APL-2024-00099

To be argued by:
MARK S. GRUBE
20 minutes requested

State of New York
Court of Appeals

INTEGRATENYC INC., COALITION FOR EDUCATION JUSTICE, P.S. 132 PARENTS FOR CHANGE, A.C., H.D. ex rel. W.D., M.G. ex rel. M.G., L.S. ex rel. S.G., C.H. ex rel. C.H., Y.K.J. ex rel. Y.J., A.M., V.M. ex rel. J.M., R.N. ex rel. N.N., M.A. ex rel. F. P., S.S. ex rel. M.S., S.D. ex rel. S.S., K.T. ex rel. F.T., and S.W. ex rel. B.W.,

Plaintiffs-Respondents,

v.

THE STATE OF NEW YORK, KATHY HOCHUL, as Governor of the State of New York, NEW YORK STATE BOARD OF REGENTS, NEW YORK STATE EDUCATION DEPARTMENT, BETTY A. ROSA, as New York State Commissioner of Education, BILL DE BLASIO, as Mayor of New York City,

Defendants-Appellants,

(*caption continues inside front cover*)

BRIEF FOR STATE APPELLANTS IN RESPONSE TO AMICI CURIAE

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Dated: May 29, 2025

Supreme Court, New York County, Index No. 152743/2021
First Department No. 2022-02719

(*caption continues from front cover*)

NEW YORK CITY DEPARTMENT OF EDUCATION, MEISHA PORTER,
as Chancellor of the New York City Department of Education,

Defendants-Appellants,

PARENTS DEFENDING EDUCATION,

Intervenor-Defendants-Appellants.

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PRELIMINARY STATEMENT

The State of New York, the Governor of the State of New York, the New York State Board of Regents, the New York State Education Department, and the New York State Commissioner of Education (together, the "State Defendants") submit this brief in response to the brief submitted by amici curiae the New York Civil Liberties Union (NYCLU) and the Education Law Center.

Contrary to amici's arguments, plaintiffs have failed to state a viable claim against the State Defendants under the Education Article of the New York State Constitution. This Court has long recognized that the Education Article sets a constitutional floor to ensure the existence of a publicly funded school system that provides a minimally adequate or sound basic education. At the same time, the Education Article preserves the preexisting state-local partnership that entrusts local authorities with significant discretion to manage schools and provide an education responsive to local needs. Amici seek to disrupt the careful balance struck by the drafters of the Education Article and recognized by this Court.

First, amici seek relief respecting local education policy without identifying a causal nexus to the State for the alleged educational inadequacies, a threshold requirement of an Education Article claim. Amici contend that Education Article claims are not limited to claims that the State has provided inadequate funding. But they do not offer any alternative theory for establishing a causal nexus to the State for the deficiencies alleged here or any limiting principle for the role of the judiciary under their expansive conception of the Education Article.

Second, amici seek to expand the components of a minimally adequate or sound basic education beyond those already recognized by this Court. Amici would have the judiciary displace the role of local officials in assessing whether curricula and the teacher workforce are sufficiently diverse. Judges have neither the expertise nor manageable standards to assume such a role. In sum, amici's arguments are insufficient to salvage plaintiffs' Education Article claim against the State Defendants.

ARGUMENT

PLAINTIFFS FAILED TO STATE AN EDUCATION ARTICLE CLAIM AGAINST THE STATE DEFENDANTS

A. The Education Article Ensures That the State Adequately Funds Public Schools, While Preserving Local Control Over Education Policy.

As the State Defendants have demonstrated (see Reply Br. for State Appellants (Reply Br.) at 5), the drafters of the Education Article responded to a concern that the funding of the State's public school system rested on legislative grace. They thus sought to ensure the existence of "a State-wide system assuring minimal acceptable facilities and services" such that "a sound basic education" wholly funded by taxes would be available to all the State's children. *See Board of Educ., Levittown Union Free School Dist. v. Nyquist*, 57 N.Y.2d 27, 47-48 (1982). But the drafters did not intend to disturb the preexisting "state-local partnership," in which local communities "make the basic decisions on funding and operating their own schools," in accordance with local needs. *See Aristy-Farer v. State*, 29 N.Y.3d 501, 511 (2017) (quotation marks omitted). Indeed, this Court has recognized that the Article sought "to *constitutionalize*

the established system of common schools rather than to alter its substance." *Reform Educ. Fin. Inequities Today (R.E.F.I.T.) v. Cuomo*, 86 N.Y.2d 279, 284 (1995) (emphasis added). See generally Br. for State Appellants (Opening Br.) at 19-38; Reply Br. at 3-11.

Reflecting that purpose, this Court has repeatedly explained that the Education Article establishes a "constitutional floor," *Aristy-Farer*, 29 N.Y.3d at 505-06 (quotation marks omitted), but does not require that schools satisfy aspirational state standards or guidelines that "exceed notions of a minimally adequate or sound basic education," *Campaign for Fiscal Equity v. State*, 100 N.Y.2d 893, 907 (2003) ("*CFE II*") (quotation marks omitted), and "does not require equality of educational offerings throughout the state," *New York Civ. Liberties Union v. State*, 4 N.Y.3d 175, 178 (2005) ("*NYCLU*"). The Article enshrines the long established system of local control over schools in the Constitution, while imposing a limited obligation on the State to provide adequate funding for a minimally adequate or sound basic education. *See Aristy-Farer*, 29 N.Y.3d at 511; *see also Levittown*, 57 N.Y.2d at 44.

This Court's Education Article jurisprudence consistently reflects that careful balance by requiring that plaintiffs plead a causal link between any deficiency and the State—which may be satisfied by alleging inadequate funding—and by declining to interfere with local control of schools. In *NYCLU*, for instance, the Court concluded that a plaintiff may not state an Education Article claim by merely alleging deficiencies in public schools and then charging "the State with the responsibility to determine the causes of the schools' inadequacies and devise a plan to remedy them." 4 N.Y.3d at 180. And in *Paynter v. State*, this Court rejected a claim that rested "not on a lack of education funding but on [the State's] failure to mitigate demographic factors that may affect student performance." 100 N.Y.2d 434, 438-39 (2003). As this Court noted, "[t]he causes of academic failure may be manifold, including such factors as the lack of family supports and health care," and the Education Article does not shield students from all such causes. *Id.* at 441. On the other hand, this Court has recognized Education Article claims in the limited context of allegations that "the State's public school financing system effectively fails to provide for a minimally adequate

educational opportunity." *Campaign for Fiscal Equity v. State*, 86 N.Y.2d 307, 319 (1995) ("*CFE I*"); *see Aristy-Farer*, 29 N.Y.3d at 515.

B. This Court Should Reject Amici's Arguments to Expand the Judiciary's Role Under the Education Article at the Expense of Local Control.

At bottom, amici seek to disturb the careful balance this Court has struck between providing a constitutional floor for educational opportunity and deferring to local authorities to operate schools. This Court should reject those arguments.

First, amici miss the mark (*see* NYCLU Br. at 8) in arguing that allegations of inadequate funding are not required to state an Education Article claim. As the State Defendants have explained (Opening Br. at 27-30) this Court has not recognized an Education Article claim untethered from funding. But more fundamentally, amici's argument fails to grapple with the threshold requirement that a plaintiff plausibly allege a causal nexus to the State. *See NYCLU*, 4 N.Y.3d at 178-79. Even assuming that causation may be pled without allegations of inadequate funding, amici do not

explain how the complaint here otherwise satisfies that threshold requirement.[1]

Second, this Court should reject amici's expansive conception of the components of a minimally adequate or sound basic education that can be sought through litigation. *See* NYCLU Br. at 8-14. As the State Defendants have explained (Opening Br. at 28-38), the inputs alleged by plaintiffs and amici go far beyond the discrete set of educational inputs that this Court has recognized as subject to judicial review under the Education Article.

Amici advocate for an "evolving view" of the scope of the Education Article (NYCLU Br. at 8), but they do not explain how the Court should assess whether to recognize inputs that go beyond those necessary to achieve "the basic literacy, calculating, and verbal skills" previously recognized by this Court, *CFE I*, 86 N.Y.2d at 316; *see CFE II*, 100 N.Y.2d at 906-07. Nor do amici offer any workable standard or principle of law for this Court, lower courts,

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[1] NYCLU vaguely refers to "inaction" by the State Defendants (NYCLU Br. at 7), but the sole remedy for contesting the inactions of a public officer is mandamus to compel, which is not appropriate for the discretionary tasks at issue here, *see NYCLU*, 4 N.Y.3d at 183-84.

or the State to distinguish between those educational deficiencies that give rise to an Education Article claim and those that do not.

More specifically, amici reiterate plaintiffs' claim that the Court should consider alleged deficiencies in the day-to-day operations of City schools, including the City's failure to recruit a sufficiently diverse teacher workforce, failure to provide adequate diversity training, and failure to use a racially equitable and culturally responsive curriculum. *See* NYCLU Br. at 11-14. But as the State Defendants have explained (Opening Br. at 21-24), these allegations concern matters of education policy that fall within the discretion of local officials. This local discretion applies to school affairs and allows them to "establish and apply their curriculum in such a way as to transmit community values." *See Board of Educ., Is. Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 863-64 (1982) (quotation marks omitted). The courts have neither the expertise nor manageable standards to assess whether a school's curricula is sufficiently inclusive or its teacher workforce sufficiently diverse. See Opening Br. at 31-38. Indeed, this Court has already rejected an Education Article claim premised on a similar theory that the

State should remediate certain demographic factors that allegedly deprived students of a sound basic education. *See Paynter*, 100 N.Y.2d at 438-39, 441.

To be sure, the State Defendants have undertaken significant efforts to promote diversity in the State's schools. See Opening Br. at 10-12. But this Court has made clear that compliance with aspirational state standards is not judicially enforceable through the Education Article. *See CFE II*, 100 N.Y.2d at 907. Rather, it is the province of expert education policymakers and local officials accountable to local needs to implement efforts to promote diversity.

Finally, amici's other arguments fall outside the scope of the Education Article as well. Amici point to allegations about deficiencies in particular facilities (NYCLU Br. at 12), but those allegations fail to plead a district-wide failure, as is needed to state an Education Article claim, *see NYCLU*, 4 N.Y.3d at 182. Amici miss the mark in arguing that allegations concerning "unequal resources" state an Education Article claim. *See* NYCLU Br. at 13. This Court has long made clear that the Education Article sets a floor and does not

require equality.[2] *See, e.g.*, *R.E.F.I.T.*, 86 N.Y.2d at 285; *Levittown*, 57 N.Y.2d at 48.

[2] Amici's argument that plaintiffs have stated an equal protection claim (NYCLU Br. at 23-28) makes only a passing reference to conduct attributable to the State in the form of a state statute, which the State Defendants have already explained is insufficient to state an equal protection claim. See Opening Br. at 38-45; Reply Br. at 11-19.

CONCLUSION

The Court should reverse the decision and order of the Appellate Division, First Department reinstating plaintiffs' complaint against the State Defendants.

Dated: New York, New York
May 29, 2025

Respectfully submitted,

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AFFIRMATION OF COMPLIANCE

Pursuant to the Rules of Practice of the New York Court of Appeals (22 N.Y.C.R.R.) § 500.13(c)(1), Mark S. Grube, an attorney in the Office of the Attorney General of the State of New York, hereby affirms that according to the word count feature of the word processing program used to prepare this brief, the brief contains 1,728 words, which complies with the limitations stated in § 500.13(c)(1).

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Mark S. Grube