

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20 CVS_____

NORTH CAROLINA STATE)
CONFERENCE OF THE NAACP,)
CHARLOTTE-MECKLENBURG)
BRANCH #5376 OF THE NAACP,)
GREGORY RANKIN, AND LA TOYA)
DAWSON,)

Plaintiffs,)

v.)

STATE OF NORTH CAROLINA,)
TIMOTHY K. MOORE, in his official)
capacity as Speaker of the North)
Carolina House of Representatives;)
PHILIP E. BERGER, in his official)
capacity as the President Pro Tempore)
of the North Carolina Senate,)

Defendants.

COMPLAINT

I. INTRODUCTION AND SUMMARY OF ACTION

1. North Carolina House Bill 514, enacted as Session Law 2018-3 on June 7, 2018 (“HB 514”), unconstitutionally authorizes four predominantly white, wealthy towns in Mecklenburg County to use the state’s charter school system to create Town School Districts within the boundaries of the Charlotte-Mecklenburg Schools District (“CMS”).

2. HB 514 makes each Town School District’s boundaries co-extensive with the Town’s legal boundaries and creates an admissions preference for the Town’s residents, who are predominantly white and affluent.

3. HB 514 was passed in defiant and explicit response to proposed plans by the publicly elected board of CMS, the local education authority (“LEA”) that operates the public school system in the City of Charlotte and Mecklenburg County, to adopt a new student assignment plan to address the educational problems created by the segregation of low-wealth, non-white students into racially isolated schools. Proponents of the Town School districts decried CMS’ new student assignment plan as a threat to the composition of the mostly white and affluent “home” public schools in the four towns, and thus set out to create public schools separate from CMS within their towns.

4. To support these unconstitutional Town School Districts further, the legislature also included in its annual budget bill, Senate Bill 99 (“SB 99”), changes in state law to allow teachers (employed directly by the towns) who work in these Town School Districts to-- unlike all other town employees-- participate in the state’s retirement and health plans, and changed school finance laws to allow the Towns to fund from local tax revenues the capital expenditures and operating expenses for these Town School Districts.

5. HB 514 is an expressly local bill that would create new public school districts within the CMS district, in direct violation of Article II, § 24(1)(h) of the state constitution, which prohibits local legislation to create public school districts.

6. HB 514 also violates the uniform public schools requirement of Article IX, § 2(1) of the state constitution.

7. HB 514’s purpose—to exclude non-white students living outside the towns from attending the publicly funded Town School Districts—is racially discriminatory and

violates Article I, § 19 of the state constitution. It intentionally denies equal access to educational opportunity to non-white residents of the County and generates additional resources for the Town School Districts at the expense of CMS. Thus, HB 514 denies equal protection of the laws.

II. PARTIES

8. Plaintiff North Carolina State Conference of the National Association for the Advancement of Colored People (“NC NAACP”) is over 70 years old and was organized about the time the NAACP began challenging the “separate but equal” doctrine in public education via *Brown v. Board of Education*, 347 U.S. 483 (1954). The NC NAACP has over 100 adult, youth, and college branches throughout North Carolina, including in Mecklenburg County, and its mission is to protect the equality of rights of all persons and to eliminate racial hatred, segregation, and discrimination.

9. Plaintiff Charlotte-Mecklenburg Branch #5376 of the National Association for the Advancement of Colored People (“Charlotte-Meck NAACP”) is the local affiliate of the North Carolina State Conference of the NAACP and a chapter of the nation’s oldest civil rights organization. Charlotte-Meck NAACP is dedicated to seeking justice for all persons and the elimination of race discrimination. Its members include Mecklenburg County taxpayers and parents whose children are currently enrolled in CMS and who will be directly affected by the outcome of this litigation.

10. Plaintiff Gregory “Dee” Rankin is a resident of Charlotte, a taxpayer of Mecklenburg County, and is the parent of a minor child in the CMS district. Mr. Rankin’s child attends a CMS school located within the town limits of Huntersville.

11. Plaintiff La Toya Dawson is a resident of Charlotte, a taxpayer of Mecklenburg County, and is the parent of a minor child in the CMS district. Ms. Dawson's child attends a CMS school located within the town limits of Huntersville.

12. Defendant State of North Carolina ("the State") is a sovereign state of the United States of America. The State, through the General Assembly, enacts local and general legislation, including HB 514.

13. Defendant Timothy K. Moore is the Speaker of the North Carolina House of Representatives and is being sued in his official capacity. Pursuant to Rule 19(d) of the North Carolina Rules of Civil Procedure, Speaker Moore is a necessary party to this constitutional challenge to a state statute, because he is an agent of the State through the General Assembly, and he marshaled this legislation as an unconstitutional local bill through the House to accomplish its discriminatory purpose and avoid the Governor's veto.

14. Defendant Philip E. Berger is the President Pro Tempore of the North Carolina Senate and is being sued in his official capacity. Pursuant to Rule 19(d) of the North Carolina Rules of Civil Procedure, President Pro Tem Berger is a necessary party to this constitutional challenge to a state statute because he is an agent of the State through the General Assembly, he marshaled this legislation through the Senate as an unconstitutional local bill, and he signed it as President Pro Tem to accomplish its discriminatory purpose and avoid the Governor's veto.

III. JURISDICTION AND VENUE

15. This Court has jurisdiction over this action pursuant to N.C. Gen. Stat. § 7A-245(a), which authorizes civil actions in the Superior Court for “[t]he enforcement of declaration of any claim of constitutional right,” for “[i]njunctive relief against the enforcement of any statute,” and for “[d]eclaratory relief to . . . disestablish the validity of any statute.”

16. This Court has authority to grant the declaratory judgments and injunction sought pursuant to N.C. Gen. Stat. § 1-253.

17. The Superior Court of Wake County is the proper venue for this challenge to the constitutionality of HB 514, pursuant to N.C. Gen. Stat. §§ 1-81.1(a1), 1-267.1(a1) and 1-267.1(b2), and Rule 42(b)(4) of the North Carolina Rules of Civil Procedure.

I. FACTUAL ALLEGATIONS

A. Background

18. Racial segregation of the public schools is not new to this state. Until the 1950s, North Carolina codified and enforced racial segregation of public-school students and faculty.

19. In 1954, the U.S. Supreme Court declared in *Brown v. Board of Education* that such State-mandated systems of racially segregated schools were inherently unequal and unconstitutional.

20. Despite the Supreme Court’s command to dismantle school segregation with all deliberate speed, school districts in North Carolina, including CMS, avoided desegregating their schools.

21. North Carolina's General Assembly resisted integration by embracing the Pearsall Plan, which provided vouchers to white students fleeing integrated public schools. The Pearsall Plan was later struck down as unconstitutional.

22. In 1965, the parents of African-American children attending CMS filed a class action, *Swann v. Charlotte-Mecklenburg Board of Education*, to desegregate CMS.

23. CMS had adopted desegregation plans which were purposely ineffectual, including a freedom-of-choice plan which provided transportation for students to freely transfer to racially separate schools.

24. In 1969, the district court rejected CMS' freedom-of-choice plan and ordered a transportation plan to accomplish rather than thwart desegregation.

25. In 1971, the Supreme Court upheld the district court's order, placing CMS under federal court supervision to ensure the desegregation of the public schools.

26. Following the Supreme Court's ruling in *Swann*, CMS adopted a series of school assignment programs that furthered racial integration of the CMS schools.

27. In 1999, a district court's declaration, based upon a challenge to the continued implementation of CMS' student assignment plans by white parents, that CMS was a "unitary" school district was overturned 2-1 by a Fourth Circuit Court of Appeals panel, but then affirmed 6-5 by the *en banc* court in 2001.

28. After the school district was declared unitary, CMS implemented a "neighborhood" school assignment policy that led to dramatic re-segregation. By 2010, CMS schools were nearly as segregated racially as before *Swann*.

29. CMS' overall student population has also become predominantly non-white and low wealth. For the 2017-18 school year, the K-12 student population was 38% black, 24% Hispanic, 28% white, 7% Asian, 0.4% Native American, and 3% multi-racial, and approximately 60% of the students were eligible for Free or Reduced Lunch ("FRL").

30. In contrast, the four towns authorized by HB 514 to create Town Schools remain majority white; their white populations are 79% (Cornelius), 79% (Huntersville), 73% (Matthews), and 64% (Mint Hill).

31. The racial imbalances are also economic. According to a study in 2017-18, only 6% of white CMS students attended schools where more than 50% of students are low-income (FRL eligible), while 40% of black students and 47% of Hispanic students attended such high poverty schools.

32. In CMS in 2017-18, 95-97% of all students in high poverty schools were non-white, while just 3-5% were white.

33. In contrast, the CMS schools located in the four HB 514 towns have dramatically higher percentages of white students and dramatically lower percentages of poor students.

B. Opposition to CMS Plan to Address the Impacts of Segregation

1. In February 2016, following months of public meetings about the adverse educational impacts of these racial and economic disparities among schools, the CMS Board of Education ("Board") adopted broad goals for school assignment, including prioritizing diversity and reducing the number of schools with high concentrations of poor children.

2. The Board’s priority to address racial and economic isolation of students generated strong opposition from residents and elected officials in Cornelius, Huntersville, Matthews, and Mint Hill.

3. As the student assignment policy was being considered by CMS in 2015 and early 2016, Mayor Jim Taylor of Matthews talked with others about Matthews forming a new school district separate from CMS.

4. In November 2015, CMS board member Paul Bailey texted Mayor Taylor “ready to start a Matthews school system?” Mayor Taylor responded “yes.”

5. In January 2016 Mayor Taylor told Mr. Bailey that “another quality school would be good for us . . . any concerns you can think of?” He also told Mr. Bailey to “put your Matthews hat on not CMS.”

6. Bailey responded “I support the charter effort. Do have issues with the funding stream, which is a Brawley and Tarte issue,” referring to then efforts by State Rep. Bill Brawley from Matthews and then State Senator Jeff Tarte from Cornelius — who supported separate town charter schools — to overcome public school finance laws that limited the ability of towns to use local tax revenues to build and operate public schools.

7. On February 24, 2016, following the vote by CMS approving these student assignment priorities, Mayor Taylor tweeted a “[c]all 2 action” to Matthews, Pineville, and Mint Hill to “possibly leave” CMS.

8. Mayor Taylor then convened a Mayor’s Task Force for Matthews Community Schools.

9. Mr. Bailey advised the mayor to include language calling for “ALL Matthews students going to neighborhood schools.” Mayor Taylor agreed.

10. In its first meeting, the Mayor’s Task Force identified legislative contacts and set a goal to identify what information would be needed before a bill could be drafted that would create separate and independent public schools in Matthews.

11. The CMS Board approved Phase I of its diversity and student assignment plan in November 2016, focusing on access to magnet schools and magnet admission lottery weighted on socioeconomic status.

12. The CMS Board then turned to discussion of Phase II, which proposed redrawing student assignment areas based on four metrics, one of which was socioeconomic diversity.

13. The public and political debate around Phase II was intense and included explicit and implied threats that wealthier, white suburban parents would leave CMS if the reassignment plan impacted their “neighborhood” schools.

14. During this period, Mayor Taylor suggested that Matthews become a “business park” for charter schools.

15. For nearly a year, the Matthews Mayor’s Task Force had looked at several examples of school district “deconsolidation and decentralization” in other states and explored the possibility of establishing a town-owned or operated charter school.

16. According to the minutes of its last meeting on March 6, 2017, the Mayor’s Task Force recommended that the town “initiate the necessary steps through Raleigh for

approval of a Municipal Charter School” with admission “weighted towards Matthews residents.”

17. In March 2017, the CMS Opportunity Task Force released its report of an 18-month study which highlighted the impacts of segregation by race and economics in CMS and referred to maps that reflect “lower opportunity neighborhoods dominated by people of color, contrasted with . . . white, wealthier residents in south and north Mecklenburg.” The Report recommended that CMS “[a]cknowledge the significant roles segregation and racialization have played in our current opportunity narrative and commit to becoming a more inclusive, fair, and just community” and to “address the complex, multi-faceted issue of school segregation with a systems approach” including socio-economic and other community factors that impact student outcomes.

C. Legislative Push for White Municipalities to Provide Separate Schooling Options

51. In the midst of the debate over the Phase II reassignment plan, and with the support and encouragement of the leadership of Mint Hill and Matthews, on March 28, 2017, Representative Bill Brawley, who served on the Matthews Town Council prior to getting elected to the Legislature in 2010, introduced HB 514 and HB 704 in the North Carolina General Assembly.

52. As introduced, HB 514 authorized the towns of Matthews and Mint Hill to establish municipal charter schools with an admissions preference that would allow these schools to exclude any students living outside the towns.

53. HB 514 was introduced expressly as a local bill, thereby avoiding gubernatorial oversight of the legislation.
54. HB 514 passed in the House and was sent to the Senate on April 27, 2017.
55. The rancorous public debate and the introduction of HB 514 led the CMS Board to significantly limit the scope of Phase II of the reassignment plan adopted in May 2017.
56. CMS' goal was to appease the towns and to get them to withdraw support for HB 514.
57. The revised plan would impact less than 5% of the students in CMS, and would try to address concentrated poverty in only 21 of CMS' 75 high poverty schools. And in some of those 21 schools, the change amounted to reducing the percentage of students eligible for free and reduced lunch incrementally, from 94% to 92%.
58. Board member Rhonda Lennon, from the northern suburbs (including Huntersville and Cornelius), said the new Phase II plan would be "well received" there because "it is not uprooting the vast majority of students."
59. HB 704, which Rep Brawley introduced at the same time as HB 514 and upon information and belief was also aimed at CMS, called for a joint legislative study commission to assess the feasibility of breaking up large school districts in the state. As a study bill, HB 704 also did not require gubernatorial approval; it passed the Legislature on July 31, 2017.
60. Rep. Brawley was appointed to lead the Joint Legislative Study Committee.

61. While HB 514 and HB 704 were pending, in January 2018, Foundation for the Carolinas facilitated a meeting between leaders in Matthews and CMS to mediate the dispute over schools in the community.

62. In early 2018, there were additional discussions and meetings with Matthews town officials. The CMS Board and leaders repeatedly asked Matthews to withdraw its support for HB 514 and to work with the school board to develop a compromise, including support for neighborhood schools and the creation of a special task force to address the town's concerns.

63. Matthews and CMS came to some areas of agreement and cooperative steps forward. But Paul Bailey, now the Mayor of Matthews, wrote that CMS' proposal was not sufficient for the town to withdraw its support for HB 514.

64. In March 2018, CMS released "Breaking the Link," its report on the connections between student outcomes and concentrations of race and poverty in many CMS schools. High poverty schools are composed of mostly black and Hispanic students, and have lower teacher retention rates, higher student suspension rates, and lower percentages of highly qualified teachers.

65. Rep. Brawley's HB 704 Study Committee met several times over this same period and then released a final report on April 11, 2018.

66. That report concluded there was no educational benefit to breaking up school districts, and that doing so could exacerbate disparities between wealthier and low-wealth schools in terms of facilities, programs, and teacher quality. The Study Committee did not recommend breaking up the large school districts.

67. In reaction to the Study Committee rejection of Brawley's goal of carving separate town school districts out of CMS, Rep. Brawley and town leaders in Matthews and Mint Hill renewed the push to pass HB 514.

68. Even though CMS had scaled back its reassignment plans in 2017, Matthews leaders admitted that passage of HB 514 would pressure CMS to protect their interests and prevent future student reassignments to Matthews-based schools.

69. CMS leaders responded that HB 514 would undermine the school district's ability to address the issues identified in the Breaking the Link report, and divert critical and limited educational resources to the towns and away from CMS.

70. CMS offered greater support for neighborhood schools and to establish a joint study commission with Matthews leaders to address the town's concerns about CMS schools in that community in exchange for Matthews withdrawing its support for HB 514.

71. Matthews leaders declined the offer. In an April 2018 email, Matthews Commissioner Jeff Miller outlined reasons for supporting HB 514 which included that "[t]here should be no busing for diversity reasons."

72. Following another meeting in April, Matthews Mayor Paul Bailey texted "no thanks" to Board Chair Mary McCray regarding CMS' compromise. Matthews Commissioner Kress Query responded to a constituent's concerns about HB 514 by stating "[p]lease keep in mind that this is only to have a backup plan if needed in the future for our Children and Citizens."

73. Rep. Scott Stone, whose district included Matthews and who supported HB 514, stated in an April 2018 email that: "with regards to what a municipal charter's racial

make-up might be, common sense would dictate that the charter would likely be similar to the make-up of the town.”

74. The Town of Matthews then held a public meeting to discuss the May 1, 2018 compromise offer and declined it publicly.

75. Mayor Bailey said that the town should continue to support HB 514, because “it would put a priority on Matthews’ students.”

D. Towns’ White Board Members Endorse HB 514

76. On May 7, 2018, the Huntersville Town Board voted unanimously to have the town added to HB 514 with Matthews and Mint Hill. At that time, all members of the Huntersville Town Board were white.

77. Matthews and Mint Hill also had all-white elected boards when they endorsed HB 514.

78. Mint Hill Mayor Ted Biggers reiterated his town’s support for HB 514 in May 2018, stating “we at no time said we don’t support it.” Biggers also claimed that town residents were afraid CMS would reassign Mint Hill students to diversify the district.

79. Biggers claimed that the existing K-8 charter school located in Mint Hill “runs a waiting list that varied between 1000 and 2000 students a year,” and that a Town charter school would “give our students a guaranteed seat in a Mint Hill school.”

E. Passage of HB 514 and Enabling Legislation (SB 99 and SB 469)

80. Gerry Cohen, former head of the North Carolina General Assembly’s Legislative Research Division, released an analysis of HB 514 (the “Cohen Report”) on May 21, 2018. His Report outlined several problems with HB 514, including the fact that

municipalities could not incur debt or use public funds to buy land or for capital construction; and that teachers in town charter schools would be town employees, and thus were ineligible for pension and health insurance under the Teachers and State Employees Retirement System (TSERS) and the State Health Plan for Teachers and State Employees (SHP).

81. There also was no provision in North Carolina law that authorized towns to spend property tax money to support town charter schools unless approved by a voter referendum.

82. Following the release of the Cohen Report, the Conference Committee introduced an amended version of the state budget (“SB 99”) in the House and the Senate on May 28, 2018. Both Rep. Brawley and Sen. Tarte served on the Conference Committee.

83. SB 99 amended N.C. Gen. Stat. § 160A to allow towns to use property tax revenue for public schools within city limits, including both traditional and municipal charter schools, and to apply property tax revenue to public schools outside town limits based on the number of town residents that attend those schools. SB 99 also allows schools eligible for city funding to “request appropriations directly from cities.”

84. Before SB 99 passed, local education funding was the exclusive responsibility of county governments pursuant to Chapter 115C of the General Statutes and towns did not have the authority to spend property taxes or other local funds on education.

85. These provisions in SB 99 create an unequal funding scheme, allowing towns to select schools to fund with town property taxes, while leaving other public schools in the same district without this additional source of revenue.

86. The State itself is prohibited from creating such intra-district inequality in school funding.

87. While SB 99 was a general statewide budget bill, these provisions on municipal funding of schools were essential to authorizing the four HB 514 towns to use town-generated funds to build and support the Town Schools authorized under HB 514.

88. On May 30, 2018, two days after SB 99 was introduced, the Senate took up HB 514 and amended it to include Huntersville and Cornelius as well as Matthews and Mint Hill.

89. SB 99 passed on June 1, 2018, was vetoed by Governor Cooper on June 6, 2018, and then the Legislature overrode his veto on June 12, 2018.

90. HB 514 was passed on June 6, 2018. Because it was expressly a local bill, it was not submitted to the Governor for approval. Any amendments that would have made it general legislation requiring the Governor's signature were removed, such as a proviso to allow otherwise ineligible town employees working in Town Schools to participate in the state benefits under TSERs and the SHP.

91. Instead, legislation allowing the boards of "municipal charter schools" to become participating employers in TSERS and SHP was included in a statewide technical corrections bill, SB 469, in December 2018.

92. While SB 469 was treated as a general statewide act, as a practical matter its provisions applied only to the four towns authorized by HB 514 to operate Town Schools through the charter system: Cornelius, Huntersville, Matthews, and Mint Hill.

93. Governor Cooper noted this purpose of SB 469 and vetoed it on December 21, 2018, stating in his veto message that establishing “municipal charter schools set a dangerous precedent that could lead to taxpayer funded resegregation.”

94. The Legislature overrode the veto on December 27, 2018.

F. Towns Plan For Town Schools

95. The Cornelius Town Board voted 4-1 to establish an Educational Options Study Commission (“CEOSC”) on September 17, 2018.

96. The Resolution to Create the CEOSC states the commission will “study the options presented” by the enactment of HB 514 and SB 99.

97. Commissioner Ross, who is the only African American on the board, voted against the CEOSC, expressing concerns it would create more issues in future negotiations with CMS.

98. The Huntersville Town Board voted unanimously to establish an Educational Options Study Commission (“HEOSC”) on September 17, 2018, to consider options to “reduce overcrowding within the public education system in Huntersville”

99. The Resolutions of both the CEOSC and the HEOSC contain the same language, stating the commissions will examine: operating a stand-alone town charter school, establishing a town charter school in partnership with another charter school,

partnering with CMS for a new expanded public school, and the feasibility of dividing the Charlotte Mecklenburg LEA into smaller LEAs.

100. The HEOSC presented its final report to the Huntersville Town Board on May 20, 2019.

101. In its report, the HEOSC recommended that Huntersville separate from CMS and create a Lake Norman or North Mecklenburg school district in partnership with other towns.

102. The HEOSC also recommended Huntersville open a Town charter school in the next 3-4 years, either on its own or in partnership with an existing charter school.

103. At the HEOSC's presentation to the Town Board, HEOSC member and former County Commissioner Jim Puckett "encouraged the Town Board to act quickly on steps that would lead to a smaller LEA before the opportunity is closed."

104. In justifying HEOSC's recommendation that Huntersville form a Town School, Jim Puckett explained: "[w]e are happy with the diversity we have. Can we be more diverse? Most assuredly in the future, but we don't think it's not [sic] up to the school system to socially manipulate the population."

105. Puckett also said: "CMS will have to figure out how to deal with challenges they have without looking for white knights in other areas . . . they have to deal with challenges where they are rather than spread them for relief"

106. Huntersville Mayor John Aneralla dismissed concerns about racial segregation in a Huntersville Town School.

107. The Matthews Board of Commissioners established a Committee on Education on October 22, 2018.

G. Adverse Educational Impacts of HB 514

108. HB 514 was passed with the purpose of allowing Towns to guarantee admissions to the Town's predominantly white residents and to exclude non-white students living outside of the Town based on their race.

109. Because HB 514 allows the Town Schools in these four predominantly white towns to exclude non-residents from admission, any Town charter school created under this bill will disproportionately exclude non-white students.

110. HB 514 in combination with SB 99's funding provision will disproportionately deprive non-white students' access to schools funded at levels above and beyond other CMS schools.

111. Additionally, these municipal charters will draw more resources away from CMS, which will lose state per-capita funds for each student who leaves CMS for a Town School, further depriving non-white students in CMS of resources.

112. By drawing white students out of CMS, these Town charters will have a segregating effect on CMS schools, increasing the proportion of low-income, non-white students in CMS.

113. The resulting demographic changes in the student body at CMS will make it more difficult for the district to achieve its student assignment and diversity goals, impeding the district's ability to address the racial and economic disparities that undermine educational achievement.

114. Research has extensively catalogued the harms created by racial and socioeconomic segregation in education. The academic achievement of children in racially segregated, high poverty schools is lower in comparison to children in racially integrated schools, and children of color are the most severely harmed by the segregation.

115. Students in racially segregated, high poverty schools are less likely to graduate and complete fewer years of education.

116. Schools with racially segregated student bodies are also more likely to have segregated teachers and administrators, limiting opportunities for intergroup contact and reducing intergroup competency as an adult.

117. Racially segregated, high poverty schools provide inferior working environments and consequently suffer from greater staff turnover, undermining students' abilities to build useful academic and professional networks.

118. Research has also demonstrated that a number of other important and lasting benefits accrue to children who receive a racially-integrated education, and that segregated schools deprive students of these benefits.

119. Children of color who attend integrated schools complete more years of education, graduate at a higher rate, and have higher college attendance rates than their peers in segregated schools.

120. The achievement gap between white students and children of color is reduced in integrated schools, and integrated schools also provide students with the diverse interpersonal and professional networks that are an essential part of an adequate education.

121. Integrated schools provide a supportive professional climate for teachers, and therefore are able to maintain a more stable teaching staff.

122. Parental and community involvement is higher in integrated schools.

123. Pedagogical research also indicates that integrated educational environments can help foster positive academic habits, such as increased ability for independent thinking and a greater facility with higher order analysis.

124. The academic and interpersonal benefits of integration accrue to all student groups, including white students, and there is no evidence that integrated schools harm any student group.

FIRST CLAIM FOR RELIEF
Article II, Section 24(1)(h) of the North Carolina Constitution
(Prohibited local legislation)

125. Plaintiffs re-allege and incorporate by reference all the allegations set forth above.

126. The General Assembly explicitly considered and passed HB 514 as a local bill, exempt from veto or approval by the Governor.

127. Article II, Section 24(1)(h) of the North Carolina Constitution prohibits the General Assembly from enacting “any local, private, or special act or resolution...” that “establish[es] or chang[es] the lines of school districts.”

128. “School district” is defined generally in N.C. Gen. Stat. § 115C-69 as “any convenient territorial division or subdivision of a county, created for the purpose of maintaining within its boundaries one or more public schools.”

129. HB 514 authorizes the creation of new school districts that match the town boundaries of Matthews, Mint Hill, Cornelius, and Huntersville to create publicly financed Town Schools, fully independent of the local LEA, and staffed by participants in the TSERS and the SHP, and with an admissions preference for those Towns' residents.

130. By giving these four towns the unique power to establish their own school districts within the existing CMS school district, HB 514 violates Art. II Sec. 24 and is and should be declared an unconstitutional local law by this Court.

SECOND CLAIM FOR RELIEF
Article IX, Section 2(1) of the North Carolina Constitution
(Uniformity Clause)

131. Plaintiffs re-allege and incorporate by reference all the allegations set forth above.

132. Article IX, Section 2(1) of the North Carolina Constitution states, "The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students."

133. The uniformity clause guarantees all students equal access to our public schools.

134. The clause removed and replaced language from the Constitution of 1875 that mandated racially segregated schools. The new language reflects the state's commitment to all students having equal access to all the benefits of our public schools.

135. The uniform system of public schools in North Carolina includes traditional public-school districts, which are required to accept all students within the district; and charter schools, which are required to accept all students without regard to geography.

136. By creating a municipally-funded Towns School District within an existing LEA designed to exclude students from that LEA from the Town School District, HB 514 denies equal educational access for all students who reside in the LEA and thereby violates the Uniformity Clause and is unconstitutional.

THIRD CLAIM FOR RELIEF
Article I, Section 19 of the North Carolina Constitution
(Equal Protection)

137. Plaintiffs re-allege and incorporate by reference all the allegations set forth above.

138. Article 1, Section 19 of the North Carolina Constitution provides, “No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.”

139. The timing and circumstances of HB 514’s introduction, and the behavior of elected officials in both the municipalities and the General Assembly reveal a discriminatory intent to exclude non-white children from their Town Schools and to create and preserve racially identifiable schools, in violation of the Equal Protection and non-discrimination provisions of Art. I Sec. 19.

140. The HB 514 Town Schools also will have a segregative effect on the CMS schools from which they draw students, increasing segregation in those schools and limiting the district’s ability to address that segregation.

141. These segregative impacts are constitutionally suspect generally, but are particularly noteworthy for CMS, given the history and present levels of school segregation as the worst in the state.

142. HB 514 was introduced and adopted in direct reaction to CMS attempt to address segregation in the district.

143. HB 514 was intended to constrain the student reassignment plans, protect the racial composition of the Town Schools and limit the ability of the CMS Board to address student segregation and concentrations of poverty.

144. The legislative process and context of HB 514, including changes to the bill and to the state education funding system and the related legislation to treat Town School employees as state employees under the TSERS and the SHP, demonstrate intentional, significant departures from ordinary procedures to accomplish those racially motivated goals for the Towns.

145. The totality of the circumstances demonstrates that HB 514 violates the equal protection provision of Article I, Section 19, and is unconstitutional.

PRAYER FOR RELIEF

Plaintiffs request that the Court enter a judgment:

- a. Declaring HB 514 unconstitutional on its face under North Carolina Constitution Article IX, Section 2;
- b. Declaring HB 514 unconstitutional on its face under North Carolina Constitution Article II, Section 24;

- c. Declaring HB 514 unconstitutional on its face under North Carolina Constitution Article 1, Section 19;
- d. Permanently enjoining any implementation or enforcement of HB 514 in its entirety;
- e. Awarding Plaintiffs their reasonable attorneys' fees and costs to the extent allowed by law, including N.C.G.S. 6-19.1; and
- f. Awarding such other relief as may be just and proper.

Respectfully submitted, this the ___ day of April, 2020.

**Lawyers' Committee for Civil Rights
Under Law**

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