

No. ACM-REG-0209-2023

IN THE APPELLATE COURT OF MARYLAND

The Bradford Plaintiffs (Keith A. Bradford, *et al.*),
Appellants,

v.

Maryland State Board of Education,
Appellee.

On Appeal from the Circuit Court for Baltimore City (Hon. Audrey Carrion)

**BRIEF OF AMICI CURIAE EDUCATION LAW CENTER, AMERICAN
FEDERATION OF TEACHERS, CENTER FOR EDUCATIONAL EQUITY,
NATIONAL CENTER FOR YOUTH LAW, AND EDUCATION LAW
SCHOLARS IN SUPPORT OF APPELLANTS**

Of Counsel:

Wendy Lecker*
Education Law Center
60 Park Place, Suite 300
Newark, NJ 07102

Arian M. June (Maryland Bar No. 0612120426)
Stephan J. Schlegelmilch*
Debevoise & Plimpton LLP
801 Pennsylvania Avenue NW
Washington, DC 20004
(202) 383-8000
ajune@debevoise.com
sjschleg@debevoise.com

Berglind Halldorsdottir Birkland*
Anna M. Rennich*
David Rochelle*
Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
(212) 909-6000
bhbirkla@debevoise.com
amrennic@debevoise.com
dzrochelle@debevoise.com

January 12, 2024

* indicates that a motion for special
admission is presently pending.

LIST OF AMICI CURIAE¹

Education Law Center
60 Park Place, Suite 300
Newark, NJ 07102

American Federation of Teachers
555 New Jersey Avenue, N.W.
Washington, DC 2001

Center for Educational Equity
525 W 120th Street, Box 219
New York, NY 10027-6696

National Center for Youth Law
1212 Broadway, Suite 600
Oakland, CA 94612

The individual Constitutional and Education Law Scholars listed below in Appendix A (Identity and Interests of *Amici Curiae*)

A more complete description of the identity and interests of the *Amici Curiae* is provided in Appendix A

¹ Institutional affiliations are listed solely for purposes of identification and do not indicate institutional support for the positions articulated in this amicus brief.

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INTRODUCTION

This litigation concerns a matter of profound significance: the duty owed by the State under the Education Clause of Maryland’s Constitution, Md. Const. art. VIII, § 1, to children in the Baltimore City Public School System (“BCPSS”), a high-needs school district. In 1996, presented with unacceptably low student outcomes, such as low test scores, chronic absenteeism, lagging graduation rates, and high dropout rates, the Circuit Court of Baltimore City (the “Circuit Court”) declared that the State must guarantee Maryland students the right to an adequate education as measured by contemporary standards, and that BCPSS students were being deprived of this right. After nearly 30 years of litigation, repeated judicial findings of constitutional deficiencies, and persistent failures by the State to remedy those deficiencies, state data show that BCPSS student outcomes are still unacceptably low—results the State itself admits are “sobering.” [D MSJ Opp. at 5]. Despite this, the Circuit Court ruled on March 3, 2023 (the “Circuit Court Decision”), that the Maryland Constitution “only requires an effort by the State to at most provide a basic education,” and concluded, with no findings of fact, that “[b]asic education for the students at BCPSS is provided.” Circuit Court Decision at 18.

The Circuit Court Decision contravenes both the jurisprudence of other state courts interpreting similar constitutional provisions and Maryland’s own precedent. By unjustifiably lowering the constitutional standard and failing to conduct the proper legal analysis, the Circuit Court Decision makes Maryland an outlier and leaves Maryland’s children vulnerable to continued violation of their constitutional right to a “thorough and efficient” education. Md. Const. art. VIII, § 1.

Amici thus urge the Court to reverse the decision below and remand the case, directing the Circuit Court to perform the constitutional analysis required by Maryland law.

ARGUMENT

I. THE CIRCUIT COURT’S INTERPRETATION OF MARYLAND’S EDUCATION CLAUSE IS AT ODDS WITH BOTH A NATIONAL CONSENSUS REGARDING ANALOGOUS CONSTITUTIONAL PROVISIONS AND MARYLAND PRECEDENT.

Article VIII of the Maryland Constitution (the “Education Clause”) imposes on the State an obligation to provide Maryland’s children with “a thorough and efficient System of Free Public Schools.” Md. Const. art. VIII, § 1. Prior to last year’s Circuit Court Decision, Maryland courts consistently interpreted this Clause as mandating an education that is *adequate as measured by contemporary educational standards*. *See Infra* pt. I.B. That interpretation is consistent with a nationwide consensus that a qualitative standard is essential to fulfilling the goals of state education clauses. *See Infra* pt. I.A.

The Circuit Court, however, abandoned this consensus standard in favor of one that “only requires an effort by the State to at most provide a basic education.” Circuit Court Decision at 18. Because this ruling contravenes both Maryland precedent and the consistent interpretation by courts across the country of education clauses with language identical to Maryland’s, as well as those with different language, this Court should correct that substantial error and reaffirm that the Education Clause imposes on the State an obligation to provide an education that is adequate by contemporary educational standards.

A. A Majority of Courts Nationwide Agree That Education Clauses Mandate an Adequate Education as Measured by Contemporary Standards.

State courts interpreting their respective education clauses widely agree those clauses have a *qualitative dimension* and guarantee students the opportunity to develop into citizens capable of participating in a democratic society and the labor market. They likewise agree that such clauses are not static, but *must adapt to society's changing needs*.

First, numerous courts—in states with education clauses that both mirror and differ from Maryland's—have recognized a substantive right to an adequate education. In *Robinson v. Cahill*, for example, the Supreme Court of New Jersey held that the “thorough and efficient” guarantee “must be understood to embrace that educational opportunity which is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market.” 303 A.2d 273, 295 (N.J. 1973). Similarly, in *Pauley v. Kelly*, the West Virginia Supreme Court held that a “thorough and efficient system of schools” enables students to develop the following capacities:

- (1) literacy;
- (2) ability to add, subtract, multiply and divide numbers;
- (3) knowledge of government to the extent that the child will be equipped as a citizen to make informed choices among persons and issues that affect his own governance;
- (4) self-knowledge and knowledge of his or her total environment to allow the child to intelligently choose life work—to know his or her options;
- (5) work-training and advanced academic training as the child may intelligently choose;
- (6) recreational pursuits;
- (7) interests in all creative arts, such as music, theatre, literature, and the visual arts;
- (8) social ethics, both behavioral and abstract, to facilitate compatibility with others in this society.

255 S.E.2d 859, 877 (W. Va. 1979).

The Minnesota Supreme Court has similarly held that “[a]n education that does not equip Minnesotans to discharge their duties as citizens intelligently cannot fulfill the Legislature’s duty” under that state’s “thorough and efficient” education clause. *Cruz-Guzman v. State*, 916 N.W.2d 1, 12 (Minn. 2018). And, a Pennsylvania court recently held that the state’s “thorough and efficient” education clause requires that “every student is receiving a meaningful opportunity to succeed academically, socially, and civically” by having access to “a comprehensive, effective, and contemporary system of public education.” *William Penn Sch. Dist. v. Pa. Dep’t of Educ.*, 294 A.3d 537, 886 (Pa. Commw. Ct. 2023) [hereinafter *William Penn II*].

In *Rose v. Council for Better Education*, the Kentucky Supreme Court—interpreting yet another education clause virtually identical to Maryland’s—issued a decision articulating a qualitative standard for adequacy that has served as a model nationwide. The court outlined seven capacities necessary for an “efficient” education:

- (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 the student 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 levels 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.

790 S.W.2d 186, 212 (Ky. 1989). Several states, even those with education clauses whose language differs from Kentucky’s, have explicitly adopted the *Rose* standard. *See*,

e.g., *Gannon v. State*, 319 P.3d 1196, 1236 (Kan. 2014); *McDuffy v. Sec’y of the Exec. Off. of Educ.*, 615 N.E.2d 516, 554–55 (Mass. 1993); *Claremont Sch. Dist. v. Governor*, 703 A.2d 1353, 1359 (N.H. 1997).

Other states have adopted a framework comparable to *Rose*. For example, in *Campaign for Fiscal Equity, Inc. v. State*, the New York Court of Appeals held that a “sound basic education” requires “the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury.” 801 N.E.2d 326, 330 (N.Y. 2003) [hereinafter *CFE*] (quoting *Campaign for Fiscal Equity, Inc. v. State*, 655 N.E.2d 661, 666 (N.Y. 1995)). And, in *Seattle School District No. 1 v. State*, the Washington Supreme Court found that an adequate education “must prepare our children to participate intelligently and effectively in our open political system to ensure that system’s survival[,] . . . prepare them to exercise their First Amendment freedoms both as sources and receivers of information; and, it must prepare them to be able to inquire, to study, to evaluate and to gain maturity and understanding.” 585 P.2d 71, 94–95 (Wash. 1978).

Second, courts overwhelmingly agree that the definition of an adequate education must evolve over time. For example, the Pennsylvania Supreme Court explained that the state’s education clause was designed “to enable successive Legislatures to adopt a changing program to keep abreast of educational advances.” *William Penn Sch. Dist. v. Pa. Dep’t of Educ.*, 170 A.3d 414, 440 (Pa. 2017) [hereinafter *William Penn I*] (quoting *Malone v. Hayden*, 197 A. 344, 352 (Pa. 1938)). The Supreme Court of New Hampshire similarly held that a “constitutionally adequate public education is not a static concept

removed from the demands of an evolving world.” *Claremont*, 703 A.2d at 1359; see also *Abbott v. Burke*, 575 A.2d 359, 367 (N.J. 1990) [hereinafter *Abbott II*] (“[W]hat a thorough and efficient education consists of is a continually changing concept.”); *CFE*, 801 N.E.2d at 349 (“The definition of a sound basic education must serve the future as well as the case now before us.”); *McDuffy*, 615 N.E.2d at 555 (education clause must be interpreted “in accordance with the demands of modern society” (quoting *Seattle Sch. Dist. No. 1*, 585 P.2d at 94)).²

In sum, all of these courts, both those explicitly adopting *Rose*’s framework and those adopting a similar one, interpret and apply their education clauses based on a simple premise: a constitutional education requires an education that serves qualitative ends. As consistently articulated by courts across the country, that qualitative end is specific skills and knowledge that prepare students for citizenship and the labor market.

B. Maryland Precedent Is Consistent with the National Consensus.

Maryland precedent and, indeed, the law of the instant case likewise recognize a qualitative right to education that keeps pace with the demands of a changing society.

In *Hornbeck v. Somerset County Board of Education*, the Supreme Court of Maryland, then known as the Maryland Court of Appeals, observed that Maryland had “established statewide qualitative standards governing all facets of the educational process,” against which educational adequacy could be judged. 295 Md. 597, 639 (1983). The Supreme Court of Maryland later noted with approval *Hornbeck*’s

² Some courts use their state’s own current academic standards to measure constitutional adequacy. See, e.g., *Gannon*, 319 P.3d at 1233–37 (Kansas); *Abbott ex rel. Abbott v. Burke*, 971 A.2d 989, 1011 (N.J. 2009) (New Jersey); *Delawareans for Educ. Opportunity v. Carney*, 199 A.3d 109, 166 (Del. Ch. 2018). Even those that stop short of constitutionalizing state standards, e.g., *CFE*, 801 N.E.2d at 332, 349 (New York); *William Penn I*, 170 A.3d at 457 (Pennsylvania), recognize that the definition of adequacy must evolve over time.

interpretation in the instant case, reaffirming that if Maryland’s educational standards failed to provide for an adequate education, or the state financing system “did not provide all school districts with the means essential to provide the basic education contemplated by § 1 of Article VIII, *when measured by contemporary educational standards*, a constitutional violation may be evident.” *Montgomery Cnty. v. Bradford*, 345 Md. 175, 181 (1997) (emphasis added) (quoting *Hornbeck*, 295 Md. at 639). In both cases, the Supreme Court of Maryland used the terms “basic” and “adequate” interchangeably when referring to the minimum education required under the Education Clause. This minimum, whether called “basic” or “adequate,” must thus be measured against contemporary educational standards.

Prior to its March 2023 decision, the Circuit Court in the case at bar followed this precedent and judged constitutionality against the State’s own evolving academic standards. For example, in 1996, the Circuit Court “determined that the State’s own educational standards, as well as, other contemporary education standards, established that Baltimore City schoolchildren were not receiving a constitutionally adequate education.” [06/30/2000 Memorandum Opinion at 24, discussing 1996 Order]. In 2000, the Circuit Court likewise assessed the constitutional adequacy of state funding against existing academic standards. [*See, e.g.*, 06/30/2000 Memorandum Opinion at 15–16]. And, in 2004, the Circuit Court noted again that “educational adequacy” in BCPSS must be measured against “higher ‘contemporary education standards’” *i.e.*, new state academic standards adopted after the Circuit Court’s 2000 decision. [08/20/2004 Memorandum Opinion at 24].

The Circuit Court’s 2023 Decision departs wildly from this established precedent. The Circuit Court rejected the longstanding interpretation of a constitutional “thorough and efficient” education—*i.e.*, one that is adequate as measured by contemporary educational standards—concluding that the State only needed to make “an effort” to “at most” provide a “basic education.” Circuit Court Decision at 18. By abandoning this well-settled standard, one advocated by the Appellants, the Circuit Court implied that it views “basic” as a standard lower than “adequate as measured by contemporary educational standards.” The Circuit Court further failed to define what “basic” means, or how it is to be measured. Consequently, the ruling not only deprives Appellants of relief, but also impedes any meaningful future judicial examination or enforcement of the constitutional right to education by leaving Maryland with no constitutional standard for adequacy whatsoever.

II. THE CIRCUIT COURT IGNORED THE PRECEDENT REGARDING THE RESOURCES NECESSARY FOR AN ADEQUATE EDUCATION.

Not only are courts in sister states in agreement regarding the definition of a constitutionally adequate education, there is also broad consensus regarding the educational resources necessary to provide all students with the opportunity for an adequate education. Courts across the nation concur that schools must provide, among other things: an adequate number of qualified teachers, administrators, and staff; small class sizes; adequate facilities; adequate instrumentalities of learning; adequate curriculum; adequate resources for students with extraordinary needs; and a safe and secure environment. *See, e.g., Campaign for Fiscal Equity v. State*, 719 N.Y.S.2d 475,

550 (N.Y. Sup. Ct. 2001), *aff'd* 801 N.E.2d 326 (New York); *see also Abbott II*, 575 A.2d at 399 (New Jersey); *McDuffy*, 615 N.E.2d at 553–54 (Massachusetts).

These courts also recognize that supplemental programs are necessary for an adequate education to be “placed within reach” of students termed “at risk” of educational failure, including by reason of “socioeconomic deficits”. *See CFE*, 801 N.E.2d at 337, 357 (quoting *Campaign for Fiscal Equity*, 719 N.Y.S.2d at 517); *see also Abbott v. Burke*, 710 A.2d 450 (N.J. 1998) [hereinafter *Abbott V*] (ordering 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 services); *Hoke Cnty. Bd. of Educ. v. State*, 599 S.E.2d 365, 390 (N.C. 2004) (recognizing the state’s obligation to provide “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”); *State v. Campbell Cnty. Sch. Dist.*, 19 P.3d 518, 545 (Wyo. 2001) (“At-risk students require specially tailored programs and more time spent on all aspects of academic endeavor.”); *Montoy v. State*, No. 99-C-1738, 2003 WL 22902963, at *42–43 (Kan. Dist. Ct. Dec. 2, 2003); *aff'd in part*, 120 P.3d 306 (Kan. 2005).

Courts likewise recognize that adequate and well-maintained facilities are essential elements of a constitutionally adequate education. *See Abbott v. Burke*, 693 A.2d 417, 438 (N.J. 1997) (“The State must, as part of its obligation under the education clause, provide facilities . . . that will be sufficient to enable those students to achieve the substantive standards that now define a thorough and efficient education.”); *Hull v.*

Albrecht, 950 P.2d 1141, 1145 (Ariz. 1997) (the education clause requires the state to: “(1) bring existing facilities up to an adequate standard; (2) construct new and adequate facilities for growing districts; and (3) maintain all capital facilities at the adequacy level”); *see also William Penn II*, 294 A.3d at 920 (explaining that “safe, and adequate” facilities are a “component of a thorough and efficient system of public education”).

It is the lack of precisely such resources in BCPSS that Appellants highlight in their claim of constitutional inadequacy. And Maryland precedent has recognized such resources as necessary for a thorough and efficient education. The *Hornbeck* court declared that the State’s constitutional obligation included the duty “to minimize the impact of undeniable and inevitable demographic and environmental disadvantages on any given child.” *Hornbeck*, 295 Md. at 639. And in 2004, the Circuit Court in this case found the State violated its constitutional obligations by depriving BCPSS students of the funding necessary to acquire the very educational resources detailed above: teachers, counselors, small class sizes, adequate facilities, additional programming, staff and services for “at-risk” students. [08/20/2004 Memorandum Opinion at 18–21]. However, when rejecting Appellants’ arguments and granting Appellee’s summary judgment motion in 2023, the court failed to discuss these resources at all, merely concluding, without any analysis whatsoever, that “[b]asic education for the students at BCPSS is provided.” Circuit Court Decision at 18.

III. THIS MATTER SHOULD BE REMANDED WITH INSTRUCTIONS TO ASSESS THE ADEQUACY OF BCPSS’S EDUCATION BASED ON THE ESTABLISHED FRAMEWORK.

Courts across the United States have overwhelmingly held that although the primary responsibility for creating and maintaining schools rests with the legislative and executive branches, it is the judiciary’s role, and indeed its duty, to interpret and enforce those branches’ constitutional obligations, including by holding them accountable when they breach them. *See, e.g., William Penn I*, 170 A.3d at 455 (“[C]ourts in a substantial majority of American jurisdictions have declined to let the potential difficulty and conflict that may attend constitutional oversight of education dissuade them from undertaking the task of judicial review.”); *Pauley*, 255 S.E.2d at 874 (“There is . . . ample authority that courts will enforce constitutionally mandated education quality standards.”); *CFE*, 801 N.E.2d at 349 (“Courts are . . . well suited to interpret and safeguard constitutional rights and review challenged acts of our co-equal branches of government—not in order to make policy but in order to assure the protection of constitutional rights.”). There is also broad national consensus about how to conduct this analysis, by which Maryland’s courts can and should be guided.

A. There Is a National Consensus About How Courts Should Analyze an Adequate Education.

In order for a court to determine whether a violation of a state’s education clause exists, plaintiffs in an education clause case must be given the opportunity to “develop a record enabling assessment of the adequacy of the current funding scheme” relative to the demands of the state constitution. *William Penn I*, 170 A.3d at 457. Elaborating on the standard first established by New York’s highest court in *CFE*, the recent New York

Appellate Court decision, *Maisto v. State*, articulated the method by which courts nationwide assess constitutional adequacy:

First, a litigant must demonstrate that defendant has provided inadequate *inputs*—such as physical facilities, instrumentalities of learning and teaching instruction—which has, in turn, led to deficient *outputs*, such as poor test results and graduation rates Next, “a *causal link* between the present funding system and any proven failure to provide a sound basic education” must be shown Such a nexus may be established “by a showing that increased funding can provide better teachers, facilities and instrumentalities of learning [] together with evidence that such improved inputs yield better student performance.”

196 A.D.3d 104, 111–12 (N.Y. App. Div. 3d Dep’t 2021) (citation omitted) (emphasis added).

Courts across jurisdictions have utilized this method of analyzing inputs, outputs, and causation to determine whether a state is providing its children with an opportunity to obtain an adequate education.³ For example, in *Abbott V*, the Supreme Court of New Jersey identified inputs: such as “crumbling and obsolescent” schoolbuildings, “gross overcrowding,” and lack of “supplemental programs;” and outputs: including pervasive and consistent failure of students in the Abbott districts to meet state academic standards, in finding that “funding remains a critical element in the provision of public school education that will . . . satisfy the constitutional mandate for a thorough and efficient education.” 710 A.2d at 470, 473. *See also Hoke*, 599 S.E.2d at 621, 623, 637 (North Carolina) (examining inputs like a lack of “tutoring, extra class sessions, counseling, and other programs”; outputs that “measure[] student performance”; and “causation for any

³ *See* Derek W. Black, *The Constitutional Challenge to Teacher Tenure*, 104 Cal. L. Rev. 75, 121 (For four decades, courts in adequacy cases have analyzed whether “(1) state policy was the cause of resource [input] deprivation at the local level, and (2) the resource deprivation played a causal role in student outcomes and achievement [outputs].”).

such proven failure” in educational adequacy in determining that students were not receiving a sound basic education); *Abbeville Cnty. Sch. Dist. v. State*, 767 S.E.2d 157, 164–73 (S.C. 2014) (examining specific inputs, outputs, and the causal link between a lack of funding and this evidence to determine students were receiving an inadequate education); *Campbell*, 19 P.3d at 566 (Wyoming) (same); *Yazzie v. State*, No. D-101-CV-2014-02224, at 25–46 (N.M. 1st Jud. Dist. Ct. July 20, 2018) (consolidated with *Martinez v. State*, No. D-101-CV-2014-00793) (same); *McDuffy*, 615 N.E.2d at 553-54 (Massachusetts) (same). This is precisely the evidentiary showing Appellants advanced when briefing summary judgment.

B. The Circuit Court Departed from the National Consensus and Maryland Precedent.

This Court should require the Circuit Court to conduct this input-output-causation analysis before determining whether Appellee is meeting its constitutional obligations. Doing so will bring Maryland in line with its sister states and reaffirm earlier Maryland precedent.

Prior to its most recent decision, the Circuit Court weighed specific inputs against measurable outputs when analyzing educational adequacy. For example, the Circuit Court conducted an inputs-outputs-causation analysis in 2004 to conclude that the educational rights of children enrolled in BCPSS were still being violated. The Circuit Court focused on the district’s “elimination of a systemic summer school program, increases in class size by up to four children, reduction of experienced teachers . . . , elimination of guidance counselors in elementary school, among other things,” including a lack of “sufficient funding for school facilities improvements.” [08/20/2004

Memorandum Opinion at 8, 68]. The Circuit Court also reviewed the inadequate outputs—such as absenteeism, low test scores, reading comprehension statistics, suspension and expulsion rates—resulting from the deficiencies in these educational resources to conclude students were not being provided with an adequate education as measured by contemporary standards. *Id.* at 24–29. And, the Circuit Court found inadequate state funding was a continuing cause of the educational inadequacy. *Id.* at 56.

In 2023, in contrast, the Circuit Court made no findings of fact regarding educational inputs, outputs, or causation. In fact, the Circuit Court Decision does not reference any of the evidence regarding the inadequacy of BCPSS’s educational inputs, nor does it reference that student outputs in BCPSS fall significantly below state standards in a host of performance metrics—despite the fact that courts nationwide *and in Maryland* have consistently relied on such information as a critical step in analyzing these issues. *See* Brief of Appellants at 17. Instead, the Circuit Court effectively abdicated its constitutionally defined role, preventing Appellants from developing a proper record of educational inadequacy. Without reversal and remand, Baltimore’s public-school children will continue to pay the price for the ongoing violation of their constitutional right to an adequate education.

CONCLUSION

Amici urge the Court to reverse the decision. The Court should reaffirm that the Education Clause imposes an obligation to provide Maryland's children with an education that is "adequate as measured by contemporary education standards," and remand the case, directing the Circuit Court to conduct the necessary constitutional analysis consistent with its own precedent and that of Maryland's sister states.

CERTIFICATION OF WORD COUNT AND COMPLIANCE WITH RULE 8-112

This brief contains 3,897 words, excluding the parts of the brief exempted from the word count by Rule 8-503.

This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

Respectfully submitted,

/s/ Arian M. June

Arian M. June (Maryland Bar No.
0612120426)

Debevoise & Plimpton LLP
801 Pennsylvania Avenue N.W.
Washington, DC 20004
(202) 383-8000
ajune@debevoise.com

Attorney for Amicus Curiae

Appendix A

IDENTITY AND INTERESTS OF *AMICI CURIAE*⁴

1. **Education Law Center** (“ELC”), 60 Park Place, Suite 300, Newark, NJ 07102, is a non-profit organization that pursues justice and equity for public school students by enforcing their right to a high-quality education in safe, equitable, non-discriminatory, integrated, and well-funded learning environments. ELC represented the plaintiff schoolchildren 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). ELC has also served as co-counsel representing plaintiffs in major school funding cases in New York and New Hampshire. In states across the nation, ELC advances children’s opportunities to learn and assists advocates promoting better educational opportunities through support on relevant litigation as well as advocacy and research on 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 improve learning, particularly for underserved students. As part of its work, ELC has participated as *amicus curiae* in state educational opportunity cases in California, Colorado, Connecticut, Delaware, Florida, Indiana, Kansas, Minnesota, Oregon, Pennsylvania, South Carolina, Texas, and Wyoming. ELC also filed an *amicus curiae* brief in this Court in the case at bar in 2004.

⁴ Institutional affiliations are listed solely for purposes of identification and do not indicate institutional support for the positions articulated in this amicus brief.

2. The **American Federation of Teachers** (“AFT”), 555 New Jersey Avenue, N.W., Washington, DC 2001, an affiliate of the AFL-CIO, was founded in 1916 and today represents 1.7 million members in more than 3,500 local affiliates nationwide. Among the AFT affiliates is the Baltimore Teachers Union, AFT Local 340 (“BTU”), which represents the primary and secondary school teachers, paraprofessionals, and school-related personnel working in the Baltimore City Public School System. AFT and BTU members are committed to providing their students with the highest quality public education regardless of background or zip code.

3. The **Center for Educational Equity** (“the Equity Center”), 525 W 120th Street, Box 219, New York, NY 10027-6696, is a non-profit research and policy center at Teachers College, Columbia University that supports the right of all children to meaningful educational opportunity. The Equity Center promotes research by scholars at Columbia University and elsewhere that examines the relationship between specific educational resources and educational opportunities and student success, particularly for students from disadvantaged backgrounds. The Equity Center publishes research papers and books and sponsors symposia, workshops and conferences on issues related to educational equity. Its research and publications focus on educational equity issues at the national and international levels. The Equity Center is a prime source of information for scholars, state officials, attorneys and media outlets seeking a national perspective on state-based school funding litigation, education finance reform, and related issues, such as costing-out studies. [Schoolfunding.Info](#) is a project of the Equity Center that provides comprehensive, nationwide information regarding efforts to promote equal educational

opportunity, especially in regard to the financing of public education including on a research website, www.schoolfunding.info, that provides up-to-date information on the status of litigation and education finance reform in all 50 states. The Equity Center takes into account all perspectives in the school funding debate in seeking to understand how best to promote educational equity and educational opportunity through litigation and through legislative and regulatory reform.

4. The **National Center for Youth Law** (“NCYL”), 1212 Broadway, Suite 600, Oakland, CA 94612, has for five decades worked to protect the education civil rights of youth and to ensure every child has the resources, support, and opportunities they need to thrive. NCYL uses litigation, legislative advocacy, and other strategies to ensure that all youth receive a high-quality, inclusive and fully funded education. NCYL believes an adequately and equitably funded system of public education is essential to building a future in which every child has a full and fair opportunity to achieve the future they envision for themselves. NCYL strives to end the inequitable distribution of education resources that disproportionately negatively impacts historically underserved communities.

5. The **Constitutional and The Education Law Scholars** (“Education Law Scholars”) are professors of constitutional and education law who believe strongly in upholding a proper role for courts in enforcing constitutional rights where majoritarian democratic processes may have caused violations of the rights of disfavored minorities. At the same time, the Education Law Scholars recognize that the scope of judicial review is subject to important limitations that protect the constitutional separation of powers and

ensure that courts do not improperly intrude on other branches' choices, and instead allow for judicial review of the acts of legislatures, elected officials, and local administrators only where doing so is appropriate to protect and vindicate the constitutional rights of the actual litigants before a court. The Education Law Scholars have been immersed in the study of these core principles of judicial review through their scholarship and teaching, particularly as these principles relate to constitutional guarantees concerning education. They seek to assist this Court by explaining how these principles apply to the issues presented by this appeal. The Education Law Scholars are:

Derek W. Black
Professor of Law
University of South Carolina School of
Law

David C. Bloomfield
Professor of Education Leadership, Law
& Policy
Brooklyn College and The CUNY
Graduate Center

Myron Orfield
Earl R. Larson Professor of Civil Rights
and Civil Liberties Law
University of Minnesota Law School

Robert Garda
Fanny Edith Winn Distinguished
Professor of Law
Loyola University College of Law

John Charles Boger
Emeritus Professor of Law
University of North Carolina School of
Law

Kevin D. Brown
Professor of Law
University of South Carolina School of
Law

John C. Brittain
Professor of Law
UDC David A. Clarke School of Law

Erwin Chemerinsky
Dean and Professor of Law
University of California, Berkeley
School of Law

Janet Decker
Associate Professor
Indiana University, Bloomington School
of Education

Suzanne Eckes
Professor
University of Wisconsin, Madison
College of Education

Lia Epperson
Professor of Law
American University Washington
College of Law

Preston Green, III
Professor of Education Leadership and
Law
University of Connecticut NEAG
College of Education

Steven K. Green
Professor of Law
Willamette University College of Law

Osamudia James
Professor of Law
University of North Carolina School of
Law

Christine Kiracofe
Professor of Educational Leadership and
Policy Studies
Purdue University College of Education

William S. Koski
Professor of Law
Stanford University School of Law

Maria M. Lewis
Associate Professor of Education
Pennsylvania State University College of
Education

Isabel Medina
Professor of Law
Loyola University, New Orleans College
of Law

Raquel Muñiz
Assistant Professor

Boston College School of Education and
Human Development

David Nguyen
Assistant Professor
Indiana University-Purdue University,
Indianapolis School of Education

Kimberly Jade Norwood
Professor of Law
Washington University School of Law

Gary Orfield
Professor of Education, Law, Political
Science and Urban Planning
University of California, Los Angeles
Graduate School of Education

Mark Paige
Professor of Public Policy
University of Massachusetts, Dartmouth
College of Arts and Sciences

Wendy Parker
Professor of Law
Wake Forest University School of Law

john a. powell
Professor of Law
University of California, Berkeley
School of Law

Matthew Patrick Shaw
Assistant Professor of Public Policy,
Education, and Law
Vanderbilt Peabody College
Vanderbilt Law School

Benjamin M. Superfine
Assistant Vice Provost and Professor of
Educational Policy Studies

University of Illinois at Chicago, College
of Education

Aaron Tang
Professor of Law
U.C. Davis School of Law

Julie Underwood
Emerita Professor
Law School, School of Education
University of Wisconsin - Madison

Joshua Weishart
Professor of Law
West Virginia University College of Law

Kevin Welner
Professor
University of Colorado, Boulder School
of Education

Kimberly West-Faulcon
Professor of Law
Loyola Law School, Los Angeles

Erika K. Wilson
Associate Professor of Law
University of North Carolina School of
Law

Kimberly Robinson
Professor of Law
University of Virginia School of Law

CERTIFICATE OF SERVICE

I, Arian M. June, attorney for *Amicus Curiae*, hereby certify that on this 12th day of January, 2024, a copy of the foregoing Motion was served on all counsel of record via MDEC.

/s/ Arian M. June

Arian M. June (Maryland Bar No. 0612120426)
Debevoise & Plimpton LLP
801 Pennsylvania Avenue NW
Washington, DC 20004
(202) 383-8000
ajune@debevoise.com

Attorney for Amicus Curiae