In The

Supreme Court of Maryland

No. 10
September Term, 2024

MDEC No. SCM-REG-0010-2024

BOARD OF EDUCATION OF HARFORD COUNTY,

Appellant,

vs.

JOHN DOE,

Appellee.

On Appeal from the Circuit Court for Harford County, Circuit Court Case No. C-12-CV-23-000767,
(The Honorable Alex M. Allman, Judge)

BRIEF FOR APPELLANT

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STATEMENT OF THE CASE

Appellant Board of Education of Harford County (the "Board") adopts and incorporates by reference herein the Statement of the Case set forth in the consolidated opening brief filed by the Board and the Key School, Inc. and the Key School Building and Finance Corporation (the "Key Appellants").

QUESTION PRESENTED[1]

As a subdivision of the State, see *Bd. of Educ. v. Sec'y of Personnel*, 317 Md. 34, 44-45 (1989), does the petitioner have standing to challenge the constitutionality of the Maryland Child Victims Act of 2023 ("CVA"), 2023 Md. Laws ch. 5 (S.B. 686), (codified at Md. Code Ann., Cts. & Jud. Proc. ("CJ") § 5-117)?

STATEMENT OF MATERIAL FACTS

The Board adopts and incorporates by reference herein the Statement of Material Facts set forth in the consolidated opening brief filed by the Board and the Key Appellants.

STANDARD OF REVIEW

De novo review applies to both statutory and constitutional interpretation, which present questions of law. *See In re Walker*, 473 Md. 68,

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[1] In an Order entered May 28, 2024, this Court directed the parties to the above-captioned appeal to address this question in addition to the question with regard to which this Court granted *certiorari*.

76 (2021) (*de novo* review for statutory interpretation); *Mayor of Ocean City v. Comm'rs of Worcester Cty.*, 475 Md. 306, 311 (2021) (*de novo* review for constitutional interpretation). The issue of standing is "designed to ensure that a party seeking relief has a sufficiently cognizable stake in the outcome so as to present a court with a dispute that is capable of judicial resolution." *Kendall v. Howard Cnty.*, 431 Md. 590, 603 (2013). The question of whether a party has "standing is a question of law that is collateral to the merits" and, thus, "the relevant standard of review on appeal is *de novo*." *Paula v. Mayor*, 253 Md. App. 566, 580-81 (2022).

ARGUMENT

I. In a Civil Tort Action Brought by a Private Plaintiff Against the Board and Board Employees, the Board has Standing to Raise a Defense Challenging the Constitutionality of the CVA's Purported Retroactive Revival of Previously Time-Barred Claims After the Statute of Repose and the Statute of Limitations Had Run.

Notwithstanding the proposition that a political subdivision of the State generally lacks standing to affirmatively challenge the constitutionality of a State statute,[2] this Court has expressly and implicitly recognized several

[2] *See, e.g., Bd. of Educ. v. Sec'y of Personnel*, 317 Md. 34, 44-45 (1989) (holding that the Board of Education of Prince George's County, as a creature of the State, had no right to seek a writ of mandamus to compel the Secretary of Personnel to convene a contested case proceeding subject to judicial review contrary to a statute providing only for an exclusive administrative remedy); *State ex rel. Attorney Gen. v. Burning Tree Club, Inc.,* 301 Md. 9, 11 (1984) (holding "that the Attorney General of Maryland could not bring a declaratory judgment action

exceptions to this general proposition. It is respectfully submitted that these exceptions apply in this appeal to confer standing upon the Board to challenge the CVA's purported retroactive abrogation of the statute of repose and statute of limitations.

Local boards of education in Maryland are unique governmental entities that are unable to raise funds on their own and are wholly dependent upon multiple layers of State, county, and federal government sources for funding their education budgets. Here, the Board risks suffering substantial losses that might neither be budgeted, funded, nor insured against if the CVA is found constitutional. The potential losses that might come from previously time-barred claims revived by the CVA will compel local boards of education to divert current education dollars budgeted for the education of today's school children to the payment of decades-old claims that, prior to the CVA, were long expired. The Board has a cognizable stake in the resolution of important questions such as these that could send shockwaves through Maryland's public school systems and which are sufficient to confer standing upon the Board to challenge the constitutionality of the CVA.

For example, this Court did not question the standing of a local board of education in a suit against the State to challenge the constitutionality of the

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challenging the constitutionality of an enactment of the General Assembly of Maryland").

State's statutory funding mechanism for public education. *See, e.g., Hornbeck v. Somerset County Board of Educ.,* 295 Md. 597 (1983) (where, following a month long trial resulting in a ruling that the statutory funding scheme for Maryland's 24 local school boards violated the provisions of Md. Const. art. VIII and Md. Const. Decl. Rights art. 24, this Court reversed, not for reasons of standing, but upon a conclusion that Md. Const. art. VIII required a "thorough and efficient" system of free public schools but not a "uniform" system); *see also Md. State Board of Educ. v. Bradford*, 387 Md. 353 (2005) (where the Board of School Commissioners of Baltimore City joined other parties in a suit against the State seeking, *inter alia*, a declaration that the State had failed in its obligation to provide a "thorough and efficient" education for Baltimore City's public school children).

In addition, this Court has recognized that the "dilemma doctrine" allows a public official, charged with the responsibility of implementing a statute that the official believes is unconstitutional, to challenge the constitutionality of that statute by way of a declaratory judgment action. *See, e.g., Burning Tree Club*, 301 Md. at 13-26 (discussing the application of the dilemma doctrine before concluding that it did not apply to the Attorney General's action in that case). *Accord* E. Borchard, DECLARATORY JUDGMENTS 771 (2d ed. 1941) ("Attention may properly be called to the dilemma of the public officer either in refusing to act under a statute he believes to be unconstitutional or in carrying it out and

later finding that it was unconstitutional: for refusing to act, he may expose himself to an action in tort, removal from office, fine, or even greater penalty; for acting, he may be exposed to an action for damages or disciplinary measures."). Although the application of the dilemma doctrine applies to public officials who may challenge the constitutionality of a statute by way of a declaratory judgment action, this Court has recognized that, where at least one of the individual plaintiffs has standing, it is unnecessary to address the standing of governmental entities that are co-plaintiffs joining in the challenge to the constitutionality of the State statute at issue. *See, e.g., State's Attorney v. City of Baltimore*, 274 Md. 597, 602 (1975) ("Since one of the plaintiffs, Commissioner Embry, had standing to bring the action, it is unnecessary for us to consider the matter of Baltimore City's standing.").

An additional exception applies where the public entity is not suing the State to challenge the constitutionality of the State statute at issue but is, rather, exposed to an action for damages or other monetary relief brought by a private party in tort or otherwise based upon the alleged unconstitutional statute, and the public entity is forced to defend. *See, e.g., Burning Tree Club*, 301 Md. at 25-26 (in determining that the dilemma doctrine did not apply in that case, the Court reasoned that the "Attorney General is faced with neither an action in tort, nor removal from office, nor 'even greater penalty' for his actions under the statute . . . [and] is not exposed to an action for damages"). This defensive

exception is especially true where the alleged unconstitutional statute is generally applicable to both public and private entities alike, and they are equally forced to defend suits brought under the statute at issue. *See, e.g., Cooper v. Wicomico County*, 284 Md. 576, 584 (1979) (holding that a statute retroactively increasing the amounts of previously finalized workers compensation awards paid by both public and private employers "unconstitutionally affects the contractual and other vested rights" of Wicomico County and its insurer).

Finally, this Court has reasoned that "where the issues presented are of great public interest and concern, the interest necessary to sustain standing need only be slight." *Baltimore v. Concord Baptist Church, Inc.,* 257 Md. 132, 138-39 (1970). That is certainly true in this appeal where the ability of local school boards to defend against previously time-barred claims of decades-old abuse is at issue, and the General Assembly has taken the extraordinary step of providing for an interlocutory appeal due to the importance of the underlying constitutional issues involved.[3]

As discussed more fully below, all of the forementioned exceptions apply to the Board in this case. As a result, this Honorable Court should hold that the Board has standing to pursue this appeal challenging the constitutionality of the CVA's purported retroactive abrogation of the statute of repose and statute of

[3] *See infra* n. 17 and accompanying text.

limitations to revive John Doe's previously time-barred claims against the Board and the Board Employees.

A. The Unique Character of Maryland Boards of Education

Among the various governmental subdivisions in Maryland, the 24 local boards of education have a unique hybrid character. Article VIII, Section 1 of the Maryland Constitution requires the establishment of a "thorough and efficient System of Free Public Schools." Although considered State agencies for most purposes, they are not part of the Executive branch of State government. *See Donlon v. Montgomery Cty. Pub. Schs,* 460 Md. 62, 80-96 (2018); *Beka Indus. Inc. v. Worcester County Bd. of Educ.*, 419 Md. 194, 212 (2011); *Chesapeake Charter, Inc. v. Anne Arundel County Bd. of Educ.*, 358 Md. 129, 134-39 (2000); *Dean v. Bd. of Educ. of Cecil County*, 71 Md. App. 92, 98 (1987).[4] Maryland's local boards of education lack taxing authority and are dependent upon a combination of State and county sources, as well as limited and restricted federal funds, to operate the schools and school system within their respective jurisdictions. *See* Md. Code Ann., Educ. ("ED") § 5-101 *et seq.*;

[4] The Appellate Court in *Dean*, 71 Md. App. at 98, commented that Maryland school boards are "unusual creatures, having an existence independent of the county government, authorized to exercise, on their own, such sovereign power as eminent domain, but yet dependent upon the county government for much of their budget."

Bradford, 387 Md. at 359; *Hornbeck,* 295 Md. at 604. Article VIII, Section 3 of the Maryland Constitution requires that these funds "shall be kept inviolate and appropriated only to the purposes of Education."

Neither subject to the Maryland Tort Claims Act[5] nor the Local Government Tort Claims Act,[6] the "county boards of education, though possessing generally the power to sue and be sued, were uniformly held to be immune from tort liability" until the passage of what is now ED 4-105 in 1971,[7] which provides as a "valid educational expense" for the purchase of comprehensive insurance or self-insurance in the prescribed amount corresponding with the limited sovereign immunity waiver.[8] The local boards of education were additionally required to join in any suit against board employees sued for alleged conduct committed within the scope of their employment, to defend these employees, and to pay for any tort judgment entered against such employees up to the local board of education's insured

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[5] CJ § 5-522.
[6] CJ § 5-301 *et seq*.
[7] *Dean*, 71 Md. App. at 98.
[8] *See* ED § 4-105; CJ § 5-518. Prior to October 1, 2016, the sovereign immunity cap set forth in CJ § 5-518 (West 2016) was $100,000, and the corresponding comprehensive insurance requirement set forth in ED § 4-105 was similarly set at $100,000. *See* 2016 Md. Laws Ch. 680. The sovereign immunity cap and corresponding required insurance coverages were increased prospectively to $400,000 effective October 1, 2016. *See id.* at § 2. The CVA amended CJ 5-518 effective October 1, 2023, to increase the immunity cap for claims arising out of alleged child sex abuse to $890,000. The Circuit Court deferred on the question of whether that increase was prospective only. (E. 533-534).

immunity limits. *See* CJ § 5-518(d), (e), and (h)[9]; ED §§ 4-104, 4-105, 4-106; *Neal v. Balt. City Bd. of Sch. Comm'rs,* 467 Md. 399, 424-27 (2020) (discussing the obligation of local boards of education to remain in a case as necessary parties while litigation is pending against school employees for alleged tortious conduct committed within the scope of employment and to pay any judgment entered against an employee for tortious conduct committed within the scope of employment); *Montgomery County Bd. of Educ. v. Horace Mann Ins.*, 383 Md. 527 (2004) (holding that because there was at least a potentiality of coverage, the local board of education had the duty to defend a teacher sued by a student for tortious conduct including allegations of sexual abuse and was thus liable to reimburse her private insurer for the costs of her defense).

Such is the posture in which the Board finds itself in this case. John Doe sued not only the Board for the alleged abuse suffered decades earlier at the hands of two non-defendant former employees, Janice Konski[10] and Elwood Dehaven,[11] but also sued the ten unidentified non-perpetrator Board Employees who allegedly "employed, supervised, controlled and/or oversaw"

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[9] CJ § 5-518(d) and (h) similarly require that the local board of education be joined as a defendant in any action against a school volunteer, such as a parent field trip chaperone, who is sued for alleged tortious acts or omissions within the scope of the volunteer's duties, and to pay any judgment that may be entered as a result.

[10] *See* E. 394.

[11] *See* E. 394.

Konski and/or Dehaven.[12] The Board has the *right* to defend itself against such claims, but it also has the imperative statutory *duty* to vigorously defend the Board Employees and to pay any judgment that may be entered against them for their alleged tortious acts or omissions arising out of the scope of their employment over three decades earlier at the time of the alleged abuse. If the CVA is found constitutional, and if the new immunity cap is also found to apply retroactively, the CVA will expose the Board to the risk of defense costs and a possible judgment beyond the limits of the sovereign immunity waiver and corresponding insurance limits that were in place at the time of the abuse alleged by John Doe.[13] These findings would not only adversely impact the finances of the Board, but would also violate the mandate of Article VIII, Section 3 of the Maryland Constitution requiring that education funds "shall be kept inviolate and appropriated only to the purposes of Education." Such an adverse financial impact involving the expenditure of public funds caused by the CVA beyond those statutorily carved out and covered by the purchase of

[12] *See* E. 395. The CVA purports to retroactively eliminate the statute of repose previously applicable to non-perpetrator employers and other persons and the statute of limitations. That would allow decades-old claims to be brought against *any* person who may arguably have had supervisory responsibilities over an alleged perpetrator including, but not limited to, school principals, head coaches, and lead teachers. *See* CJ § 5-117 (West 2023).

[13] *See supra* n. 8.

insurance as a "valid educational expense" at the time of the alleged abuse, is sufficient to confer standing upon the Board in this case.[14]

B. A Holding That the Board Lacks Standing to Challenge the Constitutionality of the CVA Would Put the Board in an Impossible Dilemma

There can be no dispute that the ten non-perpetrator Board Employees sued by John Doe have standing to challenge the constitutionality of the CVA's purported retroactive revival of claims against them that had been time-barred for over two decades. The restriction on public subdivision standing discussed in *Burning Tree Club, Inc.,* 301 Md. at 11, and *Sec'y of Personnel*, 317 Md. at 44-45, does not apply to these individuals because they are not and were not "creatures" of the State.

However, unlike any other defendants in the various underlying cases brought under the CVA after its October 1, 2023 effective date, the Board Employees have the statutory right to look to the Board for their defense and, ultimately, to the payment of any judgment that might be entered against them.[15] As a matter of law, the Board cannot shirk this statutory duty but

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[14] *Accord* M*obile v. Gaylord Dep't Stores, Inc.*, 276 Ala. 568, 571, 165 So. 2d 118, 120 (1964) (holding that the City of Mobile had standing to challenge the constitutionality of a taxing statute because the "loss of revenue" resulting for the statute "adversely affects appellant" and "[i]n trying to preserve this revenue, it has a right to challenge the validity of the Act"). The same principle applies here.

[15] *See Neal*, 467 Md. at 424-27. Given the dates alleged in the Complaint, it is reasonable to assume that the Board Employees have long since retired. To

must zealously defend the Board Employees by raising every plausible legal and factual defense.[16]

The Board cannot be constrained to defend the Board Employees with one hand tied behind its back by being prevented, on standing grounds, from raising the constitutional challenge anticipated by the General Assembly when it took the extraordinary step of providing for an interlocutory appeal[17] on the constitutionality of the CVA's retroactive abrogation of the statute of repose and statute of limitations. This is particularly true given what is at stake for both the Board and the Board Employees—a *vested* right to be free from suit by virtue of the running of limitations and, more importantly, by the Legislature conferring a substantive right of repose in CJ § 5-117(d) (West 2017) once the statutory time period expired.[18] To deny standing to the Board

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the extent that any of these Board Employees are now deceased, the Board would owe a duty to defend the former employee's estate.

[16] *See Horace Mann Ins.*, 383 Md. at 527.

[17] The General Assembly did not exclude public entities such as the Board from the interlocutory appeal provision. To the contrary, the statutory language clearly provides that "A party" – without any exceptions – may file an interlocutory appeal from any order denying a motion to dismiss that is "based on a defense that the applicable statute of limitations or statute of repose bars the claim . . . and any legislative action reviving the claim is unconstitutional." 2023 Md. Laws ch. 5, § 1 (E. 91-92); 2023 Md. Laws ch. 6, § 1 (E. 103-104)

[18] That enactment vested rights to both the Board and Board Employees as follows:

> In no event may an action for damages arising out of an alleged incident or incidents of sexual abuse that occurred while the victim was a minor be filed against a person or governmental

would place it in the dilemma of having to breach its statutory duty owed to the Board Employees and thereby expose the Board to the risk of damages not only to John Doe but to the Board Employees as well should the Board not provide a full defense.

This Court has recognized that when individual governmental employees have standing to challenge the constitutionality of a State statute, the question of the governmental entity's standing is not relevant to the determination of the constitutional issue. *See, e.g., Concord Baptist Church,* 257 Md. at 138-39 (rejecting argument on appeal of a church condemnation case where the constitutionality of a statute was at issue that there was "no reason" why the City of Baltimore should be dismissed on standing grounds when the "individual appellants had standing," and noting that "where the issues presented are of great public interest and concern, the interest necessary to sustain standing need only be slight"); *City of Baltimore*, 274 Md. at 602 ("Since one of the plaintiffs, Commissioner Embry, had standing to bring the action, it is unnecessary for us to consider the matter of Baltimore City's standing."). *Accord Sugarloaf Citizens' Assn. v. Dep't of Env't.,* 344 Md. 271, 297

> entity that is not the alleged perpetrator more than 20 years after the date on which the victim reaches the age of majority.

2017 Md. Laws ch. 12, § 1 (E. 77); 2017 Md. Laws ch. 656, § 1 (E. 82); CJ § 5-117(d) (West 2017).

(1996) *quoting People's Counsel v. Crown Dev. Corp.,* 328 Md. 303, 317 (1982) (reasoning that it "is a settled principle of Maryland law that, 'where there exists a party having standing to bring an action . . . we shall not ordinarily inquire as to whether another party on the same side also has standing'" and that, as a result, because one party "had standing to maintain this action . . . it is unnecessary to determine whether any of the other plaintiffs also had standing").

It is respectfully submitted that if, as in the cases above, standing is not an issue when a governmental entity is joined by individuals as co-plaintiffs in an affirmative challenge to the constitutionality of a State statute, the same must at least be equally true where the governmental entity and its employees are joined as co-defendants in an action for tort damages and the constitutionality of the State statute giving rise to the suit is at issue. Here, since the Board Employees unquestionably have standing in their own right to challenge the constitutionality of the CVA's purported retroactive abrogation of the statute of repose and statute of limitations, it is respectfully submitted that the Board has standing as well, particularly since it is statutorily obligated to defend the Board Employees.

This principle was applied recently in a similar case involving a constitutional challenge brought by a public school system and an individual defendant to a Colorado law similar to the CVA. In *Aurora Pub. Sch. v. A.S.*,

531 P.3d 1036 (Colo. 2023), the Supreme Court of Colorado struck down the "Child Sexual Abuse Accountability Act" ("CSAAA") and addressed the issue of a public-school system's standing to challenge the constitutionality of that law. There, the plaintiffs challenged the standing of the public school system on two grounds: 1) that the school system, as a political subdivision, could not claim the protections of Colorado's "Retrospectivity Clause" upon which the court later found the CSAAA unconstitutional, *see id.* at 1044-45; and 2) that as a political subdivision, the school system "cannot challenge the actions of superior state entitles, including legislation passed by the general assembly." *Id.* at 1045. As to the first argument, the Court recognized that it "has reviewed retrospectivity clause challenges by public entities on multiple occasions" and thus rejected the plaintiff's first argument. *Id.* With regard to the "political subdivision doctrine" the court found that the school district and an individual defendant "raise[d] the same argument regarding the unconstitutionality of the CSAAA" on the grounds that the "Act is unconstitutionally retrospective to the extent it permits the plaintiffs to bring a claim for alleged sexual misconduct that predated the Act and for which any previously available causes of action are time-barred." *Id.* at 1045-46. Since the individual defendant's standing was uncontested, the court concluded that it had "subject matter jurisdiction over this dispute due to [the individual defendant's] standing" and thus "it is not necessary to address the standing of

the school district to bring the identical claim." *Id*. at 1046. It is respectfully submitted that this Honorable Court should adopt the same line of reasoning as expressed in the *Aurora Pub. Sch.* case in holding that the Board has standing in this appeal.

C. The Board Has Standing to Challenge the Constitutionality of the CVA Because it is Generally Applicable to Both Public and Private Entities and Persons

The CVA applies generally to persons and government entities alike in purporting to abrogate the vested protections from suit which CJ § 5-117(d) (West 2017)[19] provided to non-perpetrator "persons and governmental entities" on claims asserted more than twenty years after the alleged victims of child sexual abuse reached the age of majority. Almost immediately after the CVA went into effect on October 1, 2023, suits were commenced against private persons, private entities, and public entities alike. There is no question that the private persons and private entities in the pending cases are fully able to challenge the constitutionality of the CVA's retroactive abrogation of the statute of repose and statute of limitations as expressly contemplated by the General Assembly. It would be incongruous if a public entity such as the Board were denied standing to assert the same constitutional challenge. The Board has been sued, and it has the right to defend itself from suit.

[19] *See supra* n. 18 and accompanying text.

This Court's decision in *Cooper v. Wicomico County*, 284 Md. 576, 584 (1979), illustrates this point. In *Cooper*, an employee of the Wicomico County Department of Public Works sustained a work-related injury and was rendered totally and permanently disabled for which the Workers' Compensation Commission granted weekly compensation benefits not to exceed the maximum statutory award at that time of $30,000. *See id*. at 577. Several years later, in an effort to keep pace with rising inflation, the General Assembly passed a statute, applicable to public and private employers alike, that retroactively provided such employees a supplemental allowance thereby increasing the financial exposure of employers and their insurers. *See id*. at 577-78.

Wicomico County and its insurer appealed the award of supplemental benefits to the employee, Cooper, and contended that the statute was unconstitutional because it retroactively divested them of their "contractual or other vested rights . . . by increasing their obligation under the basic award to pay the maximum fixed by the law at the time of the injury." *Id. at* 578. The Circuit Court agreed, as did this Court, which held that because the evidence demonstrated that the statute in question "unconstitutionally affect[ed] the appellee's contractual and other vested rights, the lower court correctly

concluded that the supplemental award of compensation to Cooper cannot be sustained." *Id. at* 584.[20]

This Court should apply its holding in *Cooper* to allow the Board the same opportunity as all other defendants to challenge the constitutionality of the CVA as an impermissible retroactive abrogation of its vested right to be free from John Doe's suit that has been barred under the applicable statute of repose and statute of limitations. Any other result would incongruously deprive the Board of the right to defend itself, and the Board Employees, to the same extent accorded to other defendants and as contemplated by the General Assembly when it specifically granted the right to file an interlocutory appeal of the constitutional issues presented in these cases.

D. The Board Has Standing Because the Issues Presented are of Great Public Interest and Concern

This Court has recognized that "where the issues presented are of great public interest and concern, the interest necessary to sustain standing need only be slight." *Concord Baptist Church, Inc.,* 257 Md. at 138. This recognition is particularly applicable in this appeal. Public education is generally considered "the most important function of any state"[21] – so much so that in

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[20] *See Dua v. Comcast Cable, Inc.*, 370 Md. 604, 625 (2002) (citing *Cooper* as an example of where this "Court took the position that the retroactive statute affected the employers' 'contractual and other vested rights' and, therefore, was not 'in conformity with . . . due process requirements'").

[21] *Hornbeck*, 295 Md. at 682 (Cole, J., dissenting). *Accord Brown v. Board of*

Maryland the establishment of public education and the protection of education funding is enshrined in Article VIII of the Constitution.[22] The question of whether the CVA, as applied, constitutes an unconstitutional abrogation of the vested right to be free from the litigation of previously time-barred claims is clearly one of great public interest to not only the Board and the Board Employees but to the other 23 local boards of education and their employees which together oversee over 1,400 schools with nearly 890,000 students state-wide.[23]

The protection of the vested substantive right to be free from litigation and liability for previously time-barred claims is particularly important for the protection of school board budgets, formulated and funded in accordance with Article VIII, § 3 of the Maryland Constitution and the budgetary requirements set forth in ED § 5-101 *et seq.,* for the provision of education to students and the operation of the 24 local school systems. If the retroactive elimination of the statute of repose and statute of limitations by the CVA is found

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Education, 347 U.S. 483, 493 (1954) ("Today, education is perhaps the most important function of state and local governments.").

[22] Md. Const. art. VIII, sec. 1 (establishing "throughout the State a thorough and efficient System of Free Public Schools"); Md. Const. art. VIII, sec. 3 (providing that the "School Fund of the State shall be kept inviolate, and appropriated only to the purposes of Education").

[23] *See* 2023 *Maryland School Report Card* compiled by the Maryland State Department of Education and reported at https://reportcard.msde.maryland.gov/Graphs/#/AtaGlance/Index/3/17/6/99/XXXX/2023 (last viewed June 29, 2024).

constitutional, the Board and the other local Maryland school boards will be subjected to the risk of liability for previously time-barred claims which were neither budgeted for nor insured against, thereby diverting current budgeted funds duly appropriated for the expense of educating current school children for the defense and resolution of decades-old tort claims that were time-barred well prior to October 1, 2023. It is respectfully submitted that this Honorable Court should recognize the Board's standing to articulate these arguments of great public importance.

CONCLUSION

For the foregoing reasons, the Board respectfully submits that it has standing to present its arguments that the CVA unconstitutionally revived John Doe's claims against it and that those claims are barred under the applicable statute of limitations and statute of repose.

Respectfully submitted,

/s/ Edmund J. O'Meally

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CERTIFICATION OF WORD COUNT
AND COMPLIANCE WITH RULE 8-112

1. This brief contains 4938 words, excluding the parts of the brief exempted from the word count by Rule 8-503.

2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ Edmund J. O'Meally

Edmund J. O'Meally, AIS # 8501180003

RULE 8-504(a)(8) STATEMENT OF FONTS

This brief was printed utilizing proportionally spaced font. The body and footnotes are printed in Century Schoolbook, 13 Point.

CERTIFICATE OF SERVICE

I CERTIFY that, on this 8th day of July 2024, the foregoing Brief of Appellant was filed and served electronically via MDEC upon all counsel of record.

/s/ Edmund J. O'Meally

Edmund J. O'Meally, AIS # 8501180003