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YESENIA MARRERO, ARLENE MARRERO,
RICHARD MOJICA and CHRISTIAN MOJICA,

minors, by their parent and guardian
KATHRYN, CHRISTINE, WILLIAM and
STEPHEN NOLAN, minors, by their
parent and guardian William H. Nolan;
WILLIAM H. NOLAN; JEANENE and LARRY
LITTLE, minors, by their parent and
guardian Karen H. Little; KAREN

H. LITTLE; DAVID and ZACHARY MAAS,
minors, by their parents and
guardians Peter Maas and Lesley Carson;
PETER MAAS and LESLEY CARSON;
ASPIRA, INC., OF PENNSYLVANIA;
PHILADELPHIA BRANCH NAACP;
CITY OF PHILADELPHIA and
SCHOOL DISTRICT OF PHILADELPHIA,

Plaintiffs,

v.

COMMONWEALTH OF PENNSYLVANIA;
GENERAL ASSEMBLY OF THE
COMMONWEALTH OF PENNSYLVANIA;
PRESIDENT PRO-TEMPORE OF THE
SENATE MARK s.SCHWEIKER, in his

COMMONWEALTH COURT
OF PENNSYLVANIA

No. 1997

civil Action -
Declaratory Relief

official capacity; SPEAKER OF
THE HOUSE OF REPRESENTATIVES
MATTHEW J. RYAN, in his Official
capacity; GOVERNOR OF THE
COMMONWEALTH OF PENNSYLVANIA
THOMAS J. RIDGE, in his official
capacity; COMMONWEALTH
OF PENNSYLVANIA STATE BOARD OF
EDUCATION; COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
EDUCATION; SECRETARY OF EDUCATION
EUGENE HICKOK, in his official
capacity,

Defendants .

COMPLAINT

ACTION FOR DECLARATORY JUDGMENT

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff, You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las pagina siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar un comparencia escrita o en persona o con un abogado y entregar la corte en

forma escrita sus defensas o sus objeciones a la demandas en contra de su persona. sea avisado qua si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion . Ademias la corte puede decidir a favor de demandante y requiere qu usted cumpla con todas las provisiones de esta demanda .Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO IMMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TASERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGA.

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COMPLAINT

ACTION FOR DECLARATORY JUDGMENT

A. Parties

1. Yollie Tabales, as parent and guardian, brings this action in behalf of Yesenia Marrero, Arlene Marrero, Richard Mojica and Christian Mojica, minors, and on her own behalf. Yollie Tabales, Yesenia Marrero, Arlene Marrero, Richard Mojica and Christian Mojica reside at 610 West Clearfield street, Philadelphia, Pennsylvania 19133. Yesenia, Arlene, Richard and Christian attend school in the School District of Philadelphia ("School District"). Yesenia and Arlene attend Edison High School, Richard attends Widener Memorial Center School and Christian attends Potter-Thomas Elementary School. Yollie Tabales pays taxes to support services, including public education.

2. William H. Nolan, as parent and guardian, brings this action in behalf of Kathryn, Christine, William and Stephen Nolan, minors, and on his own behalf. William H. Nolan, Kathryn,

Christine, William and Stephen Nolan reside at 9217 Exeter Road, Philadelphia, Pennsylvania 19114. Kathryn, Christine, William and Stephen attend school in the School District. Kathryn attends Lincoln High School, Christine attends Meehan Middle School and William and Stephen attend Thomas Holme Elementary School. William H. Nolan pays taxes to support services, including public education, is the President of the Thomas Holme Home and School Association and is an active volunteer at the Thomas Holme and Meehan schools.

J. Karen H. Little, as parent and guardian, brings this action in behalf of Jeanene and Larry Little, minors, and on her own behalf. Karen H. Little, and Jeanene and Larry Little reside at J101 Marston Street, Philadelphia, Pennsylvania 19132, and Jeanene and Larry attend school in the School District. Jeanene attends Rhodes Middle School, which has a student body comprised of 91% low income family students; and Larry, a special education student, attends Bache-Martin Elementary School, which has a student body comprised of 80% low income family students. Karen H. Little pays taxes to support services, including public education, is a member of the Rhodes Home and School Association and is working to support improvement in the school.

4. Peter Maas and Lesley Carson, as parents and guardians, bring this action in behalf of David and Zachary Maas, minors, and on their own behalf. Peter Maas and Lesley Carson and David and Zachary Maas reside at 6806 Greene Street, Philadelphia, Pennsylvania 19119. David and Zachary are eligible to attend

school in the School District. Because of the inadequate education provided by public schools in Philadelphia, David and Zachary attend private school at Greene Street Friends School (rather than the public C.W. Henry Elementary School) at considerable cost to their family. Peter Maas and Lesley Carson pay taxes to support services, including public education.

5. Plaintiff ASPIRA, Inc. of Pennsylvania ("ASPIRA"), 2726 North 6th Street, Philadelphia, Pennsylvania 19133, is a not-for-profit organization which works with more than 3,500 students in the School District, more than 400 public school drop-outs and hundreds of young adults who formerly attended schools in the School District who are struggling with literacy problems. ASPIRA programs attempt to overcome the inadequacies of the education provided in the School District for students in low income and ethnic and racial minority neighborhoods.

6. Plaintiff Philadelphia Branch NAACP ("NAACP") ' 1231 North Broad Street, Philadelphia, Pennsylvania 19122, is a not-for-profit organization with over 3,000 members who are Philadelphia residents and taxpayers, more than half of whom are low income parents of public school children. NAACP supports tutoring programs and workshops for School District students, raises money for some of the technology and books used in the School District because of the inability of the School District to provide them sufficiently and supports literacy programs for adults who the School District failed adequately to educate.

7. The City of Philadelphia ("City"), a municipal corporation, is the only city of the First Class in Pennsylvania. The City has adopted a home rule charter in accordance with the First Class City Home Rule Act, 53 P.S. §§13101 et seq. The City's boundaries are coterminous with the School District and it has an office at 215 city Hall, Philadelphia, Pennsylvania 19107.

8. The School District has been delegated responsibility to provide an adequate education to school age children residing in the City pursuant to the Commonwealth's constitutional obligation to maintain and support a thorough and efficient system of public education. Pennsylvania Constitution, Article 3, Section 14. The School District, a corporate entity with the right to sue, operates pursuant to the School Code. The School District is the only district in the Commonwealth without the power of taxation. The School District has an office at 2130 Arch street, Fifth Floor, Philadelphia, Pennsylvania 19103.

9. Defendant Commonwealth of Pennsylvania is (a) constitutionally required to provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth, (b) prohibited from discriminating in fulfilling its public education responsibilities and (c) obligated to ensure that each child receives an adequate education.

10. Defendant General Assembly of the Commonwealth of Pennsylvania is established by Article 2, Section 1 of the Pennsylvania constitution. Article 3, Section 14 of the

Pennsylvania Constitution ("the Education Clause") requires the General Assembly to establish a system of public schools and to provide a thorough and efficient system of public schools to serve the needs of the Commonwealth.

11. Defendant Mark s. Schweiker is President Pro-Tempore of the Senate, which is charged with responsibility under the Education Clause. Defendant Mark s. Schweiker is sued in his official capacity and has an office at 200 Main Capitol Building, Harrisburg, Pennsylvania 17120.

12. Defendant Matthew J. Ryan is Speaker of the House of Representatives, which is charged with responsibility under the Education Clause. Defendant Matthew J. Ryan is sued in his official capacity and has an office at 139 Main Capitol Building, Harrisburg, Pennsylvania 17120.

13. Defendant Governor Thomas J. Ridge is obligated to recommend education spending to the General Assembly, approve legislative appropriations and supervise the executive departments that administer regulations and programs governing the School District. The Governor is responsible, with the advice and consent of the Senate, for appointing the Secretary of Education and members of the State Board of Education. As the chief executive officer of the Commonwealth, the Governor has responsibility for ensuring that the School District has sufficient resources to assure that its students are not denied their fundamental rights under the Education Clause. 71 P.S. §67.1(d) (1); 24 P.S. §26-2602-B and §26-2605-B. Defendant Governor Ridge is sued in his official

capacity and has an office at 225 Main Capitol Building, Harrisburg, Pennsylvania 17120.

14. Defendant State Board of Education has the duty to make reports and recommendations and give guidance to the Governor and school districts and to adopt policies, principles, rules, regulations and standards concerning school programs, testing, curriculum development, facilities, finance and long-range needs of the Commonwealth's public school system. 24 P.S. §26-2603-B and §26-2605-B; 22 Pa. Code §1.1 et 2M. Defendant State Board of Education has an office at 333 Market Street, Harrisburg, Pennsylvania 17126.

15. Defendant Commonwealth Department of Education ("DOE") is charged with administering laws concerning establishment, maintenance, conduct, adequacy and efficiency of public schools, providing revenue to establish and maintain public schools, prescribing courses of study, administering testing, establishing standards, requiring and receiving reports from school districts and classifying schools. 71 P.S. §351, §352 and §1037. DOE has an office at 333 Market street, Harrisburg, Pennsylvania 17126.

16. Defendant secretary of Education Eugene Hickok is responsible for administration and supervision of the DOE. Defendant Secretary of Education Hickok is sued in his official capacity and has an office at 333Market street, Harrisburg, Pennsylvania 17126. (At times, defendants are collectively referred to as the "Commonwealth").

B. Jurisdiction

17. This Court has original jurisdiction over this matter pursuant to 42 Pa.c.s. §761 and may grant declaratory relief pursuant to 42 Pa.c.s. §§7531 et .filill.

c. The Fundamental Right To Public Education

18. Public education in Pennsylvania is a fundamental Constitutional right of every school child.

19 . An education that meets the needs of the commonwealth is of paramount importance to children and society.

20. The Education Clause requires the General Assembly to:

"provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the commonwealth."

21 . A "thorough and efficient system of public education" would produce for each child in the Commonwealth an adequate education.

22. The Education Clause requires the Commonwealth to provide for a public education system that offers every child in each school district an opportunity to receive and benefit from an adequate education.

23. Article 3, Section 11 of the Pennsylvania constitution allows general appropriation bills to include appropriations for "the executive, legislative and judicial departments of the Commonwealth, for the public debt and for public schools."

24. A key objective of the constitutional provision for education was to provide adequate schooling for all children, regardless of economic status.

25. Article 1, Section 1 of the Pennsylvania Constitution vests inherent and inalienable liberty and property rights in all persons.

26. Article 1, Section 26 of the Pennsylvania Constitution mandates:

"Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right."

27. The students in the City have a justifiable expectation that they will have access to and be provided with an adequate education.

28. Adequate educational opportunities must be available to "utilize the productive capacities of individuals to their fullest extent, [to avoid) depriv (ing) large segments of the population of the Commonwealth of earnings necessary to maintain decent standards of living, necessitat [ing] their resort to public relief and intensif [ying) group conflicts ... thereby threatening the peace, health, safety and general welfare of the commonwealth and its inhabitants." 43 P.S. §952 (a); 22 Pa. Code §12.4 and §5.4 (c) .

29. "The overriding mission of public education, in conjunction with families and other community institutions, is to elevate all children to the highest level of academic achievement .

Public schools will not set achievement levels at the lowest common denominator. 22 Pa. Code §5.201 (c).

30. In "renew[ing] its dedication to its responsibility of providing a thorough and efficient system of public schools within the commonwealth", the Legislature has declared that the Education Clause imposes responsibility upon the Commonwealth to act to assure that its school districts are capable "of providing adequate education and appropriate training for all of the children of the Commonwealth" and imposes upon school districts "the power and the duty ... to carry out the responsibilities shared by them and the General Assembly, of educating and training each child within his capacity to the extent demanded by the immediate requirements of growth and strengthening of this Commonwealth and nation." 24 P.S. §2-290.

31. The General Assembly has required the State Board of Education and DOE "to measure objectively the adequacy and the efficiency of the educational programs offered by the public schools of the Commonwealth." 24 P.S. §2-290.1.

32. "[T]he students of the Commonwealth should be provided with opportunities to enroll in a quality core educational program ... and ... it is the responsibility of the Commonwealth to ensure this is done." May 1996 Report of the Governor's Advisory Commission on Public School Finance ("May 1996 Report").

33. "The finance system for Pennsylvania public schools exists to furnish the resources necessary to provide access to a

quality public education for young Pennsylvanians." May 1996 Report.

34. The Commonwealth, through DOE, has promulgated a series of "goals" which outline knowledge, skills, processes, judgments, values, independence, esteem and aptitudes that students with an adequate public education should achieve and set forth capacities that are essential for students to attain in today's world.

35. Accompanying the goals are a series of "outcomes", identifying the subject areas to which students must be exposed to attain the goals.

36. The commonwealth has established curriculum and instruction guidelines, graduation requirements and an assessment system to measure whether students have achieved or exceeded the learning outcomes.

37. The Commonwealth has recognized the importance of suitable facilities to accommodate the students.

38. The Commonwealth requires that all children between the ages of 8 and 17 attend school and prescribes the minimum number of days public schools must be in session. 22 Pa. Code §11.13; 24 P.S. §13-1327 and §15-1501.

39. Because the adequacy and needs of education are continually evolving, the determination of a thorough and efficient system of education depends upon the economic, historical, cultural and social contexts in which that education is provided.

D. School District Demographics

40. The School District, with a current enrollment of approximately 213,500 students, is the largest school district in the Commonwealth and the fifth largest in the United States.

41. Since 1991-1992, the School District's enrollment has increased by more than 18,000 students. That increase is itself larger than the fourth largest school district in the Commonwealth.

42. There are 257 schools, approximately 12,200 teachers and more than 14,000 professional staff in the School District. An increase in enrollment necessitates additional teachers, classrooms and buildings.

43. Of the 62 school districts in the region including Philadelphia, the City ranked last in total expenditures per student for 1994-1995.

44. During 1994-1995, the average neighboring suburban district spent \$5,187 per pupil, while the School District spent \$6,261 -- a per student difference of \$1,926, increasing from a gap of \$1,688 per student in 1993-1994 and a gap of \$912 per student in 1991-1992.

45. The School District is required to meet its greater challenges with fewer resources than other districts.

E. Educational Challenges and Needs in the school District

46. If provided with an education adequate to meet their needs, all children can learn, regardless of where they live or their socio-economic or family background. Because of

circumstances or environments beyond their control, some children may require different or additional educational and related services in order to receive an adequate education.

47. The cost of educating children is greater where a large percentage of the population lives in poverty.

48. Because "[s]ome students will achieve more quickly than others and some will achieve in different ways than others, although all are capable of high levels of achievements", school districts must "adopt more than a minimal education program" to "assist all students to achieve the highest academic standards." 22 Pa. Code §5.2(4).

49. The fact that different children have different needs does not alter the commonwealth's obligation to ensure that all children have an opportunity to receive a quality education and to maintain and support a thorough and efficient system of public education that is adequate to serve the needs of the Commonwealth.

50. To achieve a thorough and efficient system of public education, children with greater needs must have greater resources.

51. The School District operates schools in a high cost urban environment and is responsible for educating a disproportionate number of the commonwealth's students who live in poverty.

52. To protect the best interests of the children and to provide an adequate education in schools with high concentrations of students living in poverty and in an urban environment, the School District must make available more, or more intensive,

educational and education-related services than are needed elsewhere in the Commonwealth.

53. The City has the highest statewide incidence of poverty, support cases, child abuse, juvenile delinquency, births to single mothers, welfare placements and Aid to Families with Dependent Children ("AFDC") placements .

54. Of the approximately 213,500 children in the Philadelphia public schools, approximately 50.5% come from families that receive AFDC and approximately 79.6% are eligible for free or reduced price lunch. By contrast, in the surrounding metropolitan area, 2.7% of the students come from AFDC families.

55. The School District's AFDC student population increased by 13.64% from 1992 to 1996, compared to a decrease of 5.89% for all other Commonwealth school districts.

56. The School District has the highest incidence of students in poverty of all 62 school districts in the five-county region with 73.1% of students being so classified, compared to a median of 5.9%.

57. There is a close correlation between high poverty and low achievement where students are not provided with sufficient resources, instruction and related services.

58. "In those areas in which there is a large population living in poverty, where crime is a serious problem, where dependence on public assistance is prevalent, it is more difficult to educate students and more difficult for students to achieve at competitive levels." May 1996 Report .

59. Although students living in poverty need a special supportive educational effort in order to provide them the opportunity to succeed as citizens and workers, the Philadelphia public school students are not receiving educational support sufficient to address their greater need.

60. Lack of sufficient resources results in a lack of adequate educational opportunities in the School District, as reflected in larger class sizes and higher pupil-to-teacher ratios than in surrounding school districts; reduced curriculum; cuts in and elimination of programs and elective and advanced placement courses; shortages of textbooks and use of outdated textbooks; shortages of equipment, supplies and technology; spartan physical education and extracurricular programs; lack of librarians and library services; insufficient numbers of counselors and psychologists; and many inadequate and crumbling physical facilities.

61. on its face and as applied to the School District, the Commonwealth system of funding education irrationally and arbitrarily fails sufficiently to account for the level of poverty and growth and for the special characteristics of its student population and provides resources and assistance at a level far below that which is needed.

62. The School District is committed to providing a quality education to every student in a safe environment. That goal is not possible absent a commensurate commitment by the Commonwealth and the provision of a system of public education that

provides sufficient Commonwealth resources and other assistance to permit the School District adequately to meet the needs of its students .

63. The School District faces substantial costs in meeting the needs of its large and growing special needs population.

64. The Commonwealth does not make available to the School District sufficient special education aid to meet the needs of special education students adequately or to satisfy the special education mandates of state and federal law.

65. This shortfall reduces the ability of the School District to provide necessary services to its special needs students and requires the District to reallocate substantial resources to serve special education students, in compliance with applicable laws, further reducing its ability to meet adequately the educational needs of its regular student population.

66. A disproportionate and growing number of students in the School District have limited English proficiency and require English-as-a-second-language ("ESOL") or related services to ensure an opportunity to receive an adequate education.

67. The School District also educates a disproportionately large number of the commonwealth's racial and cultural minority students, many of whom live in poverty in racially-identifiable areas.

68. Approximately 80% of the School District's student population is minority. While the School District educates

approximately 11.8% of the Commonwealth's total public school students, it serves approximately 48.2% of the Commonwealth's total minority student population.

69. High rates of student absenteeism, student mobility and homelessness, particularly among students living in or near poverty-stricken communities, also places a substantial burden on the School District in providing students with educational and related services.

70. The Commonwealth fails to recognize or take account of the additional costs and burdens necessitated by the above factors in its system of funding public education.

71. Under the present funding system, the School District cannot adequately meet the needs and challenges associated with providing a quality education to its student population.

F. unacceptable Student outcomes Demonstrate the Lack of Adequate Educational opportunities

72. Student testing provides relevant data to enable school districts to appraise educational performance and to effectuate improvements in programs.

73. In the 1995-1996 school year, students in grades 2, 4, 6, 8 and 11 were tested in reading, mathematics and science on the *Stanford Achievement Test 9th Edition* ("SAT-9"). The SAT-9 is a standards-based achievement test developed by content area experts who were guided by the most current standards of national associations, projects and models. In reading, approximately 80% of the students tested below the proficient level. In mathematics and science, approximately 90% tested below the proficient level.

74. In the 1995-1996 school year, SAT-9 achievement test results for reading show: only 26 out of 176 School District elementary schools met or exceeded the national average; only 6 out of 42 middle schools achieved above the national average. In mathematics, only 8 out of 176 elementary schools and 3 out of 42 middle schools met or exceeded the national average.

75. The 1996 Pennsylvania system of School Assessment test results reveal that 66% of fifth grade students in the School District scored in the lowest quartile in reading and 66% scored in the lowest quartile in mathematics, while only approximately 5% scored in the highest quartile in reading and mathematics.

76. From 1992-1996, fewer than 50% of the students in the School District took the Scholastic Aptitude Test ("SAT"); in 1996, those students who took the SAT performed at the 23rd percentile rank compared to the national percentile average rank of 50% while statewide students performed at the 47th percentile rank.

77. During the period 1992-1996, mean scores for SAT verbal and mathematics for students in the School District have declined by 12% and 11% respectively, while statewide scores have increased by 3% and 5% respectively and nationally increased by 5% and 7% respectively.

78. Approximately one-third of the School District's students entering ninth grade in 1989, 1990 and 1991 dropped out of school.

79. These poor performance levels demonstrate that a large number of students in the School District are not obtaining

the skills and competencies reasonably expected, and are not receiving the quality education which would be produced by a thorough and efficient system of public education.

80. The Commonwealth's failure to make available the resources and assistance needed condemns hundreds of thousands of children, and in turn adults, in the city to live their entire lives as victims of an inadequate education and without the attendant basic knowledge, skills and self-esteem required to participate effectively in social, economic, civic and political life.

81. Students of the School District are likely to be in competition for jobs with students who attend schools in the surrounding area, and their education and academic achievement is likely to be a significant factor in that competition.

82. Given the correlation between academic achievement and earnings, the School District's students will on average have lower earnings and standards of living throughout their working lives, to their detriment and to the detriment of the Commonwealth.

83. In order to achieve the constitutional standard for students from the School District including affording them the ability to succeed in the society entered by their relatively advantaged peers -- the system of public education must enable the school District to provide programs containing elements over and above those found in the affluent suburban districts.

G. Aging and Insufficient Facilities contribute to Inadequate Education and Poor Performance

84. Although attending school in a physical environment that is safe and conducive to learning is an essential component of an adequate education, substantial numbers of buildings and classrooms in the School District are old, not secure, overcrowded, unusable in inclement weather and incapable of supporting the required level of educational and education-related services.

85. The engineering firm engaged to assess and inventory the physical conditions of each School District facility estimated that maintaining, repairing and replacing facilities and equipment will conservatively cost \$765 million, not accounting for increased enrollment or desired reduced class size. Even if this amount could be financed through the School District's capital budget, it would add an annual obligation of more than \$76 million to the operating budget for additional debt service.

86. The Commonwealth has failed to provide a system of funding public education that supplies to the School District the resources and assistance necessary to build and maintain facilities and equipment to support an adequate education.

H. The Inadequacy of the Public School system Harms the city

87. The inadequacy of the City's public school system, caused by insufficient Commonwealth funding, contributes to a cycle of declining urban population and erosion of the city's tax base.

88. Individuals and businesses move out of the City and fail to move into the City because of the inadequacy of the City's public school system.

89. Because individuals and businesses choose where to locate their residences or businesses in large part based upon the quality of public education in the area, Philadelphia is disadvantaged in competing for residents and businesses.

90. The city's efforts to attract and retain jobs are thwarted by the inadequacy of its public school system.

91. The City's tax base would benefit from adequately educated citizens able to perform jobs and contribute tax revenue. conversely, the tax base is injured by inadequately educated citizens who often are unable to hold jobs and, therefore, often turn to public support or even crime, causing additional costs for public services such as health services and prisons.

92. The failure to produce an adequately educated citizenry thus injures the City and its tax base.

93. Education is a substantial factor in predicting economic well-being. In 1994, the average high school graduate in the United States who did not enroll in college earned \$20,248, 47.8% more than the average high school dropout, who earned \$13,697.

94. Inadequate education correlates highly with rates of imprisonment. Prisoners in the United States are more than six times as likely to have dropped out of high school than the average American citizen aged 16 to 24.

95. Inadequate education often leads to dependency on public assistance. In 1994, individuals in the United States ages 25-34 who dropped out of high school were more than twice as likely as high school graduates who did not enroll in college to receive AFDC or public assistance.

96. As the City's economy shifts from manufacturing-based to service-based, the importance of education to earning a sufficient income increases.

97. Manufacturing firms now require that their employees possess a higher level of skill. From 1985-1995, the percentage of precision production employees in the United States who had not graduated from high school dropped from 23% to 16%.

98. The Commonwealth's failure to provide adequate funding for the School District has imposed excessive requirements of local funding, making it impossible for the City to afford the tax relief its citizens desperately need.

99. Without sufficient funding from the Commonwealth for education, the City is and will be unable to improve its fiscal integrity and delivery of services.

100. "It is ... a public policy of the Commonwealth to exercise its retained sovereign powers with regard to ... matters of statewide concern in a manner calculated to foster the fiscal integrity of [Philadelphia] to assure that [it] provide [s] for the health, safety and welfare of [its] citizens...." 53 P.S. §12720.102 (a) .

101. The Commonwealth has recognized that Philadelphia's "recurring financial difficulties ... may affect the performance of necessary municipal services to the detriment of the health, safety and general welfare of [its] residents" and that "due to the economic and social interrelationship among all citizens in [the Commonwealth's] economy, the fiscal integrity of [Philadelphia] is a matter of concern to residents of the entire Commonwealth, and the financial problems of [Philadelphia] have a direct and negative effect on the entire Commonwealth." 53 P.S. §§12720.103(1) and (5).

I. The Need for Additional commonwealth Funding and Assistance

(1) The statutory structure for Funding Education

102. The Commonwealth funds public education through a statutory scheme that relies on a combination of Commonwealth and local sources.

103. The Commonwealth: (a) provides school districts with funding from Commonwealth tax revenues and (b) contemplates that additional funding for school districts will be raised through local tax levies.

104. The principal source of Commonwealth revenue to the School District is the basic education subsidy.

105. commonwealth funding for basic education in the school District, when adjusted for inflation, has decreased each year on a per student basis from fiscal 1992 to fiscal 1998.

106. The commonwealth's proposed budget for 1997-1998 provides no increase in total state revenues to the School District

above fiscal year 1996-1997, despite inflation and a projected 1.4% increase in student population.

107. Even though enrollment and the number of City children from families receiving AFDC increased, the Commonwealth's budget for 1996-1997 did not include any increases in basic education spending for the School District over the prior year.

108. There was only a 0.9% increase in total state revenues to the School District from fiscal year 1995-1996 to fiscal year 1996-1997, less than the rate of inflation.

109. Since 1991-1992, the School District's number of AFDC students has outpaced the rest of the Commonwealth, its enrollment has grown at a faster rate and its local tax base has grown more slowly.

110. Nevertheless, both basic education funding and total state funding have grown more slowly for the School District than for the rest of the Commonwealth, both on a total revenue basis and on a per student basis.

111. For the period 1992-1993 to 1996-1997, the commonwealth's basic education subsidy to the School District increased by 8.59% while the subsidy increased for all other school districts by 14.61%.

11.2. Commonwealth funding thus has shifted away from the School District at the same time that its needs have grown faster than the rest of the commonwealth.

113. Although the School District has approximately 11.8% of the state's public school population and

disproportionately greater needs and challenges, it accounts for only 10.9% of the total expenditures for public school students in the Commonwealth.

114. When adjusted for inflation, per pupil funding of the School District for basic education and all other purposes has declined over the past five years despite the increase in students living in poverty, increase in enrollment and decline in the ability of the local tax base to fund the School District.

115. Because of the growth in student population and the decline in revenues, the School District will have less to spend per student in 1997-1998 than the year before. This is without adjusting for inflation, which increases the cost of procuring the same supplies and providing the same services.

116. In allocating resources and other assistance for basic education, the Commonwealth funding system fails to take sufficient account of the extraordinary challenges and burdens of the School District and the substantially greater services needed to provide the educational opportunities to which all students in the School District are constitutionally entitled.

117. The actual numbers and particularized needs of special education students within the School District are not considered in the Commonwealth's calculation of funding for special education, and the commonwealth's proposed budget for 1997-1998 provides approximately \$7 million less to the School District for special education than in 1996-1997.

118. Accordingly, the Commonwealth funding scheme fails to provide a thorough and efficient system of public education that serves the needs of the Commonwealth, is inadequate to provide the quality of education to which all children in the School District are entitled, is irrational as applied to the School District and clearly, plainly and palpably violates the Pennsylvania Constitution.

119. To meet its constitutional responsibility to provide a thorough and efficient system of public education, the commonwealth must make available to the School District substantially greater commonwealth resources and assistance.

120. Federal aid to the School District is not sufficiently available or reliable to solve the inadequacies and, in any event, is categorical and may only be used to supplement, not supplant, state and local funding sources. 20 U.S.C. §2728.

②) Failure of the commonwealth to Recognize Limitations of Local Revenues Due to Lack of Local Taxing Power and Municipal overburden

121. The Commonwealth statutory scheme, which anticipates substantial operating revenues to support education from local taxpayers, fails to account sufficiently for the situation presented in the School District.

122. Of the 501 school districts in the commonwealth, the School District is the only one which has no independent power of taxation.

123. The School District depends upon Philadelphia City Council to authorize local tax revenues and annually seeks additional assistance from the City.

124. Because Philadelphia is both a city and a county, and shares a tax base with the School District, the same tax base must support schools and traditional city functions (, police, fire, recreation) as well as traditional county functions (, prisons, health department, human services).

125. The City experiences what is commonly referred to as "municipal overburden" -- the excessive tax levy which must be imposed to meet extraordinary local governmental needs in addition to education.

126. The City's tax base already is excessively burdened because of the high poverty rates in Philadelphia, which necessitate substantially higher municipal expenditures than in relatively more affluent communities. The City's tax base cannot reasonably be expected to support the burdens of urban poverty as well as the cost of urban public education without substantially more financial assistance from the Commonwealth.

127. . Poor people need expensive services, but social cannot contribute to the tax base to pay for them. 13% of the

128. The City has approximately Commonwealth's population, but has a much higher percentage of the commonwealth's social problems associated with poverty, such as crime, AIDS, homelessness and child welfare needs.

129. Because of the disproportionately high concentration of poverty and social problems, the City has much higher costs for corrections, police, courts and health and human services than other parts of the Commonwealth.

130. . Poor residents of Philadelphia are more dependent on city services such as health clinics, child welfare services and services to the homeless than are affluent people. In 1995, the City spent \$134 million in unreimbursed expenditures for poverty- related programs or 7.6% of the City's local revenue.

131. The proportion of poor people in the City is increasing relative to the rest of the population: between 1969 and 1989, while the overall poverty rate in the United States increased by less than 1% (from 12.1% to 12.8%), the poverty rate in Philadelphia increased by almost 5% (from 15.4% to 20.3%).

132. The City's tax base cannot fill the void created by the commonwealth's failure adequately to fund the School District.

133. Two critical elements of a tax base are people and employed people.

134. The City cannot raise taxes without further eroding its tax base .

135. The City has lost population in every year since 1950 and has lost well in excess of 200,000 jobs since 1969, an annual average loss of 1.25% of its job base each year.

136. Philadelphia residents and businesses are among the most heavily taxed for local services within the five county

metropolitan region, the Commonwealth of Pennsylvania and the United States.

137. Residents of the School District pay dramatically higher taxes than residents of other school districts in the Commonwealth, both as a percentage of income and as a percentage of the market value of real property.

138. In 1994, compared to a representative sample of urban, suburban and rural school districts throughout the Commonwealth, the School District ranked first out of the 60 sampled school districts in total local tax burden. The School District's total tax burden is 93.9% higher than the average tax burden for the other 59 school districts sampled.

139. Further local tax increases in Philadelphia will exacerbate the loss of population and exodus of jobs from the City and will make it increasingly difficult, if not impossible, to reverse this destructive trend. This trend, in turn, further erodes the tax base and further weakens Philadelphia's ability to provide needed revenue to the School District.

140. From 1992-1993 through 1996-1997, the City experienced a growth in the market value of taxable property of only 7.6% compared to a 29.06% growth in the rest of the Commonwealth. Personal income increased by only 2.08% in Philadelphia compared to 20.54% in the rest of the Commonwealth.

141. The local tax base is incapable of filling the gap between the money needed for an adequate education and the money provided by the Commonwealth.

142. The lack of adequate resources and education harms the health, safety and welfare of the public school students, their families, the families of City children who make the financial sacrifice to send their children to private schools, the School District and the Commonwealth community at large.

J. Inadequate Funding Prevents the School District from Fulfilling its Obligation

143. The School District has taken numerous actions to improve academic performance, including providing full-day kindergarten to all eligible children, adopting challenging content standards, instituting a rigorous professional responsibility system and reconstituting two of its most academically distressed high schools.

144. Notwithstanding the actions the School District has taken and is taking to improve academic performance, the problems faced by the School District are so embedded in the present funding system that there is no likelihood of achieving an adequate education for all children unless additional Commonwealth resources and assistance are supplied. 24 P.S. §6-691.

145. With adequate programs, achievement can and does improve. Additional resources from the commonwealth would allow the School District to conduct programs and services successfully used elsewhere to enable low income students to reach and exceed proficient levels of achievement.

146. on a continuing basis, the School District has been seeking more local revenue and has requested additional allocations

for 1997-1998, but the money is not available from an already overburdened, diminishing tax base.

147. Based on all sources of revenue, and after additional reductions in the cost of central administration, the School District is projecting a shortfall of \$52,785,000 for 1997-1998 merely to continue the existing, inadequate level of programs.

148. The insufficiency of funds prevents the Board of Education of the School District, through no fault of its own, from satisfying its duty "[t]o determine and direct all expenditures for the maintenance and improvement of the school system." 24 P.S. §21-2103(3).

149. Because the Commonwealth's statutory scheme for education funding for the School District relies upon the financially pressured City's tax base for an unrealistic contribution, it fails to provide the resources necessary to meet the needs of all School District students.

150. The commonwealth's failure to provide sufficient resources and assistance to the School District adequate to meet the needs of its student population denies the fundamental constitutional right to an adequate public education to students who attend or are eligible to attend school in the School District.

K. Unfunded and Underfunded commonwealth Mandates

151. Numerous unfunded and underfunded programs mandated by the commonwealth greatly increase the School District's operating costs.

152. To the extent that Commonwealth subsidies for its mandates are inadequate, the School District must divert funds that would otherwise be available for instruction.

153. The Commonwealth requires local school districts to provide specific categories of services for which Commonwealth funding is inadequate. In 1996-1997, the School District will:

- a. spend \$194 million on mandated special education services, yet will receive only \$90 million in Commonwealth funding for this program;
- b. commit more than \$18 million beyond Commonwealth and other reimbursements to provide comprehensive day care to almost 4,000 children;
- c. spend \$11.3 million more than the Commonwealth reimbursement to provide transportation to non-public school children;
- d. spend almost \$2 million more than the Commonwealth reimbursement to provide early intervention services for special needs children ages 3-5 years;
- e. receive less than \$2 million in reimbursement of the \$11.8 million it will spend to satisfy the Commonwealth requirement of a minimum of one nurse per 1,500 students;
- f. spend \$900,000 more than the Commonwealth appropriates to provide dental hygiene services to public school children and

- g. make \$29.6 million in unreimbursed tuition payments to private schools and rehabilitation institutions for children who cannot be educated adequately in a public school setting.

154. Other statutory requirements burdening the School District cause expenditures for sabbaticals, furloughs, mandated salary increments, mandated sick leave, tenure and bumping.

155. Other unfunded Commonwealth requirements concerning non-educational matters cost the School District millions of dollars. Among them are

- a. the "Four Primes" Contract Requirement which compels the School District to award four separate prime contracts for every major construction project and
- b. the requirement that the School District comply with Pennsylvania's minimum milk pricing law, costing more than one-half million dollars more per year than if the School District were to purchase milk in New Jersey.

156. The commonwealth's current rate of subsidy for construction of new school buildings is artificially low. The current rate, established in 1987, allows the School District to recover only 25-33% of present-day construction costs. Also, the Commonwealth's current school construction subsidy will reimburse a district for only 20% of the costs of asbestos abatement, and only if the abatement is part of a larger project.

157. If the School District were relieved of these non-instructional statutory obligations or fully reimbursed, more money would be available for necessary educational purposes.

L. Cost-cutting Compromises Education

158. Ninety percent of the School District's operating revenues are spent at the school level and on direct student services. Salaries and benefits comprise approximately 80% of the School District's operating budget.

159. In the past six years, the School District has made school-based and school-support cuts totalling more than \$200 million and has cut 2,400 jobs from its payroll.

160. Those cuts affected librarians, reading teachers, support program teachers, elective courses, summer school, substitute service and public transportation token subsidies and compromised and eroded the School District's ability to improve educational achievement.

161. over the past several years, the business, finance technology and human resources departments and other parts of central administration also have been subject to large and continuing budget cuts.

162. The School District is not capable of realizing further internal savings without further jeopardizing the quality of education provided.

163. An independent private-sector Management and Productivity Task Force ("Task Force") has conducted rigorous studies to determine ways that productivity in non-instructional

areas (transportation, facilities, human resources, food services and management information systems) may be improved.

164. The School District aggressively implemented the Task Force's recommendations, resulting in projected savings of \$12 million in the first year of implementation.

165. The School District has made vigorous efforts to raise funds from public and private sources. Notably, the Annenberg Challenge Grant will generate \$150 million for the School District over five years.

M. The students, Their Families, the School District and the city Are Harmed by an Inadequate system of Funding Public Education

166. The City and the School District have repeatedly sought from defendants a thorough and efficient system of funding public education that would provide the funds necessary to furnish an adequate education.

167. Defendants have refused and failed to provide such a system.

168. No compelling, reasonable or rational basis exists to justify the Commonwealth's failure to provide an adequate system of public education to all students in the City.

169. Unless the commonwealth implements a constitutional system of funding public education which provides the requisite funds, the City, the School District, its students and their families will continue to be irreparably harmed.

170. The commonwealth's failure to fulfill its funding obligations causes direct and substantial injury to Yesenia

Marrero, Arlene Marrero, Richard Mojica, Christian Mojica , Kathryn Nolan, Christine Nolan, William Nolan, Stephen Nolan, Jeanene Little and Larry Little, who attend school in a public school system that cannot provide the educational and education-related services necessary for them to receive and benefit from an adequate education and prepare them to be productive, self-sufficient members of society and to their parents who receive substantially less in education services relative to their tax contribution than if they lived in areas of the Commonwealth where the overall tax burden is less than in Philadelphia.

171. The Commonwealth's failure to provide for an adequate school system in Philadelphia causes direct and substantial injury to David and Zachary Maas and their parents, who are compelled to incur the expense of private school education due to the inadequate quality of education provided by the School District caused by a lack of sufficient state funding.

172. The Commonwealth's failure to fulfill its funding obligations causes direct and substantial injury to ASPIRA and the NAACP, which are compelled to expend their own resources to compensate for the inadequate education being provided to their members in the School District.

173. The Commonwealth's failure to fulfill its funding obligations causes direct and substantial injury to the City by rendering the City a less acceptable residential alternative, draining local tax dollars away from needed non-educational services, producing an inadequately educated adult population,

detering businesses from remaining or locating in its geographic confines and thereby increasing the City's social and economic burdens while diminishing its tax base and rendering needed tax relief impossible.

174. The commonwealth's failure to fulfill its funding obligations causes direct and substantial injury to the School District by preventing it from discharging the responsibility to maintain an adequate school system and educating Philadelphia students at a level sufficient to enable them to be productive members of society.

175. The commonwealth has thus far demonstrated no intention of providing the necessary funds; the longer adequate funding is delayed, the more Philadelphia school children, the City and the School District will be irreparably harmed.

176. It would be futile for Plaintiffs to continue to wait for the Legislature to appropriate the necessary funds.

177. Vested with the responsibility for protecting the rights and overseeing the education annually of more than 200,000 school children, and having exhausted other reasonable means of seeking further resources from the commonwealth, and as a last resort to seek to compel the Commonwealth to comply with its constitutional mandate to provide a thorough and efficient system of public education for all students in the City, Plaintiffs come before this court.

178. The statutory education financing system is unconstitutional as applied to the School District.

179. The system of funding public education violates the constitutional mandate to provide for the maintenance and support of a thorough and efficient system of public education in the City.

180. The scheme for financing public education precludes the Co=onwealth from providing the constitutionally required "thorough and efficient system of public education" in the circumstances faced by the School District.

181. Defendants have failed to provide the School District with the resources and other assistance necessary to provide all of its students with the quality of education to which they are constitutionally entitled.

WHEREFORE, Plaintiffs respectfully request that this Court:.

a. Declare that all school children in the city have a right, pursuant to Article 3, Section 14 of the Pennsylvania constitution and other law governing education in the co=onwealth, to a thorough and efficient system of public education;

b. Declare that the Pennsylvania Constitution and other law governing education in the co=onwealth require the Co=onwealth to provide for an adequate system of public schools in the School District;

c. Declare that the Co=onwealth has failed to fulfill its obligations to provide for an adequate system of public schools in the School District;

d. Declare that the present statutory scheme employed for funding public education in the co=onwealth

as applied to the School District violates Article 3, Section 14 of the Pennsylvania Constitution;

e. Declare that the Legislature must amend the present or enact new education legislation so as to assure that education funding for the School District accounts and makes adequate provision for the greater and special educational challenges and needs of students in the School District in order to redress their disadvantages;


f. Declare that the Legislature must take into consideration in amending or enacting said education legislation the effect of unfunded and underfunded state mandates as applied to the School District;


g. Declare that the Legislature must take into consideration in amending or enacting said education legislation the inability of the local tax base to generate sufficient revenue to compensate for inadequate Commonwealth funding;

h. Declare that the commonwealth is required to take all steps necessary to comply with the Constitutional directive to provide for the maintenance and support of a thorough and efficient system of public education which serves the needs of the commonwealth, including the school children of the City;

i. Award to the Plaintiffs attorneys' fees and reasonable costs to the extent permitted by law and

j. Grant such other relief as this court may deem proper.


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ASPIRA Inc. of Philadelphia and
Philadelphia Branch
of NAACP

VERIFICATION

I, David L. Cohen, Chief of Staff for the Mayor of the City of Philadelphia, verify that I have authority to make this Verification on behalf of the City of Philadelphia and that the statements made in the foregoing Action for Declaratory Judgment are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.



David L. Cohen, Chief of Staff

Dated: February 0-1 1997

VERIFICATION

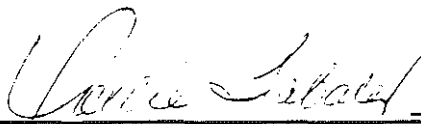
I, Gennaine Ingram, Esquire, Chief of Staff of the School District of Philadelphia, verify that I have authority to make this Verification on behalf of the School District of Philadelphia and that the statements made in the foregoing Action for Declaratory Judgment are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa.c.s. §4904 relating to unsworn falsification to authorities .

/s/ Gennaine Ingram
()

Dated: February 11, 1997

VERIFICATION

I, Yollie Tabales, verify that the statements made on my behalf in the foregoing Action for Declaratory Judgment are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa.c.s. §4904 relating to unsworn falsification to authorities.


Yollie Tabales

Dated: February 14, 1997

VERIFICATION

I, Peter Maas, have authority to make this Verification on behalf of myself and my family. I hereby verify that the statements made in the foregoing Action or Declaratory Judgment are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

(_____ // 11
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Dated: February · 1, 1997

J?eter Maas