

**IN THE SUPERIOR COURT OF FULTON
STATE OF GEORGIA**

COMPLAINT

CONSORTIUM FOR ADEQUATE SCHOOL FUNDING IN GEORGIA, INC. (Consortium), on its own behalf and on behalf of its members; BEN HILL COUNTY SCHOOL DISTRICT; BRANTLEY COUNTY SCHOOL DISTRICT; ELBERT COUNTY SCHOOL DISTRICT; LAMAR COUNTY SCHOOL DISTRICT; MURRAY COUNTY SCHOOL DISTRICT; JARLON R., CYNMEYON R., and JOHNATHON R., public school students in Ben Hill County School District, by and through their mother and next friend, CYNTHIA ROBERTS; TAYLOR M., a public school student in Ben Hill County School District, by and through his mother and next friend, RITA MITCHELL; and JAMAL W. and JOSIAH W., public school students in Ben Hill County School District, by and through their mother and father and next friends, DONALD AND DITRANNA WALKER; MARISSA R., JAMES R., MATTHEW R., and CODY R., public school students in the Brantley County School District, by and through their mother and next friend, JOYCE RENTZ; BILLY B., CHARLES B., and DEVON B., public school students in the Brantley County School District, by and through their mother and next friend, PATRICIA KELLEY; WILLIAM J. and SARAH J., public school students in the Brantley County School District, by and through their mother and next friend, BRENDA JOHNS; ASHLEY F., a public school student in the Elbert County School District, by and through her mother and next friend, RHONDA CALLAWAY; ANNA P., a public school student in the Elbert County School District, by and through her father and next friend, GARY PURVIS; NICOLAS C. and BIANCA C., public school students in the Elbert County School District, by and through their father and next friend, DAVID CARDOZA; and TAMIYA A., TOMMY A., and ANTONIO A., public school students in the Elbert County School District, by and through their mother and next friend, LISA ANDREWS; JAMES V., MARGARET V. AND ANNA-CLAIRE V., public school students in the Lamar County School District, by and through their mother and next friend, JOY VARNER; JOSEPH M., a public school student in the Lamar County School District, by and through his mother and next friend, MATTI MURNER; CARDIA F. and DESMOND F.,

**CIVIL ACTION
FILE NO. _____**

public school students in the Lamar County School District, by and through their mother and next friend, BRENDA FOSTER; PAUL S., a public school student in the Lamar County School District, by and through his father and next friend, PAUL STINSON; JOHN K. and THOMAS K., public school students in the Murray County School District, by and through their father and next friend, ALAN KENDRICK; and KELSEY D. and KATHERINE D., public school students in the Murray County School District, by and through their mother and next friend, LINDA DOTSON,

Plaintiffs,

v.

THE STATE OF GEORGIA; THE STATE BOARD OF EDUCATION; KATHY COX, in her official capacity as Georgia State School Superintendent; and LINDA ZECHMAN, PEGGY NIELSON, WANDA BARRS, WILLIAM BRADLEY BRYANT, JOY S. BERRY, JAMES E. BOSTIC, JR., JOSE R. PEREZ, MARY SUE MURRAY, PAT BIGGERSTAFF, JAMES A. FRANKLIN, ALBERT HODGE, CAROL S. WILLIAMS and DEAN ALFORD, in their official capacities as Members of the Georgia State Board of Education,

Defendants.

COMPLAINT

Pursuant to O.C.G.A. §§ 9-4-2 and 23-1-1, the Plaintiffs and each of them, for their claims against Defendants, and each of them, state and allege as follows:

NATURE OF THIS ACTION

1. This is an action to enforce through declaratory and other necessary relief education rights guaranteed by the Georgia Constitution. A primary obligation of the State of Georgia under the Georgia Constitution is to provide an adequate public education for the

children of Georgia. The children of Georgia are also guaranteed an equal opportunity for an adequate education by the equal protection requirements of the Georgia Constitution. These Constitutional requirements prohibit the State from providing Georgia's children in public schools with an inadequate education. An "adequate" education is more than a "minimum" education. It is an education that is designed to prepare the children of Georgia to function in society as responsible citizens in our democracy who can compete in society on an equal footing both to find productive employment and to qualify for and advance through higher education.

2. The Georgia school funding system fails to provide school districts, including Plaintiff Districts as well as other districts, with the resources needed to educate their students to meet contemporary educational standards and competitively function in a society where a high school diploma constitutes the bare minimum gateway qualification for viable employment and higher education. The educational inadequacy in Plaintiff Districts and other districts is reflected, *inter alia*, in high drop-out and non-graduation rates, which result from insufficient resources to provide their students with educational opportunities and interventions reasonably calculated to prepare them to function as productive members of society. Compared to the rest of Georgia, these districts are expected to educate disproportionately high percentages of low-income students and to serve lower-income communities suffering from high rates of unemployment; and are poorly endowed with property tax and sales tax bases to support an adequate education for their diverse and high-need students. As a result of the failures of the Georgia school funding system, general fund expenditures per student in these districts are substantially lower than in the State of Georgia as a whole. General fund expenditures per

student in Plaintiff Districts and many other low-wealth districts are also substantially lower than in many other districts that have smaller proportions of students requiring more intensive educational programs and services.

3. The resources provided Plaintiff Districts and other school districts by the school funding system bear no relationship to the actual costs of providing an adequate education for their students. As a result, students in Plaintiff Districts and other districts are denied an education that will equip them to function in society as responsible citizens who can compete in the work force and find productive employment and qualify for and advance through higher education.

PARTIES

4. The Plaintiffs are as follows:

a. The CONSORTIUM FOR ADEQUATE SCHOOL FUNDING IN GEORGIA, INC. (“Consortium”) is a Georgia nonprofit corporation with the office of its registered agent in Fitzgerald, Ben Hill County, Georgia, which is dedicated to, and whose purposes include, securing adequate funding for Georgia school systems so that they can meet the educational needs of their students. Consortium membership consists of Georgia school districts that are adversely affected by one or more of the constitutional deficiencies of the Georgia school funding system alleged in this complaint (“Consortium Districts”). Each Consortium District is a school district that is a body corporate with the capacity to sue and be sued and is under the control and management of its board of education. The Consortium brings this action as the representative of, and on behalf of, each of its Consortium School Districts.

b. The plaintiff BEN HILL COUNTY SCHOOL DISTRICT operates public schools within Ben Hill County. The school district is a body corporate with the capacity to sue and be sued and is under the control and management of the Ben Hill County Board of Education. O.C.G.A. § 20-2-50; Ga. Const. Art. VIII, § V, Paras. I, II.

c. The plaintiff BRANTLEY COUNTY SCHOOL DISTRICT operates public schools within Brantley County. The school district is a body corporate with the capacity to sue and be sued and is under the control and management of the Brantley County Board of Education. O.C.G.A. § 20-2-50; Ga. Const. Art. VIII, § V, Paras. I, II.

d. The plaintiff ELBERT COUNTY SCHOOL DISTRICT operates public schools within Elbert County. The school district is a body corporate with the capacity to sue and be sued and is under the control and management of the Elbert County Board of Education. O.C.G.A. § 20-2-50; Ga. Const. Art. VIII, § V, Paras. I, II.

e. The plaintiff LAMAR COUNTY SCHOOL DISTRICT operates public schools within Lamar County. The school district is a body corporate with the capacity to sue and be sued and is under the control and management of the Lamar County Board of Education. O.C.G.A. § 20-2-50; Ga. Const. Art. VIII, § V, Paras. I, II.

f. The plaintiff MURRAY COUNTY SCHOOL DISTRICT operates public schools within Murray County. The school district is a body corporate with the capacity to sue and be sued and is under the control and management of the Murray County Board of Education. O.C.G.A. § 20-2-50; Ga. Const. Art. VIII, § V, Paras. I, II.

g. The plaintiffs, JARLON R., CYNMEYON R., and JOHNATHON R., by and through their mother and next friend, CYNTHIA ROBERTS; TAYLOR M., by and through his mother and next friend, RITA MITCHELL; and JAMAL W. and JOSIAH W., by and through their mother and father and next friends, DONALD AND DITRANNA WALKER, all reside in Ben Hill County, Georgia, attend public schools in Ben Hill County which are part of the Ben Hill County School District and bring this action in their individual capacities.

h. The plaintiffs, MARISSA R., JAMES R., MATTHEW R., and CODY R., by and through their mother and next friend, JOYCE RENTZ; BILLY B., CHARLES B., and DEVON B., by and through their mother and next friend, PATRICIA KELLEY; and WILLIAM J. and SARAH J, by and through their mother and next friend, BRENDA JOHNS, all reside in Brantley County, Georgia, attend public schools in Brantley County which are part of the Brantley County School District, and bring this action in their individual capacities.

i. The plaintiffs, ASHLEY F., by and through her mother and next friend, RHONDA CALLAWAY; ANNA P., by and through her father and next friend, GARY PURVIS; NICOLAS C. and BIANCA C., by and through their father and next friend, DAVID CARDOZA; and TAMIYA A., TOMMY A., AND ANTONIO A., by and through their mother and next friend, LISA ANDREWS, all reside in Elbert County, Georgia, attend public schools in Elbert County which are part of the Elbert County School District, and bring this action in their individual capacities.

j. The plaintiffs, JAMES V., MARGARET V. and ANNA-CLAIRE V., by and through their mother and next friend, JOY VARNER; JOSEPH M., by and through his

mother and next friend, MATTI MURNER; CARDIA F. and DESMOND F., by and through their mother and next friend, BRENDA FOSTER; and PAUL S., by and through his father and next friend, PAUL STINSON, all reside in Lamar County, Georgia, attend public schools in Lamar County which are part of the Lamar County School District, and bring this action in their individual capacities.

k. The plaintiffs, JOHN K. AND THOMAS K., by and through their father and next friend, ALAN KENDRICK; and KELSEY D. and KATHERINE D., by and through their mother and next friend, LINDA DOTSON, all reside in Murray County, Georgia, attend public schools in Murray County which are part of the Murray County School System, and bring this action in their individual capacities.

5. The defendants are as follows:

a. Defendant STATE OF GEORGIA is charged, under the Constitution of the State of Georgia, with a primary obligation to provide an adequate education for its citizens. Ga. Const. Art. VIII, § I, Para. I. The General Assembly of the State of Georgia has declared that it is the policy of this state to assure that each Georgian has access to quality instruction designed to improve upon a student's learning capacity. O.C.G.A. § 20-2-131.

b. Defendant KATHY COX is the State School Superintendent and is sued in her official capacity. She is a resident of Fayette County, Georgia. Her constitutional duty is to serve as executive officer of the State Board of Education. Ga. Const. Art. VIII, § III, Para. I. She is also the administrative chief executive officer of the State Department of Education,

O.C.G.A. § 20-2-241, and she is required by statute to carry out all the laws governing public schools and all the rules and regulations of the State Board of Education. O.C.G.A. § 20-2-34.

c. Defendant LINDA ZECHMAN is sued in her official capacity as a member of the State Board of Education. She is a resident of Waycross in Ware County, Georgia.

d. Defendant PEGGY NIELSON is sued in her official capacity as a member of the State Board of Education. She is a resident of Albany in Dougherty County, Georgia.

e. Defendant WANDA BARRS is sued in her official capacity as a member of the State Board of Education. She is a resident of Cochran in Bleckley County, Georgia.

f. Defendant WILLIAM BRADLEY BRYANT is sued in his official capacity as a member of the State Board of Education. He is a resident of Atlanta in DeKalb County, Georgia.

g. Defendant JOY S. BERRY is sued in her official capacity as a member of the State Board of Education. She is a resident of Atlanta in Fulton County, Georgia.

h. Defendant JAMES E. BOSTIC, JR. is sued in his official capacity as a member of the State Board of Education. He is a resident of Atlanta in Fulton County, Georgia.

i. Defendant JOSE R. PEREZ is sued in his official capacity as a member of the State Board of Education. He is a resident of Norcross in Gwinnett County, Georgia.

j. Defendant MARY SUE MURRAY is sued in her official capacity as a member of the State Board of Education. She is a resident of Douglasville in Douglas County, Georgia.

k. Defendant PAT BIGGERSTAFF is sued in her official capacity as a member of the State Board of Education. She is a resident of Lincolnton in Lincoln County, Georgia.

l. Defendant JAMES A. FRANKLIN is sued in his official capacity as a member of the State Board of Education. He is a resident of Plainville in Gordon County, Georgia.

m. Defendant ALBERT HODGE is sued in his official capacity as a member of the State Board of Education. He is a resident of Rome in Floyd County, Georgia.

n. Defendant CAROL S. WILLIAMS is sued in her official capacity as a member of the State Board of Education. She is a resident of Athens in Clarke County, Georgia.

o. Defendant DEAN ALFORD is sued in his official capacity as a member of the State Board of Education. He is a resident of Conyers in Rockdale County, Georgia.

p. Defendant STATE BOARD OF EDUCATION (“State Board”) is responsible for general supervision of the State Department of Education and is responsible for preparing and submitting to the Governor and General Assembly an estimate of the funds necessary for the operation of the State public school system. O.C.G.A. § 20-2-11. The State Board of Education is also required to “establish and enforce standards for operation of all public elementary and secondary schools and local units of administration in this state so as to assure, to the greatest extent possible, equal and quality educational programs, curricula, offerings, opportunities, and facilities for all of Georgia's children and youth.” O.C.G.A. § 20-2-240.

6. This Court has jurisdiction over this action and the parties pursuant to O.C.G.A. § 23-1-1 and § 9-4-2.

7. Venue in this Court is proper pursuant to Georgia Constitution, Article VI, Section, § II, ¶ III and Article VI, § II, ¶ VI.

CONSTITUTIONAL AND STATUTORY FRAMEWORK

8. Under the Georgia Constitution a primary obligation of the State of Georgia is to provide an adequate public education for the children of Georgia. “The provision of an adequate public education for the citizens shall be a primary obligation of the State of Georgia.” Ga. Const. Art. VIII, § I, Para. I.

9. As part of this constitutional duty, the State is obligated to provide adequate funding for the public schools. The Constitution declares, “Public education for the citizens prior to the college or post-secondary level shall be free and shall be provided for by taxation.” Ga. Const. Art. VIII, § I, Para. I.

10. An "adequate" education is one that is “designed to produce individuals who can function in society” as responsible citizens in our democracy, who can compete in society on an equal footing both to qualify for and advance through higher education and to obtain productive employment. An adequate education is beyond a "minimum" education. “[E]ven a ‘minimum’ education ‘must provide each child with an opportunity to acquire the basic minimum skills necessary for the enjoyment of the rights of speech and of full participation in the political process.’” McDaniel v. Thomas, 248 Ga. 632, 644 (1981).

11. The equal protection requirements of the Georgia Constitution also guarantee the children of Georgia an equal opportunity for an adequate education. “Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws.” Ga. Const. Art. I, § I, Para. II.

12. Public education is a primary obligation of the State of Georgia, in part, because of its importance to the exercise of individual rights and liberties which lie at the core of our free and representative government.

13. Because of the importance of an adequate education to the state and the individual, state law compels parents, guardians and custodians of school age children to cause their children to attend a public school or its equivalent for the period of time required by the State. O.C.G.A. § 20-2-690.1. The importance of an adequate education is further evidenced by the prohibition on granting driving permits to persons below the age of 18 who have not completed high school or are not currently in school. O.C.G.A. § 40-5-22.

14. Official State policy by law recognizes the central importance of providing an adequate education for all students, promising the provision of “an equitable public education finance structure which ensures that every student has an opportunity for a quality basic education, regardless of where the student lives . . .” O.C.G.A. § 20-2-131(3).

15. Georgia legislation equates an “adequate” education with a “quality basic education” in order “to discharge the responsibilities and obligations of the State to ensure a literate and informed society” and to produce individuals who can function in society. O.C.G.A. § 20-2-131.

16. The General Assembly has established the Quality Basic Education Program (“QBE”) as the policy of the State to assure that each Georgian has access to a quality education program that

ensure[s] that each student is provided ample opportunity to develop competencies necessary for lifelong learning as well as the competencies needed to maintain good physical and mental health, to participate actively in the governing process and community activities, to protect the environment and conserve public and private resources, and to be an effective worker and responsible citizen of high character. O.C.G.A. § 20-2-131(1).

17. In QBE, the General Assembly has recognized the need for “providing all children and youth in Georgia with access to a quality program which supports their development of essential competencies in order that they may realize their potential . . .” O.C.G.A. § 20-2-131(2).

18. Official State policy recognizes that an adequate education requires adequate facilities, by stating:

It is declared to be the policy of the State of Georgia to assure that every public school student shall be housed in a facility which is structurally sound and well maintained and which has adequate space and equipment to meet each student's instructional needs as those needs are defined and required by this article. O.C.G.A. § 20-2-260(a).

19. The State of Georgia recognizes that children who are at risk of academic failure require more intensive educational programs and services, including the need to provide “academic intervention programs designed to assist students who are performing below grade level in order to increase their mastery of critical academic knowledge and skills,” and “an alternative educational environment for those students who need a different educational structure in order to properly master critical academic knowledge and skills and to provide an environment

where they can stay in school and acquire the knowledge and skills necessary for a productive life.” O.C.G.A. § 20-2-131(14), (15).

20. Georgia further defines an adequate education by statewide learning standards on which students are assessed to determine their proficiency on such standards and to monitor whether students are receiving the adequate education guaranteed them by Georgia’s Constitution and laws. The State Board of Education is required to “establish competencies that each student is expected to master prior to completion of the student's public school education.” Based upon those competencies, the State Board of Education must adopt a uniformly sequenced core curriculum for grades kindergarten through 12. O.C.G.A. § 20-2-140.

21. As part of QBE, the General Assembly has set forth general and career programs in order to provide the children and youth of Georgia with a quality opportunity to master competencies adopted by the State Board of Education through instruction based upon a uniformly sequenced core curriculum. O.C.G.A. § 20-2-151. The primary purpose of kindergarten is to provide children with an equal opportunity to be prepared for first grade; the primary purpose of primary grades is mastery of essential basic skills and knowledge to enable students to achieve more advanced skills and knowledge offered at higher grades; the primary purpose of middle grades (grades 4-8) is to prepare students academically and socially to enter high school; and the primary purpose of high school is to prepare students for continuation of education beyond high school and for entry into chosen career fields as well as to prepare them to take their places in society as young adults. O.C.G.A. § 20-2-151.

22. Because an adequate education is a primary obligation of the State, no person of school age in Georgia can be denied an opportunity to obtain the adequate education guaranteed by Georgia's Constitution and laws, or an equal opportunity to meet the academic standards set by law, absent a compelling State interest.

THE EDUCATION FUNDING STRUCTURE AND ITS DEFICIENCIES

23. Defendants have failed in numerous respects to satisfy their constitutional and statutory obligations regarding education. These failures stem from the State's system for funding its schools, which is not reasonably designed or adequately implemented to prepare students to function in society as responsible citizens who can compete equally in the work force to find productive employment, and qualify for and advance through higher education. The Georgia school funding system, while purporting to fund a Quality Basic Education, fails to do so. The resources the school funding system provides to many school districts, including Plaintiff Districts, bear no relation to the resources needed to provide an adequate education to their students. The school funding system does not take sufficient account of the substantial disparities in pupil needs and wealth among school districts. The result is an education system that affords inadequate and unequal educational opportunities and resources to school districts and their students, thereby severely restricting the educational opportunities for many students and especially those in the lowest wealth districts.

24. Funding for Georgia public schools is derived primarily from two sources: property taxes levied on the assessed valuation of property in school districts and State aid. A further source of funding for school facilities and infrastructure is the Special Purpose Local

Option Sales Tax (“SPLOST”). A smaller source of funding is federal aid. Most federal funds for school districts are allocated as categorical grants which cannot “supplant” State education funds and thus cannot be taken into account in determining the amount or allocation of State aid to school districts.

25. In 1985 the State of Georgia adopted the Quality Basic Education Act (O.C.G.A. § 20-2-130, et seq.) (“QBE Act”) to fund public education in recognition of the need to provide “an opportunity for a quality basic education to the citizens of the state and to discharge the responsibilities and obligations of the State to ensure a literate and informed society . . .” 1985 Georgia Laws, 1660. In structure, the QBE Act was intended to identify the components of the public education programs deemed essential for an adequate education and determine the cost necessary to provide each component. In adopting this act, the State acknowledged its constitutional obligation to provide “an equitable public education finance structure which ensures that every student has an opportunity for a quality basic education, regardless of where the student lives . . .” O.C.G.A. § 20-2-131(3).

26. The QBE Act was recommended by the Governor’s Education Review Commission created by the General Assembly in 1983. The concerns prompting the creation of this Commission were that “there presently exists a critical need to review the present methods of funding our system of public education and develop ways to correct the inherent inequities that exist” and “there also presently exists a critical need to review the present education that our children receive and to ensure that they receive a basic, quality education that teaches the basic skills to cope with our complex society.” The Commission was charged with the duty to

“analyze and assess public education in Georgia, provide a definition of what constitutes an adequate education within the context of the State Constitution, and define what constitutes a basic education.” It was further charged with devising “allocation formulas for state funding that recognize that the cost of educating some students is more than the average cost of educating others.” 1983 Georgia Laws, 599-601.

27. The QBE Act establishes a formula (“QBE formula”) that purports to determine the cost per student for each of 19 general programs based on the instructional needs of each student. O.G.C.A. § 20-2-161. The cost of each program is calculated through a series of “building blocks” for the various components of the total formula cost, such as the salary and benefits for the classroom teacher; the cost of textbooks and instructional materials; the cost of utilities and maintenance; and allocations for specialists, instructional support, and administrative expenses at the school and system levels. O.G.C.A. §§ 20-2-160 through 161, 20-2-162, 20-2-164, 20-2-166, 20-2-167, 20-2-180 through 186.

28. Under the QBE formula, every system is required to contribute a local share based on the revenue which would be generated by five mills of property taxes when levied on the “equalized” tax digest for the system. The tax digest is “equalized” to ensure that property in each jurisdiction is assessed on the same basis, and the number of students is adjusted by weighting the students by a factor that purports to reflect the relative cost of the programs in which they are enrolled. O.G.C.A. § 20-2-164.

29. In addition to the QBE formula, some categorical grants are made by the State for certain activities, such as pupil transportation and school health nurse programs. *See* O.G.C.A. §§ 20-2-188, 20-2-189.

30. The QBE formula, as implemented, has ignored the actual costs of providing an adequate education. Reasons for the failure of the QBE formula to recognize the actual costs of an adequate education include, among others, the use of arbitrary cost allocations or schedules that bear no relation to actual costs, the failure to include certain cost components of an adequate education, the imposition of arbitrary funding cuts to various formula components, the imposition of caps which are not based on educational considerations, and the failure to undertake periodic reviews for the purpose of making needed adjustments over time.

a. The allocation in the QBE formula for textbooks, supplies, and equipment is arbitrary and devoid of any relationship to the cost of these necessary items. For example, the fiscal year 2005 high school textbook allocation of \$40.26 for a typical student is inadequate to purchase more than a fraction of one textbook for one course. The allocation for consumable materials of \$33.21 for a student in grades 1-3 amounts to only 18 cents per day. The allocation for books and periodicals in the media center is only \$9.77 per student for an entire year. In 2001-02, State allocations for textbooks represented only 35% of the actual expenditures by local school systems for this purpose. This deficit was absorbed by cutting other needed educational programming. Similarly, State allocations for instructional supplies and materials represented only 54% of the actual expenditures by school systems for this purpose. As local school systems

have been forced to absorb these basic textbook and material costs, they have been compelled to cut back on the educational programming needed by students.

b. QBE allocations for other essential educational staff including counselors, psychologists and school social workers have no educational basis. The staffing ratios for psychologists and school social workers (one of each position for every 2,475 students) are arbitrary and fail to provide needed services to school districts with large concentrations of at-risk students. Although QBE recognizes the importance of guidance and counseling for an adequate education, some of the highest need students, such as those in special education and high-school remedial programs, are omitted from the student count that determines the number of counselors for which a school system will qualify.

c. Although some compensatory education for students at risk of academic failure is funded in the elementary grades and high school, none is funded for at-risk students in the middle grades despite State policy effective the 2005-06 school year to retain 8th graders who are below grade level and compelling evidence that many student dropouts stem from middle school academic failure.

d. Although many at-risk students require more intensive educational programs and services across the board in order to succeed in school, the remedial education program for grades 9-12 is restricted to providing instructional assistance only in reading, writing or mathematics. Furthermore, the number of students who actually participate in remedial education programs in the plaintiff districts is per force limited by the accumulated deficiencies

of the State's funding system which drive districts to maximize class sizes and minimize special programs that entail smaller classes and higher teacher costs per student.

e. Effective alternative education programs are essential for many students, who would otherwise drop out of school, to succeed academically and graduate. As funded and structured under the QBE, however, alternative education programs are so inflexible that they are little used by low-wealth districts and then primarily for students who are disruptive and have been assigned to an alternative school as a form of punishment, rather than as a means to reduce Georgia's egregious high school drop-out rate. The funding of alternative education is arbitrarily based on a maximum of 2 ½ % of the students in grades 6-12 regardless of the actual need for such programs and the statutory intent to serve all students who are either disruptive or "more likely to succeed in a nontraditional setting." O.C.G.A. § 20-2-154.1(b). Based upon funding shortages and the restrictive and arbitrary limits imposed upon alternative education programming, Plaintiff Districts and other school districts are unable to furnish the alternative education programming that would make a substantive difference in student outcomes, including graduation rates. Additionally, Plaintiff Districts are unable to offer alternative education programs and flexible scheduling in classes that would make completion of school a realistic option for students who must work to support their families.

f. The staffing allocations for instructional support personnel such as art, music and physical education instructors bear no relation to the educational need for these services. Children enrolled in special education and kindergarten are not even included in calculating this allocation.

g. The QBE formula includes a provision that ostensibly provides 20 days of additional instruction for students at-risk of academic failure. However, the funding is based on 10% of a school district's students, even if a much higher percentage of the district's students is failing or dropping out.

h. One of the objectives and purposes of the QBE program is "to attract, retain, and fully utilize highly competent personnel in all public schools of the state" (O.C.G.A. § 20-2-131(5)), and experienced and well-trained teachers are important for student learning. However, in the first year an experienced teacher with advanced training is employed, the QBE formula provides no funding to school systems for the teacher's salary beyond the minimum for an inexperienced teacher with a bachelor's degree.

i. The QBE formula ignores social security (FICA) costs of 6.2% of employee salaries which many Georgia school systems are required to pay.

j. The allocations for school administration, school operations and central operations in the QBE formula reflect neither needed administrative staff, nor realistic salaries, nor sufficient operating costs to run a school or school system.

k. The QBE formula allocation for maintenance and operation of facilities, which includes cleaning schools, providing regular maintenance, and paying utilities, also bears no relationship to actual costs and falls dramatically below actual costs incurred by school districts. As a result, districts are required to divert other school district funds that could be used for instruction and other direct services to the upkeep of facilities or allow their facilities to deteriorate.

l. The teacher staffing formulas ignore basic realities for the necessary staffing of schools. For instance, although high schools are required to allocate a planning period for each classroom teacher, the high school QBE staffing formula does not factor in these planning periods in determining staffing levels and costs.

m. Georgia is introducing a new curriculum on which students will be held accountable. Although staff development is essential to equip teachers to deliver the new curriculum, the staff development allocation in the QBE, which has never been adequate, has in recent years been cut further.

n. The inadequacies of the statutory QBE formula have been exacerbated in recent years by arbitrary reductions in State funding and the lack of adjustments for inflation that have further widened the gap between QBE formula funding and the funding required to provide a constitutionally adequate education.

31. The funding of grants outside the QBE formula is equally arbitrary and inadequate; examples include:

a. The categorical grant for essential school transportation is based on arbitrary cost and usage assumptions with little relation to reality and fails to fund significant amounts of student transportation provided by school districts for safety reasons. As noted in the State's own audit, a variety of arbitrary assumptions in addition to an incomplete funding appropriation result in the State's paying for only a fraction of the costs incurred by school districts to ensure the safe transportation of students to school. The limitations of the school transportation formula and funding require the majority of transportation costs to be funded from the often inadequate tax bases of school districts.

b. School districts are required to provide a school health nurse program using licensed health care professionals. O.C.G.A. § 20-2-771.2. School nurses play a critical role in reducing illness-related absences, providing health interventions to return students to class expeditiously, and identifying health barriers to students' education. However, as a result of limited State funding for the school health nurse program, the adequacy of this program at the school district level is largely dependent on the availability of funding from other school district sources. The funding level for the school health nurse program bears little relation to the actual needs or the cost of providing such services.

32. Because the QBE formula and State categorical programs leave school districts with substantial shortfalls in funding for their most basic educational programs, services, equipment, supplies and operational costs, districts are required to rely on other, primarily local, funding sources in an attempt to provide their students with an adequate education.

33. The major source of funds used by school districts in an attempt to make up for shortfalls in the QBE formula is the property tax. The ability of school districts to raise such funds varies enormously because of variations in property wealth per pupil among school districts. All Plaintiff Districts and many other districts are well below the statewide average equalized assessed property valuation of approximately \$120,000 per weighted full time equivalent ("WFTE") pupil. (2001-02 Georgia Department of Education data) (hereinafter "property tax base per pupil"). For example, the property tax base per pupil in Brantley County, one of the poorest districts in Georgia, was \$46,614; in Ben Hill County, \$63,197; in Murray County, \$74,620; in Elbert County, \$74,949; and in Lamar County, \$92,802.

34. The cost of providing an adequate education to the children in the Plaintiff Districts and other districts bears no necessary relationship to the amount of taxable property available to these districts. In the case of Plaintiff Districts and other districts, there is an inverse relationship between the amounts of taxable property available and the need for more intensive educational programs and services for these districts' high concentrations of at-risk children.

35. Additional State aid is provided in the form of equalization grants which are intended to enable the systems with the least taxable property per pupil to supplement the basic program on the same basis as wealthier systems. Equalization grants are based on the mills (up to 15) which are levied above the first 5 mills that represent each system's required local effort. O.C.G.A. §§ 20-2-165, 20-2-166. For each mill above 5 mills, equalization grants treat qualifying districts as if they have the property tax base per pupil of a higher wealth target district. However, the taxable wealth per student of the target district used to calculate equalization aid is below the state average taxable wealth per pupil. Consequently, even if equalization grants were fully implemented, which they are not, low-wealth districts receiving equalization grants would still have effective property tax bases per pupil that are below the state average.

36. The assumption underlying equalization grants is that the QBE formula would fully fund the cost of a constitutionally adequate education and that equalization grants would provide funding above this level. However, the Plaintiff Districts and other districts are forced to use their equalization grants in large part to cover deficits in the QBE formula in an attempt to fund an adequate education for their students.

37. The availability of revenues from the property tax and equalization grants bears no necessary relationship to the need for resources to make up for the shortfalls in the QBE, and these revenues are insufficient to provide an adequate education to the children in Plaintiff Districts and other districts.

38. A further indication of the limited capacities of plaintiff districts to raise funds for education is their median household incomes. According to 2000 census figures, the state average for median household income is approximately \$42,000. Median household income in Plaintiff Districts is significantly lower: in Brantley County it is \$30,361; in Ben Hill County, \$27,100; in Elbert County, \$28,724; in Lamar County, \$37,087; and in Murray County, \$36,966.

39. Among Georgia school districts as a whole, districts with lower median household incomes also tend to have smaller property tax bases per pupil.

40. Major causes of the inadequate educational opportunities in Plaintiff Districts and other districts include the heavy reliance of the school funding system on disparate school district property tax bases and the failure of the school funding system to assure that the combination of State funding and resources generated at the school district level provides resources sufficient for children to receive adequate educational opportunities in these school districts.

41. Although it is “the policy of the State of Georgia to assure that every public school student shall be housed in a facility which is structurally sound and well maintained and which has adequate space and equipment to meet each student's instructional needs . . .” (O.C.G.A. § 20-2-260(a)), the Georgia school funding system does not assure that Plaintiff Districts and other low-wealth districts are able to provide such school facilities for their students.

a. The State's capital outlay program for new and renovated facilities is severely hampered by unrealistic limits on allowable costs, by a required local match which does not adequately take into account differences in the ability of school districts to generate local revenues, and by the requirement that school districts await the accumulation of local funds for all costs not covered by a State capital outlay grant. Supplemental programs have been created from time to time to address the specific needs of "low-wealth" systems, but these programs have fallen far short of the actual facility needs of school districts that lack substantial SPLOST revenues.

b. The primary school district funding source for school facilities is the Special Purpose Local Option Sales Tax ("SPLOST"). All Plaintiff Districts and many other districts levy this sales tax. Although SPLOST generates a significant amount of funds for school construction, technology, and other capital expenditures for some districts, the amount of such funds depends on the level of taxable retail sales within each county that approves a SPLOST. However, the SPLOST revenue-generating capacity of the Plaintiff Districts and other low-wealth districts is minimal compared to districts with substantial retail sales activity. As a result, many school districts in Georgia, including the Plaintiff Districts and many Consortium Districts, are unable to meet their facility needs even if they levy this tax.

c. SPLOST funds can also be used to meet infrastructure needs including technology improvements. Because Plaintiff Districts and other districts must devote most or all of their SPLOST revenues to the accumulation, often over extended periods, of sufficient local funding to qualify for State capital outlay grants, they are not able to use SPLOST funds for needed infrastructure improvements. As a result they are unable to meet their infrastructure

needs or must resort to use of local funds that would otherwise be expended on educational programming and services.

d. Irrespective of the grossly unequal revenues generated, the increased SPLOST sales tax imposes the same or greater economic burdens upon the residents of the Plaintiff Districts as those in higher revenue generating districts.

42. Regardless of the Plaintiff Districts' and other districts' strong commitment to meeting the educational needs of their students, they lack the resources necessary to provide their students the opportunity to obtain an adequate education guaranteed by the Georgia Constitution.

43. As implemented, the level of support provided through the QBE Act has failed to assure the most basic educational programs and services and bears no relationship to the level of funding necessary to provide the programs and services needed to produce an adequate education guaranteed by Georgia's Constitution and to meet the academic standards set by law.

HISTORY OF EFFORTS AND FAILURES TO ADDRESS FUNDING INADEQUACIES

44. The original QBE Act recognized that, in order for the QBE formula to provide an adequate education to Georgia's students over time, regular periodic studies would be needed of the effectiveness of existing program weights with recommendations for needed changes.

O.C.G.A. § 20-2-161(f).

45. Following the QBE Act in 1985, the General Assembly has authorized a series of education reform committees and commissions to review and make recommendations regarding the sufficiency of funding and educational resources for public schools and students in the State of Georgia.

46. In authorizing these reviews, the General Assembly has repeatedly recognized the State's failure to fully fund QBE. This failure has also been recognized by study committees and commissions, whose recommendations have been often ignored, or if adopted, often not funded.

47. As enacted in 1985, the QBE Act authorized the Governor "to appoint a task force every three years for the purpose of reviewing the effectiveness of existing program weights and recommending to the General Assembly any changes needed." O.C.G.A. § 20-2-161(f).

48. A QBE education components (or "weights") task force appointed in 1988 completed its work in 1989 and recommended several adjustments to be initiated in FY 1991. However, these recommendations were not implemented, except for those involving reductions in educational cost components.

49. Although no QBE "weights" task force was appointed to review and make recommendations on QBE education component factors and weights between 1989 and 2003, several other study committees/commissions reviewed the QBE and State funding during this period. However, none of these committees/commissions conducted a systematic and comprehensive review to assess and ensure that the QBE cost components and structure are properly determined, updated and modified so as to reflect the actual costs of delivering a constitutionally adequate education for children in Georgia.

50. In 1993, the General Assembly authorized the creation of the Education Accountability and Evaluation Commission, declaring that the Commission "shall study the progress achieved since QBE became effective, as measured against the objectives and goals" of the Act and "shall establish for each school system the percentage of federal, state, and local funds expended for direct instruction for each year since 1985." The Commission was to report

on a variety of achievement and funding issues including “programs that were dropped or were not established because of lack of funds.” 1993 Georgia Laws, 1992 -1994. It was directed to make recommendations by December 1994 concerning needed adjustments to funding and other formulas as well as statutory and rule changes so as to further the purposes of the QBE. The Commission, however, was disbanded before making any recommendations.

51. In 1996 the General Assembly authorized the creation of a Blue Ribbon Study Committee on Funding of the Quality Basic Education Act in recognition of several significant principles and occurrences. Specifically, the General Assembly recognized that QBE was passed “to provide an equitable public education finance structure which ensures every student an opportunity for a quality basic education, regardless of where the student lives, and to ensure that all Georgians pay their fair share of this finance structure.” However, it recognized that “costs for underfunded items such as maintenance and operation and sick leave and unfunded items such as social security and medicare continue to increase at alarming rates” and that school boards were forced to fund these increasing costs solely through property tax revenues. The Committee was charged with undertaking a “study of the conditions, needs, issues, and problems mentioned above or related thereto” and making appropriate legislative recommendations. 1996 Georgia Laws, 1651-1654.

52. After a year of work, the Blue Ribbon Study Committee issued a preliminary report in December of 1997. It noted the existence of significant gaps between QBE formula funds provided to districts and actual district expenditures. It commented that these underfunding gaps, as a percentage of actual expenditures, “tend to be about the same magnitude in the same areas across the fiscal years examined . . . FY 96, 45.4%; FY 95, 46.7%; FY 91.

44.3%, and FY 88, 44.7%.” The Report further identified specific underfunded cost components in the instruction, transportation, and maintenance areas.

53. In 1998, the General Assembly re-authorized the Blue Ribbon Study Committee so that it could make specific recommendations for actions and changes to the QBE formula based upon its previous work. 1998 Georgia Laws, 960-963. The General Assembly’s authorizing resolution recognized the contribution of the Blue Ribbon Study Committee in identifying issues that needed to be addressed in the QBE formula and specifically called for recommendations based upon the identified “costs for underfunded items such as maintenance and operations and sick leave and unfunded items such as social security and medicare” that “continue to increase at alarming rates.”

54. In December 1998, the Chair of the Blue Ribbon Study Committee on Funding of the QBE Act released a report that set forth the findings and recommendations of the Committee. The Report concluded “. . . the very foundation of public education in Georgia . . . may be cracking under the stress of a shift in the way the weight of the school finance burden is distributed.” Significantly, the Blue Ribbon Study Committee concluded, “As more and more of the actual and necessary cost of providing a Quality Basic Education for all of Georgia’s students has shifted to the local level, there have been steadily increasing problems in both adequacy and equity in the financing of public education in Georgia.”

55. The Blue Ribbon Study Committee Report made several major recommendations, including, among others, that the QBE formula be revised to provide State funding for more guidance counselors, teachers, and media specialists as well as reduced class sizes; and that a comprehensive review of the funding formula be made every two years. This review would

include an evaluation of whether the funding formula was based on the actual cost of providing a quality basic education for each child and an examination of the proper allocation of costs between local and State government. The Committee Report warned that “if state funds are not available to carry out QBE programs . . . the current problems related to adequacy and equity would become even more serious.”

56. The legislative members of the Blue Ribbon Committee did not sign the Report, and no legislative action was taken to address the findings or recommendations identified by the Blue Ribbon Study Committee.

57. In 1999, the General Assembly authorized the creation of the Governor’s Education Reform Study Commission. The Commission was charged with reviewing the degree of success of the State’s implementation of key provisions of QBE and making recommendations for methods to improve both student achievement and underachieving school systems and schools. It also was charged with evaluating and reporting on the needs and processes to maximize a seamless transition between public high schools and post-secondary institutions.

1999 Georgia Laws 1068-1070.

58. In December 2000, the Education Reform Study Commission issued its report and made extensive recommendations. In the area of funding, the Commission recommended that the periodic review of QBE component weights become mandatory and that a comprehensive study be conducted “with the aid of additional data and professional assistance to define adequacy in terms of the costs necessary to support a desired level of student achievement in a range of representative school systems.” The Report further recommended that the State “allocate enough funds to cover the actual and necessary cost of providing a Quality Basic

Education for every student in Georgia” and “ensure that every student in Georgia’s schools is offered a Quality Basic Education without regard to the local resources of the student’s school system . . .”

59. The General Assembly adopted the A+ Education Reform Act of 2000 and enacted substantive changes to the provisions of the QBE Act. 2000 Georgia Laws, 618-754.

60. The A+ Reform Act included provisions for the reduction of class sizes, intended as a critical vehicle for the delivery of quality basic education to all students. As a result of inadequacies in the QBE formula, these reduced class size provisions have not been fully funded, and the phase-in of new limits on maximum class sizes has been placed on hold.

61. The A+ Reform Act called for creation of the Georgia Closing the Achievement Gap Commission, to be effective through June 2006. O.C.G.A. § 20-2-286. The Commission was charged with the responsibility to review the significant achievement gaps that exists for at-risk students in Georgia, including groups of students disaggregated by ethnicity, sex, disability, language proficiency, and socioeconomic status and the development of appropriate strategies to address such gaps. The Closing the Achievement Gap Commission last met on June 20, 2002 (after four meetings), although the challenges entailed in addressing the disparate educational needs and achievement levels of at-risk students remain pressing and profound. It is well established that the provision of an adequate education to at-risk students entails significantly higher levels of funding for intensive intervention programs and services as well as smaller class sizes. School districts such as the Plaintiff Districts, with low wealth and high proportions of low-income/low-achieving students, are in the worst position to provide such funding-intensive programs to address significant gaps in the achievement of at-risk and low-income students.

62. Beginning in FY 2003, the State of Georgia has imposed a series of major “austerity” cuts in school district funding. These austerity cuts in conjunction with other funding inadequacies and program cuts have eroded the programmatic and operational funding required by school districts to function in conformity with state and federal legal requirements and jeopardized the capacity of school districts with the least wealth and resources to provide their students with an adequate education that meets contemporary standards as required by the Georgia Constitution.

63. The A+ Reform Act made mandatory the QBE’s provision for appointment of a task force once every three years (beginning July 1, 2003) for the purpose of reviewing the effectiveness of existing QBE program weights and making recommendations to the General Assembly as to needed changes. O.C.G.A. § 20-2-161(f). However, no task force was appointed until February 2004, and it did not convene until August 26, 2004. Regardless of the good intentions of the task force, the historical record makes clear that after QBE’s enactment in 1985, the actions and recommendations of such task forces, even when not prematurely disbanded, have done little to ensure that the State actually provides Georgia’s children with a constitutionally adequate education.

64. The State of Georgia has not conducted and adopted any study, nor has it otherwise sought to make a valid determination, of the cost of the programs and services necessary to provide all children in Georgia with the opportunity for a constitutionally adequate education.

EDUCATIONAL INADEQUACIES IN PLAINTIFF AND OTHER SCHOOL DISTRICTS

A. Deficient Resources Afforded Plaintiff Districts

65. The Plaintiff Districts and other districts, including many members of the Plaintiff Consortium, share similar demographic characteristics and face similar impediments to ensuring an adequate education for all students. The Plaintiff Districts suffer from high rates of unemployment and high levels of poverty among their citizens. Compared to the rest of the State of Georgia, a disproportionately high percentage of their students are economically disadvantaged. Many of the Plaintiff Districts and other districts have suffered from the loss of industry or agricultural jobs in recent years and the resulting loss of employment opportunities, especially opportunities for moderate or well-paying jobs that require low levels of education. The Plaintiff Districts and other districts also have relatively low levels of property tax base per student; as a result, they are unable to raise significant levels of revenues from property taxes when compared with relatively more affluent districts in the state. General fund expenditures per student are lower in the Plaintiff Districts than in the State of Georgia as a whole and dramatically lower than in many more affluent districts. In 2001-02, the state average general fund expenditures per “full-time equivalent student” (FTE) was \$6,481; average general fund expenditures per FTE in the districts with the highest expenditures per pupil (serving 10% of the state’s students) was \$8,345. In contrast, Plaintiff Districts’ general fund expenditures per FTE were \$6,158 in Ben Hill County; \$5,474 in Brantley County; \$6,259 in Elbert County; \$5,599 in Lamar County; and \$5,541 in Murray County. The average general fund expenditures per FTE for Consortium Districts was \$6009.

66. Plaintiff Districts vary markedly in their racial and ethnic composition. For example, in Plaintiff Ben Hill County School District, 50% of the students are White, 44%

Black, 4% Hispanic, and 2% other ethnic groups. In Plaintiff Murray County School District, 88% of the students are White, 11% Hispanic, and 1% other ethnic groups.

67. Plaintiff Districts and Consortium Districts serve above average concentrations of economically disadvantaged children (who qualify for free or reduced price lunch). In contrast to the state average of 44% economically disadvantaged children, 58% of the students in Consortium Districts are economically disadvantaged. Percentages of economically disadvantaged students served by Plaintiff Districts are: Ben Hill County - 63%; Brantley County - 57%; Elbert County - 53%; Lamar County - 55%; and Murray County - 50%.

68. Because of inadequate financial resources, Plaintiff Districts and Consortium Districts are not able to provide the educational programs, services, instructional materials, equipment and facilities needed by their students. Because of the lack of adequate resources, and the reductions in State funding of education in Georgia, many of these school districts have been forced to cut staff, programs, services, instructional material and supplies and to defer needed maintenance.

69. Because of inadequate financial resources, the Plaintiff Districts lack sufficient numbers of trained and highly qualified staff needed to provide an adequate education to all their students, who are diverse in terms of academic proficiency, racial/ethnic background, primary language background and income-level. As a result of insufficient numbers of trained and qualified staff, the curriculum and instruction provided to all students in these districts is inadequate, resulting in many students not receiving the instruction they require.

70. Plaintiff Districts and many other rural and semi-rural Consortium Districts lack access to the financial resources necessary to recruit, hire and retain highly qualified instructors.

Difficult working conditions in, as well as the remoteness of, many of these districts, including the extreme demands on existing staff in these districts resulting from too few staff and too few resources, make these districts less attractive places to work and make attracting and retaining the teachers and other staff that they need more difficult, because they are unable to provide sufficient financial incentives.

71. As a result of inadequate resources, teachers' salaries in Plaintiff Districts and Consortium Districts are lower than the state average and the salaries offered by many other school districts, often by significant amounts. The inability of Plaintiff Districts and other districts to provide competitive salaries prevents many of these districts from obtaining sufficient numbers of highly qualified staff, including teachers, that they need.

72. One consequence of inadequate staff in Plaintiff Districts and other districts is that instruction in these districts has often been provided by teachers who are not certified in the subjects they teach.

73. Adequate professional development for existing staff is essential in order to ensure highly trained teachers. Because of under-funding by the State of Georgia, including significant cuts in funding for professional staff development, Plaintiff Districts and Consortium Districts lack the resources to provide staff with the ongoing professional training and skills necessary to meet the needs of their teachers and their students. Inadequate funding for staff development also inhibits districts' ability to implement new curriculum content and standards in the schools and classrooms.

74. As a result of inadequate resources, Plaintiff Districts and other districts have been unable to hire, and in fact have had to eliminate, many paraprofessional staff who are

critical to supporting the provision of a solid educational foundation for students in their early elementary school years or to delivering essential support for the provision of special education and related services for students with disabilities.

75. Recent State budget cuts, as well as the State's persistent failure to provide and ensure adequate funding for the Plaintiff Districts and other districts, have prevented those districts from hiring or retaining teachers in many essential teaching positions, including teachers of foreign languages, vocational and career technology teachers, art and music instructors, special education instructors, and teachers of advanced placement and gifted and honors courses.

76. Plaintiff Districts and Consortium Districts have insufficient resources to hire and retain personnel necessary to perform certain services and functions that are essential to ensuring that all students receive an adequate education. A desperate need for more trained social workers and counselors exists in many of these districts, largely because of the high level of at-risk students from low income families. Many districts have also been forced to eliminate or fail to replace essential positions such as assistant principals, maintenance staff, attendance specialists, bus drivers, counselors, parent outreach coordinators, and clerical support personnel, thereby forcing remaining staff to perform many additional functions on a double duty basis, to the detriment of students' receipt of adequate educational services. These cutbacks are occurring in an environment in which the State has been imposing increasing obligations on districts with regard to record-keeping, data entry and accountability documentation.

77. Because of budgetary cutbacks, many districts have additionally been forced to cut a range of teaching positions and associated courses, including foreign language courses, vocational and career education programs, business and agriculture courses, middle school

electives, advanced placement classes, drama programs, classes in music, arts and drama, and remedial classes. Additionally, with teachers and administrators spread beyond capacity in many of the Plaintiff Districts, extracurricular activities that require teacher supervision have been curtailed, despite the recognition that such activities play a critical role in maintaining student engagement and attendance.

78. The Boards of Education of Plaintiff Districts and other districts are required by law to purchase all textbooks, supplementary materials, equipment, and supplies necessary for their respective schools. O.C.G.A. § 20-2-1013. Many districts lack the resources to purchase all textbooks, equipment and supplies necessary for their schools, resulting in the use of outdated instructional resources or an insufficient amount of instructional materials for all students' use at home. In this budget context, many districts have not been able to purchase appropriately sequenced textbooks and instructional materials so as to provide a properly structured curriculum that will support appropriate student growth in learning over a series of grade levels.

79. Resources for classroom supplies and materials are so inadequate that many teachers are often forced to choose between purchasing necessary supplies and materials with their personal funds or having students go without them. Teachers in some Plaintiff Districts are forced to use a limited number of printing cartridges and copying supplies. As a result, students without independent personal access to printers and copying have limited means of printing or copying school papers or research. Similarly, teachers are circumscribed in the development and production of instructional materials. Some schools also rely on contributions or donations by parents or parent organizations to obtain needed essential materials, supplies, and books. Yet the fund-raising resources available in schools with high proportions of low-income families are

not sufficient to pay for the broad scope of essential materials that are required for teachers, students, and the daily operation of classrooms.

80. Because of inadequate and decreasing levels of funding, many schools in Plaintiff Districts have been forced to eliminate or significantly curtail field trip opportunities for their students. For many underprivileged students in such districts, field trips provide one of the very few opportunities for exposure to environments and experiences outside what exists in their immediate neighborhoods.

81. Because of insufficient resources, several Plaintiff Districts have been unable to purchase new school buses and replace aging buses in a timely manner and in accordance with the State's recommended replacement cycle. Ga. Comp. R. & Regs. r. 160-5-3-.11. As a result, districts have cut or consolidated bus routes, often necessitating excessively long bus rides for many students and alterations in school schedules. The school day for some special education students has been abbreviated because of transportation limitations.

82. Many students in Plaintiff Districts and Consortium Districts require special education services, which are mandated by state and federal law. Because of significant funding limitations, these districts are not able to provide adequate services to all students classified as needing special education services. The necessity of improved services for students with disabilities is particularly acute in light of State accountability standards adopted pursuant to the No Child Left Behind Act, which adopt (with only limited exceptions) the same State performance standards for students with disabilities as for all other students. Despite State-imposed requirements to improve special education students' academic performance and proficiency, many districts do not have sufficient resources to establish or maintain adequate

levels of services. Students with disabilities in the Plaintiff Districts are often served in inadequate classrooms by insufficiently qualified teachers, with insufficient opportunities for individualized instruction, inadequate assistive technology and equipment, and insufficient numbers of qualified paraprofessionals and teachers to support placement of students in regular classrooms with non-disabled peers, as is required by law in many instances. Because of a lack of funds, the Plaintiff Districts are unable to recruit, employ and retain qualified special education teachers, paraprofessionals, therapists, and related services providers.

83. Plaintiff Districts and other districts have students who enter kindergarten at a severe disadvantage. They do not have the basic skills and knowledge needed for kindergarten and as a foundation for success in school. A significant cause of their unreadiness for school is lack of early childhood education. The State of Georgia's pre-kindergarten programs were created in recognition of well-established national research concerning the efficacy of pre-kindergarten education as a critical intervention that increases the probability of later educational success. While all of the Plaintiff Districts and other districts take advantage of State pre-kindergarten funding, they receive insufficient funds to provide pre-kindergarten education to many applicant families. As a result, Plaintiff Districts and other districts have substantial waiting lists for pre-K programs, and many students enter Plaintiff Districts and other districts at a significant disadvantage and are unable to avail themselves of the opportunity to obtain an adequate education. Plaintiff Districts and other districts lack access to the financial resources to provide adequate early childhood education for disadvantaged children.

84. As a result of inadequate resources, Plaintiff Districts and other districts have been unable to acquire, maintain, update and support the computer equipment, software, and

other technology necessary to provide students with the instructional opportunities and technological competence required by State standards and consistent with current educational standards. Computers provided for students' use in these districts are often insufficient in number, obsolete, or poorly maintained. Because of funding limitations, districts are frequently unable to purchase updated or appropriate software. Insufficient numbers of qualified staff for training and support result in many teachers being unable to make effective use of the limited technology that is available.

85. While teachers receive an initial course in State-provided computer technology training, the Plaintiff Districts have insufficient staff and technology resources to continue such training, and therefore, the training often becomes obsolete.

86. Despite the alarming percentage of students in the Plaintiff Districts and Consortium Districts who are not receiving a high school diploma, insufficient funding exists to maintain any viable dropout prevention programs in these districts. While alternative school programs, including those in a nontraditional format and setting, provide one viable strategy for reducing dropouts, the establishment of such programs would be costly for such local districts and result in further cutbacks of regular educational programming that has already been severely curtailed.

87. The Plaintiff Districts lack sufficient funds to purchase teacher manuals for some textbooks as well as necessary supplemental materials for textbooks that critically assist in the instruction of students in the required curriculum.

88. Plaintiff Districts lack sufficient funds to purchase necessary equipment for certain science, vocational, and technology labs. In some schools, brand new labs stand virtually empty of equipment needed for actual instruction.

89. Plaintiff Districts have buildings in which needed maintenance of facilities has been deferred as a result of inadequate resources.

90. Education research as well as national and State education policy clearly recognize that students who are at risk of failure by virtue of their low income status, disability, or limited English proficiency require far more intensive remedial instructional support and resources than most students in order to be placed on an equal footing in securing an adequate education and the benefits of such. As a result of funding limitations, Plaintiff Districts and Consortium Districts are highly restricted in the range and intensity of remedial and intervention programs that they can offer to “at risk” students despite the fact that these districts have a disproportionate high percentage of at-risk students.

91. Most of the Plaintiff Districts are unable to offer summer school programs to students who have failed classes in the middle or elementary grade levels. Fee-based credit recovery summer programs for high school students who have failed courses cannot be offered in all of the districts. As transportation is rarely provided to high school summer programs, low income students without independent transportation are often foreclosed from attending these summer programs even if they can afford the summer course fee.

92. The Plaintiff Districts have insufficient funds and teachers to offer students the opportunity in many courses to take teacher instructed “make-up” classes during the course of the year for classes that they have previously failed. Therefore, students in the middle and

elementary grades who have failed classes are often promoted despite the fact that they are unprepared to succeed academically. In high school, these students are most likely to fall behind in their course credits toward graduation and ultimately drop out of school.

93. The Early Intervention Program (“EIP”) was designed to provide elementary grade students at risk of failure a strong educational foundation and boost at an early age when educational intervention can be most efficient and effective. O.C.G.A. §20-2-153. However, because of the State’s reduction in certain funds for administration of this program as well as overall funding shortages that have driven schools to set classes at maximum sizes allowed, the EIP program cannot be effectively implemented in many of the Plaintiff Districts and other districts to the detriment of at-risk students. Funding considerations often prevent educators from implementing the most effective way to provide instruction in the local school.

94. School districts with significant increases in their immigrant populations with limited English proficiency have faced significant challenges in meeting the needs of these students. For example, Murray County School District’s Hispanic population grew from 4% in 2000 to 11% in 2003. Because of severely limited funds, the Murray County School District is forced to spread one translator between five different elementary schools, despite the fact that a pressing need exists at four of these schools for full daily translation services to support teachers, students, and parents in the delivery of adequate educational services. In the elementary schools and one middle school within Murray County, no teacher speaks Spanish. In one Murray County middle school and the high school, no teacher other than a Spanish language teacher speaks Spanish. While the State provides funding for limited segments per day of English for Speakers of Other Languages (ESOL), neither this funding nor the program itself is adequate in

conjunction with local funds to provide students entering after age 6 with the instructional resources and supports necessary to gain full access to the educational programming provided, much less an adequate education. Additionally, rural districts historically have not previously needed to address the issues of educating multi-language and cultural student populations. Because of funding shortages, little or no professional development is available to train teachers in strategies and techniques for addressing the specific challenges of educating students in a multi-cultural context.

95. Funding limitations have eroded the State's prior effort to use reduced class size as a means for increasing students' educational access and achievement originally adopted in the A+ Education Reform Act of 2000. Funding shortages have driven the Plaintiff Districts and other districts to determine virtually all educational programming based upon the principle of maximizing class size as opposed to educational criteria and the districts' desire to provide a broad range of quality educational services that meet the needs of the full spectrum of students. Organization of classes and programming according to this "maximize class size" principle has resulted in the curtailment of remedial intervention programming as well as honors, advanced placement and gifted programming for advanced students.

96. Vocational and career education programs and classes have been slashed in most of the Plaintiff and many Consortium Districts to deal with budget cuts due to funding shortages. Although 45% of graduating students in Georgia received a vocational degree in the 2001-02 school year, funding shortages have forced Plaintiff Districts to cut program offerings as well as vocational resources to students. These vocational program and class reductions will impact

students' opportunity for continuation of their vocational education beyond high school as well as their ability to have access to a full range of career fields.

97. State funding limitations and procedures for the funding of alternative education programs for students who are unlikely to succeed in traditional educational contexts, in addition to scarce local school district funds, have virtually eliminated any possibility of alternative school options in the Plaintiff Districts and other districts, except for students who have been suspended or expelled for disciplinary reasons.

98. Students placed in alternative education programs in conformity with disciplinary sanctions are frequently grouped with students from a broad range of grades in one classroom, making the provision of educational services to these students nearly unmanageable in most circumstances. Students who are removed from school to such alternative education classes are therefore even more likely to be at risk of failure upon their return to the regular education program.

99. Free after-school programming including teacher tutoring at the middle school level has been cut to the bare bones in most Plaintiff Districts and other districts, with such programming typically available only in the weeks prior to standardized tests, if at all. As students in these districts tend to show a marked academic decline upon entering middle school and fall increasingly behind thereafter, the absence of such funded after-school educational programming deprives students of a critical remedial resource.

100. Students in the Plaintiff Districts and other districts are placed in an extreme competitive disadvantage by low SAT scores in securing admission to universities and colleges.

Few of the Plaintiff Districts are able to furnish SAT tutoring programs to students, although SAT tutoring has become a staple in many high schools throughout the nation.

B. Poor Performance Results and Low Graduation Rates

101. Georgia students are tested on a regular basis at different grade levels for the purpose of assessing whether students are meeting certain State academic performance standards. School districts and schools in Georgia are held accountable for whether students are meeting minimum levels of proficiency based on State standards. O.C.G.A. §§ 20-2-281, 20-14-33, 20-14-41.

102. State law mandates that Georgia students be assessed in a number of ways, including, among others, Georgia Criterion-Referenced Competency Tests (“CRCT”) for grades 1 through 8 and the Georgia High School Graduation Test (“GHSGT”). O.C.G.A. § 20-2-281.

103. Georgia school systems administer CRCTs in reading, mathematics, and language arts to virtually all students in grades 1 through 8, and in science and social studies in grades 3 through 8. O.C.G.A. § 20-2-281.

104. Georgia students must pass the GHSGT in order to obtain a regular high school diploma. O.C.G.A. § 20-2-281.

105. A key academic indicator of the level and quality of student learning in Georgia, in addition to State tests, is the high school graduation rate.

106. As a condition of receipt of federal funds under the Elementary and Secondary Education Act of 1965, Title I, Part A (“Title I”), 20 U.S.C. §§ 6301-8923; 6311(a)(1), the State of Georgia has established State standards that require “adequate yearly progress” toward 100% of students reaching proficiency on certain State academic measures, including reading and math

assessments, by 2013-14 for schools and school districts receiving Title I funds. 20 U.S.C. §§ 6311(b), 6311(h)(4). The No Child Left Behind Act also mandates the use of graduation rates as a measure of school and school district performance. 20 U.S.C. § 6311(b)(2)(C)(vi).

107. Plaintiff Districts and other districts receive Title I funds, which are critical to meeting many of the needs of their low-income students.

108. Pursuant to federal law, the State of Georgia is required to label any schools and school districts receiving Title I funds that do not make "adequate yearly progress" on a student achievement measure for two consecutive years as in need of "improvement." 20 U.S.C. § 6311(h)(2)(B). The State of Georgia must implement a series of punitive measures, ranging from reduction of funds to abolishing or restructuring entire school districts, against schools and school districts in need of "improvement" for two or more consecutive years. 20 U.S.C. § 6316(c)(10)(C). See also 20 U.S.C. § 7901.

109. The State of Georgia uses Georgia CRCT results for reading and mathematics in grades 1 through 8, GHSGT results, and other measures, including graduation rates, for reporting "adequate yearly progress" pursuant to the No Child Left Behind Act. Each student receives a score on each area tested. Based on the scoring system employed by the State, a student's performance is ranked in one of three categories: (1) not meeting State standards; (2) meeting State standards; or (3) exceeding State standards.

110. Many students in Plaintiff Districts and Consortium Districts, and, in particular, high numbers of students who are low-income, English learner, special-education, or ethnic minorities, are not proficient in reading, mathematics, or language arts and are not graduating from high school. Many schools within Plaintiff Districts and other districts have been

determined not to have made "adequate yearly progress" as defined by Georgia law and the No Child Left Behind Act. As a result, such schools have been, and continue to be, subject to current or possible sanctions under NCLB and Georgia law.

111. Based on the State's CRCT testing, large numbers of students in Plaintiff Districts and Consortium Districts are academically deficient and failing to meet even the minimum State standards in reading, mathematics, and language arts. Moreover, because of a lack of adequate resources in these districts to address and meet the continuing and changing educational needs of all students, especially at-risk students, many of those students fall further behind as they proceed through school. For example, based on the data from the 2002-03 school year:

a. Approximately 23% of Ben Hill County Schools' students in grade 4 failed to meet minimum State standards on the Georgia CRCT in Reading (the state average failure rate was 20%). By grade 8, Ben Hill County students' failure rate increased to 30% (compared to a state average of 19%). The failure rates, and increases in failure rates, were particularly large for Black students, students with disabilities and economically disadvantaged students.

b. In Lamar County Schools, 32% of fourth grade students failed to meet minimum State standards on the Georgia CRCT in Mathematics (the average state failure rate was 26%). In the eighth grade, Lamar County's failure rate increased to 61% (the state average was 33%).

c. In Murray County Schools, 20% of fourth graders failed to meet minimum State standards in English Language Arts (the state average failure rate was 22%). In eighth grade, the failure rate increased to 32% (compared to the state average of 25%).

112. Although the Plaintiff Districts and other districts are fully committed to the academic success of their students, they lack the resources to provide all students the opportunity to achieve such success.

113. The National Assessment of Educational Progress (“NAEP”) establishes national benchmarks for measuring the proficiency levels of fourth and eighth grade students. NAEP testing results and proficiency standards are nationally recognized and accepted. Georgia students’ performance on NAEP testing reflects the fact that the NAEP standards for proficiency are considerably higher than the minimum standards established by the State of Georgia as measured by in CRCT results. For example, in 2002-03, although 80% of Georgia’s fourth graders were classified as “meeting State standards” in Reading based on CRCT results, only 27% of Georgia’s fourth-graders scored at or above a “Proficient” level on NAEP’s reading test, and 41% of Georgia’s fourth graders failed to score at even a “Basic” level of NAEP proficiency. The same pattern held true for eighth grade mathematics scores: 67% of students met State standards based on CRCT testing, but only 22% of Georgia students scored at or above NAEP’s “Proficient” level; and only 59% attained even NAEP’s “Basic” proficiency level.

114. A shockingly high number of students in Georgia, and especially in Plaintiff Districts and other districts, do not graduate from high school. The Georgia statewide high school graduation rate is only about 63%; i.e., only 63% of students entering the ninth grade receive high school diplomas within four years. In the 2001-02 school year, Georgia’s

graduation rate was the lowest in the country according to U.S. Department of Education data.

Other independent studies also rank Georgia's graduation rate at or near the bottom among all the states. Graduation rates in Georgia for Black (53%) and Hispanic (47%) students are even more dismal. The graduation rates in the Plaintiff Districts are even worse than these miserable statewide averages. Based on data for the 2002-03 school year:

a. The overall high school graduation rate in Plaintiff Ben Hill County Schools is only 54%, and only 42% for Black students.

b. The overall high school graduation rate in Plaintiff Brantley County Schools is only 59%.

c. The overall high school graduation rate in Plaintiff Elbert County Schools is only 50%, and only 33% for Black students.

d. The overall high school graduation rate in Plaintiff Lamar County Schools is only 55%, and only 46% for Black students.

e. The overall high school graduation rate in Plaintiff Murray County Schools is only 45%, and only 38% for Hispanic students.

f. The overall high school graduation rate among Consortium Districts is also well below the state average.

115. Scores on the Scholastic Assessment Test ("SAT") for students in Plaintiff Districts and other districts are distressingly low, even when compared to the extremely low statewide scores.

a. The Georgia statewide average SAT score for all students taking the SAT in 2002-03 was 980, one of the lowest average scores among all 50 states (combined math and

verbal scores). The statewide average SAT score for White students was 1033; for Black students was 856; and for Hispanic students was 941. Georgia has one of the lowest graduation rates in the nation, resulting in a large number of students never taking the SAT. Consequently, these low statewide SAT scores underestimate the magnitude of educational deficiencies among Georgia's students. The average SAT score for students in the Consortium Districts in 2001-02 (the last year for which such data have been compiled) was approximately 910, which was 65 points lower than the 2001-02 average SAT scores in the State of Georgia as a whole.

b. In Ben Hill County Schools, the average SAT score in 2002-03 was 899, including an average score of 941 for White students and 810 for Black students.

c. In Brantley County Schools, the average SAT score in 2002-03 was 892.

d. In Elbert County Schools, the average SAT score in 2002-03 was 940, including an average score of 962 for White students and 799 for Black students.

e. In Lamar County Schools, the average SAT score in 2002-03 was 885, including an average score of 927 for White students and 749 for Black students.

f. In Murray County Schools, the average SAT score in 2002-03 was 950.

g. The performance of students in Plaintiff Districts and Consortium Districts on the SAT is even poorer when viewed in the context of the extremely low graduation rates and high dropout rates in Plaintiff Districts, and the fact that a high percentage of students who drop out of high school or fail to graduate do not take the SAT.

116. The Georgia High School Graduation Test ("GHST") is not considered a rigorous test of students' mastery of essential curriculum-based knowledge and skills and was to be replaced by end-of-course examinations in the years following passage of the A+ Education

Reform Act of 2000. Despite the GHST’s relative lack of difficulty, a high percentage of students in the Plaintiff Districts and other districts fail to pass at least one portion of the Georgia High School Graduation Test.

a. On a statewide basis, the failure rates for first-time takers of the GHSGT (in 2002-03) were approximately 5% for English, 9% for Math, 19% for Social Studies, and 31% for Science.

b. The GHSGT failure rates in the Plaintiff Districts for 2002-03, when compared with the state averages, were as follows:

	<u>English</u>	<u>Math</u>	<u>Soc. Studies</u>	<u>Science</u>
Ben Hill:	15%	14%	26%	38%
Brantley	8%	10%	22%	36%
Elbert	8%	11%	34%	42%
Lamar	10%	14%	21%	40%
Murray	8%	16%	23%	38%
State of Georgia	5%	9%	19%	31%

117. The proportion of Black, Hispanic, and special education students failing the Georgia High School Graduation Tests in many of the Plaintiff Districts and Consortium Districts is disproportionately high relative to the state averages for these same groups as well as relative to the state overall averages.

118. These data on the percentage of students failing the GHSGT in Plaintiff Districts underestimate the actual failure rate on this non-rigorous test. Because of the high dropout and low graduation rates in Plaintiff Districts, many failing students never take the GHSGT.

119. Even some of the higher achieving students in the Plaintiff Districts and other districts (i.e., those students who graduate from high school and enroll in college) have not had the opportunities to be adequately prepared to succeed in college. Because of the lack of sufficient resources within the school districts, such students have limited opportunities to undertake advanced or honors course work in middle or high school. They are restricted in their opportunities to develop their intellectual talents and to take a full range and level of courses that must be available under contemporary standards of an adequate education. In addition, even if accepted into colleges or universities, many graduates of Plaintiff Districts and other districts require remedial educational services upon enrolling in college.

a. For example, among all Georgia high school graduates of 2001 who entered Georgia public colleges in 2001-02, almost one in five (19%) required remedial assistance (often referred to as “learning support”). In some Plaintiff Districts the percentages requiring learning support were substantially higher. Twenty-seven percent of the entering students from Ben Hill County Schools required learning support; 34% of Lamar County graduates, and 56% of Murray County graduates. Once again, because of the high dropout and low graduation rates in Plaintiff Districts, these data on college remediation substantially underestimate the actual academic deficiencies of students in these districts.

b. Students in Plaintiff Districts and other districts have few opportunities to pass, or even to take, honors or advance placement (“AP”) courses in high school. In 2001 - 2002, the number of AP tests passed per 1,000 full-time equivalent students (“FTE”) in all Georgia school districts was 14.0. Among Plaintiff Consortium Member Districts, only 2.7 AP tests were passed per 1,000 FTE. Among Plaintiff Districts, the numbers were even lower: Ben

Hill County - 2.1; Brantley County - 0; Elbert County - 2.7; Lamar County - 1.9; and Murray County - 2.0. The limited availability of AP and Honors courses puts the top graduates from Plaintiff Districts and other districts at a distinct disadvantage relative to other students who have had these opportunities.

120. These and other measures of student performance indicate that students in Plaintiff Districts and other districts are not obtaining the adequate education guaranteed them by Georgia's Constitution and laws and an equal opportunity to meet the State's academic standards.

HARM SUFFERED BY PLAINTIFFS

121. Georgia's school funding system denies Plaintiff Districts and Consortium Districts the resources necessary to provide an adequate education. These necessary resources include, *inter alia*, appropriate curricula, highly-qualified teachers trained in appropriate instructional techniques, appropriate-sized classes, appropriate early childhood education, summer programs, appropriate guidance and counseling, other programs and services, instructional equipment and materials, transportation and facilities necessary to provide each student in these districts the opportunity to obtain an adequate education guaranteed them by Georgia's Constitution and laws.

122. The inadequacies of Georgia's school funding system result in serious harm to students in Plaintiff Districts and Consortium Districts.

123. Georgia's school funding system fails to provide the level of funding necessary to achieve the standards and objectives set by law. The school funding system fails to ensure that

all students are equipped with the educational tools to meet State standards, thereby depriving children in Plaintiff Districts and Consortium Districts of the right to an adequate education.

124. Students in Plaintiff Districts and Consortium Districts who are unable to meet these benchmarks because of the inadequate school funding system are at grave risk of failure to become responsible citizens in our democracy and to compete on equal footing in obtaining productive employment and qualifying for and advancing through higher education.

125. Georgia's school funding system places students in Plaintiff Districts and Consortium Districts at risk of markedly lower achievement, handicapping them for acceptance by colleges and universities, making them more likely to be required to take remedial courses before entering the general college level curriculum, or forever blocking them from admission to higher education. The funding-driven contraction in vocational programs offered in the Plaintiff Districts and other districts similarly adversely impacts students' acquisition of a broad range of vocational skills and limits their long range vocational opportunities and ability to secure competitive employment. The harm caused by the failure of Georgia's school funding system is enduring and will persist for students throughout their lifetimes, injuring their ability to find productive work that will permit them to support themselves, to avoid economic dependency, and to participate productively in the economic life of Georgia and the United States.

COUNT I

FAILURE OF THE SCHOOL FUNDING SYSTEM TO PROVIDE CHILDREN WITH AN ADEQUATE EDUCATION - GA CONST. ART. VIII, § I, PARA. I.

126. Plaintiffs adopt and incorporate herein by this reference the above paragraphs 1 through 125.

127. Students in Plaintiff Districts and Consortium Districts have a fundamental constitutional right, pursuant to Art. VIII, § I, Para. I. of the Georgia Constitution, to obtain an adequate education which provides each student with a reasonable opportunity to function in society as a responsible citizen in our democracy, who can compete on an equal footing in obtaining productive employment and in qualifying for and advancing through higher education. An adequate education is beyond a "minimum" education that provides each child with an opportunity to acquire only the basic minimum skills necessary for the enjoyment of the rights of speech and of full participation in the political process.

128. Plaintiff Districts and Consortium Districts as well as their boards of education have the right and responsibility to execute their constitutional and statutory duties, to support and defend the Georgia Constitution, and to provide to each student in their school districts the adequate education guaranteed by Ga. Const. Art. VIII, § I, Para. I.

129. Student Plaintiffs have the right to receive the adequate education guaranteed by Ga. Const. Art. VIII, § I, Para. I.

130. Ga. Const. Art. VIII, § I, Para. I. has meaning independent of legislative interpretation, and grants students the right to schooling that provides them with a reasonable opportunity to function in society as adults.

131. In addition to the independent meaning found in Ga. Const. Art. VIII, § I, Para. I, the General Assembly has defined, by statute and regulation, the content of Ga. Const. Art. VIII, § I, Para. I to be the provision of a quality basic education.

132. A quality basic education is further defined pursuant to statutes and regulations which describe some of the elemental inputs necessary for a quality education and describe the expected outcomes by measures of quality academic content standards.

133. Georgia's school funding system is unconstitutional because it:

a. fails to provide resources sufficient to provide the opportunity for the adequate education guaranteed pursuant to Ga. Const. Art. VIII, § I, Para. I to each named minor child and student plaintiff and to each Plaintiff District and Consortium District student;

b. adversely affects Plaintiff Districts' and Consortium Districts' financial affairs, and prohibits their board members and officers from fulfilling their constitutional responsibilities and obligations, as delegated by the Georgia Constitution and General Assembly and as undertaken by oath by their board members and officers to provide to each student in their school districts the educational opportunity guaranteed by Ga. Const. Art. VIII, § I, Para. I;

c. causes an unconstitutional and unlawful expenditure of tax dollars;

d. violates the rights and responsibilities of Plaintiff Districts, Consortium Districts and their school board members and officers pursuant to Ga. Const. Art. VIII, § I, Para. I.

134. Defendants, by executing and/or implementing Georgia's school funding system, have:

a. violated and continue to violate each named minor child and student plaintiff's and each Plaintiff District and Consortium District student's constitutional right to an adequate education guaranteed pursuant to Ga. Const. Art. VIII, § I, Para. I and as defined by statute and regulation;

b. adversely affected and continue to affect adversely Plaintiff Districts' and Consortium Districts' financial affairs, and have prevented and continue to prevent these districts and their board members and officers from fulfilling their constitutional responsibilities and obligations to provide to each student the adequate education guaranteed by Ga. Const. Art. VIII, § I, Para. I, as defined directly by the Georgia Constitution and as defined by statute and regulation;

c. caused and are causing an unconstitutional and unlawful expenditure of tax dollars;

d. violated and continue to violate the rights and responsibilities of Plaintiff Districts, Consortium Districts and their board members and officers pursuant to Ga. Const. Art. VIII, § I, Para. I.

COUNT II

DENIAL OF EQUAL PROTECTION - GA. CONST. ART. I, § I, PARA. II

135. Plaintiffs adopt and incorporate herein by this reference the above paragraphs 1 through 134.

136. Each Plaintiff District and Consortium District student has a right to equal protection of the laws. "Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws." Ga. Const. Art. I, § I, Para. II.

137. Georgia's school funding system fails to provide each Plaintiff District and Consortium District student an equal opportunity to obtain an adequate education guaranteed by Georgia's Constitution, statutes, and regulations.

138. Because the provision of an adequate public education for the citizens is a “primary obligation of the State of Georgia,” the State has a fundamental interest in providing each Plaintiff District and Consortium District student with an equal opportunity to obtain the adequate education guaranteed by Georgia’s constitution and laws. There is no compelling or important State interest or rational basis that justifies the denial of equal opportunity to obtain the adequate education guaranteed by Georgia’s Constitution and laws.

139. Defendants have violated and are violating Ga. Const. Art. I, § I, Para. II by implementing a school funding system which fails to provide each Plaintiff District and Consortium District student an equal opportunity to obtain the adequate education guaranteed by Georgia’s Constitution, statutes, and regulations. Additionally, Defendants have adversely impacted and continue to adversely impact Plaintiff Districts’ and Consortium Districts’ financial affairs, and have prevented and continue to prevent Plaintiff Districts’ and Consortium Districts’ Board Members and Officers from fulfilling their constitutional responsibilities and obligations to their students pursuant to Ga. Const. Art. VIII, § I, Para. I.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court:

140. Declare that each named minor child and student plaintiff and each student in Plaintiff Districts and Consortium Districts has a right, pursuant to Ga. Const. Art. VIII, § I, Para. I.

a. to obtain an adequate education that provides children with a reasonable opportunity to function in society as adults, including as responsible citizens in our democracy;

b. to obtain sufficient academic or vocational skills to qualify for and successfully engage in post-secondary education or vocational training;

c. to obtain sufficient academic and vocational skills to enable the student to compete on an equal basis with others in securing productive employment.

141. Declare that the foregoing right is a fundamental right.

142. Declare Georgia's school funding system, as described in the above paragraphs 23 through 64, including O.C.G.A. §§ 20-2-160 through 20-2-170; 20-2-180 through 20-2-189; 20-2-250 through 20-2-259; 20-2-260 through 20-2-262; 20-2-322; 20-2-212 through 2-2-214; and, 20-2-216 through 20-2-220, unconstitutional, and thus void and without effect.

143. Declare that Georgia's school funding system, and Defendants, through the implementation of same, have violated and are violating the constitutional and statutory rights of the Plaintiffs.

144. Enjoin Defendants from further executing or implementing Georgia's school funding system.

145. Award Plaintiffs costs, disbursements, and reasonable attorneys' fees and expenses to the full extent permitted by law; and

146. Grant other relief to the Plaintiffs as this Court may deem just and proper.

Dated this ____ day of September, 2004.

Respectfully submitted,

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