

Exhibits

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G.	FF35-36	Meg O’Leary and Sarah Friedman, “Change formula to help poor,” Providence Journal, November 16, 2015
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Table 4: Calculation of State Share Ratio

<i>District</i>	<i>A</i> <i>Assessed Value</i> <i>12/31/11</i>	<i>B</i> <i>Adjusted EWAV</i> <i>12/31/11</i>	<i>C</i> <i>June 2014</i> <i>Student Count*</i>	<i>D</i> <i>Adjusted</i> <i>EWAV</i>
Barrington	\$ 2,982,443,388	\$ 4,294,620,703	3,245	27.0%
Burrillville	1,607,203,611	1,455,405,851	2,417	66.8%
Charlestown	2,400,382,443	2,517,075,414	1,008	0.0%
Coventry	3,525,437,865	3,244,729,537	4,782	62.6%
Cranston	7,087,108,566	6,876,888,665	10,228	62.9%
Cumberland	3,826,379,936	3,977,780,117	4,857	54.8%
East Greenwich	2,312,095,540	3,416,411,240	2,374	20.6%
East Providence	4,646,547,442	3,509,132,211	5,346	63.8%
Foster	220,268,995	224,594,860	285	56.5%
Glocester	417,979,623	422,851,786	499	53.3%
Hopkinton	931,466,958	920,303,420	1,192	57.4%
Jamestown	2,032,977,802	3,208,545,248	653	0.0%
Johnston	2,945,080,370	2,872,305,347	3,099	48.9%
Lincoln	2,784,171,808	3,289,228,476	3,275	44.6%
Little Compton	1,854,806,408	2,466,907,667	393	0.0%
Middletown	2,643,035,904	2,749,617,693	2,293	33.9%
Narragansett	4,527,080,489	5,886,860,460	1,399	0.0%
Newport	5,272,317,661	5,534,084,319	2,032	0.0%
New Shoreham	1,753,910,209	2,548,133,822	117	0.0%
North Kingstown	3,969,303,956	5,102,235,650	3,930	28.4%
North Providence	2,781,231,163	2,168,942,173	3,579	66.6%
North Smithfield	1,588,477,504	1,712,200,950	1,768	46.6%
Pawtucket	3,781,568,939	2,461,386,518	10,077	86.5%
Portsmouth	3,355,186,809	3,853,245,896	2,509	15.3%
Providence	11,685,525,495	6,717,133,206	26,192	85.9%
Richmond	883,799,519	1,023,555,447	1,175	52.0%
Scituate	884,845,672	1,693,333,481	1,440	35.1%
Smithfield	2,749,497,569	3,003,765,973	2,370	30.1%
South Kingstown	4,541,390,959	5,253,197,490	3,456	16.2%
Tiverton	1,956,313,434	1,999,179,390	1,815	39.2%
Warwick	10,261,732,408	9,404,110,189	9,151	43.3%
Westerly	6,309,044,068	5,785,156,386	3,103	0.0%
West Warwick	2,266,422,455	1,776,956,166	3,390	71.1%
Woonsocket	1,868,296,247	1,142,596,841	5,774	89.1%
Bristol/Warren	4,197,893,856	4,311,773,477	3,429	30.6%
Exeter/West Greenwich	1,699,866,426	2,021,826,006	1,653	32.5%
Foster/Glocester	939,462,889	953,001,825	1,154	54.5%
Central Falls	517,527,074	209,007,560	3,888	97.0%
Total	\$ 120,008,081,460	\$120,008,081,460	139,347	

*Includes charter and state school students





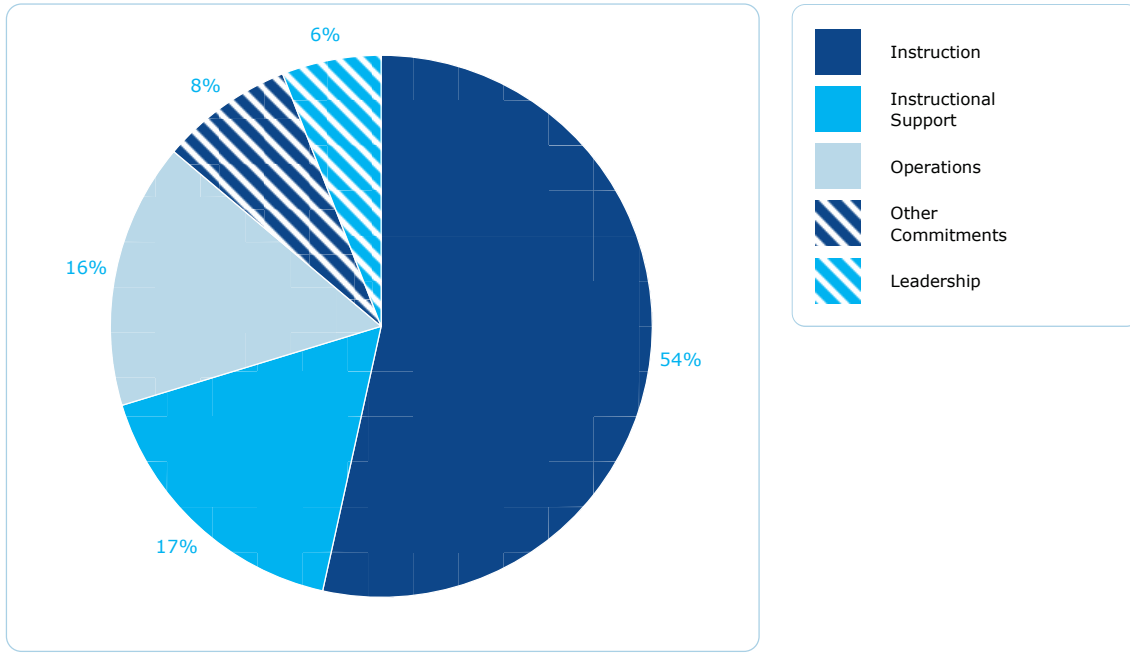
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Rhode Island Education Data Reporting

Funding and Resources / Uniform Chart of Accounts (UCOA)

% of Total Spending by Function Summary 2009-10

Rhode Island



Data chart generated on 11/16/2015

FINAL REPORT OF THE FOUNDATION AID TECHNICAL ADVISORY GROUP

TO THE

**JOINT COMMITTEE TO ESTABLISH A PERMANENT FOUNDATION AID
FORMULA FOR RHODE ISLAND**

May 30, 2007

INTRODUCTION

The Foundation Aid Technical Advisory Group is pleased to submit its final report to the Joint Committee to Establish a Permanent Foundation Aid Formula for Rhode Island. The Foundation Aid Technical Advisory Group submitted its initial report on May 15, 2007 and indicated that it would come back to the Joint Committee with a final report that includes a more detailed budget analysis of this proposal in order to enable comparisons of expenditures in this funding model with current practice on a statewide basis and for each local district. The submission of this final report concludes the work of the Foundation Aid Technical Advisory Group.

Education is of primary importance for Rhode Island's economic competitiveness. The Foundation Aid Technical Advisory Group believes that the State of Rhode Island needs to establish an education funding formula and urges the Joint Committee to adopt such a funding formula during the 2007 legislative session. As indicated in this report, the funding formula needs to be predictable; it needs to result in an increased state share of funding for education over a period of years; and it must be distributed in a transparent, consistently predictable manner. Lean state and local budgets, pressures from limits to local funding, and the need to keep data analysis fresh are all factors that point to the need for immediate action during this legislative session.

In this final report, the Technical Advisory Group is presenting the elements of a funding formula that incorporates the key policy decisions that were made by the Group, most notably: 1) the funding formula must take into account all state funding for education not just the foundation formula amount, 2) the formula should exclude federal dollars from the state/local share for a truer picture of the state/local education funding burden, and 3) the formula should use pupil counts based on student average daily membership counts not attendance-based counts. The Technical Advisory Group also recognizes that the formula will be operating in a context of shifting some current local costs to the state, such as group homes, out-of-district transportation, and high needs special education costs.

The Technical Advisory Group built upon the work of the R.C. Wood Report and the Funding Our Future Report and is now able to present in this final report a structure for the foundation aid formula and an example of how it can be applied for the state as a whole and for the 36 school districts. The Advisory Group respectfully suggests that the Joint Committee adopt a funding formula and as part of the law, authorize an additional work period of up to six months in order to accomplish the following final tasks, including determining the transition plan for implementing the new funding formula, refining the local wealth indicators used in determining each district's local-aid contribution, and completing additional work

regarding special education costs. The Advisory Group also suggests that regular and systematic reviews of the foundation aid formula are included as part of the law so that it can be monitored on an ongoing basis.

BACKGROUND

The Rhode Island General Assembly took action during the 2006 legislative session to begin work on the development of a bold new system to fund public education. The first step was the creation of the Joint Committee to Establish a Permanent Foundation Aid Formula for Rhode Island (chaired by Senator Hanna Gallo and Representative Edith Ajello). After a lengthy national search, the Joint Committee chose the firm of R.C. Wood & Associates to perform an “adequacy study” in order to move to a student need driven model of distributing state resources to school districts. Wood & Associates used four different research methodologies to determine a research-based funding level for an “adequate” education that includes weights for poverty, English language acquisition, and special needs. Depending on the specific methodology relied upon, the R.C. Wood Report recommends a base funding level ranging from the lower \$9,000’s to the mid \$10,000 range, coupled with weights of 25% for free and reduced lunch eligibility, 25% for English Language Learners, and 100% for special education students.

Even before Wood & Associates released its study, a second group formed to define its own funding formula model for consideration and possible adoption by state leaders. This ad hoc consortium, consisting of the Rhode Island Public Expenditure Council, the Rhode Island Association of School Committees, the Rhode Island Federation of Teachers and Health Professionals, the National Education Association of Rhode Island, The Education Partnership, and the Rhode Island School Superintendents’ Association, was able to build a historic consensus around a formula design. As published in a report entitled, *Funding Our Future: A Proposal to Fund Education in Rhode Island*, the ad hoc group addressed both the question of student need and a system of predictability and fairness for Rhode Island taxpayers.

By speaking to the difficult questions of funding an adequate system, the ad hoc group went far beyond the efforts of R.C. Wood & Associates. *Funding Our Future* contains descriptions of a weight-based Foundation Support Program and what it calls a “District Power Equalizing” model that addresses ways in which state funding can be more adequately and equitably distributed. In other words, both reports deal directly with the issue of student need-based vertical equity, but only the ad hoc group addresses the question of wealth equalization and horizontal equity of distribution of state resources across school districts. The ad hoc group did not address the entire structure of financing for Rhode Island’s educational enterprise, instead focusing primarily on the “Foundation” aspect of the system.

The Joint Committee received *Funding Our Future* with appreciation. It then created two multi-constituent Technical Advisory Groups – one to address Tax Policy and one to address Foundation Aid. The Department of Elementary and Secondary Education (RIDE) offered its resources and technical assistance to the Foundation Aid Technical Advisory Group and has played an essential role in the data analysis necessary to support the work of this Technical Advisory Group.

OVERVIEW

The Foundation Aid Technical Advisory Group has found the reports written by R.C. Wood & Associates and the Ad Hoc Committee to be valuable documents that formed the basis for the Advisory Group's work. This report builds upon the expertise and thoughtful deliberations that went into both previous reports in order to present recommendations that will enable Rhode Island to establish a foundation aid formula that will support education in Rhode Island into the future.

Driving Principles

The Foundation Aid Technical Advisory Group agrees that Rhode Island needs a funding formula for education that is permanent and predictable and that results in an increased state share of funding for education over a period of years. Education is of primary importance for Rhode Island's economic competitiveness. Rhode Island has an urgent obligation to ensure that education funding is distributed in a responsible and consistently predictable manner. Lean state budgets, pressures from limits to local funding, and the need to keep data analysis fresh are all factors that point to the need for immediate action.

Five major principles serve as the basis for the group's recommendations.

- (1) **Equity:** Any funding formula must balance two competing equity interests. The state education funding system must provide horizontal equity between districts in regards to state funding shares. In addition, it must recognize that some students pose a greater educational challenge than others and therefore must provide vertical equity among students, ensuring that there is sufficient funding for all students to receive a quality education.
- (2) **Adequacy:** Recognizing that all students should receive the funding needed to achieve proficiency in the skills and knowledge necessary to be productive in an increasingly competitive economy, adequacy refers to the importance of ensuring that education funding is based on student need, and the inclusion of some measure of the differential expense of educating certain sub-groups of students, i.e. student "weights."
- (3) **Predictability:** Local school districts must be able to plan for predictable levels of state assistance during the local budget process, which occurs months before state aid numbers are finalized for the ensuing fiscal year.

- (4) **Accountability:** No discussion of funding can take place in the absence of a discussion about anchoring funding streams in a strong accountability framework with resources to implement accountability provisions.
- (5) **Efficiency:** Containing costs in the name of increased efficiency requires more overt linking of control and expenses. Local districts cannot achieve cost efficiencies without the means of controlling those costs.

Essential Elements of a Successful Formula

The Technical Advisory Group has reached agreements on a number of important elements for the Rhode Island education funding formula, particularly:

- The need for weights for high-need student groups,
- The use of average daily membership for the pupil count,
- The maintenance of current statutory provisions dictating the state and local shares for funding teacher retirement costs, with the potential to implement alternative funding options in the future,
- The need to provide a minimum state funding share for every district,
- The need to create a formula that is annually “self-adjusting” for increasing costs,
- The need to increase the current state share in educational costs,
- The need for a minimum local share, and
- The fact that federal monies should be kept outside of the state/local funding formula due to their supplemental nature.

There are four primary categories of expenditures that must be accounted for in an overall state/local funding strategy: first, the foundation formula, which sets parameters for local/state cost sharing for the vast majority of expenses; second, costs for which there are potential efficiencies only at the state level; third, expenses that are state program responsibilities, but which are not included in the foundation itself; and, finally, costs controlled at the local level which could be treated as purely local responsibilities.

The removal of certain expenditure and funding categories from the formula calculations is discussed in more detail in later sections of this report. However, one excluded category of particular note is federal funding, which the group recommends for removal from the formula and budget calculations in order to maintain the integrity of the supplemental role for which it is intended.

As a matter of principle, Rhode Island must have a funding formula that provides a share of state funding for every community in the state. The ad hoc committee proposed a 25% foundation amount minimum share in the *Funding Our Future* report. The calculations for the projections contained in this final report use this minimum state share of 25% for the funding formula. In addition, the group recommends that there be a “hold harmless” provision so that no school district will receive less state funding than current amounts due to the implementation of a new funding formula.

The advisory group also agrees that Rhode Island should not implement a “Robin Hood” funding mechanism. A “Robin Hood” funding formula takes local tax revenue from high-income districts to fund the education systems in low-income districts within the state. Vermont’s education funding system is a good example of this. Finally, the advisory group recognizes that traditional property-based wealth measures for determining the state’s sharing ratio are not the only measures of district fiscal capacity and that the final formula may use alternative measures of financial capacity such as median income or a combination of measures.

Successful education funding must be done with transparency, must be data-driven, and must have the flexibility to allow for mid-course corrections as the nuances of the funding formula begin to play out in the real world. Several factors will allow the new funding formula to accomplish these goals. First, the General Assembly has directed the Rhode Island Department of Elementary and Secondary Education (RIDE) to create a uniform chart of accounts that will be used to track education expenditures by every district in the state. Second, the Technical Advisory Group recommends that part (one half of one percent) of annual foundation aid funding be allocated to RIDE for implementing an accountability framework linked directly with resource allocation. Finally, a realistic funding formula implementation plan must be created that includes allowances for mid-course corrections and that is based on the numbers that arise from the final funding formula decisions.

FOUNDATION-BASED FUNDING

As policy makers work to define an adequate level of foundational support, it is imperative that they consider all current expenses. In FY 2006, approximately \$1.9 billion was spent on public education in Rhode Island when state, federal and local revenues are combined. To build a comprehensive funding strategy, we must reach consensus on the resultant picture of funding that would derive from several years of cost-shifting on a formulaic basis. Therefore, the advisory group proposes to capture and sort all expenditures into four logical categories.

Foundation Formula

A foundation formula, which represents a recalibration of how municipalities and the state share core expenses, would be the largest category. In order to be effective, the foundational amount must be based on an accurate per pupil cost calculation.

State Efficiencies

The second category of expenses includes those that logically should be borne by the state based on criteria of efficiency and accountability. Expenses that are

controlled at the state level include out-of-district student transportation and services to non-public schools. Linking control and expenditures more overtly will inevitably lead to greater cost efficiencies. State funding of these new aid categories becomes a direct source of local property tax relief. Thus, the cost shifting from local/state sharing to full state funding becomes an extremely effective tool in achieving horizontal equity. Such shifts in funding would, by definition, occur on a per capita basis, which would favor suburban districts that currently enjoy a lower state share of expenses. An example of this type of funding would be extraordinary costs associated with a small percentage of special needs students.

State Program

A third category would be specific program expenses over which the state either desires to exert accountability oversight or avoid unpredictable cost increases. Examples of this could include progressive support and intervention, group homes, and housing aid. The range of expenses in this category could also be expanded or revised over time to support other state priorities. The advisory group recommends at this time that 0.5% of foundation funds be set aside into a restricted fund for the purposes of assuring overall system accountability. Just as capital investments should devote a small percentage of the total budget for maintenance, so should our education investment devote a small amount to fund the oversight and accountability demanded by taxpayers and legislators alike.

Local Program

A very small fourth category would consist of those costs over which the local school district has much greater control than does the state. Post-retirement health care costs would meet this test. Again, this would put the responsibility for revenues as close to the control over expenditures as possible.

Table 1 represents a preliminary recommendation for applying these expenditure category criteria to representative current expenditures.

Table 1. Expenditure Categories

Foundation Formula	State Efficiencies	State Program	Local Program
General Education	Out-of-District Transportation	Progressive Support & Intervention	Retiree Benefits
Student Weights for SPED, ELL, CTE & Poverty	Extraordinary Cost Special Education	Professional Development	
In-District Transportation		Accountability	
		Group Homes	

Keeping in mind that this table represents a goal to be achieved over time, one can view the many options of shifting funding over a period of years as an additional tool for achieving horizontal equity. One way that this can be done is to shift a portion of these costs to the state (out of district transportation, high cost special education students, group homes), which would assure comparable impacts across districts.

WEIGHTING

The Foundation Aid Technical Advisory Group has reviewed research reports that outline the systems of student weighting used in other states (including R.C. Wood and *Fund the Child*). It is clear that the systems in place in other jurisdictions are one part art, one part science, and one part the economics of available funds. Weighting students by need is the primary mechanism of achieving vertical pupil equity (i.e., the recognition that all pupils do not have equal educational needs, and that certain categories of pupils will require greater levels of investment to achieve acceptable proficiencies). Both R.C. Wood & Associates and the *Funding Our Future* coalition agree on the need for weights, and both focus on the three primary weights of students in poverty, English Language Learners, and students receiving special education services. The recommendations on weights in both the R.C. Wood and *Funding Our Future* reports do not differ significantly. However, there may be additional variables to consider in the creation of reasonably accurate and educationally responsive weights based on student need.

Poverty

We know that the prevalence of child poverty and high concentrations of poverty are powerful, negative predictors of student achievement. Therefore, the advisory group believes that a pupil-poverty weighting based on “free and reduced lunch eligible” criteria is not sufficiently specific to capture the true cost of the density of poverty. By assigning a greater weight to free lunch eligible than to reduced lunch eligible, we can achieve a reasonable proxy for poverty density. Instead of using a 1.5 weight for free and reduced, the advisory group proposes a weight of 1.5 for free lunch eligible and 1.25 for reduced lunch eligible.

Special Education

To the extent that our weights are driven by program costs to the greatest degree possible, special education weighting should reflect the actual costs of educating those students with IEPs whose costs are not partially borne by the state through a method of state share for extraordinary program costs. In other words, the special education weighting, once adjusted for state share outside of the foundation formula, can be driven by actual costs rather than a logical guess. While this analysis will need further refinement based on actual costs, for the purposes of this report, the projected funding calculations have been done with a

1.5 multiplier for “non-extraordinary cost” IEP students. The group also recommends that the state assist locals with high-need children and cover all expenses that exceed \$50,000 per year. Furthermore, the group recommends that the Regents, in their amendment of Special Education regulations, consider whether to include speech and language needs students within the special education case load. This will also have an impact on final implementation decisions regarding Special Education weights.

English Language Learners

Weighting for English Language Learners (ELL) is especially problematic. Program costs vary widely and the research suggests that multiple levels of programming are typically required as a student acquires English and is increasingly mainstreamed with supports. Given that ELL students require specialized programming, at least for some period of time, a 1.2 multiplier is probably too low. However, discrete program costs for ELL students are not currently available, and review of the relevant research and weights used in other states suggests that a 1.2 multiplier is a good starting point for further analysis.

Career and Technical Education

The advisory group also recommends weighting for Career and Technical Education (CTE) with a multiplier of 1.25, to reflect the state’s current spending protocols. However, further analysis is needed to differentiate between part-time and full-time CTE student participation, as well as changing state shares for state-run academies such as Davies. Table 2 summarizes the recommendations on specific student categorical weights.

Table 2. Student Need Weighting Ratios

Special Education	1.5
Free Lunch	1.5
Reduced Lunch	1.25
Career & Technical Education	1.25
English Language Learners	1.20

Regardless of the actual weights adopted by the General Assembly, it will be essential that the weights be “stacked” or aggregated. In other words, one student may be poor, be on an IEP and be an English Language Learner. Every applicable weight would be additively attributed to create the multiplier for that child.

Finally, the Technical Advisory Group supports the idea of full state funding for the weights rather than an application of the state share ratio as a part of the calculation leading to the final funding amount.

PROGRAM AND PILOT FUNDING

This comprehensive funding strategy leads to a series of important policy considerations on program specific funding. For example, career and technical programs, full-day kindergarten, pre-K programs, and after-school programs may be better served if discretely funded outside the foundation formula. As opposed to sharing in a weight-driven formula, programmatic funding is not as dependent upon accurate data systems, nor is it subject to the complexity and constant recalibration weighted systems require.

Additionally, there needs to be dedicated funds to address the creation of innovative pilot programs and model practices such as pre-k and after-school programs that increase student achievement and help to close the achievement gap between low income and higher income students. These programs could become eligible for the more expansive funding needed to bring them to scale. Funding specific programs and initiatives outside a base foundation level creates opportunities for more meaningful oversight and accountability of those programs that are specifically aimed at meeting the needs of our high-need students.

It is possible that at a future date one or more of these programs should be considered as a new student weight and therefore included in the foundation formula. Thus, several states have incorporated pre-K and after-school programs into their funding formulas. The advisory group recommends that the student weights recommended in this report in Table 2 be periodically reassessed to determine if the existing weights are working as intended, and to consider whether additional weights should be added.

Finally, the Technical Assistance Group recommends that the General Assembly consider creating a new category of grants designed to elicit and foster innovations in educational programming and support. These grant opportunities could be used to generate new thinking through small scale and laboratory applications, subject to the highest levels of accountability. In this way, we could ensure that Rhode Island continues to implement proven practices across school districts.

DATA ANALYSIS

This final report of the Technical Advisory Group presents detailed data that show how the concepts put forth in this report would look if applied to the annual expenditure of funding for education in the state of Rhode Island. Note that all numbers provide projections for how the fully-implemented formula would look at the end of the transition period. Each document includes state-wide totals and total amounts for each of Rhode Island's 36 school districts and is based on a per pupil foundation cost of \$10,607.

**Chart 1 - COMPARISON OF CURRENT EDUCATION AID TO AID UNDER
FOUNDATION PROGRAM PROPOSAL AT THE END OF THE
IMPLEMENTATION PERIOD**

The foundation aid program increases the state share of the cost of education in two ways: 1) increases in education aid distributed to districts, and 2) district savings through state assumption of certain costs. This chart compares current funding with the proposed funding under the foundation aid program.

In the top square, current district aid under general aid and the investment funds is \$689 million. Under the foundation aid program at full funding, general aid (or aid based on a district's pre K to 12 students and a per pupil of \$10,607) is \$805 million, and aid based on weighted students is \$438 million. Added together, aid under the foundation program is \$1.24 billion, an increase of \$554 million over current funding.

The middle square shows other aid categories not distributed to districts such as progressive support and intervention, and other current programs such as housing aid. Under this proposal, the state assumes increased costs in four categories: non-public school textbooks, high cost special education students, group home aid and out-of-district transportation. State assumption of all costs in these four categories adds \$40 million to the cost of the program.

The bottom square displays the costs of the state operated schools and the overall totals for current funding (\$850 million); proposed funding (\$1.44 billion); and the increase at full funding (\$594 million).

**Chart 2 - COMPARISON OF TOTAL COST OF EDUCATION AND STATE
COST UNDER PROPOSED FOUNDATION AID PROGRAM**

This chart shows the total cost of education by district under the proposed foundation aid program (\$2 billion) and the state share of those costs (\$1.24 billion). The foundation model is based on a per pupil foundation cost of \$10,607. The total cost column multiplies this per pupil amount by the total of regular and weighted students in each district, and is displayed both by total dollars and on a per pupil basis. The state share columns show the state share for each district on a total dollar and per pupil basis if the program were fully funded.

Chart 3 - CALCULATION OF DISTRICT FOUNDATION AID

This chart provides a breakout of the calculation of the state share (or foundation aid) by district. The state share is the sum of the per pupil (\$10,607) times the pre-k to 12 student count times a state share ratio, and the per pupil times the student weights only. The state share ratio is based on wealth per student in each district as compared to the wealth per student in the state, and provides for an average state share of 44% and a minimum district share of 25%.

(NOTE: These tables are for explanatory purposes only, as further analysis and refinement would be needed to arrive at the accurate figures. Of particular concern is the age and reliability of data relating to local income.)

GOING FORWARD

The Technical Advisory Group is pleased to present this report of policy recommendations for foundation-based school funding to the Joint Committee. This report reflects the work that this group has accomplished during the six week period from April 13, 2007, the date of the first meeting, through May 30, 2007. We recommend that a foundation funding formula be adopted by the Legislature during the 2007 Legislative Session, and that the law provide for an additional six month period to further refine the data analysis and develop a transition plan prior to the implementation of the foundation formula for FY 2009.

The Technical Advisory Group also recognizes the enormous complexity of education financing. It is highly unlikely that even with the best intentions, talent and information, legislation passed at one moment in time will continue to address all the needs of this dynamic system. Therefore, we recommend that the legislation include plans for systematic reviews to be conducted at specific intervals to assure that it continues to satisfy the driving principals of equity, adequacy and accountability. This review should include both legislative, administrative and community leadership. Some individual members of the advisory group and their organizations are willing to offer their continued assistance for any future work in developing the formula or for the ongoing review process after the formula is adopted.

The Technical Advisory Group also acknowledges that there are a number of issues that are not covered in this report but that would need to be addressed in the future (during the additional work period of up to six-months). These issues include:

- Developing a transition plan to show how the new funding formula would be fully phased in over a period of years,
- Determining the number of years the transition period would last,
- Determining how the state would transition to taking over certain local costs (suggestions include fully funding one element at a time or phasing in funding for a portion of all state-funded items each year).
- Refining the wealth indicator(s) to be used in determining the state-aid contribution received by each district,
- Determining the level of minimum local share, and
- Completing additional work to cost out special education expenses, which vary depending on what is included (such as speech and language support).

Chart 1 -- COMPARISON OF CURRENT EDUCATION AID TO AID UNDER FOUNDATION PROGRAM PROPOSAL

CURRENT		PROPOSED		DIFFERENCE
GENERAL AID (PLUS CENTRAL FALLS)	\$533,068,950	REGULAR FOUNDATION AID *	\$804,916,037	\$271,847,087
INVESTMENT FUNDS	\$156,214,153	WEIGHTED FOUNDATION AID	\$437,900,104	\$281,685,951
TOTAL DISTRICT AID	\$689,283,103	TOTAL DISTRICT AID	\$1,242,816,141	\$553,533,038
PROGRESSIVE SUPPORT & INTERVENTION/SALT	\$3,338,044	OVERSIGHT AND ACCOUNTABILITY **	\$6,214,081	\$2,876,037
PROFESSIONAL DEVELOPMENT	\$670,000	PROFESSIONAL DEVELOPMENT	\$670,000	\$0
OTHER AID (HASBRO, BREAKFAST, ETC.)	\$977,965	OTHER AID (HASBRO, BREAKFAST, ETC.)	\$977,965	\$0
NON-PUBLIC TEXTBOOKS	\$240,000	NON-PUBLIC TEXTBOOKS	\$761,909	\$521,909
		HIGH COSTS SPECIAL NEEDS	\$8,300,954	\$8,300,954
		GROUP HOME AID	\$14,447,420	\$14,447,420
		OUT OF DISTRICT TRANSPORTATION	\$14,704,024	\$14,704,024
CHARTER SCHOOL	\$22,380,984	CHARTER SCHOOL	\$22,380,984	\$0
HOUSING AID	\$47,172,045	HOUSING AID	\$47,172,045	\$0
TEACHER RETIREMENT	\$58,632,638	TEACHER RETIREMENT	\$58,632,638	\$0
TOTAL OTHER AID	\$133,411,676	TOTAL OTHER AID	\$174,262,020	\$40,850,344
DAVIES CAREER AND TECHNICAL	\$12,810,692	DAVIES CAREER AND TECHNICAL	\$12,810,692	\$0
RI SCHOOL FOR THE DEAF	\$5,981,028	RI SCHOOL FOR THE DEAF	\$5,981,028	\$0
METROPOLITAN CAREER AND TECHNICAL	\$8,814,530	METROPOLITAN CAREER AND TECHNICAL	\$8,814,530	\$0
TOTAL STATE OPERATED SCHOOLS	\$27,606,250	TOTAL STATE OPERATED SCHOOLS	\$27,606,250	\$0
GRAND TOTAL	\$850,301,029	GRAND TOTAL	\$1,444,684,411	\$594,383,382

* BASED ON AVERAGE STATE SHARE OF 44% AND A MINIMUM DISTRICT SHARE OF 25%

** CALCULATED AT 1/2 OF 1% OF THE TOTAL FOUNDATION AND WEIGHTS

FF 000017

**Chart 2 -- COMPARISON OF TOTAL COST OF EDUCATION AND STATE COST
UNDER PROPOSED FOUNDATION AID PROGRAM**

DISTRICT	TOTAL COST		STATE SHARE	
	COST OF EDUCATION UNDER FOUNDATION PROPOSAL	COST PER STUDENT	TOTAL FOUNDATION AID	AID PER STUDENT
BARRINGTON	\$38,580,841	\$11,656	\$12,248,964	\$3,701
BRISTOL WARREN	\$44,466,639	\$12,683	\$16,575,532	\$4,728
BURRILLVILLE	\$32,243,159	\$12,754	\$20,321,813	\$8,039
CENTRAL FALLS	\$61,349,111	\$16,599	\$59,157,715	\$16,006
CHARIHO	\$43,877,579	\$11,930	\$14,653,245	\$3,984
COVENTRY	\$69,657,760	\$12,401	\$44,752,159	\$7,967
CRANSTON	\$136,299,897	\$12,966	\$82,022,880	\$7,803
CUMBERLAND	\$62,882,539	\$12,398	\$32,211,488	\$6,351
EAST GREENWICH	\$27,576,874	\$11,680	\$8,794,529	\$3,725
EAST PROVIDENCE	\$78,468,518	\$13,443	\$48,701,018	\$8,344
EXETER-W. GREENWICH	\$25,377,168	\$12,136	\$10,357,074	\$4,953
FOSTER	\$3,505,614	\$11,965	\$1,633,631	\$5,576
FOSTER-GLOUCESTER	\$18,696,349	\$11,435	\$10,168,245	\$6,219
GLOUCESTER	\$8,302,629	\$12,138	\$5,078,614	\$7,425
JAMESTOWN	\$8,880,578	\$11,778	\$2,882,320	\$3,823
JOHNSTON	\$42,822,209	\$13,200	\$20,297,116	\$6,257
LINCOLN	\$39,596,461	\$12,124	\$16,198,119	\$4,960
LITTLE COMPTON	\$5,247,946	\$11,636	\$1,660,128	\$3,681
MIDDLETOWN	\$31,357,342	\$12,695	\$12,042,694	\$4,876
NARRAGANSETT	\$19,111,693	\$12,111	\$6,558,308	\$4,156
NEW SHOREHAM	\$1,585,747	\$12,013	\$535,654	\$4,058
NEWPORT	\$34,669,457	\$14,434	\$15,560,946	\$6,478
NORTH KINGSTOWN	\$52,172,969	\$12,091	\$17,846,065	\$4,136
NORTH PROVIDENCE	\$43,121,406	\$12,945	\$24,836,777	\$7,456
NORTH SMITHFIELD	\$22,547,486	\$11,981	\$10,840,780	\$5,760
PAWTUCKET	\$139,055,410	\$15,090	\$116,488,379	\$12,641
PORTSMOUTH	\$33,031,418	\$11,938	\$11,019,241	\$3,982
PROVIDENCE	\$424,458,887	\$16,220	\$374,671,158	\$14,317
SCITUATE	\$20,518,552	\$11,691	\$6,557,088	\$3,736
SMITHFIELD	\$29,671,810	\$11,645	\$9,401,833	\$3,690
SOUTH KINGSTOWN	\$48,497,776	\$12,272	\$17,058,628	\$4,316
TIVERTON	\$24,277,434	\$11,930	\$9,032,653	\$4,439
WARWICK	\$142,737,444	\$12,739	\$65,447,226	\$5,841
WEST WARWICK	\$48,868,438	\$13,503	\$33,996,756	\$9,394
WESTERLY	\$45,117,193	\$12,792	\$17,059,026	\$4,837
WOONSOCKET	\$97,130,871	\$15,231	\$86,148,339	\$13,509
TOTAL	\$2,005,763,202	\$13,570	\$1,242,816,141	\$8,408

Chart 3 -- CALCULATION OF DISTRICT FOUNDATION AID

DISTRICT	PK-12 RADM	TOTAL WEIGHTED STUDENTS	FOUNDATION AID BASED ON PK-12 RADM	FOUNDATION PER PUPIL	FOUNDATION AID BASED ON WEIGHTED STUDENTS	WEIGHTS PER PUPIL
BARRINGTON	3,310	3,637	\$8,777,293	\$2,652	\$3,471,671	\$1,049
BRISTOL WARREN	3,506	4,192	\$9,297,036	\$2,652	\$7,278,497	\$2,076
BURLIVILLE	2,528	3,040	\$14,893,150	\$5,891	\$5,428,663	\$2,147
CENTRAL FALLS	3,696	5,784	\$37,012,076	\$10,014	\$22,145,639	\$5,992
CHARIHO	3,678	4,137	\$9,788,212	\$2,661	\$4,865,033	\$1,323
COVENTRY	5,617	6,567	\$34,673,918	\$6,173	\$10,078,241	\$1,794
CRANSTON	10,512	12,850	\$57,223,767	\$5,444	\$24,799,113	\$2,359
CUMBERLAND	5,072	5,928	\$23,127,653	\$4,560	\$9,083,835	\$1,791
EAST GREENWICH	2,361	2,600	\$6,260,782	\$2,652	\$2,533,747	\$1,073
EAST PROVIDENCE	5,837	7,398	\$32,145,560	\$5,507	\$16,555,459	\$2,836
EXETER-W. GREENWICH	2,091	2,392	\$7,159,143	\$3,424	\$3,197,931	\$1,529
FOSTER	293	331	\$1,235,868	\$4,218	\$397,763	\$1,358
FOSTER-GLOCESTER	1,635	1,763	\$8,814,341	\$5,391	\$1,353,904	\$828
GLOCESTER	684	783	\$4,031,173	\$5,894	\$1,047,441	\$1,531
JAMESTOWN	754	837	\$1,999,420	\$2,652	\$882,900	\$1,171
JOHNSTON	3,244	4,037	\$11,884,015	\$3,663	\$8,413,101	\$2,593
LINCOLN	3,266	3,733	\$11,244,119	\$3,443	\$4,953,999	\$1,517
LITTLE COMPTON	451	495	\$1,195,939	\$2,652	\$64,189	\$1,029
MIDDLETOWN	2,470	2,956	\$6,884,643	\$2,787	\$5,158,052	\$2,088
NARRAGANSETT	1,578	1,802	\$4,184,462	\$2,652	\$2,373,847	\$1,504
NEW SHOREHAM	132	150	\$350,031	\$2,652	\$185,623	\$1,406
NEWPORT	2,402	3,269	\$6,369,504	\$2,652	\$9,191,443	\$3,827
NORTH KINGSTOWN	4,315	4,919	\$11,442,301	\$2,652	\$6,403,764	\$1,484
NORTH PROVIDENCE	3,331	4,065	\$17,047,288	\$5,118	\$7,789,489	\$2,338
NORTH SMITHFIELD	1,882	2,126	\$8,255,669	\$4,387	\$2,585,112	\$1,374
PAWTUCKET	9,215	13,110	\$75,176,474	\$8,158	\$41,311,905	\$4,483
PORTSMOUTH	2,767	3,114	\$7,337,392	\$2,652	\$3,681,849	\$1,331
PROVIDENCE	26,169	40,017	\$227,786,852	\$8,704	\$146,884,302	\$5,613
SCITUATE	1,755	1,934	\$4,653,821	\$2,652	\$1,903,267	\$1,084
SMITHFIELD	2,548	2,797	\$6,756,659	\$2,652	\$2,645,174	\$1,038
SOUTH KINGSTOWN	3,952	4,572	\$10,479,716	\$2,652	\$6,578,912	\$1,665
TIVERTON	2,035	2,289	\$6,340,464	\$3,116	\$2,692,189	\$1,323
WARWICK	11,205	13,457	\$41,561,217	\$3,709	\$23,886,009	\$2,132
WEST WARWICK	3,619	4,607	\$23,515,051	\$6,498	\$10,481,705	\$2,896
WESTERLY	3,527	4,254	\$9,352,722	\$2,652	\$7,706,304	\$2,185
WOONSOCKET	6,377	9,157	\$56,658,306	\$8,885	\$29,490,032	\$4,624
TOTAL	147,814	189,098	\$804,916,037	\$5,445	\$437,900,104	\$2,963

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A Funding Formula for Rhode Island:

- Child-Centered
- Equitable
- Accountable

Providing what our children need to succeed

Rhode Island Department of Education



Outline

1. Guiding Principles
2. Components of the Formula
 - Core Instructional Amount
 - Student Success Factor
 - State Share Ratio
3. Benefits of the Formula
4. Other Legislative Highlights



Guiding Principles

1. Build a strong foundation for all children.
2. Improve equity among districts and schools.
3. Be transparent and consistent.
4. Be financially responsible.
5. Use New England & RI data and empirical research.



Funding Formula

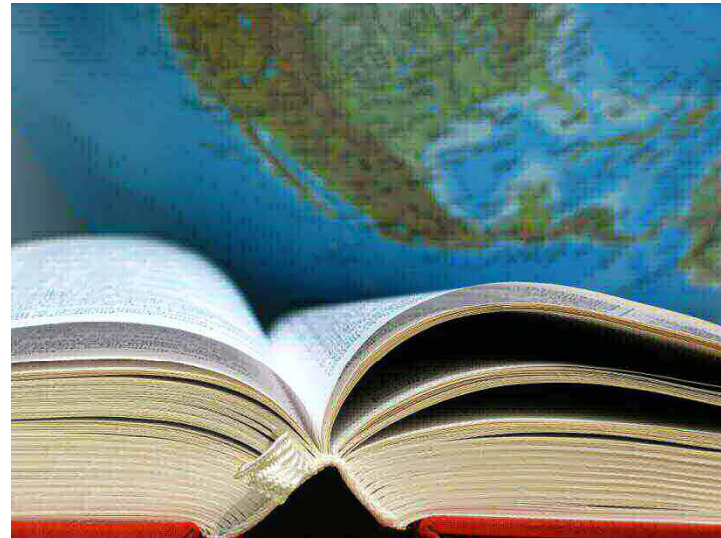
Includes 3 Key Components:

- 1) Core Instructional Amount
- 2) Student Success Factor
- 3) State Share Ratio

Funding the Basic Education Program: The Core Instructional Amount

The RI Core Instructional Amount Includes*:

Teachers
Teacher Aides
Guidance Counselor
Librarian
School Administration
District Administration
Administrative Support
Some Portion of Benefits
Instructional, Classroom, and
School Supplies
Textbooks and Equipment
Pupil, Teacher, and Program Supports



* Some costs will be funded locally, such as retiree benefits, transportation, debt service, and capital projects.

Student Success Factor

Goal: To close student achievement gaps

- Provides additional funding to support student needs beyond the core amount
 - 40% of Core Instructional Amount applied to PK-12 students eligible for Free and Reduced Price Lunch
- Based on research and methods used by more than 22 states
- Builds on the previous work and research done by RIDE and other stakeholders

Funding Formula Calculation

(PK-12 RADM **x** Core Instructional Amount)

+

(PK-12 FRPL **x** Student Success Factor)

=

Core Instruction & Student Success Total
Prior to State and Local Share Calculation

RADM = Resident Average Daily Membership. Counts students based on the district where they reside and gives the district credit for any time that the student is an enrolled member of the district. Charter and state school students are excluded from district totals.

FRPL = The actual number of PK-12 students receiving Free and Reduced Price Lunch; our poverty indicator.

State Share Ratio

$$\text{State Share Ratio (SSR)} = \sqrt{\frac{\text{SSRC}^2 + \%PK6FRPL^2}{2}}$$

Addresses 2 Key Questions:

- ❖ How do we account for differences in the revenue-generation capacity of communities?
- ❖ How do we allocate funding to communities based on the supports that students need?

Key Definitions:

- ❖ **FRPL:** The actual number of students grades K-6 receiving Free or Reduced-Price Lunch; our poverty indicator for each district.
- ❖ **SSRC (State Share Ratio for the Community):** A calculation of a district's revenue-generating capacity. It is a number between 0% and 100% based on each district's assessed real estate values and a median income value.

Additional Funding for Special Programs

The formula includes additional funding for the following programs (to be transitioned over a ten year period):

- **Extraordinary costs related to special education students.** The state will assume these costs when they exceed five times the core foundation amount (total core instruction plus student success factor times five).
- **Certain start-up and maintenance costs for Career and Technical Education programs.** Funding will be provided through a state grant program.
- **RI launched our Pre-K program last year.** This grows the Pre-K initiatives over 10 years.
- **Central Falls Stabilization Fund.** This fund assures that appropriate funding is available to support the district.
- **Transportation Fund.** This fund will provide funding for non-public out-of-district transportation and 50% of the costs for regional school district transportation.
- **Regional School District Bonus.** This fund will provide 2% of the state's share of the foundation in year 1 and 1% in year 2. This bonus phases out in year 3.

Benefits of the Formula:

- Provides more resources for **79%** of the students in Rhode Island
- Funds the **Basic Education Program**, which includes funding for Special Education students, English Language Learners, and Career and Technical Education students
- In addition to the Core Instructional Amount, additional **Student Success Factor** funds are distributed to districts based on the number of students with high-intensity needs



Other Legislative Highlights

1. Redistributes the base through a multi-year transition plan not to exceed 7 years for underfunded districts and 10 years for overfunded districts.
2. Implements money follows the student which will impact how local districts plan and budget.
3. Includes charter schools, Davies Career and Technical Center, and the Metropolitan Regional Career and Technical Center.
4. Requires the core instruction per pupil amount to be updated annually.
5. Uses the Uniform Chart of Accounts data to maintain fiscal accountability by establishing efficiency benchmarks for instruction, leadership, and operations.
6. Increases housing aid minimum state reimbursement

ANY QUESTIONS?

For additional information, visit our website at
www.ride.ri.gov
(Click on Funding Formula Link on Home Page)



**RI Department of Education
FY2014 Per Pupil Expenditures - (Equalized Net Sort)**

No.	LEA	6/30/14 Average Daily Membership	Total Expenditures from all sources of funds including ARRA	Less ARRA Expenditures (excluding Ed Jobs & Stabilization)	Net Expenditures	Total Per Pupil	Less Debt Service PPE	Less Capital Projects PPE	Equalized Net Per Pupil
410	RI School for Deaf	64	\$6,656,475	\$ 115,224	\$6,541,251	\$102,915	\$0	\$0	\$102,915
220	New Shoreham	117	\$4,642,064	\$ 2,824	\$4,639,240	\$39,672	\$120	\$224	\$39,328
180	Little Compton - Note 2	257	\$7,406,672	\$ 21,361	\$7,385,311	\$28,768	\$0	\$0	\$28,768
150	Jamestown -Note 2	492	\$12,139,306	\$ 34,584	\$12,104,721	\$24,593	\$0	\$396	\$24,196
671	Achievement First	179	\$9,134,655	\$ -	\$9,134,655	\$50,966	\$620	\$30,161	\$20,185
400	Davies	829	\$16,598,421	\$ 103,265	\$16,495,157	\$19,902	\$0	\$0	\$19,902
210	Newport	1,994	\$39,669,882	\$ 204,909	\$39,464,973	\$19,788	\$0	\$63	\$19,725
970	Exeter-W. Greenwich	1,582	\$32,451,068	\$ 72,884	\$32,378,185	\$20,466	\$490	\$306	\$19,670
200	Narragansett	1,366	\$27,609,040	\$ 49,620	\$27,559,420	\$20,178	\$0	\$592	\$19,586
360	Westerly	3,010	\$56,813,538	\$ 40,246	\$56,773,291	\$18,863	\$0	\$57	\$18,805
570	ACES	172	\$3,506,409	\$ -	\$3,506,409	\$20,341	\$1,665	\$1	\$18,675
350	Warwick	9,061	\$167,306,602	\$ 411,980	\$166,894,622	\$18,420	\$0	\$476	\$17,944
630	Trinity	133	\$2,379,782	\$ 9,025	\$2,370,757	\$17,886	\$46	\$0	\$17,840
320	South Kingstown	3,333	\$59,783,081	\$ 140,023	\$59,643,058	\$17,894	\$0	\$75	\$17,819
430	UCAP	138	\$2,457,051	\$ -	\$2,457,051	\$17,816	\$0	\$0	\$17,816
420	Metropolitan C&TC	827	\$14,978,736	\$ 165,574	\$14,813,162	\$17,906	\$119	\$74	\$17,713
130	Glocester	499	\$8,704,684	\$ 32,398	\$8,672,286	\$17,367	\$0	\$9	\$17,358
040	Central Falls	2,692	\$47,717,752	\$ 1,266,040	\$46,451,712	\$17,259	\$0	\$0	\$17,259
160	Johnston	2,991	\$51,499,068	\$ 87,024	\$51,412,044	\$17,191	\$0	\$6	\$17,185
170	Lincoln	3,095	\$52,628,654	\$ 36,266	\$52,592,388	\$16,993	\$0	\$0	\$16,993
280	Providence	22,979	\$391,897,487	\$ 7,232,014	\$384,665,473	\$16,740	\$4	\$0	\$16,736
980	Chariho	3,383	\$57,877,677	\$ 117,114	\$57,760,563	\$17,073	\$435	\$106	\$16,531
990	Foster-Glocester	1,148	\$23,882,338	\$ 37,980	\$23,844,358	\$20,777	\$4,321	\$53	\$16,403
330	Tiverton	1,796	\$30,435,843	\$ 70,571	\$30,365,272	\$16,903	\$0	\$531	\$16,372
190	Middletown	2,267	\$37,428,023	\$ 37,430	\$37,390,594	\$16,495	\$0	\$194	\$16,300
500	New England Laborers	142	\$2,526,204	\$ -	\$2,526,204	\$17,776	\$1,539	\$0	\$16,238
480	Highlander	352	\$5,888,965	\$ 11,579	\$5,877,386	\$16,690	\$433	\$281	\$15,977
960	Bristol-Warren	3,395	\$58,115,111	\$ 106,477	\$58,008,634	\$17,088	\$900	\$519	\$15,670
300	Scituate	1,403	\$21,973,394	\$ 83,415	\$21,889,979	\$15,600	\$4	\$100	\$15,497
230	North Kingstown	3,948	\$61,261,711	\$ 109,838	\$61,151,873	\$15,490	\$0	\$69	\$15,421
600	Segue	221	\$3,785,433	\$ 32,493	\$3,752,940	\$16,980	\$23	\$1,549	\$15,408
380	W Warwick	3,348	\$51,731,877	\$ 153,898	\$51,577,979	\$15,406	\$0	\$1	\$15,405
590	Learning Community	556	\$8,908,253	\$ 69,521	\$8,838,732	\$15,900	\$391	\$250	\$15,260
520	Kingston Hill	183	\$3,044,113	\$ 7,775	\$3,036,339	\$16,560	\$1,348	\$20	\$15,193
310	Smithfield	2,343	\$35,628,190	\$ 70,034	\$35,558,155	\$15,178	\$0	\$198	\$14,979
090	East Greenwich	2,360	\$35,618,786	\$ 85,069	\$35,533,716	\$15,056	\$0	\$101	\$14,955
510	Cuffee	772	\$12,097,315	\$ 99,543	\$11,997,773	\$15,532	\$679	\$7	\$14,846
550	Compass	162	\$2,752,009	\$ 100	\$2,751,909	\$16,937	\$1,507	\$589	\$14,842
120	Foster	284	\$4,245,072	\$ 16,689	\$4,228,384	\$14,905	\$0	\$132	\$14,773
240	N Providence	3,459	\$51,570,087	\$ 170,611	\$51,399,475	\$14,859	\$0	\$172	\$14,687
270	Portsmouth	2,628	\$40,381,836	\$ 74,087	\$40,307,749	\$15,336	\$0	\$672	\$14,664
070	Cranston	10,035	\$146,028,909	\$ 538,489	\$145,490,420	\$14,498	\$0	\$1	\$14,498
010	Barrington	3,237	\$46,856,215	\$ 178,218	\$46,677,997	\$14,419	\$33	\$0	\$14,386
100	E Providence	5,265	\$76,357,248	\$ 255,905	\$76,101,342	\$14,455	\$0	\$72	\$14,383
250	North Smithfield	1,724	\$24,869,555	\$ 90,262	\$24,779,293	\$14,372	\$0	\$96	\$14,277
620	Greene	158	\$2,412,961	\$ 13,541	\$2,399,420	\$15,202	\$790	\$142	\$14,269
650	Village Green	132	\$2,288,717	\$ 237,850	\$2,050,867	\$15,529	\$1,339	\$0	\$14,190
060	Coventry	4,769	\$67,315,691	\$ 102,521	\$67,213,171	\$14,093	\$0	\$12	\$14,081
540	Blackstone	167	\$2,384,648	\$ 5,092	\$2,379,556	\$14,274	\$443	\$0	\$13,831
030	Burrillville	2,379	\$32,463,443	\$ 77,892	\$32,385,552	\$13,612	\$0	\$1	\$13,611
530	International	324	\$4,819,613	\$ 206,925	\$4,612,688	\$14,231	\$710	\$0	\$13,521
260	Pawtucket	8,750	\$119,305,242	\$ 1,202,424	\$118,102,818	\$13,497	\$0	\$0	\$13,497
640	RI Nurses	246	\$3,823,154	\$ -	\$3,823,154	\$15,551	\$1,774	\$606	\$13,171
390	Woonsocket	5,649	\$74,148,184	\$ 948,336	\$73,199,848	\$12,959	\$0	\$11	\$12,948
580	Beacon	226	\$3,078,206	\$ 45,067	\$3,033,139	\$13,410	\$361	\$102	\$12,947
560	Times 2	647	\$10,241,043	\$ -	\$10,241,043	\$15,823	\$2,509	\$400	\$12,914
080	Cumberland	4,490	\$58,163,686	\$ 167,120	\$57,996,566	\$12,916	\$0	\$121	\$12,796
610	RIMA-Blackstone Valley	985	\$13,136,302	\$ 30,729	\$13,105,573	\$13,305	\$622	\$18	\$12,665
660	Nowell Leadership	155	\$1,924,058	\$ -	\$1,924,058	\$12,386	\$0	\$0	\$12,386
	State Totals	139,299	\$2,254,749,540.3	\$15,479,859	\$2,239,269,681	\$16,075	\$114	\$153	\$15,808

Note 1: Stabilization and Education Jobs Funding included (aid replacements) -- All other ARRA funds excluded (one time revenue infusion).

Note 2: Jamestown and Little Compton do not have high schools and pay tuition to send their students in grades 9-12 to high schools in other communities.

This results in higher per pupil expenditure costs since ADM (Average Daily Membership) does not capture these students. Tuition payments are, however, included in the total expenditures. Adding the RADM (Resident Average Daily Membership) for these high school students going outside the district, the per pupils in these districts would be as follows:

District	RADM	Total PPE	Net PPE
Jamestown	642	\$18,841	\$18,538
Little Compton	390	\$18,917	\$18,917

Source: FY14 UCOA Data
Created: 4/29/15

Change formula to help poor

By Meg O'Leary and Sarah Friedman

It is one of those crisp fall days when the trees look lit up from behind. A class of middle school students in neon shorts and cozy hooded sweatshirts runs relays across the long green hill. One girl finishes, hands on knees, and exhales puffs of white into the cool air.

She passes under the thick branches of the largest yellow tree on her way back into the warm building. She talks to her friend about the new gym at the high school and looks up to see the band room, where the cellos lean against the wall. The concert is coming on Pumpkin Festival night.

She is white and middle class but she doesn't really think about it. Almost every student in her school is white, middle class. She shouldn't have to think about it, right?

Her parents pay property taxes and they work hard and she doesn't really know this, but they chose this town because of this school.

Each one of us, every parent, holds tight to what we have for our kids. But most who live among those lovely green fields don't set foot in city public schools.

At The Learning Community, like most city public schools, we work hard to create the experience of a bright blue morning for each of our children.

But, unlike middle-class public school students, our kids play on a rundown field across from a prison. North Providence educators give tours to persuade townspeople to invest in their buildings. The Providence Student Union takes pictures of the ravaging effects of leaks that have long been ignored. Central Falls administrators reduce their badly-needed reading specialist positions.

Our siloed worlds, built around property taxes, have created a reality where for one child to have more, others must have less. To be precise, 34 percent of Rhode Island public school students live in and attend schools in the four core urban districts. That is 47,215 students in underfunded districts, mostly children of color.

Communities of color account for 100 percent of Rhode Island's recent population growth. From 2000 to 2014, according to the Census, Rhode Island's non-white population grew by more than 65,000, while our white population shrank by more than 72,000. This means our children of color are the future. If we fail to provide a high-quality education to our cities' children, our state's economic future is dismal.

Why this gross inequity? Our current funding formula perpetuates a divisive approach to paying for our public schools — based on property taxes — placing an ever-increasing burden on our local budgets. Essentials such as buildings, food and transportation have to be funded from the property tax base of the city or town.

So, a city with a very small tax base must carry the same funding burden as a town whose residents can pay higher property taxes? Yes. In fact, the state average for these basics to operate schools is equal to \$4,400 per pupil, but cities can only afford to spend \$2,100 per pupil.

But wait, aren't we overfunding our schools? Actually, "For FY 2012, RI ranked 47th [near the bottom] in state support for public education and seventh [near the top] in local support" (p. 3, House Fiscal Advisory Staff's Rhode Island Education Aid, 2014). This means that our state could do better in decreasing the burden any one community feels by including all of the essentials in the formula.

To the members of the Governor's Task Force on the state's funding formula: We are working within a formula that divides us and holds us back. Please re-imagine the formula with equity in mind, without placing an excessive burden on any one group, especially low-income communities.

To colleagues across every sector of education: great progress is not achieved through a divided effort. Solidarity brings strength. Let us join together, not fight over resources, so that all our children set out on a well-tended path across the greenest grass toward the widest horizon.

—Meg O’Leary and Sarah Friedman are co-directors of The Learning Community, a public school in Central Falls known for closing the Latino achievement gap and for its work with other public schools across Rhode Island.

Elorza: Latinos Need Education-Aid Formula

Professor Jorge O. Elorza argues that a proposed education-aid formula should include targeted state support for children learning the English language.

We believe that the education-aid formula that the Rhode Island Department of Education proposed (in a bill sponsored by House Finance Chairman Steven Costantino) has a major flaw that must be addressed. We speak of the need for targeted state support for children learning the English language.

As is true across America, Rhode Island's Latino children face an achievement gap when measured against their peers, and a large part of that gap results from a lack of native familiarity with the English language.

In April, the federal government released the Nation's Report Card, describing the results of the National Assessment of Educational Progress test administered to all children nationally in the fourth and eighth grades. Rhode Island's report card for Latino children was not only an "F"; we received the lowest grade in mathematics achievement for Latino children in the country.

This is an urgent matter. Latinos will make up 25-30 percent of the state's population by 2050 and our economy will suffer greatly if we let the achievement gap persist.

In the past, RIDE has espoused reducing and then eliminating this achievement gap. The Board of Regents has issued regulations requiring each school system to support extra staffing for English language learner (ELL) children, provide training for specialized programs, and include supports for ELL children's families.

These regulations and noble statements alone, however, cannot lead to change without resources. These resources typically are not available at the local level, as immigrant families tend to cluster in the urban core with small property-tax bases. As a response, our sister states direct funds at the state level for ELL programs. According to a survey published in the Winter 2009 issue of the Journal of Education Finance, 37 states fund ELL and/or bilingual programs at the state level.

In the past, Rhode Island has developed three different funding formulas that explicitly target resources in this way, including the current proposal by state Rep. Edith Ajello, which directs 20 percent additional resources per child in need of ELL programming.

One would think that Rhode Island, with its performance at the bottom of the national rankings for Latino kids, would join the national mainstream in funding ELL programs. But the RIDE-proposed funding formula does not.

In this anomaly, RIDE notes that its funding formula contains a "student success factor" that provides extra resources based on each district's population of children in poverty. RIDE suggests that this factor helps support ELL programs because the population of children in poverty overlaps with the population of children needing ELL programs.

In fact, however, there is not a neat overlap between the two populations. For example, Burrillville has a substantial population of children in poverty (25 percent), but almost no Latino students (1 percent) and no children in ELL programs. Newport, with 50 percent of its children in poverty, has only 16 percent Latino children, and only 3 percent of its children are in ELL programs.

In contrast, the overwhelming bulk of the state's Latino children and ELL or bilingual programs are concentrated in four urban core communities: Central Falls, Pawtucket, Providence and Woonsocket.

The RIDE formula freezes state education aid for Central Falls, despite its population of 75 percent of children in poverty, 70 percent Latino children and 22 percent of children in ELL or bilingual programs.

Other states understand the unique needs of ELL children. According to the Journal of Education Finance study, 34 of the 50 states allocate state funds for children in poverty. Unlike Rhode Island, however, 82 percent (28 out of 34) of these states allocate a second stream of funds, beyond the allocation for children in poverty, for children learning the English language. (Nine other states fund ELL programs without a separate stream for children in poverty.)

While the RIDE formula's funding gap is critical, it can be closed without expending additional state funds. For example, the RIDE formula includes a peculiar "quadratic mean" adjustment for children in poverty that somehow disburses \$11.2 million in state funds to Rhode Island's five richest communities (Jamestown, Little Compton, Narragansett, New Shoreham and Newport). Each has a property-tax base per student more than double the state average.

This amounts to more than \$7,600 per student in poverty, more than double the amount the RIDE formula allocates to similar children in poorer communities. What is more, this funding supports an aggregate total of fewer than 75 children in ELL programs.

The RIDE formula can and must be changed to redirect scarce state funds from the wealthiest communities with few Latino children and less need for ELL programs, to children in poor communities, where there is a massive need but inadequate state funding.

Unless school districts with large Latino populations are given the resources to provide a quality education, it will be impossible for Rhode Island to develop the workforce required to compete in the new economy. An investment in Latino children does more than just benefit the direct recipients of these services; the entire state wins.

Rhode Island needs a funding formula. With that said, we should not enact a funding formula for its own sake. We have an important choice to make: Do we let Latino children continue to perform at the lowest levels in the country or do we provide them with high-quality educational opportunities?

In our Race to the Top, we must remember that Latinos are too valuable to Rhode Island's future to be left behind.

Jorge O. Elorza is an associate professor at the Roger Williams University School of Law and co-chairman of the Latino Policy Institute at RWU. Also collaborating on this piece are Della Rodriguez-Masjoan, parent of English language learner and dual-language learner children in the Providence public schools and a community activist, and Samuel Prior, a Providence lawyer and steering committee member of the East Side Public Education Coalition and Rhode Island Is Ready.

Source: http://www.projo.com/opinion/contributors/content/CT_schoolreform2_06-02...

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National Center for Education Statistics (NCES)

Institute of Education Sciences (IES)

National Assessment of Educational Progress (NAEP)

This report was generated using the NAEP State Comparisons Tool <http://nces.ed.gov/nationsreportcard/statecomparisons/>

Average Reading scale score sorted by race/ethnicity used to report trends, school-reported, grade 8 public schools: By Jurisdiction

Order	Jurisdiction	Cross-state significant difference	Number of Jurisdictions Significantly			All students 2015	White 2015	Hispanic 2015
			higher	not different	lower	Scale Score	Scale Score	Scale Score
	N/A National public					263.9939739	273.1181417	252.5294854
	N/A Maine					268.3912363	268.9516215	†
	N/A Mississippi					251.9761652	265.7769659	†
	N/A Vermont					273.9618314	274.6799776	†
	N/A West Virginia					260.1852726	260.512152	†
	N/A DoDEA					277.1913634	280.7599169	273.422683
	N/A Kentucky					267.7729001	270.5545078	266.2832762
	N/A Alaska					260.3170188	275.964629	262.7282957
	N/A Michigan					264.4967551	269.9593378	262.6928267
	N/A New Hampshire					274.8067463	275.277442	262.483441
	N/A North Dakota					266.955323	270.0892105	260.6842634
	N/A South Dakota					267.079865	270.9328915	260.1212103
	N/A Minnesota					270.2368178	276.0268538	259.9824781
	N/A Florida					263.3830014	271.6506406	259.8256674
	N/A Missouri					266.8763518	271.2126359	258.3255897
	N/A Maryland					267.9055297	279.0439428	258.2413321
	N/A Wyoming					268.8033631	272.0571174	258.2293644
	N/A Hawaii					257.3504398	270.104348	257.6407723
	N/A Louisiana					255.4694178	265.6673473	257.5984828
	N/A Virginia					266.8360535	274.1335532	257.4566236
	N/A Indiana					268.2534677	272.4027366	257.3391413
	N/A Montana					269.9567776	273.4920253	256.9072985
	N/A Oklahoma					262.6731459	267.5498454	256.8707857
	N/A Nebraska					269.4262109	275.2098341	256.7793686
	N/A Tennessee					264.771229	270.4881899	256.7616439
	N/A Illinois					266.8067283	275.7185949	256.5238272
	N/A Georgia					262.2686053	273.3622605	256.5049057
	N/A Iowa					268.2005963	270.8537169	255.7018259
	N/A Connecticut					273.0480304	281.6834568	255.6501934
	N/A Ohio					265.8792203	270.8492675	255.4925519
	N/A Arkansas					258.768268	266.0776441	254.9260304
	N/A Wisconsin					269.5337264	274.9669483	254.8335012
	N/A New Jersey					270.8537115	278.0156784	254.4433352
	N/A Kansas					266.7655306	272.3559106	254.299108
	N/A Arizona					262.7693918	276.2290684	254.2182538
	N/A New York					263.2476586	272.7081099	253.654284
	N/A Colorado					268.0732253	277.3908801	253.41113103
	N/A Idaho					268.5534796	272.9253833	253.0271553
	N/A Delaware					262.6132907	272.6074048	252.8586904
	N/A Texas					260.655136	273.9466745	252.4912447
	N/A Alabama					258.7537615	266.865344	252.4831512
	N/A Oregon					267.6705197	273.7783815	252.1093103
	N/A North Carolina					260.5945566	270.5450702	251.9588297
	N/A Utah					269.4306647	273.9926091	251.6763678
	N/A Washington					267.2508807	275.4310377	250.0273818
	N/A Nevada					259.4173764	270.2083233	250.0093743
	N/A Pennsylvania					268.7461208	276.3467903	249.5967939
	N/A South Carolina					260.3314228	270.5973624	249.4259588
	N/A New Mexico					253.2277676	268.0376288	249.2056206
	N/A Massachusetts					274.4975681	281.1723459	248.9870764
	N/A District of Columbia					247.6534449	299.0671882	248.6125331
	N/A California					258.9868426	273.9351836	248.5544184
	N/A Rhode Island					265.0508578	274.5382302	244.8787213

† Reporting standards not met.

NOTE: "NA" includes private schools; "Hispanic" includes Latino and Pacific Islander; "Hispanic" includes Native Hawaiian; Race categories exclude "Hispanic or Latin" prior to 2011; students in the "two or more races" category were categorized as "unclassified"; "National public" is included for reference only and is not included in sorting the jurisdictions; on differences between unrounded average scale scores.

SOURCE: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 2015 Reading Assessment.

Table 5.

Percentage Distribution of Public Elementary-Secondary School System Revenue by Source and State: Fiscal Year 2013

(Detail may not add to total because of rounding)

Geographic area	Total	Federal sources		State sources		Local sources			
		Total ¹	Title I	Total ¹	General formula assistance	Total ¹	Taxes and parent government contributions	Other local governments	Charges
United States	100.0	9.1	2.4	45.6	30.8	45.3	38.9	1.4	2.4
Alabama	100.0	11.3	3.6	54.5	45.9	34.2	16.2	9.4	4.6
Alaska	100.0	12.6	1.8	67.1	45.3	20.3	18.2	0.0	1.1
Arizona	100.0	14.6	4.0	36.2	35.2	49.2	37.3	3.6	2.8
Arkansas	100.0	11.3	3.2	76.2	37.7	12.5	7.9	0.2	3.0
California	100.0	11.8	2.9	52.9	28.8	35.3	27.4	2.7	1.6
Colorado	100.0	7.9	1.9	42.1	37.8	50.0	41.3	0.2	4.9
Connecticut	100.0	4.3	1.1	38.3	15.0	57.4	51.8	4.1	1.3
Delaware	100.0	8.0	2.1	59.8	46.6	32.2	26.9	0.0	0.8
District of Columbia	100.0	10.0	2.5	X	X	90.0	88.1	0.0	0.4
Florida	100.0	12.3	3.4	38.3	15.9	49.4	42.2	0.0	5.0
Georgia	100.0	10.3	3.1	43.4	27.1	46.2	39.9	1.6	2.9
Hawaii	100.0	13.3	2.0	84.2	42.8	2.5	0.0	0.0	1.8
Idaho	100.0	11.8	2.7	63.4	48.9	24.7	21.3	0.0	1.9
Illinois	100.0	7.9	2.2	35.4	16.7	56.8	52.5	0.4	2.0
Indiana	100.0	8.2	2.1	62.6	52.0	29.2	20.2	2.5	2.8
Iowa	100.0	7.6	1.6	51.7	38.9	40.7	35.9	0.1	2.8
Kansas	100.0	7.4	2.1	56.4	41.8	36.2	28.3	2.1	2.4
Kentucky	100.0	12.0	3.4	54.9	32.4	33.1	29.7	0.5	1.6
Louisiana	100.0	15.2	3.8	41.7	40.4	43.1	39.4	0.5	0.8
Maine	100.0	7.5	2.1	40.2	31.9	52.3	49.4	0.6	1.6
Maryland	100.0	6.0	1.4	44.1	21.6	49.9	48.1	0.0	1.0
Massachusetts	100.0	5.1	1.2	40.2	26.1	54.7	43.9	7.2	2.0
Michigan	100.0	9.4	2.5	56.9	46.2	33.7	28.5	0.1	3.2
Minnesota	100.0	6.1	1.5	63.5	46.9	30.5	19.7	2.1	4.7
Mississippi	100.0	16.0	4.5	49.9	47.5	34.1	27.8	0.4	4.0
Missouri	100.0	8.9	2.2	42.2	27.8	48.9	40.3	2.0	4.1
Montana	100.0	12.8	3.4	47.7	35.6	39.5	25.1	8.5	3.7
Nebraska	100.0	9.7	2.4	32.1	23.7	58.3	52.3	0.5	3.8
Nevada	100.0	9.5	3.0	61.9	25.6	28.6	26.2	0.0	1.0
New Hampshire	100.0	5.7	1.4	35.5	32.7	58.8	56.2	0.0	1.7
New Jersey	100.0	4.1	1.0	38.7	22.3	57.2	50.4	0.9	2.1
New Mexico	100.0	14.8	3.8	68.3	61.9	17.0	13.7	0.0	1.4
New York	100.0	5.6	1.7	39.8	23.9	54.6	48.6	0.4	0.7
North Carolina	100.0	12.4	3.3	62.0	60.4	25.6	21.4	0.0	2.3
North Dakota	100.0	10.7	3.0	50.3	34.1	38.9	28.1	1.8	4.3
Ohio	100.0	7.9	2.4	41.4	38.3	50.7	42.8	0.8	4.7
Oklahoma	100.0	12.2	3.1	49.2	31.0	38.6	28.3	3.4	5.0
Oregon	100.0	7.8	2.5	50.5	46.2	41.7	33.8	1.8	3.0
Pennsylvania	100.0	7.6	2.4	36.1	20.0	56.3	52.8	0.2	1.7
Rhode Island	100.0	8.6	2.2	37.2	30.4	54.2	52.8	0.0	1.1
South Carolina	100.0	9.9	2.9	46.3	10.9	43.8	35.3	2.9	3.0
South Dakota	100.0	14.8	3.6	31.0	26.1	54.1	47.3	0.2	4.1
Tennessee	100.0	13.1	3.4	46.1	43.5	40.8	27.9	7.7	4.2
Texas	100.0	11.4	2.8	38.5	33.1	50.0	45.9	0.1	2.2
Utah	100.0	9.5	1.5	52.0	30.3	38.5	34.1	0.0	2.3
Vermont	100.0	7.1	2.1	88.4	71.3	4.5	0.1	0.1	1.7
Virginia	100.0	7.4	1.8	39.2	28.3	53.4	50.2	0.0	2.0
Washington	100.0	8.6	1.9	58.9	41.0	32.5	27.3	0.1	3.0
West Virginia	100.0	11.0	2.9	58.3	32.3	30.6	28.1	0.1	0.9
Wisconsin	100.0	7.7	2.1	44.8	38.7	47.5	43.2	0.3	2.4
Wyoming	100.0	6.7	2.0	52.0	41.1	41.3	28.7	10.6	1.2

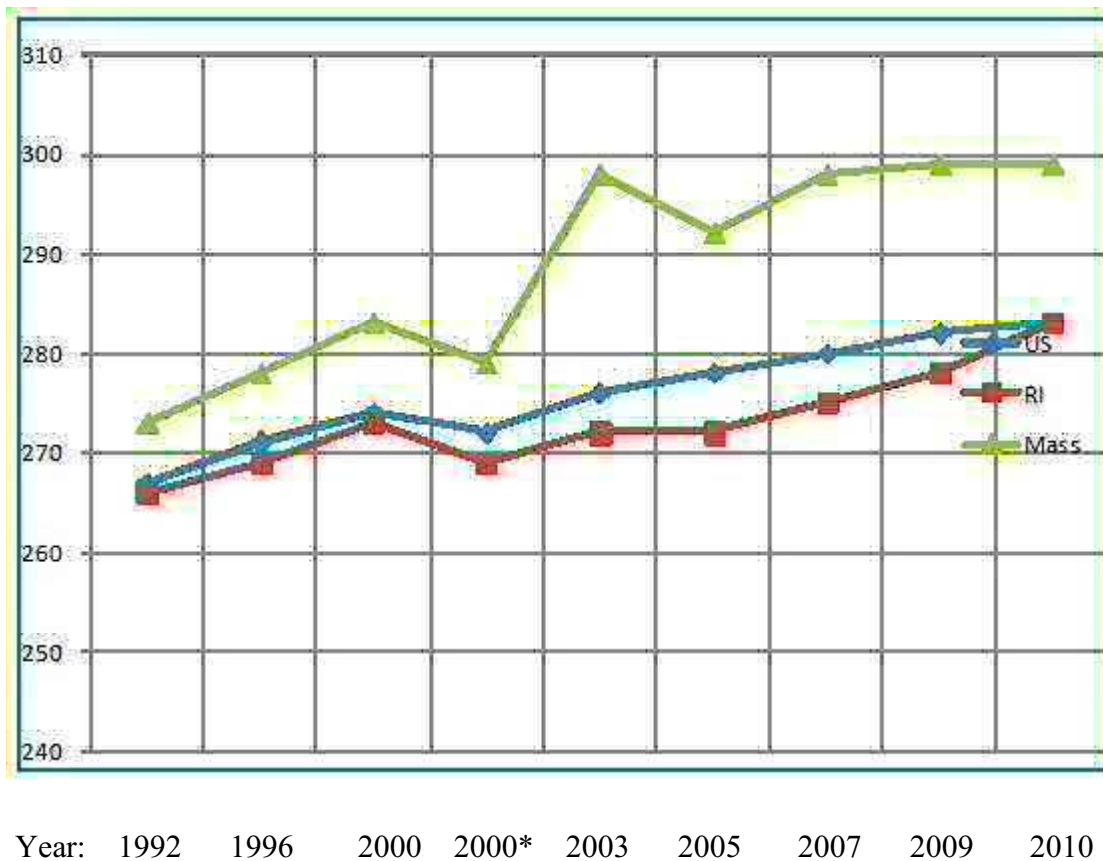
X Not applicable.

¹ Includes amounts not shown separately.

Note: See Appendix B for a description of state-specific reporting anomalies. Revenue from other school systems are excluded to avoid double counting. Some data appear under local sources for Hawaii's state-operated school system for consistency with data presented for all other school systems. Annual Survey of School System Finances statistics include the finances of charter schools whose charters are held directly by a government or a government agency. Charter schools whose charters are held by nongovernmental entities are deemed to be out of scope for the Annual Survey of School System Finances.

Source: U.S. Census Bureau, 2013 Annual Survey of School System Finances. Data are not subject to sampling error, but for information on nonsampling error and definitions, see introductory text. Data users who create their own estimates from these tables should cite the U.S. Census Bureau as the source of the original data only.

TABLE 1:
8th Grade Mathematics Performance on NAEP Test



Color key: Massachusetts (Green), US Average (Blue), Rhode Island (Red)

* Prior to 2000, NAEP did not permit accommodations for special-needs children. The chart includes 2000 test scores both with (lower) and without (higher) the children who were permitted accommodations, and the subsequent years include the children with accommodations.

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89 A.3d 778 (R.I. 2014)

Woonsocket School Committee et al.

v.

**The Honorable Lincoln Chafee in his official capacity as
the Governor of the State of Rhode Island et al**

No. 2012-271-Appeal

Supreme Court of Rhode Island

May 2, 2014

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[Copyrighted Material Omitted]

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Providence County Superior Court. (PM 10-946).
Associate Justice Netti C. Vogel.

For Plaintiffs: Samuel D. Zurier, Esq., Stephen M.
Robinson, Esq.

For Defendants: Rebecca T. Partington, Esq., Claire J.
Richards, Esq.

Present: Suttell, C.J., Goldberg, Flaherty, Robinson,
and Indeglia, JJ.

OPINION

Page 781

Suttell, Chief Justice.

Few responsibilities of government are as important as providing for the education of children; few issues are as passionately debated by citizens as the appropriate way to meet that responsibility. This case concerns the parameters of the General Assembly's duty to promote public education, which is set forth in the Education Clause, article 12, section 1 of the Rhode Island Constitution. Specifically, the plaintiffs challenge the legislatively enacted school funding formula, which, they allege, fails to allocate adequate resources to less affluent communities. These plaintiffs maintain that said formula, together with a confluence of statutory mandates, Rhode Island Department of Education regulations, educational standards, and the

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low tax capacity of certain urban municipalities, operate to inhibit students in their respective cities from obtaining a quality education.

The plaintiffs in this case are the Woonsocket and Pawtucket School Committees and their respective Superintendents, and unnamed students enrolled in Woonsocket and Pawtucket public schools, as well as their unnamed parents (collectively, plaintiffs). These various plaintiffs brought suit against the legislative and executive branches of Rhode Island's state government, specifically: the Governor, the Senate President, the Speaker of the House of Representatives, the General Assembly, and the State Treasurer (collectively, defendants). The plaintiffs sought injunctive and declaratory relief, alleging violations of the Education Clause as well as of their substantive due process and equal protection rights. The plaintiffs now appeal from the Superior Court's order granting defendants' motion to dismiss the complaint. For the reasons set forth herein, we affirm the order of the Superior Court.

I

Facts and Procedural History

The causes of action currently before this Court for review are set forth in plaintiffs' eighty-one-page, 537-paragraph "second amended petition" (the complaint), which was filed on April 8, 2011. Due to the detail and length of this pleading, we shall only outline the factual allegations asserted therein.[1]

The complaint begins with a summary of the origins of public education in Rhode Island. The plaintiffs assert that each city and town in Rhode Island contained at least one public school by the end of the eighteenth century and that the General Assembly began legislating in this arena in 1828. The plaintiffs note that Rhode Island's Constitution of 1842 [2] included an education clause, article 12, section 1, which read as follows:

"The diffusion of knowledge, as well as of virtue among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education."

The plaintiffs assert that "[i]n the decades that followed [the 1842 Constitution] the General Assembly established, as a matter of state law, that public schools would be available to all at no charge." The General

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The plaintiffs assert that "[i]n the decades that followed [the 1842 Constitution] the General Assembly established, as a matter of state law, that public schools would be available to all at no charge." The General

Assembly enacted compulsory school attendance laws beginning in 1893, with various additions and changes to these laws continuing through 2007. The complaint outlines the creation of the State Board of Education in 1870, the subsequent regulation of teachers, and the creation of high schools.

The plaintiffs allege that "[i]n 1960, the General Assembly sought to systematically define all of the elements of an appropriate education" and passed laws that required school districts to ensure a sufficient budget to support this basic educational program.

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The General Assembly delegated to the Board of Regents for Elementary and Secondary Education (Board of Regents) the responsibility of defining the mandated minimum program, and the Board of Regents in turn directed the Rhode Island Department of Education (RIDE) to prepare a Basic Education Program Manual (BEP Manual) in the 1980s. The BEP Manual set forth a basic educational program that was to be available to each student, regardless of where in the state the student attended school.

The plaintiffs next address how the General Assembly has "codified a series of minimum mandatory performance standards in core subjects that each child in Rhode Island must attain." Pursuant to 1997 legislation (P.L. 1997, ch. 30, Art. 31, codified at G.L. 1956 chapter 7.1 of title 16) referred to as "Article 31," the General Assembly directed the Board of Regents to develop an assessment program in order to measure students' educational progress against a standard of "proficiency." In 2001, the federal "No Child Left Behind Act" also required states to develop plans that incorporated challenging academic standards into the content of each student's education. In response to Article 31 and the No Child Left Behind Act, the Board of Regents created grade-level standards for all Rhode Island students in the core subjects of reading, written and oral communication, mathematics, science, and civics. Between 2003 and 2008, the Board of Regents enacted "literacy regulations," which included high-school graduation requirements, statewide curricula, English-language-learner regulations, and regulations aimed at reducing high-school dropout rates.

Rhode Island also adopted the New England Common Assessment Program (NECAP), which is a yearly standardized test that assesses all students in reading, mathematics, and writing, with selected grades assessed in science. The NECAP tests measure children's content knowledge against RIDE's standards for what each student should know according to his or her grade level. NECAP scores are classified into four levels: proficient with

distinction, proficient, partially proficient, and substantially below proficient.

In 2009, the Board of Regents promulgated revisions to the BEP Manual, requiring school districts to "provide a comprehensive program of study in English language arts, mathematics, social studies, the sciences, visual arts & design and the performing arts, engineering and technology, comprehensive health, and world language throughout the PK-12 system." In January 2011, RIDE promulgated a draft set of proposed revisions to its 2008 high-school regulations, which articulated specific high-school graduation requirements. These requirements provided in part that, beginning with the class of 2012, students would be required to achieve NECAP scores of "partially proficient" in order to earn a diploma. After teachers and students expressed concern that the diploma requirements would harm the future of children unable to attain a sufficiently high score on the NECAP assessments, the Board of Regents approved a revised regulation that postponed the NECAP assessment graduation requirement until the class of 2014.

In the next section of their complaint, plaintiffs address the lack of parity between educational standards and funding. The plaintiffs express support for the policies of RIDE and the Board of Regents aimed at "enact[ing] minimum education program standards for all of Rhode Island's children"; plaintiffs' claim for judicial relief centers on "the General Assembly's failure to allocate adequate resources to permit the realization of those standards."

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The plaintiffs assert that, beginning in 1991, the General Assembly's funding policy has "lack[ed] a rational relationship to community need, and ha[s] increased the burdens on urban communities to an unsustainable level, depriving them of the resources needed to educate their children to the minimum level mandated by the State."

The plaintiffs begin this portion of the complaint with a discussion of the "1960 funding formula," which provided for school districts to set their own budgets, with the state paying a proportion (the "share ratio") of these budgets based on each district's relative property-tax wealth per student. This funding formula was titled the "operations aid" program. The formula was amended in 1967 and 1988 to increase the state's share of funding; in 1991, however, the state failed to provide full funding for the operations aid program and imposed a reduction of \$26.3 million pro rata among the districts.[3] The plaintiffs assert that the operations aid funding from 1997 through 2005 "was not proportionate to a district's student population, relative wealth, or any measurable criterion" and that, "[b]y 2004-5, the state share for education remained at 43%, one

of the seven lowest in the country."

In 1995, the General Assembly enacted the "Caruolo Act" (P.L. 1995, ch. 173, § 1), codified at G.L. 1956 § 16-2-21.4, which "created a remedy in Superior Court for school districts to sue municipal governments when the schools lacked adequate resources to provide the minimum education required under the [BEP Manual]." The plaintiffs allege, however, that the Caruolo Act could not achieve its purported goal of vindicating children's rights to adequately funded education because communities such as Woonsocket and Pawtucket "simply lack[] the capacity to raise sufficient local funds to provide a quality education program for [their] children."

In 2006, the General Assembly enacted the "Paiva-Weed Act" (P.L. 2006, ch. 253, § 5), amending § 16-2-21, which "placed limits on annual increases in municipal taxes." The plaintiffs assert that the Paiva-Weed Act placed an initial cap of 5.5 percent on municipal taxes in 2006, with a scheduled cap of 4 percent in 2012-2013. The plaintiffs allege that, pursuant to the Paiva-Weed Act, "school departments are forbidden even to request from their municipalities any local contributions in the excess of a specified percentage increase." Further, "[t]he Paiva-Weed Act required courts to 'consider the percentage caps on school district budgets * * * ' when issuing a decree granting relief under the Caruolo Act."

The General Assembly enacted a new educational funding formula in 2010, which, according to plaintiffs, "fails to provide adequate resources to allow children, especially in poor, urban communities, to obtain a quality education that provides a reasonable opportunity for each child to meet the academic standards established by RIDE." The 2010 funding formula allocates costs between the local communities and the state based on a mathematical ratio that considers each community's relative share of property value per pupil and median family income. The plaintiffs assert that the 2010 formula harms communities with weak property-tax bases, such as Pawtucket and Woonsocket. Furthermore,

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the General Assembly chose to implement the 2010 funding formula over a period of years, meaning that "it will be a long time before underfunded communities, including Pawtucket and Woonsocket, receive State aid that is adequate even under the General Assembly's flawed methodology."

The plaintiffs devote the next portion of their complaint to a description of the educational consequences of the General Assembly's inadequate funding formulas. They assert that "[a]s a result of the General Assembly's

commendable action to establish minimum standards, the Woonsocket and Pawtucket school committees are faced with increasing funding requirements," and yet they "lack the resources to meet these standards." Specifically, plaintiffs assert that the 2008-2009 NECAP scores for Woonsocket's and Pawtucket's elementary, middle, and high-school students were woefully below state averages and showed extremely low levels of proficiency in reading, writing, mathematics, and science. The NECAP scores also showed an achievement gap between white and nonwhite students, and the schools were unable to comply with the Board of Regents' regulations governing educational programs for students learning English as a second language. The state has classified some of these schools as making "insufficient progress" for failing to meet academic targets in core subject areas.

The plaintiffs assert that all schools in Woonsocket and Pawtucket are mandated pursuant to state regulations to provide additional support for students whose reading and mathematics proficiency is below grade level; however, the schools lack the funding necessary to comply with these mandates. The schools also suffer from inferior facilities and a lack of adequate materials. For example, plaintiffs assert that Pawtucket's Shea High School has unmanageable climate control, mold problems, leaks, broken windows, and science labs lacking running water or gas. While the school enrolls children from fifty different countries who speak twenty-five different languages, it has only one translator. The school's social studies textbooks end with the Clinton presidency, and the school runs out of paper part way through the academic year. The plaintiffs assert that if the Board of Regents' regulations come into effect, imposing NECAP scores of partially proficient as a graduation requirement, 64 percent of Shea High School's students will not qualify for a diploma.

The plaintiffs assert that "[t]he lack of educational opportunities available to children in Rhode Island's urban communities, including Woonsocket and Pawtucket, contribute significantly to the State's position of having some of the lowest performing public schools in the country."

Count 1 of plaintiffs' complaint alleges a violation of the Education Clause, article 12, section 1 of the Rhode Island Constitution. The plaintiffs assert that the General Assembly has "enacted minimum academic standards that apply to all children in Rhode Island" pursuant to its constitutional duty to promote public schools. According to plaintiffs, "the General Assembly has repeatedly failed to provide adequate resources to implement those standards, even while recognizing this inadequacy and articulating many viable solutions." The plaintiffs assert that the Paiva-Weed Act "prevent[s] municipal governments from providing sufficient local resources" and limits the Caruolo

Act in such a way that " compromise[s] the ability of school districts to ensure a proper allocation of local resources to educate children, especially in a time of inadequate State resources."

Count 2 sets forth the language of article 1, section 2 of the Rhode Island Constitution [4]

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and alleges that "[p]laintiffs have a substantive due process right to public education," which has " been denied * * * due to the General Assembly's failure to provide adequate school aid." This count also sets forth the language of article 1, section 5 of the Rhode Island Constitution.[5] Although count 2 is titled " Substantive Due Process," the hearing justice found that plaintiffs were " also alleging violations of equal protection," because article 1, section 2 refers to both due process and equal protection, and because plaintiffs' prayer for relief states a deprivation of the right to equal treatment under the law.

Count 3 of plaintiffs' complaint was withdrawn by agreement of the parties. Count 4 asserts a claim for injunctive relief, and count 5 presents a general assertion that the 2010 funding formula is inadequate to meet the needs of the children of Woonsocket and Pawtucket. Count 5 also asserts that allocations of state aid to Pawtucket and Woonsocket in 2010-2011 and 2011-2012 are inadequate according to the definition of adequacy contained in the 2010 funding formula.[6]

In their prayer for relief, plaintiffs seek: (1) a declaration that the student plaintiffs have a right to receive an adequate education pursuant to article 12 and the Rhode Island General Laws; (2) a finding that the present system of education financing deprives plaintiffs of their right to an adequate education; (3) a finding that the present system of education financing systematically deprives plaintiffs of their right to equal treatment under the law in violation of article 1, section 2; (4) a finding that the Paiva-Weed Act places unconstitutional restrictions on the ability of communities to raise local taxes for public education; (5) a declaration that the 2010-2011 through 2016-2017 allocations of aid to Pawtucket and Woonsocket are inadequate according to the 2010 funding formula; (6) an injunction against further constitutional violations; (7) an injunction directing defendants to devise and implement a funding program that complies with constitutional standards; and (8) attorneys' fees and costs.

The defendants moved to dismiss plaintiffs' complaint pursuant to Rules 12(b)(1)[7]

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and 12(b)(6) of the Superior Court Rules of Civil

Procedure. Specifically, defendants argued that this Court's decision in *City of Pawtucket v. Sundlun*, 662 A.2d 40 (R.I. 1995), bars relitigation of the constitutionality of the General Assembly's decisions regarding school funding, and that the issue presented is a nonjusticiable political question--the consideration of which would constitute a violation of the separation of powers doctrine.[8] Hearings were held on April 24, 2012 and June 19, 2012, and the hearing justice issued a thirty-one-page decision granting defendants' motion on July 12, 2012. Judgment for defendants was entered on July 19, 2012, and plaintiffs filed a timely notice of appeal.

II

Standard of Review

" In reviewing the grant of a motion to dismiss pursuant to Rule 12(b)(6), this Court applies the same standard as the hearing justice." *Mendes v. Factor*, 41 A.3d 994, 1000 (R.I. 2012) (quoting *Barrette v. Yakovonis*, 966 A.2d 1231, 1233 (R.I. 2009)). " Because 'the sole function of a motion to dismiss is to test the sufficiency of the complaint,' our review is confined to the four corners of that pleading." *Id.* (quoting *Barrette*, 966 A.2d at 1234). We will " assume[] the allegations contained in the complaint to be true and view[] the facts in the light most favorable to the plaintiffs." *Rhode Island Employment Security Alliance, Local 401, S.E.I.U., AFL-CIO v. State, Department of Employment and Training*, 788 A.2d 465, 467 (R.I. 2002) (quoting *St. James Condominium Association v. Lokey*, 676 A.2d 1343, 1346 (R.I. 1996)). " A motion to dismiss is properly granted 'when it is clear beyond a reasonable doubt that the plaintiff would not be entitled to relief from the defendant under any set of facts that could be proven in support of the plaintiff's claim.'" *Mendes*, 41 A.3d at 1000 (quoting *Barrette*, 966 A.2d at 1234).

III

Discussion

A

The Education Clause

The outcome of this case largely depends on our interpretation of the Education Clause, article 12, section 1 of the Rhode Island Constitution, which reads as follows:

" Duty of general assembly to promote schools and libraries. -- The diffusion of knowledge, as well as of virtue among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools and public libraries, and to adopt all means which it may deem necessary and proper to secure to the people the advantages and

opportunities of education and public library services."

When confronted with an issue of constitutional interpretation, "this Court's 'chief purpose is to give effect to the intent of the framers.'" *Viveiros v. Town of Middletown*, 973 A.2d 607, 610 (R.I. 2009) (quoting *Riley v. Rhode Island Department*

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of Environmental Management, 941 A.2d 198, 205 (R.I. 2008)). "We 'employ the well-established rule of construction that when words in the constitution are free of ambiguity, they must be given their plain, ordinary, and usually accepted meaning.'" *Id.* (quoting *Riley*, 941 A.2d at 205). Furthermore, "[e]very clause must be given its due force," meaning "no word or section must be assumed to have been unnecessarily used or needlessly added." *Id.* at 610-11 (quoting *Riley*, 941 A.2d at 205). "[W]e must 'presume the language was carefully weighed and its terms imply a definite meaning.'" *Id.* at 611 (quoting *Riley*, 941 A.2d at 205).

We will also look to the "historical context of a constitutional provision" when "ascertaining its meaning, scope and effect." *Viveiros*, 973 A.2d at 611. "Thus, this Court may properly consult extrinsic sources, including 'the history of the times' and the 'state of affairs as they existed' when the constitutional provision in question was adopted, as well as the proceedings of constitutional conventions." *Id.* (quoting *Sundlun*, 662 A.2d at 45).

1. *City of Pawtucket v. Sundlun*

In *Sundlun*, 662 A.2d at 42, we had the opportunity to review and interpret article 12, section 1, in order to determine "the means by which the General Assembly fulfills its constitutional mandate to provide public education * * *." *Sundlun* was a case initiated by students, taxpayers, and government representatives from three Rhode Island communities, including Pawtucket and Woonsocket, who objected to the state's 1991 appropriation for elementary and secondary education. *Id.* The plaintiffs asserted that "the state's method of funding public education was violative of the Rhode Island Constitution"; they asked the court to direct defendants, who included the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate, "to devise, enact, and implement a system of aid to education that would fairly levy the taxes necessary to provide equal educational opportunities to students and that would assign educational resources as uniformly as was practical." *Id.* at 43. The case was tried in Superior Court, and the trial justice issued a judgment declaring that the school finance system violated the Education Clause as well as the Equal Protection and Due Process Clauses of the Rhode Island Constitution. *Id.*

at 43.

We reversed that decision on appeal, rejecting the Superior Court's finding that the Education Clause provides a "fundamental and constitutional right for each child to * * * an opportunity to receive an equal, adequate, and meaningful education." *Sundlun*, 662 A.2d at 55, 63. We perceived that the trial justice's interpretation of the Education Clause "contradict[ed] the historical record and the express language of article 12" and "fail[ed] to recognize the role of the Judiciary in our tripartite system of government." *Id.* at 55.

In explaining our decision in *Sundlun*, 662 A.2d at 45-49, we set forth a detailed historical context for article 12, section 1. After reviewing the statutory and constitutional development of public education in Rhode Island, we concluded that, "given the context of the times in which it was adopted, article 12, section 1, does not appear to have imposed on the General Assembly any new, measurable, or judicially enforceable duties to support education beyond those then extant." *Sundlun*, 662 A.2d at 49. The duties that existed with regard to public education when the Constitution was ratified in 1842 were slim--the state began to provide funding for public schools in 1828, but this merely supplemented local contributions,

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the amounts of which were determined by each community. *Id.* at 46. It was not until 1882, forty years after the adoption of the Constitution, that the General Assembly created a state system of education by mandating that every town establish a public school. *Id.* at 48. As we noted in *Sundlun*, "[t]o suggest that the 1842 Constitution imposed upon the General Assembly a duty to compensate for a town's inability to raise local taxes is wholly unreasonable, given that towns were not required to fund such endeavors at all." *Id.* at 49.

The portion of the Education Clause concerning education was not substantively revised during the constitutional convention of 1986, despite numerous efforts to amend the language in order to provide what was thought to be a more equitable school funding system. *Sundlun*, 662 A.2d at 49. We noted in *Sundlun*:

"The convention's adoption of article 12, section 1, signifies that the framers of the 1986 Constitution did not intend to alter the state's approach to funding education or to impose new constitutional requirements upon the General Assembly in respect to education. * * * The framers * * * had the opportunity to radically alter the nature of the state's role in public education. They chose not to do so." *Sundlun*, 662 A.2d at 50.

Thus, in *Sundlun* we addressed the issue of whether the General Assembly is constitutionally obligated to establish a system of public schools that provides the opportunity for an equitable, adequate education for all children in the state. After expounding on the history of the constitutional treatment of public education, we determined that the General Assembly is not constitutionally required to provide for such a system. Having made this determination, however, we were left to define the substantive rights, if any, created by the language of article 12, section 1. After examining the meaning of the word "promote" in its historical and contemporary contexts, we concluded:

" [T]he word 'promote' in article 12, section 1, does not mean 'found' or 'establish.' The meaning of the word in its historical context clearly precludes such a definition, first, because the towns themselves 'founded' or 'established' their public schools, not the General Assembly, and, second, because the State Constitution of 1842 did not require the founding or establishing of a public school in every town. The historical evidence demonstrates that since the time article 12 was adopted, the establishment of schools has been left to the local communities although financial and other assistance were provided by the state." *Sundlun*, 662 A.2d at 56.

We then went on to discuss the remaining language of article 12, section 1, which states that it shall be the duty of the General Assembly " to adopt all means which it may deem necessary and proper to secure to the people the advantages and opportunities of education * * * ." We determined that this portion of the Education Clause vested the General Assembly with plenary power in the realm of public education: " We concur with plaintiffs that the right to an education is a constitutional right in this state, but we stress that article 12 assigns to the General Assembly the responsibility for that right." *Sundlun*, 662 A.2d at 57.

2. Repeal of the Continuing Powers Clause

We also cited in *Sundlun* to the now-repealed article 6, section 10 of the Rhode Island Constitution--the so-called "Continuing Powers Clause," which read as follows: " The general assembly shall continue

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to exercise the powers it has heretofore exercised, unless prohibited in this Constitution." See *Sundlun*, 662 A.2d at 50. We stated:

" Among the powers the General Assembly had exercised prior to the adoption of the 1986 Constitution was the power to promote public education through a statutory funding scheme and through reliance on local property

taxation. The ratification of article 6, section 10, of the Rhode Island Constitution of 1986 represented a knowing and an express endorsement of the Legislature's primacy over education. * * * It is thus clear that the General Assembly's plenary and exclusive power over public education in Rhode Island has not changed since the adoption of the State Constitution in 1842." *Sundlun*, 662 A.2d at 50.

The plaintiffs' main contention on appeal is that, because the Rhode Island electorate has since repealed article 6, section 10 of the Rhode Island Constitution, this Court now has " the Constitutional responsibility to review legislative action more closely" than we did when we decided *Sundlun*. The plaintiffs argue that " *Sundlun* followed more than a century of precedents that interpreted the 'continuing powers' clause to support Rhode Island's constitutional doctrine of legislative supremacy" and that " [t]he *Sundlun* [c]ourt relied upon the 'continuing powers' clause in establishing a highly deferential standard of judicial review." The defendants disagree, arguing that the repeal of article 6, section 10 did not affect article 12, section 1, which grants plenary power over education to the General Assembly.

The plaintiffs are correct in their assertion that our state government has undergone significant changes since we decided *Sundlun*. In 2004, Rhode Island's electorate approved four amendments to the state constitution, commonly referred to as the " separation of powers amendments." These amendments clearly established, for the first time in Rhode Island's history, three separate and distinct departments of government. One of these amendments consisted of repealing the Continuing Powers Clause, article 6, section 10.

We addressed the implications of the separation of powers amendments in *In re Request for Advisory Opinion from the House of Representatives (Coastal Resources Management Council)*, 961 A.2d 930 (R.I. 2008) (hereinafter " CRMC"). That request for an advisory opinion required us to review, in light of the separation of powers amendments, legislation that permitted members of the General Assembly to sit as members of the Coastal Resources Management Council. While analyzing the issues presented in CRMC, we discussed the implications of the separation of powers amendments in areas where the General Assembly possesses plenary power:

" The proponents and drafters of the constitutional amendments, which were designed to bring about a greater degree of separation of powers in Rhode Island's governmental structure, manifestly carried out their task with precision. Certain powers of the General Assembly were explicitly curtailed, while others were left largely or

entirely unaffected by the amendments.

" For example, one of the proposals ultimately approved by the electorate was the abolition of the venerable 'continuing powers' provision of the Constitution (article 6, section 10); that provision expressly allowed the General Assembly to continue to exercise any power that it had possessed prior to the 1986 constitutional convention unless expressly prohibited by the Constitution. The continuing powers conferred by article 6, section 10 were

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characterized by this Court as 'plenary.' * * * It is clear that those 'continuing powers' have now been explicitly and definitively repealed.

" In contrast, the separation of powers amendments did not, either explicitly or implicitly,[] limit or abolish the power of the General Assembly in any other area where we have previously found its jurisdiction to be plenary.[] Such areas include the General Assembly's duty to provide for the state's natural environment (article 1, section 17); its regulatory power over lotteries (article 6, section 15); and its duty with respect to education and public library services (article 12, section 1)." *CRMC*, 961 A.2d at 935-36 (emphasis added).

The plaintiffs assert that we based our holding in *Sundlun* on the Continuing Powers Clause, which has now been repealed; thus, according to plaintiffs, we may not now rely on our previous decision for our interpretation of article 12, section 1. We disagree. We did note in *Sundlun* that, prior to the adoption of the 1986 Constitution, the General Assembly exercised " the power to promote public education through a statutory funding scheme and through reliance on local property taxation," and we stated that the Continuing Powers Clause " represented a knowing and an express endorsement of the Legislature's primacy over education." *Sundlun*, 662 A.2d at 50. We cannot say, however, that our decision in *Sundlun* depended on this language. The bulk of our written opinion consisted of an historical analysis of Rhode Island's public education system, the General Assembly's related legislative acts, and an examination of the language of article 12, section 1, within its historical context. *See id.* at 45-57.

Furthermore, as we noted in *CRMC*, " the separation of powers amendments did not * * * limit or abolish the power of the General Assembly in any other area where we have previously found its jurisdiction to be plenary.[]" *CRMC*, 961 A.2d at 935-36. Plenary power means that " all * * * determinations [are left] to the General Assembly's broad discretion to adopt the means it deems 'necessary and proper' in complying with the constitutional directive." *Id.*

at 938 (quoting *Sundlun*, 662 A.2d at 56).

Our prior case law reveals that the Education Clause has always been interpreted in a manner that grants the General Assembly broad discretion in carrying out its constitutional duty to promote public education in Rhode Island, and this interpretation has not been based on the Continuing Powers Clause. *See, e.g., Brown v. Elston*, 445 A.2d 279, 285 (R.I. 1982) (reaffirming that article 12 " vests the State Legislature with sole responsibility in the field of education"); *Coventry School Committee v. Richtarik*, 122 R.I. 707, 712, 411 A.2d 912, 914 (1980) (reiterating that public education is the responsibility of the General Assembly, and that school committees act as agents of the state when discharging their responsibilities); *Members of Jamestown School Committee v. Schmidt*, 122 R.I. 185, 195, 405 A.2d 16, 21-22 (1979) (holding that article 12, section 1 permits the state to provide programs for busing students to nonpublic schools); *Royal v. Barry*, 91 R.I. 24, 31, 160 A.2d 572, 575 (1960) (stating that article 12, section 1 " expressly and affirmatively reserves to the [L]egislature sole responsibility in the field of education"). Thus, while the separation of powers amendments did effect substantial changes in the structure of our government, they did not impair the General Assembly's broad discretion in adopting " all means which it may deem necessary and proper to secure to the people the advantages and opportunities

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of education * * * ." R.I. Const. art. 12, sec. 1 (emphasis added).

3. Applying *Sundlun* and *CRMC* to Plaintiffs' Education Clause Claim

It is appropriate at this juncture to note that, " [u]nder the doctrine of stare decisis, 'courts should adopt the reasoning of earlier judicial decisions if the same points arise again in litigation.'" *State v. Werner*, 865 A.2d 1049, 1056 (R.I. 2005) (quoting *Johnston Ambulatory Surgical Associates, Ltd. v. Nolan*, 755 A.2d 799, 807 (R.I. 2000)). We have previously stated that " this Court always makes a concerted effort to adhere to existing legal precedent." *Pastore v. Samson*, 900 A.2d 1067, 1077 (R.I. 2006). We will, however, bear in mind that " stare decisis is a principle of policy and not a mechanical formula of adherence to the latest decision, however recent and questionable, when such adherence involves collision with a prior doctrine more embracing in its scope, intrinsically sounder, and verified by experience." *State v. Musumeci*, 717 A.2d 56, 64-65 (R.I. 1998) (quoting *Helvering v. Hallock*, 309 U.S. 106, 119, 60 S.Ct. 444, 84 L.Ed. 604, 1940-1 C.B. 223 (1940)). We also recognize that, as an advisory opinion, *CRMC* has no precedential value. *See*

Irons v. R.I. Ethics Comm'n, 973 A.2d 1124, 1132 n.15 (R.I. 2009). Moreover, our statement therein concerning the General Assembly's plenary authority with respect to its duties in the domain of education is clearly dictum. Nevertheless, we find it to be highly persuasive, and, now that we are confronted with the Education Clause directly, we find it to be an accurate statement of constitutional law.

The hearing justice applied *Sundlun* and *CRMC* to the facts alleged in the instant case and found that these prior decisions warranted dismissal of plaintiffs' Education Clause claim. We concur with the hearing justice's findings in this regard. The plaintiffs object to the General Assembly's system for regulating and funding public education, claiming that the state has harmed children by "replacing local control with State-level mandates" while imposing a funding system that prevents municipalities from attaining the resources necessary to meet the requirements. In our opinion, the factual allegations in plaintiffs' complaint make a strong case to suggest that the current funding system is not beneficial to students in Pawtucket and Woonsocket, especially when compared to other municipalities. We are sensitive to plaintiffs' concerns, and yet our prior case law clearly declares that the General Assembly has exclusive authority to regulate the allocation of resources for public education.

This is not to say, however, that there could not be a situation in which the General Assembly violates its "constitutional mandate to support and promote education so as to warrant a judicial response." *Sundlun*, 662 A.2d at 57. We agree with our prior holding in *Sundlun* that the Rhode Island Constitution imposes an affirmative duty upon the General Assembly to promote public schools. It is not our function, however, to explore hypothetical scenarios beyond the facts that are currently before us on review.

B

Separation of Powers

The hearing justice also based her decision to dismiss plaintiffs' Education Clause claim on the separation of powers doctrine. This doctrine is set forth in article 5 of the Rhode Island Constitution, which states: "The powers of the government shall be distributed into three separate

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and distinct departments: the legislative, executive and judicial." We have previously held that "[t]he separation of powers doctrine prohibits the usurpation of the power of one branch of government by a coordinate branch of government." *Moreau v. Flanders*, 15 A.3d 565, 579 (R.I. 2011) (quoting *Town of East Greenwich v. O'Neil*, 617 A.2d 104, 107 (R.I. 1992)). "Functionally, the doctrine may be

violated in two ways. One branch may interfere impermissibly with the other's performance of its constitutionally assigned function. * * * Alternatively, the doctrine may be violated when one branch assumes a function that more properly is entrusted to another." *Sundlun*, 662 A.2d at 58 (quoting *I.N.S. v. Chadha*, 462 U.S. 919, 963, 103 S.Ct. 2764, 77 L.Ed.2d 317 (1983) (Powell, J., concurring)).

In *Sundlun*, we concluded that the plaintiffs' legal and factual claims had urged a violation of the separation of powers in two respects: they asked us to "interfere with the plenary constitutional power of the General Assembly in education"; and they "urg[ed] that we order 'equity' in [educational] funding sufficient to 'achieve learner outcomes.'" *Sundlun*, 662 A.2d at 58. The plaintiffs in that case had specifically asked the court to "devise, enact, and implement a system of aid to education that would fairly levy the taxes necessary to provide equal educational opportunities to students and that would assign educational resources as uniformly as was practical." *Id.* at 43. We were deeply troubled by the trial justice's resolution of the plaintiffs' claims, which consisted of adopting a judicially unmanageable standard--"the right to receive an 'equal, adequate, and meaningful education.'" *Id.* at 58.

Here, plaintiffs have focused their argument on the "duty to promote" portion of the Education Clause, and they have framed their appeal "in terms of whether this Court has any role whatever in reviewing the General Assembly's duty to promote public schools under [article 12, section 1]." Instead of asking us to formulate a new system of educational funding, plaintiffs have asked us to declare that the legal framework established by the General Assembly for regulating and funding public education creates unattainable mandates and, therefore, fails to "promote" public schools. Functionally, however, these two claims represent a request for the same impermissible goal: imposing our own judgment over that of the Legislature in order to determine whether a particular policy benefits public education. We decline to interfere with the General Assembly's prerogative to fashion the policies that it, as a collective representative of the people, deems most appropriate for the establishment and maintenance of the state's public schools.[9]

We emphasize that we are deeply concerned by the conditions of the schools in Pawtucket and Woonsocket as alleged by plaintiffs, as well as by the alleged predicaments of those municipalities regarding

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their inability to allocate the funding required to meet state mandates. Installing a means of providing adequate educational opportunities to every child in the state is not

only an admirable goal; it is " perhaps the most important function of state and local governments." *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 29, 93 S.Ct. 1278, 36 L.Ed.2d 16 (1973) (quoting *Brown v. Board of Education*, 347 U.S. 483, 493, 74 S.Ct. 686, 98 L.Ed. 873 (1954)). An educated populace is an essential element of our system of government, necessary for the continued protection of our rights and liberties. The framers of our constitution clearly reflected these ideas when they drafted article 12, section 1. We, however, are not the branch of government that the framers charged with implementing a system of education. The plaintiffs' complaint is more appropriately addressed to the General Assembly, which has been charged with both the power and the duty to address their concerns.[10]

C

Substantive Due Process

The plaintiffs also argue that the 2010 funding formula violates substantive due process because it " is an arbitrary and capricious political solution" that impairs plaintiffs' " fundamental right to adequately funded education in the basic core subjects." Substantive due process is found in article 1, section 2 of the Rhode Island Constitution, which provides in pertinent part: " No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws."

The first inquiry in a substantive due process analysis is whether the challenged government action affects a fundamental right. *Riley*, 941 A.2d at 205-06. We have previously held that the Rhode Island Constitution does not provide a fundamental right to education, and we do not presently perceive any reason to question this holding. See *Sundlun*, 662 A.2d at 55. We have also held, however, that " [t]he substantive component of due process 'guards against arbitrary and capricious government action.'" *East Bay Community Development Corp. v. Zoning Board of Review of Barrington*, 901 A.2d 1136, 1150 (R.I. 2006) (quoting *Brunelle v. Town of South Kingstown*, 700 A.2d 1075, 1084 (R.I. 1997)). Thus, when no fundamental right is at issue, a party seeking to establish a substantive due process violation must show that the challenged statute or action is " clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." *Id.* (quoting *Cherenzia v. Lynch*, 847 A.2d 818, 826 (R.I. 2004)).

Here, count 2 of the plaintiffs' complaint appears only to assert a claim that the General Assembly's failure to provide adequate funding has impaired their perceived right to an education. On appeal, however, the plaintiffs focus their due process argument on the alleged arbitrariness and

capriciousness of the 2010 funding formula. The hearing justice addressed both of these potential substantive due process claims and found the plaintiffs' complaint insufficient to establish either one. We agree with the hearing justice's conclusions in this regard. Although the plaintiffs spare no ink in outlining the alleged inadequacies of the 2010 funding formula,

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they do not present facts to suggest that this legislative enactment is devoid of any " substantial relation to the public health, safety, morals, or general welfare." See *East Bay Community Development Corp.*, 901 A.2d at 1150 (quoting *Cherenzia*, 847 A.2d at 826).

IV

Conclusion

For the reasons stated herein, we affirm the order of the Superior Court. The record shall be returned to the Superior Court.

Notes:

[1]As we rest our opinion upon the Education Clause, we shall not address plaintiffs' compliance with Rule 8(a) of the Superior Court Rules of Civil Procedure, commanding that a pleading contain " a short and plain statement of the claim."

[2]The 1842 Constitution replaced the Royal Charter of 1663, granted by Charles II, as the state's organic law. The Constitution was ratified in November 1842, in the aftermath of the Dorr Rebellion, and it became effective in May 1843. We shall refer to it as the 1842 Constitution.

[3]In response to this reduction, the municipalities of Pawtucket, Woonsocket, and West Warwick brought suit against the state, seeking to remedy disparities in the school funding system. The plaintiffs in that case prevailed in the Superior Court, but the judgment was reversed on appeal. See *City of Pawtucket v. Sundlun*, 662 A.2d 40 (R.I. 1995), discussed infra.

[4]Article 1, section 2 of the Rhode Island Constitution provides:

" Laws for good of whole -- Burdens to be equally distributed --Due process -- Equal protection -- Discrimination -- No right to abortion granted. -- All free governments are instituted for the protection, safety, and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state

ought to be fairly distributed among its citizens. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws. No otherwise qualified person shall, solely by reason of race, gender or handicap be subject to discrimination by the state, its agents or any person or entity doing business with the state. Nothing in this section shall be construed to grant or secure any right relating to abortion or the funding thereof."

[5]Article 1, section 5 of the Rhode Island Constitution provides:

"Entitlement to remedies for injuries and wrongs -- Right to justice. -- Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which may be received in one's person, property, or character. Every person ought to obtain right and justice freely, and without purchase, completely and without denial; promptly and without delay; conformably to the laws."

[6]The hearing justice analyzed counts 1 and 5 as one claim, because they both implicate the General Assembly's authority to regulate public education financing.

[7]The issue of subject matter jurisdiction is not presented on appeal.

[8]The defendants also argued that plaintiffs' complaint did not contain a short and plain statement of a claim as required by Rule 8 and that the Caruolo Act is the exclusive remedy for school committees seeking additional funding. The hearing justice did not reach these issues in her decision. Because we now find that plaintiffs' complaint fails to state a claim upon which relief may be granted, we too need not address these issues. Additionally, defendants argued below that the school committees lacked standing and that necessary and indispensable parties were absent from the dispute. The hearing justice's findings with regard to these issues are not challenged on appeal.

[9]Indeed, the arena of education policy presents many difficult dilemmas that are not easily resolved. Reasonable minds could reach many different conclusions regarding how best to accomplish the goal of educating our state's children. For example, South Korea and Finland are known to produce some of the best educational outcomes in the world; they accomplish these outcomes, however, through two entirely different educational frameworks. See Best Education In the World: Finland, South Korea Top Country Rankings, U.S. Rated Average, http://www.huffingtonpost.com/2012/11/27/best-education-in-the-wor_n_2199795.html?view=print&comm_ref=false (last visited March 4, 2014). We, the unelected judiciary, are not suited to make these difficult policy decisions for

the people of Rhode Island.

[10]The plaintiffs and defendants also raised the issue of whether this case presents a nonjusticiable political question. Because we have decided the matter on the grounds of our previous precedent and the separation of powers doctrine, we decline to address the political question issue.

RESOLUTION OF THE CITY COUNCIL

No.

WHEREAS, The quality of the education the Providence Public Schools provides to the City's children is often limited by a lack of adequate financial resources; and

WHEREAS, The City of Providence appropriates more than \$5,000 per student in local funds to the School Department; and

WHEREAS, The City's local contribution is among the most generous in the State relative to the City's tax capacity, as measured by the "property tax effort" benchmark developed by the General Assembly at R.I.G.L. §16-7.1-6; and

WHEREAS, 2010 State aid funding formula "state share ratio" (R.I.G.L. §16-7.2-5) calculates that Providence's fair share of "core instruction expense" is approximately 12%, while the State's fair share is 88%, based on the City's relative ability to pay for education programs; and

WHEREAS, Providence's actual share of the entire "local budget" (funded by State and municipal funds) of the Providence School Department is more than 37%; and

WHEREAS, The funding gap is the result of the current formula's restrictive definition of expenditures eligible for State aid, defined as the "core instructional amount" in R.I.G.L. §16-7.2-3; and

WHEREAS, The "core instructional amount" does not include such basic expenses as transportation expense, building maintenance expense and other operating expenses; and

WHEREAS, These expenses are just as necessary to the provision of education as instructional expenses; and

WHEREAS, Despite this basic fact, the City pays for these operational expenses with 100% local funds, rather than a State/local split of 88%/12% as obtains for "core instructional expense", and

WHEREAS, The State provides that teacher pension expense is funded 60% local/40% State, even though that expense is just as fundamental and unavoidable as those characterized as "core instruction expense"; and

WHEREAS, The great majority of funding formulas nationally provide State aid for transportation expense and/or other operating expenses in ways that Rhode Island does not; and

WHEREAS, The Rhode Island funding formula does not provide additional funding for English Language Learners, contrary to the prevailing practice in other states and contrary to a 2007 report by the General Assembly which provided for an additive weight of 0.2; and

WHEREAS, Rhode Island ranks at or near the bottom nationally of the "Nation's Report Card" for the education achievement of Hispanic students and the "achievement gap" between Hispanic and Caucasian students in each category; and

WHEREAS, A 2007 report by the General Assembly called for \$14,317 per pupil in State aid for Providence, in contrast to the 2010 funding formula's level of less than \$9,500 per pupil;

and

WHEREAS, The “money follows the child” feature of the current funding formula reduces the local funds available to the children in the Providence Public Schools by millions of dollars in excess of the savings achieved by delegating to charter schools the responsibility of educating Providence students enrolled in those schools; and

WHEREAS, While marginal adjustments to the funding formula would begin to address these concerns, the current formula’s structural constraints will not provide adequate (or close to adequate) resources to support an education for Providence’s children that meets the requirements of the Basic Education Plan; and

WHEREAS, Rhode Island is one of an undistinguished minority of states that lacks an enforceable right to education under its Constitution.

NOW, THEREFORE, BE IT RESOLVED, That the Providence City Council urges the Governor’s Working Group To Study The Funding Formula to recommend the passage of an enforceable right to education under the Rhode Island Constitution; and

BE IT FURTHER RESOLVED, That the Providence City Council urges the Governor’s Working Group To Study The Funding Formula to review the current formula and propose changes that would make it more fair and equitable to disadvantaged children; and

BE IT FURTHER RESOLVED, That the Providence City Council urges the Governor’s Working Group To Study The Funding Formula to recommend that the Board of Education act promptly to initiate a thorough and comprehensive study of the funding formula, including but not limited to the areas identified in the Governor’s Executive Order establishing the current working group; and

BE IT FURTHER RESOLVED, That the Providence City Council hereby urges its General Assembly delegation to advocate for a Constitutional right to education and a more fair State aid funding formula; and

BE IT FURTHER RESOLVED, That, upon passage of this Resolution, the Clerk is requested to distribute copies of it to the Providence School Board, the Providence General Assembly delegation, the Rhode Island Board of Education and the Rhode Island Department of Education and the Fair Funding Formula Working Group.