



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.

— Article VIII, Maryland State Constitution

## **A Brief History: *Bradford v. Maryland State Board of Education***

*The Bradford lawsuit, based on a claim under Maryland’s constitution, remains under the authority of the state’s Circuit Court. It was filed in 1994 by the ACLU against the state of Maryland on behalf of at-risk schoolchildren in Baltimore City. Baltimore City schools have received over \$2 billion in increased state funding from the Bradford consent decree and subsequent “Thornton” education funding formula.*

### *Background*

1983: *Hornbeck v. Somerset Co. et al.* - In a suit brought by Maryland’s poorest school systems (including Baltimore), the Maryland Court of Appeals ruled that the state constitution does not guarantee equal funding for each school district; it left open the question whether the constitution requires that children receive an “adequate” education.

### *A Brief History*

**Suit filed on behalf of children.** The ACLU believes that the Maryland constitution’s “thorough and efficient” education clause means that students should be entitled to “an education that allows them to meet contemporary educational standards” (*Hornbeck v. Somerset Co. et al.*). The ACLU of Maryland used this legal argument for an “adequate” education in the state Circuit Court in December 1994, with a lawsuit on behalf of Baltimore City schoolchildren and parents, citing lowest test scores from elementary to high school levels, lowest graduation rates, and highest number of at-risk students in the state. The suit was named for city school parents, Keith and Stephanie Bradford, lead plaintiffs in the case.

The City of Baltimore filed its own education funding suit nine months later, and the two cases were consolidated. The State counter-argued that funding was sufficient and that problems laid in the school system’s management (the school system functioned as a department of City government). The City school system was already under a long-standing federal consent decree, Vaughn G., for failure to deliver appropriate services to students with disabilities.

**Court rules on constitution.** In 1996, Baltimore City Circuit Court Judge Joseph H. H. Kaplan agreed with the ACLU's argument, ruling that the Maryland constitution does guarantee children an adequate education (as measured by contemporary educational standards). Furthermore, Judge Kaplan found that Baltimore City public schoolchildren were not receiving an education that is constitutionally adequate.

**Consent Decree.** On the eve of the trial, Baltimore City, the State of Maryland and the ACLU on behalf of the Bradford plaintiffs, entered into a "City-State Partnership Agreement" (legal consent decree) under which:

- City schools were established as an independent entity governed by a new school board (selected by the Mayor and Governor) and a CEO (other systems in Maryland also have independent boards).
- A Master Plan was required for management reform and student achievement, to be approved by the Maryland State Department of Education (MSDE).
- There was a five-year agreement for increased funding for Baltimore City schools, beginning with \$30 million the first year and continuing with \$50 million per year for the following four years, and the option to return to court for more funds.

This consent decree was enshrined into law in SB795, after much debate, in the 1997 legislative session.

**Court rules on additional funding.** An independent evaluation in 2000 indicated that while progress was being made, and an additional \$2700 in funding per child was needed. The new Baltimore City Board of School Commissioners and the ACLU asked for additional school funding from the state. With little funding forthcoming, the BCPSS and ACLU asked Judge Kaplan to rule that the state of Maryland was required to provide substantial additional funding to reach adequacy.

Anticipating a re-examination of Baltimore City school funding at the end of the five-year Partnership Agreement, state leaders established the "Thornton" Commission on Education Finance, Equity, and Excellence to address statewide adequacy issues in funding.

In June 2000, Judge Kaplan ruled that the education being provided to Baltimore City school students was still constitutionally inadequate and that it would take an additional \$2,000 to \$2,600 per child per year (\$200-260 million) from the state to meet its constitutional obligation.

In 2000-2001, the State of Maryland appealed the Circuit Court ruling, then withdrew its appeal, leaving the ruling as a final, binding order in the case; it was then up to the state to comply with the ruling.

**Maryland acts.** In 2002, the Maryland General Assembly passed the Bridge to Excellence in Public Schools act, which included a \$1.3 billion increase in statewide education funding. The projected \$258 million for Baltimore City schools was in addition to the prior \$70 million per year increase under the consent decree, and was consistent with the amount of funding that the *Bradford* rulings had indicated was necessary. Funding was to be phased in over six years.

**Extension of judicial oversight.** As the five-year *Bradford* consent decree was set to expire in 2002, the ACLU and the Board of School Commissioners returned to court, asking for continued judicial oversight of the *Bradford* case, beyond the original five-year consent decree. MSDE objected, but the Court agreed. Judge Kaplan noted that his June 2000 order for increased funding to BCPSS had not yet been met.

**Deficit and Court of Appeals.** In 2004, poor fiscal oversight led to an accumulated BCPSS budget deficit of \$58 million. BCPSS cut its budget drastically, and planned a two-year paydown of the deficit; a new state law then required it. The ACLU returned to court in *Bradford*, trying to restore funding to BCPSS and stop cuts to academic programs impacting students.

The Circuit Court ruled that BCPSS budget cuts had resulted in reduced educational opportunity to students and that \$30 million to \$45 million in funds should be restored, preferably with additional revenue from the city and state. The State appealed, arguing that education funding levels are outside court jurisdiction.

In 2005, Maryland's highest court ruled against the State's attempt to strike the lower court order, but did not overturn the state law for the deficit paydown. "Thornton" funding would proceed, but no additional funds were ordered.

**Corrective Action costs.** In 2006, the Maryland State Board of Education, under "No Child Left Behind" (NCLB), issued Corrective Actions for BCPSS, including a proposed state takeover of 11 schools. The ACLU returned to Circuit Court under *Bradford*, asking that the state detail the costs of the Corrective Actions to BCPSS. Reports were ordered and the state complied.

**Funding and Court status.** The Bridge to Excellence ("Thornton") education formula funding completed its phase-in in FY2008, with an increase of \$279 million per year over FY2002 funding levels for Baltimore schools (over the same period, education aid increased statewide by \$2 billion). Changes made to the "Thornton" formula by the General Assembly in 2007 have led to flat per pupil funding from FY2008 to FY2012.

The *Bradford* case remains under the authority of the state Circuit Court for Baltimore City.