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June 13, 2019

BY HAND

Maura S. Doyle, Clerk
Supreme Judicial Court for the County of Suffolk
John Adams Courthouse
1 Pemberton Square, Suite 2500
Boston, MA 02108

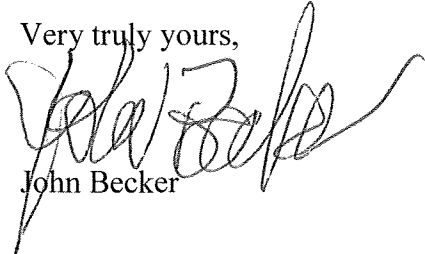
**RE: Denise DaPonte Mussotte, as next friend of Z.M., G.M., and T.L.M., et. al. v.
James Peyser, in his official capacity as Secretary of Education, et. al.**

Dear Ms. Doyle,

Enclosed for filing, please find a complaint, a check for \$315 to cover the filing fee, and an additional check for \$35 for seven summonses.

Kindly stamp a copy of this cover letter to indicate receipt. Also, please stamp the docket number on each summons. Thank you for your cooperation.

Very truly yours,


John Becker

Encl.

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY

SUFFOLK, ss.

CIVIL ACTION NO. _____

DENISE DAPONTE MUSSOTTE as next friend of
Z.M., G.M., and T.L.M.; MANEISHA STRAKER as
next friend of Jn.S. and Ja.S.; ALICIA FLEMING as
next friend of A.F.; NICOLE LAROSE-SANCHEZ as
next friend of C.S.; TED KEMPINSKI as next friend
of T.K., H.K., and M.K.; CARRIE CARBONE as next
friend of Mc.C. and Ma.C.; DANIELLE ANDERSEN
as next friend of D.A. and I.A.; BRIDGET
MARSHALL as next friend of L.B.; MONICA
LUNDBERG as next friend of Z.L.; MAYRA DE
ROMERO as next friend of B.R.; HILDA RAMIREZ
as next friend of A.R. and J.R.; EDUARDO VALDES
VILLIBORD as next friend of R.V.F.; MAYRA
BALDERAS as next friend of A.B.; CHELSEA
COLLABORATIVE, INC.; and NAACP-NEAC,

Plaintiffs

v.

JAMES PEYSER, in his official capacity as Secretary
of Education; EXECUTIVE OFFICE OF
EDUCATION; JEFFREY C. RILEY, in his official ca-
pacity as Commissioner of Elementary and Secondary
Education; MASSACHUSETTS DEPARTMENT OF
ELEMENTARY AND SECONDARY EDUCATION;
KATHERINE CRAVEN, in her official capacity as
Chair of the Board of Elementary and Secondary Edu-
cation; MASSACHUSETTS BOARD OF
ELEMENTARY AND SECONDARY EDUCATION;
and MICHAEL J. HEFFERNAN, in his official capac-
ity as Secretary of Administration and Finance,

Defendants.

COMPLAINT

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INTRODUCTION

1. Twenty-six years ago this month, the Supreme Judicial Court in McDuffy v. Secretary of Executive Office of Education, 415 Mass. 545 (1993) (“McDuffy”) found that the Massachusetts Constitution¹ imposes a mandate on the Commonwealth to provide adequate funding to educate all Massachusetts children, and that the then-existing system of funding public education violated that constitutional mandate. Days after the SJC’s ruling, the Education Reform Act of 1993 (“ERA”) overhauled the public education system with the goal of ensuring that every school district had sufficient funding to meet the educational needs of its students and imposing new accountability standards.

2. In 2005, the SJC again examined the state of public education in Hancock v. Commissioner of Education, 443 Mass. 428 (2005) (“Hancock”) and found that, although some children were still not receiving adequate funding for their education, the Commonwealth’s implementation of the ERA, and the accompanying infusion of additional financial resources, placed the system on a “steady trajectory of progress.” Id. at 433 (Marshall, C.J., concurring). As a result, the Court declined at that time to find that the Commonwealth was violating its mandate under the Education Clause of the Massachusetts Constitution.

3. Fourteen years have passed since the decision in Hancock, and, as the Plaintiffs bringing this Complaint will demonstrate, public education is no longer on a steady trajectory of progress. Instead, public schools are increasingly unable to provide sufficient resources to meet ever-increasing educational challenges. Wealthier districts with relatively few disadvantaged students are educating their children by providing funding from local resources far in excess of

¹ Specifically, Mass. Const. Part II, c. 5, § 2 (“Education Clause”).

the foundation budgets established by the ERA.² By contrast, low-income communities—which have a higher-than-average proportion of students of color, English language learners,³ students with disabilities, and low-income students—do not have the resources to educate their students, even though they are all receiving and spending at least 100% of the ERA foundation budget.

4. The Foundation Budget Review Commission (“FBRC”) of 2015 demonstrated conclusively that significant additional funding was needed in four key areas: services for low-income students, students with disabilities, and English language learners, as well as employee and retiree health insurance. Yet the Legislature, while aware of these deficiencies, has so far failed to act to bridge these gaps fully or to provide a plan to do so within a reasonable time. Despite the optimism of the Hancock Court, the record in the 14 years since that decision shows that progress has stalled. Disparities between the wealthiest and least wealthy districts have widened and students in underfunded school districts are being deprived of the opportunity to receive the education to which they are entitled.

5. As a consequence of these failures, the “Commonwealth’s extant public education plan does not provide reasonable assurance of an opportunity for an adequate education to ‘all of its children, rich and poor, in every city and town’” and the “Commonwealth’s public education plan does not provide reasonable assurance of improvements for their schools’ performance over a reasonable period of time.” Doe v. Secretary of Educ., 479 Mass. 375, 388-389 (2018), quoting McDuffy, 415 Mass. at 606.

² Foundation budgets are discussed more fully in Section C, infra.

³ G. L. c. 71A, § 2(d) defines an “English learner” as “a child who does not speak English or whose native language is not English, and who is not currently able to perform ordinary classroom work in English.” The Massachusetts Department of Elementary and Secondary Education (“DESE”) uses the terms “English learner” and “English language learner” (“ELL”) interchangeably.

NATURE OF ACTION

6. Plaintiffs in this case are children in seven underfunded school districts—Chelsea, Chicopee, Fall River, Haverhill, Lowell, Orange, and Springfield—and two community membership organizations: Chelsea Collaborative, which has members who are students and parents in the Chelsea school district; and the New England Area Conference of the National Association for the Advancement of Colored People (“NAACP-NEAC”), which has members who are students and parents in the Haverhill, Lowell, and Springfield school districts, among others.

7. These Plaintiffs bring this declaratory judgment action against Defendants, who are the governmental entities and officials responsible for administering and funding Massachusetts elementary and secondary education. Plaintiffs ask the Court to declare that: (1) the Commonwealth is violating its constitutional mandate under the Education Clause by failing to provide adequate funding to educate all Massachusetts children; (2) the Commonwealth is violating Article 1 of the Declaration of Rights, as amended by art. 106 of the Amendments to the Massachusetts Constitution (“Equal Protection Amendment”) by depriving low-income students of their fundamental right to the opportunity for an education; and (3) the Commonwealth is violating the Equal Protection Amendment by failing to provide children of color with the same educational opportunities as White students. As a remedy, Plaintiffs seek, *inter alia*, a declaration by this Court that the Defendants are violating the Constitution and an order directing the Commonwealth to remedy these violations.

JURISDICTION

8. This Court has jurisdiction over this matter pursuant to G. L. c. 214, § 1 (general equity jurisdiction), and G. L. c. 231A, §§ 1 et seq. (declaratory judgment actions).

PARTIES

9. Denise DaPonte Mussotte brings this action on behalf of three of her minor children, Plaintiff Z.M., Plaintiff G.M., and Plaintiff T.L.M. Ms. DaPonte Mussotte, her husband, and their children live in Fall River, MA. Z.M. is 11 years old and is enrolled in the sixth grade at Morton Middle School. G.M. is nine years old and is enrolled in fourth grade at the Tansey Elementary School. T.L.M. is seven years old and is enrolled in first grade at the Tansey Elementary School. Ms. DaPonte Mussotte's children identify as mixed race (Black and White), with Portuguese and Haitian ancestry.

10. Maneisha Straker brings this action on behalf of her minor son, Plaintiff Jn.S. and her minor daughter, Plaintiff Ja.S. Ms. Straker and her children live in Fall River. Jn.S. is 10 years old and is enrolled in the fourth grade at Fonseca Elementary School. Jn.S. has an individualized education program ("IEP").⁴ Ja.S. is eight years old and is in second grade also at Fonseca Elementary School. Jn.S. and Ja.S. identify as Black.

11. Alicia Fleming brings this action on behalf of her minor son, Plaintiff A.F. Ms. Fleming and her son live in Chicopee, MA. A.F. is six years old and is enrolled in first grade at Belcher Elementary School in Chicopee. A.F. identifies as mixed race (Black and White).

12. Nicole LaRose-Sanchez brings this action on behalf of her minor son, Plaintiff C.S. Ms. LaRose-Sanchez, her husband, and their son live in Haverhill, MA. Ms. LaRose-Sanchez currently teaches in the Haverhill Public Schools, where she has been a teacher for 21 years. C.S. is 14 years old and is completing eighth grade at Hunking Middle School, after which he will attend Haverhill High School. C.S. identifies as mixed race (Latinx and White).

⁴ The presence of an IEP indicates that a child is receiving special education services from the school district.

13. Ted Kempinski brings this action on behalf of his three minor children, Plaintiffs T.K., H.K., and M.K. Mr. Kempinski and his children live in Haverhill, MA. T.K. is eight years old and is in second grade at Bradford Elementary School. H.K. is six years old and is in kindergarten also at Bradford Elementary School. M.K. is four years old and is enrolled at Moody Preschool. Mr. Kempinski is a teacher in the Haverhill Public Schools. T.K., H.K., and M.K. identify as White.

14. Carrie Carbone brings this action on behalf of her minor son, Plaintiff N.C., minor daughter, Plaintiff Mc.C., and minor son, Plaintiff Ma.C. Ms. Carbone and her children live in Orange, MA. N.C. is 12 years old and is in the sixth grade at Dexter Park Elementary School in Orange. Mc.C. is 10 years old and is enrolled in the fourth grade at Dexter Park. Ma.C. is two years old and will begin preschool in September, 2019, at the Fisher Hill Elementary School in Orange. Ms. Carbone's children identify as White, and are designated as economically disadvantaged.⁵

15. Danielle Andersen brings this action on behalf of her minor son, Plaintiff D.A. and her minor daughter, Plaintiff I.A. Ms. Andersen and her children live in Orange, MA. D.A. is seven years old and is enrolled in first grade at the Fisher Hill Elementary School in Orange. I.A. is four years old and is enrolled in the preschool at the Fisher Hill Elementary School. Ms. Andersen is an elected member of the Orange Elementary School Committee. Both I.A. and D.A. have IEPs. Both I.A. and D.A. identify as White.

⁵ To qualify as "economically disadvantaged," a student (or the student's family) must be participating in one or more of the following programs included in the Commonwealth's direct certification system: Supplemental Nutrition Assistance Program (SNAP), Transitional Aid for Families with Dependent Children, Medicaid (MassHealth), and children under the care of the Department of Children and Families (e.g., children in foster care).

16. Bridget Marshall brings this action on behalf of her minor daughter, Plaintiff L.B. Ms. Marshall, her husband, and her daughter live in Lowell, MA. L.B is 11 years old and is in the fifth grade at Robinson Middle School in Lowell. Prior to enrolling at Robinson Middle School in fall 2018, L.B. attended McAuliffe Elementary School in Lowell. L.B. identifies as White.

17. Monica Lundberg brings this action on behalf of her minor son, Plaintiff Z.L. Ms. Lundberg, her husband, and her son live in Lowell, MA. Z.L. is five years old and is enrolled in kindergarten at the STEM Academy at the Rogers School in Lowell. Z.L. identifies as White.

18. Mayra de Romero brings this action on behalf of her minor son, Plaintiff B.R. Ms. de Romero, her husband, and her son live in Chelsea, MA. B.R. is 11 years old and in fifth grade at Clark Avenue School. B.R.'s parents are immigrants from El Salvador and he identifies as Latinx. His first language is Spanish and he speaks Spanish at home. He is designated as economically disadvantaged. Ms. de Romero is a member of the Chelsea Collaborative.

19. Hilda Ramirez brings this action on behalf of her minor daughter, Plaintiff A.R. and minor son, Plaintiff J.R. Ms. Ramirez and her children live in Chelsea, MA. A.R. is 11 years old and is in fifth grade at Clark Avenue School in Chelsea. J.R. is six years old and is enrolled in pre-kindergarten at the John Silber Early Learning Center in Chelsea. Both children identify as Latinx and they speak Spanish at home. They are designated as economically disadvantaged. J.R. has an IEP. Ms. Ramirez is a member of the Chelsea Collaborative.

20. Eduardo Valdes Villibord brings this action on behalf of his minor daughter, Plaintiff R.V.F. Mr. Villibord and his daughter live in Chelsea, MA. R.V.F. is 14 years old and in eighth grade at Browne Middle School in Chelsea. She will enroll in Chelsea High School in fall 2019. R.V.F. is an immigrant from Honduras and identifies as Latinx. Her first language is

Spanish and she speaks Spanish at home. She has received English language learner services from Chelsea Public Schools in the past. She is defined as economically disadvantaged. Mr. Villibord is a member of the Chelsea Collaborative.

21. Mayra Balderas brings this action on behalf of her minor son, Plaintiff A.B., who is 10 years old and in fifth grade at Clark Avenue School. Ms. Balderas and her son live in Chelsea, MA. Ms. Balderas is legally blind. A.B.'s family emigrated from Mexico and he identifies as Latinx. His first language is Spanish and he speaks Spanish at home. He is defined as economically disadvantaged and has a 504 plan.⁶ Ms. Balderas is a member of the Chelsea Collaborative.

22. Plaintiff Chelsea Collaborative, Inc. is a 501(c)(3) nonprofit, nonpartisan, Latinx-led, membership-based organization located in Chelsea. Founded in 1988, the Collaborative's mission is to enhance the social and economic health of the city of Chelsea. Its membership includes Latinx children and English language learners attending Chelsea public schools and parents of children in those schools. The Collaborative works extensively on educational equity within Chelsea through programs such as the "Youth Riot Squad," a group of community organizers who work on issues affecting youth; Chelsea Desea Soñar, an arts exploration program for immigrant children; and the Girls Empowerment Group, which builds educational and employment opportunities for girls aged 13-21. The Collaborative's student and parent members have been harmed by the Commonwealth's failure to adequately fund their education in the Chelsea School District and by its discriminatory conduct. Not only have its members been harmed, but

⁶ The presence of a 504 plan indicates that a student with a disability is receiving accommodations to ensure an opportunity for academic success and/or access to the learning environment.

the Collaborative has been compelled to divert scarce and valuable resources to assist its members by, for example, providing foreign language translators to permit them to participate in parent-teacher conferences and other engagement in the school district.

23. Plaintiff NAACP-NEAC is a non-partisan, not for profit, chartered organization operating under the auspices of the National Association for the Advancement of Colored People. NAACP-NEAC is the coordinating and governing entity for NAACP-chartered Branches in the Commonwealth of Massachusetts, plus chartered Branches in the states of Rhode Island, New Hampshire, Maine, and Vermont. NAACP-NEAC has 14 Branches located throughout the Commonwealth of Massachusetts, including branches in Springfield and the Merrimack Valley, which includes Lowell and Haverhill. NAACP-NEAC's mission is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination. The NAACP is dedicated to ensuring that all students in Massachusetts have an equal opportunity to obtain a high quality public education. It has worked since 1915 to remove barriers to the participation of Black students on a fully equal basis, and to ensure that all students receive the services they need to succeed in the American society. It is the largest and oldest civil rights organization in the country, founded in 1909. Members of NAACP-NEAC, through its Branches, are parents of children of color enrolled in public schools in the Commonwealth of Massachusetts who suffer harm because of the deficiencies described in this complaint. NAACP-NEAC and its members are aggrieved by Defendants' actions and omissions described in this complaint because they substantially impede the educational opportunities of members' children and hinder the NAACP-NEAC's ability to further its goals and institutional purpose of improving educational opportunities for students by diverting the resources of its Branches to addressing the actions and failures of the Defendants. For example, the NAACP Springfield

Branch operates an Education Advocacy program, which focuses on effective, accountable and accessible public school systems and adequate and equitable school funding.

24. Defendant James Peyser is the Secretary of Education and is being sued in his official capacity. He is appointed by the Governor and serves as a member of the Governor's cabinet. The Secretary of Education has general responsibility to "analyze the present and future goals, needs, and requirements of public education in the commonwealth," and has the statutory duty and power, among others, to "make recommendations to the secretary of administration and finance and the governor concerning the funding of education in the Commonwealth and assist in preparing budget proposals to be put before the legislature on behalf of" the Department of Elementary and Secondary Education ("DESE"). G. L. c. 6A, § 14A. These responsibilities, duties, and powers make the Secretary of Education responsible for meeting the constitutional obligations of the Commonwealth under the Education Clause and the Equal Protection Amendment.

25. Defendant Executive Office of Education oversees the Department of Early Education and Care and DESE. Defendant Executive Office of Education is responsible for ensuring that the Commonwealth meets its constitutional obligations under the Education Clause and Equal Protection Amendment.

26. Defendant Jeffrey C. Riley is the Commissioner of Elementary and Secondary Education and is being sued in his official capacity. The Commissioner is appointed by the Secretary of Education at the recommendation of the Board of Elementary and Secondary Education, G. L. c. 15, § 1F, and is responsible for, among other things, analyzing the present and future goals, needs and requirements of public elementary, secondary and vocational-technical education in the Commonwealth, and recommending to the board comprehensive means to achieve a well-coordinated system of high achievement in public education in the Commonwealth. G. L.

c. 69, § 1A. The Commissioner is also responsible for proposing a budget to the Board of Elementary and Secondary Education, “overseeing and monitoring” English language learner (“ELL”) programs, and developing curriculum frameworks and academic standards. G. L. c. 69, §§ 1A, 1E. These responsibilities, duties, and powers make the Commissioner of Elementary and Secondary Education responsible for meeting the constitutional obligations of the Commonwealth under the Education Clause and the Equal Protection Amendment.

27. Defendant DESE is an executive office established by statute within the Executive Office of Education, and is “under the supervision and management of the commissioner of elementary and secondary education.” G. L. c. 15, § 1. It is responsible for fulfilling the duties of the Commissioner of Elementary and Secondary Education and the Board of Elementary and Secondary Education. Under G. L. c. 69, these duties include, among others, putting department budget proposals before the legislature, developing curriculum frameworks and academic standards, and establishing education policy, standards, and guidelines to fulfill the purposes of the Education Reform Act. These statutory duties obligate DESE to meet the constitutional obligations of the Commonwealth under the Education Clause and the Equal Protection Amendment.

28. Defendant Katherine Craven is the Chair of the Board of Elementary and Secondary Education and is being sued in her official capacity. She is responsible for presiding over all meetings of the Board, calling special meetings, serving as an *ex officio* member of all standing or designated committees of the Board, appointing committees, and taking such other action as is consistent with the General Laws or the Board’s By-Laws. These responsibilities, duties, and powers make the Chair of the Board responsible for meeting the constitutional obligations of the Commonwealth under the Education Clause and the Equal Protection Amendment.

29. Defendant Massachusetts Board of Elementary and Secondary Education (“Board”) is established, by statute, within DESE. G. L. c. 15, § 1E. It is generally responsible for establishing education policy, teacher certification standards, guidelines for establishing systems of evaluation, criteria to define areas with a high number of low-income children, standards to ensure student safety, and other policies it deems necessary to fulfill the purposes of the Education Reform Act. G. L. c. 69, § 1B. The Board exercises oversight over the commissioner and may delegate the Board’s authority to the commissioner or remove him or her, in its discretion. G. L. c. 15, § 1F. The Legislature also delegates duties to the Board related to curriculum frameworks and school assessment, G. L. c. 69, § 1E, and to “provide technical and other assistance in the formulation of plans to reduce or eliminate racial imbalance,” G. L. c. 15, § 1I. These responsibilities, duties, and powers make the Board responsible for meeting the constitutional obligations of the Commonwealth under the Education Clause and the Equal Protection Amendment.

30. Defendant Michael J. Heffernan is the Secretary of Administration and Finance and is being sued in his official capacity. He is appointed by the Governor and serves as a member of the Governor’s cabinet. G. L. c. 7, § 4. The Secretary of Administration and Finance is the executive officer of the Governor in all matters pertaining to the financial, administrative, planning, and policy coordinating functions and affairs of all executive branch departments and agencies. See G. L. c. 7, § 4. He has specific statutory duties to inquire into the business affairs and laws of the Commonwealth as they relate to these agencies, supervise program planning, conduct studies of the operations of the agencies, and oversee the preparation of budget recommendations for all executive agencies and departments. See G. L. c. 7, § 4. These responsibili-

ties, duties, and powers make the Secretary of Administration and Finance responsible for meeting the constitutional obligations of the Commonwealth under the Education Clause and the Equal Protection Amendment.

FACTUAL ALLEGATIONS

A. THE COMMONWEALTH HAS A CONSTITUTIONAL DUTY TO ENSURE THAT ALL STUDENTS CAN RECEIVE A PUBLIC EDUCATION.

31. Part II, c. 5, § 2 of the Constitution of the Commonwealth provides in pertinent part:

Wisdom, and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the... public schools and grammar schools in the towns....

32. In McDuffy, this Court defined the contours of the Commonwealth's constitutional duty to "cherish" public schools as an affirmative duty "to provide an education for *all* its children" 415 Mass. at 606 (emphasis in original). This duty applies regardless of whether the children enrolled "be rich or poor and without regard to the fiscal capacity of the community or district in which such children live." Id. at 621.

33. The factual record in McDuffy painted a "bleak portrait of the plaintiffs' schools and those they typif[ied]:" the plaintiffs' districts lacked enough funds to meet basic educational necessities, resulting in large class sizes, under-staffing, neglected libraries, inexperienced teachers, and high staff turnover. Id. at 617.

34. The McDuffy Court set forth seven "broad guidelines" that the Commonwealth must meet in order to satisfy its constitutional duty:

- (i) sufficient oral and written communication skills to enable students to function in a complex and rapidly changing civilization;
- (ii) sufficient knowledge of economic, social, and political systems to enable students to make informed choices;
- (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation;
- (iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness;
- (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;
- (vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and
- (vii) sufficient level of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

Id. at 618–619, quoting Rose v. Council for Better Educ., Inc., 790 S.W.2d 186, 212 (Ky. 1989).

35. In 2005, this Court revisited the Commonwealth’s obligation under the Education Clause. While three justices agreed that, on the facts presented, “serious inadequacies in public education remain,” Hancock, 443 Mass. at 433 (Marshall, C.J., concurring) and two justices saw the “focus districts beset with problems, and lacking anything that can reasonably be called an adequate education for many children...,” Id. at 478 (Greaney, J., dissenting), the Court declined to adopt Superior Court Judge Botsford’s recommended finding that the Commonwealth was still abdicating its constitutional duty and declined to order any additional remedy. Id. at 429. In support of this result, the Court noted that the Commonwealth’s implementation of the ERA between 1993 and 2003, and the accompanying infusion of additional financial resources into public education, placed the Commonwealth on a “steady trajectory of progress” towards fulfilling its constitutional mandate. Id. at 433 (Marshall, C.J., concurring).

36. In 2018, this Court clarified that the Commonwealth violates its constitutional duty to educate all students if its “extant public education plan does not provide reasonable assurance of an opportunity for an adequate education to *all* of its children, rich and poor, in every city and town, . . . over a reasonable period of time, or is otherwise arbitrary, nonresponsive, or irrational.” Doe, 479 Mass. at 389 (internal citations and quotation marks omitted) (emphasis in original).

37. The McDuffy, Hancock, and Doe Courts all recognized that the Commonwealth’s duty to educate all children will evolve over time. “[T]he content of the duty to educate . . . will evolve together with our society,’ and . . . the education clause must be interpreted in accordance with the demands of modern society or it will become in constant danger of becoming atrophied and, in fact, may even lose its meaning.” Hancock, 443 Mass. at 435, quoting McDuffy, 415 Mass. at 620 (first ellipsis in original; other internal citations removed); see Doe, 479 Mass. at 387 n.23.

B. MASSACHUSETTS CHILDREN HAVE A FUNDAMENTAL RIGHT TO A PUBLIC EDUCATION THAT MEETS THE COMMONWEALTH’S CONSTITUTIONAL OBLIGATIONS.

38. The constitutional obligation to adequately fund education creates a concomitant fundamental right of children to a public education that satisfies that constitutional mandate. “[I]f ‘legislatures and magistrates’ have a constitutional duty to educate, then members of the Commonwealth have a correlative constitutional right to be educated.” McDuffy, 415 Mass. at 566 n. 23, quoting Mass. Const. Part II, c. 5, § 2.

39. As Chief Justice Liacos, the author of the McDuffy opinion, noted, the Massachusetts Constitution contains some of the strongest education language of any state constitution. Supreme courts in other states have found “that education is a fundamental or paramount right or

interest . . . based on language less explicit than that in our Constitution.” Doe v. Superintendent of Sch. of Worcester, 421 Mass. 117, 141 (1995) (Liacos, C.J., dissenting) (citing the holdings of a fundamental or paramount right to education by the Supreme Courts of California, Connecticut, Kentucky, North Dakota, Virginia, and more).

40. That Massachusetts children have a fundamental right to a public education is consistent with the history and tradition of the Commonwealth going back as far as the founding of the Massachusetts Bay Colony in 1630, through the colonial period, the early years of the republic, and throughout the 19th and 20th centuries. See generally McDuffy, 415 Mass. at 569-601, 619-620.

41. A fundamental right to an adequately-funded public education is also consistent with the challenges and demands placed on citizens by the 21st Century economy. Greater complexity in work, as well as job market changes brought on by the digital information age, require a more highly educated workforce. Without adequately-funded elementary and secondary education, students are significantly less likely to succeed in both higher education and the workforce.

C. THE COMMONWEALTH HAS FAILED TO MEET ITS CONSTITUTIONAL OBLIGATION TO PROVIDE A PLAN FOR FUNDING PUBLIC EDUCATION THAT ADAPTS TO CHANGING EDUCATIONAL NEEDS.

42. To meet its constitutional responsibility, the Commonwealth must maintain a funding plan that ensures that every school district has the necessary resources to provide an adequately-funded education to all its children, enabling them to become “‘free citizens on whom the Commonwealth may rely’ to ensure the functioning of our democracy and society.” Doe, 479 Mass. at 387 n.23, quoting McDuffy, 415 Mass. at 620.

43. In 1993, within days of this Court’s issuance of McDuffy, the Education Reform Act (“ERA”) became law. The ERA “established a centralized system of objective, data-driven, performance assessment and school and district accountability,” resulting in the “development of academic standards, and ‘curriculum frameworks’^[7] for attaining those standards . . . in certain ‘core subjects’ . . . and the arts.” Hancock, 443 Mass. at 438-439. The act required competency testing, in the form of the Massachusetts Comprehensive Assessment (“MCAS”) examination, for high school graduation. Id. at 439.

44. To finance these new requirements, the ERA established a complex “foundation budget” for every Massachusetts school district. The foundation budget is designed to be the minimum level of expenditure required to adequately fund education for each of the district’s students to, in principle, enable them to meet the state standards.

45. DESE establishes a school district’s foundation budget by considering various elements of educating the district’s students, including operation and maintenance costs, staffing levels, books, technology, and other equipment. The foundation budget process also attempts to

⁷ There are 10 Curriculum Frameworks:

1. History and Social Science, released in 2018;
2. English Language Arts and Literacy, released in 2017;
3. Mathematics, released in 2017;
4. Digital Literacy and Computer Science, released in 2016;
5. Science and Technology Engineering, released in 2016;
6. Vocational Technical Education, released in 2014;
7. English Language Development, released in 2012-2013;
8. Arts, released in 1999;
9. Comprehensive Health, released in 1999; and
10. Foreign Languages, released in 1999.

determine the need for additional resources for low-income students, ELL students, and students needing special education services.

46. Once a district's foundation budget is established for a given year, it is funded from a prescribed combination of municipal expenditures from property taxes and other local revenues (the "local contribution") and state aid pursuant to G. L. c. 70 and associated rules, regulations and practices. For each district, both the minimum required local contribution and Chapter 70 aid are determined by the state's funding formula ("Chapter 70 formula").

47. The local and state shares of the foundation budget are based in large part on a municipality's property wealth and income. For districts whose underlying municipalities have relatively low property wealth and income, the local contribution is a comparatively low share of the foundation budget, and Chapter 70 aid a comparatively high share. The reverse is true for districts whose underlying municipalities have relatively high property wealth and income.

48. On a per-pupil basis, foundation budgets vary across districts based largely on differences in student demographics, in particular the shares of low-income students and ELL students. For example, in fiscal year 2019, the per-pupil foundation budget of Chelsea (a district with high shares of low-income students and ELL students) was \$13,138, compared to \$10,176 for Wellesley, a district with low shares of low-income students and ELL students.

49. School districts can spend above their foundation budgets, typically by contributing more than the minimum required local contribution. Naturally, the ability to do so is greater for the wealthiest than for the least wealthy districts. Consequently, wealthy districts typically spend well above their foundation budgets, while the lowest-wealth districts usually spend at or slightly above their foundation budgets.

50. The ERA envisioned that the Legislature would regularly adjust the foundation budget to address the changing needs of districts and students and required an FBRC review every three years.

51. Subsequent amendments to the law increased the frequency of FBRC reviews and expanded the scope of review to “determine the educational programs and services needed to prepare students to achieve passing scores on the [MCAS]” and reevaluate the assumptions built into the foundation budget concerning special education costs every even-numbered year.

52. Despite clear statutory language, the FBRC was convened and produced reports only three times in the 26 years since the ERA became law: 1996, 2001, and 2015.

53. Despite its statutory mandate to perform a systematic analysis of the foundation budget in order to “determine the educational programs and services necessary to achieve the commonwealth’s educational goals,” the 2015 FBRC determined that it did not have time to make informed recommendations in a number of areas that needed review and acknowledged that its recommendations are incomplete.

54. Notwithstanding its truncated review, in its October 2015 report, the FBRC reached a general conclusion that the Commonwealth has failed to “deliver quality [education] consistently to all geographies and all demographic groups across our state.”⁸

55. The FBRC’s specific findings included the following:

⁸ Report of the Foundation Budget Review Commission 4 (2015), <http://www.doe.mass.edu/finance/chapter70/FBRC-Report.docx>.

- a. actual spending on health insurance and special education has surpassed the assumptions contained within the foundation budget formula concerning those costs by as much as \$2.1 billion; and
- b. for students from low-income households and ELL students, the foundation budget significantly underestimates the cost of providing services that are necessary for their academic and social-emotional success.

56. As a result of these findings, the FBRC made four core recommendations for changes to the way that the foundation budget is calculated:

- a. increasing per-pupil employee health insurance rates, adding a component for retiree health insurance, and changing how these rates would be adjusted for inflation;
- b. increasing the presumed percentage of full-time-equivalent students needing in-district special education services as well as raising the component for out-of-district special education students;
- c. increasing the ELL increment and adding a new ELL increment over base funding for vocational students; and
- d. increasing the increment for students from low-income households in districts with high concentrations of such students to between 50% and 100% of the base per-pupil cost.

57. The FBRC acknowledged that, even if the Commonwealth implemented the recommendation increasing the assumed percentage of students needing special education services, an approximately \$700 million gap still would remain between actual spending and the foundation budget's assumptions.

58. The funding deficiencies identified by the FBRC have a domino effect. Districts must divert limited funds from regular education costs like staffing and building maintenance to cover the underfunding of educational services for low-income, special education, and ELL students as well as mandatory health insurance costs.

59. The effect of this diversion is most acute in the lowest-wealth districts. After diverting much of their foundation budgets to these underfunded services, these districts do not have enough remaining to cover basic costs such as staffing, books, technology, and building maintenance and repair.

60. For example, for the lowest-wealth 20% of districts in fiscal year 2017, spending for regular education teachers was 27% less than the foundation budget allocation for these teachers, while spending on materials and technology was 52% below the foundation allocation.⁹

61. More than three years after the 2015 FBRC report, the Commonwealth has failed to take adequate steps to fully implement the FBRC's four core recommendations. Furthermore, the Commonwealth has not corrected other deficiencies in the foundation budget formula that the FBRC did not address.

62. In fact, when adjusted for inflation and enrollment changes, the Commonwealth's funding of public education (as determined by its Chapter 70 aid to school districts) reached its peak in fiscal year 2002.

⁹ Colin Jones, Noah Berger & Roger Hatch, Mass. Budget & Policy Ctr., Building an Education System that Works for Everyone: Funding Reforms to Help All Our Children Thrive (July 18, 2018), http://massbudget.org/report_window.php?loc=Building-an-Education-System-that-Works-for-Everyone.html.

63. The Commonwealth's failure to routinely review and systematically adjust the foundation budget has led to inadequate state funding (through Chapter 70 aid) to meet the educational needs of all school districts. While wealthier districts can make up these shortages by supplementing spending through local revenues, the lowest-wealth districts cannot. With regard to those lowest-wealth districts, the Commonwealth has failed to meet its constitutional obligations.

D. THE COMMONWEALTH HAS FAILED TO PROVIDE ADEQUATE FUNDING TO EDUCATE STUDENTS IN ALL OF ITS SCHOOL DISTRICTS, DEPRIVING PLAINTIFFS AND MANY OTHER STUDENTS OF THEIR RIGHT TO AN EDUCATION AND HARMING THEIR ACADEMIC PERFORMANCE, EDUCATIONAL PROSPECTS, AND LIVELIHOODS.

64. Plaintiffs' school districts—Chelsea, Chicopee, Fall River, Haverhill, Lowell, Orange, and Springfield—are all low-income, property-poor communities that serve predominantly “high needs” students.¹⁰

65. Students of color are also disproportionately enrolled in most of the affected districts.

66. These communities share demographic and economic characteristics with many other districts in the Commonwealth, including, but not limited to, Brockton, Fitchburg, Gardner, New Bedford, and Worcester.

67. Plaintiffs' school districts' budgeted spending was between 100 and 115% of the foundation budget.¹¹

¹⁰ The Commonwealth currently designates “high needs” students as those falling within at least one of the following subgroups: English language learners, students with disabilities, or students who are economically disadvantaged.

¹¹ Statewide, average budgeted spending was 131% of foundation, while the lowest performing 20% of districts budgeted, on average, 115% of foundation in fiscal year 2019.

68. As detailed below, Plaintiffs' school districts are plagued by a myriad of problems and deficits, all of which could be eliminated or reduced by additional funding. These problems include:

- a. deteriorating or otherwise inadequate buildings and classrooms;
- b. unsafe physical conditions;
- c. outdated materials;
- d. lack of essential teaching materials, including books and computer technology;
- e. lack of adequate staff, including teachers and teachers' aides;
- f. overcrowded classrooms;
- g. high teacher turnover rates and low teacher retention;
- h. lack of experienced teachers;
- i. lack of specialists, including special education teachers and guidance counselors¹² (including school adjustment counselors);¹³
- j. lack of, reduction, or elimination of advanced coursework, such as advanced placement ("AP") courses;¹⁴

¹² The American School Counselors Association generally recommends one school counselor for every 250 students. Plaintiffs' districts, which deal with stressors that come with economic disadvantage as well as those affecting communities of color, do not meet this standard; all but one of the Plaintiffs' districts fail to meet even the statewide average of one counselor for every 405 students.

¹³ School adjustment counselors work in small groups, individual counseling sessions, and classroom mini-lessons about bullying, conflict resolution skills, and coping mechanisms (among others) in order to support students' mental health and safety.

¹⁴ Advanced Placement ("AP") is a program of rigorous courses and related exams administered by the College Board, a non-profit organization that also administers the SAT. School districts can offer AP courses to their high-school students once their course curriculum is audited and approved by the College Board. AP classes can be offered in a wide range of subjects such as biology, chemistry, physics, calculus, literature, and US history. At the conclusion of an AP class, students take an AP test and receive a score between 1, the lowest score, and 5,

- k. lack of, reduction, or elimination of arts and music programs; and
- l. lack of, reduction, or elimination of extracurricular activities, including sports.

69. Teachers in the Plaintiffs' school districts also turn to "self-help" on funding platforms like DonorsChoose.org ("DonorsChoose") to obtain necessary resources for their classrooms.¹⁵ Although many public schools, even well-resourced ones, engage in fundraising for specialized supplies or field trips through bake sales or auctions, teachers in Plaintiffs' school districts are relying on DonorsChoose for basic classroom supplies, such as pencils, paper, books, calculators, and notebooks. Without these donated funds, many classrooms would lack essential educational resources.

70. As a result of the problems caused by inadequate funding, Plaintiffs' school districts are among the lowest performing in the Commonwealth.¹⁶ In general, Plaintiffs' school

the highest score, reflecting their comprehension of the course material. AP tests offer students challenging curriculum, and are a recognized metric of student performance often considered in the college admissions process. Many colleges award credit students for AP classes where the student scored 3 or better on the AP test.

¹⁵ DonorsChoose is a nonprofit charity started by a former public school teacher to meet the needs of resource-deprived public schools across the country. Teachers request specific materials for a classroom "project" that could contain anything from classroom basics to sports equipment. Private donors—individuals, companies, and corporations—donate to projects of their choosing. DonorsChoose vets the projects on their site for need and accuracy, and the requested materials get delivered directly to the school. Teachers only receive the requested materials in their project if it is funded in full after four months on the site. Once projects are fully funded and the materials arrive (in one to three weeks), teachers must submit pictures and notes from their students thanking donors for their contribution. See About Us, DonorsChoose.org (2019), <https://www.donorschoose.org/about>; Frequently Asked Questions, DonorsChoose.org (2019), <https://www.donorschoose.org/teachers#faq>. Designing a DonorsChoose funding request that will appeal to private donors can require extensive and time-consuming planning and energy that would be better spent on educating students.

¹⁶ District performance rankings are those used by DESE in determining which charter school sending districts are to be designated as "caplift" districts, and pertain to fiscal year 2020. These rankings, which exclude regional vocational technical school districts, are the only district performance rankings produced by DESE and are based on levels and growth in student MCAS performance.

districts (and those similarly situated) have lower test scores, fewer students completing MassCore coursework,¹⁷ fewer students taking and scoring well on AP tests, lower high school graduation rates, higher rates of chronic absenteeism, and higher rates of disciplinary suspensions.

71. The link between school spending and life outcomes beyond students' high school years is well-established. A recent national study of the impact of school spending on students' outcomes later in life showed measurable links between increases in per-pupil spending and higher educational attainment, higher wages, and a lower incidence of adult poverty.¹⁸

72. Through its profound and long-lasting negative effects on both educational attainment and future employment, insufficient funding in the Plaintiffs' school districts is preventing students from becoming the "free citizens on whom the Commonwealth may rely to meet its needs and to further its interests," McDuffy, 415 Mass. at 618-619, and is undermining the "effective functioning" of democracy in the Commonwealth. Hancock, 443 Mass. at 430. The combination of underfunding and high student and family needs ensures that Plaintiffs and their peers in their districts and in similarly situated districts are deprived of the educational opportunities that are a necessary prerequisite for them to reach their full potential as students and citizens.

¹⁷ MassCore is a "program of study intended to align high school coursework with college and workforce expectations." Generally, students must successfully complete: "four units of English, four units of mathematics, three units of a lab-based science, three units of history, two units of the same foreign language, one unit of the arts, and five additional 'core' courses."

¹⁸ See generally C. Kirabo Jackson, Rucker C. Johnson & Claudia Persico, *The Effects of School Spending on Educational and Economic Outcomes: Evidence from School Finance Reforms*, 2016 Q.J. Econ. 157.

Chelsea Public School District

73. Chelsea is a low-income, property-poor community. When measured by property wealth and income, it ranks in the lowest 20% of districts.^{19,20} Median household income in Chelsea is approximately \$20,000 less than that of the Commonwealth as a whole. Chelsea falls within the top 10% of school districts with the highest concentration of students from low-income homes. Only 17.5% of Chelsea residents have attained a bachelor's degree or higher.

74. Chelsea Public Schools serves a high-needs population of students. For the 2018-2019 school year, 82.1% of Chelsea's 6,088 enrolled students are considered high needs:²¹ 62.5% of students are considered economically disadvantaged, 16.1% of students require special education services, and 37.8% of students are English language learners. Additionally, 93.5% of students attending Chelsea Public Schools in the 2018-2019 school year are students of color.

75. Chelsea's budgeted spending for fiscal year 2019 was 103% of its foundation budget.

76. Chelsea cannot acquire critical staff, services, courses, and materials; instead, it has had to make significant spending cuts to make ends meet.

77. Chelsea has struggled with such insufficient resources because of inadequate state funding, and an inability to make up for that inadequacy through local revenue.

¹⁹ The district income and wealth indicator used herein is "combined effort yield per pupil," a local fiscal capacity measure used in the state's Chapter 70 education aid formula.

²⁰ Unless otherwise noted, data about districts' student demographics, enrollment, and performance are taken from publicly available data collected by DESE, much of which are available at http://profiles.doe.mass.edu/state_report/ and <http://www.doe.mass.edu/finance/chapter70/profile.xlsx>.

²¹ Statewide, 47.6% of the Commonwealth's students were high needs for the same year.

78. Chelsea Public Schools struggles to attract and retain qualified and experienced teachers and administrators:

- a. Chelsea Public Schools employs 413.7 full-time equivalent (“FTE”) teachers. However, only 64.3% of teachers have at least three years of experience.
- b. Chelsea Public Schools does not employ a DESE-licensed librarian.
- c. Chelsea Public Schools employs one guidance counselor for every 507.3 students.
- d. There are 4.5 social workers, psychologists, and counselors per 1000 students.
- e. Chelsea does not have enough translators to facilitate parent-teacher conferences and family engagement, forcing it to rely on nonprofits such as the Chelsea Collaborative to provide these services.
- f. Chelsea’s teacher turnover is among the highest in the Commonwealth: 22.9% in the 2017-2018 school year.

79. The lack of staff has created unmanageable class sizes; many classrooms must support over 30 students, even in the elementary schools.

80. Teachers in Chelsea are often forced to resort to platforms like DonorsChoose to provide classroom materials for their students.

- a. A teacher at Chelsea High School sought basic supplies such as pencils, pens, tape and clipboards for a 10th grade English Language Arts class.
- b. Another Chelsea High School teacher requested hand sanitizer, Kleenex, Band-aids, and snacks to help his algebra students, noting that his students are “usually hungry” and that snacks and wellness supplies could help them stave off illness.

- c. A teacher at Frank Sokolowski Elementary School, where nearly all students are from low-income households, requested black ink for a classroom printer to allow his second graders to access visual aids and print their typed writing pieces.
- d. An ELL teacher at Frank Sokolowski Elementary School requested funds to purchase a portable whiteboard to help students work in small groups and provide a space for them to show and explain their thinking, a critical piece in helping them develop their English language skills.

81. Chelsea has furthermore lost programs and services for students due to financial constraints:

- a. Language programs, including Spanish, have been slashed.
- b. College and vocational preparation for high school students is almost completely absent.

82. Chelsea Plaintiffs have felt the brunt of this underfunding. The Chelsea Collaborative has had to take on a surrogate educational role to help its members, while individual Plaintiffs have suffered from large class sizes, a lack of resources, and lost or unavailable programs, courses, and services.

83. Because of chronic underfunding in the Chelsea school district, the Chelsea Collaborative has been forced to expend its own scarce resources to provide critical educational programming, assistance, and support for its members, including:

- a. translation support and assistance for parent-teacher conferences;
- b. after-school programming;
- c. arts and electronics classes; and
- d. test preparation and tutoring.

84. For example, the Collaborative offers a therapeutic art program, which R.V.F. attends to combat anxiety and homesickness, because the Chelsea Public Schools do not provide R.V.F. with the academic, artistic, and emotional support she needs. She also participated in a robotics class and attended a full day field trip through the Collaborative.

85. The Collaborative's services cannot meet the needs of all students in the district.

86. Chelsea Collaborative's membership, including parent members of students receiving ELL services in Chelsea, has experienced significant harm because of the Commonwealth's failure to adequately fund the Chelsea Public Schools.

- a. F.M. is a 17 year-old member of the Collaborative who attends 11th grade at Chelsea High School. She identifies as Latinx and speaks Spanish at home. Her family emigrated to the United States from El Salvador. She qualifies as economically disadvantaged.
- b. Since F.M. began attending Chelsea High School, multiple classes and programs have been eliminated, including the Latin foreign language option. Art was shortened from all year to a single semester.
- c. F.M.'s teachers provide classroom supplies like paper and pencils for the classroom. The building's infrastructure is decaying and the heat has stopped working in the winter.
- d. The library at Chelsea High School is not staffed by a librarian. The books are old and there are no audiobooks or e-books for lending.
- e. F.M. does not have access to a computer at home. If her school's library had the resources to lend laptops or tablets to students, she would be able to study and complete her coursework in a timely fashion.

- f. Several of her textbooks are years old and teachers have occasionally cautioned students that information in the textbooks is not correct. Students have had textbooks dating from 1996.
- g. Chelsea High School only has one or two substitute teachers. If three teachers are unavailable, students from all three classes—up to 60 students—will all be placed in one classroom with a substitute.
- h. F.M. has missed class because of teacher absences. If there is no available substitute, she and her classmates will be sent to sit in the library, auditorium, or cafeteria and miss instruction for that period.
- i. Chelsea High School has five guidance counselors and three social workers for 1,360 students. There are no career counselors or school psychologists. F.M. has had guidance counselors cancel her appointments because they were not available or working with other students.
- j. Chelsea High School does not offer alternatives to suspension, such as mediation or restorative justice. Several of F.M.'s friends have been suspended for non-violent, non-criminal, and non-drug related offenses, including swearing, being unfocused in class, not taking off headphones, or talking back to teachers.

87. The other individual Chelsea Plaintiffs have been directly and substantially impacted by the Commonwealth's failure to provide adequate funding to the Chelsea Public Schools.

88. B.R.'s fifth grade class has 28 other children and only one teacher. As a result, the teacher is often overwhelmed by the needs of other, high-needs students, depriving B.R. of instruction time and attention.

89. Similarly, A.R.'s fifth grade class has between 30 and 33 other children and only one teacher.

90. Even though the Chelsea Public Schools are overwhelmingly Latinx, students are not able to take Spanish classes until high school and there are no bilingual classes.

91. A.R., B.R., and R.V.F. would take other language classes if they were offered.

92. Neither middle school has any grass areas for sports or recess. When B.R. lived in Dedham, his school had a number of parks outside and space for playing football and basketball. The Clark Avenue Middle School has no comparable green area for children to run and exercise.

93. A.R. does not have access to sufficient sports and after-school activities. Although a doctor has recommended A.R. attend a gym, she does not have gym class at school, and her family cannot afford to pay for a gym membership.

94. The Clark Middle School only has one guidance counselor for 645 students.

95. Teachers and staff appear overwhelmed and constantly in crisis mode. At B.R.'s previous school, the Hooks School in Chelsea, there was constant staff turnover.

96. B.R.'s parents are worried about his attending Chelsea High School because the school is reputed to have a drug culture, lax security, and few extracurriculars, technical classes, or language study opportunities. A.R. is also frightened by the prospect of attending Chelsea High School.

97. Plaintiff R.V.F., who attends Browne Middle School, must walk to school every day because there are no buses available. Her family is concerned about her ability to attend classes at Chelsea High School because there is no school bus.

98. The library at Browne Middle School does not have the materials that R.V.F. needs, including texts in Spanish or electronic equipment for loan. The books are decades old and appear dirty and worn.

99. A.R. was unable to obtain assistance from a social worker when she needed it because the school social worker was overwhelmed with an excessive caseload. At one point, A.R.'s teacher had to take on the role of a social worker because no one else was available.

100. There are 33 students in A.B.'s fifth grade class at Clark Middle School. His mother has been told there is not enough money for a smaller class.

101. A.B. does not have access to recess at Clark, or to sports like basketball or soccer, or to a regular gym class.

102. A.B. does not have access to any foreign language classes, including Spanish.

103. Field trips are irregular and students are required to pay for participation. For example, A.B. was required to pay to visit the Boston Tea Party Museum in Boston.

104. A.B.'s teachers are overwhelmed and overworked and are often unable to give him the specific help and attention he needs.

105. Inadequate school funding has deprived Chelsea Public Schools and Plaintiffs of teachers, staff, programs, and classroom materials. These deprivations have hurt students' educational opportunities.

106. The District experiences, among other lost educational opportunities, low graduation rates,²² chronic student absenteeism, and high discipline rates.

²² DESE measures graduation rates by the percentage of students who graduate from high school within four years after entering ninth grade.

- a. Chelsea students are much more likely to be chronically absent²³ than students in well-funded communities. During the 2017-2018 school year, 22.1% of Chelsea students were considered chronically absent, while 42.2% of students missed at least 10 school days.
- b. Discipline rates are also higher in Chelsea than in well-funded districts: 3.5% of students received an out-of-school suspension.
- c. Inadequate school funding has harmed students' prospects of graduating: Chelsea Public Schools' graduation rate for the 2017-2018 school year was only 59%. In 2014, the four-year graduation rate in Chelsea was 64% and the four-year dropout rate was 15%, the "fifth worst rates among all school districts" in Massachusetts.²⁴

107. The lack of funds has harmed the quality and breadth of Chelsea students' enrichment and higher-level coursework: of students taking AP tests in Chelsea, only 33.3% scored between 3 and 5 on the test.

108. The lack of staff, support, and basic resources is reflected in Chelsea Public School's educational outcomes. It is the 7th lowest performing district in the Commonwealth:

- a. During the 2017-2018 school year, Chelsea students in grades 3 through 8 took the NextGen MCAS in ELA and Math. Only 29% of test takers met or exceeded expectations on the ELA MCAS, and only 28% of test takers met or exceeded expectations on the Math MCAS.

²³ Students are considered chronically absent if they miss 18 or more days of school.

²⁴ Michael Berardino, Gastón Inst. Publications, *Latinos in Massachusetts Public Schools: Chelsea 9-10 (2015) (Paper 197)*, https://scholarworks.umb.edu/gaston_pubs/197.

- b. During the 2017-2018 school year, Chelsea students in grade 10 took the legacy MCAS in ELA and Math. Only 65% of Chelsea 10th graders scored proficient or advanced on the ELA MCAS, while 35% scored proficient or advanced on the Math MCAS.
109. Inadequate funding has harmed Chelsea students beyond the classroom.
- a. Only 9% of high school students take the SAT or ACT, a prerequisite for enrollment in a four-year college.²⁵
 - b. Of students who complete high school in Chelsea, only 61% enroll in higher education, which is 16 percentage points lower than the statewide rate.²⁶
110. The lack of school funding in Chelsea has hurt students' college and higher education opportunities, their employment prospects, and their access to jobs that could lift themselves and their families out of poverty.

Chicopee Public School District

111. Chicopee is a low-income, property-poor community. Measured by property wealth and income, it ranks in the lowest 20% of school districts. Median household income in Chicopee in 2017 was over \$20,000 less than in the Commonwealth as a whole. Chicopee falls within the top 10% of school districts with the highest concentration of students from low-income homes.

²⁵ Miseducation: Chelsea School District, ProPublica (2017), <https://projects.propublica.org/miseducation/district/2503540>.

²⁶ Berardino, *supra*, at 9-10.

112. In 2015, Black unemployment in Chicopee was 22%, while Latinx unemployment was 15%.²⁷ Only 14% of Latinx families and 16% of Black families owned their own homes in Chicopee that year.²⁸

113. Higher educational attainment is particularly low among Chicopee residents of color: only 18% of Black individuals, 20% of Asian individuals and 6% of Latinx individuals have completed a bachelor's degree or higher.²⁹ Well over 50% of Latinx and Asian individuals have received only a high school diploma.

114. The Chicopee Public School District serves a high-needs population of students. For the 2018-2019 school year, 60.7% of its 7,392 enrolled students are high-needs students: 52.2% of students are economically disadvantaged, 18.4% require special education services, and 6% are ELL students.

115. Additionally, 47.7% of students attending Chicopee Public Schools in 2018-2019 are students of color.

116. Chicopee's budgeted spending for fiscal year 2019 was 108% of its foundation budget.

117. Chicopee Public Schools experiences recurring budget shortfalls because of inadequate funding through the foundation formula and an inability to dedicate significant additional local resources to public education.

²⁷ Phillip Granberry & Trevor Mattos, Gastón Inst. Publications, *Latinos in Massachusetts Selected Areas: Chicopee 6-7* (2017) (Paper 216), https://scholarworks.umb.edu/cgi/view-content.cgi?referer=https://www.google.com/&httpsredir=1&article=1217&context=gaston_pubs.

²⁸ *Id.* at 9.

²⁹ *Id.* at 6.

118. In the past several years, the School District has needed to cut millions of dollars from its budget. These cuts led to Chicopee dramatically cutting critical staff, courses and other services, and the District's budget for supplies and materials.

119. Inadequate funding has caused Chicopee to lose, and fail to attract, teachers and other school staff:

- a. Chicopee has eliminated dozens of staff positions through attrition in recent years because of insufficient funding. In fiscal year 2019 alone, Chicopee eliminated 37 positions and consolidated job duties into fewer positions in an effort to bridge a \$2 million shortfall.
- b. Chicopee cannot adequately staff the libraries within its schools, as it employs only 1.1 FTE licensed librarians across all 15 of its schools. In fact, Chicopee eliminated Library Aide and Media Technician positions to avoid further reductions in teaching positions during recent budget shortfalls.
- c. Because of insufficient funding, numerous positions, such as elementary school vice principals, Math and ELA teaching coaches, and library media technicians, are split between multiple schools.
- d. While Chicopee employs 26.3 FTE guidance counselors (one counselor for every 281.1 students), insufficient funding has prevented it from hiring clinical social workers and other needed special education and social-emotional staff. Mental health counselor positions have been absorbed into other staff positions. The unaddressed social-emotional needs of students negatively affect student performance, and often escalate into disciplinary issues that divert time, attention and resources from academic instruction.

- e. Paraprofessional staffing levels have also dropped in recent years. Steep increases in employee health insurance costs have increased turnover among paraprofessionals, a relatively low-wage position.
120. Insufficient funds have forced Chicopee to cut courses, services, and other programming:
- a. Chicopee recently discontinued after-school and summer programming, which offered students academic reinforcement and enrichment.
 - b. Chicopee cut its fine arts programs. Previously, there was a music teacher in each of Chicopee's five elementary schools, but now there is only one music teacher for all five schools.
 - c. Chicopee cannot provide students enough appropriate ELL services or resources.
 - d. Chicopee does not have enough STEAM labs for its students' needs.³⁰
 - e. Chicopee Public Schools recently eliminated its formal middle school sports programs, replacing them with less expensive and infrequent intramural sporting events.
121. Chicopee cannot afford to purchase or replace classroom materials and up-to-date school technology:
- a. Textbooks have not been replaced at reasonable times, with some textbooks in use for 30 years despite significant wear and tear.
 - b. Despite diverting significant resources towards technology hardware and infrastructure in anticipation of the online administration of the MCAS, many schools

³⁰ STEAM is an acronym for Science, Technology, Engineering, Arts, and Math.

do not have enough computers. In some situations, teams of five classes share one set of 30 Chromebooks.

- c. Chicopee was forced to deviate from its plan to maintain a reliable stock of computers because of funding constraints. Formerly-discretionary school level funds must be diverted to address technology costs.

122. Teachers in Chicopee schools have resorted to DonorsChoose to purchase basic school supplies. One gifted and talented middle school teacher, who had virtually no full-length books for her students, asked donors for money to buy books. She strives to challenge her students by teaching them about diverse and engaging topics, such as 3D printing, the globalization of the workplace, and even educational disparities. But she needed at least three sets of fiction and non-fiction books with diverse characters and experiences in order to challenge and engage her students.

123. Insufficient funding has left Chicopee's schools with crumbling infrastructure, safety, and public health issues:

- a. Many school buildings are more than 50 years old, with damaged floor and ceiling tiles. Some buildings have mold and asbestos issues.
- b. Many buildings do not have air conditioning. Classrooms reach up to 90 degrees during classes. In fact, Chicopee canceled school at the beginning of the 2018-2019 school year because buildings were too hot.
- c. Many buildings do not have reliable heating systems. Some classrooms can dip to nearly 50 degrees on cold days.
- d. At times, student bathrooms lack soap, hand towels, or running water.
- e. To save money, Chicopee often reuses trash bags multiple times.

- f. Numerous school water faucets have tested positive for lead or copper above the Executive Office of Energy and Environmental Affairs (EEA) action level with only partial remediation.³¹
- g. The physical space of the District's schools is inadequate. In one school, a girls' bathroom was converted into office space; staff now suffer the lingering stench. Elsewhere, closets have been converted into cramped office space.

124. Chicopee's inadequate facilities directly impact students' learning environment. For example, when classroom temperatures rose to over 90 degrees during MCAS testing one year, teachers turned off the lights and opened the windows to cool the testing space, but still students were "hot" and "groggy." A bird flew through an open window while students were taking the MCAS.

125. Chicopee relies on grants to run basic programs, as well as enrichment and higher-level courses. However, grant funding is precarious year to year, and the District cannot rely on that money remaining available.

- a. Only through grant funding can the District can offer AP classes to high school students. As a result, Chicopee must offer a limited AP curriculum.
- b. Previously, grant funding allows Chicopee Public Schools to extend students' school day, but the program had to be eliminated once the grant expired.

³¹ Low-level lead exposure is debilitating for children's neurological development, negatively affecting overall intellectual ability, speech and language, hearing, visual-spatial skills, attention, executive functions, social behavior, and fine and gross motor skills. Study after study has found that low-level lead exposure can have "significant negative consequences on learning and educational attainment. Educational Services for Children Affected by Lead Expert Panel, U.S. Dep't of Health & Hum. Servs., Educational Interventions for Children Affected by Lead, at vii (2015), https://www.cdc.gov/nceh/lead/publications/educational_interventions_children_affected_by_lead.pdf.

- c. Chicopee Public Schools formerly employed a Grants Coordinator, but the position was eliminated due to insufficient funding, and its duties were spread among other positions.

126. Despite lagging enrollment, in recent years class sizes have increased, with some classes having as many as 30 students. Elementary classes are especially large, with kindergarten classes having approximately 25 or 26 students per class. Middle school classes have approximately 25 students per class. High school classes often have between 23 and 27 students per class.

127. The Commonwealth's failure to adequately fund Chicopee Public Schools has harmed A.F. by limiting his educational experience and opportunities.

- a. A.F. attends before- and after-school programming at the local Boys and Girls Club, which Ms. Fleming pays for at significant personal expense because his school does not offer such programs. A school bus picks him up for school and drops him off after school at the Boys and Girls Club, but he is on the school bus for approximately one hour both to and from school.
- b. There are 24 students in A.F.'s first grade class.
- c. A.F.'s class time is heavily focused on reading and math. He does not receive dedicated art education at school. Instead, any art instruction is led by his classroom teacher.
- d. A.F. missed several days of instruction at the beginning of the 2018-2019 school year because the District closed early due to heat, as many school buildings have no air conditioning.

- e. Ms. Fleming is unaware of any counselors regularly assigned to Belcher Elementary School. She believes A.F. would benefit from the opportunity to work with counselors at school.
- f. A.F. went on only one field trip this year, to a museum in neighboring Springfield. Ms. Fleming believes the field trip was funded by the PTO and parent contributions.
- g. A.F.'s school has very little greenspace for sports and recess. A.F. and his classmates are given 15 minutes for lunch and 15 minutes for recess each day because there are too few teachers, administrators, and staff to supervise large groups of students.

128. Inadequate school funding has deprived Chicopee of teachers, staff, resources, classroom materials, and a safe learning environment. These deprivations have hurt students' educational opportunities.

129. Students in Chicopee experience, among other lost educational opportunities, low graduation rates, chronic absenteeism, and substandard student performance.

130. The lack of funds has harmed the quality and breadth of Chicopee students' enrichment and higher-level coursework: only 39.3% of students taking an AP test scored between 3 and 5 on the test.

131. Chicopee students are much more likely to be absent from school than students in well-funded communities.

- a. During the 2017-2018 school year, 18.2% of Chicopee students were considered chronically absent, and 41.8% of students missed 10 or more days of school.

- b. Discipline rates in Chicopee are higher than those in well-funded districts. Chicopee has unmanageable class sizes, fewer teachers, fewer social and emotional supports, and fewer alternatives to suspension than in well-funded districts.

132. Inadequate school funding has harmed students' prospects of graduating: Chicopee Public Schools' graduation rate in 2018 was 80.8%, with only 21.4% of graduating students completing the MassCore program.

133. The lack of staff, support, and basic resources is reflected in the educational outcomes of the Chicopee Public Schools, which is the 33rd lowest performing district in the Commonwealth:

- a. During the 2017-2018 school year, Chicopee students in grades 3 through 8 took the NextGen MCAS in ELA and Math. Only 41% of test takers met or exceeded expectations on the ELA MCAS, and only 40% of test takers met or exceeded expectations on the Math MCAS.
- b. During the 2017-2018 school year, Chicopee students in grade 10 took the legacy MCAS in ELA and Math. Only 87% of Chicopee 10th graders scored proficient or advanced on the ELA MCAS, and only 73% scored proficient or advanced on the Math MCAS. Not a single ELL student scored advanced on the ELA MCAS in 10th grade in Chicopee, with only 39% scoring proficient; and only 26% of ELL students scoring advanced or proficient on the Math MCAS in grade 10.

134. Insufficient school funding in Chicopee has also harmed students' prospects beyond the classroom, limiting their access to college, higher education, and meaningful employment.

Fall River Public School District

135. Fall River is a low-income, property-poor community. Measured by property wealth and income, it ranks in the lowest 20% of districts. Fall River has the fifth lowest median household income in the Commonwealth, more than \$30,000 less than the state average. Fall River falls within the top 10% of school districts with the highest concentration of students from low-income homes.

136. Fall River's 14% unemployment rate is significantly higher than the Commonwealth's average unemployment rate of 8%.³² The unemployment rate for Fall River's Latinx population is 22%, nearly twice the rate for Fall River overall.³³

137. Fall River is home to many families of color, and the percentage of nonwhite residents has been growing. Between 2010 and 2016, Fall River's Latinx population grew by 54%, while its Black population grew by 67%.³⁴ In addition, Fall River has a larger share of foreign-born residents (19%) than the Commonwealth as a whole (15.7%).³⁵

138. Educational attainment for Fall River's communities of color is extremely low. Over 40% of Latinx individuals do not have high school diplomas; fewer than 5% have a bachelor's degree or higher. Over 60% of Black adults in Fall River have only a high school education, with no college coursework or degree.³⁶

³² Phillip Granberry & Trevor Mattos, Gastón Inst. Publications, *Latinos in Massachusetts Selected Areas: Fall River 8* (2018) (Paper 232), https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1233&context=gaston_pubs.

³³ Id.

³⁴ Id. at 2.

³⁵ Id.

³⁶ Id. at 5.

139. The Fall River Public School District serves a high-needs population of students. For the 2018-2019 school year, 76.4% of the 10,120 enrolled students are deemed high needs: 67.1% of students are economically disadvantaged, 21.2% of students require special education services, and 16.4% of students are English language learners.

140. Additionally, 48.7% of students attending public schools in Fall River in the 2018-2019 school year are students of color.

141. Fall River's budgeted spending for fiscal year 2019 was 100% of its foundation budget.

142. Due to inadequate funding, Fall River has experienced staffing problems, cuts to programming and services, and a lack of adequate learning materials and technology.

143. Fall River has also struggled to attract and retain qualified and experienced teachers and administrators:

- a. Nearly one quarter of teachers do not have even an initial license³⁷ and only 65.9% of teachers have at least three years of experience. Many teachers, therefore, are working under a waiver from the State's traditional licensing requirements.
- b. Fall River Public Schools employs only 1 FTE DESE-licensed librarian across 16 schools.

³⁷ DESE recognizes four types of teacher licenses: temporary, provisional, initial, and professional. Office of Educator Licensure, DESE, Teacher License Types and General Requirements, <http://www.doe.mass.edu/licensure/academic-prek12/teacher/license-types.html#initial-license>. Elementary and secondary school teachers are normally expected to have an initial or professional license. Any teacher may qualify for an initial license, but a professional license is only available to teachers with at least three years of experience.

- c. Fall River Public Schools employs one guidance counselor for every 511.1 students.
- d. At 21.3%, teacher turnover in Fall River for the 2017-2018 year was one of the highest in the Commonwealth. Teachers leave the District for wealthier neighboring school districts, where they receive higher salaries and significantly more support and resources.

144. Short-staffing has impacted the most vulnerable and neediest students in Fall

River:

- a. Kindergarten classes frequently contain up to 27 students taught by one teacher; classrooms in the older grades are frequently populated by more than 30 students.
- b. A single ELL specialist often is responsible for the language needs of 75 students.
- c. Students themselves often serve as translators for parent-teacher meetings, as the District cannot recruit, retain, or afford enough bilingual professionals to meet a growing ELL population.
- d. Special needs and vulnerable students are not receiving social-emotional support because of the shortage of special education teachers, paraprofessionals, and school adjustment counselors. Staff for students' social-emotional well-being is especially critical in Fall River to accommodate a growing population of homeless students.
- e. With current staffing levels, Fall River cannot provide a fully-inclusive education model for special needs students.³⁸

³⁸ In the inclusive education model, special education students and general education students are taught in the same classroom setting with a general education instructor and one or

145. The District lacks basic curriculum and classroom materials. Teachers pay for paper, notebooks, writing instruments, and curriculum aids out of their own pockets.

146. Some teachers rely on private donations from DonorsChoose for essential materials.

- a. A middle school teacher requested copies of Harper Lee's *To Kill a Mockingbird* for her eighth graders. After years of natural wear and tear—pages and binding held together by tape—this teacher requested a full set of the book, not just because her students would be able to read it more easily, but also to show that they deserved quality books for their favorite story.
- b. An elementary school special education teacher requested sensory materials for her students. Although she had paid out of her own pocket in the past, this year she noticed that students' sensory needs were greater than she had anticipated, and the materials to support them—cushions and other alternative seating, weighted lap pads for students with anxiety, ear plugs, and exercise materials—were too expensive for her to buy without seeking charity.

147. The State's failure to fund Fall River Public Schools has harmed Plaintiffs Z.M., G.M., T.L.M., Jn.S., and Ja.S. by limiting their school experience and hindering their educational opportunities.

148. Z.M. is in the sixth grade at Morton Middle School.

- a. Her sixth grade class has 27 students. Last year, the smallest fifth grade class in her school had 25 students. The large classes force teachers to spend most of their

more special education instructors who “push in” to the classroom for services or “pull out” special education students.

time on students' misbehavior, which takes away from instructional time and can leave quieter students, like Z.M., without the instructional help they need.

- b. Last year, Z.M. needed help in English language arts (ELA), but none was available, which caused her grades to fluctuate.
 - c. There is frequent teacher turnover at Morton. Z.M.'s gym teacher left this past year. Her history teacher also left last year, after one and a half months. Since Fall River cannot afford to hire a licensed full-time teacher as a replacement, Z.M.'s history class has been taught by a permanent substitute.
 - d. Her history class has textbooks, but not enough for each student.
149. G.M. is in fourth grade and T.L.M. is in first grade at Tansey Elementary School.
- a. G.M. believes she would benefit from after-school tutoring, but due to limited resources, Tansey can only offer tutoring to students who are struggling the most.
 - b. G.M. has 27 to 28 students in her fourth grade class.
 - c. T.L.M. loved her first grade teacher, but her teacher broke her leg earlier in the year, and has been unable to return. The District could not afford to hire a full-time certified teacher for T.L.M.'s class, so a substitute has been teaching, with help from the ELA instructor and math coach.
 - d. T.L.M.'s first grade class has 28 students.
 - e. Art and music are offered for only half the year because the art and music teachers are needed at another school the other half of the year.
 - f. Many of the enrichment programs, field trips, and technology at Tansey have been made possible only by fundraising by the PTO, including by Ms. DaPonte

Mussotte. Fundraising is especially difficult in Fall River because the community has many low-income families, and families move frequently.

- g. Generally, families have to pay for any field trips. For one field trip, the PTO applied for and received a grant from a nature walk society, but the PTO had to pay for the buses.
- h. Tansey does not have a school library.

150. Jn.S. is 10 years old and is in the fourth grade at Fonseca Elementary School. His sister Ja.S. is eight years old and is in the second grade at the same school.

- a. Jn.S. receives special education services for his Attention-Deficit/Hyperactivity Disorder (ADHD). He is in an inclusion classroom, with a general education classroom teacher and special education teachers who push in to Jn.S.'s classes for services, or pull Jn.S. out for individual instruction.
- b. Jn.S. is in a class of 19 students, which is the smallest class in the Fonseca School largely because he and his peers are the fourth graders with the greatest needs. The first grade classrooms can contain 27 students with a single teacher and no paraprofessional or teacher aides. Even with a smaller classroom, Jn.S.'s needs can be greater than some of the other students'. Ms. Straker believes Jn.S. would excel with more academic services. He loves his teachers, but he can become frustrated if he does not get the material right away, making him feel inadequate.
- c. Ja.S. loves to read and is very inquisitive. She wishes Fonseca could offer a dedicated science class, because her science instruction is currently taught by her classroom teacher.

- d. Fonseca cannot provide enrichment and after-school activities, so Ms. Straker pays for after-school enrichment activities for her children at the YMCA, at significant personal expense.
 - e. The school rarely offers field trips. Ms. Straker has only seen one or two permission slips for both of her children in their time in the Fall River school system. There is no money in the school's operating budget for field trips.
151. Fonseca Elementary School serves an especially high-needs student population.
- a. At times, for some students, the only meals they get during the week are breakfast and lunch at the school's cafeteria. Some students hoard snacks provided by the school, so the school ensures that students can take home any leftovers.
 - b. Many students do not come to school with clean clothes. A few years ago, the principal of Fonseca made sure the school had a washer-dryer available for students, and worked with a school uniform manufacturer to donate extra clothing.
 - c. Fonseca teachers and staff are committed to fostering a positive school climate, but with the enormity of students' needs, they feel that they are often working in "crisis" mode, which inevitably leads to burn out. If the school had more staff, particularly more school counselors who could help with students' social-emotional needs, more teachers, and more teacher aides, the teachers at Fonseca could focus more of their time on instruction.
 - d. Fonseca lacks the funds to train and support teachers in dealing with student crises, conflict, and trauma. The school shares a school psychologist with two or three other schools. Testing students consumes most of the psychologist's time,

even though Fonseca students would benefit from psychological treatment and counseling.

152. Inadequate school funding has deprived Fall River of teachers, staff, resources, and classroom materials. These deprivations have hurt students' educational opportunities and outcomes.

153. The district experiences, among other lost educational opportunities, low graduation rates, chronic student absenteeism, and substandard student performance.

- a. Fall River students are much more likely to be chronically absent than students in well-funded communities. During the 2017-2018 school year, 27.5% of Fall River students were considered chronically absent, while a majority of students—54.6%—missed 10 or more days of school.
- b. Discipline rates are also higher in Fall River, which has unmanageable class sizes, fewer teachers, fewer social and emotional supports, and fewer alternatives to suspension than well-funded districts. Last year, 6.7% of students received an out-of-school suspension, and 4.3% of students received an in-school suspension.
- c. Inadequate school funding has harmed students' prospects of graduating: the Fall River graduation rate for the 2017-2018 school year was only 71.1%.

154. The lack of staff, support, and basic resources is reflected in Fall River's educational outcomes. It is the 34th lowest performing district in the Commonwealth:

- a. During the 2017-2018 school year, Fall River students in grades 3 through 8 took the NextGen MCAS in ELA and Math. Only 34% of test takers met or exceeded expectations on the ELA MCAS, and only 30% of test takers met or exceeded expectations on the Math MCAS.

- b. During the 2017-2018 school year, Fall River students in grade 10 took the legacy MCAS in ELA and Math. Only 76% of Fall River 10th Graders scored proficient or advanced on the ELA MCAS, and 51% scored proficient or advanced on the Math MCAS. Only 28% of ELL students in Fall River scored proficient or advanced on the ELA MCAS in grade 10, compared to 45% of ELL students statewide. In the Math MCAS for 10th grade, 15% of ELL students scored proficient or advanced, compared to a statewide average for ELLs of 28%.

155. The lack of funds has harmed the quality and breadth of Fall River students' enrichment and higher-level coursework: only 48.7% of students taking an AP test scored between 3 and 5 on the test.

156. The lack of school funding in Fall River has harmed students beyond just their performance in the classroom. Decreases in school funding have hurt students' college and higher education opportunities, their employment prospects, and their access to jobs that could lift themselves and their families out of poverty.

Haverhill Public School District

157. Haverhill is a low-income, property-poor community. Measured by property wealth and income, it ranks in the lowest 40% of school districts. The median household income of Haverhill residents is approximately \$9,000 less than the statewide average. Haverhill falls within the top 20% of school districts with the highest concentration of students from low-income homes.

158. Between 2013 and 2017, about 30% of Haverhill residents had attained a bachelor's degree or higher.

159. The Haverhill Public School District serves a high-needs population of students. For the 2018-2019 school year, 59.7% of Haverhill's 8,047 enrolled students are considered high needs: 45.5% of students are considered economically disadvantaged, 22.9% of students require special education services, and 9.5% of students are English language learners.

160. Additionally, 45.5% of students attending Haverhill Public Schools in 2018-2019 are students of color.

161. Haverhill's budgeted spending for fiscal year 2019 was 106% of its foundation budget.

162. Haverhill cannot afford critical services, courses, staff, and materials. Haverhill also cannot take up infrastructure projects needed to ensure the safety of staff and students.

163. Haverhill has struggled with insufficient resources because of inadequate state funding and an inability to make up for the loss through local revenue.

164. Haverhill struggles to attract and retain qualified and experienced teachers and administrators:

- a. Haverhill employs only 3 FTE DESE-licensed librarians across 18 schools, none of whom serve the elementary or middle schools.
- b. Haverhill employs 16 FTE guidance counselors (one for every 502.9 students), but no social workers.
- c. Haverhill cannot afford enough school adjustment counselors ("SACs"). The current SACs devote their time to meeting the needs of special education students, even though many more vulnerable students could benefit from their services.

- d. Haverhill has some of the lowest nursing salaries in the state and has been unable to fill positions for certified nurses. Haverhill's need for certified nurses is particularly urgent for students with physical disabilities.

165. A lack of staffing has resulted in class sizes that are incompatible with the requirements of a sound education:

- a. Elementary school classrooms, including kindergarten classrooms, have between 25 and 30 students with a single teacher and no teacher aides. Elementary school teachers in the lower grades depend on volunteers, like retired teachers, to pull out students for extra literacy instruction support.
- b. Middle school classrooms frequently contain between 26 and 32 students.
- c. Social studies, science, art, music, and physical education classes in middle schools usually contain approximately 35 students.
- d. Ms. LaRose-Sanchez, who teaches second grade at Walnut Square Elementary School and has taught in the Haverhill school system for 21 years, has noticed that the needs of her students, as well as the size of her classroom, have grown considerably over the past few years. Frequently, "crowd control" can overwhelm her planned lessons.

166. Teachers resort to "self help" for school supplies, either by purchasing supplies out of their own pockets or by engaging in personal fundraising at public websites like DonorsChoose that are designed for securing private donations.

167. Ms. LaRose-Sanchez and her colleagues regularly buy supplies and food for their students out of their own pockets.

- a. Years ago, the District reimbursed Haverhill teachers up to approximately \$250 per year to purchase classroom supplies. A few years ago, that reimbursement dropped to \$100 per year. Now, teachers do not receive any reimbursement.
 - b. Ms. LaRose-Sanchez buys applesauce for her students every week because many of her students do not come to school with a snack, and she does not want them to be hungry.
168. Haverhill teachers have turned to DonorsChoose for classroom supplies.
- a. An elementary school music teacher uses music as an interdisciplinary resource to teach his 500 students reading and arithmetic. He does not have a piano or any other musical instrument for his lessons.
 - b. A teacher for ELL students does not have enough “leveled” books (i.e., books at different reading levels) to support students’ reading growth, both for personal and small group reading in her classroom. Young readers need an array of leveled books both to build up their confidence in reading and to advance their reading skills.
 - c. A middle school social studies teacher reported not having the maps, atlases, and non-fiction books to teach her students about global history and geography.
169. School buildings in Haverhill are suffering from crumbling infrastructure, threatening the safety and health of students and staff:
- a. Air quality issues have plagued multiple schools in Haverhill. In Whittier Middle School, for example, water damage and water staining are evident throughout the school walls and ceilings. The entire rear section of the boys’ locker room was

closed for some time due to what environmental engineers characterized as “excessive moisture,” emitting a “considerable dank, musty odor[.]”³⁹ Six months later, the same team of environmental engineers recommended that the entire boys’ locker room (and adjacent rooms) “be closed and not used in any manner until further evaluation and remediation of the entire area can be completed.”⁴⁰

- b. Many schools in Haverhill are stiflingly hot in both the fall and winter months. In September 2018, temperatures in Pentucket Lake Elementary School were between 85 and 91 degrees. Teachers and students were so uncomfortable that teachers felt compelled to bring their own air conditioners for their classrooms. In the winter of 2018-2019, classrooms at Whittier Middle School reached 90 degrees, even with the windows open, because of an inability to regulate the building’s antiquated heating system.
- c. The roofs on three school buildings are crumbling and leaking, but Haverhill did not have enough money to fix them and had to request emergency funds from the State a few months ago.
- d. At Greenleaf Elementary School, paint was peeling off the walls, and the roof leaked whenever it rained.

³⁹ Letter from David A. Rooney & Stephen E. Minassian, Axiom Partners, to Heather R. Forgione, Facilities Director, Haverhill Public Schools, Re: Limited Mold Investigation and Testing, Whittier Middle School, 252 Concord St, Haverhill, MA (July 9, 2018), <http://hhs.haverhill-ps.org/wp-content/uploads/2019/02/Whittier-Mold-Investigation-Report-070918R.pdf>.

⁴⁰ Letter from Randal D. Ames & Stephen E. Minassian, Axiom Partners, to Heather R. Forgione, Facilities Director, Haverhill Public Schools, Re: Mold Spore-Trap Air Sampling, Whittier Middle School, 252 Concord St, Haverhill, MA (Jan. 23, 2019), <http://hhs.haverhill-ps.org/wp-content/uploads/2019/02/Whittier-Mold-Sampling-Report-012319.pdf>.

- e. In 2017, numerous school water faucets in Haverhill tested positive for lead or copper above the EEA action level, including at Haverhill High School. Low-level lead exposure is particularly damaging for young children's development and educational attainment.

170. The Commonwealth's failure to fund Haverhill Public Schools has harmed Plaintiffs C.S., T.K., H.K., and M.K. by limiting their educational experience and opportunities.

171. C.S. attends Hunking Middle School, and will be enrolled at Haverhill High School in the coming school year. Hunking is one of the most well-equipped middle schools in Haverhill, but still struggles with supplying basic resources and courses to its students.

- a. C.S. does not have meaningful access to any foreign language instruction. Given the limited number of foreign language teachers the District can afford, the only available language instruction is in high school.
- b. There are between 28 and 30 students in C.S.'s middle school class.
- c. When Hunking first opened a few years ago, staff asked for books to donate to the school's lending library because the school could not afford enough books to stock the new facility.

172. T.K. is in second grade at Bradford Elementary School and H.K. is in kindergarten there. Their youngest sibling, M.K., goes to Moody Preschool twice a week.

- a. Bradford has no budget for substitute teachers; if teachers are absent, education support professionals are pulled from other classrooms to supervise. This has happened multiple times to T.K. and H.K.'s classes. In the winter months, T.K., H.K., and their fellow students are placed in other, already crowded classes whenever their teacher is absent.

- b. The average kindergarten class size at Bradford is 25 students, without a teacher aide. H.K. needs a smaller class so that she could get more support in school, particularly in reading.
- c. There are no full-time computer teachers in Bradford, or in the other elementary schools and middle schools, leaving students without meaningful computer instruction. Instruction is provided instead by education support professionals. During computer “classes,” T.K., H.K., and their peers often just play computer games.
- d. T.K., H.K., and M.K. would all benefit from music, art, band, and a school library, but Bradford and Moody do not have any of these programs or facilities. Bradford, in particular, cannot even afford a part-time art teacher.

173. Inadequate school funding has deprived Haverhill Public Schools of teachers, staff, resources, classroom materials, and a safe learning environment. These deprivations have hurt students’ educational opportunities.

174. The district experiences, among other lost educational opportunities, low graduation rates, chronic student absenteeism, and substandard student performance.

- a. Haverhill students are frequently absent: 23% of students were considered chronically absent and 44.1% of students missed more than nine days of school.
- b. Although 80.5% of students graduated from high school, only 53.3% of those students met the MassCore.
- c. Only 66.5% of high-needs students graduated in that same year; the graduation rate for ELL students was even lower, at 51.5%.

175. The lack of staff, support, and basic resources is reflected in Haverhill Public Schools' educational outcomes. It is the 18th lowest performing district in the Commonwealth:

- a. During the 2017-2018 school year, Haverhill students in grades 3 through 8 took the NextGen MCAS in ELA and Math. Only 36% of test takers met or exceeded expectations on the ELA MCAS, and only 33% of test takers met or exceeded expectations on the Math MCAS.
- b. During the 2017-2018 school year, Haverhill students in grade 10 took the legacy MCAS in ELA and Math: 87% of Haverhill 10th graders scored proficient or advanced on the ELA MCAS, while 73% of Haverhill 10th graders scored proficient or advanced on the Math MCAS. High needs students fared worse than their peers in Haverhill: 74% scored proficient or advanced on the ELA MCAS in grade 10, and only 53% scored proficient or advanced on the Math MCAS in grade 10.

176. The lack of funds has harmed the quality and breadth of Haverhill students' enrichment and higher-level coursework. For example, only 60% of students taking an AP test scored between 3 and 5.

177. Insufficient funding in Haverhill has a ripple effect on students' livelihoods beyond their classroom years, limiting their access to college, higher education, and job opportunities.

Lowell Public School District

178. Lowell is a low-income, property-poor community. When measured by property wealth and income, it ranks in the poorest 20% of districts. Median household income is approximately \$25,000 less than in the Commonwealth as a whole, and is the 14th lowest median

household income in the State.⁴¹ Lowell falls within the top 10% of school districts with the highest concentration of students from low-income homes.

179. Approximately 50% of Lowell's population is nonwhite.⁴² One third of Latinx and Asian residents of Lowell have failed to complete high school, posing a "serious challenge to municipal leadership, community development, and industrial recruitment." Almost 21% of Latinx residents and 13.5% of Black residents are unemployed.⁴³

180. Only 22.6% of Lowell residents had attained a bachelor's degree or higher between 2013 and 2017.

181. Lowell Public Schools serves a high-needs population of students. For the 2018-2019 school year, 72.4% of Lowell's 14,548 enrolled students are considered high-needs students: 53.8% of students are considered economically disadvantaged, 17.3% of students require special education services, and 23.7% of students are English language learners.

182. Additionally, 73.6% of students attending Lowell Public Schools in the 2018-2019 school year are students of color.

183. Lowell's budgeted spending for fiscal year 2019 was 101% of its foundation budget.

184. Lowell Public Schools struggles to attract and retain qualified and experienced staff:

- a. Lowell Public Schools does not employ a single DESE-licensed school librarian.

⁴¹ Phillip Granberry & Trevor Mattos, Gastón Inst. Publications, *Latinos in Massachusetts Selected Areas: Lowell 9 (2017) (Paper 222)*, https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1042&context=gaston_pubs.

⁴² *Id.* at 3.

⁴³ *Id.* at 6-7.

- b. Lowell Public Schools employs 22.2 FTE guidance counselors across its 28 schools, or one counselor for every 655.3 students.

185. Lowell has been forced to make significant cuts to its public school budget, as the district enrolls a high percentage of children with complex behavioral, emotional, cultural, or learning needs but does not receive complementary funding from the Commonwealth.

186. In fiscal year 2019, a net of 43 staffing positions were either eliminated or reduced to part-time “in order to operate within state and local funding.”⁴⁴ This included 7 paraprofessionals, 18 library aides, 1 guidance position, and 4 reading teachers.⁴⁵

187. Due to inadequate school funding, Lowell has cut critical services, courses, staff, and materials dramatically, leading to:

- a. Large class sizes, with over 25 children in a classroom and not enough desks, forcing students to sit on the floor;
- b. No meaningful recess or field trips for many students;
- c. Teachers required to pay for or fundraise for classroom supplies and musical instruments;
- d. No foreign language classes until high school;
- e. Textbooks that are over 10 years old;
- f. Children who have few or no toys, balls, or other games at recess, and so amuse themselves by playing a game called “Litter Laundry,” where they wash garbage in puddles and lay it out to dry.

⁴⁴ Lowell Public Schools, Superintendent’s FY 2019 Recommended Budget, at 9.

⁴⁵ Id. at 12-13.

188. Many teachers are forced to resort to websites like DonorsChoose to purchase classroom supplies.

- a. A teacher at Lowell High School, which has a sizable ELL population and a concentration of special education students, requested printer ink, color paper, card stock, colored pencils, and glue sticks to provide auditory, visual and hands-on activities for students who struggle with reading.
- b. Another teacher sought funding to purchase more Spanish language books so that students could read books they could understand when classwork is done, noting that many of her students come from homes dealing with financial insecurity, health issues or other destabilizing factors.

189. Due to inadequate school funding, the District experiences, among other lost educational opportunities, low graduation rates, chronic student absenteeism, and poor student performance.

190. Lowell students are much more likely to be chronically absent than students in well-funded communities. During the 2017-2018 school year, 16.3% of Lowell students were considered chronically absent, while 38% of students missed 10 or more school days.

191. The rate of student discipline is also higher in Lowell, which has unmanageable class sizes, fewer teachers, fewer social and emotional supports, and fewer alternatives to suspension than well-funded districts, where suspension rates are lower. During the 2017-2018 school year, 5.1% of Lowell students received out-of-school suspensions and 3.5% of students received in-school suspensions.

192. Inadequate school funding has harmed students' prospects of graduating. The graduation rate for the 2017-2018 school year was only 79.6%, with only 30.5% of students

completing the MassCore. High needs students had a graduation rate of 69.5% for that same year, among whom ELL students had a 54.1% graduation rate.

193. The lack of staff, support, and basic resources is reflected in Lowell's educational outcomes. It is the 40th lowest performing district in the Commonwealth:

- a. During the 2017-2018 school year, Lowell students in grades 3 through 8 took the NextGen MCAS in ELA and Math, and only 36% of test takers met or exceeded expectations.
- b. During the 2017-2018 school year, Lowell students in grade 10 took the legacy MCAS in ELA and Math. Only 82% of Lowell 10th graders scored proficient or advanced on the ELA MCAS, while 66% scored proficient or advanced on the Math MCAS. Not a single ELL student in Lowell scored advanced on the ELA MCAS in grade 10 for that same year, with 23% scoring proficient; only 19% of ELL students scored advanced or proficient on the Math MCAS in grade 10.

194. During the 2017-2018 school year, only 46% of students taking an AP test scored between 3 and 5.

195. Plaintiffs have been directly and substantially impacted by the State's failure to adequately fund the Lowell Public Schools.

196. All Plaintiffs are enrolled in unmanageably large classes, with well over 25 children in each classroom, often with minimal or no support from paraprofessionals or teacher's aides in the higher grades.

197. Plaintiff Z.L. is in a kindergarten class with 26 or 27 students with only one paraprofessional. The teachers are overwhelmed and cannot give students the individualized attention they need.

198. In Plaintiff L.B.'s classroom, children are forced to sit on the floor when ELL students come to join the class because there are not enough seats. There are between 25 and 30 students in her Math class and between 30 and 40 students in her Music class.

199. Plaintiff L.B. will not have access to foreign language classes until high school.

200. Teachers are forced to provide supplies for their classrooms.

201. For take home reading, Z.L. receives photocopies, rather than bound books, unless funds have been specifically raised to purchase new books. Any books available in the classroom are primarily provided by his teacher.

202. In L.B.'s music class, a teacher fundraised to buy instruments and teachers will often pay for supplies for their classrooms or call parents. Children lack basic classroom materials, including pencils.

203. Because of staffing shortages, many schools in Lowell eliminated recess until it was reinstated after public protest and organizing. Plaintiffs in middle school are entitled to only 15 minutes of recess every day, while elementary school Plaintiffs are entitled to 20 minutes of recess a day.

204. Z.L. has no access to a playground and spends recess on a blacktop surface that used to be a parking lot. The children pass their time by playing with chalk because they have few or no balls, games, or other recreational facilities.

205. All library staff were laid off from Lowell Public Schools due to budget cuts. Z.L.'s mother volunteers in the library at the Rogers School, which is operated by a volunteer retired teacher. Library volunteers personally pay for necessary materials. There are no electronic materials available for borrowing and many books fall apart easily due to regular use.

206. Staff shortages have also led to a lack of substitute teachers when teachers are absent. Plaintiff L.B. has had administrators fill in for teachers. Additionally, in both schools, when specialized instructors—such as the art teacher—are absent, students do not have any instruction, and are given a free period.

207. Plaintiff L.B. does not have access to advanced or honors classes.

208. At Z.L.'s school, there is only one social worker for over 800 children.

209. The underfunding of Lowell Public Schools has reached beyond the classroom, impacting Lowell students' higher education attainment, earnings, and job prospects.

Orange Public School District

210. Orange is a low-income, property-poor rural community. Measured by property wealth and income, it ranks in the lowest 20% of districts. Orange has the ninth lowest median household income in the Commonwealth, which is more than \$30,000 less than the state average. It falls within the top 10% of school districts with the highest concentration of students from low-income homes.

211. Only 16.9% of Orange residents have attained a bachelor's degree or higher.

212. The Orange Public School District serves a high-needs population of students. For the 2018-2019 school year, 65.8% of Orange's 588 enrolled students in grades pre-kindergarten through six are considered high-needs students: 55.4% of students are considered economically disadvantaged, 26.8% of students require special education services, and 1.9% of students are English language learners.

213. Additionally, 14.5% students attending Orange Public Schools are students of color.

214. Orange's budgeted spending for fiscal year 2019 was 115% of its foundation budget.

215. Orange cannot afford critical staff, courses, services, and materials.

216. Orange has struggled with insufficient resources because of inadequate funding from the State, and an inability to make up for the loss through local revenue.

217. Orange Public Schools struggles to attract and retain qualified and experienced teachers and administrators:

- a. Orange Public Schools employs 45 FTE teachers, but only 73.4% of teachers have at least three years of experience.
- b. Orange Public Schools does not employ a DESE-licensed librarian.
- c. Orange Public Schools employs only 1 FTE guidance counselor across its two schools, or one counselor per 588 students.

218. In the 2018-2019 school year, Orange could not afford to maintain a full-time music teacher. The School Committee was especially concerned with funding this position because the district relies on the music teacher to repair any of the district's instruments. Otherwise, paying to repair them would be too costly.

219. This year, Orange could not afford to fully staff its elementary schools, and eliminated entire classes, which increased class sizes across all of its schools. Kindergarten, first, and second grade classrooms have swelled to 24 students.

220. Orange Public Schools serves an unstable student population:

- a. Only 86.2% of students enrolled on October 1, 2017 finished the school year.
- b. Also, 15.2% of Orange students were classified as chronically absent, while 40.1% of students missed more than nine days of school.

221. Classroom materials and school infrastructure in Orange are lacking or outdated.

- a. Some classroom computers have not been updated since the 1990s.
- b. The District cannot replace textbooks that are decades old and falling apart at the seams.
- c. The roof at the Fisher Hill Elementary School is in need of repairs, which the District cannot afford to fix.
- d. Numerous school water faucets have tested positive for lead or copper above the EEA action level. Low-level lead exposure is particularly damaging for young children's development and educational attainment.

222. The lack of funding and resources has harmed Plaintiffs N.C., Mc.C., Ma.C., D.A., and I.A. by depriving them of educational experiences and opportunities.

223. N.C. is in the sixth grade at Dexter Park Elementary School, along with his sister, Mc.C. who is in fourth grade there. Ma.C. will begin preschool at Fisher Hill Elementary School in September 2019.

- a. N.C. and Mc.C. wish that Dexter Park could provide some after-school programs.
- b. N.C. has not had any homework for three years because there are not enough books and supplies to send home with students. In math class, each student has to share a book with another student.
- c. Parents have to pay for their children to take a field trip.
- d. The Dexter Park School building is deteriorating. The gymnasium at Dexter Park also serves as the school's cafeteria and auditorium. However, it is of little use as a gym because the floors are falling apart.

224. D.A. is in first grade at Fisher Hill Elementary School, and his sister I.A. is in her second year of preschool there.

- a. D.A. has an IEP, and sounds can be triggering for him. His first grade classroom has 22 students. He is supposed to have an aide with him in the classroom, but the school has such a high concentration of students with special needs that aides get moved around every day. Ms. Andersen, D.A.'s mother, feels that there is not enough support for D.A. and other students like him to move forward academically.
- b. I.A. also has an IEP, mostly for occupational and physical therapy. Ms. Andersen wishes there were more enrichment activities available for her daughter once she starts kindergarten at Fisher Hill. All enrichment activities, other than gym, art, music, and technology, are funded by the PTO, which fundraises year-round to gain the necessary funds.
- c. Staffing is also an issue at Fisher Hill. The school cannot afford a librarian and the otherwise empty library is often used as a "cool down" space for anxious students. And for the coming year, if a budget override does not pass, the school must decide to either lay off classroom teachers, resulting in bigger class sizes, or significantly cut special subjects, like art, music, physical education, and technology.
- d. Fisher Hill has a leaking roof, and last winter, when one of the furnaces broke, it took a week to fix it. Students were so chilly in school that they had to bundle up while in class. There is also no cooling system, so classrooms in the warmer months become unbearably hot.

225. The lack of staff and basic resources is reflected in Orange's educational outcomes. It is the 27th lowest performing district in the Commonwealth. During the 2017-2018 school year, Orange students in grades 3 through 6 took the NextGen MCAS in ELA and Math. Only 25% of test takers met or exceeded expectations on the ELA MCAS, and only 23% of test takers met or exceeded expectations on the Math MCAS.

226. The consequences of insufficient funding in Orange extend beyond students' performance in their elementary school classrooms. Students in Orange are thereafter limited in middle school, in graduating from high school, in attending college, and in obtaining meaningful employment.

Springfield Public School District

227. Springfield is a low-income, property-poor community. Measured by property wealth and income, it ranks in the poorest 20% of districts. Springfield falls within the top 10% of school districts with the highest concentration of students from low-income homes. The median household income in Springfield is more than \$35,000 less than the state average and the second lowest in the entire state.

228. The third largest city in the Commonwealth, 69% of Springfield's residents are people of color: 45.1% of all Springfield residents are Latinx, 17.8% are Black, and 3% are Asian.⁴⁶ Springfield's residents of color have low educational attainment in higher education, with less than 6% of Latinx individuals and less than 20% of Black individuals receiving at least

⁴⁶ Phillip Granberry & Trevor Mattos, Gastón Inst. Publications, *Latinos in Massachusetts Selected Areas: Springfield 2* (2017) (Paper 224), https://scholarworks.umb.edu/cgi/view-content.cgi?article=1225&context=gaston_pubs.

a bachelor's degree, while 70% of Latinx students and almost 55% of Black students receive only a high school diploma.⁴⁷

229. The Springfield Public School District serves a high-needs population of students. For the 2018-2019 school year, 83.2% of Springfield's 25,297 enrolled students are considered high-needs students: 76.7% of students are considered economically disadvantaged, 23.5% of students require special education services, and 17.3% of students are English language learners.

230. Additionally, 89.8% of students attending public schools in Springfield during the 2018-2019 school year are students of color.

231. Springfield's budgeted spending for fiscal year 2019 was 101% of its foundation budget.

232. For fiscal year 2019, the District was faced with a \$6.8 million budget shortfall as a result of "revenue growth that isn't keeping up to rapidly growing compulsory expenses." This shortfall is in line with "a steady diet of budget cuts year after year."⁴⁸

233. The District expects its budgetary shortfalls to significantly increase in the next five years, absent an increase in local revenue or state aid. The District estimates facing a nearly \$33 million deficit by fiscal year 2024.⁴⁹

234. Critical staff, services, courses, and materials have been cut dramatically in Springfield.

⁴⁷ Id. at 5.

⁴⁸ Springfield Public Schools, Fiscal Year 2019 Operating Budget, at 5.

⁴⁹ Id. at 23, 172.

235. Springfield has been forced to make these cuts because of inadequate state funding and an inability to make up for the loss through local revenue.

236. Springfield struggles to attract and retain qualified and experienced teachers and administrators:

- a. Springfield employs 1,882.7 FTE teachers. However, only 84% of teachers have at least an initial license and only 75% of teachers have at least three years of experience.
- b. Springfield Public Schools employs only 13 FTE licensed librarians across at least 60 schools.
- c. Springfield Public Schools employs only 53 FTE guidance counselors, or one counselor for every 477.3 students.

237. Springfield also cannot finance dire infrastructure and public safety projects, the lack of which threatens the safety of staff and students.

238. Numerous school water faucets have tested positive for lead or copper above the EEA action level.

239. The District is unable to provide basic curriculum and classroom materials. As a result, many teachers seek out donations on platforms like DonorsChoose:

- a. A math teacher at a magnet high school recently sought donations to purchase scientific calculators for her students. Learning how to use calculators is invaluable for students' financial literacy, and for their entrance into a job market dependent on technology. Without up-to-date calculators, students' growth and interest in math will be stunted, and they will be unable to complete computational benchmarks, such as price comparisons and calculating interest on a loan.

- b. An elementary school teacher recently sought donations to purchase books at the appropriate reading level for her students. She currently teaches four groups of readers, all at different reading levels. Most of her books are either too easy or too advanced for her students. Finding books that will maintain students' confidence but still challenge them is critical for emerging readers to advance their literacy skills.
- c. A middle school teacher sought donations for writing supplies for her classroom. Her students need binders, folders, pencils, a pencil sharpener, and pencil pouches. Without these materials, her students will be unable to capture information for retention, later recall, and application.

240. On information and belief, the NAACP-NEAC has members who have children in the Springfield Public Schools who have suffered deprivations and reduced educational opportunity because of Defendants' chronic underfunding of the public school system.

241. Inadequate school funding has deprived Springfield of teachers, staff, resources, classroom materials, and a safe learning environment. These deprivations have harmed students' educational opportunities.

242. The district experiences, among other lost educational opportunities, low graduation rates, chronic student absenteeism, and higher discipline rates.

- a. Springfield students are much more likely to be chronically absent than students in well-funded communities. During the 2017-2018 school year, 22.9% of students were considered chronically absent, while 44.5% of students missed more than nine days of school.

- b. Discipline rates are also higher in Springfield, which has unmanageable class sizes, fewer teachers, fewer social and emotional supports, and fewer alternatives to suspension, than well-funded districts. Seven percent of students received an out-of-school suspension, and 2.6% of students received an in-school suspension.
- c. Inadequate school funding has harmed students' prospects of graduating: the Springfield graduation rate for the 2017-2018 school year was 76.9%. The graduation rate for ELL students that same year was 71% and the rate for students with disabilities was only 50%.

243. The lack of staff, support, and basic resources is reflected in Springfield's educational outcomes. Springfield is the 5th lowest performing district in the Commonwealth:

- a. During the 2017-2018 school year, Springfield students in grades 3 through 8 took the NextGen MCAS in ELA and Math. Only 30% of test takers met or exceeded expectations on the ELA MCAS, and only 24% of test takers met or exceeded expectations on the Math MCAS.
- b. During the 2017-2018 school year, Springfield students in grade 10 took the legacy MCAS in ELA and Math. Only 74% of Springfield 10th graders scored proficient or Advanced on the ELA MCAS, while 47% scored proficient or advanced on the Math MCAS. Of ELL students in Springfield taking the ELA MCAS in 10th grade, only 1% scored advanced, and 34% scored proficient. For the Math 10th grade MCAS, 2% of Springfield ELL students scored advanced, and 11% scored proficient.

244. The lack of funds has harmed the quality and breadth of Springfield students' enrichment and higher-level coursework. For example, only 25.1% of students eligible to take an AP test scored between 3 and 5 on the test.

245. Inadequate school funding has harmed Springfield students' prospects beyond the classroom. The lack of school funding has hurt students' college and higher education opportunities, their employment prospects, and their access to jobs that could lift themselves and their families out of poverty.

E. SCHOOL DISTRICTS THAT ARE ABLE TO SUPPLEMENT THE FOUNDATION BUDGET PROVIDE HIGH QUALITY EDUCATIONAL OPPORTUNITIES TO STUDENTS; QUALITY OF EDUCATION AND ACADEMIC ACHIEVEMENT ARE STILL LARGELY DEPENDENT ON A STUDENT'S ZIP CODE.

246. A review of wealthier school districts—specifically Brookline, Concord, Hopkinton, Lexington, Needham, Wellesley, Weston, and Westwood—provides a stark contrast with Plaintiffs' districts. With more resources and fewer high-needs students, these school districts ("comparison districts") provide more and better educational opportunities for their students. These better inputs result in considerably higher academic achievement and future success for these students, compared to those in the lowest-wealth districts, which have a disproportionate number of students of color.

247. Because the foundation budget does not adequately fund education for all students, wealthy communities contribute significant additional local resources to their respective public school districts in excess of their foundation budgets. The Commonwealth's highest performing districts all spend well above their foundation budgets. In fiscal year 2019, the average budgeted spending in the top performing 20% of districts was approximately 160% of the foundation budget.

248. Whereas Plaintiffs' districts were only able to budget spending as a percentage of the foundation budget of between 100% and 115%, the eight comparison districts budgeted spending as a percentage of the foundation budget in fiscal year 2019 as follows:

- a. Brookline Public School District: 172%;
- b. Concord Public School District: 205%;
- c. Hopkinton Public School District: 136%;
- d. Lexington Public School District: 177%;
- e. Needham Public School District: 172%;
- f. Wellesley Public School District: 182%;
- g. Weston Public School District: 233%; and
- h. Westwood Public School District: 173%.

249. Unlike the communities where Plaintiffs attend school, these wealthy school districts have:

- a. more and better trained staff at all levels, including teachers, aides, support staff, and counselors;
- b. better maintained and newer facilities;
- c. more and newer classroom materials and technology;
- d. more advanced courses, including AP and honors classes;
- e. more innovative and creative programs;
- f. more arts, music and sports programs;
- g. higher MCAS scores;
- h. lower absenteeism and suspension rates;
- i. higher graduation rates; and

- j. higher rates of MassCore completion.

250. Well-funded districts have little trouble recruiting or retaining staff, maintaining their programming, services and infrastructure, or purchasing and maintaining relevant supplies, including modern technology.

251. In well-funded districts, teaching and support staff openings are competitive positions, and districts are not forced to cut positions that they need because of budgetary constraints.

- a. The Brookline fiscal year 2020 budget includes the addition of seven full-time high school teachers; three full-time staff for guidance, nursing, and ELL instruction; and one additional educational leader position. Brookline also increased professional development funds district-wide for diversity, equity, and inclusion.
- b. In the 2018-2019 school year, Needham welcomed 30 new teacher hires, including a French teacher, a literacy specialist, a fine arts teacher, and a physics teacher. In a recent survey of instructional staff at Needham schools, 82% responded positively to the amount and quality of professional development opportunities.
- c. For a relatively small district serving around 3,000 students, Westwood Public Schools was able to add 8.75 FTE instructors district-wide in fiscal year 2019. Those positions included 5.6 FTE special education instructors.

252. Well-funded school districts properly staff school libraries. For example, during the 2017-2018 school year:

- a. Brookline employed 10.5 FTE DESE-licensed librarians for its 10 schools;
- b. Concord employed 0.8 FTE DESE-licensed librarians for its 4 schools;
- c. Hopkinton employed 3.1 FTE DESE-licensed librarians for its 5 schools;

- d. Lexington employed 10 FTE DESE-licensed librarians for its 10 schools;
- e. Needham employed 7.9 FTE DESE-licensed librarians for its 8 schools;
- f. Wellesley employed 7.5 FTE DESE-licensed librarians for its 10 schools;
- g. Weston employed 2.9 FTE DESE-licensed librarians for its 5 schools; and
- h. Westwood employed 7 FTE DESE-licensed librarians for its 8 schools.

253. During the 2017-2018 school year, with the exception of Concord, each comparison district had a guidance counselor to student ratio below the state average of one counselor for every 405 students and far below the ratios for Plaintiffs' districts:

- a. Brookline: one guidance counselor for every 285.6 students;
- b. Concord: one guidance counselor for every 524.8 students;
- c. Hopkinton: one guidance counselor for every 302 students;
- d. Lexington: one guidance counselor for every 336.1 students;
- e. Needham: one guidance counselor for every 271.1 students;
- f. Wellesley: one guidance counselor for every 354.5 students;
- g. Weston: one guidance counselor for every 280.4 students;
- h. Westwood: one guidance counselor for every 385.5 students.

254. The comparison districts maintain low counselor-to-student ratios even though high-needs students make up a smaller than average proportion of each district's enrollment.

255. School districts that receive adequate funding are not forced to make the difficult choices of what programs or services to cut from year to year.

- a. In fiscal year 2019, Westwood Public Schools did not have to cut any programs or services.

- b. Furthermore, in 2018, Westwood introduced the pilot program “J-Term,” which placed students into one intensive five-day course outside of the traditional curriculum. Although part of the program was financed by a private donation, Westwood was able to finance a majority of it through its operating budget. The student-to-faculty ratio for the courses was 8:1, and provided appropriate aides for students with disabilities.
- c. Wellesley Public Schools offers courses in five languages (French, Spanish, German, Mandarin Chinese, and Latin) at its middle and high schools. Starting in the 2019-2020 school year, sixth grade students in Wellesley will be able to choose a second language elective.
- d. Wellesley also offers two language exchange programs for its high school students, one with a school in Radolfzell, Germany and another with a school in Lyon, France.
- e. Lexington Public Schools offers a diverse performing arts program for elementary, middle, and high school students. During the 2018-2019 school year, Lexington Public Schools has a performance nearly every day of the year in chorus, jazz band, orchestra, theater, or improv comedy.

256. Well-funded school districts can prioritize purchasing and maintaining school supplies, curriculum aids, and learning technology for their classrooms.

- a. A recent survey of instructional staff at Needham Public Schools indicated that 87% of staff were satisfied with the resources provided at their school.
- b. Needham Public Schools implemented a 1:1 technology pilot program across the middle school grades and the ninth grade, where each student received an iPad or

a Chromebook for self-directed learning. Each school in Needham also has a specialized technology lab that features computers and printers, as well as devices and software for stop-motion animation, green screen video, graphic arts, and virtual reality.

- c. Wellesley Public Schools has a library in every school, including its elementary schools. Students have at least one library class per week, where a librarian teaches them about informational literacy, research skills, internet safety, and how to find books that interest them. Each elementary school library has a library teacher and an instructional library assistant.

257. Well-funded districts also are able to maintain their existing school facilities and build new ones.

- a. In 2018, Brookline voters approved a debt exclusion override to build new facilities for Brookline High School, including a new STEM wing, a new lobby, a gym renovation, and an outdoor field renovation.
- b. Hopkinton Public Schools built three entirely new schools in a span of 20 years. Starting in 2016, Hopkinton began building an athletic turf field, as well as an athletic amenities building for its high school.

258. Well-funded school districts—which usually have adequate support staff, training, mediation, and alternatives to discipline—have much lower rates of disciplinary suspensions than the lowest-wealth districts. In 2017-2018, the out-of-school suspension rates for the comparison districts were:

- a. Brookline: 0.7%
- b. Concord: 0.2%

- c. Hopkinton: 0.7%
- d. Lexington: 0.7%
- e. Needham: 0.9%
- f. Wellesley: 0.4%
- g. Weston: [not available]
- h. Westwood: 0.2%.

259. Students attending well-funded school districts are less likely to miss school and more likely to graduate. The comparison districts' graduation rates in 2018 were as follows:

- a. Brookline: 92.8%
- b. Hopkinton: 98%
- c. Lexington: 95.6%
- d. Needham: 96.8%
- e. Wellesley: 97.1%
- f. Weston: 98%
- g. Westwood: 98.8%.⁵⁰

260. Moreover, students graduating from the well-funded comparison districts are more likely to complete the MassCore than students in Plaintiffs' districts. For example, comparison districts' MassCore completion rates for 2018 were as follows:

- a. Brookline: 89.6%
- b. Hopkinton: 100%
- c. Lexington: 100%

⁵⁰ As the Concord Public School District only services students in grades Pre-K through 8, DESE does not measure graduation rates and MassCore completion rates for it.

- d. Needham: 100%
- e. Wellesley: 99.7%
- f. Weston: 100%
- g. Westwood: 98.4%.

261. Students attending well-funded school districts also score significantly better on MCAS tests. In each comparison district, between 75% and 81% of students in grades 3 through 8 met or exceeded expectations on the ELA NextGen MCAS tests and between 71% and 81% of students in grades 3 through 8 met or exceeded expectations on the Math NextGen MCAS tests. Similarly, between 98% and 100% of comparison district 10th grade students scored proficient or advanced on the ELA legacy MCAS tests and between 93% and 97% of comparison district 10th grade students scored proficient or advanced on the Math legacy MCAS tests.

- a. In Lexington, 80% and 81% of students in grades 3 through 8 met or exceeded expectations on the ELA and Math NextGen MCAS tests, respectively. Similarly, 98% and 97% of Lexington students in grade 10 scored proficient or advanced on the ELA and Math legacy MCAS tests, respectively.
- b. In Weston, 81% and 77% of students in grades 3 through 8 met or exceeded expectations on the ELA and Math NextGen MCAS tests, respectively. Similarly, 99% and 96% of Weston students in grade 10 scored proficient or advanced on the ELA and Math legacy MCAS tests, respectively.

262. Students attending well-funded districts have more opportunities to take rigorous courses: more students take AP classes, those students take more classes, and a significantly higher percentage of students achieve high scores on AP tests. For example, between 88.8% and 93.9% of students in comparison districts scored between 3 and 5 on AP tests.

263. These educational outcomes in well-funded districts do not just benefit the wealthy students. High needs students, and students of color also perform better in well-funded districts.

- a. Brookline is a telling case study for how disadvantaged students can succeed in well-funded schools. For the 2018-2019 school year, 35.7% of Brookline's 7,855 students are deemed high needs: 9.3% of students are economically disadvantaged; 15.8% are students with special needs, and 11% are English language learners. Additionally, 46.1% of Brookline students are students of color.
- b. High-needs students and students of color are far more likely to succeed in Brookline than in their underfunded counterparts. For example, 76% of high-needs students completed MassCore; and 93.8% of Black students, and 83.7% of Latinx students completed MassCore in Brookline Public Schools.
- c. Brookline's graduation rates for high-needs students are higher than in Plaintiffs' districts. Overall, 80% of high-needs students graduated in the 2017-2018 school year, with 83.1% of economically disadvantaged students graduating, and 91.3% of ELL students graduating.
- d. High-needs students in Brookline are far more likely to complete advanced coursework, such as AP and International Baccalaureate classes. Brookline schools overall had 92.4% completion of at least one advanced course for 11th and 12th grade students in the 2017-2018 school year. Of high-needs students, 82.4% completed at least one such course, with 81.4% of economically disadvantaged students, and 79.2% of ELL students completing the same.

- e. High-needs students in Brookline also perform better on State tests than their peers in underfunded districts. On the ELA Legacy MCAS for grade 10 in the 2017-2018 school year, 93% of high-needs students scored proficient or advanced, with 95% of economically disadvantaged students and 92% of ELL students scoring the same. On the Math Legacy MCAS for grade 10, 80% of high-needs students scored proficient or advanced, with 80% of economically disadvantaged students scoring the same. Of the 11 ELL students in Brookline who took that same exam, all of them scored proficient or advanced.

264. The fact that these well-funded districts can and do spend significantly over foundation is compelling evidence that the foundation budget as currently constituted is inadequate.

265. The link between performance and spending is matched by a correlation between performance and district wealth and income.

266. Each of the comparison districts serves students from wealthy communities that have low concentrations of high-needs students. These districts rank within the highest 20% of districts in terms of property wealth and income. Each comparison district except Brookline ranks within the lowest 10% of school districts when measuring the concentration of students from low-income homes.⁵¹

267. More generally, almost 75% of the top performing districts rank within the highest 40% of school districts when measured by property wealth and income, and none of the top performing districts are in the lowest 20% of school districts by that measure. By contrast, almost 75% of the lowest performing districts rank within the lowest 40% of districts by property wealth and income.

⁵¹ Brookline ranks within the lowest 20% of districts by that measure.

268. The disparities outlined throughout this section have grown over time. Since this Court issued its decision in Hancock, spending gaps between the poorest 20% of school districts and the richest 20% of school districts have widened.

269. In fiscal year 2003, on average, districts in the poorest 20% of school districts spent 102% of foundation budget, compared to 136% for the richest 20% of districts—a gap of 34 percentage points.

270. In fiscal year 2019 (the most recent year for which data are available), on average, districts in the poorest 20% of school districts budgeted 102% of foundation, compared to 158% for the richest 20% of districts—a gap of 56 percentage points.

271. In other words, spending as a percentage of the foundation budget has stayed constant in the poorest 20% of school districts (the lowest wealth quintile) since 2003—hovering around 100% of the foundation budget—while it has increased significantly in the wealthiest 20% of districts. In fact, spending as a percentage of foundation budget has increased for all but the poorest 20% of school districts during that period.

F. STUDENTS OF COLOR ARE DISPROPORTIONATELY HARMED BY INADEQUATE SCHOOL FUNDING.

272. The failure to modernize the foundation budget formula and provide adequate funding has disproportionately impacted the educational experiences and outcomes of students of color.

273. Students of color who live in segregated communities with high concentrations of students with differentiated or complex needs are left behind, resulting in poorer educational opportunities and outcomes than those of White students.⁵²

274. These students compose an increasingly large share of the population. Between 2000 and 2010, growth in the Latinx population accounted for all population growth in the Commonwealth.⁵³

275. Underfunded districts throughout the Commonwealth also face significant challenges serving a disproportionately large population of refugee and immigrant children, requiring ELL and other educational services. Refugee children in particular need appropriate social-emotional counseling. Most of these children are students of color.

276. Thirteen of the 20 lowest performing school districts in the Commonwealth have student bodies with a majority of students of color.

277. The lack of funding available to districts that primarily enroll children of color has resulted in enormous opportunity and achievement gaps for these students. An under-investment in the education of children of color has meant that these students are deprived of educational opportunities afforded to White students.

278. While Massachusetts was ranked first in the nation for education by *U.S. News & World Report*, the Commonwealth was also ranked 31st in educational equality by race.⁵⁴

⁵² Phillip Granberry & Trevor Mattos, Gastón Inst. Publications, Massachusetts Latino Population: 2010-2035, at 2 (2019) (Paper 241), https://scholarworks.umb.edu/cgi/viewcontent.cgi?article=1242&context=gaston_pubs.

⁵³ *Id.*

⁵⁴ Steve Koczela & Richard Parr, Massachusetts Is #1, But Not for Everyone, MassINC (Mar. 3. 2017), <https://massinc.org/2017/03/03/massachusetts-is-1-but-not-for-everyone/>.

279. Numerous educational studies highlight specific, quantifiable disparities between educational opportunities and outcomes for the Commonwealth's students of color, on the one hand, and white students, on the other.

- a. Latinx students are less likely to be enrolled in early childhood education than other students.⁵⁵
- b. Black and Latinx students are three times more likely than White students to be assigned a teacher who lacks expertise in the subject they are teaching.⁵⁶
- c. By fourth grade fewer than one in three Black and Latinx fourth graders are on grade level in reading—half of the rate for White students.⁵⁷
- d. In 2015, only 40% of all Black third graders were proficient or advanced in reading.⁵⁸

280. These disparities are borne out in Plaintiffs' districts, where students of color feel the brunt of lost educational opportunities more harshly than their White peers.

- a. In Haverhill, the rate of chronic absenteeism for White students in the 2017-2018 school year was 18.4%, but it was 23.9% for Black students and 30.5% for Latinx students.

⁵⁵ Mass. Educ. & Equity P'ship, Number One for Some, Opportunity and Achievement in Massachusetts 8 (2018), <https://number1forsome.org/wp-content/uploads/sites/16/2018/09/Number-1-for-Some-9.25-18.pdf>.

⁵⁶ *Id.*

⁵⁷ *Id.* at 4.

⁵⁸ Nicole Rodriguez et al., Mass. Budget & Policy Ctr., Race to Equity: The State of Black Massachusetts (Dec. 11, 2015), http://www.massbudget.org/report_window.php?loc=Race-to-Equity%20The-State-of-Black-Massachusetts.html.

- b. In Lowell, 83% of White students scored proficient or advanced on the ELA MCAS for 10th grade in the 2017-2018 school year, with 45% scoring the top mark of advanced. For that same year and exam, 70% of Latinx students scored proficient or advanced, with only 19% scoring advanced; and 81% of Black students scored proficient or advanced, with only 34% scoring advanced.
- c. In Springfield, 41% of White students were meeting or exceeding expectations on the 2017-2018 NextGen ELA MCAS for grades 3 through 8, while only 30% of Black students and 27% of Latinx students did the same.

281. These disparities in opportunities and outcomes between White students and students of color continue into secondary education, including in Plaintiffs' districts.

- a. While 87% of White students in the state pass all of their 9th grade courses, only 65.8% of Black students do so.
- b. Black and Latinx students have reduced access to challenging coursework, with White students in the Commonwealth 1.6 times more likely to be enrolled in at least one AP class than Black students, and 2.3 times more likely to be enrolled in at least one AP class compared to Latinx students.⁵⁹
- c. In Chicopee, White students had a graduation rate of 85.1% for the 2017-2018 school year, while Latinx students, who make up over one third of the Chicopee student population, had a 73.1% graduation rate for that same year.
- d. In Fall River, 42.7% of White students completed at least one advanced course (such as an AP course, International Baccalaureate course, or other rigorous

⁵⁹ Miseducation: Massachusetts, ProPublica (2017), <https://projects.propublica.org/mis-education/state/MA>.

courses) in the 2017-2018 school year, but only 21.6% of Latinx students and 29.3% of Black students completed such coursework for the same year.

282. The impact of this under-investment goes beyond the classroom. Students who are not proficient in reading by third grade begin to fall behind their peers: they are four times less likely to graduate high school.⁶⁰ In turn, there is an increased likelihood that these students will drop out of school and earn less throughout their lives than their peers, or even become incarcerated, resulting in what has been called “the school-to-prison pipeline.”⁶¹

283. A lack of sufficient funding has also led to a “pushout” crisis. Districts that predominantly enroll Black and Latinx students are more likely to have inexperienced or less experienced teachers and high teacher turnover. These factors, coupled with larger class sizes, a concentration of high-needs students, and a lack of funding for restorative justice and other alternatives to discipline, result in these districts being more likely than wealthier, whiter districts to resort to out-of-school suspension, even for non-violent, non-criminal, and non-drug related behavior.

284. Black and Latinx students are more harshly disciplined than their White peers for the same behavior, with Latinx students more than twice as likely as White students to receive an

⁶⁰ Mass. Educ. & Equity P’ship, supra, at 4.

⁶¹ Donald J. Hernandez, Annie E. Casey Found., Double Jeopardy: How Third-Grade Reading Skills and Poverty Influence High School Graduation 4 (2012), <https://www.aecf.org/m/resourcedoc/AECF-DoubleJeopardy-2012-Full.pdf>; Mass. Educ. & Equity P’ship, supra, at 10; see generally Andrew Sum et al., Ctr. for Labor Market Stud., Northeastern Univ., The Consequences of Dropping out of High School (Oct. 2009), https://repository.library.northeastern.edu/downloads/neu:376324?datastream_id=content (describing the stark consequences in jobs, earnings, and incarceration for high school dropouts).

out-of-school suspension, and Black students more than three times as likely as White students to receive one.⁶²

285. Holyoke and Springfield, two of the districts with the highest disciplinary suspension rates, enroll more Latinx students than any other district except Lawrence and Chelsea.⁶³

286. The repercussions of exclusionary discipline are prolonged and severe: out-of-school suspension predicts school dropout, deprives students of instruction, and reduces students' sense of connection to school.⁶⁴ As a result, suspended students are more likely to “repeat a grade or drop out” of school than their peers, as well as to “end up in the juvenile justice system.”⁶⁵

287. Students of color also have worse school facilities than their White peers. Eleven school districts that have a majority of students of color—Holyoke, Southbridge, Springfield, Brockton, Fitchburg, New Bedford, Chelsea, Boston, Lawrence, Everett, Lowell, Worcester, and Lynn—have elevated but unmediated lead and copper contamination in school water faucets.⁶⁶

⁶² Mass. Educ. & Equity P'ship, *supra*, at 9.

⁶³ Joanna Taylor & Matt Cregor, Lawyers' Comm. for Civil Rights & Econ. Justice, *Unfinished Business: Assessing Our Progress on School Discipline Under Massachusetts Chapter 222*, at 20 (Sept. 2018), <http://lawyersforcivilrights.org/wp-content/uploads/2019/01/Unfinished-Business-PDF.pdf>.

⁶⁴ See American Academy of Pediatrics Committee on School Health, *Out-of-School Suspension and Expulsion*, 131 *Pediatrics* e1000, e1001 (2013); American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, 63 *American Psychol.* 852, 859 (2008).

⁶⁵ Libby Nelson & Dara Lind, Justice Policy Inst., *The School to Prison Pipeline*, *Explained* (Feb. 24, 2015), <http://www.justicepolicy.org/news/8775>.

⁶⁶ Boston Public Schools, *Drinking Water Test Results 2018* (2018), https://drive.google.com/drive/folders/1MMELnN6w2xeAHGgNi12WkR_5f7dnFpj3; Exec. Office of Energy & Env'tl. Affairs (EEA), *Lead and Copper Drinking Water Results in Schools/Childcare* (2019), [https://eeaonline.eea.state.ma.us/portal#!/search/leadandcopper/results?FacilityType=School%20\(SCH\)&Result=Above%20Action%20Level](https://eeaonline.eea.state.ma.us/portal#!/search/leadandcopper/results?FacilityType=School%20(SCH)&Result=Above%20Action%20Level).

288. By contrast, of the 20 highest performing school districts in the Commonwealth, only one has a majority of students of color, and just five had elevated but unmediated lead or copper contamination in school water. A further five schools benefited from interventions to decrease or eliminate the contamination, and 10 had no contamination above EEA action levels.

289. Deprived of the resources needed for a robust educational experience, Black and Latinx students score lower than their White peers on almost every single measure of educational achievement.

- a. Fewer than one in three Black and Latinx students in Massachusetts who take the SAT meet college-readiness benchmarks in reading and math, while two-thirds of White students do.⁶⁷
- b. While almost 80% of White students in the state completed the MassCore curriculum, 64% of Black students and 71% of Latinx students in the State did so.⁶⁸
- c. White students in Massachusetts are over 50% more likely to both have access to and complete a MassCore college preparatory curriculum than Black and Latinx students.⁶⁹
- d. White 12th grade students are also more than twice as likely to receive a “proficient” or “advanced” score on the National Assessment of Educational Progress

⁶⁷ Mass. Educ. & Equity P’ship, supra, at 6.

⁶⁸ Id. at 9.

⁶⁹ Michael Dannenberg & Konrad Mugglestone, Educ. Reform Now, No Commencement in the Commonwealth: How Massachusetts’ Higher Education System Undermines Mobility for Latinos and Others & What We Can Do About It 1 (2019), <https://edreformnow.org/wp-content/uploads/2018/05/ERN-No-Commencement-in-the-Commonwealth-WEB.pdf>.

reading test than Latinx students, and nearly four times more likely to receive those scores compared to Black students on the mathematics test.⁷⁰

290. Furthermore, White students, on average, score higher on the MCAS than students of color. There are also wide disparities in MCAS scores by school district that reflect this disparity. For example, MCAS scores from 2017 showed that in Chelsea, where over 90% of students are Black or Latinx, 11.2% of the schools were failing and 20.1% needed improvement. In Longmeadow, however, where nearly 80% of students are White, scores from the same year showed that just 0.4% of the schools were failing and 0% needed improvement.⁷¹

291. Black and Latinx 15 year-olds in the Commonwealth score approximately two grade levels below their white peers.⁷²

292. These facts demonstrate that Massachusetts has failed to resolve vast disparities in educational access and resources between White students and students of color.

293. Unsurprisingly, in light of the under-investment described above, many students of color in Massachusetts who graduate from high school do not go on to enroll in postsecondary education, while many of those who do attend college or university must take remedial courses.⁷³

294. In Massachusetts, Black community college graduation rates are over 30% lower than in the nation as a whole, while Latinx graduation rates are over 40% lower.⁷⁴

⁷⁰ *Id.* at 6.

⁷¹ Benjamin Swasey, Daigo Fujiwara & Max Larkin, How Your School District Scored on the MCAS Over the Last 10 Years, WBUR (June 18, 2018), <https://www.wbur.org/edify/2018/06/18/mcas-data-massachusetts-town-city>.

⁷² Mass. Educ. & Equity P'ship, *supra*, at 4.

⁷³ *Id.*

⁷⁴ Dannenberg & Konrad, *supra*, at 2.

295. Poorer educational opportunities create a cycle of poverty. Not only do children of color face enormous educational barriers because their K-12 schools are underfunded, but those that do excel are also impacted by tuition costs at far greater rates than their White peers, particularly in Massachusetts, where the net price for college costs is 25% higher than the national average.⁷⁵

296. Without access to a college education, students of color are unable to access high-paying jobs—median earnings for 24-35 year-olds with bachelor’s degrees are over \$20,000 higher than for those with only a high school diploma—and generate wealth needed to, in turn, send their own children to college.⁷⁶

297. Despite longstanding awareness of these deprivations and disparate outcomes, Defendants have failed to allocate sufficient funding to districts with high concentrations of students of color, as well as immigrants and refugees, to support smaller class sizes, wraparound services, guidance counselor and social worker hiring, and access to advanced coursework, thereby discriminating against students based on their race and national origin.

CAUSES OF ACTION

COUNT I

Massachusetts Constitution Part II, c. 5, § 2 (Education Clause)

298. Plaintiffs reallege and hereby incorporate by reference all of the allegations contained in paragraphs 1 through 297 of this complaint.

⁷⁵ Id.

⁷⁶ Id. at 2, 27.

299. The Massachusetts Constitution guarantees Plaintiffs an education that creates productive, participating citizens in a republican government, regardless of their personal means or residence under Part II, c. 5, § 2 (the Education Clause). The Constitution further imposes an affirmative duty on the Commonwealth and Defendants to ensure all students receive such an education.

300. Defendants' school funding implementation, including the failure to sufficiently update the foundation budget in over two decades, has deprived Plaintiffs' schools of sufficient state funding for years. Plaintiffs' schools lack the essential staff, resources, and supplies to receive the educational opportunities guaranteed by the Constitution because of this financial deprivation. As a result of these resource inadequacies, Plaintiffs' educational outcomes are limited.

301. At this time, there is no reason to expect a meaningful injection of additional state resources into the system for funding public education, absent significant additional action by the Legislature.

302. As a result of all the foregoing, Defendants have violated the Massachusetts Constitution by failing to fulfill their obligation to educate Plaintiffs.

303. Plaintiffs are therefore entitled to declaratory judgment against Defendants for the Commonwealth's continued violation of its obligation to adequately fund public education under the Massachusetts Constitution.

COUNT II

Massachusetts Declaration of Rights, Art. 1 (Equal Rights Amendment - Fundamental Right)

304. Plaintiffs reallege and hereby incorporate by reference all of the allegations contained in paragraphs 1 through 303 of this complaint.

305. Education is a fundamental right under the Massachusetts Constitution. The Commonwealth's history and tradition have prized high-quality education for centuries for its children, rich and poor, and have strived to realize a vision of educational equity in the service of democracy.

306. Defendants have maintained a school funding system in which educational success is closely linked to a community's income and wealth, thereby permitting educational barriers between the wealthiest and the least-wealthy children to persist and widen.

307. Plaintiffs live in property-poor and low-income neighborhoods, which lack adequate funding for their schools, thus depriving them of the staff, resources, and supplies needed to educate all students to become productive democratic citizens. Property-rich and high-income districts, on the other hand, adequately fund their schools by supplementing their foundation budget with additional local resources—well above the funding that Plaintiffs' districts receive.

308. By maintaining a school funding scheme intimately tied to the financial circumstances of students' residence, Defendants have discriminated against children residing in property-poor, low-income school districts. Defendants' maintenance of this funding scheme tied to children's residency significantly interferes with Plaintiffs' ability to realize their right to education.

309. Defendants have a non-delegable responsibility to ensure that the Commonwealth's public schools are providing an education to all students, as guaranteed by the Constitution.

310. Defendants denied Plaintiffs equality under the law when they violated their fundamental right to an education, based on their residency in a low-wealth school district.

311. Defendants' actions are not narrowly tailored, and furthermore do not serve a compelling state interest. Defendants could adopt a more equitable funding approach that would not discriminate against Plaintiffs and students who are similarly financially disenfranchised.

312. Even if education were not a fundamental right under the Massachusetts Constitution, Defendants' discrimination between high-wealth and low-wealth neighborhoods to fund education is irrational, and serves no legitimate purpose.

313. Plaintiffs are therefore entitled to declaratory judgment against Defendants for the continued violation of their right to equal treatment under the Massachusetts Constitution, Part I, Article 1.

COUNT III

**Massachusetts Declaration of Rights, Art. 1
(Equal Rights Amendment - Race and National Origin)
(As to Plaintiffs Z.M, G.M, T.L.M, Jn.S., Ja.S., A.F., C.S., B.R., A.R., J.R., R.V.F., A.B.,
Chelsea Collaborative, and NAACP-NEAC)**

314. Plaintiffs reallege and hereby incorporate by reference all of the allegations contained in paragraphs 1 through 313 of this complaint.

315. Plaintiffs Z.M, G.M, T.L.M, Jn.S., Ja.S., A.F., C.S., B.R., A.R., J.R., R.V.F., and A.B., as well as members of the Chelsea Collaborative and NAACP-NEAC, are parents and children of color, immigrants, and English language learners who live in predominantly low-income, property-poor communities of color.

316. These Plaintiffs and similarly situated children of color are overwhelmingly more likely to live in communities that cannot contribute money over and above the minimum required local contribution. As a result, the funding formula has led to a patently unconstitutional reality where access to education is dictated by race and national origin.

317. Defendants' operation, implementation, and maintenance of the present school funding system have impermissibly deprived children of color of their right to an education. These actions unconstitutionally discriminate against children of color on the basis of race, color, ethnicity, ancestry, and/or national origin in violation of the Massachusetts Constitution.

318. Article 1 of the Massachusetts Declaration of Rights forbids the government from denying Plaintiffs equal treatment under the law because of their race or national origin.

319. "[R]egardless of legislative intent," actions with a disparate impact on students of color may constitute a violation of Article 1 of the Declaration of Rights of the Massachusetts Constitution. School Comm. of Springfield v. Board of Educ., 366 Mass. 315, 327 (1974).

320. Courts scrutinize the constitutionality of conduct under the Equal Rights Amendment if there is factual support for a "disparate impact on, or treatment of" a protected class. Buchanan v. Director of Div. of Emp't Sec., 393 Mass. 329, 335 (1984).

321. Defendants' operation, implementation, and maintenance of the present school funding system have resulted in harmful and racially disproportionate impacts, including lost educational, earning, and professional opportunities, on children of color and immigrant children, which is unconstitutional discrimination on the basis of race, color, ethnicity, ancestry, and/or national origin in violation of the Massachusetts Constitution.

322. Defendants knew or should have known of the impacts of the present school funding system and yet have continued to operate, implement, and maintain the present system, which has caused and/or continued the stark racial disparities in educational opportunities and outcomes for students of color.

323. There is no legitimate justification for Defendants' operation, implementation, and maintenance of the present school funding system; such a system is not educationally necessary. There are numerous, comparably effective alternative means of funding public education available to Defendants that would result in less disproportionality but Defendants have failed to implement them.

324. Defendants' actions and inactions as described above constitute intentional and disparate impact discrimination against Plaintiffs Z.M, G.M, T.L.M, Jn.S., Ja.S., A.F., C.S., B.R., A.R., J.R., R.V.F., and A.B.; the membership of the Chelsea Collaborative; the membership of NAACP-NEAC; and other similarly situated students of color on the basis of their race, color, ethnicity, ancestry, and/or national origin in violation of the Massachusetts Constitution.

325. As a direct and proximate result of Defendants' discriminatory conduct, and as itemized throughout the Complaint, Plaintiffs Z.M, G.M, T.L.M, Jn.S., Ja.S., A.F., C.S., B.R., A.R., J.R., R.V.F., and A.B., as well as members of the Chelsea Collaborative and NAACP-NEAC, have personally suffered the loss of educational opportunity.

326. Plaintiffs are therefore entitled to declaratory judgment against Defendants for the continued violation of their right to equal treatment, regardless of their race or national origin, under the Massachusetts Constitution, Part I, Article 1.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor as follows:

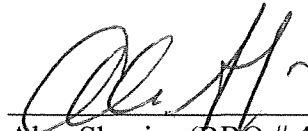
- a) Declare that Defendants have violated the Massachusetts Constitution by failing to fulfill their obligation to provide Plaintiffs with an adequately funded education;

- b) Declare that Defendants have deprived Plaintiffs of equal treatment under the Massachusetts Declaration of Rights by depriving them of their fundamental right to an education on the basis of their residence in low-income and property-poor school districts;
- c) Declare that Defendants have deprived Plaintiffs of equal treatment under the Massachusetts Declaration of Rights by depriving them of their right to education based on their race and national origin;
- d) Order Defendants to fulfill their obligations under the Massachusetts Constitution, as set out in the above declarations;
- e) Award Plaintiffs their costs and fees as appropriate; and
- f) Order such additional relief as the Court deems just and proper.

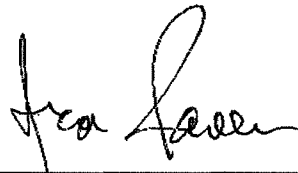
Respectfully submitted,

DENISE DAPONTE MUSSOTTE as next friend of Z.M., G.M., and T.L.M.;
MANEISHA STRAKER as next friend of Jn.S. and Ja.S.; ALICIA FLEMING as next friend of A.F.; NICOLE LAROSE-SANCHEZ as next friend of C.S.; TED KEMPINSKI as next friend of T.K., H.K., and M.K.; CARRIE CARBONE as next friend of Mc.C. and Ma.C.; DANIELLE ANDERSEN as next friend of D.A. and I.A.; BRIDGET MARSHALL as next friend of L.B.; MONICA LUNDBERG as next friend of Z.L.; MAYRA DE ROMERO as next friend of B.R.; HILDA RAMIREZ as next friend of A.R. and J.R.; EDUARDO VALDES VILLIBORD as next friend of R.V.F.; MAYRA BALDERAS as next friend of A.B.; CHELSEA COLLABORATIVE, INC.; and NAACP-NEAC, Plaintiffs,

By their attorneys,



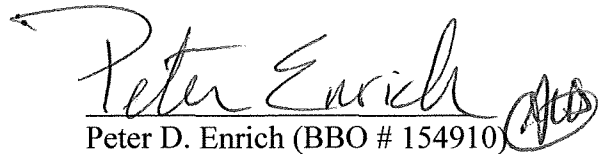
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A handwritten signature in cursive script, reading "Peter Enrich". To the right of the signature is a small, circular stamp or mark.

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Dated: June 13, 2019