

STATE OF NORTH CAROLINA
 COUNTY OF HALIFAX

IN THE GENERAL COURT OF JUSTICE
 SUPERIOR COURT DIVISION
 _____ CVS _____

)
 LATONYA SILVER, individually and)
 as guardian ad litem of BRIANNA)
 SILVER, LARRY SILVER III, and)
 DOMINICK SILVER; BRENDA)
 SLEDGE, individually and as guardian)
 ad litem of ALICIA JONES; FELICIA)
 SCOTT, individually and as guardian)
 ad litem of JAMIER SCOTT;)
 COALITION FOR EDUCATION)
 AND ECONOMIC SECURITY;)
 HALIFAX COUNTY BRANCH)
 #5401, NATIONAL ASSOCIATION)
 FOR THE ADVANCEMENT OF)
 COLORED PEOPLE,)

COMPLAINT

Plaintiffs,

v.

THE HALIFAX COUNTY BOARD
 OF COMMISSIONERS

Defendant.

INTRODUCTION

This is an action to vindicate the constitutional right of Halifax County’s schoolchildren to the opportunity to receive a sound basic education. Defendant Halifax County Board of Commissioners (“Board” or “Defendant”) is constitutionally obligated to structure a system of public education that meets the qualitative mandates established by the North Carolina Supreme Court in *Leandro v. State* (“*Leandro I*”) and *Hoke County v. State* (“*Leandro II*”). The Board must provide a system that ensures the opportunity to receive a sound basic education to every child in Halifax County. But instead of complying with *Leandro*’s mandate, it has chosen to maintain and fund an inefficient three-district system that divides its children along racial lines

into “good” and “bad” school districts. By choosing to maintain three racially identifiable and inadequately funded school districts to serve this low-income community’s declining population of fewer than seven thousand students, the Board violates the constitutional rights of its schoolchildren.

The students in Halifax County Public Schools (“HCPS”) and Weldon City Schools (“WCS”) are overwhelmingly black (“black districts”), while students in the county’s third district, Roanoke Rapids Graded School District (“RRGSD”), are predominately white (“white district”). The Board’s deliberate preservation of this tripartite system both produces and reinforces educational deficiencies in facilities, access to high quality teachers and administrators, educational and learning materials, student achievement, and curricular and extra-curricular opportunities. Those deficiencies result in the denial of a sound basic education to *all* county schoolchildren, the overwhelming majority of whom *Leandro* defines as “at risk.” The Board also elects a sales tax distribution method to fund the three-district system that reinforces the “good” and “bad” district stigma and inadequately and inefficiently funds all three districts. Most acutely, the Board’s fragmented and disparate system imposes a stigma of racial inferiority upon black students, undermining their academic achievement and impeding their access to quality educational resources.

The Board is the only entity in Halifax County that has both a constitutional obligation to see that every county schoolchild has the opportunity to receive a sound basic education; and it is the only entity in Halifax County that has the power to address the structural deficiencies inherent in its education delivery system. Yet, despite manifest racial and educational inequities, glaring economic inefficiencies, and repeated petitions from concerned parents and residents, the Board has opted to preserve a system that creates an unconstitutional impediment to *all* Halifax

County students' ability to secure the opportunity to receive a sound basic education. Every attempt to provide students the opportunity to receive a sound basic education through additional funding and other state intervention have failed, because none have addressed the adverse educational impact of the Board's educational delivery mechanism and its maintenance of three racially identifiable and inadequately funded school districts.

PARTIES

1. Plaintiff LaTonya Silver, individually and as guardian ad litem of Brianna Silver, Larry Silver III, and Dominick Silver, resides in Halifax County. Ms. Silver is an African American single mother whose three children attend schools in HCPS and whose annual household income falls below the federal poverty line. In 2014, Brianna and Larry Silver's father passed away in an accident. Brianna, eleven, completed fifth grade at Pittman Elementary School ("Pittman") in June 2015, and will begin sixth grade at William R. Davie Middle School ("Davie") in Fall 2015. Brianna loves school. At Pittman, she was an honor roll student and was considered above her grade level. She is an avid readers and has read almost every book in the Pittman library. She also enjoys cheerleading and playing basketball, and wants to join the Davie teams when she becomes eligible. When she grows up, Brianna hopes to become a doctor. Larry, nine, will begin fourth grade at Pittman in fall 2015. He loves technology and enjoys playing football. When Larry grows up, he hopes to make a career in public service, either as a police officer or firefighter. Dominick, six, will begin first grade at Pittman in Fall 2015. He loves telling stories, writing, and running. When he grows up, Dominick hopes to become a journalist.

2. Plaintiff Brenda Sledge, individually and as guardian ad litem of Alicia Jones, resides in Halifax County. Ms. Sledge is an African American widow whose annual household income falls below the federal poverty line. Her granddaughter, Alicia Jones, will attend

Northwest High School in HCPS in fall 2015. Alicia, sixteen, formerly attended public schools operated by HCPS and WCS, as well as the Gaston College Preparatory School, a Knowledge Is Power Program (“KIPP”) public charter school located in Halifax County. Alicia enjoys art, particularly drawing and painting, and hopes to continue taking the art classes that were available at KIPP while at Northwest High School. Alicia also enjoys reading, especially teen novels like *Divergent*. She loves working with children and has volunteered to work with elementary and middle school students during her study hall. When she grows up, Alicia hopes to pursue a career as a pediatrician or a phlebotomist.

3. Plaintiff Felicia Scott, individually and as guardian ad litem of Jamier Scott, resides in Halifax County. Ms. Scott is an African American parent whose annual household income falls near the federal poverty line. Ms. Scott’s son, Jamier, qualifies for reduced price school lunches and the family qualifies for subsidized medical coverage under North Carolina Health Choice. Jamier, thirteen, will begin eighth grade at Weldon Middle School in WCS in fall 2015. Jamier likes being outside, playing with his family’s dog, and riding his bike. Jamier enjoys life sciences and is well known among his family, friends, and teachers for his knowledge of dogs and dog breeds. He watches the Animal Planet channel regularly to continue learning more about animals and the ecosystems they need to thrive. Although he has been recruited to play football at Weldon because of his height and size, Jamier has chosen not to play.

4. Plaintiff Coalition for Education and Economic Security (“CEES”) is an unincorporated community association based in Halifax County. Its members are Halifax County residents who work for the improvement of public education (K-12) and the advancement of social justice as prerequisites for a better economy, better jobs and more prosperity in Halifax County. CEES’s membership includes parents whose children are enrolled

in public schools in one of the county's three school districts and who will be directly affected by the outcome of this litigation.

5. Plaintiff Halifax County Branch Unit #5401 of the National Association for the Advancement of Colored People ("NAACP") is the local affiliate of the nation's oldest civil rights organization dedicated to seeking justice for all persons and to eliminate race-based discrimination. Its members include Halifax County parents whose children are currently enrolled in public schools across Halifax County and who will be directly affected by the outcome of this litigation.

6. Defendant Halifax County Board of Commissioners is a corporate body granted broad governance powers under the Constitution and laws of the State of North Carolina ("North Carolina" or "State"), including those specifically related to the provision of public education.

JURISDICTION AND VENUE

7. Halifax County Superior Court has jurisdiction over this matter pursuant to N.C. Gen. Stat. § 7A-245.

8. Venue is proper in Halifax County pursuant to N.C. Gen. Stat. §§ 1-77 and 1-82. The parties reside or are based in Halifax County, and a substantial part of the matters described in this Complaint occurred in Halifax County.

FACTUAL ALLEGATIONS

A. The Students' Right to a Sound Basic Education

9. The North Carolina Constitution guarantees all children in the State an opportunity to receive a sound basic education from a free public school.

10. Defendant Halifax County Board of Commissioners must structure a public education system that satisfies this constitutional guarantee and actually delivers the opportunity to receive a sound basic education to every student in the county.

11. The structure that the Board has chosen to maintain—three racially-disparate and inadequately-resourced school districts—is constitutionally deficient because it fails to deliver that opportunity to every student within its jurisdiction.

12. Under *Leandro*, a constitutionally-adequate education system provides a student with at least: (1) a sufficient ability to read, write, and speak the English language and sufficient knowledge of fundamental mathematics and physical science to enable the student to function in a complex and rapidly changing society; (2) a sufficient fundamental knowledge of geography, history, and basic economic and political systems to enable the student to make informed choices regarding issues that affect the student personally or that affect the student's community, state, and nation; and (3) sufficient academic and vocational skills to enable the student to successfully engage in post-secondary education or vocational training and to compete on an equal basis with others in further formal education or in gaining employment in contemporary society.

13. The Board has financial responsibility for public education in Halifax County, which includes the authority to use local revenues to maintain or supplement public school programs.

14. The Board has the obligation to meet all facilities requirements, including but not limited to: furniture and apparatus needs; library, science, and classroom equipment; instructional supplies and books; water supply and sanitary facilities; for the public education system in Halifax County.

15. The Board is responsible for setting the local current operating expenses of the public school system so that the total operating budget enables the district to function in conformity with the educational goals and policies of the State and the local board of education,

which require that each child attending public school in Halifax County has access to the opportunity to receive a sound basic education.

16. The Board's continued support and maintenance of the three disparate and racially-identifiable schools districts, and its refusal to adequately and efficiently manage and distribute resources among all of the K-12 public school students in Halifax County, denies all county students the opportunity to secure a sound basic education.

17. A 2009 consent order between HCPS and the State Board of Education determined that students in HCPS were not being provided the opportunity to receive a sound basic education and required the North Carolina Department of Public Instruction's ("DPI") to implement a "turnaround" intervention plan in HCPS.

18. Because of persistently low student achievement, DPI also implemented a turnaround plan in WCS.

19. The limited academic improvement in both HCPS and WCS since the implementation of the DPI turnaround plans demonstrates that the Board's education delivery mechanism is an insurmountable impediment to addressing the ongoing violation of Halifax County schoolchildren's constitutional right to the opportunity to receive a sound basic education.

20. Under *Leandro II*, whether the Board furnishes a system that provides students with a sound basic education is measured by, among other things, the educational outputs of the students within that system, which include but are not limited to achievement on standardized tests (e.g., end-of-grade ("EOG") exams and end-of-course ("EOC") exams), dropout and graduation rates, and the attainment of post-secondary educational or employment opportunities.

21. Evidence that students are consistently failing to score at or above grade-level on EOG and EOC exams is considered conclusive proof that an educational system is failing to deliver the opportunity to receive a sound basic education.

22. The Board has the specific obligation to structure its education system to ensure that it provides all at-risk students in the county with the additional assistance they need to avail themselves of the opportunity to receive a sound basic education.

23. Under *Leandro II*, students are considered at risk due to factors such as poverty, family background, race, and language barriers. For example, a child is at risk if he or she is member of a low-income family, participates in a free or reduced school lunch (“FRL”) program, has parents with a low level of education, has limited English proficiency, is a member of a racial or ethnic minority, or lives in a single parent household.

24. Most students in Halifax County are at risk based on poverty alone. In the 2013-2014 school year, DPI reported that 94.4% of HCPS students were FRL eligible, while 88.9% of WCS students and 62.2% of RRGSD students were FRL eligible.

25. Many Halifax County students, including all of the Plaintiffs’ children, are doubly at risk because of their race (more than 53.9% of Halifax County’s population was black or multiracial in 2013) or family structure (52.3% of Halifax County children are raised in single-parent homes, according to a 2012 report by the U.S. Department of Health and Human Services).

B. The Board’s Chosen Structure for the Public Education System Obstructs Halifax County Children’s Opportunity to Receive a Sound Basic Education

26. The educational inputs and outputs in Halifax County, which courts use to determine the violation of the State constitutional right, demonstrate that the Board’s racially

disparate and inadequately resourced three-district system deprives students of the opportunity to receive a sound basic education.

27. As of 2015, the State Department of Education reported that HCPS's student population is 85% black and 4% white. In 2014-2015, HCPS had 2988 students enrolled in seven elementary schools, two middle schools, and two high schools. In the 2015-2016 school year, two of HCPS's elementary schools will close.

28. WCS's student population is 94% black and 4% white. In 2014-2015, WCS had 940 students enrolled in one elementary school, one middle school, and one high school. WCS, in conjunction with Halifax Community College ("HCC"), also administers the county-wide early college program, which is offered on the HCC campus.

29. RRGSD's student population is only 26% black and 65% white. In 2014-2015, RRGSD has 2929 students enrolled in two elementary schools, one middle school, and one high school.

30. According to DPI, HCPS currently ranks last out of 115 total school districts in North Carolina on statewide composite end-of-grade ("EOG") and end-of-course ("EOC") composite exams. For composite grade three through eight EOG/EOCs, WCS ranks 114th, and RRGSD ranks 70th.

31. The structure of the Board's education system imposes a racial stigma that deters the investment of educational resources into the black districts and undermines the academic achievement of black students in all three districts.

32. The Board's three-district system fails to provide all students in Halifax County with an opportunity to receive a sound basic education.

1. *The Board's Three-District System Undermines the Academic Performance of At Risk Students in Halifax County*

a. *Test Scores*

33. Since 2008, no more than 47.7% of students at WCS and 31.7% of students at HCPS have scored at or above grade level ("Level III Proficiency") on standardized statewide composite (grades three-eight) EOG exams in any given year.

34. RRGSD students have generally performed better, with a peak of 61.4% of students scoring at or above grade level during the 2012-2013 school year, but even that mark fell below the statewide average for 2012-2013 of 67.5%.

35. Since 2002, the percentage of students at WCS scoring at or above grade level on EOC exams is consistently 15-20% lower than the percentage of students who do so at RRGSD. During the same time period at HCPS, the percentage of students scoring at or above grade level on standardized EOC exams is consistently 20-30% lower than that of RRGSD.

36. Recent data confirms that this pattern continues. In 2014, only 33.9% of HCPS students, 47% of WCS students, and 54.5% of RRGSD students achieved Level III proficiency on EOC exams, and only 24.8% of HCPS students, 24.2% of WCS students, and 48.9% of RRGSD students achieved Level III proficiency on EOG exams.

37. All three districts consistently fail to meet Level III proficiency for most students.

38. Since 2003, students at HCPS and WCS have consistently scored 150 to 250 points lower on the SAT college entrance exam than students at RRGSD, and all three districts have consistently scored below the North Carolina average.

39. In 2014, 57,997 North Carolina public school students sat for the SAT, yielding a mean Critical Reading and Math score of 1006 out of 1600 total points.

40. In that same year, the mean score of RRGSD students was 973/1600, while the mean scores of HCPS and WCS students were 764/1600 and 808/1600, respectively.

41. It is not just students in the black districts that are struggling as a result of the Board's racially divided and stigmatizing education system. Black students in RRGSD struggle as well.

42. Although 60.8% and 56.6% of RRGSD's white students achieved Level III proficiency on EOC and EOG exams respectively in 2014, only 29.8% of its black students achieved Level III proficiency on either EOC or EOG exams during the same testing period.

b. *Student Discipline*

43. Students in the black districts experience higher rates of suspensions than students in the white district.

44. Higher rates of suspension mean that students in the black districts have less access to learning time.

45. Plaintiff LaTonya Silver reports that teachers and administrators resort to suspensions, rather than providing any access to counseling or emotional support for students who exhibit behavioral issues even, as with her son Larry, in response to the loss of a family member.

46. Schools in the black districts suspend students at higher rates than schools in RRGSD. During the 2013-2014 school year, WCS suspended students at two times the rate of RRGSD, while HCPS suspended students at nearly eight times the rate of RRGSD.

47. During the 2013-2014 school year, HCPS suspended students in grades nine through twelve at a rate of 103.53 short-term suspensions per 100 students, the highest of any school district statewide.¹

48. In WCS, the short-term suspension rate for grades nine through twelve during the same time period was 32.49 suspensions per 100 students.

49. In that same school year, RRGSD only issued 13.62 short-term suspensions per 100 students—by far the lowest suspension rate out of the three Halifax County school districts.

50. Across all three districts, black students are consistently suspended more frequently than their white peers. During the 2013-2014 school year, black students accounted for 86% of short-term suspensions county-wide.

c. *Drop-Out Rates*

51. Halifax County students, and particularly black students, are less likely to complete high school than their peers elsewhere in North Carolina.

52. During the 2013-2014 school year, the statewide North Carolina dropout rate was 2.28%, while the dropout rates in HCPS, WCS, and RRGSD were higher, at 3.10%, 2.68%, and 4.66%, respectively.

53. While all three school districts had dropout rates above the statewide rate during 2013-2014, RRGSD reported the fourth highest dropout rate in the State.

54. Black students contributed disproportionately to the high dropout rate in RRGSD. Despite constituting less than one quarter of RRGSD's student population, black students comprised half of all dropouts—ten out of twenty—from Roanoke Rapids High School in 2013-2014.

¹ Student suspension data collection counts each suspension of an individual student as a separate occurrence, thus creating data points of over 100 suspensions per 100 students.

2. *The Board's Three-District System Deters the Investment of Adequate Educational Resources into the Black Districts*

55. The Board's education system forces the three districts in the county into a resource competition that the black districts cannot win.

56. The quality of educational resources provided to students in Halifax County, and especially students in HCPS and WCS, falls well below constitutional standards.

a. *Facilities*

57. More than half of HCPS school buildings (thirty in total) were built in or before 1961, and only five have undergone any renovations since their construction.

58. Many HCPS school buildings are in subpar condition.

59. During the last five years at Northwest High School in HCPS, toilets have flooded hallways and students have had to step through sewage to travel between their lockers and classes.

60. At Northwest High School, pieces of the ceiling have crumbled and fallen onto desks and students mid-lesson, potentially exposing students to the mold that grows in the ventilation system.

61. At Northwest High School, heating and air systems have failed regularly, and school busses have often broken down, sometimes affecting class schedules and attendance.

62. On information and belief, Weldon Middle School suffers from mold and crumbling ceilings, as well as pests and rodents.

63. On information and belief, at Weldon Elementary School, bathroom stalls do not have doors, and soap dispensers are routinely empty.

64. Meanwhile, RRGSD's high school has been repeatedly renovated (most recently in 2004) since its initial construction in 1921.

65. RRGSD's high school's stately building, which resembles a cathedral, reflects decades of resource investment sorely lacking in the black districts.

66. In 1988, RRGSD's high school building was added to the National Register of Historic Places.

67. Since the school's founding, RRGSD's original high school gymnasium, indoor track, and pool have been converted to house a new library, and new structures were built or purchased specifically to accommodate athletics and the marching band.

68. Roanoke Rapids High School currently has a building dedicated solely to physical education and music, as well as a pristine athletic field.

69. RRGSD's Manning Elementary School ("Manning") was built in 1957 and renovated in 1976 and 1990.

70. On the information and belief, Manning features a computer lab, school-wide wireless internet access, a media center, an art room, and smartboards in every classroom.

71. In February 2015, Defendant approved a project to demolish Manning and replace it with a brand new RRGSD elementary school to be built on an adjacent parcel.

72. The initial cost projection for that entire project is approximately \$19 million.

b. *Teaching Conditions, Teacher Experience, and Teacher Turnover*

73. Research shows that access to highly effective, licensed, and experienced teachers is one of the most critical determinants of student learning. Students assigned to effective teachers are more likely to attend college, more likely to earn higher wages, more likely to save for retirement, and less likely to have children during their teenage years.

74. The Board sustains a three-district system that enables and encourages competition for teaching talent between purportedly "good" and "bad" schools, and the black districts most often lose that competition.

75. HCPS and WCS are unable to attract and retain a sufficient number of experienced, highly effective, or qualified teachers.
76. In 2014, nearly 40% of HCPS teachers and 50% of WCS teachers reported insufficient access to appropriate instructional materials, like textbooks, overhead slides, workbooks, and worksheets.
77. Only 30% of RRGSD teachers in 2014 reported inadequate access to appropriate instructional materials.
78. In 2014, 31% of teachers at HCPS and 26% of teachers at WCS reported inadequate access to reliable communication technologies, like phones, fax machines, and email.
79. Only five percent of teachers at RRGSD in 2014 reported inadequate access to these technologies.
80. Forty percent of teachers at HCPS in 2014, and more than half of teachers at WCS, reported that the internet access in their schools is inadequate to support instruction.
81. Only 27% of teachers at RRGSD in 2014 reported inadequate internet access.
82. HCPS and WCS must rely on less experienced and less qualified teachers.
83. DPI data from 2014 confirms that HCPS and WCS teachers have less classroom teaching experience than their counterparts at RRGSD.
84. At HCPS, 32% of elementary school teachers, 34% of middle school teachers, and 36% of high school teachers in 2014 had fewer than three years of teaching experience.
85. At WCS, 23% of elementary school teachers, 50% of middle school teachers, and 47% of high school teachers in 2014 had fewer than three years of teaching experience.

86. At RRGSD, only 10% of elementary school teachers, 12% of middle school teachers, and 18% of high school teachers had fewer than three years of classroom teaching experience in 2014.

87. To meet staffing needs, the black districts rely in part upon Teach for America (“TFA”), an organization which places uncertified, recent college graduates in low-income classrooms for a two-year minimum commitment.

88. In 2011-2012, 9.5% of all teachers at HCPS were placed through TFA, as were 17.5% of teachers at WCS.

89. TFA places no teachers at RRGSD.

90. Between 2013 and 2014, students in HCPS and WCS were two to three times more likely than their RRGSD peers to have an unqualified teacher, including a substitute teacher with no credentials in a given subject area, or an uncertified teacher, for a significant portion of the school year.

91. According to North Carolina School Report Cards (2013-2014), HCPS and WCS students are also less likely to have a fully licensed teacher in their classrooms at any level of their academic career:

Fully Licensed Teacher Statistics			
Fully Licensed Teachers	<i>Elementary</i>	<i>Middle</i>	<i>High</i>
WCS	80%	63%	70%
HCPS	89%	78%	74%
RRGSD	100%	98%	95%

92. Based on the 2015 State Plan to Ensure Equitable Access to Excellent Educators, HCPS had the highest percentage of teachers in their first year of teaching (17.3%) of any of North Carolina’s high poverty schools, and the second highest percentage of such teachers without certification of licensure (5.8%).

93. The stigma and competition that result from the Board's three-district system also make it difficult for HCPS and WCS to attract and retain experienced school principals.

94. During the 2013-2014 school year, *every* principal in WCS had three or fewer years of experience.

95. During the 2013-2014 school year, 82% of HCPS principals had three or fewer years of experience.

96. By comparison, 50% of RRGSD principals had more than three years of experience in the 2013-2014 school year.

97. On information and belief, poor teaching conditions and competition from surrounding school districts also make it difficult for the black districts to retain quality teachers who develop experience in their schools.

98. Teacher turnover rates are higher at HCPS and WCS than at RRGSD.

99. Among elementary schools, the teacher turnover rate in 2014 was 34% in HCPS and 25% in WCS, compared with just 7% in RRGSD. At the high school level, the teacher turnover rate in 2014 was 34% in HCPS but only 13% in RRGSD.

100. Across all grade levels, HCPS and WCS had the second and third highest teacher turnover rates, respectively, statewide in 2013-2014. When measured over a five-year period, HCPS has had the highest teacher turnover rate overall of any school district in North Carolina.

101. Parents of students at HCPS and WCS are frustrated by teachers' lack of institutional knowledge of the schools and the community, the challenges of high teacher turnover and long-term substitute teachers, and the need to "break in" inexperienced, unqualified, and often ineffective teachers each year.

102. Plaintiff LaTonya Silver reports that her son Larry is often sent home with low or failing scores on his quizzes. Rather than working with Larry to master the subject, his teacher instructs Ms. Silver to sign the quiz and send it back. When Ms. Silver asks Larry what happened on the quiz, Larry tells his mother that he got a bad grade because he is “stupid.” She believes Larry has internalized this impression because of his teacher’s attitude toward him and the lack of support he receives in the classroom.

103. On information and belief, recent graduates remember teaching themselves subjects because full-time teachers did not do so effectively, and long-term substitute teachers lacked the necessary experience or certification in a subject to answer students’ questions.

104. Inexperienced and unqualified HCPS and WCS teachers have failed to implement several Plaintiffs’ Individualized Education Programs (“IEPs”) required by federal special education law. Instead of receiving the resources required to permit them to access their curriculum, these children have often been told that they are stupid or incapable of learning.

105. Plaintiff Brenda Sledge reports meeting with administrators at Weldon Middle School to discuss her concern that a special education teacher belittled Alicia Jones in her classroom. Ms. Sledge reported that the issue was never addressed.

106. Parents also report that teachers who could be effective are frequently stretched too thin to meet students’ needs. For example, Plaintiff Felicia Scott reports that there is a single special education teacher for students in all four grades at Weldon Middle School.

c. *Disparities in Learning Materials and Curricular and Extra-Curricular Resources*

107. As a result of the inefficiencies and competition generated by the Board’s three-district system, students in HCPS and WCS have limited educational and curricular resources.

108. Students at HCPS and WCS are frequently forced to share old and worn down textbooks, workbooks, and other classroom materials.

109. In addition to providing HCPS and WCS students with a reminder of their second-class status in Halifax County, this scarcity in classroom materials undermines HCPS and WCS students' abilities to learn.

110. Children and parents in HCPS and WCS report that students are not allowed to bring textbooks home, making it difficult for students to complete homework assignments and for parents to help students at home when they are struggling in class.

111. Plaintiff Felicia Scott reports that teachers at Weldon Middle School have had to rely on donations to supply books for classroom libraries because the school's resources are so limited. Ms. Scott reports buying books for a fifth grade classroom based on an Amazon wish list created by her son Jamier's teacher.

112. Resource scarcity also affects standardized testing. On information and belief, one year, a group of students in HCPS could not take their EOG exams because the school could not provide a sufficient number of computers for all of the students to participate in the exams.

113. Opportunities to enroll in Advanced Placement and International Baccalaureate courses are minimal, if available at all, in the two black school districts.

114. The percentage of students enrolled in advanced academic courses (like Advanced Placement and International Baccalaureate) at RRGSD is four times greater than the percentage of such students at HCPS.

115. Plaintiff Alicia Jones, who is interested in a career in science, was not provided the opportunity to participate in science experiments at any school she attended in HCPS or WCS. The only opportunity she had to do so was at KIPP.

116. On information and belief, Weldon Middle School students interested in science cannot participate in a science fair because WCS does not have one.

117. The winners of RRGSD science fair competitions are occasionally pictured in the *Roanoke Rapids Daily Herald*.

118. In 2013, RRGSD implemented a special “Outreach Academy” program designed to decrease the dropout rate in the district.

119. The Outreach Academy provides after-school, technology-based enrichment, tutoring, and remediation for students identified as being at risk of dropping out, as well as additional training and support for teachers to identify and work with these students and their parents.

120. On information and belief, the majority of students participating in Outreach Academy are black.

121. There are no similar programs available for students in HCPS or WCS.

122. Beyond the classroom, educational inputs like extracurricular and athletic offerings, and the resources available to support them, vary widely between the black and white districts.

123. HCPS and WCS schools do not offer their students opportunities to access the quality or variety of music, art, physical education, and theater programs as those available to students who attend RRGSD schools.

124. Plaintiff Brianna Silver loves basketball and hopes to play the sport later in her education, including in college. However, she had never attended a school with a basketball court—like those at Belmont Elementary or Chaloner Middle School in RRGSD—until two basketball hoops were installed at Pittman during her last several months as a student there.

C. The Board Maintains a Public Education System that Wastes Educational Resources, Forces the Three Districts to Compete for the Resources That Remain, and Fails to Provide the Opportunity for Students to Receive a Sound Basic Education

125. The Board's three-district system forces it to incur duplicative costs.

126. The resulting inefficiencies and wasted resources deny all of the county's students, the majority of whom are at risk, the opportunity to receive a sound basic education.

1. *The Evergreen Report*

127. The Board maintains that it is financially distressed, yet chooses to maintain a three-district public education system that creates competition between the white and black school districts for limited educational resources, wastes scarce educational resources, and ignores potential efficiencies offered by a consolidated district.

128. The Board's system also forces the three districts to compete for non-monetary resources, including certified teachers and administrators.

129. In the absence of the Board's maintenance of the three-district system, educational resources could be allocated more efficiently and effectively, taking into consideration the actual needs of students.

130. The inefficient structure of the education system that the Board has chosen for Halifax County disproportionately affects its at-risk students, who are entitled to additional resources by law.

131. In 2011, the Board requested proposals to study its three-district system. In its initial request, the Board sought "an in-depth study of Halifax County's three public school systems[,] including "a feasibility study and options for consolidating two or more school systems and the pros and cons of each option."

132. Consulting firm Evergreen Solutions presented its proposal to the Board in late 2011. The proposal stated that: “From the perspective of mitigating the effects of declining enrollment, *consolidation is a no-brainer.*” (emphasis added).

133. Shortly after the Evergreen Solutions presentation, the Board voted unanimously to steer the study away from the potential benefits offered by consolidation.

134. Evergreen Solutions was instructed to focus on “school improvements” generally, and told that consolidation would no longer be “the intent of the study.”

135. Nonetheless, the Evergreen Report (“Report”) published in October 2012 identified cost savings and scale efficiencies that would result from consolidating specific school functions, such as grant reporting and monitoring, bussing operations, food service, FRL qualification programs, and maintenance systems.

136. The Report acknowledged that the Board’s educational system contributes to inefficiencies, and noted the inefficient use of facilities and spending on facilities.

137. The Report recommended that the Board redraw attendance lines to allow students to “attend the nearest elementary school with excess capacity.”

138. On information and belief, the Board has not implemented the recommendations in the Report.

2. *The Board’s School Funding Model Creates Resource Disparities that Impede Students’ Ability to Secure a Sound Basic Education and Exacerbate the Stigma of Racial Inferiority*

139. The Defendant’s sales tax distribution method is a critical component of its public education system.

140. Each year, the Board elects a sales tax distribution method that provides additional funding to RRGSD and WCS, but not HCPS. This method leaves HCPS with fewer

resources to provide a larger number of students, most of whom are at risk, with the opportunity to receive a sound basic education.

141. State law grants the Board the authority to select the method to distribute sales tax revenues collected each year within the county.

142. Under the per capita method, local sales tax revenue is divided between the Defendant and all municipalities within the county on a pro rata basis using the resident population of each.

143. Under the ad valorem method, local sales tax revenue is divided between all "taxing entities" in the county, including municipalities and eligible school districts.

144. Both RRGSD and WCS are taxing entities because they collect supplemental property taxes.

145. HCPS is not a taxing entity.

146. The Board has always elected the ad valorem method to distribute sales tax revenue collected within the county.

147. As a result of the Board's decision to use the ad valorem method to distribute sales tax revenue, between 2006 and 2014, RRGSD received approximately \$4.5 million in additional local revenue.

148. As a result of the Board's decision to use the ad valorem method to distribute sales tax revenue, between 2006 and 2014, WCS received approximately \$2.5 million in additional local revenue.

149. As a result of the Board's decision to use the ad valorem method to distribute sales tax revenue, between 2006 and 2014, HCPS received \$0.00 in additional local revenue.

150. HCPS does not receive any portion of sales tax revenue collected in the county even though residents within HCPS boundaries, just like residents within RRGSD and WCS boundaries, pay sales tax for all purchases made in the county.

151. By electing the ad valorem method, the Board forces HCPS residents to subsidize schools and programs that their children are not permitted to access.

152. Each year, the Board has the opportunity to select the per capita method, under which the Board would retain a greater portion of sales tax revenue. Any portion of that revenue spent on education would be distributed to the school districts on an equalized per-pupil basis.

153. The Board has repeatedly refused to adopt the per capita method, preferring to maintain a public education system that denies additional funding to HCPS.

154. Further, the Board's election of the ad valorem method exacerbates funding disparities already in place as a result of the supplemental property tax revenue collected in RRGSD and WCS, but not HCPS.

155. Those supplemental property taxes were established in the early twentieth century when RRGSD and WCS were predominantly white.

156. WCS relies on the Board to set its supplemental property tax rate. The Board currently sets WCS's supplemental property tax rate at \$0.17 per \$100 of taxable property value.

157. RRGSD has authority to levy its own taxes. RRGSD sets its supplemental property tax rate at \$0.21 per \$100 of taxable property value.

158. The supplemental property tax in RRGSD generates between \$1.5 and \$2 million per year. Between 2006 and 2014, RRGSD received approximately \$15 million in additional revenue through its supplemental tax.

159. The supplemental property tax in WCS generates between \$1 and \$1.3 million per year. Between 2006 and 2014, WCS received approximately \$11 million in additional revenue through the supplemental tax set by the Board.

160. HCPS does not have a supplemental property tax and thus receives no additional revenue.

161. When the Board deprives the black districts of funding relative to the white district, it reinforces the message that black students are less deserving of educational resources than their white peers.

3. *Additional Resources Alone Cannot Provide Halifax County Students the Opportunity for a Sound Basic Education*

162. The nature of the educational deficiencies in Halifax County, as well as past attempts at improvement, demonstrate that merely adding resources to the defective three-district system cannot remedy its constitutional deficiencies.

163. In 2009, HCPS entered into a Consent Order with the State Board of Education and DPI.

164. The Consent Order recognized that a majority of students in HCPS were not receiving the opportunity to receive a sound basic education, and required the State Board of Education, DPI and HCPS to develop and implement a “district transformation” or “turnaround” plan (“Plan”) for HCPS.

165. The Plan, which included teacher and administrator training and support, the addition of over ten instructional and administrative coaches, and direct engagement and oversight by DPI staff, had an initial projected budget of approximately \$1.8 million.

166. In 2010, DPI reported to the Superior Court that new training programs were in place in HCPS, new staff evaluation processes implemented, and that all DPI efforts were focused on improving student achievement.

167. In 2012, DPI reported to the Superior Court that while some improvement had been made in HCPS, it remained the lowest-performing district in the State, and that of the seventeen lowest-performing elementary and middle schools in North Carolina that year, five were in HCPS.

168. At that time, DPI also reported difficulties in recruiting and retaining qualified teachers, and reliance on non-certified substitutes and programs like TFA to fill positions.

169. In July 2015, Dr. Pat Ashley, former director of the DPI District and School Transformation division, testified in Wake County Superior Court. Dr. Ashley testified that during her oversight of the Plan in HCPS, it was difficult to recruit and retain teachers, who often left for nearby districts that offered a teacher salary supplement.

170. Dr. Ashley also testified that there were extended periods during which HCPS classrooms were not staffed by certified teachers or teachers certified in the subject area, and that there existed the possibility that a student in HCPS would have no certified math teacher in middle or high school.

171. According to Dr. Ashley, there is a “need to transform the environment” to make significant improvement in student achievement in Halifax County.

172. After five years of additional expenditures and engagement by DPI, students in HCPS still do not have the opportunity to receive a sound basic education.

173. During this same period, although not part of the Plan, DPI also directed “District and School Transformation” resources to WCS, including the assignment of a “District Transformation” coach and other direct assistance to WCS.

174. Despite these efforts, WCS remains the second lowest-performing district in the State, and students in WCS still do not have the opportunity to receive a sound basic education.

D. The Board’s Three-District Education System Impedes Halifax County Students’ Opportunity to Receive a Sound Basic Education Because It Perpetuates Racial Stigma Traceable to the County’s History of Racial Segregation

175. Defendant Halifax County’s three-district system is a vestige of the Jim Crow era that perpetuates a racial stigma because it maintains two failing and under-resourced black school districts and one white, better-performing, and better-resourced school district, all in a majority non-white county.

1. The Unique Historical Context of Halifax County’s Three Districts

176. The State legislature established both RRGSD and WCS at a time when the cities of Roanoke Rapids and Weldon had significant white majority populations compared to the predominantly black county.

177. On information and belief, when WCS and RRGSD were chartered, the county’s black citizens were prohibited from owning or renting real property in Weldon or Roanoke Rapids.

178. For the first half of the twentieth century, the county’s three districts each operated separate and unequal schools for white and black students for the specific purpose of preventing black children from attending school with white children.

179. Since their creation, the school districts relied on an inter-district transfer policy to reinforce this racially segregated education system.

180. Despite a small and declining black population, between 1924 and the mid-1960s RRGSD maintained a separate all-black school (the Chaloner School) by enrolling black students from beyond the RRGSD limits in addition to those within its district boundaries.

181. The enrollment of county students in the Chaloner School enabled HCPS to avoid funding the construction of another all-black school for its large black student population in the northern end of the county.

182. By the 1960s, 80% of the Chaloner School's 1100 students lived beyond RRGSD's boundaries.

183. Notwithstanding the passage of the Civil Rights Act of 1964, all three districts resisted federal desegregation efforts throughout the mid-1960s and early 1970s.

184. HCPS adopted a so-called "freedom-of-choice" desegregation plan in 1964 that did little to desegregate the schools. White parents objected to black students transferring into their children's schools under the plan, so HCPS stopped approving the few black student transfer requests submitted.

185. It was not until 1965, under pressure from the United States Department of Health, Education, and Welfare ("HEW"), that the HCPS school board approved transfer requests from black students.

186. Because HEW prohibited student transfer policies that tended to perpetuate segregation, RRGSD and HCPS were forced to revise their student assignment policy related to the Chaloner School.

187. In 1966, RRGSD and HCPS agreed that RRGSD would lease the Chaloner School to HCPS, and that Roanoke Rapids residents attending the Chaloner School would have the option to attend any RRGSD school.

188. In 1968, when the United States Department of Justice (“DOJ”) informed HCPS that its adherence to a freedom-of-choice desegregation plan was constitutionally impermissible, HCPS asked DPI to conduct a survey to determine the steps necessary for HCPS to achieve its desegregation obligations.

189. In December 1968, DPI recommended that HCPS consolidate with the other school districts in Halifax County and create a single-district system.

190. HCPS ignored the recommendation from DPI and instead pushed forward with the freedom-of-choice plan that DOJ had previously found would impede desegregation.

191. DOJ eventually sued HCPS in federal district court, which entered a desegregation order on November 24, 1969.

192. School districts are relieved of their legal obligation to eliminate their dual school systems only when they show that they have affirmatively eliminated all remnants of state-imposed segregation, and are declared “unitary” by the court.

193. To date, there is no evidence of an order indicating that HCPS ever obtained a judicial determination of unitary status.

194. In early 1969, white residents in the town of Scotland Neck secured State legislation to create a separate Scotland Neck School District to accommodate the area’s significant white population.

195. Over four decades ago, during debate over the legislation, Representative Henry Frye, the first African American elected to the State legislature in the twentieth century, asked whether anyone had considered consolidating the existing three districts instead.

196. That same year, the State legislature passed a bill creating another predominantly white school district, the Littleton-Lake Gaston School District, which bridged Halifax and Warren Counties.

197. The Littleton-Lake Gaston and Scotland Neck School Districts would have been the fourth and fifth school districts in a county with a *total population* of 53,884 in 1970.

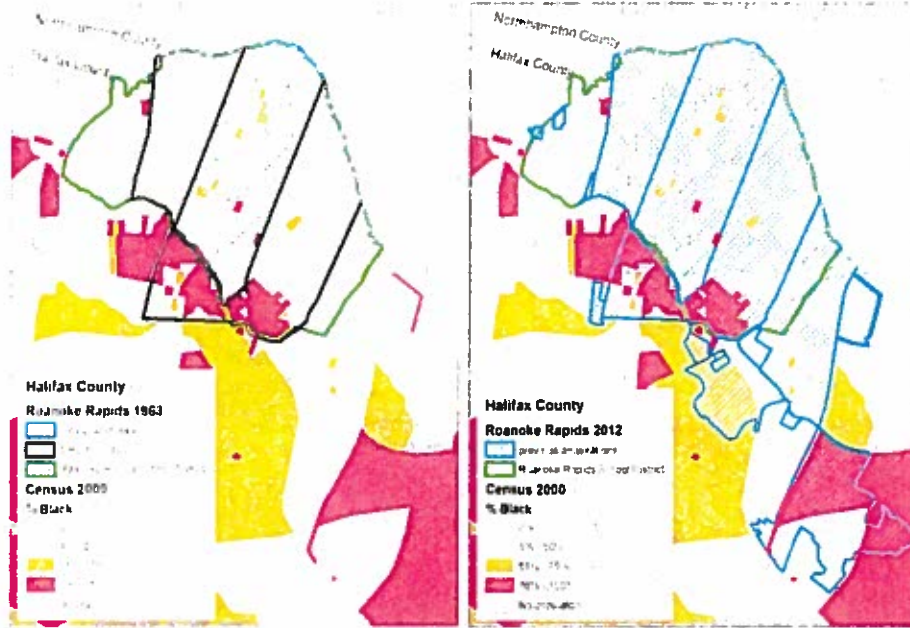
198. Federal courts held the creation of the Scotland Neck and the Littleton-Lake Gaston school districts unconstitutional because the new districts constituted “white refuges” and frustrated desegregation efforts.

199. By 1975, the racial division that currently defines the present structure of public education in Halifax County had already begun to emerge: in that year, HCPS’s student population was 77% black and 22% white, WCS’s student population was 65% black and 35% white, while RRGSD’s student population was only 29% black and 71% white.

2. *The Board has Reinforced and Exacerbated the Historical Racial Divide By Continuously Maintaining and Funding The Three Districts Despite Changes in City Limits, and a Declining Student Population*

200. When RRGSD was established in 1907, the district’s boundaries included not only the corporate city limits of Roanoke Rapids, but certain contiguous parcels that were almost exclusively white. Meanwhile, majority black neighborhoods that were within the Roanoke Rapids city limits were excluded from RRGSD.

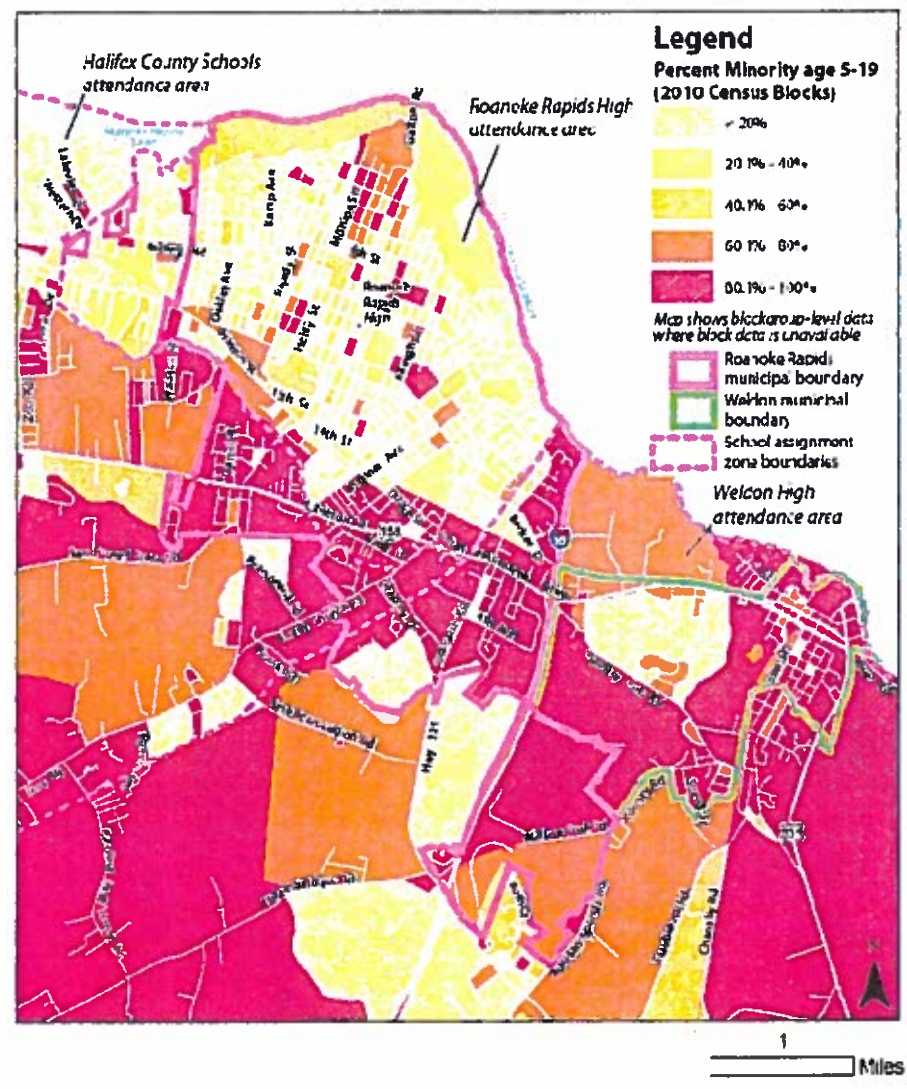
201. Although the city of Roanoke Rapids has annexed a number of predominantly black neighborhoods, the RRGSD school district lines extend beyond city limits to include majority white neighborhoods, while excluding majority black neighborhoods within city limits.



202. Today, RRGSD includes at least one predominantly white area outside city limits and excludes at least three predominantly black areas in southeast Roanoke Rapids: Southgate, Hodgestown, and Chockoyotte.

203. The map below shows the municipal boundaries, school district attendance boundaries for Roanoke Rapids and Weldon City, and the percent of minority children ages 5-19 living within the boundaries as of the 2010 census.

Roanoke Rapids and Weldon NC City Limits and School Districts
Percent Minority Ages 5-19 (2010 Census)



204. As a result of the present school district boundaries, many black children who reside within Roanoke Rapids municipal boundaries are bussed to schools in HCPS, allowing RRGSD to preserve its longstanding majority white student enrollment.

205. As of 2013, Halifax County's total population was 40.3% white and 53.9% black or multiracial, and the population under age eighteen was 33.4% white and 61.8% black or multiracial.

206. The Board's maintenance of three school districts ensures that those demographics are not found anywhere in the Halifax County's public school system.

207. As of 2015, the State Department of Education reported that HCPS's student population is 2988, 85% black and 4% white. WCS's student population is 940, 94% black and 4% white. RRGSD's student population is 2929, only 26% black and 65% white.

208. The Board maintains three of the lowest performing school districts in the State to serve less than 7000 students.

209. By maintaining the three separate and racially-identifiable districts, the Board incurs duplicative administrative costs that could otherwise be spent on student achievement and ignores the advice of experts it hired who say that consolidation is a "no-brainer."

3. *The Board's Maintenance of the Three-District System Exacerbates the Continuing Educational Impacts of Racial Stigma*

210. To educate its student population, the Board has chosen to preserve the historical vestiges of segregation that are reflected by the three racially-identifiable school districts.

211. The Defendant's decision to maintain three racially identifiable school districts prevents students from the opportunity to receive a sound basic education.

212. The three-district structure creates and reinforces a racial stigma that undermines the achievement of black students and deprives the black districts of the resources necessary to provide the opportunity for a sound basic education.

213. The tripartite school district system flows from and perpetuates a policy of racial separation that signals the inferiority of the black districts, deprives the black districts of resources, and undermines the opportunity of black students to obtain a sound basic education.

214. The Board's local funding decisions, including the appropriation of the local sales tax revenue, fail to adequately or fairly resource the three districts, and reinforces the stigma of "good" and "bad" schools along racial lines.

215. Halifax County residents, including children and their teachers, understand that the black school districts are considered inferior to the "better" white district.

216. Plaintiff Brenda Sledge was told by a KIPP special education professional to move into RRGSD so that Alicia Jones could attend Roanoke Rapids High School, the school with the best special education program in Halifax County. Attending Roanoke Rapids High School would allow Alicia to escape assignment to schools in the black districts that Ms. Sledge calls "dangerous" and "failing." During summer 2015, Ms. Sledge tried to rent property within the RRGSD attendance zone.

217. Despite moving to an apartment within the Roanoke Rapids city limits, Alicia is not permitted to attend RRGSD because Ms. Sledge was unable to find affordable housing within the RRGSD attendance zone. Alicia will attend Northwest High School in HCPS this fall.

218. Plaintiff Larry Silver, who is nine years old, describes the county's schools in similar terms, wondering aloud to his mother why he has to attend the "worse" school, and why he cannot go to the school with ample textbooks and new buildings.

219. Plaintiff LaTonya Silver remembers hearing that RRGSD had better facilities and a “better class of people,” as far back as when she was a student at Northwest High School. Her daughter Brianna has heard the same message a generation later and believes that she would have more opportunities to learn and achieve her potential in RRGSD than in HCPS.

220. On information and belief, a former coach from Northwest High in HCPS struggled to get the local newspaper to even acknowledge his school’s sports teams, and to recruit sponsors from the county’s small business community.

221. Plaintiff Felicia Scott reports that unlike RRGSD schools, HCPS schools could not attract corporate sponsorship.

222. Social science research has long demonstrated that children who are stigmatized by attending a supposedly inferior school system internalize that stigma, lose motivation, perform more poorly in their academic pursuits than their non-stigmatized peers, and struggle to reach their academic potential.

223. Research also shows that students who are stigmatized are more often targeted for disciplinary and behavioral violations than their non-stigmatized peers.

FIRST CLAIM FOR RELIEF

Violations of North Carolina Constitution Article I, § 15 and Article IX, § 2

1. Plaintiffs re-allege and incorporate by reference the preceding allegations in this Complaint as if fully set forth herein.

2. Plaintiffs have a fundamental right under the North Carolina Constitution to the opportunity to receive a sound basic education. Defendant has an affirmative duty to protect and guarantee that right.

3. Under the standard set forth by the North Carolina Supreme Court in *Leandro v. State*, 346 N.C. 336 (1997) and *Hoke County Board of Education v. State*, 358 N.C. 605 (2004), Defendant has deprived Plaintiffs of their constitutional right to the opportunity to receive a sound basic education.

4. Defendant's continued maintenance of three inadequately and inefficiently resourced and racially identifiable school districts prevents students in Halifax County from obtaining the opportunity to receive a sound basic education.

5. Plaintiffs have no adequate remedy under any state or common law by which to obtain their right to a sound basic education.

SECOND CLAIM FOR RELIEF

Violations of North Carolina Constitution Article I, § 15 and Article IX, § 2

1. Plaintiffs re-allege and incorporate by reference the preceding allegations in this Complaint as if fully set forth herein.

2. As at-risk students, Plaintiffs have a fundamental right under the North Carolina Constitution to the opportunity for a sound basic education. Defendant has a duty to protect and guarantee the opportunity for at-risk students to receive a sound basic education.

3. Under the standard set forth by the North Carolina Supreme Court in *Leandro v. State*, 346 N.C. 336 (1997) and *Hoke County Board of Education v. State*, 358 N.C. 605 (2004), Defendant has deprived Plaintiffs of their constitutionally-guaranteed opportunity to receive a sound basic education.

4. By maintaining three separate school districts, Defendant fails to meet its obligation to exercise its authority and use its resources to address the needs of at-risk students.

5. Plaintiffs have no adequate remedy under any state or common law by which to protect their right to a sound basic education.

REQUEST FOR RELIEF

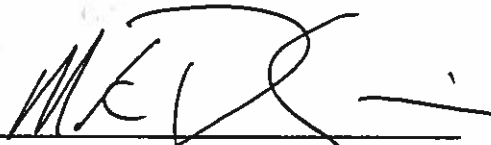
Plaintiffs pray:

1. That the Court find and conclude that Defendant's maintenance of three separate school districts obstructs Halifax County's students from securing the opportunity to receive a sound basic education;
2. That the Court find and conclude that Defendant's maintenance of three separate school districts denies at-risk students in Halifax County the opportunity to receive a sound basic education;
3. That the Court exercise its equitable powers and order the Board to develop and implement a plan to remedy the constitutional violations of its present education delivery mechanism and to ensure that every student in Halifax County is provided the opportunity to receive a sound basic education;
4. That Plaintiffs be awarded their costs and reasonable attorneys' fees; and
5. For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Rule 38 of the N.C. Rules of Civil Procedure, Plaintiffs demand a jury trial on all issues as of right.

Dated: August 24, 2015


Mark Dorosin (NC State Bar No. 20935)
dorosin@email.unc.edu



Elizabeth Haddix (NC State Bar No. 25818)
emclaugh@email.unc.edu
UNC CENTER FOR CIVIL RIGHTS
323 West Barbee Chapel Rd.
Chapel Hill, N.C. 27517
Telephone: (919) 445-0174
Fax: (919) 843-6748
Attorneys for Plaintiffs

Admission Pro Hac Vice Pending:

Alfred C. Pfeiffer, Jr. (CA State Bar No. 120965)
Katherine M. Larkin-Wong (CA State Bar
No. 281038)
Charles F. Taylor (CA State Bar No. 281032)
Alicia R. Jovais (CA State Bar No. 296172)
Adam S. Sieff (CA State Bar No. 302030)
LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
Telephone: (415) 391-0600
Attorneys for Plaintiffs

Lawrence Buterman (NY State Bar No. 3996154)
Janice Wang (CA State Bar No. 288158)
LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, D.C. 20004
Telephone: (202) 637-2200
Attorneys for Plaintiffs

Brenda Shum (OR State Bar No. 966146)
Eileen O'Connor (DC Bar No. 1008936)
LAWYERS' COMMITTEE
FOR CIVIL RIGHTS UNDER LAW
1401 New York Avenue, NW, Suite 400
Washington, DC 20005
Telephone: (202) 662-8600
Attorneys for Plaintiffs