

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY

S.S.
[Address Omitted]

NALDA ROZON

[REDACTED]

S.M.
[Address Omitted]

LAURIE TUCKER

[REDACTED]

D.G.
[Address Omitted]

JOSETTE GORDON

[REDACTED]

K.G.
[Address Omitted]

AUDREY BELTON

[REDACTED]

D.S.
[Address Omitted]

ZUYQUESTIA IRVING

[REDACTED]

L.C.
[Address Omitted]

LUIS CRUZ

[REDACTED]



Case No. CA219-19310

COMPLAINT

PR GEO CO MD #31

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Clerk of the
Circuit Court

K.M.)
[Address Omitted])
)
WANDA FORD)
)
)
A.H.)
[Address Omitted])
)
SHIRLEY HILL)
)
)
Plaintiffs,)
)
v.)
)
PRINCE GEORGE'S COUNTY BOARD OF)
EDUCATION)
Sasscer Administration Building)
14201 School Lane)
Upper Marlboro, MD 20772)
)
DR. MONICA GOLDSON)
Sasscer Administration Building)
14201 School Lane)
Upper Marlboro, MD 20772)
)
Defendants.)

INTRODUCTION

1. This is a case about the right of every child, regardless of income, to receive the education that they deserve and the Maryland Constitution requires that they receive.

2. Last month, the United States celebrated the 65th anniversary of the United States Supreme Court's decision in *Brown v. Board of Education*. As the Court

stated, “education is perhaps the most important function of state and local governments.”¹ “It is required in the performance of our most basic public responsibilities”² Education is the very foundation of good citizenship and is the principal instrument in awakening the child to cultural values, in preparing them for later professional training, and in helping them to adjust normally to their environment. The Supreme Court explained that “[s]uch an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.”³ The sad reality is that students in Prince George’s County, Maryland, continue to be denied the full promise of these words.

3. Prince George’s County has a long and unfortunate history of denial of educational opportunity, particularly to students who are poor or African American. This history has unfolded against the backdrop of Article VIII of the Maryland Constitution, which requires that all students be provided a thorough, free, and efficient education.

4. Despite this unequivocal mandate, Prince George’s County continues to charge even its poorest students, those eligible for free and reduced meals (“FARMs”), \$125 for a single credit of summer school. In doing so, the County has violated the explicit terms of the Maryland Constitution by denying indigent students the opportunity to attend summer school classes if they cannot afford them.

5. Plaintiffs are students in Prince George’s County Public Schools (“PGCPS”) who were unable to successfully complete their coursework during the 2018-2019 school

¹ *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954).

² *Id.*

³ *Id.*

year. Because many of them cannot afford to pay the per credit fee PGCPs imposes, they will be forced to repeat the entire grade in which they are enrolled. In the case of at least two students, this will prevent them from graduating. Meanwhile, other similarly situated students, who can afford the fee, will be able to enroll, avoid having to repeat the entire grade, and graduate.

6. The denial of the opportunity to enroll in such courses unless they pay, constitutes an unequivocal violation of Article VIII's requirement that education in Maryland be "[f]ree."⁴

PARTIES

7. **Plaintiff S.S.** attends Duval High School and is in the 10th grade.⁵ He is one of four children in his family.⁶ S.S. participates in the free and reduced meals program.⁷

8. S.S. will likely need to attend summer school since he started school very late this year.⁸ S.S.'s mother, **Plaintiff Nalda Rozon**, would not be able to pay the \$100 fee if charged.⁹

9. Ms. Rozon is currently working a temporary job and earning \$11.50/hour.¹⁰ She supports all of her children, including the oldest ones who still live with her.¹¹ She is the only one with a job and must pay for everyone's food, clothing,

⁴ Md. Const. art. VIII, § 1.

⁵ Ex. 1, Rozon Aff. ¶ 4.

⁶ *Id.* ¶ 3.

⁷ *Id.*

⁸ *Id.* ¶ 4

⁹ *Id.* ¶¶ 4, 6-7.

¹⁰ *Id.* ¶ 5.

¹¹ *Id.*

and other basic expenses.¹² This is in addition to her own expenses, such as rent and other bills.¹³

10. Given rent, as well as the numerous other costs related to four children, Ms. Rozon does not have spare income.¹⁴ The \$100 fee would impose a significant impediment on S.S. and his family.¹⁵

11. **Plaintiff S.M.** is an 18-year old that is in 12th grade at Tall Oaks High School, a Prince George's County High School.¹⁶ When S.M. was in the 4th grade, he began to struggle in school.¹⁷ Later that year, he was evaluated by a psychologist, who diagnosed him with attention deficit hyperactivity disorder (ADHD).¹⁸ Although S.M. has an individual education program (IEP), his mother, **Plaintiff Laurie Tucker**, has always questioned whether the services were meeting his needs.¹⁹ He has had a difficult time adjusting to the large class sizes at Largo High and struggled in the 11th grade.²⁰ Despite struggling in school and failing many of his classes, the school failed to increase any of his services or address his lack of progress.²¹

12. In May of 2019, S.M.'s school counselor notified Ms. Tucker that S.M. would not be able to graduate at the end of the school year.²² She was told he needs to

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* ¶ 7.

¹⁵ *Id.* ¶¶ 4, 6-7.

¹⁶ Ex. 2, Tucker Aff. ¶¶ 3-4.

¹⁷ *Id.* ¶ 5.

¹⁸ *Id.*

¹⁹ *Id.* ¶ 6.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* ¶ 7.

earn a credit in Career Research Development II over the summer and complete a work component in order to graduate at the end of August.²³

13. Ms. Tucker is currently not working outside of the home.²⁴ Much of her time at home is spent caring for her four-year old daughter who has been diagnosed with autism spectrum disorder.²⁵

14. Given her rent payments, as well as the numerous other costs related to raising three children, she does not have spare income.²⁶ She has numerous other costs including health insurance for her children, groceries, heat, electricity, and a car payment.²⁷ The \$125 fee for summer school would impose a significant impediment on Ms. Tucker, S.M., and her other children.²⁸

15. **Plaintiff D.G.** is in the 8th grade and attends Hyattsville Middle School.²⁹ He is the youngest of four children who live together in his mother's apartment.³⁰

16. D.G. started the 8th grade at Washington Metropolitan Academy in the District of Columbia.³¹ He was continually bullied at school and the school made no attempt to remedy the situation.³² The instances of bullying escalated.³³ D.G. feared for

²³ *Id.*

²⁴ *Id.* ¶ 9.

²⁵ *Id.*

²⁶ *Id.* ¶ 10.

²⁷ *Id.*

²⁸ *Id.* ¶¶ 8, 10.

²⁹ Ex. 3, Gordon Aff. ¶ 5.

³⁰ *Id.* ¶¶ 2-3.

³¹ *Id.* ¶ 6.

³² *Id.*

³³ *Id.*

his safety and refused to go to school.³⁴ D.G.'s mother, **Plaintiff Josette Gordon**, moved to Prince George's County to place D.G. in a safer school environment.³⁵ Unfortunately, when he enrolled in Hyattsville Middle School, he was already failing his classes due to excessive absences.³⁶

17. The school notified Ms. Gordon that D.G. needs to participate in summer school in order to advance to the 9th grade.³⁷ The summer school brochure states that the cost for FARM students is \$100 and there is a \$25 registration fee.³⁸

18. It would be a severe financial hardship for Ms. Gordon to pay the \$100 for the summer course in order for D.G. to advance to the 9th grade.³⁹

19. Ms. Gordon works full-time at a children's day care, where she is paid an hourly rate of \$11 per hour.⁴⁰

20. Given Ms. Gordon's \$1,395 rent payment, as well as the numerous other costs related to raising a teenage son, she does not have spare income.⁴¹ D.G.'s father is deceased, and she is the sole caregiver.⁴² Her salary must support health insurance, groceries, heat, and electricity.⁴³ The \$125 fee would impose a significant impediment on D.G. and his family.⁴⁴

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.* ¶ 7.

³⁸ *Id.*

³⁹ *Id.* ¶¶ 8, 10.

⁴⁰ *Id.* ¶ 9

⁴¹ *Id.* ¶ 10

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

21. **Plaintiff K.G.** is in 10th grade at Suitland High School.⁴⁵ He lives with his grandmother, **Plaintiff Audrey Belton**, who has been his legal guardian since he was four years old.⁴⁶ K.G. participates in the free and reduced meals program (FARM).⁴⁷

22. K.G. has been suspended from school on multiple occasions, causing him to fail the 10th grade this year.⁴⁸ He has been suspended for being in the hallways and for being late to class.⁴⁹

23. K.G. was notified that he needs to take English 10 this summer in order to advance to the 11th grade.⁵⁰ K.G. was told that the cost for the summer school class is \$200 and that FARM students receive a 50 percent reduction in this fee.⁵¹

24. Last year, K.G.'s school recommended him for summer school, but he did not have the funds to pay the tuition.⁵² He was denied a tuition waiver and K.G. was not able to attend summer school last year.⁵³

25. It would be a severe financial hardship for Ms. Belton to pay the \$100 for the summer course in order for K.G. to advance to the 11th grade.⁵⁴

26. Ms. Belton is retired from the District of Columbia school system and a cancer survivor.⁵⁵ K.G.'s family lives on a fixed income.⁵⁶ Ms. Belton's net monthly income is \$800.⁵⁷

⁴⁵ Ex. 4, Belton Aff. ¶ 4.

⁴⁶ *Id.* ¶ 3.

⁴⁷ *Id.*

⁴⁸ *Id.* ¶ 5.

⁴⁹ *Id.*

⁵⁰ *Id.* ¶ 6.

⁵¹ *Id.*

⁵² *Id.* ¶ 7.

⁵³ *Id.*

⁵⁴ *Id.* ¶¶ 8, 10.

27. Given her \$1,400 rent payment, as well as the numerous other costs related to raising a teenage grandson, Ms. Belton does not have spare income.⁵⁸ She has to rely on family support to make ends meet every month.⁵⁹

28. **Plaintiff D.S.** is 15-years old.⁶⁰ He is in the 9th grade and attends Dr. Henry A. Wise Jr. High School.⁶¹

29. D.S. struggled in his math and science class this year.⁶² He has told his mother, **Plaintiff Zuyquetia Irving**, that his teachers are not helpful to him and that he struggles to understand the coursework.⁶³

30. Ms. Irving received a letter from his school recommending that she enroll D.S. in two summer school courses for him to advance to the 10th grade in the fall.⁶⁴ The letter states the total cost for the two courses is \$225; \$100 for each course and a \$25 registration fee.⁶⁵

31. It would be a severe financial hardship for Ms. Irving to pay the \$225 fee for two summer school courses for D.S. to advance to the 10th grade.⁶⁶ Ms. Irving is currently unemployed.⁶⁷ She recently lost her janitorial position at Ronald Reagan

⁵⁵ *Id.* ¶ 9.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* ¶ 10.

⁵⁹ *Id.*

⁶⁰ Ex. 5, Irving Aff. ¶ 3.

⁶¹ *Id.* ¶ 4.

⁶² *Id.* ¶ 5.

⁶³ *Id.*

⁶⁴ *Id.* ¶ 6.

⁶⁵ *Id.*

⁶⁶ *Id.* ¶ 7.

⁶⁷ *Id.* ¶ 8.

Washington National Airport.⁶⁸ She is the sole provider for her children and barely has the funds to cover basic expenses.⁶⁹

32. Given Ms. Irving's \$900 rent, as well as the numerous other costs related to raising seven children, she does not have spare income.⁷⁰ She must, above other things, procure health insurance for her children, and pay for clothing, groceries, heat, and electricity.⁷¹

33. **Plaintiff L.C.** attends Annapolis Road Academy in Prince George's County and is between the 9th and 10th grades.⁷² He participates in the free and reduced meals programs.⁷³

34. L.C. was told that he needs to repeat multiple 9th grade courses in order to move on to the 10th grade.⁷⁴ His father, **Plaintiff Luis Cruz**, would not be able to pay the \$100 fee required for each required course.⁷⁵

35. Mr. Cruz currently works in construction and earns \$25/hour.⁷⁶ He supports his wife and three children, including L.C.⁷⁷ He is the only person in the household with employment and, thus, must pay for everyone's food, clothing, and other

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* ¶ 9.

⁷¹ *Id.*

⁷² Ex. 6, Cruz Aff. ¶ 3.

⁷³ *Id.*

⁷⁴ *Id.* ¶ 4.

⁷⁵ *Id.*

⁷⁶ *Id.* ¶¶ 4, 7.

⁷⁷ *Id.* ¶¶ 5, 6.

basic expenses.⁷⁸ This is in addition to his own expenses, such as rent and other bills.⁷⁹

His wife does not work because she has a disability that impairs her vision.⁸⁰

36. Mr. Cruz is also paying for the expenses that come with a newborn child, such as diapers, baby food, formula, childcare equipment and medical expenses.⁸¹ Given his rent, as well as the numerous other costs related to his wife and three children, he does not have spare income.⁸²

37. Accordingly, it would be a severe financial hardship for Mr. Cruz and his family to pay the fee or L.C. to enroll in summer school.⁸³

38. **Plaintiff K.M.** is 17-years old and, along with his three younger siblings, participates in the free and reduced meals program.⁸⁴ K.M.'s mother died in March of 2019 and, since then, K.M.'s grandmother, **Plaintiff Wanda Ford**, has had custody of K.M. and his three siblings.⁸⁵

39. K.M. struggled in school for years and the death of his mother caused his grades to drop further.⁸⁶ His counselor informed his grandmother that K.M. should enroll in English 10 over the summer in order to advance to 10th grade.⁸⁷ His grandmother cannot afford to pay the \$125 fee charged to students eligible for FARM.⁸⁸

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.* ¶ 7.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Ex. 7, Ford Aff. ¶ 3.

⁸⁵ *Id.*

⁸⁶ *Id.* ¶ 5.

⁸⁷ *Id.* ¶ 6.

⁸⁸ *Id.* ¶ 7.

40. As a full-time cook, Ms. Ford earns \$15.65 per hour.⁸⁹ Given her \$761.60 rent payment and the extensive costs associated with raising four children, it would be a severe financial hardship to pay the summer school fee.⁹⁰

41. **Plaintiff A.H.**, a participant in the FARM program, is 18-years old and in the 12th grade in Prince George's County.⁹¹ He attends school full time and works five evenings a week at a trash company to help support his two-year old son.⁹² This year he struggled to balance his school work, employment, and parenting responsibilities.⁹³ In May 2019, A.H. was informed by his school counselor that he would not graduate this year because he had failed biology.⁹⁴ In order to graduate at the end of the summer, A.H. was told that he would need to attend summer school and pass the biology course.⁹⁵

42. A.H. resides with his mother, **Plaintiff Shirley Hill**.⁹⁶ Also living with Ms. Hill are her two other adult children and her grandson, A.H.'s two-year old son.⁹⁷ Ms. Hill works as a senior caretaker, earning \$20 per hour.⁹⁸ She is the sole provider for A.H. and also helps to support her grandson and other adult children.⁹⁹ Given rent, health insurance, diapers, groceries, utilities, and other expenses, it would be a severe financial

⁸⁹ *Id.* ¶ 8.

⁹⁰ *Id.* ¶ 9.

⁹¹ Ex. 8, Hill Aff. ¶¶ 1, 3, 4.

⁹² *Id.* ¶ 6.

⁹³ *Id.*

⁹⁴ *Id.* ¶ 5.

⁹⁵ *Id.*

⁹⁶ *Id.* ¶¶ 1, 3.

⁹⁷ *Id.*

⁹⁸ *Id.* ¶ 9.

⁹⁹ *Id.*

hardship for Mrs. Hill to pay the \$100 fee to allow A.H. to attend summer school and graduate from high school.¹⁰⁰

43. **Defendant Prince George's County Board of Education** is an agency of the State of Maryland. It is responsible for providing all students residing in Prince George's County a free, thorough, and efficient education, as the Maryland Constitution requires. Among other things, it administers the County's summer school program, including setting the fees that students seeking to enroll in the program are required to pay.

44. **Defendant Dr. Monica Goldson** is the interim Chief Executive Officer of Prince George's County Schools and is sued in her official capacity.

JURISDICTION AND VENUE

45. This Court has jurisdiction over this matter under § 501 of Title 1 of the Maryland Courts and Judicial Proceedings Code.

46. Venue is proper in this Court under §§ 6-202 and 6-203 of Title 6 of the Maryland Courts and Judicial Proceedings Code because the claim arose in Prince George's County, the parties reside in Prince George's County, and a substantial part of the events giving rise to this action occurred in Prince George's County.

¹⁰⁰ *Id.* ¶¶ 9-10.

FACTUAL ALLEGATIONS

A. Prince George's County Has a Long and Unfortunate History of Denial of Educational Opportunity.

47. Prince George's County School Board's policy of charging students for summer school continues a long history of policies that have harmed students seeking equal access to education in the County.

48. Prince George's County has an unfortunate history of racial discrimination dating back to its overwhelming rejection of Maryland's Third Constitution in 1864.¹⁰¹ The constitution notably called for the abolishment of slavery.¹⁰² Despite the County's opposition, the State ultimately approved the Constitution.¹⁰³

49. From 1872 until the Supreme Court's 1954 decision in *Brown v. Board of Education*, Maryland law kept schools, including those in Prince George's County, segregated.¹⁰⁴ The State mandated that schools, buses, and teachers be segregated by race.¹⁰⁵

50. Even after the U.S. Supreme Court decided *Brown*, PGCPs made little effort to change. The County Superintendent stated that he expected to operate the "school system during the 1954-55 term on the same basis that the schools have been operated during the 1953-54 term."¹⁰⁶ The only progress Prince George's County made

¹⁰¹ U.S. Commission on Civil Rights, *A Long Day's Journey into Light: School Desegregation in Prince George's County* at 42 (1976), <https://babel.hathitrust.org/cgi/pt?id=uc1.31210023598079&view=1up&seq=1>.

¹⁰² *Id.*

¹⁰³ *Id.* at 43.

¹⁰⁴ *Id.* at 72.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 73-74.

was to form a racially disproportional fact-finding committee.¹⁰⁷ However, the Committee did not come up with a desegregation plan.¹⁰⁸ The “successful” portions of the Committee Report consisted of exploring the possible results of integration, ensuring teachers their jobs would be safe, and recommending students attend schools closest to their homes.¹⁰⁹ The report stated that a “nominally nondiscriminatory” desegregation plan could integrate half the county’s schools in one year, but this portion was not released to the media or the public.¹¹⁰

51. Because of defiance from states like Maryland, the Supreme Court decided *Brown II* in 1955, requiring school integration “with all deliberate speed”¹¹¹ In 1955, Prince George’s County responded by implementing a “freedom of choice” plan.¹¹² This system did not change the County’s student assignment plan, but placed a burden on African American parents to request their children be transferred to another school.¹¹³ Although this system was in place from 1955 to 1965, it was minimally successful because the method for requesting a transfer was not publicized, and the Board denied most requests.¹¹⁴

¹⁰⁷ *Id.* at 86-87.

¹⁰⁸ *Id.* at 90-91.

¹⁰⁹ *Id.* at 87.

¹¹⁰ *Id.*

¹¹¹ *Brown v. Bd. of Educ.*, 349 U.S. 294, 301, (1955).

¹¹² Lisa Cozzens, *Early Steps Towards Desegregation*, AFRICAN AMERICAN HISTORY (May 25, 1998), <http://fledge.watson.org/~lisa/blackhistory/school-integration/pgcounty/hew.html>.

¹¹³ *Id.*; U.S. Commission on Civil Rights, *supra* note 101, at 14.

¹¹⁴ *Id.*

52. The system was criticized by, among others, the Maryland State Board of Education, the Prince George's Citizens Education Committee, and the NAACP.¹¹⁵ In 1961, 500 parents signed a letter complaining that African American parents had to request that their children be transferred to white schools closer to their home, while white students did not have to request that their children attend the school closest to their home.¹¹⁶ The Supreme Court later denounced "freedom of choice" plans, because they were rooted in segregation.¹¹⁷ The Supreme Court explained that so-called "freedom of choice" plans were a state-run "dual system, part 'white' and part [black]."¹¹⁸

53. In 1964, Congress passed the Civil Rights Act, which gave the U.S. Department of Health, Education, and Welfare (HEW) the power to limit segregated school districts' funding.¹¹⁹ After the Act's passage, HEW pressured Prince George's County to "implement attendance zones that were 'unitary' in nature"¹²⁰ The County managed to comply, but defiantly. The County revised its plan to state that "1. School attendance areas shall be established for every school without regard to race, color, religion, or national origin[; and] 2. In establishing attendance areas, there will be no gerrymandering or establishing of other unnatural boundaries."¹²¹ However, white

¹¹⁵ Lisa Cozzens, *HEW Steps In*, AFRICAN AMERICAN HISTORY (May 25, 1998), <http://fledge.watson.org/~lisa/blackhistory/school-integration/pgcounty/hew.html>.

¹¹⁶ *Id.*

¹¹⁷ *Green v. Cty. Sch. Bd.*, 391 U.S. 430, 435 (1968).

¹¹⁸ *Id.*

¹¹⁹ Cozzens, *HEW Steps In*, *supra* note 115; U.S. Commission on Civil Rights, *supra* note 101, at 165.

¹²⁰ *Id.*

¹²¹ *Id.*

students still attended predominantly white schools, with less than 6 percent of the schools' population being black students.¹²²

54. In 1966, the United States Court of Appeals for the Fifth Circuit rendered a key decision that changed the outlook of segregated school districts. In *United States v. Jefferson County Board of Education*, the Fifth Circuit reviewed and reexamined desegregation plans using the standards set forth in the Civil Rights Act of 1964 and HEW guidelines.¹²³ The court ordered the Jefferson County School Board to “take affirmative action to disestablish all school segregation and to eliminate the effects of past racial discrimination in the operation of the school system”¹²⁴ This case made it clear that “token integration” was unacceptable, and, specifically, that “[f]reedom of choice [was] not a key that opens all doors to equal educational opportunities.”¹²⁵

55. In 1968, the Office of Civil Rights of the Office of Education threatened Prince George's County with substantial loss of funding and “urged” the County to implement “affirmative policies such as new attendance zones and busing to eliminate a number of all-black schools”¹²⁶ During this same period, significant numbers of African Americans began to move into Prince George's County.¹²⁷ In turn, large

¹²² *Id.*

¹²³ *United States v. Jefferson Cty. Bd. of Educ.*, 372 F.2d 836, 845 (5th Cir. 1966).

¹²⁴ *Id.* at 896.

¹²⁵ *Id.*

¹²⁶ Cozzens, *HEW Steps In*, *supra* note 115.

¹²⁷ Cozzens, *HEW Steps In*, *supra* note 115; U.S. Commission on Civil Rights, *supra* note 101, at 194.

numbers of whites moved out of the metro area of the county into areas more densely populated by white people.¹²⁸

56. By 1970, more than half of Washington's suburban African American population were residents of Prince George's County.¹²⁹ Although African Americans and whites in the County earned similar amounts, the County remained largely segregated.¹³⁰ This was due in large part to anti-integration practices such as racial "blockbusting" and racial "steering."¹³¹ Both practices were used in the real estate market to keep African Americans and whites separated until the late 1960s, when legislation such as the Fair Housing Act made the practices illegal.¹³² However, for families locked in neighborhoods that were largely segregated, it would be many years before they would see any effect.

57. In 1971, HEW found Prince George's County to be noncompliant with HEW's guidelines for desegregation.¹³³ The government initiated defunding proceedings against Prince George's County, but did not cut off funding.¹³⁴ In 1971, PGCPs was sued by local black families for noncompliance with the Civil Rights Act of 1964.¹³⁵

58. In *Vaughns v. Board of Education*, the United States District Court for the District of Maryland ordered the County to adopt a desegregation plan and utilize a

¹²⁸ *Id.*

¹²⁹ U.S. Commission on Civil Rights, *supra* note 101, at 37.

¹³⁰ U.S. Commission on Civil Rights, *supra* note 101, at 47.

¹³¹ Lisa Cozzens, *Background*, AFRICAN AMERICAN HISTORY (May 25, 1998), <http://fledge.watson.org/~lisa/blackhistory/school-integration/pgcounty/backgnd.html>.

¹³² Cozzens, *HEW Steps In*, *supra* note 115.

¹³³ Lisa Cozzens, *Turning to Busing*, AFRICAN AMERICAN HISTORY (May 25, 1998), <http://fledge.watson.org/~lisa/blackhistory/school-integration/pgcounty/busing.html>.

¹³⁴ *Id.*

¹³⁵ *Id.*

busing system.¹³⁶ Accordingly, in 1973, Prince George's County became the largest county school system in the country to implement a busing system.¹³⁷

59. The negative reaction to forced desegregation in many areas in the South at the time was explicit, but in Prince George's County, the reaction was more insidious. For example, southern schools were susceptible to standoffs with elected officials at school entrances, but Prince George's County excluded students through more nefarious ways, such as the over suspension and expulsion of black students.¹³⁸ African American students also dealt with the psychological effects of being viewed as less worthy in their new schools.¹³⁹ Moreover, busing became more difficult because "[b]etween 1967 and 1986, Prince George's County had the largest increase in black enrollment along with the largest decrease in white enrollment of the 60 largest school districts in the nation."¹⁴⁰

60. In 1983, the plaintiffs in *Vaughns* moved to reopen the case because the County had not "eliminated all vestiges of the pre-1973 segregation within the Prince George's County school system."¹⁴¹ The plaintiffs were allowed to reopen the action.¹⁴² Due to Prince George's County's failure to desegregate, in 1985, the Board implemented

¹³⁶ *Vaughns v. Bd. of Educ.*, 355 F. Supp. 1034 (D. Md. 1972).

¹³⁷ Cozzens, *Turning to Busing*, *supra* note 133.

¹³⁸ U.S. Commission on Civil Rights, *supra* note 101, at 380-81, 390.

¹³⁹ Linda Charlton, *Maryland County Begins School Desegregation Plan*, New York Times (Jan. 30, 1973), <https://www.nytimes.com/1973/01/30/archives/maryland-county-begins-school-desegregation-plan-misunderstanding.html>.

¹⁴⁰ Jennifer B. Ayscue et al., *Settle for Segregation or Strive for Diversity? A Defining Moment for Maryland's Public Schools*, The Civil Rights Project at 3 (Apr. 2013), https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/settle-for-segregation-or-strive-for-diversity-a-defining-moment-for-maryland2019s-public-schools/MARYLAND_4-17-13_POST.pdf.

¹⁴¹ *Vaughns v. Bd. of Educ.*, 574 F. Supp. 1280, 1375 (D. Md. 1983), *aff'd in part and rev'd in part*, 758 F.2d 982 (4th Cir. 1985).

¹⁴² *Id.*

the *Murphy* plan.¹⁴³ The plan created magnet schools that attracted African American students to schools in predominantly white areas, and vice versa.¹⁴⁴ The plan was successful, but in 2002, it was lifted.¹⁴⁵ Prince George's County was then divided into three racially and socioeconomically "balanced" districts; students could attend any magnet school they desired.¹⁴⁶ Unfortunately, in 2004, due to budget decreases, thirty-three magnet programs were eliminated, thereby, never fully resolving the issues of racial segregation in Prince George's County.¹⁴⁷

B. Barriers to Equal Educational Opportunity in Prince George's County Persist Today.

61. These problems are not merely a matter of history. Students in Prince George's County continue to face a variety of barriers to educational opportunity. Schools in the County fail to provide the quality of education provided in neighboring counties. Additionally, many students, particularly African Americans, are frequently subject to disciplinary action, including out-of-school suspension. As a result, these students struggle to obtain the skills necessary to successfully complete their coursework. Compounding matters, a significant percentage of students in the County are eligible for free and reduced meals, meaning that they do not have access to the resources other students have to supplement the education provided in school.

¹⁴³ Ayscue et al., *supra* note 140, at 3.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at 4.

a) Quality of Education

62. Prince George's County is one of two of the "most poorly funded districts in Maryland, compared to [its] needs."¹⁴⁸ The lack of funding, in turn, impacts the quality of schooling provided to students in the County, as compared to other counties.

63. In December 2018, Maryland unveiled a new school accountability system that assigns star ratings to each of the State's more than 1,300 schools, ranging from one star to five stars.¹⁴⁹ "The rating is based on a variety of factors, including performance on standardized tests, graduation rates, the achievement of English language learners and the number of children who are chronically absent."¹⁵⁰

64. Although 70 percent of schools in the State earned three or four stars out of five,¹⁵¹ and 60 percent earned four or five stars, schools in Prince George's County

¹⁴⁸ Luke Broadwater, *Maryland school funding legislation calls for \$1 billion over two years to start meeting Kirwan goals*, Baltimore Sun (Mar. 4, 2019), <https://www.baltimoresun.com/news/maryland/politics/bs-md-kirwan-bill-20190304-story.html>.

¹⁴⁹ Liz Bowie & Talia Richman, *Maryland releases first star ratings for every public school; 60 percent earn four or five stars out of five*, Baltimore Sun (Dec. 4, 2018), <https://www.baltimoresun.com/news/maryland/education/k-12/bs-md-star-rating-release-20181203-story.html>.

¹⁵⁰ Talia Richman & Liz Bowie, *Maryland schools star ratings: Key takeaways*, Baltimore Sun (Dec. 5, 2018), <https://www.baltimoresun.com/education/bs-md-star-ratings-key-takeaways-20181204-story.html>.

¹⁵¹ Baltimore Sun Editorial Board, *Maryland's school rankings tell us what we already know — your education depends on where you live*, Baltimore Sun (Dec. 4, 2018), <https://www.baltimoresun.com/opinion/editorial/bs-ed-1205-maryland-school-rankings-20181204-story.html>.

scored far lower.¹⁵² In comparison, 44 percent of schools in the County earned the highest marks of four or five stars, and 44 percent drew three stars.¹⁵³

65. Compounding matters, within Prince George's County, students living in economically depressed parts of the County often attend schools that perform more poorly than schools located in more wealthy sections of the County.

66. Greenbelt (Subregion 1), Upper Marlboro (Subregion 6), and Springdale (Subregions 3/6) each have median household incomes above \$75,000.¹⁵⁴ Specifically, Subregions 3 and 6 have median household incomes of \$102,000.¹⁵⁵ Within these subregions are Eleanor Roosevelt High School, Frederick Douglas High School, and Charles H. Flowers High School.¹⁵⁶ Each of these schools received overall school performance grades between 58 and 66 percent.¹⁵⁷

67. Meanwhile, in areas such as Suitland (Subregions 4/7), Oxon Hill (Subregions 4/7), and Temple Hills (Subregion 7), where the median household income is

¹⁵² Bowie & Richman, *supra* note 149.

¹⁵³ Danielle E. Gaines, *With New Report Card, State Schools Receive a Star Rating*, Maryland Matters (Dec. 5, 2018), <https://www.marylandmatters.org/2018/12/05/with-new-report-card-every-state-school-receives-a-star-rating/>.

¹⁵⁴ DW Rowlands, *Here's the primer you need to understand Prince George's extraordinary diversity*, Greater Greater Washington (May 17, 2018), <https://ggwash.org/view/67566/prince-georges-county-demographics-vary-a-lot-by-region>.

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

¹⁵⁷ *Eleanor Roosevelt High, 2017-2018 School Report Card*, <http://reportcard.msde.maryland.gov/Graphs/#!/ReportCards/ReportCardSchool/1/1/16/2114/>; *Frederick Douglass High, 2017-2018 School Report Card*, <http://reportcard.msde.maryland.gov/Graphs/#!/ReportCards/ReportCardSchool/1/1/16/1502/>; *Charles Herbert Flowers High, 2017-2018 School Report Card*, <http://reportcard.msde.maryland.gov/Graphs/#!/ReportCards/ReportCardSchool/1/1/16/1327/>.

below \$75,000, overall school performance grades drop significantly.¹⁵⁸ For example, Suitland High School, Potomac High School, and Crossland High School received overall performance grades between 38 and 44 percent.¹⁵⁹

68. The statistics not only demonstrate a gross disparity between student performance in individual subregions, but also highlight the lower quality of education students residing in less wealthy areas of the County receive.

b) Over-Disciplining of African American Students

69. The problems are not limited to wealth. During the 2017-2018 school year, PGCPs, the second largest school district in Maryland, suspended or expelled 8,024 students.¹⁶⁰ African American students bear the brunt of these punishments. It has been well known for over four decades that differences in the rates of misbehavior do not account for the disparate punishments meted out to African American students, including increased rates of suspension and expulsion.¹⁶¹ Nonetheless, African American students in Prince George's County are punished more often than non-African American students.

¹⁵⁸ Rowlands, *supra* note 154.

¹⁵⁹ *Suitland High, 2017-2018 School Report Card*, <http://reportcard.msde.maryland.gov/Graphs/ReportCards/ReportCardSchool/1/1/16/0603/>; *Potomac High, 2017-2018 School Report Card*, <http://reportcard.msde.maryland.gov/Graphs/ReportCards/ReportCardSchool/1/1/16/1220/>; *Crossland High, 2017-2018 School Report Card*, <http://reportcard.msde.maryland.gov/Graphs/ReportCards/ReportCardSchool/1/1/16/1217/>.

¹⁶⁰ *Suspensions, Expulsions, and Health Related Exclusions Maryland Public Schools 2017-2018*, Maryland State Department of Education at 6 (Table 3A) (Sept. 2018), <http://marylandpublicschools.org/about/Documents/DCAA/SSP/20172018Student/2018SuspExpulHRExc.pdf>.

¹⁶¹ See Russell J. Skiba & Reece L. Peterson, *School Discipline at a Crossroads: From Zero Tolerance to Early Response*, 66 EXCEPTIONAL CHILDREN 335, 339 (2000), <http://youthjusticenc.org/download/education-justice/prevention-intervention->

70. According to the most recent data collected by the U.S. Department of Education, black students make up 61 percent of students in PGCPs.¹⁶² However, they account for 76 percent of students subjected to in-school suspension.¹⁶³ That number grows to 79 percent for out-of-school suspensions.¹⁶⁴ Sadly, African American students account for 68 percent of students in the County that receive the most extreme punishment available, expulsion.¹⁶⁵

71. These disciplinary rates are largely disproportionate when compared to those of white students. White students accounted for a little over 4 percent of the students enrolled in Prince George's County in 2015, but only 2 percent of students experiencing in-school or out-of-school suspension.¹⁶⁶ Likewise, white students accounted for only 4 percent of students in the district expelled.¹⁶⁷

c) Prevalence of Poverty

72. According to the most recent data from the U.S. Census Bureau, more than 84,000 people in Prince George's County live below the poverty line and more than 46,000 of those living below the poverty line are African American.¹⁶⁸

alternatives/School%20Discipline%20at%20a%20Crossroads%20-%20From%20Zero%20Tolerance%20to%20Early%20Response.pdf.

¹⁶² Office for Civil Rights, *Civil Rights Data Collection, Prince George's County Public Schools, Discipline Report*, <https://ocrdata.ed.gov/Page?t=d&eid=26932&syk=8&pid=2539>.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ DATAUSA, *Prince George's County, MD*, <https://datausa.io/profile/geo/prince-george%27s-county-md/>.

73. These disparities are also reflected in the number of students eligible for free or reduced meals. As of October 31, 2018, PGCPs serves over 67,000 students receiving free meals.¹⁶⁹ This accounts for 20 percent of all students eligible for free meals in Maryland, more than any other county in Maryland.¹⁷⁰ Likewise, PGCPs serves nearly 13,000 students eligible for reduced meals.¹⁷¹ This accounts for a whopping 25 percent of all such students in Maryland, which is again more than any other county in Maryland.¹⁷²

d) The Impact on Student Performance

74. These disparities are not without consequence. Unsurprisingly, the vast majority of students facing these barriers fail to meet expectations with regard to academic performance. A recent study by the Stanford University Center for Education Policy Analysis investigated just how large the achievement gap between students in America's richest and poorest communities truly is.¹⁷³

75. "The study analyzed several thousand school districts across the country, including [PGCPs], and found that the yearly income of families was correlated to

¹⁶⁹ *Free and Reduced-Price Meal Statistics (SY 2018-2019)*, Maryland State Department of Education, <http://marylandpublicschools.org/programs/pages/school-community-nutrition/freereducedpricemealstatistics.aspx>.

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ Motoko Rich et al., *Money, Race and Success: How Your School District Compares*, New York Times (Apr. 29, 2016), <https://www.nytimes.com/interactive/2016/04/29/upshot/money-race-and-success-how-your-school-district-compares.html>.

student performance.”¹⁷⁴ The study found that “the most highly impoverished school districts achieved at levels four grades below children in some of the country’s richest school districts.”¹⁷⁵

76. Student performance on the State’s own tests confirms these results. The State measures performance on a 5-level scale.¹⁷⁶ Students who achieve either a 4 or 5 are deemed proficient.¹⁷⁷ Students who achieve a 2 or 3 are not proficient, but have met some of the State’s expectations.¹⁷⁸ Students who score a 1 have failed to meet any of the State’s expectations.¹⁷⁹

77. Regardless of subject matter or grade level, large numbers of PGCPs students taking Maryland’s Partnership for Assessment of Readiness for College and Career tests failed to meet any of the State’s expectations for proficiency.

78. Over 30 percent of Third Graders in the County failed to meet any of the State’s expectations in English.¹⁸⁰ Similarly, almost 20 percent of Fourth and Fifth

¹⁷⁴ Deb Belt, *How Income Gaps Affect Prince George’s Schools Students*, Patch (May 2, 2016), <https://patch.com/maryland/bowie/how-income-gaps-affect-prince-georges-schools-students-0>

¹⁷⁵ *Id.*

¹⁷⁶ *Performance Levels*, Partnership for Assessment of Readiness for College and Careers, <https://parcc-assessment.org/performance-levels/>.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *English Language Arts Current Year Data (2018)*, Assessment Type: ELA 3, <http://reportcard.msde.maryland.gov/Graphs/Assessments/ElPerformance/1EL/3/6/3/3/3/3/3/3/3/3/3/3/16/XXXX>.

Graders,¹⁸¹ as well as 22 percent of Seventh Graders¹⁸² and 25 percent of Eighth Graders failed to meet any expectations in English.¹⁸³

79. The numbers do not improve as students age. Almost 36 percent of Sophomores and 30 percent of Juniors in Prince George's County failed to meet any expectations in English.¹⁸⁴ The numbers were even worse among Ninth Graders, over 71 percent of whom failed to meet any expectations regarding English proficiency.¹⁸⁵

80. The results were similarly troubling regarding proficiency in math. More than 25 percent of Third, Fourth, and Fifth Graders failed to meet any expectations in math.¹⁸⁶ Likewise, almost 30 percent of high school students failed to meet any

¹⁸¹ *English Language Arts Current Year Data (2018), Assessment Type: ELA 4*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElPerformance/1EL/4/6/3/3/3/3/3/3/3/3/16/XXXX>; *English Language Arts Current Year Data (2018), Assessment Type: ELA 5*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElPerformance/1EL/5/6/3/3/3/3/3/3/3/3/16/XXXX>.

¹⁸² *English Language Arts Current Year Data (2018), Assessment Type: ELA 7*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElPerformance/1EL/7/6/3/3/3/3/3/3/3/3/16/XXXX>.

¹⁸³ *English Language Arts Current Year Data (2018), Assessment Type: ELA 8*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElPerformance/1EL/8/6/3/3/3/3/3/3/3/3/16/XXXX>.

¹⁸⁴ *English Language Arts Current Year Data (2018), Assessment Type: English 10*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElPerformance/1EL/10/6/3/3/3/3/3/3/3/3/16/XXXX>; *English Language Arts Current Year Data (2018), Assessment Type: English 11*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElPerformance/1EL/11/6/3/3/3/3/3/3/3/3/16/XXXX>.

¹⁸⁵ *English Language Arts Current Year Data (2018), Assessment Type: ELA 9*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElPerformance/1EL/9/6/3/3/3/3/3/3/3/3/16/XXXX>.

¹⁸⁶ *Mathematics Current Year Data (2018), Assessment Type: Math 3*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/MathPerformance/2MA/5/6/3/3/3/3/3/3/3/3/16/XXXX>; *Mathematics Current Year Data (2018), Assessment Type: Math 4*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/MathPerformance/2MA/4/6/3/3/3/3/3/3/3/3/16/XXXX>; *Mathematics Current Year Data (2018), Assessment Type: Math*

expectations in Algebra I.¹⁸⁷ Almost 55 percent of high school students failed to meet any expectations in Algebra II.¹⁸⁸

81. These numbers are not representative of student performance across the State. Students in Prince George's County perform significantly more poorly than their counterparts in other parts of the State. Thirty-nine percent of Third Graders statewide are proficient in English;¹⁸⁹ by comparison, just over 26 percent of Third Graders in Prince George's County demonstrate proficiency.¹⁹⁰ Similarly, 28.7 percent of Seventh Graders statewide are proficient in Math;¹⁹¹ in Prince George's County, only 15.5 percent are.¹⁹² These disparities persist regardless of grade or subject matter.

82. Unsurprisingly, the lack of proficiency results in lower graduation rates and higher dropout rates. While just over 8 percent of students across the State dropped

5, <http://reportcard.msde.maryland.gov/Graphs/#!/Assessments/MathPerformance/2MA/3/6/3/3/3/3/3/3/3/3/3/3/16/XXXX>.

[illegible][illegible]

¹⁸⁹ *English Language Arts Current Year Data (2018), Assessment Type: ELA 3*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElasPerformance/1EL/3/6/3/3/3/3/3/3/3/3/99/XXXX>.

¹⁹⁰ *English Language Arts Current Year Data (2018)*, Assessment Type: ELA 3, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/ElasPerformance/1EL/3/6/3/3/3/3/3/3/3/3/16/XXXX>.

¹⁹¹ *Mathematics Current Year Data (2018), Assessment Type: Math 7*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/MathPerformance/2MA/7/6/3/3/3/3/3/3/3/3/3/3/99/XXXX>.

¹⁹² *Mathematics Current Year Data (2018), Assessment Type: Math 7*, <http://reportcard.msde.maryland.gov/Graphs/#/Assessments/MathPerformance/2MA/7/6/3/3/3/3/3/3/3/3/3/16/XXXX>.

out,¹⁹³ nearly double that amount dropped out of PGCS schools.¹⁹⁴ While over 87 percent of students statewide graduated,¹⁹⁵ merely 78 percent of students in Prince George's County did.¹⁹⁶ According to a 2014 report, one in four students in the County fails to graduate within four years.¹⁹⁷

C. Prince George's County's Policy of Charging Students for Summer School Compounds the Effect of These Barriers.

83. Despite the large number of students excluded from school, as well as the significant number of students eligible for free and reduced meals, Prince George's County has adopted and consistently enforced a policy that requires students, regardless of income, to pay for summer school.

84. Prince George's County Public School Board (PGCPS) Education Policy No. 5118.4 denies full tuition waivers to indigent students enrolled in summer school.¹⁹⁸

85. The policy promises that a student "shall not be denied entrance into summer school for lack of tuition."¹⁹⁹ However, it exempts summer school students from

¹⁹³ *Dropout Rate Current Year Data (2018), 4-Year Adj Cohort*, <http://reportcard.msde.maryland.gov/Graphs/#!/Graduation/DropOut/1/6/3/3/3/3/3/3/3/3/3/3/99/XXXX>.

¹⁹⁴ *Dropout Rate Current Year Data (2018), 4-Year Adj Cohort*, <http://reportcard.msde.maryland.gov/Graphs/#!/Graduation/DropOut/1/6/3/3/3/3/3/3/3/3/3/3/16/XXXX>.

¹⁹⁵ *Cohort Graduation Rate Current Year Data (2018), 4-Year Adj Cohort*, <http://reportcard.msde.maryland.gov/Graphs/#!/Graduation/GradRate/1/6/3/3/3/3/3/3/3/3/3/3/99/XXXX>.

¹⁹⁶ *Cohort Graduation Rate Current Year Data (2018), 4-Year Adj Cohort*, <http://reportcard.msde.maryland.gov/Graphs/#!/Graduation/GradRate/1/6/3/3/3/3/3/3/3/3/3/3/16/XXXX>.

¹⁹⁷ Ovetta Wiggins, *One in four students in Prince George's County fails to graduate in four years*, Washington Post (July 7, 2014), https://www.washingtonpost.com/local/education/one-in-four-students-in-prince-georges-county-fails-to-graduate-in-four-years/2014/07/07/6a456578-0226-11e4-8572-4b1b969b6322_story.html?utm_term=.9832926bd6e5.

¹⁹⁸ Prince George's County Public School Board (PGCPS) Education Policy No. 5118.4 (Oct. 1, 2014), <https://www1.pgcps.org/WorkArea/DownloadAsset.aspx?id=161548>.

¹⁹⁹ *Id.* § II.

its protections. Until this year, the policy specified that if a student could not afford to pay the cost of tuition, he or she could only have 25 percent of their tuition cost waived.²⁰⁰ The policy did not lay out a procedure for determining the appropriate amount of tuition waiver. Instead, the tuition could supposedly be waived “upon recommendation of the principal of the home school.”²⁰¹

86. Citing the policy, this Board repeatedly denied requests for full tuition waivers, no matter the financial circumstances of the student.

87. According to the fee scale for PGCPs Credit Recovery and Original Credit classes for high school, a single credit could cost up to \$125 for a FARMS-eligible public school student.²⁰²

88. The policy severely harms students whose family income makes them eligible for Free and Reduced Meal Student (FARMS). Unable to afford summer school, these students have no choice but to repeat the grade level they were in the previous year. In short, the policy guarantees that indigent students in the County will be discriminated against solely because of their family’s indigence.

89. Plaintiffs have repeatedly advised the Board of the unconstitutionality of the summer school fee policy, submitting testimony on multiple dates and requesting that indigent students be exempted from the policy.²⁰³ As Plaintiffs have advised the Board,

²⁰⁰ *Id.* § III(B).

²⁰¹ *Id.* § II.

²⁰² *High School Credit Recovery and Original Credit*, PGCPs, <https://www1.pgcps.org/page.aspx?Pageid=234147&id=262731>.

²⁰³ *See* Ex. 9, Letter from Deborah Jeon, American Civil Liberties Union Foundation of Maryland, to Segun C. Eubanks, Board of Education Chair, PGCPs and Eddie Pounds,

multiple counties exempt indigent students from the cost of summer school, including Montgomery, Frederick, and Carroll Counties. Other counties, such as Baltimore, Worcester, and Washington Counties offer summer school free of charge to all, consistent with the Maryland Constitution.

90. On October 17, 2018, counsel for the Plaintiffs submitted a letter to the Board advising the Board of the unconstitutionality of charging students eligible for free and reduced meals for summer school classes.²⁰⁴ In response, the Board pledged to revisit the tuition policy prior to the 2019 summer session and awarded waivers to a limited number of families who had requested full tuition waivers for the 2019 summer session.

91. On April 29, 2019, Dr. Goldson electronically mailed Assistant Public Defender Grace Reusing a letter responding to Plaintiffs' request.²⁰⁵ In the letter, Dr. Goldson acknowledged that the Board granted a waiver to a number of students requesting full student waivers.²⁰⁶ The letter continued: "[I]n recent months, members of the Administration have reviewed the summer school program cost structures with the primary goal of reducing the financial burden on PGCPs students and families."²⁰⁷

92. Based on this analysis, Dr. Goldson recommended that for the summer of 2019 PGCPs Education Policy No. 5118.4 be changed as follows: "[r]educe the cost per

Board Counsel, PGCPs (Oct. 17, 2018); Ex. 10, Testimony of the Howard University School of Law Civil Rights Clinic Before the Prince George's County School Board.

²⁰⁴ Ex. 9.

²⁰⁵ Ex. 11, Letter from Monica E. Goldson, Interim Chief Executive Officer, PGCPs, to Grace Reusing, Assistant Public Defender, Juvenile Protection Division, Maryland Office of Public Defender (Apr. 29, 2019).

²⁰⁶ *Id.*

²⁰⁷ *Id.*

credit to \$100 for a half-credit course and \$200 for a full-credit course; and . . . [i]ncrease the maximum tuition waiver from 25% to 50% of tuition cost.”²⁰⁸ According to the letter, the Board approved the new fee structure on April 25, 2019.²⁰⁹ The letter explained that in light of the new fee structure, the Board was “denying your request for a full tuition waiver on behalf of OPD clients.”²¹⁰ The letter concluded that although summer school provides an opportunity to avoid having to repeat a grade, the class is “optional and students are not denied an opportunity to re-take necessary classes free of charge during the school-year.”²¹¹

93. According to a brochure distributed by the Board, registration for the summer of 2019 will begin on June 10 and extend through June 29.²¹² The brochure includes a fee and expenses section, providing that “[a]ll fees are due at the time of registration.”²¹³ In addition to the \$200 fee per course, the brochure provides that all students shall have to pay a \$25 non-refundable registration fee.²¹⁴ Although the brochure provides for a partial waiver, it states that a completed waiver form “must be submitted at the time of registration.”²¹⁵

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² Ex. 12, *2019 High School Credit Recovery & Original Credit Brochure*, PGCPs, <https://www.pgcps.org/page.aspx?Pageid=234147&id=262731>.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.* (emphasis omitted).

94. If a student chooses to withdraw, the student must do so within the first week of the class. If a refund is granted, the brochure states that “it will take a minimum of ten weeks to process.”²¹⁶

95. Finally, the brochure states that “[p]arents are responsible for providing transportation to and from summer school sites”,²¹⁷ creating an additional burden for indigent households.

D. Thousands of Students are Harmed by the Policy, the Majority of Whom Are African American and Latinx.

96. Like many of Prince George’s County’s previous educational policies, the policy overwhelmingly harms African American students.

97. In 2018, 2,870 students enrolled in summer school in Prince George’s County.²¹⁸ Nearly 54 percent (1,547) of these students were African American.²¹⁹

98. These numbers are actually lower than they have been in previous years. In 2017, 2,132 students enrolled, 61 percent (1,301) of whom were African American.²²⁰ In 2016, 2,043 students enrolled, 64 percent (1,313) of whom were African American.²²¹

99. Altogether, between 2016 and 2018, 7,045 students enrolled in summer school, of whom 59 percent (4,161) were African American.²²²

²¹⁶ *Id.* (emphasis omitted).

²¹⁷ *Id.*

²¹⁸ Ex. 13, Letter from Diana K. Wyles, Associate General Counsel, Prince George’s County Public Schools, to Ajmel Quereshi, Civil Rights Clinic, Howard University School of Law (Feb. 27, 2019).

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Id.*

²²² *Id.*

100. The numbers are even more staggering when considering the percentage of students that are African American or Latinx. African American and Latinx students accounted for 94 percent of students in 2016, 92 percent of students in 2017, and 93 percent of students in 2018.²²³

101. These numbers are likely underinclusive in that they do not account for the many students who are likely unable to enroll due to their inability to pay the required fees and related costs.

E. The Policy Has Long Term Negative Effects on Students.

102. The harms of the policy are particularly acute for Plaintiffs, and other students who, like them, must repeat a course or be held back from advancing to the next grade or graduating, but cannot afford to pay the required tuition and registration fee.

103. Research has found that being forced to repeat a grade can have long term negative effects on a student, particularly if the student believes that the retention was unnecessary.²²⁴

104. Students overwhelmingly consider retention to be a life-changing experience.²²⁵ Students often experience a dramatic increase in stress²²⁶ and an even more pronounced dislike of school.²²⁷

²²³ *Id.*

²²⁴ Jessica Fanguy & Richard D. Mathis, *Psychological Fallout from Grade Retention: Implications for Educators*, 2 DELTA J. EDUC. (2012), <http://www.deltastate.edu/PDFFiles/DJE/Fanguy%20and%20Mathis%20Final%20for%20Publication.pdf>.

²²⁵ *See id.* at 74 (“Major differences to students’ lives following retention were reported by 10 of the 16 research participants and proved to be two of the more dominate themes of the study.”).

²²⁶ *See id.* (“Their results showed grade retention was rated as the most stressful event in life, more so than losing a parent or going blind.”).

105. In a recent study, five of eight student participants and five of the eight parents commented that low self-esteem was an issue following retention. One student's father specifically stated that his child had low self-esteem; another parent stated that her child unquestionably "felt bad about herself," as a result of their retention experience.²²⁸ Two parents reported that their children were giving up too easily and not believing in themselves, especially at school.²²⁹ One parent described how their child called herself "stupid".²³⁰ One of the students indicated there was no point in setting challenging goals, since they knew they could not achieve them.²³¹

106. The study concluded that the students might have had fewer self-esteem issues if they had not been retained.²³² Many students expressed their frustration at having to repeat a year.²³³ One student described wanting to drop out of school to escape the resentment and sense of failure, as well as the victimization by teachers.²³⁴ Only two of the students interviewed did not demonstrate any signs of positive self-concepts.²³⁵

107. Indicative of other studies that have assessed retention among students, the study found that retention is destructive to a student's development on many fronts.²³⁶ Although not all retained students are likely to experience such debilitating self-esteem

²²⁷ See *id.* at 77 (noting that many students blamed their school for their retention).

²²⁸ *Id.* at 76.

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ *Id.*

²³² See *id.* at 77 (finding "that because academic ability is one of the many factors used by adolescents to evaluate themselves, self-esteem may be compromised during identity development if adolescents are not successful in school").

²³³ *Id.*

²³⁴ *Id.* at 76.

²³⁵ *Id.*

²³⁶ *Id.* at 77.

issues, anger at retention, or oppression, as the students in the study experienced, the findings suggest that a range of problems apply, and often leave students with a sense of failure.

108. These problems are compounded in the case of students in Prince George's County, many of whom may not need to be retained, but for the policy in question.

CLAIM FOR RELIEF

109. Plaintiffs adopt and incorporate herein the above paragraphs 1 through 108.

110. Article VIII, Section 1 of the Maryland Constitution requires that the General Assembly shall establish a "thorough and efficient system of Free Public Schools" The responsibilities of the provision extend to the State, as well as all of its agencies.

111. As courts have found across the country, this and similar policies violate constitutional provisions requiring the State to provide a free education.

112. Defendants have failed to fulfill or discharge their obligations under the Maryland Constitution.


113. As a result of Defendants' violation of Plaintiffs' constitutional rights, Plaintiff schoolchildren have been denied their right to a free public education and have been otherwise injured, as alleged above.

PRAYER FOR RELIEF

114. Plaintiffs respectfully request the following relief:

- a. A declaration that PGCPs Education Policy No. 5118.4 violates Article VIII of the Maryland Constitution, specifically the clause requiring the State to establish a free education for all children in Maryland;
- b. An injunction directing Defendants to promulgate and enforce a new policy that requires the County to provide all students residing in Prince George's County entrance to summer school for the repetition of core courses, regardless of whether they pay tuition or registration fees;
- c. Any other equitable or legal relief that the Court deems just and proper.

Dated: June 12, 2019



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