

Keith Bradford, et al.,

Plaintiffs,

v.

Maryland State Board of Education,

Defendant.

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IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY  
Case No.: 24C94340058

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**MEMORANDUM OF GROUNDS, POINTS, AND AUTHORITIES  
IN SUPPORT OF PLAINTIFFS' PETITION FOR FURTHER RELIEF**

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Plaintiffs Keith Bradford, *et al.*, along with additional class representatives Stefanie Croslin and Angela Gant,<sup>1</sup> by their undersigned attorneys, submit this Memorandum of grounds, points, and authorities in support of their Petition for Further Relief.

### **PREFATORY STATEMENT**

This Petition for Further Relief seeks to redress the unconstitutionally inadequate, underfunded, and decrepit, public schools attended by tens of thousands of Baltimore City school children. Through this Petition, Plaintiffs, who are the parents of Baltimore City children at risk of not receiving the education they need to succeed in life, seek to enforce prior rulings by this Court establishing their right to a constitutionally adequate education by contemporary standards. This case is a longstanding action that was brought by Plaintiffs in 1994 to require the State to comply with its constitutional duty to provide an adequate education to Baltimore City school children, including adequate funding for Baltimore City public schools.

Under Article VIII of the Maryland Constitution, the State of Maryland must establish a “thorough and efficient” system of public education throughout the State, and must further provide sufficient funding to maintain that system.<sup>2</sup> Despite this constitutional duty, and notwithstanding prior rulings by this Court in this case that the State was not meeting its obligations under Article VIII, for decades the State has abdicated its responsibilities to provide adequate funding for instructional activities and to address the chronically abysmal physical condition of school

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<sup>1</sup> Along with this motion, Plaintiffs have filed a notice of substitution, as permitted by this Court’s order of December 11, 1995 (Dkt. 41), designating Ms. Croslin and Ms. Gant to replace the prior class representatives. Their particular circumstances are discussed *infra* and in that notice.

<sup>2</sup> Article VIII is implemented by Article III, Section 52, which requires that the State budget include an estimate of appropriations for establishing and maintaining a thorough and efficient system of public schools throughout the State. Thus, both the executive and legislative branches are constitutionally obligated to determine the funding level needed to comply with Article VIII and then budget for that amount. As discussed below, Article III § 52’s constitutionally mandated budget process has broken down and effectively been abandoned for the last decade.

facilities in Baltimore City. According to the Maryland Department of Legislative Services (“DLS”), the level of state underfunding of Baltimore City schools, *i.e.*, the gap between what was constitutionally required and what was actually funded, or the “adequacy gap,” was \$290 million in FY 2015. According to an independent analysis mandated by the General Assembly, the State underfunded Baltimore City public schools by \$358 million that year. Over the decades of underfunding, the generations of children attending the Baltimore City schools have been deprived of over \$2 billion in educational funding to which they were constitutionally entitled. In 2000, this Court adopted the findings of a court-ordered independent study determining that many Baltimore City public school buildings were in poor condition and getting worse, and estimating that it would cost \$600 million to fix. The State ignored those and subsequent findings of decrepit school conditions, which now require \$3 billion to fix and \$5 billion to replace.

These numbers affect tens of thousands of Baltimore City school children, most of whom live in poverty and are children of color, who are denied the adequate education mandated by Article VIII. Among them are Stefanie Croslin’s two sons, ages 11 and 13, who are Baltimore City Public School Systems (“BCPSS”) students. The older of the two, Cohen, loves science, but his school does not have Bunsen burners or an eye wash station, much less the advanced computer technology available for students in comparable grades in neighboring Baltimore County. Teachers collect materials donated by parents to design experiments. Ms. Croslin’s younger son, Cyrus, was devastated when his school had to cancel music class, permanently, due to a lack of funding. It was his favorite subject. Most parents in BCPSS have stories like these. Dashawna Bryant has sickle cell anemia and had to spend a week in the hospital last winter after a day in an unheated classroom. Angela Gant’s daughter Naya, who used to excel in math, recently has begun

to struggle, but her school no longer offers tutoring services that were available when Ms. Gant's older daughter attended Baltimore schools.

On the whole, BCPSS has the lowest teacher to student, teacher and therapist to student, and non-instructional staff to student ratios in the State. The teachers that are employed often have less education and less experience than similarly-sized districts statewide. According to the State's own report card, BCPSS had the lowest number of five-star schools (the highest rating) and the highest number of one-star schools (the lowest rating) in the State. BCPSS students score lower than their counterparts nationally and across the State on almost every assessment and college entrance test. BCPSS's graduation rate is 17 points lower than the state average, and its dropout rate is nearly double the state average. In 2004, this Court pointed to similarly dismal statistics in concluding that the State's underfunding of BCPSS violated the State Constitution.

This Court has entered multiple orders declaring Plaintiffs' constitutional right to sufficient State funding for "adequate" public schools and specifying the then-minimum amounts of funding required, the last of which was entered in 2004. After a decade of working through the General Assembly and otherwise to attempt to convince Defendants (the State officials and agencies responsible for school funding) to honor their continuing promises to provide sufficient education funding, Plaintiffs now return to this Court to compel compliance with the mandate of Article VIII.

Article VIII guarantees:

The General Assembly, at its First Session after the adoption of this Constitution, shall by Law establish throughout the State a thorough and efficient System of Free Public Schools, and shall provide by taxation, or otherwise, for their maintenance.

Md. Const., Art. VIII, § 1. This Article requires that all students in Maryland's public schools be provided with an education that is "adequate when measured by contemporary educational standards." *Montgomery Cty. v. Bradford*, 345 Md. 175, 189 (1997) ("*Bradford I*"); *Hornbeck v.*

*Somerset Cty. Bd. of Educ.*, 295 Md. 597, 615 (1983); Dkt. 1-66 Order (Oct. 18, 1996);<sup>3</sup> Dkt. 10, Mem. Op. 24 (dated June 30, 2000, entered July 6, 2000). Article VIII is implicated when the State “‘fails to make provision for an adequate education,’ or the State’s school financing system ‘[does] not provide all school districts with the means essential to provide the basic education contemplated by § 1 of Article VIII, when measured by contemporary educational standards.’” *Bradford*, 345 Md. at 181 (quoting *Hornbeck*, 295 Md. at 639). Article VIII also requires the State make efforts to address student populations that require additional or different resources or programming, such as high concentrations of students who live in poverty. *See Hornbeck*, 295 Md. at 639 (affirming that Article VIII requires that “efforts are made . . . to minimize the impact of undeniable and inevitable demographic and environmental disadvantages on any given child”).

This Petition presents two closely related sets of violations. *First*, Defendants have failed to provide sufficient funding for constitutionally adequate school operations and instructional functions despite the Court’s numerous prior orders specifying the funding formulas that they must follow to reach minimal compliance. *Second*, Defendants have failed to fix the crumbling school facilities in Baltimore City that leave children cold from broken heat systems in the winter, overheated from schools lacking air conditioning in the summer, and wet from pipe leaks throughout the year. These failures directly limit the ability of students to learn.

To comply with Article VIII, Defendants must address both issues. Two full generations (12 grades per generation) have entered and graduated from Baltimore City Public Schools since this litigation was brought in 1994. Through the events of last winter and summer, the State’s constitutional violations have reached the point of national notoriety. Only action by this Court

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<sup>3</sup> The docket entries in this case are divided due to the conversion to an electronic docket in 2000, after which the numbering returned to start at number 1. For convenience, entries before the conversion are prefaced with “1-”.