

Docket No. X07-HHD-CV05-4050526-S : SUPERIOR COURT

NEKITA CARROLL-HALL individually : J.D. OF HARTFORD
and on behalf of her daughter : AT HARTFORD
ANA-SIMONE HALL and her son JACOB
HALL, public school students in
Bridgeport School District;
CONNECTICUT COALITION FOR JUSTICE
IN EDUCATION FUNDING, INC. ;
RICHARD MOLINARO individually and
on behalf of his next friend JADA
MOURNING, public school student in
Danbury School District; SHERRY
MAJOR individually and on behalf
of her sons JOSEPH MAJOR and JAMES
MAJOR, public school students in
Windham School District; NANCY
DIAZ, individually and on behalf
of her son JOSHUA DIAZ, public
school student in Hartford School
District; DONNA FINNEMORE
individually and on behalf of her
sons BRANDON WISNIEWSKI and BRIAN
WISNIEWSKI, public school students
in Plainfield School District;
HERNAN ILLINGWORTH, individually
and on behalf of his daughter
STEPHANIE ILLINGWORTH, public
school student in Bridgeport
School District; BRENDA MILLER-
BLACK, individually and on behalf
of her minor children EMILY BLACK,
DAVID BLACK, ALISON BLACK, and

CAROLYN BLACK, public school students in Norwich School District; WALTER and JANET RIVERA, individually and on behalf of their daughter MELODY RIVERA, public school student in New Britain School District; JENNIFER RODRIGUEZ, individually and on behalf of her minor children LORANCE MERCADO and RICARDO FIGUEROA, public school students in New London School District; and LISETTE VELASQUEZ, individually and on behalf of her minor children DHARAN VELASQUEZ, ASHARIEL VELASQUEZ, and LYONECE VELASQUEZ, public school students in New Britain School District,

Plaintiffs,

v.

JODI RELL, in her official capacity as Governor of the State of Connecticut; ALLAN B. TAYLOR, BEVERLY BOBROSKE, ALICE L. CAROLAN, DONALD COOLICAN, LYNNE S. FARRELL, JANET M. FINNERAN, THERESA HOPKINS-STATEN, PATRICIA B. LUKE, and TIMOTHY J. MCDONALD, in their official capacities as Members of the State Board of Education; MARK K. McQUILLAN, in his official capacity as Commissioner of Education of the State of Connecticut; DENISE L. NAPPIER, in her official capacity as Treasurer of the State of Connecticut; and NANCY S. WYMAN, in her official capacity as

**Comptroller of the State of
Connecticut,**

Defendants, : NOVEMBER 18, 2010

PLAINTIFFS' SECOND AMENDED COMPLAINT

1. The plaintiffs bring this action on behalf of themselves and their minor children in order to enforce the Constitution of the State of Connecticut ("State Constitution"). The State Constitution guarantees that every child, regardless of the child's town of residence, has the right to receive a suitable and substantially equal educational opportunity.

2. A suitable education provides more than mere minimal skills. Education is a principal instrument in awakening children, in preparing them for later professional training, and in helping them to adjust normally to their environment. Connecticut's educational system must prepare children who will, as adults, function as responsible citizens, compete in obtaining productive employment, and advance through higher education.

3. The State has admitted that Connecticut has an educational underclass.

4. The creation of this educational underclass is the result of the State's maintenance of an unconstitutional educational system. The level of resources provided by the State's education funding scheme is arbitrary and not related to the actual costs of providing a suitable education. By failing to maintain an educational system that provides children with suitable and substantially equal educational opportunities, the State is violating plaintiffs' constitutional rights.

First Count

I. PARTIES

A. The Plaintiffs

5. The plaintiff, Nekita Carroll-Hall, a resident of Bridgeport, brings this action on her own behalf and on behalf of her minor children, Ana-Simone Hall and Jacob Hall.

6. The plaintiff, Ana-Simone Hall, resides with her family at 1620 Laurel Avenue, Bridgeport, CT 06604. Ana-Simone is a biracial (African-American and Caucasian)

thirteen-year-old student with special needs attending John Winthrop School in the Bridgeport School District. All students attending school in Bridgeport School District receive free lunch. In the 2008-2009 school year, nearly six percent of the students at Winthrop School were enrolled in bilingual education and English as a Second Language Services. More than five percent of the students received special education services. More than thirteen percent of the students were enrolled in the Gifted and Talented Education Program. Seventy-four percent of the children were classified as minority.

7. The plaintiff, Jacob Hall, resides with his family at 1620 Laurel Avenue, Bridgeport, CT 06604. Jacob is a biracial (African-American and Caucasian) ten-year-old student attending Madison School in the Bridgeport School District. In the 2008-2009 school year, nearly twelve percent of the students at Madison School were enrolled in bilingual education and English as a Second Language Services. More than sixteen percent of the students received special education services. No students were enrolled in the Gifted and Talented Education Program.

Almost eighty-four percent of the children were classified as minority.

8. The plaintiff, Richard Molinaro, a resident of Danbury, brings this action on his own behalf and as next friend of his minor granddaughter, Jada Mourning.

9. The plaintiff, Jada Mourning resides with her grandfather at 14 Hoyt Street, Danbury, CT 06810. Jada is a biracial (African-American and Caucasian) twelve-year-old attending Broadview Middle School in the Danbury School District. Jada is eligible for free lunch. In the 2008-2009 school year, almost twenty-four percent of children who attended Broadview were eligible to receive free or reduced lunch. More than eleven percent of the students were enrolled in bilingual education and English as a Second Language Services. More than eleven percent of the students received special education services. Almost seven percent of children were enrolled in the Gifted and Talented Education Program. Nearly forty-four percent of the children were classified as minority.

10. The plaintiff, Sherry Major, a resident of Willimantic, brings this action on her own behalf and on

behalf of her minor children, James Major, and Nicole Major.

11. The plaintiff, James Major, resides with his family at 140 Card Street, Willimantic, CT 06226. James is a Caucasian seventeen-year-old student with special needs attending Windham High School in the Windham School District. James is eligible for reduced lunch. In the 2008-2009 school year, more than sixty percent of children who attended Windham High School were eligible to receive free or reduced lunch. More than seventeen percent of the students were enrolled in bilingual education and English as a Second Language Services. More than nineteen percent of the students received special education services. No children were enrolled in the Gifted and Talented Education Program. Nearly sixty-two percent of the children were classified as minority.

12. The plaintiff, Nicole Major, resides with her family at 140 Card Street, Willimantic, CT 06226. Nicole is a Caucasian, nine-year-old student attending North Windham School in the Windham School District. Nicole is eligible for free lunch. In the 2008-2009 school year,

more than sixty-nine percent of children who attended North Windham School were eligible to receive free or reduced lunch. More than nineteen percent of the students were enrolled in bilingual education and English as a Second Language Services. Almost eleven percent of the students received special education services. No children were enrolled in the Gifted and Talented Education Program. Nearly sixty-four percent of the children were classified as minority.

13. The plaintiff, Nancy Diaz, a resident of Hartford, brings this action on her own behalf and on behalf of her minor child, Joshua Diaz.

14. The plaintiff, Joshua Diaz, resides with his family at 206 Oxford Street, Hartford, CT 06105. Joshua is a thirteen-year-old Latino student with special needs attending East Granby Middle School in the East Granby School District. In the 2008-2009 school year, almost fifteen percent of the students at East Granby Middle School received special education services. Almost three percent of the students were enrolled in the Gifted and Talented Education Program.

15. The plaintiff, Donna Finnemore, a resident of Plainfield, CT, brings this action on her own behalf and on behalf of her minor children, Brandon and Brian Wisniewski.

16. The plaintiff, Brandon Wisniewski, resides with his family at 462 Norwich Road, Plainfield, CT 06374. Brandon is a Caucasian sixteen-year-old attending Plainfield High School in the Plainfield School District. In the 2008-2009 school year, more than twenty-one percent of children who attended Plainfield High School were eligible to receive free or reduced lunch. Nearly one percent of students were enrolled in bilingual education and English as a Second Language Services. Sixteen percent of the students received special education services. More than four percent of the students were enrolled in the Gifted and Talented Education Program. Nearly nine percent of the students were classified as minority.

17. The plaintiff, Brian Wisniewski, resides with his family at 462 Norwich Road, Plainfield, CT 06374. Brian is a Caucasian thirteen-year-old attending Plainfield Central Middle School in the Plainfield School District. In the 2008-2009 school year, over thirty-seven percent of

students who attended Plainfield Central Middle School were eligible to receive free or reduced lunch. Nearly one percent of students were enrolled in bilingual education and English as a Second Language Services. Ten percent of the students received special education services. More than four percent of the students were enrolled in the Gifted and Talented Education Program. Twelve percent of the students were classified as minority.

18. The plaintiff, Hernan Illingworth, a resident of Bridgeport, CT, brings this action on his own behalf and on behalf of his minor child, Stephanie Illingworth.

19. The plaintiff, Stephanie Illingworth, resides with her family at 133 Bronx Ave., Bridgeport, CT 06606. She is a Latina thirteen-year-old who attends Winthrop School in the Bridgeport School District. All students attending school in the Bridgeport School District receive free lunch.

20. The plaintiff, Brenda Miller-Black, a resident of Norwich, CT, brings this action on her own behalf and on behalf of her minor children, Emily, David, Alison, and Carolyn Black.

21. The plaintiff, Emily Black, resides with her family at 52 Otis St., Norwich, CT 06360. Emily is a Caucasian fourteen-year-old with special needs attending Free Academy through the Norwich School District. Emily is eligible for free lunch.

22. The plaintiff, David Black, resides with his family at 52 Otis St., Norwich, CT 06360. David is a Caucasian twelve-year-old with a 504 plan attending Kelly Middle School in the Norwich School district. David is eligible for free lunch. In the 2008-09 school year, more than sixty-one percent of children who attended Kelly Middle School received free or reduced-price lunch. More than seven percent of the students were enrolled in bilingual education and English as a Second Language services. More than fourteen percent of the students received special education services. No children were enrolled in the Gifted and Talented Education Program. Almost fifty-one percent of the children were classified as minority.

23. The plaintiff, Alison Black, resides with her family at 52 Otis St., Norwich, CT 06360. Alison is a

Caucasian ten-year-old with special needs who attends Samuel Huntington School in the Norwich School District. Alison is eligible for free lunch. In the 2008-09 school year, forty-four percent of children who attended Samuel Huntington School received free or reduced lunch. More than seven percent of the students were enrolled in bilingual education and English as a Second Language services. More than eleven percent of the students received special education services. No children were enrolled in the Gifted and Talented Education Program. More than thirty-four percent of the children were classified as minority.

24. The plaintiff, Carolyn Black, resides with her family at 52 Otis St., Norwich, CT 06360. Carolyn is a Caucasian eight-year-old with special needs who attends Samuel Huntington School in the Norwich School District. Carolyn is eligible for free lunch.

25. The plaintiffs, Walter and Janet Rivera, residents of New Britain, CT, bring this action on their own behalf and on behalf of their minor child, Melody Rivera.

26. The plaintiff, Melody Rivera, resides with her family at 137 Kelsey St., 2nd Floor, New Britain, CT 06051. She is a Latina ten-year-old with a 504 plan who attends Vance Village Elementary School in the New Britain School District. In the 2008-2009 school year, more than seventy-one percent of the students who attended Vance Elementary were eligible to receive free or reduced lunch. More than four percent of the students were enrolled in bilingual education and English as a Second Language services. More than ten percent of the students were identified as students with disabilities. More than four percent of students were enrolled in the Gifted and Talented Education Program. More than seventy percent of the students were classified as minority.

27. The plaintiff, Jennifer Rodriguez, a resident of New London, CT, brings this action on her own behalf and on behalf of her minor children, Lorange Mercado and Ricardo Figueroa.

28. The plaintiff, Lorange Mercado, resides with his family at 9 Steward St., New London, CT 06320. He is a Latino eleven-year-old with special needs who attends C.B.

Jennings Elementary School in the New London School District. Lorance is eligible for free lunch. In the 2008-2009 school year, more than seventy-four percent of the students who attend Jennings Elementary were eligible to receive free or reduced lunch. Over fifty-three percent of the students were enrolled in bilingual education and English as a Second Language services. Nearly nine percent of students were identified as students with disabilities. More than three percent of students were enrolled in a Gifted or Talented Education program. Ninety-three percent of students were classified as minorities.

29. The plaintiff, Ricardo Figueroa, resides with his family at 9 Steward St., New London, CT 06320. He is a Latino five-year-old with special needs who attends C.B. Jennings Elementary School in the New London School District. Ricardo is eligible for free lunch.

30. The plaintiff, Lisette Velasquez, a resident of New Britain, CT, brings this action on her own behalf and on behalf of her minor children, Dharan, Ashariel, and Lyonece Velasquez.

31. The plaintiff, Dharan Velasquez, resides with his family at 124 Booth St., 3rd Floor, New Britain, CT 06053. He is a mixed-race (African American and Latino) fourteen-year-old who attends Capitol Preparatory Magnet School.

32. The plaintiff, Ashariel Velasquez, resides with his family at 124 Booth St., 3rd Floor, New Britain, CT 06053. He is a mixed-race (African American and Latino) ten-year-old who attends Smalley Academy in the New Britain School District. In the 2008-09 school year, more than eighty-five percent of children who attended Smalley Academy received free or reduced lunch. More than four percent of the students were enrolled in bilingual education and English as a Second Language services. More than eleven percent of students received special education services. Almost three percent of students were enrolled in the Gifted and Talented Education Program. More than eighty-four percent of the students were classified as minority.

33. The plaintiff, Lyonece Velasquez, resides with her family at 124 Booth St., 3rd Floor, New Britain, CT 06053. She is a mixed race (African American and Latino)

seven-year-old who attends Diloreto Magnet School in the New Britain School District.

34. Connecticut Coalition for Justice in Education Funding, Inc. (CCJEF) is a Connecticut not-for-profit corporation, which is committed to ensuring that public school children in Connecticut receive suitable and substantially equal educational opportunities. CCJEF's membership includes parents, teachers, education advocacy organizations, community groups, teachers' unions, and parent-teacher organizations. CCJEF draws its members from throughout Connecticut, including the towns of Bloomfield, Bridgeport, Danbury, East Hartford, Hamden, Hartford, Manchester, Middletown, New Britain, New Haven, New London, Norwalk, Plainfield, Putnam, Stamford, Stratford, and Windham.

B. The Defendants

35. The defendant, M. Jodi Rell, or her successor, is the Governor of the State of Connecticut. Pursuant to Article Fourth, § 12, of the State Constitution, she must ensure that the laws are faithfully executed. Pursuant to

Conn. Gen. Stats. § 3-1, she is authorized to investigate and take proper action concerning any matter involving the enforcement of the laws of the State and the protection of its citizens. Under Conn. Gen. Stats. §§ 10-1 and 10-2 she is responsible for appointing the members of the State Board of Education. She is further responsible for receiving a detailed statement of the activities of the board and an account of the condition of the public schools and such other information as will assess the true condition, progress and needs of public education. Conn. Gen. Stats. § 10-4.

36. The defendant Mark K. McQuillan, or his successor, is the Commissioner of Education of the State of Connecticut, a member of the State Board of Education, and the director of the Department of Education. Pursuant to Conn. Gen. Stats. §§ 10-2 and 10-3a, she is responsible for carrying out the mandates of the Board of Education.

37. The defendants, Allan B. Taylor; Beverly Bobroske; Alice L. Carolan; Donald J. Coolican; Lynne S. Farrell; Janet M. Finneran; Theresa Hopkins-Staten; Patricia B. Luke; Timothy J. McDonald; or their successors;

are members of the State Board of Education. Pursuant to Conn. Gen. Stats. § 10-4a, they have general supervision and control of the educational interests of the State. Pursuant to Conn. Gen. Stats. § 10-4c, they are responsible for preparing a comprehensive plan for the State's public schools.

38. The defendant Denise L. Nappier, or her successor, is Treasurer of the State of Connecticut. Pursuant to Article Fourth, § 22 of the State Constitution, she is responsible for the disbursement of all monies by the State. She is also the custodian of certain educational funds of the Connecticut State Board of Education. Conn. Gen. Stats. § 10-11.

39. The defendant Nancy S. Wyman, or her successor, is the Comptroller of the State of Connecticut. Pursuant to Article Fourth, § 24 of the State Constitution and Conn. Gen. Stats. § 3-112, she is responsible for adjusting and settling all public accounts and demands.

40. All the defendants are being sued in their official capacities.

41. In this complaint, "the defendants" and "the State" shall be used interchangeably.

II. THE RIGHT TO RECEIVE SUITABLE AND SUBSTANTIALLY EQUAL EDUCATIONAL OPPORTUNITIES

42. The State has an affirmative duty to provide suitable educational opportunities pursuant to Article Eighth, § 1 of the Connecticut Constitution.

43. A suitable educational opportunity consists of the following components:

- a. All students must receive an educational experience that prepares them to function as responsible citizens and enables them to fully participate in democratic institutions;
- b. All students must receive an opportunity to complete a meaningful high school education that enables them to advance through institutions of higher learning, or that enables them to compete on equal footing to find productive employment and contribute to the state's economy;
- c. All students must receive a suitable opportunity to meet standards which the state has set based on its

estimation of what students must learn in order to achieve the goals of paragraphs 43a-43b.

44. The State has a responsibility to provide substantially equal educational opportunities pursuant to Article Eighth, § 1 and Article First, §§ 1 and 20 of the Connecticut Constitution.

45. The State must fulfill its constitutional duty through appropriate legislation pursuant to Article Eighth, § 1 of the Connecticut Constitution.

46. Conn. Gen. Stats. § 10-4a states that the educational interests of the State include providing each child with the "equal opportunity to receive a suitable program of educational experiences."

47. Under the Connecticut Constitution, the right to receive suitable and substantially equal educational opportunities is a fundamental right.

48. The State Board of Education has affirmed the fundamental nature of the right to education. In its "Statement of Core Beliefs," the State Board writes that "[e]very Connecticut public school student has a fundamental right to an equal educational opportunity as

defined by free public education and a suitable program of educational experiences.”

III. The State’s Failure to Provide Suitable and Substantially Equal Educational Opportunities as Caused by Inadequate and Unequal Education Inputs

49. Education inputs are the resources and conditions, such as staff, programs, and environment, that constitute an educational system.

50. The following educational inputs are essential components of a suitable educational opportunity:

- a. high quality preschool;
- b. appropriate class size;
- c. programs and services for at-risk students;
- d. highly qualified administrators;
- e. highly qualified teachers;
- f. modern and adequate libraries;
- g. modern technology and appropriate instruction;
- h. adequate number of hours of instruction;
- i. rigorous curriculum with wide breadth of courses;
- j. modern and appropriate textbooks;

- k. school environment that is healthy, safe, well-maintained, and conducive to learning;
- l. adequate special needs services as set forth in the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.;
- m. appropriate career and academic counseling;
- n. adequate array of and suitably run extracurricular activities.

51. The State is failing to provide suitable educational opportunities in that the educational inputs listed in paragraph fifty have not been made available to all students or are not of adequate quality.

52. The State is failing to provide substantially equal educational opportunities in that the availability and quality of the inputs listed in paragraph fifty vary significantly across schools throughout the state.

53. For example, below are input statistics from school year 2003-2004 for Lincoln Elementary School, which many plaintiff students attend and which is located in the New Britain school district:

- a. Only 50% of kindergarten students at Lincoln have attended preschool, nursery school, or Head Start. The state average is 76%.
- b. None of the computers at Lincoln are high- or moderate-powered. The state average for K-6 school is 63%.
- c. The library at Lincoln has ninety non-print materials. The state average for K-6 schools is 395.
- d. 68% of teachers at Lincoln have a master's degree. The state average is 80%.
- e. Despite the fact that numerous students at Lincoln perform poorly in math, Lincoln offers no pull-out remedial instruction or in-class tutorials in mathematics.

54. These statistics, in part, demonstrate how the State is failing to provide students at Lincoln Elementary School with suitable and substantially equal educational opportunities. By not attending high quality preschool, many students lack key educational skills before they enter the school. Once in the school, the poor technological

resources, the lack of quality teaching, and the lack of remedial instruction all increase the chance that these students will become part of the educational underclass.

55. Below are input statistics for school year 2003-2004 for South Street Elementary School, which many plaintiff students attend and which is located in the Danbury school district:

- a. Only 60% of students attending South Street have attended preschool, nursery school, or Head Start. The state average is 76%.
- b. Despite having numerous students who perform poorly in mathematics, South Street does not offer pull-out remedial instruction, in-class tutorial, or after-school programming for mathematics.
- c. The South Street library has seventeen print volumes per student. The state average for K-6 schools is twenty-five volumes per student.
- d. In 2003, South Street provided 966 hours of instruction per year to its students. The state average for K-6 schools is 985 hours.

56. These statistics, in part, demonstrate how the State is failing to provide students at South Street Elementary School with suitable and substantially equal educational opportunities. By not attending high quality preschool, many students lack key educational skills before they enter the school. Once in the school, the lack of remedial programs, the inadequate library resources, and the low number of hours of instruction all increase the chance that these students will become part of the educational underclass.

57. Below are input statistics from school year 2003-2004 for Roosevelt School, a K-8 school, which many plaintiff students attend and which is located in the Bridgeport school district:

- a. Only 61% of kindergarten students attending Roosevelt School have attended preschool, nursery school, or Head Start. The state average is 76%.
- b. The average class size for kindergarten classrooms in Roosevelt School is twenty-six students. The state average is nineteen students.

- c. The average class size for seventh grade classrooms in Roosevelt School is thirty students. The state average is twenty-two students.
- d. The library has nine print volumes per student. The state average for K-8 schools is twenty volumes per student.
- e. The library has thirty-seven non-print materials. The state average for K-8 schools is 324.
- f. The library has no periodical subscriptions. The state average for K-8 schools is fifteen subscriptions.
- g. Roosevelt School offers zero hours of computer education instruction. The state average for K-8 schools is eighteen hours per year.
- h. Roosevelt School does not offer world language instruction. 66% of K-8 schools across the state offer world language instruction.
- i. In 2002-2003, Roosevelt School had 438 students per counselor. The state average for K-8 schools was 265 students per counselor.

58. These statistics, in part, demonstrate how the State is failing to provide students at Roosevelt School with suitable and substantially equal educational opportunities. By not attending high quality preschool, many students lack key educational skills before they enter the school. Once in the school, the large class sizes, inadequate curriculum, inadequate library resources, and lack of counseling all increase the chance that these students will become part of the educational underclass.

59. Below are input statistics from school year 2003-2004 for Plainfield High School, which many plaintiff students attend and which is located in the Plainfield School District:

- a. Despite the fact that numerous students at Plainfield High School perform poorly in mathematics, the school offers no pull-out remedial instruction, in-class tutorials, after school programs, or summer school in mathematics.
- b. Despite the fact that numerous students at Plainfield High School perform poorly in language arts, the school offers no pull-out remedial

instruction, in-class tutorials, after school programs, or summer school in language arts.

- c. Students at Plainfield High School were tested in only five Advanced Placement courses. The state average for high schools is nearly ten such courses.
- d. In 2003, Plainfield High School reported poor conditions in several dedicated specialty areas: the all-purpose room, the cafeteria, the outdoor athletic facilities, education technology, and office/administrative space. Finally, the school reported poor internal communications systems, technology infrastructure, and plumbing/lavatory systems.

60. These statistics, in part, demonstrate how the State is failing to provide students at Plainfield High School with suitable and substantially equal educational opportunities. The absence of supplemental instructional services to students lacking basic skills in mathematics and language arts, the dearth of Advanced Placement courses offered, and the poor building maintenance all increase the

chance that these students will become part of the educational underclass.

61. Below are input statistics from school year 2003-2004 for East Hartford High School, which many plaintiff students attend and which is located in the East Hartford School District:

- a. Despite having numerous students who perform poorly in mathematics, East Hartford High School does not provide pull-out remedial instruction or in-class tutorial instruction for mathematics.
- b. Despite having numerous students who perform poorly in language arts, East Hartford High School does not provide pull-out remedial instruction or in-class tutorial instruction in language arts.
- c. East Hartford High School has 6.9 students per academic computer. The state average for high schools is 3.3.
- d. 29% of East Hartford High School's computers are moderate- or high-powered. The State average for high schools is 77%.

62. These statistics, in part, demonstrate how the State is failing to provide students at East Hartford High School with suitable educational opportunities. The lack of remedial programs and the low quality of computer technology all increase the chance that these students will become part of the educational underclass.

63. The State Board of Education has admitted that many of the components enumerated in paragraph fifty are necessary components of a suitable educational opportunity.

64. The State Board of Education, in its "Position Statement on Preschool Programs and Services," affirms that "[t]he Board believes that a high-quality preschool is essential to children's future success both in school and as adults."

65. The State Board of Education, in its "Position Statement on Student Support Services," affirms that the "Connecticut public education system has a duty to provide a continuum of developmental, preventative, remedial, and support services that enhance opportunities for all students to achieve academic success and personal well being."

66. The State Board of Education, in its "Statement of Core Beliefs," maintains that "all students [should be] taught by highly competent teachers"

67. The State Board of Education, in its "Position Statement on Education Technology and Information Literacy," affirms that "every student must develop strong technological skills and continually use them in order to function adequately in our 21st century world."

68. The State Board of Education, in its "Position Statement on Time in Relation to Student Achievement," affirms that "time is one of the basic resources available to school districts to increase student achievement."

69. The State Board of Education, in its "Strategic Priorities for 2001-2005," affirms that the State must provide a "rigorous curriculum in core areas of study, including language arts, science, mathematics, social studies, the arts, world language, health, physical education, and technology," and that "[s]tudents must be challenged to take more higher-level mathematics and science courses, advanced placement (AP) courses, more art

and music courses, and two or more years of world language.”

70. The State Board of Education, in its “Position Statement on Creating a Healthy School Environment,” affirms that “[e]ach school must ensure that the physical environment is healthy, safe, and conducive to learning.”

71. The State Board of Education, in its “Position Statement on the Education of Students with Disabilities,” affirms that all students are “influenced by cultural, linguistic, intellectual, psychological, medical, social and economic factors. These factors create a need for a varied educational environment that provides for, and accommodates, each child’s strengths and areas of needed improvement.”

72. Additionally, attending a school with a high concentration of poorly performing students negatively affects the suitability of a student’s educational opportunity.

73. The State’s failure to provide suitable educational opportunities is evidenced by the fact that many plaintiffs attend schools that do not have the

resources necessary to educate their high concentrations of poorly performing students.

74. The State's failure to provide substantially equal educational opportunities is evidenced by the fact that, when compared to non-plaintiff students, a disparate number of plaintiff students attend schools that do not have the resources necessary to educate their high concentrations of poorly performing students.

75. Attending a school with a high concentration of at-risk students who are not receiving suitable resources negatively affects a student's educational opportunity. An at-risk student is a student who, because of wide range of financial, familial, and social circumstances, is at a greater risk of failing or experiencing other unwanted outcomes unless intervention occurs.

76. The State's failure to provide the resources necessary to intervene effectively on behalf of at-risk students and to provide them with suitable educational opportunities ultimately deprives all students in those schools of suitable educational opportunities.

77. The State's failure to provide substantially equal educational opportunities is evidenced by the fact that, when compared to non-plaintiff students, a disparate number of plaintiff students attend schools that are not receiving the resources necessary to suitably educate their high concentrations of at-risk students.

IV. The State's Failure to Provide Suitable and Substantially Equal Educational Opportunities as Evidenced by Education Outputs

78. Education outputs are the results and outcomes by which student performance can be measured.

79. The State's failure to provide suitable educational opportunities is in part evidenced by the low levels of many education outputs.

80. The State's failure to provide substantially equal educational opportunities is in part evidenced by the disparity in levels of education outputs across schools.

81. The State Board of Education, in its "Position Statement on Equal Educational Opportunity," states that "[e]vidence of equal educational opportunity is the

participation and achievement of each student in challenging educational programs, regardless of factors such as family income, race, gender, or town of residence” (emphasis added).

A. No Child Left Behind

82. The purpose of the No Child Left Behind Act is “to ensure that all children have a fair, equal, and significant opportunity to obtain a high quality education” 20 U.S.C. § 6301.

83. Under the No Child Left Behind Act, schools must make “adequate yearly progress” on student achievement tests. 20 U.S.C. § 6311(h) (2) (B).

84. The State uses the Connecticut Mastery Test [“CMT”] and the Connecticut Academic Performance Test [“CAPT”] to determine whether schools are making “adequate yearly progress.”

85. By the 2013-2014 school year, all students in Connecticut must meet or exceed the State achievement standards. 20 U.S.C. § 6311(b) (2) (F).

B. Test Scores

86. The suitability of a student's educational opportunity can be measured in part by the student's performance on standardized tests.

87. The CMT and the CAPT are standardized tests that measure essential reading, writing, and mathematical skills. The CMT is administered to students in grades 4, 6 and 8. The CAPT is administered to students in grade 10. Scores on the CMT and CAPT are broken down into five levels: advanced, goal, proficient, basic, and below basic.

88. The State's failure to provide suitable educational opportunities is evidenced by the fact that many plaintiffs score poorly on the CMT and the CAPT.

89. The State's failure to provide substantially equal educational opportunities is evidenced by the fact that, when compared to non-plaintiff students, a disproportionate number of plaintiffs score poorly on the CMT and the CAPT.

90. For example, in 2004, fourth grade plaintiff students at Lincoln Elementary School, which is located in the New Britain School District, tested extremely poorly on

the CMT. As a whole, fourth grade plaintiff students in the New Britain School District also fared extremely poorly:

	% Scoring at "Goal" in Math	% Scoring at "Goal" in Reading	% Scoring at "Proficient" in Math	% Scoring at "Proficient" in Reading
Lincoln Elementary	15%	8%	28%	18%
District Average	24%	20%	47%	36%
State Average	57%	53%	79%	67%

91. In 2004, fourth grade plaintiff students at South Street School, which is located in the Danbury School District, tested extremely poorly on the CMT. As a whole, fourth grade plaintiff students in the Danbury School District also fared poorly:

	% Scoring at "Goal" in Math	% Scoring at "Goal" in Reading	% Scoring at "Proficient" in Math	% Scoring at "Proficient" in Reading
South				

Street	33%	20%	61%	31%
District Average	52%	38%	77%	55%
State Average	57%	53%	79%	67%

92. In 2004, fourth grade plaintiff students at Roosevelt School, which is in the Bridgeport School District, tested at shockingly poor levels on the CMT. As a whole, fourth grade plaintiff students in the Bridgeport School District also fared extremely poorly:

	% Scoring at "Goal" in Math	% Scoring at "Goal" in Reading	% Scoring at "Proficient" in Math	% Scoring at "Proficient" in Reading
Roosevelt School	14%	16%	31%	25%
District Average	28%	21%	55%	38%
State Average	57%	53%	79%	67%

93. In 2004, tenth grade plaintiff students at Plainfield High School, which is the only high school in the Plainfield School District, tested poorly on the CAPT:

	% Scoring at "Goal" in Math	% Scoring at "Goal" in Reading	% Scoring at "Proficient" in Math	% Scoring at "Proficient" in Reading
Plainfield High School	31%	30%	76%	69%
State Average	48%	49%	76%	80%

94. In 2004-2005, tenth grade plaintiff students at East Hartford High School, which is located in the East Hartford School District, tested poorly on the CAPT.

	% Scoring at "Goal" in Math	% Scoring at "Goal" in Reading	% Scoring at "Proficient" in Math	% Scoring at "Proficient" in Reading
East Hartford High School	23%	28%	58%	60%
District Average	24%	30%	57%	59%
State Average	48%	49%	76%	80%

C. Retention Rates

95. The suitability of a student's educational opportunity can be measured in part by whether a student is retained or advanced despite not being prepared for advancement.

96. The State's failure to provide suitable educational opportunities is evidenced by the fact that many plaintiffs are retained or are advanced, despite not being prepared for advancement.

97. The State's failure to provide substantially equal educational opportunities is evidenced by the fact that, when compared to non-plaintiff students, a disparate number of plaintiffs are retained or are advanced, despite not being prepared for advancement.

98. For example, at Lincoln Elementary School, which is located in the New Britain School District, plaintiff students were promoted to the next grade level despite dismal performances in 2003. This also held true for plaintiff students attending other schools in the district:

	% of 4 th Grade Students Scoring	% of 4 th Grade Students Scoring	% of Elementary
--	--	--	--------------------

	Below Proficiency in Math	Below Proficiency in Reading	Students Promoted at K-6 Schools
Lincoln Elementary	47%	66%	99.8%
District Average	31%	56%	98.5%
State Average	20%	31%	97.9%

99. At South Street Elementary School, which is located in the Danbury School District, plaintiff students were promoted to the next grade level despite dismal performances in 2003. This also held true for plaintiff students attending other schools in the district:

	% of 4 th Grade Students Scoring Below Proficiency in Math	% of 4 th Grade Students Scoring Below Proficiency in Reading	% of Elementary Students Promoted at K-6 Schools
South Street	39%	69%	98.9%
District Average	23%	45%	99.3%

State Average	20%	31%	97.9%
---------------	-----	-----	-------

100. At Roosevelt School, which is located in the Bridgeport School District, a large number of plaintiff students were retained in 2003. This also held true for plaintiff students attending other schools in the district:

	% of Students Retained in K-8 Schools
Roosevelt School	6.9%
District Average	3.9%
State Average	3.1%

101. At Plainfield High School, which is the only high school located in the Plainfield School District, a large number of plaintiff students were retained in 2003:

	% of Students Retained in High Schools
Plainfield High School	16.7%
State Average	5.1%

102. At East Hartford High School, which is located in the East Hartford School District, a large number of plaintiff students were retained in 2003:

	% of Students Retained in High Schools
East Hartford High School	16.7%
State Average	5.1%

D. Courses Completed by Graduates

103. The suitability of a high school educational opportunity can be measured in part by the courses completed by a graduating student.

104. The State's failure to provide suitable educational opportunities is evidenced by the fact that many plaintiffs do not complete essential courses.

105. The State's failure to provide substantially equal educational opportunities is evidenced by the fact that, when compared to non-plaintiff students, a disparate number of plaintiffs do not complete essential courses.

106. For example, below are statistics detailing the courses completed by 2003 graduates of East Hartford High School, which is located in the East Hartford School District and which many plaintiffs attend:

	% of Graduates who Completed Algebra I	% of Graduates who Completed Chemistry	% of Graduates who Completed Three or More Credits in Science
East Hartford High School	56%	42%	57%
State Average	90%	69%	85%

107. Below are statistics detailing the courses completed by 2003 graduates of Plainfield High School, which is located in the Plainfield School District and which many plaintiffs attend:

	% of Graduates who Completed	% of Graduates who Completed	% of Graduates who Completed Three or More Credits in

	Algebra I	Chemistry	Science
Plainfield High School	76%	43%	74%
State Average	90%	69%	85%

E. Graduation Rates

108. The suitability of a student's educational opportunity can be measured in part by the number of students who fail to graduate from the student's high school.

109. The State's failure to provide suitable educational opportunities is evidenced by the fact that many plaintiffs fail to graduate from high school.

110. The State's failure to provide substantially equal educational opportunities is evidenced by the fact that, when compared to non-plaintiff students, a disparate number of plaintiffs fail to graduate from high school.

111. Below are statistics detailing 2003 "cumulative dropout rates" for high schools where plaintiffs attend. East Hartford High School is located in the East Hartford

School District. Plainfield High School is located in the Plainfield School District. Bassick High School is located in the Bridgeport School District. The “cumulative drop out rate” is the percentage of students who begin high school but do not graduate:

	Cumulative Dropout Rate
East Hartford High School	12%
Plainfield High School	20%
Bassick High School	45%
State Average	10%

V. THE STATE'S FAILURE TO CREATE AND MAINTAIN AN EDUCATIONAL FUNDING SYSTEM THAT PROVIDES SUITABLE AND SUBSTANTIALLY EQUAL EDUCATIONAL OPPORTUNITIES

112. The unsuitability and inequality of the plaintiff's educational opportunities, as well as the

subsequent harm suffered, is caused by a flawed educational funding system.

113. The State has failed to create and maintain an educational funding system that provides and effectively manages the resources needed to ensure that students receive suitable educational opportunities.

114. The State has failed to create and maintain an educational funding system that provides and effectively manages the resources needed to ensure that students receive substantially equal educational opportunities.

115. Public schools in Connecticut are agencies of the State.

116. The State has delegated the authority to operate its public schools to local school districts.

117. The State and the municipalities share the cost of funding education.

118. The two key mechanisms for funding public schools in Connecticut are:

- a. the Education Cost Sharing ("ECS") system, a method of allocating state grants to municipalities on an annual basis; and

b. local revenues generated through municipal property taxes.

119. The State Board of Education, in its "Statement of Core Beliefs," writes that the state and municipalities must bear "an equal share of the cost of education."

120. In 2003, the state did not bear an equal share of total educational costs. State grants accounted for only 39% of public school funding in Connecticut.

121. The municipalities in which plaintiffs reside do not have the ability to raise the funds needed to compensate for the monetary shortfalls that result from the State's arbitrary and inadequate funding system.

122. The ECS system was adopted in 1988 to respond to disparities in the abilities of local school districts to provide students with suitable and substantially equal educational opportunities due to differences in student need and district wealth.

123. Conn. Gen. Stats. §§ 10-62f et seq. detail the current ECS system, under which approximately 99% of ECS funds are allocated through base aid grants; the other 1%

of ECS funds are distributed through supplemental aid, regional bonuses, and density supplements.

124. The base aid grant amount, which makes up a significant amount of the State's contribution to municipalities, is the product of the "foundation" amount, the number of "total need students," and the "base aid ratio." Conn. Gen. Stats. § 10-62f.

125. Conn. Gen. Stats. § 10-262h(a)(6)(Q)(ii) imposes an arbitrary cap on the amount that a municipality's funding may increase from year to year. This cap prevents municipalities with increasing student needs from receiving funds to which they would otherwise be entitled.

A. The Foundation Amount

126. The "foundation" amount is an arbitrary per pupil expenditure figure unrelated to the actual cost of providing a child with a suitable and substantially equal educational opportunity.

127. Originally, the "foundation" amount was set at the regular program expenditure ("RPE") per need student of the municipality where the 80th percentile student resided

when all the municipalities were ranked by expenditure per pupil from the three years prior. In this manner, the "foundation" amount had a built-in cost adjustment factor.

128. However, in 1992, the "foundation" amount was frozen at \$4,800 and was severed from the RPE per pupil of the 80th percentile municipality.

129. In 1995, the "foundation" amount was raised to \$5,711 to adjust for the consolidation of special education funding into the ECS formula. Conn. Gen. Stats. § 10-262h(a)(7).

130. In 1999, the "foundation" amount was set at \$5,891. Conn. Gen. Stats. § 10-62f(9)(G). As of 2005, it has not been changed.

131. Had the original cost adjustment factor remained in effect, in October of 2003 the "foundation" amount would have been roughly \$7,900, which is \$2,009 more than the current "foundation" amount.

132. The current level of funding for special education, which is incorporated into the "foundation" amount, is also unrelated to the actual costs of providing

special education students with suitable and substantially equal educational opportunities.

133. Conn. Gen. Stats. § 10-76g applies an arbitrary formula to determine state funding for special education students and provides that this formula may be disregarded if appropriations fall below the formula-derived total.

B. Total Need Students

134. The "total need students" figure combines the previous year's number of "resident students" (the regular education and special education pupils enrolled at the expense of a municipality, adjusted for an extended school year and tuition-free summer school) with additional weights aimed at adjusting for remedial performance, poverty and limited-English proficiency.

135. Municipalities are granted an additional weighting in their "total need student" count for 25% of its children ages 5 through 17 who were eligible for the temporary family assistance program as of 1996-97. Conn. Gen. Stats. § 10-62f(25).

136. Using eligibility for the temporary family assistance program is an arbitrary, inaccurate, and outdated measurement of a "need student."

137. The "total need student" weight for children eligible for temporary family assistance is an arbitrary weight and is unrelated to the actual cost of providing suitable and substantially equal educational opportunities to low-income students.

138. Municipalities are granted additional "total need students" based on their "mastery count." The "mastery count" is the average of two-, three- and four-year-old composite percentages of test scores on the Connecticut Mastery Test ("CMT") that are at or below the statewide remedial level, multiplied by a municipality's resident student count. Conn. Gen. Stats. § 10-62(f)(13) to (16). Municipalities are eligible to have 25% of its mastery count included in their "total need student" count. Conn. Gen. Stats. § 10-62f(25).

139. The "mastery count" weight is arbitrary and unrelated to the actual costs of providing suitable and substantially equal educational opportunities to students

that score at or below the remedial level on the CMT and to students scoring above that level but who have still failed to reach proficiency. The weights also fail to account for low-performing high-school students.

140. Municipalities receive an additional 10% weighting of their Limited English Proficiency ("LEP") count for students not served or funded under the state's mandatory bilingual education program. Conn. Gen. Stats. § 10-62f(25). Two-year old data are used.

141. The "LEP count" weight for LEP students and the funding made available for students served under the separate bilingual grant program are arbitrary and unrelated to the actual costs of providing suitable and substantially equal educational opportunities to students from non-English speaking homes who have not yet acquired proficiency on the reading subtest of the state's CMT or Connecticut Academic Performance Test ("CAPT").

C. The Base Aid Ratio

142. Conn. Gen. Stats. § 10-262f(2) provides a "minimum base aid ratio;" the purpose of this ratio is to

assure that a municipality's ability to pay is a significant factor in determining the amount of state aid that a municipality receives.

143. The minimum base aid ratio is determined by two factors: the municipality's wealth and the State Guaranteed Wealth Level ("SGWL").

144. The calculation of municipality wealth is based on an erroneous process. It does not provide an accurate assessment of a municipality's ability to raise funds to provide suitable and substantially equal educational opportunities.

145. Likewise, the SGWL does not relate to a municipality's ability to raise funds to provide suitable and substantially equal educational opportunities under this formula. Under the current formula, the higher the SGWL, the more aid municipalities receive.

146. The SGWL, as calculated under the original ECS formula, was twice the median town's wealth. Over time the level has been lowered four times and raised once. It currently stands at 1.55 times the median town's wealth. These changes have been used by the State to control its

funding obligations to municipalities, and do not relate to the actual ability of municipalities to raise funds to provide suitable and substantially equal educational opportunities to their students.

D. Additional Grants

147. The ECS system also distributes a small amount of aid to municipalities through three other grant mechanisms:

- a. Supplemental aid, defined by Conn. Gen. Stats. § 10-62(f)(32)(B), accounted for approximately \$6 million, or 0.4% of ECS funding, in 2002;
- b. Regional bonuses, granted to municipalities that are members of regional school districts, accounted for approximately \$2 million in 2002; and
- c. Density supplement, granted to municipalities with above-average population densities, totaled approximately \$5.5 million in 2002.

148. Connecticut provides a number of grant programs apart from the ECS system, articulated in Conn. Gen. Stats. §§ 10-262k et seq.

149. These other programs provide substantially less funding than the ECS system and are similarly unconnected to the actual cost of providing children with suitable and substantially equal educational opportunities.

E. State Board Statements on the ECS

150. The State Board of Education has admitted that the current ECS formula is seriously flawed. In its list of "Strategic Priorities for 2001-2005," the Board writes that the ECS cap must be eliminated, the "foundation level" must be raised on an annual basis, and the State Guaranteed Wealth Level must be increased.

VI. IRREPARABLE HARM SUFFERED BY PLAINTIFFS

151. As a result of the State's failure to provide suitable educational opportunities, the plaintiffs are being irreparably harmed.

152. As a result of the State's failure to provide substantially equal educational opportunities, the plaintiffs are being irreparably harmed.

153. Because of the State's aforementioned constitutional violations, plaintiffs will be unable to take full advantage of this country's democratic processes and institutions, risking political and social marginalization.

154. Because of the State's aforementioned constitutional violations, plaintiffs will not be competitive in seeking meaningful employment. As such, plaintiffs will be less able to reap both the tangible and intangible benefits, including the salary, health benefits, and self-realization that come with securing a dependable and adequately paying job.

155. Because of the State's aforementioned constitutional violations, plaintiffs will be unable to continue their education because they will not have achieved the requisite level of education to be accepted at an institution. As such, plaintiffs are deprived of both the monetary and intellectual rewards that are associated with such an education.

156. Because of the State's aforementioned constitutional violations, the State has failed to provide

to plaintiffs a reasonable opportunity to meet state standards, and plaintiffs are thus being educated in a system which sets them up for economic, social, and intellectual failure.

VII. CLAIM FOR RELIEF

157. By failing to maintain a public school system that provides plaintiffs with suitable and substantially equal educational opportunities, the State is violating Article Eighth, § 1 and Article First, §§ 1 and 20 of the State Constitution.

158. As a result of this constitutional violation, plaintiffs are being irreparably harmed, for which there is no adequate remedy at law.

Second Count

159. Paragraphs 1 through 158 are incorporated herein by reference.

160. By failing to maintain a public school system that provides plaintiffs with suitable educational opportunities, the State is violating Article Eighth, § 1 of the State Constitution.

161. As a result of this constitutional violation, plaintiffs are being irreparably harmed, for which there is no adequate remedy at law.

Third Count

162. Paragraphs 1 through 161 are incorporated herein by reference.

163. By failing to maintain a public school system that provides plaintiffs with substantially equal educational opportunities, the State is violating Article Eighth, § 1 and Article First, §§ 1 and 20 of the State Constitution.

164. As a result of these constitutional violations, plaintiffs are being irreparably harmed, for which there is no adequate remedy at law.

Fourth Count

165. Paragraphs 1 through 164 are incorporated herein by reference.

166. At all times relevant hereto, defendants were acting under color of state law.

167. The State's failure to maintain a public school system that provides plaintiffs with suitable and substantially equal educational opportunities has disproportionately impacted African-American, Latino, and other minority students, in violation of Article Eighth, § 1 and Article First, §§ 1 and 20 of the State Constitution, and 42 U.S.C. § 1983.

168. As a result of these constitutional violations, plaintiffs are being irreparably harmed, for which there is no adequate remedy at law.

169. Wherefore, plaintiffs respectfully request that:

- i. The Court declare that the plaintiffs have a right to receive suitable and substantially equal educational opportunities as a matter of State Constitutional law.

- ii. The Court render judgment for plaintiffs holding that the State's failure to provide suitable and substantially equal educational opportunities violates Article Eighth, § 1 and Article First, §§ 1 and 20 of the Connecticut Constitution.
- iii. The Court declare that the existing school funding system is unconstitutional, void and without effect.
- iv. The Court permanently enjoin defendants from operating the current public education system, except as necessary to provide an expedient and efficient transition to a constitutional public education system.
- v. The Court order defendants to create and maintain a public education system that will provide suitable and substantially equal educational opportunities to plaintiffs.
- vi. The Court appoint a Special Master to hold hearings, make findings, and report recommendations to the Court with regard to the constitutionality

of any new system of education proposed by
defendants.

vii. The Court award plaintiffs reasonable attorneys'
fees pursuant to 42 U.S.C. § 1983.

viii. The Court retain jurisdiction for whatever period
is necessary.

ix. The Court provide other and further relief, legal
or equitable, as the Court may deem just and
proper.

THE PLAINTIFFS

By: _____

Robert A. Solomon
Jerome N. Frank Legal
Services Organization
P.O. Box 209090
New Haven, CT 06520-9090
Juris No. 100356
E-mail:
robert.solomon@yale.edu

ON THE COMPLAINT:

Joshua Glasgow
Scott Grant
Katherine Kimpel

Neerav Kingsland
Adam Porsch
Kamil Redmond
Bertrall Ross
Marc Silverman
Caroline Trowbridge

Law Student Interns
Yale Law School

CERTIFICATION

A copy of the foregoing was mailed and sent electronically on the 18th day of November, 2010 to Ralph Urban, 343 Mansfield Road U-2177, Storrs, CT 06269-2177; and Darren Cunningham, 55 Elm Street, Hartford, CT 06141-0120.

Robert A. Solomon