

STATE OF INDIANA) IN THE MARION SUPERIOR COURT
)SS:
 COUNTY OF MARION) CAUSE NO. **20060421046311**

PHILIP-ANTHONY BONNER, a minor,)
 by his parents and next friends, Joseph)
 and LaTanya Bonner,)
 WILLIAM-THOMAS BOBO, a minor,)
 By his mother and next friend, Clarissa Wan Bobo,)
 JOHN BROOKS, JR., a minor, by his father)
 and next friend, John Brooks, Sr.,)
 AARON WESLEY CARVER, a minor,)
 by his parents and next friends, Lester and)
 Vanessa Carver,)
 THOMAS JAMES HARRIS, a minor,)
 by his mother and next friend, Patricia Harris,)
 DEMI MURRY, a minor, by her grandparents and)
 next friends, Patricia and Charles Murry,)
 DAMEESHA FLETCHER, a minor, by her)
 mother and next friend, Loretta Fletcher,)
 BRENDAN JOHNSON, a minor, by his mother)
 and next friend, Ayana Johnson, and)
 ALBERT SERNA, a minor, by his parents and)
 next friends, Bertha and Cirilo Serna,)
 On Behalf of Themselves and All Others)
 Similarly Situated,)

Plaintiffs,)

vs.)

MITCH DANIELS, Governor of the State of)
 Indiana and Co-Chair of the Education Roundtable,)
 SUELLEN K. REED, Indiana State Superintendent)
 Of Public Instruction and Chair of the State)
 Board of Education and Co-Chair of the Education)
 Roundtable, and the INDIANA STATE)
 BOARD OF EDUCATION,)

Defendants.)

FILED
 46 APR 20 2006
Daniel P. ...
 CLERK OF THE
 MARION CIRCUIT COURT

CLASS ACTION COMPLAINT

Plaintiffs, for their claims against Defendants, allege as follows:

NATURE OF ACTION

1. The Plaintiffs are nine children who live and attend public school in eight different school corporations in the State of Indiana. They seek a declaration of rights pursuant to Ind. Code § 34-14-1-1, *et seq.*, that the Indiana Constitution imposes an enforceable duty on the General Assembly to provide an education that prepares all of Indiana's children – rich or poor, white, black or Hispanic, with or without special needs, and with or without English proficiency – to function in a complex and rapidly changing society, to discharge the duties and responsibilities of citizenship, and to compete successfully with their peers for productive employment and opportunities for advancement through higher education. Plaintiffs seek a further declaration that the Defendants are violating their constitutional duty because Indiana's current system of financing education violates the Indiana Constitution, with the result that the plaintiffs, and the tens of thousands of other Indiana schoolchildren whom plaintiffs represent, are not receiving their constitutional entitlement of education as intended by the framers of the Constitution.

PARTIES

The Named Plaintiffs

2. The Plaintiff students are all students at elementary or secondary public schools within a school corporation in the State of Indiana. The Plaintiff students are:

- (a) Philip-Anthony Bonner, a minor, attends Arsenal Technical High School, a public school in Indianapolis, and resides with Joseph and

LaTanya Bonner, his parents and next friends, in Indianapolis, Indiana.

- (b) William-Thomas Bobo, a minor, attends the H L Harshman Middle School in Indianapolis, and resides with Clarissa Wan Bobo, his mother and next friend, in Indianapolis, Indiana.
- (c) John Brooks, Jr., a minor, attends Southport Middle School, a public school in the MSD Perry Township, and resides with John Brooks, Sr., his father and next friend, in Indianapolis, Indiana.
- (d) Aaron Wesley Carver, a minor, attends Harcourt Elementary School, a public school in the MSD Washington Township, and resides with Lester and Vanessa Carver, his parents and next friends, in Indianapolis, Indiana.
- (e) Thomas James Harris, a minor, attends Lawrence North High School, a public school in the MSD Lawrence Township, and resides with Patricia Harris, his mother and next friend, in Indianapolis, Indiana.
- (f) Demi Murry, a minor, attends Decatur Central High School, a public school in the MSD Decatur Township, and resides with Patricia and Charles Murry, her grandparents and next friends, in Indianapolis, Indiana.
- (g) Dameesha Fletcher, a minor, attends South Side Middle School, a public school in Anderson, and resides with Loretta Fletcher, her mother and next friend, in Anderson, Indiana.

- (h) Brendan Johnson, a minor, attends Brown Intermediate Center, a public school in South Bend, and resides with Ayana Johnson, his mother and next friend, in South Bend, Indiana.
- (i) Alberto Serna, a minor, attends Thomas A. Edison Elementary School, a public school in Hammond, and resides with Bertha and Cirilo Serna, his parents and next friends, in Hammond, Indiana.

The Defendants

3. Defendant Mitch Daniels is Governor of the State of Indiana and Co-Chair of the Education Roundtable, which makes recommendations to the Indiana Board of Education concerning the academic standards for Grades K-12 and the content and format of the Indiana Statewide Test of Educational Progress (“ISTEP+”) program. Governor Daniels is responsible for directing the affairs of the State, including administering and enforcing the Indiana Constitution and statutes providing for the financing of elementary and secondary public education. Governor Daniels has a usual place of business in the State House in Indianapolis, Indiana.

4. Defendant Dr. Suellen K. Reed is the Indiana State Superintendent of Public Instruction and is Chair of the State Board of Education and Co-Chair of the Education Roundtable. In these capacities, she is responsible for ensuring that the Department of Education (a) performs its duties as required by statute; (b) implements the policies and procedures established by the Indiana State Board of Education; (c) conducts analytical research to assist the State Board of Education in determining the state's educational policy; (d) compiles statistics concerning the ethnicity and gender of students in Indiana schools; and (e) provides technical assistance to school corporations. She is further

responsible for supervising all elementary and secondary educational work supported by the State, including the overall development, implementation and monitoring of the ISTEP+ program and the financing of elementary and secondary public education, all in accordance with the State's obligations under the Indiana State Constitution. Dr. Reed has a usual place of business in the State House in Indianapolis, Indiana.

5. Defendant Indiana State Board of Education ("Board of Education") is responsible for establishing the educational goals of the state, developing standards and objectives for local school corporations, assessing the attainment of established goals, assuring compliance with established standards and objectives, and making recommendations to the Governor and General Assembly concerning the educational needs of the state, including financial needs. The Board of Education has a usual place of business in the State House in Indianapolis, Indiana.

Class Allegations

6. Plaintiffs bring this action on their own behalf and as a class action on behalf of all other children who are similarly situated because they attend or will attend public school in the same school corporations, or because, on account of their poverty, their race or ethnicity, their physical or mental disabilities, or their limited English proficiency, they are not receiving an education that equips them with the knowledge and skills they need to compete for productive employment, to pursue higher education and to become responsible and informed citizens. Hereinafter, this class of students will be referred to as the "Plaintiff Class."

7. The members of the Plaintiff Class are so numerous that joinder of all members is impracticable. There are questions of law and fact common to the class. The

claims of the representative Plaintiff students are typical of the claims of the Plaintiff Class. The representative Plaintiff students have no interests that conflict with those of other members of the Plaintiff Class, and the Plaintiff students will fairly and adequately protect and represent the interests of the Plaintiff Class.

FACTUAL ALLEGATIONS

Constitutional Framework

8. Article VIII, Section 1 of the Indiana Constitution (the “Education Clause”) provides:

Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.

This provision states plainly that the duty to “encourage” or support “moral, intellectual, scientific and agricultural improvement” arises out of the need to educate the people of Indiana. Thus, the duty to “encourage” education must be understood to mean a duty to ensure that the general and uniform system of Common Schools achieves its object and educates the people of Indiana, whether they be rich or poor, black, Hispanic or white, have special needs or limited English proficiency, and without regard to the fiscal capacity of the school corporation in which they attend public school.

9. Thus, the Education Clause imposes an affirmative duty on the Indiana General Assembly to provide public school education to all of the children of Indiana. The Education Clause further mandates that the General Assembly provide a system of public education that is “general and uniform,” thereby eliminating inequality in education and lack of uniformity in schools, and “suitable” for achieving its stated purpose of diffusing

knowledge and learning throughout the State in order to prepare Indiana's children for responsible citizenship.

10. The Education Clause's stated purpose – "Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government" – is unique in Indiana's Constitution. No other clause in that document speaks so specifically to the purpose of its existence.

11. Delegates to the 1850 Constitutional Convention, recognizing Indiana's high illiteracy rate and the inadequate state of education in Indiana generally, argued for an efficient and enduring system that would answer the purpose for which it was devised and bring the benefits of education to all children of the state. The Debates at the 1850 Constitutional Convention reveal that the framers of the Indiana Constitution regarded education as one of the strongest safeguards of human freedom and a paramount duty of the State. Excerpts from REPORT OF THE DEBATES AND PROCEEDINGS OF THE CONVENTION FOR THE REVISION OF THE CONSTITUTION OF THE STATE OF INDIANA, 1850 [hereinafter "DEBATES"] illustrate the framers' intent to impose upon the State of Indiana a constitutional duty to provide all children with a quality education:

Mr. Morrison, Chairman of the Education Committee, stated:

It must be confessed that Indiana is much behind many of her Sister States, in educational statistics. The startling facts revealed by the late census, that we have upwards of seventy thousand persons in our midst, over twenty-one years of age, unable to read and write, shows that more efficient measures should be adopted, in order to save the youth of the State, thousands of whom are now growing up without any opportunities of instruction . . . Every gentleman must be aware, that our common school system has not answered the purpose for which it was devised. The truth is, we have no uniform system.

DEBATES, at 1861.

Mr. Bryant, a delegate to the 1850 Constitutional Convention, asked:

If the present Constitution be correct in asserting that 'knowledge and learning generally diffused through a community, (is) essential to the preservation of a free government,' what have we a right to expect from the state and condition of learning among us? . . . If posterity does not look upon us with surprise and indignation, it will be because by our own neglect we have plunged them so deeply in ignorance, that they cannot appreciate the duty which belonged to us, and which we have not discharged. Under these circumstances, we should pause and seriously consider every section of this article, before we either adopt or reject it.

DEBATES, at 1891.

Mr. Read, another delegate to the 1850 Constitutional Convention, in arguing for the provision of a State Superintendent, stated:

We are, sir, laying broader our political foundation. We are giving the election of all the officers of government . . . not to a select portion of the people – but directly to the whole people themselves. The education of every child in the State has become a political necessity. It is a necessary measure of defense and self-preservation. We must – yes, sir, I repeat it, we must have a better devised and more efficient system of general education.

DEBATES, at 1858.

The pleas of Mr. Allen echoed the sentiments of Mr. Read:

[I]f there is any cause that should call to its aid the universal sympathies and unflinching support of this people, it is the cause of common schools. We should cherish it as one of the strongest safeguards of human freedom; we should encourage it by every legitimate means in our possession; and we should not stay our efforts until we shall have placed within the reach of every child within the State, poor or rich, the means of a common school education. When we have done this, we shall have accomplished more for the cause of humanity, more for the safety of our free institutions, more for the permanence [sic] and security of society, than by any other act of legislation which we could adopt.

DEBATES, at 1892.

12. The duty of the General Assembly to provide an education for all of its children, rich and poor, in every school corporation in the State of Indiana at the public school level is designed to serve both the interests of the children and, more

fundamentally, to prepare them to participate as free citizens of a free State to meet the needs and interests of a republican government, namely the State of Indiana.

13. The express language of the Education Clause, read in the context of the history surrounding its drafting and ratification, and the uniquely elaborate specification of that Clause's purpose make its meaning clear: the framers intended that education be both an affirmative duty of the State and a fundamental right of each and every child in the State of Indiana.

14. Further, the framers of the Education Clause intended that the content of the constitutional duty to educate be informed by the Clause's purpose – to preserve free government by ensuring that all of Indiana's children, today and in the future, receive an education that prepares them to exercise responsible citizenship. Thus, the content of the constitutional duty to educate will necessarily evolve and change over time but it can never be less than what is sufficient at that time to qualify each citizen for the civil and social duties that he or she will be called upon to discharge on behalf of the State. At a minimum, a constitutionally sufficient education must equip all of Indiana's public school students with at least the following skills and knowledge:

- Sufficient oral and written communication skills to enable them to function in a complex and rapidly changing civilization;
- Sufficient knowledge of economic, social, and political systems to enable them to make informed choices;
- Sufficient understanding of governmental processes to enable them to understand the issues that affect their communities, state, and nation;

- Sufficient self-knowledge and knowledge of their mental and physical well-being;
- Sufficient grounding in the arts to enable them to appreciate their cultural and historical heritage;
- Sufficient training or preparation for advanced training in either academic or vocational fields so as to enable them to choose and pursue life work intelligently; and
- Sufficient levels of academic or vocational skills to enable them to compete favorably with their counterparts in other states, in academics or in the job market.

Statutory Framework

A. Academic Standards:

15. Pursuant to its constitutional duty, the General Assembly has enacted a body of law directed at providing a general and uniform system of public schools. The legislature has authorized the State Board of Education to establish the educational goals of the state and to develop academic standards and objectives for local school corporations, and to make recommendations to the Governor and General Assembly concerning the educational needs of the state, including financial needs.

16. The General Assembly has also created the Education Roundtable, consisting of the Governor, the Superintendent of Public Instruction, business and community leaders, representatives of elementary, secondary and higher education, and appointees of the president pro tempore of the Senate and the speaker of the House of

Representatives. The Education Roundtable is charged with making recommendations to the Board of Education regarding the academic standards for public schools in Indiana.

17. The Education Roundtable has reviewed and recommended to the State Board of Education for its approval academic standards for each grade level from kindergarten through grade twelve for English/language arts, Mathematics, Social Studies and Science. The Education Roundtable has also made recommendations to the Board of Education concerning the content and format of the ISTEP program, including the graduation examination and the passing scores required at various grade levels tested under the ISTEP program.

18. The General Assembly has directed the Education Roundtable to make recommendations and has directed the State Board of Education to adopt academic standards for each grade level from kindergarten through grade twelve for English/language arts, Mathematics, Social Studies and Science.

19. These academic standards express the defendants' view that in order to succeed in school, at work, and in the community as responsible citizens, Indiana's children need more skills and knowledge than ever before, and further recognize that at the present time, "ready for college" and "ready for work" essentially mean the same thing: "ready for life." These academic standards also express the defendants' view that in order to be competitive in today's economy and earn enough to support a family, children need to continue their education beyond high school, at a two-year or four-year college, in an apprenticeship program, or in the military.

20. These academic standards are the manner in which the State of Indiana presently chooses to implement its constitutional duty to provide education in the public

schools for all of its children, rich and poor, and currently define what every public school student in the State of Indiana should know and be able to do in each grade and in each academic subject area in order to succeed in school, in higher education, at work, and in the community as a responsible citizen.

21. Indiana public school students must achieve these state academic standards in order to graduate from high school. Currently, Indiana public schools have three academic tracks: the General Education Diploma, the Core 40 Curriculum Diploma, and the Academic Honors Diploma.

22. The General Education Diploma track requires students to complete thirty-eight courses, many of which have curricula based on the state academic standards, and to pass the Graduation Qualifying Examination (“GQE”). The GQE is first given to students in the fall of their tenth grade year and may be retaken four times. Additionally, students can graduate from high school without passing the GQE if their teachers and principal sign a “professional judgment waiver” affirming that such students’ coursework reflects achievement of the academic standards. Effective July 2006, students will be permitted to complete the General Education Diploma track without passing the GQE or obtaining a “workforce preparation waiver” if they complete the required coursework and certain workforce preparation activities.

23. The Core 40 Curriculum Diploma track requires students to complete forty college preparation courses, all of which have curricula based on the state academic standards. Students on this academic track need not pass the GQE to graduate from high school. The Core 40 Curriculum Diploma is generally a minimum admission requirement for all four-year public colleges and universities and qualifies certain students for

additional financial aid. Beginning with the class of 2010-11, the Core 40 Curriculum is the required high school curriculum for all Indiana public school students except those who fail two Core 40 courses, who are in the lowest quartile of ISTEP+ results, who have special needs, or whose parents opt out of that academic track.

24. The Academic Honors Diploma track requires students to complete forty-seven college preparation courses, the curricula of which are based, at a minimum, on the state's academic standards.

25. Indiana also recognizes that with the growing importance of technology in our society, it is vital that public school students receive an education that emphasizes technological literacy and acknowledges that, like other forms of literacy, technological literacy is what every person needs in order to be an informed and contributing citizen in the world of today and tomorrow.

26. Indiana has adopted Standards for Technological Literacy, which it defines as the ability to use, manage, assess and understand technology. There are seventeen separate standards, including cognitive standards that define what students should know and understand about technology, and process standards that define what students should be able to do with technology. Additionally, there are benchmarks that provide the fundamental content elements for the broadly stated standards and the goal is to meet all of the standards through the benchmarks.

B. School-Financing Scheme:

27. Since 1949, Indiana has relied on a Foundation Program to provide revenues for education to public school corporations. The Foundation Program is a series of interrelated formulas that determine how much revenue school corporations should

receive for providing basic educational services to their students, and what portions of such revenue should be funded locally and by the State. The Foundation Program was not designed to address the question of whether school corporations are receiving a level of funding sufficient to enable them to provide all of their students with the constitutionally required education.

28. The total revenues allocated for educational services in each school corporation is the Basic Grant which represents the total amount of funding that the corporation should have to cover its basic operations. Historically, to determine this figure, three independent calculations were made for each corporation (the Foundation Grant, the Variable Grant and the Minimum Guarantee) and whichever produced the highest total revenue for each school corporation was that corporation's Target Revenue.

29. The Foundation Grant is determined by multiplying together three data points: the enrollment level adjusted for recent growth or decline; the per pupil support level ("foundation aid per-pupil") determined by the State (\$4,517 for 2006); and the index purporting to reflect the socioeconomic status of the corporation's community, known as the Complexity Index.

30. The process of adjusting the enrollment count or Average Daily Membership ("ADM") upward for corporations with declining enrollment is called "reghosting," while school corporations with increasing enrollments do not receive full funding for ADM increases. The adjustment of the ADM count is intended to reduce the effects of large fluctuations in enrollments on the revenues targeted to public school corporations under Indiana's Foundation Program.

31. The Complexity Index provides school corporations with additional revenues based on the complexity of a school corporation's community. The Complexity Index is defined as one plus a weighted average of five components: (1) percentage of families in the school corporation with a single parent in 2000; (2) percentage of population in the school corporation who are at least age 25 with less than a 12th grade education in 2000; (3) percentage of families in the school corporation with dependent children under the age of 18 (in 2000) who have a family income below the federal poverty level; (4) percentage of students eligible for free school lunches in 2005; and (5) percentage of students with limited English proficiency in 2005. The first three components are based on the United States Census, and thus can only be updated once every ten years. The fourth and fifth items are obtained annually from each school corporation. The weights for each of these components are intended to reflect the premise that more money is needed by school corporations to provide education to more complex student populations.

32. The Variable Grant is the product of the prior year's Target Revenue per adjusted ADM by the current year's adjusted ADM. Corporations that receive their Target Revenue through the Variable Grant option tend to have high socioeconomic status and/or rising enrollments.

33. The Minimum Guarantee option simply increases a school corporation's Basic Grant from the previous year by a specific amount determined by the legislature. In 2004-05, the increase was set at one percent. This option guarantees that a corporation will not experience a decline in Basic Grant and therefore, in theory, corporations with

declining ADM are more likely than others to receive their increases through the Minimum Guarantee.

34. Between 2000-2005, there was a significant increase in the number of corporations for which the Basic Grant was determined by the Minimum Guarantee even though ADM was increasing on a statewide basis during that period. In 2004 and 2005, more than 80% of school corporations received their funding through the Minimum Guarantee, and the remaining school corporations received their funding through the Foundation Grant (less than 15%) and the Variable Grant (less than 5%).

35. The Minimum Guarantee level was an arbitrarily determined increase in a school corporation's Basic Grant from the previous year and, in most instances, bore no rational relationship to the complexity of a school corporation's student population or to the achievement of state academic standards.

36. In contrast, the theory of the Foundation Grant, with its Complexity Index, is that school corporations with more complex student populations require more dollars to obtain the same level of student performance as that of school corporations with less complex student populations. In reality, however, for an increasing majority of school corporations in Indiana, including many of those serving the most disadvantaged students, the Complexity Index was not utilized in or relevant to the determination of Target Revenue because the Foundation Grant option yielded less total revenue than the Minimum Guarantee.

37. Thus, under Indiana's Foundation Program, the level of education funding for most school corporations was driven by a minimum guarantee rather than funding concepts intended to apportion education dollars based on equity and the educational needs

of the children whom Indiana school corporations serve. The percentage of school corporations receiving their Basic Grant based on the Foundation Grant and Complexity Index was 19.5% in 2002, 37.7% in 2003, 14.5% in 2004 and approximately 15% in 2005.

38. The predominance of the Minimum Guarantee Grant and the concomitant failure of the Foundation Grant and Complexity Index under Indiana's Foundation Program led to anomalous results. Some corporations that lost a significant percentage of their enrollment over the last five or so years saw their per-ADM funding increase dramatically. In contrast, other school corporations' per-ADM funding was failing to keep pace with their growing enrollments, even though their per-ADM funding was already among the lowest in the State.

39. With the vast majority of school corporations receiving the Minimum Guarantee, the Complexity Index and funding principles developed to direct resources to children at risk of educational failure due to poverty, special needs, limited English proficiency and racial or ethnic minority (as well as students participating in vocational education programs) became largely irrelevant and thus Indiana's school-financing scheme became largely arbitrary and not rationally related to the educational needs of these children.

40. Different grants and distributions are currently in effect for the 2005-07 biennium. Under the current scheme, Target Revenue is still the total state and local dollars generated by the funding formula, excluding categorical grant funding for Academic Honors, special education, vocational education and Primetime. A calculation is made to determine the Target Revenue per ADM for each individual school corporation.

41. The calculation considers the following factors: the Complexity Index; previous year revenue per adjusted ADM; the current year ADM; the current year adjusted ADM; and the relationship between the previous year revenue per adjusted ADM and the Foundation Amount”.

42. A school corporation, based on individual corporation data, will receive Target Revenue from the “transition to foundation” calculation or the “foundation” calculation. In either case, a school corporation is guaranteed 99% of its previous year revenue per ADM times the current ADM. All school corporations make those three calculations and the calculation yielding the highest number is the Target Revenue.

43. The Foundation Amount for 2006 is \$4,517 and for 2007 is \$4,563, adjusted by the Complexity Index. To determine whether a school corporation is transitioning to, from or is at the Foundation Amount, it subtracts its previous year revenue per adjusted ADM for 2004-05 from \$4,517, adjusted by the Complexity Index, and divides this amount by 6. For 2007, the previous year revenue per ADM is the 2006 revenue divided by 5.

44. Depending on whether this subtraction yields an amount of \$50.01 or greater, or less than negative \$50, a school corporation is transitioning to or from, respectively, the Foundation Amount. If the subtraction yields an amount greater than negative \$50 and less than or equal to \$50, a school corporation is at the Foundation Amount (“Foundation Grant”), and Target Revenue is simply the Complexity Index times that year’s Foundation Amount.

45. All school corporations, regardless of whether they are transitioning to or from, or are at the Foundation Amount, are guaranteed to have Target Revenue at a level

that is not less than 99% of the previous year revenue per ADM. However, the guarantee is based on a school corporation's per ADM revenue, and thus does little to assist school corporations with high complexity indices. Further, the guarantee is only at 99% of a school corporation's previous year revenue, which is not a particularly meaningful benefit for school corporations with high complexity indices.

46. A school corporation calculates its revenue guarantee by dividing its previous year revenue by the 2004-05 ADM for 2006 times 99%. This result is multiplied by the 2005-06 ADM and the result is the per ADM Guaranteed Revenue ("Guaranteed Revenue"). A school corporation then compares its Foundation Revenue with its Guaranteed Revenue and the greater of the two is Target Revenue.

47. Even if, under the current iteration of Indiana's Foundation Program, the Complexity Index drove the calculation of Target Revenue for a more significant percentage of school corporations than was the case during 2000-2005, it is not based on any research regarding the levels of additional spending necessary to enable at-risk children to achieve specified educational outcomes. This is equally true of the Foundation Program's supplemental funding formulas for special and vocational education and remediation.

48. Under the Indiana school-financing scheme, each school corporation's Target Revenue is funded both locally by school corporations through property taxes ("Tuition Support Levy") and by the State ("Tuition Support"). The Tuition Support Levy, or required local contribution, is the product of the general maximum fund tax rate (72 cents per \$100 of the assessed value of real property for 2006) multiplied by the assessed valuation of real property in a school corporation. Tuition Support is calculated by

subtracting from Target Revenue the amounts raised from the Tuition Support Levy and certain other local tax revenues (*e.g.* taxes on personal and commercial vehicles and taxes on financial institutions).

49. Additionally, the State supplements each school corporation's Target Revenue with Categorical Grants to offset expenses associated with providing supplemental services in six areas:

(a) Enrollment Growth Grant to offset costs in school corporations with rapidly increasing enrollments (but only 20 school corporations received this grant in 2004);

(b) Academic Honors Diploma Grant to offset the cost of providing academic honors diplomas;

(c) Supplemental Remediation Grant to assist school corporations with low student performance on the ISTEP + test;

(d) Special Education Grant to offset the increased costs of providing education to children with special education needs;

(e) Vocational Education Grant to offset the increased costs of providing vocational education services; and

(f) Prime Time Grant to help school corporations keep their student/adult ratio (teachers and/or teacher aides) at specified levels in kindergarten and grades 1-3.

50. The amount that each school corporation receives for its General Fund in order to deliver both basic and supplemental education services is called the Basic Grant. The Basic Grant is the sum of each school corporation's Tuition Support, Tuition Support Levy and the supplemental Categorical Grants described above.

51. A school corporation's General Fund does not include revenues for Debt Service, Capital Projects, School Transportation, School Bus Replacement and Special Education Preschool. School corporations must levy and collect property taxes for these purposes, as well as for their portion (Tuition Support Levy) of Target Revenue.

52. Under the current school-financing scheme, school corporations must rely solely on their ability to levy and collect property taxes to fund new school facilities and improvements and/or renovations in existing school facilities, including technology. Because school corporations are completely dependent on local property wealth to fund new capital projects, there is wide variation in the quality and quantity of school facilities across the State of Indiana. Students who attend public school in school corporations located in more affluent communities have access to more and higher quality facilities, particularly those essential to proper implementation of the state science and technology standards, than do students in the Plaintiff Class because the communities, in which the Plaintiff students attend school, cannot raise sufficient tax revenue to support comparable facilities construction, or must assume a greater tax burden in order to raise equivalent amounts of revenue.

53. Indiana's Foundation Program was designed and implemented before Indiana developed and adopted statewide academic standards for grades K-12 in English/language arts, Mathematics, Social Studies and Science. Indiana has never taken any steps to align its Foundation Program or its overall school-financing scheme with state educational goals to ensure that school corporations receive a sufficient level of regular education per pupil dollars to enable them to implement state academic standards and to afford all of their students the constitutionally required education.

54. The Foundation Program has made only mixed progress toward the goal of reducing variability in per-pupil funding across school corporations and is actually retreating from the goal of making per-pupil funding more dependent on school corporation complexity – that is, providing higher funding to school corporations with more disadvantaged students.

55. The legislature has never made it an explicit or implicit goal of Indiana's Foundation Program to determine the amount of funding that each school corporation needs to provide all of their students with the constitutionally required education and to ensure adequate funding for that purpose. In fact, the Foundation Program was designed without reference to the costs of providing all of Indiana's children with an opportunity to acquire the skills and knowledge specified in the State's academic standards or to receive the quality of education mandated by the Indiana Constitution.

56. The Indiana Foundation Program, whether based on the formulas and grants in effect during 2000-2005, or those in effect for the 2005-07 biennium, fails to provide sufficient funding to enable the school corporations serving the Plaintiff students to afford their students with the educational opportunities available to students attending school in more affluent school corporations. The Indiana Foundation Program also fails to provide sufficient funding to enable the school corporations serving the Plaintiff students to achieve acceptable levels of student performance for all demographic subgroups, or to achieve levels of student performance comparable to those achieved in more affluent communities for all subgroups.

57. The quality of a system of public schools must be measured by how well it prepares Indiana's most vulnerable children – those disadvantaged by poverty, ethnic

minority, physical and mental disability, and limited English proficiency – for college, for work and for life. By this measure, Indiana’s system of public schools is woefully inadequate and fails to fulfill the State’s constitutional mandate.

Student Achievement In The Plaintiff Class

58. The Anderson Community School Corporation (“Anderson”) serves the community of Anderson, Indiana, a metropolitan area located in the central part of the state, and includes South Side Middle School where plaintiff Dameesha Fletcher attends school. Anderson’s current enrollment is approximately 10,020 students. Seventy-one percent of the student body is white, twenty-one percent is black, and seven percent is Hispanic and multiracial. Approximately fifty-five percent of students are eligible for free or reduced-price lunch.

59. The Metropolitan School District of Washington Township (“MSD Washington”) serves a metropolitan area located in the northern section of Indianapolis and Marion County and includes Harcourt Elementary School where plaintiff Aaron Wesley Carver attends school. MSD Washington’s current enrollment is approximately 10,275 students. Forty-four percent of the student body is white, forty percent is black, nine percent is Hispanic, six percent is multiracial, and two percent is Asian. Forty percent of MSD Washington’s students are eligible for free or reduced-price lunch.

60. The South Bend Community School Corporation (“South Bend”) serves the community of South Bend, Indiana, a metropolitan area located in the northern part of the state, and includes Brown Intermediate Center where plaintiff Brendan Johnson attends school. South Bend’s current enrollment is approximately 22,021 students. Forty-three percent of the student body is white, thirty-six percent is black, fourteen percent is

Hispanic, six percent is multiracial and one percent is Asian. Forty-five percent of South Bend's students are eligible for free or reduced-price lunch.

61. The Metropolitan School District of Lawrence Township ("MSD Lawrence") serves a metropolitan area located in the central part of the state and includes Lawrence North High School where plaintiff Thomas James Harris attends school. MSD Lawrence's current enrollment is approximately 16,205 students. Fifty-one percent of the student body is white, thirty-five percent is black, seven percent is Hispanic, five percent is multiracial, and two percent is Asian. Thirty-seven percent of MSD Lawrence's students are eligible for free or reduced-price lunch.

62. The Metropolitan School District of Perry Township ("MSD Perry") serves a metropolitan area located in the central part of the state and includes Southport Middle School where plaintiff John Brooks, Jr. attends school. MSD Perry's current enrollment is approximately 13,846 students. Seventy-eight percent of the student body is white, eleven percent is black, seven percent is Hispanic, three percent is multiracial and two percent is Asian. Forty-four percent of MSD Perry's students are eligible for free or reduced-price lunch.

63. The Metropolitan School District of Decatur Township ("MSD Decatur") serves a metropolitan area located in the central part of the state and includes Decatur Central High School where plaintiff Demi Murry attends school. MSD Decatur's current enrollment is approximately 6,028 students. Eighty-four percent of the student body is white, nine percent is black, four percent is Hispanic, two percent is multiracial, and one percent is Asian. Forty-three percent of MSD Decatur's students are eligible for free or reduced-price lunch.

64. The Indianapolis Public Schools (“IPS”) serves a metropolitan area located in the central part of the state and includes Arsenal Technical High School where plaintiff Philip-Anthony Bonner attends school, and HL Harshman Middle School where plaintiff William-Thomas Bobo attends school. IPS’s current enrollment is approximately 38,142 students. Fifty-eight percent of the student body is black, twenty-six percent is white, eleven percent is Hispanic, and four percent is multiracial. Eighty-one percent of IPS’s students are eligible for free or reduced-price lunch.

65. The School City of Hammond (“Hammond”) serves the community of Hammond, Indiana, a metropolitan area located in the northwestern corner of the state, and includes Thomas A. Edison Elementary School where plaintiff Alberto Serna attends school. Hammond’s current enrollment is approximately 14,628 students. Thirty-six percent of the student body is Hispanic, thirty-two percent is white, twenty-eight percent is black, and five percent is multiracial. Approximately seventy percent of students are eligible for free or reduced-price lunch.

66. Indiana’s Department of Education utilizes various indicators of student achievement to evaluate students’ academic progress toward mastery of what they should know and be able to do at each grade level in each subject and also to hold schools and school corporations accountable for providing their students with the quality and quantity of education mandated by the Constitution and by state academic standards. These indicators include performance on ISTEP+ tests in English/Language Arts, Mathematics and Science; graduation rates; SAT scores and participation rates; and percent of graduates pursuing a college education.

67. The predominant indicator of both student and school performance is the ISTEP+ Program. Pursuant to this Program, Indiana administers a criterion-referenced test in English/Language Arts, Mathematics and Science, all of which are aligned specifically to the Indiana academic standards. Test results reflect the level of success achieved toward mastery of grade specific skills and knowledge in the tested subject areas.

68. The purposes of the ISTEP+ Program include providing a source of information to the State concerning the overall academic progress of students, student readiness for post secondary school experiences, and the identity of students in need of remediation.

69. Data collected and reported by the Indiana Department of Education on the various indicators used to assess both student and school performance, including the ISTEP+ program, reveal that significant numbers of students in the Plaintiff Class are failing to meet state academic standards and are failing to acquire the minimum knowledge and skills mandated by the Indiana Constitution and essential to successful and productive citizenship later in life.

70. The overall performance of the eight school corporations where the Plaintiff students attend school on the 2005-06 ISTEP+ English/Language Arts and Mathematics tests in all tested grades was as follows:

ISTEP+ English/Language Arts Percent Pass

Anderson:	73.3%
MSD Washington:	75.9%
South Bend:	54.3%
MSD Lawrence:	70.4%

MSD Perry:	69.5%
MSD Decatur:	64.9%
IPS:	49.6%
Hammond:	51%
State Average:	71.6%

ISTEP+ Mathematics Percent Pass

Anderson:	57.9%
MSD Washington:	77%
South Bend:	57.8%
MSD Lawrence:	70.9%
MSD Perry:	71.1%
MSD Decatur:	67.2%
IPS:	51.3%
Hammond:	50%
State Average:	73.9%

ISTEP+ Percent Pass Both English/Language Arts and Mathematics

Anderson:	46.8%
MSD Washington:	68.3%
South Bend:	45.5%
MSD Lawrence:	62.2%
MSD Perry:	61.1%
MSD Decatur:	56.0%
IPS:	38.8%

Hammond: 39.0%

State Average: 64.1%

71. The performance of the eight school corporations where the Plaintiff students attend school on the 2005-06 ISTEP+ Grade 10 English/Language Arts and Mathematics tests for various student demographic groups was as follows:

Anderson

	<u>English/Language Arts</u>	<u>Mathematics</u>
White:	59%	49%
Black:	26%	22%
Hispanic:	50%	44%
General Ed	60%	48%
Special Ed	8%	10%
Non-Limited Eng	52%	43%
Limited Eng	14%	14%
Paid Lunch	63%	52%
Free/Reduced	35%	27%

MSD Washington

	<u>English/Language Arts</u>	<u>Mathematics</u>
White:	90%	88%
Black:	64%	49%
Hispanic:	45%	33%
General Ed	82%	73%
Special Ed	38%	41%

Non-Limited Eng	80%	72%
Limited Eng	36%	31%
Paid Lunch	87%	81%
Free/Reduced	58%	46%

South Bend

	<u>English/Language Arts</u>	<u>Mathematics</u>
White:	70%	65%
Black:	29%	25%
Hispanic:	34%	35%
General Ed	59%	54%
Special Ed	9%	14%
Non-Limited Eng	51%	48%
Limited Eng	15%	21%
Paid Lunch	68%	63%
Free/Reduced	34%	32%

MSD Lawrence

	<u>English/Language Arts</u>	<u>Mathematics</u>
White:	83%	81%
Black:	51%	42%
Hispanic:	52%	61%
General Ed	74%	70%
Special Ed	26%	24%
Non-Limited Eng	69%	65%

Limited Eng	15%	45%
Paid Lunch	77%	72%
Free/Reduced	48%	44%

MSD Perry

	<u>English/Language Arts</u>	<u>Mathematics</u>
White:	73%	67%
Black:	29%	24%
Hispanic:	36%	45%
General Ed	71%	66%
Special Ed	19%	18%
Non-Limited Eng	66%	61%
Limited Eng	27%	55%
Paid Lunch	77%	72%
Free/Reduced	47%	44%

MSD Decatur

	<u>English/Language Arts</u>	<u>Mathematics</u>
White:	66%	66%
Black:	38%	36%
Hispanic:	58%	58%
General Ed	67%	66%
Special Ed	18%	27%
Non-Limited Eng	63%	63%
Limited Eng	N/A	N/A

Paid Lunch	65%	65%
Free/Reduced	35%	39%

IPS

	<u>English/Language Arts</u>	<u>Mathematics</u>
White:	49%	37%
Black:	34%	24%
Hispanic:	23%	27%
General Ed	40%	30%
Special Ed	10%	9%
Non-Limited Eng	38%	27%
Limited Eng	4%	20%
Paid Lunch	39%	31%
Free/Reduced	34%	25%

Hammond

	<u>English/Language Arts</u>	<u>Mathematics</u>
White:	58%	52%
Black:	28%	21%
Hispanic:	49%	38%
General Ed	50%	42%
Special Ed	4%	3%
Non-Limited Eng	46%	39%
Limited Eng	36%	32%

Paid Lunch	49%	41%
Free/Reduced	41%	34%

72. The Indiana Department of Education monitors through the ISTEP+ program whether public school students are developing essential knowledge and understanding of the sciences as they advance through the grades. Currently, Indiana administers ISTEP+ science testing in Grades 5 and 7. The passing rate for the eight school corporations where the Plaintiff students attend school on the 2005-06 ISTEP+ Grade 5 Science test for various student demographic groups was as follows:

Anderson

White:	60%
Black:	23%
Hispanic:	26%
General Ed	56%
Special Ed	26%
Non-Limited Eng	51%
Limited Eng	N/A
Paid Lunch	63%
Free/Reduced	41%

MSD Washington

White:	90%
Black:	53%
Hispanic:	36%
General Ed	70%

Special Ed	53%
Non-Limited Eng	71%
Limited Eng	37%
Paid Lunch	82%
Free/Reduced	53%

South Bend

White:	49%
Black:	12%
Hispanic:	18%
General Ed	35%
Special Ed	8%
Non-Limited Eng	31%
Limited Eng	3%
Paid Lunch	54%
Free/Reduced	19%

MSD Lawrence

White:	80%
Black:	43%
Hispanic:	36%
General Ed	67%
Special Ed	33%
Non-Limited Eng	65%
Limited Eng	19%

Paid Lunch	76%
Free/Reduced	42%

MSD Perry

White:	71%
Black:	23%
Hispanic:	52%
General Ed	67%
Special Ed	46%
Non-Limited Eng	65%
Limited Eng	15%
Paid Lunch	80%
Free/Reduced	47%

MSD Decatur

White:	62%
Black:	37%
Hispanic:	37%
General Ed	64%
Special Ed	25%
Non-Limited Eng	58%
Limited Eng	N/A
Paid Lunch	66%
Free/Reduced	46%

IPS

White:	28%
Black:	11%
Hispanic:	22%
General Ed	20%
Special Ed	7%
Non-Limited Eng	18%
Limited Eng	6%
Paid Lunch	25%
Free/Reduced	14%

Hammond

White:	50%
Black:	19%
Hispanic:	32%
General Ed	38%
Special Ed	19%
Non-Limited Eng	37%
Limited Eng	12%
Paid Lunch	36%
Free/Reduced	35%

73. Another indicator of student mastery of the skills and knowledge needed to succeed in school, at work, and in the community is the percentage of a school corporation's students who participate in the Scholastic Achievement Test ("SAT") – a

prerequisite for admission to a four-year college – and the average score as compared both to the State average and the national average SAT score. In 2004-05, the most current year for which data are available, the eight school corporations where the Plaintiff students attend school had the following SAT participation rates and average scores:

	<u>SAT Participation Rate</u>	<u>SAT Average Score</u>
Anderson	46%	977
MSD Washington	77%	1,068
South Bend	49%	979
MSD Lawrence	59%	1,039
MSD Perry	58%	1,014
MSD Decatur	44%	990
IPS	24%	897
Hammond	30%	915
State Average	55%	1,012
National Average	N/A	1,028

74. The Indiana Department of Education also collects and analyzes data on the percentage of a school corporation's graduates who are pursuing a college education. The Department of Education uses this data as another indicator of the quality of education students in a particular school corporation are receiving because, as the academic standards recognize, children need to continue their education beyond high school in order to be competitive in today's economy and earn enough to support a family. However, because graduation rates are overstated, as more described in Paragraph 76, below, the Department of Education's calculation of the percentage of a school corporation's graduates who are

pursuing a college education is also overstated. In 2003-04, the most current year for which data are available, the eight school corporations where the Plaintiff students attend school had the following percentages of graduates pursuing a college education:

Anderson	73.3%
MSD Washington	78.7%
South Bend	65.8%
MSD Lawrence	81.0%
MSD Perry	52.4%
MSD Decatur	65.1%
IPS	73.8%
Hammond	72.1%
State Average	72.1%

75. The Indiana Department of Education also calculates and reports school corporation graduation (or college readiness) rates as another indicator of whether students are receiving an education that prepares them for higher education or success in the workplace. Historically, the official graduation rate used by the Indiana Department of Education was based on a calculation known as the cohort survival rate. Each year, each public high school determined the percentage of students dropping out at each of the four grade levels during that same year. Each of the dropout rates for grades 9, 10, 11 and 12 were subtracted from 1.0 and then the rates were multiplied by each other and by 100 to arrive at that year's graduation rate.

76. The Indiana Department of Education's historical method of calculating graduation rates grossly overstated the percentage of students in a ninth grade cohort who

graduated “on time,” that is, who completed high school in four years. Starting with the class of 2006, the new graduation rate will be the four-year completion rate mandated by the No Child Left Behind Act. That rate is calculated by dividing the number of 2005-06 graduates by the number of students in grade 9 in 2002-03. School corporations must add students who transfer in and expect to graduate in 2006 and students who were retained in grade and are graduating late. School corporations can only remove students from the grade 9 cohort for specified reasons, including a transfer out of the district, death, or withdrawal from school due to incarceration.

77. The Indiana Department of Education also collects dropout data from school corporations and calculates annual dropout rates. While only preliminary data are currently available for 2005-06, such data indicates that the school corporations where the Plaintiff students attend school have a significant dropout problem, particularly IPS, MSD Decatur and Anderson. The Department of Education’s failure to report realistic graduation rates has concealed the dismal performance of many of Indiana’s high schools in graduating their ninth graders “on time.”

78. In addition to student achievement or “output” data, other important indicators of the quality and quantity of education being offered to students in a school corporation are the availability and quality of instructional programs proven to raise achievement levels, particularly for students at risk of school failure due to poverty, limited English proficiency, ethnic or racial minority or special needs – “input” data. Instructional programs indicative of the quality and quantity of education sufficient to equip all children, even those at risk of educational failure, with the knowledge and skills they need to succeed in school and in later life include early childhood education; full-day kindergarten

programs; appropriately small class sizes, particularly in grades K-3; summer school and expanded-day programs; remediation programs; supplemental reading instruction programs; and English language instruction programs.

79. Currently, the State of Indiana does not mandate kindergarten attendance and while it requires school corporations to offer kindergarten programs, it does not require full-day programs. During the 2003-04 school year, only approximately 25% of Indiana's kindergarten students were enrolled in full-day kindergarten. Less than half of the school corporations in Indiana reported having at least one classroom offering full-day kindergarten at no cost to parents.

80. For the 2003-05 biennium, the General Assembly provided \$8.5 million per year for full-day kindergarten grants to Indiana school corporations. Out of 293 school corporations in Indiana, 120 received a grant from this program in 2003-04 and 154 school corporations received a grant in 2004-05.

81. A significant amount of research conducted on the benefits of full-day kindergarten and early childhood education programs well documents that full-day kindergarten and early childhood education improve student achievement and social and behavioral development. These programs increase student performance on standardized tests, reduce grade retention, and reduce special education referrals. These programs have also been shown to help reduce the achievement gap for minority and poor students. The positive effect of full-day kindergarten programs on those two groups of students is larger than for non-disadvantaged students.

82. A significant amount of research conducted on the benefits of early childhood education – preschool programs for four and five-year-olds – similarly

documents that early childhood education programs increase student performance on standardized tests, reduce grade retention, and reduce special education referrals. Early childhood education programs also help reduce the achievement gap for minority and poor students and have a larger positive effect on their achievement than on that of non-disadvantaged students.

83. The school corporations where the Plaintiff students attend school serve a large number of students who are in need of remediation to attain proficiency in the various subject areas that are tested under the ISTEP+ program. However, in the last two years, Indiana has reduced the amount of funding available for remediation programs by more than 50%. While funding for remediation programs was at a level of approximately \$20 million during 2000-04, the amount for 2005 was about \$8.2 million and the amount for 2006 was about \$9 million. Indiana has allocated about another \$5 million per year specifically for remediation on the Grade 10 GQE since 1999. The funding for remediation is grossly inadequate to enable the school corporations where the Plaintiff students attend school to provide remediation to all of their students who need it.

84. State funding for summer school programs has declined from a level of approximately \$21.6 million prior to 2002 to a level of \$18.4 million since 2002. Furthermore, the State Board of Education prioritizes school corporations' summer course offerings and reimburses only "Category 1" courses at 100%. Category 2 courses are reimbursed at not less than 75% and Category 3 courses are reimbursed at a rate determined by the amount of state funding remaining for summer school programs.

85. In addition to the factor in the Complexity Index, the state funds a Non-English Speaking Program to supplement the education of Indiana's limited English

proficient students. However, since the Program's inception in 1999-2000, the state's funding has never exceeded \$700,000, an insufficient amount to serve more than 25,000 students.

86. The number of limited English proficient students reported in the State of Indiana has more than tripled since the Non-English Speaking Program was initiated in school year 1999-2000, yet the State allocation has remained the same. As a result, state funding of the Non-English Speaking Program, on a per-pupil basis, has steadily declined over the seven years of the Program, from a high of \$75 in 1999-2000 to a low of \$21.91 in 2005-06.

CAUSES OF ACTION

Count One

Violations of the Education Clause

87. Plaintiffs repeat and reallege Paragraphs 1-86, inclusive, of this Complaint.

88. The Education Clause, Article VIII, Section 1, of the Indiana Constitution imposes an enforceable duty on the State of Indiana, through its General Assembly and the Defendants, to establish and maintain a general and uniform system of public education that affords each child attending public school in the State of Indiana an education that meets statewide minimum standards of educational quality and quantity, and, at a minimum, equips each child with the knowledge and skills necessary to succeed in higher education, at work, and in the community as responsible and productive citizens.

89. The Education Clause further imposes an enforceable duty on the State of Indiana, through its General Assembly and the Defendants, to create a general and uniform system of common schools that extends the opportunities and advantages of education

equitably to all students attending elementary and secondary public schools throughout Indiana, thereby diffusing knowledge and learning generally throughout the State and among the public school students in Indiana.

90. Indiana's Foundation Program and method of financing its system of public schools is arbitrary and not rationally related to the educational needs of children at risk of educational failure due to poverty, special needs, limited English proficiency and racial or ethnic minority (as well as those of students participating in vocational education programs). It was not designed to provide all school corporations with the resources necessary to implement Indiana's academic standards or to provide all of their students, rich and poor, with the constitutionally required education. There is no justification for a school-financing scheme that denies the Plaintiff students and Plaintiff Class a constitutionally sufficient education and equal educational opportunities and advantages merely because they reside in school corporations with low property wealth or are disadvantaged by poverty, ethnic minority, physical or mental disabilities or limited English proficiency.

91. Indiana's method of financing its public schools violates the Education Clause of the Indiana Constitution by failing to encourage the education of all public school students in Indiana consistent with constitutional standards of quality and quantity and by failing to spread educational opportunities and advantages generally, uniformly and equitably among the various elementary and secondary public schools, thereby failing to diffuse knowledge and learning generally among the children of Indiana.

Count Two

Violation of the Due Process Clause

92. Plaintiffs repeat and reallege Paragraphs 1-91, inclusive, of this Complaint.

93. Pursuant to its duty under the Education Clause of the Indiana Constitution, the State of Indiana, through its General Assembly and the Defendants, has established a system of free public education for all children in Indiana and mandatory attendance laws, thereby creating an expectation in all elementary and secondary public school students, including the Plaintiff students and Plaintiff Class, that if they attend school during the required years and take and pass the required courses, they will be prepared for higher education, for employment that will enable them to support a family, and for informed and responsible citizenship.

94. The Plaintiff students' fundamental right to an education is protected under the Due Process Clause of the Indiana Constitution, Article 1, Section 12.

95. Indiana's method of financing its system of public schools violates the Indiana Constitution in that it deprives thousands of children in the Plaintiff Class of their fundamental due process right to the quality and quantity of education set forth in state academic standards and mandated by the Education Clause by allocating a level of state education funding that is wholly inadequate to ensure that all children in Indiana, including those in the Plaintiff Class, receive the educational opportunities and advantages to which they are constitutionally entitled.

Count Three

Violation of the Equal Privileges and Immunities Clause

96. Plaintiffs repeat and reallege Paragraphs 1-95, inclusive, of this Complaint.

97. Indiana's method of financing its system of public schools violates Article I, Section 23 of the Indiana Constitution in that it effectively grants the opportunity for the education promised by the Constitution to some students in some public school corporations in the State of Indiana, while denying the same education to others.

98. Indiana's method of financing its system of public schools violates Article I, Section 23 of the Indiana Constitution by denying the Plaintiff students and Plaintiff Class their fundamental right to education and equal privileges under the law by providing them, without a compelling or even rational justification, fewer, inferior and inadequate educational opportunities and advantages because they reside in school corporations with low property wealth and because of their poverty, ethnic minority, physical or mental handicaps, and/or limited English proficiency.

WHEREFORE, the Plaintiffs respectfully request that this Court:

(1) Declare, pursuant to Ind. Code § 34-14-1-1 *et seq.*, the respective rights and duties of the Plaintiffs and the Defendants, and enter a judgment declaring that the Indiana system of financing elementary and secondary public school education violates the Education Clause, the Due Process Clause and the Equal Protection Clause of the Indiana Constitution;

(2) Award the Plaintiffs their costs and reasonable attorneys' fees; and

(3) Award such other and further relief as the Court deems just and proper.