

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

BOARD OF EDUCATION OF THE CITY OF CHICAGO; MARLON GOSA ON BEHALF OF A.G., C.G., and J.G.; LISA RUSSELL ON BEHALF OF F.R. and L.R.; WANDA TAYLOR ON BEHALF OF K.S.; VANESSA VALENTIN ON BEHALF OF E.R. and J.V.; and JUDY VAZQUEZ ON BEHALF OF K.V., J.V., and J.V.,

Plaintiffs,

v.

BRUCE RAUNER, Governor of Illinois; STATE OF ILLINOIS; ILLINOIS STATE BOARD OF EDUCATION; REV. JAMES T. MEEKS, Chair of Illinois State Board of Education; DR. TONY SMITH, Superintendent of Illinois State Board of Education; SUSANA A. MENDOZA, Comptroller of Illinois,

Defendants.

No. \_\_\_\_\_

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT,  
INJUNCTION, AND OTHER RELIEF**

Plaintiff Board of Education of the City of Chicago ("CPS") on behalf of itself and its students; Plaintiff Marlon Gosa on behalf of his children A.G., C.G., and J.G.; Plaintiff Lisa Russell on behalf of her children F.R. and L.R.; Plaintiff Wanda Taylor on behalf of her child K.S.; Plaintiff Vanessa Valentin on behalf of her children E.R. and J.V.; and Plaintiff Judy Vazquez on behalf of her children K.V., J.V., and J.V., by their attorneys, state as follows for their Complaint against Governor Bruce Rauner, the State of Illinois, the Illinois State Board of Education, Board Chair Rev. James T. Meeks, Superintendent Dr. Tony Smith, and Comptroller Susana A. Mendoza (collectively, the "State" or "Defendants"):

### NATURE OF ACTION

1. On May 17, 1954, the United States Supreme Court decided the landmark case *Brown v. Board of Education*, 347 U.S. 483 (1954). In that historic decision, the Supreme Court recognized that “education is perhaps the most important function of state and local governments.” *Id.* at 493. Acknowledging the critical relationship between race and public education, the Supreme Court revisited its own prior ruling that the Constitution of the United States permitted racially separate but equal systems of public education. The Court explained in *Brown*, “In approaching this problem, we cannot turn the clock back to 1868, when the [Fourteenth] Amendment was adopted, or even to 1896, when *Plessy v. Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation.” *Id.* at 492-93.

2. Facing the realities then present in American public education, the Supreme Court concluded that race-based barriers to an equal and adequate public education no longer could be tolerated in the United States. The Court held that “in the field of public education, the doctrine of ‘separate but equal’ has no place.” *Id.* at 495. Chief Justice Earl Warren wrote for the Court: “[I]t is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.” *Id.* at 493.

3. *Brown* was intended to end the era of Jim Crow education. Although *Brown*’s historic holding is rightly celebrated, more than 60 years later, the reality is that a child’s race continues to dictate whether she or he will receive a good education or something far short. Chicago’s predominantly African American and Hispanic children still suffer from stark educational inequalities. The State of Illinois maintains two separate and demonstrably unequal systems for funding public education in the State: one for the City of Chicago, whose public school

children are 90% children of color, and the other for the rest of the State, whose public school children are predominantly white.

4. There should be no doubt about the impact of race. Thirty-eight percent (38%) of CPS students are African American, 47% are Hispanic, and 6% are other students of color (for a total of approximately 90% children of color), and only 10% are white. In contrast, for Illinois children attending public schools other than CPS, 58% are white, only 12% are African American, 21% are Hispanic, and 9% are other students of color. Viewed another way, 42% of the State's African American public school children, 34% of the State's Hispanic public school children, but only 4% of the State's white public school children attend CPS – even though CPS has nearly 20% of all public school children across the State. Therefore, among public school students in Illinois, an African American child is approximately 11 times more likely than a white child to attend CPS, and a Hispanic child is approximately 9 times more likely than a white child to attend CPS.<sup>1</sup>

5. In Fiscal Year 2016, the State spent 74 cents to educate Chicago's children for every dollar the State spent to educate the predominantly white children outside Chicago. Combining all sources of funding from the State, in Fiscal Year 2016, the State spent \$1,604,828,661 on CPS. The State spent \$9,012,341,684 on all other school districts. CPS, therefore, received just 15% of the State's \$10,617,170,345 in education funding, despite having nearly 20% of the students, according to Fiscal Year 2016 Illinois State Board of Education ("ISBE") enrollment records.

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<sup>1</sup> CPS's fiscal year begins on July 1 and ends on June 30 of the following year. In this Complaint, Fiscal Year 2016 refers to the fiscal year beginning July 1, 2015 and ending June 30, 2016. The Complaint uses the same naming convention for the other fiscal years. References to student enrollment, demographics, and dollars per pupil in Fiscal Year 2016 use the latest Fiscal Year 2016 ISBE enrollment numbers. ISBE has not yet published numbers for CPS or the State for Fiscal Year 2017. For Fiscal Year 2017, CPS has used its own 20th day count for CPS's student enrollment and demographics, and has assumed that State enrollment and demographics for non-CPS districts remained the same as Fiscal Year 2016 enrollment, even though State enrollment for non-CPS districts has trended downward from Fiscal Year 2010 through Fiscal Year 2016.

6. Unless enjoined by this Court, the disparity will continue. In Fiscal Year 2017, the State is projected to spend \$9,571,937,253 in total on other districts, and \$1,734,345,898 in total on CPS. As a result, CPS again will receive just 15% of the State's \$11,306,283,151 in education funding, despite having nearly 20% of the students. And the State's discriminatory funding is expected to get even worse.

7. Illinois also imposes a separate and demonstrably unequal pension funding obligation on CPS. The State assumes the primary responsibility for funding pensions on behalf of every school district in Illinois -- except CPS. Illinois does not require any other school district in Illinois to make pension contributions at levels even remotely comparable to those it requires of CPS. Accordingly, only CPS must divert crucial resources from educating students to satisfying the State's pension-funding mandate. CPS must fund the Chicago Teachers' Pension Fund ("CTPF"), but CPS receives only minimal State aid.

8. By State law, CPS must divert a growing share of its already scarce education resources to meet its pension obligation. For example, in Fiscal Year 2017, Illinois's statutory funding obligation requires CPS to spend \$1,891 per student on Chicago pensions. Over the same period, non-Chicago school districts spend only \$86 per student on pensions. In Fiscal Year 2017, assuming active member salaries remain flat to CTPF-calculated salaries as of June 30, 2016, CPS's statutory funding obligation to CTPF amounts to approximately 35% of CPS's total teacher payroll. By contrast, in Fiscal Year 2017, assuming active member salaries remain flat to TRS-calculated salaries as of June 30, 2016, non-CPS school districts will contribute only 1.5% of total teacher payroll to the Teachers' Retirement System ("TRS").

9. The State's discriminatory funding has shortchanged CPS's children, in Fiscal Year 2017 alone, by almost \$500 million. As a down-payment on a promise for fair funding, on June

30, 2016, the Illinois House amended Senate Bill 2822 to include an additional State contribution of \$215 million to assist CPS to meet its required Fiscal Year 2017 teacher pension payment of \$721 million. The \$215 million pension funding for CPS would stand in stark contrast to the State's projected Fiscal Year 2017 payment to TRS of \$4.0 billion.

10. Amended Senate Bill 2822 passed both houses of the General Assembly. But on December 1, 2016, Governor Rauner vetoed the bill. Governor Rauner stated that he had agreed to support the bill only if the General Assembly agreed to his other demands on legislation having nothing to do with CPS. As a result, CPS's children – 90% children of color – are at risk of forever losing their one chance in life to receive a quality education.

11. Illinois's separate and discriminatory systems of funding public education violate the Illinois Civil Rights Act of 2003. Section 5(a)(2) provides that no unit of State, county, or local government in Illinois may utilize criteria or methods of administration that have a disparate impact on persons of a particular race, color, or national origin. 740 ILCS 23/5(a)(2); *Central Austin Neighborhood Ass'n v. City of Chicago*, 2013 IL App (1st) 123041. The State's method of administering school funding has precisely that forbidden discriminatory impact on Plaintiffs.

12. Those gross disparities have apologists, who seek to explain away the discriminatory impact on CPS. The apologists make much of the patchwork of Illinois education funding or programs such as block grants. They seek to create the false impression that it all evens out in the end. But it does not even out. "All in," apples-to-apples, total funding is not even close. The math confirms the unacceptable truth that the State's education funding discriminates against CPS's predominantly African American and Hispanic schoolchildren.

13. In September 2008, Rev. Meeks led a movement to call attention to the impact of discriminatory funding. He organized CPS's families and students from Chicago neighborhoods,

such as Woodlawn, and brought them to a privileged suburban school to dramatize the difference between the education that a child in Chicago receives and the education that a child outside of Chicago receives. Rev. Meeks asked, “How can you have a world-class city and second-class schools?”

14. The answer is that the State treats CPS’s schoolchildren, who are predominantly African American and Hispanic, as second-class children, relegated to the back of the State’s education funding school bus.

15. The situation is dire. CPS already was forced to cut its budget for Fiscal Year 2016, and then cut its budget again in mid-year, impose furlough days to conserve dollars, and borrow massive amounts of money at crushing rates of interest. For Fiscal Year 2017, CPS was forced to impose budget cuts again, on top of asking the City’s taxpayers to contribute another \$250 million in property taxes. Now that Governor Rauner has vetoed a bill to give CPS \$215 million in pension relief, CPS again will be forced to take devastating mid-year action. If the State simply provided CPS with the same level of funding per student that the State provides to the rest of Illinois, CPS would receive nearly \$500 million in additional State funding for Fiscal Year 2017. If Illinois provided CPS with the same level of education funding that the State provides to school districts across the rest of the State, CPS’s schoolchildren would not suffer the devastating impact of budget cuts.

16. It is shameful that Illinois ranks 50th among the 50 states in the share of overall education funding, as confirmed by the February 2013 ISBE Fact Sheet. But whatever amount the State chooses to spend on public education – even if woefully inadequate – the law requires that the State not allocate education spending in a manner that has a disparate impact on account of race, color, or national origin. Once the State funds education, at whatever total amount the State

chooses, the State cannot distribute those funds in a manner that has a disparate impact on children because of their race, color, or national origin. Plaintiffs ask that this Court enforce the Civil Rights Act by ordering that the statutory systems and their implementation, taken as a whole, not have a disparate impact on CPS's predominantly African American and Hispanic students.

17. Plaintiffs want to be unmistakably clear that they are not asking this Court to limit or alter the rights of the Chicago Teachers' Pension Fund or the Teachers' Retirement System. As the Illinois Supreme Court has made clear, pension obligations must be honored. *See Jones v. Mun. Empls.' Annuity & Ben. Fund of Chicago*, 2016 IL 119618; *In re Pension Reform Litig.*, 2015 IL 118585. Plaintiffs ask only that whatever statutory obligation the State imposes upon school districts to fund pensions, that statutory obligation not have a disparate impact on CPS's predominantly African American and Hispanic students.

18. Despite the gross inequality in state funding, CPS has made impressive education gains. In 2016, U.S. News and World Report heralded seven CPS high schools among the top 10 schools in Illinois. According to the National Assessment of Educational Progress ("NAEP") – the nation's academic report card – CPS students were in the top three nationally for gains in both 8th grade math and 4th grade reading on the national benchmark assessment. According to NAEP, Chicago's improvements were among the strongest in the nation. CPS's most recent average ACT score reached a record high of 18.4 for graduating seniors.

19. Those hard-fought gains did not come easily. They most certainly would not have happened if CPS had not added education days to its school calendar. But to balance its budget as required by State law and to comply with the State's statutory pension-funding mandates, CPS must furlough its teachers and staff, freeze half of non-personnel spending, and eliminate essential professional development for teachers. In fact, those measures address only a portion of the most

recent \$215 million gap. Unless CPS can obtain its fair share of State funding, additional cuts must follow. And those cuts will be even more painful.

20. Like the United States Supreme Court in 1954, this Court must squarely confront the reality of race and public education in Illinois as it exists now. Plaintiffs ask this Court to enforce the Civil Rights Act and to place its full weight against the State's separate and unequal systems of funding public education.

### **PARTIES**

21. Plaintiff Board of Education of the City of Chicago is a body politic and corporate organized and existing under the laws of the State of Illinois. The Board operates, manages, and controls the public school district for the City of Chicago (City of Chicago School District 299), commonly known as the Chicago Public Schools. 105 ILCS 5/34-1 *et seq.* CPS provides education services to approximately 381,000 children at approximately 650 schools throughout the city and is the third-largest public school system in the United States.

22. Plaintiff Marlon Gosa is the father of A.G., C.G., and J.G., children who identify as African American and are enrolled as students in CPS. A.G. is in 8th grade, and C.G. and J.G. are in 6th grade.

23. Plaintiff Lisa Russell is the mother of F.R. and L.R., children who identify as African American and who are enrolled as students in CPS. F.R. and L.R. are in 7th grade.

24. Plaintiff Wanda Taylor is the mother of K.S., a child who identifies as African American and who is enrolled as a student in CPS. K.S. is in 9th grade.

25. Plaintiff Vanessa Valentin is the mother of E.R. and J.V., children who identify as Hispanic and who are enrolled as students in CPS. E.R. is in 10th grade and J.V. is in 7th grade.



26. Plaintiff Judy Vazquez is the mother of K.V., J.V., and J.V., children who identify as Hispanic and who are enrolled as students in CPS. K.V. is in 11th grade; J.V. is in 9th grade; and J.V. is in 7th grade.

27. Defendant Bruce Rauner is the Governor of the State of Illinois. The Governor is the unit of government responsible for the executive function of Illinois.

28. Defendant the State of Illinois is the unit of government primarily responsible for financing education and for allocating funds to school districts, including CPS.

29. Defendant Illinois State Board of Education is the unit of government responsible for overseeing, administering, and disbursing funds appropriated for public education in Illinois.

30. Defendant Rev. James T. Meeks is the Chair of the Illinois State Board of Education, the unit of government responsible for overseeing, administering, and disbursing funds appropriated for public education in Illinois.

31. Defendant Dr. Tony Smith is the Illinois State Superintendent of Schools who serves as the State's Chief Constitutional Education Officer. As chief executive officer of ISBE, Dr. Smith oversees and administers the distribution and disbursal of state funds appropriated for education. 105 ILCS 5/1A-4.

32. Defendant Susana A. Mendoza is the Comptroller of the State of Illinois. The Comptroller is the unit of government responsible for maintaining the State's fiscal accounts and ordering payments into and out of State funds.

#### **JURISDICTION AND VENUE**

33. This action arises under the Illinois Civil Rights Act of 2003, 740 ILCS 23/1 *et seq.* Jurisdiction and venue are proper under 735 ILCS 5/1-108, 740 ILCS 23/5(b), and 735 ILCS 5/2-209. Defendants' wrongful conduct occurred in Cook County, among other places in Illinois.

### **FACTUAL ALLEGATIONS**

34. Using the most recent Fiscal Year 2016 numbers available from ISBE for both CPS and the State, nearly 20% of Illinois students attend CPS. ISBE has not released Fiscal Year 2017 statewide enrollment, although the statewide enrollment numbers have been trending down. Using CPS's actual Fiscal Year 2017 enrollment as of the 20th school day and assuming (conservatively) that ISBE's Fiscal Year 2017 enrollment data for all other school districts is the same as Fiscal Year 2016, nearly 20% of Illinois students attend CPS in Fiscal Year 2017.

35. Approximately 90% of CPS students are children of color, including the children of Marlon Gosa, Lisa Russell, Wanda Taylor, Vanessa Valentin, and Judy Vazquez. Thirty-eight percent (38%) of CPS students are African American, 47% are Hispanic, and 6% are other students of color (for a total of approximately 90% children of color), and only 10% are white. In contrast, for Illinois children attending public schools other than CPS, 58% are white, only 12% are African American, 21% are Hispanic, and 9% are other students of color. Viewed another way, 42% of the State's African American public school children, 34% of the State's Hispanic public school children, but only 4% of the State's white public school children attend CPS – even though CPS has nearly 20% of all public school children across the State. Therefore, among public school students in Illinois, an African American child is approximately 11 times more likely than a white child to attend CPS, and a Hispanic child is approximately 9 times more likely than a white child to attend CPS.

### **Disparate State Funding**

36. Combining all major sources of funding from the State, in Fiscal Year 2017 CPS expects to receive \$1,734,345,898 from the State. The State funding sources and amounts are set forth below:

*Projected Major Sources of State Funding for CPS in Fiscal Year 2017*

General State Aid	\$1,073,719,699
Bilingual Education	\$21,360,269
Illinois Free Lunch/Breakfast	\$4,563,000
Regional Offices of Education - School Services	\$1,038,530
Special Education - Funding for Children Requiring Services	\$88,718,300
Special Education - Orphanage Tuition	\$34,010,000
Special Education - Personnel Reimbursement	\$84,498,400
Special Education - Private Tuition	\$112,772,000
Special Education - Summer School	\$6,364,800
Special Education - Transportation	\$138,303,500
Transportation - Regular/Vocational	\$8,026,500
Agricultural Education	\$19,800
Early Childhood Education	\$145,683,100
Truant Alternative and Optional Education	\$3,082,000
State Contribution for Pensions to CTPF	\$12,186,000
<b>Total</b>	<b>\$1,734,345,898</b>

37. Combining all major sources of funding from the State, in Fiscal Year 2017 all other school districts in Illinois are expected to receive \$9,571,937,253 from the State. The State funding sources and amounts are set forth below:

*Projected Major Sources of State Funding for Non-CPS Districts in Fiscal Year 2017*

General State Aid	\$4,004,866,201
Bilingual Education	\$42,320,931
Illinois Free Lunch/Breakfast	\$4,437,000
Regional Offices of Education - School Services	\$5,931,470
Special Education - Funding for Children Requiring Services	\$215,111,400
Special Education - Orphanage Tuition	\$60,990,000
Special Education - Personnel Reimbursement	\$357,901,600
Special Education - Private Tuition	\$120,228,000
Special Education - Summer School	\$5,335,200
Special Education - Transportation	\$312,196,500
Transportation - Regular/Vocational	\$197,782,400
Agricultural Education	\$1,780,200
Early Childhood Education	\$248,055,000
Truant Alternative and Optional Education	\$8,418,000
State Contribution for Pensions to TRS	\$3,986,583,351
<b>Total</b>	<b>\$9,571,937,253</b>

38. Accordingly, CPS receives just 15% of the State's education funding, despite having nearly 20% of the students.

39. CPS's predominantly African American and Hispanic students currently receive from the State just 78 cents for every dollar that the predominantly white students in the rest of the State receive.

**Disparate Pension-Funding Obligations**

40. Compared to all other school districts in Illinois, CPS must divert far more of its budget from educating students to funding pensions.

41. Pursuant to state law, teachers outside of Chicago participate in the Teachers' Retirement System ("TRS"). 40 ILCS 5/16-101, 16-123. Chicago teachers, however, participate

in the Chicago Teachers' Pension Fund. 40 ILCS 5/17-101, 17-106. CTPF and TRS provide similar benefits, but, by State statute, they are funded differently.

42. The State assumes the ultimate responsibility for funding TRS. By contrast, the State imposes on CPS the ultimate responsibility for ensuring that CTPF is adequately funded. 40 ILCS 5/17-129. Regardless of what contribution the State makes to CTPF, CPS must make up the difference to ensure a State-mandated level of funding. 40 ILCS 5/17-129. The present mandate, established in 2010, requires CPS to make annual contributions sufficient for CTPF to be 90% funded by 2059 and to remain at that level of funding thereafter. 40 ILCS 5/17-129(b)(iv)-(v).

43. From Fiscal Year 2011 through Fiscal Year 2014, the State has generally contributed approximately only one-half of one percent of CPS's teacher payroll to CTPF. That meagre contribution serves only to offset (in part) a 1998 State-imposed increase in retirement benefits. 40 ILCS 5/17-127(b). CPS is required to make up the rest of the required annual contributions. The State's failure to provide significant funding for CTPF – coupled with the State mandate that CPS make up the difference – has the effect of requiring CPS to contribute many hundreds of millions of dollars to CTPF every year. Meanwhile, the State's contribution to TRS has grown from approximately 25% of downstate and suburban teacher payroll in Fiscal Year 2011, to a TRS actuarially-projected contribution of 42% of teacher payroll by Fiscal Year 2017, based on salaries for active TRS members as of June 30, 2016.

44. To comply with the funding obligation imposed by statute, CPS contributed \$601 million to CTPF in Fiscal Year 2014 and \$634 million in Fiscal Year 2015. Those contributions represent 11% of CPS's entire operating budget. For Fiscal Year 2016, to comply with the funding obligation imposed by statute, CPS contributed \$676 million to CTPF. That statutory funding obligation consumed 12% of CPS's operating budget. In Fiscal Year 2017, the State requires CPS

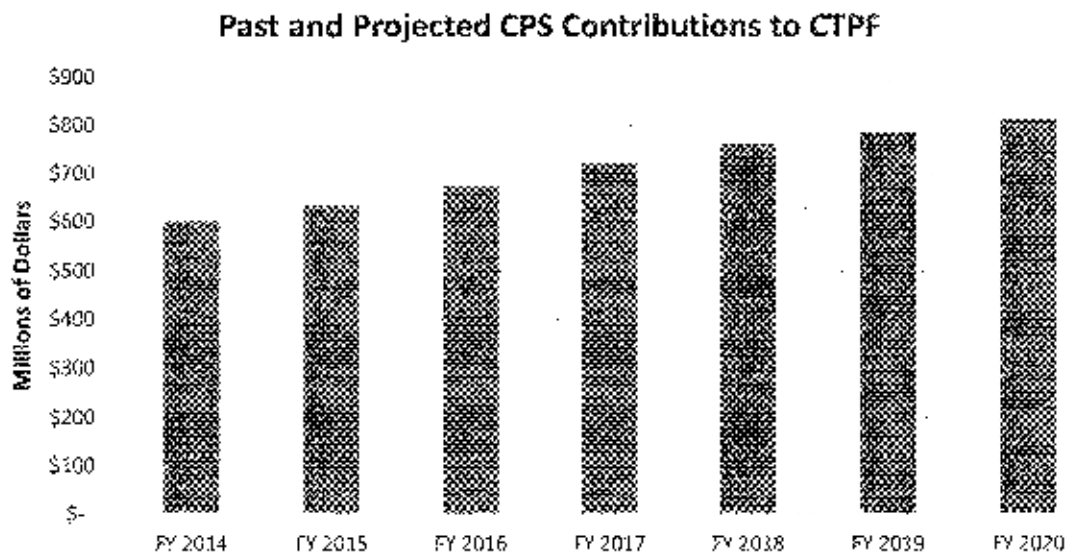
to contribute \$721 million to CTPF, which is consuming 13% of CPS's operating budget. The State does not require any other school district to make pension contributions remotely comparable to those that State law demands of CPS.

45. In Fiscal Year 2017, assuming active member salaries remain flat to CTPF-calculated salaries as of June 30, 2016, CPS's statutory funding obligation to CTPF amounts to approximately 35% of CPS's total teacher payroll. By contrast, in Fiscal Year 2017, assuming active member salaries remain flat to TRS-calculated salaries as of June 30, 2016, non-CPS school districts will contribute only 1.5% of total teacher payroll to the Teachers' Retirement System.

46. For Fiscal Year 2017, CPS anticipates that it will spend \$1,891 per student on CTPF pensions, while the State will have contributed only \$32 per student to CTPF. Over the same period, CPS estimates that other school districts are spending only \$86 per student on TRS pensions, and the State is spending \$2,437 per student on their behalf. Furthermore, the State's annual contribution for CTPF pensions is expected to grow by only 5% (\$0.7 million) from Fiscal Year 2017 to Fiscal Year 2021, while the State's annual contribution for TRS pensions is expected to grow over that same time period by 27% – or \$1.1 billion.

47. Those disparate funding obligations leave CPS with far fewer resources than other schools to educate its students, despite the greater costs of educating students living in poverty. In Fiscal Year 2015, taking account of both State and local revenue and factoring out both state and local pension contributions, CPS was left with \$9,779 to spend per student, whereas the average non-CPS district was left with \$12,174 to spend per student. Although data for Fiscal Year 2016 and Fiscal Year 2017 is not yet available from ISBE, the disparity will grow with CPS's mounting pension-funding obligation.

48. The impact of Illinois's discriminatory funding obligations, already disastrous, will become even worse with time. The following chart reflects the CPS actuarial advisor's projections of CPS's future contributions to CTPF. As the chart shows, CPS's pension-funding obligation will grow by many millions of dollars each year, forcing CPS to redirect more of its scarce resources from education to pension-funding, and crippling CPS's ability to perform its core mission of educating Chicago's children. In Fiscal Year 2017, CPS is statutorily obligated to contribute \$721 million. By Fiscal Year 2020, that figure is expected to rise to an estimated \$811 million. This State-imposed obligation has increased as a percent of CPS's annual budget from 11% in Fiscal Year 2014 to 13% in Fiscal Year 2017, and is projected to continue to grow.



#### **The Toll on Public Education in Chicago**

49. The State's discriminatory funding system severely injures CPS and its students, including the children of Marlon Gosa, Lisa Russell, Wanda Taylor, Vanessa Valentin, and Judy Vazquez. For Plaintiffs and the other CPS students, approximately 90% of whom are children of color, the State's discriminatory funding has devastating effects. CPS's students do not have a second chance to receive a quality education.

50. The State's discriminatory funding has created a cash flow and budget crisis for CPS. The State's discriminatory funding has forced CPS to deplete its cash reserves to make pension payments that Illinois requires, by statute, CPS – and only CPS – to fund. At the end of Fiscal Year 2013, CPS had a positive general operating fund balance of \$949 million. By the end of Fiscal Year 2016, CPS had depleted all of that reserve and ended with a negative general operating fund balance of \$127 million. In other words, CPS's general operating fund balance has declined by \$1.1 billion in just three years. Over that same time period, CPS made required pension payments totaling \$1.9 billion. In that same three years, the State's discriminatory funding has shortchanged CPS by \$1.1 billion.

51. To address the cash flow crisis, CPS has relied upon a combination of new tax revenues, maximized to the extent allowable under state law, and massive borrowings through the capital markets. In Fiscal Year 2016, CPS borrowed \$1.1 billion to fund its operating budget. In Fiscal Year 2017, CPS planned to rely upon a combination of new tax revenue from the State, new tax revenue from the City of Chicago, and additional massive borrowings in the capital markets. CPS planned for those additional operating funds to permit CPS to meet its cash flow requirements and to balance its budget. Even before Governor Rauner vetoed a bill providing an additional \$215 million funding contribution to CPS, CPS was working on aggressive cost-cutting measures to reduce Fiscal Year 2017 spending by approximately \$300 million, and CPS was working on additional borrowings in the capital markets to support cash flow. These borrowings, aggressive cost-cutting measures, and tax revenues are critical to CPS's ability to meet its cash flow requirements, including the payment CPS must make to CTPF by June 30, 2017 to meet a pension funding obligation of \$721 million.



52. Governor Rauner's veto has created a gap CPS cannot fill through additional borrowings. The State's discriminatory funding has forced CPS to slash the amounts that CPS can devote to educating students. CPS's budgets for the past two fiscal years show the devastating toll.

53. For Fiscal Year 2016, CPS adopted a balanced budget assuming that the State would provide a \$480 million increase toward equitable funding of CPS's pension obligation, consistent with the Legislature's stated "goal and intention," 40 ILCS 5/17-127(b). When the State made no such contribution, CPS imposed midyear reductions that cut spending by \$173 million annually. Those reductions included a \$120 million cut to the school-based budgets from which principals fund their schools. The reductions also included the elimination of 433 administrative and central office positions, which cut \$45 million in spending. In addition, in March 2016, CPS imposed three furlough days to save approximately \$30 million in cash.

54. Those cuts, however, pale in comparison to the budget crisis that CPS has experienced in Fiscal Year 2017. Through cuts, efficiencies, and an increase in City taxes, CPS managed to pass a balanced budget in spite of facing a \$1.1 billion operating deficit at the start of the fiscal year. The Fiscal Year 2017 budget included \$215 million from the State in the form of pension relief, based on Senate Bill 2822 passing both chambers of the General Assembly with overwhelming bipartisan support. However, on December 1, 2016, Governor Rauner's veto threw CPS into another mid-year financial crisis. Now, to close the \$215 million gap, CPS must make additional cuts to balance its budget as required by State statute. 105 ILCS 5/34-43.

55. On February 6, 2017, CPS announced proposed amendments to its Fiscal Year 2017 budget to begin to address the \$215 million gap. Those additional budget cuts produce real and

irreparable harm to CPS's students. Chicago's children lose these educational opportunities forever. There is no make-up:

- ***Four fewer days for principals and teachers to perform critical work.*** CPS's calendar included 4 Teacher Institute Days and 3 School Improvement Days. Those days provide critical time for principals and teachers to accomplish professional tasks. Because of their importance, JSBF includes both Teacher Institute Days and School Improvement Days in calculating "Student Attendance Days," even though students are not physically present. CPS has cut one Teacher Institute Day, 2 School Improvement Days, and one professional development day.
- ***Reduced course offerings.*** Sixty-two percent (62%) of CPS students enroll in college within 12 months of graduating and need access to courses that will prepare them for the rigor of college work. Students who intend to work need vocational courses, such as wood shop and automobile mechanics, to help make them employable. College preparation courses and vocational courses are likely to be cut. A principal can attempt to save some of those courses, but saving all of them will require even deeper cuts in other critical areas.
- ***Lack of access to education technology.*** Technology is increasingly important to be employable. Yet for many CPS students, there are no computers or tablets in the home. More than 80% of CPS students come from low-income families. Budget cuts threaten CPS's ability to provide its students access to the technology they should have to prepare them for college and 21st century jobs.
- ***Fewer resources for separate English learner classrooms.*** CPS has over 65,000 students, or 17% of student enrollment, for whom English is not spoken in the home

(“English learners” or “EL students”). At schools with a large EL student population, CPS often teaches English learners in separate, bilingual classrooms. Those classrooms help ensure that students learn their coursework in their native language while also learning English. CPS is fully committed to honoring all of its statutory obligations with respect to English learners, but there is an obvious danger that statutory minimum requirements will become all that schools can provide.

- ***Inadequate resources for social and emotional learning.*** Many CPS students come from difficult or unstable home and family environments. For many of those children, social and emotional learning (“SEL”) is a necessary component of academic learning. Support staff—including deans, assistant principals, counselors, social workers, and security officers, among others – play an essential role in ensuring that schools can function by helping students handle personal and home-life issues. SEL programs help students learn how to manage their emotions, set positive goals, and maintain positive relationships so that they can focus on learning. Budget cuts also threaten those essential programs.
- ***Increased exclusionary discipline and youth imprisonment.*** CPS has made substantial progress reducing the number of its students referred to the criminal justice system or subjected to exclusionary discipline. For example, in February 2016, CPS announced that out-of-school suspensions have declined 65% from Fiscal Year 2013 to 2015, expulsions have declined 57%, and police notifications have declined 19%. CPS has achieved those gains by devoting considerable staff resources to restorative disciplinary practices that help students understand the consequences of their actions, remediate their behavior, and return to the classroom

so that they can learn.’ Those disciplinary methods, however, are time-intensive. Reductions in support staff threaten the continuation of those successful restorative programs.

- ***Reduced access to college.*** College enrollment rates for CPS graduates have increased steadily in recent years. CPS students also have made immense strides in accessing the financial resources necessary for them to attend and succeed in college. The most recent CPS graduating class, the Class of 2016, received a total of \$1.1 billion in scholarship offers, a substantial increase over the previous year’s \$950 million in scholarship offers. And for seven of the past eight years, CPS has led the nation in the number of Gates Millennium Scholarships – competitive and prestigious need-based college scholarships – awarded to its students. To achieve those successes, CPS students depend on support staff to help them navigate the college application and scholarship process. Many students do not come from families with college graduates and are unable to afford college without grants or scholarships. Budget cuts are likely to require the elimination of staff positions that support the college application and financial aid process.

Those devastating budget cuts – awful as they are – represent only a first step. The February 6, 2017 proposed budget cuts do not fill the \$215 million gap. Unless the State provides additional funding to CPS, more Fiscal Year 2017 budget cuts must follow. Those budget cuts will come at the direct expense of CPS’s students.

56. Unless preliminarily and permanently enjoined, the State’s discriminatory funding of CPS will devastate CPS’s capacity to educate Chicago’s predominantly African American and Hispanic children.

**COUNT I**  
**DISPARATE FUNDING**  
**VIOLATION OF THE ILLINOIS CIVIL RIGHTS ACT OF 2003**

57. Plaintiffs incorporate the allegations set forth in Paragraphs 1 through 56 as if fully set forth herein.

58. Under the Illinois Civil Rights Act, the State may not “utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, [or] national origin . . . .” 740 ILCS 23/5(a)(2). The statute establishes a rule that the State must advance a weighty justification for a policy if its burdens fall disproportionately on members of particular racial groups, including because of patterns of residential segregation. See *Central Austin Neighborhood Ass’n v. City of Chicago*, 2013 IL App (1st) 123041 (access to emergency services).

59. As set forth in Paragraph 35, 38% of CPS students are African American, 47% are Hispanic, and 6% are other students of color (for a total of approximately 90% children of color), and only 10% are white. In contrast, for Illinois children attending public schools other than CPS, 58% are white, only 12% are African American, 21% are Hispanic, and 9% are other students of color. Viewed another way, 42% of the State’s African American public school children, 34% of the State’s Hispanic public school children, but only 4% of the State’s white public school children attend CPS – even though CPS has nearly 20% of all public school children across the State. Therefore, among public school students in Illinois, an African American child is approximately 11 times more likely than a white child to attend CPS, and a Hispanic child is approximately 9 times more likely than a white child to attend CPS.

60. As set forth in Paragraphs 5 and 39, CPS’s predominantly African American and Hispanic students currently receive from the State just 78 cents for every dollar that the

predominantly white students in the rest of the State receive. Indeed, CPS receives just 15% of the State's education funding, despite having nearly 20% of the students.

61. The State's discriminatory funding for public education has a disparate impact on CPS and its students, including the children of Marlon Gosa, Lisa Russell, Wanda Taylor, Vanessa Valentin, and Judy Vazquez.

62. Defendants cannot show that Illinois's separate and discriminatory systems of funding for education, as described in Paragraphs 36 through 39, bear a manifest relationship to any legitimate, non-discriminatory policy objective of the State or are necessary to the attainment of any legitimate policy objective. Nor can Defendants show the absence of any alternative for accomplishing the State's objectives that would avoid such severe disparate impacts on account of race, color, or national origin.

63. The State's wrongful conduct is causing and will continue to cause irreparable harm to CPS and its students, including the children of Marlon Gosa, Lisa Russell, Wanda Taylor, Vanessa Valentin, and Judy Vazquez.

## **COUNT II**

### **DISPARATE PENSION-FUNDING REQUIREMENTS VIOLATION OF THE CIVIL RIGHTS ACT OF 2003**

64. Plaintiffs incorporate the allegations set forth in Paragraphs 1 through 63 as if fully set forth herein.

65. By failing to fund CTPF equitably relative to TRS, and by imposing a unique mandate on CPS to make up the difference, the State requires CPS to make pension contributions that vastly exceed those of any other school district.

66. Accordingly, even setting aside the funding disparity challenged in Count I, the disparate pension-funding obligations imposed by the State severely undercut CPS's ability to

educate CPS students. As set forth in paragraph 47, CPS was left with \$9,779 per student in state and local funding in Fiscal Year 2015 after state and local pension contributions. The average non-CPS district was left with \$12,174 per student.

67. As set forth in paragraph 35, 38% of CPS students are African American, 47% are Hispanic, and 6% are other students of color (for a total of approximately 90% children of color), and only 10% are white. In contrast, for Illinois children attending public schools other than CPS, 58% are white, only 12% are African American, 21% are Hispanic, and 9% are other students of color. Viewed another way, 42% of the State's African American public school children, 34% of the State's Hispanic public school children, but only 4% of the State's white public school children attend CPS -- even though CPS has nearly 20% of all public school children across the State. Therefore, among public school students in Illinois, an African American child is approximately 11 times more likely than a white child to attend CPS, and a Hispanic child is approximately 9 times more likely than a white child to attend CPS.

68. Illinois's separate statutory funding schemes impose discriminatory obligations on CPS and require CPS -- and only CPS -- to divert massive amounts of money from education to pensions.

69. As set forth in Paragraphs 40 through 48, the State's discriminatory funding obligation, imposed only on CPS, has had disastrous impacts. CPS's mandatory contributions to CTPF -- amounting to \$721 million in Fiscal Year 2017 alone -- necessarily come at the expense of CPS's core function of educating students, including the children of Marlon Gosa, Lisa Russell, Wanda Taylor, Vanessa Valentin, and Judy Vazquez. Consequently, CPS has been forced to make extraordinary budget cuts in response to the unique pension-funding demands imposed by the

State. In the absence of judicial relief, CPS will have no choice but to make more drastic cuts and further compromise its ability to educate CPS students in the years ahead.

70. The State's discriminatory practices with respect to pension funding, set forth in Paragraphs 40 through 48, have a disparate impact on CPS and its students, including the children of Marlon Gosa, Lisa Russell, Wanda Taylor, Vanessa Valentin, and Judy Vazquez.

71. Defendants cannot show that Illinois's discriminatory pension-funding practices, as described in Paragraphs 40 through 48, bear a manifest relationship to any legitimate, non-discriminatory policy objective of the State or are necessary to the attainment of any legitimate policy objective. Nor can Defendants show the absence of any other alternative for accomplishing the State's objectives that would avoid such severe disparate impacts on account of race, color, or national origin.

72. The State's wrongful conduct is causing and will continue to cause irreparable harm to CPS and its students, including the children of Marlon Gosa, Lisa Russell, Wanda Taylor, Vanessa Valentin, and Judy Vazquez.

#### **PRAYER FOR RELIEF**

Plaintiffs respectfully request that the Court grant the following relief:

- A. Declare unlawful the State's separate and unequal systems of funding for public education in Illinois -- one for Chicago and one for the rest of the Illinois -- as violating the Illinois Civil Rights Act;
- B. Preliminarily and permanently enjoin Defendants from distributing State funds to any person or entity within the State in a manner that discriminates against Plaintiffs;

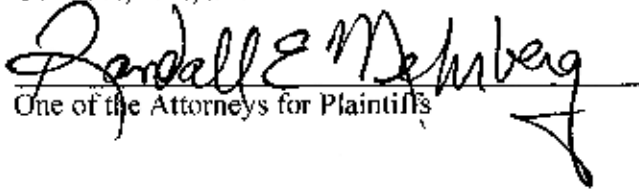


- C. Declare unlawful the State's separate and unequal pension funding obligations – one for CPS and one for the rest of the State – as violating the Illinois Civil Rights Act;
- D. Preliminarily and permanently enjoin Defendants from imposing on CPS a pension-funding obligation that discriminates against Plaintiffs;
- E. Award Plaintiffs their costs and reasonable attorneys' fees and expenses incurred in connection with bringing this action; and
- F. Grant Plaintiffs such other relief as the Court deems just and equitable.

Respectfully submitted,

**PLAINTIFFS BOARD OF EDUCATION OF  
THE CITY OF CHICAGO; MARLON GOSA  
ON BEHALF OF A.G., C.G., and J.G.; LISA  
RUSSELL ON BEHALF OF F.R. and L.R.;  
WANDA TAYLOR ON BEHALF OF K.S.;  
VANESSA VALENTIN ON BEHALF OF E.R.  
and J.V.; and JUDY VAZQUEZ ON BEHALF  
OF K.V., J.V., and J.V.**

By:

  
One of the Attorneys for Plaintiffs

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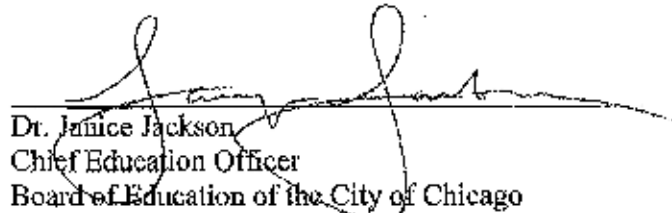
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**VERIFICATION**


Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the educational statements set forth in this instrument are true and correct, and the demographic and financial statements set forth in this instrument are based on information and belief, and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.



Dr. Janice Jackson  
Chief Education Officer  
Board of Education of the City of Chicago

**VERIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the demographic and financial statements set forth in this instrument are true and correct, and the educational statements set forth in this instrument are based on information and belief, and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

  
Jennie Huang Bennett  
Chief Financial Officer  
Board of Education of the City of Chicago