

**IN THE CIRCUIT COURT  
FOR BALTIMORE CITY**

KEITH A. BRADFORD, et al.,

Plaintiffs,

v.

MARYLAND STATE BOARD OF EDUCATION,  
et al.,

Defendants.

Case No. 94340058/CE 189672

BOARD OF SCHOOL COMMISSIONERS OF  
BALTIMORE CITY, et al.,

Plaintiffs,

v.

MARYLAND STATE BOARD OF EDUCATION,  
et al.,

Defendants.

Case No. 95258055/CL202151

**AFFIDAVIT OF BEBE VERDERY**

I affirm that the following is true under penalty of perjury:

1. My name is Bebe Verdery, and I served as Director of Education at the American Civil Liberties Union of Maryland from 1998 to 2019. I was hired to track the implementation of the *Bradford* Consent Decree and to work to ensure that the children in Baltimore City Schools were provided with the education guaranteed them by the “thorough and efficient” clause of the Maryland Constitution.

2. I have an extensive background in education, legislative advocacy and community organizing. I worked as a registered lobbyist on education issues for the ACLU of Maryland for

21 years and, earlier, as the Governmental Affairs Director for Planned Parenthood of Maryland, as a Field Director for NARAL, and for civil rights/ community organizations in the South. Prior to my work with the ACLU, I worked with parents advocating for their children with disabilities at what was then known as the Maryland Disability Law Center. I graduated with a B.A. in Psychology from Furman University, magna cum laude, Phi Beta Kappa.

3. Over the course of my 21 years at the ACLU, much of my work has been dedicated to ensuring that the *Bradford* Consent Decree was properly implemented and the *Bradford* court rulings followed. As an employee of the ACLU, I was aware that my work was on behalf of the *Bradford* plaintiffs, a class of students who faced the risk of educational failure who attended the Baltimore City Public School System (BCPSS).

4. I worked to ensure that the “Thornton” Commission, the “Kopp” school facilities Task Force, the Knott Commission, and, finally, the “Kirwan” Commission recognized the needs of students in the BCPSS. For nearly 15 years, since the entry of the last decision in this case, I have consistently and diligently worked with State officials – including legislators and their staff, the Maryland State Department and Board of Education, and the Governor’s office – trying to convince them to direct necessary funding to BCPSS, in the hope that through one of these various commissions, state budgets, or legislative actions, they would eventually do so.

5. After the *Bradford* Consent Decree was signed in 1996 and implementation of its provisions was passed in SB795 in the 1997 legislative session, I began regularly advocating and lobbying state representatives to ensure that the State allocated adequate funding to BCPSS.

6. I regularly met with multiple legislative offices, repeatedly invoking the Consent Decree and the *Bradford* court rulings, in support of required funding and other components of the Decree.

7. Even as early as 1998, terms of the Decree were in danger of being ignored and required ACLU's advocacy to enforce. Paragraph 44 pointed out "if new revenue becomes available to the State during FY 1998 through FY 2002, and if the State dedicates all or part of those new revenues to education generally, then BCPS[S] shall receive its designated share of those revenues without reduction of the additional funds detail in this Decree." A proposal developed by a state task force and the State Superintendent of Education, endorsed by the Governor, would have added \$61.5 million to schools statewide. The proposal, however, specifically gave BCPSS only 50% of its allocated share of the new formula, with the argument that BCPSS had gotten funding the prior year. After an intensive campaign by the ACLU to educate the General Assembly and the public about the agreements in the Consent Decree, BCPSS got its full \$4.4 million per year share for the four years of the program.

8. I and the ACLU knew that the \$50 million per year agreed to in the Consent Decree and allocated by SB795 was set to expire in 2002 and that the decree allowed the New Board of School Commissioners to approach the Governor for additional funds with a plan for their use. We also knew that the Consent Decree required a jointly-appointed consultant to perform both Interim and Final Evaluations of the BCPSS, including the sufficiency of the additional funding provided by the State. I worked with the New Board as they presented Remedy Plans over the next several years, along with giving input to the Interim and Final Evaluations of the "City-State Partnership" established in the Consent Decree.

9. As it became clear to state policymakers that more funding for BCPSS would be necessary to meet constitutionally-defined adequacy, I regularly lobbied the legislature, organized community meetings, and produced educational materials related to the need for increased funding for BCPSS. As a result of my work, and the work of other advocates and

leaders, in 1999, Maryland passed legislation creating the “Thornton” Commission on Education Finance, Equity, and Excellence, which was charged with reforming the state’s education funding formula for every school district in the State.

10. Once the Commission was created, I regularly worked with members of the Commission, attended Commission meetings, and presented evidence to the Commission regarding the need for additional education funding for students in BCPSS. *See Exhibit A, Joetta L. Sack, Md. Schools Get Big Hike in Funding, Education Week, April 17, 2002.* In 2002, the Thornton Commission’s recommendations were written into law in the “Bridge to Excellence Act,” providing increased funding for BCPSS, as well as other districts throughout the State. The final legislation additionally provided that the State would reassess and update its education funding formula in ten years (2012).

11. My work, however, was not limited to advocating for only increased educational funding for operations. I also advocated before the “Kopp” State Task Force to Study School Facilities – the body created to study and address minimum standards and discrepancies in school facilities in Maryland – to highlight the need for increased resources for BCPSS’ deteriorating physical facilities. I and ACLU staff attended the Commission’s meetings and presented evidence to the Commission regarding the need for additional funding for facilities funding in Baltimore.

12. Nor was my work limited to engaging with state officials. An important part of my work was connecting members of the task force and other state officials with members of the community affected by their decisions. Accordingly, we conducted a number of community meetings aimed at increasing community engagement in the task force’s work and soliciting community input from a broad array of affected individuals in Baltimore.

13. As I observed the Kopp Commission's work, I became significantly concerned that the final report would not reflect the actual conditions and needs of BCPSS facilities. Accordingly, the ACLU commissioned expert Professor Glen Earthman to produce a report on what facility components had the greatest impact on student learning to ensure that the state's assessment of school facilities in Maryland was informed by strong research. That report indicated a huge gap between the condition of BCPSS buildings and even minimal standards – an outcome we used to further educate policymakers about facility inadequacy. The Kopp Commission cited Dr. Earthman's work in its Final Report issued in February 2004. In that Final Report, they recommended significant additional capital funding focused on the highest need counties, including BCPSS.

14. At the same time as the Kopp Commission was finishing its report, news reports began to surface of a budget shortfall at BCPSS. While the new Thornton formula in the Bridge to Excellence legislation was intended to address adequacy gaps, it did not give substantial funding to BCPSS until several years into the phase-in, which put additional strain on BCPSS's attempts to meet the needs of the children in the meantime. Lawyers representing the *Bradford* plaintiffs returned to Court arguing that a deficit solution for BCPSS should not impact students' educational opportunities. *See Exhibit B, Liz Bowie, ACLU to file motion on schools deficit, New York Daily News, June 18, 2004.*

15. The new "Thornton" formula was also under attack around that time. The General Assembly had set up the legislation to require an additional vote in order for the funding phase-in to proceed, and there was concern among legislators about tax increases to fund it. To ensure that the new formula moved forward with an affirmative vote, I helped organize a large coalition

resulting in a 10,000-person rally in Annapolis and worked with staff to collect thousands of postcards delivered to the General Assembly and Governor in favor of continued funding.

16. Despite the Kopp Commission's findings, additional capital funding was not directed to the highest need counties, though funds were to increase overall. I continued to advocate for increased facilities funding for Baltimore's children. I attended dozens of community meetings about "right-sizing schools" – the process of closing and consolidating schools due to enrollment loss.

17. Nonetheless, despite all of my and other advocates' work, in 2007, the legislature considered paring back Thornton funding for BCPSS and other counties. The Governor initially proposed a \$200 million cut to funding for schools throughout the State. Again, the ACLU immediately went to work, sending a letter to the Governor reminding him he could not cut funding without changing the Thornton law, meeting with state legislators, educating the public about the impact of cutting the formula, and producing educational materials and letters with community members. Exhibit CC, Letter to Martin O'Malley, Oct. 2, 2007; Exhibit C, *ACLU stands up for education funding*, Baltimore Sun, Oct. 4, 2007. I provided information about *Bradford* court rulings to policymakers to ensure they understood the implications of their decisions. As a result, we were able to save almost \$50 million statewide from being cut, including reducing BCPSS's cut by \$16 million. However, despite our efforts, during the 2007 "special session", the legislature changed the just-passed education formula, significantly altering it so that future funding for BCPSS and other counties would not keep pace with inflation.

18. In 2009, when according to the Thornton formula in the Bridge to Excellence Act, the formula should have been fully phased in, and growing annually so that school funds could

keep pace with inflation, a \$140 million cut was proposed, including \$31 million in cuts for BCPSS. *See* Exhibit E, Gadi Dechter and Sara Neufeld, *Saved by stimulus*, Baltimore Sun, Feb. 21, 2009. Through research and advocacy, the ACLU exposed that the proposed plan would hurt BCPSS more than all but one other district in the State. The ACLU launched a campaign to halt the cuts. *See* Exhibit F, *ACLU Aid to Education- Support*, ACLU, Feb. 25, 2009; Exhibit G, Letter from Baltimore Education Coalition to Governor Martin O'Malley, Jul. 21, 2009. Although a portion of the cuts were ultimately instituted, as a result of the ACLU's work, over \$50 million was saved from cuts, including \$9 million for BCPSS.

19. During this same time period, the ACLU worked with other city education advocates to form the Baltimore Education Coalition (BEC) to address what was becoming a repeated pattern of attacks on education funding to Baltimore. Anticipating the State's reevaluation of the education funding formula in 2012, as required by the 2002 Thornton legislation, BEC worked to advocate for sufficient resources for Baltimore city children. Additionally, the ACLU launched a campaign to ensure that all BCPSS students eligible for Free and Reduced Meals would be counted so that they could get the state aid intended for them under the formula. This resulted in an increase in funding for BCPSS in a year that funds would have otherwise fallen by \$10 million.

20. In 2010, as part of its continuing work to advocate for improved physical facilities, the ACLU released a report entitled "Buildings for Academic Excellence", which highlighted the deficient, unhealthy, and unsafe learning conditions in BCPSS school facilities. Exhibit H, *Buildings for Academic Excellence*, ACLU, June 2010; *see* Exhibit I, Liz Bowie, *ACLU criticizes lack of school construction funding in city*, Baltimore Sun, June 2, 2010. The report also put forward various funding and financing models that the City and State could adopt

to address the problem. The ACLU met with Baltimore's state and city representatives, and educated the BEC and other city advocates regarding avenues for increased education funding for Baltimore.

21. In 2010 and 2011, education cuts were again proposed, including changes to the Thornton funding formula that would affect funding for high-poverty and urban areas. The ACLU and others continued to advocate against those changes, and although they were not successful in entirely stopping them, they helped generate a small increase in funds. *See Exhibit J, Bebe Verdery, Proposed education cuts break a promise to Maryland's children, Baltimore Sun, Feb. 26, 2011; Exhibit K, Erica L. Green, Education coalition mobilizing to fight cuts to city schools, Baltimore Sun, Feb. 7, 2011; Exhibit L, Julie Bykowicz, City Students, Parents, Teachers Protest Proposed Education Cuts, Baltimore Sun, Mar. 2, 2010.*

22. Recognizing that pursuant to the legislation that created the Thornton Commission, the State was required to reassess education funding in 2012, we focused much of our efforts on drawing attention to the continued cuts in Thornton funding, including the lack of inflation-based increases, and their impact on children, as well as the need to restore prior funding levels and update the education funding formula. During my advocacy, I continued to discuss the *Bradford* Consent Decree and the decisions of the Bradford court with legislators, the Governor's staff, and others.

23. However, rather than completing the adequacy study in 2012, the Maryland State Department of Education proposed delaying the completion of the study and any resulting changes until 2016.

24. I and other advocates pushed back, organizing community members and meeting with state legislators regarding the unconstitutionality of inadequate funding for BCPSS, the



*Bradford* court decisions, and the need for the adequacy study to be completed as soon as possible. At least partially as a result of the work of the ACLU, the State called for the study to start in 2014. Although the continuing cuts raised serious concern, we hoped and expected that if we continued to work in good faith with the State that the necessary funding increases would come from the 2014 study.

25. That said, in the interim, the ACLU did not simply wait for the State to act. I, and other advocates, continued to advocate for increased resources and funding for children in BCPSS, including both operational funding that had been affected by changes to the Thornton formula and a heightened focus on a solution for BCPSS's dilapidated buildings. The ACLU's *Buildings* study had generated significant interest in alternative financing options to solve BCPSS's school building crisis when the state had failed to find a solution. In 2011, the ACLU, BEC, and others launched a campaign for a large-scale school construction program for Baltimore. See Exhibit M, Joe Burris, *Baltimore students lead rally for better school facilities*, Baltimore Sun, Nov. 3, 2011. <https://www.dailypress.com/bs-md-ci-ten-year-plan-20121126-story.html>. Modeled after a program in another city, we presented the proposal at city council hearings, and at over fifty Back to School Night parent programs. While a bill was filed during the 2011 legislative session to create a new financing model, it did not pass, and the buildings continued to have an adverse impact on children. We were able, however, to get agreement on forming a state workgroup to study the proposal.

26. During the summer and fall of 2012, I and ACLU staff member Frank Patinella participated in the Interagency Committee on School Construction workgroup to study our proposed financing method to fund a \$1 billion school construction program to upgrade BCPSS's dilapidated school buildings. See Exhibit N, Julie Scharper, *Alonso wants to borrow*

*\$1.2 billion to repair city schools*, Baltimore Sun, Jan. 25, 2012; Exhibit O, Talia Richman, *Leaky roofs, lead in the water, fire risk: Baltimore schools face nearly \$3 billion maintenance backlog*, Baltimore Sun, Sept. 27, 2018; Exhibit P, Bebe Verdery, Testimony in Support of HB 304, Transform Baltimore, Feb. 28, 2012. The resulting Interagency School Construction Report validated the recommendations of the ACLU, finding that the improvements requested were legal, feasible, and would result in meaningful change for BCPSS students. In 2013, we, along with the Baltimore Education Coalition, organized a rally with over 3,000 attendees to show the urgency of the need for the school construction bill's passage. See Exhibit Q, Fern Shen, *Thousands rally for city school repairs, with mayor as headliner*, Baltimore Brew, Feb. 26, 2013. The passage of the bill established a major school construction program for BCPSS, now called the 21<sup>st</sup> Century School Building Program.

27. During the same time period, we repeatedly met with legislators to educate them on the cumulative impact of the State's repeated failure to adjust the Thornton school funding formula for inflation. During those meetings, we generally discussed the *Bradford* decisions and the requirements of Article VIII of the Maryland Constitution. Partial inflation funding was beginning to be included, but it did not make up for the years that children and schools were deprived of needed funding and did not bring current year funding up to the levels it would have been had inflation funding been included as anticipated for all the intervening years.

28. Then, in 2014, the State finally began work on the promised adequacy study required by the 2002 legislation. The results of the State's repeated failure to adjust the education funding formula began to become apparent. That year, it was reported that BCPSS had a \$31 million deficit and made cuts to fill the budget gap. The state capital budget allocation for BCPSS also proposed lower funding, since many thought the passage of the 21<sup>st</sup> Century bill

was sufficient. The ACLU worked to educate the public and legislature that the annual capital budget was needed to support over 100 buildings in poor condition that were not included in the plan. *See* Exhibit BB, Frank Patinella, *Don't reduce city schools' capital funding*, Baltimore Sun, Nov. 28, 2014.

29. As the adequacy study began, the State continued to propose cuts to BCPSS. In 2015, the Governor proposed a \$144 million cut to education statewide with a disproportionate cut to BCPSS of \$35.5 million. *See* Exhibit R, Daniel Marans, *Maryland Governor Withholds Money From Schools to Fund State Pensions*, Huffington Post, Feb. 15, 2015. ACLU produced educational materials for community members and legislators explaining the cut, supported parents of Baltimore students in their advocacy, and helped organize press conferences. *See* Exhibit S, Luke Broadwater and Yvonne Wenger, *After riot, school advocates want more money from Hogan, Rawlings-Blake*, Baltimore Sun, May 11, 2015; Exhibit T, Luke Broadwater and Yvonne Wenger, *School Advocates Urge More Money*, Baltimore Sun, May 12, 2015. Through the efforts of the ACLU and other advocates, the cut was reduced, but still left BCPSS with less funding than the prior year, as costs rose. In 2016, BCPSS was threatened with another \$25 million in cuts, as a result of a decrease in student population. The ACLU and Baltimore leaders were able to convince the State to restore approximately \$12.7 million of the proposed reductions.

30. As the State's consultant worked on the adequacy study, I attended every meeting as a member of the Stakeholder Advisory Group and gave verbal and written feedback on the numerous sub-studies and draft reports, highlighting the need to close the adequacy gap and to address the needs of children living in concentrated poverty, among other issues. *See* Exhibit U, Letter from Bebe Verdery, ACLU of Maryland, to Augenblick, Palaich, and Associates, Oct. 21,

2016; Exhibit V, Letter from Bebe Verdery, ACLU of Maryland, to Augenblick, Palaich, and Associates, June 29, 2016.

31. In June 2016, the “Kirwan” Commission on Innovation and Excellence in Education – the group tasked with studying the adequacy of funding for schools in Maryland, doing work which should have been completed in 2012 – was finally formed. In September 2016, it held its first meeting. It received the consultant’s adequacy study and was briefed on the adequacy funding gap for BCPSS and other school systems. The Commission was initially tasked with completing its work by December 2017.

32. However, in October 2017, the Commission announced that it would not complete its work that year, as expected, and instead would delay its work until after the completion of the 2018 Maryland legislative session. This was extremely disappointing as I and staff had been in regular contact with the Commission, having attended Commission meetings, presented information to the Commission, and distributed information about the Commission’s work to the larger public. See Exhibit W, Memorandum from ACLU of Maryland to Members of the Commission on Innovation and Excellence in Education, Aug. 2, 2018.

33. That same year, as a significant potential deficit for BCPSS was announced, due to decreased student enrollment and the impact of the education formula’s wealth measurement, the ACLU and partners launched the “Fix the Gap” campaign to advocate for increased funding until additional funding expected from a new “Kirwan” formula arrived. See Exhibit X, Joanna McKone, *Leaders call wide city schools budget gap devastating*, WYPR, Feb. 15, 2017; Exhibit Y, Andrea Appleton and Sheilah Kast, *Maryland’s Formula for Funding School Districts*, WYPR, Mar. 10, 2017; Exhibit D, Fern Shen, *School aid plan: \$180 million over three-years*, *Pugh says*, Baltimore Brew, Mar. 10, 2017; Exhibit Z, Katelyn Murphy, *Facing \$130 million*

*shortfall, city teachers worry about staff and program cutbacks*, BaltimoreWatchdog.com, Mar. 10, 2017. We worked with the BEC to bring over 2,000 Baltimore parents, teachers, and students to an Annapolis rally to advocate for a multi-year funding solution to BCPSS's budget crisis. See Exhibit AA, *#FixtheGap Rally Draws Thousands*, ACLU Education Advocate, Feb. 28, 2017. As a result, a stop-gap three-year deal was reached by which the City and the State would each provide additional funding to BCPSS.

34. Similarly, during the 2018 legislative session, we lobbied state officials to pass House Bill 1415 which provided a relatively small increase of \$11.4 million to BCPSS. We also advocated for the passage of the "Knott" Bill, which included a mandate for the State to conduct a statewide study of school facilities, another survey long overdue, and to form a workgroup to recommend how the State should distribute school construction funding. That January, BCPSS had to close about 80 buildings due to lack of operating heating systems.

35. In December 2018, Maryland legislators submitted a letter to the Commission asking it to delay its final recommendations again; this time, until after the completion of the 2019 legislative session. Although we continued to advocate for increased funding for BCPSS through another stopgap measure until the Kirwan Commission finished its work, serious concerns arose that the changes, if any, would not be implemented any time soon. Even if the Commission completed its work in 2019, the legislature would not enact any changes until the 2020 legislative session, and any additional funds would not impact students at the earliest until the 2020-21 academic year – almost a decade after the Commission's work was to have been completed pursuant to the 2002 Thornton legislation.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

August 21, 2019  
Date

Bebe Verdery  
Bebe Verdery