

COMMONWEALTH COURT OF PENNSYLVANIA

WILLIAM PENN SCHOOL DISTRICT,
et al.,

Petitioners,

v.

PENNSYLVANIA DEPARTMENT OF
EDUCATION, *et al.*,

Respondents.

No. 587 MD 2014

***AMICI CURIAE* BRIEF IN SUPPORT OF PETITIONERS**

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STATEMENTS OF INTERESTS OF *AMICI CURIAE*

Education Law Center (“ELC”) is a non-profit organization established to advocate, on behalf of public school children, for access to fair and adequate educational opportunity under state and federal laws through policy initiatives, research, public education, and legal action.¹ ELC represented the plaintiff school children in the landmark case *Abbott v. Burke*, 575 A.2d 359 (N.J. 1990), and continues to advocate on their behalf to ensure effective implementation of the *Abbott* remedies, which have “enabled children in Abbott districts to show measurable educational improvement.” *Abbott v. Burke*, 971 A.2d 989, 995 (N.J. 2009) (internal citation omitted). In states across the nation, ELC advances children’s opportunities to learn and assists advocates promoting better educational opportunities. ELC provides analyses and other support on relevant litigation, high-quality preschool and other proven educational programs, resource gaps, education cost studies, and policies that help states and school districts gain the expertise needed to narrow and close achievement gaps. As part of its work, ELC has participated as *amicus curiae* in state educational opportunity cases in California, Colorado, Connecticut, Delaware, Florida, Indiana, Kansas, Maryland,

¹ Education Law Center, based in New Jersey, is not affiliated with Education Law Center of Pennsylvania, attorneys for Petitioners in this case.

Minnesota, Oregon, South Carolina, Texas, and Wyoming. ELC also filed an *amicus curiae* brief to the Pennsylvania Supreme Court in the case at bar.

ACLAMO is a nonprofit community service organization that provides educational programs, social services, and access to health and wellness programs to Latinos and other community members to empower them to fully achieve their life potential. To this end, ACLAMO coordinates with a well-developed network of local partners, and on working collaborations with a wide range of mainstream providers to bring visibility of the Latino community. By offering a full range of critical bilingual, bicultural services to address gaps in access to vital resources in the community, ACLAMO is a key connector and active participant in the community. ACLAMO joins this *amicus* brief to ensure that our Latino/black and all schoolchildren across the Commonwealth have access to a high quality education that prepares them to fully contribute their talents and skills towards their own professional growth, the workforce and the economy.

Allies for Children is a nonprofit organization based in southwestern Pennsylvania that builds alliances and serves as a bold voice for policy and practice changes that improve the wellbeing of all children in Allegheny County. Through advocacy, Allies for Children works to ensure each child has the opportunities and assistance necessary to develop into a healthy, educated and contributing member of the community. Allies for Children joins this *amicus* brief

to ensure that the most vulnerable children across the commonwealth have access to a high quality education that prepares them to participate in today's ever changing economy and democracy.

The Arc of Philadelphia is a Pennsylvania non-profit organization that advocates on behalf of children and adults with intellectual and developmental disabilities. Its mission is to advocate with and for all children and adults with intellectual and developmental disabilities and their families to promote active citizenship, self-determination, and full inclusion. To this end, The Arc of Philadelphia provides special education advocacy services and engages in community outreach. The Arc of Philadelphia joins this *amicus* brief to ensure that all children with intellectual and developmental disabilities and all schoolchildren across the Commonwealth have access to a high quality education that prepares them to participate in today's economy and democracy.

Asian Americans United (“AAU”) is a non-profit, community-based organization in Philadelphia, Pennsylvania that was founded in 1985 by a small group of volunteers seeking to create an organized response to rising issues of anti-Asian violence, substandard housing and the need for educational services. AAU exists so that people of Asian ancestry in Philadelphia exercise leadership to build their communities and unite to ensure justice and equity for all. With an emphasis on developing community leadership, AAU works to reduce inequities by creating

institutional and systemic changes and to build traditions, practices, and programs that strengthen the fabric of our communities. AAU takes a multifaceted approach to community-building with programming focused on youth leadership to harness their bilingual and bicultural skills, and to engage their critical thinking in the service of their communities; advocacy and civic engagement; and rights to culture including culturally responsive education and support for English-language-learning students. AAU joins this *amicus* brief to ensure that all children, including non-English speaking students, across the Commonwealth have access to a high quality education that prepares them to participate in today's economy and democracy.

Children First is a Pennsylvania non-profit organization that advocates on behalf of children in southeastern Pennsylvania. Our mission is to improve the lives and life-chances of children, particularly children of color and those who are raised in low-income households. To that end, Children First advocates for improved school resources and supports for public school students. Children First joins this *amicus* brief to ensure that all children, especially those of color, children with disabilities, and children who are raised in low-income households have access to a high-quality education that prepares them to participate in today's economy and democracy.

Disability Rights Pennsylvania (“DRP”) is the protection and advocacy system designated by the Commonwealth of Pennsylvania pursuant to federal law to protect the rights of and advocate for Pennsylvanians with disabilities so that they may live the lives they choose, free of abuse, neglect, discrimination, and segregation. To this end, DRP provides legal advocacy to children and adults with disabilities, including the rights of students in education. DRP joins this *amicus* brief to ensure that children with disabilities and all schoolchildren across the Commonwealth have access to a high quality education that prepares them to participate in today’s economy and democracy.

Education Voters of Pennsylvania is a Pennsylvania non-profit organization that advocates for students and families throughout the Commonwealth. Its mission is to ensure elected officials adopt and implement a pro-public education agenda. We advocate for sound education policy and build and mobilize the public will to ensure that support for quality public education and an opportunity to learn for all children is a top priority for key decision makers. To this end, Education Voters of Pennsylvania conducts research, provides advocacy trainings for parents and community members, and engages in community outreach to help ensure that all children, including children of color, children with disabilities and children living in poverty, have access to a high-quality education that prepares them to participate in today’s economy and democracy.

Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth. Juvenile Law Center works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them so all young people can thrive. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center's legal and policy agenda is informed by—and often conducted in collaboration with—youth, family members, and grassroots partners. Since its founding, Juvenile Law Center has filed influential amicus briefs in state and federal courts across the country to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are consistent with children's unique developmental characteristics and human dignity.

Make the Road Pennsylvania is a community based organization that has an engaged membership based on low income and working class people of color, primarily Latinx immigrants, non-unionized workers, renters and parents who fight for justice, respect and dignity for their communities and promote policy solutions that improve their lives and the lives of all Pennsylvanians. Make the Road Pennsylvania has community organizing centers in Reading, Allentown, and in Philadelphia and in all three of these under resourced geographies we engage in community outreach, mobilization, political education and leadership development of our members to advocate for what they need for their families. Make the Road

Pennsylvania joins this *amicus* brief to ensure that Latinx children and all school children across the Commonwealth and future generations have access to a high quality and equitable education that prepares them to participate in today's economy, democracy and reach their full potential.

The Pennsylvania Association of School Nurses and Practitioners

(“PASNAP”) is the professional home for school nurses, open to all certified school nurses and school nurse practitioners in Pennsylvania. The mission of PASNAP is to provide the structure and leadership necessary to promote unity among all certified school nurses and practitioners, to advance the professional practice of school health through continuing education, improving political awareness, and promotion of school nursing to assure quality school health services. To this end, PASNAP encourages its members to continue to improve their professional practice through education, and service to their community. PASNAP joins this *amicus* brief to ensure that its members and all schoolchildren across the Commonwealth have access to a high quality education that prepares them to participate in today's economy and democracy.

The PA Budget and Policy Center (“PBPC”) is a Pennsylvania non-profit organization. It advocates on behalf of working people and the middle class in Pennsylvania. Its mission is to broaden and deepen democracy in Pennsylvania in order to establish a system of taxation that is fair and progressive and that raises

sufficient revenue to support quality and equitable education at all levels, a sound infrastructure, and a strong safety net to protect our most vulnerable citizens. To this end, it does policy research and engages in community outreach. PBPC joins this *amicus* brief to ensure that all children, regardless of where they live or what they look like have access to a high quality education that prepares them to participate in today's economy and democracy.

People's Emergency Center is a Pennsylvania nonprofit organization. Our mission is to nurture families, strengthen neighborhoods and drive change. For families, children, and youth experiencing homelessness, PEC offers more than 235 affordable housing units, job training, parenting and early childhood education, financial education and planning, life skills and technology classes. PEC seeks to change the life trajectory for the families who seek its services and inspire them to achieve housing security and financial stability. For the last fifty years, we have served children and youth experiencing homelessness with a variety of services, including housing, early education, mental health and other important services. People's Emergency Center joins this *amicus* brief to ensure that our children who experience homelessness and all schoolchildren across the Commonwealth have access to a high quality education that prepares them to participate in today's economy and democracy.

Philadelphia Family Voices is a Pennsylvania non-profit organization that advocates on behalf of families and children. Our mission is “families helping families navigate and improve child-serving systems by creating opportunities for education, empowerment, and support.” To this end, Philadelphia Family Voices is a family-led, peer support organization for families of children with behavioral health needs and/or autism. Philadelphia Family Voices joins this *amicus* brief to ensure that children with behavioral health challenges and/or autism, and all schoolchildren across the Commonwealth have access to a high-quality education that prepares them to participate in today’s economy and democracy.

Philadelphians Organized to Witness Empower & Rebuild, dba

POWER Interfaith, is a Pennsylvania faith-based community organization that advocates on behalf of its interfaith membership for racial and economic justice. POWER uses our belief in God’s goodness and compassion for the suffering to organize and empower the people of Philadelphia, Southeastern, and Central Pennsylvania to live and work together so that God’s presence is known on every block, that people work together to transform the conditions of their neighborhood, and that life flourishes for all. To this end, POWER Interfaith dedicates itself to building a united interfaith movement for racial and economic justice. POWER Interfaith joins this *amicus* brief to ensure that education funding equity becomes a

political and budgetary reality in the Commonwealth of Pennsylvania so that one's Zip Code does not determine one's educational destiny.

Philadelphia Student Union (“P.S.U.”) is a Pennsylvania youth organizing group that advocates on behalf of Philadelphia public high school students and young people at large. Its mission is to empower young people in the fight for equity in their schools and communities. To this end, P.S.U. trains young people to be grassroots organizers and lead issue campaigns in their schools. P.S.U. joins this *amicus* brief to ensure that its members and all schoolchildren across the Commonwealth have access to a high quality education that prepares them to participate in today's economy and democracy.

The Support Center for Child Advocates (“*Child Advocates*”) provides legal assistance and social service advocacy to abused and neglected children in Philadelphia, including hundreds of children with disabilities impacting their education. For all the children committed to *Child Advocates'* care, lawyers and social workers advocate to ensure safety, health, education, family, permanency and access to justice. In our model of whole-child advocacy, we witness a range of systemic education problems affecting children served by public agencies and school systems. Many if not most of the 1000-plus children we serve each year suffer the profound and recurrent hardships and inadequacies which this lawsuit seeks to correct.

Teach Plus Pennsylvania is an educational non-profit organization that develops teachers as leaders and empowers them to take action. Its mission is to empower excellent, experienced, and diverse teachers to take leadership over key policy and practice issues that advance equity, opportunity, and student success. To this end, Teach Plus Pennsylvania leads policy and practice programs to support teacher leaders to find solutions to the most important equity issues facing students, teachers, and families. Teach Plus Pennsylvania joins this *amicus* brief to ensure that all children across the Commonwealth, especially historically underserved populations, have access to a high-quality education that prepares them to participate in today's economy and democracy.

Turning Points for Children is a Pennsylvania nonprofit organization that advocates on behalf of children and families involved with the child welfare system. Our mission is to achieve safety, well-being and permanency for all of the families who come to us for help. To this end, Turning Points provide a wide variety of child abuse prevention and intervention services to over 4000 Philadelphia families annually. Turning Points joins this *amicus* brief to ensure that all children we serve and all schoolchildren across the Commonwealth have access to a high-quality education that prepares them to participate in today's economy and democracy.

VietLead is a non-profit grassroots organization based in Philadelphia, Pennsylvania. Our mission is to develop leadership in the Vietnamese community in solidarity with other communities of color towards improving health, increasing self-determination, and strengthening political power of our community.

VietLead, founded in September 2015, serves the Vietnamese and Southeast Asian communities in Philadelphia and South Jersey. As descendants of a people impacted by war and trauma, we understand that our community is at different places ideologically, emotionally, and materially, so we must meet our community where they are at and commit to direct services, education, advocacy, and organizing in order to build unity towards social justice. VietLead joins this *amicus* brief to ensure that children of color/children with disabilities/its members and all schoolchildren across the Commonwealth have access to a high quality education that prepares them to participate in today's economy and democracy.

Youth United for Change (“YUC”) is a democratic organization primarily made up of working class youth of color, which builds the “people power” necessary to hold school officials and government accountable to guarantee the educational rights of Philadelphia public school students. Its mission is to develop young leaders in Philadelphia with a critical political, historical, and economic understanding of society, and to empower them to improve the quality of their lives and communities. To this end, YUC develops the leadership of youth from

communities of color who are capable of leading and governing all of society, using grassroots organizing as the training vehicle. YUC joins this *amicus* brief to ensure that its members and all schoolchildren across the Commonwealth have access to a high quality education that prepares them to participate in today's economy and democracy.

INTRODUCTION

We respectfully submit this friend-of-the-Court brief to highlight several critical issues that the *amici* here believe profoundly impact at-risk children in the Commonwealth and that ought to be addressed by the relief sought in this landmark education case.

First, this lawsuit has properly brought the public's attention to how children who live in low-wealth districts are disproportionately "at risk" in the Commonwealth's system of education. This urgent problem can and should be addressed by the relief sought in this lawsuit. Targeted programs and services are proven to improve academic outcomes and success in school for at-risk students. Additional, more equitable funding for low-wealth districts across the Commonwealth will help these districts provide essential resources for at-risk students, such as early childhood education, small class sizes, qualified teachers and administrators, additional staff including reading and math specialists, academic and social supports, a robust curriculum, and extra-curricular activities, adequate facilities, and technology.

Second, children of color are concentrated in low-wealth districts in the Commonwealth. The educational disparities wrought by the Commonwealth's system therefore compound the effects of systemic racism. As a result of chronic underfunding and lack of access to an array of educational resources, Black and

Latino students consistently underperform on standardized and national tests and graduate from high school, enroll in college, and graduate from college at far lower rates than white students. These disparities are not acceptable and can and should be mitigated with more equitable funding of education in Pennsylvania.

Finally, a growing body of research shows a strong association between increased spending on educational resources and improving student achievement. Courts in several other states have also regularly ordered the type of relief sought in this lawsuit in order to fulfill similar constitutional obligations to provide an adequate education to all children. Courts from a long list of states—including New Jersey, New York, Massachusetts, North Carolina, South Carolina, Kansas, Wyoming, New Mexico, and Washington—have recognized that high-needs districts in their respective states must be provided with a range of additional resources to provide an adequate education to at-risk students in accordance with state constitutional mandates.

The *amici* here urge the Court to follow this precedent to address the longstanding and compelling need to increase funding and resources for the education of the Commonwealth's at-risk students.

I. STUDENTS IN PENNSYLVANIA’S LOW-WEALTH DISTRICTS REQUIRE TARGETED PROGRAMS AND SERVICES TO RECEIVE AN ADEQUATE CONSTITUTIONAL EDUCATION

The record in this case reflects *amici*’s experience that the Commonwealth’s low-wealth school districts serve high enrollments of “at-risk” students, i.e., children living in poverty and other student groups who have additional educational needs such as English Language Learners and/or students with disabilities. FOF, 4, 5 and Sections X. But this is not an intractable problem. There are targeted programs, services, and interventions proven to improve academic outcomes and success in school for at-risk students. FOF, 52. And, as *amici* experience firsthand, children living in poverty, English Language Learners, and students with disabilities require these supports and interventions in order to achieve an adequate education. FOF, 53.

The trial in this case also confirms what is a broad consensus that the essential resources for at-risk students include early childhood education, small class sizes, qualified teachers, administrators, additional staff, including reading and math specialists, academic and social supports, a robust curriculum, extra-curricular activities, adequate facilities, and technology. FOF, 268-373. And districts that serve high concentrations of these “at-risk” students need additional funding in order to deliver these targeted programs and services to their students. FOF, 53.

II. INEQUITIES IN EDUCATION ACROSS THE COMMONWEALTH DISPROPORTIONATELY IMPACT CHILDREN OF COLOR

For decades, Pennsylvanians have been subjected to a school funding system where the students who need the most get the least, because of where they live.² The educational disparities wrought by the Commonwealth’s system compound the effects of systemic racism. The current reality is a far cry from a “thorough” system where all children have access to a quality education regardless of the wealth of their community, their race, or their ZIP code. Yet this is what was envisioned by the authors of the Education Clause and the Equal Protection provisions of Pennsylvania’s Constitution. Tr. 930:7-12, 954:24-957:22 (Black).

In Pennsylvania, Black and Latino students together make up approximately 470,000 of Pennsylvania’s 1.7 million public school students. PX-2098, tab “statewide,” cells T26, T27. As a result of the way the Commonwealth funds public education, these children are disproportionately deprived of opportunity

² *Amici* understand that Legislative Respondents have cited a report by the Urban Institute (*Which Students Receive a Greater Share of School Funding?*), as support for their notion that Pennsylvania’s current school finance system is progressive, i.e. provides more funding for students from low-income families than students from higher-income families. (Tr. 13383:3-13385:10). However, in April 2022, the Urban Institute revised its report to account for how funds flow to charter schools, and now concludes that Pennsylvania’s school finance system is regressive, i.e., it provides less funding to students from low-income families than it does to students from higher-income families. See Urban Institute, *Which Students Receive a Greater Share of School Funding?*, April 25, 2022 (available at <https://apps.urban.org/features/school-funding-trends/>).

because the schools educating Black and Latino children are particularly underfunded.

Children of color are concentrated in low-wealth Pennsylvania schools. Tr. 1780:17-1781:1 (Stem). Indeed, almost one in every two Black students are attending school in the poorest districts, while only 14% attend schools in the wealthiest districts. Tr. 1288:14-1289:2 (Kelly). Similarly, 40% of Latino students attend school in the poorest districts, while only 11% attend schools in the wealthiest districts. Tr. 1289:3-9 (Kelly).

As a result of school underfunding and lack of access to an array of school staff, qualified teachers, and a range of school resources readily available in high wealth schools including libraries, computers, and science labs, Black and Latino students consistently underperform state averages for standardized test scores. Only 37.1% of Black students scored proficient or advanced on ELA standardized test (compared to an average of 62.98% for all students); only 18.35% scored proficient/advanced on math (compared to 45.52% for all students); and only 34.6% scored proficient/advanced in science (compared to 64.28% for all students). Latino students similarly underperformed state averages, with only 42.39% scoring proficient/advanced in ELA, 24.54% in math, and 42.36% in science. PX-4843; *see also* Tr. 9568:11-14 (Johnson) (discussing PD-16-13–14).

The gaps on Pennsylvania's state assessments are matched by gaps in national test scores. Pennsylvania's achievement gaps on the National Assessment of Educational Progress ("NAEP") are some of the largest in the nation, both for Latino and Black children. *See* PX-4933-4940.47. Those gaps are similarly evident in the number of students who take AP exams, and the results they receive. Black and Latino students, making up more than one-quarter of Pennsylvania's student body, represent just under 11% of test takers. PX-7000. And those Black and Latino students that do take the tests fare far worse than their white counterparts: approximately 70% of white students received a score of 3 or higher on AP exams. PX-7000. For Latino students, that number fell to approximately 53%. PX-7000. For Black students, it fell even further, to approximately 33%. While just 9% of white students receive a score of 1, 43% of Black children do. The same disparities are demonstrated in SAT results. Black and Latino students take those tests at lower rates, and their scores (913 and 978 average scores, respectively) lag far behind white students (1114 average score). LR-1986-4; Tr. 2526:16-2527:4 (Stem).

There are also wide racial disparities in Pennsylvania's high school graduation rates. While 91.40% of white students graduated with their four-year cohort in 2019-20 — exceeding the statewide average — only 76.53% of Black students did the same. Latino students had similar results, with only 77.21%

graduating with their four-year cohort in 2019-20. These are abysmal numbers; to put this in perspective, a district with a 76.53% graduation rate would be in the bottom 20 school districts statewide. PX-4851.

Rates of college enrollment are even lower. Of 2013 high school graduates, only 53.48% of Black graduates and 45.09% of Latino graduates enrolled in college statewide, compared to 61.99% statewide. PX-4840. The numbers look similar for 2017 high school graduates: only 53.58% of Black graduates, 47.75% of Latino graduates enrolled in college compared to 61.98% statewide. PX-4842. The State Board, looking at similar data, found the trends “concerning,” particularly given that the population of high school students is becoming more diverse. Tr. 4442:7-22 (Molchanow).

Those gaps only widen for college graduation. Black and Latino high school graduates both complete college within six years at half the rate of students overall. Of 2013 graduates, 20.61% of Black students and 20.23% Latino students obtained a college degree in six years, well less than half the rate of white students (47.31%). PX-4841.

As a result, racial and ethnic gaps between individuals who hold degrees are similarly significant. In 2019, 47% of white 25–64-year-olds had a postsecondary credential, compared to only 30% Black 25–64-year-olds and 24% of Latinos. PX-7008-7; Tr. 4443:5-24 (Molchanow). These achievement gaps are caused, in large

part, by the lack of resources in the low-wealth districts where students of color are disproportionately educated. Tr. 2538:17-23 (Stem); Tr. 1805:19-1806:7 (Stem). There is no mystery as to the cause of these outcomes: “the achievement gaps that we see, we can trace them back to educational opportunity gaps.” Tr. 9556:9-24 (Johnson).

These gaps cannot be mitigated without more funding. A system that categorically deprives students of needed funding is a system that is failing. Indeed, the schools educating more Black and Latino students are far more underfunded than other schools. Tr. 1291:18-24 (Kelly). Specifically, the adequacy shortfall for districts in the quintile with the highest percentage of Black and Latino students is \$1.4 billion higher than the shortfall for the quintile with the fewest Black and Latino students. Tr. 1291:18-24 (Kelly). In STEM education alone, there are other instances of unacceptable disparities. For example, while only 40% of Pennsylvania students display STEM college-career readiness, that number drops to 10% for Black students. Tr. 1874:10-18 (Stem).

These disparities are not acceptable. There is an urgent need to address the conditions of learning that Black and Latino children experience and thereby address the profound racial achievement gaps in the Commonwealth of Pennsylvania.

III. OTHER STATE COURTS HAVE RULED THAT “AT-RISK” STUDENTS REQUIRE TARGETED PROGRAM AND SERVICES TO PROVIDE AN ADEQUATE CONSTITUTIONAL EDUCATION

Courts in several other states have recognized that, in order to fulfill a constitutional obligation to guarantee an adequate education to all children, a state must provide resources to ensure that all children can access that educational opportunity. Therefore, courts have ruled that for children with additional needs—such as those living in poverty, English Language Learners and students with disabilities—additional services, staff and programs are essential components of an adequate education.

The New Jersey Supreme Court noted that:

there is solid agreement on the basic proposition that conventional education is totally inadequate to address the special problems of the urban poor. Something quite different is needed, something that deals not only with reading, writing, and arithmetic, but with the environment that shapes these students’ lives and determines their educational needs.

Abbott v. Burke, 119 N.J. 287, 372 (1990). Thus, New Jersey has ordered that high-needs districts be provided with resources such as pre-k; alternative schools or comparable education programs aimed at reducing the dropout rate; summer school; after-school and nutrition programs; health and social services; among other educational inputs. *See Abbott v. Burke*, 153 N.J. 480 (1998). The New Jersey Supreme Court ruled that these inputs were essential “to ensure that public

school children from the poorest urban communities receive the educational entitlements that the Constitution guarantees them.” *Id.* at 489.

Similarly, the North Carolina Supreme Court declared that it is the State’s obligation to provide at-risk students with “tutoring, extra class sessions, counseling, and other programs that target ‘at-risk’ students in an effort to enable them to... avail themselves of their right to the opportunity to obtain a sound basic education.” *Hoke County Bd. of Educ. v. State*, 358 N.C. 605, 637 (2004).

Further, in 2014, the South Carolina Supreme Court ruled that the State did not fulfill its constitutional obligation because its “failure to address the effects of pervasive poverty on students within the plaintiffs’ school districts prevented those students from receiving the required opportunity.” *Abbeville County Sch. Dist. v. State*, 410 S.C. 619, 624 (2014). Specifically, the South Carolina Supreme Court recognized that pre-k was an essential resource which enabled at-risk students to receive an opportunity for a constitutionally adequate education. *Id.* at 628. The Wyoming Supreme Court has similarly recognized that “[a]t-risk students require specially tailored programs and more time spent on all aspects of academic endeavor.” *State v. Campbell County Sch. Dist.*, 19 P.3d 518, 545 (2001).

Included in Wyoming’s basket of resources essential for an adequate education are small class size; after-school programs, alternative programs, and other programs

for at-risk students; services for English language learners; and security. *Id.* at 546-47.

Other courts have similarly found that a broad range of resources are essential for a constitutionally adequate education. New York's courts have ruled that schools must be able to provide: a sufficient numbers of qualified teachers, principals and other personnel; appropriate class sizes; adequate and accessible school buildings with sufficient space to ensure appropriate class size and implementation of a sound curriculum; sufficient and up-to-date books, supplies, libraries, educational technology and laboratories; suitable curricula, including an expanded platform of programs to help at-risk students by giving them "more time on task"; adequate resources for students with extraordinary needs, and a safe orderly environment. *Campaign for Fiscal Equity v. State*, 187 Misc.2d 1,115 (Sup. Ct. N.Y. Cty. 2001); *aff'd*, 100 N.Y.2d 892, 902 (2003). New York's highest court stressed that "be placed within reach of all students," including those who "present with socioeconomic deficits." *Campaign for Fiscal Equity*, 100 N.Y.2d at 915 (quotation omitted). Following this reasoning, an appellate court in New York more recently ruled that the state violated the constitutional right to an adequate education of students in eight small city school districts by failing to provide the "funding necessary to provide adequate services for the at-risk student populations" in those districts. *Maisto v. State*, 196 A.D.3d 104, 114 (3d Dep't

2021). Similarly, in New Mexico’s landmark school funding case, the court held in 2018 that the state legislature must take “immediate steps to ensure that New Mexico schools have the resources necessary to give at-risk students the opportunity to obtain a uniform and sufficient education that prepare them for college and career.” *Yazzie v. State*, No. D-101-CV-2014-02224, at 74 (N.M. 1st Jud. Dist. Ct. July 20, 2018) (consolidated with *Martinez v. State*, No. D-101-CV-2014-00793).

Massachusetts, too, found a constitutional violation where districts serving high-needs students lacked resources such as small class size, adequate guidance counselors, advanced course offerings, adequate professional development, and curriculum development. *McDuffy v. Sec’y of Executive Office of Educ.*, 415 Mass. 545, 553-54 (1993). In Kansas, the trial court found that small class size, one-on-one teaching opportunities—especially for language deficient and disabled students—expanded learning time, and tutoring were among the resources necessary to provide all children with the opportunity for a constitutionally adequate education. *Montoy v. State*, Case No. 99-C-1738 (Shawnee County, Dec. 2, 2003) (Bullock, J); *aff’d in part*, 278 Kan. 769 (2005). The Washington Supreme Court recognized as essential resources components such as bilingual education, remediation services and special education services. *McCleary v. State*, 173 Wash.2d 477, 526 (2012).

There is, in short, broad consensus in courts across the nation that districts serving students living in poverty, English Language Learners, and students with disabilities must be provided with targeted resources—and sufficient funding to provide these resources—to address their academic, social, and health needs as part of an adequate education in accordance with state constitutional mandates.

IV. INCREASING SCHOOL FUNDING IMPROVES ACADEMIC AND LIFE OUTCOMES OF AT-RISK STUDENTS

A growing body of research has consistently found a strong association between education resources and improved student achievement, refuting claims that “money doesn’t matter.”

A recent review of the existing research studies on the effects of increased school spending provides “compelling evidence that there is a positive causal relationship” between increased spending and the academic and life outcomes of at-risk students, including higher educational attainment, increased earnings, and a reduction in adult poverty. C. Kirabo Jackson, *Does School Spending Matter? The New Literature on an Old Question* 9, NATIONAL BUREAU OF ECONOMIC RESEARCH WORKING PAPER (2018), available at <https://www.nber.org/papers/w25368>. An earlier longitudinal national study—presented in this case by Petitioners’ expert, Dr. Rucker Johnson—demonstrated that the positive effect of increased spending on academic and life outcomes is particularly pronounced for students from low-

income families. See C. Kirabo Jackson, et al., *The Effect of School Finance Reforms on the Distribution of Spending, Academic Achievement, and Adult Outcomes* 44, NATIONAL BUREAU OF ECONOMIC RESEARCH WORKING PAPER (2014), available at <https://www.nber.org/papers/w20118>). Dr. Johnson also discussed multiple subsequent research studies which have only reinforced this positive causal connection. See e.g., FOF, 166 and 167.

The experience in New Jersey and Massachusetts confirms these findings. From 1999 to 2007, the achievement gap in fourth grade mathematics between the low-wealth New Jersey districts targeted for judicial intervention (the “Abbott” districts) and all other school districts in New Jersey was reduced by eleven percentage points. See Goertz, *Assessing Success in School Finance Litigation: The Case of New Jersey, Education, Equity and the Law* (2009) 23. Massachusetts likewise increased investments in low- and middle-spending districts between 1993 and 2000 in schools with higher proportions of low-income students and English language learners, also generating positive results.

Simply put, as the New Jersey Supreme Court has expressly ruled, there is now a growing consensus that “the actual achievement of educational success” of at-risk students, “cannot be realized” without increased spending on targeted programs and services and that, “[w]ithout them, they will not have a fair chance to achieve that success.” *Abbott v. Burke*, 149 N.J. 145, 180 (1997).

CONCLUSION

Amici here urge the Court to follow well-established precedent in other state courts and issue a similarly strong directive for the General Assembly to address the longstanding and compelling need to increase funding and resources for the education of the Commonwealth's at-risk students. *Amici* represent child serving and education organizations across Pennsylvania. We have seen first-hand the significant and long-term impacts of underfunding on at-risk students in low-wealth communities, Black and Brown students, families, communities, and throughout the Commonwealth as a whole. Based on our experience, the deprivations endured by the students in this state have only become more entrenched over decades. Funding, resource and achievement gaps have widened; and generations of students have been left out and left behind in the Commonwealth's system. This case presents an historic opportunity to reverse course and positively impact generations of Pennsylvania's most vulnerable students by compelling the General Assembly to provide funding adequate to ensure that underserved students can reach their full potential as contributing members to the Commonwealth and their communities.

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Respectfully submitted,

/s/

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