

No. 18-1855

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

GARY B., et al.,
Plaintiffs,

V.

RICHARD SYNDER, et al.,
Defendants.

On Appeal from the the United States District Court for the
Eastern District of Michigan, the Honorable Steven J. Murphy III, Presiding
Case No.: 2:16-CV-13292

**MOTION OF 482FORWARD FOR LEAVE TO FILE BRIEF OF
AMICUS CURIAE IN SUPPORT OF PLAINTIFF-APPELLANTS**

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Pursuant to Federal Rule of Appellate Procedure 29(a)(2) and (3), the following amici curiae (listed in alphabetical order) move the Court for leave to file the accompanying amicus brief (file contemporaneously herewith) in support of Plaintiff-Appellant Plaintiffs' Appeal. In support of its motion, 482Forward states:

1. 482Forward is uniquely positioned to provide useful information to the Court. 482Forward is a network of parents, youth, and neighborhood organizations committed to ensuring that all Detroit children have access to an excellent education, regardless of their race, residence, or socioeconomic status. It is guided by a belief that families have the right to help define solutions to problems in their schools and that student success is the collective responsibility of the entire community. The network's motto, "Nothing about us without us," underscores its philosophy of empowerment in pursuit of education.

2. To achieve this change, 482Forward's members wage targeted campaigns for city- and statewide policies that foster success, like teacher training, manageable class sizes, safe school governance, culturally relevant curriculum, and parental control over education choices.

3. 482Forward seeks to provide the Court with relevant information concerning (i) the conditions and everyday experiences of students and parents in Detroit public schools, and (ii) the human impact of the current illiteracy crisis in Detroit.

4. Counsel for 482Forward contacted the parties to seek concurrence. The Plaintiffs and Defendants do not oppose 482Forward's Motion for Leave to File a Brief of *Amicus Curiae*.

For the foregoing reasons, and for the reasons stated in the accompanying brief and exhibits, 482Forward respectfully requests that this Court grant 482Forward leave to file the attached amicus curiae brief and accompanying exhibits.

Respectfully Submitted,

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Dated: November 26, 2018

CERTIFICATE OF COMPLIANCE

In accordance with Federal Rule of Appellate Procedure 32(a)(7)(C), the undersigned counsel certifies that the accompanying brief:

1. Complies with the type-volume limitation of Rule 29(a)(5) because it contains 4,870 words, including footnotes and excluding the parts of the brief exempted by Rule 32(a)(7)(B)(iii); and
2. Complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared using Apple Pages Version 7.3 and is set in Times New Roman 14-point font.

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of November, 2018, I filed the foregoing document and accompanying exhibits with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit using the Court's CM/ECF system. To the best of my knowledge, all parties to this matter are represented by counsel who are registered CM/ECF users and will be served electronically by the appellate CM/ECF system.

Respectfully Submitted,

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CORPORATE DISCLOSURE

Pursuant to 6 Cir. Rule 26.1, *amicus curiae* 482Forward makes the following disclosures:

1. 482Forward, a nonprofit Michigan corporation, is neither a subsidiary nor affiliate of a publicly owed corporation.
2. 482Forward has no interest that is aligned with that of a publicly owed corporation, or affiliate thereof, having a substantial financial interest in the outcome of litigation.

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INTEREST OF AMICUS CURIAE

Amicus curiae 482Forward is a network of parents, youth, and neighborhood organizations committed to ensuring that all Detroit children have access to an excellent education, regardless of their race or socioeconomic status. It is guided by a belief that families have the right to help define solutions to problems in their schools and that students' success is the collective responsibility of the entire community. The network's motto, "Nothing about us without us," underscores its philosophy of empowerment in pursuit of quality public education.

482Forward believes that all children have a right of access to literacy as part of a high-quality education. But securing this right takes more than after-school tutoring or college prep classes. To achieve this, 482Forward's members have waged targeted campaigns for citywide school policies that foster success, like teacher training, manageable class sizes, safe schools, accountable governance, culturally relevant curriculums, and parental involvement in education.¹

482Forward has been especially critical of top-down state policies that stifle community involvement in Detroit's schools, such as those from the state-appointed emergency manager that was in charge of the City's schools for the last 15 years.²

¹ See Coalition for the Future of Detroit Schoolchildren, *The Choice is Ours: Road to Excellence for Troubled Schools Begins in Detroit* (March 2015).

² See Local Government Fiscal Responsibility Act, Mich. Comp. Laws §141.1201-1291.



Left most sign: My brother repeated 1st grade due to Speech Impediment @ a school where special education was NOT Funded
Fourth sign from left: MY School can't afford to KEEP THE LIGHTS ON!

Through this work, 482Forward's members have seen and experienced firsthand the devastating results of Michigan's disinvestment in and deliberate indifference to Detroit schoolchildren. Decades of disregard for the fundamental right of access to literacy have left families disempowered, communities broken, and children's futures irreparably damaged. Accordingly, 482Forward respectfully submits this brief as *amicus curiae* in support of Plaintiff-Appellants.³

³ Amicus curiae certify that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than amicus curiae, their employees, or their counsel made a monetary contribution to the preparation or submission of this brief.

ARGUMENT

Detroit public schools are in crisis. The State of Michigan has created an educational environment in which schools fail to deliver even the most basic educational instruction and tools. Schoolchildren in Detroit lack books, pencils, paper, computers, and even teachers. They spend their days in overcrowded, unsafe, and vermin-infested buildings, with insufficient support for English Language Learners or children suffering from trauma. As a result, Detroit schoolchildren have the lowest literacy rates for urban school districts nationwide.

The State disavows the role it has played in creating the crisis facing the Detroit Public Schools Community District. They have insisted that Detroit's schools are a product of “parental involvement (or lack thereof), medical problems, intellectual limitations, domestic violence, trauma, and other numerous influences.” There are not “*any facts*”, say the Defendants, that would support a “causal link” between their “acts and [Detroit schoolchildren's] alleged illiteracy.”⁴

Nothing could be further from the truth. Community organizations, educators, parents, and students have worked tirelessly to promote literacy in Detroit. All children want to learn. All children can learn, if given the appropriate support, investment, and respect. But few students in the United States face the state-erected barriers Detroit school children face. Detroit's educational outcomes

⁴ See *Gary B v. Synder*, 16-VC-13292, Dkt. No. 60, Defendants Motion to Dismiss ("Defs' Br.") at 14.

reflect this disparity. The State's actions have denied these children access to the basic building block to education: literacy.

Part I details how the State-created school environment undermines success for Detroit students, unlike the environment provided in suburban, more white communities. Part II discusses the profound impact that the State's indifference has had on Detroit's children and community. Part III argues that the best efforts of students, parents, and the community is insufficient to counter the effects of Detroit's failing education system. Interspersed throughout this brief is art and media developed by 482Forward members.⁵

I. MICHIGAN HAS FAILED TO PROVIDE DETROIT STUDENTS OF COLOR ACCESS TO LITERACY

For some of Detroit's surrounding suburbs, the State's financial and regulatory education scheme creates an educational environment that allows students to thrive. In Detroit, however, the State has created an environment that all but assures poor outcomes for Detroit's predominately minority students. There exists a consensus that successful educational outcomes require safe environments, small class sizes, readily available textbooks, teacher training, low teacher turnover, culturally relevant materials, evidence-based instruction, programs for non-native English speakers, and trauma support. 482Forward and its partners work to create these conditions for success. The State has not.

⁵ See 482Forward's Un-Resource campaign, (November 24, 2018), <https://www.482forward.org/un-resource-fair.html>.



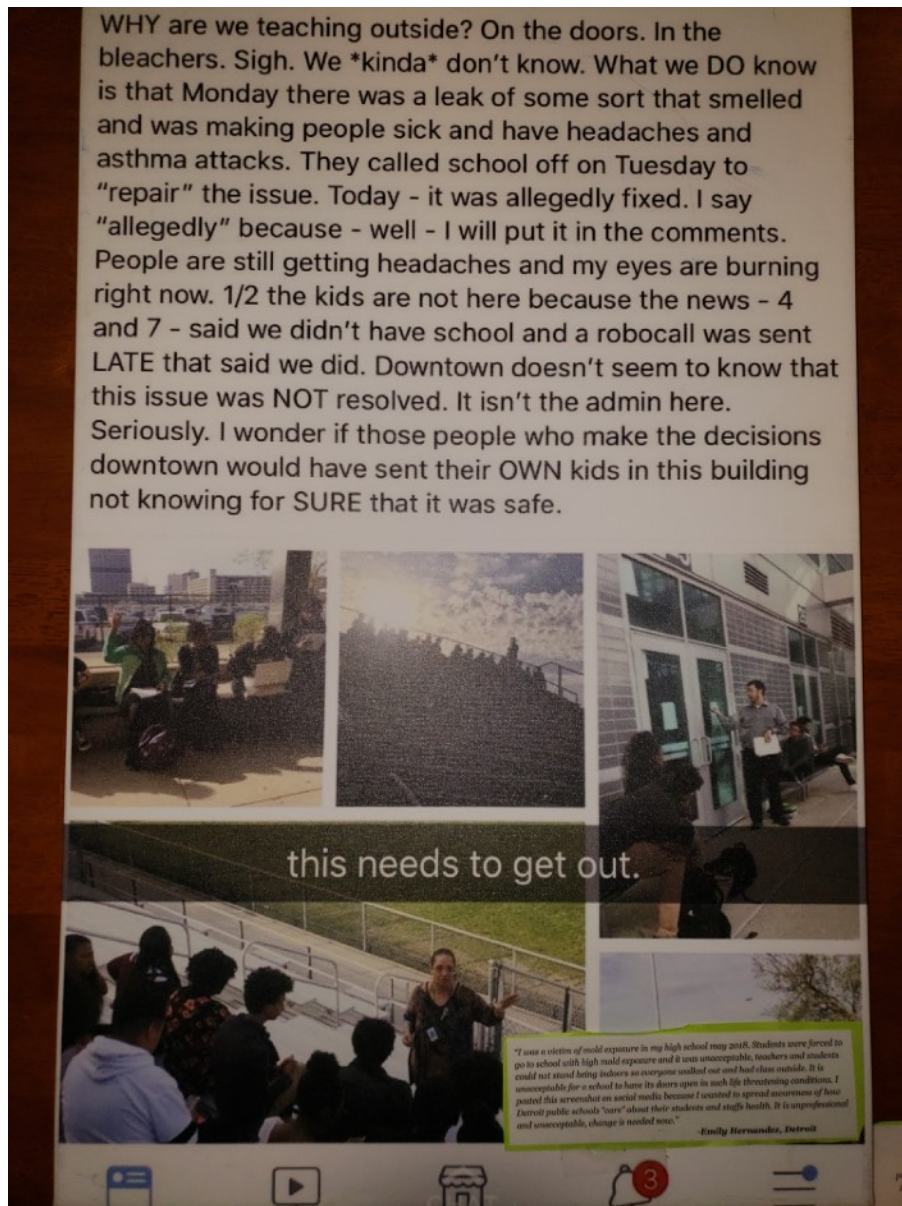
“This drawing is a representation of what my school provides for its students. From computers and calculators, to after school hours for tutoring, sports, and clubs. To help explain that, I drew some of the many different sports we have. I also drew a student studying in a library filled with many books and they are using a laptop and a TI-84, things my schools regularly provides us with. I also wanted to show the diversity in my community, so I added multiple ethnicities. I finally added a classroom, plenty of space to think and learn, a teacher that is using a smart board so he can teach the way he wants to and all the students have the supplies they need. Each student has two books, one book stay in class and the second one is to take home.”

—Nuha A., Dearborn

First, many Detroit school sites are physically unsafe. Schools are overcrowded, infested with rodents, and fail to meet basic building code standards.⁶ Education scholars universally agree that "high-quality learning environments are crucial to educating children well."⁷

⁶ See *Gary B v. Synder*, 16-VC-13292, Complaint at 9-11, 54-55, 84-95; see also Public Broadcasting System, *Why Detroit's Teachers are 'Sick' of Their Inadequate Schools* (Feb. 9, 2016), <http://www.pbs.org/newshour/bb/why-detroits-teachers-are-sick-of-their-inadequate-schools/>.

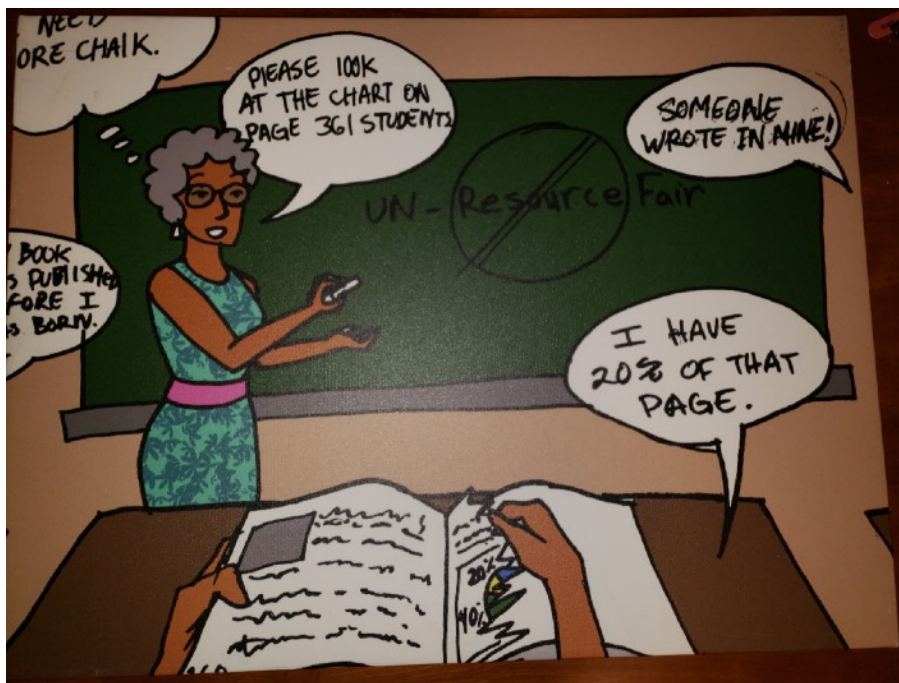
⁷ Howard Frumkin, *Introduction*, in *Safe and Healthy School Environments* 4 (Frumkin et al. eds., 2006).



"I was a victim of mold exposure in my high school may 2018. Students were forced to go to school with high mold exposure and it was unacceptable, teachers and students could not stand being indoors so everyone walked out and had class outside. It is unacceptable for a school to have its doors open in such life threatening conditions. I posted this screenshot on social media because I wanted to spread awareness of how Detroit public schools "care" about their students and staffs health. It is unprofessional and unacceptable, change is needed now."

—Emily H., Detroit

Second, Detroit students receive textbooks that are out of date and in poor condition. Those students that receive textbooks cannot take books home, making homework impossible.⁸ An overwhelming number of studies have found that textbook availability has a substantially positive effect on student achievement.⁹ One student member, when describing his painting (*not displayed herein*) stated, “I painted it to show how even though schools might have supplies most of the time they are out dated or too damaged to use correctly so even if the kids have the stuff they need they are not getting the information they need from the supplies.”



⁸ See *Gary B v. Synder*, 16-VC-13292, Complaint at 8, 53, 73, 78-83.

⁹ See B. Fuller & P. Clark, *Raising School Effects While Ignoring Culture? Local Conditions and the Influence of Classroom Tools, Rules, and Pedagogy*, 64 Rev. of Educ. Res. 119 (1994); see also Jeannie Oakes & Marisa Saunders, *Access to Textbooks, Instructional Materials, Equipment, and Technology* 4-8 (October 2002), <https://escholarship.org/uc/item/4ht4z71v#page-1> (collecting studies and concluding that “[c]onsiderable evidence supports our common sense understanding that textbooks and curriculum materials are fundamental to education.”).

Third, large class sizes in Detroit schools impede learning. The disadvantages of large class sizes include an increase in disruptive behavior, a decrease in the amount of time the teacher can spend working with each student, and a reduction in the material the teacher can cover.¹⁰ And while a “host of different studies” demonstrate that “all types of students gain from small classes,” gains are even greater “for students who have traditionally been disadvantaged in education”—such as those Detroit schools serve.¹¹

Fourth, the State has ignored the substantial teacher turnover in Detroit schools. For the 2016-2017 school year, there were around two hundred teacher vacancies at the start of the year.¹² The consequences of teacher turnover are well-documented. A recent study demonstrates “that teacher turnover has a significant and negative effect on student achievement in both math and [English language arts].”¹³ Turnover negatively affects student achievement “even after controlling for different indicators of teacher quality, especially in lower-performing

¹⁰ Ronald G. Ehrenberg et al., *Class Size and Student Achievement*, 2 Psychol. Sci. Pub. Int. 1 (2001).

¹¹ Bruce J. Biddle et al., *Small Class Size and Its Effect, in Schools and Society: A Sociological Effect* 92 (Jeanne H. Ballantine & Joan Z. Spade eds., 2008).

¹² See *Gary B v. Synder*, 16-VC-13292, Complaint at 98-101; see also Ann Zaniewski, *Detroit Schools to Hold Teacher Job Fair to Fill 200 Open Positions*, Detroit Free Press (Aug. 17, 2016), <http://www.freep.com/story/news/education/2016/08/17/detroit-teacher-job-fair/88888604/> (noting that “the 2015-16 school year [also] saw a surge of mid- year departures”).

¹³ Matthew Ronfelt et al., *How Teacher Turnover Harms Student Achievement*, 50 Am. Educ. Res. J. 4, 30 (2013).

schools.”¹⁴ “Across models and measures, there is a consistent pattern—students of [teachers who stay] perform significantly worse when turnover is greater, and the negative effects are mostly found in lower-performing schools.”¹⁵

Fifth, the State's decision to allow uncertified teachers in Detroit schools disadvantages children.¹⁶ There is “a growing body” evidence that the “extent and quality of teacher education matter for teachers' effectiveness”.¹⁷ Indeed, “research over the past 30 years” demonstrates that “certified teachers are generally better rated and more successful with students” than those who are not.¹⁸

Sixth, the State has failed to implement evidence-based literacy instruction. Scholars agree such instruction improves literacy achievement. In particular, students who are falling behind need instruction in the alphabetic principle, fluency, comprehension, motivation, word study, and vocabulary, along with universal screening and intervention strategies to identify and support them.¹⁹

¹⁴ *Id.* at 31.

¹⁵ *Id.* at 29.

¹⁶ *See Gary B v. Synder*, 16-VC-13292, Complaint at 103-04.

¹⁷ Linda Darling-Hammond, *How Teacher Education Matters*, 51 J. of Teacher Educ. 166, 166 (2000).

¹⁸ *Id.* at 167.

¹⁹ *See Gary B v. Synder*, 16-VC-13292, Complaint at 25-30, 73-75; *see also* Ann Zaniewski, *Detroit Public Schools: Teacher Shortage Ends Literacy Program*, Detroit Free Press (Dec. 15, 2016), <http://www.freep.com/story/news/education/2016/12/15/detroit-schools-reading-recovery/95167014/>; *see also* Institute of Education Sciences, *Special Features: All Aboard the Literacy Special* (accessed Jan. 1, 2017), <https://ies.ed.gov/ncee/wwc/literacyresources1>.

Seventh, the State has failed to provide Detroit children and teachers with culturally relevant materials. Culturally responsive teaching improves “academic performance, social adjustment, school satisfaction, self-concept,” and “confidence and efficacy”.²⁰ Scholars have identified “strong correlations between culturally responsive teaching and the school achievement of students of color.”²¹

Eighth, many schools in Detroit do not provide proper instruction for English Language Learners.²² That failure ignores the needs of the 5.4 percent of Detroit residents who were not born in the United States.²³ English Language Learners “are more successful when they participate in programs that are designed to meet their needs (ESL, bilingual, etc.) than in a mainstream English classroom and when the program is consistent throughout the student education.”²⁴

Lastly, the State has failed to provide sufficient mental health support to adequately address students that have suffered social and emotional trauma.²⁵ Teachers and staff are not trained to identify signs of trauma and children do not

²⁰ Geneva Gay, *Cultural Responsive Teaching in Special Education for Ethnically Diverse Students: Setting the Stage*, 15 Qual. Studies in Educ. 613, 627 (2002); see also *Gary B v. Synder*, 16-VC-13292, Complaint at 117.

²¹ *Id.*

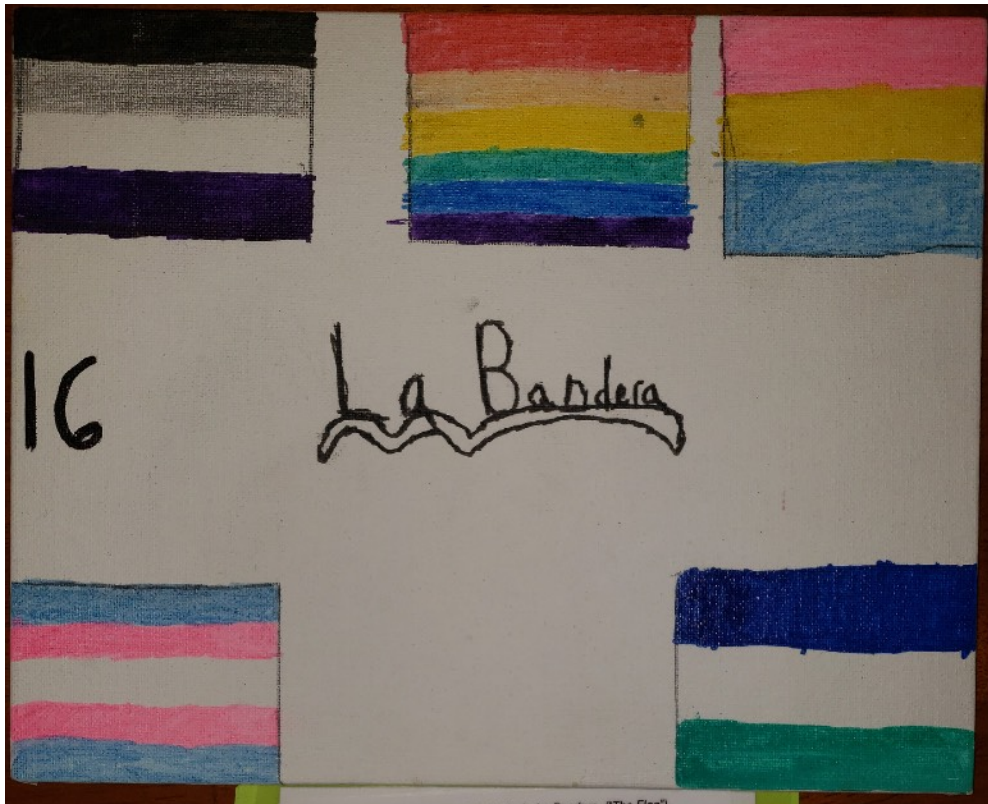
²² See *Gary B v. Synder*, 16-VC-13292, Complaint at 96-98.

²³ United States Census Bureau, *Quick Facts: Detroit City, Michigan* (accessed Jan. 1, 2016), <http://www.census.gov/quickfacts/table/PST045215/2622000>.

²⁴ Fred Genesee et al., *English Language Learners in US. Schools: An Overview of Research Findings*, 10 J. of Educ. For Students Placed at Risk 363, 377 (2005).

²⁵ See *Gary B v. Synder*, 16-VC-13292, Complaint at 11, 118-19.

have access to counselors.²⁶ Unaddressed trauma seriously disrupts learning.²⁷



“La Bandera — In the original La Loteria deck, La Bandera (“The Flag”), card is demonstrated by the flag of Mexico. As a way of being more gender inclusive and supportive of the LGBTQ community of students, we decided to transform this card into the LGBTQ* flag. This demonstrates solidarity for Latinx* who identify as LGBTQ* in a machismo culture, as many times they are rejected from their communities and families because they may not fit traditional Latinx* norms. We hope students are supported in their schools and communities.”*

—Unnamed, Detroit

²⁶ *Id.*

²⁷ Norris M. Haynes, *Addressing Students' Social and Emotional Needs: The Role of Mental Health Teams in Schools, in Disability and Black Community* 110-11 (Sheila D. Miller ed., 2002).

All this has led to a crisis in Detroit schools that cannot be overstated.

Detroit students disproportionately fail to meet the English proficiency standards under the Michigan Student Test of Educational Progress, at less than 5% at some Detroit schools, while state-wide proficiency hovers just under 50%.²⁸ Detroit students simply cannot read at the same levels as their counterparts.



“When I was 16 years old, I visited a public school in [the] suburbs for a robotics meeting. This was my first time visiting a school outside of Detroit. To my surprise, I was shocked on how beautiful the school was. The computers were brand new, the hallways were clean, they had an art hall, even their cafeteria was nice. As amazed as I was, I was deeply saddened to the fact that I had none of this. Why didn’t my school have any of this, why was my school falling apart. Till then, I thought my school was normal, but I now knew that I was destined to have the [bad] end of the stick.”

—Edgar G., Detroit

²⁸ See *Gary B v. Synder*, 16-VC-13292, Complaint at 96-98.

II. THE CONSEQUENCES OF DENYING DETROIT STUDENTS OF COLOR ACCESS TO LITERACY HAVE BEEN DEVASTATING.

Detroit's literacy crisis profoundly impacts the communities that 482Forward serves. Poor literacy instruction can have lifelong and community-wide consequences, including unemployment, poverty, and incarceration. The parents *amicus curiae* works with everyday have first-hand experience with the tragedies of illiteracy.

Studies consistently demonstrate that failure to intervene early to remediate reading problems will impact a child's future academic, personal, and professional achievement, as well as their mental health and social/emotional well-being.²⁹ A child who is not reading proficiently in third grade is four times more likely to fail to graduate from high school on time.³⁰ A youth who fails to graduate from high school on time or at all earns up to 50 percent less over a lifetime than one who does.³¹ Even for students who graduate from high school, the cost of poor reading skills is substantial. Students with poor reading skills are unprepared for entry-level positions, and those who attend college must take remedial classes, making them much more likely to drop out of college than those who do not.³²

²⁹ See *Gary B v. Synder*, 16-VC-13292, Complaint at 40-41.

³⁰ Donald J. Hernandez, *Double Jeopardy: How Third-Grade Reading Skills and Poverty Influence High School Graduation* (April 2011), <http://files.eric.ed.gov/fulltext/ED518818.pdf>.

³¹ Henry M. Levin & Cecilia E. Rousejan, *The True Cost of High School Drop Outs*, N.Y. Times (Jan. 25, 2012).

³² See Bob Wise, *High Schools at the Tipping Point*, 65 Educ. Leadership 8 (2008).

High illiteracy rates substantially harm the broader community.

Unsurprisingly, illiteracy is “perhaps the strongest common denominator among individuals in correctional facilities.”³³ In addition, higher education rates are correlated with lower crime, lower use of public assistance, and “higher payback in the form of sales, property, and state income taxes.”³⁴ Education levels also have a “strong and significant” effect on health, even after controlling for income and race.³⁵ There is even evidence that literacy (or lack thereof) can determine a community's success for generations to come.³⁶

The consequences of illiteracy plague Detroit schoolchildren and their communities. Only 58 percent of Detroit Public School students graduate from high school in four years.³⁷ Fewer than one in four of those students will enroll in college.³⁸ Only two percent of Detroit's high school students are prepared for

³³ William Drakeford, *The Impact of an Intensive Program to Increase the Literacy Skills of Youth Confined to Juvenile Corrections*, 53 J. of Correctional Educ. 132, 139 (2002).

³⁴ Michael Hout, *Social and Economic Returns to College Education in the United States*, 38 Ann. Rev. of Sociology 379, 392 (2012).

³⁵ Adriana Lieras-Muney, *The Relationship Between Education and Adult Mortality in the United States*, 72 Rev. of Econ. Stud. 189 (2005).

³⁶ Brent Staples, *Why Slave Era Barriers to Black Literacy Still Matter*, N.Y. Times (Jan. 1, 2006).

³⁷ Excellent Schools Detroit, *Taking Ownership: Our Pledge To Educate All Of Detroit's Children* 3 (2010).

³⁸ *Id.*

college-level math and eleven percent for college-level reading.³⁹ It is therefore no surprise that poverty rates in Detroit have hovered around 40 percent and as many as one in seven adult men are under correctional control in some neighborhoods.⁴⁰

This chain of negative consequences is familiar to Arlyssa Heard and Ke’li Coleman, Detroit mothers involved with 482Forward. Arlyssa traces her son CJ's unemployment as a young adult back to his poor elementary schooling. CJ attended Detroit public schools throughout elementary and middle school, where “he was getting A's and B's”- “[h]is report card showed he was making the grade.” Unbeknownst to Arlyssa, CJ's high grades did not mean he was learning. Arlyssa “really found out just how bad of a struggle [her] son was having” when he performed poorly on his ACT.⁴¹

“I began to reflect on 4th grade and I started having flashbacks to all of those moments that in hindsight ... were red flags but at the time I missed it because I thought I was just nit picking and he had good grades... And I felt like I was watching the Titanic, because I knew in 11th grade with my son that we were sinking fast, but I had no idea what to do because I had never been here before, didn't know how you turn it around, didn't know who's to blame And the biggest question I had was how the hell did he make it out of grade school?”⁴²

³⁹ *Id.*

⁴⁰ U.S. Census QuickFacts, Detroit, *supra*; Pew Charitable Trust, Press Release, *One in 31 U.S. Adults are Behind Bars, on Parole, or on Probation* (accessed Jan. 2, 2017), www.pewtrusts.org/en/about/news-room/press-releases/0001/01/01/one-in-31-us-adults-are-behind-bars-on-parole-or-probation.

⁴¹ Exhibit 1, Alyssa Heard Declaration.

⁴² *Id.*

As a result, “CJ went to college completely unprepared.” He dropped out of college during his sophomore year. Arlyssa surmised that “the workload, the speed, the responsibility of the studying, the comprehension level—it was too much.” CJ now lives at home and is unemployed. Arlyssa says that “six or seven of his friends” have “all gone through the same thing.”⁴³



Ke'li had a similar experience with her daughter Dasia. In high school, Dasia had no math teacher and “had one English teacher who was helping sub for the math teacher.” Instead of receiving instruction, “the students were allowed to sit in their math hour and writing hour and just eat and hang out.” Dasia eventually

⁴³ *Id.*

decided “it was easier for her to stay at home instead of catching a two hour bus ride to sit in class where she wasn't given any instruction.” Dasia dropped out.⁴⁴

III. THE SHEER WILL OF STUDENTS, PARENTS, AND THE COMMUNITY CANNOT FILL THE VOID CREATED BY INADEQUATE SCHOOLS.

Despite the barriers to community involvement erected by the State, 482Forward has worked tirelessly to ensure access to literacy for Detroit students. And 482Forward is not the only community initiative stepping in to fill the educational void. Perhaps because of the State's failures, there has been a groundswell of community action to educate Detroit's children. Organizations like Reading Words of Detroit, Developing K.I.D.S., and the Kresge Foundation have put significant resources toward literacy and other education programs in Detroit.

In addition, Detroit parents seek out extracurricular programs and devote time to providing the instruction schools do not. When Michele Phillips realized her daughter Malacah was reading at a kindergarten level in fourth grade, she “did everything [she] could to motivate her, telling her not to give up on herself and to continue to turn in the work.” She enrolled Malacah in a 21st Century Community Learning Center Program through the U.S. Department of Education, where Malacah is given literacy training after school. Michele “even went back to school [her]self to show [Malacah] how important education is.”⁴⁵

⁴⁴ Exhibit 1, Ke’li Coleman Declaration.

⁴⁵ Exhibit 1, Michele Phillips Declaration.

Similarly, Ke'li has actively sought out the best programs and schools for her children. When she began to suspect that her daughter Quianna might have an intellectual disability, she pushed the school to test her. After tests showed Quianna was not intellectually disabled, Ke'li enrolled her in a neighborhood tutoring program. Quianna's grades have been steadily dropping, so Ke'li has been pushing the school to retest her for intellectual disabilities.⁴⁶

CJ's mom, Arlyssa, threw herself into educating her children once she realized the schools were failing them. "I was an involved parent," she said. "I was the leader of the parent group, I was a delegate to the Detroit Public School Title I Parent Advisory Committee, I did workshops and trainings with parents." She enrolled CJ and his younger brother Judah in tutoring and extracurricular activities. She took advantage of specialized services offered by the Detroit Children's Center for children struggling academically. She instituted a nightly story time. When Judah was diagnosed with Attention Deficit Hyperactivity Disorder, she searched for a school that could provide the support he needed, even sitting in on classes to see for herself whether the learning environment was adequate.⁴⁷

But heavy community and parental involvement cannot substitute for adequate schools. Despite Michele's efforts, her daughter Malacah had to repeat the

⁴⁶ Exhibit 1, Ke'li Coleman Declaration.

⁴⁷ Exhibit 1, Alyssa Heard Declaration.

seventh grade.⁴⁸ Ke'li's daughter Dasia dropped out of school, and her daughter Quianna failed third grade.⁴⁹ Arlyssa's son CJ did not finish college and can't find a job; she has higher hopes for her son Judah.⁵⁰

Nor can ill-prepared students be expected to thrive in college and beyond on sheer determination alone. Virgil M. is a freshman at a local community college aspiring to become an engineer. His math and English proficiency were so low that the college required him to complete remedial courses before he could proceed with his associates program. He, in a poetic diary entry, starkly describes his struggles and the schooling that ill-prepared him for college life:

See, it's a bit hard for me to keep up ...sorry I never really kept up to them
It's just I never really knew until it was too late, until its too late

...

I been put down too damn long to not get a fair chance,
Ceilings falling off really?
Broken chairs with no stability?
No teachers? um excuse me state, but the certified ones, you not slick⁵¹

⁴⁸ Exhibit 1, Michele Phillips Declaration.

⁴⁹ Exhibit 1, Ke'li Coleman Declaration.

⁵⁰ Exhibit 1, Alyssa Heard Declaration.

⁵¹ Exhibit 2, Virgil M. Poem.

These are just a few examples of countless Detroit parents and students struggling to overcome a broken system. No matter the challenges, however, the community is not going to give up on its children just because the State has been unwilling to do its part.

CONCLUSION

By illustrating the real-life conditions and consequences of the State's neglect of Detroit schoolchildren, *amicus curiae* 482Forward very much hopes that the experiences of its members have helped the Court understand how fundamental literacy is to liberty in all its dimensions and how Detroit schoolchildren have been denied equal, adequate access to literacy.

Respectfully Submitted,

/s/ Jayesh Patel
Jayesh Patel (P65385)
Street Democracy
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Detroit, MI 48202
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Attorney for Amicus Curiae

Dated: November 26, 2018

EXHIBIT 1

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GARY B.; JESSIE K., a minor by Yvette K., guardian ad litem; CRISTOPHER R. and ISAIAS R., minors, by Escarle R., guardian ad litem; ESMERALDA V., a minor, by Laura V., guardian ad litem; PAUL M.; JAIME R., a minor, by Karen R., guardian ad litem, on behalf of themselves and all others similarly situated.

Plaintiffs,

vs.

RICHARD D. SNYDER, in his Official Capacity as Governor of the State of Michigan; JOHN C. AUSTIN, MICHELLE FECTION, LUPE RAMOS-MONTIGNY, PAMELA PUGH, KATHLEEN N. STRAUS, CASANDRA E. ULBRICH, EILEEN WEISER, and RICHARD ZEILE, in their official capacities as members of the Michigan Board of Education; BRIAN J. WHITSON, in his official capacity as Superintendent of Public Instruction for the State of Michigan; DAVID B. BEHEN, in his official capacity as Director of the Michigan Department of Technology, Management, and Budget; and Natasha Baker, in her official capacity as the State School Reform/Redesign Officers,

Defendants.

Civil Action No. 16-CV-13292

HON. STEPHEN J. MURPHY
III

M.J. ANTHONY P. PATTI

**DECLARATION OF
MICHELE PHILLIPS IN
SUPPORT OF BRIEF OF
AMICUS CURIAE
482FORWARD IN SUPPORT
OF PLAINTIFFS**

DECLARATION OF MICHELE PHILLIPS

I, Michele Phillips, declare under penalty of perjury as follows:

1. I am a parent with 7 children enrolled or previously enrolled in Detroit's schools. I have been involved with 482Forward as a member of the Northeast Action Team and the Membership Committee.
2. My daughter Malacah Mason is currently in 7th grade at Fisher Magnet Upper. She is 13 years old.
3. With Malacah, it was hard when she started school because I was a single parent and it was hard for me to go to the parent teacher conferences. I didn't realize because that her teachers didn't try to contact me to let me know that my child was struggling in elementary in her reading.
4. When I got married I started going to the parent teacher conferences and that's when they told me that they had her in these class programs and she wasn't improving. By the time I found out—she was, I believe, in the third or fourth grade when I found out that she couldn't read. She couldn't even write. It was like a kindergarten level. I didn't know what to do. I turned to the school for help and I did ask them to test her for dyslexia. They didn't test her but they did put her in some programs. She was still at the level of the kids who were English Language Learners.
5. By that time I believe she kind of lost hope in her learning. I did

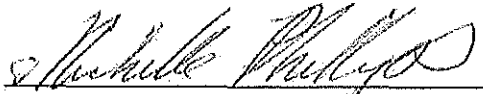
everything I could to motivate her, telling her not to give up on herself and to continue to turn in the work. We were trying to work with her in reading books. She wasn't participating in class and was saying "no" when she was called on to read, but I didn't teach her to disrespect her teachers like that. You have to almost become a psychologist, not to manipulate them exactly, but to motivate them to do it. You can do this, you're smart. And let them see how important education is. I even went back to school myself to show them how important education is.

6. I have her in 21st century after-school programs now. In the past I found out about other free programs—I can't afford to put her in extra-curricular programs that cost money—through the school in Hamtramck. Sometimes I find free tutoring, but it's hard to get to if it's not at the school. I have all my kids in the 21st century program, except my youngest Alexander, who's in pre-k.

7. She had to repeat the 7th grade, but she's a lot better than what she was. So far I've had two children graduate, and I have one more graduating this year. Malacah will be the next in line to graduate, and I'm trying to keep her in line to get there.

8. I declare under penalty of perjury under the law of the United States that the foregoing facts are true and correct.

Executed this 19th day of January, 2017, in Detroit, Michigan.


Michele Phillips

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GARY B.; JESSIE K., a minor by Yvette K., guardian ad litem; CRISTOPHER R. and ISAIAS R., minors, by Escarle R., guardian ad litem; ESMERALDA V., a minor, by Laura V., guardian ad litem; PAUL M.; JAIME R., a minor, by Karen R., guardian ad litem, on behalf of themselves and all others similarly situated.

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Defendants.

Civil Action No. 16-CV-13292

HON. STEPHEN J. MURPHY
III

M.J. ANTHONY P. PATTI

**DECLARATION OF
ARLYSSA HEARD IN
SUPPORT OF BRIEF OF
AMICUS CURIAE
482FORWARD IN SUPPORT
OF PLAINTIFFS**

DECLARATION OF ARLYSSA HEARD

I, Arlyssa Heard, declare under penalty of perjury as follows:

1. I am a parent with 2 children enrolled or previously enrolled in Detroit's schools. I have been involved with 482Forward as a member and parent organizer in the Hope Village neighborhood of Detroit, where I live.
2. My son CJ is currently 21 years old. My son Judah is 11 years old.
3. CJ struggled a bit in elementary school, especially in English and his Reading Comprehension. I enrolled him in after-school tutoring, as well as in extracurricular activities on Saturday mornings that would help to build social skills for him at Marygrove Kids College. It was kind of like fun hands on science courses.
4. But I didn't realize until CJ graduated from high school just how much of a struggle academically he had. Because in grade school he was getting A's and B's. His report card showed he was making the grade.
5. When he went to a private school it came out that my son didn't know as much as I thought he did. I had a feeling on the inside because when we would do homework there was stuff he didn't know that I thought he should but I'm not real good with teaching kids stuff—I don't have patience—so I thought it was just me. But when I lost my job we had to go back to public school for high school.
6. In high school, there were a couple classes that he got D's in and I

was real shocked. I was wondering was it him goofing off or does this child really not know the material. I was faced with that by 10th or 11th grade.

7. His school closed at the end of his 11th grade year and so some of the teachers that were providing extra help and support were let go. He transitioned to a new school and that's when I really found out just how bad of a struggle my son was having because his ACT was a 15. He took it again and got a 16. It was at that point that I began to reflect on 4th grade and I started having flashbacks to all of those moments that in hindsight I know they were red flags but at the time I missed it because I thought I was just nit picking and he had good grades.

8. At that point I didn't know what to do. I didn't know, how do you repair this? Whatever the foundational things my child didn't know, it seemed like they weren't just going to appear in 4 months at the end of his senior year. And I felt like I was watching the Titanic, because I knew in 11th grade with my son that we were sinking fast, but I had no idea what to do because I had never been here before, didn't know how you turn it around, didn't know who's to blame. I was dealing with, is my son a clown in class? And the biggest question I had was how the hell did he make it out of grade school? I had a lot of questions.

9. The end of the story is that CJ went to college completely unprepared. One of the administrators at his high school pulled me in a room and said you know your son is graduating by the skin of his teeth, right? And I said if I

didn't know before, I know now. We needed a miracle. But CJ didn't make it. By the end of his freshman year, he was already on probation, struggling.

10. I think the workload, the speed, the responsibility of the studying, the comprehension level—I just think it was too much. He went into his second year already on probation. He didn't do well and he was no longer in school by the second semester of that year. He's been home ever since, unemployed, with six or seven of his friends who have all gone through the same thing.

11. So I was determined with Judah that the story would be different. However, the nightmares of CJ haunt me. Judah started off in a very family-oriented school with well-developed leadership. Most of the staff had been there for 10 years or better. Good parental support.

12. And I was an involved parent. I was the leader of the parent group. I was a delegate to the DPS Title I Parent Advisory Committee. I did workshops and trainings with parents. I think that put me at the other end where people were really friendly about what my son needed. They would say, 'Yeahhh we're gonna work with him'. Because he has ADHD and I was in the school 3 times a week, I was always checking in on what he needed, and people were really nice about it.

13. He had a great resource teacher that was structured and excellent and gave 110% and did everything he needed. And he was improving. The problem was when he would go back to the general ed classroom, where he spent the

majority of his time, it was like day and night. It was like pieces of him were just leaving year after year, until by the time he made it to third grade, he would only get as far as writing the first two letters of his name on an assignment. He had completely checked out mentally. He played with pencils, got out of his seat, walked out of classrooms, her was just off the hook.

14. Often in the general ed classroom he was made to feel not as smart as the other kids because he would be teased when he would read aloud, and so that caused him to not want to participate. And then it had gotten to a point where one of the teachers even asked me if I could increase the dosage on his medicine so he would at least sit down. I was offended because it was at that point that I knew that was not helping to get my son educated. My thing for Judah was, first, he needed to have confidence that he was capable; second, how do you build a passion for learning in a kid whose experience is that learning is not fun, it's not for me, and I'm a dummy.

15. To increase his interest in reading and help him learn, I would read stories with Judah at night. I let him choose the books, so that it was something he was interested in instead of the stuff they had at school. We would also go to the Children's Center, where we have therapists and counselors, and we'd get recommendations from those counselors. We talked to teachers, resource teachers, to try to build a partnership or network to work together.

16. But the strategies the resource and general ed teachers were using weren't the same, on top of the fact that there were 42 other kids in the classroom. There just wasn't a whole lot of learning that was taking place because the teacher was bogged down just trying to settle everyone down and focus on the lesson.

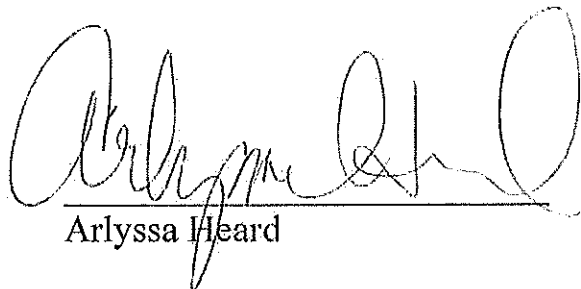
17. I didn't want to leave the school because my son was comfortable there and had friends there but I knew the longer he stayed there it was a slow academic death. It felt like an academic suicide for him. I made phone calls to find out where is the school that will help him. The district made the recommendation and we went to the new school and I sat in the classroom once a week for three weeks and it was more of the same. Super overcrowded. I didn't see in those classrooms—he was in the 4th grade—the appearance of the classroom, the teachers, the plans for the day—it looked and sounded very very boring and I did not see how 40 plus 10-year-old children would find anything interesting about school in the classrooms that I sat in. I sat in those classrooms and I watched my son play with a pencil. I thought to myself I can't do this.

18. We made another move and went to a private school who told me after multiple interviews that he was the absolute right candidate for their curriculum, this was their specialty. Only to be told 6 weeks later that my son didn't fit the culture, so they pushed us out.

19. At that point I wanted to give up because I knew that I didn't have the patience and wasn't qualified to homeschool my child. His spirit was broken. He did not want to even go to school. And the saddest thing was there were about 5 other parents that I knew who were in the same boat as me but they didn't have the resources to float their kids around to different schools or have the connections to ask around. I tried to do what I could because I didn't want my son to be dead on the vine, trapped in a school that he hated. I'm not even going to say that people didn't want to help him, but the resources were not there to give him what he needed academically, socially, emotionally. And I didn't know any school in this city that was free that could do that. Except the school he is in now, which is the only one of its kind in the entire city.

20. I declare under penalty of perjury under the law of the United States that the foregoing facts are true and correct.

Executed this 19th day of January, 2017, in Detroit, Michigan.



Arlyssa Heard

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GARY B.; JESSIE K., a minor by Yvette K., guardian ad litem; CRISTOPHER R. and ISAIAS R., minors, by Escarle R., guardian ad litem; ESMERALDA V., a minor, by Laura V., guardian ad litem; PAUL M.; JAIME R., a minor, by Karen R., guardian ad litem, on behalf of themselves and all others similarly situated.

Plaintiffs,

vs.

RICHARD D. SNYDER, in his Official Capacity as Governor of the State of Michigan; JOHN C. AUSTIN, MICHELLE FECTEAU, LUPE RAMOS-MONTIGNY, PAMELA PUGH, KATHLEEN N. STRAUS, CASANDRA E. ULBRICH, EILEEN WEISER, and RICHARD ZEILE, in their official capacities as members of the Michigan Board of Education; BRIAN J. WHITSON, in his official capacity as Superintendent of Public Instruction for the State of Michigan; DAVID B. BEHEN, in his official capacity as Director of the Michigan Department of Technology, Management, and Budget; and Natasha Baker, in her official capacity as the State School Reform/Redesign Officers,

Defendants.

Civil Action No. 16-CV-13292

HON. STEPHEN J. MURPHY
III

M.J. ANTHONY P. PATTI

**DECLARATION OF KE'LI
COLEMAN IN SUPPORT OF
BRIEF OF *AMICUS CURIAE*
482FORWARD IN SUPPORT
OF PLAINTIFFS**

DECLARATION OF KELI COLEMAN

I, Ke'li Coleman, declare under penalty of perjury as follows:

1. I am a parent with 5 children enrolled or previously enrolled in Detroit's schools. I have been involved with 482Forward first as a member of Present! in Brightmoor, a community-based initiative to decrease chronic absenteeism in my neighborhood, and now as an organizer.
2. Dejiza is my eldest daughter. The decline of her education started in 8th grade. She graduated from Gompers in their first 8th grade class. From there, she wanted to attend Detroit Community High School, the only high school in our area—it's a charter school—and she was put on a wait list.
3. Because I didn't want her to miss any school, I enrolled her in the closest Detroit Public School to me, which was Cody. She attended Cody. The first year they split the high school into three small schools, so she attended Cody Medicine Academy.
4. She was good academically—she had a 3.0 GPA.
5. But in her 9th grade year she became pregnant, and during her second trimester the school said it was unsafe for her to continue there as a student, but they could refer her to Catherine Ferguson, which was the only DPS school that allowed pregnant students to attend. During her year there, she had one English teacher who was helping to sub for the math teacher. They had no math teacher.

6. She found out the school was closing at the end of the year so none of the training programs or extra classes were available any longer. So, the students were allowed to sit in their math hour and writing hour and just eat and hang out. Sometimes they would go to the nursery and help out with the girls who had just had their babies for something to do other than sit in class and eat. So, Dejiza decided that during her third trimester it was easier for her to stay at home instead of catching a two hour bus ride to sit in class where she wasn't given any instruction. She ended up dropping out of school.

7. I looked for other avenues of education for her—either GED classes or job corps—but once she turned 18 she decided to give up on that and just try to find a job and try to take care of her child.

8. Qui-Anna is my youngest child. She is now 14 years old. This story is about her third grade in the school where she is currently enrolled. She was falling behind in her reading and comprehension. The teacher, who was a new teacher at the school, asked me if Qui-Anna had an individualized education program, or IEP, she wasn't aware of. At that time I didn't know what an IEP was. So her teacher explained to me what it was and told me the steps I needed to take in order to have her tested.

9. The school does not automatically request the IEP testing. The parent has to put it in writing in the form of a letter or email and then I had to fill out

forms to allow them to come into the school and test my daughter. About two months after that, she ended up being tested for IEP. The social worker and the counselors came in and they tested my daughter.

10. It took about two weeks for the results to come back. They felt that Qui-Anna didn't need an IEP. She was testing below average, but not below enough to need special education. I explained to them that at that time I didn't have a vehicle to get her home from tutoring after school, so I put her in a neighborhood tutoring program at City Mission that provided transportation. She received tutoring once a week. Her reading improved somewhat, but it still wasn't up to level, so she failed the third grade.

11. When she returned to the school in fourth grade, she had a new teacher. As long as she wasn't causing a problem in school, the teacher never said anything about her being behind. Her grades pretty much stayed the same—low but not failing—so it didn't reflect in her report card that she was behind. I figured the tutoring had helped.

12. From that I figured it wasn't at a point where she couldn't learn to work, it was just she needed assistance to learn to work. I explained this to each new teacher that she had, but since then I've noticed that her grades have started to progressively drop.

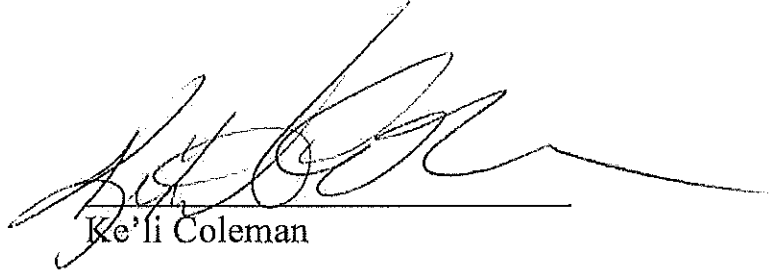
13. Once she started receiving failing grades again, I requested that she be

retested, and I asked for what other resources the school had available. I don't want her to continue to repeat the same grade and fall even further behind again.

14. Once I requested the IEP, I feel that they started a campaign to push her out of the school. The teachers that told me that she was a happy child now tell me that she's a problem child who needs disciplinary action. Within a matter of weeks their opinion of her changed, and it seemed like they were trying to push her out instead of trying to retest her and keep her in the school.

15. I declare under penalty of perjury under the law of the United States that the foregoing facts are true and correct.

Executed this 19th day of January, 2017, in Detroit, Michigan.



Ke'li Coleman

EXHIBIT 2

Dairy of A Black Man Entry #18

I never sought to seek my own adventures
It wasn't until I felt like I was left on the battlefield in the ~~word~~...sorry world
See, it's a bit hard for me to keep up ...sorry I never really kept up to them
It's just I never really knew until it was too late, until its too late
The game they played was ~~fucked~~ up sorry my language seems a little to mess up.
School they set for me was original, the building tore down was, the books was, like dated back in 1996
Gave us the real ok, like that was their highest shit,
~~Sorry~~ honestly, I'm done with regrets, my brothers and sisters are blinded by it
A debt I never own in the first place, sought to beat me before I started the race, no mercy, maybe a
soul
But those big suits making decisions seems too cold
The punches leave heavy sting, flowing around thinking you un seen
I been put down too damn long to not get a fair chance,
Ceilings falling off really?
Broken chairs with no stability?
No teachers? um excuse me state, but the certified ones, you not slick
No more ooh that my favorite fucking districts picks
No more who cares what they think little black boy
No technology nor the cool toys,
Put a good show on for all us to see state like you have for the past 18 years
My family and all friends stand for what's right and never gave in
Now it mine turn as a black man to fight back
take everything back you took
Ill make this the 18th entry in my damn dairy book

This piece is written about the enslaving thoughts that I faced through my lifetime and still face with the lack of things provide by the state and what things they gave us in returned, how their decisions are made official but don't go un seen...how I almost lost the race and felt like I couldn't compete in this world, this is ...estimably my dairy of a black man

Black Man