

KEITH BRADFORD, et al.	*	IN THE
Plaintiffs	*	CIRCUIT COURT
v.	*	FOR
MARYLAND STATE BOARD OF EDUCATION, et al.,	*	BALTIMORE CITY
Defendants.	*	CASE NO.: 94340058 / CE189672

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BOARD OF SCHOOL COMMISSIONERS OF BALTIMORE CITY, et al.,	*	
Plaintiffs	*	
v.	*	
MARYLAND STATE BOARD OF EDUCATION, et al.,	*	CASE NO.: 95258055 / CL20251
Defendants.	*	

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ORDER

The Court having considered the arguments of counsel, and the record:

Pursuant to the Memorandum Opinion of even date herewith, it is hereby this 20th day of August, 2004, by the Circuit Court for Baltimore City, ordered, adjudged and declared that:

1. The constitutional violation that this Court found in October 1996 and June 2000 is continuing. The students in Baltimore City, as of August 2004, still are not receiving an education that is adequate when measured by contemporary educational

standards. They are still being denied their right to a “thorough and efficient” education under Article VIII of the Maryland Constitution.

2. Full compliance with the Court’s June 2000 declaration will not occur until the BCPSS receives at least \$225 million in additional State funding under the Thornton Act by, at the latest, FY 2008.

3. Funding sufficient for the BCPSS to achieve constitutional adequacy will not occur until the BCPSS receives at least \$225 million in additional State funding by, at the latest, FY 2008.

4. The children of Baltimore City should not have to wait another three years for adequate funding, given the continued constitutional inadequacy they face. The State has unlawfully underfunded the Baltimore City school system by \$439.35 million to \$834.68 million representing amounts owed under this Court’s final 2000 order for fiscal years 2001, 2002, 2003 and 2004. Given the substantial underfunding of the BCPSS, the Court declares that it would be appropriate for the State to accelerate increases in full Thornton funding to the BCPSS. The Court will not, in any event, tolerate any delays in full Thornton funding for the BCPSS beyond FY 2008.

5. Had the State of Maryland honored its commitment under this Court’s 2000 order by front-loading Thornton funding for the at-risk student population of the BCPSS, the Court would not have been compelled to extend the period for deficit reduction established by S.B. 894 and the Memorandum of Understanding.

6. The Court will continue to retain jurisdiction to ensure compliance with its orders and constitutional mandates, and to continue monitoring funding and management issues. When the full funding outlined herein is received, the Court will revisit the issue of its continuing jurisdiction, and determine whether the Consent Decree should then be additionally extended for good cause.

7. A number of the steps taken to address the fiscal crisis did reduce educational opportunities and impermissibly interfered with progress towards providing a constitutionally adequate education for Baltimore schoolchildren. Specifically, elimination of a systemic summer school program, increases in class size by up to four children, reduction of experienced teachers and elimination or reduction of mentors and academic coaches, elimination of guidance counselors in elementary school, among other things, reduced educational opportunities and impermissibly interfered with progress towards providing a constitutionally adequate education for Baltimore schoolchildren.

8. Accordingly, the Court declares that, in order to ensure continued progress towards constitutional adequacy, the parties should ensure that educational opportunities for the school children are not reduced, by making available to the children of Baltimore City at least the amount of funding representing the savings achieved from those reduced educational opportunities described above, to be spent solely on programs and services that benefit at-risk children. The Court further declares that that amount constitutes at least an additional \$30-45 million in operational funding this fiscal year.

9. The Court believes that the best way to accomplish this goal would be for the parties with revenue raising capacity (the State or City) to increase the funding available to the BCPSS for the upcoming year.

10. To ensure that the necessary operational funding is available for BCPSS to provide the basic educational programs that have been reduced, the Court declares that S.B. 894's provision that the BCPSS' deficit must be eliminated by the end of fiscal year 2006 is unconstitutional as applied to the BCPSS.

11. To ensure that the necessary operational funding is available for BCPSS to provide the basic educational programs that have been reduced, the Court declares that the MOU's provision that the BCPSS' deficit must be eliminated by the end of fiscal year 2006 is null and void as against public policy.

12. Notwithstanding this Court's abrogation of the MOU's provision that the BCPSS' deficit must be eliminated by the end of fiscal year 2006, the City shall be repaid the remaining \$8 million of its \$42 million loan as scheduled.

13. Absent additional funding from the State of Maryland, BCPSS shall not retire the deficit before fiscal year 2008 and BCPSS shall not dedicate more than \$5 million per year toward the creation of a \$20 million cash reserve.

14. The City of Baltimore shall continue to monitor BCPSS' finances and accounting through the mechanisms established under the MOU, shall ensure that expenditures do not exceed revenues and may make recommendations concerning BCPSS' continued solvency. They shall not, however, through the MOU, impose budget cuts or restrict program funding. Such decisions must be made independently by the Board of School Commissioners under the direction of the Maryland State Board of Education.

15. The parties shall report to the Court in four weeks on the status of the additional funding and plans for its use. The report shall specifically list educational initiatives to be provided with the additional funding and describe how those initiatives will ensure continued progress towards constitutional adequacy. The report shall also update the Court and parties about the BCPSS' budget and fiscal situation.

16. Having issued this declaration, the Court trusts that the parties shall act in good faith and with all deliberate speed to ensure compliance without the necessity of further action by plaintiffs.

Date: August 20, 2004

Judge Joseph H.H. Kaplan

Judge's signature appears on original.

(Chief Judge)
Circuit Court for Baltimore City