarding classes that would allow them to perform to their true capacities in these examinations.

155. Poor results on these mandated tests can lead to lower funding for these schools, or the forced takeover of a school by the State, thereby further depriving Plaintiff SCBE of the funding necessary to provide an adequate and equitable education to its students.

156. The State's failure to make sufficient provision for the cost of its education reforms is therefore fundamentally unfair to local communities and the students of Tennessee, and this Court should direct the State to shoulder the burden of funding these reforms.

Relief Requested

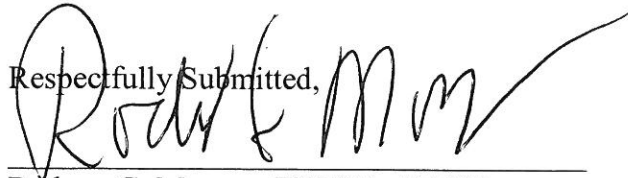
WHEREFORE, Plaintiffs respectfully request the following relief:

- a. A judgment and order affirming the State's and Defendants' affirmative duty to provide an education that provides "at least, the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life" and provides "substantially equal educational opportunities to all students;"

- b. A judgment and order declaring that some of the components of the current funding formula combined with the under-appropriation of money to fund the formula, are in dereliction of this positive duty mandated by the Tennessee Constitution;
- c. A judgment and order declaring that the provision of high-quality preschool education for children in disadvantaged populations is necessary to provide “the opportunity to acquire general knowledge, develop the powers of reasoning and judgment, and generally prepare students intellectually for a mature life” and provide “substantially equal educational opportunities to all students;”
- d. A judgment and order declaring Tennessee State Board of Education Rule 0520-01-03 (14), is in direct violation of the Tennessee Constitution, and adjudicate the Rule unconstitutional on its face and as applied to Plaintiff and Shelby County Schools’ students;
- e. A permanent injunction prohibiting Defendants from administering, enforcing, funding, or otherwise implementing the unconstitutional provisions of the current funding formula;
- f. A permanent injunction requiring the Legislature to appropriate sufficient amounts of money to fund the school funding formula, as amended pursuant to this Court’s order, to the level required by the Tennessee Constitution;
- g. A permanent injunction prohibiting Defendants from administering, enforcing, funding, or otherwise implementing the unconstitutional provisions Tennessee State Board of Education Rule 0520-01-03;
- h. A judgment and order mandating compliance with T.C.A. § 49-1-102(a) as amended pursuant to this Court’s order;

- i. A judgment and order mandating compliance with Article II, Section 24 of the Tennessee Constitution;
- j. The reasonable attorneys' fees incurred in litigating this action;
- k. The costs of this action; and
- l. Such other relief as this Court deems just and equitable.

Dated this 31st day of August, 2015.

Respectfully Submitted,


Rodney G. Moore – TNBPR: #31929
Yasmin Mohammad – TNBPR: #29970
LEWIS BRISBOIS BISGAARD & SMITH LLP
1180 Peachtree Street NE, Suite 2900
Atlanta, Georgia 30309-3521
(404) 991-3788 (Telephone)
(404) 467-8845 (Facsimile)
Rodney.Moore@lewisbrisbois.com
Yasmin.Mohammad@lewisbrisbois.com

Alan L. Rupe (*pro hac vice motion pending*)
Jessica L. Skladzien (*pro hac vice motion pending*)
Mark A. Kanaga (*pro hac vice motion pending*)
LEWIS BRISBOIS BISGAARD & SMITH LLP
1605 North Waterfront Parkway, Suite 150
Wichita, Kansas 67206-6634
(316) 609-7900 (Telephone)
(316) 462-5746 (Facsimile)
Alan.Rupe@lewisbrisbois.com
Jessica.Skladzien@lewisbrisbois.com
Mark.Kanaga@lewisbrisbois.com

John S. Robb (*pro hac vice motion pending*)
SOMERS, ROBB & ROBB
110 E. Broadway
Newton, Kansas 67114
(316) 283-4560 (Telephone)
(316) 283-5049 (Facsimile)
JohnRobb@robblaw.com