No. 126212

IN THE
SUPREME COURT OF ILLINOIS

CAHOKIA UNIT SCHOOL DISTRICT NUMBER 187, *et al.*, Plaintiffs-Appellants, v. J.B. PRITZKER, Governor of the State of Illinois, Defendant-Appellee, and THE STATE OF ILLINOIS, Defendant.	)	On Appeal from the Appellate Court of Illinois, Fifth Judicial District, No. 5-18-0542 There Heard on Appeal from the Circuit Court of the Twentieth Judicial Circuit, St. Clair County, Illinois No. 2017-CH-301 The Honorable JULIE K. KATZ, Judge Presiding.

(full caption on following page)

BRIEF OF DEFENDANT-APPELLEE

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No. 126212

IN THE
SUPREME COURT OF ILLINOIS

CAHOKIA UNIT SCHOOL DISTRICT NUMBER 187, GRANT CENTRAL CONSOLIDATED SCHOOL DISTRICT NUMBER 110, PANA COMMUNITY UNIT SCHOOL DISTRICT NUMBER 8, BETHALTO COMMUNITY UNIT SCHOOL DISTRICT NUMBER 8, BOND COUNTY COMMUNITY UNIT SCHOOL DISTRICT NUMBER 2, BROWNSTOWN COMMUNITY UNIT SCHOOL DISTRICT 201, BUNKER HILL COMMUNITY UNIT SCHOOL DISTRICT NUMBER 8, GILLESPIE COMMUNITY UNIT SCHOOL DISTRICT NUMBER 7, ILLINOIS VALLEY CENTRAL COMMUNITY UNIT SCHOOL DISTRICT NUMBER 321, MERIDIAN COMMUNITY UNIT SCHOOL DISTRICT 223, MT. OLIVE COMMUNITY UNIT SCHOOL DISTRICT NUMBER 5, MULBERRY GROVE COMMUNITY UNIT SCHOOL DISTRICT NUMBER 1, NOKOMIS COMMUNITY UNIT SCHOOL DISTRICT NUMBER 22, OSWEGO COMMUNITY UNIT SCHOOL DISTRICT 308, OREGON COMMUNITY UNIT SCHOOL DISTRICT 220, SOUTHWESTERN COMMUNITY UNIT SCHOOL DISTRICT 9, STAUNTON COMMUNITY UNIT SCHOOL DISTRICT NUMBER 6, STREATOR TOWNSHIP HIGH SCHOOL DISTRICT 40, VANDALIA COMMUNITY UNIT SCHOOL DISTRICT NUMBER 203, WOOD RIVER-HARTFORD SCHOOL DISTRICT NUMBER 15, CARLINVILLE COMMUNITY UNIT SCHOOL DISTRICT NUMBER 1, and TAYLORVILLE COMMUNITY UNIT SCHOOL DISTRICT NUMBER 3, Plaintiffs-Appellants, v. J.B. PRITZKER, Governor of the State of Illinois, Defendant-Appellee, and THE STATE OF ILLINOIS, Defendant.	)	On Appeal from the Appellate Court of Illinois, Fifth Judicial District, No. 5-18-0542 There Heard on Appeal from the Circuit Court of the Twentieth Judicial Circuit, St. Clair County, Illinois No. 2017-CH-301 The Honorable JULIE K. KATZ, Judge Presiding.

BRIEF OF DEFENDANT-APPELLEE

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POINTS AND AUTHORITIES

NATURE OF THE ACTION

Plaintiffs are 22 school districts in less affluent areas of the State, with below-average property values and property-tax revenues per student. Although Plaintiffs receive much higher state aid per pupil than other districts, they filed this action against the Governor seeking a court order requiring more state spending than the General Assembly appropriates. Plaintiffs alleged that such relief was required under Article X, Section 1 of the Illinois Constitution (the "Education Article") in light of the State Board of Education's adoption of academic learning and assessment standards, and the General Assembly's enactment in 2017 of section 18–8.15 of the School Code (105 ILCS 5/18–8.15) ("section 18–8.15"), which adopted a state aid formula — referred to as "Evidence-Based Funding" (or "EBF") — that increases even further the share of state aid for public schools in less affluent areas. Plaintiffs also asserted a claim under the Equal Protection Clause of the Illinois Constitution (art. I, § 2) based on alleged discrimination against low-income students (not race discrimination).

Defendants moved to dismiss the action on multiple grounds, including that: Plaintiffs lack standing to assert the rights of students, the Governor is not a proper defendant for the relief Plaintiffs requested, this relief is barred by the Appropriations Clause of the Illinois Constitution (art. VIII, § 2(b)), and Plaintiffs failed to state valid claims under the Education Article and Equal Protection Clause. The circuit court granted this motion. Without addressing whether Plaintiffs have standing or the Governor is a proper defendant, the appellate court affirmed.

In this Court, Plaintiffs repeat their contention, rejected by both courts below, that the judiciary should take control of state funding for public education because the

legislative branch has failed to satisfy what they believe is the State's constitutional obligation to provide such funding.

ISSUES PRESENTED FOR REVIEW

1. Whether Plaintiffs lack standing to pursue their claims under the Equal Protection Clause and the Education Article.

2. Whether the Governor, who is the only defendant against whom Plaintiffs seek relief, is not a proper defendant because (i) he lacks legal authority to increase state funding to public schools, (ii) any claim for judicial control over his budget-related authority would violate sovereign immunity and the separation of powers, and (iii) there is no actual controversy between him and Plaintiffs.

3. Whether Plaintiffs failed to state a valid claim under the Education Article.

4. Whether Plaintiffs failed to state a valid claim under the Equal Protection Clause of the Illinois Constitution.

STATEMENT OF JURISDICTION

The Court granted Plaintiffs' petition for leave to appeal on September 30, 2020.

STATEMENT OF FACTS

Introduction

Illinois' system for funding primary and secondary education relies to a great extent on local property taxes, which are supplemented by some federal funding and by state funds allocated under a formula that provides significantly more per-pupil funding to poorer school districts. (C 146–47, 157; see also *Comm. for Educ. Rights v. Edgar*, 174 Ill. 2d 1, 5–7 (1996) ("*Edgar*").)[1] Despite greater state funding per pupil for poorer school districts, resource disparities still exist, with the poorest school districts annually spending thousands of dollars less per student than more affluent districts. (C154–56.)

On numerous occasions since adoption of the 1970 Constitution, this Court has addressed whether the State has a judicially enforceable duty to provide greater funding to less affluent school districts. As described below, on each occasion the Court has held that the Constitution places responsibility over such funding issues with the legislature, not the courts. And in 1992, Illinois voters rejected an amendment to the text of the Education Article that they were told would create "strong, enforceable language," and would have changed public education from a "fundamental goal" to a "fundamental right," guaranteed "equality of educational opportunity" as part of this right, and imposed on "[t]he State . . . the preponderant financial responsibility for financing the system of public education." (SA 23–24.)

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[1] References to the record, to Plaintiffs' Appendix, and to the attached Supplementary Appendix begin with the letters "C, "A," and "SA," respectively. For simplicity, the terms "public education" and "public schools" refer here to primary and secondary schools, not colleges and universities.

In recent decades, state funding for public education has grown much faster than inflation,[2] with a large majority of that increase given to schools with lower property values. (See below at 10–13.) This trend continued in 2017, when the General Assembly adopted the EBF formula for allocating state aid, under which virtually all increases in state funding go to school districts with the lowest available local resources and the highest proportion of low-income students. (*Id.*; C 146–47; SA 1.) Over the following three years, the State increased annual state funding allocated under this formula by more than $1 billion, essentially all of which goes to low-wealth districts. (C 147; SA 1, 5.)

Nevertheless, in this action, Plaintiffs claimed that these funding efforts by the General Assembly are constitutionally inadequate, and that the courts must divert billions of dollars of available state revenues from other uses chosen by the legislature and direct them to their schools. (C 147–64.) According to Plaintiffs' Complaint, such court-ordered expenditures of unappropriated state funds were constitutionally required as a result of (a) the adoption by the State Board of Education (the "State Board") of "Learning Standards" setting goals and expectations for student academic achievement, and (b) the General Assembly's enactment of the statute adopting the EBF formula for state aid. (C 159–60.) The circuit court granted the defendants' motion to dismiss the action. (A 1–10; C 270–78.) The appellate court affirmed, with one Justice dissenting. (A 36–55.)

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[2] See *https://cgfa.ilga.gov/Upload/FY2021BudgetSummary.pdf* at 101; *https://cgfa.ilga.gov/Upload/FY2008budgetsummary.pdf* at 31; *www.bls.gov/data/inflation_calculator.htm* (all visited April 12, 2021). Also, over the 23-year period from 1996 to 2019, total operating expenditures per-pupil in Illinois increased by about 41% after adjusting for inflation. See *www.isbe.net/Documents/state-totals.pdf* (visited April 12, 2021).

Legal Framework for Public School Operations

The Illinois Constitution

Section 1 of the Education Article of the Illinois Constitution provides:

> A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities.
>
> The State shall provide for an efficient system of high quality public educational institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law.
>
> The State has the primary responsibility for financing the system of public education.

Ill. Const. art. X, § 1.

In 1992, Illinois voters rejected a proposed constitutional amendment that would have changed relevant parts of the Education Article to read as follows (with deletions indicated by ~~strikeouts~~ and additions by *italics*):

> A fundamental ~~goal~~ *right* of the People of the State is the educational development of all persons to the limits of their capacities.
>
> ~~The State shall~~ *It is the paramount duty of the State to* provide for ~~an~~ *a thorough and* efficient system of high quality public education institutions and services *and to guarantee equality of educational opportunity as a fundamental right of each citizen*. . . . The State has the ~~primary~~ *preponderant* financial responsibility for financing the system of public education.

(SA 23; *www.ilga.gov/commission/lrb/conampro.htm*, visited April 12, 2021.)

In support of the resolution to put this on the 1992 general election ballot, Senator Berman, a chief sponsor, stated that the issue was:

> whether the voters will come in November and say, "Yes, General Assembly, we want education to be our number one priority. We want it to be a fundamental right of our children. We want the State to undertake and spend the kind of money so that every child has an adequate education."

87th Gen'l Assembly, Senate Tr., April 23, 1992, at 44. Senator Berman explained that the word "paramount" in the proposed Amendment meant "superior to all others," and that the proposed Amendment would "affect the allocation process requiring education to receive priority funding consideration," so that "all other agencies, all other problems . . . must take second place to education, as far as funding is concerned." *Id.* at 44–45. Asked what justified elevating education spending over "the needs of a child who is abused sexually or physically, or over the needs of a child who is mentally ill or developmentally disabled, or over the needs of a woman who is battered, or a senior that needs food and housing," Senator Berman responded that "we ought to do what we have to do first for education [a]nd then assuming you don't want to raise any taxes, then you take what's left after you take care of education and you do all the rest . . . ." *Id.* at 46. Senator Berman added: "The debate should be in the public . . . . And let the public say to us, 'No, education should not be paramount.' And the vote and this amendment would be defeated, and you've got your answer." *Id.*

Expressing his opposition to the proposal, Senator Fawell stated:

> [I]t seems to me to set one priority over another by a Constitutional Amendment is wrong. That's the reason we're elected. That's the reason we are down here. It is our job to set those priorities. . . . I think this is a bad idea. I agree education is important, but this is not the way to go.

Id. at 47.

In the House, Speaker Madigan, supporting the proposal, explained:

> [S]ubstitution of the word 'right' for the word 'goal' . . . is to provide that education would become a fundamental right of every citizen of this state; and therefore, education would be placed on a higher plane than other rights accorded to citizens of this state under the Constitution.

87th Gen'l Assembly, House Tr., April 30, 1992, at 10. He added:

> The word 'preponderant' is intended to create the duty of the state to fund education to meet the requirements for the thorough and efficient system of high quality public education defined above. The word 'preponderant' also means that more than half the cost of a state system of public education should be provided from state funds.

Id. at 11.

In opposition to the proposal, Representative McCracken stated:

> The question is, 'Do you want to abrogate your responsibility as a Legislature; do you want to defer to the courts . . . ?' Our Constitution wisely was vague on how much state funding there should be for education because our drafters understood that it is the Legislature that makes that decision, properly so — not the Constitution and not the courts.

Id. at 25.

The pamphlet sent to voters concerning the proposed Amendment included arguments for and against it. In favor, the pamphlet said, "Education is accountable: it just isn't funded." (SA 24.) It added: "The present language in the constitutional amendment sounds nice but it is not enforceable. . . . By voting for the Education Amendment, you, the people, will adopt strong, enforceable language." (*Id.*, emphasis

in original.) As noted, the proposed Amendment was defeated at the polls.

The School Code

Under the School Code, 105 ILCS 5/1–1 *et seq.*, local school districts operate public schools for primary and secondary grades, subject to applicable state-law standards and supervision by the State Board. Section 27–1 gives the State Board "the responsibility of defining requirements for elementary and secondary education"; states that the "primary purpose" of that education is to transmit to children "knowledge and culture . . . in areas necessary to their continuing development and entry into the world of work"; and directs the Board to "establish goals and learning standards consistent with" that purpose, and to "define the knowledge and skills which the State expects students to master and apply as a consequence of their education." 105 ILCS 5/27–1. The State Board also must conduct periodic assessments of primary and secondary school students in English language arts, mathematics, and science, and must establish the "academic standards" used for those assessments. 105 ILCS 5/2–3.64a–5.

Title I Funding and Conditions

Pursuant to Title I of the Elementary and Secondary Education Act, 20 U.S.C. § 6301 *et seq.* ("Title I"), the federal government gives Illinois more than $600 million per year in grants to benefit Illinois public schools in districts with high levels of poverty. FY22 Budget Book at 34–35, 455. As a condition for receiving those funds, Illinois must adopt a Title I plan with certain required provisions. 20 U.S.C. § 6311. Since enactment in 2002 of the No Child Left Behind law (Pub. L. 107–110), as amended in 2015 by the Every Student Succeeds Act (Pub. L. 114–95), Illinois' Title I plan must adopt "challenging State academic standards" that reflect the "knowledge, skills, and levels of achieve-

ment expected of all public school students in the State," and that "are aligned with entrance requirements for credit-bearing coursework in the [State's] system of public higher education." 20 U.S.C. § 6311(a)(1), (b)(1); see *Carr v. Koch*, 2011 IL App (4th) 110117, ¶¶ 10–13, *aff'd*, 2012 IL 113414. The plan must also provide for "student academic assessments in mathematics, reading or language arts, and science" that are "aligned with the challenging State academic standards" and conducted on a prescribed schedule (e.g., every year from grades 3 through 8 in English language arts and mathematics). 20 U.S.C. § 6311(b)(2); see *Carr*, 2011 IL App (4th) 110117, ¶¶ 10–13.

The State Board's Learning Standards

Pursuant to sections 27–1, 2–3.64 (now repealed), and 2–3.64a5 of the School Code, the State Board has from time to time adopted academic standards for teaching Illinois students and prescribed periodic testing to assess their academic progress. See, e.g., *Carr*, 2011 IL App (4th) 110117, ¶¶ 10–13. In recent years, the State Board adopted the "Common Core" standards for three subject areas — English, math, and science — as a basis for the academic assessments authorized by section 27–1 of the School Code, and required by Title I. (C 146, 149–50; 23 Ill. Admin. Code Part 1, App'x D; see *www.isbe.net/Pages/Learning-Standards.aspx* (visited April 12, 2021).) These standards identify topics and concepts to be taught, but "Illinois school districts make instructional and curricular decisions locally to best meet all students' learning needs." See *www.isbe.net/Pages/Learning-Standards.aspx*; see also *Carr*, 2011 IL App (4th) 110117, ¶ 12 ("The standards are not a state curriculum[.]").

History of School Funding in Illinois

Local school districts have the power to raise revenues through property taxes,

which historically have represented most of their funding. 105 ILCS 5/17–1, 17–2; 34–53; *Edgar*, 174 Ill. 2d at 5–6; *Carr*, 2011 IL App (4th) 110117, ¶ 6. Over the years, the State has supplemented that funding according to various statutory formulas. (C 151; see *Edgar*, 174 Ill. 2d at 6–8.) The current formula is set out in section 18–8.15 of the School Code (105 ILCS 5/18–8.15), entitled "Evidence-based funding for student success for the 2017–2018 and subsequent school years," which was enacted in 2017.

Before section 18–8.15, the State supplemented local school district revenues with General State Aid under a formula that provided more money to districts with lower "Available Local Resources" compared to a "Foundation Level," defined as "the minimum level of per pupil financial support that should be available to provide for the basic education" of each student. 105 ILCS 5/18–8.05(B) (2016); see also *Carr*, 2012 IL 113414, ¶¶ 5–9, 32; *Edgar*, 174 Ill. 2d at 6–8.

Section 18–8.15 established a new formula governing the allocation of state appropriations for public schools. Under section 18–8.15, five different state grant programs — including General State Aid, three special education programs, and one for English education — are combined into a single program under which grants to each local school district depend primarily on its state and local resources compared to its assumed local costs to provide specified educational services, including higher assumed costs for districts with more low-income students. Sections 18–8.15(e)(1), (2). The stated purpose of section 18–8.15's funding formula is "to ensure that, by June 30, 2027 and beyond, this State has a . . . public education system with the capacity to ensure the educational development of all persons to the limits of their capacities in accordance with Section 1 of Article X of the Constitution of the State of Illinois." Section 18–8.15(a)(1).

Section 18–8.15 further states:

> When fully funded under this Section, every school shall have the resources, based on what the evidence indicates is needed, to:
>
> (A) provide all students with a high quality education that offers the academic, enrichment, social and emotional support, technical, and career-focused programs that will allow them to become competitive workers, responsible parents, productive citizens of this State, and active members of our national democracy;
>
> (B) ensure all students receive the education they need to graduate from high school with the skills required to pursue post-secondary education and training for a rewarding career;
>
> (C) reduce, with a goal of eliminating, the achievement gap between at-risk and non-at-risk students by raising the performance of at-risk students and not by reducing standards; and
>
> (D) ensure this State satisfies its obligation to assume the primary responsibility to fund public education and simultaneously relieve the disproportionate burden placed on local property taxes to fund schools.

Id.

Under section 18–8.15, state appropriations for local school funding first maintain each school district's funding level for the prior year, known as the "Base Funding Minimum." Appropriation increases above that level (referred to as "New State Funds") are allocated according to a four-tier classification, with 50 percent of New State Funds allocated to the tier with the lowest level of local available resources compared to the estimated cost of providing an adequate education (Tier 1), the next 49 percent allocated among the bottom two tiers (Tiers 1 and 2), and the last one percent allocated among all tiers. Section 18–8.15(e)(1), (2).

The allocation formula in section 18–8.15 proceeds in three steps, each of which has several parts. First, the State Board calculates an "adequacy target" for a district's educational spending based on a variety of factors, including the number of students (based on enrollment data) and their grade levels (used to determine the recommended number of teachers and staff, employee benefits, instructional materials, and other operational costs); the number of low-income students; and local salary levels.[3] Section 18–8.15(b)(1). The adequacy targets for school districts with more low-income students are increased by using higher ratios of "core" teachers, as well as higher numbers of tutors, support staff employees, extended day teachers, and summer school teachers. Section 18–8.15(b)(2)(A)(i)–(ii), (b)(2)(V)(i)–(iv). The Board then determines a district's available "final resources" (based in part on the equalized assessed valuation of its taxable property) and divides this by its adequacy target to yield its "percent of adequacy." Section 18–8.15(f). That figure is then used to determine a school district's Tier, among the four tiers for allocating New State Funds (i.e., appropriations in excess of the Base Funding Minimum for all districts). Section 18–8.15(g).

Subsection (g)(9) of section 18–8.15 also sets a "Minimum Funding Level" "intended to establish a target for State funding that will keep pace with inflation and continue to advance equity through the Evidence-Based Funding formula." (Section 18–8.15 (g)(9).) This target for appropriation increases is set at $350 million in New State Funds each year (including up to $50 million for property tax relief in districts with above-average property tax rates). *Id.*; see also 105 ILCS 5/2–3.170. If New State Funds

[3] The dissenting opinion in the appellate court incorrectly stated that a school district's "adequacy target" is adversely affected by student absenteeism. (A 51.) The formula is based on total student enrollment, not attendance. Section 18–8.15(a)(4), (b)(1), (2).

(appropriation increases) in any fiscal year are below the $350 million target, they are allocated under a formula that reduces monies first to more affluent districts (Tiers 3 and 4). *Id.*[4] Section 18–8.15 also establishes a "Professional Review Panel" charged with (a) conducting an ongoing examination of "the implementation and effect" of the Evidence-Based Funding model, including whether the formula "is achieving State goals," and (b) recommending any modifications to it. (Section 18–8.15(i).)

The State met section 18–8.15's increased funding goals (the Minimum Funding Level) in fiscal years 2018, 2019, and 2020, increasing annual EBF appropriations by more than $1 billion. (SA 1, 5; Public Act 100–021, Art. 97, § 97; Public Act 100–586, Art. 95, § 5; Public Act 101–007, Art. 34, § 10.) As a result, state appropriations for public education in fiscal year 2020, compared to fiscal year 2015, increased by 31.7 percent, from approximately $6.76 billion to approximately $8.89 billion, and, including teacher pension contributions, increased by 36.5 percent, from approximately $10.33 billion to approximately $14.10 billion, representing 37.7 percent of the State's general funds operating budget of $37.4 billion. (SA 1; *www2.illinois.gov/ sites/budget/ Documents/Budget%20Book/FY2022-Budget-Book/ Fiscal-Year-2022-Operating-Budget.pdf* ("FY22 Budget Book") at 55, visited April 12, 2021.)

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[4] In January 2018, the State Board calculated that immediately funding all school districts to their adequacy targets in fiscal year 2019 would require a $7.2 billion increase in state appropriations. (C 147, 160.) That increase would have more than doubled the State's EBF funding, from about $6.46 billion in fiscal year 2018 to about $13.88 billion, and increased state spending devoted to public education (excluding teacher pension contributions) from about 21.4% to approximately 39% of the State's general funds resources in 2019 (and, including pension contributions, to 51.3% of those resources). (SA 1; *www.isbe.net/Documents_Board_Meetings/011718_Agenda_Minutes.pdf*, at 4; *www.isbe.net/Documents_Board_Meetings/20180117-Packet.pdf*, at 103, 124, 126; *www2.illinois.gov/sites/budget/Documents/Budget%20Book/FY2021-Budget-Book/ Fiscal-Year-2021-Operating-Budget-Book.pdf*, at 51 (all visited April 12, 2021).)

Circuit Court Proceedings

In April 2017, before section 18–8.15 became law, Plaintiffs initiated this action alleging violations of the Education Article and the Equal Protection Clause of the Illinois Constitution, and seeking a court order requiring additional state funding for their schools. (C 5–30.) Plaintiffs named as defendants the State of Illinois, Illinois Governor Bruce Rauner in his official capacity (for whom Governor Pritzker has since been substituted, A 37), and the State Board (C 5, 8). After briefing on a motion to dismiss, Plaintiffs were given leave to file an amended complaint (hereinafter the "Complaint"), which dropped the State Board as a defendant and added allegations based on the enactment of section 18–8.15. (C 57–59, 67–83, 109–37, 142–66.)

The Complaint relied on the Education Article and the Equal Protection Clause; section 2–3.64a–5 of the School Code (105 ILCS 5/2–3.64a–5), which authorizes the State Board to set academic standards; the Learning Standards set by the State Board under that authority; and section 18–8.15. (C 145–61.) Plaintiffs alleged, among other things, that the Learning Standards "set out in detail what constitutes a 'high quality' education," and that "[a]ccordingly, under [the Education Article], the State itself has incurred a constitutional obligation to 'provide' that 'high quality education.'" (C 146.) Plaintiffs further alleged that the General Assembly, by enacting section 18–8.15, recognized the State's "primary responsibility for funding the system of public education," but that the State had not "fulfilled its constitutional mandate to assume the primary responsibility for financing the system of public education." (C 147.)

Based on these allegations, Plaintiffs sought entry of a judgment declaring that defendants have a "constitutional obligation" under the Education Article to give them

the funding necessary to achieve the Learning Standards and section 18–8.15's "adequacy targets"; finding that Plaintiffs "are entitled in the current fiscal year to the full amount necessary for the plaintiff districts to meet or achieve the adequacy targets"; and ordering "appropriate measures to enforce the judgment and to ensure as soon as possible the necessary additional funding to achieve their constitutional rights." (C 147–48, 162.)

Plaintiffs' Equal Protection Clause claim is based on alleged income and wealth disparities among public school students. (A 20, 23, 39–40.) (Plaintiffs do not complain of racial discrimination in state funding of public education.) Plaintiffs alleged that, in light of the State Board's adoption of the Learning Standards and the General Assembly's enactment of section 18–8.15, the disparities in public funding for local school districts had "no legitimate constitutional or statutory basis" and could not be justified as a "consequence of the State's goal of local control over local educational effort." (C 163.) Thus, Plaintiffs alleged, "by operating such an unconstitutional system of public education," the Governor "exceeded his lawful constitutional authority," and the "defendants have deprived the plaintiff districts and their students of the right to equal protection of the laws." (C 164.) Plaintiffs further alleged that the defendants denied Plaintiffs' students of their "fundamental constitutional right to a system of public education that allows them to meet or achieve the Learning Standards . . . ." (*Id.*) For this claim, Plaintiffs prayed for the same relief. (C 164–65.)

The Circuit Court's Judgment

Defendants again moved to dismiss the action. (C 166–85, 219–21.) This motion argued that Plaintiffs lacked standing; their claims were barred by sovereign immunity and the absence of enacted appropriations; the Governor was not a proper defendant; and

the Education Article and the Equal Protection Clause claims failed on the merits. (*Id.*) In opposition, Plaintiffs changed their description of the relief they sought. Instead of seeking additional state funding of $7.2 billion immediately, as requested in their Complaint, they requested a court order requiring Defendants to "submit a schedule for additional State aid to the plaintiff districts setting out how the defendants will meet their legislatively stated goal of fully funding the Learning Standards by June 30, 2027," and additional relief "necessary to ensure that the State sets aside or makes available the necessary funds to adhere to this schedule." (C 230.)

After briefing, the circuit court dismissed the action, holding that it was barred by sovereign immunity, and, alternatively, that it lacked merit. (A 1–10; C 270–79.) The court declined to address whether Plaintiffs had standing. (A 5; C 274.) Finding that the action violated the State's sovereign immunity, the court ruled "that granting the relief sought by the Plaintiffs would in fact interfere in the government's performance of its functions and would usurp the State's control over its coffers." (A 4; C 273.) In its alternative ruling on the merits, the court held that Plaintiffs' claims were controlled by this Court's decisions in *Edgar* and *Carr*. (A 5–9; C 274–78.) The court explained that "[t]he reasoning set forth in *Edgar* as to why the judicial branch should not encroach upon the legislature's authority to appropriate the funds necessary for its legislative enactments is fully applicable here." (A 8; C 277.)

The Appellate Court's Opinion

With one Justice dissenting, the appellate court affirmed the circuit court's judgment dismissing the action. (A 36–55.) The appellate court unanimously held that

sovereign immunity precluded naming the State as a defendant. (A 42–43, 46–47.)[5] Without deciding whether Plaintiffs have standing or whether the Governor is a proper defendant, the appellate court held that, based on this Court's precedent, Plaintiffs had not stated valid claims under the Education Article or the Equal Protection Clause. (A 43–46.)

[5] In this Court, Plaintiffs are not challenging this aspect of the appellate court's decision and are appealing only the judgment against them on their claim against the Governor. (PLA at 1; Pl. Br. at 6.)

ARGUMENT

I. Summary of Argument

The circuit court properly dismissed Plaintiffs' action. Their claims, which seek to have the courts take control of state funding for public education, have absolutely no merit. In addition, as initial matters, Plaintiffs lack standing to assert the rights they invoke, and the Governor, who is the only defendant, cannot be ordered to provide or propose the funding Plaintiffs seek.

On the merits, Plaintiffs' claim under the Education Article fails because the Illinois Constitution vests in the General Assembly, not the courts, the responsibility to determine what share of state revenues to devote to public education, and to do so through the normal appropriation process. Even if the General Assembly wanted to, which it did not, it could not shift that responsibility to the judicial branch, and the courts could not assume that responsibility. The Appropriations Clause requires the General Assembly to provide funding for public schools through the appropriations process. The Education Article is not an exception to that constitutional requirement. And neither the State Board's adoption of the Learning Standards nor the legislature's enactment of section 18–8.15 overcome the Court's holding in *Edgar* that the responsibility to determine the amount of state funding for public education is a "political question" that the Constitution assigns to the General Assembly, not the courts. Thus, arguments about how much funding the State should give local schools are properly "directed to the legislature, not the judiciary." *Cronin v. Lindberg*, 66 Ill. 2d 47, 59 (1976).

Plaintiffs' equal protection claim — based on wealth and income, not race, and therefore subject to "rational basis" scrutiny — also lacks merit. The State's formula for providing aid to local schools greatly favors poorer districts, and the State has a

legitimate interest in setting academic goals, while also providing financial support, without invalidating as "irrational" the structure in which schools have the primary responsibility to raise local revenues and decide how to conduct their operations.

II. Standard of Review

De novo review applies to all questions raised in this appeal because it concerns the dismissal of Plaintiffs' claims under section 2–615 of the Code of Civil Procedure, see *Carr*, 2012 IL 113414, ¶ 27, and the interpretation and application of constitutional provisions, see *Gregg v. Rauner*, 2018 IL 122802, ¶ 23. The circuit court's judgment dismissing Plaintiffs' action may be affirmed on any ground supported by the record, even if not the ground relied on by that court. *Eychaner v. Gross*, 202 Ill. 2d 228, 262 (2002); *Beckman v. Freeman United Coal Mining Co.*, 123 Ill. 2d 281, 286 (1988).

III. Plaintiffs Lack Standing to Assert the Claims They Alleged.

The circuit court's judgment dismissing this action should be affirmed because Plaintiffs lack standing to assert either of the claims alleged in their Complaint. Plaintiffs are school districts, yet they seek to assert the rights of students under the Education Article and the Equal Protection Clause, which they have no authority to do. See *Cronin*, 66 Ill. 2d at 55–56. In addition, Plaintiffs are creatures of state law, subject to control by the legislature, and thus may not assert constitutional claims against the State.

A. General Standing Principles

The law recognizes two types of standing requirements, which are sometimes confused. One relates to the justiciability of a case regardless of the nature of the claims asserted. The other depends on the claims asserted and concerns the persons who are proper plaintiffs to assert those claims.

In every case, standing includes the core requirements that the plaintiff suffer an injury to a legally cognizable interest that is fairly traceable to the defendant's actions and is likely to be redressed by the relief requested. *Greer v. Ill. Hous. Dev. Auth.*, 122 Ill. 2d 462, 492–93 (1988). These minimum requirements are supplemented by the principle that "[a] party must assert its own legal rights and interests, rather than assert a claim for relief based upon the rights of third parties." *Powell v. Dean Foods Co.*, 2012 IL 111714, ¶ 36; see also *State v. Funches*, 212 Ill. 2d 334, 346 (2004). Satisfying this additional requirement depends on the type of claim asserted (e.g., breach of contract, negligence, claim under statute).[6] This requirement fully applies to constitutional claims, such as those asserted by Plaintiffs here. See, *e.g.*, *People v. Milka*, 336 Ill. App. 3d 206, 237 (2d Dist. 2004) ("one has no standing to assert another's constitutional rights"); *People v. Jaudon*, 307 Ill. App. 3d 427, 435–36 (1st Dist. 1999); see also *Broadrick v. Oklahoma*, 413 U.S. 601, 610 (1973) ("constitutional rights are personal and may not be asserted vicariously"). And this aspect of standing, concerning which persons are proper plaintiffs to assert the constitutional rights invoked by Plaintiffs, is at issue here.

B. Plaintiffs Lack Standing to Allege Violations of Their Students' Constitutional Rights.

Plaintiffs' Complaint attempts to assert constitutional rights that belong to their students, but Plaintiffs, as school districts, lack standing to bring those claims. In *Cronin*

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[6] See, e.g., *Stahulak v. City of Chicago*, 184 Ill. 2d 176, 180–81 (1998) (claim to enforce collective bargaining agreement); *Rickey v. Chicago Transit Auth.*, 98 Ill. 2d 546, 555 (1983) (claim for negligent infliction of emotional distress); *Bd. of Educ. of City of Chicago v. A, C & S, Inc.*, 131 Ill. 2d 428, 467–68 (1989) (claim under Consumer Fraud Act); *Joliet Currency Exch., Inc. v. First Nat'l Bank of Joliet*, 1 Ill. App. 3d 816, 819 (3d Dist. 1971) (claim for violation of section 6 of Banking Act); see also *Wendling v. S. Ill. Hosp. Servs.*, 242 Ill. 2d 261, 270 (2011) (holding that hospitals lacked standing to assert injured parties' "causes of action against the tortfeasors").

v. Lindberg, this Court upheld a statute that reduced the amount of state aid to schools that, due to teacher strikes, were in session for fewer days than the minimum set by the School Code. 66 Ill. 2d at 54–60. The Court held that the school district could not assert an equal protection challenge based on alleged discrimination against minority students because it was "not a member of the protected class of pupils." *Id.* at 55–56 (citing *Bd. of Educ. v. Bakalis*, 54 Ill. 2d 448, 467 (1973)); accord *Polich v. Chicago Sch. Fin. Auth.*, 79 Ill. 2d 188, 205 (1980) (refusing to address challenge to allegedly discriminatory impact of statute affecting funding for Chicago school district where "none of the petitioners are members of the class of school pupils against whom it is contended the statute is unreasonably discriminatory"); see also *Okla. Educ. Ass'n v. State ex rel. Okla. Legislature*, 2007 OK 30, ¶¶ 10–17 (holding that other parties lacked standing to assert claims based on rights of non-party students); *Minn. Ass'n of Pub. Sch. v. Hanson*, 178 N.W.2d 846, 850 (Minn. 1970) (same).

Under this reasoning, Plaintiffs lack standing to assert the rights of students for either of their claims. Plaintiffs' claim under the Education Article attempts to rely on alleged violations of the rights of students, not the school districts themselves. Plaintiffs' Complaint makes this clear, asserting that the alleged funding shortfalls "have denied the fundamental constitutional rights of the *students* in the plaintiff districts," and that section 18–8.15's 10-year plan to reach educational adequacy targets "will deprive the *students* of the plaintiff districts with a constitutionally adequate education." (C 163–64, emphasis added.) Plaintiffs' equal protection claim similarly asserts the alleged right of *students* not to be discriminated against based on their economic status. (A 12–13.)

C. Plaintiffs, as School Districts, Lack Standing to Bring an Equal Protection Claim Against the State.

Plaintiffs also lack standing as school districts to bring their equal protection claim against the State. The doctrine of legislative supremacy, which has its origins in federal jurisprudence, precludes political subdivisions of the State from bringing constitutional claims against it. *E. St. Louis Fed'n of Teachers, Local 220, Am. Fed'n of Teachers, AFL-CIO v. E. St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 412–13 (1997) ("A school board as an entity is a governmental agency, or 'municipal corporation,' created by the legislature and subject to its will."); *Meador v. City of Salem*, 51 Ill. 2d 572, 578 (1972); *Supervisors of Boone County v. Vill. of Rainbow Gardens*, 14 Ill. 2d 504, 507–08 (1958); *People ex rel. Taylor v. Camargo Cmty. Consol. Sch. Dist. No. 158*, 313 Ill. 321, 324–25 (1924) (listing authorities, explaining doctrine, and confirming its application to school districts). Two independent reasons support that limitation on standing. First, as the Court explained in *Taylor*,

> The character of the functions of such municipal corporations [and] the extent and duration of their powers . . . rest entirely in the legislative discretion. The governmental powers which they may exercise and the property which they may hold and use for governmental purposes are equally within the power of the Legislature. Their powers may be enlarged, diminished, modified, or revoked . . . at the pleasure of the Legislature. . . . The state may, with or without the consent of the inhabitants . . . , abolish the municipality altogether.

313 Ill. 321, 324; see also *Meador*, 51 Ill. 2d at 578. Second, municipalities and other political subdivisions of the State are not "persons" within the protection of the Fourteenth Amendment, including the rights to due process and equal protection. *City of Newark v. State of New Jersey*, 262 U.S. 192, 196 (1923); see also *Williams v. Mayor &*

City Council of Baltimore, 289 U.S. 36, 40 (1933); *Vill. of Schaumburg v. Doyle*, 277 Ill. App. 3d 832, 835 (1st Dist. 1996); *City of Evanston v. Reg'l Transp. Auth.*, 202 Ill. App. 3d 265, 275–77 (1st Dist. 1990).

Without discussing these principles, the Court in *Cronin* initially held that a school board could bring an equal protection claim "if it is a member of a class being discriminated against," 66 Ill. 2d at 56, but then upheld the law, *id.* at 56–58. But that first ruling on a school board's standing to bring an equal protection claim challenging a state law is inconsistent with the Court's earlier precedent and should not be considered controlling or followed here. Indeed, subsequent appellate court decisions, faced with the apparent conflict between this statement in *Cronin* and the Court's earlier holdings, have held that a municipality is not a "person" within the meaning of Illinois' Equal Protection Clause, and lacks standing to allege a violation of that Clause. *Vill. of Schaumburg*, 277 Ill. App. 3d at 835–37; *City of Evanston*, 202 Ill. App. 3d at 275–77 (1st Dist. 1990). In *Village of Schaumburg*, the court noted, in particular, that in *Cronin* the Court overlooked its holding in *Meador*, decided just five years earlier, and that the cases it cited did not involve equal protection claims. *Id.* at 835.[7] In addition, Illinois' Equal Protection Clause has the same meaning as its federal counterpart unless there is "good cause" to attribute a different meaning to it based on "something in the constitutional debates and records, or our state history or custom." *Hope Clinic for Women, Ltd. v. Flores*, 2013 IL 112673, ¶ 92. No such grounds to find good cause exist here. The Court should,

[7] *Cronin*'s ruling on the standing issue also was not necessary to the outcome in the case. The Court ruled against the plaintiffs on the merits, and the standing issue did not involve the core aspects of standing relevant to justiciability, but rather the merits-related aspects of standing. (See above at 19–20.)

therefore, resolve this inconsistency and reaffirm its longstanding precedent that political subdivisions of the State lack standing to assert constitutional claims, including equal protection claims, against the State.

IV. The Governor Is Not a Proper Defendant.

Plaintiffs' description of the relief they request has evolved over the course of this case, from immediate payment of $7.2 billion in unappropriated funds (A 14, 27), to progressive court-ordered increases in state funding to local schools to reach that amount over several years (C 277), to a court order requiring the Governor to propose annual state budgets that provide for such increases (A 41; Pl. Br. at 14–15, 25, 29, 38), and, most recently, to "a declaratory judgment of their right . . . to the funding necessary for [Plaintiffs and their] students to meet or achieve the Illinois Learning Standards." (Pl. Br. at 24–25). Even if Plaintiffs' legal theories had any merit (which they do not), such relief is not available against the Governor, who is the sole remaining defendant.

A. The Governor Is Not a Proper Defendant for Plaintiffs' Claim for Court-Ordered Expenditures of State Funds.

Although Plaintiffs' description of the relief they seek has evolved, they have never expressly abandoned their request for court-ordered payments of state funds. But the Governor is not a proper defendant for a court order requiring, or declaring a constitutional right to, the expenditure of state funds for public education.

The Governor's status as the State's chief executive officer does not make him a proper defendant for every type of relief that would effectively operate against the State. To the contrary, where such relief is the legally required expenditure of state funds, the proper defendants are the State's Comptroller and Treasurer, who are, respectively, responsible under the Illinois Constitution and relevant statutes for approving and making

such expenditures. Ill. Const. art. V, §§ 17–18; 15 ILCS 405/2; 15 ILCS 505/11.[8] But Plaintiffs chose not to name the Comptroller or Treasurer as defendants; their position in the circuit court was that "[i]t is proper for the parties to name the Governor when the suit is in substance against the State as the chief officer representing the State." (C 116.) That is wrong.

In *Lund v. Horner*, 375 Ill. 303 (1940), this Court held that the Governor was "not a necessary *or proper* party" in a taxpayer action seeking to enjoin the disbursement of allegedly unlawful appropriations. *Id.* at 309 (emphasis added). And in *Illinois Press Association v. Ryan*, 195 Ill. 2d 63 (2001), the Court held that the Governor was not a proper party to an action relating to the legislative branch's ethics commission because "he does not select its members or exercise any control over the manner in which it conducts its proceedings." *Id*. at 67; see also *Noorman v. Dep't of Pub. Works*, 366 Ill. 216, 222–23 (1937) (holding that in action to require initiation of inverse condemnation proceeding, district engineer for Department of Public Works who lacked "authority" was not a proper defendant); *Quinones v. City of Evanston*, 58 F.3d 275, 277 (7th Cir. 1995) (applying same principle under federal law); *Travis v. Reno*, 163 F.3d 1000, 1007 (7th Cir. 1998) (same); *Weinstein v. Edgar*, 826 F. Supp. 1165, 1166–67 (N.D. Ill. 1993) (dismissing Illinois Governor as defendant in suit challenging validity of law establishing school holiday for Good Friday where he had no role in enforcing it). Here, the Governor has no authority to spend state funds not appropriated by the General Assembly and thus is not a proper defendant for Plaintiffs' request for court-ordered funding of public

[8] On the merits, of course, such claims would be subject to all applicable defenses, including, for example, the absence of appropriations. See Ill. Const. art. VIII, §2(b); 15 ILCS 405/9(c). (See also below at 32–35.)

schools. See *Lund*, 375 Ill. at 309.[9]

Sovereign immunity commands the same result. It generally bars suits against state officers that seek "to control the action of the state or subject it to liability." *Schwing v. Miles*, 367 Ill. 436, 442 (1937); see also *PHL, Inc. v. Pullman Bank & Trust Co.*, 216 Ill. 2d 250, 261 (2005) (citing, inter alia, *Ex parte Young*, 209 U.S. 123 (1908)). And the "officer suit" exception to sovereign immunity does not permit the relief that Plaintiffs demand against the Governor. Under that exception, an official capacity action against a state officer is permitted when judicial relief is necessary to ensure that he acts in accordance with his constitutional and statutory authority and duties. *E.g.*, *Parmar v. Madigan*, 2018 IL 122265, ¶ 22 ("The underlying principle is that conduct taken by a State officer without legal authority strips the officer of his or her official status."); *PHL*, 216 Ill. 2d at 261; *Ellis v. Bd. of Governors of State Colleges & Univs.*, 102 Ill. 2d 387, 395 (1984); *Bio-Medical Labs., Inc. v. Trainor*, 68 Ill. 2d 540, 548 (1977).

By allowing judicial relief to keep a state officer's actions within his lawful authority or to command performance of a nondiscretionary duty within that authority, the officer suit exception to sovereign immunity necessarily requires the person named as a defendant to *have authority* to take the action demanded. That requirement limits the exception's application to cases in which there is an actual controversy between the plaintiff and defendant and prevents the exception from being used to circumvent the State's sovereign immunity through relief that is only nominally against the state officer.

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[9] The plaintiffs in *Edgar* named the Governor as a defendant, but the Court ruled against them on the merits without deciding whether he was a proper defendant. Its opinion thus does not establish any precedent on that issue. See *People v. Garcia*, 199 Ill. 2d 401, 408 (2002); *Underground Contractors Ass'n v. City of Chicago*, 66 Ill. 2d 371, 376 (1977).

See Ex parte Young, 209 U.S. at 156–57 (quoting *Fitts v. McGhee*, 172 U.S. 516, 530 (1899)); see also *Weinstein*, 826 F. Supp. at 1166–67 (N.D. Ill. 1993) ("a theory of liability predicated on a governor's general obligations as the executive of the state is insufficient to avoid" sovereign immunity). In other words, a plaintiff may not designate *any* state officer as a defendant for the purpose of vindicating an alleged constitutional right or statutory duty, regardless of that person's actual authority. Allowing that would effectively turn the officer suit exception on its head by converting it from a principle that *prevents* conduct in excess of a state officer's authority into one that *forces* state officers to act in excess of their authority.

For each of these reasons, therefore, the Governor is not a proper defendant with respect to any request by Plaintiffs for court-ordered state payments to public schools.

B. Courts May Not Dictate How the Governor Exercises His Discretionary Authority to Propose State Budgets.

Plaintiffs' more recent request for a judgment directing the Governor to include specific expenditures in his proposed annual state budget also violates the State's sovereign immunity, as well as separation-of-powers principles. While the officer suit exception to sovereign immunity allows lawsuits that keep the actions of state officials within their lawful authority, it does not permit suits seeking to control *how* public officials exercise their discretion within that authority. *Ill. Health Care Ass'n v. Walters*, 303 Ill. App. 3d 435, 440 (1st Dist. 1999); *Brucato v. Edgar*, 128 Ill. App. 3d 260, 263–66 (1st Dist. 1984); see also *Ex parte Young*, 209 U.S. at 158 ("There is no doubt that the court cannot control the exercise of the discretion of an officer."). Yet that is precisely what Plaintiffs proposed: controlling what the Governor must put into his proposed annual budget, which is a quintessential example of a discretionary power by the State's

chief executive. See *SEIU Healthcare 775NW v. Gregoire*, 229 P.3d 774, 778 (Wash. 2010) (en banc) (holding that mandamus could not issue to control Governor's discretion over inclusion of items in proposed state budget).

The same conclusion flows from established separation-of-powers principles. Our Constitution, which divides the functions of state government among legislative, executive, and judicial branches, provides that these "branches are separate," and that "[n]o branch shall exercise powers properly belonging to another." Ill. Const. art. II, § 1. That directive precludes the courts from assuming, or having thrust upon them, nonjudicial powers that the Constitution vests in the legislative or executive branches of government. See, e.g., *People ex rel. Madigan v. Kinzer*, 232 Ill. 2d 179, 183-84 (2009); *Fields Jeep-Eagle, Inc. v. Chrysler Corp.*, 163 Ill. 2d 462, 478–79 (1994); *Edgar*, 174 Ill. 2d at 28; see also *People ex rel. Devine v. Murphy*, 181 Ill. 2d 522, 536–37 (1998); *Fairbank v. Stratton*, 14 Ill. 2d 307, 314–15 (1958); *People ex rel. Woll v. Graber*, 394 Ill. 362, 370–71 (1946); *Annotation: Mandamus to Governor*, 105 A.L.R. 1124, § II.a (1936) ("action by the governor of a state cannot be controlled or coerced by mandamus, in so far as it relates to duties . . . which require the exercise of official judgment and discretion."); see generally *Loving v. United States*, 517 U.S. 748, 757 (1996) ("it remains a basic principle of our constitutional scheme that one branch of the Government may not intrude upon the central prerogatives of another"). Thus, just as courts may not order the General Assembly to enact appropriations, see *Daly v. Madison County*, 378 Ill. 357, 362 (1941); *People ex rel. Carr v. Chicago & N.W. Ry. Co.*, 308 Ill. 54, 56 (1923), or control how the Governor exercises his power to sign or veto bills passed by the legislature, *State ex rel. Sego v. Kirkpatrick*, 524 P.2d 975, 978 (N.M. 1974), the

judiciary also may not dictate how the Governor exercises his discretion in proposing a state budget, *SEIU Healthcare 775NW*, 229 P.3d at 778.[10]

C. Plaintiffs May Not Obtain a Declaratory Judgment Against the Governor Regarding Their Claimed Entitlement to Greater State Funding.

In this Court, Plaintiffs appear to believe they can get around the foregoing principles by asking for a declaratory judgment against the Governor, stating that they have a "right" to the funds they seek. (Pl. Br. at 24–25, 27, 28–29.) Plaintiffs are wrong again. The unavailability of coercive relief against a public officer, as in this case, cannot be circumvented by the simple expedient of seeking declaratory relief against him as a prelude to coercive relief in the future. And in this case, Plaintiffs' request for declaratory relief runs aground for three separate reasons: (1) it is foreclosed by sovereign immunity, (2) there is no "actual controversy" between Plaintiffs and the Governor, and (3) the issue presents a political question, for which declaratory relief is unavailable.

First, sovereign immunity's bar to Plaintiffs' attempt to obtain coercive relief against the Governor, described above, also forecloses their effort to obtain a declaratory judgment against him — the apparent purpose of which, as they acknowledge, is to use it against the State in future litigation.[11] Courts, including this Court, have routinely

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[10] This does not mean that no remedy exists where an *express* constitutional mandate imposes a nondiscretionary duty to spend state funds for specific purposes. See *Jorgensen v. Blagojevich*, 211 Ill. 2d 286, 311–13 (2004). But in that case the remedy is direct, by ordering the Comptroller or Treasurer to make the corresponding payments, not indirect, by controlling the Governor's executive discretion in order to promote that outcome. Cf. *Illinois Press Ass'n*, 195 Ill. 2d at 67 (quoting *Quinones*, 58 F.3d at 277).

[11] See Pl. Br. at 36 (referring to the "res judicata effect" of declaratory relief). Because Plaintiffs originally requested monetary relief based on then-existing facts, it is not clear that a judgment in their favor limited to declaratory relief would allow later litigation for

rejected such "two-step" attempts to get around sovereign immunity, holding that because the second step (coercive relief against the State) is prohibited, the first step (declaratory relief) is likewise unavailable. *State Bldg. Venture v. O'Donnell*, 239 Ill. 2d 151, 164–65 (2010); *Welch v. Illinois Supreme Ct.*, 322 Ill. App. 3d 345, 359 (3d Dist. 2001) (surveying cases); see also *Smith v. Jones*, 113 Ill. 2d 126, 131–33 (1986); *Council 31, AFSCME v. Quinn*, 680 F.3d 875, 884 (7th Cir. 2012) (applying Eleventh Amendment, and citing *MSA Realty Corp. v. State of Ill.*, 990 F.2d 288, 295 (7th Cir. 1993)). The same conclusion is warranted here.

Second, declaratory relief against the Governor is excluded for the further reason that no "actual controversy" exists between him and Plaintiffs over school funding. "The essential requirements of a declaratory judgment action are: (1) a plaintiff with a legal tangible interest; (2) a defendant having an opposing interest; and (3) an actual controversy between the parties concerning such interests." *Beahringer v. Page*, 204 Ill. 2d 363, 372 (2003); see also *Carle Found. v. Cunningham Twp.*, 2017 IL 120427, ¶ 26; cf. *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 335 (2002). These criteria avoid requiring courts to "pass judgment on mere abstract propositions of law, render an advisory opinion, or give legal advice as to future events." *Beahringer*, 204 Ill. 2d at 374–75 (citations and internal quotation marks omitted).

In *Saline Branch Drainage District v. Urbana-Champaign Sanitary District*, 399 Ill. 189 (1948), this Court held that a declaratory judgment was unavailable in an action

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monetary relief against the Governor, much less against any other state officers. See, e.g., *Mandarino v. Pollard*, 718 F.2d 845, 848 (7th Cir. 1983) (citing *Restatement (Second) of Judgments* § 33, comment *c*). But the Court need not decide that issue.

challenging the constitutionality of a statute governing sanitary district detachment proceedings and the validity of a proceeding under that statute where the cities and sanitary districts named as defendants were not parties to, and did not control, the proceeding. *Id.* at 195–96. Holding that the case did not present an "actual controversy existing between the parties," the Court stated:

> It does not appear that the defendants are asserting any right to appear in the detachment proceeding in the county court or that they exercise any control over it. The pleading does not show that an "actual controversy" exists between the parties to this action[,] and if an order should be entered declaring [the statute] unconstitutional, it would be abstract in character and not binding on the parties who are prosecuting the detachment proceeding.

Id. at 195–96.

Plaintiffs' prayer for declaratory relief against the Governor presents an equivalent situation. The General Assembly, not the Governor, ultimately decides the amount of state funding for public schools. Thus, the Governor does not stand in an adversarial relationship to Plaintiffs with respect to their funding claims, and the requirement of an actual controversy between adverse parties, necessary to support declaratory relief, is missing.[12]

Finally, the declaratory judgment statute specifically provides that declaratory relief may not be entered "involving any political question where the defendant is a State

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[12] Plaintiffs maintain that the Governor is a proper defendant because he has disputed the merits of Plaintiffs' claims in this case. (Pl. Br. at 28, 36–37.) But adversity between parties must exist *outside* litigation. Otherwise, any abstract dispute could become the subject of judicial adjudication, and improperly named state officers would be put in the untenable position of not disputing the merits of groundless claims against them.

officer whose election is provided for by the Constitution." 735 ILCS 5/2–701(a). And here, as described below (at 51–59), Plaintiffs' claims against the Governor present the most obvious type of political question, involving the share of limited state resources that should be devoted to public education, as opposed to other important public needs.

V. The Education Article Does Not Support Plaintiffs' Claim for Court-Ordered State Funding of Public Schools.

The lower courts correctly rejected Plaintiffs' claim under the Education Article to impose a constitutional right to court-ordered payments of unappropriated state funds to school districts. That claimed right conflicts with the Appropriations Clause, which prohibits the expenditure of state funds without an enacted appropriation by the General Assembly. In addition, the Education Article does not create a judicially enforceable obligation to provide any particular level of funding to public schools. Finally, neither the State Board's adoption of the Learning Standards nor enactment of section 18–18.5, taken in conjunction with the Education Article, shift to the judicial branch the legislature's constitutional responsibility to decide the appropriate level of state spending on public education.

A. The Appropriations Clause Precludes the Right to State Funding that Plaintiffs Assert.

Plaintiffs' action was properly dismissed because the Appropriations Clause of the Illinois Constitution (art. VIII, § 2(b)) forecloses any claim for relief that would require spending state funds that the General Assembly has not appropriated. Although at present Plaintiffs maintain that they are not asking "[t]his Court . . . to require an appropriation from the General Assembly" (Pl. Br. at 33, 38), they continue to assert a "constitutional right" to funding in the amounts they claim, regardless of whether the General Assembly appropriates such funds (Pl. Br. at 28–29). The Court should put to

rest any notion that such relief is constitutionally permissible, either in this action or in future litigation by Plaintiffs.

The Appropriations Clause provides: "The General Assembly by law shall make appropriations for all expenditures of public funds by the State." Ill. Const., art. VIII, §2(b). Under the Appropriations Clause, no expenditure of state funds may be made without a corresponding appropriation by the General Assembly. *State (CMS) v. AFSCME, Council 31*, 2016 IL 118422, ¶ 42; *Cook County v. Ogilvie*, 50 Ill. 2d 379, 384 (1972); *Ill. Collaboration on Youth v. Dimas*, 2017 IL App (1st) 162471, ¶¶ 53–54; *AFSCME v. Netsch*, 216 Ill. App. 3d 566, 568 (4th Dist. 1991). The 1970 Constitution also changed the procedure for making appropriations by requiring that they be enacted in a separate bill not containing any substantive law. Ill. Const. art. IV, § 8(d) ("Appropriation bills shall be limited to the subject of appropriations.")[13]

The legislature's responsibility under the Appropriations Clause to determine the purposes and amounts of appropriations is reinforced by the Constitution's Separation of Powers Clause. (Ill. Const. art. II, § 1.) The Appropriations Clause thus allocates to the legislature alone the unique responsibility to exercise the "power of the purse" over state budget matters. As the Court explained in *State (CMS) v. AFSCME, Council 31*: "The

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[13] See also *Board of Trs. of Cmty. Coll. Dist. No. 508 v. Burris*, 118 Ill. 2d 465, 477–78 (1987); *Benjamin v. Devon Bank*, 68 Ill. 2d 142, 147–48 (1977); *People ex rel. Kirk v. Lindberg*, 59 Ill. 2d 38, 42 (1974); 4 Proceedings of Sixth Illinois Constitutional Convention ("Proceedings"), 2701 (explaining intention to abolish "hybrid" legislation including appropriations). This eliminated the prior practice under which a substantive law directing the expenditure of public funds could itself be deemed an implied appropriation of funds for those expenditures. See, e.g., *Antle v. Tuchbreiter*, 414 Ill. 571, 578–79 (1953) (construing 1870 Constitution and stating that "where a statute categorically commands performance of an act, so much money as is necessary to pay the command may be disbursed without explicit appropriation").

power to appropriate for the expenditure of public funds is vested exclusively in the General Assembly; no other branch of government holds such power." 2016 IL 118422, ¶ 42; see also *Ogilvie*, 50 Ill. 2d at 384 ("The power to make appropriations is constitutionally vested in the General Assembly[.]"); *McDunn v. Williams*, 156 Ill. 2d 288, 308 (1993) ("any attempt by the Comptroller to pay a position not appropriated by the legislature would raise serious separation of powers problems").

Applying these constitutional principles, Illinois courts have repeatedly disallowed claims that would require the payment of state funds without a legislative appropriation. In *State (CMS) v. AFSCME, Council 31*, the Court vacated an arbitrator's award directing the State to pay salary increases specified in a collective bargaining agreement where the General Assembly had not appropriated funds for those increases. 2016 IL 118422, ¶¶ 2, 40–42, 56. Similarly, in *People ex rel. Board of Trustees of University of Illinois v. Barrett*, 382 Ill. 321 (1943), the Court held that the University of Illinois could not compensate its in-house counsel without a legislative appropriation for that purpose. *Id.* at 338–52; see also *Ill. Collaboration on Youth*, 2017 IL App (1st) 162471, ¶¶ 51–60; *AFSCME v. Netsch*, 216 Ill. App. 3d at 568. These principles govern here and defeat Plaintiffs' claims to require any monetary relief against the State, either now or in future litigation by them.

It is true that the Appropriations Clause is subject to limited exceptions for payments by the State that are explicitly mandated by the Illinois Constitution, such as judicial salaries. See Ill. Const., art VI, § 14 ("Judges shall receive salaries provided by law . . . ."); *Jorgensen v. Blagojevich*, 211 Ill. 2d 286, 311 (2004). But that narrow exception does not benefit Plaintiffs. Only one provision in the Education Article —

stating that "[t]he State has the primary responsibility for financing the system of public education" (Ill. Const. art X, § 1) (the "Primary Responsibility Clause") — arguably implies an obligation by the State to pay for public schools. And the Court has repeatedly held that this provision was not intended to be, and is not, judicially enforceable. *Edgar*, 174 Ill. 2d at 17–20; *Blase v. State of Illinois*, 55 Ill. 2d 94, 96–97 (1973). Thus, the constitutional allocation to the General Assembly of the power to appropriate state funds applies without qualification to state spending on public education.

That conclusion is reinforced by the legislative debates about the failed 1992 proposal to amend the Education Article. As Senator Fawell explained, that amendment would have changed the current system under which the legislature must decide how to appropriate state financial resources. 87th Gen'l Assembly, Senate Tr., April 23, 1992, at 46–47. And the sponsor, Senator Berman, said that if the voters rejected the amendment, "you've got your answer" as to whether a specific level of state financial support for public education should be constitutionally required. *Id.* at 46. The voters did reject that amendment, reaffirming that the Education Article does not mandate any judicially enforceable level of state funding for public education apart from what the General Assembly actually appropriates.

B. By Itself, the Education Article Does Not Support Plaintiffs' Requested Relief.

Plaintiffs' claim to court-ordered state funding for public education also misreads the Education Article, which does not establish any right to such funding. This Court has repeatedly addressed, and rejected, claims that the Education Article imposes on the State a judicially enforceable obligation to provide a certain level of funding to public schools.

The Education Article was largely modeled on the similar provision of the 1870 Constitution, which stated: "The general assembly shall provide a thorough and efficient system of free schools, whereby all children of this state may receive a good common school education." Ill. Const. 1870, art. VIII, § 1; see *Edgar*, 174 Ill. 2d at 15. The 1970 Constitution slightly changed the wording of this provision and added two clauses — the first stating that "[a] fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities," and the second, the Primary Responsibility Clause, stating that the State "has the primary responsibility for financing the system of public education." Ill. Const. art. X, § 1; see also *Edgar*, 174 Ill. 2d at 15–19; *Blase*, 55 Ill. 2d at 98–100.

In *Blase*, the plaintiffs sought to enforce the Primary Responsibility Clause, and this Court affirmed the circuit court's judgment dismissing the action. 55 Ill. 2d at 100. After examining the proceedings of the 1970 Constitutional Convention, the Court concluded that this provision was not "intended to impose a specific obligation on the General Assembly," but instead had the purpose to state "a goal." *Id.* at 98–100.[14]

In *Edgar*, the Court affirmed the dismissal of an action seeking greater state funding for less affluent school districts under a different provision of the Education Article (the "Efficient Systems Clause"), which states that "[t]he State shall provide for an efficient system of high quality public educational institutions and services." 174 Ill. 2d at 12–32. The Court observed that the similar provision in the 1870 Constitution was uniformly held not to impose a judicially enforceable obligation regarding the level of

[14] In proposing the language adopted as the Primary Responsibility Clause, Senator Netsch stated that "[i]t is *not a legally obligatory command* to the state legislature." 5 Proceedings at 4502 (emphasis added).

state funding for schools, and that the debate over such funding at the 1970 Constitutional Convention instead focused on the newly added Primary Responsibility Clause, which likewise was not intended to create a judicially enforceable obligation. *Id.* at 19–20 (citing *Blase*, 55 Ill. 2d at 98). Thus, the Court held, "[t]he framers of the 1970 Constitution grappled with the issue of unequal educational funding and opportunity, and chose to address the problem with a purely hortatory statement of principle," not "an enforceable constitutional guarantee of educational equality." *Id.* at 19–21.

Focusing specifically on the Education Article's "efficient system" language, the Court ruled that "disparities in educational funding resulting from differences in local property wealth do not offend [the] efficiency requirement." *Id.* at 23. Under the 1870 Constitution, the Court noted, "the question of the efficiency and thoroughness of the school system was one solely for the legislature to answer," and one on which "the courts lacked the power to intrude." *Id.* at 15. The 1970 Constitution, the Court held, "embraced this limited construction." *Id.* at 16.

The Court also addressed the "high quality" language. Relying on separation-of-powers principles and the political question doctrine, the Court ruled that "the question of whether the educational institutions and services in Illinois are 'high quality' is outside the sphere of the judicial function." *Id.* at 28, 32. The 1870 Constitution similarly required that the system of schools provided by the State allow all children to "receive a good common school education," *Edgar* explained, but courts held that this requirement "was not among those held generally capable of *judicial* enforcement." *Id.* at 25 (emphasis in original). And by changing the qualifier "good" to "high quality," the Court concluded, the 1970 Constitution was not intended to change that arrangement. *Id.* at 24–

25; see also *Lewis E. v. Spagnolo*, 186 Ill. 2d 198, 205–09 (1999) (extending *Edgar*'s nonjusticiability holding to claims that the State's financing of public schools deprived students of even a "minimally adequate" education).

Finally, any suggestion that the Education Article, by itself, supports the relief Plaintiffs seek conflicts not only with this Court's precedent, but also with Illinois voters' rejection in 1992 of a proposed amendment to the Article that would have established the very rights Plaintiffs claim by making public education a "fundamental right," rather than a "goal"; declaring the State's "paramount duty . . . to guarantee equality of educational opportunity as a fundamental right of each citizen"; and imposing on the State the "preponderant financial responsibility for financing the system of public education."

C. Neither the Learning Standards Nor Section 18–8.15, by Themselves, Authorize the Relief Plaintiffs Seek.

There is likewise no basis to claim that either the State Board's Learning Standards or section 18–8.15, alone or together, creates a judicially enforceable obligation to provide a particular level of state funding for public education.

Plaintiffs rightly do not claim that the Learning Standards, by themselves, support the relief they seek. Nothing in the statute authorizing the State Board to adopt these standards, or in the standards themselves, purports to impose on the State an obligation to provide funding to schools so that all, or any portion, of a school district's students can meet these standards. As described above (at 8–9), these standards are pedagogical guidelines and tools, designed to establish academic "goals" and "expectations" for students' acquisition of knowledge in several areas, which are also used as the basis to evaluate whether students are reaching desired levels of academic achievement. See 105 ILCS 5/2–3.64a–5, 27–1.

For similarly good reasons, Plaintiffs also do not contend that Section 18–8.15, by itself, justifies the relief they demand. By enacting Section 18–8.15, the General Assembly adopted a structure under which less affluent school districts receive the greatest share of state funding, including virtually all increases in appropriations. And the General Assembly, by progressively increasing the State's annual funding governed by section 18–8.15 (which rose by more than $1 billion in just three years; SA 1, 5), has taken active steps toward its goal of reducing disparities in local school resources. But section 18–8.15 does not purport to *oblige* the General Assembly to appropriate any level of funding for public education. Nor, given the nature of the appropriation process (discussed above at 32–35) and the limits on the General Assembly's ability to bind a future legislature (see below at 47–48), could it validly do so. (See below at 47–50.) Instead, section 18–8.15 explicitly leaves future state funding up to the appropriation process, setting only a "target" for future appropriations and declaring a "purpose" to provide specified levels of resources to school districts when its allocation formula is "fully funded."

D. Neither Section 18–8.15 Nor the State Board's Learning Standards Make the Education Article Judicially Enforceable by Court-Ordered Funding of Public Schools.

Plaintiffs' central claim is that the Learning Standards or Section 18–8.15 (or both) have made the Education Article judicially enforceable, thereby rendering *Edgar* inapposite and justifying enforcement of the Education Article for their benefit. This claim misconstrues the significance of the Learning Standards and section 18–8.15 and, more fundamentally, misapprehends the meaning of the Education Article.

1. The Learning Standards Neither Establish a Constitutional Definition of an Efficient System of High Quality Educational Institutions and Services Nor Require the State to Fund Public Schools to Meet Any Such Definition.

Plaintiffs' main contention is that adoption of the Learning Standards used to set academic expectations and to evaluate the scholastic achievement of Illinois students established, as a constitutional matter, what constitutes a "high quality education," making the Education Article judicially enforceable through court-ordered state funding sufficient for school districts and students to "meet or achieve" those standards, regardless of what the General Assembly appropriates for that purpose. (Pl. Br. at 4, 25, 28–29, 30, 32–33.) Thus, according to Plaintiffs, *Edgar*'s "entire factual premise . . . is gone," and adoption of the Learning Standards rendered the Court's holding in *Edgar* "irrelevant," "no longer on point or applicable," and a "relic[] of another century," because the courts no longer need to assume the nonjudicial task of defining what is a high quality education. (*Id.* at 25–30.) This argument falters in multiple respects.

a. The Learning Standards Do Not Define an Efficient System of High Quality Educational Institutions and Services, Nor Could They.

The Learning Standards adopted by the State Board neither define, nor attempt to define, an "efficient system of high quality educational institutions and services" within the meaning of the Education Article. As described above (at 8–9), they simply define the "knowledge and skills which the State *expects* students to master and apply as a consequence of their education," 105 ILCS 5/27–1 (emphasis added), and provide the basis for assessing students' academic progress in various areas (e.g., English, math, and science), 105 ILCS 5/2–3.64a–5. They nowhere attempt to define what constitutes an "efficient system of high quality educational institutions and services" that would make it

possible for all Illinois students — or any portion of Illinois students — to achieve that level of academic progress. Indeed, the Learning Standards nowhere even refer to a "high quality" education.

In addition, and in any event, the State Board has no authority to define the State's constitutional obligations regarding public education. In fact, rather than attempting to provide a constitutional definition of an "efficient system of high quality educational institutions and services," or forcing school districts to "meet or achieve" that definition, the Learning Standards fit comfortably within the structure of public education established by the School Code, in which the State Board sets overall academic policies, 105 ILCS 5/1A–4.C, but local school districts, supervised and run by their respective boards of trustees, superintendents, principals, teachers, and other staff, implement their own curriculums, determine the methods for teaching them, and have broad discretion in the exercise of those responsibilities, see 105 ILCS 5/10–16.7, 10–20, 10–21.4, 10–21.4a, 34–18, 34–6, 34–8, 34–8.1; see also *Acorn Auto Driving Sch., Inc. v. Bd. of Ed. of Leyden High Sch. Dist. No. 212*, 27 Ill. 2d 93, 98 (1963) (citing *Lindblad v. Bd. of Educ. of Normal Sch. Dist.*, 221 Ill. 261, 271 (1906)); *Hagopian v. Bd. of Educ. of Tampico Cmty. Unit Sch. Dist. No. 4*, 56 Ill. App. 3d 940, 944 (3d Dist. 1978). Consistent with this structure, the State Board's web page for the Learning Standards explains that while the standards identify topics and concepts to be taught, "Illinois school districts make instructional and curricular decisions locally to best meet all students' learning needs." See also *www.isbe.net/Pages/Learning-Standards.aspx* (visited April 12, 2021).

Plaintiffs' reliance on the Learning Standards is misplaced for the further reason that the State Board lacks authority to require any level of state funding for public education. Section 2 of the Education Article gives the State Board authority to "establish goals, determine policies, provide for planning and evaluating education programs and *recommend financing*." (Ill. Const. art. X, § 2, emphasis added.) Section 2 also states that the State Board shall have "such other duties and powers as provided by law." *Id.* But Plaintiffs have pointed to no law giving the State Board authority to require funding, and none exists.

b. The General Assembly Did Not Enact or Adopt the State Board's Learning Standards.

In an apparent attempt to overcome this limitation on the State Board's authority, Plaintiffs assert that "[t]he Learning Standards are aligned with the Common Core State Standards which were *adopted by the General Assembly* in 2010 and *codified* in 105 ILCS 5/2–3.64a5." (Pl. Br. at 13, emphasis added.) That is untrue. The General Assembly did not "adopt" the Common Core standards or "codify" the Learning Standards. It enacted sections 27–1 and 2–3.64a5 of the School Code, which authorize the State Board to (i) "establish goals and learning standards" and "define the knowledge and skills which the State expects students to master and apply," 105 ILCS 5/27–1, and (ii) establish assessment standards for evaluating students' academic achievement, 105 ILCS 5/2–3.64a5. Under that authority, the State Board incorporated the Common Core standards as part of its Learning Standards for certain subjects and established assessment protocols aligned with the Learning Standards for evaluating students' academic progress and achievement. Contrary to Plaintiffs' assertion, however, the Learning Standards do not mandate that any school or student "must achieve" them. (Pl. Br. at 16; *id.* at 13, 25,

30.) And, again, the General Assembly did not itself impose such a mandate or even adopt the Learning Standards.

c. The Learning Standards Do Not Make the Education Article Judicially Enforceable by Court-Ordered Expenditures of State Funds.

In any event, the Learning Standards could not have been intended to, and did not, establish the basis of a constitutional mandate for state funding of public education. Even if the Learning Standards did require local school districts to provide an education designed to allow students to acquire certain knowledge, it is not plausible to conclude that they thereby required the judiciary to translate those standards into measurable requirements for an "efficient system of high quality educational institutions and services," and then to determine what level of state funds must be paid to each school district to obtain that efficient system.

Among the many problems in fulfilling such a task is the nature of the Learning Standards themselves. For example, the standards in math and English state that fifth grade students should be expected to "develop fluency in calculating sums and differences of fractions, and make reasonable estimates of them," and to "[i]ntroduce a topic or text clearly, state an opinion, and create an organizational structure in which ideas are logically grouped to support the writer's purpose." See *www.isbe.net/Documents/math-standards.pdf* at 33; *www.isbe.net/Documents/ela-standards.pdf* at 20 (both visited April 12, 2021). Plaintiffs do not explain how a court could translate such standards, which "run to hundreds of pages" (Pl. Br. at 16), into some measure of the institutional resources — e.g., physical facilities, teaching staff, non-teaching supports (counselors, administrators, etc.), and books and other materials — necessary to *offer* an

education that covers the material included in those standards.

Further, even if a court decided to rely on the standardized tests used by the State Board to measure academic performance and to rely on the Board's criteria to determine what scores on those tests establish "proficiency" in the Learning Standards, the court would still have to determine *what* percentage of a school district's students must *reach* that proficiency threshold to qualify as "meeting or achieving" the Learning Standards.[15] Then, the court would have to determine how much funding would be necessary — for each district based on its local conditions, including student and family demographics, teacher availability, local costs, etc. — to provide the "educational institutions and services" necessary for that percentage of students to meet the specified scores on these tests. Finally, the court would need to decide how much of that funding the *State* would have to provide, and how much *each school district* would have to supply itself.

Thus, it is unrealistic to assume that courts could readily use the Learning Standards (a) to ascertain what "institutions and services" would enable local schools to provide an education so that all, or any portion, of their students could acquire the knowledge and skills described in the Learning Standards, and (b) then to determine what state funding is necessary for each school district to establish such institutions and

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[15] Plaintiffs candidly admit that, in light of many other contributing factors, no amount of funding will ensure that *all* students establish proficiency according to the Learning Standards. At oral argument in the appellate court, Plaintiffs' counsel stated:

> And it's quite true that funding these districts and giving them adequate capacity does not necessarily guaranty [sic] that each student will pass. That won't happen. . . . There's real life. All sorts of things can determine whether or not a student achieves it.

Appellate court oral argument at 44:20 (available at *http://multimedia.illinois.gov/court/AppellateCourt/Audio/2020/5th/011520_5-18-0542.mp3www*). (See also below at 61–62.)

services. See *Citizens for Strong Sch., Inc. v. Fla. State Bd. of Educ.*, 262 So. 3d 127, 141–42 (Fla. 2019) (per curiam) (rejecting contention "that a 'high quality' system is whatever the Legislature says it is, so long as some acceptable — yet unknown — percentage of all subgroups of students achieve a satisfactory level . . . on the assessment"). In short, the Learning Standards do not overcome the basis for *Edgar*'s holding that the legislature, not the courts, must define and implement the State's responsibility under the Education Article. (See also below at 51–59.)

d. Section 18–8.15's Funding Formula Is Not Tied to the Learning Standards.

Plaintiffs try to get around this judicial-manageability problem by asserting that the General Assembly itself addressed these difficult issues and determined that section 18–8.15's funding formula establishes the level of funding, including the amount of additional state aid, necessary "for all students in a particular district to be able to meet or achieve the Learning Standards." (Pl. Br. at 13.) Without citation, Plaintiffs state:

> In the 2017 EBF Act, now codified at 105 ILCS 5/18–8.15, the General Assembly has already determined the necessary funding needed by the plaintiff districts for the students to achieve the Learning Standards. . . .
>
> There is no "lack of judicially discoverable and manageable standards" for the Court to apply. . . . Even the amounts due for the plaintiffs and their students to meet the Learning Standards have been determined under the EBF formula by the State Board.

(*Id.* at 27, 32–33; see also *id.* at 5, 20, 23, 27, 28, 30.) This is not true. Funding calculations under section 18–8.15 are not based on the Learning Standards. The State Board's estimate of the additional funding necessary for school districts to reach their

"adequacy targets" under section 18–8.15 is based solely on the formula set forth in section 18–8.15, not on any amount of money calculated to be necessary for school districts to enable their students to "meet or achieve the Learning Standards." (See above at 10–13.) Section 18–8.15 therefore does not eliminate the fundamental problem that the Learning Standards do not provide any manageable basis for courts to decide what are "high quality public educational institutions and services," and what level of funding is necessary to establish and provide them.

e. Notions of "Fairness" Do Not Make the Learning Standards Constitutionally Binding or Justify Court-Ordered State Spending.

Plaintiffs finally insist that "fundamental fairness" justifies requiring the State to provide sufficient funding to enable students to meet the Learning Standards. (Pl. Br. at 26, 33–34.) But fundamental fairness does not justify rewriting the Education Article to mean something the voters did not intend when they approved the 1970 Constitution, or denying the legislature its fiscal responsibility under the Constitution just because Plaintiffs disagree with the wisdom of how it has exercised that responsibility.

Moreover, it is perfectly reasonable for the State, which spends billions of dollars each year supporting public education, to set academic standards and to assess academic achievement. The Education Article cannot plausibly require the State to turn over large sums of money to school districts without any concern for what that money helps generate, and without any conditions or accountability. And the remedy for any perceived unfairness in those standards and assessments cannot be, as a constitutional matter, to force the State to spend billions more — that the General Assembly did not appropriate — to make it easier for public schools to teach those standards or for students

to achieve them.[16]

The Court faced a similar issue in *Cronin*, where a school district complained that the aid it received was decreased due to a prolonged teachers' strike, reducing the number of attendance days used in the funding formula in effect at the time. Rejecting the school district's challenge to this provision under the Education Article, the Court stated: "There is, in our opinion, simply no constitutional requirement that a legislature distribute State aid funds without conditioning a school district's receipt thereof upon compliance with certain basic, minimum educational requirements." 66 Ill. 2d at 59. Reinforcing the point, the Court added that arguments about the statutory conditions on state aid "should be directed to the legislature, not the judiciary." *Id.* The same observations apply here.

2. Section 18–8.15's Appropriation Goals Do Not Establish Fixed Constitutional Duties for State Expenditures on Public Education.

There is likewise no merit to Plaintiffs' suggestion that the General Assembly, by enacting section 18–8.15, created a constitutionally "binding" obligation on the State to spend the amount of state funds necessary for all school districts to meet the law's adequacy targets. (Pl. Br. at 27.) Section 18–8.15 does not purport to define, as a constitutional matter, what are "high quality public educational institutions and services," or to bind the State to pay for such institutions and services without supporting

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[16] In the appellate court, Plaintiffs alternatively sought a court order prohibiting the State from testing their students, which they say disadvantaged them because the results are used for admission to state colleges and universities. (See Pl. Br. at 33–34.) But Title I requires the State, as a condition for its receipt of hundreds of millions of dollars in federal aid targeted to benefit the most disadvantaged students, to adopt "challenging State academic standards" and to administer related student assessments, including a test relevant to admission at state colleges and universities. (See above at 8–9.) Consequently, that alternative remedy (which Plaintiffs no longer seek in this Court) would require turning down this aid, defeating the very goals Plaintiffs seek to advance.

appropriations. And even if the General Assembly had intended to do both, it could not, as a constitutional matter, divest itself of, and impose on the courts, the responsibility to authorize the expenditure of state funds for that purpose.

Because one session of the legislature cannot control what laws a future legislative session may pass, statutes primarily declare policy to be followed until the General Assembly chooses to change that policy by future legislation. *A.B.A.T.E. of Ill., Inc. v. Quinn*, 2011 IL 110611, ¶¶ 33–34. In rare cases, a statute may establish contractual rights protected against future legislative impairment, but there is a strong presumption that statutes do not do this, especially where that would encroach on the legislature's future prerogatives over state budgets. *People ex rel. Sklodowski v. State of Ill.*, 182 Ill. 2d 220, 231–32 (1998); *Fumarolo v. Chicago Bd. of Educ.*, 142 Ill. 2d 54, 104 (1990); see also *A.B.A.T.E.*, 2011 IL 110611, ¶¶ 33–34, 40 (quoting *Barber v. Ritter*, 196 P.3d 238, 253–54 (Colo. 2008) (en banc)). That presumption is reinforced by the constitutional requirement that appropriations and substantive laws be enacted in separate bills. Ill. Const. art. IV, § 8(d). (See above at 33.)

Under these principles, section 18–8.15 cannot fairly be read as having intended to require an expenditure of state funds without enacted appropriations. A statute should be read as a whole, in accordance with the plain meaning of the language used, giving effect to all of its provisions. *People v. Lloyd*, 2013 IL 113510, ¶ 25. And section 18–8.15's text, read as a whole, plainly anticipates legislative appropriations in furtherance of its purposes.

Plaintiffs' assertion that under section 18–8.15 "the State is *required* [to] set aside at least an additional $350 million a year in State aid for districts throughout the State" (Pl. Br. at 27, emphasis added) is simply wrong. The text of Section 18–8.15 — including its reference to the effects of the law "[w]hen fully funded," its selection of a "target for state funding that will . . . continue to advance equity through the Evidence-Based Funding formula," and its formula for allocating future appropriations if that target is not met in any year (see above at 10–13) — clearly establishes the General Assembly's intention that fulfillment of section 18–8.15's purposes was contingent on future legislative appropriations, consistent with the constitutional requirement that such appropriations be enacted in a separate law. (See above at 33.)

Plaintiffs' attempt to use selected parts of section 18–8.15 to establish a judicially enforceable duty to spend unappropriated state funds therefore does violence to the General Assembly's evident understanding of what it accomplished by enacting section 18–8.15. (See Pl. Br. at 35, stating that Plaintiffs seek "just the remedy put forward in the 2017 EBF Act.") Parties cannot take one provision of what the General Assembly enacted, divorced from conditions on that provision, and rely on it to impose on the State greater financial obligations than what the General Assembly itself expressly authorized. See *Kerner v. State Employees' Ret. Sys.*, 72 Ill. 2d 507, 514–15 (1978); *Underwood v. City of Chicago*, 2017 IL App (1st) 162356, ¶¶ 24–27. Thus, section 18–8.15's text is wholly inconsistent with the notion that the legislature, by enacting it, intended to relinquish to the courts the final say over how much the State should spend each year on public education.

These deficiencies in Plaintiffs' argument are not overcome by the statement in section 18–8.15 that, when it is "[f]ully funded," every public school will have the resources to "provide all students with a high quality education . . . ." This provision, which appears in the introductory section of section 18–8.15 setting forth its "purpose," cannot be deemed to establish a fixed constitutional definition of "high quality public educational institutions and services." Nor, even if it intended to do so, could the General Assembly divest itself of, and impose on the judicial branch, the responsibility to determine the appropriate amounts of public funds that should be spent on public education. Stating that the targeted level of funding will enable school districts to provide a high quality education does not logically mean that this is the constitutionally *minimum* amount of funding required to do so. Nor does section 18–8.15 require any school district to have any particular institutions or services, or oblige the State to cover any shortfall between that level and the district's own resources.

In addition, treating the funding targets in section 18–8.15 as binding and judicially enforceable without supporting appropriations would either prevent the General Assembly from adjusting its future support for public education to account for new research and experience about what institutions and services are most efficient (or unnecessary), or create a perverse incentive, in the face of budget pressures and competing demands, to amend section 18–8.15 to eliminate or reduce various factors that go into the "adequacy target" calculation. Cf. *Citizens for Strong Schools*, 262 So. 3d at 141–42 (rejecting claim "to constitutionalize the Legislature's [learning] standards, which in part serve as goals," where doing so "would have the perverse effect of encouraging the weakening of curriculum standards").

3. The General Assembly May Not Transfer to the Courts, Nor May They Assume, the Legislative Duty to Provide For High Quality Educational Institutions and Services.

Most important, while the General Assembly may enact laws, including appropriation laws, in furtherance of the goal of providing an efficient system of high quality educational institutions and services, it may not delegate that responsibility to the judicial branch. By the same token, courts may not assume the legislature's responsibility over public education, including the power to appropriate state funds to support such education. Instead, under the separation of powers established by our Constitution, which is reflected in the political question doctrine, the choices made by the General Assembly in the exercise of its discretion under the Education Article, including what state funds to appropriate, are not subject to judicial review, but instead involve decisions for which the legislature is answerable only to the voters. See *Edgar*, 174 Ill. 2d at 28–29. By enacting section 18–8.15, therefore, the General Assembly could not create greater financial obligations for the State than section 18–8.15 itself specifies, which do not include spending unappropriated funds. The same conclusion would apply even if the General Assembly itself had adopted the Learning Standards.

A basic aspect of separation-of-powers principles is that the General Assembly may not delegate to another branch of government, including the judicial branch, the responsibility to fulfill core legislative functions. *Fields Jeep-Eagle*, 163 Ill. 2d at 478–79 ("the authority to determine public interest is vested in the legislature and cannot permissibly be delegated to the judiciary"); *Ogilvie*, 50 Ill. 2d at 384–85 (holding that General Assembly unconstitutionally delegated its appropriation power to executive agency and Governor); (see also above at 28–29). And, as explained above, central

among the powers that the General Assembly may not delegate to the judicial branch, and that the judicial branch may not assume, is the power to appropriate public funds. *People ex rel. Carr*, 308 Ill. at 56 ("The courts, as a rule, will not interfere with the legislative discretion as to making appropriations."); see also *Daly*, 378 Ill. at 362; *Ill. Collaboration on Youth*, 2017 IL App (1st) 162471, ¶ 40; *PACE, Suburban Bus Div. of Reg'l Transp. Auth. v. Reg'l Transp. Auth.*, 346 Ill. App. 3d 125, 136 (2d Dist. 2003).

In *Fields Jeep-Eagle*, the Court considered a law that required a showing of "good cause" before an automobile manufacturer could establish a new dealer in an area with an existing dealer, and provided for the courts to make that determination. 163 Ill. 2d at 464–65. The Court held that the statute violated the separation of powers because the required finding of "good cause" was not a judicial adjudication, and therefore could not be imposed on the courts. *Id.* at 471–79. Likewise, in *Ogilvie* the Court struck down a statute that gave an executive agency, with the Governor's consent, the ability to redirect unused appropriated funds to other purposes. 50 Ill. 2d at 384. The Court held that the appropriation power belongs exclusively to the General Assembly and may not be transferred to another branch of government. *Id.* at 384–85. In each case, therefore, the Court concluded that the General Assembly impermissibly attempted to delegate to another branch of government an exclusively legislative function — including, in *Ogilvie*, the appropriation power. Here, the same principle precludes reading section 18–8.15 to impose on the judiciary the responsibility to appropriate funds for public education.

Separation-of-powers principles likewise establish that, regardless of the General Assembly's intent in enacting section 18–8.15, courts may not assume the legislative

function of providing for an efficient system of public education. Interpreting the 1870 Constitution, the Court repeatedly held that "the question of the efficiency and thoroughness of the school system established by legislative permission is one solely for the legislature to answer and that the courts lack power to intrude." *People v. Deatherage*, 401 Ill. 25, 31 (1948); see also *Cronin*, 66 Ill. 2d at 58; *Fiedler v. Eckfeldt*, 335 Ill. 11, 23–24 (1929). Reflecting this precedent, the appellate court in *Board of Education, School District No. 150, Peoria v. Cronin*, 51 Ill. App. 3d 838, 841–42 (3d Dist. 1977), observed that "creation of school systems and the manner of financing and administering them is clearly a legislative prerogative," and the "judicial system cannot impose its views, its ideas, and its will upon the General Assembly."

Reaffirming these principles, *Edgar* explained that Illinois' "constitutional jurisprudence in the field of public education has been guided by considerations of separation of powers," which in the federal courts "find expression in the so-called 'political question' doctrine." 174 Ill. 2d at 28 (citing *Baker v. Carr*, 369 U.S. 186 (1962)). Under that doctrine, certain questions are committed to the legislative or executive branches of government, and thus are nonjusticiable. *Id.* "'[D]ominant considerations'" for concluding that an issue involves a political question are "'the appropriateness under our system of government of attributing finality to the action of the political departments and also the lack of satisfactory criteria for a judicial determination.'" *Id.* (quoting *Baker*, 369 U.S. at 210, emphasis omitted).

Recognized characteristics of a political question are:

> a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of

> deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's under-taking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question.

Baker, 369 U.S. at 217; see also *Edgar*, 174 Ill. 2d at 28; *Roti v. Washington*, 148 Ill. App. 3d 1006, 1009 (1st Dist. 1986); *Murphy v. Collins*, 20 Ill. App. 3d 181, 196–97 (1st Dist. 1974). Several of these criteria apply to the issue presented here, requiring the courts to "attribut[e] finality" to the General Assembly's action and precluding judicial interference with its decisions about how, and at what state expense, to provide for a system of high quality educational institutions and services. *Edgar*, 174 Ill. 2d at 28 (quoting *Baker*, 369 U.S. at 211). Central to the applicability of each of these criteria is the General Assembly's exclusive authority to appropriate state funds.

First, as the Court's precedent described above shows, the Appropriations Clause and the Education Article, read together, embody a "textual commitment" of this issue — including in particular the amount of state funds to spend on public education — to the legislative branch of state government. *Baker*, 369 U.S. at 217; see *Edgar*, 174 Ill. 2d at 28–29, 32. Second, the legislature's action in this regard — deciding how to provide for an efficient system of high quality educational institutions and services, and how much state money to devote to that goal — embodies a "policy determination of a kind clearly for nonjudicial discretion." *Baker*, 369 U.S. at 217. Third, courts cannot undertake an "independent resolution" of that determination without showing a lack of "the respect due" to the legislative branch of government. *Id.* Finally, because the General Assembly

has enacted both substantive legislation to address this issue and appropriations to advance its goal of creating a more equitable distribution of state funding among local school districts, a judicial ruling requiring a different fiscal outcome would create the potential for "embarrassment from multifarious pronouncements" by different branches of government. *Id.* Thus, how much funding to appropriate toward public education falls squarely in the realm of political questions, not suitable for judicial resolution.

Plaintiffs unconvincingly maintain that judicial control over state spending on public education "creates no conflict with the legislative branch" because the General Assembly, in section 18–8.15, stated its intention to fulfill the State's "primary responsibility to fund public education" through future appropriations governed by the EBF allocation formula. (Pl. Br. at 32.) But the separation-of-powers problems in Plaintiffs' claims cannot be so easily dismissed. Even if the General Assembly wanted to, it could not change the constitutional significance of the Education Article, which was not intended to establish an enforceable duty by the State to provide any level of public education funding. (See above at 36–38.) And the essential relief Plaintiffs seek — court-ordered expenditures of state funds for public education regardless of what the General Assembly actually appropriates — represents the most profound conflict possible between the judicial and legislative branches, shifting responsibility over state spending from the General Assembly, where the Constitution firmly places that responsibility, to the courts.

As the Court emphasized in *Edgar*, "Courts may not legislate in the field of public education any more than they may legislate in any other area." 174 Ill. 2d at 27. An integral aspect of the legislative function in this area is appropriating state funds and

deciding how they shall be spent. Consequently, even if a high-quality education were precisely defined, the legislative function necessarily still requires selecting the means to provide for an efficient system of high-quality educational institutions and services, and determining what level of state funds to appropriate to support that system. The judiciary may not intrude on the General Assembly's exercise of that function, much less do so by taking over state financing of public education.

The legislature is not just some fact-finding body. By design, the Constitution reposes in it the responsibility to make the ultimate decision, through the appropriation process, regarding how much of the State's limited resources to devote to supporting public schools. And under section 18–8.15 it has exercised that responsibility, including by substantially increasing that support and allocating effectively all of that increase to the neediest schools with the most economically disadvantaged students. For the Court to take over that difficult task, in the name of implementing the legislature's findings, would not only conflict with the General Assembly's obvious intent, but also infringe on the constitutional division of authority among the different branches of government.

Plaintiffs' appeal to the "plain language" of the Education Article (Pl. Br. at 30) is both textually and constitutionally unfounded. As noted above, the Education Article was not intended to require any specific level of state funding for public schools. Nor does it, by its terms, require the General Assembly to provide, or to define, a "high quality education." Instead, it charges the General Assembly with the broader responsibility to "provide for an efficient system of high quality educational institutions and services." (Ill. Const. art. X, § 1.) That broad authority necessarily encompasses great discretion to select the means to "provide for" such a system, including by

establishing a system of local public schools, prescribing a structure for setting academic standards, authorizing local school districts to raise tax revenues, and appropriating state funds to supplement those local revenues — all of which it has done. See *Edgar*, 174 Ill. 2d at 29 ("the question of educational quality is inherently one of policy involving philosophical and practical considerations that call for the exercise of legislative and administrative discretion"); *Sloan v. School Directors of Dist. No. 22*, 373 Ill. 511, 515 (1940) (holding that Education Clause of 1870 Constitution gave the General Assembly "broad discretion" in establishing a system of public schools). Accordingly, even if the General Assembly, by enacting section 18–8.15, has defined high quality educational institutions and services, the Constitution still reserves to it, not the courts, the authority to determine what steps to take to provide for instituting them. See *Edgar*, 174 Ill. 2d at 28–29, 32. And that authority does not require, as the sole means to do so, exclusive reliance on additional *state* funding, as Plaintiffs contend.

It is revealing that Plaintiffs have attempted in several ways, including progressively backing away from the full relief demanded in their Complaint, to minimize the tension between the legislature and the courts — or outright conflict between them — that would result from a judgment in their favor. The Court should not be comforted by these attempts. Rejecting a similar claim, the Nebraska Supreme Court in *Nebraska Coalition for Educational Equity & Adequacy v. Heineman*, 731 N.W.2d 164, 183 (Neb. 2007), observed that "[t]he landscape is littered with courts that have been bogged down in the legal quicksand of continuous litigation and challenges to their states' school funding systems." See also *City of Pawtucket v. Sundlun*, 662 A.2d 40, 59 (R.I. 1995) (describing New Jersey experience and stating, "The volume of litigation and

the extent of judicial oversight provide a chilling example of the thickets that can entrap a court that takes on the duties of a Legislature.").[17]

The amici note that courts in several other States have found, under their constitutions, that the "adequacy" of public education presents a justiciable question, leading to court decisions calculating the cost of such an education and ordering state funding to provide it. (Amici Br. at 6–13.) But in *Edgar* this court surveyed many of those decisions and found them unpersuasive or irrelevant to the proper interpretation of Illinois' Constitution, stating that it "agree[d] with the views of the dissenters in several of th[ose] cases." 174 Ill. 2d at 29–31.[18] Since *Edgar*, these other States' experiments with judicial efforts to define an adequate education and order state funding to provide it have largely confirmed this Court's conclusion that courts are "not designed or equipped to make public policy decisions" in this area. *Edgar,* 174 Ill. 2d at 31 (quoting *Seattle School District No. 1 v. State*, 585 P.2d 71, 120 (Wash. 1978) (Rosellini, J., *et al.*, dissenting). And recurring financial pressures on state budgets have just accentuated the difficulties inherent in judicial attempts to take on these public-policy challenges, as well as the courts' increasing disillusionment with the promise of straightforward or effective

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[17] These difficulties are compounded by the fact that the constitutional right Plaintiffs claim is not a typical *restriction* on government action, see *Lewis E.*, 186 Ill. 2d at 212, but a "positive right," for which the criteria to define and shape it are particularly subjective and, therefore, least susceptible to judicial adjudication.

[18] These decisions included what amici describe as "the landmark case *Abbott by Abbott v. Burke*, 575 A.2d 359 (N.J. 1990)" (Amici Br. At 1); decisions cited by amici from Idaho, Kansas, and Wyoming (*Idaho Schools for Equal Educ. Opportunity v. Evans*, 850 P.2d 724, 734 (Idaho 1993); *Unified School District No. 229 v. State*, 885 P.2d 1170, 1186 (Kan. 1994); and *Campbell County Sch. Dist. v. State*, 907 P.2d 1238, 1265 (Wyo.1995)); and many others. 174 Ill. 2d at 29–31.

judicial remedies for perceived public education underfunding.[19] In its Constitution, Illinois consciously chose a different path. Cf. *Loving*, 517 U.S. at 757–58 ("By allocating specific powers and responsibilities to a branch fitted to the task, the Framers created a National Government that is both effective and accountable. Article I's precise rules of representation, member qualifications, bicameralism, and voting procedure make Congress the branch most capable of responsive and deliberative lawmaking.").

4. Judicial Intrusion in the Legislature's Exercise of its Constitutional Responsibility to Provide for Public Educational Institutions and Services Would Impede the General Assembly's Ability to Fulfill Its Responsibility.

Plaintiffs' demand for judicial relief is all the more unjustified because it would penalize the General Assembly for increasing state funding for financially disadvantaged school districts with the greatest proportion of low-income students. And by enacting section 18–8.15 and significantly increasing state funding allocated under it, the General Assembly has taken seriously its constitutional responsibility to provide for an efficient system of educational institutions and services. There is, therefore, no occasion or need for Illinois courts to intrude in that domain.

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[19] See J. Dayton, et al., *Brother, Can You Spare A Dime? Contemplating the Future of School Funding Litigation in Tough Economic Times*, 258 Ed. Law Rep. 937, 943 (2010) ("despite prior winning streaks, following the 2008 collapse plaintiffs have experienced repeated losses as courts declared cases moot, brought decades of litigation to an abrupt halt, found no right to greater equity in funding, and generally exercised broad deference to the political branches in devising and administering public school funding systems"); J. Simon-Kerr, *et al., Justiciability and the Role of Courts in Adequacy Litigation: Preserving the Constitutional Right to Education*, 6 Stan. J. Civ. Rts. & Civ. Liberties 83, 118 (2010) ("*Adequacy Litigation*") ("in each and every instance where the question of adequacy was one of first impression, courts between 2005 and 2008 dismissed plaintiffs' claims.").

As noted, in the first three years under section 18–8.15, the General Assembly increased EBF funding by more than $1 billion. (SA 1, 5.[20]) As the State Board reported, this increased funding corresponded with significant improvements in Illinois school districts' "Financial Profile," including a large increase in the number of districts in the "Financial Recognition" category, and a large decrease in the number of districts in the "Financial Early Warning" and "Financial Watch" categories. (SA 3–4, 6–7.) That progress counsels heavily against any judicial intrusion in this sensitive area.

In addition, "constitutionalizing" section 18–8.15's spending targets would trigger several negative consequences. First, it would freeze in place a system that is designed to be flexible and subject to legislative revision based on actual experience. The Professional Review Panel created under section 18–8.15, charged with making recommendations to modify it in multiple areas (e.g., maintenance and operation costs, technology, employee benefits, college and career preparedness, special education and early childhood investments), has not yet issued its required five-year report to the State Board, the General Assembly, and the Governor evaluating "the entire Evidence-Based Funding model, including an assessment of whether or not the formula is achieving State goals" (section 18–8.15 (i)(4)(C)). Such recommendations could include substantial changes in the academic practices considered most effective and therefore relevant to calculating funding "adequacy"; how EBF appropriations are allocated among districts;

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[20] These increases paused during the current fiscal year, for which appropriations were enacted after the onset of the Covid-19 pandemic, but federal pandemic-related stimulus money for Illinois public schools has exceeded $7.9 billion. See *https://oese.ed.gov/files/2020/04/ESSER-Fund-State-Allocations-Table.pdf*; *https://oese.ed.gov/files/2021/01/FINAL_GEERII_EANS-Methodology_Table_1.8.21.pdf*; *https://oese.ed.gov/files/2021/01/Final_ESSERII_Methodology_Table_1.5.21.pdf*; *https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-Methodology-and-Table.pdf* (all visited April, 12, 2021).

and whether EBF funds, which currently are not subject to any conditions on how they must be spent, should be subject to such conditions. Court-ordered funding based on the current version of section 18–8.15 therefore could have the paradoxical effect of preventing such changes and thereby defeating its intended goals.

Defendant does not dispute that at the extreme ends of per-pupil spending in different school districts, there is a "correlation" between such spending and the percentage of students who achieve better academic results, as Plaintiffs note. (Pl. Br. at 17–20.) But it is misleading to claim, as Plaintiffs do, that per-pupil spending is a "major determinant" of such results. (*Id.* at 17.) There is no simple or linear correlation between the two, and more funding does not automatically translate into better academic results.[21] Indeed, when the New Jersey Supreme Court — after 20 years of litigation and 30 opinions as part of that State's judicial control of state funding for public education — concluded the case by adopting a special master's recommendations about how to structure virtually every aspect of school operations, and how much doing so would cost,

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[21] As the State Board's records show, a significant predictor of academic results, regardless of per-pupil spending, is family income. Thus, for example, the lead plaintiff, Cahokia School District No. 187 ("Cahokia"), spends more per student than the state average, and spends 12% more per student (and receives six times more state funding) than Batavia School District No. 101 ("Batavia"), but the low-income students at Cahokia (which has a much higher rate of chronic absenteeism than Batavia, 50% vs. 10%) have a much lower proficiency rate in English Language Arts ("English") (5% vs. 21%) and math (2% vs. 23%) than Batavia's low-income students. (SA 8–11.) At the same time, the proficiency rates of low-income students at Evanston Township High School District No. 202 ("Evanston") in English and math (20.9% and 18.0%) and at Oak Park–River Forest High School District No. 200 ("Oak Park") (28.2% and 22.2%) are not appreciably better than for Batavia's low-income high school students (21.1% and 22%), even though Evanston and Oak Park each spend much more per high school student. (SA 10–15.) In addition, there are typically significant differences in proficiency rates for low-income and non-low-income students within single districts, and even single schools, that have the same per-pupil spending for all students. (SA 10–21.)

it quoted the following common-sense observation in the special master's report:

> Money, in and by itself, is no guarantee of educational success. Parental involvement, community concern and activism, abilities of teachers and support staff, forward thinking administrators, and students willing and hoping to learn, are all necessary components in obtaining educational success.

Abbott ex rel. Abbott v. Burke, 971 A.2d 989, 1054 (N.J. 2009). Those observations are equally true in Illinois.[22] The Court therefore should not embrace a theory that elevates state funding over all other means to improve Illinois students' lives and academic achievement and that, in doing so, potentially frustrates the State's ability to continue evaluating the most cost-effective means to accomplish those goals.

Second, court-ordered expenditures of unappropriated state funds based on section 18–8.15's funding targets would cause serious budget problems. As Plaintiffs note, the additional amount necessary to reach "full funding" under section 18–8.15, as calculated by the State Board, was $7.2 billion for 2019. That is more than *twice* what the State spends each year on many critical human service programs; and granting the monetary relief Plaintiffs seek will assuredly interfere with funding for those programs,

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[22] See also J. Buszin, *Beyond School Finance: Refocusing Education Reform Litigation to Realize the Deferred Dream of Education Equality and Adequacy*, 62 Emory L.J. 1613, 1630 (2013) ("The ambiguous relationship between money and academic achievement, recognized since some of the earliest school finance cases, may at least partially explain the failure of education finance suits to close the achievement gap."); *id.* at 1631 ("courts have noted that considerations such as financial mismanagement, inferior school leadership, and environmental factors may be just as responsible for low academic outcomes. Skeptics include state courts that previously have granted victories to school finance plaintiffs."); *Adequacy Litigation*, 6 Stan. J. Civ. Rts. & Civ. Liberties at 121 ("three decades of adequacy litigation has ceased to bring plaintiffs closer to the goal of producing tangible improvements for those children").

which could have much greater negative effects on students in Plaintiffs' schools than foregoing the extra educational spending they demand.[23] Another obvious candidate for spending cuts to offset court-ordered education funding would be state contributions for teacher pensions, which in the fiscal year ending in June 2020 exceeded $5.2 billion. (SA 1.) But such cuts would just worsen the financial condition of those pension systems and ultimately require more funding later.

Regardless of where compensating spending reductions are made, the entire process would dramatically encroach on the General Assembly's constitutional authority and responsibility to craft budgets that balance competing priorities. Indeed, that was a key objection to the proposed 1992 amendment to the Education Article that Illinois voters rejected. (See above at 5–7.) Thus, Plaintiffs' suggestion that the relief they seek "creates no conflict with the legislative branch" (Pl. Br. at 32) is absurd. For this reason as well, dismissal of Plaintiffs' Education Article claim should be affirmed and the Court should reject Plaintiffs' invitation to disavow *Edgar* as a "relic[] of another century." (Pl. Br. at 30.)

[23] In 2019, these programs included aid for the developmentally disabled ($1.67 billion); child care services for low-income families with an employed parent ($352 million); early intervention for infants with disabilities or learning delays ($97 million); temporary financial assistance for pregnant women and families with dependent children (TANF) ($105 million); foster homes, group homes, and day-care services for wards of the State and other abused or neglected children ($134 million); and home-delivered meals, in-home, and community-based services for seniors who might otherwise need nursing home care ($796 million). (FY22 Budget Book at 236–37, 255, 300–01.)

VI. Plaintiffs Did Not Allege a Valid Equal Protection Claim.

The lower courts also properly found no merit in Plaintiffs' equal protection claim. Wealth- and income-based considerations in funding public education are subject only to rational basis scrutiny, and the State's funding structure, which supplements local school district resources with aid that is heavily weighted in favor of less-affluent districts and low-income students, readily meets that standard. (Again, Plaintiffs do not assert an equal protection claim based on alleged racial discrimination in Illinois' funding of public education.)

Edgar held that state aid for public education is subject to the highly deferential "rational basis" standard because such aid does not implicate a suspect class or a fundamental right. 174 Ill. 2d at 32–37. *Edgar* also held that the State's system for financing public education, where the State provides limited aid to supplement local revenues, satisfies this level of scrutiny because local school districts have substantial independence and flexibility to design and implement their own curriculums and educational operations. 174 Ill. 2d at 32–40. That holding remains sound.

Plaintiffs initially challenge the first part of *Edgar*'s holding, contending that the Court should "declare that under the Illinois Constitution, there is *fundamental right* [sic] of plaintiffs and students to be in a *single* 'efficient system of high-quality educational institutions.'" (Pl. Br. at 35–36, emphasis added.) But the Education Article expressly states that education is a "fundamental *goal*," and the voters in 1992 rejected an amendment that would have made education a "fundamental *right*." (See above at 5–7.) That distinction must be respected, especially given the significant difficulties, addressed above, in judicially defining and enforcing a positive right to education. Moreover, if such a right existed, the proper target of an income- or wealth-based equal protection

claim would not be the *State*'s financial support for local school districts, which heavily *favors* less affluent districts and students, but the *entire structure* of public funding, in which lower property values translate into more difficulty raising local funds for public schools. But Plaintiffs have not asked the Court to declare that basic structure, which has existed since public schools were first organized in Illinois, unconstitutional.

Nor is there any merit to Plaintiffs' contention that, following the State Board's adoption of the Learning Standards, the State's goal of promoting "local control" of public schools is effectively illusory, and that the State's significant reliance on local property taxes to finance public education no longer rationally promotes that goal. (Pl. Br. at 36.) The Learning Standards are a change in degree, not in kind, of the State's academic standards and assessments for all Illinois students. Before *Edgar* was decided, the School Code already directed the State Board to "establish standards and annually assess the performance of" students at specified grade levels in various subjects. 105 ILCS 5/2–3.64 (1994). And the State's periodic changes in those academic standards, making them more rigorous as the demands of modern society have created new educational needs, do not eliminate, but increase, the State's reliance on local school districts to determine how best to meet those needs.

Critically, the Learning Standards do not negate each school district's broad discretion to decide which teachers to hire, what pedagogical methods to adopt, what subjects and materials to teach that are not specifically covered by the Learning Standards, and what other activities to offer. Nor do they eliminate the ability of each local school district and its residents to determine whether to provide additional resources for their schools. Such discretionary decisions are described in *Edgar* as part of the

"local control" that provides a rational basis for the State's funding structure for public education. 174 Ill. 2d at 37–39. That basis therefore still remains.[24]

Even if the Learning Standards adopted by the State Board did make the State's system for funding public education irrational, the Court — faced with a choice between upholding the General Assembly's legislation establishing that structure, and upholding the Learning Standards — would have to invalidate the latter, not the former. The State Board lacks authority to adopt policies that nullify laws passed by the General Assembly. That is especially true for the Learning Standards because the authority for the State Board to adopt them is the School Code, which specifically provides that the State Board "may not adopt any rule or policy that alters the intent of the authorizing law or that supersedes federal or State law." 105 ILCS 5/2–3.6.

Last, even if there were any basis to conclude that Illinois statutes governing state financial aid for public schools violate equal protection, Plaintiffs have not identified what provision of those laws should be declared unconstitutional, or how doing so would justify the relief they demand. No principle of equality, or nondiscrimination, authorizes the courts to rewrite section 18–8.15 to give less affluent school districts more aid per student, out of what the General Assembly appropriates, than what section 18–8.15

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[24] Plaintiffs doubt whether Illinois law still has any goal of promoting local control of public schools. (Pl. Br. at 36.) But the issue is not open to serious question, as the School Code extensively recognizes and preserves the longstanding structure of public education in Illinois, where local school districts have great leeway in setting individual priorities and deciding how best to advance various goals in light of local needs and conditions. See, e.g., 105 ILCS 5/2–3.47a(a)(15) (directing State Board, in developing five-year strategic plans, to include duties for regional offices' service centers "to support local control of school districts"); 105 ILCS 5/2–3.63 ("Each school district may set student learning objectives which meet or exceed goals established by the State and to also establish local goals for excellence in education.").

already specifies, which is already heavily weighted in favor of poorer school districts and low-income students. In addition, the remedy for an equal protection violation is equality, which can take the form of reducing benefits for favored persons instead of increasing them for disfavored persons. *In re R.C.*, 195 Ill. 2d 291, 309 (2001). And given the limits on the courts' ability to order payments of unappropriated state funds, discussed above (at 32–35), Plaintiffs' request for court-ordered increases in state payments to them must be excluded. Finally, declaring section 18–8.15 unconstitutional, thereby reinstating the prior state aid formula, would undo the very progress toward a more equitable distribution of state funds that Plaintiffs approve. In short, Plaintiffs' equal protection claim fails to allege any constitutional violation or any basis for the extraordinary relief they seek, and it was properly dismissed.

CONCLUSION

For the foregoing reasons, the appellate court's judgment should be affirmed.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

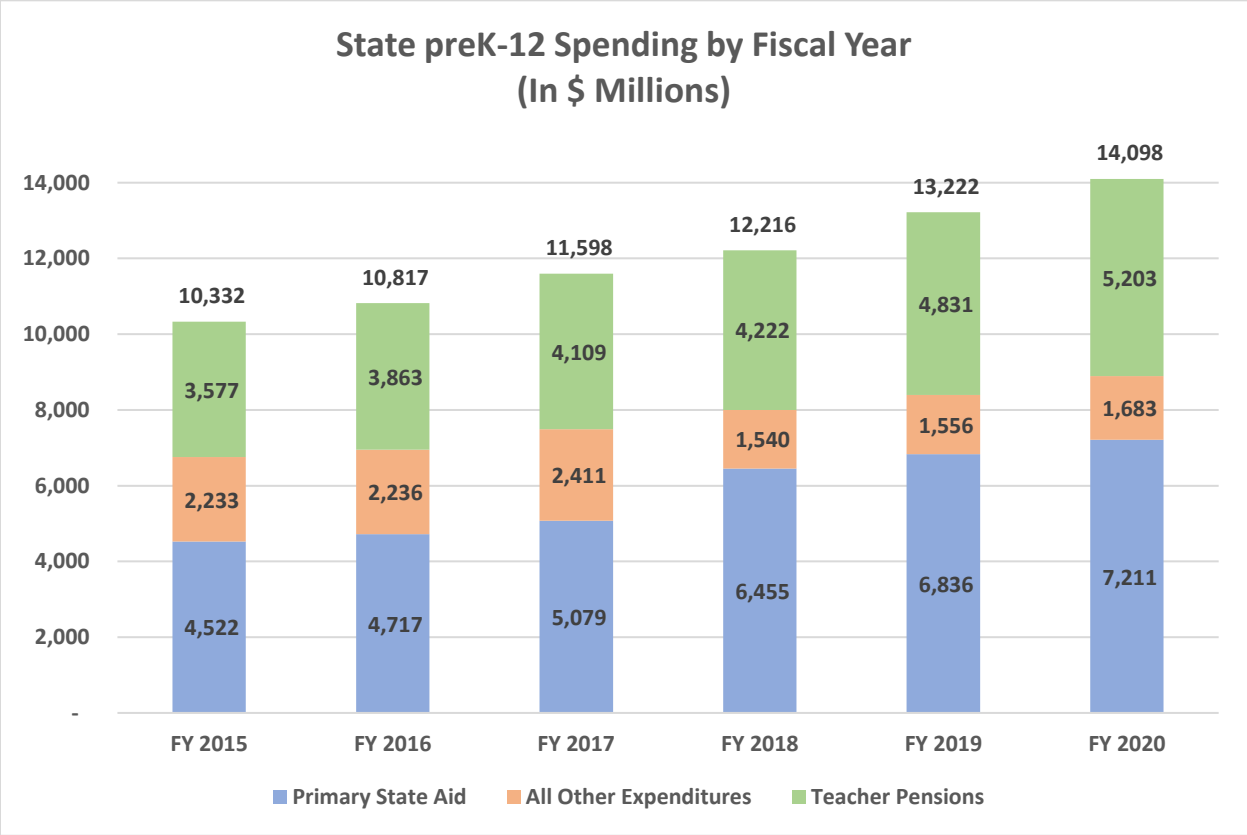
I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 67 pages.

/s/ *Richard S. Huszagh*

Supplementary Appendix

INDEX TO SUPPLEMENTARY APPENDIX

State Spending on Public Education – Fiscal Years 2015 to 2020



	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Primary State Aid	4,522	4,717	5,079	6,455	6,836	7,211
All Other Expenditures	2,233	2,236	2,411	1,540	1,556	1,683
Teacher Pensions	3,577	3,863	4,109	4,222	4,831	5,203
Total	10,332	10,817	11,598	12,216	13,222	14,098

Data Sources: Governor's Office of Management and Budget – Budget Books (*https://www2.illinois.gov/sites/budget/Pages/BudgetBooks.aspx*)

FY2017 Budget Book at pp. 460, 466; FY2018 Budget Book at pp. 474, 481; FY2019 Budget Book at pp. 451, 457; FY2020 Budget Book at pp. 438, 445; FY2021 Budget Book at pp. 456, 464; FY2022 Budget Book at pp. 449, 457 (all visited April 8, 2021).

ILLINOIS STATE BOARD OF EDUCATION

Fiscal Year 2020 School District Financial Profile Scores, based upon Fiscal Year 2019 Annual Financial Reports

Darren Reisberg
Chair of the Board

Dr. Carmen I. Ayala
State Superintendent of Education

Illinois State Board of Education

2020 School District Financial Profile Scores

Based on Fiscal Year 2019 Annual Financial Reports

Enclosed are the 2020 School District Financial Profile scores based on the Fiscal Year 2019 Annual Financial Reports. Financial profile calculations for school districts are determined using five key indicators:

- Fund Balance to Revenue Ratio
- Expenditure to Revenue Ratio
- Days Cash on Hand
- Percentage of Remaining Short-Term Borrowing Ability
- Percentage of Remaining Long-Term Borrowing Ability

A detailed explanation of these indicators and the Financial Profile calculation formulas are shown in Appendix A to the report. They are also available on the ISBE website at https://www.isbe.net/Pages/School-District-Financial-Profile.aspx.

Background Information

Section 1A-8 of the School Code states, "To promote the financial integrity of school districts, the State Board of Education shall be provided the necessary powers to promote sound financial management and continue operation of the public schools."

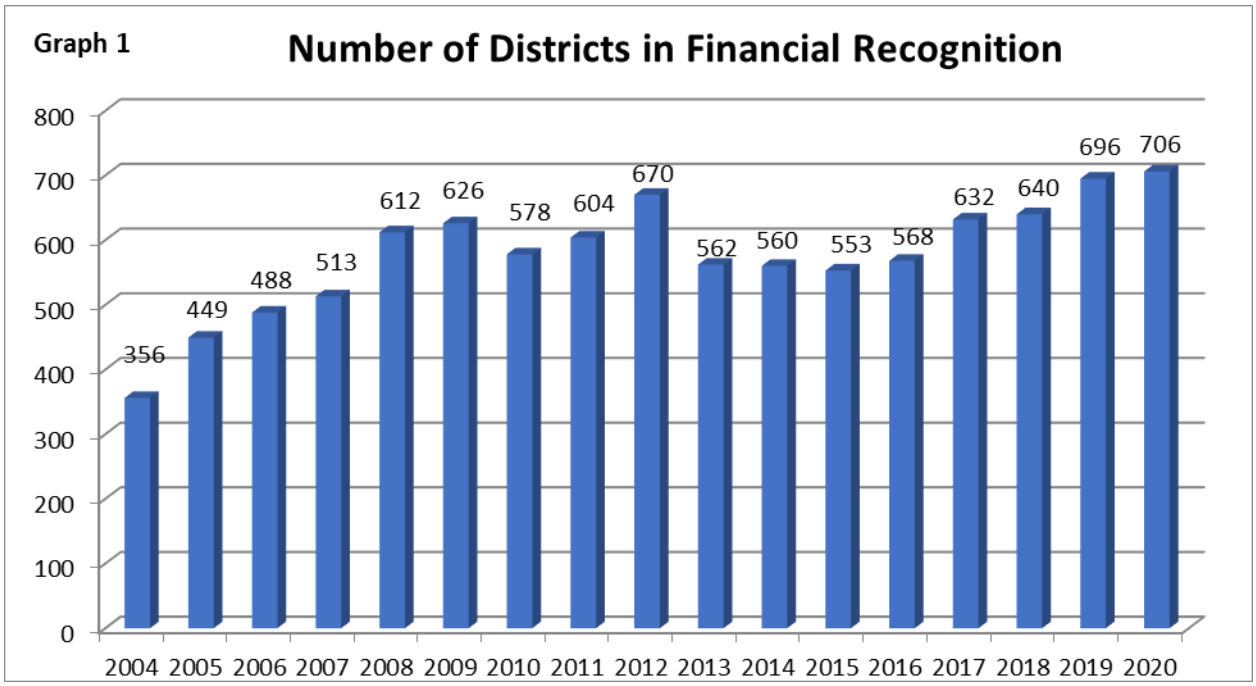
The School District Financial Profile was designed to better illustrate information on school district finances and to establish financial designation lists for all districts. The designation categories in descending order are:

- Financial Recognition (the highest category designation)
- Financial Review
- Financial Early Warning
- Financial Watch

This is the 17th year that the Financial Profile has been used to evaluate districts' fiscal solvency. Data for the 2020 Financial Profile reflects continued district financial improvement. This is due to increased equalized assessed values (EAVs), increased state funding through Evidence-Based Funding (EBF), and issuance of debt for operational purposes.

Graph 1 below provides for a longitudinal view of the number of districts in Financial Recognition for the Financial Profile years 2004 through 2020. It also reflects that the 2020 Financial Profile has realized the largest number of districts in Financial Recognition, 706 districts.

As the number of districts in Financial Recognition continues to increase, there was also a substantial decrease to the number of districts in Financial Watch. There are eight districts in Financial Watch compared to 12 districts for the 2019 Financial Profile.



2020 Financial Profile Analysis

Table 1 below summarizes the overall improvement to the 2020 Financial Profile. Districts move in and out of categories, but overall the number of districts in each category is moving toward the Recognition designation.

Table 1	2019 Financial Profile Based on FY 18 Data		2020 Financial Profile Based on FY 19 Data		Variance	
	#	%	#	%	#	%
Financial Recognition	696	81.8%	706	83.0%	10	1.2%
Financial Review	111	13.0%	113	13.3%	2	0.3%
Financial Early Warning	32	3.8%	24	2.8%	(8)	(1.0%)
Financial Watch	12	1.4%	8	0.9%	(4)	(0.5%)
Total	851	100.0%	851	100.0%	(0)	(0.0%)

The number of districts designated in Financial Recognition for the 2020 Financial Profile increased by 10 districts when compared to 2019. A summary of the improvements is as follows:

Equalized Assessed Value and Consumer Price Index (CPI): The 2017 EAV increased over the 2016 EAV by $16.1 billion (3.3 percent). The increase in the EAV increases districts' tax levy ability and the debt capacity. The CPI for tax-capped school districts remained consistent at 2.1 percent for both FYs 2018 and 2019. The increase in taxing ability increases districts' local revenue, which could improve the Fund Balance to Revenue, Expenditure to Revenue, and Days Cash on Hand indicators. If districts do not issue additional debt, the increased debt threshold lowers the percentage of debt outstanding and improves Short- and Long-Term Debt indicators. Total 2019 local revenue from operating funds' (Education, Operation and Maintenance, Transportation, and Working Cash Funds) increased $546.5 million (2.75 percent) over FY 2018 local funds.

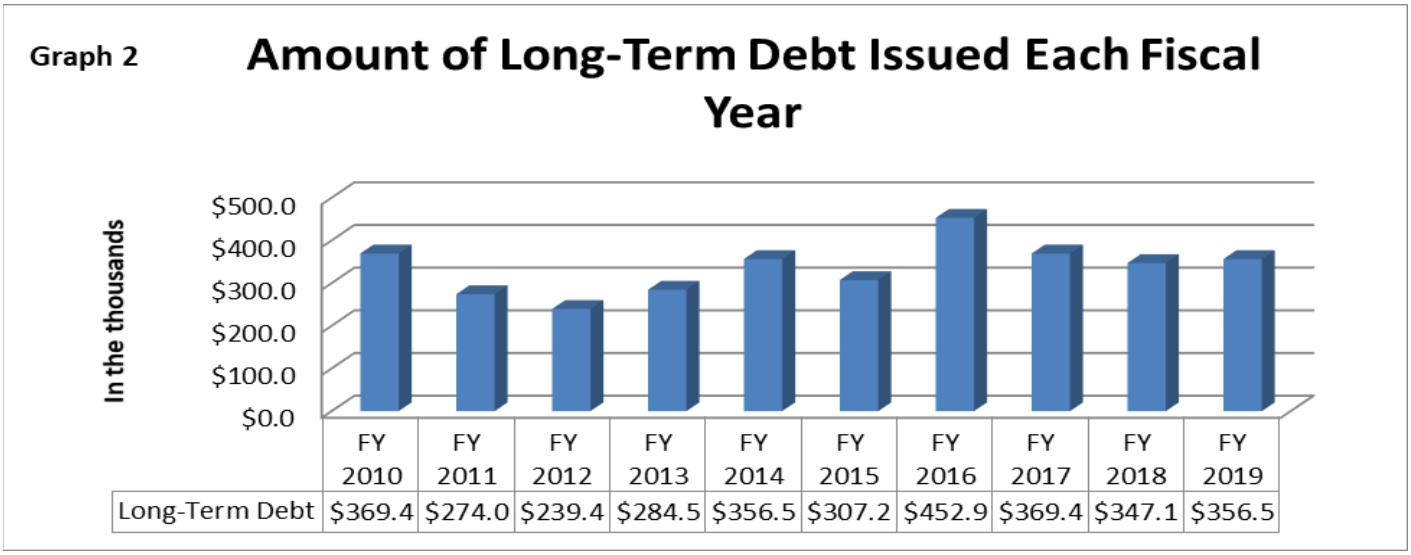
Increased State Funding:
The 2019 Annual Financial Reports (AFRs) reflect an increase in state revenue of $68.8 million (0.85 percent) over the 2018 AFRs. There has been more than $1 billion in new tier funding since the inception of EBF.

Expenditures:
FY 2019 statewide district expenditures increased $1.180 billion (4.75 percent) over FY 2018 expenditures.

Issuance of Operational Long-Term Debt:
Statewide issuance of debt in the operational funds increased $9.4 million (2.7 percent). Districts issued $356.5 million in long-term debt in the operational funds in FY 2019 compared to $347.1 million in FY 2018. Of the $356.5 million in long-term debt issued, $334.6 million (93.9 percent) was for Working Cash Fund Bonds of which $225.3 million (62.3 percent) was transferred to the Education, Operation and Maintenance, and Transportation funds for operational use. The issuance of debt in FY 2019 slightly increased over FY 2018, but it's not nearly as high as it was at the peak issuance of $452.9 million in FY 2016.

Graph 2 reflects districts' trends in issuing debt in the operational funds from FY 2010 through FY 2019

Graph 2

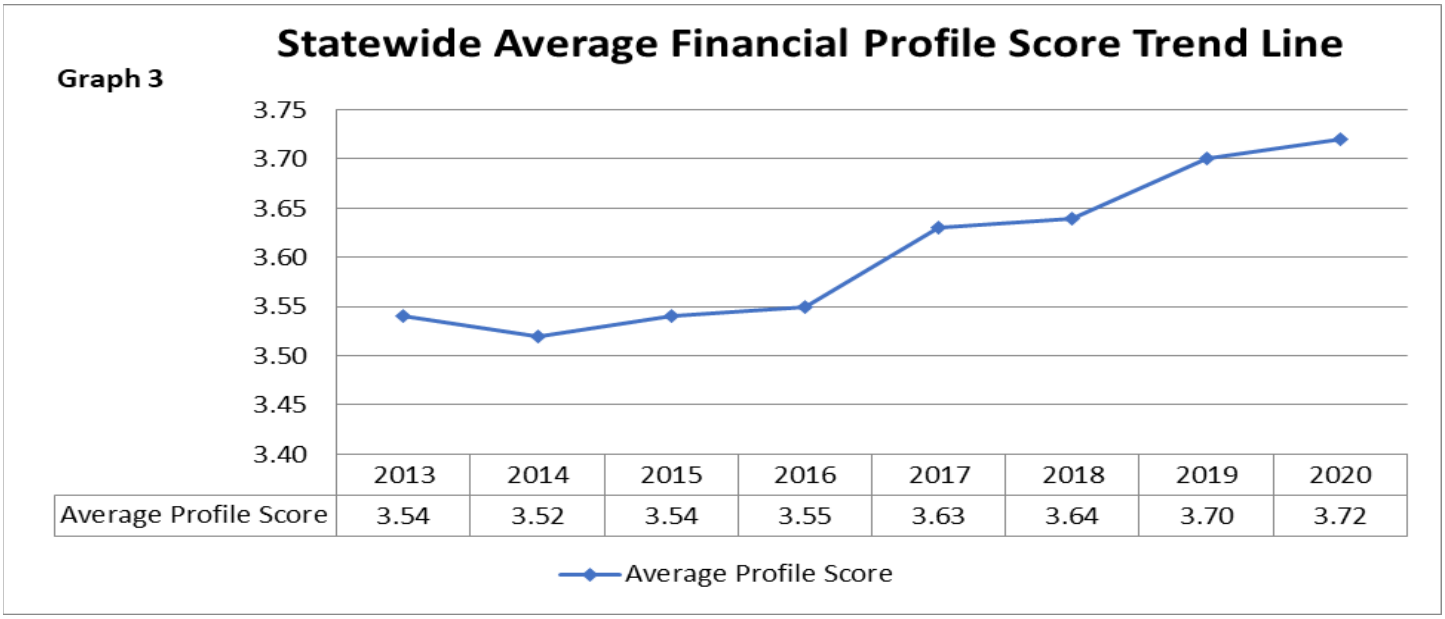


	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Long-Term Debt	$369.4	$274.0	$239.4	$284.5	$356.5	$307.2	$452.9	$369.4	$347.1	$356.5

Graph 3 shows that the 2020 Financial Profile statewide average score increased to 3.72 from the 2019 average profile score of 3.70. All statewide average financial profile scores below are within the Financial Recognition designation (3.54 – 4.00) except for FY 2014 which is within the Financial Review designation. For the first year of the Financial Profile (2004), the statewide designation was 3.18, Financial Review.

Graph 3 reflects the average Financial Profile score for 2013 through 2020.

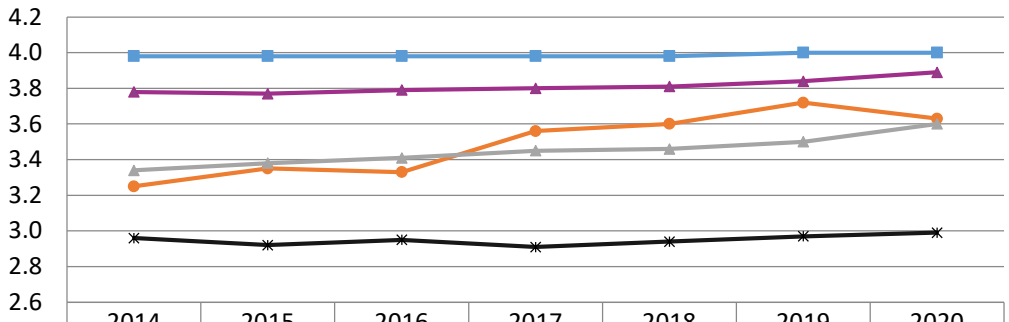
Graph 3



	2013	2014	2015	2016	2017	2018	2019	2020
Average Profile Score	3.54	3.52	3.54	3.55	3.63	3.64	3.70	3.72

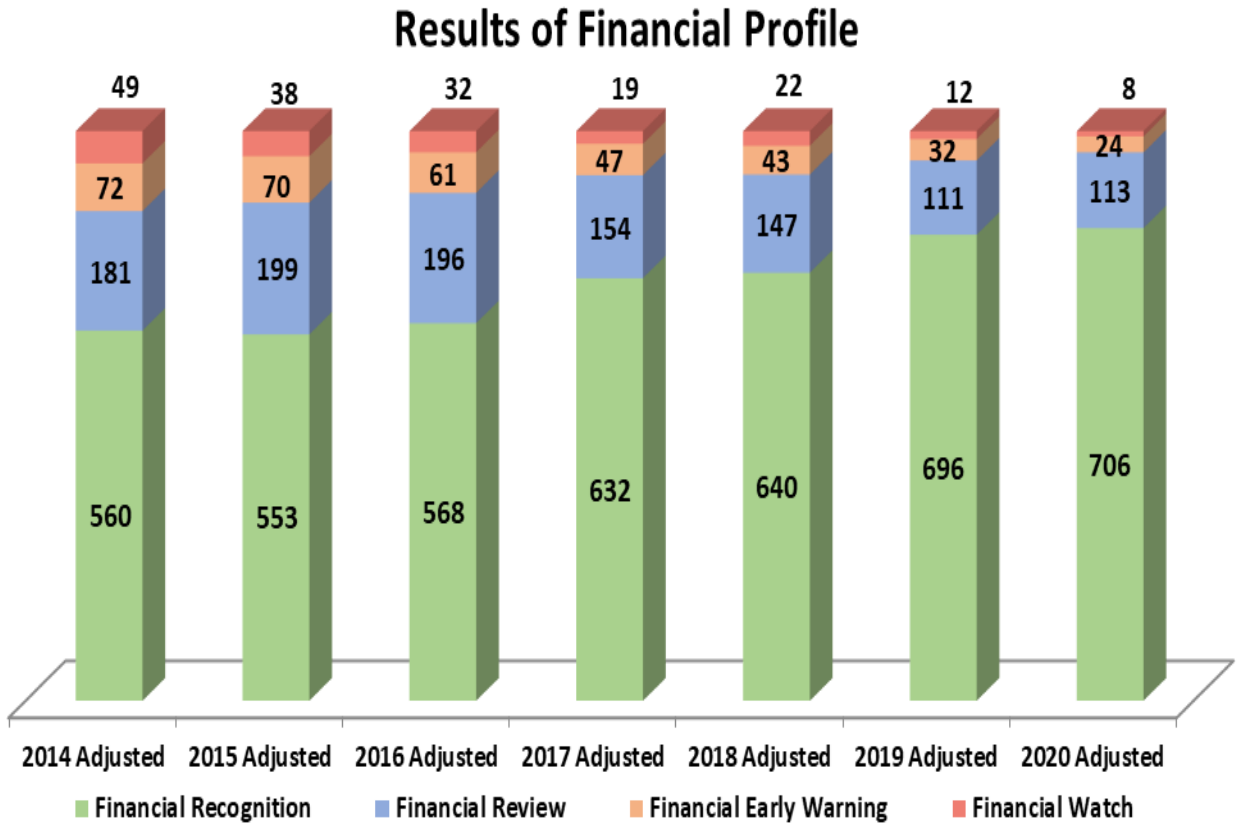
Graph 4 reflects the improvement in each of the financial indicators for the 2020 Financial Profile. The graph also reveals the trend for each indicator from 2014 through the 2020 Financial Profile. All Financial Profile indicators, with the exception of the Expenditure to Revenue Ratio, reflected an upward trend for the 2020 Financial Profile. The downward trend for the Expenditure to Revenue Ratio denotes that districts have increased their spending as compared to the amount of revenue received.

Graph 4



	2014	2015	2016	2017	2018	2019	2020
Fund Balance to Revenue Ratio	3.78	3.77	3.79	3.80	3.81	3.84	3.89
Expenditure to Revenue Ratio	3.25	3.35	3.33	3.56	3.60	3.72	3.63
Days Cash on Hand	3.34	3.38	3.41	3.45	3.46	3.50	3.60
Short-Term Debt	3.98	3.98	3.98	3.98	3.98	4.00	4.00
Long-Term Debt	2.96	2.92	2.95	2.91	2.94	2.97	2.99

Graph 6



The map on the next page designates the geographic regions of the 2019 Financial Watch List districts. A summary of the location of the 8 districts is as follows:

- One each in Brown, Bureau, Champaign, Grundy, Kendall, Knox, Macon, and Pike counties.

Illinois At-A-Glance Report Card | 2018-2019

For more information, visit IllinoisReportCard.com

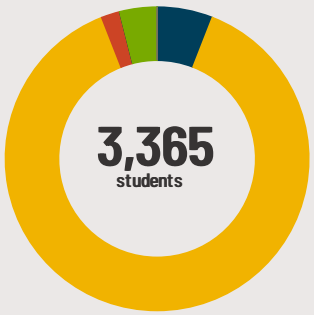
Cahokia CUSD 187

1700 Jerome Ln Cahokia, IL 62206 (618)332-3700

Grades: PK - 12

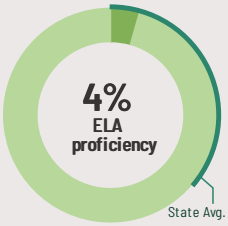
Superintendent: Mr.Arnett Harvey

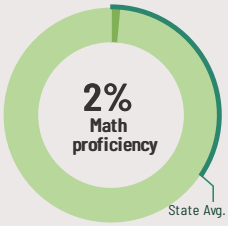
Fast Facts

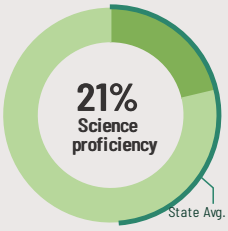


Student Characteristics

White	6%
Black	89%
Hispanic	2%
Asian	0%
American Indian	0%
Two or More Races	4%
Pacific Islander	0%
Low Income	93%
English Learners	1%
With IEPs	24%
With Disabilities	-
Homeless	13%



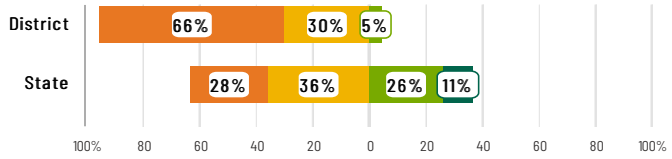




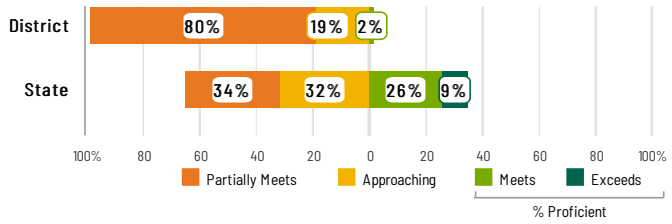
Academic Success

High school students take the SAT in English Language Arts and Math. The display shows SAT ELA & Math results in four performance levels.

English Language Arts



Mathematics



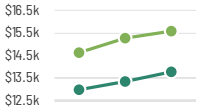
District Finance

Instructional Spending per Pupil includes only the activities directly dealing with the teaching of students or the interaction between teachers and students.

	2016	2017	2018
District	$7,434	$7,960	**$8,019**
State	$7,853	$8,024	**$8,172**

Operational Spending per Pupil includes all costs for overall operations in this district, including Instructional Spending, but excluding summer school, adult education, capital expenditures, and long-term debt payments.

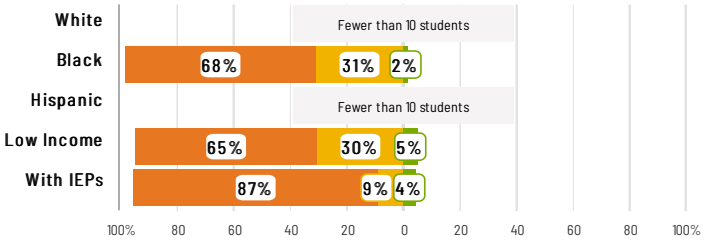
	2016	2017	2018
District	$14,612	$15,254	**$15,563**
State	$12,973	$13,337	**$13,764**



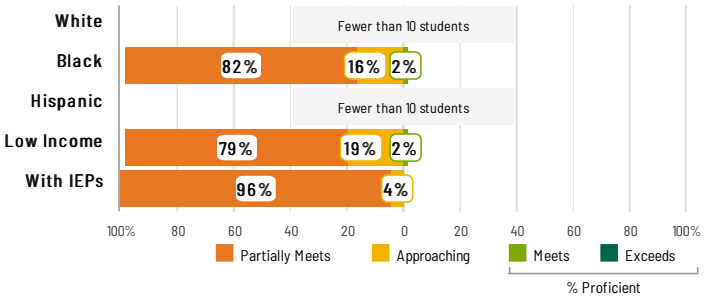
Success by Student Group

This display shows SAT ELA & Math performance levels for each student group. No data is shown for groups with fewer than 10 students.

English Language Arts



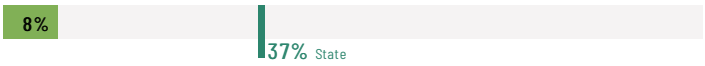
Mathematics



College Readiness

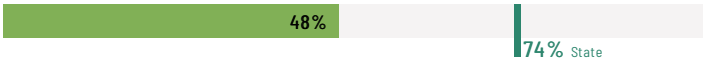
Early College Coursework

Students taking early college coursework in grades 10, 11, and 12



Postsecondary Enrollment

Students who enroll at colleges and universities



Community College Remediation *(lower is better)*

Students enrolled in Illinois community colleges who require remedial coursework

Graduation Rate

Percentage of students who graduated within 4 years

SA 8

Cahokia CUSD 187

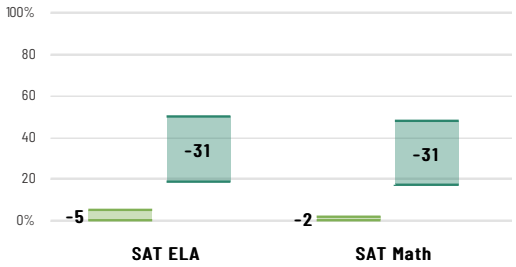
Schools in District

School Name	Grades	Summative Designation
Cahokia High School	8 - 12	Commendable
7th Grade Academy	6 - 8	Comprehensive
8th Grade Academy	7 - 8	Comprehensive
Elizabeth Morris Elem School	K - 3	Comprehensive
Estelle Sauget School of Choice	PK - 8	Targeted

School Name	Grades	Summative Designation
Huffman Elem School	3 - 5	Comprehensive
Lalumier Elem School	PK - 3	Comprehensive
Maplewood Elem School	PK - 3	
Oliver Parks 6th Grade School	4 - 6	Comprehensive
Penniman Elem School	3 - 5	Comprehensive

Achievement Gap

Achievement gaps display the differences in academic performance between student groups. The display below shows the gap in readiness for the next level between low income (LI) students and non-low income (non-LI) students on the SAT for both English Language Arts (ELA) and Math.



	SAT ELA		SAT Math	
	District	State	District	State
Non-Low Income	0%	50%	0%	48%
Low Income	5%	19%	2%	17%
Gap	**5**	**-31**	**2**	**-31**

Student Attendance and Mobility

Attendance Rate

Rate at which students are present at school, not including excused or unexcused absences

Chronic Absenteeism

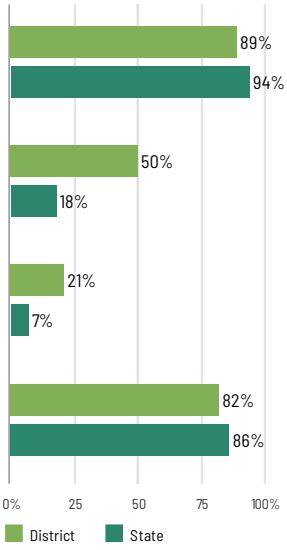
Percentage of students who miss 10% or more of school days per year either with or without a valid excuse

Student Mobility

Percentage of students who transfer in or out of the school during the school year, not including graduates

Teacher Retention

Percentage of full time teachers who return to the same school year to year



Educator Measures

This district has had an average of **2 principal(s)** at the same school over the past 6 years. District wide in the last three years, an average of **82% of teachers** return to the same school each year.

FOR MORE INFORMATION

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SA 9

Illinois At-A-Glance Report Card | 2018-2019

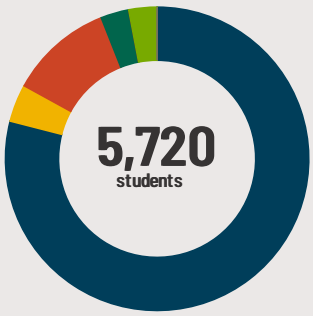
For more information, visit IllinoisReportCard.com

Batavia USD 101

335 W Wilson St Batavia, IL 60510 (630)937-8834

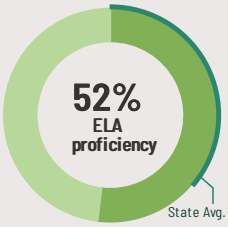
Grades: PK - 12
Superintendent: Dr.Lisa Hichens

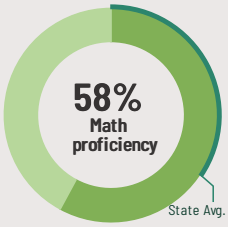
Fast Facts

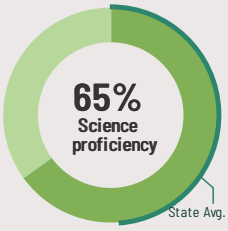


Student Characteristics

White	79%
Black	4%
Hispanic	11%
Asian	3%
American Indian	0%
Two or More Races	3%
Pacific Islander	0%
Low Income	18%
English Learners	4%
With IEPs	15%
With Disabilities	-
Homeless	1%



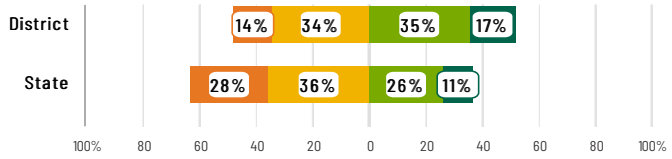




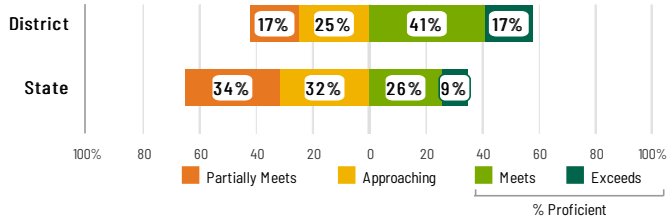
Academic Success

High school students take the SAT in English Language Arts and Math. The display shows SAT ELA & Math results in four performance levels.

English Language Arts



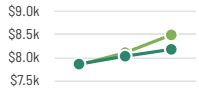
Mathematics



District Finance

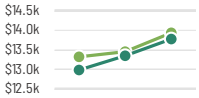
Instructional Spending per Pupil includes only the activities directly dealing with the teaching of students or the interaction between teachers and students.

	2016	2017	2018
District	$7,836	$8,100	**$8,484**
State	$7,853	$8,024	**$8,172**



Operational Spending per Pupil includes all costs for overall operations in this district, including Instructional Spending, but excluding summer school, adult education, capital expenditures, and long-term debt payments.

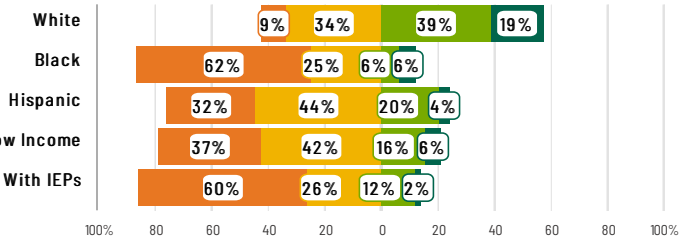
	2016	2017	2018
District	$13,309	$13,441	**$13,922**
State	$12,973	$13,337	**$13,764**



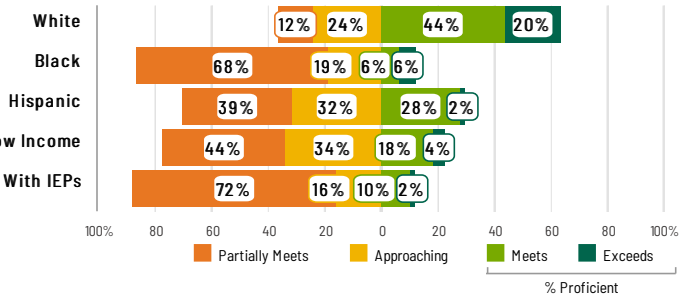
Success by Student Group

This display shows SAT ELA & Math performance levels for each student group. No data is shown for groups with fewer than 10 students.

English Language Arts



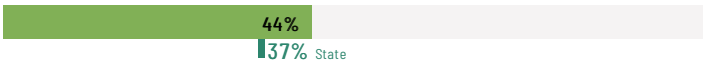
Mathematics



College Readiness

Early College Coursework

Students taking early college coursework in grades 10, 11, and 12

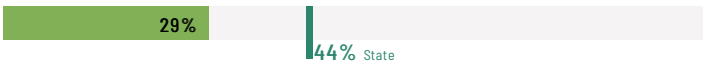


Postsecondary Enrollment

Students who enroll at colleges and universities

Community College Remediation ***(lower is better)***

Students enrolled in Illinois community colleges who require remedial coursework



Graduation Rate

Percentage of students who graduated within 4 years

SA 10

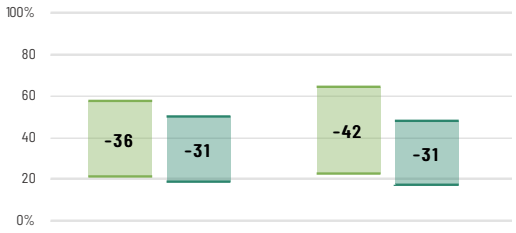
Batavia USD 101

Schools in District

School Name	Grades	Summative Designation
Batavia Sr High School	9 - 12	Commendable
Sam Rotolo Middle Sch	6 - 8	Commendable
Alice Gustafson Elem School	PK - 5	Exemplary
Grace McWayne Elementary School	K - 5	Commendable
H C Storm Elem School	K - 5	Commendable
Hoover Wood Elem School	K - 5	Commendable
J B Nelson Elem School	K - 5	Commendable
Louise White Elem School	K - 5	Exemplary

Achievement Gap

Achievement gaps display the differences in academic performance between student groups. The display below shows the gap in readiness for the next level between low income (LI) students and non-low income (non-LI) students on the SAT for both English Language Arts (ELA) and Math.



	SAT ELA		SAT Math	
	District	State	District	State
Non-Low Income	58%	50%	64%	48%
Low Income	21%	19%	23%	17%
Gap	**-36**	**-31**	**-42**	**-31**

Student Attendance and Mobility

Attendance Rate

Rate at which students are present at school, not including excused or unexcused absences

Chronic Absenteeism

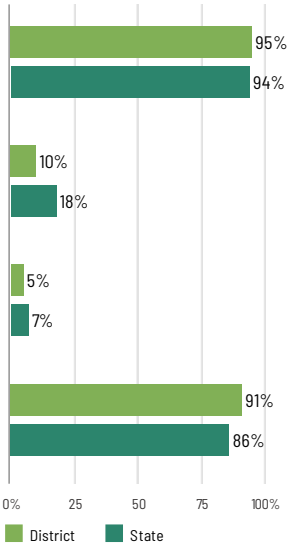
Percentage of students who miss 10% or more of school days per year either with or without a valid excuse

Student Mobility

Percentage of students who transfer in or out of the school during the school year, not including graduates

Teacher Retention

Percentage of full time teachers who return to the same school year to year



Educator Measures

This district has had an average of **1 principal(s)** at the same school over the past 6 years. District wide in the last three years, an average of **91% of teachers** return to the same school each year.

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Illinois At-A-Glance Report Card | 2018-2019

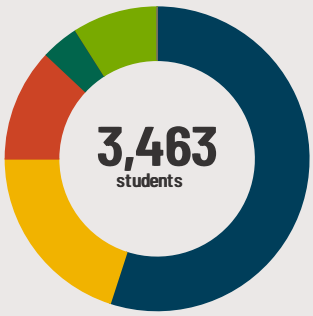
For more information, visit IllinoisReportCard.com

Oak Park - River Forest SD 200

201 N Scoville Ave Oak Park, IL 60302 (708)383-0700

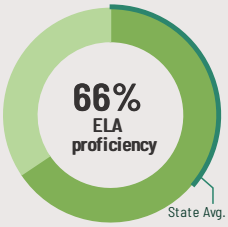
Grades: 9 - 12
Superintendent: Dr.Joylynn Pruitt-Adams

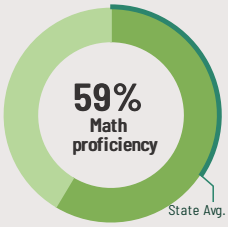
Fast Facts

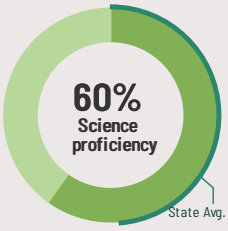


Student Characteristics

White	55%
Black	20%
Hispanic	12%
Asian	4%
American Indian	0%
Two or More Races	9%
Pacific Islander	0%
Low Income	19%
English Learners	1%
With IEPs	18%
With Disabilities	-
Homeless	1%



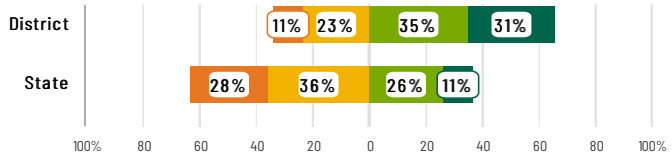




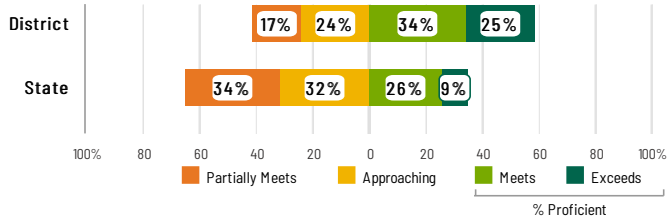
Academic Success

High school students take the SAT in English Language Arts and Math. The display shows SAT ELA & Math results in four performance levels.

English Language Arts



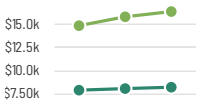
Mathematics



District Finance

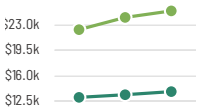
Instructional Spending per Pupil includes only the activities directly dealing with the teaching of students or the interaction between teachers and students.

	2016	2017	2018
District	$14,822	$15,783	**$16,346**
State	$7,853	$8,024	**$8,172**



Operational Spending per Pupil includes all costs for overall operations in this district, including Instructional Spending, but excluding summer school, adult education, capital expenditures, and long-term debt payments.

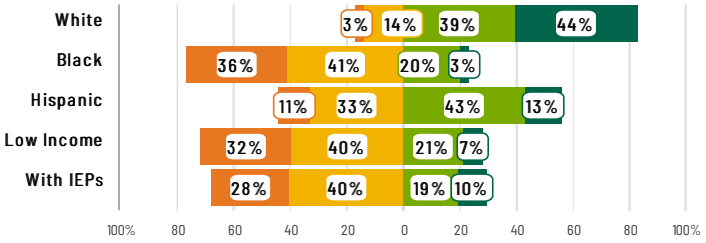
	2016	2017	2018
District	$22,283	$23,966	**$24,863**
State	$12,973	$13,337	**$13,764**



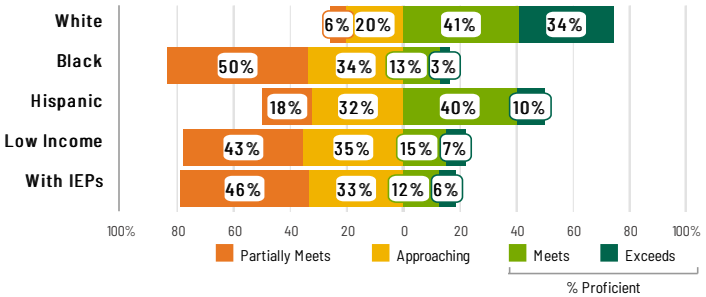
Success by Student Group

This display shows SAT ELA & Math performance levels for each student group. No data is shown for groups with fewer than 10 students.

English Language Arts



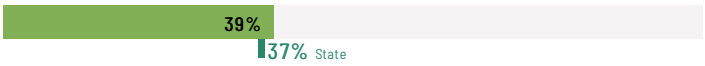
Mathematics



College Readiness

Early College Coursework

Students taking early college coursework in grades 10, 11, and 12

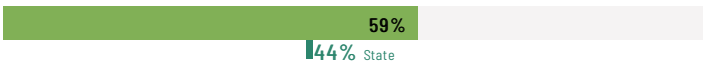


Postsecondary Enrollment

Students who enroll at colleges and universities

Community College Remediation ***(lower is better)***

Students enrolled in Illinois community colleges who require remedial coursework



Graduation Rate

Percentage of students who graduated within 4 years

SA 12

Oak Park - River Forest SD 200

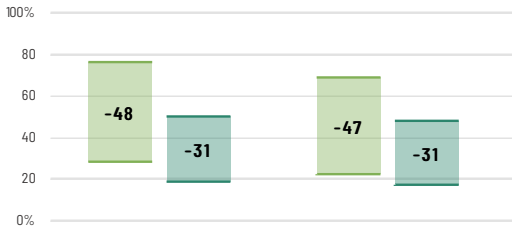
Schools in District

School Name	Grades	Summative Designation
Oak Park & River Forest High Sch	9 - 12	Commendable

School Name	Grades	Summative Designation

Achievement Gap

Achievement gaps display the differences in academic performance between student groups. The display below shows the gap in readiness for the next level between low income (LI) students and non-low income (non-LI) students on the SAT for both English Language Arts (ELA) and Math.



	SAT ELA		SAT Math	
	District	State	District	State
Non-Low Income	76%	50%	69%	48%
Low Income	28%	19%	22%	17%
Gap	-48	-31	-47	-31

Student Attendance and Mobility

Attendance Rate

Rate at which students are present at school, not including excused or unexcused absences

Chronic Absenteeism

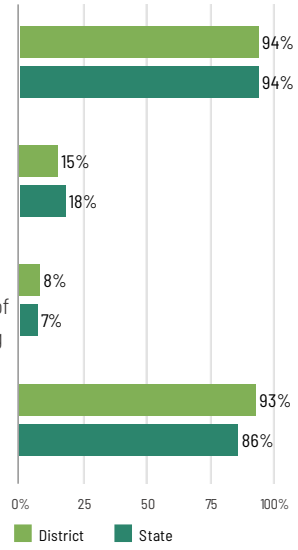
Percentage of students who miss 10% or more of school days per year either with or without a valid excuse

Student Mobility

Percentage of students who transfer in or out of the school during the school year, not including graduates

Teacher Retention

Percentage of full time teachers who return to the same school year to year



Educator Measures

This district has had an average of **1 principal(s)** at the same school over the past 6 years. District wide in the last three years, an average of **93% of teachers** return to the same school each year.

FOR MORE INFORMATION

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Illinois At-A-Glance Report Card | 2018-2019

For more information, visit IllinoisReportCard.com

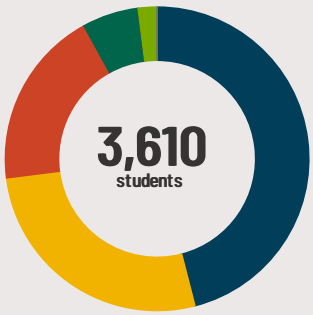
Evanston Twp HSD 202

1600 Dodge Ave Evanston, IL 60201 (847)424-7220

Grades: 9 - 12

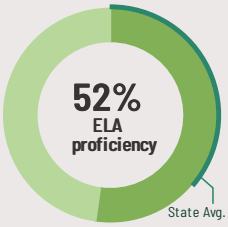
Superintendent: Dr.Eric Witherspoon

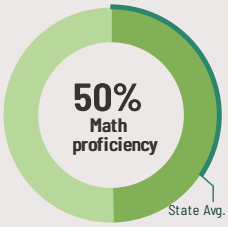
Fast Facts

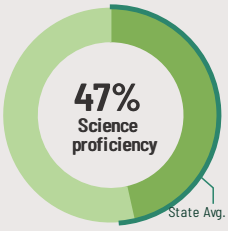


Student Characteristics

White	46%
Black	27%
Hispanic	19%
Asian	6%
American Indian	0%
Two or More Races	2%
Pacific Islander	0%
Low Income	37%
English Learners	5%
With IEPs	14%
With Disabilities	-
Homeless	4%



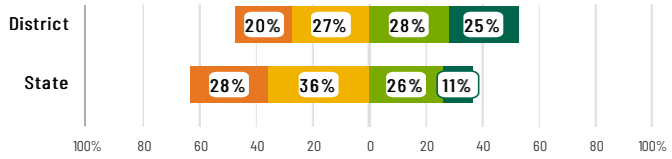




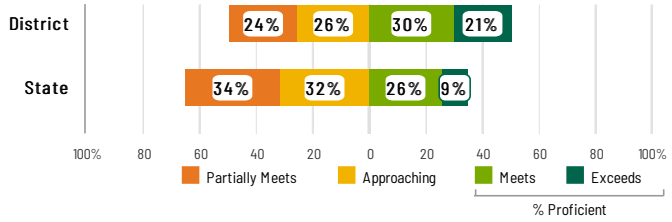
Academic Success

High school students take the SAT in English Language Arts and Math. The display shows SAT ELA & Math results in four performance levels.

English Language Arts



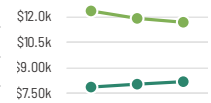
Mathematics



District Finance

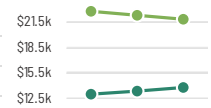
Instructional Spending per Pupil includes only the activities directly dealing with the teaching of students or the interaction between teachers and students.

	2016	2017	2018
District	$12,340	$11,900	**$11,673**
State	$7,853	$8,024	**$8,172**



Operational Spending per Pupil includes all costs for overall operations in this district, including Instructional Spending, but excluding summer school, adult education, capital expenditures, and long-term debt payments.

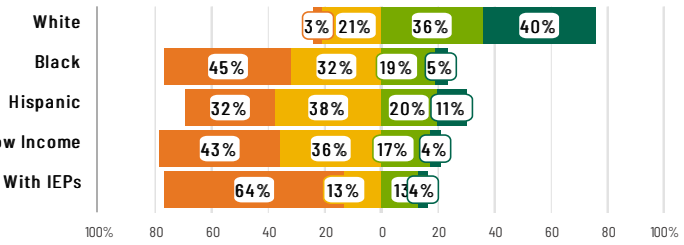
	2016	2017	2018
District	$22,742	$22,273	**$21,806**
State	$12,973	$13,337	**$13,764**



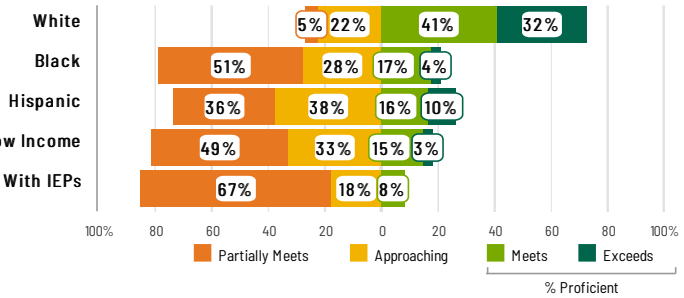
Success by Student Group

This display shows SAT ELA & Math performance levels for each student group. No data is shown for groups with fewer than 10 students.

English Language Arts



Mathematics



College Readiness

Early College Coursework

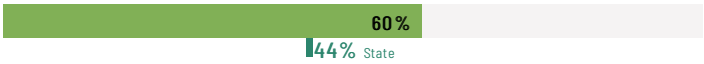
Students taking early college coursework in grades 10, 11, and 12

Postsecondary Enrollment

Students who enroll at colleges and universities

Community College Remediation *(lower is better)*

Students enrolled in Illinois community colleges who require remedial coursework



Graduation Rate

Percentage of students who graduated within 4 years

Evanston Twp HSD 202

Schools in District

School Name	Grades	Summative Designation
Evanston Twp High School	9 - 12	Commendable

School Name	Grades	Summative Designation

Achievement Gap

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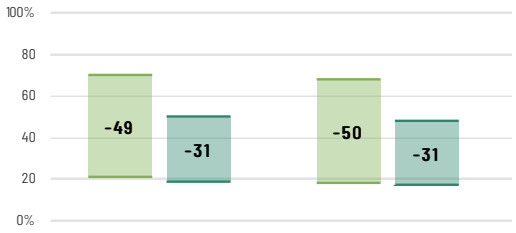


	SAT ELA		SAT Math	
	District	State	District	State
Non-Low Income	70%	50%	68%	48%
Low Income	21%	19%	18%	17%
Gap	-49	-31	-50	-31

Student Attendance and Mobility

Attendance Rate

Rate at which students are present at school, not including excused or unexcused absences

Chronic Absenteeism

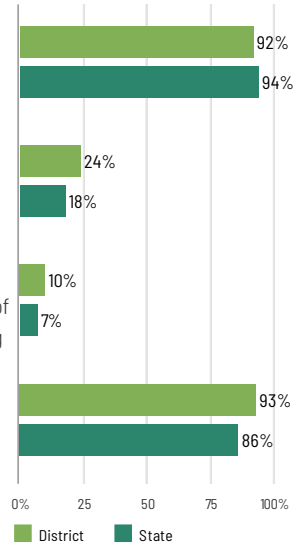
Percentage of students who miss 10% or more of school days per year either with or without a valid excuse

Student Mobility

Percentage of students who transfer in or out of the school during the school year, not including graduates

Teacher Retention

Percentage of full time teachers who return to the same school year to year



Educator Measures

This district has had an average of **1 principal(s)** at the same school over the past 6 years. District wide in the last three years, an average of **93% of teachers** return to the same school each year.

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Illinois At-A-Glance Report Card | 2018-2019

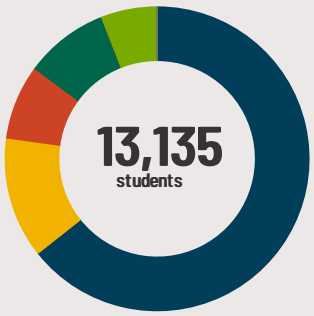
For more information, visit IllinoisReportCard.com

McLean County USD 5

1809 Hovey Ave Normal, IL 61761 (309)557-4400

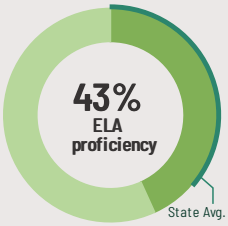
Grades: PK - 12
Superintendent: Dr.Kristen Kendrick Weikle

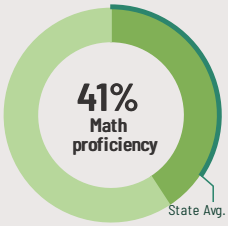
Fast Facts

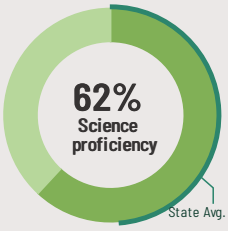


Student Characteristics

White	65%
Black	13%
Hispanic	8%
Asian	9%
American Indian	0%
Two or More Races	6%
Pacific Islander	0%
Low Income	33%
English Learners	5%
With IEPs	18%
With Disabilities	-
Homeless	0%



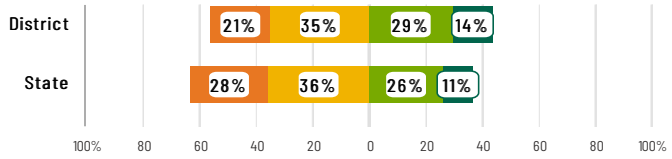




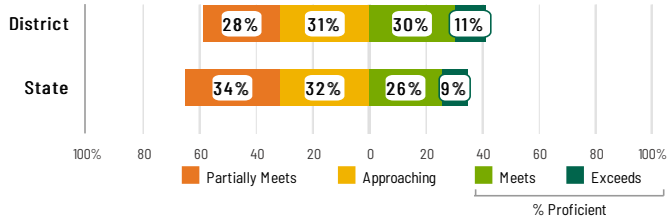
Academic Success

High school students take the SAT in English Language Arts and Math. The display shows SAT ELA & Math results in four performance levels.

English Language Arts



Mathematics



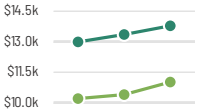
District Finance

Instructional Spending per Pupil includes only the activities directly dealing with the teaching of students or the interaction between teachers and students.

	2016	2017	2018
District	$5,764	$5,903	**$6,277**
State	$7,853	$8,024	**$8,172**

Operational Spending per Pupil includes all costs for overall operations in this district, including Instructional Spending, but excluding summer school, adult education, capital expenditures, and long-term debt payments.

	2016	2017	2018
District	$10,189	$10,385	**$11,001**
State	$12,973	$13,337	**$13,764**



Success by Student Group

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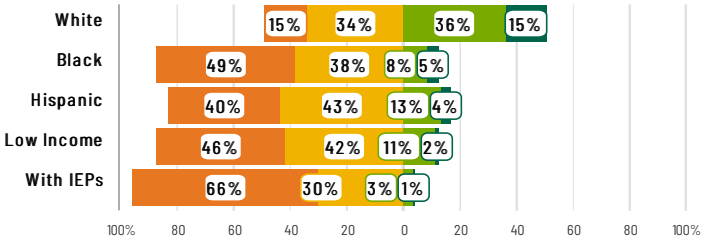
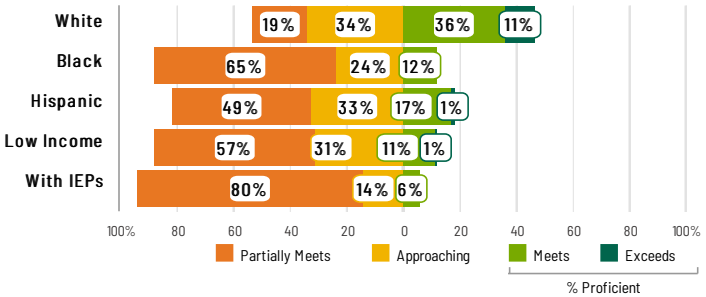
English Language Arts



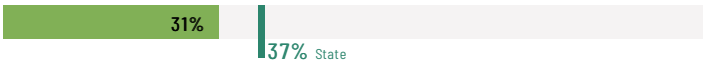
Mathematics



College Readiness

Early College Coursework

Students taking early college coursework in grades 10, 11, and 12

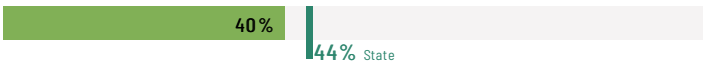


Postsecondary Enrollment

Students who enroll at colleges and universities

Community College Remediation ***(lower is better)***

Students enrolled in Illinois community colleges who require remedial coursework



Graduation Rate

Percentage of students who graduated within 4 years

McLean County USD 5

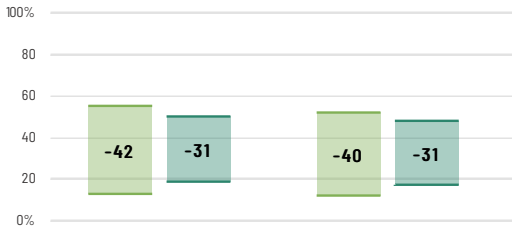
Schools in District

School Name	Grades	Summative Designation
Eugene Field School	9 - 12	
Normal Community High School	9 - 12	Commendable
Normal Community West High School	9 - 12	Commendable
Chiddix Jr High School	6 - 8	Commendable
Evans Junior High School	6 - 8	Targeted
Kingsley Jr High School	6 - 8	Commendable
Parkside Jr High School	6 - 8	Commendable
Benjamin Elem School	K - 5	Commendable
Carlock Elem School	K - 5	Exemplary
Cedar Ridge Elem School	K - 5	Commendable
Colene Hoose Elem School	K - 5	Commendable
Fairview Elem School	PK - 5	Commendable
Fox Creek Elementary School	K - 5	Commendable

School Name	Grades	Summative Designation
Glenn Elem School	K - 5	Commendable
Grove Elementary School	K - 5	Exemplary
Hudson Elem School	K - 5	Commendable
Northpoint Elementary School	K - 5	Commendable
Oakdale Elem School	K - 5	Commendable
Parkside Elementary School	PK - 5	Commendable
Pepper Ridge Elementary School	K - 5	Commendable
Prairieland Elementary School	K - 5	Exemplary
Sugar Creek Elem School	PK - 5	Commendable
Towanda Elem School	K - 5	Exemplary
Brigham Elementary	PK	
YBMC Charter Sch	11 - 12	

Achievement Gap

Achievement gaps display the differences in academic performance between student groups. The display below shows the gap in readiness for the next level between low income (LI) students and non-low income (non-LI) students on the SAT for both English Language Arts (ELA) and Math.



	SAT ELA		SAT Math	
	District	State	District	State
Non-Low Income	55%	50%	52%	48%
Low Income	13%	19%	12%	17%
Gap	-42	-31	-40	-31

Student Attendance and Mobility

Attendance Rate

Rate at which students are present at school, not including excused or unexcused absences

Chronic Absenteeism

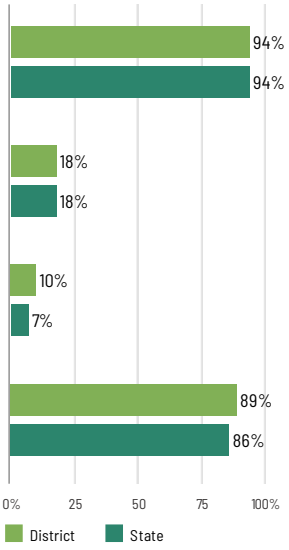
Percentage of students who miss 10% or more of school days per year either with or without a valid excuse

Student Mobility

Percentage of students who transfer in or out of the school during the school year, not including graduates

Teacher Retention

Percentage of full time teachers who return to the same school year to year



Educator Measures

This district has had an average of **2 principal(s)** at the same school over the past 6 years. District wide in the last three years, an average of **89% of teachers** return to the same school each year.

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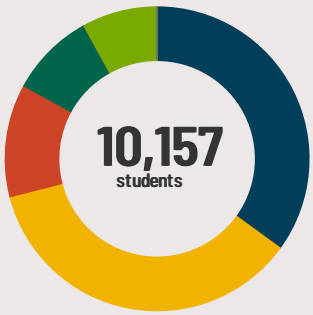
For more information, visit IllinoisReportCard.com

Champaign CUSD 4

502 W Windsor Rd Champaign, IL 61820 (217)351-3838

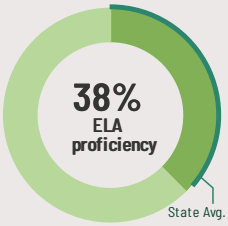
Grades: PK - 12
Superintendent: Dr.Susan Zola

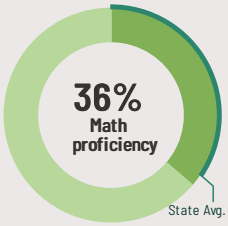
Fast Facts

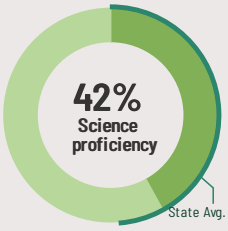


Student Characteristics

White	35%
Black	36%
Hispanic	12%
Asian	9%
American Indian	0%
Two or More Races	8%
Pacific Islander	0%
Low Income	55%
English Learners	12%
With IEPs	15%
With Disabilities	-
Homeless	2%



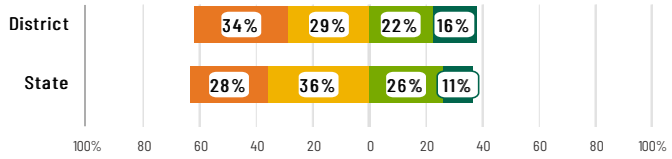




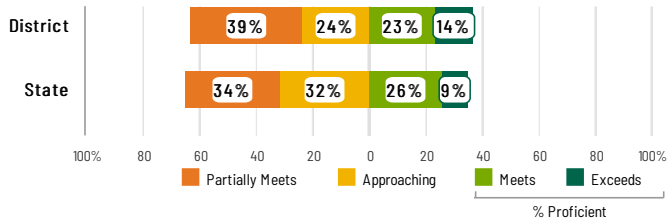
Academic Success

High school students take the SAT in English Language Arts and Math. The display shows SAT ELA & Math results in four performance levels.

English Language Arts



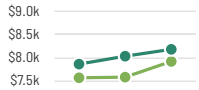
Mathematics



District Finance

Instructional Spending per Pupil includes only the activities directly dealing with the teaching of students or the interaction between teachers and students.

	2016	2017	2018
District	$7,557	$7,571	**$7,910**
State	$7,853	$8,024	**$8,172**



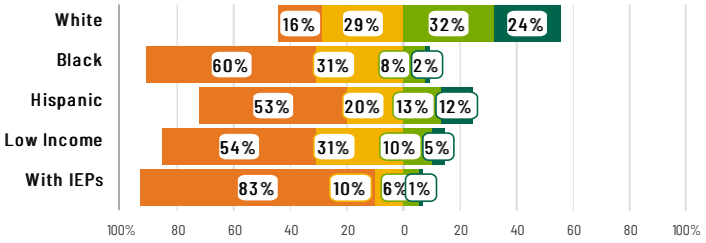
Operational Spending per Pupil includes all costs for overall operations in this district, including Instructional Spending, but excluding summer school, adult education, capital expenditures, and long-term debt payments.

	2016	2017	2018
District	$13,478	$13,978	**$14,367**
State	$12,973	$13,337	**$13,764**

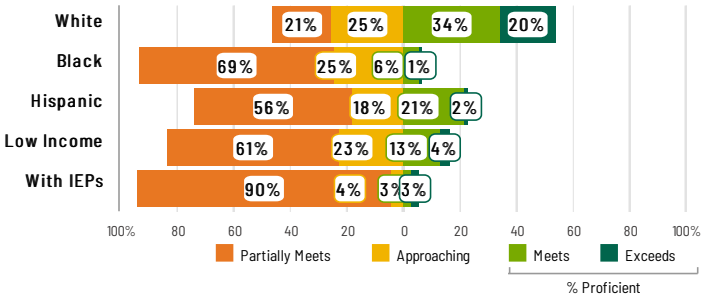
Success by Student Group

This display shows SAT ELA & Math performance levels for each student group. No data is shown for groups with fewer than 10 students.

English Language Arts



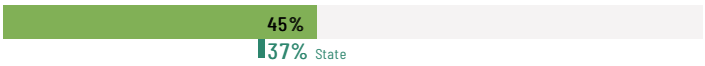
Mathematics



College Readiness

Early College Coursework

Students taking early college coursework in grades 10, 11, and 12

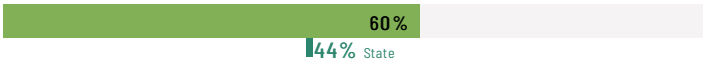


Postsecondary Enrollment

Students who enroll at colleges and universities

Community College Remediation ***(lower is better)***

Students enrolled in Illinois community colleges who require remedial coursework



Graduation Rate

Percentage of students who graduated within 4 years

SA 18

Champaign CUSD 4

Schools in District

School Name	Grades	Summative Designation
Centennial High School	9 - 12	Commendable
Central High School	9 - 12	Commendable
Edison Middle School	6 - 8	Targeted
Franklin Middle School	6 - 8	Targeted
Jefferson Middle School	6 - 8	Commendable
Bottenfield Elem School	K - 5	Commendable
Carrie Busey Elem School	K - 5	Exemplary
Dr Howard Elem School	K - 5	Targeted
Garden Hills Elem School	K - 5	Targeted

School Name	Grades	Summative Designation
International Prep Academy	K - 5	Commendable
Kenwood Elem School	K - 5	Commendable
Robeson Elem School	K - 5	Targeted
South Side Elementary School	K - 5	Commendable
Stratton Elementary School	K - 5	Commendable
Vernon L Barkstall Elementary Sch	K - 5	Commendable
Washington Elem School	K - 5	Targeted
Westview Elem School	K - 5	Targeted
Champaign Early Chldhd Cntr	PK	

Achievement Gap

Achievement gaps display the differences in academic performance between student groups. The display below shows the gap in readiness for the next level between low income (LI) students and non-low income (non-LI) students on the SAT for both English Language Arts (ELA) and Math.

	SAT ELA		SAT Math	
	District	State	District	State
Non-Low Income	56%	50%	53%	48%
Low Income	15%	19%	17%	17%
Gap	-42	-31	-36	-31

Student Attendance and Mobility

Attendance Rate

Rate at which students are present at school, not including excused or unexcused absences

Chronic Absenteeism

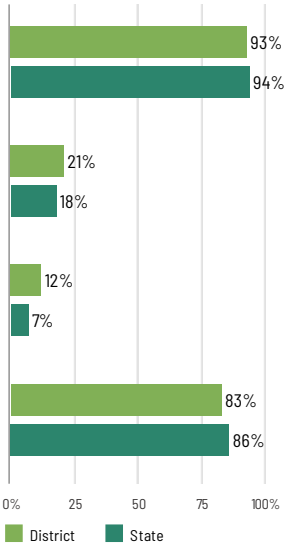
Percentage of students who miss 10% or more of school days per year either with or without a valid excuse

Student Mobility

Percentage of students who transfer in or out of the school during the school year, not including graduates

Teacher Retention

Percentage of full time teachers who return to the same school year to year



Educator Measures

This district has had an average of **2 principal(s)** at the same school over the past 6 years. District wide in the last three years, an average of **83% of teachers** return to the same school each year.

FOR MORE INFORMATION

Visit IllinoisReportCard.com to see additional details about each item of information for this school. There you will find charts spanning multiple years, detailed explanations, resources, more of the school's programs and activities, and powerful tools that let you dig deeper into data.

Most of this data has been collected by ISBE from school districts through data systems. Some information, such as the School Highlights, is entered directly by principals and can be updated throughout the year.

Illinois At-A-Glance Report Card | 2018-2019

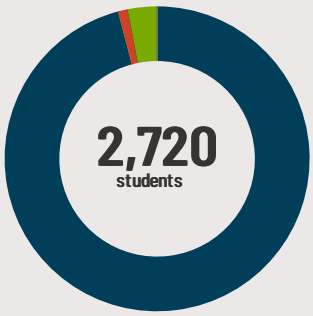
For more information, visit IllinoisReportCard.com

Waterloo CUSD 5

302 Bellefontaine Dr Waterloo, IL 62298 (618)939-3453

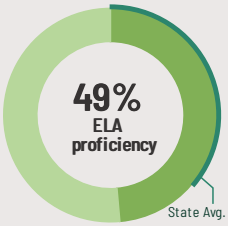
Grades: PK - 12
Superintendent: Mr.Brian Charron

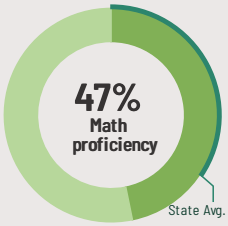
Fast Facts

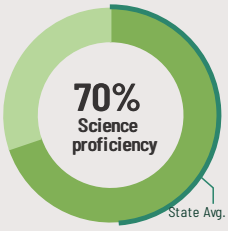


Student Characteristics

White	95%
Black	0%
Hispanic	1%
Asian	0%
American Indian	0%
Two or More Races	3%
Pacific Islander	0%
Low Income	20%
English Learners	0%
With IEPs	15%
With Disabilities	-
Homeless	1%



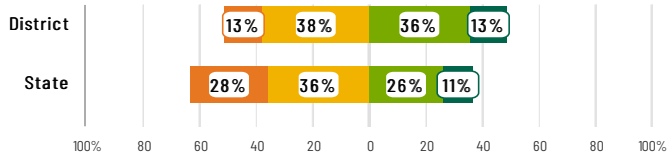




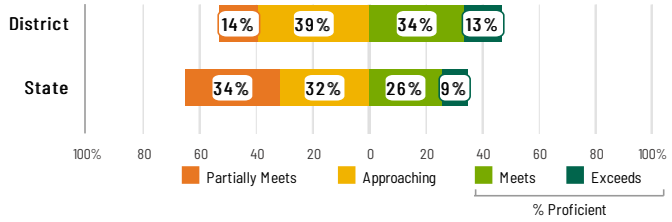
Academic Success

High school students take the SAT in English Language Arts and Math. The display shows SAT ELA & Math results in four performance levels.

English Language Arts



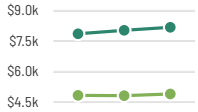
Mathematics



District Finance

Instructional Spending per Pupil includes only the activities directly dealing with the teaching of students or the interaction between teachers and students.

	2016	2017	2018
District	$4,829	$4,814	**$4,897**
State	$7,853	$8,024	**$8,172**



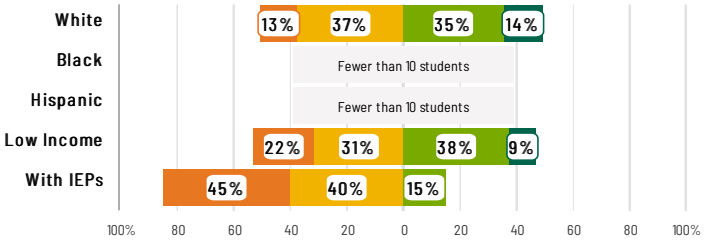
Operational Spending per Pupil includes all costs for overall operations in this district, including Instructional Spending, but excluding summer school, adult education, capital expenditures, and long-term debt payments.

	2016	2017	2018
District	$9,081	$9,405	**$9,475**
State	$12,973	$13,337	**$13,764**

Success by Student Group

This display shows SAT ELA & Math performance levels for each student group. No data is shown for groups with fewer than 10 students.

English Language Arts



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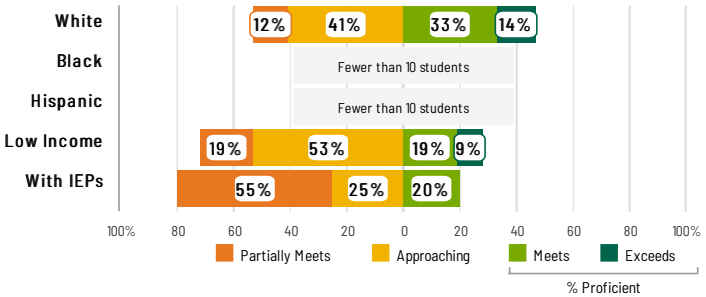

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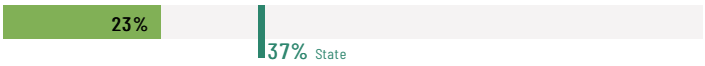
Students taking early college coursework in grades 10, 11, and 12



Postsecondary Enrollment

Students who enroll at colleges and universities

Community College Remediation ***(lower is better)***

Students enrolled in Illinois community colleges who require remedial coursework

Graduation Rate

Percentage of students who graduated within 4 years

SA 20

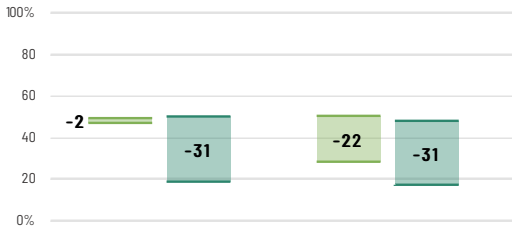
Waterloo CUSD 5

Schools in District

School Name	Grades	Summative Designation
Waterloo High School	9 - 12	Commendable
Waterloo Junior High School	6 - 8	Exemplary
Gardner Elementary School	4 - 5	Commendable
Rogers Elem School	2 - 3	Commendable
W J Zahnow Elem School	PK - 1	Commendable

Achievement Gap

Achievement gaps display the differences in academic performance between student groups. The display below shows the gap in readiness for the next level between low income (LI) students and non-low income (non-LI) students on the SAT for both English Language Arts (ELA) and Math.



	SAT ELA		SAT Math	
	District	State	District	State
Non-Low Income	49%	50%	50%	48%
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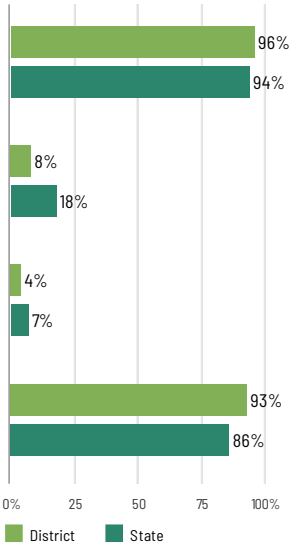

Educator Measures

This district has had an average of **1 principal(s)** at the same school over the past 6 years. District wide in the last three years, an average of **93% of teachers** return to the same school each year.

FOR MORE INFORMATION

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Most of this data has been collected by ISBE from school districts through data systems. Some information, such as the School Highlights, is entered directly by principals and can be updated throughout the year.

PROPOSED AMENDMENTS

TO THE

CONSTITUTION OF ILLINOIS

THAT WILL BE SUBMITTED TO THE VOTERS
NOVEMBER 3, 1992

This pamphlet includes

Published in compliance with Statute
by
GEORGE H. RYAN
Secretary of State

For additional copies contact:
GEORGE H. RYAN
Secretary of State
111 East Monroe Street
Springfield, Illinois 62756

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Secretary of State

EXERCISE YOUR RIGHT TO VOTE IN THIS NOVEMBER 3, 1992, GENERAL ELECTION

To be eligible, a person must
- be a U.S. Citizen
- be 18 years old by election day
- be a resident of Illinois for 30 days before the election

When registering, two forms of identification are required with one identification showing your current address.

REGISTRATION DEADLINE. . .OCTOBER 5, 1992

If you are not registered to vote, need to re-register or transfer your registration address, please contact your **County Clerk or Board of Elections Commissioner** to obtain the name of a deputy registrar nearest you.

Residential Customer
ILLINOIS

SA 22

To the Citizens of the State of Illinois:

At the general election to be held on the 3rd day of November, 1992, you will be called upon to adopt or reject the following two proposed amendments to the Constitution of Illinois. As required by law, I provide you with the following information.

George H. Ryan
Secretary of State

PROPOSED AMENDMENT TO ADD SECTION 8.1 TO ARTICLE I

(Crime Victim's Rights)

(Proposed changes in constitutional provisions are indicated by underscoring all new matter and by crossing with a line all matter which is to be deleted. Since this proposal is to add a new section, all the text is underscored.)

ARTICLE I

BILL OF RIGHTS

SECTION 8.1. CRIME VICTIM'S RIGHTS

(a) Crime victims, as defined by law, shall have the following rights as provided by law:

(1) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

(2) The right to notification of court proceedings.

(3) The right to communicate with the prosecution.

(4) The right to make a statement to the court at sentencing.

(5) The right to information about the conviction, sentence, imprisonment, and release of the accused.

(6) The right to timely disposition of the case following the arrest of the accused.

(7) The right to be reasonably protected from the accused throughout the criminal justice process.

(8) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.

(9) The right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice.

(10) The right to restitution.

(b) The General Assembly may provide by law for the enforcement of this Section.

(c) The General Assembly may provide for an assessment against convicted defendants to pay for crime victims' rights.

(d) Nothing in this Section or in any law enacted under this Section shall be construed as creating a basis for vacating a conviction or a ground for appellate relief in any criminal case.

SCHEDULE

This constitutional amendment takes effect upon its approval by the electors of this State.

ARGUMENTS IN FAVOR AND AGAINST

ARGUMENTS IN FAVOR OF THE PROPOSED AMENDMENT

For too long victims of crime have been second class citizens. A constitutional amendment is needed to protect and guarantee that victims will have rights. The 1970 Illinois Constitution should include guarantees that protect all citizens from the arbitrary application of laws and to promote justice. Currently, the 1970 Illinois Constitution and the United States Constitution carefully spell out the rights of people accused of a crime. This amendment seeks to equalize the rights of defendants and victims so that the scales of justice would no longer weigh heavily in favor of the defendant.

Victims do not choose to be victims. By adopting this amendment, we can ensure that victims of crimes are not further victimized by our state's judicial system.

This constitutional amendment will not eliminate or reduce the protections afforded criminal defendants. Nor will it create any legal loopholes for the guilty to use to avoid conviction and punishment.

Adding victims' rights to the constitution makes the rights more permanent than rights created by statute, since statutes are more easily changed or repealed.

In addition to helping victims this amendment will help the police, since victims will be more willing to report crimes; prosecutors, since victims/witnesses will be better informed and more cooperative; and the public, since there will be more justice in our courts.

Defendants have constitutional rights, why shouldn't victims?

Please vote for the addition of Section 8.1 to the Illinois Constitution's Bill of Rights in November.

ARGUMENTS AGAINST THE PROPOSED AMENDMENT

A constitutional amendment is not necessary to establish victim's rights. Illinois currently has a statutory "Bill of Rights for Victims and Witnesses of Violent Crime." Consequently, the rights of victims are already legally guaranteed. Adding general references in the constitution to the rights already specifically granted in the statutory law of this state will not increase the protections afforded to victims of crime. What is needed is more diligent enforcement of the current statutory protections.

The constitutional amendment, by its own terms, recognizes the necessity for statutory enactments in order to protect victim's rights. The amendment clearly specifies that, even after enactment of the constitutional amendment, the rights of victims must be "provided by law." In other words without the passage of statutes, the constitutional amendment has no independent substantive effect.

Since there already exists adequate statutory protections of victims' rights, the constitutional amendment is, at best, duplicative and unnecessary. At its worst, this constitutional amendment could interfere with the administration of justice by changing the focus of a criminal trial from the defendant to the victim.

Certainly, victims of crimes deserve to receive the benefit of the rights legally established to prevent them from being revictimized by the criminal justice system. Since these rights have already been established through the legislative process, this constitutional amendment is unnecessary.

Please vote "no" when voting in November on the proposal to add Section 8.1 to the Illinois Constitution's Bill of Rights.

FORM OF BALLOT

PROPOSED AMENDMENT TO ADD SECTION 8.1 TO ARTICLE I

(Crime Victim's Rights)

Explanation of Proposed Amendment

ARTICLE I of the 1970 Illinois Constitution is known as the "Bill of Rights." Currently, the Bill of Rights specifically guarantees the rights of accused persons in criminal prosecutions, but it does not provide any specific rights for the victims of crimes. This amendment will add Section 8.1 to the Bill of Rights to guarantee that victims of crimes have the right:

1. To fair treatment;
2. To be informed of court proceedings;
3. To confer with the prosecution;
4. To make a statement to the court at sentencing;
5. To receive information about the conviction, sentence, imprisonment and release of the accused;
6. To a timely disposition of the case following the arrest of the accused;
7. To be reasonably protected from the accused;
8. To be present at all court proceedings on the same basis as the accused, unless the victim's presence would materially affect the victim's testimony at trial;
9. To have an advocate or other support person present at all court proceedings;
10. To receive restitution.

The proposition shall appear in the following ballot form.

For the proposed amendment to add Section 8.1 to Article I of the Constitution	YES
	NO

PROPOSED AMENDMENT TO SECTION I OF ARTICLE X

(Education)

ARTICLE X
EDUCATION
(Present Form)

SECTION 1. GOAL - FREE SCHOOLS

A fundamental goal of the People of the State is the educational development of all persons to the limits of their capacities.

The State shall provide for an efficient system of high quality public educational institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law.

The State has the primary responsibility for financing the system of public education.

ARTICLE X
(Proposed Amendment)

(Proposed changes in the existing constitutional provision are indicated by underscoring all new matter and by crossing with a line all matter which is to be deleted.)

SECTION 1. FUNDAMENTAL RIGHT ~~GOAL~~ - FREE SCHOOLS

A fundamental right ~~goal~~ of the People of the State is the educational development of all persons to the limits of their capacities.

It is the paramount duty of the State to ~~shall~~ provide for a ~~an~~ thorough and efficient system of high quality public education institutions and services and to guarantee equality of educational opportunity as a fundamental right of each citizen. Education in public schools through the secondary level shall be free. The State has the preponderant financial responsibility for financing the system of public education.

There may be such other free education as the General Assembly provides by law.

~~The State has the primary responsibility for financing the system of public education.~~

SCHEDULE

This constitutional amendment takes effect upon approval by the electors of this State.

SA 25

ARGUMENTS IN FAVOR AND AGAINST

ARGUMENTS IN FAVOR OF THE PROPOSED AMENDMENT

It is time for the people to speak.

The Education Amendment empowers the people to speak for education and against local property taxes. Special interests have no vote on this issue. Only the people can vote for educational opportunity and against local property taxes.

The Education Amendment will not increase your state taxes.

Read the amendment. There is not one word about taxes. Constitutional amendments do not increase taxes. Only the opponents see any mention of taxes, and they represent special interests who like the way you pay for schools now. Everyone else is tired of a system that means high property taxes for everyone and an inadequate education for many Illinois school children.

The Education Amendment is the only way to lower property taxes.

Property taxes will never be reduced unless the State steps up to its responsibility to pay for the schools. Low State funding is the reason local property taxes are high. Twenty years ago, the State paid nearly half the cost of educating our children. Today, the State pays barely a third. Where does the rest of the money come from? Property taxes.

The Education Amendment will force the State to treat your schools fairly.

Some schools in Illinois spend $2,250 per pupil. Others spend $14,000. Even allowing for difference in students, it is clear that the current system is not fair. The Education Amendment requires a "thorough and efficient" system which guarantees "equality of educational opportunity as a fundamental right." Every child deserves a fair shake.

Illinois schools have been shortchanged.

Illinois ranks 47th in per capita state expenditures for education. Only Nebraska, South Dakota and New Hampshire spend less. Just 10 years ago, Illinois ranked 33rd. Is it any wonder local taxes are increasing?

Education is accountable: it just isn't funded.

Illinois has implemented a complete program to measure the success of our schools. Every year, students are tested and the scores are reported in newspapers across the State. Next year, State accreditation of schools will be based on accountability, including the performance on the standardized State tests. We know exactly what we are paying for, and exactly which schools are improving.

126212

Local schools will remain under local control.

Opponents charge that better State funding will cut local control. This is not true. Does anybody seriously believe that local control has improved over the last 16 years as State funding has dropped from almost 50 percent to barely 33 percent?

Current constitutional provisions are not working.

The present language in the constitutional amendment sounds nice but it is not enforceable. The Supreme Court has said it is not enforceable. By voting for the Education Amendment, you, the people, will adopt strong, enforceable language.

Summary

Voting "yes" is the only opportunity for you to speak up for our schools and against the unfair property tax system. Voting "yes" is the only way to change our unfair property tax system. Voting "yes" is the only way to make our system fair to taxpayers and to our children.

ARGUMENTS AGAINST THE PROPOSED AMENDMENT

This amendment will increase your state taxes.

Even the supporters admit that the amendment will cost at least 1.5 billion dollars ($1,500,000,000.00) in increased State taxes. Other estimates set the cost at 2.9 billion dollars ($2,900,000,000.00).

This amendment does not lower your local property taxes.

Backers of this amendment refused to guarantee property tax relief in the amendment itself. The State or a court could force property tax increases to fund the amendment. In fact, the State could add another property tax of its own.

This amendment contains no guarantee that your school district will be treated fairly.

This amendment does not mean that your school district will get any additional money. The Legislature and special interests will dictate where this money will be spent. There is a complicated school formula that shifts money from one area of the State to another. Nobody knows whether or how the formula will be changed.

More money for schools does not mean better education.

Illinois spends more money per pupil than the national average, yet the nation's top students graduate from Iowa schools, which spend $500 less per pupil than Illinois. What will taxpayers here get for spending more money? The amendment does not say.

Before we agree to spend more money we should insist on knowing how schools are to be improved.

People don't spend more money without knowing what they will get for it. Where is the reform plan that this amendment will fund? Since there is no such plan, all we will get is more of the same. Our kids need better schools, not just more expensive schools.

More state money means a loss of local control over your schools.

As usual, State tax money to schools will come with strings attached. More than ever, the State will dictate decisions that should be made by parents and local school boards.

We should not tamper with the Illinois Constitution.

The current Illinois Constitution already permits any level of education funding. Court cases to interpret the meaning of this amendment would drag on for years at the expense of our kids.

This is a "Blank Check" for government spending.

There is no cap on tax increases, no ceiling on spending, and no limit on growing education bureaucracy. Even credit cards have limits.

Summary

Voting "no" on this amendment means you are against raising taxes by up to $2.9 billion to change a few words in the Constitution.

FORM OF BALLOT

PROPOSED AMENDMENT TO SECTION 1 OF ARTICLE X

(Education)

Explanation of Proposed Amendment

The proposed education amendment contains the following provisions:

1. The educational development of all persons to the limits of their capacities is a fundamental "right" instead of "goal."

2. It is the "paramount duty" of the State to:

(a) provide a thorough and efficient system of high quality public education, and

(b) guarantee equality of educational opportunity as a fundamental right.

3. The State has the "preponderant financial responsibility" for financing public education.

The proposition shall appear in the following ballot form.

For the proposed amendment to Section 1 of Article X -Education- of the Constitution	YES
	NO

CAPITOL BUILDING
SPRINGFIELD, ILLINOIS
OFFICE OF THE SECRETARY OF STATE

I, GEORGE H. RYAN, Secretary of State of the State of Illinois, do hereby certify that the foregoing is a true copy of the proposals and the forms in which the proposals will appear upon the ballot at the November 3, 1992, general election pursuant to House Joint Resolution Constitutional Amendment 28 and Senate Joint Resolution Constitutional Amendment 130, the originals of which are on file in this office.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of the State of Illinois. Done in the City of Springfield, this 6th day of July 1992.

George H. Ryan
Secretary of State

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State of Illinois
September 1992, 5 million
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CERTIFICATE OF FILING AND SERVICE

I certify that on April 13, 2021, I electronically filed the foregoing Brief of Defendant-Appellee with the Clerk of the Supreme Court of Illinois by using the Odyssey eFileIL system.

I further certify that:

(a) counsel for the plaintiffs-appellants, listed below, is a registered service contact for this case on the Odyssey eFileIL system and will be served via the Odyssey eFileIL system.

Thomas H. Geoghegan admin@dsgchicago.com

(b) counsel for amici, Education Law Center, *et al.*, listed below, is not a registered service contact for this case on the Odyssey eFileIL system, and on April 13, 2021, I served her by e-mail at her listed e-mail address.

Marcella Lape Marcella.Lape@probonolaw.com

Under penalties as provided by law pursuant to section 1–109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

/s/ *Richard S. Huszagh*