

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

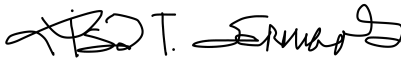
ILLINOIS STATE BOARD OF EDUCATION

By: _____
Name: _____
Title: _____
Date: _____

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: Lisa T. Scruggs
Title: Attorney for Plaintiffs
Date: February 17, 2017

On Behalf of Plaintiffs

ILLINOIS STATE BOARD OF EDUCATION MEETING
February 22, 2017

TO: Illinois State Board of Education

FROM: Tony Smith, Ph.D., State Superintendent of Education *AMS*
Karen Corken, First Deputy Superintendent *KJC*

Agenda Topic: 2017 Legislative Session

Staff Contacts: Amanda Elliott, Co-Director of Legislative Affairs
Sarah Hartwick, Co-Director of Legislative Affairs

Purpose of Agenda Item

The purpose of the agenda item is to provide the Board with a summary of items that may be addressed in the Spring Legislative Session and to update the Board on legislative initiatives for the Spring Legislative Session.

Relationship to/Implications for the State Board's Strategic Plan

The Legislative Agenda will support changes that align with the goals identified within the Board's Strategic Plan.

Expected Outcome(s) of Agenda Item

The Board will be kept informed of tracked legislation and Board initiatives.

Background Information

Licensure

- HB 106 (Batnick) adds master's degree in public administration to the list of master's degrees that qualify an individual for a chief school business official endorsement (currently business administration, finance, or accounting).
- HB 256 (Beiser) requires individuals seeking licensure by an interscholastic athletic organization to be a game official to undergo a fingerprint-based criminal history records check.
- HB 655 (Cavaletto) requires ISBE to notify Professional Educator License (PEL) holders to renew their license via email (if one is made available) six months prior to the date in which the license is set to lapse.

School Choice

- HB 213 (Ford) provides grants to qualifying students at participating nonpublic schools.

ISBE

- HB 378 (Reick) allows any individual to request the Joint Committee on Administrative Rules (JCAR) to determine if a proposed rule by ISBE is an unfunded mandate. If JCAR determines the rule is an unfunded mandate, that rule must be approved by the General Assembly.
- SB 863 (Bertino-Tarrent)/HB 734 (Crespo) requires that after the effective date of the bill, three of the ISBE members shall be representatives of the educator community.

School Districts

- HB 243 (Flowers) requires school districts that operate high schools to establish a partnership with a local police department, county sheriff, or police training academy to establish a jobs training program for high school students.
- HB 261 (Mussman) authorizes school districts to pay for housing for homeless students living out of district in lieu of providing transportation to the student's school of origin.
- HB 265 (Flowers) requires ISBE to include results from lead tests on the School Report Card for Chicago Public Schools (CPS).
- HB 266 (Flowers) allows parents to opt their students out of state assessments. Requires ISBE to produce a form that school districts must distribute to parents.
- HB 268 (Flowers) requires CPS to establish a pilot program to employ a school nurse at the lowest 20 percent performing schools in Chicago.
- HB 269 (Flowers) requires school districts to waive tuition for summer school for the children of parents who cannot afford the tuition.
- HB 332 (Drury) makes changes regarding student data privacy.
- HB 536 (Hoffman) allows school districts to provide free transportation for any pupil residing within 1 1/2 miles from the school attended where conditions are such that the walking route constitutes a serious hazard to the safety of the pupil due to a course or pattern of criminal activity, as defined in the Illinois Streetgang Terrorism Omnibus Prevention Act.
- HB 826 (Lilly) allows districts to hire school social workers. Requires that school social workers hired by districts must hold also have an endorsement in social work on their PEL.
- SB 693 (Connelly) adds to the graduation requirements that each student must complete one semester of study of the free enterprise system before graduating from high school.
- SB 704 (Lightford)/HB 1779 (Welch) prohibits students from being arrested during school hours while on school grounds or at school-sanctioned activities.
- SB 756 (Morrison) allows students in grades 9-12 (instead of 11 and 12) to be excused from physical education for special reasons, approve by a school board.
- SB 757 (Morrison) allows for a student's scores on any state assessment to be removed from the student's transcripts if requested by a parent.
- SB 865 (Manar) requires the School Report Card to include the total and per pupil normal cost paid to TRS.

Wellness

- HB 331 (Drury) requires ISBE and the Department of Public Health to establish a calorie transparency program. Requires districts to display the nutrition information of all food items offered for sale to students on school property.
- HB 370 (Mayfield) requires school districts to post the current Department of Children and Family Services (DCFS) child abuse hotline number, instructions to call 911, and instructions for accessing the DCFS website for more information on reporting abuse, neglect, and exploitation in all schools.

Funding

- HB 267 (Flowers) appropriates \$100,000 from the General Revenue Fund to ISBE for autism programs.
- HB 425 (Welch) provides for Intermediate Service Center director salaries.
- HB 484 (Davis, W) makes changes to the reimbursement formula for private special education tuition.

- HB 507 (Sommer) allows the Fire Prevention and Safety Fund to be used by districts for dyslexia screenings.
- HB 509 (Halbrook) makes changes to the Regional Safe Schools funding formula to include the last three years' average daily attendance of pupils in grades 6 through 12 instead of the best three months' average daily attendance in grades prekindergarten through 12 to the statewide totals of these amounts.
- HB 760 (Lang) extends the debt limit for East Prairie School District 73.
- HB 773 (Skillicorn) sunsets a school district's ability to transfer surplus dollars in the life safety fund to the Operations and Maintenance Fund for building repair work.

Mandates

- HB 440 (Ives) removes the daily physical education requirement.
- HB 663 (Morrison) allows districts to not comply with any instructional mandate if payments to the district from the state are delayed more than one payment cycle.
- HB 670 (Morrison) removes restrictions on school boards that wish to contract out for driver's education.
- HB 696 (Martwick) provides for the election of the Chicago Board of Education at the general primary election in 2018 only as a nonpartisan election on a separate ballot.
- HB 726 (Jonaes, T) requires the study of Black History in order for a student to graduate from eighth grade. Also requires institutions of higher education to offer a course in Black History.
- HB 793 (Demmer) allows districts to not comply with mandates that are unfunded, with exceptions.
- SB 650 (Connelly) allows districts to notify collective bargaining units of mandate waiver requests via electronic means (instead of in writing as currently required by the School Code).
- SB 791 (Sandoval) allows students to substitute the entirety of grades 11 and 12 with vocational or technical education courses that are approved jointly by ISBE and the Illinois Workforce Investment Board.

2017 Spring Session

Over the past several months, Legislative Affairs staff has been working with ISBE agency divisions to develop legislative proposals for the 2017 Spring Legislative Session.

Subject: Educator Licensure

Executive Summary: This proposal will include recommendations from agency staff and stakeholders to remove barriers to licensure and clean up provisions in the licensure Section of the Code.

Subject: Districts of Innovation

Executive Summary: This proposal would allow school districts in Illinois to become Districts of Innovation. These districts would be encouraged to develop new instructional and administrative practices or create alternatives intended to improve student learning and student performance.

Subject: Article 7 Rewrite

Executive Summary: This proposal includes a complete review and rewrite of Article 7 of the School Code, which deals with the detachment of property and annexation of each property to another district or districts, as well as instances where an entire district is dissolved and annexed to another district or districts. An overhaul was completed of the School Code articles

concerning the formation of a new district or districts, resulting in Public Act 94-1019 and the creation of Article 11E, but a similar overhaul of the law dealing with annexations has not been completed.

Subject: At-Risk Student Support

Executive Summary: This initiative will address two issues that impact students considered at risk for dropping out of school. Currently, students who fail to meet minimum attendance or academic standards may be dropped from a district's roster for non-attendance reasons. Removing these provisions in the School Code will permit these students to remain in school and have access to opportunities and necessary interventions to ensure that these at-risk students graduate from high school ready for college and career.

Subject: High School Assessment Date

Executive Summary: This proposal will require that the college entrance exam be given during the school day. This will ensure greater access to a college entrance exam.

Subject: Obsolete and Duplicative Legislation

Executive Summary: This initiative would be a continuation of ISBE's efforts to streamline the School Code provisions and amend or repeal outdated or otherwise problematic provisions of the School Code. ISBE has introduced similar pieces of legislation over the last several years.

Subject: Every Student Succeeds Act

Executive Summary: This initiative is a placeholder pending any necessary legislation to enact Illinois' ESSA State Plan.

Superintendent's Recommendation

N/A

Next Steps

Staff will continue to monitoring legislative activity.