

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

**WILLIS BROWN,**  
164 North Monroe Avenue  
Columbus, Ohio 43203,

Case No 07 CVH 09 12492

**YOLANDA JONES-BROWN**  
164 North Monroe Avenue  
Columbus, Ohio 43203,

JUDGE \_\_\_\_\_

**AURORA BROWN**  
333 Westport Drive  
Columbus, Ohio 43203,

**DANA MOESSNER**  
184 North Monroe Avenue  
Columbus, Ohio 43203,

**KIM MILLER**  
439 Trevitt Street  
Columbus, Ohio 43203,

**PLAINTIFFS,**

**-vs-**

**COLUMBUS CITY SCHOOLS  
BOARD OF EDUCATION**  
270 East State Street  
Columbus, Ohio 43215,

**SUSAN TAVE ZELMAN  
OHIO SUPERINTENDENT OF PUBLIC  
INSTRUCTION**  
25 South Front Street  
7<sup>th</sup> Floor  
Columbus, Ohio 43215,

**OHIO DEPARTMENT OF EDUCATION**  
25 South Front Street  
Columbus, Ohio 43215,

**OHIO STATE BOARD OF EDUCATION**  
25 South Front Street  
Columbus, Ohio 43215,

**DEFENDANTS.**

FILED  
COMMON PLEAS COURT  
FRANKLIN CO. OHIO  
2007 SEP 17 11:11:50  
CLERK OF COURTS-CY

---

**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

---

**NATURE OF THE ACTION AND JURISDICTION**

1. This is an action for a declaratory judgment declaring that the current system of school funding in Ohio, insofar as it permits wide disparities in per pupil education funding within a local school district, is inconsistent with the requirement that the State of Ohio and local school districts jointly maintain a "thorough and efficient" system of public schools. This action further seeks a declaratory judgment that this system does not provide equal educational opportunities for all Ohio primary and secondary students, and, therefore, is in violation of rights guaranteed under the Constitution of the State of Ohio. This case is also an action for injunctive relief to halt the implementation and administration of such an unfair and inequitable system of school funding, because it deprives many Ohio primary and secondary education students of an adequate education.

**PARTIES**

2. The jurisdiction of this Court is invoked pursuant to Article I, §16 and Article IV, §4(B) of the Ohio Constitution, Revised Code §2721.12, and Rule 65 of the Ohio Rules of Civil Procedure.
3. Plaintiffs, Willis Brown, Yolanda Jones-Brown, Aurora Brown, Dana Moessner and Kim Miller are tax payers and residents of the City of Columbus, Ohio and reside in the local school district known as the Columbus City Schools. They bring this action to assert their public interest in these matters, on their own behalf, and on behalf of other similarly situated individuals.
4. Defendant, Columbus City Schools Board of Education is the governing body for the local school district in the City of Columbus, Ohio, commonly known as the Columbus

City Schools. As the governing body of this local school district, the Columbus City Schools Board of Education plays the major role in shaping education policy and funding for each of the students in this local school district.

5. Defendant, Susan Tave Zelman, the Ohio Superintendent of Public Instruction has the oversight function for, and is in charge of, the Ohio Department of Education.
6. Defendant, Ohio Department of Education is the State of Ohio administrative agency responsible for the development of administering the overall Strategic Plan for the public education of all students in Ohio at a primary and secondary level. The Ohio Department of Education: (i) sets expectations for what all Ohio students should know and be able to do; (ii) ensures that educators have the skills, knowledge and resources to enable Ohio students reach higher levels of achievement; and (iii) measures, publicizes, and rewards results while holding all educators and students responsible for them.
7. Defendant, Ohio State Board of Education is a partially elected and partially appointed board that sets the overall priorities for Ohio's primary and secondary education system to ensure high educational standards for all Ohio students, so that they can compete in a global economy.

### CLAIMS

8. Section 2, Article VI of the Ohio Constitution mandates a "thorough and efficient" system of common schools throughout the state.
9. In a series of precedential decisions beginning with DeRolph v. Ohio (1997), 78 Ohio St. 3d 193, the Ohio Supreme Court has defined the concept of "thorough and efficient" as the State of Ohio's obligation to ensure that there are no wide disparities of funding for the education of Ohio's primary and secondary education students. Moreover, the

DeRolph cases unambiguously stand for the proposition that Ohio's children must be educated adequately to participate fully in modern society.

10. Defendants, the Ohio Superintendent of Public Instruction, the Ohio Department of Education, and the Ohio State Board of Education have failed to recognize that the requirements of Section 2, Article VI of the Ohio Constitution require that wide disparities of funding between Ohio pupils in Ohio public schools are as unconstitutional within a particular school district, as they are between school districts. Accordingly, they have failed in their statutory and constitutional responsibilities to ensure that no school district in Ohio is permitted to fund pupils on a basis that leads to wide disparities in funding between and among different schools, and, concomitantly, the pupils in those schools, within a district.

11. The responsibilities of Defendants, the Ohio Superintendent of Public Instruction, the Ohio Department of Education, and the Ohio State Board of Education are particularly magnified in the case of students who are disadvantaged because of their social-economic status, minority status, or other legally cognizable disabilities. The failure of Defendants, the Ohio Superintendent of Public Instruction, the Ohio State Board of Education and the Ohio Department of Education to require each school district in Ohio to fairly and equitably allocate resources to each student receiving an education in a particular district has led to the perpetuation of a system of school funding that is in violation of Section 2, Article VI of the Ohio Constitution, because this is not a "thorough and efficient" system. The current system is also a violation of Section 2, Article VI of the Ohio Constitution because this system, that perpetuates gross disparities of funding, between and among students within a district, does not provide equal protection and benefits to each student receiving a public school education in Ohio.

12. Defendant, Columbus City Schools Board of Education has violated its express legal duty to provide each and every student in the Columbus City Schools an adequate education which is the hallmark, and a benchmark of a thorough and efficient system of public schools.
13. Defendant, Columbus City Schools Board of Education has violated its express legal duty to facilitate and ensure an adequate education for each and every student in Columbus City Schools by creating and maintaining wide disparities in per pupil funding between and among the various schools in the Columbus City Schools. Further, these failures by the Columbus City Schools Board of Education have directly led to a situation in which 59 Columbus City Schools are deemed to be failing by the Ohio Department of Education, entitling each student in these 59 schools to receive an Ohio EdChoice Scholarship at private schools. One of the principle reasons these schools are failing is the above-described disparity in funding between and among schools within the Columbus City Schools local school district.
14. The failure of Defendant, Columbus City Schools Board of Education to fund per pupil educational expenditures in a fair and equitable manner has led directly to the circumstances in which children in 59 Columbus schools are not receiving an adequate level of education.
15. The failure of Defendant, Columbus City Schools Board of Education to adopt a per pupil, weighted student funding formula, designed to ensure that each child in Columbus City Schools receives an adequate education violates Section 2, Article VI and Section 2, Article I of the Ohio Constitution.

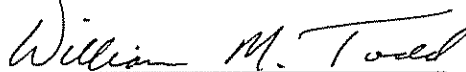
## PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray the Court to grant the following relief:

- A. Declare that the grossly unfair and inequitable method of per pupil funding utilized by the Columbus City Schools Board of Education violates Section 2, Article VI and Section 2, Article I of the Ohio Constitution, insofar as the per pupil allocations are not made upon a rational basis, are discriminatory and violate traditional notions of equal protection of the laws and benefits as protected by the Ohio Constitution;
- B. Declare that the Defendants are required, in order to fulfill their obligations under Section 2, Article VI, and Section 2, Article I of the Ohio Constitution, to immediately institute a system of school funding that: (i) ensures that all funding from federal, state, and local government sources, follows the student to whatever school he or she attends; (ii) that the amount of funding varies according to each students' needs; and, (iii) that the funding is directed to the school the student is attending as real dollars that can be spent flexibly, with accountability gauged by results rather than inputs, programs or activities;
- C. Issue preliminary and permanent injunctions enjoining Defendants from continuing to permit a system of per pupil funding in Ohio public schools, by local boards of education that fails to address actual student needs;
- D. Issue preliminary and permanent injunctions mandatorily enjoining Defendants to allocate all local, state, and federal funds provided to the Columbus Public Schools on a weighted student funding basis rather than on any other basis;
- E. Issue preliminary and permanent injunctions mandatorily enjoining Defendants to adopt a system of controls that will ensure that all state, federal and local general operating funds, as well as all state, federal and local supplemental funds for disadvantaged students are actually spent in the school building in which the students are being educated;

- F. Issue preliminary and permanent injunctions enjoining Defendants from adopting any expenditure plans that are calculated on any basis other than a weighted student funding basis;
- G. Issue preliminary and permanent injunctions requiring Defendants to adopt a school funding system in Ohio that ensures that all school funding, from federal, state and local sources follows each student to the school he or she attends;
- H. Award Plaintiffs their reasonable attorneys fees and expenses;
- I. Assess costs against Defendants; and
- J. Award such other and further relief as may be just and proper under the circumstances.

Respectfully submitted,



William M. Todd (#0023061)

Benesch, Friedlander, Coplan  
& Aronoff LLP

41 South High Street, Suite 2600

Columbus, Ohio 43215

Telephone: (614) 223-9300

Facsimile: (614) 223-9330

*Counsel for Plaintiffs, Willis Brown, Yolanda Jones-Brown, Aurora Brown, Dana Moessner and Kim Miller*