

EXHIBIT 1

PRELIMINARY EXPERT REPORT OF AMY STUART WELLS

I. INTRODUCTION

1. I have been retained by Latham & Watkins LLP and the New York Civil Liberties Union Foundation, counsel for Plaintiffs in the above-captioned litigation, to prepare an expert report regarding whether and to what extent (a) the East Ramapo Central School District's ("East Ramapo" or the "District") Board of Education (the "Board") is responsive to the needs of the racial and ethnic minorities living within the District and (b) racial and ethnic minorities living within the District located in Rockland County, New York bear the effects of discrimination in education.

II. SUMMARY OF PRELIMINARY OPINIONS

2. Based on the data and information available to me at the time of writing this report, I have reached the following preliminary opinions:

3. ***There is a significant lack of responsiveness on the part of the Board towards the needs of the black and Latino communities in East Ramapo.*** Since at least 2009, the Board has not been responsive to the needs of the District's black and Latino communities. East Ramapo's public schools are deeply segregated with the public school population consisting of 90% black and Latino students (96% non-white overall) and white students constituting approximately 99% of the District's private school students.¹ Therefore, in East Ramapo, responsiveness to the needs

¹ N.Y. State Educ. Dep't, Information and Reporting Services, NonPublic School Enrollment by Race/Ethnicity, <http://www.p12.nysed.gov/irs/statistics/nonpublic/> (last visited Nov. 19, 2017) (publishing annual data on "NonPublic Enrollment by Race/Ethnicity"). I calculated the enrollment of East Ramapo nonpublic schools based on schools identified with the BEDS code for East Ramapo—500402. See N.Y. State Educ. Dep't, East Ramapo CSD (Spring Valley) at a Glance, <https://data.nysed.gov/profile.php?instid=800000039112> (publishing BEDS code for East Ramapo) (last visited Nov. 19, 2017); N.Y. State Educ. Dep't, Interpretation of School BEDS Codes Public and Charter, at 3-4, <http://www.p12.nysed.gov/irs/beds/Code%20Manual-2015-16/interpretation-beds-codes.pdf> (providing key for interpreting BEDS codes for non-public

of the minority community correlates strongly with responsiveness to the needs of the public school community.

4. An analysis of an elected body's responsiveness examines both substantive and procedural responses.² The inquiry into procedural responsiveness focuses on communication between elected officials and their minority constituents and the extent to which elected representatives advocate for measures that serve the minority community. The inquiry into substantive responsiveness examines whether and to what extent the particular policies enacted by the jurisdiction address the needs and preferences of minority voters.³ The Board has failed to respond to the black and Latino communities under both measures.

5. ***Procedural Responsiveness.*** The Board has frequently exhibited hostility to efforts by the District's minority residents to communicate their concerns to the Board. Board members and their lawyers have berated members of the public school community who have been outspoken at Board meetings.⁴ The Board has also taken steps to make communication with the public more difficult, including moving public comment periods to the end of meetings and entering prolonged executive sessions to wait out members of the public seeking to engage with the Board. Most often, communication from the minority community fell on deaf ears as the Board persistently

schools) (last visited Nov. 19, 2017). I excluded from the calculation of nonpublic enrollment by race/ethnicity, schools that identified 100% of their student bodies as containing multi-racial or American Indian/Alaska Native due to the high likelihood that those entries were made in error, based in part on their inconsistency with data from prior or subsequent years. I also excluded schools containing non-numeric entries in their data.

² See Ellen Katz et al., *Documenting Discrimination in Voting: Judicial Findings Under Section 2 of the Voting Rights Act Since 1982*, 39 U. Mich. J. L. Reform 643, 722-23, 725 (2005).

³ *Id.* at 722-23.

⁴ See, e.g., David Knowles, *VIDEO: East Ramapo District School Board Lawyer Christopher Kirby Launches Into Profanity-Laced Tirade at Parents*, N.Y. DAILY NEWS (July 3, 2013), <http://www.nydailynews.com/news/national/video-school-board-lawyer-flips-parents-article-1.1389526>.

ignored its concerns. Minority residents of the District report that the Board's actions discouraged them from further communication with the Board.

6. ***Substantive Responsiveness.*** According to Henry Greenberg, the fiscal monitor appointed by the New York State Education Department ("NYSED") in 2014 to examine the Board's actions after the District faced a budget crisis since 2009 due to fiscal management, "public school budgets were slashed, [while] spending on programs benefitting private schools increased" with "[n]o meaningful effort made to distribute [the] pain of deep budget cuts fairly among private and public schools."⁵ The subsequent team of State monitors, led by former New York City Schools Chancellor Dennis Walcott, echoed Mr. Greenberg in their December 2015 report: "[T]he East Ramapo Board of Education has persistently failed to act in the best interests of public school students."⁶

7. My preliminary research yields conclusions consistent with these monitors' findings, and indicates that the District made cuts to personnel and programming that were vital to providing quality education in the public schools despite the objections of minorities. These cuts included replacing full-day kindergarten classes with half-day classes, adequate staffing to maintain reasonable class sizes, student support services, advance and college preparatory curriculum, building maintenance, and classroom supplies, among others. Although the State has stepped in to provide temporary supplemental funding to restore some cuts, the Board itself has

⁵ Henry M. Greenberg, N.Y. State Ed. Dep't, *Report of Investigation: East Ramapo: A School District in Crisis*, 29-33 (2014) ("Greenberg Report"), <http://www.p12.nysed.gov/docs/east-ramapo-fiscal-monitor-presentation.pdf>.

⁶ Dennis M. Walcott, Monica George-Fields & John W. Sipple, *Opportunity Deferred: A Report on East Ramapo School District*, 4 (Dec. 2015) ("Walcott Report"), <https://static1.squarespace.com/static/547768efe4b07c978830b6ed/t/566f0c9f4bf118a0f17c4685/1450118303824/East+Ramapo+full++monitors%27+report+12-15.pdf>.

not demonstrated significantly increased responsiveness to minority policy preferences. Moreover, State intervention in East Ramapo requires annual renewal by the State legislature and continued supplemental funds to maintain vital programs and personnel that were previously eliminated by the Board, and thus, are not assured.

8. *The black and Latino communities in East Ramapo bear the effects of discrimination in education.* Although the State's intervention has alleviated some of the worst cuts, black and Latino students and residents in East Ramapo continue to bear significant effects of discrimination in education. East Ramapo public school students and their families, who are overwhelmingly black and Latino, have suffered and continue to suffer the consequences of the Board's years of deep budget cuts, including deficits in personnel and programming. Preliminary qualitative and quantitative evidence presented in this report demonstrates that public school students in East Ramapo are currently less prepared to advance grade-levels and, ultimately, are less competitive applicants for college or work than previous cohorts of students prior to the cuts. These declines in student outcomes indicate the negative impact of the Board's actions on public school students' educational opportunities and their preparation for citizenship in a democratic society. Research links quality of education with civic participation, including voting.⁷ This research suggests that East Ramapo students today may be less likely to become active citizens who participate in the political process in a way that holds the Board accountable in the future. This lack of participation could, in turn, perpetuate the problems with educational quality in the

⁷ See Diane E. Hess & Paula McAvoy, *The Political Classroom: Evidence and Ethics in Democratic Education* (New York: Routledge 2015); Michael A. Rebell, *Essential Resources: The Constitutional Requirements for Providing All Students in New York State the Opportunity for a Sound Basic Education* (Campaign for Educational Equity, Teachers College, Columbia Univ. 2012).

District.

III. SUMMARY OF QUALIFICATIONS AND COMPENSATION

9. My qualifications, including a list of all publications that I have authored within the past 10 years and a listing of cases in which I have served as an expert or a consultant, are set forth in my curriculum vitae, which is attached to my Declaration as Exhibit B.

10. I am a Professor of Sociology and Education in the Department of Educational Policy and Social Analysis at Teachers College, Columbia University. I am also the Director of several projects at Teachers College, including The Public Good, a research project to support good teaching in racially diverse schools, funded by the Booth Ferris and Ford Foundations. I also direct Reimagining Education: A Summer Institute on Teaching and Learning in Racially Diverse Schools, which is a for-credit professional development experience for teachers.

11. I am also the President-elect of the American Educational Research Association, a 25,000-member organization designed to support and enhance empirical research in the field of education. My expertise lies in the analysis of educational policies such as school desegregation, school choice, charter schools, and tracking how they shape and constrain opportunities for all students, especially students of color. For the last 30 years, I have studied the relationship between school districts' policy decisions and the distribution of educational opportunities to students of different racial, ethnic and socio-economic backgrounds.

12. Prior to launching The Public Good, I directed a research project titled, "Metro Migrations, Racial Segregation and School Boundaries," funded by the Ford and Rauch Foundations, which examined urban and suburban demographic change and the role that public schools and their boundaries play in who moves where. The final report from the suburban research phase of that project, *Divided We Fall: The Story of Separate and Unequal Suburban School*

Districts 60 years after Brown, was published in Spring 2014; related articles appeared in The Washington Post Answer Sheet, The Atlantic CityLab, and Long Island Newsday.

13. From 2009 to 2011, I was the Director of the Building Knowledge for Social Justice Project at the Ford Foundation. From 1999 to 2006, I was the principal investigator of a study of adults who attended racially mixed high schools funded by the Spencer, Joyce and Ford Foundations. I am the author and co-author of multiple books, academic articles and book chapters, including Both Sides Now: The Story of School Desegregation's Graduates and most recently, "Longing for Milliken: Why Rodriguez Would Have Been Good but Not Enough," in K. J. Robinson and C. Ogletree (Eds), Rodriguez at 40: Exploring New Paths to Equal Educational Opportunity.

14. My research has garnered several honors and awards, including my induction into the National Academy of Education (2014) and Fellows of the American Educational Research Association (2013). From 2007 to 2008, I was a fellow at Stanford University's Center for Advanced Study in the Behavioral Sciences. In 2001 and 2002, I was awarded a fellowship from the Carnegie Corporation's Scholars Program, and in 2000 I was the Julius & Rosa Sachs Lecturer at Teachers College-Columbia University. In 2000, I received the American Educational Research Association's Early Career Award for Programmatic Research. In 1999 to 2000 I was a Russell Sage Visiting Scholar. In 1995 and 1996, I was a National Academy of Education-Spencer Foundation Post-doctoral fellow and in 1990 and 1991, a Spencer Dissertation Fellow.

15. I received my Ph.D. in Sociology and Education from Teachers College, Columbia University and Columbia University's Graduate School of Arts and Sciences in 1991. I was an Assistant, Associate and Full Professor at UCLA from 1991 to 2001.

16. My prior experience working on legal cases, includes research assistance to the NAACP Legal Defense and Educational Fund for the early phases of *Sheff v. O'Neill*, a case challenging the racial segregation of public schools in the Hartford, Connecticut area. I have also written and reviewed multiple amicus briefs, including working with the NAACP LDF on *Parents Involved in Community Schools v. Seattle School District No. 1*.⁸ In 2015, I also served as an expert witness for the U.S. Department of Justice on a school desegregation case in Cleveland, Mississippi.

17. In addition, I have published several articles in law review journals. I am being paid as an expert on this case at the rate of \$200 per hour.

IV. SUMMARY OF SOURCES AND METHODOLOGY

18. My preliminary opinions, as expressed in this report, are based on my analysis of social science research on political representation and public education policymaking, the relationship between school funding and the lack of educational resources and student outcomes, and the broader, longer-term post-secondary impact of a lack of educational resources. My preliminary conclusions are based on my analysis of this prior research as it relates to the data and information I have been able to gather thus far in East Ramapo. The data include student outcome data—both short-term test score data as well as longer-term achievement data—obtained from NYSED and the National Center for Education Statistics. I have reviewed reports concerning the Board and the District published by the State monitors, including Mr. Greenberg, Mr. Walcott, Prof. George-Fields, Dr. Sipple, and Mr. Szuberla. I conducted interviews and focus groups with

⁸ 551 U.S. 701 (2007).

former and current educators in East Ramapo public schools, a former Board member, parents of East Ramapo public school students, and a recent graduate of the East Ramapo public schools.

19. I also gathered information from several news sources, as well as social media sites related to East Ramapo, including an archive of video recordings of Board meetings available on YouTube. While I acknowledge that the YouTube videos do not capture complete Board meetings from start to finish and often show only the most contentious parts of those meetings, the visual data captures live testimony and Board-constituent interactions that would otherwise be unavailable after the fact. There is growing support in the research community for this visual research via the use of videos because it displays experiences and interactions that are not otherwise accessible.⁹ In this particular context, facial expressions, body language, and the physical organization of Board meetings allowed me to obtain a greater understanding of the social interactions between members of the Board and public school community members.

20. In using data gathering and analysis strategies that fall within the realm of qualitative research methods, I am able to obtain a deeper level of analysis than is typically afforded when only quantitative data is used in a context such as East Ramapo. Qualitative research is fundamentally interested in how people interpret their daily experiences, how they construct their worlds, and the meaning they attribute to those experiences in their lives.¹⁰ While the numerical data on the budget cuts and student outcomes is important, equally important is understanding how these cuts have impacted the daily lives of the students and families who

⁹ S. Pink, *Visual methods: Qualitative research practice*, 391-406 (2004); L. Azzarito & D. Kirk, *Pedagogies, physical culture, and visual methods* (2013), <https://ebookcentral.proquest.com>.

¹⁰ See Sharan B. Merriam & Elizabeth J. Tisdell, *Qualitative Research: A Guide to Design and Implementation* (4th Ed. John Wiley & Sons Inc. 2015); Herbert J. Rubin & Irene S. Rubin, *Qualitative Interviewing: The Art of Hearing Data* (3d ed. Sage Publications 2011).

depend on the public schools in East Ramapo for their education and what the cuts mean to them. Additionally, the use of qualitative methods in conjunction with quantitative data to study the same phenomenon within a particular geographic context provides a stronger case for triangulation—whereby consistent information across these forms of data increase the degree of confidence in the inferences drawn—and creates a more comprehensive and multi-faceted social understanding of the East Ramapo Central School District.¹¹

V. DISCUSSION

A. The Role of Public Education

21. For several decades, the federal courts have repeatedly reminded us that the responsibility for assuring each child in this country receives a free and appropriate public education falls upon the local government.¹² State constitutions, including New York’s, guarantee children the right to a sound basic public education.¹³ State laws also provide for the local control of public education through democratically elected school boards vested with the responsibility to assure the students and the communities they represent are provided with that education through their public schools.¹⁴

22. This local control of public education, long seen as one of the most important characteristics of our universal public system, allows parents and community members to advocate for the unique educational needs of the children served by the local schools.¹⁵ When this local

¹¹ Jennifer C. Greene, *Mixed Methods in Social Inquiry* (John Wiley & Sons Inc. 2007).

¹² *See, e.g.*, *Milliken v. Bradley*, 418 U.S. 717 (1974); *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973).

¹³ *See* David Tyack, *THE ONE BEST SYSTEM: A history of American Urban Education* (Harvard Univ. Press 1974) (“Tyack”); N.Y. Const. Art. IX, §1.

¹⁴ *See* Tyack; *see, e.g.*, N.Y. Educ. L. § 1804.

¹⁵ *See* Tyack.

system is working and school board members are accountable to all of their local constituents, educational resources will be put to their best use to guarantee students have access to the sound, basic education guaranteed them via their state constitutions. When the system is not working, *i.e.*, when local education officials are not accountable or responsive to the needs of a district's constituency, Federal and State interventions are needed to protect the rights of students and the local communities.¹⁶ The local responsibility to provide all students—no matter their race, culture or religion—access to a free and secular public education that will prepare them to participate in a democratic society while acquiring the skills necessary to succeed in higher education and/or the workforce is one that should be taken seriously and approached professionally and with a strong sense of commitment and purpose.

23. The New York Court of Appeals has recognized the critical link between public education and civic participation—and, in particular, voting—present in the New York Constitution. The Court has held that the state constitution guarantees students a sound basic education. According to the court, this means that, “The State must ensure that New York's public schools are able to teach ‘the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury.’”¹⁷ “[A] sound basic education conveys not merely skills, but skills fashioned to meet a practical goal: meaningful civic participation in contemporary society,” which “means more than just being *qualified* to vote . . . but to do so capably and knowledgeably.”¹⁸ Its decision also

¹⁶ See Gary Orfield, *Must We Bus? Segregated Schools and National Policy* (Wash. D.C. The Brookings Institution 1978); Gary Orfield & Susan E. Eaton *Dismantling Desegregation. The Quiet Reversal of Brown v. Board of Education* (The New Press 1996).

¹⁷ *Campaign for Fiscal Equity, Inc. v. State*, 100 N.Y.2d 893, 905 (2003) (citation and internal quotation marks omitted).

¹⁸ *Id.* at 906.

recognizes that whether and to what extent students are prepared for civic participation that holds government institutions accountable is, at least in part, a function of the resources allocated to public education.¹⁹ According to the court, in assessing adequacy of education, the “standard is the constitutional minimum or floor.”²⁰

24. As the democratic institution with primary responsibility for ensuring that students in the public schools receive a sound, basic education that prepares them for adulthood and civic participation, it is essential that local school boards are responsive to the public and address their constituents’ needs and concerns. According to the Center for Public Education, an institution launched by the National School Boards Association and the National School Boards Foundation in 2006, “[t]he local school board is a critical public link to public schools.”²¹ Locally elected school boards best serve their communities by putting education first, “incorporat[ing] their community’s views of what students should know and be able to do,” and being “accessible to the public as well as transparent and accountable for the performance of their schools.”²² School boards in this way are the “watchdogs for their communities,” ensuring that students who attend the public schools receive “the best education for the tax dollars spent.”²³

25. In East Ramapo, the Board is responsible for most decisions related to the public schools in the District, including, among other things: managing school finances and budgets;

¹⁹ See *id.* at 908-14; Michael A. Rebell, *Essential Resources: The Constitutional Requirements for Providing All Students in New York State the Opportunity for a Sound Basic Education* (Campaign for Educational Equity, Teachers College, Columbia Univ. 2012).

²⁰ *Campaign for Fiscal Equity, Inc.*, 100 N.Y.2d at 905.

²¹ Center for Public Education, “The Role of School Boards,” <http://www.centerforpubliceducation.org/You-May-Also-Be-Interested-In-landing-page-level/Audience-The-Public-YMABI/The-Role-of-School-Boards> (last visited Nov. 27, 2017).

²² *Id.*

²³ *Id.*

establishing policies for operating the District's schools; making hiring and firing decisions of all public school personnel; entering into contracts for services, including transportation; making decisions regarding special education placement for children attending school in the District; and selecting the District's Superintendent of Schools.²⁴

26. Given the critical role that local school boards play in providing for the educational well-being of public school students, the consequences of school board elections are significant. East Ramapo presents a case study of the consequences for a public school district and its students when elections result in a local school board that is not accessible, accountable, or responsive to the needs of public school students, their families, and community members.

B. The Role of Political Responsiveness in the Decline of East Ramapo Public Schools

27. Not long ago, East Ramapo was viewed as a highly reputable school district, sought after by families moving to Rockland County.²⁵ East Ramapo touted high percentages of graduates matriculating to selective colleges and universities, an award-winning marching band, small class sizes, and hundreds of clubs and extracurricular activities – the factors that make for a “good” school system.²⁶ Now, East Ramapo is seen as a district in crisis within Rockland County, one that families should avoid.²⁷ As evidence of the declining reputation of the District, recently, a

²⁴ See East Ramapo Central School District Board of Education, http://www.ercsd.org/pages/East_Ramapo_CSD/Board_of_Education (last accessed Nov. 21, 2017).

²⁵ See Greenberg Report at 60 (“Public school students and parents despair over the damage done to this once great school district”); Interview with Jean Fields, former principal, Ramapo High School, Spring Valley, N.Y (Nov. 6, 2017) (“Jean Fields Interview”).

²⁶ Jean Fields Interview; Benjamin Wallace-Wells, *Them and Them*, New York Magazine (Apr. 21, 2013) (noting that in 2009, “*Newsweek* named Spring Valley High School one of the 500 best in the country”), <http://nymag.com/news/features/east-ramapo-hasidim-2013-4/> (last visited Dec. 1, 2017).

²⁷ Jean Fields Interview.

neighboring school district formerly known as Ramapo Central changed its name after 75 years to Suffern School District in order to avoid confusion with East Ramapo because residents reported the name had dissuaded young families from moving into the District.²⁸

28. In addition, East Ramapo is a deeply segregated school system. The students who attend the East Ramapo public schools are predominantly Latino (53 percent) and black (37 percent).²⁹ The public school student population is 96 percent non-white overall.³⁰ The student population of the private schools affiliated with the District is over 99 percent white.³¹ For the past ten years, elections have been dominated by the slate backed by private school advocates.³²

29. The result is, as the report prepared by State monitors led by Dennis M. Walcott (“Walcott Report”) noted, that the majority of Board members “are more representative of the families who send their children to private schools and may not be motivated by the same focus on the public schools as a traditional school board member.”³³ In December 2015, the Walcott Report in fact recommended that “the Legislature and Governor enact State law to provide for a

²⁸ Kimberly Redmond, *Ramapo Central Seeks Feedback on Name Change*, The Journal News (Nov. 2, 2016), <http://www.lohud.com/story/news/education/2016/11/01/ramapo-central-name-change-idea/93121118/> (last visited Dec. 1, 2017); Kimberly Redmond, *Suffern Central Prepares for New School Year with New Name*, The Journal News (Aug. 30, 2017), <http://www.lohud.com/story/news/2017/08/30/suffern-central-new-name/612947001/> (last visited Dec. 1, 2017).

²⁹ See N.Y. State Educ. Dep’t, *East Ramapo CSD (Spring Valley) at a Glance*, <https://data.nysed.gov/profile.php?instid=800000039112> (publishing enrollment data by ethnicity for 2017) (last visited Nov. 27, 2017).

³⁰ *Id.*

³¹ See N.Y. State Educ. Dep’t, *Information and Reporting Services, NonPublic School Enrollment by Race/Ethnicity*, <http://www.p12.nysed.gov/irs/statistics/nonpublic/> (last visited Nov. 19, 2017) (publishing annual data on “NonPublic Enrollment by Race/Ethnicity”).

³² Michael Powell, *A School Board That Overlooks Its Obligations to Students*, N.Y. Times (Apr. 7, 2014), https://www.nytimes.com/2014/04/08/nyregion/a-school-board-that-overlooks-its-obligation-to-students.html?_r=0 (last visited Nov. 27, 2017).

³³ Walcott Report at 13.

unique mechanism for the East Ramapo school district to ensure that the public school community has representation on the Board, without hindering the democratic process,”³⁴ but no such reforms have occurred in the two years since then. The earlier report prepared by State monitor Henry Greenberg found that there is a “[w]idespread perception that the Board has turned the budget process into a zero sum game in which private schools always win at the expense of public schools.”³⁵ One year later, the Walcott Report similarly found that “the East Ramapo Board of Education has persistently failed to act in the best interests of public school students.”³⁶

30. Ultimately, the State of New York recognized the Board’s failure to respond to its minority community and intervened to try to stop the decline of the District by renewing the appointment of monitors and providing a temporary influx of supplemental funding, totaling \$6 million dollars over the 2016-17 and 2017-18 school years.³⁷ This State intervention has been critical to keeping the public schools in East Ramapo afloat and to blunting the acute impact of years of systematic divestment of public funding for the public schools. Although the data and my analysis reflect some positive impact of this State intervention over the last two years, the uncertain duration and degree of the State’s supplemental support and monitoring raise concerns for a longer-term solution to ensure that the Board and District are accountable for meeting the needs of minorities in East Ramapo.

³⁴ *Id.* at 14.

³⁵ Greenberg Report at 37.

³⁶ Walcott Report at 4.

³⁷ Section 5, Chapter 89 of the Laws of 2016, paragraphs (a-1) and (b); S. 2009—C, Part YYY, §48, pp. 335-336.

C. The Board Exhibits a Significant Lack of Responsiveness to the Needs of the Black and Latino Communities in East Ramapo

31. In this section of the report, I provide evidence in support of my preliminary opinion that the Board has demonstrated a lack of responsiveness to the particularized needs of East Ramapo’s black and Latino communities, whose children constitute the vast majority of the District’s public school population. A meta-analysis of cases under Section 2 of Voting Rights Act show that “courts have viewed responsiveness as having [both] a substantive and procedural component.”³⁸ I address both types of responsiveness below.

32. As noted above, the demographic data from NYSED reveals stark racial segregation in the East Ramapo school system that has increased over time. Given the stark racial segregation between public and private schools of the East Ramapo school system, my analysis examines whether the policies that serve the public schools as responsive to the educational needs of the minority community.

1. The Board Has Exhibited a Lack of Procedural Responsiveness to the Concerns of the Minority Community

33. The inquiry into procedural responsiveness “is more a matter of process than outcome,” and focuses on “communication between elected officials and their minority constituents and the extent to which elected representatives advocate for measures that serve the particularized needs of the minority community.”³⁹ Officials evince a lack of procedural responsiveness “when they fail to address [the] concerns of the minority community, and when they do not respond to requests from or advocate for the needs of the minority community.”⁴⁰

³⁸ Ellen Katz et al., *Documenting Discrimination in Voting: Judicial Findings Under Section 2 of the Voting Rights Act Since 1982*, 39 U. Mich. J. L. Reform 643, 722-23, 725 (2005).

³⁹ *Id.* at 725.

⁴⁰ *Id.* at 724 (citing *Goosby v. Town of Hempstead*, 180 F.3d 476, 487 (2d Cir. 1999)).

Substantial research demonstrates that procedural responsiveness is especially critical to the functioning of public educational systems. Because educational practices and services are often specialized and tied specifically to the developmental needs of the students enrolled, public dialogue and debate is often critical to assuring that the educational needs of all students are met.⁴¹ Based on my research, including my own firsthand attendance at school board meetings in numerous districts, environments in which elected officials engage and ask questions of educators, parents, and advocates as they contemplate the best policies and use of resources to serve the needs of all students, represent the paradigm of a responsive school board.⁴² Public deliberations and open communication between elected officials and school communities are critical to the legitimacy of democratic decision-making and trust-building between officials and the public.⁴³ As a result of the Board's failures of responsiveness, Mr. Greenberg reported in 2014 that "students and parents have lost faith in the Board and feel that the Board does not understand their needs."⁴⁴

34. It is apparent in the evidence from East Ramapo and the process by which decisions have been made in that District for more than a decade that the Board has not exhibited basic

⁴¹ Nancy C. Roberts, *Keeping public officials accountable through dialogue: resolving the accountability paradox*, 62 Pub. Admin. Rev. 658-669 (Nov./Dec. 2002); Alison Cook-Sather, *Authorizing Students' Perspectives: Toward Trust, Dialogue, and Change in Education*, 31 Ed. Researcher 3-14 (May 2002).

⁴² A.S. Wells, J.J. Holme, A.K. Atanda & A.T. Revilla, *Tackling Racial Segregation One Policy at a Time: Why School Desegregation Only Went so Far*, Teachers College Record, 107(9), 2141-2177 (2005); A.S. Wells & R.L. Crain, *Stepping over the color line* (Yale Univ. Press 1997); A.S. Wells, *Both sides now: The story of school desegregation's graduate* (Univ. of California Press 2009).

⁴³ Thomas Christiano, *The Rule of the Many: Fundamental Issues in Democratic Theory* (Westview Press 1996) ("Christiano"); Bernard Manin, ON LEGITIMACY AND POLITICAL DELIBERATION, *in* Political Theory 347-48 (Aug. 1987). According to Christiano, "democratic discussion, deliberation, and decision-making under certain conditions are what make the outcomes legitimate for each person. ... [W]hatever the results of discussions, deliberation, and decision-making... they are legitimate. The results are made legitimate by being the results of the procedure." Christiano at 35.

⁴⁴ Greenberg Report at 37.

procedural responsiveness to the concerns of the District's black and Latino voters. Instead, as Mr. Greenberg found during his investigation and I found in mine, the Board's interactions with the public school community were and are still characterized by a lack of transparency, hostility, and indifference.

a. ***Lack of Transparency***

35. Openness and transparency are not simply an educational and governmental best practice,⁴⁵ but also a legal requirement. The New York State Open Meetings Law requires that certain school board business, and in fact, most school board business, be conducted in public view.⁴⁶ The matters which may be properly discussed in an executive session that is closed to the public are limited to several narrowly defined exceptions.⁴⁷

⁴⁵ National School Boards Association, *Summary of Roles and Responsibilities in Community Leadership*, <http://www.nsba.org/services/school-board-leadership-services/key-work/community-leadership/roles> (last visited Dec. 1, 2017).

⁴⁶ Greenberg Report at 34 (“Open Meetings Law applies to school board meetings where school district business should be open to the public. Public may be excluded only from properly convened executive sessions of the board. Openness is supposed to be the exception not the rule.”); see N.Y. Pub. Officers L. § 100 (“It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants.”)

⁴⁷ See N.Y. Pub. Officers L. § 105 (“[A] public body may conduct an executive session for the below enumerated purposes only, provided, however, that no formal vote shall be taken to appropriate public moneys: a. matters which will imperil the public safety if disclosed; b. any matter which may disclose the identity of a law enforcement agent or informer; c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed; d. discussions regarding proposed, pending or current litigation; e. collective negotiations pursuant to article fourteen of the civil service law; f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation; g. the preparation, grading or administration of examinations; and h. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.”).

36. In the course of his investigation, Mr. Greenberg found that in East Ramapo, the “Board routinely spen[t] 60% to 70% of meetings (sometimes more) in executive session” and that the “Board also limit[ed] opportunity for public participation . . . by not allowing the public to speak until the end of meetings (e.g., after 10:00 or 11:00 p.m.).”⁴⁸ He further found that the “Board’s systematic violation of the Open Meetings Law is legally indefensible and counter-productive. It breeds suspicion and distrust.”⁴⁹ The Board moved the public comment period to the end of meetings around Fall 2010,⁵⁰ after a spate of public criticism over the decision to close and sell an elementary school.⁵¹ Although this policy was later revised to allow the students to continue to speak early in the meetings,⁵² when it was evident that students in attendance would also similarly criticize the Board, the Board attempted to move the public comment session until

⁴⁸ Greenberg Report at 35.

⁴⁹ Greenberg Report at 53. Similarly, a New York state court credited Mr. Greenberg’s findings in a decision vacating the Board’s May 2014 decision to lay off 20 bus drivers. The court noted that the Board addressed the issue during a three-hour executive session without providing the public with any meaningful description of its discussion and did not vote publicly on the matter until after the executive session ended at 11:57 pm. Judge Thorsen found the East Ramapo “Board of Education has engaged in a persistent pattern of deliberate violations of the letter and spirit of the Open Meetings Law[.]” See *In re Lucas v. Board of Ed. of the E. Ramapo Center Sch. Dist.*, No. N.Y. Slip Op. 51297 U, at *3-4 (Sup. Ct. Rockland Cnty. Oct. 5, 2017) (finding the East Ramapo “Board of Education has engaged in a persistent pattern of deliberate violations of the letter and spirit of the Open Meetings Law[.]”).

⁵⁰ LuckyLouProduction, YouTube (2010), <https://www.youtube.com/watch?v=-AGj2nhGNhA> (last visited Dec. 1, 2017).

⁵¹ See, e.g., Mareesa Nicosia, *East Ramapo Seeking Nearly \$5M for Hillcrest School*, The Journal News (Feb. 13, 2014), <http://www.lohud.com/story/news/2014/02/13/east-ramapo-seeking-nearly-5-million-for-hillcrest-school/5463891/> (last visited Dec. 1, 2017) (“It’s the second time the district is trying to sell the school after officials closed it in 2010, amid public outcry, on the erroneous premise that public school enrollment would decline in the coming years.”); East Ramapo Central School District, Minutes of April 19, 2010 Board of Education Meeting, 6519 (passing resolution declaring Hillcrest elementary school “surplus property” and authorizing its sale), <http://bit.ly/2B4u44j> (last visited Dec. 1, 2017).

⁵² LuckyLouProduction, YouTube (2010), <https://www.youtube.com/watch?v=-AGj2nhGNhA> (last visited Dec. 7, 2017).

later in the meeting or not be present while students were speaking.⁵³ After another period of public outcry in 2013, then Board president Daniel Schwartz threatened to eliminate the public comment portion of Board meetings altogether, characterizing members of the public school community and in particular students who had been vocal critics of the Board as a “group of miscreants.”⁵⁴ As a result, Mr. Schwartz said that the Board would allow comment only at meeting’s end, which, by that time, was often past midnight.⁵⁵

b. *Hostility to Complaints and Disrespect for Constituents from the Public School Community*

37. Despite some improvements in Board transparency since the State monitors arrived, overall, over the past ten years, the Board’s atmosphere and tone towards members of the public school community appears to have changed as the composition of the Board shifted from a majority backed by public school advocates to a majority backed by private school advocates. A former Board member, Stephen Price, who served seven terms between 1992 and 2013, described the environment at Board meetings early in his tenure as familial. He described the Board as exhibiting a “sense of care” for meeting attendees.⁵⁶ Everybody knew each other, he said, and “you knew that the people in that room were there to make decisions for the kids . . . all the kids.”⁵⁷

⁵³ LuckyLouProduction, YouTube (2013), https://www.youtube.com/watch?v=OBC_m-SSLnc (last visited Dec 1, 2017); LuckyLouProduction, YouTube (2013), <https://www.youtube.com/watch?v=cLvK1oMqtfc>.

⁵⁴ LuckyLouProduction, YouTube (2013), <https://www.youtube.com/watch?v=5vedht-B5Po>.

⁵⁵ *Id.*; see also Michael Powell, *A School Board That Overlooks Its Obligations to Students*, N.Y. Times (Apr. 7, 2014), https://www.nytimes.com/2014/04/08/nyregion/a-school-board-that-overlooks-its-obligation-to-students.html?_r=0 (last visited Nov. 27, 2017).

⁵⁶ Interview with Stephen G. Price, former East Ramapo Board member, Rutherford, N.J., Nov. 17, 2017 (“Stephen Price Interview”).

⁵⁷ *Id.*

38. Jean Fields, who spent 19 years in East Ramapo as a teacher and administrator from 1994 until 2013, has a similar recollection of a welcoming environment at Board meetings when more public school parents and advocates served as Board members.⁵⁸ As an example, Ms. Fields recalled that in the late 1990s and early 2000s, high school students were regularly invited to speak at Board meetings about their own achievements and the achievements of their peers. Ms. Fields described Board members' reactions to these presentations as enthusiastic and encouraging of the students. An account of an October 2004 Board meeting noted that 16 students spoke to the Board regarding a variety of topics as part of "a nearly 20-year tradition in the district [of] representing the two middle schools and the two high schools during the first of four yearly liaison meetings between student[s] and the school board."⁵⁹ In response to the student comments, then Board member Georgine Hyde said, "We learn from you. We take it seriously. Already, I'm thinking of taking [your suggestions] to the next meeting."⁶⁰ According to Ms. Fields, she and other educators in the District "felt supported" as a result of the Board's positive engagement during those earlier years.⁶¹

39. This welcoming and supportive Board of the past stands in contrast to more recent conduct by the Board. From 2009 to 2014, just prior to State intervention, Board members generally became combative in response to questions and pushback from the parents, advocates, and students, particularly when these constituents came forward to voice concerns directly related

⁵⁸ Jean Fields Interview.

⁵⁹ Randi Weiner, *East Ramapo Teens Speak Out*, The Journal News (Oct. 13, 2004), at 1B.

⁶⁰ *Id.*

⁶¹ Jean Fields Interview.

to the quality of education provided. According to Mr. Price, “East Ramapo now has a school board more willing to challenge and fight every issue. The tone changed from the top.”⁶²

40. Notwithstanding community members’ significant and justifiable frustration with the state of East Ramapo public schools and the Board’s management of the District after deep budget cuts began in 2009, Mr. Greenberg reported that “Board meetings degenerate[d] into verbal brawls, with the Board’s attorneys berating students and parents” and that “public protests and rallies [were] commonplace.”⁶³ Mr. Greenberg further observed that “District leaders respond[ed] poorly to criticism” and “frequently resort[ed] to name-calling, attacking others’ motives and integrity, when responding to criticism.”⁶⁴ Mr. Greenberg reported that critics of the Board were branded as “anti-semitic, ‘political opponents,’ ‘deeply disaffected activists’ and worse” and noted that just during the five-month stretch between his appointment in June 2014 and delivering his report, Board members and other District officials had (1) accused then-New York State Commissioner of Education (and later Secretary of the United States Department of Education) John King of “acceding to the demands of bigots” by appointing a fiscal monitor for the District; (2) “attacked leaders of the NAACP”; and (3) “[d]ismissed parties who challenge[d] District decisions as ‘politically motivated.’”⁶⁵ Mr. Greenberg concluded that the hostile rhetoric from the Board and District officials “exacerbate[d] tensions and deepen[ed] the divide between [the] public and private school communities.”⁶⁶

⁶² Stephen Price Interview.

⁶³ Greenberg Report at 20.

⁶⁴ *Id.* at 36.

⁶⁵ *Id.*

⁶⁶ *Id.*

41. Mr. Greenberg’s observations are supported by contemporaneous news reports and video footage of Board meetings. In 2012, then Board president Daniel Schwartz addressed critics of the Board at a meeting, stating: “To suggest that we lack the moral authority to sit in these seats, let me tell you right now—you don’t like it, find yourself another place to live because this is the United States of America.”⁶⁷

42. Although Board members themselves sometimes engaged in these tactics, video footage of meetings also showed lawyers for the Board frequently interrupting and sometimes making belittling, aggressive, and/or profane approaches to members of the public. Responses to criticism from the Board or its lawyers were frequently unrelated to the quality of education in the District, but instead often consisted of personal attacks on the speaker. In 2010, a recent graduate of East Ramapo public schools who was then a college student, attended a Board meeting over his spring break to speak about the value of Advanced Placement (“AP”) classes in his own education and to urge the Board not to make cuts to AP classes because of their role in making East Ramapo high school students more competitive in college admissions and more successful in college.⁶⁸ In the video of this interaction, Board members interrupt him while he is speaking, but he tries to continue. The Board’s lawyer then aggressively interrupts him because of his criticism of the Board’s decision to hire an expensive lawyer instead of spending money on programming. When

⁶⁷ See Gary Stern and Mareesa Nicosia, *East Ramapo: A District in Crisis*, The Journal News, (Oct. 9, 2012), <http://www.lohud.com/story/news/education/2014/09/17/east-ramapo-district-crisis/15775703/> (last visited Dec. 1, 2017) (noting that in 2012, then-Board president Daniel Schwartz addressed critics of the Board by stating: “To suggest that we lack the moral authority to sit in these seats, let me tell you right now—you don’t like it, find yourself another place to live because this is the United States of America.”).

⁶⁸ LuckyLouProduction, YouTube (2010), <https://www.youtube.com/watch?v=yypeWR-h1oU> (last visited Dec. 1, 2017).

the public becomes vocally critical of the proceedings, the Board abruptly votes to go into executive session, as a student in attendance demands the Board continue public proceedings.

43. Similarly, in July 2013, the Board's lawyer taunted a public school parent, Peggy Hatton, as she attempted to talk to the Board about her son who was a special needs student. In videos of the incident, the Board's lawyer can be seen telling her to "shut up" and calling her an "asshole."⁶⁹ Later on the same evening, the same lawyer approached her in the parking lot and called her a "fat cunt" and "fucking bitch."⁷⁰

c. *Indifference to Members of the Public School Community*

44. The Board also has expressed indifference in an attempt to silence or derail commentary made by public school parents, students, and advocates. Board members often interrupt or speak over members of the public who may be critical of the Board in their comments.⁷¹ When those from the public school community are allowed to speak, Board members regularly ignore them,⁷² communicating this through a lack of eye contact and other nonverbal cues, such as refusing to put in earphones to hear the translation of the non-English speakers or

⁶⁹ LuckyLouProduction, YouTube (2013), <https://www.youtube.com/watch?v=x1P-BWF5X4s> (last visited Dec. 4, 2017).

⁷⁰ LuckyLouProduction, YouTube (2013), <https://www.youtube.com/watch?v=qsOcR2mYKq0> (last visited Dec. 4, 2017).

⁷¹ LuckyLouProduction, YouTube (2010), <https://www.youtube.com/watch?v=XRZFKo12dEA> (last visited Dec. 1, 2017).

⁷² LuckyLouProduction, YouTube (2009), https://www.youtube.com/watch?v=5Z_wv8tN_9o (last visited Dec. 1, 2017) (parent proposing a motion).

motioning to move into executive session.⁷³ And finally, Board members have called on security officers to remove community members who are trying to be heard or to videotape the meeting.⁷⁴

45. The Board's failure to engage with the public leads to the public perception that the Board is out of touch with the working and learning conditions within the District's public schools. As a 2013 video showed, a student came to complain to the Board about the poor conditions of the infrastructure at Ramapo High School, including holes in the ceilings and rats running around the building.⁷⁵ The student noted that the Board members would not know about these conditions because they do not come to visit the schools. On another occasion, a public school parent gave an impassioned address about her daughter coming home crying because she would not have AP classes when she got to high school and about not being able to move because no one wanted to buy in East Ramapo.⁷⁶ Toward the end of her address, as she was pleading with the Board to improve the public schools, the speaker noted that Board members were slouching in their seats and refusing to look at her.⁷⁷

⁷³ Willie Trotman, *East Ramapo School Board Must Embrace Diversity: Letter* (Aug. 17, 2016) <http://www.lohud.com/story/opinion/readers/2016/08/17/east-ramapo-school-board-diversity/88888206/> (last visited Dec. 2, 2017) (noting that Board member Pierre Germain "wouldn't use his earphones for the English translation of comments by Spanish-speaking parents and children during the public speaking session"); Janie Rosman, *State Monitor Gets an Earful at First East Ramapo School Board Meeting*, Rockland County Times (Aug. 20, 2015), <http://www.rocklandtimes.com/2015/08/20/state-monitor-gets-an-earful-at-his-first-east-ramapo-school-board-meeting/> (last visited Dec. 2, 2017) ("East Ramapo school board president Yehuda Weissmandl removed his headset as Luis Niveló was speaking, a move that was not unnoticed by the more than 200 people at Chestnut Ridge Middle School Tuesday night.").

⁷⁴ LuckyLouProduction, YouTube (2012), <https://www.youtube.com/watch?v=woB0K9aUfW4> (last visited Dec. 1, 2017).

⁷⁵ LuckyLouProduction, YouTube (2013), https://www.youtube.com/watch?v=i_4ed_rUWMg (last visited Dec. 1, 2017).

⁷⁶ LuckyLouProductions, YouTube (2012), <https://www.youtube.com/watch?v=Vp9WVE2EU2E> (last visited Dec. 1, 2017).

⁷⁷ *Id.*

46. The District has also exhibited an acute lack of procedural responsiveness to Spanish-speaking members of the community. In August 2014, then Superintendent Joel Klein made insensitive remarks regarding older English Language Learner students: “They want to learn the language. They want free lunch, breakfast, and whatever else they can get. They know they cannot get a diploma . . . It’s a major, major issue.”⁷⁸ Months of protests by Latino students, families, and their allies demanding an apology and Mr. Klein’s resignation ensued. Mr. Klein apologized two months after the incident, but remained in his position for over a year until he left under pressure from State monitors.⁷⁹ For the first time in December 2014, the District provided Spanish translation services at a Board meeting, even though Latino students and Spanish-speaking immigrant families had made up a significant portion of East Ramapo’s population for years.⁸⁰ According to a report from *The Journal News*, many attendees at the meeting “took issue with the decision to translate only a portion of the agenda — in Tuesday’s case it was a presentation on the district’s English-as-a-second-language program.”⁸¹ Board president Yehuda Weissmandl reportedly told the crowd at that meeting that translating general school board business and the

⁷⁸ Mareesa Nicosia, *East Ramapo: Compliance on immigrant rights questioned*, northjesery.com (Oct. 23, 2014), <https://www.northjersey.com/story/news/education/2014/10/20/east-ramapo-monitor-reviews-immigrant-services-amid-controversy/17637561/> (last visited Nov. 28, 2017).

⁷⁹ Walcott Report at 9 (“In perhaps the most significant shift in the District since their appointment, the Monitors worked with the board president to identify, recruit and hire an Interim Superintendent, signaling the end of Superintendent Joel Klein’s tenure. . . . Following numerous unfortunate comments by the prior Superintendent that contributed to the ongoing distrust between the District leadership and the public school community, the change in leadership signaled a new direction and a commitment by the board to move the District forward.”)

⁸⁰ Mareesa Nicosia, *East Ramapo School Board Tries Spanish Translator*, *The Journal News* (Dec. 3, 2014), <http://www.lohud.com/story/news/education/2014/12/03/east-ramapo-tries-spanish-translator-meeting/19843237/> (last visited Nov. 28, 2017).

⁸¹ *Id.*

entire meeting would take “too long” and “the district would try out the interpreter for presentations and select meeting highlights.”⁸²

47. In a 2015 letter, the Department of Education Office of Civil Rights (OCR) found that the District’s provisions for bilingual education services evinced discriminatory effects, noting another instance of disparately poor communication with the Spanish-speaking community. The letter stated that in August 2013, the District invited parents of Yiddish speaking students to an open house for bilingual special education programs, but did not conduct a similar open house for the parents of students in Spanish bilingual special programs.⁸³

d. ***Procedural Non-responsiveness Despite State Intervention and Recommendations***

48. In an October 2015 op-ed printed in *The Journal News*, Willie Trotman, the President of the Spring Valley NAACP, cited the Board’s lack of responsiveness as he pleaded for changes in the governance of the District:

We hope the monitors will address board members’ behaviors that have led to these tensions such as helping them alter the ways they interact with community members; reducing their time in executive sessions during board meetings; fostering an appreciation among board members for a safe and orderly environment at school buildings... and encouraging them to devote substantial time for discussion of educational concerns at board meetings.⁸⁴

⁸² *Id.*

⁸³ Letter from Timothy C.J. Blanchard, Director, New York Office, U.S. Dep’t of Educ. Office of Civil Rights, to Dr. Joel Klein, Superintendent, East Ramapo Central School District 8 (Oct. 27, 2015), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/02111091-a.pdf> (last visited Dec. 1, 2017).

⁸⁴ Willie Trotman, *View: ‘Tyranny of the Majority’ in East Ramapo*, *The Journal News*, Oct. 7, 2015, <http://www.lohud.com/story/opinion/contributors/2015/10/07/view-tyranny-majority-east-ramapo/73216770/> (last visited Dec. 1, 2017).

49. In December 2015, the second set of NYSED-appointed monitors—Mr. Walcott, Prof. George-Fields, and Dr. Sipple—issued their report based on 17 weeks of investigation, and concluded that substantial governance changes were necessary to “rebuild[] community trust.”⁸⁵ The monitors made several recommendations that capture the Board’s failures of procedural responsiveness, including (1) “recommending a response timeline to ensure that the board addresses questions from the public in a timely manner”; (2) “alter[ing] the process at board meetings so that executive sessions are now held at the end of meetings, rather than at the beginning, so that the public does not have to wait numerous hours before having the opportunity to comment”; (3) “recommending an inclusive, transparent process to ensure that the community had an opportunity to participate in the selection process”; and (4) ensuring “representation of public school concerns on the board of education by providing that in each election cycle, all the candidates for at least one of the seats must be parents of children attending public schools selected in a local process by other public school parents.”⁸⁶

50. The presence of the State monitors has put in place mechanisms that should improve the Board’s ability to hear and respond to the community, but the Board still remains distant from the public, and there is no guarantee how long the monitors will remain. Public comment is held early in meetings and the duration of meetings and executive sessions has been shortened, but Board members still generally do not engage with the public. Dr. Deborah Wortham, who was appointed as Superintendent in 2015, appears to be the primary person responding to the public during Board meetings. Materials provided to the public at Board meetings state that “the Board, will not, in general, answer questions at the same meeting at which

⁸⁵ Walcott Report at 11.

⁸⁶ Walcott Report at 9-10, 13.

they are posed.”⁸⁷ The Board members say very little, if anything, in response to the comments from the public, and Board members’ general body language and appearance remains uninterested or disengaged.⁸⁸ Based on my observations at various board of education meetings, including in East Ramapo in the course of my own research, this Board’s lack of engagement with the public is unusual and disconcerting.

e. ***Conclusions Regarding the Board’s Procedural Non-responsiveness***

51. These behaviors, combined with an on-going lack of substantive responsiveness to the policy preferences of the minority community described below, have resulted in fewer communications from public school constituents,⁸⁹ who report that they have come not to expect the Board to hear or respond to their concerns. Parents and advocates talk about the Board not caring about the needs and concerns they voice. As Cassandra Edwards, a community member who attended East Ramapo schools in 1970s and 1980s and had three children who attended school in this District in the late 1990s and 2000s, explained in an interview that when she goes to Board meetings, “your voice does not matter.” She said she was active in the District and attended many school board meetings, but she felt that the Board members arrived at their meetings with their minds made up already. “At some point, it becomes a waste of time to go to the Board meetings,” she said. My interviews in the District and the videos I have reviewed strongly suggest that the

⁸⁷ East Ramapo Central School District, Agenda of the Regular Meeting of the Board of Education at IV (Dec. 5, 2017).

⁸⁸ See, e.g., LuckyLouProduction, YouTube (2013), <https://www.youtube.com/watch?v=2BSCjpiD3cw> (last visited Dec. 1, 2017); LuckyLouProduction, YouTube (2013), YouTube, <https://www.youtube.com/watch?v=X7XnFXO-D20> (last visited Dec. 1, 2017); LuckyLouProduction, YouTube (2013), <https://www.youtube.com/watch?v=CohruzahffU&index=93&list=UUpUrTVYsPV7saAWIItZqmA> (last visited Dec. 1, 2017).

⁸⁹ Interview with Cassandra Edwards, parent of two East Ramapo graduates and one current Ramapo High School Student, dated Nov. 17, 2017 (“Cassandra Edwards Interview”).

lack of “voice” that Ms. Edwards describes is indicative of a sense of futility that members of the public school community feel regarding political participation in East Ramapo.

52. In all of the Board meetings that I have attended in different parts of the country, I have never experienced such lack of transparency, indifference, and outright hostility from a School Board directed towards members of its public constituency. The Board’s demonstrated animosity towards the community has a severe impact on the Board’s procedural responsiveness, resulting in an acute failure to address or respond to the needs of the public school community. These behaviors support my preliminary finding that the Board evinces a low level of procedural responsiveness.

2. Substantive Responsiveness

53. A lack of procedural responsiveness is strongly related to a lack of substantive responsiveness, or the implementation of policies that are responsive to the needs of those the elected officials serve. The inquiry into substantive responsiveness examines whether elected officials in the jurisdiction have enacted policies that serve the minority community.⁹⁰ Evidence that the jurisdiction has enacted policies that disproportionately harm minorities is categorically evidence of non-responsiveness.⁹¹

54. There is no evidence in the reports I reviewed, interviews I conducted, or in the video tapes or media coverage of the Board meetings to suggest that for the five or more years prior to the State of New York’s recent intervention the Board passed any significant policy consistent with the interests of the public school students or responsive to the demands of their supporters.

⁹⁰ See *id.* at 724 (citing *Goosby v. Town of Hempstead*, 180 F.3d 476, 487 (2d Cir. 1999)).

⁹¹ See *id.* at 722-23.

55. Instead, during this time, the Board made extraordinary cuts to the public school budget, eliminating more than 445 positions, including more than 200 teaching positions, every social worker, elementary school assistant principal, dean, and department chairperson, among others.⁹² Full-day kindergarten programs were reduced to half-day and English as a Second Language programs were cut in spite of an influx of non-English speakers in the public schools.⁹³ Summer school, many high school electives, funding for field trips and more than 50 percent of athletics and extra-curricular programs in the public schools were slashed.⁹⁴ Cuts were also made to core administrative services including maintenance and custodial services, transportation, and security.⁹⁵ Facilities were not maintained, leading to severe health and safety concerns on the part of education, students and parents, and public school transportation became unreliable and unpredictable causing parents to miss work to bring their children to school.⁹⁶

56. As discussed in greater depth in the following section, the cuts had significant negative consequences for public school students. Students were unable to fill their schedules, which sometimes contained multiple lunch period and study halls.⁹⁷ The loss of teachers and

⁹² Greenberg Report at 30-33.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Interview with Sophia Kolak, Ramapo High School Graduate (Nov. 7, 2017) (“Sophia Kolak Interview”); Jean Fields Interview, Marie Douyon, First Grade Teacher, Summit Park Elementary School (Nov. 6, 2017) (“Marie Douyon Interview”); Maggie Dupuy, Earth Science Teacher, Ramapo High School (Nov. 6, 2017) (“Maggie Dupuy Interview”); and Focus Group discussions with Livia Juella, parent of second grade student at Summit Park Elementary School (Nov. 6, 2017); Anita Motta, grandparent of second grade student at Fleetwood Elementary School; and Terry Rodriguez, Parent of tenth grade student at Spring Valley High School, sixth grade student at Eldorado Elementary School and first grade student at Fleetwood Elementary School (Nov. 6, 2017).

⁹⁷ Interview with Sophia Kolak; Stephen Price Interview; Jean Fields Interview.

advanced classes coincided with a decline in college competitiveness.⁹⁸ Art and music education were eliminated. The elimination of deans and social workers coincided with a rise in disciplinary problems.⁹⁹ Cuts to custodial services resulted in declines to school building maintenance and a rise in health code violations.¹⁰⁰ Half-day kindergarten meant approximately two and a half hours of school for those students. All of these cuts and more are antithetical to the policy preferences of the public school community.

57. During this same time period, the Board approved large-scale increases in the amount of money the District spent on private school students, primarily in the form of funding for transportation and special education. Concerning transportation, Mr. Greenberg noted significant increases in total expenditures and in transportation spending as a percentage of district costs.¹⁰¹ Mr. Greenberg further noted that the District continued to provide gender-segregated busing with no mileage limits.¹⁰²

58. During this time, the District also failed to impose discipline on its special education expenses, which had been repeatedly cited for failing to comply with applicable law.¹⁰³ The District's apparent propensity for acquiescing to parent demands for private special education placements without following legal requirements resulted in the District spending an outsized amount on special education while receiving significantly less than average reimbursements from

⁹⁸ Interview with Sophia Kolak; Jean Fields Interview, Stephen Price Interview.

⁹⁹ Jean Fields Interview.

¹⁰⁰ Sophia Kolak Interview; Jean Fields Interview.

¹⁰¹ Greenberg Report at 14-15.

¹⁰² Greenberg Report at 14, 33.

¹⁰³ Greenberg Report at 18.

State and Federal sources.¹⁰⁴ At least part of the shortfall was the result of NYSED withholding reimbursement due to the District’s conduct in resolving disputes regarding special education placements that resulted in numerous students receiving private placements, which “evidenced a ‘clear intent and pattern to circumvent the IDEA.’”¹⁰⁵ The District challenged NYSED’s enforcement action in New York state court, but the District’s petition was dismissed.¹⁰⁶

59. Mr. Greenberg also noted that the Board engaged in a “waste of public dollars,” when “in the face of fiscal crisis,” by allowing the “District’s legal fees to [increase] over 668%” between 2008-09 and 2013-14, including “\$7.3 million paid to 13 law firms.”¹⁰⁷ In addition to the spending, Mr. Greenberg was especially critical of the Board’s decision to retain and maintain its relationship with Minerva & D’Agostino, whose “attorneys have taken an aggressive and adversarial tone towards parents and students.”¹⁰⁸ Mr. Greenberg further noted that even after the Board terminated Minerva & D’Agostino in 2013 “in the wake of a widely-publicized incident,” the Board later “reversed its decision and announced it would rehire the firm, sparking public furor and condemnation from elected officials.”¹⁰⁹

60. Perhaps the Board’s most open act of substantive non-responsiveness to the needs of the public school community was its decision to decline State aid to restore cuts to the public schools because Board members felt “insulted” by a condition requiring the District to allow

¹⁰⁴ Greenberg Report at 18-19; *see East Ramapo Central School District v. King*, No. 2185-13, 2013 WL 12198825, at *2-3 (N.Y. Sup. Ct. Dec. 30, 2013),

¹⁰⁵ *King*, 2013 WL 12198825, at *2.

¹⁰⁶ *Id.* at *4-5, *judgment aff’d* 130 A.D. 19 (N.Y. App. Div. 3d Dep’t 2015), *aff’d on other grounds*, 29 N.Y. 3d 938 (2017).

¹⁰⁷ Greenberg Report at 27.

¹⁰⁸ *Id.* at 28.

¹⁰⁹ *Id.*

representatives of the public school community to have input into the distribution of funds.¹¹⁰ In late 2013, shortly after NYSED officials announced the appointment of State monitors, Governor Cuomo signed a law permitting East Ramapo to claim a \$3.5 million advance on funds from the State lottery that were intended to restore personnel and programming at public schools on the condition that the District appoint a “district-based advisory team” containing three public school representatives—parent, teacher, administrator—alongside the Superintendent and a Board member to develop a spending plan for the funds.¹¹¹ In June 2014, the Board rejected the money, with the Superintendent at the time, Joel Klein, quoted as saying: “The board feels — and I agree with them — that this is the responsibility of the Board of Education and they are both affronted and insulted ... that an outside group of people could determine how the money is used[.]”¹¹²

61. In the three years since Mr. Greenberg delivered his report, State monitors and the \$6 million in supplemental funding earmarked for public schools that have come with it have restored some of the worst cuts to the District; however, the Board still continues to be nonresponsive to the needs of the public school students and parents in even the most basic ways.

62. For another example, a Latina parent of a 2nd grade student who participated in a focus group said she went to a Board meeting in June 2017 to complain about hot classrooms and the lack of air conditioning, as well as the lack of safe drinking water in the school.¹¹³ Students at

¹¹⁰ Mareesa Nicosia, *East Ramapo “Insulted” by Early Lottery Aid Deal*, The Journal News (June 11, 2014), <http://www.lohud.com/story/news/education/2014/06/11/east-ramapo-insulted-early-lottery-aid-deal/10358093/>.

¹¹¹ N.Y.A. 8125A (2013), http://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A08125&term=2013&Summary=Y&Actions=Y&Memo=Y&Text=Y.

¹¹² Mareesa Nicosia, *East Ramapo “Insulted” by Early Lottery Aid Deal*, The Journal News (June 11, 2014), <http://www.lohud.com/story/news/education/2014/06/11/east-ramapo-insulted-early-lottery-aid-deal/10358093/>.

¹¹³ Focus Group Discussion with Livia Juela, parent of East Ramapo public school student, Spring Valley, N.Y. (Nov. 6, 2017).

her child's school are required to bring their own water to school while sitting in stifling hot classrooms. If they do not bring their own water from home, they have no water to drink all day due to lead in pipes that have not been replaced. She said she was told that the Board was putting out a request for a proposal to put air conditioning in the hot classrooms and to fix the pipes so that the students could obtain water at school. This fall, when her daughter returned to school, the problems had not been addressed. This parent, who is from Ecuador, noted that she came to the U.S. so that her children could have a better education than she had received growing up. Sadly, she found the East Ramapo public schools in worse condition than her schools as a child. She also said that the parents in the District feel that they are being ignored and that there is a "lack of respect for the parents."¹¹⁴

63. The consistent nature of the complaints from parents, students and educators points to an on-going unwillingness on the part of the Board to take the initiative to address the real and meaningful educational issues that will continue to impact the quality of education and academic outcomes for students in East Ramapo. Parents and community members still feel the Board is "tone-deaf" and not responsive to the needs of the students and families in the public schools. This lack of responsiveness in the Board's decision making is only worsened by the Board's track record of approving policies that are the direct opposite of responsiveness and in fact, insult the minority community and highlight the disconnect between the board and its constituents. For example, in February 2017, even with State monitors watching, the Board approved the use of metal detectors in District public schools, which drew a letter of objection from an interfaith group, Rockland Clergy for Social Justice, that stated: "Making East Ramapo the only Rockland district

¹¹⁴ *Id.*

out of eight with a metal detector policy, without demonstrating any need for such a policy, perpetuates stereotypes and further marginalizes our students.”¹¹⁵ The group called for the policy to be rescinded and requested the District “establish a transparent process to determine the safety needs of all East Ramapo students,” that includes “students, board members, parents, faculty and representatives from community organizations including the NAACP.”

64. The above examples demonstrate the Board’s complete failure to meaningfully respond to the public school community’s needs, and as such, the Board has demonstrated a lack of substantive responsiveness towards the public school community, in addition to the lack of procedural responsiveness. Their concerns about the Board’s lack of interest in the public school community’s needs remain the same as prior years even though the tone of the meetings has changed. In my experience, I have not seen or heard of a local school board that has demonstrated such an extreme degree of substantive non-responsiveness towards its public school constituency, or one that has so blatantly put the needs of one constituency, here the private school community, over the needs of and at the expense of another.

D. The Ongoing Effects of Discrimination in Education on Black and Latino Students in East Ramapo

65. To assess the impact of the Board’s lack of responsiveness to the needs of its minority constituents and the resulting discrimination against the public school community, I examined evidence and related research relevant to the quality of education provided and received in the East Ramapo public schools. Specifically, I analyzed the evidence available at this time on

¹¹⁵ Rev. Weldon McWilliams IV, Rabbi Paula Mack Drill, Trustee Azeem Farooki, *East Ramapo Metal Detectors Perpetuate Stereotypes: Letter*, The Journal News (Mar. 21, 2017), <http://www.app.com/story/opinion/readers/2017/03/21/east-ramapo-metal-detectors-stereotypes-letter/99403408/> (last visited Dec. 1, 2017).

the effects of cuts to the resources and services provided to the mostly low-income black and Latino students in East Ramapo in the context of research regarding the impact of key educational inputs on student outcomes in order to make findings regarding the continuing impact of the Board's cuts. Pursuant to available education research, *what* is cut and to *what degree* the cuts take place are systematically related to students' academic success. In fact, one of the most thorough and methodologically sound meta-analyses of the research on the impact of funding and resources on student outcomes concludes that funding has a significant impact in shaping students' educational experiences and their academic success.¹¹⁶ "While none of these studies should be considered definitive in isolation, they together constitute a considerable research base and support the conclusion that greater funding equity and adequacy is linked to greater student achievement equity and adequacy, respectively."¹¹⁷ Further, examining how funding is used is particularly important to determining the impact of school resources on student outcomes. "How we spend the money and the incentives we create for both children and teachers are equally important" to analyzing the effects of funding on education.¹¹⁸

66. Similarly, Darling-Hammond (2010) reviewed the research on school funding and found that school resources account for "a very large portion of the variance in student performance," particularly certain school resources such as staff quality, class size, and overall funding levels accounted for 65% of the total variance in students scoring below basic on state

¹¹⁶ See Bruce Baker and Kevin Welner, *School Finance and Courts: Does Reform Matter, and How Can We Tell?* in Teachers College Record 2374 (Teachers College, Columbia Univ. 2011) ("Baker and Welner").

¹¹⁷ Baker and Welner at 2390; see also Rob Greenwald, Larry V. Hedges and Richard D. Laine, *The Effect of School Resources on Student Achievement*, Review of Educational Research 361, at 384 (1996) (finding that "school resources are systematically related to student achievement and that these relations are large enough to be educationally important").

¹¹⁸ Greenwald et al. at 385.

tests in South Carolina and from 46% to 56% of the variance in students failing the MCAS in English and mathematics in Massachusetts, noticeably more than the influence of race.”¹¹⁹ Class size, particularly in elementary schools is a huge factor in student achievement. Other key factors related to students’ academic success include support services, including mental health services; access to advanced and enrichment courses, including art and music; safe and well-functioning facilities; and adequate instructional supplies and resources. For East Ramapo, the weight of evidence currently available to me leads me to conclude that the Board’s disinvestment in the public schools has negatively impacted the quality of the students’ education.¹²⁰

67. My analysis focuses on how and to what extent the reduction of resources to public schools and the resulting loss of approximately 445 District personnel and programming cuts may have affected and continue to effect the mostly-black and Latino public school student body. Specifically, I considered research, data, and information regarding the impact of the District’s policies resulting in (1) the shift from full-day to half-day kindergarten programs; (2) increased class sizes; (3) reduction in student support services; (4) reduction in advanced and college preparatory curriculum; (5) reduction in school maintenance; and (6) reduction in supplies and others classroom resources.

1. Full-day vs Half-day Kindergarten

68. Over the past two decades, as full-day kindergarten options have grown, researchers have analyzed both short-term and longitudinal data related to the benefits of full-day kindergarten

¹¹⁹ L. Darling-Hammond, *The Flat World and Education: How America’s Commitment to Equity Will Determine Our Future*, at 118 (Teachers College Press, N.Y. 2010).

¹²⁰ Michael A. Rebell, *Essential Resources: The Constitutional Requirements for Providing All Students in New York State the Opportunity for a Sound Basic Education* (Campaign for Educational Equity, Teachers College, Columbia Univ. 2012).

versus half-day kindergarten. The analyses overwhelmingly suggest that students attending full-day kindergarten benefit in both the short- and long-term in their academic, social-emotional, and behavioral development.¹²¹

69. In the short-term, students who attend full-day kindergarten show greater gains over the course of the kindergarten year in literacy, math, and general learning skills than their half-day kindergarten peers.¹²² While these short-term effects are consistent across racial/ethnic and class groups,¹²³ there is some evidence suggesting that the short-term effects of full-day kindergarten programs for students of color are even greater than for their white peers. In one study analyzing data from districts that randomly assigned students to full and half-day kindergarten, the impact of full-day kindergarten on Latino students' gains in literacy skills in particular was more than double that of their non-Latino peers for students within the same school.¹²⁴

70. Research also suggests that the impact of attending full-day kindergarten over half-day kindergarten holds well past the student's year in kindergarten. Consistently, studies have

¹²¹ J. Da Costa and S. Bell, *Full-Day Kindergarten At an Inner city Elementary School: Perceived and Actual Effects* (Paper presented at the Annual Conference of American Educational Research Association, New Orleans, La. 2001); Valerie Lee et al., *Full-Day Versus Half-Day Kindergarten: In Which Program Do Children Learn More?* 112, 163-208, *Am J. of Educ.* (2006); J. Walston and A. Rathbun, *Relationships Between Family Risks and Children's Reading and Mathematics Growth from Kindergarten through Third Grade* (Paper presented at Annual Meeting of the American educational Research Association, Montreal, Canada 2005) ("Walston and Rathbun (2005)"); David Hough and Suzanne Bryde, *The Effects of Full-Day Kindergarten on Student Achievement and Affect*; Annual Conference of the American Educational Research Association (1996); Robert G. Lynch, *Early Childhood Investment Yields Big Payoff in Policy Perspectives* (WestEd 2005); Jonathan A. Plucker et al., *The Effects of Full-Day Versus Half-Day Kindergarten: Review and Analysis of National and Indiana Data* (Center for Evaluation and Education Policy, Indiana Univ. 2004) ("Plucker"); Chloe R. Gibbs, *Experimental Evidence on Early Intervention: The Impact of Full-day Kindergarten* (Frank Batten School of Leadership and Public Policy, Univ. of Va., Working Paper No. 4, 2014) ("Gibbs").

¹²² *Id.*

¹²³ Walston and Rathbun (2005).

¹²⁴ *See generally* Gibbs.

shown that students who attended full-day kindergarten scored higher on standardized tests across subject areas at various stages of their elementary, middle school, and high school education when compared with their peers who attended only half-day kindergarten.¹²⁵ In addition to academic achievement, students who attended full-day kindergarten have shown significant long-term developmental, social, and behavioral benefits over time compared to their peers who did not attend full-day kindergarten such as reduced rates of retention, and reduced rates of special education classification.¹²⁶

71. It is important to note that both of these long-term and short-term benefits for students are related to the quality and quantity of the instruction that is possible during a full-day kindergarten schedule when compared to a half-day schedule. In general, full-day kindergarten programs allot anywhere from 40 to 60 percent more instructional time than half-day kindergarten programs.¹²⁷ In one study, teachers in a full-day kindergarten program felt that the schedule afforded them the opportunity to get to know students and parents better, engage in more

¹²⁵ Andrea Del Gaudio Weiss and Robert Offenberg, *Differential Impact of Kindergarten Experience on Academic Achievement and Cost-Benefit through Grade 4: An Examination of Four Cohorts in Large Urban School District, Philadelphia, PA: School District of Philadelphia Elementary School: Perceived and Actual Effects* (Paper presented at the Annual Conference of American Educational Research Association, New Orleans, La. 2002) (“Del Gaudio and Offenberg”); John R. Cryan et al., *Success Outcomes of Full-Day Kindergarten: More Positive Behavior and Increased Achievement in the Years After*, *Early Childhood Research Quarterly* 187 (1992) (“Cryan et al.”); Domenic F. Gullo, *The Long Term Educational Effects of Half-Day vs Full-Day Kindergarten* 17-24, 160, *Early Child Development and Care* (2000); Frederick P. Stofflet, *Anchorage School District Full-Day Kindergarten Study: A Follow-up of the Kindergarten Classes of 1987-88, 1988-89 and 1989-90* (Anchorage School District, AK 1998).

¹²⁶ Cryan et al.; Del Gaudio and Offenberg; W. Gilliam & E. Zigler, *A Critical Meta-Analysis of All Evaluations of State Funded Preschool from 1977-1998: Implications for Policy, Service Delivery and Program Evaluation*, *Early Childhood Research Quarterly* (2001); J. Elicker & S. Mathur, *What Do they Do All Day: Comprehensive Evaluation of Full-Day Kindergarten in the USA*, *Early Childhood Research Quarterly* (1997), at 12, 459-480.

¹²⁷ A. Gamoran and C. Milesi, *Quantity of Schooling and Educational Inequality: Full-day Kindergarten in the USA* (Paper presented at Meetings of the Research Committee on Social Stratification, International Sociological Association, Tokyo Mar. 2003); Plucker.

individualized instruction, and expand the curriculum.¹²⁸ Research across a variety of contexts provides evidence that certain types of reading skills and pedagogical strategies associated with better academic outcomes are also more prevalent in full-day programs because of this extended time.¹²⁹

72. As Marie Douyon, one of the teachers at Summit Park Elementary School in East Ramapo who taught half-day kindergarten before being moved to 1st grade explained, students in this District need the additional instructional time of full-day kindergarten.¹³⁰ She recalled teaching the half-day classes and noted the lack of time she had to get to know each student or to actually teach. She said that by the time students get off the bus and take off their jackets, etc., which does not happen quickly for children at age five, there is little time for instruction before they are getting dressed and ready to get back on the bus. “You need time with the students because when they are little, it takes them a while to establish relationships...”¹³¹

73. Similarly, Lynette Holmes, an elementary school teacher in East Ramapo for the last 13 years who has taught multiple grade levels in different schools, said that when she taught the half-day kindergarten classes several years ago, it was extremely difficult to find valuable and much-needed instruction time, which ended up being about 2.5 hours by the time the children were

¹²⁸ S. Martinez and L. Snider, *Summary of Research: Full-Day Kindergarten* (Kansas State Dep’t of Educ. 2001).

¹²⁹ Valerie Lee et al., *Full-Day vs. Half-Day Kindergarten: What Children Learn More in Which Programs?* (paper presented at Annual Meeting for the American Sociological Association, Anaheim, CA, revised 2002); Plucker; J. Walston and J. West, *Full-Day Kindergarten in the United States: Findings from the Early Childhood Longitudinal Study, Kindergarten Class of 1998-1999* (National Center for Education Statistics 2004).

¹³⁰ Interview with Marie Douyon, Teacher, Summit Park Elementary School, New City, N.Y. (Nov. 6, 2017) (“Marie Douyon Interview”).

¹³¹ *Id.*

in the room and settled down.¹³² She reiterated that the half-day format cut into the time she needed to acclimate the young children to being in school and their teacher. She recalled that one student cried every day. She said, “he did not have enough time to get to know me; he was seeing me for less than two hours a day.”¹³³ Ms. Holmes, who currently teaches 5th grade, noted that she sees the long-term effects on students who do not have enough time in kindergarten. They are less prepared and acclimated into the necessary social and emotional norms of schooling.¹³⁴

74. These and other teachers I interviewed in East Ramapo who teach or have worked with teachers in East Ramapo elementary schools have noticed the negative effects of the over four years of half-day kindergarten on the students matriculating up in to 1st grade and beyond. For instance, Marie Douyon noted that she had to adjust her 1st grade curriculum to account for all the lessons the students had missed after being in a half-day kindergarten class.¹³⁵

75. If the emergency influx of state funding to restore full-day kindergarten ends, these negative effects on students, well documented in the research evidence and the experiences of these East Ramapo educators, are likely to resume.

2. Large Class Sizes

76. Large class sizes have a negative impact on a student’s ability to learn in the classroom and thus a negative impact on student outcomes. In one of the most comprehensive reviews of the impact of class size on students learning the author found that “[r]educing a class from 23 to 15 reduces the number of children in the room by about one-third. Having fewer

¹³² Interview with Lynette Holmes, Teacher, Lime Kiln Elementary School, Nanuet, N.Y. (Nov. 2, 2017) (“Lynette Holmes Interview”).

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

children in class reduces the distractions in the room and gives the teacher more time to devote to each child.”¹³⁶ Attendance in a small class in grades K-3 appears to have raised the likelihood that students take either the ACT or SAT college-entrance exam by the end of high school.”¹³⁷

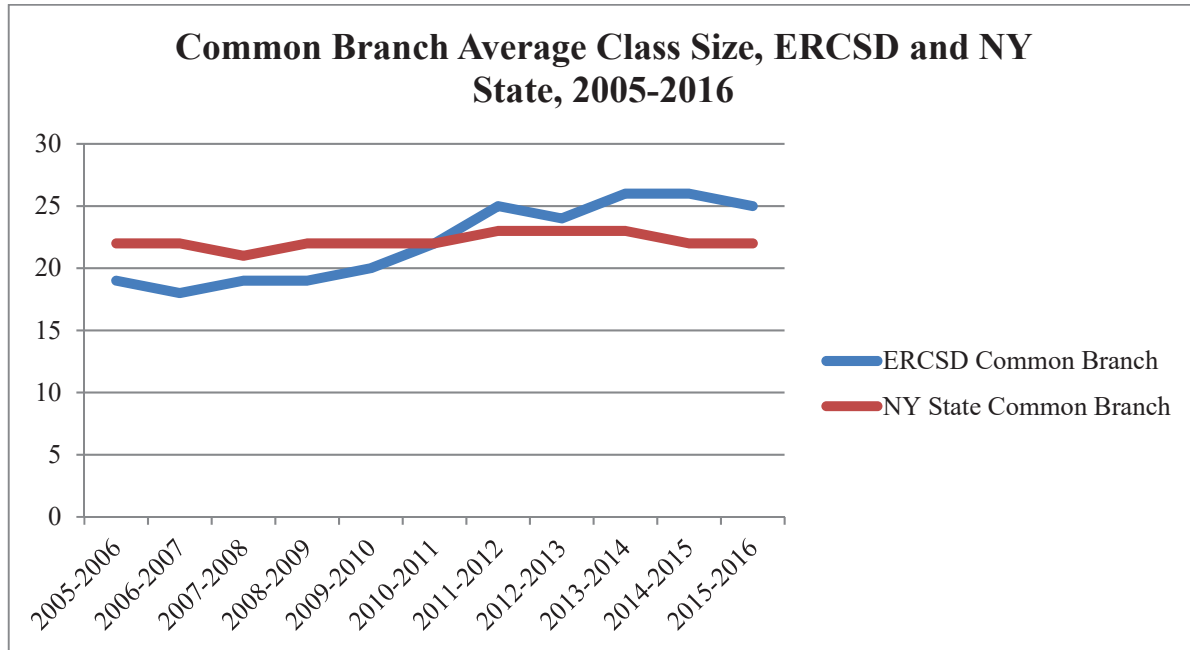
77. Figure 1 compares the average class size (common branch) in schools in the East Ramapo School District to those of New York State (including New York City, which has larger class sizes, on average, than the state as a whole, and thus inflates the overall average)¹³⁸ as a whole over time. The graph shows that class sizes have increased markedly (from 19 in 2005-2006 to 25 in 2015-2016) in East Ramapo since the Board disinvestment began, while the average for New York State has remained stable over time. In fact, while the class sizes in the District used to be substantially lower than the state overall (19 in East Ramapo compared with 22 in NY State in 2005-2006), as is typical of suburban school districts, the district average (25) is now higher than the state’s (22). Two elementary school teachers in East Ramapo public schools who had worked in the District for 14 or more years stated that the growth in the class size was the most visible and disconcerting indication of the draconian budget cuts over the last decade.¹³⁹

¹³⁶ Frederick Mosteller, *The Tennessee Study of Class Size in the Early School Grades*, *The Future of Children* (1995), at 125.

¹³⁷ Alan B. Krueger and Diane M. Whitmore, *The Effect of Attending A Small Class in the Early Grades on College-Test Taking and Middle School Test Results: Evidence from Project Star 24* (NBER Working Paper No. 7656, 2000).

¹³⁸ NYC Dep’t of Educ., Class Size Report, <http://schools.nyc.gov/AboutUs/schools/data/classsize/classsize.htm> (last visited Dec. 1, 2017).

¹³⁹ Marie Douyon Interview; Lynette Holmes Interview.

Figure 1.

78. In 2011, after the first major teacher layoffs, the Board and the East Ramapo Teachers Association approved a temporary change to the collective bargaining agreement allowing the District to override class size limits.¹⁴⁰ At the time, parents and students reported classes in excess of 30 students.¹⁴¹

79. Marie Douyon, the 1st grade teacher in East Ramapo who has taught in the district for 21 years, mostly in grades kindergarten through 3rd grade, reports that her class sizes have increased from between 15 and 17 to between 26 and 30 students.¹⁴² She said that with the larger class sizes, students begin to fall through the cracks because she does not have time to address all of their needs. She noted that she is more than a teacher; she is a housekeeper, a nurse, a

¹⁴⁰ See Mareesa Nicosia, *Parents to District: Class Size Matters*, The Journal News (Oct. 10, 2011), at 1A.

¹⁴¹ *Id.* at 1A, 4A.

¹⁴² Marie Douyon Interview.

psychologist—and sometimes an ersatz bilingual teacher, notwithstanding her lack of training in bilingual education.¹⁴³ But when she is wrongly assigned a student who is not proficient in the English language into her general education classroom, she believes it is because of cuts in the district’s English as a New Language (“ENL”) program and the fact that parents of non-English speakers are not aware of their rights to assure their children receive these needed services.

80. Similarly, Maggie Dupuy, a science teacher at Ramapo High School, said that she regularly has “quite a few students” each year who do not speak English. She said they speak Spanish or Creole, but they are placed in general education classes. She noted that because they are not provided ENL services, the District is “setting them up for failure.” She added that she has other Spanish or Creole-speaking students sit next to them in class “so they can translate for the non-English speaking students.” But, she added, the students asked to translate get tired and they often miss key points that the students need to succeed in the class.¹⁴⁴

81. Lynette Holmes, the East Ramapo teacher noted above, has been moved several times to different buildings and grade levels within the District following school closures and budget cuts. She has mostly taught grades 3-5, and of all the changes she has experienced, the growth in her class sizes has been the most impactful.¹⁴⁵ When she first arrived in the District, Ms. Holmes said that she had between 22 and 25 students in her classes. But she reports that her class sizes have increased over time to the point that during the 2014-15 through 2016-17 school years,¹⁴⁶ she recalled her class sizes ranging from 29-31 students. “It is a little overwhelming,”

¹⁴³ Marie Douyon Interview.

¹⁴⁴ Maggie Dupuy Interview.

¹⁴⁵ Lynette Holmes Interview.

¹⁴⁶ *Id.*

Ms. Holmes said, “If I worked with less kids, I could target their needs more individually.”¹⁴⁷ Furthermore, Ms. Holmes stated that with smaller class sizes, in the past she was able to work with students one-on-one or in small groups, adding that her academic intervention was more targeted to students needs when she had fewer to students to keep track of at a time.¹⁴⁸ With the larger classes she is not only unable to provide less individual attention, but she also has a much larger range in student abilities and prior knowledge and skill sets. She added that with so many students, such a varied range of abilities, and no support, she often ends up rushing students through the lessons. She said this is one of the biggest downsides to the larger classes: students do not learn what they need to know. She said, “a lot of this is related to class size . . . I have kids who cannot write a complete sentence. I feel like class size has a huge impact.” These teachers’ concerns are echoed by members of the public school community who have spoken up at school board meetings in 2011,¹⁴⁹ in the media in 2014,¹⁵⁰ and to the state monitors regarding class size in January 2017.¹⁵¹ As one Latino father who went before the Board in 2015 asked: “[R]ight now there's 28 kids in each room with one teacher and it's a lot. What's the plan to reduce class size?” but no answer was given.¹⁵²

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ See, e.g., Nov. 16, 2011 East Ramapo Central School District Board Minutes, at 6903-05 (listing four separate oral communications to the Board about overcrowding in classrooms).

¹⁵⁰ Michael Powell, *A School Board That Overlooks Its Obligations to Students*, N.Y. Times (Apr. 7, 2014), https://www.nytimes.com/2014/04/08/nyregion/a-school-board-that-overlooks-its-obligation-to-students.html?_r=0 (last visited Nov. 27, 2017) (“Kindergarten class size has jumped to 28 children from 20. Fourth-grade classes hover at 32 children. Sky’s the limit in high school.”)

¹⁵¹ Charles A. Szuberla Jr. and John W. Sipple, *A New Beginning: A Report on the East Ramapo Central School District 4* (Jan. 24, 2017), <http://www.nysed.gov/common/nysed/files/east-ramapo-monitors-report-1-24-17.pdf> (summarizing concerns of parents of public school students).

¹⁵² LuckyLouProduction, YouTube (2015), <https://www.youtube.com/watch?v=tCz-YIE7sMs> (last visited Dec. 1, 2017).

82. Based on the evidence currently available to me, the rapid growth in class sizes within East Ramapo, particularly in the early grades, has potentially far-reaching negative impacts on students who rely on the public school system to gain access to higher education.

3. Reduction or Elimination of Student Support Services

83. Research indicates that the District's severe reduction in support service professionals—including guidance counselors, social workers, deans, and assistant principals, among others—has likely had a strong negative impact on student outcomes. In particular, the loss of guidance counselors in the public schools raises concerns about post-secondary outcomes in light of the research evidence that guidance services give low-income students of color a leg up in the college application and matriculation process. Ample research shows that counselors, “when consistently and frequently available and allowed to provide direct services to students and parents, can be a highly effective group of professionals who positively impact students’ aspirations, achievements, and financial aid knowledge.”¹⁵³ One study concluded with high statistical significance that lower student-to-counselor ratios have a positive differential effect for black male students.¹⁵⁴ Furthermore, research evidence demonstrates the long-term benefits of counseling services for elementary school students, particularly low-income students of color, including reductions of misbehavior in boys and girls by approximately 20% and 29%, respectively, and that

¹⁵³ Clifford Adelman, *Answers in the Tool Box. Academic intensity, attendance patterns, and bachelor's degree attainment* (U.S. Dep't of Ed. 1999); P. M. McDonough, *Choosing Colleges. How Social Class and Schools Structure Opportunity* (State University of New York Press 1997); G. Orfield & F. Paul, *High Hopes, Long Odds: A Major Report on Hoosier Teens and the American Dream* (Indiana Youth Institute 1993); S.B. Plank & W.J. Jordan, *Effects Of Information, Guidance, and Actions On Postsecondary Destinations: A Study Of Talent Loss*, 38 Am. Ed. Research J. 947-79 (2001).

¹⁵⁴ Scott E. Carrell and Susan A. Carrell, *Do Lower Student to Counselor Ratios Reduce School Disciplinary Problems?*, The BE J. of Economic Analysis & Policy (2006), at 8-9.

those counseling services resulted in an economically and statistically significant increase in achievement.¹⁵⁵

84. Laying off three guidance counselors left the remaining high school counselors with caseloads 50 percent larger, according to Ms. Fields.¹⁵⁶ As a result of those cuts, Ms. Fields recalls that those student who still saw their counselors spent less time with them, and “some [students] did not see their counselors at all.”¹⁵⁷

85. One of the more serious results in the loss of support staff is the Walcott Report’s observation that: “the District’s cuts to student support services provided by guidance counselors (reduced), social workers (eliminated), elementary art and music teachers (eliminated), teacher aides (reduced), and in-service training for teachers (reduced), is likely increasing the identification rate of public school students as students with disabilities.”¹⁵⁸

86. The cuts in the District’s support staff have also aggravated the problem of overburdened teachers in overcrowded classrooms, diminishing their ability to devote time to improving student achievement. Ms. Holmes noted that the impact of cuts in the support staff have been “huge,” compounding the difficulties involved with increasing class sizes. Although her classes are now 25-30 percent larger than when she first started, Ms. Holmes no longer has the support of a teaching assistant, or assistant principals and social workers to assist with behavior and disciplinary issues, whose positions were lost to budget cuts. “If there is an issue with a child

¹⁵⁵ Scott E. Carrell and Mark Hoekstra, *Are School Counselors a Cost Effective Education Input: Economics Letters* 125(1) (2014), at 68.

¹⁵⁶ Jean Fields Interview.

¹⁵⁷ *Id.*

¹⁵⁸ Walcott Report at 21.

in the classroom, it now falls on your lap... It takes away from me doing what I need to do.”¹⁵⁹

Ms. Fields also recalled a time she was the only resource to help a student she thought was suicidal because the school’s social worker had been eliminated. The time she spent reaching out to this student’s parent and health care providers was time taken away from her responsibilities as a principal of a large high school. “With all the social workers gone,” she said, “I was the social worker.”

87. Furthermore, according to Ms. Fields, “The elimination of all social workers, elementary school assistant principals, and deans has had an impact on discipline and behavior problems.”¹⁶⁰

88. Based on the evidence currently available to me, the Board’s decision to lay off support professionals throughout the District reduced the educational opportunities for its public school student constituency.

4. Cuts to Advanced Curriculum and Enrichment Courses

89. The District’s reductions in personnel and programs have significantly lessened East Ramapo students’ academic opportunities and decreased their access to resources preparing them for admission and attendance at high-status colleges and universities. In particular, cuts to (a) advanced college preparatory curriculum; and (b) enrichment classes and programs decrease students’ chances of transitioning into selective higher education institutions or gainful employment after high school. I address each in turn.

¹⁵⁹ Lynette Holmes Interview.

¹⁶⁰ Jean Fields Interview.

a. *Advanced College Preparatory Curriculum*

90. East Ramapo was once well-regarded because of the advanced academic curriculum and extracurricular opportunities available to students.¹⁶¹ From a wide range of AP classes to science fairs and competitions to courses offering college credit through Syracuse University Project Advance (SUPA), SUNY Albany, and other institutions, East Ramapo secondary students had many opportunities to excel academically in high school and beyond.

91. During the period prior to State intervention, the number of these courses as well as the qualifications of the faculty who teach them declined significantly.¹⁶² Jean Fields noted that most of the cuts in the curricular offerings occurred in the sciences, specifically the AP physics and chemistry classes, and in the foreign language offerings – both of which are critical to positioning students competitively in their college applications. Jean Fields further noted that in the past, Ramapo High School was able to offer the AP courses with fewer than 15 students enrolled, but the Board changed that policy to require more than 15 students in each class. It is important to note that AP courses are, on average, some of the smallest high school courses offered. According to the College Board, which administers AP classes and test taking, the average size of AP courses is 16.9, which means that many high school AP classes across the country likely enroll fewer than 15 students and most likely fewer than 20 students.¹⁶³

¹⁶¹ Stephen Price Interview; Jean Fields Interview; Interview with Carol Jacobs, former special education teacher, East Ramapo Central School District and former student teacher supervisor, Rockland Community College, Nanuet, NY (Nov. 2, 2017).

¹⁶² See, e.g., Jean Fields Interview; Sophia Kolak Interview; Mareesa Nicosia, *2 Slates Seek 3 Seats in E. Ramapo Election*, The Journal News, Sunday, May 19, 2013, at 13A (noting that then Board candidate Robert Forrest said “students successful has been impeded by the school board and administration’s financial mismanagement that’s resulted in Advanced Placement courses, clubs, sports, music and art being whittled away”).

¹⁶³ See Daniel Murphy and Barbara Dodd, *A Comparison of College Performance of Matched AP® and Non-AP Student Groups*, Research Report No. 2009-6, The College Board (2009).

92. These cuts to the AP courses and curriculum in East Ramapo are problematic, given the research evidence on the positive impact of AP expansion on educational opportunities.¹⁶⁴ Some research indicates the benefit of this advanced curriculum is attributable less to students' scores on the AP exams than to the knowledge they gain and the ways in which their transcripts are interpreted by college admissions officers. The experience also positions students to do better in future AP and college courses as they gain important study skills and higher levels of confidence.¹⁶⁵

93. Furthermore, Keng and Dodd (2008) found that when “nontraditional AP students” – meaning those from low-income families and first-generation college families – enroll in and pass an AP exam, they “perform as well if not better than non-AP and Honors-only students once in college, based on college credits completed and college GPA.”¹⁶⁶

94. College-credit awarding courses in subjects such as economics and other subjects, offered through Syracuse and Albany universities, were also scaled back or eliminated.¹⁶⁷ Overall, East Ramapo students have fewer opportunities to augment their grade point averages with AP, Honors, or other advanced courses, which come with weighted grades that increase their overall high school average.¹⁶⁸ Furthermore, this lack of access to advanced courses led to upper class

¹⁶⁴ S. Flores and M.O. Gomez, *Strategies for Increasing Advanced Placement Participation for Underrepresented Students: Barriers, Practices, and Positive Outcomes*, NASSP Bulletin 95(1) 2011, at 65-79.

¹⁶⁵ *Id.*

¹⁶⁶ *Id.* at 67.

¹⁶⁷ Jean Fields Interview.

¹⁶⁸ *Id.*

student schedules with up to four lunch periods and two study halls. Thus, some juniors and seniors in Spring Valley High School had only two or three advanced academic classes.¹⁶⁹

b. *Cuts to Enrichment and Extracurricular Offerings*

95. Students from low-income families, particularly those who are students of color, often gain access to jobs and higher education through extra-curricular activities and career oriented elective classes.¹⁷⁰ Thus, programs in music, art, athletics, and business are more than enrichment for these students, they can also foster the development of critical thinking skills, self-confidence and significant pathways to higher education and careers otherwise unknown.¹⁷¹

96. The academic and programmatic cuts outlined in the Greenberg report¹⁷² and *The Journal News* reporting¹⁷³ cite the elimination of instrumental music and art programs in grades K-3 and summer school for all students. The Walcott Report concluded that the District does not offer adequate arts, music or other enrichment opportunities.¹⁷⁴ During the 2015-16 academic year: (1) there were no art or music teachers assigned to the District's K-6 schools; (2) students in grades K-5 did not receive any art or music services at all, even after school; and (3) 6th grade students

¹⁶⁹ See Ex. 2, Castor Decl., Dkt. 26-2.

¹⁷⁰ E.W. Gordon, B.L. Bridglall & A.S. Meroe, *Supplementary Education: The Hidden Curriculum of High Academic Achievement* (Lanham: Rowman & Littlefield Publishers 2004).

¹⁷¹ See Margaret S. Barret and Nigel Bond, *Connecting Through Music: The Contribution of a Music Programme to Fostering Positive Youth Development*, Research Studies in Music Education 37(1) (2015) ("Barret and Bond"); Daniel H. Bowen and Brian Kisida, Learning to Think Critically: A Visual Art Experiment, Educational Researcher (2014), at 37-44; Lissa May and Brenda Brenner, The Role of the Arts in School Reform, Arts Education Policy Review (2016), at 223-229.

¹⁷² Greenberg Report.

¹⁷³ Redmond, 2017.

¹⁷⁴ Walcott Report.

could only sign up to participate in band, chorus, orchestra, and drama, which meet once or twice a week.¹⁷⁵

97. Furthermore, the Ramapo High School marching band was temporarily disbanded and then restarted again recently.¹⁷⁶ With the state funding, the District was able to restore some of the music instruction, but it is on a part-time basis, and one mother I interviewed said that the students have no instruments and are not getting regular instrumental music instruction.¹⁷⁷ Music programs and marching band participation not only create enriching experiences for students but also foster the skills and talents that can help students get into selective colleges and universities.¹⁷⁸

98. In addition, certain high school electives were eliminated or reduced, including economics and business classes that could help prepare students for future employment. At the same time, the percentage of East Ramapo graduates going on to 4-year colleges has declined in the last 10 years.¹⁷⁹ Thus, the elimination of vocationally oriented elective classes such as business is even more problematic, suggesting that the District's public schools are becoming less equipped to prepare their graduates for life after high school.

99. The Debate Club and the Model United Nations were also eliminated at the high school level, leaving students with even fewer opportunities to develop critical public speaking and debate skills. For those students interested in politics or international affairs, the elimination of their access to these clubs may decrease their chances of pursuing post-secondary academic and work experiences.

¹⁷⁵ Walcott Report at 15-16.

¹⁷⁶ Jean Fields Interview.

¹⁷⁷ Focus Group Discussion with Livia Juela.

¹⁷⁸ See Barrett and Bond.

¹⁷⁹ See App'x A.

100. The Board cut athletics and other extra-curricular activities by 50 percent between 2009 and 2012.¹⁸⁰ During that time, several of the sports clubs were cut or consolidated across the two rival high schools and several of those consolidations continue today.¹⁸¹ Not only did this allow for far fewer opportunities for students to participate in athletics, but it also forced students on two teams with a history of fierce rivalry to merge and become one cooperative team overnight. Studies have shown that participation in athletics improves students' attachment to their schools as well as physical, social and psychological skills.¹⁸²

101. Transportation for field trips has been eliminated, making the vast majority of field trips impossible. According to Marie Douyon, the first grade teacher interviewed for this report, "when [she] first started teaching in this district, [they] used to go on field trips all the time." She talked about taking her students to the Bronx Zoo and the Statue of Liberty and how these trips provided many of these students with their first foray outside of their local community. This was an important experience for them, and it enhanced their learning opportunities and understanding of the broader society beyond their neighborhoods.¹⁸³

5. Cuts in the Maintenance and Repair of Facilities

102. Between 2009 and 2012, the building and grounds administrator was cut, signaling a long, slow decline in the care, maintenance, and upgrades in the physical plants. During the 2013-14 year, custodians and maintenance workers were cut along with security guards.¹⁸⁴ In the

¹⁸⁰ Greenberg Report at 30, 32.

¹⁸¹ Jean Fields Interview.

¹⁸² Reid and Moore, 2008.

¹⁸³ Marie Douyon Interview.

¹⁸⁴ Greenberg Report.

ensuing years, the school buildings in the District have become increasingly dirty, structurally unsound and even dangerous to the health and well-being of the students.

103. Testing preformed during Summer 2016 revealed elevated levels of lead in the water in at least nine of the District's 18 buildings.¹⁸⁵ Parents reported their concerns. In at least one elementary school, parents were still being asked to send their children to school with bottled water during the 2017-18 school year.¹⁸⁶ At the same time, the room temperature can hover around 90 degrees in the late Spring and early Fall, and the lack of air conditioning and fans can lead to stifling hot classrooms. These conditions, coupled with large class sizes and overcrowded classrooms are likely to be overwhelming for both students and their teachers.

104. Sophia Kolak, a 2017 graduate of Ramapo High School, recalled that the ceilings in the high school were collapsing as the leaking water from the roof would seep into the ceiling tiles, making them sag and smell like sewage. Mold was growing in many of the classrooms, and the classes would be moved to avoid the leaks and the smells at the last minute. This meant many classes started 15 or 20 minutes late as the teachers and students scrambled to find another classroom.¹⁸⁷

105. The negative impact of decrepit facilities on students and their ability to learn is well-documented in the research literature, which demonstrates that run-down school facilities negatively affect not only students' health and well-being but also their attendance, grades and test

¹⁸⁵ Robert Brum, *East Ramapo: Elevated Lead Levels in 9 Buildings*, The Journal News (Sept. 1, 2016), <http://www.lohud.com/story/news/education/2016/09/01/east-ramapo-elevated-lead-levels-9-buildings/89713172/> (last visited Dec. 3, 2017).

¹⁸⁶ Focus Group Discussion with Livia Juella and Anita Motta.

¹⁸⁷ Sophia Kolak Interview.

scores.¹⁸⁸ In one school studied, school conditions explained up to 16 percent of the variation in student mathematics scores. More precisely, a 10-point increase in a facility score was associated with a 1.6 increase in student math scores, indicating the powerful connection between the facilities and student achievement.¹⁸⁹ “Indeed, facility condition was found to be a stronger predictor of academic achievement than many family background factors and socio-economic condition.”¹⁹⁰

106. As one study concludes, when school facilities – e.g. walls, floors, toilet stalls, etc. – are in disrepair, students can internalize this lack of care. For instance, a broken toilet that is not fixed speaks of the level of concern and care of those responsible for the school facilities. As one researcher concluded, “through daily interactions with the physical and social environment individuals learn about their place in society, their value, appropriate and inappropriate behavior, etc.”¹⁹¹ Children are known to be particularly sensitive to environmental factors that can lead to sickness and this can cause a decline in attendance, impacting student achievement.¹⁹²

107. “The accumulated effects of deteriorated school buildings may convey to students, parents, and teachers’ unworthiness and abandonment. This may affect students and staff attendance and lower test grades are a logical consequence of missed school days.”¹⁹³ Other

¹⁸⁸ V. Durán-Narucki, *School building condition, school attendance, and academic achievement in New York City public schools: A mediation model*, *Journal of Environmental Science* 28 (2008) 278-86 (“Durán-Narucki”).

¹⁸⁹ M. Lewis, *Facility conditions and student test performance in the Milwaukee schools* (Scottsdale, AZ: Council of Educational Facilities Planners International 2001).

¹⁹⁰ *Id.*

¹⁹¹ H. Heft, *Ecological Psychology in Context* 329 (Lawrence Erlbaum Assocs. 2001).

¹⁹² L. Chen, B.L. Jennison, W. Yang, & S.T. Omaye, *Elementary school absenteeism and air pollution Inhalation Toxicology*, 12 (11) (2000); *see generally* Durán-Narucki.

¹⁹³ H. Heft, *Ecological Psychology in Context* 283-84 (Lawrence Erlbaum Assocs. 2001).

research demonstrated that the physical conditions of school facilities affect teacher morale and effectiveness. In fact, “problems caused by working conditions may result in higher absenteeism, reduced effort, lower effectiveness in the classroom, low morale, and reduced job satisfaction.”¹⁹⁴

108. Ms. Fields recalled students wearing medical masks to breathe and avoid the stench of the rotting ceilings. She also noted that the lack of custodial staff meant that the classrooms were not cleaned regularly and this negatively impacted teacher and student morale.

6. Supplies and Resources

109. According to the Greenberg Report, classroom supplies and materials were cut by 20 percent between 2009 and 2012.

110. Lynette Holmes said that she lacks basic classroom supplies that would make her effort to teach 31 5th grade students easier, especially technology. She said that she has heard the private schools funded by the District have laptops and iPads, but her students have neither.

111. Marie Douyon said she has not gotten supplies in years. She uses a 20-year-old overhead projector in her classroom. She was told two years ago she was getting a smart board, but she does not yet have one. She gets a special discount from the Dollar Store to buy brightly colored paper to decorate her class. A close look at all of the decorations in her classroom reveal that most are hand made by her.

112. At the high school level, Maggie Dupuy, a science teacher at Ramapo High School, said her students use old textbooks that are held together with duct tape and she buys light bulbs for science experiments with her own money. The lack of funding for science supplies meant that she has had to cut certain lab experiments that would have enabled her students to better understand

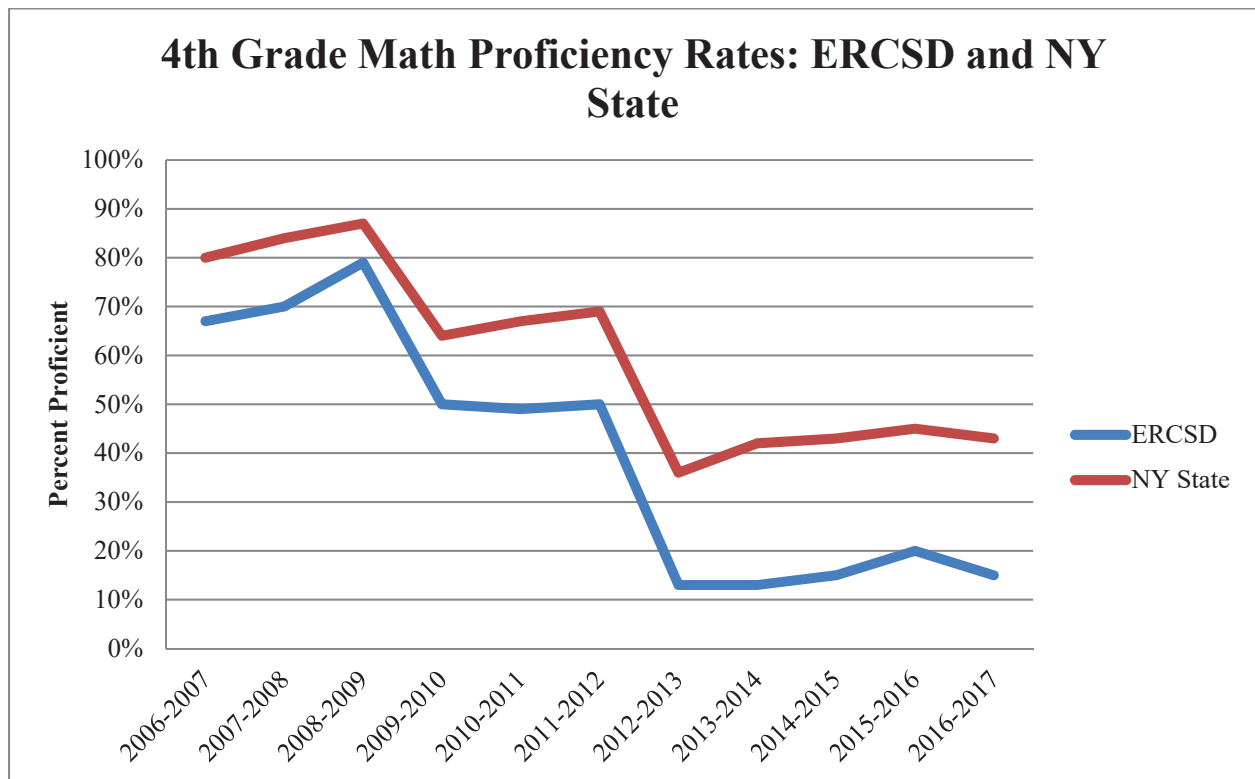
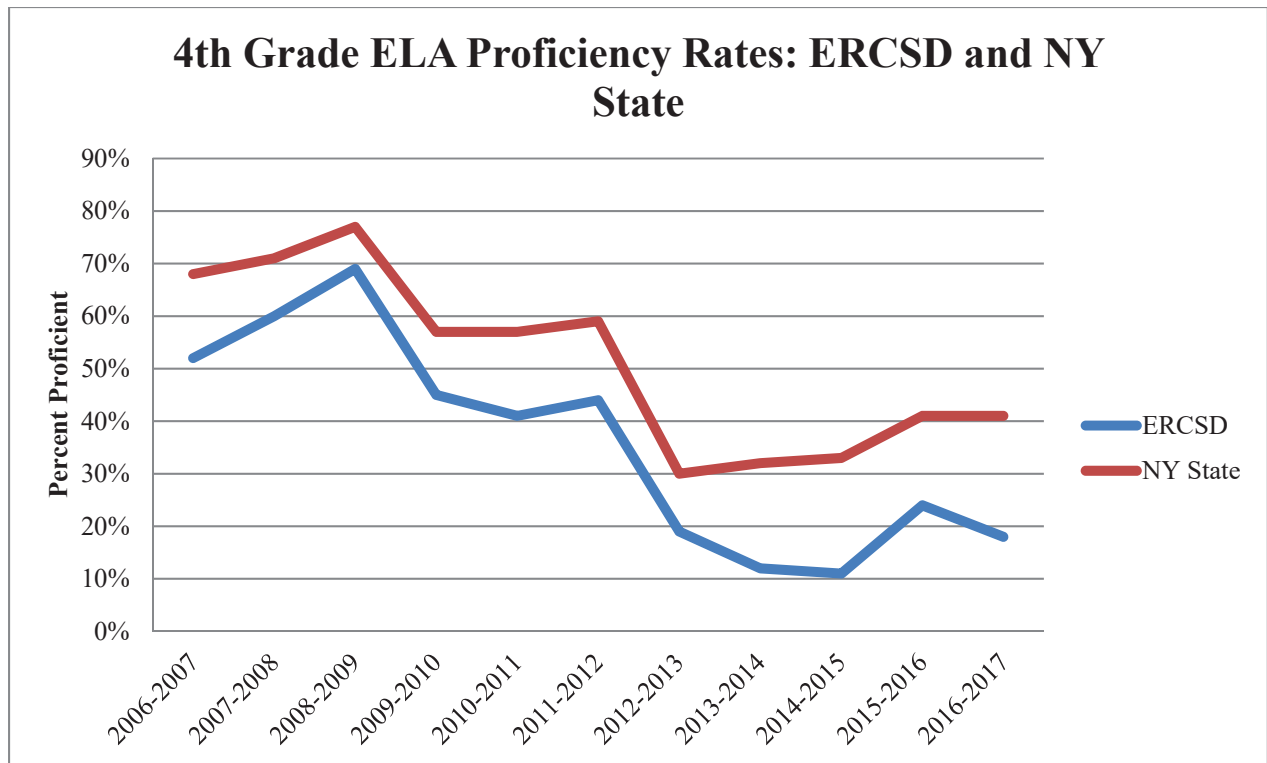
¹⁹⁴ M. Schneider, *Do School Facilities Affect Academic Outcomes?* 5 (Nat’l Clearinghouse for Ed. Facilities 2002).

key science concepts. On top of having to purchase her own supplies for her classroom, she said there is no toilet paper or paper towels in the bathroom and no copy paper for the photocopier. “I buy the stuff I need,” she said.

7. Decline in Academic Outcomes in East Ramapo School District

113. The increase in class size, decrease in support services, and lack of access to educational resources and quality facilities in East Ramapo has coincided with declining academic outcomes for students in the District. For example, the proficiency rates for 4th grade students in English Language Arts (ELA) and Math test scores have declined relative to the New York State averages over time.¹⁹⁵ For both ELA and Math proficiency rates, East Ramapo follows a similar trend as New York State until 2012-2013, when the gap widens substantially and is maintained in the following school years. It is important to note that the students who were in 4th grade in 2012-2013 were in kindergarten in 2008-2009 when the cuts began and thus, were the first cohort in East Ramapo that experienced the negative impact of the disinvestment in public education throughout their entire time in the District.

¹⁹⁵ N.Y. State Educ. Dep’t, Information and Reporting Services, <http://www.p12.nysed.gov/irs/statistics/nonpublic/> (last visited Nov. 19, 2017).



114. The disinvestment in public education in East Ramapo also coincides with a decline in the post-secondary outcomes of students who have attended East Ramapo public school since

the Board's disinvestment began. As is demonstrated in the data presented in Appendix A, the percentage of students from the District who matriculate directly from the schools to four-year colleges has declined from 41 to 31 percent since 2009. This decline in the percentage of East Ramapo graduates who matriculated to four-year colleges after graduation is very likely related to the decline in students earning Regents Diplomas with Advanced Designation from 28 percent in 2009 to only 14 percent in 2015-16. Given that students are required to take a certain number of advanced classes in order to receive the Advanced Designation on their diploma, the decline is very likely attributable to the substantial reductions in the teaching staff and commensurate reduction in advanced courses.

VI. CONCLUSIONS

115. Based on my analysis of the data on East Ramapo Central School District currently available to me, as well as a review of related academic research, my preliminary conclusion is that the disinvestment in public education by the Board has negatively impacted the quality of the education for students in the District. The Campaign for Fiscal Equity identifies "essential resources" for providing a sound, basic education as:

1. "Qualified teachers, principals and other personnel," which includes core and specialized subject area teachers including the arts, library specialists, principals and assistant principals, guidance counselors and disciplinary personnel;
2. "Suitable, Up-to Date Curricula," including core courses, electives, advanced placement and other courses that provide students with a "meaningful opportunity to apply for admission to college and matriculate";
3. "An Expanded Platform of Services for At-Risk Students," which includes services for English Language Learners, sufficient pre-kindergarten and kindergarten programs, as well as family outreach and communication;
4. "Adequate Resources for Students with Extraordinary Needs," including students with disabilities and English Language Learners;

5. “Appropriate Class Sizes and Instructional Groupings,” for which the Court of Appeals suggested a standard of no more than 20 students for grades k-3 and between 21-23 for 4th grade through high school; Instrumentalities of Learning, including books, supplies, and technology;
6. “A Safe and Orderly Environment,” ensured in part through having an adequate number of disciplinary personnel including administrators as well as support staff such as guidance counselors, social workers and school psychologists; and
7. “Adequate and Accessible Facilities,” including safe and adequately maintained school buildings, sufficiently “controlled heating and ventilation.”¹⁹⁶

116. Based on the preliminary research discussed in this report, it is clear that the quality of the education that public school students in East Ramapo receive has declined and has hindered their preparation to “function productively as civic participants capable of voting and serving on a jury.”¹⁹⁷

117. Research has shown that access to a quality education that provides students with opportunities to voice their opinions strongly correlated to high rates of civic participation in adulthood,¹⁹⁸ and that individuals with higher levels of educational attainment are more likely to vote.¹⁹⁹ In East Ramapo, the diversion resources from public schools has meant that there are more dropouts and fewer graduates who matriculate to four-year colleges after graduation, in concurrence with a decline in students earning Regents Diplomas with Advanced Designation.

¹⁹⁶ Michael A. Rebell, *Essential Resources: The Constitutional Requirements for Providing All Students in New York State the Opportunity for a Sound Basic Education* (Campaign for Educational Equity, Teachers College, Columbia Univ. 2012).

¹⁹⁷ *Campaign for Fiscal Equity, Inc. v. State*, Court of Appeals of New York, 100 N.Y.2d 893 (2003) in Law and Public Education: Cases and Materials, E. Gordon Gee and Philip T.K. Daniel (4th ed. Newark 2009).

¹⁹⁸ R.M. Sondheimer and D.P. Green, *Using Experiments to Estimate the Effects of Education on Voter Turnout*, 54 Am. J. of Political Science 174-89 (2010).

¹⁹⁹ John G. Matsusaka, *Explaining Voter Turnout Patterns: An Information Theory*, Public Choice, 84(1/2), 91-117 (Kluwer 1995), <http://www.jstor.org/stable/30027005>.

Because these students will attain a lower level of education, they may be less likely to participate in the democratic process through voting which limits their impact on influencing the school board composition in the future.

118. Michael Rebell has argued that one of the central responsibilities of schools is “preparing young people to be good citizens, capable of safeguarding our democracy and stewarding our nation toward a greater realization of its democratic values.”²⁰⁰ I believe, based on the evidence I have collected and reviewed in East Ramapo, that the quality of education public school students have received over the last decade has not provided the predominantly low-income and minority students with the educational opportunities they need in order to develop the skills they will need to be gainfully employed and civically engaged in the twenty-first century.

119. Beyond the individual students, the lack of public faith in the Board and in their ability to represent the needs of the public as a whole presents a fundamental challenge to democratic values in the District as a whole. Even if activists from public school families organized better than ever, they are still the minority and several of the residents I interviewed do not believe they could gain back control of the Board under the current election system. To many, it is clear that the Board does not share the goals of the public school community.

120. Jean Fields, a former Ramapo High School principal, noted that back in the 1990s, Ramapo High School was a top school, with the most Intel and Gates scholars than any other nearby school. Today, Ms. Fields said, when she tells people she is from the East Ramapo, they send their condolences. They say, “You poor thing.” The importance and impact of the

²⁰⁰ Michael A. Rebell, *Flunking Democracy: Schools, Courts and Civic Participation* (Univ. of Chicago Press, forthcoming, 2018).

educational effects on the public school students in East Ramapo should not be understated. Despite the intervention of the monitors and the addition of temporary funding, the state of education in East Ramapo has continued to decline and shows little sign of improvement.

I reserve the right to continue to supplement my report in light of additional facts, testimony and/or materials that may come to light.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on December 7, 2017



AMY STUART WELLS

Appendix A - 1: High School Diplomas														
	2009-2010 #	2009-2010 %	2010-2011 #	2010-2011 %	2011-2012 #	2011-2012 %	2012-2013 #	2012-2013 %	2013-2014 #	2013-2014 %	2014-2015 #	2014-2015 %	2015-2016 #	2015-2016 %
All Students														
Regents with Advanced Designation	121	23%	123	22%	84	17%	90	19%	79	17%	102	20%	71	14%
Regents	374	71%	433	78%	432	88%	428	90%	420	91%	461	91%	447	88%
Local	155	29%	125	22%	60	12%	49	10%	43	9%	44	9%	63	12%
Gen Ed Students														
Regents with Advanced Designation	122	25%	121	23%	84	19%	89	20%	78	19%	100	22%	70	16%
Regents	366	76%	424	82%	411	93%	416	96%	404	97%	447	96%	418	95%
Local	116	23%	96	18%	29	7%	19	4%	13	3%	17	4%	21	5%
Special Ed Students														
Regents with Advanced Designation	0	0%	1	3%	0	0%	1	2%	1	2%	3	5%	1	1%
Regents	8	17%	9	24%	21	40%	12	29%	16	35%	14	34%	29	41%
Local	39	83%	29	76%	31	60%	30	71%	30	65%	27	66%	42	59%

Appendix A-2: Post-Secondary Plans										
	2011-2012 #	2011-2012 %	2012-2013 #	2012-2013 %	2013-2014 #	2013-2014 %	2014-2015 #	2014-2015 %	2015-2016 #	2015-2016 %
All Students										
To 4-Year College	209	41%	182	36%	164	34%	165	32%	161	31%
To 2-Year College	230	45%	246	49%	258	54%	286	55%	293	57%
To Other Post-Secondary	10	2%	9	2%	6	1%	9	2%	3	1%
To Military	8	2%	13	3%	9	2%	4	1%	11	2%
To Employment	17	3%	21	4%	9	2%	25	5%	18	3%
To Adult Services	7	1%	19	4%	15	3%	11	2%	4	1%
To Other	16	3%	14	3%	17	4%	17	3%	5	1%
Unknown	9	2%	2	1%	4	1%	4	1%	23	4%
Gen Ed Students										
To 4-Year College	203	46%	178	41%	156	37%	162	35%	145	33%
To 2-Year College	196	45%	215	49%	226	54%	257	55%	247	56%
To Other Post-Secondary	7	2%	7	2%	2	0%	6	1%	3	1%
To Military	7	2%	13	3%	9	2%	4	1%	11	3%
To Employment	11	3%	8	2%	6	1%	20	4%	11	3%
To Adult Services	0	0%	0	0%	0	0%	0	0%	0	0%
To Other	13	3%	11	3%	15	4%	12	3%	3	1%
Unknown	3	1%	3	1%	3	1%	3	1%	19	4%
Special Ed Students										
To 4-Year College	6	9%	4	6%	8	12%	3	5%	16	20%
To 2-Year College	34	52%	31	43%	32	49%	29	51%	46	58%
To Other Post-Secondary	3	5%	2	3%	4	6%	3	5%	0	0%
To Military	1	2%	0	0%	0	0%	0	0%	0	0%
To Employment	6	9%	13	18%	3	5%	5	9%	7	9%
To Adult Services	7	11%	19	26%	15	23%	11	19%	4	5%
To Other	3	5%	3	4%	2	3%	5	9%	2	3%
Unknown	6	9%	0	0%	1	2%	1	2%	4	5%