



## E-Notice

2017-CH-02157

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

BD EDUCATION CITY CHICAGO v. RAUNER      BRUCE  
2017-CH-02157

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**MEMORANDUM OF LAW FILED (Defendants' Memorandum in Opposition to Plaintiffs' Motion for  
Mandatory Preliminary Injunction)  
EXHIBITS (Exhibit 1 (Wolfe Affidavit))**

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Total Pages: 42

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

BOARD OF EDUCATION OF THE	)	
CITY OF CHICAGO, <i>et al.</i>	)	
	)	Case No. 17-CH-02157
Plaintiffs,	)	
v.	)	Hon. Franklin U. Valderrama
	)	
BRUCE RAUNER, <i>et al.</i>	)	
	)	
Defendants.	)	

**DEFENDANTS' MEMORANDUM IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR MANDATORY PRELIMINARY INJUNCTION**

Defendants Bruce Rauner, Governor of Illinois, State of Illinois, Illinois State Board of Education, Rev. James T. Meeks, as Chair of the Illinois State Board of Education, Dr. Tony Smith, as Superintendent of the Illinois State Board of Education, and Susana A. Mendoza, Comptroller of Illinois, by and through their counsel, the Office of the Illinois Attorney General, submit this memorandum in opposition to Plaintiffs' motion for a mandatory preliminary injunction.

**INTRODUCTION**

Plaintiffs invoke the holding of *Brown v. Board of Education* to suggest the State of Illinois is discriminating against students in the Chicago Public School ("CPS") school district based on race. While Defendants understand Plaintiffs' invocation of *Brown* as a rhetorical device, the allegations in the Complaint simply do not bear out the citation. The State is not shortchanging CPS with regard to education funding. And CPS and State pension funding obligations have been separate for a very long time. CPS's immediate fiscal problems originated years ago because of decisions made by prior CPS administrations.

Plaintiffs' motion seeks the extraordinary remedy of a mandatory injunction compelling the State to pass new legislation appropriating additional pension funds for CPS, and in doing so seeks to compel a judicial override of Governor Rauner's December 1, 2016 veto of Amended Senate Bill 2822, which included a \$215 million payment to CPS to be used for the Chicago Teachers' Pension Fund ("CTPF"). As set forth below, while Plaintiffs seek to drastically shift the status quo that has been in place well before *Brown*, their request for mandatory injunctive relief fails because they cannot demonstrate an extreme urgency, irreparable harm, or a likelihood of success on the merits. Moreover, the balance of harms regarding the relief sought weighs heavily in favor of the 80% of students of the State who attend schools outside the CPS school district. In short, Plaintiffs' Motion for Injunctive Relief should be denied.

#### **STATEMENT OF FACTS**

**1. Plaintiffs Seek a Mandatory Preliminary Injunction Requiring the Legislature to Pass New Legislation Regarding CTPF Funding, or Requiring Governor Rauner to Approve \$215 Million in Funding for CPS.**

**a. Plaintiffs Do Not Seek Injunctive Relief Regarding the Illinois Education Funding Statutes**

Plaintiffs contend that their request for mandatory injunctive relief relates to "unequal systems for public education." Pls.' Br. at 2. But nowhere do Plaintiffs ever plead, or even suggest, that the Illinois education funding statute itself, 105 ILCS 5/18-8.05, violates the ICRA. That legal theory has already been brought against the State by Plaintiffs' same counsel and dismissed in *Chicago Urban League, et al. v. Illinois State Board of Education, et al.*, Case No. 08-CH-30490, 2009 WL 1632604 (Cir. Ct. Ill. Apr. 15, 2009) (dismissing Constitutional claims against State and State actors with regard to educational funding). Plaintiffs clearly understood the futility of such a claim, and therefore, did not bring it here.

Nonetheless, in an attempt to overstate their claim, Plaintiffs provide charts in their Complaint purportedly showing how CPS students receive less “educational funding” than all other students in Illinois. Complaint at ¶¶ 36, 37. Plaintiffs’ charts, however, are not a representation of the statutory State education funding that ISBE distributes. Rather, Plaintiffs’ charts combine yearly State education funding – comprised of General State Aid and additional mandated categorical education spending – with an additional, new line item -- pension funding. As Plaintiffs acknowledge, ISBE “is the unit of government responsible for overseeing, administering and disbursing funds appropriated for public education in Illinois.” Complaint ¶ 29. ISBE, however, does not oversee, administer or disburse pension funds for either the CTPF or the Teachers Retirement System (“TRS”), which is the pension fund for non-CPS teachers in the State. Affidavit of Robert L. Wolfe, ISBE CFO, attached as Exhibit 1, at ¶ 4; 105 ILCS 5/18-7 (State contributions to CTPF “appropriated directly to the Fund” since 1999 and State contributions to TRS “appropriated directly to the System” since 1996). No pension funds flow through ISBE. *Id.* at ¶¶ 20,21; 105 ILCS 5/18-7. Accordingly, ISBE does not incorporate pension funding into any chart relating to Illinois State public school funding. *Id.* at ¶ 5.

When pension funding is removed from Plaintiffs’ charts, the true numbers emerge relating to educational funding for CPS students and students in the rest of the State. The primary source of Illinois state education funding is General State Aid (“GSA”), which represents roughly two-thirds of state funds for elementary and secondary education in Illinois. *Id.* at ¶ 10. GSA includes two components: (a) an equalization formula grant, which ensures that the combination of state and local funding meets a minimum foundation level; and (b) the supplemental low income grant, which is based on the proportion of low income students in a

district. *Id.* Illinois school districts also receive funding from numerous local, state, and federal grant sources. *Id.*

In addition to GSA, CPS receives certain “block grants” with regard to mandated categorical education funds pursuant to Illinois statutes, including but not limited to funds for Special Education services, Transportation, Early Childhood Education, Regional Offices and School Services, Illinois Free Lunch/ Breakfast, and Truant Alternative and Optional Education. *Id.* at ¶ 16. The specific mandated categorical education funds which make up the block grants are set forth as Exhibit C to Mr. Wolfe’s affidavit.

The block grants were first introduced in 1995 and were based on the static percentage of annual appropriations of mandated categorical funds received by CPS students in that year. *Id.* at ¶ 17. So, starting in 1996, and continuing today, as part of the block grant, CPS students receive, each year, the same percentage of annual appropriations of mandated categorical funds. See *Id.* at ¶ 17, Exhibit C (column “Block %”).

In Fiscal 2015, CPS received more than \$255 million through the block grants than it would have if it filed claims and received funding like other school districts in the rest of the State. *Id.* at ¶ 18; Exhibit C. In Fiscal 2016, CPS received more than \$252 million through the block grants than it would have if it filed claims and received funding as all other school districts in the rest of the State. *Id.* at ¶ 19; Exhibit C.

ISBE’s Chief Financial Officer, Robert Wolfe, compiled a list of all educational funding sources, including GSA and block grants, which ISBE distributed for the Fiscal Years 2015 and 2016. *Id.* at ¶¶ 21-22, 24-25, Exhibits D, E. For Fiscal Year 2015, the State provided an average of \$4550 per pupil for CPS students, but only \$3048 per pupil for Illinois students outside of CPS. On average, therefore, CPS students received \$1.49 in educational funding per pupil

compared to \$1.00 dollar for students in the State of Illinois outside of CPS. *Id.* at ¶ 22. Put another way, in Fiscal Year 2015, CPS had 19% of the State’s students but received 24% of the State’s educational funding. *Id.* at ¶ 23. Similarly, for Fiscal Year 2016, on average, CPS students received \$1.25 in educational funding per pupil compared to \$1.00 dollar for students in the State of Illinois outside of CPS. *Id.* at ¶ 26. Put another way, in Fiscal Year 2016, CPS had 19% of the State’s students but received 23% of the State’s educational funding. *Id.* at ¶ 27.

Plaintiffs’ blanket claim of a disparate impact to CPS students due to “education funding” is not based on the true education funding sources required by any Illinois education statute, but rather upon a made up calculation that incorrectly includes pension funding as part of statutory education funding. What is left is clear: Plaintiffs’ claim relates solely to pension funding.

**b. Plaintiffs Do Not Seek Injunctive Relief Regarding the Long-Standing Historical Funding Differences Between the CTPF and the TRS Pension Systems**

**1. History of CTPF and TRS**

The CTPF was established in 1895 by state statute as a self-funded pension system. 40 ILCS 5/17. To fund pension contributions into CTPF, the City of Chicago put in place a property tax levy.<sup>1</sup> *Chicago Teachers’ Pension Fund, Legislation Fact Sheet:* [http://ctpf.org/general\\_info/advocacy/HB3695\\_factsheet.pdf](http://ctpf.org/general_info/advocacy/HB3695_factsheet.pdf); Huber, Kevin (former Executive Director of the CTPF), “*Setting the record straight on teachers’ pension fund problems,*” *Chicago Report, August 6, 2013.* <http://chicagoreporter.com/set-record-straight-teachers-pension-fund-problems>. Historically, CPS has been responsible for the majority of employer funding for the CTPF. *Id.*; Complaint ¶ 7 (“CPS must fund the [CTPF]....”).

<sup>1</sup> This Court may take judicial notice of the information obtained from the sources cited herein. *See, e.g.,* Ill. R. Evid. 201(b) (court may take judicial notice of information “capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned”); *People v. Clark*, 406 Ill. App. 3d 622, 633 (2d Dist. 2010) (information acquired from “mainstream internet sites” is “reliable enough to support a request for judicial notice”).

The Illinois State Teachers' Pension and Retirement Fund, the predecessor to the Teachers' Retirement System of the State of Illinois ("TRS"), was established in 1915. Burbridge, Chuck (Executive Director of the CTPF), *"Chicago Teachers' Pension Fund: Keeping the Promise"*, presentation to the Illinois School Funding Commission, December 21, 2016. TRS was established by State statute in 1939 to replace the 1915 fund. 40 ILCS 5/16-102. The funding mechanism for TRS is governed by Illinois statute, 40 ILCS 5/16-158. The separate funding mechanisms for the CTPF and the TRS pension funds have been the status quo for more than 100 years, and are not the cause of the alleged "crisis" that brought Plaintiffs to this Court seeking a mandatory preliminary injunction.

In 1995, under Public Act 89-0015, the Mayor's office obtained control of CPS. 105 ILCS 5/34-3. As part of this deal, several property tax levies were combined into one fund to provide CPS with more spending flexibility, including using previously earmarked pension funds for CPS operating expenses. The property tax designated for funding the Chicago Teachers' Pension Fund was eliminated. At the time its funding was changed, the CTPF funded ratio was approximately 80 percent. Huber, Kevin, "Setting the record straight on teachers' pension fund problems," Chicago Report, August 6, 2013. <http://chicagoreporter.com/set-record-straight-teachers-pension-fund-problems/>; Chicago Teachers' Pension Fund, Legislation Fact Sheet: [http://ctpf.org/general\\_info/advocacy/HB3695\\_factsheet.pdf](http://ctpf.org/general_info/advocacy/HB3695_factsheet.pdf). CPS also was provided a "pension holiday" and no employer contributions were made to CTPF between 1996 and 2005. Public Act 89-0015; Chicago Teachers' Pension Fund, Legislation Fact Sheet: [http://ctpf.org/general\\_info/advocacy/HB3695\\_factsheet.pdf](http://ctpf.org/general_info/advocacy/HB3695_factsheet.pdf). Absent the pension holiday, more than \$2 billion would have been contributed during that 10-year period. *Id.*

From Fiscal Year 2010 through Fiscal Year 2013, the Chicago Board of Education was required to cover only the normal cost of pension contributions in fiscal years 2011, 2012, and 2013 (less than \$150 million per year), down from approximately \$600 million needed per year to pay off the total pension costs needed to meet the funding plan to achieve the required 90 percent funded ratio, which was extended to 2059. Illinois Public Act 96-0889, available at: <http://www.ilga.gov/legislation/publicacts/96/PDF/096-0889.pdf>; *Public School Teachers' Pension and Retirement Fund of Chicago Actuarial Valuation and Review as of June 30, 2016*, Segal Consulting, [http://www.ctpf.org/general\\_info/financial\\_lists.htm](http://www.ctpf.org/general_info/financial_lists.htm). During this three-year period, the CTPF was underfunded by about \$1.2 billion. *Id.*; *Chicago Teachers' Pension Fund, Legislation Fact Sheet*: [http://ctpf.org/general\\_info/advocacy/HB3695\\_factsheet.pdf](http://ctpf.org/general_info/advocacy/HB3695_factsheet.pdf).

From Fiscal Year 2014 through Fiscal Year 2016, CPS paid the fully amortizing costs to the CTPF under PA 89-0015: \$561 million in fiscal year 2014; \$684 million in fiscal year 2015, and \$677 million in fiscal year 2016. *Public School Teachers' Pension and Retirement Fund of Chicago Actuarial Valuation and Review as of June 30, 2016*, Segal Consulting, [http://www.ctpf.org/general\\_info/financial\\_lists.htm](http://www.ctpf.org/general_info/financial_lists.htm); *see generally* Complaint ¶ 44.

The CTPF funded ratio based on the actuarial value of assets over the actuarial accrued liability as of June 30, 2016, was 52.4%. *Public School Teachers' Pension and Retirement Fund of Chicago Actuarial Valuation and Review as of June 30, 2016*, Segal Consulting, [http://www.ctpf.org/general\\_info/financial\\_lists.htm](http://www.ctpf.org/general_info/financial_lists.htm).

The TRS pension funded ratio based on the actuarial value of assets over the actuarial accrued liability as of June 30, 2016, was 39.8%. *Teachers' Retirement System of the State of Illinois Actuarial Valuation and Review of Pension Benefits as of June 30, 2016*, Segal Consulting, <http://www.trs.illinois.gov/pubs/actuarial/2016ActuarialValuationSegal.pdf>.



## **2. Plaintiffs Do Not Plead Any Imminent Harm From The State's Historic Pension Funding Statutes**

Plaintiffs allege in their Brief that from 2014 through 2016, “the State’s discriminatory funding has shortchanged CPS by \$1.1 billion.” Pls.’ Br. at 5. There is no evidentiary support for that statement, nor citation to any statute. Nonetheless, Plaintiffs did not seek Court intervention or emergency relief while allegedly being “shortchanged” during those years. Instead, Plaintiffs explain that to confront the cash flow crisis during that time period, CPS “relied upon a combination of new tax revenues, maximized to the extent allowable under state law, and massive borrowings through capital markets.” Pls.’ Br. at 5. Nothing has changed in Fiscal Year 2017 relating to the 100 year old funding mechanisms of CTPF and TRS. What has changed, and the sole reason Plaintiffs bring this motion for mandatory preliminary injunction, is that Governor Rauner vetoed Amended Senate Bill 2822 on December 1, 2016, and CPS did not receive \$215 million. The failure to receive those funds has caused the alleged harm and alleged extreme urgency for which Plaintiffs seek this extraordinary remedy.

### **c. Plaintiffs Seek Mandatory Preliminary Injunctive Relief “as a result” of Governor Rauner’s Veto of Amended Senate Bill 2822, Which Included a Contribution of \$215 Million to CPS.**

Plaintiffs’ own brief makes clear, again and again, that the reason they seek mandatory injunctive relief is because of Governor Rauner’s veto of Amended Bill 2822, which included a \$215 million payment to CPS:

- “Governor Rauner’s recent veto of additional funding for CPS will require draconian cuts in core educational services.” Page 2.
- “But on December 1, 2016, Governor Rauner vetoed the bill....**As a result**, CPS’ children – 90% children of color – are at risk of forever losing their one chance in life to receive a quality education.” Page 5 (emphasis added).
- “Governor Rauner’s veto has created a gap CPS cannot fill through additional borrowings.” Page 6.
- “However, on December 1, 2016, Governor Rauner’s veto threw CPS into another mid-year financial crisis.” Page 6-7.

As early as December 2, 2016, the day after Governor Rauner's veto, CPS CEO Forrest Claypool suggested that a lawsuit would be one course of action to try and compensate for CPS not receiving the \$215 million: "But I'm telling you our strategies now are to fight, and we'll fight on multiple fronts. We're first going to fight through the political process, and if necessary we'll be in the courts." *Governor Vetoes \$215 Million in Chicago Public Schools Funding*, Tribune News Service, December 2, 2016. Just two days ago, the Chicago Tribune reported that Claypool again admitted that CPS' "latest fiscal emergency was caused solely by Rauner's veto of a measure that would have provided the \$215 million." *Chicago Public Schools Chief Fires Back at Gov. Rauner*, Chicago Tribune, March 22, 2017.

## ARGUMENT

### A. Standards On A Motion For Mandatory Preliminary Injunction

The purpose of a preliminary injunction is to preserve the status quo. *See John Deere Co. of Moline v. Hinrichs*, 36 Ill.App.2d 255, 269, 183 N.E.2d 309, 315-16 (2d Dist. 1962) ("the status quo which will be so preserved by a preliminary injunction is 'the last actual, peaceable, noncontested status', which preceded the pending controversy"). A preliminary injunction is an extraordinary remedy (*Bd. of Edu. of Dolton Sch. Dist. 149 v. Miller*, 349 Ill.App.3d 806, 814, 812 N.E.2d 688, 695 (1<sup>st</sup> Dist. 2004)), and not meant to determine any controverted rights nor to decide the merits of a case. *John Deere Co. of Moline*, 36 Ill.App.2d at 269, 183 N.E.2d at 316.

Here, Plaintiffs do not seek to maintain any status quo, but instead seek to compel Defendants to do one of two things: (1) pass new legislation regarding state pension funding for the CTPF; or (2) override Governor Rauner's veto and pay \$215 million to CPS. Simply put, Plaintiffs seek a mandatory injunction. Mandatory preliminary injunctions are disfavored by the courts. *Lumberman's Mut. Cas. Co. v. Sykes*, 384 Ill.App.3d 207, 230, 890 N.E.2d 1086, 1106

(1<sup>st</sup> Dist. 2008) (mandatory injunctive relief available “only in those cases where an emergency exists and serious harm would result if an injunction were not issued to preserve the status quo”).

A mandatory injunction is not granted as a matter of right, but rather only in rare cases of great necessity or extreme urgency when sound judicial discretion requires the court to act. For the court to find such extreme urgency or great necessity, the need for such relief must be clearly established and free from doubt. Understandably, the requirements are even more stringent for the issuance of a mandatory preliminary injunction since the parties have not had the benefit of a full and final hearing. Thus it has been held that where complete relief may be afforded after a final hearing on the merits, the case is not a proper one for mandatory preliminary injunction.

*Grillo v. Sidney Wanzer & Sons, Inc.*, 26 Ill.App.3d 1007, 1012, 326 N.E.2d 180, 184 (1975) (citations omitted).

To obtain injunctive relief, Plaintiffs must demonstrate they: (1) have a certain and clear ascertainable right which must be protected; (2) will be irreparably injured in the absence of that protection; (3) have no adequate remedy at law for their injury; and (4) are likely to succeed on the merits. *Lumberman’s*, 384 Ill.App.3d at 230, 890 N.E.2d at 1106. In addition, the court should balance the relative harms and benefits to the plaintiffs and defendants. *Vill. of Wilsonville v. SCA Services*, 86 Ill.2d 1, 28 (1981) (“a court of equity will not, as a matter of course, interpose by injunction but will consider all the circumstances, the consequences of such action and the real equity of the case”).

#### **B. Plaintiffs Seek to Upset The Status Quo But No Extreme Urgency Exists**

Plaintiffs do not allege an extreme urgency here with regard to educational funding or pension funding that requires the extraordinary remedy of a mandatory preliminary injunction. The CTPF has been predominantly self-funded for more than 100 years. And Plaintiffs’ monetary woes and shortfalls, by their own admission, have existed for years. Plaintiffs admit they had serious cash flow problems from Fiscal Years 2014 through 2016, and had to borrow

\$1.1 billion in Fiscal Year 2016 (Complaint ¶¶ 50-51), but brought no emergency motion during that time frame. The only “extreme urgency” Plaintiffs latch onto stems from the possibility that the State might provide \$215 million in funding to CPS in late 2016 – but such funding was not required by any contract or Illinois statute, and Amended Senate Bill 2822 was ultimately vetoed by Governor Rauner two and a half months before Plaintiffs filed suit. Moreover, Plaintiffs do not seek to preserve the status quo; rather, they seek to judicially override the Governor’s veto, or mandate the Illinois legislature to appropriate new State funding for CTPF, and require Governor Rauner to sign such proposed legislation into law.

**C. Plaintiffs Have No Clear Right to a New Legislative Enactment Requiring State Funding for the CTPF or to the Payment of \$215 Million**

Plaintiffs claim they are seeking injunctive relief to “stop a unit of government from implementing discriminatory policies.” Pls. Br. at 8. As set forth in the Wolfe Affidavit, attached as Exhibit 1, in Fiscal Years 2015 and 2016, the State provided more funding by statute to CPS students than to other students throughout the State: CPS had approximately 19% of the State’s students but received more than 23% of the State’s educational funding pursuant to the Illinois legislative funding system. This case, therefore, is not about the alleged disparate impact of Illinois educational funding legislation, nor can it be. Plaintiffs have not and cannot cite a single case decided under ICRA allowing for mandatory injunctive relief in the form of new legislative enactment, or appropriation of funds not previously required under contract or statute, to remedy an alleged disparate impact relating to educational or pension funding.

Instead, Plaintiffs’ own pleading makes clear that their dispute centers on their own pension funding obligations and their displeasure at Governor Rauner’s veto of Amended Senate Bill 2822. Plaintiffs’ Complaint alleges that “[a]s 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....[b]ut on December 1, 2016, Governor Rauner vetoed the bill.” Complaint at Pars. 9, 10 (emphasis added). Yet Plaintiffs cannot cite any contractual right or promise that entitles Plaintiffs to such funds as a matter of right. Nor can Plaintiffs cite any State statute which mandates such payment.<sup>2</sup>

There is no doubt that Plaintiffs are faced with a massive pension shortfall, caused by many potential factors – historical self-funding of the CTPF, years of pension funding “holidays” requested by the City of Chicago, and a pension funded ratio of slightly more than 50%. Plaintiffs claim that they have a protectable right to require the State Defendants’ to legislate “new” money to CPS through the enactment of new pension funding legislation. There is no such right, by contract, statute or otherwise, and a mandatory preliminary injunction is inappropriate.

#### **D. Plaintiffs Will Not Suffer Irreparable Injury**

Plaintiffs provide no evidence, and can only speculate about what potential harms may come to CPS students if the State doesn’t provide \$215 million in funding:

The next round of cuts **almost certainly** will require CPS to cut more days from the school year. **If** CPS ends the school year on June 1 – instead of June 20 – CPS **could** save approximately \$91 million. **If** CPS cancels summer school for grade-school and middle school students, CPS could save an additional \$5 million.

Pls.’ Br. at 7 (emphasis added). The affidavit of Dr. Janice K. Jackson, CPS’ Chief Education Officer, is no more specific. In Paragraph 12 of her affidavit, Dr. Jackson opines that **if** the CPS school year ends early, and **if** students are not in class, those students cannot be compensated for

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<sup>2</sup> Section 5/17-127 of the Pension Code announces that the State’s “goal and intention” is to contribute to CTPF between 20% and 30% of the amount it contributes to TRS. See 40 ILCS 5/17-127. This precatory language confirms that the legislature did not intend to *guarantee* State contributions to CTPF in a specific amount. A stated “goal or intention” is not a protectable right that can be protected via mandatory injunction.

missed time. She further opines that **if** summer school is eliminated, certain students **are at risk** of falling further behind. *Id.*

Moreover, CPS does have an alternative avenue to keep the 2017 school year intact, and to maintain summer school in the midst of their funding problems. Simply put, Plaintiffs can borrow funds to “fill the \$215 million gap” that they allege.

Plaintiffs here claim to seek only that the State “provide[ ] funds to CPS in a manner and amount that does not discriminate against Plaintiffs.” (Pls.’ Br. at p.15) But CPS’ Chief Financial Officer admits that Plaintiffs’ current “crisis” is all about money:

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....

Bennett Aff. at ¶ 19.<sup>3</sup>

Plaintiffs do assert that “Governor Rauner’s veto has created a gap CPS cannot fill through additional borrowings.” Pls.’ Br. at 6. But CFO Bennett’s affidavit, which Plaintiffs cite for this proposition at ¶ 15, does not say that at all. In fact, CFO Bennett **admits** that CPS has the ability to borrow funds in 2017 to meet the cash flow requirements allegedly resulting from Governor Rauner’s veto:

CPS, therefore, must re-balance its budget to fill the \$215 million hole and **CPS also must arrange for hundreds of millions of dollars of additional borrowings to meet its cash flow requirements.**

Bennett Aff. at ¶ 22 (emphasis added). CFO Bennett further admits that CPS has already been able to rely upon “massive borrowings through the capital markets,” including

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<sup>3</sup> Plaintiffs rely upon cases involving a student with a service animal, or a disabled student seeking to participate in high school sports to support their claim of irreparable harm, but neither of those cases sought monetary relief, or enactment of new legislation, as Plaintiffs do here. *Kalbfleisch ex rel. Kalbfleisch v. Columbia Cmty. Unit Sch. Dist. Unit No. 4*, 396 Ill. App. 3d 1105, 1116 (5<sup>th</sup> Dist. 2009) and *Makindu v. Ill. High Sch. Ass’n*, 2015 IL App (2d) 141201, ¶ 44.

borrowing \$1.1 billion in Fiscal Year 2016 to fund its operating budget. Bennett Aff. at ¶ 15. Nowhere do Plaintiffs provide any evidence that CPS cannot borrow additional funds to meet the “\$215 million hole.” While Plaintiffs admit that in 2016, CPS borrowed \$1.1 billion, Plaintiffs fail to disclose to the Court how much CPS has borrowed in Fiscal 2017. Accordingly, Plaintiffs have not demonstrated an irreparable injury, and injunctive relief is inappropriate.

#### **E. Plaintiffs Are Not Likely to Succeed on the Merits**

For the reasons set forth in Defendants’ accompanying Motion to Dismiss, Plaintiffs are not likely to succeed on the merits of their ICRA claims.

Additional reasons demonstrate why Plaintiffs will not succeed on the merits of their claims. First, should this case proceed past Plaintiffs’ emergency motion, Defendants will demonstrate that the Board of Education of the City of Chicago, as well as the individual plaintiffs, on behalf of CPS students, lack standing to bring claims relating to the funding of pensions for CPS teachers. In addition, as was true in the just-resolved litigation in *Chicago Urban League, et al. v. Illinois State Board of Education, et al.*, Case No. 08-CH-30490, expert analysis may be required to determine if any disparate impact is caused by the state funding system, and if so, whether that disparate impact is based on race, or instead, as defendants’ expert in the *Chicago Urban League* matter found, it is due to economic factors. These arguments further demonstrate why Plaintiffs will not prevail on the merits, and why mandatory injunctive relief is improper.

#### **F. The Balance of Harms and Equities Favor Denial of Plaintiffs’ Motion For a Mandatory Preliminary Injunction**

If they prevail on this motion, Plaintiffs ask the Court to “enter an order enjoining Defendants from distributing State funds for public education to any person or entity within the

State until the State provides funds to CPS in a manner and amount that does not discriminate against Plaintiffs.” Pls.’ Br. at 15. In other words, unless and until Defendants pass new legislation regarding state funding for pensions and education, or until the State legislature appropriates and Governor Rauner agrees to pay \$215 million into the CTPF, Plaintiffs seek to stop **all** State education and pension funding, to the detriment of more than 80% of State students outside of CPS. There is no doubt that the balance of harms to the majority of the State students and teachers outweighs the harms that Plaintiffs claim will occur absent injunctive relief.

Moreover, none of the more than 80% of students across the State who would be harmed by Plaintiffs’ requested relief (nor the teachers, administrators, vendors, etc.) are currently represented in this action. Simply put, the relief requested by Plaintiffs would harm the vast majority of students of the State, without giving them an opportunity to contest that determination before this Court.

The Illinois Supreme Court has held very clearly that the judicial branch is not equipped to decide, in the context of a single lawsuit, how public education should be funded. “[T]he question of educational quality is inherently one of policy involving philosophical and practical considerations that call for the exercise of legislative and administrative discretion.” *Comm. For Educ. Rights v. Edgar*, 174 Ill.2d 1, 29 (1996). All needed stakeholders cannot be heard in one lawsuit: “Solutions to problems of education quality should emerge from a spirited dialogue between the people of the State **and their elected representatives.**” *Id.* (emphasis added). This is all the more true when massive financial relief to the CTPF potentially impacting all of the State school districts is sought on a preliminary injunction.

Plaintiffs argue, nonetheless, that they do not seek additional monies, but rather seek to remedy the alleged disparate impact of the current education funding legislation. Pls.’ Br. at 13-



14. Despite claiming they do not want new funding, Plaintiffs cite caselaw for the proposition that “both state and federal courts have required units of government to preserve the status quo by supplying funding in excess of the amounts that have been appropriated.” Pls.’ Br. at 14. None of the cases cited by Plaintiffs stand for the proposition that the State legislature or Governor can be mandated to appropriate or pay new funds that were not required to be paid by contract or statute. Instead, unlike Plaintiffs’ request here, these cases maintain the status quo until a full resolution of the merits. *Seyller v. City of Kane*, 408 Ill. App. 3d 982, 992-93 (2d Dist. 2011) (Kane County clerk could use previously appropriated general funds for payment of count clerk employees); *AFSCME v. State of Ill.*, 2015 IL App (5<sup>th</sup>) 150277-U, at ¶20 (court maintained status quo by allowing payment of state workers under impairment of contract theory); *Ill. Hosp Ass’n v. Ill. Dep’t of Pub. Aid*, 576 F. Supp. 360, 372 (N.D. Ill. 1983) (Illinois Dept. of Public Aid required to pay pursuant to its prior determination of reasonable rates under Medicaid Act).

### CONCLUSION

For the foregoing reasons, Defendants respectfully ask this Court to deny Plaintiffs' motion for preliminary injunction.

Dated: March 24, 2017

LISA MADIGAN

Attorney General of Illinois  
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Respectfully submitted,

*/s/ Gary S. Caplan*

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# EXHIBIT 1

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

BOARD OF EDUCATION OF THE  
CITY OF CHICAGO, *et al.*

Plaintiffs,

v.

BRUCE RAUNER, *et al.*

Defendants.

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Case No. 17-CH-02157

Hon. Franklin U. Valderrama

**AFFIDAVIT OF ROBERT L. WOLFE**

The undersigned, Robert L. Wolfe, being sworn under oath, states as follows:

1. I am over 18 years of age and am under no legal disability.
2. The facts contained in this affidavit are within my personal knowledge, or are based upon a review of the business records of the Illinois State Board of Education ("ISBE") and if called as a witness to testify, I could competently testify to the truth of the facts contained herein.
3. I am currently the Chief Financial Officer for ISBE, and have held this title since August 2012. Prior to that time, I was a Division Administrator & Controller for ISBE from December 2007 through 2012. I have been employed by ISBE in various financial functions as an auditor, supervisor and administrator since June 1989. I have been registered as a CPA since October 2006. A copy of my CV is attached as Exhibit A.
4. ISBE plays no role in overseeing, administering or disbursing any monies for pension funds in the state of Illinois. No pension funds flow through ISBE.
5. ISBE does not incorporate pension funding into any chart relating to Illinois State public school funding.

6. Chairman James T. Meeks plays no role in overseeing, administering or disbursing any monies for pension funds in the state of Illinois.
7. Superintendent Tony Smith plays no role in overseeing, administering or disbursing any monies for pension funds in the state of Illinois.
8. ISBE does oversee, administer and disburse funds for public education in the state of Illinois.
9. Generally, ISBE follows the statutory formulas set forth in 105 ILCS 5/18-8.05 and 105 ILCS 5/1D-1 and has no discretion in allocating funds for public education in the State of Illinois.
10. The primary source of Illinois state education funding is General State Aid ("GSA"), which represents roughly two-thirds of state funds for elementary and secondary education in Illinois. GSA includes two components: (a) an equalization formula grant, which ensures that the combination of state and local funding meets a minimum foundation level and (b) the supplemental low income grant, which is based on the proportion of low income students in a district. Illinois school districts also receive funding from numerous local, state, and federal grant sources.
11. The formula for how to calculate GSA has been set by Illinois law and is codified by Illinois statute at 105 ILCS 5/18-8.05. Under the statutory formula, the GSA equalization formula grant that a district receives depends on its available local resources per pupil and the so-called "foundation level." The foundation level is the per pupil amount that the General Assembly determines is required to meet the basic education needs of students in the Illinois K-12 public school system. The foundation level is set by statute for the entire state. 105 ILCS 5/18-8.05(B).

12. Under the statutory formula, the GSA supplemental low income grant that a district receives depends on the district's proportion of low income students.
13. Illinois law delegates to ISBE the responsibility to administer claims for GSA from school districts (105 ILCS 5/18-8.05)(A)(3)) and to compute the amount of GSA allotted to each school district. 105 ILCS 5/18-8.05 (E)(1).
14. In limited circumstances, ISBE has discretion to allocate GSA funding in fiscal years when the Illinois legislature fails to fund the full foundation level of educational spending (the "shortfall") set forth in 105 ILCS 5/18-8.05(B) as part of GSA. ISBE has already been sued regarding its discretion in allocating funds for public education in the State of Illinois in situations of a shortfall in the case *Chicago Urban League, et al. v. Illinois State Board of Education, et al.*, Case No. 08-CH-30490. On February 22, 2017, the parties resolved the disputed litigation through a public settlement agreement, which sets forth ISBE's obligations in the event of a funding shortfall. A copy of the settlement is attached as Exhibit B.
15. No funding shortfall exists in Fiscal 2017 for CPS. For Fiscal 2017, the State fully funded the foundation level.
16. In addition to GSA, CPS receives certain "block grants" with regard to mandated categorical education funds pursuant to 105 ILCS 5/1D-1, including but not limited to funds for Special Education services, Transportation, Early Childhood Education, Regional Offices and School Services, Illinois Free Lunch/ Breakfast, and Truant Alternative and Optional Education. The specific categorical education funds which make up the block grants are set forth on Exhibit C.

17. The block grants were first introduced in 1995 and were based on the static percentage of annual appropriations of mandated categorical funds received by CPS students in that year. So, starting in 1996, and continuing today, as part of the block grant, CPS students receive, each year, the same percentage of annual appropriations of mandated categorical funds. See Exhibit C (column "Block %").
18. In School Year 2015, CPS received more than \$255 million through the block grants than it would have if they had received if it filed claims and received funding just like other school districts in the rest of the State. See Exhibit C.
19. In School Year 2016, CPS received more than \$252 million through the block grants than it would have if they had received if it filed claims and received funding as all other school districts in the rest of the State. See Exhibit C.
20. Attached as Exhibit D is a chart showing the education funding expenditures that ISBE oversees for Fiscal Year 2015 relating to CPS. To be clear, ISBE has no responsibilities regarding monies earmarked for pension funds relating to CTPF.
21. Exhibit D also shows the education funding expenditures that ISBE oversees for Fiscal Year 2015 relating to Illinois public education outside of CPS. To be clear, ISBE has no responsibilities regarding monies earmarked for pension funds relating to TRS or any other state pension fund.
22. As demonstrated by Exhibit D, for Fiscal Year 2015, the State provided an average of \$4550 per pupil for CPS students, but only \$3048 per pupil for Illinois students outside of CPS. On average, therefore, CPS students received \$1.49 in educational funding per pupil compared to \$1.00 dollar for students in the State of Illinois outside of CPS.

23. Put another way, in Fiscal Year 2015, CPS had 19 % of the State's students but received 24% of the State's educational funding.
24. Attached as Exhibit E is a chart showing all educational expenditures that ISBE oversees for Fiscal Year 2016 relating to CPS. To be clear, ISBE has no responsibilities regarding monies earmarked for pension funds relating to CTPF.
25. Exhibit E also shows all educational expenditures that ISBE oversees for Fiscal Year 2016 relating to Illinois public education outside of CPS. To be clear, ISBE has no responsibilities regarding monies earmarked for pension funds relating to TRS or any other state pension fund.
26. As demonstrated by Exhibit E, for Fiscal Year 2016, the State provided an average of \$4328 per pupil for CPS students, but only \$3452 per pupil for Illinois students outside of CPS. On average, therefore, CPS students received \$1.25 in educational funding per pupil compared to \$1.00 dollar for students in the State of Illinois outside of CPS.
27. Put another way, in Fiscal Year 2016, CPS had 19% of the State's students but received 23% of the State's educational funding.
28. No final dollar amounts are available regarding state educational funding for Fiscal Year 2017.



Executed this 16th day of March, 2017.

Robert Wolfe

STATE OF ILLINOIS  
COOK COUNTY, ILLINOIS

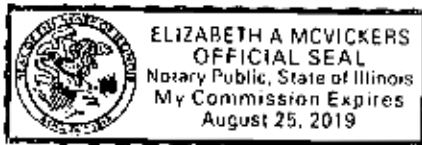
Signed and sworn to before me on 3-16, 2017 by

Robert Wolfe

Elizabeth A. McVickers

Notary Public

My commission expires: 8/25, 2019



# EXHIBIT A

**Robert Wolfe, CPA**  
213 Gloucester Court  
Chatham, IL 62629

Residence: (217) 483-8807  
Cellular: (217) 836-1193

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**Qualifications and Skills:**

- Fluent in the compliance requirements of:
  - Illinois State Finance Act
  - Illinois Office of the Comptroller's Statewide Accounting Manual System
  - Federal auditing standards and EDGAR
- Experience with GASB 33 compliant financial reporting and GAAP package compliance
- Proficient in Office of Management & Budget's Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments regulatory requirements
- Skilled in all aspects of governmental auditing and compliance with generally accepted auditing principals applicable to state government and school districts
- Fluent in the education funding system for Illinois school districts
- Ability to clearly present complex financial information to a diverse audience
- Extensive experience supervising management, professional and support staff
- Proficient in Microsoft Excel, Word, Power Point and financial software applications

**Professional Experience:**

**Illinois State Board of Education, Springfield, Illinois**

***Chief Financial Officer***  
***(Acting Chief Financial Officer)***

***August 2012 – Present***  
***June 2012 – August 2012***

Oversee and direct the day-to-day management of financial operations of the agency providing the necessary financial, budget, funding and school business services to internal and external customers.

- Administers an average annual budget of \$9.7 billion dollars
- Supervise 70 management, professional and support staff in 5 Divisions
- Responsible for fiscal services including procurement, disbursements, accounting, budgeting and business support to school districts
- Provides analysis and technical support to a diverse audience regarding all aspects of education funding and finance
- Responsible for agency's cost allocation system to ensure compliance with applicable requirements
- Responsible for the Financial Oversight Panels assigned to East St Louis SD 189, North Chicago CUSD 187 and Proviso Township HSD 209
- Responsible for preparing and publishing the Board's Recommended Budget for Education book
- Provide testimony to members of the General Assembly and the public regarding the Board's recommended budget and current and proposed education funding system
- Member of the State Superintendent of Education's Executive Staff Team

***Division Administrator & Controller  
(Fiscal and Procurement Division)***

***December 2007 – August 2012***

Responsible for the direction, planning and coordination of Division responsibilities involving the Agency's accounting & procurement functions as well as the implementation of the Illinois Textbook Loan Program and operation of the Illinois School Purchasing Network.

- Supervise 16 management, professional and support staff
- Responsible for the preparation of the agency's financial statements
- Direct day-to-day Agency accounting functions
- Responsible for the procurement of goods and services in accordance with legal standards
- Oversee the Agency's time and effort recording system in compliance with federal grant fiscal requirements
- Prepare personnel service projections to ensure sufficient funding of budget and staffing needs
- Participate as a member of the management's collective bargaining team
- Coordinate the activities of the Illinois School Purchasing Network which provides joint purchasing opportunities to school districts

***Division Administrator  
(External Assurance)***

***March 2002 – December 2007***

Responsible for the direction, planning and coordination of the Division responsible for ensuring the programmatic and fiscal compliance of sub-recipients of over \$6.8 billion dollars worth of State and Federal grant programs and reimbursements.

- Developed and directed the implementation of a Risk-Based Audit System
- Directed the development and implementation of audit procedures to ensure the Agency's sub-recipient transactions and programmatic activities were properly coded and reported
- Supervised 18 management, professional and support staff
- Responsible for the development, implementation and measurement of progress of the Audit Plan and Division Budget
- Served as a liaison among Agency divisions to ensure the Agency's monitoring/auditing requirements were completed in accordance with a consistent interpretation of state and federal law and regulations
- Developed a comprehensive system for tracking audit/monitoring results and automated report generation
- Provided explanation and technical assistance to school district administrators in regards to audit findings and corrective actions in response to audit findings

***Division Supervisor  
(Fiscal Accountability Services)***

***February 2001 – February 2002***

- Coordinated and supervised 14 professional staff in the audits of General State Aid and state categorical reimbursement claim and grant programs
- Responsible for the development and consistent application of audit procedures and practices
- Provided assistance and training to staff regarding the application of audit procedures, completion of audit working papers, and claim and record keeping questions
- Collected, analyzed, and reported data for management decision making

- Provided technical assistance to school district administrators in the area of school finance

***Principal Fiscal Consultant  
(Fiscal Accountability Services)***

***June 1989 – January 2001***

- Conducted audits of school districts for General State Aid and state categorical reimbursement claims and grant programs
- Provided technical assistance to agency staff and school district personnel concerning questions or problems with audits, audit procedures and claim recordkeeping procedures
- Performed review of the content and quality of audit assignments produced by peers

**Education:**

**Eastern Illinois University**, Charleston, Illinois  
Bachelor of Science in Accounting – May 1989

**Licensure:**

Registered Certified Public Accountant-September 1990

# EXHIBIT B

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

CHICAGO URBAN LEAGUE, et al.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 08-CH-30490
	)	
ILLINOIS STATE BOARD OF EDUCATION,	)	Hon. David B. Atkins
	)	
Defendant.	)	

**SETTLEMENT AGREEMENT**

This Settlement Agreement ("Agreement") is entered into by and between Plaintiffs Chicago Urban League, Quad County Urban League, Tri-County Urban League, Adriana Barraza, Ramona Brewster, Kanika Brown, Billy Burgos, Alvin and Nona Greenup, Jeffrey and Denette Mason, Melva Nieves, Jamile Posey, Michelle Quinones, Delilah Rivera, Mariza Santiago and Cathy Williams ("Plaintiffs") and the Illinois State Board of Education ("Board" or "ISBE" as appropriate).

**RECITALS**

WHEREAS, on October 14, 2008, Plaintiffs filed a Verified First Amended Complaint ("Complaint") against the State of Illinois ("State") and the Board;

WHEREAS, Plaintiffs' Complaint alleged five separate counts against both the State and the Board under the Illinois Constitution and the Illinois Civil Rights Act ("ICRA");

WHEREAS, on April 15, 2009, the Court dismissed the State as a party and all counts alleging claims under the Illinois Constitution;

WHEREAS, in their Complaint, Plaintiffs allege that the State's school funding system and the Board's implementation of this system has an unlawful disparate impact on "African-American and Hispanic students who attend schools in Majority-Minority school districts" (hereinafter referred to as "MMDs") and that such conduct violates ICRA;

WHEREAS, as a part of the school funding system, state law requires ISBE to compute the amount of General State Aid ("GSA") and other funds to be distributed to Illinois school districts based upon the claims submitted by such school districts;

WHEREAS, for Fiscal Years 2011 through 2015, the State did not enact an appropriation of funds sufficient to pay for all GSA claims submitted;

WHEREAS, in Fiscal Years 2011 through 2015, when the State failed to enact an appropriation that was sufficient to pay all GSA claims, ISBE prorated the amount of GSA to be paid to each school district;

WHEREAS, in order to prorate, ISBE decreased the amount of GSA payable to school districts by the same across-the-board percentage, which was calculated based on the differential between all GSA claims and the amount of the appropriation enacted by the State;

WHEREAS, as a result of ISBE prorating these claims, ISBE distributed funding to each school district in amounts reduced by the same percentage of the amount owed for GSA;

WHEREAS, the Parties disagree whether ISBE'S GSA funding distributions for Fiscal Years 2013 through 2015 violate ICRA;

WHEREAS, Plaintiffs maintain that expert analysis of the impact generated by ISBE's proration of the shortfalls in Fiscal Years 2013 through 2015 on MMDs compared to non-MMDs demonstrates that a statistically significant disparity existed in the losses to GSA funding ISBE distributed to MMDs compared to non-MMDs and that the disparity amounts to an unlawful, discriminatory disparate impact under ICRA;

WHEREAS, the Board maintains that expert analysis demonstrates that (1) the State's school funding system contains a highly progressive formula that results in school districts with low property wealth and more low income students receiving a significantly greater amount of GSA, (2) such school districts therefore lose a greater amount of GSA due to proration, (3) any negative impact due to proration on school districts is therefore caused by the State's school funding system and its heavy reliance on local property wealth rather than being caused by race and (4) the impact of proration on MMDs is inconsistent in that some are impacted negatively and some are impacted positively;

WHEREAS, current Illinois law does not impose a requirement on the State to appropriate the amount of funding sufficient to cover GSA claims submitted by Illinois school districts in any given fiscal year;

WHEREAS, current Illinois law does not prohibit ISBE from utilizing proration;

WHEREAS, Plaintiffs have filed a Motion for Partial Summary Judgment, in which they contend that the Board's utilization of proration for fiscal years in which the State enacts an appropriation insufficient to pay all GSA claims violates ICRA;

WHEREAS, the Board denies Plaintiffs' allegations and maintains that any disparity in funding does not violate ICRA or constitute an unlawful discriminatory impact;

WHEREAS, Plaintiffs and the Board desire to avoid the burden, costs and distraction of further litigation regarding this dispute;

NOW, THEREFORE, in consideration of the mutual covenants and sufficient consideration herein, Plaintiffs and the Board agree as follows:



## TERMS AND CONDITIONS

1. *Recitals.* The recitals set forth above are incorporated as terms and conditions of this Agreement.

2. *Definitions.*

a. "Insufficient Appropriation" shall mean an appropriation for GSA enacted by the State that covers fewer than 95 percent of the total dollar amount of all GSA claims submitted.

b. "Sufficient Appropriation" shall mean an appropriation for GSA enacted by the State that is sufficient to cover 95 percent or more of the total dollar amount of all GSA claims submitted.

c. "Proration" shall mean a method of distributing GSA by decreasing the amount of funding payable to school districts by the same across-the-board percentage.

d. "GSA" shall mean "general State aid" as currently defined in 105 ILCS 5/18-8.05, or its equivalent, however named, in any Public Act that replaces, amends or otherwise modifies in whole or in material part the State's school funding system, which is currently codified at 105 ILCS 5/2-3.17b and 105 ILCS 5/18-8.05.

3. *Representations by the Board.*

a. The Board's Distribution of GSA With Sufficient Appropriation.

In the event of a Sufficient Appropriation in any fiscal year, the Board has the discretion to utilize proration or any other methodology to manage the differential between the total dollar amount of all GSA claims and the enacted appropriation.

b. The Board's Distribution of GSA With Insufficient Appropriation.

1. In the event of an Insufficient Appropriation in any fiscal year, the Board shall not utilize proration in determining how to distribute GSA.

2. The Board shall consider utilizing a methodology or methodologies to manage the differential, including, but not limited to, the methodology commonly referred to as "capped per pupil cut" or a methodology that distributes GSA based on the needs of each school district and its students.

3. Within 7 days of the enactment of an Insufficient Appropriation, ISBE shall provide written notice to Plaintiffs' designee, Lisa T. Scruggs, by certified mail, at Duane Morris LLP, 190 South LaSalle Street, Suite 3700 Chicago, IL 60603-3433, and general notice to the public on ISBE's website. The Board shall decide in its discretion how to manage the differential at one or more regular or special meetings. Prior to a meeting wherein the agenda contains this subject matter, ISBE shall publish funding distributions to school districts that result from the methodology or methodologies that the State Superintendent or ISBE staff intend

to present to the Board. After public comment, the Board shall in open session adopt a methodology that is to be used for that fiscal year by Board motion and vote. The Board shall direct ISBE to use the adopted methodology for managing the differential between all GSA claims and the enacted appropriation for such fiscal year, unless the State directs ISBE how to manage the differential in such fiscal year.

4. *Litigation Costs.* The Board agrees to pay Plaintiffs' costs in the amount of \$12,083.64. ISBE shall submit a voucher for Plaintiffs' costs to the State of Illinois Comptroller within 30 days of the execution of this Agreement by the Parties. Each party is responsible for its own attorneys' fees and all other costs or expenses incurred in connection with this lawsuit.

5. *Dismissal with Prejudice.* The Court shall enter an Order of Dismissal dismissing Plaintiffs' Complaint and any and all claims or causes of action against the Board and the State contained therein with prejudice.

6. *Term of Agreement.* The term of this Agreement shall be effective on the date of execution and shall terminate on January 1, 2027. In the event a Public Act replaces, amends or otherwise modifies in whole or in material part the State's school funding system, which is currently codified at 105 ILCS 5/2-3.17b and 105 ILCS 5/18-8.05, Paragraph 3(b)(1) shall no longer apply.

#### MISCELLANEOUS

7. *Severability of Provisions.* Any provision of this Agreement that is held to be inoperative, unenforceable, void or invalid shall be ineffective, unenforceable, void or invalid without affecting the remaining provisions or the operation, enforceability or validity of that provision and to this end, the provisions of this Agreement are declared to be severable.

8. *Authority to Execute.* Each of the signatories warrants and represents that he or she has the authority to bind the Parties on behalf of whom he or she is executing this Agreement. The Parties also warrant and represent that the signatories executing this Agreement on each of their behalf are authorized to do so and that the execution by the signatory is binding on them.

9. *Counterparts and Effectiveness.* This Agreement may be executed in any number of counterparts and by the Parties to this Agreement on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute one and the same agreement.

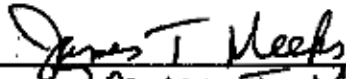
10. *Non-Disparagement.* The Parties agree that neither Plaintiffs nor the Board will disparage the other party related to the claims that were the subject of this litigation and Agreement.

11. *Press Releases.* If either party issues a press release regarding this litigation or Agreement, then such party shall provide a copy of the press release to the other party at least 24 hours in advance of its publication.

IN WITNESS WHEREOF, the Parties hereto undersigned have caused this Settlement Agreement to be executed by their duly authorized representatives.

**DEFENDANT**

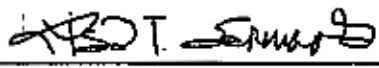
ILLINOIS STATE BOARD OF EDUCATION

By:   
Name: JAMES T. WEEKS  
Title: CHAIRMAN  
Date: 2-22-2017

On Behalf of Defendant

**PLAINTIFFS**

CHICAGO URBAN LEAGUE, QUAD  
COUNTY URBAN LEAGUE, TRI-COUNTY  
URBAN LEAGUE, AND INDIVIDUALLY,  
ADRIANA BARRAZA, RAMONA  
BREWSTER, KANIKA BROWN, AL AND  
NONA GREENUP, JEFFREY AND DENETTE  
MASON, JAMILE POSEY, MELVA NIEVES  
AND BILLY BURGOS, MICHELLE  
QUINONES, DELILAH RIVERA, MARIZA  
SANTIAGO AND CATHY WILLIAMS

By:   
Name: Lea T. Scruggs  
Title: Attorney for Plaintiffs  
Date: February 17, 2017

On Behalf of Plaintiffs

# EXHIBIT C



# Illinois State Board of Education

100 North First Street • Springfield, Illinois 62777-0001  
www.isbe.net

James T. Meeks  
Chairman

Tony Smith, Ph.D.  
State Superintendent of Education

Date: February 1, 2017

## MEMORANDUM

**TO:** The Honorable Bruce Rauner, Governor  
The Honorable John J. Cullerton, Senate President  
The Honorable Michael Madigan, Speaker of the House  
The Honorable Christine Radogno, Senate Minority Leader  
The Honorable Jim Durkin, House Minority Leader

**FROM:** Amanda Elliott, Legislative Affairs  
Sarah Hartwick, Legislative Affairs

**SUBJECT:** City of Chicago School District Block Grant Data (2015-16)

This memo concerns financial data for the City of Chicago School District 299 (CPS) pursuant to PA 97-0238 (Althoff/Eddy). The Public Act, which became law on August 2, 2011, requires CPS to submit expenditures by programs, population and service levels by program and administrative expenditures by program in the same manner as all other districts.

Claim and expenditure data for the 2015-65 school year has been finalized. The enclosed report provides a summary for school years 2013-14, 2014-15 as well as 2015-16. As a reminder, PA 89-0015 (Cowlshaw/Cronin) created reform legislation for CPS which, among other things, established the General Education and Educational Services block grants for the district. Part of the legislation removed a requirement that CPS submit application, expenditure and claim data for all the programs funded through the block grants. In essence, beginning with FY 1996 and thereafter, CPS has been entitled to a fixed percentage of each programs contained within each block grant calculated based on the receipt of state funds the district received for those programs in proportion to the total amount distributed to all other local education agencies in FY 1995. While PA 97-0238 did not change the provision that CPS receive funding based on the percentages established in 1995, it does require CPS to submit service level data.

For the 2015-16 school year CPS received \$119,369,900 through the General Education Block Grant, which provides funds for Agriculture Education, the Early Childhood Block Grant and the Truants Alternative Optional Education Program. These three programs are programs that the rest of the districts in the state submit grant applications for funding. CPS submitted expenditures for almost the total amount of funds received - \$119,154,708.

Programs under the Educational Services Block Grant contain the programs most commonly referred to as the "mandated categoricals" as well as one other grant program – ROE/ISC Services. Mandated Categoricals under the Educational Services Block Grant are those that are reimbursed based on statutory formulas. The programs included in the Educational Services Block Grant include: the Illinois free/reduced lunch program, ROE/ISC Services, Special Education - Funding for Children Requiring Special Education Services, Special Education Orphanage, Special Education - Personnel, Special Education - Private Facility Tuition, Special Education - Summer School, Special Education - Transportation, and Regular/Vocational Transportation. Through block grant appropriations, CPS received \$477,994,050 from FY 16 and FY 17 appropriations for these nine programs. Once the claim data was calculated in the same manner as the other districts, it was determined that CPS would have received \$225,991,190 had the district been reimbursed in the same manner as other districts.

The final summary information was provided to the City of Chicago School District, Budget and Grants Officer on January 17, 2017.

If you have any questions, please feel free to contact our Legislative Affairs Division at 217/782-6510.

**Illinois State Board of Education  
Chicago District 299 Block to Claim Historical  
Public Act 97-0238**

	Block %	2013-14 School Year			2014-15 School Year			2015-16 School Year		
		Block Amount	Actual Amount	Difference	Block Amount	Actual Amount	Difference	Block Amount	Actual Amount	Difference
<b>General Education Block Grant</b>										
Agriculture Education	1.1%	\$19,800	\$19,800 *	\$0	\$19,400	\$19,400 *	\$0	\$19,800	\$9,856 *	\$9,944
Early Childhood Block	37.0%	\$111,071,200	\$111,071,200 *	\$0	\$108,572,100	\$108,572,100 *	\$0	\$116,268,100	\$116,258,548 *	\$9,552
Truants Alternative Optional Education	26.8%	\$3,082,000	\$2,597,834 *	\$484,166	\$3,012,700	\$2,691,687 *	\$321,013	\$3,082,000	\$2,886,304 *	\$195,696
Sub-Total		\$114,173,000	\$113,688,834	\$484,166	\$111,604,200	\$111,283,187	\$321,013	\$119,369,900	\$119,154,708	\$215,192
<b>Educational Services Block Grant</b>										
Free Lunch/Breakfast - State	50.7%	\$7,250,100	\$4,766,329 **	\$2,483,771	\$4,563,000	\$2,955,090 **	\$1,607,910	\$4,563,000	\$2,947,312 **	\$1,615,688
ROE/ISC - Services (Operations)	14.9%	\$331,500	\$331,500 *	\$0	\$737,600	\$737,600 *	\$0	\$737,550	\$736,800 *	\$750
Sp Ed - Funding for Children Requiring Sp Ed	29.2%	\$88,502,800	\$61,793,008 **	\$26,709,792	\$86,465,000	\$60,654,112 **	\$25,810,888	\$88,718,300	\$62,466,331 **	\$26,251,969
Sp Ed - Orphanage 7.03	35.8%	\$37,590,000	\$5,360,993 **	\$32,229,007	\$34,010,000	\$8,540,217 **	\$25,469,783	\$34,010,000	\$5,582,081 **	\$28,427,919
Sp Ed - Personnel	19.1%	\$82,242,500	\$38,954,978 **	\$43,287,522	\$84,498,400	\$65,052,701 **	\$19,445,699	\$84,498,400	\$67,544,727 **	\$16,953,673
Sp Ed - Private Tuition	48.4%	\$108,906,300	\$13,578,758 **	\$95,327,542	\$112,772,000	\$15,339,644 **	\$97,432,356	\$112,772,000	\$11,100,475 **	\$101,671,525
Sp Ed - Summer School	54.4%	\$5,494,400	\$1,109,843 **	\$4,384,557	\$5,494,400	\$1,598,698 **	\$3,895,702	\$6,364,800	\$0 **	\$6,364,800
Sp Ed - Transportation	30.7%	\$135,191,700	\$76,375,967 **	\$58,815,733	\$138,303,500	\$64,174,418 **	\$74,129,082	\$138,303,500	\$75,486,094 **	\$62,817,406
Transportation - Reg & Voc	3.9%	\$7,845,900	\$151,497 **	\$7,694,403	\$8,026,500	\$249,480 **	\$7,777,020	\$8,026,500	\$127,370 **	\$7,899,130
Sub-Total		\$473,355,200	\$202,422,873	\$270,932,327	\$474,870,400	\$219,301,959	\$255,568,441	\$477,994,050	\$225,991,190	\$252,002,860
Grand Total		\$587,528,200	\$316,111,707	\$271,416,493	\$586,474,600	\$330,585,146	\$255,889,454	\$597,363,950	\$345,145,898	\$252,218,052

\* Reflects final financial expenditures.

\*\* Reflects final claim amounts reported by District 299 and calculated under statutory formula.

School Yr	Difference
2011-12	\$235,133,708
2012-13	\$226,613,218
2013-14	\$271,416,493
2014-15	\$255,889,454
2015-16	\$252,218,052
5 Yr Avg	\$248,254,185

52 jo 12 EDVA  
LS120-HC-4102  
MD 53:3.6102/42/E  
DELIT ALTVACINON1,327E

# EXHIBIT D



Program	PA 99-001 FY 2015	Chicago District 299		Other State		Appropriation Balance	Reconciliation
		Prorated Gross	Adjustments	Net Distribution	Prorated Gross	Adjustments	
General State Aid	4,425,273,600	1,156,106,188	16,300,000	1,014,570,441	3,395,857,610	14,845,544	5 Lapse
<b>Mandated Categories</b>							
Sp Ed Personnel	430,588,800	82,242,500	0	82,242,500	350,174,481	(1,828,200)	19 Lapse
Sp Ed Funding for Children	296,113,000	86,465,000	0	86,465,000	209,647,972	0	28 Lapse
Sp Ed Private Tuition	225,013,100	108,906,300	0	108,906,300	116,202,539	(95,746)	7 Lapse
Sp Ed Summer School	10,100,000	5,494,400	0	5,494,400	4,605,600	0	0 Lapse
Sp Ed Transportation	440,363,800	135,191,700	0	135,191,700	303,006,061	2,166,034	4 Lapse
Reg/Voc Transportation	201,178,200	7,845,900	0	7,845,900	196,958,939	(3,626,639)	0 Lapse
Ill Free Lunch/Breakfast	9,000,000	4,563,000	0	4,563,000	4,437,000	0	0 Lapse
Sp Ed Orphanage (14-7.03)	92,862,500	34,010,000	0	34,010,000	58,922,844	(70,344)	0 Lapse
Reg Ed Orphanage (18-3)	11,730,000	7,050,954	0	4,608,915	6,756,172	0	0 Lapse
Bilingual Education	62,248,400	34,454,911		23,087,547	55,715,878		1,795,539 Administration
<b>Grants</b>							
Advance Placement Classes	488,800			0	458,622		30,178 Lapsed
After School Matters	2,443,800			0	2,443,800		0 Balanced
Agricultural Education	1,759,500			19,400	1,740,100		0 Balanced
Alternative Learning/Regional Safe Schools	6,158,300			955,040	5,202,868		392 Lapsed
Arts and Foreign Language	488,800			0	0		488,800 Not Distributed
Autism	97,800			0	0		97,800 Not Distributed
Blind and Dyslexic	816,600			0	816,600		0 Balanced
Career and Technical Education Programs	38,062,100			4,482,071	33,565,700		14,329 Lapsed
Children's Mental Health Partnership	293,300			0	293,300		0 Balanced
District Consolidation Costs	3,309,300			0	2,893,247		416,053 Lapsed
District Interventions	12,795,500			0	12,795,500		0 Balanced (\$9,591,384 from IGA)
Driver Education	17,900,000			3,424,029	14,475,947		23 Lapsed
Early Childhood Education	293,438,100			108,572,100	180,404,217		4,461,783 Admin/Lapse (\$4,024,704.45-Admin)
Hold Harmless (HB 317)	97,000,000			28,380,072	68,619,928		0 Balanced
IL Coalition for Immigrant & Refugee Rights	1,466,300			0	1,466,300		0 Balanced
Lowest Performing Schools	980,200			0	670,000		310,200 Lapsed
Materials Center for the Visually Impaired	1,389,100			0	1,389,100		0 Balanced
National Board Certification	977,500			43,500	933,600		400 Lapsed
Phillip J Rock Center	3,497,300			0	3,497,300		0 Balanced
ROE Operations	4,950,000			737,600	4,212,400		0 ISC Salaries (\$337,476)
School Bus Driver Training	70,000			0	70,000		0 Balanced
Tech for Success	2,443,800			112,337	1,272,863		1,058,600 Administration
Target Initiatives	3,128,000			0	630,000		2,498,000 Lapsed
Tax Equivalent Grants	222,600			0	222,600		0 Balanced
Teach for America	1,000,000			0	1,000,000		0 Balanced
Truant Alternative and Optional Education	11,241,300			3,012,700	8,176,500		52,100 Lapsed
<b>Grand Totals</b>	<b>6,710,889,400</b>	<b>1,662,330,854</b>	<b>16,300,000</b>	<b>1,656,724,552</b>	<b>4,702,285,097</b>	<b>11,390,649</b>	<b>5,042,940,587</b>
<b>Total Home Enrollment</b>	<b>2,054,778</b>						
<b>District 299 Home Enrollment</b>	<b>398,259</b>						
<b>Outside District 299 Enrollment</b>	<b>1,656,519</b>						
		<b>CPS Per Pupil</b>	<b>Per Pupil Other</b>				
		4,550	3,048				
		Prorated Gross GSA, MCATs + Grants / Home Enrollment					

# EXHIBIT E

Illinois State Board of Education  
Fiscal Year 2016-17 State Appropriations-Grants  
Net Distribution is actual without recovered funds

Program	PA 99-005 FY 2016	Chicago District 299 Prorated Gross Adjustments	Chicago District 299 Net Distribution	Outside District 299 Prorated Gross Adjustments	Outside District 299 Net Distribution	Approp Balance	Reconciliation
General State Aid	4,632,188,200	1,047,653,029	968,801,225	3,957,844,450	3,663,386,969	6 Lapsed	
GSA Loss Limit	85,000,000	2,840,868	2,840,868	82,159,131.63	82,159,131.63	0 Lapsed	
<b>Mandated Category</b>							
Sp Ed Personnel	440,114,600	84,498,400	0	358,013,812	(2,398,080)	20 Lapsed	
Sp Ed Funding for Children	303,829,700	88,718,300	0	215,111,389	0	11 Lapsed	
Sp Ed Private Tuition	233,000,000	112,772,000	0	119,909,784	318,206	10 Lapsed	
Sp Ed Summer School	11,700,000	6,364,800	0	5,335,200	0	0 Lapsed	
Sp Ed Transportation	452,785,400	138,303,500	0	315,592,055	(1,110,159)	927 Lapsed	
Reg/Voc Transportation	205,808,900	8,026,500	0	201,093,796	(3,311,397)	0 Lapsed	
Ill Free Lunch/Breakfast	9,000,000	4,563,000	0	4,437,000	0	0 Lapsed	
Sp Ed Orphanage (14-7.03)	95,000,000	34,010,000	0	62,085,640	(946)	3 Lapsed	
Reg Ed Orphanage (18-3)	11,500,000	8,078,014	0	6,130,846	0	0 Lapsed	
Bilingual Education	61,681,200	37,601,572	0	60,181,404	37,963,582	50 Lapsed	
<b>Grants</b>							
Advance Placement Classes	500,000		203,563	296,437	0	0	Balanced (190,323 Indirect)
After School Matters	2,443,800		0	2,443,800	0	0	Balanced
Agricultural Education	1,800,000		19,800	1,780,200	0	0	Lapsed
Alternative Learning/Regional Safe Schools	6,300,000		1,039,312	5,260,543	145	145	Lapsed
Arts and Foreign Language	500,000		0	256,335	243,665	0	Lapsed
Blind and Dyslexic	846,000		0	846,000	0	0	Balanced
Career and Technical Education Programs	38,062,100		3,411,799	34,650,301	0	0	Balanced
District Consolidation Costs	3,309,300		0	3,309,300	0	0	Balanced
District Interventions	11,200,000		0	11,200,000	0	0	Balanced (\$5,400,000 from IGA)
Driver Education	18,500,000		3,221,546	15,278,422	32	32	Lapsed
Early Childhood Education	314,238,100		116,268,100	194,211,577	3,758,423	Admin/Lapse (\$3,337,519.78-Admin)	
IL Coalition for Immigrant & Refugee Rights	1,466,300		0	1,466,300	0	0	Balanced
Materials Center for the Visually Impaired	1,421,100		0	1,421,100	0	0	Balanced
National Board Certification	1,000,000		0	1,000,000	0	0	Balanced
Phillip J Rock Center	0		0	0	0	0	(\$3,577,800 from FY17)
ROE Operations	4,950,000		737,600	4,047,495	164,905	Lapse/ISC Salary (\$340,176)	
School Bus Driver Training	70,000		0	70,000	0	0	Balanced
Tax Equivalent Grants	222,600		0	222,600	0	0	Balanced
Teach for America	977,500		0	977,500	0	0	Balanced
Teacher Mentoring	764,609		0	764,609	0	0	Balanced
Tech for Success	0		0	0	0	0	(\$1,151,980-grants and \$950K-Admin from FY17)
Temporary Relocation	60,500		0	60,500	0	0	Balanced
Tuant Alternative and Optional Education	11,500,000		3,082,000	8,417,879	121	121	Lapsed
<b>Grand Totals</b>	<b>6,961,739,509</b>	<b>1,573,429,982</b>	<b>1,607,711,509</b>	<b>5,387,874,508</b>	<b>287,955,105</b>	<b>5,349,860,082</b>	<b>4,168,318</b>
<b>Total Home Enrollment</b>	<b>2,037,485</b>						
<b>District 299 Home Enrollment</b>	<b>393,112</b>	<b>CPS Per Pupil</b>	<b>4,328</b>				
<b>Outside District 299 Enrollment</b>	<b>1,644,373</b>	<b>Per Pupil Other</b>	<b>3,452</b>				

# Chancery DIVISION

## Litigant List

Printed on 03/24/2017

Case Number: 2017-CH-02157

Page 1 of 2

### Plaintiffs

Plaintiffs Name	Plaintiffs Address	State	Zip	Unit #
BD EDUCATION CITY CHICAGO			0000	
GOSA	MARLON		0000	
RUSSELL	LISA		0000	
TAYLOR	WANDA		0000	
VALENTIN	VANESSA		0000	
VAZQUEZ	JUDY		0000	

Total Plaintiffs: 6

### Defendants

Defendant Name	Defendant Address	State	Unit #	Service By
RAUNER	BRUCE		0000	
STATE ILLINOIS			0000	
IL STATE BD EDUCATION			0000	
MEEKS	REV JAMES		0000	
SMITH	DR TONY		0000	
MEMDOZA	SUSANA		0000	

Total Defendants: **6**