

No. 18-1855/18-1871

**United States Court of Appeals
for the Sixth Circuit**

GARY B.; JESSIE K., A MINOR, BY YVETTE K., GUARDIAN AD LITEM;
CRISTOPHER R., A MINOR, BY ESCARLE R., GUARDIAN AD LITEM; ISAIAS
R., A MINOR, 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,
Plaintiffs- Appellants,

v.

RICHARD D. SNYDER, GOVERNOR; JOHN C. AUSTIN, MEMBER OF MI Bd OF
EDUCATION; MICHELLE FECTION, MEMBER OF THE MI Bd OF EDUCATION;
LUPE RAMOS-MONTIGNY, MEMBER OF THE MI Bd OF EDUCATION; PAMELA
PUGH, MEMBER OF THE MI Bd OF EDUCATION; KATHLEEN N. STRAUS, MEMBER
OF THE MI Bd OF EDUCATION; CASANDRA E. ULBRICH, MEMBER OF THE MI Bd
OF EDUCATION; EILEEN WEISER, MEMBER OF THE MI Bd OF EDUCATION;
RICHARD ZEILE, MEMBER OF THE MI Bd OF EDUCATION; BRIAN J. WHISTON,
SUPERINTENDENT OF PUBLIC INSTRUCTION FOR THE STATE OF MI; DAVID B.
BEHEN, DIRECTOR OF THE MI DEPT OF TECHNOLOGY; NATASHA BAKER, STATE
SCHOOL REFORM/REDESIGN OFFICER, IN THEIR OFFICIAL CAPACITIES,
Defendants- Appellees.

APPEAL FROM 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 FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF OF
SCHOLARS, ENTITIES AND UNIVERSITY ADMINISTRATORS IN
SUPPORT OF PLAINTIFF-APPELLANT AND SUPPORTING
REVERSAL**

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Counsel for Amici Curiae

November 26, 2018

Under Rule 29(a)(3) of the Federal Rules of Appellate Procedure, University of Michigan, School of Education, Dean Elizabeth Moje et al. (“*Amici*”)¹ respectfully move this Court for leave to file the accompanying *amicus curiae* brief in support of Gary B. et al, the Plaintiff-Appellant. This motion is unopposed. In support of this motion, counsel for *Amici* states:

(1) The *Amici* have a strong interest in this case.

(2) *The Amici* can assist the Court by providing helpful analysis on several important issues presented in this appeal.

(3) No party will be prejudiced by permitting *Amici* to file its amicus brief.

The accompanying brief is timely filed and conforms to the word limit imposed under Rule 29(a)(5) of the Federal Rules of Appellate Procedure.

(4) Plaintiff-Appellant, Gary B. et al., has consented to the filing of an amicus brief. Counsel for the Defendants-Appellees Richard Snyder et al. indicated that the Appellees will not oppose this motion.

¹ The comprehensive list of *amici* signing this brief is in the Appendix of this motion.

ARGUMENT

I. *Amici* have a strong interest in this case, as contemplated by Rule 29 of the Federal Rules of Appellate Procedure

Amici are a group of 68 leading scholars, entities, and university administrators that focus on teacher education, educational policy, assessment and literacy throughout the United States. *Amici* submit this brief in support of Plaintiffs' appeal in this action. *Amici* have no personal interest in the outcome of this case, but a strong professional interest driven by their conviction that without meaningful literacy instruction, children in the Detroit public schools will not develop the basic literacy skills they will need to be active participants in our democracy. Without basic literacy skills, these children will also be unable to complete the complex literacy tasks necessary to provide for themselves and their families and will instead be consigned to low future earnings and a lack of voice in our society. *Amici* believe that literacy instruction is not only necessary for active citizenship and future work, but also to model for Detroit's youth the core democratic values of our society, specifically their right to liberty and a commitment to the common good of all of its members.

Amicis' objective is to provide this Court with additional context necessary to fully understand the current state of education for the children and youth in the city of Detroit and the critical importance of literacy to their futures. The accompanying brief draws not only upon academic research and the expertise of

Amici in teacher education, educational policy, assessment and literacy, but also, with respect to the principal author of the brief, Elizabeth Birr Moje, the Dean of the School of Education at the University of Michigan, twenty years of studying literacy teaching and learning in a range of Detroit schools including long-term systematic observations of classrooms, schools, and communities across the city.

II. *Amicis'* brief will assist the Court and is relevant to the disposition of the case

The accompanying brief provides substantive, concise and thoroughly researched arguments that would otherwise not be presented to the Court. *Amici* argue that the poor achievement of Detroit's schoolchildren is explained by the separate and unequal educational circumstances in Detroit schools. *Amici* argue that literacy learning is fundamental to protect equal education because it provides the basis for all other educational subject matters and is an essential underpinning for engagement in a democratic society. Finally, *Amici* argue that data-driven research-based reforms of the Detroit public schools are capable of producing equal access to literacy in those schools.

Amici believe these arguments provide significant context for the issues underlying this appeal. Leave to file an amicus brief is to be freely given when the amicus will aid the Court "by presenting ideas, arguments, theories, insights, facts or data that are not to be found in the parties' briefs." *Voices for Choices v. Illinois Bell Telephone Co.*, 339 F.3d 542, 545 (7th Cir. 2003). The accompanying amicus

brief satisfies this standard.

III. No party faces any prejudice from the filing of this brief

The filing of this brief will cause no delay or any other prejudice to any party. Both parties have the opportunity to engage with *Amici*'s brief and respond to its arguments concerning equal access to literacy. Further, the filing of the accompanying brief would not prejudice either party as it is timely, conforms with Rule 29(a)(5) of the Federal Rules of Appellate Procedure as it contains 6,491 words, and is concurrently filed with this motion.

IV. The parties do not oppose the filing of this brief

Counsel for *amici curiae* sought the consent of all parties. Plaintiff-Appellant, Gary B. et al., has consented to the filing of an amicus brief. Counsel for the Defendants-Appellees Richard Snyder et al. indicated that the Appellees will not oppose this motion. Courts typically grant leave to file an amicus brief “when the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Youming Jin v. Ministry of State Sec.*, 557 F. Supp. 2d 131, 137 (D.D.C. 2008) (citing *Ryan v. Commodity Futures Trading Comm’n*, 125 F. 3d 1062, 1064 (7th Cir. 1997)). *Amici*'s brief on behalf of 68 leading school administrators, professors and social scientists of literacy and education satisfy this standard.

CONCLUSION

For the foregoing reasons, *Amici* respectfully requests that the Court grant this motion and accept the accompanying amicus brief for consideration.

Date: November 26, 2018

Respectfully submitted,

/s/ Steven Guggenheim

Steven Guggenheim

Counsel for Amicus Curiae

APPENDIX: LIST OF SIGNATORIES²

Name	Bio
Antrop-González, René	Dean of the School of Urban Education at Metropolitan State University in St. Paul, MN.
Anderson, Lauren, PhD	Associate professor of Education at Connecticut College. Her scholarship focuses on literacy, teacher preparation, and education policy.
Bartolini, Vicky, PhD	Professor and Chair, Education Department Wheaton College. She has worked in the public schools for 20 years and also been a professor of Education for over 25 years.
Basile, Carole G.	Dean of the Mary Lou Fulton Teachers College at Arizona State University (ASU). Prior to joining ASU, Basile was Dean and Professor in the College of Education at the University of Missouri St. Louis (UMSL).
Biegel, Stuart	Member of the emeriti faculty at UCLA where he has taught at both the Graduate School of Education & Information Studies and the School of Law for over 30 years. He is the original author of Education and the Law, West Academic Publishing (Fifth Edition, forthcoming 2019), a national textbook which is used in law schools and education schools nationwide.
Burch, Patricia, PhD	Associate Professor Education and Policy at University of Southern California.
Cartun, Ashley D., PhD	Educational scholar, teacher educator and Director of School Partnerships & Accreditation at the University of Colorado Boulder School of Education.
Carver, Cynthia, PhD	Associate professor and chair of Teacher Development and Educational Studies at Oakland University.

² Institutions are listed for identification purposes only.

Name	Bio
Christ, Tanya, PhD	Associate Professor of Reading and Language Arts at Oakland University in Michigan. She serves as the Community Partnership and Service Learning Coordinator for Reading and Language Arts, and Community Partnership Scholar in Residence for the School of Education and Human Services.
Cobb, Casey D., PhD	Raymond Neag Professor of Educational Policy at the University of Connecticut. He is also a National Education Policy Center Fellow and member of the Research Advisory Panel for the National Coalition on School Diversity.
Darling-Hammond, Linda	Charles E. Ducommun Professor Emeritus, Stanford University School of Education.
Del Prete, Thomas, EdD	Director of the Adam Institute for Urban Teaching and School Practice at Clark University and a founding member of the Urban Teacher Educator's Consortium.
Duke, Nell K. EdD.	Professor in the University of Michigan School of Education whose scholarly field is early literacy development, particularly among children living in poverty. She is recipient of a number of awards for her work, including the International Literacy Association William S. Gray Citation of Merit.
Dutro, Elizabeth, PhD	Professor and chair of literacy studies at the University of Colorado Boulder School of Education.

Name	Bio
Education Deans for Justice and Equity and the Urban Teacher Educators Consortium	Education Deans for Justice and Equity (EDJE) is an alliance of deans of colleges and schools of education who are committed to upholding the importance of public education in our democratic society. As a collective, we address issues of justice and equity in public policy debates, as well as in our own institutions. Among one of our guiding principles is the belief that schools and colleges of education have a moral responsibility to listen to and learn from communities that have not been well-served by public education in order to advocate for the well-being and dignity of all children, families, and communities.
Edley, Christopher	President and Co-Founder, Hon. William H. Orrick, Jr. Professor of Law, and Former Dean U.C. Berkeley School of Law The Opportunity Institute.
Endo, Rachel	Founding Dean and a Professor in the School of Education at the University of Washington Tacoma.
Escamilla, Kathy, PhD	Professor in the School of Education at the University of Colorado, Boulder.
Fine, Michelle	The Graduate Center, The City University of New York.
Finnigan, Kara S., PhD	Professor of educational policy at the University of Rochester's Warner School of Education and Human Development.
Gandara, Patricia	Emerita Professor and Co-Director of the Civil Rights Project at UCLA. She is a fellow of the American Educational Research Association and an elected member of the National Academy of Education.

Name	Bio
Gutierrez, Kris	Carol Liu Professor in Educational Policy and Learning Sciences and Human Development in the Graduate School of Education at the University of California Berkeley. Gutiérrez is a member of the National Academy of Education, past president of the American Educational Research Association, and former Vice-Chair of the Institute of Educational Sciences, U.S. Department of Education.
Hand, Victoria M., PhD	Associate professor of mathematics education at the University of Colorado Boulder School of Education.
Hannafin, Bob, PhD	Dean and professor at Fairfield University's Graduate School of Education and Allied Professions, which focuses on teacher education and the behavioral health fields. He is a founding member of Education Deans for Justice and Equity.
Hantzopoulos, Maria	Chair and Associate Professor of Education at Vassar College.
Hilton, Kelly, PhD	Past President of the American Educational Studies Association and Chair of the Educational Studies Department at Davidson College.
Hull, Glynda	Elizabeth H. and Eugene A. Shurtleff Chair in Undergraduate Education at the University of California, Berkeley. A member of the National Academy of Education, Hull is a professor in Learning Sciences and Human Development at the Graduate School of Education at Berkeley.
Jennings, Louise	Professor in the School of Education at Colorado State University.
Kim, Robert	William T. Grant Distinguished Fellow at Rutgers University and a former deputy assistant secretary in the U.S. Department of Education Office for Civil Rights.

Name	Bio
Kirkland, David E. PhD	Executive Director of New York University's Metropolitan Center for Research on Equity and the Transformation of Schools/Associate Professor of English and Urban Education.
Ladd, Helen	Susan B. King Professor Emerita of Public Policy and Economics, Sanford School of Public Policy, Duke University and Affiliate of the Center for Child and Family Policy.
Lopez, Francesca, PhD	Professor of education policy at the University of Arizona College of Education. She is the Ernest W. McFarland Distinguished Professor in Leadership for Education Policy and Reform and directs the University of Arizona's College of Education Policy Center, which connects policy research to policymakers and the community.
Lose, Mary K., EdD	Professor of Reading and Language Arts and Director of the Reading Recovery Center of Michigan at Oakland University.
Lugg, Catherine A., PhD	Professor of education at the Graduate School of Education, Rutgers University. She is also a fellow with the National Education Policy Center, which works to bring the expertise of scholars into policy discussions.
Masingila, Joanna O., PhD	Dean and professor at the Syracuse University School of Education.
McIntyre, Ellen	Dean and professor at the University of North Carolina Charlotte whose scholarly fields are literacy and teacher preparation. She is a member of Deans for Impact and serves on the North Carolina Professional Educator Preparation and Standards Commission and the UNC Early Literacy Educator Preparation Commission.

Name	Bio
Mensah, Felicia Moore	Associate dean and professor of science education in the Department of Mathematics, Science and Technology at the Teachers College, Columbia University.
Meyer, Elizabeth, PhD	Professor of policy and former Associate Dean of Teacher Education at the University of Colorado Boulder School of Education. She is also a Fellow at the National Education Policy Center, which works to bring the expertise of scholars into policy discussions.
Michaels, Sarah, PhD	Professor of education and Senior Research Scholar at the Hiatt Center for Urban Education at Clark University. She received AERA's Division G (2018) lifetime achievement award for research on the social contexts of education.
NCTE Black Caucus	The National Council of Teachers of English promotes the development of literacy, the use of language to construct personal and public worlds and to achieve full participation in society, through the learning and teaching of English and the related arts and sciences of language. Since its founding in 1970, the continuing mission of the Black Caucus has been to enhance the professional welfare of English language arts professionals of African descent, who work on all levels, from kindergarten through graduate school, who are members of NCTE and CCCC, and who are committed to Black students and scholars experiencing success in English language arts.
Noguera, Pedro A., PhD	Distinguished Professor of Education Faculty Director, Center for the Transformation of Schools UCLA Graduate School of Education & Information Studies.
Nogueron-Liu, Silvia, PhD	Assistant professor in Literacy Studies at the University of Colorado-Boulder, School of Education.

Name	Bio
NYU Metro Center	The New York University's Metro Center promotes equity and opportunity in education through engaged science work: applied research, program evaluation, policy analysis, community engagement, and professional assistance to educational, governmental, and community agencies serving vulnerable populations. NYU Metro Center is mission driven, as spelled out in our theory of action and logic model.
Oakes, Jeannie	Senior Fellow, Learning Policy Institute Presidential Professor Emeritus, UCLA.
Pavonetti, Linda, EdD	Chair of the Reading and Language Arts Department and professor at the Oakland University School of Education and Human Services.
Pearson, David	Former Dean of Education at UIUC and UCB, and former co-director of the Center for the Study of Reading (UIUC) and the Center for the Improvement of Early Reading Achievement (MSU), is the Evelyn Lois Corey Emeritus Professor of Instructional Science in the Graduate School of Education at UC Berkeley.
Penuel, William	Professor of Learning Sciences and Human Development School of Education University of Colorado Boulder.
Powers, Jeanne M., PhD	Associate professor of education policy and evaluation in the Mary Lou Fulton Teachers College, Arizona State University.
Reardon, Sean F.	Professor of poverty and inequality in education; Professor of Sociology, Stanford University.
Rios, Francisco, PhD	Professor (and former Dean) in the College of Education at Western Washington University.

Name	Bio
Rogers, John, PhD	Professor of Education at UCLA. Director of UCLA's Institute for Democracy, Education, and Access. Faculty director of Center X, the center which houses UCLA's teacher education program, principal training institute, and professional development initiatives.
Rumberger, Russell	Professor Emeritus in the Department of Education, University of California, Santa Barbara. He served as a member of the National Research Council's Committee on Increasing High School Students' Engagement and Motivation to Learn. He was chair of the U.S. Department of Education, Institute of Education Sciences panel that produced the <i>Preventing Dropout in Secondary Schools Practice Guide</i> (2017). He also directs the California Dropout Research Project. Fellow of the American Educational Research Association and received the Elizabeth G. Cohen Distinguished Career in Applied Sociology of Education Award, Sociology of Education SIG, American Educational Research Association. Elected to the National Academy of Education.
Santoro, Doris, EdD	Associate professor in and chair of the education department at Bowdoin College. She is a senior associate editor for the American Journal of Education and a fellow with the National Education Policy Center.
Shultz, Katherine, PhD	Dean and professor at the University of Colorado Boulder School of Education whose scholarly fields are literacy and teacher education.
Silver, David, PhD	Vice President, Education at IMPAQ International, LLC.

Name	Bio
Smith, Gregory, PhD	Professor Emeritus at the Graduate School of Education and Counseling, Lewis & Clark College, Portland, Oregon; fellow of the National Education Policy Center; Board Member of the Great Lakes Stewardship Initiative; member of the Education Advisory Committee of the Teton Science Schools.
Snow, Catherine	Patricia Albjerg Graham Professor at the Harvard Graduate School of Education. She chaired the National Academy of Science committee that produced Preventing Reading Difficulties in Young Children, and the Rand Reading Study Group, which Produced Reading for Understanding: Toward an R and D Program in Reading Comprehension.
Taylor, Monica, PhD	Professor in the Department of Secondary and Special Education at Montclair State University.
The Urban Teacher Education Consortium (UTECE)	National group of teacher educators, from over 20 public and private colleges and universities, who have joined together to understand how best to prepare prospective teachers to work in urban P-12 schools. The group meets once a year to exchange information and research-based knowledge about how to structure and enact teacher education programs that are committed to teacher preparation for urban contexts. In particular, we share common understandings of the strengths and potentials of students and their families who live in urban settings.
Thomas, Paul. EdD	Professor at Furman University Education.
Traugh, Cecelia, PhD	Dean of the Graduate School at Bank Street College of Education whose scholarly field is teacher education. She is a founding member of Urban Teacher Educators Consortium.
Tuan, Mia	Dean and Professor at the University of Washington College of Education.

Name	Bio
Valladares, Michelle Renée, PhD	Associate director of the National Education Policy Center, and a Faculty Affiliate at the University of Colorado Boulder School of Education.
Welner, Kevin G., JD, PhD	Professor of policy at the University of Colorado Boulder School of Education. He also directs the National Education Policy Center, which works to bring the expertise of scholars into policy discussions.
Wilson, Terry, PhD	Assistant Professor in the School of Education at the University of Colorado Boulder School of Education.
Young, Lydia, PhD	Associate dean and associate teaching professor at Northeastern University's Graduate School of Education.
Zeichner, Ken	Boeing Professor of Teacher Education Emeritus, expert in urban education. Member of the National Academy of Education, and Fellow of the American Educational Research Education.

CERTIFICATE OF SERVICE

I hereby certify that counsel for the parties have been served with a true and correct copy of the above and foregoing document via the Court's CM/ECF system on November 26, 2018.

Respectfully submitted,

/s/ Steven Guggenheim

Steven Guggenheim

Counsel for Amicus Curiae

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with Fed. R. App. P. 27(d)(2) and contains 907 words. I also certify that this motion complies with the typeface requirements of Fed. R. App. P. 27 and Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been composed in proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font.

Date: November 26, 2018

Respectfully submitted,

/s/ Steven Guggenheim

Steven Guggenheim

Counsel for Amicus Curiae