

“EDUCATIONAL HOMICIDE”:¹ BRADFORD AND A CONSTITUTIONALLY INADEQUATE EDUCATION IN BALTIMORE

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ABSTRACT

*In Maryland, a twenty-minute drive separates students who will receive some of the best public education in the country and students who will receive some of the worst. For decades, students in Baltimore City have endured the conditions of a deteriorating public school system that is deficient in resources and infrastructure, while students in neighboring counties enjoy an abundant education. Maryland’s Constitution guarantees all students in the state a “thorough and efficient” education, regardless of the affluence of their neighborhood. The disparate quality of Baltimore City education was the subject of multiple bouts of litigation beginning in the 1980s and culminating in 2024, when the Maryland Court of Appeals dissolved a 1996 Consent Decree reached by the State and plaintiffs in *Bradford v. Maryland State Board of Education* to bring Baltimore City schools into constitutional compliance. Throughout nearly four decades of litigation, Maryland courts oscillated between interpretations of the “thorough and efficient” education required by the state constitution. Even after years of judicial oversight and mandated funding increases, the conditions of Baltimore City schools remain abysmal.*

This Note argues that the 2024 dissolution of the 1996 Consent Decree was wrongly decided because the principal objective of the

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1. Chris Papst, *At 13 Baltimore City High Schools, Zero Students Tested Proficient on 2023 State Math Exam*, FOX 45 NEWS (Sep. 21, 2023, at 09:18 ET), <https://foxbaltimore.com/news/project-baltimore/at-13-baltimore-city-high-schools-zero-students-tested-proficient-on-2023-state-math-exam> [https://perma.cc/8VJE-3TSG].

Decree—curing the constitutional defect present in Baltimore City schools—has not been met. Further, the “thorough and efficient” mandate in Maryland’s Constitution requires more than a neglected, slipshod education; Baltimore City students are entitled to an adequate education measured by contemporary criteria. The Note proposes a number of solutions looking forward to protect the educational rights of students in Baltimore City.

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INTRODUCTION

In 40% of Baltimore City high schools, not one student tested proficient on a state mathematics examination in 2023.² This deficiency in math is just a glimpse of the massive, systemic problems present in Baltimore City schools today. Students suffer through atrocious school conditions to receive an education: frigid classrooms in the winter, sweltering heat in the summer, holes in the roof, roaches and rats in classrooms, unsafe drinking water, and “buildings that students sa[y] resemble prisons.”³ As Jason Rodriguez, the deputy director of People Empowered by the Struggle, put it: “[t]his is educational homicide.”⁴

Education is a paramount defining factor informing an individual’s ability to meaningfully participate in civic society, attain financial security, and achieve success in professional and personal endeavors.⁵ All fifty states undertake the obligation of providing public education to their citizens, but the quality of education depends upon the district in which students reside.⁶ In states across the country, students in wealthy districts enjoy an education with abundant learning opportunities, paths to higher education preparation, a wide variety of class offerings, and robust extracurricular activities.⁷ Students in poor districts,

2. *Id.*

3. Richard Lofton, Jr., *Commentary: How Baltimore Students Feel About Poor Classroom Conditions*, BALT. BANNER (Nov. 30, 2023, at 05:30 ET), <https://www.thebaltimorebanner.com/opinion/community-voices/baltimore-schools-poor-conditions-interviews-Y6E3QM3VN5D7PDSVNDJHCQUINA/> [https://perma.cc/3W3V-ENQP].

4. Papst, *supra* note 1.

5. See *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954) (“Today, education is perhaps the most important function of state and local governments It is required in the performance of our most basic public responsibilities . . .”).

6. See EMILY PARKER, 50 STATE REVIEW: CONSTITUTIONAL OBLIGATIONS FOR PUBLIC EDUCATION 1–2 (2016).

7. See Michael B. Sauter, Thomas C. Frohlich, Sam Stebbins & Evan Comen, *America’s Richest (and Poorest) School Districts*, USA TODAY (Oct. 3, 2015, at 08:34 ET), <https://www.usatoday.com/story/money/business/2015/10/03/24-7-wall-st-richest-poorest-school-districts/73205874/> [https://perma.cc/CJ43-M4MT]; *Academics*, HCPSS, <https://www.hcpss.org/academics/> [https://perma.cc/ALW6-2AGK] (last visited Nov. 13, 2025); *About the Applications and Research Lab* (ARL), APPLICATIONS AND RSCH. LAB, <https://arl.hcpss.org/about-applications-and-research-lab-arl> [https://perma.cc/J5WF-X4S5] (last visited Nov. 13, 2025); *Academics*,

by contrast, will attend classes in supply closets,⁸ eat alongside vermin in the cafeteria,⁹ and endure frigid winters and sweltering summers without functioning HVAC.¹⁰ This is not a question of public school vs. private school; in each instance described above, the education received by students in poor districts and wealthy districts shares the same origin: the State.¹¹ The sole determining factor in whether a student receives a robust or abysmal state-provided education is their zip code.¹²

The fundamental unfairness accompanying that truth was recognized by advocates nearly sixty years ago and challenged in court.¹³ Maryland courts have been engaged in adjudicating challenges to the unequal funding underscoring public education quality disparities since 1983, when parents from the poorest districts in the state first filed suit in *Hornbeck v. Somerset County Board of Education*.¹⁴ There, the Supreme Court of Maryland upheld the state's school funding system interpreting Maryland's constitutional guarantee of a "thorough and efficient" education to require no more than a basic education.¹⁵ A decade later, litigants in Baltimore City challenged the educational disparities again in *Bradford I* and found more success.¹⁶ After the court granted partial summary judgment to the plaintiffs in

MONTGOMERY CNTY. PUB. SCHS., <https://www.montgomeryschoolsmd.org/curriculum/> [<https://perma.cc/DA4X-HW97>] (last visited Nov. 11, 2025).

8. William Penn Sch. Dist. v. Pa. Dep't of Educ., 294 A.3d 537, 620 (Pa. Commw. Ct. 2023).

9. See Lofton, *supra* note 3.

10. *Id.*

11. See PARKER, *supra* note 6, at 1–2.

12. See Abbott v. Burke, 575 A.2d 359, 412 (N.J. 1990) ("And what everyone knows is that—as children—the only reason they do not get that advantage is that they were born in a poor district.").

13. See San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 30–32 (1973).

14. Hornbeck v. Somerset Cnty. Bd. of Educ., 458 A.2d 758, 761–62 (Md. 1983). For a full analysis of *Hornbeck*, see discussion *infra* Section II.B.

15. *Hornbeck*, 458 A.2d at 776 (quoting MD. CONST. art. VIII, § 1). Although the *Hornbeck* court recognized the quality disparities between the districts, it held that such disparities were not violations of the state constitutional guarantee to a "thorough and efficient" education or of federal or state equal protection clauses. *Id.* at 780, 782, 789.

16. See Consent Decree, *Bradford v. Md. State Bd. of Educ.*, No. 9340058/CE189672 (Cir. Ct. Balt. Nov. 26, 1996) [hereinafter *Bradford Consent Decree*].

Bradford I, the parties entered into a Consent Decree¹⁷ mandating significant increases in educational funding and an overhaul of the Baltimore City education system.¹⁸ After a maze of ongoing litigation, reports, and legislation, plaintiffs sought further relief under the Consent Decree in 2019 in *Bradford II*, alleging that the defect of unconstitutional education conditions persisted.¹⁹ In November 2024, the Maryland Court of Appeals rejected the plaintiffs’ claim and dissolved the Consent Decree.²⁰

The Maryland Court of Appeals’ decision dissolving a 1996 Consent Decree in *Bradford* was wrongly decided because the objective of the Decree remains unsatisfied.²¹ The constitutional deficiency at the heart of the Decree was never cured. Instead, the quality of education in Baltimore City flouts the state constitution’s “thorough and efficient” charge.²² States like Maryland that are bound by constitutional mandates to provide a “thorough and efficient” education must ensure that all students receive an adequate, quality education up to the state’s contemporary standards.²³

This Note will proceed in four parts. Part I will explore the historical and present context of education funding and its resulting legal challenges. Part II will discuss public education

17. A consent decree is an enforceable agreement between parties to a dispute that “creates and enforces a road map for changes” when constitutional deficiencies or misconduct are found. See Anna Betts, *What Is a Consent Decree?*, N.Y. TIMES (June 16, 2023), <https://www.nytimes.com/2023/06/16/us/what-is-a-consent-decree.html> [https://perma.cc/8SQY-M3LA]. Consent decrees typically involve oversight by federal courts, but state courts oversee consent decrees as well. See *id.*; *Bradford Consent Decree*, *supra* note 16, at 3–4.

18. *Bradford Consent Decree*, *supra* note 16, at 2–3.

19. See *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 68 (Md. App. Ct. 2024). For a full summary of the litigation, see *Bradford v. Maryland State Board of Education FAQs*, ACLU MD., <https://www.aclu-md.org/cases/bradford/#summary> [https://perma.cc/F66F-H2E2] (last visited Nov. 13, 2025).

20. *Bradford*, 326 A.3d at 81; see also *Civil Rights Organizations Defending Public Education for Baltimore City Schoolchildren Respond to Maryland Appellate Court’s Recent Ruling*, ACLU MD. (Nov. 20, 2024, at 16:30 ET) [hereinafter *ACLU Bradford II Response*], <https://www.aclu-md.org/en/press-releases/civil-rights-organizations-defending-public-education-baltimore-city-schoolchildren> [https://perma.cc/328T-PL54].

21. See discussion *infra* Part III.

22. *Id.*

23. See *infra* Section III.B.

funding reform in Maryland by reviewing the web of litigation that was spun in *Hornbeck* and *Bradford I* and *II*. Part III will argue that *Bradford II* was wrongly decided, and “thorough and efficient” requires more than a bare minimum of educational scraps. Part IV will conclude with suggestions for the future.

I. HISTORICAL AND LEGAL BACKGROUND

Courts repeatedly recognize education as an essential function of preserving society.²⁴ However, the Supreme Court held that there is no right to education under the federal Constitution.²⁵ The lack of a constitutional right to education at the federal level leaves discretion to the states to establish their own educational systems.²⁶ The Tenth Amendment guarantees that all powers not expressly delegated to the federal government are reserved for the states.²⁷ Education is not an enumerated power granted to the federal government and thus falls within the purview of the states.²⁸ In turn, all fifty states have adopted constitutional provisions that establish a public education system.²⁹ State educational systems are funded primarily through state and local sources, with some minimal contribution from federal funds.³⁰

Using local property taxes to fund public education creates vast disparities in the funding and quality of education

24. *Grutter v. Bollinger*, 539 U.S. 306, 331 (2003) (“We have repeatedly acknowledged the overriding importance of preparing students for work and citizenship”); *Plyler v. Doe*, 457 U.S. 202, 202, 221–22 (1982) (“Public education has a pivotal role in maintaining the fabric of our society and in sustaining our political and cultural heritage; the deprivation of education takes an inestimable toll on the social, economic, intellectual, and psychological well-being of the individual, and poses an obstacle to individual achievement.”).

25. *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 33–35 (1973).

26. *See id.* at 35–37 (holding that educational policy and local taxation are the purview of states and localities); *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954) (recognizing education as an essential responsibility of states and localities).

27. U.S. CONST. amend. X.

28. *See Rodriguez*, 411 U.S. at 33–35; *Brown*, 347 U.S. at 493.

29. PARKER, *supra* note 6, at 1.

30. NAT’L CTR. FOR EDUC. STAT., PUBLIC SCHOOL REVENUE SOURCES (2024) [hereinafter *Public School Revenue Sources*], <https://nces.ed.gov/programs/coe/indicator/cma/public-school-revenue> [<https://perma.cc/SQV3-ERFS>].

amongst localities of varying wealth.³¹ Varying wealth among the districts means some districts can afford to levy significantly higher property taxes and fund superior education systems, while forcing poorer districts to rely on state monies to fund the bulk of their education systems.³² Often, the result is a significant difference in funding per pupil in wealthy districts compared to their poorer counterparts within the same state.³³ This disparate quality of education was the subject of litigation in many states, as parties challenged the validity of unequal educational opportunities resulting from disproportionate funding as violations of education and equal protection provisions in state constitutions.³⁴ A number of courts have upheld states’ educational funding schemes as constitutional,³⁵ while many others have found similar funding schemes relying primarily on local property taxes to violate the educational or equal protection clauses in their respective constitutions.³⁶ Of the states that have found disparate quality of education to be unconstitutional, the success rates of the proposed solutions to these constitutional violations vary.³⁷

31. See Derek W. Black, *Localism, Pretext, and the Color of School Dollars*, 107 MINN. L. REV. 1415, 1424 (2023); David Dormont, *Separate and Unequal: School District Financing*, 11 MINN. J.L. & INEQ. 261, 263–64 (1993).

32. *Inequality in Public School Funding: Key Issues and Solutions for Closing the Gap*, AM. U. SCH. OF EDUC. (Sep. 10, 2020) [hereinafter *Inequality in Public School Funding*], <https://soeonline.american.edu/blog/inequality-in-public-school-funding/> [https://perma.cc/2L9U-89BP].

33. *Id.*

34. See *Hornbeck v. Somerset Cnty. Bd. of Ed.*, 458 A.2d 758, 761–62 (Md. 1983); *Dupree v. Alma Sch. Dist. No. 30 of Crawford Cnty.*, 651 S.W.2d 90, 91 (Ark. 1983); *Horton v. Meskill*, 376 A.2d 359, 361 (Conn. 1977); *Helena Elementary Sch. Dist. No. 1 v. State*, 769 P.2d 684, 685 (Mont. 1989); *Serrano v. Priest*, 557 P.2d 929, 930 (Cal. 1976); *William Penn Sch. Dist. v. Pa. Dep’t of Educ.*, 294 A.3d 537, 544–45 (Pa. Commw. Ct. 2023).

35. See *Edgewood Indep. Sch. Dist. v. Meno*, 917 S.W.2d 717, 730–31 (Tex. 1995); *Hornbeck*, 458 A.2d at 780.

36. See *Bradford Consent Decree*, *supra* note 16, at 2; *Helena Elementary Sch. Dist. No. 1*, 769 P.2d at 690; *Abbott v. Burke*, 575 A.2d 359, 363 (N.J. 1990).

37. DAPHNE A. KENYON, *THE PROPERTY TAX–SCHOOL FUNDING DILEMMA*, LINCOLN INST. OF LAND POL’Y 18 (2007), https://www.lincolninst.edu/app/uploads/legacy-files/pubfiles/the-property-tax-school-funding-dilemma-full_0.pdf [https://perma.cc/QJ39-B4G2].

A. Brief History of Educational Funding

The system of education in the United States has not always looked as it does today.³⁸ Likewise, the funding of education has undergone similar transformations from the founding of our nation.³⁹

1. Early years

There was no formal system of education prior to the founding, and many individuals did not receive an education.⁴⁰ Of the regions that provided some form of education, schools were funded with an assortment of “parents’ tuition payments, charitable contributions, property taxes, fuel contributions, and in some cases, state support.”⁴¹ However, the bulk of education financing in the first half of the nineteenth century came from private contributions and property taxes.⁴² Notably, access to education was initially scarce for people of color, women, individuals with disabilities, and immigrants, even in districts that were wealthy enough to establish education through local

38. See NANCY KOBER & DIANE STARK RENTNER, HISTORY AND EVOLUTION OF PUBLIC EDUCATION IN THE US 1–2 (2020), <https://files.eric.ed.gov/fulltext/ED606970.pdf> [<https://perma.cc/3ZV5-87TT>]; Wendy A. Paterson, *From 1871 to 2021: A Short History of Education in the United States*, BUFF. ST. UNIV. (Dec. 8, 2021), <https://suny.buffalostate.edu/news/1871-2021-short-history-education-united-states> [<https://perma.cc/LGD3-QSJV>].

39. See KOBER & RENTNER, *supra* note 38, at 1–3.

40. See *id.* at 1.

41. *Id.*

42. See Sun Go, *Free Schools in America, 1850-1870: Who Voted for Them, Who Got Them, and Who Paid* 2–4 (Chung-Ang Univ., Working Paper, 2011), https://en.gsm.pku.edu.cn/_local/5/FB/21/C9804B8B9D02C015F11B143237C_BB421303_1470B0.pdf?e=.pdf [<https://perma.cc/D58M-QBNY>]. The reliance on local property taxes to fund schools was intentional and effectuated in part by racist attitudes from the pre-Civil War and Reconstruction eras. See Daarel Burnette, *History and Background: School Finance*, EDUC. WRITERS ASS’N (Nov. 8, 2021), <https://ewa.org/issues/early-learning/history-and-background-school-finance> [<https://perma.cc/L45K-KT76>]; CAMILLE WALSH, RACIAL TAXATION: SCHOOLS, SEGREGATION, AND TAXPAYER CITIZENSHIP, 1869–1973, at 16–18 (2018) (noting the tension between white supremacy and Black students’ pursuit of education rooted in the reliance on local property taxes to fund schools). Implementation of such a system ensured that primarily white schools received substantially more funding because real estate taxes created a “racially distinct tax base” and municipalities could allocate more money where they pleased. *Id.* at 17.

property taxes and private contributions.⁴³ Free public education was not proposed until the 1830s, and the idea of “common schools” was not readily accepted by the public.⁴⁴ The idea faced opposition from individuals who were not willing to contribute to the education funds of students in other districts throughout their state.⁴⁵

The federal Department of Education was created in 1867 to provide financial support to states establishing their education systems.⁴⁶ Developments in social history throughout the twentieth century, like the Civil Rights Movement and the Race to the Moon, prompted the federal government to supply aid in specified areas of study to support public education in the United States.⁴⁷ It is important to note, however, that despite some financial support from the federal government, the establishment and proliferation of education in the United States has always been the purview of the states.⁴⁸

Eventually, as a system of public education gained more support, states began to adopt a provision guaranteeing some form of public education in their state constitutions.⁴⁹ By the

43. See KOBER & RENTNER, *supra* note 38, at 5–6. Even when opportunities for access to education began to emerge for marginalized groups, the programs were different from those provided to their peers. See *id.* at 5.

44. Ted Brackemyre, *Education to the Masses*, U.S. HISTORY SCENE, <https://ushistoryscene.com/article/rise-of-public-education/> [<https://perma.cc/5NYK-ZKXB>] (last visited Nov. 13, 2025).

45. See KOBER & RENTNER, *supra* note 38, at 3.

46. An Act to Establish a Department of Education, Pub. L. No. 39-73, 14 Stat. 433 (1867); *The Federal Role in Education*, U.S. DEP’T OF EDUC., <https://www2.ed.gov/about/overview/fed/role.html> [<https://perma.cc/75HF-RT7B>] (last visited Nov. 13, 2025); 20 U.S.C. § 3402. The federal government provided land grants for higher education through the Second Morrill Act of 1890 and went on to provide federal aid for specific focuses in secondary school through the 1917 Smith-Hughes Act. Second Morrill Act of 1890, 51st Cong., 26 Stat. 417 (1890); Smith-Hughes Vocational Education Act, Pub. L. No. 64-347, 39 Stat. 929 (1917).

47. *The Federal Role in Education*, *supra* note 46.

48. *Id.*; see also Martha Minow, *San Antonio Independent School District v. Rodriguez at Fifty: Contingencies, Consequences, and Calls to Action*, 55 LOY. U. CHI. L.J. 363, 373 (2023) (discussing funding of education as an issue fought solely in state courts).

49. See SCOTT DALLMAN & ANUSHA NATH, EDUCATION CLAUSES IN STATE CONSTITUTIONS ACROSS THE UNITED STATES 1 (2020), <https://www.minneapolisfed.org/~media/assets/articles/2020/education-clauses-in-state-constitutions-across-the-united-states/education-clauses-in-state-constitutions-across-the-united-states.pdf?la=en> [<https://perma.cc/7LGP-SXVX>]; Allen W. Hubsch, *Education and Self Government: The Right to Education Under State Constitutional Law*, 18 J.L. & EDUC. 93, 134–40 (1989).

end of the nineteenth century, the system of funding education through private contributions and tuition was replaced with a system that derived its funds through local and state taxes.⁵⁰

2. Modern funding problems

States that increasingly relied on local property taxes to fund public education saw growing disparities in the quality of education amongst their districts.⁵¹ The illusion that schools established by the state were equally served became more and more unreconcilable.⁵² A specific look into California's public education funding history reveals that the use of property taxes "allowed wealthy residents to hoard opportunities for their own children while limiting their responsibilities for the education of children who resided elsewhere in California."⁵³ This attitude mirrored prior resistance of individuals who opposed a universal education system and did not want to take on the responsibility of funding the education of the state's children who were not their own.⁵⁴ Accordingly, where the vast majority of money flowing into a district's education came from local funds, the quality and type of education among the districts varied so

50. Go, *supra* note 42, at 4; see also WALSH, *supra* note 42, at 16–18 (describing the historical motivations for funding schools with property taxes and the racialized effects produced by the system).

51. See MATTHEW GARDNER KELLY, DIVIDING THE PUBLIC: SCHOOL FINANCE AND THE CREATION OF STRUCTURAL INEQUITY 138–39, 153–54 (2023); SAMANTHA WILKERSON, EXPLORING THE NEXUS OF PROPERTY TAXES, HOUSING DISPARITIES AND EDUCATIONAL ACCESS FOR BLACK AND BROWN YOUTH IN MAJOR U.S. CITIES 2–4 (2024), https://www.cbcfinc.org/wp-content/uploads/2024/08/NREI-Capstone_Property-Taxes-Housing-Disparities-and-Educational-Access_S.Wilkerson-1.pdf [<https://perma.cc/SA59-X3UL>].

52. See KELLY, *supra* note 51, at 153–54; John Dayton, *When All Else Has Failed: Resolving the School Funding Problem*, 1995 BYU EDUC. & L.J. 1, 1–3 (1995).

53. KELLY, *supra* note 51, at 151.

54. See *id.* Reliance on property taxes to fund education fit neatly within an isolationist ideology: individuals in wealthy districts could ensure superior quality of education for their own children without needing to worry about the suffering quality of education provided to children in poorer neighboring districts. *Id.* Here, too, racial attitudes belied the reluctance to fund education equally with property taxes. See WALSH, *supra* note 42, at 4–5. White people generally believed they were entitled to "superior education" compared to neighboring districts composed primarily of Black students. *Id.* at 5. This unwillingness to "pay for" the education of other students, especially among racialized demarcations, persisted for decades to come. *Id.* at 5–6 (discussing nineteenth-century political phrase, "[t]he whites pay the taxes and the Negroes go to school").

significantly that education amongst districts no longer resembled uniform operations of a state.⁵⁵ Despite being functions of the state, schools operated instead as provinces of individual districts.⁵⁶

The result of these variances in property wealth was a budding construction of inequality.⁵⁷ Affluent districts raised property taxes to fund public education, and the quality of education programs in such districts soared.⁵⁸ Support from the state was often insufficient to make up the funding differences between affluent districts and their poor counterparts, and this resulted in major disparities in spending per student.⁵⁹ Thus, the quality of education varied, sometimes dramatically, from district to district.⁶⁰ That profound inequality was the subject of the first major challenge to the use of property taxes as a means of financing public education.⁶¹

B. Federal Legal Landscape

Advocates who first challenged the disparities in public education alleged that disparate education violated the Equal

55. See KELLY, *supra* note 51, at 154. Poor districts that did not have the ability to sufficiently fund their education systems were forced to rely on state support. See KOBER & RENTNER, *supra* note 38, at 1–2.

56. See Chris Duncombe, *Unequal Opportunities: Fewer Resources, Worse Outcomes for Students in Schools With Concentrated Poverty*, THE COMMONWEALTH INST. (Oct. 26, 2017), https://thecommonwealthinstitute.org/tci_research/unequal-opportunities-fewer-resources-worse-outcomes-for-students-in-schools-with-concentrated-poverty/ [https://perma.cc/45CW-TJHK]; Carmel Martin, Ulrich Boser, Meg Banner & Perpetual Baffour, *A Quality Approach to School Funding*, AM. PROGRESS (Nov. 13, 2018), <https://www.americanprogress.org/article/quality-approach-school-funding/> [https://perma.cc/T48E-9SHQ].

57. See Dayton, *supra* note 52, at 1–3.

58. See KELLY, *supra* note 51, at 151, 154.

59. See Morgan King, *From 1973 to Today: The Risks of Funding Public Education by the Property Tax*, 108 KY. L.J. ONLINE: BLOG (Mar. 4, 2020), <https://www.kentuckylawjournal.org/blog/from-1973-to-today-the-risks-of-funding-public-education-by-the-property-tax> [https://perma.cc/ZW8T-VVYK]; *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 8–9 (1973) (describing the historical funding schemes in Texas that led to disparities between affluent districts and the poor district behind the litigation).

60. Martin et al., *supra* note 56. This system of funding ensured that students in poor districts were forced to accept an education that was inferior to their wealthy peers in neighboring districts. *Id.*

61. See *Rodriguez*, 411 U.S. at 4–5.

Protection Clause of the Fourteenth Amendment.⁶² The Supreme Court held that the federal Equal Protection Clause does not guarantee a right to equality of education in its 1973 decision in *San Antonio Independent School District v. Rodriguez*.⁶³ There, the Court rejected the plaintiffs' argument that Texas's reliance on property taxes to fund public education resulted in unequal per-pupil expenditures amongst varying districts, thus violating the Equal Protection Clause of the Fourteenth Amendment.⁶⁴

The Supreme Court found that the Texas education system did not disadvantage any clearly defined class of people.⁶⁵ The Court reasoned that there was no defined class of people being discriminated against because wealth is not a suspect class.⁶⁶ It further reasoned that students in poor districts were not being completely deprived of the benefit of public education, but rather that the quality of education was merely worse.⁶⁷ This difference in quality, the Court reasoned, did not violate the Fourteenth Amendment.⁶⁸

Turning to the issue of whether education is a fundamental right, the Court lent cursory acknowledgment to the significance of education before stating that its classification as a fundamental right cannot be based on its importance in society.⁶⁹

62. See *id.* at 6; *Hornbeck v. Somerset Cnty. Bd. of Ed.*, 458 A.2d 758, 764 (Md. 1983).

63. *Rodriguez*, 411 U.S. at 24.

64. *Id.* The Supreme Court reversed the District Court's holding that the Texas funding scheme violated the Fourteenth Amendment because it discriminated based on wealth, which the District Court found to be a "suspect" classification, the permissibility of which required a justification under strict judicial scrutiny that the state was unable to provide. *Id.* at 28–29. The lower court further found that education was a fundamental right under the United States Constitution, but the Supreme Court reversed this holding as well. *Id.* at 37.

65. *Id.* at 20, 22–23, 25.

66. *Id.* at 21 (reasoning that because there was no way to discern whether the affected class was identifiably indigent individuals based on a specific poverty level, individuals who are poor in relation to others, or simply individuals who live in poorer school districts, there was no way to define an affected class). The Court walked through each of the three possible ways to define the affected class and concluded that each would result in "a large, diverse, and amorphous class" that shared none of the "traditional indicia of suspectness" of classes that its precedents had found as suspect based on wealth. *Id.* at 28.

67. *Rodriguez*, 411 U.S. at 23–25.

68. *Id.* at 24 (noting that "absolute equality" is not required by the Equal Protection Clause).

69. *Id.* at 32–33.

Instead, the Court framed the issue simply as "whether there is a right to education explicitly or implicitly guaranteed by the Constitution."⁷⁰ The Court noted that there is no explicit or implicit guarantee of the right to an education in the federal Constitution.⁷¹ Thus, finding no readily identifiable "suspect" class that was deprived of any fundamental right, the Court held that Texas's system of education funding was not subject to strict judicial scrutiny.⁷²

Settling on the less stringent test of whether Texas's educational funding system rationally relates to a legitimate state purpose, the Court discussed the state's goal of ensuring that each student receives an education and commended the system's encouragement of local control.⁷³ The Court found that Texas's system of financing public education did, in fact, further the rational state interest of ensuring some form of education to all students while allowing localities ample control, and thus the system fulfilled the standard required of it.⁷⁴

The Supreme Court's decision in *Rodriguez* upheld the use of local property taxes to fund public education, despite the conceded disparities in funding and quality of education produced by this system of financing.⁷⁵ Following *Rodriguez*, challengers of the unequal nature of education quality could no longer base arguments on the Fourteenth Amendment and

70. *Id.* at 33.

71. *Id.* at 35.

72. *Id.* at 40. The Court utilized federalist principles as it further explained its hesitance to apply the protections of the Fourteenth Amendment to a state's funding decisions, noting "[s]ince the members of a legislature necessarily enjoy a familiarity with local conditions which this Court cannot have, the presumption of constitutionality can be overcome only by the most explicit demonstration that a classification is a hostile and oppressive discrimination against particular persons and classes" *Id.* at 41 (quoting *Madden v. Kentucky*, 309 U.S. 83, 87–88 (1940)).

73. *Rodriguez*, 411 U.S. at 47–50. Addressing the plaintiffs' argument that the system results in unequal control enjoyed by each district based on the amount of property taxes they are able to raise, the Court conceded that an unequal amount of control in poorer districts may exist, but that "the existence of 'some inequality' in the manner in which the State's rationale is achieved is not alone a sufficient basis for striking down the entire system." *Id.* at 50–51.

74. *Id.* at 55.

75. *Id.*

would have to turn elsewhere to attempt to rectify the inequality.⁷⁶

Although there is no federally recognized right to education,⁷⁷ the federal government nonetheless provides some funds to support states in their establishment and maintenance of schools.⁷⁸ Federal funding accounts for about 8% of public education financing in the United States, with the remaining 92% of funding produced by state and local funds.⁷⁹ Functionally, once a state qualifies for federal funding under Title I of the Elementary and Secondary Education Act of 1965,⁸⁰ funds are allocated amongst the state's districts based on a rank of poverty levels, but are disbursed to schools to help students who are most "at risk of failing to meet state learning standards[,] regardless of individual students' poverty."⁸¹ The relatively small quantity of

76. See Stephen J. Wermiel, *Inequitable and Inadequate School Funding*, A.B.A.: HUM. RTS. MAG. (Jan. 6, 2023), <https://www.americanbar.org/groups/crsj/resources/human-rights/archive/inequitable-inadequate-school-funding/> [https://perma.cc/3PZV-79FQ].

77. Mark Lieberman, *America's Children Don't Have a Federal Right to Education. Will That Ever Change?*, EDUCATIONWEEK (Oct. 24, 2023), <https://www.edweek.org/policy-politics/americas-children-dont-have-a-federal-right-to-education-will-that-ever-change/2023/10> [https://perma.cc/M6N5-KCUN].

78. *The Federal Role in Education*, *supra* note 46.

79. *Id.* Most federal support for education is sourced from the Elementary and Secondary Education Act of 1965. See Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301–6576; REBECCA R. SKINNER, CONG. RSCH. SERV., R45977, THE ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA), AS AMENDED BY THE EVERY STUDENT SUCCEEDS ACT (ESSA): A PRIMER 1 (2024) [hereinafter CRS ESEA PRIMER]. The Act was passed in part because Congress recognized the disparate quality of education that affected students in low-income areas, explaining that its purpose was "provid[ing] all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps." *Id.* at 2.

80. See Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301–6576; *How Is K-12 Education Funded?*, PETER G. PETERSON FOUND. (July 22, 2025), <https://www.pgpf.org/article/how-is-k-12-education-funded/> [https://perma.cc/L5KW-6WVQ].

81. Mark Dynarski & Kirsten Kainz, *Why Federal Spending on Disadvantaged Students (Title I) Doesn't Work*, BROOKINGS (Nov. 20, 2015), <https://www.brookings.edu/articles/why-federal-spending-on-disadvantaged-students-title-i-doesnt-work/#:~:text=How-ever%2C%20its%20funding%20per%20student,for%20effective%20services%20and%20activities> [https://perma.cc/UKZ4-7CVJ]; see also Cassandra Jones Havard, *Funny Money: How Federal Education Funding Hurts Poor and Minority Students*, 19 TEMP. POL. & C.R. L. REV. 123, 125–26 (2009) (discussing how discretionary uses of federal education funds at the state and local level contributes to inequity in schools).

Title I funds appropriated to schools, as well as the effectiveness of funds from Title I, garnered criticism from commentators.⁸²

In sum, the federal support for public education makes up only a minuscule portion of total funds for schools.⁸³ Further, the Supreme Court’s decision in *Rodriguez* thwarted litigants’ ability to challenge the use of local property taxes as a major source of revenue for schools.⁸⁴ In response, challengers looked elsewhere to support their efforts of reform: their respective state constitutions.⁸⁵

C. State Landscapes

After losing traction in federal court for public education financing challenges, advocates took to state court to seek a remedy for the resulting inequalities.⁸⁶ Some courts found that specific state funding schemes based on property taxes violated state constitution provisions of either equal protection or the guarantee of a quality education.⁸⁷ In contrast, many other courts upheld the validity of property taxes to fund public education under state constitutions.⁸⁸

82. See Havard, *supra* note 81, at 137–39 (criticizing the effectiveness of Title I funds due to lack of appropriate monitoring and supplantation of federal funds for different state and local purposes); see also Dynarski & Kainz, *supra* note 81 (noting that “there is little evidence that the overall program is effective or that its funds are used for effective services and activities”).

83. See Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301–6576; CRS ESEA PRIMER, *supra* note 79, at 1–2.

84. See Wermiel, *supra* note 76.

85. See PARKER, *supra* note 6, at 5–22.

86. See *The History of Abbott v. Burke*, EDUC. L. CTR., <https://edlawcenter.org/litigation/abbott-history/> [https://perma.cc/94N9-TMT2] (last visited Nov. 13, 2025); Laurie Reynolds, *Skybox Schools: Public Education as Private Luxury*, 82 WASH. U. L.Q. 755, 763 (2004). Most state constitutions provide either an education provision or an equal protection provision, with many states including both. See PARKER, *supra* note 6, at 1, 5–22. Challenges to education adequacy have been brought under education provisions and equal protection provisions. See *id.* at 5–22.

87. Paul A. Minorini & Stephen D. Sugarman, *School Finance Litigation in the Name of Educational Equity: Its Evolution, Impact, and Future*, in EQUITY AND ADEQUACY IN EDUCATION FINANCE: ISSUES AND PERSPECTIVES 41, 43 (Helen F. Ladd, Rosemary Chalk & Janet S. Hansen eds., 1999) [hereinafter Minorini & Sugarman, *School Finance Litigation*]. This includes courts in California, Arizona, Arkansas, Connecticut, Montana, Alabama, and New Hampshire. *Id.* at 41–42.

88. *Id.* at 44–46. This includes courts in Michigan, Idaho, North Dakota, Nebraska, and Florida. *Id.* at 44.

Early litigation challenging the use of property taxes to fund public education centered on disparities among varying districts' educational funding.⁸⁹ Courts' determinations that states' funding schemes violated the state constitutions turned on the specific language in each state's constitution and the court's interpretation of that constitutional language.⁹⁰ All states provide a mandate in their constitution guaranteeing some right to education, but the specific language of the education clauses differs among the states.⁹¹ Many states, like Maryland and Pennsylvania, have constitutional mandates for "thorough and efficient" education systems.⁹² Other states require a "general and uniform" education system.⁹³

Unsurprisingly, courts in various states interpret the distinct language in education clauses differently.⁹⁴ The right to some

89. *Id.* at 34; Paul A. Minorini & Stephen D. Sugarman, *Educational Adequacy and The Courts: The Promise and Problems of Moving to a New Paradigm*, in *EQUITY AND ADEQUACY IN EDUCATION FINANCE: ISSUES AND PERSPECTIVES*, *supra* note 87, at 175, 176 [hereinafter Minorini & Sugarman, *Educational Adequacy*].

90. *See id.* at 43–44; Reynolds, *supra* note 86, at 764.

91. *See* Molly A. Hunter, *State Constitution Education Language*, EDUC. JUST., <https://edlaw-center.org/assets/files/pdfs/State%20Constitution%20Education%20Clause%20Language.pdf> [<https://perma.cc/QCX4-BA94>] (last visited Nov. 13, 2025).

92. MD. CONST. art. VIII, § 1; PA. CONST. art. III, § 14.

93. *See* ARIZ. CONST. art. XI, § 1; N.C. CONST. art. IX, § 2. Other states include combinations of this language, like Minnesota, which guarantees the establishment of "a general and uniform system of public schools" that is "thorough and efficient." MINN. CONST. art. XIII, § 1. Some state constitutions include education clauses that do not contain any qualifiers about the kind of education that must be provided, like Massachusetts, which mandates only that "it shall be the duty of legislatures and magistrates . . . to cherish the interests of literature and the sciences, and all seminaries of them." MASS. CONST. pt. 2, ch. V, § 2.

94. *See, e.g.,* *Lobato v. State*, 304 P.3d 1132, 1138 (Colo. 2013); *Abbott v. Burke*, 575 A.2d 359, 367–68 (N.J. 1990). Some states with constitutional mandates for a specific kind of "thorough" or "uniform" education, like Colorado, have upheld funding schemes that produce results that arguably do not meet the standard in every district. *See Lobato*, 304 P.3d at 1136. The Colorado Supreme Court upheld Colorado's public school funding system as constitutionally permissible because it rationally related to satisfying the "thorough and uniform" constitutional mandate, even if the result in some districts fell short of meeting the standard seemingly required by the constitutional language. *Id.* at 1137–39. On the other hand, Massachusetts found that the state has an obligation to provide a constitutionally adequate education to all students in the state, despite the lack of qualifying language in its constitution mandating such a result. *McDuffy v. Sec'y of Exec. Off. of Educ.*, 615 N.E.2d 516, 545–46, 548 (Mass. 1993) (interpreting the state constitutional language regarding the state's "duty" to "cherish" public education to require an adequate education to all students regardless of socioeconomic status).

form of education in each state is, for the most part, settled.⁹⁵ Advocates for education financing reform turned to education clauses in state constitutions to argue that states have a duty to provide students with a quality education, regardless of the affluence of their district.⁹⁶

1. *Thorough and efficient*

The guarantee of a “thorough” and “efficient” education system furnishes different rights in different states.⁹⁷ In many instances, courts’ interpretations of what is guaranteed by a “thorough and efficient” education system evolve over time.⁹⁸ By way of example, the New Jersey Supreme Court was one of the first to interpret the “thorough and efficient” mandate to require a quality education in all districts across the state, regardless of affluence.⁹⁹ New Jersey’s education financing system was repeatedly struck down as a violation of the state constitution

95. See Nat’l Ctr. for Educ. Stats., *State Education Practices*, U.S. DEP’T OF EDUC., INST. FOR EDUC. SCIS., [hereinafter *State Education Practices*] https://nces.ed.gov/programs/statereform/tab5_1.asp [<https://perma.cc/JU8M-UR79>] (last visited Nov. 13, 2025). States have an obligation to provide a basic education to students in their state, and this right has been affirmed through interpretations of state constitutions, as well as statutory mandates. See Patricia Brennan-Gac, *Educational Rights in the States*, A.B.A.: HUM. RTS. MAG. (Apr. 1, 2014), <https://www.americanbar.org/groups/crsj/resources/human-rights/archive/educational-rights-states/> [<https://perma.cc/BL3P-CC35>].

96. See *Lobato*, 304 P.3d at 1136; *Burke*, 575 A.2d at 362.

97. See *Lobato*, 304 P.3d at 1138, 1141 (noting that constitutional language mandating a “thorough and uniform” public education system denotes consistency, comprehensiveness, and completeness, but holding that education financing need only be rationally related to the mandate); *Burke*, 575 A.2d at 395 (holding that “thorough and efficient” constitutional language mandates at least funding parity amongst districts to provide an adequate education to all students).

98. See *Bradford Consent Decree*, *supra* note 16, at 10 (articulating a different standard than that articulated in *Hornbeck v. Somerset Cnty. Bd. of Ed.*, 458 A.2d 758 (Md. 1983)). In Maryland, for example, state courts initially upheld the public financing system that created vast disparities in quality of education among districts, only to retreat from that position in subsequent years. See *Hornbeck*, 458 A.2d at 776; *Bradford Consent Decree*, *supra* note 16, at 10.

99. See *Robinson v. Cahill*, 303 A.2d 273, 295 (N.J. 1973); *Robinson v. Cahill*, 351 A.2d 713, 720 (N.J. 1975); *Burke*, 575 A.2d at 367–68; Julio C. Gomez, *A Child’s Right to a Thorough and Efficient Education*, N.J. LAW., Feb. 2014, at 42, 42 (2014). The *Robinson* court held that the “thorough and efficient” language in the state constitution required equal educational opportunities to all students across the state. *Robinson*, 303 A.2d at 294. The court also indicated that the state may not shift its obligation of providing the means for a thorough and efficient education to localities when they cannot “realistically be met by reliance upon local taxation.” *Id.* at 297.

because poor districts could not raise sufficient funds to finance an adequate education through local taxation.¹⁰⁰ Similarly, litigants in Pennsylvania recently successfully challenged the state's funding scheme for public education.¹⁰¹ There, the court held that students in poor districts were not receiving a "thorough and efficient" education based on significant gaps in "inputs and outputs" among the districts, in part based on the state's reliance on local property taxes.¹⁰²

2. *Winning in court is not enough*

A court's interpretation of constitutional language, however, does not begin and end the inquiry.¹⁰³ Nor does a favorable legal interpretation guarantee that quality or equitable

100. See *id.*; *Abbott*, 575 A.2d at 376–77. In the poor urban districts, the court noted disparities in technology supplies, science education programs, foreign-language programs, music and arts programs, lack of adequate physical facilities, elementary schools without libraries, and schools that used coat closets or bathrooms as classrooms. *Id.* at 395–96. The *Abbott* court stressed the importance of funding parity, or equal funding among districts, and noted that some impoverished districts will inevitably require even more funding than their wealthy counterparts. *Id.* at 402–03 (explaining that all students are required to contribute meaningfully to the same workforce, and that "necessarily means that in poorer urban districts something more must be added to the regular education in order to achieve the command of the Constitution"). The court held that the funding system could not sufficiently address the gaps in education quality and was thus unconstitutional. See *id.*

101. See *William Penn Sch. Dist. v. Pa. Dep't of Educ.*, 294 A.3d 537, 937 (Pa. Commw. Ct. 2023). Pennsylvania's constitution states that "[t]he General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth." PA. CONST. art. III, § 14.

102. *William Penn Sch. Dist.*, 294 A.3d at 937. The Commonwealth Court of Pennsylvania held that the constitutional mandate for a "thorough and efficient" system of education ensures each student is offered a "meaningful opportunity to succeed" in various facets of life, which necessarily obligates the state to provide "a comprehensive, effective, and contemporary system of public education." *Id.*

103. See *Pauley v. Kelly*, 255 S.E.2d 859, 877–78 (1979); Daisy Gibbons, *West Virginia Faces Educational Challenges, According to 2024 Kids Data Count Book*, WVNEWS (Jul. 6, 2024), https://www.wvnews.com/news/wvnews/west-virginia-faces-educational-challenges-according-to-2024-kids-data-count-book/article_d1340100-34b0-11ef-a9bb-03031f94744f.html [<https://perma.cc/WRW5-ATC7>]; *The History of Abbott v. Burke*, *supra* note 86; Bruce Baker & Mark Weber, *Reforming School Funding in New Jersey: Equity for Taxpayers, Excellence for Students*, N.J. POL'Y PERSP. (Sep. 24, 2024), <https://www.njpp.org/publications/report/reforming-school-funding-in-new-jersey-equity-for-taxpayers-excellence-for-students/> [<https://perma.cc/96T4-ZUH8>].

education will be established.¹⁰⁴ The Supreme Court of Appeals of West Virginia, for example, struck down the state’s budget as unconstitutional because it did not provide sufficient funds for a “basic foundation program” of education in accordance with the state constitution’s “thorough and efficient” mandate.¹⁰⁵ Despite the court’s liberal interpretation of the “thorough and efficient” clause, West Virginia continues to face underfunding issues and is ranked as one of the worst education systems in the country.¹⁰⁶ West Virginia’s circumstances indicate that even when courts interpret a constitutional education clause to require adequate education, the legislature may face limitations on its ability to implement constitutional mandates when the overall state budget and concurrent social issues, like poverty and drug addiction, prevent it from doing so.¹⁰⁷ Similarly, the Supreme Court of New Jersey has reaffirmed its interpretation that a “thorough and efficient” education system requires a quality education for each student, regardless of socioeconomic status, but the state remains entangled in litigation to enforce this clause despite a large budget.¹⁰⁸

In sum, states with “thorough and efficient” education mandates in their constitutions interpret this language as requiring a quality education system, regardless of the socioeconomic

104. See Alexandra Greif, *Politics, Practicalities, and Priorities: New Jersey’s Experience Implementing the Abbott V Mandate*, 22 YALE L. & POL’Y REV. 615, 616 (2004) (describing the evasion measures undertaken by New Jersey politicians and bureaucrats to contravene the *Abbott* court’s orders requiring additional funding and increased education quality, resulting in virtually no progress towards constitutional compliance).

105. *W. Va. Educ. Ass’n v. Legislature of W. Va.*, 369 S.E.2d 454, 455 (1988). Nine years prior, the same court held that a “thorough and efficient” system of education requires development of students to prepare for “useful and happy occupations, recreation and citizenship.” *Pauley*, 255 S.E.2d at 877. The court’s subsequent decision finding the state’s education funding system unconstitutional reaffirmed these principles. See *W. Va. Educ. Ass’n*, 369 S.E.2d at 454.

106. See Gibbons, *supra* note 103; Lauren Trumble, *In the Eye of the Storm: West Virginia’s Uniquely Clear Opportunity to Revise Its Education Funding Formula During COVID-19*, 124 W. VA. L. REV. 523, 525–26 (2022) (noting that West Virginia’s education system is “a lightning rod for condemnation” based in part on the fact that it does not offer increased funds for impoverished children in a state with high rates of “adverse childhood experiences”).

107. See Gibbons, *supra* note 103.

108. *The History of Abbott v. Burke*, *supra* note 86. Unlike West Virginia, New Jersey ranks fifth in highest overall state budgets and state spending per capita. Patsy Newitt, *10 Highest-Spending States*, BECKER’S ASC REV. (Apr. 15, 2024), <https://www.beckersasc.com/asc-transactions-and-valuation-issues/10-highest-spending-states.html> [https://perma.cc/CHJ6-8MXN].

status of students in different districts.¹⁰⁹ However, other states with the same or similar qualitative constitutional mandates for education came to varying conclusions about the extent of the legislature's responsibility to meet the mandate.¹¹⁰ The meaning of a "thorough and efficient" system of education, therefore, depends in part on where a student happens to live.¹¹¹

II. CHALLENGES TO PUBLIC EDUCATION QUALITY IN MARYLAND

Maryland is one state where the meaning of a "thorough and efficient" education is ambiguous.¹¹² Ranked third in 2024 for states with the best school systems,¹¹³ some of Maryland's counties boast strong outcomes of high rates of proficiency on state test scores, high rates of post-secondary enrollment, and high average SAT scores.¹¹⁴ Other counties, especially Baltimore

109. See *William Penn Sch. Dist. v. Pa. Dep't. of Educ.*, 294 A.3d 537, 545 (Pa. Commw. Ct. 2023); *Abbott v. Burke*, 575 A.2d 359, 376–77 (N.J. 1990); *Pauley*, 255 S.E.2d at 877–78.

110. See *Lobato v. State*, 304 P.3d 1132, 1138 (Colo. 2013).

111. *Id.*; *Abbott v. Burke*, 575 A.2d 359, 402 (N.J. 1990).

112. See *Hornbeck v. Somerset Cnty. Bd. of Educ.*, 458 A.2d 758, 776, 780 (Md. 1983) (finding the education funding system constitutional because the state constitution merely requires a "basic or adequate" education that need not be marked by funding parity, so long as "efforts are made" to address disadvantages of poor districts); *Bradford Consent Decree*, *supra* note 16, at 2 (noting that Baltimore City students were not receiving an "adequate" education that would satisfy the "thorough and efficient" constitutional mandate, despite the State's efforts at addressing disadvantages); *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 81 (Md. 2024) (declining to address whether Baltimore City students were receiving an adequate education and dismissing the case on other grounds); see also Susan P. Leviton & Matthew H. Joseph, *An Adequate Education for All Maryland's Children: Morally Right, Economically Necessary, and Constitutionally Required*, 52 MD. L. REV. 1137, 1167, 1178–79 (1993) (analyzing historical context of state constitutional language and other state courts' interpretations of "thorough" and "efficient" to argue that Maryland's constitution requires an education system marked by "considerable equality of educational opportunity" that allows students "to compete for jobs").

113. Adam McCann, *States with the Best & Worst School Systems* (2025), WALLETHUB (Jul. 22, 2024), <https://wallethub.com/edu/e/states-with-the-best-schools/5335> [https://perma.cc/3GHL-9ZE3].

114. See CLASS OF 2023 SAT & ACT PARTICIPATION, PERFORMANCE, AND FIVE-YEAR TRENDS, HOWARD COUNTY PUBLIC SCHOOL SYSTEM 6–7, 10 (2023) [hereinafter HCPSS 2023 DATA], [https://go.boarddocs.com/mabe/hcpssmd/Board.nsf/files/CXEJQV4E5639/\\$file/11%2016%202023%20Class%20of%202023%20SAT%20%20ACT%20Participation%20Performance%20and%20Five-Year%20Trends%20BR.pdf](https://go.boarddocs.com/mabe/hcpssmd/Board.nsf/files/CXEJQV4E5639/$file/11%2016%202023%20Class%20of%202023%20SAT%20%20ACT%20Participation%20Performance%20and%20Five-Year%20Trends%20BR.pdf) [https://perma.cc/7ZGR-5WQU]; FAST FACTS: HOWARD COUNTY PUBLIC SCHOOL SYSTEM, HCPSS (2024), <https://www.hcpss.org/f/aboutus/profile.pdf> [https://perma.cc/8TLX-HZXR].

City, struggle in those same measures of student success.¹¹⁵ These varying results in educational outputs are a product of markedly different education systems among Maryland’s poorest and wealthiest districts.¹¹⁶ The constitutionality of education quality in Maryland’s poorest districts was the subject of multiple legal challenges that commenced in the 1970s and concluded in 2024.¹¹⁷

A. Historical and Present Circumstances

Baltimore is a unique city with considerable history.¹¹⁸ A port city with its historical economic roots tied to shipping flour to Ireland in the 1750s, Baltimore today remains a blue-collar city that attracts people with the glistening Inner Harbor, gritty sports teams, and the promise of the best crabs you can find in the United States.¹¹⁹ Baltimore’s history, however, informs the struggles it faces today, especially in the school system.¹²⁰

115. See *Data*, BALT. CITY PUB. SCHS., <https://www.baltimore-cityschools.org/o/bcps/page/data> [<https://perma.cc/5XMR-DPPU>] (last visited Nov. 13, 2025); Chris Papst, *Despite Funding Surge, Baltimore City Student Test Scores Still Among Nation’s Lowest*, FOX 45 NEWS (Feb. 5, 2025, at 22:54 ET), <https://foxbaltimore.com/news/project-baltimore/despite-funding-surge-baltimore-city-student-test-scores-still-among-nations-lowest-sonja-santelises-naep-math-reading-shannon-wright-brandon-scott> [<https://perma.cc/CJC7-SD4V>] (explaining that despite improvements shown in the data, “Baltimore City recorded the fourth lowest score in the nation among the 26 districts tested, which is consistent with where the school system has historically ranked”).

116. See PETER L. BEILENSON & PATRICK A. MCGUIRE, *TAPPING INTO THE WIRE: THE REAL URBAN CRISIS* 98 (2012).

117. See *Hornbeck*, 458 A.2d at 761; Complaint at 1–2, *Bradford v. Md. State Bd. of Educ.*, No. 94340058/CE 189672 (Cir. Ct. Balt. Dec. 6, 1994), https://www.aclu-md.org/sites/default/files/field_documents/1994_bradford_complaint.pdf [<https://perma.cc/V6LB-7YA6>]; *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 81 (Md. App. Ct. 2024).

118. See Emily Badger, *The Long, Painful and Repetitive History of How Baltimore Became Baltimore*, THE WASH. POST (Apr. 29, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/04/29/the-long-painful-and-repetitive-history-of-how-baltimore-became-baltimore/> [<https://perma.cc/K4M9-PX2X>].

119. See BALT. CITY PLAN. COMM’N, *The History of Baltimore*, in CITY OF BALT. COMPREHENSIVE MASTER PLAN 25, 26, 43, 45, 47 (July 9, 2009), https://www.baltimorecity.gov/sites/default/files/5_History.pdf [<https://perma.cc/TZ4T-9UF7>].

120. See PETER L. SZANTON, *BALTIMORE 2000: A CHOICE OF FUTURES*, REPORT TO THE MORRIS GOLDSEKER FOUNDATION 9–10 (2000) [hereinafter *BALTIMORE 2000*]. <https://msa.maryland.gov/megafile/msa/speccol/sc2200/sc2221/000012/000017/pdf/d11134.pdf> [<https://perma.cc/WS6J-JMHY>].

The demographics of Baltimore changed significantly over the past century.¹²¹ In 1960, Baltimore City Public Schools were comprised predominantly of white students.¹²² The public education system was considered effective and “good.”¹²³ The public school system in Baltimore City reflected the demographics of the city itself, which was segregated along sharply delineated borders.¹²⁴ Segregation in the city’s schools endured well past the Supreme Court’s decision in *Brown v. Board of Education*, which held that segregation in schools was an unconstitutional violation of the equal protection clause of the Fourteenth Amendment.¹²⁵ Following *Brown*, Baltimore schools were not overtly segregated by law, but the result of students attending schools in proximity to their still-segregated neighborhoods produced a nearly identical effect.¹²⁶ In addition to de facto segregation of schools,¹²⁷ white flight broke out in the 1960s as many white residents retreated to the suburban neighborhoods surrounding Baltimore.¹²⁸ Many affluent parents who chose not to flee the city nevertheless withdrew their children from the city’s public schools and enrolled them in private institutions.¹²⁹ The declining population of the city’s residents produced a rapidly dwindling pool of funds for education in Baltimore.¹³⁰ In

121. See *id.* at 1–2; BEILENSON & MCGUIRE, *supra* note 116, at 28 (noting that Baltimore boasted one of the highest populations in the country in 1950, but the once-flourishing industrial foundation dwindled in subsequent years and the population shrunk in turn).

122. See BALTIMORE 2000, *supra* note 120, at 9–10.

123. See *id.* at 10.

124. See *id.* at 9–10. Baltimore’s segregation did not stop with race. Unlike many of its large city counterparts, Baltimore was additionally segregated sharply among religious lines. Catholics, Protestants, and Jewish people kept to their own isolated communities and neighborhoods, rarely mixing. *Id.* at 8.

125. See *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954); Edward Berkowitz, *Baltimore’s Public Schools in a Time of Transition*, 92 MD. HIST. MAG. 413, 415 (1997).

126. Berkowitz, *supra* note 125, at 415–16.

127. Segregation, BLACK’S LAW DICTIONARY (12th ed. 2024) (defining de facto segregation as “[s]egregation that occurs without state authority, usu[ally] on the basis of socioeconomic factors”).

128. Berkowitz, *supra* note 125, at 415–16, 423; see also Yvette N. Pappoe, *Remedying the Effects of Government-Sanctioned Segregation in a Post-Freddie Gray Baltimore*, 16 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 115, 122 (2016) (describing how the Federal Housing Administration encouraged white flight in Baltimore).

129. BALTIMORE 2000, *supra* note 120, at 9–10.

130. See *id.*

2000, Baltimore City Public Schools ranked nineteenth out of Maryland’s twenty-four public school systems for per-pupil expenditures.¹³¹ Litigation challenging the quality of education ultimately led to significantly higher per-pupil expenditures for Baltimore, but the effects of chronic underfunding are still present today.¹³²

Baltimore City Public Schools produce significantly worse outcomes than most other counties in the state, and children endure abhorrent school conditions.¹³³ The average SAT score for Baltimore City Public Schools in 2024 was 867, which was significantly lower than the state average of 1000 and even lower than surrounding affluent counties like Howard County and Montgomery County, which boasted average scores of 1225 and 1063, respectively.¹³⁴ State assessments revealed that only 6% of middle and 9% of high school students in Baltimore City Public Schools were proficient in math, compared to 39% of middle school students and 57% of high school students in nearby Howard County.¹³⁵ Additionally, the Kindergarten Readiness Assessment revealed that just 33% of students in Baltimore City Public Schools demonstrated readiness for kindergarten, the third lowest percentage in the state.¹³⁶ Baltimore City schools

131. *Id.* at 10.

132. *Id.* at 42; Alaizah Koorji, *A Right Without a Remedy?: Maryland Must Finally Ensure Baltimore City Schoolchildren Have the Funding Necessary to Obtain an Adequate Education*, LEGAL DEF. FUND (Nov. 8, 2023), <https://www.naacpldf.org/a-right-without-a-remedy-baltimore-public-schools/> [https://perma.cc/7EZS-A4BV].

133. See Koorji, *supra* note 132.

134. Chris Papst, *Despite 48% Surge in Maryland Public Education Funding, SAT Scores Drop*, FOX45 NEWS (Mar. 31, 2025, at 22:36 ET), <https://foxbaltimore.com/news/project-baltimore/despite-48-surge-in-maryland-public-education-funding-sat-scores-drop-corey-deangelis-baltimore-city-howard-county-anne-arundel-county-baltimore-county> [https://perma.cc/QH4C-3CY8].

135. *School Profile District*, BALT. CITY PUB. SCHS. OFF. OF ACHIEVEMENT & ACCOUNTABILITY (Mar. 18, 2025), <https://public.tableau.com/app/profile/baltimore.city.public.schools.office.of.achievement.and.accounta/viz/SchoolProfileDistrict/Dashboard> [https://perma.cc/5XMR-DPPU]; FAST FACTS: HOWARD COUNTY PUBLIC SCHOOL SYSTEM, *supra* note 114.

136. MD. STATE BD. OF EDUC., KINDERGARTEN READINESS ASSESSMENT 2023 RESULTS, MCAP PRELIMINARY 2022 DATA, NAEP 2022, AND MARYLAND SCHOOL SURVEY RESULTS 8 (2022), <https://marylandpublicschools.org/stateboard/Documents/2022/1206/KRA2023ResultsMCAPPreiminary2022DataNAEP2022ResultsMDSchoolSurveyResults.pdf> [https://perma.cc/6J5L-6J8N]. Prince George’s County, which borders

are also plagued with significant physical deficiencies.¹³⁷ Students endure lead in their drinking water, rodent-infested buildings, burst pipes, leaking ceilings, and bathrooms without running water or doors.¹³⁸

Baltimore is poorer than the counties surrounding it, and the lack of relative wealth, coupled with reliance on local property taxes as a base for education funding, leads to chronic underfunding of Baltimore City Public Schools.¹³⁹ By contrast, nearby wealthy counties enjoy some of the highest median incomes in the state¹⁴⁰ and the highest property values.¹⁴¹ The relative wealth of each county in Maryland determines the extent of local property tax contributions to the districts' school funding.¹⁴² For example, in Fiscal Year 2023, Baltimore City ranked twenty-first out of Maryland's twenty-four counties for per-pupil funding from local property taxes.¹⁴³ Montgomery County and Howard County were ranked second and third for per-pupil funding based on local property taxes, respectively.¹⁴⁴

Demographically, 70% of students in the Baltimore City Public School System in 2024–25 school year were Black.¹⁴⁵ By

Washington, DC, and Dorchester County, which is situated on the eastern shore of the Chesapeake Bay, were the only two counties with lower percentages, with scores of 31% and 32%, respectively. *Id.*

137. Lofton, *supra* note 3; Koorji, *supra* note 132.

138. Lofton, *supra* note 3.

139. *Maryland at a Glance: Income*, MD. MANUAL ON-LINE (2022), <https://msa.maryland.gov/msa/mdmanual/01glance/economy/html/income.html> [https://perma.cc/KBL7-XSLY] (last visited Oct. 30, 2025).

140. *Highest-Earning Counties in Maryland*, STACKER (July 24, 2025), <https://stacker.com/maryland/highest-earning-counties-maryland> [https://perma.cc/3Z7T-6D29]. In 2023, Howard County had the highest median income in Maryland at \$146,982, and Montgomery County had the third highest at \$128,733. *Id.*; see MD. STATE DEP'T OF EDUC., REVENUE SOURCES FOR PUBLIC SCHOOLS IN FISCAL 2022, at 4 (2022).

141. Megan VerHelst, *MD Home Values Keep Climbing: See County-By-County List*, PATCH (July 13, 2024, at 17:29 ET), <https://patch.com/maryland/across-md/md-home-values-keep-climbing-see-county-county-list> [https://perma.cc/44BW-FZBP]. Montgomery County is ranked first for highest average home value, and Howard County is ranked second. *Id.*

142. See generally GEN. ASSEMBLY OF MD. DEP'T OF LEGIS. SERVS., REVENUE SOURCES FOR PUBLIC SCHOOLS IN FISCAL 2023 (2023), [hereinafter 2023 REVENUE SERVICES] <https://dls.maryland.gov/pubs/prod/NoPblTabPDF/2024PubSchoolFundingFY23PerPupil.pdf> [perma.cc/H5YT-QZUM] (listing share of state versus local funding by school district).

143. *Id.* at 1.

144. *Id.*

145. *School Profile District*, *supra* note 135.

contrast, nearby affluent Howard County and Montgomery County had less homogeneity in their demographic makeup.¹⁴⁶ Students are not oblivious to the implications created by the link between their schools’ demographics and their abysmal conditions.¹⁴⁷ Students in Baltimore City believed “society wants them in schools that look like prisons to show them they are animals and belong in segregated and entrapped places,” and noticed that “friends and family members . . . in newer, affluent and whiter areas” were not forced to suffer through the same conditions.¹⁴⁸ The conditions of public education in Baltimore City are woefully inadequate, especially compared to wealthier neighboring districts.¹⁴⁹

B. Hornbeck: *The First Unsuccessful Challenge*

A labyrinth of litigation concerning the constitutionality of Baltimore City Public Schools commenced in the late 1970s and continued until 2024.¹⁵⁰ In 1979, Boards of Education from Maryland’s poorest counties, including Baltimore City, brought a declaratory judgment lawsuit in *Hornbeck v. Somerset County Board of Education* alleging that the State’s financing of public education violated the mandate for a “thorough and efficient” system of public education in Article VIII of the Maryland Constitution.¹⁵¹ After months of combing through a robust record

146. In the 2024 fiscal year, Howard County schools were comprised of 30.3% White students, 24.8% Black/African American students, 23.7% Asian students, and 13.9% Hispanic/Latino students. *Fast Facts: Howard County Public School System*, *supra* note 114. Montgomery County looked similar in 2024: 35.3% Hispanic/Latino students, 23.9% White students, 21.6% Black/African American students, and 13.7% Asian students. *MCPS At a Glance 2024-2025*, MONTGOMERY CNTY. PUB. SCHS., [https://www.montgomeryschoolsmd.org/about/\[https://perma.cc/Q3JM-5ZEM\]](https://www.montgomeryschoolsmd.org/about/[https://perma.cc/Q3JM-5ZEM]) (last visited Nov. 13, 2025).

147. See Lofton, *supra* note 3.

148. *Id.*

149. See generally BEILENSON & MCGUIRE, *supra* note 116, at 98 (discussing the author’s visits to schools in Baltimore City and Howard County and the observed differences); *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 83 (Md. App. Ct. 2024) (Leahy, J., dissenting) (noting the extensive record detailing deficient conditions in Baltimore City schools).

150. See *Hornbeck v. Somerset Cnty. Bd. of Educ.*, 458 A.2d 758, 761–62 (Md. 1983); *Bradford*, 326 A.3d at 67–68.

151. *Hornbeck*, 458 A.2d at 764. Maryland school districts are divided by counties. See *Local School Systems*, MD. STATE DEP’T OF EDUC., <https://marylandpublicschools.org/about/Pages/School-Systems/index.aspx> [https://perma.cc/Z37E-RXNU]

spanning thousands of pages, the circuit court held that the State's financing of public schools violated both Maryland's constitutional mandate for a "thorough and efficient" system of public schools and the state's guarantee of equal protection.¹⁵²

At the time, Maryland public schools were predominantly funded with a combination of state and local revenues raised from taxation.¹⁵³ The 1978 Education Article of the Maryland Code governed the State's contributions, requiring "basic current expenses" to flow from the General State School Fund.¹⁵⁴ The State provided an annual foundation of \$690 to each district, multiplied by the number of enrolled students in each district.¹⁵⁵ Eligibility was predicated on each district levying a tax to produce public education revenue "equal to the product of the wealth of the county and a uniform percentage determined for each fiscal year."¹⁵⁶ In other words, the State and districts funded education costs jointly based on the relative wealth of each district, up to the foundation figure.¹⁵⁷

Wealthier, property-rich districts could raise a higher share of revenue from local taxation than poorer districts, and thus received less funding from the State.¹⁵⁸ Conversely, poorer districts received more funding from the State to allow each district to reach the foundation level, but the State did not provide

(last visited Nov. 13, 2025). The *Hornbeck* plaintiffs also claimed that the State's public education funding violated the Equal Protection Clause of the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights, which provides for equal protection at the state level. *Hornbeck*, 458 A.2d at 764.

152. *Hornbeck*, 458 A.2d at 767, 769. The circuit court found no violation of the Fourteenth Amendment's equal protection guarantee, relying on the *Rodriguez* Court's distinction of a federal right to education. *Id.* at 767.

153. *Id.* at 762. Federal revenues constituted a negligible portion of the overall budget, with 92% of funds coming from state and local revenues. *Id.* at 762 n.1.

154. *Id.* at 762. "Basic current expenses" were defined by the statute as "the expenditures made by a county from State and county revenue for public elementary education." *Id.*

155. *Id.*

156. *Id.* (emphasis omitted). "Wealth of the county" was a summation of the value of real property in the district, net income, and "public utility operating property." *Id.*

157. *Id.* at 763; LAURA CHECOVICH, FINANCING PUBLIC EDUCATION IN MARYLAND: A BRIEF HISTORY 1 (2016), https://education.umd.edu/sites/default/files/uploads/Checovich_Financing_Maryland_9.15.16%2020_0_0.pdf [perma.cc/LN3F-LDJF].

158. *Hornbeck*, 458 A.2d at 762–63; CHECOVICH, *supra* note 157, at 1.

additional funds beyond the prescribed foundation.¹⁵⁹ Additionally, the State provided categorical aid to all school districts without consideration of wealth.¹⁶⁰ The *Hornbeck* plaintiffs challenged this funding scheme, dubbed the "Lee-Maurer formula" after its creators, arguing that despite its efforts at adjustment for varying district wealth, the State's funding was nevertheless insufficient in poorer districts that struggled to raise enough local revenue to fill the gap to adequacy.¹⁶¹ They claimed that the ceiling up to which the State was willing to contribute was too low, in light of the State's obligation to establish a "thorough and efficient" system of education.¹⁶² The resulting disparities in educational quality amongst the districts, the plaintiffs argued, constituted violations of Article VIII.¹⁶³

Article VIII, Section 1 of the Maryland Constitution provides: "The General Assembly . . . shall by Law establish throughout the State a thorough and efficient System of Free Public Schools; and shall provide by taxation, or otherwise, for their maintenance."¹⁶⁴ Whether the State's funding scheme resulted in a public school system that satisfied the "thorough and efficient" requirement turned on the court's interpretation of the meaning of that phrase.¹⁶⁵ Importantly, the circuit court held that this constitutional language "required a system which by contemporary standards was 'full, complete and effective in every part of the State and not just in those subdivisions which for whatever reason happen to have the revenue wealth to provide such.'"¹⁶⁶ The "thorough and efficient" language, the circuit court stated, "denote[s] 'a level of quality'," and demands

159. See *Hornbeck*, 458 A.2d at 761–62; CHECOVICH, *supra* note 157, at 1.

160. *Hornbeck*, 458 A.2d at 763. Categorical aid was provided "for various educational purposes, including payments for teachers' retirement and social security, educating handicapped children, vocational education and rehabilitation, student transportation costs, school construction costs, and other programs." *Id.*

161. *Id.* at 761–62.

162. See *id.* at 764.

163. *Id.*

164. MD. CONST. art. VIII, § 1.

165. See *Hornbeck*, 458 A.2d at 768.

166. *Id.*

more than “a minimum basic education.”¹⁶⁷ This holding marked the first time Maryland’s “thorough and efficient” constitutional language was read to require a quality education.¹⁶⁸

The trial court found that extreme disparities in wealth among the districts were exacerbated by the State’s funding scheme.¹⁶⁹ It concluded that Maryland’s constitution compels a public education system that is “full and complete by contemporary standards throughout the State,” and the then-current funding system contributed to disparities in quality of education based on varying wealth of the districts, creating less than “thorough and efficient” public education in poorer districts.¹⁷⁰ Relying in part on the equal protection guarantee in Maryland’s Declaration of Rights, the trial court held that funding parity, or equal distribution of State funds to the districts, was required to remedy the constitutional defect exacerbated by the current system.¹⁷¹

The Supreme Court of Maryland disagreed.¹⁷² Turning first to the meaning of “thorough and efficient,” the court reviewed the constitutional history to determine whether that language and its historical interpretation aligned with the trial judge’s conclusion that funding parity was required by Article VIII and

167. *Id.*

168. *See id.*

169. *Id.* at 766. Noting that categorical aid fails to account for varying levels of wealth among the districts, the trial court found that the indiscriminate disbursement of categorical aid had a “disequalizing effect” on the overall funding scheme. *Id.* A poor district only received twice the amount of state aid as its wealthy neighbor, but the Lee-Maurer formula indicated the State spending ratio to each district should come out to “more than 6 to 1.” *Id.*

170. *See Hornbeck*, 458 A.2d at 769.

171. *Id.* at 768–69. “Each pupil is entitled to a fair share of the funds available for education. This can be accomplished only by dividing the money equally on an accurate per pupil basis across the State.” *Id.* at 769.

172. *See id.* at 770. The Supreme Court of Maryland granted certiorari before the appellate court issued a decision, “to pass upon the issues of public importance raised in the case.” *Id.* At the time of the decision, the highest court in Maryland was named the Court of Appeals, and the appellate court was named the Court of Special Appeals. Voters approved a constitutional amendment in 2022 to change the name of the highest court to the Supreme Court of Maryland, and the appellate court to the Court of Appeals. MD. CONST. art. IV, § 1; Bruce Depuyt, *Oyez, Oyez, Oyez: Maryland’s Highest Court Now Reigns ‘Supreme’*, MD. MATTERS (Dec. 15, 2022, at 18:55 ET), <https://marylandmatters.org/2022/12/15/oyez-oyez-oyez-marylands-highest-court-now-reins-supreme/> [https://perma.cc/5TH5-3BU9]. This Note will refer to Maryland’s highest court using its current name, the Supreme Court of Maryland.

Maryland’s equal protection guarantees.¹⁷³ When it first created a right to public education in 1864, Maryland’s Constitution guaranteed a “uniform system of free public schools,” funded principally at the State level through taxation distributed to the districts based on their population of school-aged children.¹⁷⁴ This system, however, enjoyed only a brief existence.¹⁷⁵ The Maryland Constitution of 1867 rescinded language requiring “uniform” schools and removed requirements of statewide property taxes, distribution based on population, and other indicia of control at the State level.¹⁷⁶ The requirements for the system transitioned from “uniform” to “thorough and efficient,” and funding was merely to be effectuated “by taxation, or otherwise.”¹⁷⁷

The court found historical evidence persuasive of the underlying motivation to roll back specific mandates of State control, emphasizing some delegates’ positions opposing the lack of local control and a unanimous conviction “that the constitution should not be encumbered with the details” of the school system.¹⁷⁸ Relying primarily on historical evidence and quotes from delegates, the court concluded that the change from “uniform” to “thorough and efficient” denoted a less demanding obligation on the State to provide for quality education.¹⁷⁹ This new system, unencumbered with the previous requirements of Statewide control, created gaps in funding by introducing a reliance on property taxes for public school financing.¹⁸⁰ The court

173. See *Hornbeck*, 458 A.2d at 771–76.

174. *Id.* at 771. The Constitution specifically directed the General Assembly: to levy an annual tax of not less than ten cents on each one hundred dollars of taxable property throughout the State, for the support of the free public schools, the funds to be distributed among the counties and Baltimore City in proportion to their respective population between the ages of five to twenty years.

Id.

175. *Id.* at 772.

176. *Id.*

177. *Id.*

178. See *Hornbeck*, 458 A.2d at 772, 776. The Court fixated on the delegates’ desire to leave specifics and details of the public education system to the legislature. *Id.* at 772–73.

179. See *id.* at 776.

180. See *id.* at 772. The legislature passed an Act with language familiar to the previous Constitution, requiring “imposition of a ten-cent statewide property tax to support the free public

analyzed interpretations of subsequent legislative commissions, which, when faced with the cavernous disparities in funding among the districts, never concluded that the Constitution required funding parity among the districts.¹⁸¹ Instead, it concluded that “thorough and efficient” does not require funding parity.¹⁸² The court ultimately held that “at most,” Maryland’s Constitution requires the establishment of an “effective” public school system by the legislature that provides children with a rudimentary education.¹⁸³ The Supreme Court of Maryland thus reversed the circuit court’s finding that disparities in educational funding and quality violated Maryland’s constitutional guarantee of a thorough and efficient education system.¹⁸⁴

C. Bradford: *Two Steps Forward, One Step Back*

Following the high court’s adjudication of *Hornbeck*, Maryland public school financing litigation lay dormant until

school system throughout the State, to be distributed to the City and to the counties on a school-age population basis.” *Id.* at 774. However, the Act also provided “that if in apportioning the School Fund among the counties and Baltimore City, the share of any county was inadequate, the county could impose a local property tax sufficient to satisfy the deficiency.” *Id.*; see also *State Department of Education*, MD. MANUAL ON-LINE (Mar. 11, 2022), <https://msa.maryland.gov/msa/mdmanual/13sdoe/html/sdoef.html#:~:text=In%201868%2C%20the%20legisla-ture%20returned,of%20School%20House%20District%20Trustees> [https://perma.cc/R27T-YCPM] (noting that control over public education was delivered back to localities in 1868).

181. *Hornbeck*, 458 A.2d at 775. Local control was a resounding theme. *Id.* (emphasizing officials’ recognition of importance of “shared responsibility between State and local governments” and “local control and initiative”).

182. *Id.* at 776.

183. *Id.* The Court also emphasized, however, that “[t]o conclude that a ‘thorough and efficient system’ under § 1 means a full, complete and effective educational system throughout the State . . . is not to require a statewide system which provides more than a basic or adequate education to the State’s children.” *Id.* (emphasis added).

184. *Id.* at 790. The Court went on to find that the school funding system did not violate equal protection at the state or federal level either. *Id.* at 782, 789–90 (agreeing with the trial court’s determination that federal equal protection was not violated and reversing trial court’s determination that equal protection was violated at the state level by applying less rigorous rational basis test). The ultimate decision prevailed over a critical dissent, which objected to the Court’s reliance on malleable legislative history and its originalist view of Maryland’s Constitution. *Id.* at 791–92 (Cole, J., dissenting) (“Newspaper articles and legislative debates are hardly the most reliable sources for extrapolating legislative intent . . . [t]he drafters [of constitutional and statutory provisions] seldom anticipate the changes that occur hundreds of years later in our society.”).

December 1994, when parents of students in Baltimore City¹⁸⁵ filed a class action lawsuit against the State.¹⁸⁶ The Complaint alleged that the State’s failure to adequately fund Baltimore City schools resulted in a public school system that failed to meet “contemporary standards” and violated the “thorough and efficient” guarantee of Article VIII.¹⁸⁷ It sought injunctive and declaratory relief, namely a declaration that the State’s funding of the current public education system in Baltimore violated the plaintiffs’ constitutional guarantee to an adequate education, an order that the parties work together to “develop a plan to improve the public schools in Baltimore City,” and the court’s retention of jurisdiction to “ensure full compliance” of an injunction.¹⁸⁸ The Complaint outlined substantial deficiencies in student outcomes and a poverty of resources and school programs to support its contention that Baltimore City students were not receiving a constitutionally adequate education by contemporary standards.¹⁸⁹

Advocates for Baltimore City students enjoyed their first victory nearly two years after initially filing suit.¹⁹⁰ On October 18, 1996, the circuit court granted partial summary judgment in favor of plaintiffs, finding that (1) Article VIII of the Maryland Constitution requires “an education that is adequate when measured by contemporary standards,” (2) no genuine dispute of material fact existed regarding the constitutionally inadequate education received by Baltimore City students, and (3) a genuine dispute of material fact existed as to the cause, and thus

185. Baltimore City and Baltimore County are two different school districts in Maryland. See *Maryland at a Glance, Education*, MD. MANUAL ON-LINE <https://msa.maryland.gov/msa/mdmanual/01glance/html/edschools.html> [<https://perma.cc/W92H-49BL>] (last visited Nov. 13, 2025). This Note will refer to Baltimore City schools when discussing Baltimore’s school district to avoid confusion.

186. Complaint at ¶¶ 1, 22, *Bradford v. Md. State Bd. of Educ.*, No. 94340058/CE 189672 (Cir. Ct. Balt. Dec. 6, 1994) [hereinafter *Bradford Complaint*], https://www.aclu-md.org/sites/default/files/field_documents/1994_bradford_complaint.pdf [<https://perma.cc/65SY-YH7Y>].

187. *Id.* at ¶¶ 4, 41. The case was named for the lead plaintiffs, Keith and Stephanie Bradford. *Id.* at ¶ 10.

188. *Id.* at 6–7.

189. *Id.* at ¶¶ 42–45, 108–111.

190. See *Bradford Consent Decree*, *supra* note 16, at 2.

liability, of the constitutionally inadequate education.¹⁹¹ In light of that decision, the parties elected to settle the dispute, and the circuit court entered a Consent Decree on November 26, 1996.¹⁹² The Consent Decree mandated a complete restructuring of the Baltimore City schools, created a new commission to oversee and manage funds, directed additional financial resources each fiscal year to support Baltimore City schools, required regular reporting from oversight commissions, and allowed the circuit court to retain jurisdiction over the Decree to “monitor and to enforce compliance.”¹⁹³ Importantly, the Decree provided that its term would run through June 2002, “unless the Court extends the term upon timely motion of one of the parties and upon a showing of good cause.”¹⁹⁴ The *Bradford* plaintiffs could negotiate for additional funding with the State based on recommendations by the newly minted State Commission and Baltimore City Board of Commissioners.¹⁹⁵ The Decree represented a major win for the *Bradford* plaintiffs, as the City, State, and Baltimore City schools began working toward the ultimate objective of bringing public schools in Baltimore into constitutional compliance.¹⁹⁶

In the years following issuance of the Consent Decree, the parties engaged in a kind of tug-of-war under the watchful eye of the circuit court.¹⁹⁷ The General Assembly enacted legislation in 1999 creating the Commission on Education Finance, Equity, and Excellence, which was tasked in part with “ensuring that local property tax policies do not affect the equitable allocation

191. Order, *Bradford v. Md. State Bd. of Educ.*, No. 9340058/CE189672 (Cir. Ct. Balt. Oct. 18, 1996), https://www.aclu-md.org/sites/default/files/field_documents/1996_bradford_order.pdf [<https://perma.cc/K9T8-H4LP>].

192. See *Bradford Consent Decree*, *supra* note 16, at 2–3.

193. *Id.* at 3–4, 12–16, 22–23. Under the Decree, the State was required to provide an additional \$30,000,000 to Baltimore City schools in 1998, and an additional \$50,000,000 for the following four years until the end of the Consent Decree’s term in 2002. *Id.* at 15.

194. *Id.* at 22–23.

195. *Id.* at 16–17.

196. See *Bradford v. Maryland State Board of Education – Timeline*, ACLU MD., https://www.aclu-md.org/sites/default/files/bradford_v_maryland_state_board_of_education_-_case_timeline.pdf [<https://perma.cc/A5RF-QSMM>] (last visited Nov. 13, 2025).

197. See *id.*

of funding for students in public schools statewide.”¹⁹⁸ This Commission, known as the “Thornton Commission” after Chairman Alvin Thornton, reviewed State education financing and made recommendations and reports based on its findings.¹⁹⁹ The Commission issued a report in 2000 recommending additional funding from the State to bring Baltimore City schools up to constitutional compliance, and the *Bradford* plaintiffs filed a petition requesting additional relief, pursuant to the terms of the Consent Decree.²⁰⁰ The circuit court filed a swift opinion less than a month later, finding that the State was still failing to provide Baltimore children with a “constitutionally adequate education when measured by contemporary standards,” and also failing to exert “best efforts” to meet that end.²⁰¹ The court held that the State was required to provide further funding of \$2,000 to \$2,600 per student in Baltimore City in 2001 and 2002.²⁰² The legislature responded by enacting the Bridge to Excellence in Public Schools Act in 2002, which guaranteed an increased State budget of \$1.3 billion and dedicated \$260 million to Baltimore City.²⁰³

For the next few years, the parties continued to litigate as the court adjudicated multiple proposed budget cuts from the State.²⁰⁴ The court granted a 2004 motion filed by the plaintiffs

198. 1999 Md. Laws c. 601, 3413.

199. See CHECOVICH, *supra* note 157, at 3.

200. The New Board of School Commissioners and the Bradford plaintiffs’ Joint Memorandum in Support of the New Board’s Petition for Further Relief Pursuant to the Consent Decree at 45, *Bradford v. Md. State Bd. of Educ.*, No. 94340058/CE189672 (Cir. Ct. Balt. June 9, 2000) (“[The Baltimore City school system] does *not* currently have sufficient funds to provide an adequate education to its students. . . . According to the [Council of the Great City Schools], ‘Baltimore cannot meet or even come close to meeting the State’s standards with its current resources. Nor can it accelerate its academic gains much more without substantial new investments in the children attending the Baltimore City Public Schools.’”).

201. *Md. State Bd. of Educ. v. Bradford*, 875 A.2d 703, 713 (Md. App. Ct. 2005) (declaring that “the State’s allocation of ‘\$19.9 million for 2001 and the allocation of \$23.9 million for 2002’ could not constitute ‘best effort[s]’” given the State’s 2001 \$940 million budget surplus).

202. *Id.*

203. 2002 Md. Legis. Serv. § 9-1A-30 (West). The Bridge to Excellence in Public Schools Act provided that the funds to Baltimore City schools would be distributed over the course of eight years. *Bradford v. Maryland State Board of Education – Timeline*, *supra* note 196, at 2.

204. See *Bradford v. Maryland State Board of Education – Timeline*, *supra* note 196, at 2–3, 8–9, 12–14. In 2004, the circuit court determined that a law enacted by the General Assembly requiring Baltimore City schools to eliminate their \$58 million deficit was unconstitutional

for enforcement of compliance with the Consent Decree, and held that Baltimore City schools needed an additional \$225 million in State funds before fiscal year 2008.²⁰⁵ After multiple extensions of the court's jurisdiction past the initial term of the Consent Decree, litigation quelled.²⁰⁶ The funding recommended by the Thornton Commission was "fully phased in" by 2008.²⁰⁷ However, despite the lack of litigation and compliance with the Thornton Report's initial recommendations, State proposals to cut funding persisted, and the budget deficit swelled to \$130 million in 2017.²⁰⁸ Incremental reports continually found that Baltimore City schools were severely underfunded, despite the State increasing its education funding.²⁰⁹

The parties to *Bradford* did not meet in court again until the plaintiffs returned to the circuit court and filed a Petition for Further Relief on March 7, 2019.²¹⁰ Plaintiffs sought enforcement of the court's prior decisions confirming their right to a "thorough and efficient" education, citing the State's "continuous violation of Article VIII."²¹¹ The State filed motions to dismiss, which were denied, as well as a motion to dissolve the 1996 Consent Decree, which was also denied.²¹² Ultimately, the circuit court granted summary judgment for the State, holding that Article VIII "only requires an effort by the State to at most

because Baltimore schools' compliance with the law would exacerbate the constitutional violation currently in effect. Memorandum Opinion at 4, 31, 67–69, *Bradford v. Md. State Bd. of Educ.*, No. 94340058/CE189672 (Cir. Ct. Balt. Aug. 20, 2004). However, this decision was reversed by the Supreme Court of Maryland, which found that the law requiring Baltimore City schools to eliminate their deficit was constitutional because it comported with the State's duty to keep school systems from engaging in "deliberate or negligent conduct" resulting in insolvency. *Md. State Bd. of Educ.*, 875 A.2d at 724.

205. Memorandum Opinion at 67, *Bradford v. Md. State Bd. of Educ.*, No. 94340058/CE189672 (Cir. Ct. Balt. August 20, 2004).

206. See *Bradford v. Maryland State Board of Education – Timeline*, *supra* note 196, at 1–3, 10–14.

207. See *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 75 (Md. App. Ct. 2024).

208. See *Bradford v. Maryland State Board of Education – Timeline*, *supra* note 196 at 6.

209. See *id.* at 5–6. Maryland's education budget received a significant boost from the legislature in 2021 when the Blueprint for Maryland's Future and Built to Learn Act passed, allocating \$3.8 billion and \$2.2 billion, respectively. *Id.* at 11–12.

210. *Bradford*, 326 A.3d at 68.

211. *Id.* at 68, 75.

212. *Id.* at 68.

provide a basic education,” not “an education that is adequate by contemporary educational standards.”²¹³ Both parties appealed.²¹⁴

The Court of Appeals resolved the issue in favor of the State, ruling that the circuit court’s decision to deny the State’s motion to dissolve the Consent Decree was erroneous.²¹⁵ The court articulated its narrow view of the Consent Decree, especially with respect to the Decree’s temporal reach.²¹⁶ It took a similarly narrow view of the objective of the Consent Decree, insinuating that the goal was not to bring the State into compliance with its constitutional obligation to provide a “thorough and efficient” education to students in Baltimore.²¹⁷ Instead, the objective of the Decree was merely to check the box on each of the means identified to attempt to remedy the constitutional defect, irrespective of whether the defect was actually cured.²¹⁸ The court neatly severed the conditions giving rise to the Consent Decree’s entry and the current circumstances of alleged constitutional deficiencies with education in Baltimore, stating “[t]he circumstances that led to the decades-old finding of constitutional inadequacy and the Consent Order intended as a remedy belong to that era and exist now as historical context.”²¹⁹ It emphasized that the Consent Decree did not exist in perpetuity, but recognized that the Decree permitted requests to extend the court’s jurisdiction even after full Thornton funding was

213. *Id.* This position mirrors almost exactly the Supreme Court of Maryland’s position from *Hornbeck*, which declared that students were guaranteed, at most, an education that was “basic” and “adequate.” *Hornbeck v. Somerset Cnty. Bd. of Educ.*, 458 A.2d 758, 776 (Md. 1983).

214. *Bradford*, 326 A.3d at 68. Plaintiffs appealed the lower court’s grant of summary judgment to the State, and the State appealed the circuit court’s denial of its motion to dissolve the 1996 Consent Decree. *Id.* at 68–69.

215. *Id.* at 69.

216. *Id.* at 79 (“In sum, the court’s authority to order additional funding was not indefinite The court’s separate authority . . . to extend the term of the Consent Decree for good cause shown did not transmute the additional funding provisions to allow the court to weigh in on the appropriate level of funding for the [Baltimore City schools] in perpetuity.”).

217. *See id.*

218. *Id.* at 81 (noting that the Consent Decree’s objectives were fulfilled when Thornton funding was fully achieved).

219. *Id.*

achieved by a showing of good cause.²²⁰ The plaintiffs, it noted, did not make such a request until filing their 2019 petition.²²¹ By then, the court seemed to say, it was too late.²²² In its ruling, the court did not decide whether Baltimore City students were receiving a constitutionally sufficient education.²²³ The 1996 Consent Decree was thus dissolved because its stated means were met, despite plaintiffs' contention that the constitutional violation underlying the Decree persisted.²²⁴

The dissent offered a different approach.²²⁵ It argued that the ongoing constitutional violation regarding the quality of Baltimore City schools, coupled with the State's recent legislative measures changing the funding structure, warranted a modification of the Consent Decree instead of its dissolution.²²⁶ The dissent disagreed with the majority's narrow view of the Consent Decree's scope, stating " . . . the goal of the Consent Decree was to provide Baltimore City students with 'an education that is adequate when measured by contemporary educational standards.'" ²²⁷ It argued that the Consent Decree's provision allowing extension of its jurisdiction "necessarily implies the authority to require additional action if the funding level in those fiscal years proved inadequate."²²⁸ The objective of the Consent Decree was to provide Baltimore City students with the adequate education they were being denied under the previous funding structure.²²⁹ Under this view, continued inadequacy of

220. *Bradford*, 326 A.3d at 80–81.

221. *Id.* at 80.

222. *See id.* ("Despite [Plaintiffs'] assertion decades later that soon after reaching full Thornton funding, funding flattened, they did not seek continuation of jurisdiction from the circuit court. They did nothing, and the case became dormant."). The Court did not advise of when the deadline it imposed on plaintiff's ability to seek continued jurisdiction lapsed, and, importantly, neither did the 1996 Consent Decree. *See id.*; *Bradford Consent Decree*, *supra* note 16, at 23.

223. *Bradford*, 326 A.3d at 81. The Court directed the *Bradford* plaintiffs to file new litigation if they wished to further adjudicate the claims underlying the 1996 Consent Decree. *Id.*

224. *Id.*

225. *See Bradford*, 326 A.3d at 81 (Leahy, J., dissenting).

226. *Id.*

227. *Id.* at 83.

228. *Id.* at 84.

229. *Id.* at 82.

education in Baltimore constitutes the “good cause” required to extend the circuit court’s jurisdiction, and plaintiffs appropriately asserted “an ongoing violation of the Consent Decree” when they detailed the still-decrepit conditions of Baltimore City schools.²³⁰

In support of its approach, suggesting modification of the Consent Decree instead of dissolution, the dissent relied on the “institutional reform” test utilized by federal courts when determining appropriateness of modification or dissolution of consent decrees.²³¹ The Supreme Court articulated a test for modification of consent decrees in institutional reform cases requiring: (1) the moving party to show “a significant change in circumstances” since commencement of the decree, and (2) a showing that the changed circumstances “make enforcement of the existing decree substantially more onerous, render the decree unworkable due to unforeseen conditions, or make enforcement . . . detrimental to the public interest.”²³² The counterpart Supreme Court test to dissolve such consent decrees requires a steeper climb from the moving party, which must show both attainment of the decree’s objectives *and* an unlikelihood of another occurrence of the “unlawful acts” at issue in the initial agreement without the decree.²³³

By this standard, the dissent argued, the Consent Decree should not be dissolved and could have been modified.²³⁴ The *Bradford* plaintiffs demonstrated that the decree’s objectives have not been attained because Baltimore students still receive an inadequate education, and it is “highly likely” that the already-continuing Article VIII violation will persist without the Consent Decree in effect.²³⁵ Additionally, the dissent reasoned

230. See *Bradford*, 326 A.3d at 84–85 (Leahy, J., dissenting).

231. *Id.*

232. *Id.* at 85 (citing *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 383 (1992)). The *Rufo* case involved the government’s petition to modify a consent decree due to changed circumstances making compliance unduly “onerous.” See *Rufo*, 502 U.S. at 382, 384.

233. *Bradford*, 326 A.3d at 85 (Leahy, J., dissenting) (citing *Frew [ex rel. Frew v. Hawkins]*, 540 U.S. 431, 442 (2004)); see *Hornes v. Flores*, 557 U.S. 433, 492 (2009) (Breyer, J., dissenting).

234. *Bradford*, 326 A.3d at 85–86 (Leahy, J., dissenting).

235. *Id.* at 84–85. The dissent emphasized that it agreed with the majority regarding its position that the plaintiffs’ failure to petition the court for relief after full Thornton funding was

that recent legislative initiatives providing a combined \$6 billion for “extensive educational reforms” and construction of schools constituted a “significant change in circumstances.”²³⁶ Such a change in circumstances rendered the State’s compliance unworkable with respect to the original terms and the one outstanding objective of the Consent Decree: a constitutionally adequate education for Baltimore City students.²³⁷ The dissent concluded that it would reverse summary judgment in favor of the State and instruct the lower court to modify the Decree with consideration of the recent legislative initiatives.²³⁸

The trajectory of the *Bradford* litigation is illustrative of non-linear progress: the prospects of an adequate education in Baltimore seemed to take two steps forward only to move one step backward nearly thirty years later with the dissolution of the Consent Decree.²³⁹

achieved in 2008 did not aid their argument that funding has been inadequate since then. *See id.* at 84 n. 3. However, the major difference in the majority and dissent’s perspectives was their respective views of the consent decree’s objectives. *Compare id.* at 85, n.4 (noting that it viewed the Consent Decree’s objective as achieving an “adequate [education] when measured by contemporary standards” for Baltimore City students), *with Bradford*, 326 A.3d at 81 (noting that the Consent Decree was satisfied when full Thornton funding was achieved in 2004).

236. *Bradford*, 326 A.3d at 85–86 (Leahy, J., dissenting) (“All these changes would make it substantially more onerous to apply the Consent Decree in its current form because the Consent Decree’s terms are focused on a now-outdated funding and management structure.”). The Supreme Court’s consent decree modification test was first articulated in a case where the Court allowed the government to avoid compliance with a decree’s terms. *See Rufo*, 502 U.S. at 368–70. There was no holding in that opinion, however, that would prevent a plaintiff from seeking modification of a consent decree when, as here, all stated terms of the decree have been met *except* the objective those terms were designed to meet, and compliance with that objective is unworkable due to structural changes. *See id.*; *see also Blueprint Funding: Formula and Accountability*, MD. STATE DEP’T OF EDUC., <https://blueprint.marylandpublicschools.org/funding-2/> [<https://perma.cc/88P9-H8CU>] (last visited Nov. 13, 2025) (describing the Blueprint for Maryland’s Future, a \$3.8 billion initiative to “improve the quality of education for all children in Maryland”); *Build to Learn Act*, MD. STADIUM AUTH., <https://mdstad.com/projects/build-learn-act> [<https://perma.cc/P39E-FJFM>] (last visited Nov. 13, 2025) (describing the Build to Learn Act, a \$2.2 billion initiative to construct “public school facilities”).

237. *See Bradford*, 326 A.3d at 85–86 (Leahy, J., dissenting). Put differently, the State could not effectively reach compliance with the final outstanding requirement of the Consent Decree without modification of the outdated terms. *See id.*

238. *Id.* at 86. The dissent added, “we are left with the sobering fact that the goal [of constitutionally adequate education in Baltimore] has yet to be achieved, and I fail to see how requiring the Bradford Plaintiffs to file a new lawsuit will serve the best interests of the children, the City, the State, or judicial economy.” *Id.*

239. *See also ACLU Bradford II Response*, *supra* note 20 (sharing frustration with the decision and its resultant delay in providing relief to Baltimore City students).

III. MARYLAND’S “THOROUGH AND EFFICIENT” FAILURE

Public education in Baltimore City remains inadequate by Maryland’s own constitutional standard, and the Consent Decree should have remained in effect until constitutional compliance was achieved.²⁴⁰ The Maryland legislature has undoubtedly progressed toward allocating sufficient State funding for education expenses in Baltimore.²⁴¹ However, the provision of additional funding, while important, does not immediately cure a constitutional defect.²⁴² This is underscored by the *Bradford* plaintiffs’ most recent claim, where they alleged that years of additional funding did not resolve the constitutionally deficient education offered to students in Baltimore City.²⁴³ Indeed, even as state funding for schools soared in 2022,²⁴⁴ derelict physical conditions in Baltimore City schools persisted.²⁴⁵ Students reported extremely strained resources and abhorrent learning environments, where teachers threw chairs at students and classrooms lacked books, sufficient teaching and supportive personnel, and bathroom supplies.²⁴⁶ Even after state funding increased, transportation remains unreliable for students

240. See *Bradford*, 326 A.3d at 83 (Leahy, J., dissenting).

241. See MD. CODE ANN., EDUC. § 1-303 (West 2024).

242. See *Bradford*, 326 A.3d at 83 (Leahy, J., dissenting); see also Richard Lofton, “I Was Called Everything but a Student”: Blackness and The Social Death of Student Status, SOC. PROBS., July 8, 2023, at 1, 12–13 (discussing the experiences of students who attended Baltimore city schools).

243. See *Bradford*, 326 A.3d at 83 (Leahy, J., dissenting) (noting the “voluminous record” of “staggering evidence” showing inadequate educational quality, including “vermin infestations,” “inadequate electrical systems,” and only 14 buildings out of 160 with functioning water fountains).

244. See *State Department of Education: Budget*, MD. MANUAL ON-LINE, <https://msa.maryland.gov/msa/mdmanual/13sdoe/html/sdoeb.html> [<https://perma.cc/3C8K-QZQG>] (last visited Nov. 13, 2025); *State Funding for Public Schools in Fiscal 2022*, GEN. ASSEMBLY OF MD. DEP’T OF LEGIS. SERVS. 3 (showing over \$1 billion in state funding for Baltimore City schools in fiscal year 2022).

245. See Rebecca Pryor, *Johns Hopkins Study Says Baltimore City Schools Are Falling Apart, Students Are Suffering*, FOX BALT. (Sept. 23, 2022, at 17:13 ET), <https://foxbaltimore.com/news/local/johns-hopkins-study-says-baltimore-city-schools-are-falling-apart-students-are-suffering> [<https://perma.cc/32ZP-QGEN>] (summarizing findings that approximately 50 Baltimore City school buildings “are practically falling apart” with leaking ceilings and faulty air conditioning systems).

246. Lofton, *supra* note 242, at 12–13 (discussing interviews with previous students of Baltimore City schools who described a “lack of basic necessities” and an environment that was “militaristic”).

because Baltimore City schools do not provide school buses after fifth grade.²⁴⁷ In addition to the obvious failure of such a system to provide an adequate education to Baltimore City students, the odious learning conditions reinforce the idea that Black students are subordinate in society.²⁴⁸

A. *Bradford II Was Wrongly Decided*

The Court of Appeals' *Bradford II* decision dissolving the 1996 Consent Decree was wrongly decided because there was no showing that the objectives of the Decree had been satisfied, nor a likelihood that the constitutional violation would cease.²⁴⁹

1. *Bradford as institutional reform litigation*

The *Bradford* Consent Decree should have been analyzed under the Supreme Court's test for dissolving consent decrees in institutional reform litigation.²⁵⁰ Although the *Bradford II* majority did not use the Supreme Court's two-part test when it dissolved the consent decree, it seemed to nod at the first step of the test when it concluded that the Decree should be resolved because it "was satisfied" when "full Thornton funding" was reached."²⁵¹ To be sure, the Supreme Court's tests apply

247. Liz Bowie & Greg Morton, *Transit Nightmare: Thousands of Baltimore Kids Can't Get to School on Time*, BALT. BANNER (Feb. 18, 2025, 17:30 ET), <https://www.thebaltimorebanner.com/education/k-12-schools/baltimore-city-school-buses-HF3HHWC67ZF7BCRJ66WMB3VWDI/> [https://perma.cc/8PXX-7NMF]. This results in students as young as eleven years old spending almost an hour on average trying to commute to school using the city's public transportation, forced to navigate transfers among bus lines and "endure sexual harassment from strangers and witness violent fights on buses." *Id.*

248. See Lofton, *supra* note 242, at 12 (noting that Baltimore City students associate the "lack of resources and poor teacher quality with a devaluation of Black life and student status"); see also JONATHAN KOZOL, *AN END TO INEQUALITY: BREAKING DOWN THE WALLS OF APARTHEID EDUCATION IN AMERICA* 47 (2024) (discussing how urban schools' squalid conditions "tell the children in these schools how little their sense of self-respect is valued"); Kelli L. Cover, *Baltimore City Schools Need Many Things – A Personal Police Force Is Not One of Them*, 48 U. BALT. L.F. 69, 92 (2018) (discussing the prevalence of police brutality against children in Baltimore City schools contributing to the schools' prison-like nature).

249. See *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 81 (Md. App. 2024).

250. See Mark Kelley, *Saving 60(B)(5): The Future of Institutional Reform Litigation*, 125 YALE L.J. 272, 312 (2015).

251. See *Bradford*, 326 A.3d at 81. This satisfaction of what the majority deemed the objective of the Consent Decree appears familiar to the first step of the two-part test for dissolving consent

specifically to federal institutional reform litigation and thus are not binding on Maryland courts adjudicating similar litigation at the state level.²⁵² However, the *Bradford* litigation shares many characteristics with federal reform litigation: it involves a governmental entity and the adjudication of that entity’s unconstitutional practice, “affect[s] more than the rights of immediate litigants,” and it resulted in a consent decree that remained active for an extended period of time.²⁵³ Additionally, some concerns that may cause hesitation in federal courts modifying a consent decree concerning state and local governments are not present here; *Bradford* and other state institutional reform litigation do not raise federalism concerns.²⁵⁴ Ultimately, litigation like *Bradford* that concerns the unconstitutionality of a state government’s operations and results in a consent decree mirroring those in federal institutional reform litigation would best be served by applying the Supreme Court’s tests for dissolution of those decrees.²⁵⁵

Application of the Supreme Court’s test for dissolving consent decrees in institutional reform litigation would warrant a finding that dissolution was improper in *Bradford*.²⁵⁶ In deciding whether dissolution was proper, the court could consider: (1)

decrees: a showing that the decree’s objectives were met. *See* *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 382, 384 (1992); *Heath v. De Courcy*, 888 F.2d 1105, 1109 (6th Cir. 1989).

252. *See* *Rufo*, 502 U.S. at 391–93; *Heath*, 888 F.2d at 1108; *Bradford*, 326 A.3d at 84–85 (Leahy, J., dissenting).

253. *See* *Vanguards of Cleveland v. City of Cleveland*, 23 F.3d 1013, 1019 (6th Cir. 1994) (listing three reasons why modification of consent decrees in institutional reform litigation warrants a relaxed standard); *see also* *Heath*, 888 F.2d at 1108 (defining an “institutional” consent decree as one which “affects the operation of a governmental institution or organization”); Kelley, *supra* note 250, at 272 (noting that “[i]nstitutional reform decrees are one of the chief means by which federal courts cure illegal state and federal institutional practices” and listing common constitutional issues giving rise to consent decrees).

254. *See* *Horne v. Flores*, 557 U.S. 433, 434 (2009) (noting that federal consent decrees “may also raise sensitive federalism concerns”). Maryland’s highest court commanding its legislature to work to bring a governmental practice, like school funding, into constitutional compliance does not raise the same issues of federal courts usurping state power. *See cf. id.*

255. *See* Kelley, *supra* note 250, at 272.

256. *See* *Bradford*, 326 A.3d at 83–84 (Leahy, J., dissenting); *Heath*, 888 F.2d at 1109 (quoting *N.Y. State Ass’n for Retarded Children, Inc. v. Carey*, 706 F.2d 956, 969 (2d Cir. 1983)) (“In institutional reform litigation . . . judicially-imposed remedies must be open to adaptation when . . . a better understanding of the problem emerges, and to accommodation of a wider constellation of interests than is presented in the adversarial setting of the courtroom.”).

provision of continued jurisdiction included in the Consent Decree, (2) “underlying goals” of the Decree, (3) whether parties have complied and cooperated with the court, (4) “good faith efforts” on the part of State, (5) length of the Decree’s term with extensions of jurisdiction, and (6) “the continuing efficacy of the consent decree’s enforcement.”²⁵⁷ Notably, under this standard, the court could not “terminate its jurisdiction until it finds *both* that Defendants are in compliance with the decree’s terms and that the decree’s objectives have been achieved.”²⁵⁸

Whether the consent decree met its objectives and could be properly terminated necessarily turns on how courts define the decree’s objectives.²⁵⁹ The rift between the majority and dissent in *Bradford II* turned on this very issue: the majority viewed the Decree’s objectives as the methods identified in the document, including creation of a new supervisory commission and disbursement of specific funds in each fiscal year, whereas the dissent viewed the Decree’s objective as providing an education for Baltimore City students that was adequate when measured by contemporary standards.²⁶⁰ The dissent’s view aligns more harmoniously with Supreme Court jurisprudence, as the requirement of both compliance with a decree’s terms *and* achievement of its objective implies that the terms and objective are separate components of the decree.²⁶¹ Under this analysis, the Consent Decree should have survived because its objective of achieving constitutional compliance remained unfulfilled.²⁶²

257. *Gonzales v. Galvin*, 151 F.3d 526, 531 (6th Cir. 1998).

258. *Id.* (emphasis added).

259. *See Bradford*, 326 A.3d at 81; *id.* at 85 n. 4 (Leahy, J., dissenting).

260. *Cf. id.* at 81 (majority opinion) (describing the Decree’s objectives as specific actions spelled out in the document, such as supervisory commission and specific funding allocation), *with id.* at 85 n. 4 (Leahy, J., dissenting) (describing the Decree’s objectives as measuring adequate education using contemporary standards).

261. *Cf. Gonzales*, 151 F.3d at 531 (requiring the court to consider the decree’s underlying goals and compliance with the court when deciding whether dissolution is proper), *with Bradford*, 326 A.3d at 85–86 (Leahy, J., dissenting) (establishing the decree’s objective and compliance as separate components). The *Bradford II* majority viewed the terms of the decree and the decree’s objective as one; the *Bradford II* dissent viewed them separately. *Cf. Bradford*, 326 A.3d at 81 (viewing the terms of the decree and the decree’s objectives as one), *with Bradford*, 326 A.3d at 86 (Leahy, J., dissenting) (viewing the terms and objectives as separate).

262. *See Bradford*, 326 A.3d at 85 (Leahy, J., dissenting).

Adopting a legal framework that better safeguards the constitutional educational rights of students at the state level is ever more pressing given the vast uncertainty currently present at the federal level.²⁶³ As the second Trump administration takes aim at dismantling the Department of Education,²⁶⁴ states are forced to sit with a sense of disquietude as they await the halting of Department of Education responsibilities, including the disbursement of funds for students with special needs and students living in poverty.²⁶⁵ Baltimore City schools were already forced to cut tutoring programs and after-school activities as the Trump administration cut promised funds.²⁶⁶ Now, more than ever, state courts must ensure that constitutional deficiencies in educational quality are appropriately remedied and not exacerbated by cuts to funding at the federal level.²⁶⁷

In sum, Maryland should adopt a legal framework that evaluates parties' requests to dissolve a consent decree in institutional reform litigation with a requirement that the decree's terms are met *and* its objectives satisfied.²⁶⁸ Such a framework would provide an additional level of protection against the State abdicating its responsibilities under the decree prior to the cure of the original constitutional defect.²⁶⁹

263. See Adam Edelman & Tyler Kingkade, 'We're Not Prepared': States Brace for Trump's Plans to Dismantle the Education Department, NBC NEWS (Feb. 27, 2025, at 05:00 EST), <https://www.nbcnews.com/politics/trump-administration/states-brace-trump-plan-dismantle-education-department-rcna192953> [<https://perma.cc/MY38-JVKL>].

264. Exec. Order No. 14242, 90 Fed. Reg. 13679 (Mar. 20, 2025) (mandating closure of the federal Department of Education).

265. Edelman & Kingkade, *supra* note 263. Recall that about 8% of school funding is made up of federal dollars. *The Federal Role in Education*, *supra* note 46. While 8% of total funding may seem minuscule, it is not an inconsequential number, especially given that the money is overwhelmingly allocated to the most vulnerable students. *Id.*

266. Liz Bowie, *Baltimore Schools To Cut Tutoring and More After Trump Administration Backtrack on Funds*, THE BALT. BANNER (Apr. 4, 2025, at 13:00 ET), <https://www.thebaltimorebanner.com/education/k-12-schools/baltimore-city-schools-federal-funding-AM5PH4I6G5B3PCG66S6RC3IKDE/> [<https://perma.cc/2F27-54ZR>].

267. See Edelman & Kingkade, *supra* note 263.

268. See *Gonzales v. Galvin*, 151 F.3d 526, 531 (6th Cir. 1998).

269. See *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 78 (Md. App. 2024).

2. *Satisfied consent decrees: means vs. end objectives*

The court should have construed the objective of the Consent Decree as its end, not merely compliance with its means.²⁷⁰ In other words, the barometer for State compliance with the *Bradford* Consent Decree should have also included whether plaintiffs were receiving the constitutionally required “thorough and efficient” education.²⁷¹

Federal courts and Maryland courts alike construe consent decrees as having contractual elements,²⁷² and refer to the “four corners” of the document to ascertain the parties’ objectives.²⁷³ Here, the Consent Decree discussed the circuit court’s partial grant of summary judgment in favor of the *Bradford* plaintiffs, stating “that the public school children in Baltimore City are not being provided with an education that is adequate when measured by contemporary educational standards,” and that all parties sought “to provide a meaningful and timely remedy crafted to meet the best interests of the school children of Baltimore City.”²⁷⁴ This plain language indicates that the objective of the decree was more than merely checking boxes on each of the paragraphs in the Decree without any consideration of whether the decree provided meaningful change to the underlying

270. Cf. *id.* at 81 (construing the Decree’s objective as procedural compliance).

271. See *Bradford Consent Decree*, *supra* note 16, at 2.

272. Although consent decrees are understood as at least having contractual elements, there are varying views on the nature of consent decrees. See, e.g., Larry Kramer, *Consent Decrees and the Rights of Third Parties*, 87 MICH. L. REV. 321, 324 (1988) (describing diverging views on consent decrees as either contracts or judicial judgments, with the prevailing view of consent decrees as “a hybrid, with elements of both contract and judgment”); Gregory C. Keating, *Settling Through Consent Decree in Prison Reform Litigation: Exploring the Effects of Rufo v. Inmates of Suffolk County Jail*, 34 B.C. L. REV. 163, 170–71 (1993) (noting previous reluctance from the Supreme Court to view consent decrees as contracts and emergence of the Court’s inconsistent analysis of consent decrees as contracts); Paul H. Sukenik, *The Earth Belongs to the Living, or at Least It Should: The Troubling Difficulty of Modifying Antitrust Consent Decrees*, 97 N.C. L. REV. 734, 741 (2019) (describing consent decrees as “contract[s] between parties in litigation”).

273. See *Bradford*, 326 A.3d at 78 (“[W]e construe a consent decree under the same rules governing the construction of contracts.”); *Vanguards of Cleveland v. City of Cleveland*, 23 F.3d 1013, 1017 (1994) (quoting *Williams v. Vukovich*, 720 F.2d 909, 920 (6th Cir. 1983)) (noting that a consent decree is a “compromise struck by the parties” with the force of “judicial policing” behind it, which should be analyzed to maintain the deal struck by the parties); *Vogel v. City of Cincinnati*, 959 F.2d 594, 598 (6th Cir. 1992).

274. *Bradford Consent Decree*, *supra* note 16, at 2–3.

constitutional violation that would “meet the best interests of the school children of Baltimore City.”²⁷⁵ Each of the methods identified in the Decree was tailored toward the end of providing a “meaningful and timely remedy” to the constitutional violation found by the circuit court in its partial grant of summary judgment.²⁷⁶ Ultimately, however, the State’s compliance with the terms of the consent decree was merely one variable in the equation.²⁷⁷ There was also an objective of the consent decree, which is properly understood as achieving constitutional compliance in Baltimore schools, evidenced both by the terms of the Decree and the circuit court’s subsequent decisions in the *Bradford* litigation.²⁷⁸

Even as additional funding was provided by the legislature, surpassing the initial terms of the Consent Decree, the circuit court found constitutional violations ongoing and extended its jurisdiction over the matter.²⁷⁹ If the objective of the Decree was merely steady progress in accordance with the terms, including allocating funding on schedule, the court would have no reason to declare continuous constitutional violations and, in fact, would have dissolved the decree even earlier. The court’s extension of jurisdiction and its declarations in 2000 and 2004 that the constitutional defect had not been cured indicated that it

275. *See id.* at 3.

276. *Id.*

277. *See id.*; Timothy Ayers, *Adequacy in Baltimore City Schools: Why the Consent Decree in Bradford v. Maryland Is Right*, 5 GEO. J. FIGHTING POVERTY 77, 87 (1997) (stating that the 1996 Consent Decree demonstrated the parties’ acceptance of the State’s responsibility “to educate each citizen to be a productive member of society”).

278. *Bradford Consent Decree*, *supra* note 16, at 2; *Bradford*, 326 A.3d at 68–69. Courts often construe the objectives of a consent decree and the means of achieving those objectives separately. *See, e.g.*, *E.E.O.C. v. Bartenders Int’l Union*, Loc. Union No. 41, 1979 WL 93, No. C-73-0108 WAI, at *1 (N.D. Cal. Dec. 12, 1979) (differentiating between means identified in the consent decree and the ultimate goal of integration and extending decree when neither was met); *Bolden v. Pa. State Police*, 73 F.R.D. 370, 374 (E.D. Pa. 1976) (increasing the original consent decree’s hiring percentage quotas when they did not effectively satisfy the decree’s ultimate objective of integrating the police force); *cf. Kelley*, *supra* note 250, at 295–96 (discussing some courts’ use of a “substantial compliance” standard where consent decrees’ satisfaction is determined by “performance of the essential requirements of the decree and a lack of intentional deviation”).

279. *See* Memorandum Opinion at 67–69, *Bradford v. Md. State Bd. of Educ.*, No. 9340058/CE189672 (Cir. Ct. Balt. August 20, 2004).

viewed the State's obligations as more than just meeting the Decree's funding allocation requirements.²⁸⁰ Further, there is support at the federal level that mere compliance with the terms of a decree does not necessarily equate to an achieved objective.²⁸¹ If courts viewed the government's compliance with the terms of a consent decree as synonymous with achieving a decree's objective, the second requirement would be needlessly redundant.²⁸² The State's compliance with the terms of a decree is an important step to achieving its overall goal, but it should not be construed as the goal itself.

Further, the State's compliance with the original terms of the Decree should not foreclose plaintiffs from seeking enforcement where the Decree's objective remains outstanding. Indeed, as recognized by both the majority and dissent in *Bradford II*, the terms of the Decree were outdated.²⁸³ Modification of the Decree was one way the court could have provided the *Bradford* plaintiffs with an avenue for further relief.²⁸⁴ However,

280. See *id.* If the court viewed the State's obligation under the Decree as mere compliance with the specific methods identified in the document, there would have been no need to declare the education quality in Baltimore continually unconstitutional even as the State was meeting the Decree's terms. The State allocated the required funding, created the required Commission, and issued the required reports. By almost all accounts, it was complying with every term in the Consent Decree, with the exception of one thing: the Decree's overall objective of improving Baltimore City schools to the point of constitutional compliance. See *id.*

281. See *Gonzales v. Galvin*, 151 F.3d 526, 531 (6th Cir. 1998); *Bolden*, 73 F.R.D. at 374; *Bar-tenders Int'l Union*, 1979 WL 93, at *1, *3. As noted above, the legal standard for dissolving a consent decree at the federal level requires a showing of both compliance with the terms of the decree and achievement of the decree's objectives. See *Gonzales*, 151 F.3d at 531.

282. See VALERIE C. BRANNON, CONG. RSCH. SERV., R45153, STATUTORY INTERPRETATION: THEORIES, TOOLS, AND TRENDS 56 (2023). The presumption against surplusage instructs that compliance with the decree's terms and achievement of the decree's objective must mean different things if they are both required. See *id.* ("Courts should give effect, if possible, to every clause and word of a statute so that no clause is rendered superfluous, void, or insignificant.") (internal quotations omitted).

283. *Bradford*, 326 A.3d at 85–86 (Leahy, J., dissenting).

284. See *Heath v. De Courcy*, 888 F.2d 1105, 1109 (6th Cir. 1989) (holding that modifications to consent decrees are permitted if they "further[] the original purpose of the decree in a more efficient way, without upsetting the basic agreement between the parties"); *Reynolds v. McNes*, 338 F.3d 1221, 1227 (11th Cir. 2003) (distinguishing one requirement of the consent decree from the decree's overall purpose and allowing modification); Maimon Schwarzschild, *Public Law by Private Bargain: Title VII Consent Decrees and the Fairness of Negotiated Institutional Reform*, 1984 DUKE L.J. 887, 894–95 (1984) (noting that consent decrees carry the added protection of judicial oversight and potential for judicial modification to achieve the decree's ultimate objective); Lloyd C. Anderson, *Implementation of Consent Decrees in Structural Reform Litigation*, 1986

modification was not necessary because the objective of the Decree was unsatisfied.²⁸⁵ Requiring modification of the terms would indicate that the Decree’s terms—and not its objective—were the only available component under which the plaintiffs could seek a remedy from the court. Conversely, the parties should have been able to seek continued relief under the Decree simply because its objective remained unfulfilled by the State.²⁸⁶ Thus, the continuing constitutional violation of inadequate schools in Baltimore obviated the need for modification of the Decree’s terms.

In sum, the court was wrong to dissolve the Consent Decree because its objective remains unfulfilled.²⁸⁷ The parties should not be permitted to enter into a Consent Decree with the goal of improving a constitutionally deficient public education system and then forgo its objective because a monetary marker set in 1996 to achieve that objective has been fulfilled.²⁸⁸ To put it simply, the objective of the Consent Decree was the end, not the means.²⁸⁹ Until the students in Baltimore City receive the constitutionally adequate education to which they are entitled, the Decree remains unsatisfied.²⁹⁰

U. ILL. L. REV. 725, 755 (1986) (encouraging courts to take a more flexible approach toward requests to alter the means of a consent decree than requests to alter the goal or objective); *Bradford Consent Decree*, *supra* note 16, at 22–23 (providing that the court will retain jurisdiction during the term of the decree and allowing the term of the decree to be extended by either party’s motion and “a showing of good cause”). In fact, the *Bradford II* dissent argued that modification of the Decree’s terms would be the best course of action. *Bradford*, 326 A.3d at 86 (Leahy, J., dissenting).

285. See generally *Bradford*, 326 A.3d at 83 (Leahy, J., dissenting) (discussing evidence establishing that Baltimore City students are not receiving a constitutionally adequate education).

286. *Id.*

287. See *id.*

288. See *Bradford Consent Decree*, *supra* note 16, at 15.

289. See Anderson, *supra* note 284, at 754–55 (offering support for interpreting a decree’s objectives as separate from its means or methods of achieving that objective).

290. See *Bradford Consent Decree*, *supra* note 16, at 15; Ayers, *supra* note 277; *Frew v. Suehs*, 775 F. Supp. 2d 930, 936 (E.D. Tex. 2011) (holding that decree’s objectives could not be considered satisfied when merely one element of the decree was met).

B. “Thorough and Efficient”: Basic, Adequate, or Other

The lower court’s holding in *Bradford II* that Maryland’s students are entitled to merely a “basic” education represents the fourth shift in courts’ interpretations of the “thorough and efficient” constitutional language.²⁹¹ This holding partially reverted back to the Supreme Court of Maryland’s interpretation in *Hornbeck* that “thorough and efficient” merely requires a “basic” education.²⁹² The decision diverges from the 1996 circuit court’s declaration that “thorough and efficient” requires an education that is adequate by contemporary standards.²⁹³ Courts seem to view a standard ensuring an “adequate” education as requiring something more than a “basic” education.²⁹⁴ Some courts use the terms somewhat interchangeably.²⁹⁵ Merriam-Webster Dictionary defines the terms as follows: “basic” means “of, relating to, or forming the base or essence: fundamental” or “constituting or serving as the basis or starting point,” and “adequate” means “sufficient for a specific need or requirement” or “good enough: of a quality that is good or acceptable.”²⁹⁶ A

291. See *Hornbeck v. Somerset Cnty. Bd. of Educ.*, 458 A.2d 758, 763 (Md. 1983); *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 77 (Md. App. Ct. 2024). The Court of Appeals did not weigh in on exactly what is required to constitute a “thorough and efficient” education, ruling only on the question of dissolution of the consent decree. *Bradford*, 326 A.3d at 69 (“Given our resolution of [the dissolution of the consent decree], we conclude that the questions raised by the Bradford Plaintiffs on appeal are moot . . .”).

292. See *Hornbeck*, 458 A.2d at 776. The *Hornbeck* court also indicated that an “adequate” education may be required. *Id.*

293. See *Bradford Consent Decree*, *supra* note 16.

294. See *William Penn Sch. Dist. v. Pa. Dep’t of Educ.*, 294 A.3d 537, 881, 885 (Pa. Commw. Ct. 2024) (rejecting the state’s argument that a mere “basic” education was sufficient under the state constitution and requiring quality education that allows all students “a meaningful opportunity to succeed”); *Hornbeck*, 458 A.2d at 763; *Bradford Consent Decree*, *supra* note 16, at 12–13; Deborah A. Verstegen, *Towards a Theory of Adequacy: The Continuing Saga of Equal Educational Opportunity in the Context of State Constitutional Challenges to School Finance Systems*, 23 ST. LOUIS U. PUB. L. REV. 499, 508–09 (2004) (describing some courts’ rejection of a “minimum or basic education” in favor of “adequacy” framed within contemporary standards). The word “basic” connotes something minimalistic; by contrast, “adequate” seems to imply a certain quality threshold. See *id.* at 527–28.

295. *Derolph v. State*, 677 N.E.2d 733, 742, 745 (Oh. 1997) (suggesting that “thorough and efficient” requires educating students “adequately,” “educat[ing] our youth to their fullest potential,” and ensuring “that they are able to participate fully in society,” but also stating that the dissent could not “conclude that Ohio is providing the opportunity for a basic education”).

296. *Basic*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/basic> [<https://perma.cc/47FS-G2GB>] (last visited Oct. 13, 2025); *Adequate*, MERRIAM-WEBSTER,

constitutionally compliant “thorough and efficient” education denotes a required degree of quality best understood as adequacy by contemporary standards.²⁹⁷

The circuit court was correct in 1996 when it held that the *Bradford* plaintiffs were being denied a constitutionally sufficient education that was “adequate when measured by contemporary educational standards.”²⁹⁸ A minimal, “basic” education cannot satisfy the state constitution’s education mandate.²⁹⁹ The constitutional drafters could have required a “basic” education or omitted a qualifier altogether.³⁰⁰ “Thorough and efficient,” however, signifies that education in Maryland must be sufficiently complete and efficacious to achieve the State’s contemporary goals of education.³⁰¹ Students must receive an education that is sufficiently complete and well-rounded, as well as competent in furthering modern goals of education.³⁰² This should include educating students by the State’s own expressed

<https://www.merriam-webster.com/dictionary/adequate> [<https://perma.cc/GAN8-QZKF>] (last visited Oct. 13, 2025).

297. See *Bradford Consent Decree*, *supra* note 16, at 2; *Abbott v. Burke*, 575 A.2d 359, 376–77, 402 (N.J. 1990); *Derolph*, 677 N.E.2d at 744–45 (holding that a “thorough and efficient” education is one that enables students’ full participation in society); *Claremont Sch. Dist. v. Governor*, 703 A.2d 1353, 1359 (N.H. 1997); *Verstegen*, *supra* note 294, at 528–29 (arguing that adequacy of education should be measured by the quality of provided services and whether equal opportunity to obtain the quality education exists).

298. See *Bradford Consent Decree*, *supra* note 16, at 2.

299. See MD. CONST. art. VIII, § 1 (requiring a “thorough and efficient” public school system); *Verstegen*, *supra* note 294, at 508–10 (discussing some courts’ treatment of “thorough and efficient” language as requiring sufficient quality of education).

300. See, e.g., MONT. CONST. art. X, § 1 (requiring a “basic system” of free schools); NEB. CONST. art. VII, § 1 (omitting modifying language as to the quality of education and merely requiring that schools be free); N.Y. CONST. art. XI, § 1 (omitting qualifying language and merely requiring that schools be free).

301. See Jeremy T. Neff, *A Thorough and Efficient Definition of “Thorough and Efficient”: The Starting Point for Meaningful School Funding Reform*, 33 U. ILL. J. EDUC. FIN. 69, 76 (2007). Contemporary goals of education may be understood through other states’ judicial decisions. *William Penn Sch. Dist. v. Pa. Dep’t of Educ.*, 294 A.3d 537, 892 (Pa. Commw. Ct. 2023) (noting requirement that students “be provided with a meaningful opportunity to succeed academically, socially, [and] civically”); *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 212 (Ky. 1989) (framing educational goals as proficiency in oral and written communications, knowledge of systems across a range of disciplines, cultural and artistic grounding, preparation for work, and an ability to compete in the job market); *McDuffy v. Sec’y of Exec. Off. of Educ.*, 615 N.E.2d 516, 554 (Ma. 1993) (adopting same guidelines set forth in *Rose* for educational objectives).

302. See Neff, *supra* note 301, at 76.

standards and preparing students to succeed in modern adult life.³⁰³

Students in Baltimore are certainly not receiving an adequate education by any contemporary standards.³⁰⁴ Rodent-infested, decrepit physical buildings and programs lacking effective instruction and opportunity cannot constitute an adequate education.³⁰⁵ It is the quality of the education, measured through its learning opportunities, student outcomes, and physical environment, that determines whether the State is providing a constitutionally sufficient education.³⁰⁶ As some courts and scholars have recognized, achieving the required quality in poor, historically neglected districts will likely require significantly more state funding and attention than is necessary in a state's wealthiest districts.³⁰⁷ A state's obligation to its school children is not likely to be met by perfect equalization of funds among districts, contrary to the lower court's position in *Hornbeck*,³⁰⁸ the poorest districts will necessarily require

303. See Joshua E. Weishart, *Aligning Education Rights and Remedies*, 27 KAN. J.L. & PUB. POL'Y 346, 370–71 (2018) (noting that although some courts emphasize the importance of educational standards continuing to develop with the modern era, not enough jurisdictions recognize the “relational or comparative component” that educational standards must necessarily be measured against those of other districts).

304. See The Private Plaintiffs' Memorandum of Law in Support of Their Motion for Summary Judgment and for Further Orders Pursuant to the Declaratory Judgments Act at 3, *Bradford v. Md. State Bd. of Educ.*, No. 24C94340058 (Cir. Ct. Balt. Aug. 12, 2022), https://www.aclumd.org/sites/default/files/field_documents/2022_-_bradford_v_msbe_-_memorandum_of_law.pdf [<https://perma.cc/PXB6-X79F>]; *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 83 (Md. App. Ct. 2024) (Leahy, J., dissenting); Lofton, *supra* note 3.

305. See *Bradford*, 326 A.3d at 83 (Leahy, J., dissenting); Lofton, *supra* note 3. A school environment where students are bullied by authority figures cannot constitute an adequate education, either. BEILENSON & MCGUIRE, *supra* note 116, at 98 (discussing the author's visit to a Baltimore City middle school where he witnessed an assistant principal berating female students over the loudspeaker for their clothing choices, stating “[y]ou girls are dressing like sluts!”).

306. See The Bradford Plaintiffs' Memorandum in Support of a Motion for Declaration Ensuring Continued Progress Towards Compliance with Court Orders and Constitutional Requirements at 1, *Bradford v. Md. State Bd. of Educ.*, No. 94340058/CE 189672 (Cir. Ct. Balt. July 8, 2004), https://live-awp-maryland.pantheonsite.io/app/uploads/2022/10/2004_bradford_filing2_memoaskingfordeclaration.pdf [<https://perma.cc/259K-447A>].

307. See *Abbott v. Burke*, 575 A.2d 359, 402–03 (N.J. 1990); Ayers, *supra* note 277, at 80–81 (discussing Baltimore City's relatively low expenditures on school instruction as a result of the need to spend more money on “other expenses that are unique to Baltimore[,]” including public safety and special education).

308. *Hornbeck v. Somerset Cnty. Bd. of Educ.*, 458 A.2d 758, 768 (Md. 1983) (noting trial court's position that substantial spending disparities among districts were incompatible with a

additional funds than their wealthy counterparts to achieve constitutionality.³⁰⁹

Even if the “thorough and efficient” mandate requires only a “basic” education, the students in Baltimore City are still denied even that.³¹⁰ A basic education cannot mean less than a safe, clean learning environment.³¹¹ It cannot mean a district where almost half of its high school students fail to pass proficiency tests.³¹² It cannot mean vermin-infestations, crumbling infrastructure, and prison-like conditions.³¹³ A constitutional mandate for a “thorough and efficient” education surely must require more.³¹⁴

In sum, *Bradford II* was wrongly decided because the Consent Decree’s objective of providing Baltimore City students with a constitutionally adequate education consistent with contemporary standards has not been met, and the Article VIII “thorough and efficient” mandate requires an education of sufficient quality to meet the State’s contemporary standards.

“thorough and efficient” education, and any level of varying funding either indicated an incomplete system or a wasteful one).

309. See *Abbott*, 575 A.2d at 402–03 (discussing the likelihood that poorer districts will require “something more” to reach constitutional compliance than affluent neighboring districts).

310. *Hornbeck*, 458 A.2d at 768, 783.

311. See *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 64, 83 (Md. App. Ct. 2024) (Leahy, J., dissenting); Leviton & Joseph, *supra* note 112, at 1167. Gov. Hogan: ‘Highly Funded’ Baltimore City School System to Blame for Cold Classrooms, CBS NEWS (Jan. 5, 2018, at 23:15 ET), <https://www.cbsnews.com/baltimore/news/baltimore-cold-schools-governor-hogan/> [<https://perma.cc/3RY3-TMM5>] (describing Baltimore City schools with freezing temperatures in the winter and icicles in the classrooms after pictures of students bundled up indoors in winter gear were posted on the internet).

312. Papst, *supra* note 1.

313. See Lofton, *supra* note 3.

314. See generally Paul L. Tractenberg, *Beyond Educational Adequacy: Looking Backward and Forward Through the Lens of New Jersey*, 4 STAN. J. CIV. RTS. & C.L. 411, 426 (2008) (describing “thorough and efficient” as words that must both be sufficiently operative to give the constitutional language full effect); see also Regina R. Umpstead, *Determining Adequacy: How Courts Are Redefining State Responsibility for Educational Finance, Goals, and Accountability*, 2007 BYU EDUC. & L.J. 281, 293–94 (2007) (listing “input” factors that courts deem relevant to finding an education system constitutionally inadequate, including shortages of trained teachers and staff, limited equipment and school supplies, and facilities in disrepair).

IV. LOOKING TO THE FUTURE

Baltimore City students are not receiving the education to which they are constitutionally entitled.³¹⁵ The 1996 Consent Decree and subsequent legislative enactments brought progress, but students still contend with abhorrent conditions in schools.³¹⁶ Below, I outline my suggestions for the future, including further litigation, adoption of new legal standards, consent decree drafting improvements, and legislative cooperation.

A. *Future Bradford Litigation*

Given the court's dissolution of the 1996 Consent Decree, the *Bradford* plaintiffs' only choice is to file a new lawsuit.³¹⁷ The appellate court did not resolve the issue of whether Baltimore City students were receiving a constitutionally sufficient education under Article VIII.³¹⁸ In renewed litigation, the plaintiffs can argue both that Baltimore City students are not receiving even a "basic" education, and also that "basic" is the incorrect interpretation of the "thorough and efficient" language.³¹⁹ Maryland courts should formally adopt the position that "thorough and efficient" requires an adequate education by contemporary standards.³²⁰

Further, Maryland courts should adopt a legal standard for dissolving consent decrees that requires satisfaction of both the ultimate objective and the means proffered to achieve the

315. See generally *Bradford*, 326 A.3d at 83 (Leahy, J., dissenting) (discussing "voluminous record" of evidence demonstrating that Baltimore City students are not receiving a constitutionally sufficient education).

316. See *id.* at 81–82.

317. After the Appellate Court of Maryland dissolved the 1996 Consent Decree in November 2024, the plaintiffs did not appeal the decision to the Supreme Court of Maryland, and the case is closed on the docket. See *Case Detail*, MD. JUDICIARY CASE SEARCH, <https://casesearch.courts.state.md.us/casesearch/inquiryDetail.jjs?caseId=ACMREG02092023&loc=71&detailLoc=ODYCOSA> [https://perma.cc/556F-MFCS] (last visited Aug. 25, 2025). Plaintiffs were required to appeal within 30 days. MD. CODE ANN., MD. RULES § 8-202(a) (West 2023).

318. See *Bradford*, 326 A.3d at 69.

319. See *supra* Sections III.A, III.B.

320. See *Bradford Consent Decree*, *supra* note 16, at 1–2.

objective.³²¹ It is nonsensical to dissolve a consent decree that was enacted to cure a constitutional deficiency when the underlying constitutional deficiency persists in full force.³²² Judicial economy is not served by requiring litigants to jump through gratuitous procedural hoops and undertake the filing of a new lawsuit to challenge a constitutional violation that is the subject of an already-agreed-upon Consent Decree.³²³ Adoption of a legal standard requiring the underlying constitutional deficiency of a consent decree to be cured before dissolution would best serve the interests of the parties and the interests of nonlitigants inevitably present in any institutional reform case.³²⁴

B. Consent Decree Specificity

Specificity in negotiating and drafting the *Bradford* Consent Decree could have helped avoid its premature dissolution.³²⁵ If the objective of achieving constitutional compliance was expressly included in the Decree, it may have survived. Thus, institutional reform litigants should clearly express their objective within the decree: curing the constitutional deficiency at the heart of their claims.³²⁶ As consent decrees are often regarded by courts as contractual obligations between the parties accompanied by judicial oversight, a clear expression of intent to correct the constitutional violation could situate the decree's objective in the four corners of the document and give it effect during a subsequent court's interpretation.³²⁷

Plaintiffs should also exercise caution when entering into consent decrees to settle claims of expansive constitutional violations. As institutional reform often spans long periods of time,

321. See *Bradford*, 326 A.3d at 81 (Leahy, J., dissenting).

322. See *id.*

323. See *id.* at 86.

324. See Anderson, *supra* note 284, at 755.

325. See *Bradford*, 326 A.3d at 81–82.

326. See Anderson, *supra* note 284, at 755.

327. Cf. Peter M. Gerhart & Juliet P. Kostritsky, *Efficient Contextualism*, 76 U. PITT. L. REV. 509, 526–27 (2015) (discussing contracts as an articulation of the parties' means, not the end, even when courts consider only the "four corners of the contract").

changes in the fabric of courts will inevitably result in varying support and interpretations of the consent decree's meaning.³²⁸ However, the Consent Decree remains an attractive option for institutional reform litigants because it imposes contractual obligations on an often uncooperative party that has the potential to thwart judicial directives attempting to remedy deficient public education: the legislature.³²⁹ Parties should thus engage in calculated drafting by including an express objective in the four corners of the document to prevent the dissolution of an unfulfilled consent decree that occurred in *Bradford*.³³⁰

C. Beyond Funding: Extrinsic Factors and Legislative Cooperation

The constitutional mandate for an adequate education is not met at the moment additional funds are approved by the legislature, but rather when those funds are utilized efficiently and responsibly to improve the conditions in Baltimore City schools so that students can receive the quality education to which they are constitutionally entitled.³³¹ Some individuals within the Baltimore community do not view insufficient funding as the culprit of constitutional deficiencies in Baltimore City schools.³³² Indeed, Baltimore City students often must contend with a

328. School finance litigation in Maryland serves as a prime example: the *Bradford I* court that granted plaintiffs' partial summary judgment and catalyzed the parties' agreement in the Consent Decree had a very different view of the reach of the Consent Decree than the 2024 Appellate Court that dissolved it. See *Bradford Consent Decree*, *supra* note 16, at 1–3; *Bradford*, 326 A.3d at 80–81 (noting that the Consent Decree was fully satisfied when “full Thornton funding” was reached pursuant to the terms of the Decree).

329. See generally Greif, *supra* note 104, at 615–16 (citing *Abbott v. Burke*, 575 A.2d 359 (N.J. 1990)) (discussing the New Jersey legislature's evasive tactics aimed at frustrating the judicial directives from *Abbott*).

330. See *Bradford*, 326 A.3d at 80–81.

331. See generally *Abbott*, 575 A.2d at 403 (“A thorough and efficient education requires such level of education as will enable all students to function as citizens and workers in the same society . . .”).

332. See Papst, *supra* note 1.

myriad of factors that influence their ability to succeed in school.³³³ The effects of poverty on children are well-documented,³³⁴ and a student’s ability to spend time in school meaningfully learning is understandably burdened when children are forced to contend with the daily challenges of poverty.³³⁵ It should not be expected that after decades of underfunding and attempting to build an education system with monetary scraps,³³⁶ the influx of state funding to Baltimore City will achieve constitutional compliance overnight. To be sure, the path to achieving significant improvements in educational outputs will not be achieved with increased funding alone, but it cannot be achieved without it.³³⁷

Equally important is an understanding within the legislature that funding parity will prove insufficient where historical underfunding is present in poorer localities.³³⁸ A district that must deal with significant deficiencies in infrastructure, like broken HVAC systems, lead paint, and leaky ceilings,³³⁹ will necessarily require more funding than a district whose

333. See BEILENSEN & MCGUIRE, *supra* note 116, at 99 (discussing the external factors present in some Baltimore students’ lives, including experiences of “violence and the effects of poverty” and noting that students’ backgrounds and home environments “simply overpower whatever the school system can provide”).

334. See Marisol Silva-Laya, Natalia D’Angelo, Elda García, Laura Zúñiga & Teresa Fernández, *Urban Poverty and Education. A Systematic Literature Review*, EDUC. RSCH. REV., Feb. 2020, at 1, 10; Indivar Dutta-Gupta, *The Enduring Effects of Childhood Poverty*, CTR. FOR L. & SOC. POL’Y (Aug. 14, 2023), <https://www.clasp.org/blog/the-enduring-effects-of-childhood-poverty/> [<https://perma.cc/6F22-RCBS>].

335. See Jeanne L. Reid, *The Racial and Ethnic Composition of Pre-Kindergarten Classrooms and Children’s Language Development*, 119 PENN ST. L. REV. 645, 647–49 (2015) (discussing the effect of poverty on the early development of children); Michael A. Rebell, *The Right to Comprehensive Educational Opportunity*, 47 HARV. C.R.-C.L. L. REV. 47, 50 (2012) (attributing the achievement gap to a “core problem” of poverty that impedes academic opportunity and success).

336. See Ayers, *supra* note 277, at 80–81 (discussing financial constraints on Baltimore City and noting that reliance on property taxes in a city with significant non-education funding obligations results in limited school funding).

337. See generally *id.* at 87–88 (arguing that regardless of improvements in education outputs, the 1996 Bradford Consent Decree and resulting increased funding will leave Baltimore City students in a better place than it found them); David C. Berliner, *Our Impoverished View of Educational Research*, 108 TCHR. COLL. REC. 949, 949, 982 (2006) (arguing that childhood poverty imposes significant limitations on the efficacy of education).

338. See *Abbott v. Burke*, 575 A.2d 359, 401–02 (N.J. 1990) (noting that underfunded districts will likely require even more funding).

339. See Lofton, *supra* note 3.

infrastructure bases are all covered. Further, the fact that funds must be expended to fix infrastructure does not obviate the need to fund instruction, administration, and teachers' salaries.³⁴⁰ Education funding distributions from the state should also recognize the limitations of Baltimore's tax base, which has to stretch further than neighboring suburban and rural districts to cover public safety and other social programs.³⁴¹ The General Assembly should strive to enact clear, intentional legislation³⁴² to reach constitutional compliance, bearing in mind Baltimore's unique situation and the many channels into which public expenditures must flow.³⁴³

CONCLUSION

Malcolm X said that "[w]ithout education, you are not going anywhere in this world."³⁴⁴ The importance of an education is unparalleled and uncontested, yet students in Baltimore and poor districts across the country are forced to grapple with deficient and abysmal educational quality for no reason other than

340. See Grief, *supra* note 102, at 633 n.138.

341. In 2023, Baltimore spent 32% and 31% of its funding on public safety and community health and cleanliness, respectively. FISCAL 2023: SUMMARY OF THE ADOPTED BUDGET, CITY OF BALTIMORE, MARYLAND, at xvii (2023) [hereinafter 2023 BALTIMORE BUDGET], https://cityservices.baltimorecity.gov/resources/FY23_SOTA_final.pdf [https://perma.cc/A2YB-7ARC]. In 2024, neighboring district Howard County spent only 12.1% of its funding on public safety and devoted a whopping 62.3% of its funding to education. *General Fund*, HOWARD CNTY. MD., <https://www.howardcountymd.gov/budget/general-fund> [https://perma.cc/NN5X-XM6F] (last visited Nov. 13, 2025).

342. While recommendations on the specifics of education policy are beyond the scope of this Note, the implementation of clear and intentional directives from the General Assembly on the subject would streamline the process of remedying the constitutional deficiency. The *Abbott* decisions and the New Jersey legislature's subsequent feet-dragging serve as a sobering example of the problem with relying on even highly specific directives from a court: the legislature has to want to solve the problem, too. See Greif, *supra* note 104, at 656 (discussing how an uncooperative administration subverted the *Abbott* mandate, and concluding that "judicial opinions alone are insufficient to sustain substantial education reform").

343. The tax base in Baltimore is stretched thin by the needs inherent in funding a complex urban district. Baltimore spends over half of its budget on public safety and community health, leaving meager funding for education. See 2023 BALTIMORE BUDGET, *supra* note 338, at xii. The legislature should engage in a review of Baltimore's expenditures in recent years prior to disbursing State education funds so it can consider the reality of significant constraints on local funds. See *id.*

344. See *Malcolm X Quotes*, BRAINYQUOTE, https://www.brainyquote.com/quotes/malcolm_x_382874 [https://perma.cc/2VLC-FKG9] (last visited Nov. 13, 2025).

where they happen to live.³⁴⁵ Where the State undertakes the obligation of providing its citizens with a “thorough and efficient” education, it may not abdicate its responsibility to do so even-handedly by overreliance on local property taxes to fund education if doing so results in constitutionally deficient conditions in some districts.³⁴⁶ In Baltimore and many districts throughout the country, the historic overreliance on localized revenues to fund a substantial amount of public education has created exactly these conditions.³⁴⁷ I have argued that where such constitutional deficiencies exist, the State has an obligation to provide a remedy that addresses and rectifies the constitutional violation.³⁴⁸ In the case of *Bradford*, the State has not met its obligation under the Maryland Constitution to provide Baltimore students with an adequate education.³⁴⁹ That obligation will not be met until Baltimore City students are receiving a “thorough and efficient” education, which must mean an adequate education when appraised by contemporary standards.³⁵⁰

To conclude, the Maryland Court of Appeals was wrong to dissolve the Consent Decree in *Bradford* because the objective of the Decree to cure a constitutionally inadequate education system in Baltimore remains unfulfilled.³⁵¹ Further, Maryland and other states that ensure a “thorough and efficient” education for their citizens must provide more than a rudimentary or basic starting point; the education must be of such a quality to be considered adequate when judged by contemporary standards.³⁵² Students in Baltimore City deserve a quality education, but more than that: it is their constitutional right.³⁵³ The State’s

345. See Lofton, *supra* note 3.

346. See Leviton & Joseph, *supra* note 112, at 1167.

347. See Lofton, *supra* note 3; William Penn Sch. Dist. v. Pa. Dep’t of Educ., 294 A.3d 537, 592, 620 (Pa. Commw. Ct. 2023).

348. See *supra* Part III.

349. See *Bradford v. Md. State Bd. of Educ.*, 326 A.3d 65, 83 (Md. App. Ct. 2024) (Leahy, J., dissenting).

350. See *id.*; *Bradford Consent Decree*, *supra* note 16, at 2–3.

351. See *supra* Section III.A.

352. See *supra* Section III.B.

353. See MD. CONST. art. VIII, § 1.

obligations to Baltimore City students will not be satisfied until the current, ongoing constitutional injustice is rectified.