

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

CLASS
REPRESENTATION

THOMAS SCHROEDER; TEQUESTA HILL, by and for her minor sons, RAYNARD CONEY and RUBIN CONEY; LISA CARMONA, by and for her minor son, ANDRES DAVILA; JAYNE KING, by and for her minor son, WILL MILNER; LYANNA RIDLEY; JACOB ROSE, by and for his minor sons, STUDENT H and STUDENT T; DARYL BROOKS, by and for his minor nephew, KEANDRE BROOKS; BARBARA AHO, by and for her minor son, EDWARD AHO; and ERIKA AHO, and on behalf of all others similarly situated,

Case No.:

Plaintiffs,

v.

THE PALM BEACH COUNTY SCHOOL BOARD and
ARTHUR C. JOHNSON in his official capacity as the Palm
Beach County School Superintendent,

Defendants.

CLASS ACTION COMPLAINT

Plaintiffs THOMAS SCHROEDER; TEQUESTA HILL, by and for her minor sons, RAYNARD CONEY and RUBIN CONEY; LISA CARMONA, by and for her minor son, ANDRES DAVILA; JAYNE KING, by and for her minor son, WILL MILNER; LYANNA RIDLEY; JACOB ROSE, by and for his minor sons, STUDENT H and STUDENT T; DARYL BROOKS, by and for his minor nephew, KEANDRE BROOKS; BARBARA AHO, by and for her minor son, EDWARD AHO; and ERIKA

AHO, on behalf of themselves and all others similarly situated, allege, upon personal knowledge as to themselves and information and belief as to other matters, as follows:

I. INTRODUCTION

1. This class action lawsuit challenges the failure of the Palm Beach County School District to provide a uniform, efficient, safe, secure and high quality education to the children of Palm Beach County as mandated by the Florida Constitution. The Palm Beach County School District's failure is evidenced by its low graduation rates.

2. This action further challenges the failure of the Palm Beach County School District to provide a uniform, efficient, safe, secure and high quality education to African-American and Hispanic children in Palm Beach County as mandated by the Florida Constitution. The significant disparity between the graduation rates of African-American and Hispanic students and those of white students in the Palm Beach County School system establishes this failure.

3. By any measure, the graduation rates in Palm Beach County are evidence of an inadequate school system. Using the most generous method of calculating graduation rates, almost 1/3 of the students do not graduate. But, there is reason to believe a truly accurate method would reveal that close to 1/2 of the students fail to graduate. And, the consequences for the students and the county are devastating as those who leave school without even a high school diploma are significantly less able or likely to share in the American dream.

II. JURISDICTION AND VENUE

4. This action involves matters related to education in Palm Beach County and this Court has jurisdiction over this case and over the parties.

5. Venue is proper in this Court pursuant to § 47.011 FLA. STAT. as this cause of action accrued in Palm Beach County, Florida.

III. PARTIES

A. Plaintiffs

6. Thomas Schroeder is an 18-year-old white student who has been attending William T. Dwyer High School in Palm Beach County during the 2007-2008 school year.

7. Tequesta Hill is the mother of plaintiff Raynard Coney. Raynard is a 14-year-old African-American student who has been attending Lake Shore Middle School in Palm Beach County during the 2007-2008 school year.

8. Tequesta Hill is also the mother of plaintiff Rubin Coney. Rubin is a 13-year-old African-American student who has been attending Lake Shore Middle School in Palm Beach County during the 2007-2008 school year.

9. Lisa Carmona is the mother of plaintiff Andres Davila. Andres is a 12-year-old Latino student who has been attending Conniston Middle School in Palm Beach County during the 2007-2008 school year.

10. Jayne King is the mother of plaintiff Will Milner. Will is a 15-year-old bi-racial student who has been attending Suncoast High School in Palm Beach County during the 2007-2008 school year, to and from which Will must travel several hours by public bus and train daily.

11. Lyanna Ridley is an 18-year-old African-American student who has been attending Atlantic Community High School in Palm Beach County during the 2007-2008 school year.

12. Jacob Rose is the father of plaintiff Student H. Student H is a 16-year-old African-American student who has been attending Park Vista High School and Eagle Youth Academy in Palm Beach County during the 2007-2008 school year.

13. Jacob Rose is also the father of plaintiff Student T. Student T is a 16-year-old African-American student who has been attending Park Vista High School and Eagle Youth Academy in Palm Beach County during the 2007-2008 school year.

14. Daryl Brooks is the uncle of plaintiff Keandre Brooks. Keandre is a 13-year-old African-American student who has been attending John F. Kennedy Middle School in Palm Beach County during the 2007-2008 school year.

15. Barbara Aho is the mother of plaintiff Edward Aho. Edward is a 15-year-old white student who has been attending Atlantic Community High School in Palm Beach County during the 2007-2008 school year.

16. Erika Aho is an 18-year-old white student who has been home-schooled during the 2007-2008 school year.

B. Defendants

17. Defendant Palm Beach County School Board (“the School Board”) was created under the authority of Article IX, Section 4 of the Florida Constitution, and pursuant to FLA. STAT. § 1001.32, the School Board is responsible for the operation, control and supervision of all free public schools in Palm Beach County and may exercise any power except as expressly prohibited by the Florida Constitution or general law.

18. Defendant Arthur C. Johnson, Ph.D. is the Palm Beach County School Superintendent. The position of Superintendent was created by Article IX, Section 5 of the Florida Constitution. Pursuant to FLA. STAT. § 1001.32(3) and School Board Policy

1.012, the Superintendent is responsible for the administration and management of the Palm Beach County School District. All public schools conducted within Palm Beach County are under the direction and control of the School Board with the Superintendent as the secretary and executive officer of the School Board pursuant to FLA. STAT. § 1001.32(3), § 1001.33, and School Board Policy 1.012. Defendant Johnson is sued in his official capacity.

19. The presence of the School Board and the Superintendent in this suit is necessary and proper to a just determination. The School Board and the Superintendent are subject to suit and are properly made parties to this action, as provided by FLA. STAT. § 1001.41(4) and FLA. R. CIV. P. 1.210(a).

IV. CONSTITUTIONAL PROVISIONS AT ISSUE

20. Article IX, Section 1 of the Florida Constitution states that the education of children is a “fundamental value” in the state of Florida.

21. Article IX, Section 1 of the Florida Constitution further requires “the State to make adequate provision for the education of all children.”

22. This constitutional provision mandates that free public school education be “uniform, efficient, safe, secure, and high quality.”

23. The right to a uniform, efficient, safe, secure and high quality education found in Article IX, Section 1 of the Florida Constitution is the result of a 1998 Amendment to the Florida Constitution enacted by the people of Florida to strengthen and define the right to education in Florida.

24. In providing a uniform, efficient, safe, secure and high quality public education to the children of Palm Beach County, the State of Florida acts through the

Palm Beach County School Board which is charged with the responsibility of overseeing and operating the Palm Beach County School District.

V. CLASS ACTION REPRESENTATION ALLEGATIONS

20. Plaintiffs bring this Class Action pursuant to FLA. R. CIV. P. 1.220 on behalf of themselves and all Palm Beach County students who are attending, or may in the future attend, public elementary, middle or high school in Palm Beach County.

21. All Plaintiffs are members of the class they seek to represent.

22. There are questions of law and fact common to the class, and these questions predominate over any questions affecting only individual members. Common questions include, among others: (1) whether the class members are receiving a uniform, efficient, safe, secure and high quality education as required by Article IX, Section I of the Florida Constitution; and (2) whether injunctive relief and other equitable remedies for the class are warranted.

23. The members of the class identified herein are so numerous that joinder of all members is impracticable. The exact number of members of the class is unknown, but the class is currently believed to have approximately 175,000 members. As the proposed class includes future students, that number represents a low estimate of the number who will be members of the class while this case proceeds.

24. The representative Plaintiffs' claims are typical of the claims of the class.

25. The representative Plaintiffs will fairly and adequately represent and protect the interests of the members of the class. The Plaintiffs have retained counsel competent and experienced in complex class action and educational reform litigation.

26. Class certification is appropriate pursuant to FLA. R. CIV. P. 1.220(b)(2) because the Palm Beach County School Board and the Superintendent have acted or refused to act on grounds generally applicable to the members of the class, making final declaratory and equitable relief appropriate.

VI. FACTUAL ALLEGATIONS

27. The Palm Beach County School District currently has approximately 175,000 students and 164 schools, including 23 high schools.

28. There are several methods by which the high school graduation rates in Palm Beach County can be calculated. Under each of these methods, Palm Beach County has failed to provide its students with a constitutionally adequate education.

29. The first method by which to calculate the graduation rates in Palm Beach County is the state of Florida's self-reported method.

30. Florida's self-reported graduation rates rely on a longitudinal tracking of individual student records.

31. The state of Florida's self-reported graduation rates overstate the actual graduation rates.

32. Florida includes in its calculation of graduates students who do not receive a standard academic diploma.

33. Florida also counts students who have repeated a grade as graduates of the class with which they graduated, rather than the class with which they entered. Although the state is adding these students to the count of students who have graduated in that year, the state does not also add those students to the cohort of students with whom they should have graduated in four years. This practice artificially inflates the percentage of four-

year “graduates” by making it appear that more students graduated in one four-year cohort than actually did.

34. There is evidence that Florida removes from the total number of students those students who drop out of school and immediately enroll in a GED program. These students are known as W26 withdrawals. However, these students are not added to the cohort of students who should have graduated that year.

35. In addition, there is evidence of significant inconsistencies in the data from which the state calculates graduation rates. In addition to its own method, the state also reports graduation rates utilizing a method responsive to the federal No Child Left Behind Act (NCLB). The 2004-2005 NCLB graduation rate for Palm Beach County is based on a cohort (students counted in the denominator when graduation rate percentages are calculated) of 11,468, but an accurate count of that cohort reveals that there were 13,817 students. There are similar seemingly inconsistent data elements throughout the data set used by Florida to calculate graduation rates.

36. Another method of calculating high school graduation rates employs the Cumulative Promotion Index (“CPI”). This method was developed by Christopher Swanson and has been utilized by the Harvard Civil Rights Project and the Urban Institute. The CPI method provides a method of estimating the number of ninth graders who will graduate if certain conditions exist. The CPI relies on data generated by the United States Department of Education.

37. The CPI method calculates graduation rates using a four-year graduation rate and includes only students receiving a regular high school diploma.

38. A method of adjusting high school graduation rates in Palm Beach County for two of the documented problems was developed by Professor Sherman Dorn, Ph.D. of the University of South Florida. Professor Dorn's method relies on Florida's self-reported numbers, but corrects for several of the inaccuracies in Florida's method for calculating high school graduation rates. These adjustments include correcting for Florida's inappropriate removal of W26 students from the cohort and Florida's inclusion of non-standard academic diplomas in its graduation rates.

39. Professor Dorn's method does not and cannot correct fully for the seeming inconsistencies of the data elements contained in Florida's self-reported numbers.

40. Due to problems in the data sets, none of the methods provides a perfectly accurate and reliable measure of graduation rates.

41. Under each of these three methods, the Palm Beach County School District's high school graduation rates evidence the district's failure to provide its students with a high quality education.

42. Based on Florida's self-reported numbers, the overall high school graduation rates in the Palm Beach County School District for the years 2001 to 2007 were:

2001: 64.9%
2002: 66.6%
2003: 66.0%
2004: 65.9%
2005: 69.0%
2006: 69.3%
2007: 71.4%

43. Using the CPI method for calculating high school graduation rates, the overall high school graduation rates in the Palm Beach County School District for the years 2001 to 2004 were:

2001: 46.6%
2002: 56.0%
2003: 55.2%
2004: 56.1%

44. Finally, using Professor Dorn's method for calculating high school graduation rates, the overall high school graduation rates in the Palm Beach County School District for the years 2002 to 2006 were:

2002: 53.8%
2003: 54.9%
2004: 55.5%
2005: 58.0%
2006: 58.1%

45. Under each of the methods for calculating graduation rates in Palm Beach County discussed in paragraphs 28 through 44, there is a significant and troubling disparity between the graduation rates of African-American and Hispanic students and those of white students.

46. The substantial disparity between the high school graduation rates of African American and Hispanic students and white students establishes the Palm Beach County School District's failure to make adequate provision for the education of all children.

47. Based on Florida's self-reported numbers, disparities between the high school graduation rates for African-American students in the Palm Beach County School District and those of white students for the years 2002 to 2007 were approximately:

2002: 26%

2003: 31 percentage points
2004: 31 percentage points
2005: 29 percentage points
2006: 28 percentage points
2007: 29 percentage points

48. Using the CPI method for calculating high school graduation rates, the high school graduation rate for African-American students in the Palm Beach County School District in 2002 was only 43.6%, compared to a rate of 63.3% for white students.

49. Based on Florida's self-reported numbers, disparities between the high school graduation rates for Hispanic students and those of white students in the Palm Beach County School District for the years 2002 to 2007 were approximately:

2002: 20 percentage points
2003: 20 percentage points
2004: 22 percentage points
2005: 19 percentage points
2006: 20 percentage points
2007: 20 percentage points

50. Using the CPI method for calculating high school graduation rates, the high school graduation rate for Hispanic students in the Palm Beach County School District in 2002 was only 53.7%, compared to a rate of 63.3% for white students.

51. Other school districts within Florida that have similar enrollment numbers and demographics to the Palm Beach County School District have significantly higher high school graduation rates than Palm Beach County. Accordingly, Palm Beach County's low high school graduation rates and the disparity between the graduation rates of African-American and Hispanic students and those of white students cannot be attributed to socio-economic status, immigrant status or student transfers to private schools.

52. For example, using the CPI method, in 2004 the Hillsborough County School District in Florida had an overall graduation rate of 75.1% and the Orange County Public Schools in Florida had an overall graduation rate of 65.6%, compared to the Palm Beach County School District's overall graduation rate that year of 56.1%.

53. Similarly, other school districts around the Country with similar enrollment numbers and demographics to Palm Beach County have significantly higher high school graduation rates.

54. For example, using the CPI method, in 2004 the Baltimore County Public School System in Maryland had an overall graduation rate of 81.1%; the Fairfax County Public School System in Virginia had an overall graduation rate of 80.4%; and the Montgomery County Public Schools in Maryland had an overall graduation rate of 80.3%, compared to the Palm Beach County School District's overall graduation rate that year of 56.1%.

55. The Palm Beach County School District's overall graduation rate is also significantly less than the national average, which for 2004 using the CPI method was 69.9%.

56. Even if its overall graduation rates mirrored the national average graduation rates or the graduation rates of other districts in Florida, the Palm Beach County School District would still fail to provide a uniform, efficient, safe, secure, and high quality education to its students. Even if the low graduation rates or high disparities between the graduation rates of African-American and Hispanic students and white students can be attributed to socio-economic status or immigrant status, the Palm Beach County School District has a constitutional obligation to develop and implement

programs and measures that enable all of its students to graduate, regardless of the students' race or ethnicity.

57. Regardless of the cause of the Palm Beach County School District's low graduation rates, an essential component of a uniform, efficient, safe, secure and high quality education is a meaningful opportunity to graduate from high school.

58. High school graduation rates as low as those in the Palm Beach County School District establish its failure to provide a uniform, efficient, safe, secure and high quality education.

59. Large high school drop out rates are also evidence of a school district's systemic failure to meet the needs of its student body. High school graduation rates as low as those in the Palm Beach County School District establish its failure to meet the needs of its student body.

60. The substantial disparity between the high school graduation rates of African-American and Hispanic students and the rates of white students establishes the Palm Beach County School District's failure to provide African-American and Hispanic students with a uniform, efficient, safe, secure and high quality education.

61. There is a disparity in graduation rates among the schools in the Palm Beach County School District. This disparity also establishes the Palm Beach County School District's failure to provide all students with a uniform, efficient, safe, secure and high quality education.

62. Dropping out of high school often leads to economic and social tragedy for an individual. High school drop-outs are far more likely than graduates to be unemployed, in prison, unmarried or divorced and living in poverty.

63. Children of high school drop-outs are far more likely to attend weak and low-performing schools, perform badly in school and drop out of high school themselves, thereby creating powerful intergenerational social and economic problems.

64. In 2001, the unemployment rate for drop-outs 25-years-old and over was almost 75% higher than for high school graduates – 7.3% compared to 4.2%.

65. In a 2003 study based on data generated by the United States Department of Corrections, two-thirds of state prison inmates in this Country are high school drop-outs and an incredible 52% of all African-American male drop-outs in their early thirties had a prison record.

66. Although the Palm Beach County School District treats GEDs as equivalent to a regular high school diploma in its calculation of high school graduation rates, people with GEDs are less likely to be employed or to pursue higher education than people with a regular high school diploma.

67. The inadequate education provided by the defendants has had effects on the named plaintiffs and, as a result, their chances of graduating from high school are diminished.

68. Like many students in the Palm Beach County school district, plaintiff Thomas Schroeder is having academic problems and is being subjected to school discipline concerning attendance. Because Thomas is a student at William T. Dwyer High School in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Thomas is not receiving a uniform, efficient, safe, secure, and high quality education.

69. Like many students in the Palm Beach County school district, plaintiff Raynard Coney is having academic problems and is being subjected to school discipline. Because Raynard is a student at Lake Shore Middle School in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Raynard is not receiving a uniform, efficient, safe, secure, and high quality education.

70. Like many students in the Palm Beach County school district, plaintiff Rubin Coney is having academic problems and is being subjected to school discipline. Because Rubin is a student at Lake Shore Middle School in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Rubin is not receiving a uniform, efficient, safe, secure, and high quality education.

71. Like many students in the Palm Beach County school district, plaintiff Andres Davila is having academic problems and is being subjected to school discipline. Because Andres is a student at Conniston Middle School in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Andres is not receiving a uniform, efficient, safe, secure, and high quality education.

72. Because plaintiff Will Milner is a student at Suncoast High School in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Will is not receiving a uniform, efficient, safe, secure, and high quality education.

73. Because plaintiff Lyanna Ridley is a student at Atlantic Community High School in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Lyanna is not receiving a uniform, efficient, safe, secure, and high quality education.

74. Like many students in the Palm Beach County school district, plaintiff Student H is having academic problems and is being subjected to school discipline. Because Student H is a student at Park Vista High School and Eagle Youth Academy in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Student H is not receiving a uniform, efficient, safe, secure, and high quality education.

75. Like many students in the Palm Beach County school district, plaintiff Student T is having academic problems and is being subjected to school discipline. Because Student T is a student at Park Vista High School and Eagle Youth Academy in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Student T is not receiving a uniform, efficient, safe, secure, and high quality education.

76. Like many students in the Palm Beach County school district, plaintiff Keandre Brooks is having academic problems and is being subjected to school discipline. Because Keandre is a student at John F. Kennedy Middle School in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Keandre is not receiving a uniform, efficient, safe, secure, and high quality education.

77. Like many students in the Palm Beach County school district, plaintiff Edward Aho is having academic problems and is being subjected to academic discipline. Because Edward is a student at Atlantic Community High School in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Edward is not receiving a uniform, efficient, safe, secure, and high quality education.

78. Like many students in the Palm Beach County school district, plaintiff Erika Aho is having academic problems. Because Erika is a student in the Palm Beach County school district and, because the district fails to graduate a very significant percentage of its students every year, Erika is not receiving a uniform, efficient, safe, secure, and high quality education.

VII. CLAIM FOR RELIEF

79. Plaintiffs incorporate paragraphs 1 through 78 as alleged above.

80. This claim is brought on behalf of all Plaintiffs and the members of the class.

81. By failing to provide Palm Beach County public school students with a regular high school diploma within four years, Defendants have failed to provide the Plaintiffs and the class they represent a uniform, efficient, safe, secure and high quality education as required by Article IX, Section I of the Florida Constitution.

82. Plaintiffs request relief as hereinafter provided.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the members of the class pray for relief as follows:

83. Certification of this case as a class action on behalf of the proposed class;

84. Designation of Plaintiffs Thomas Schroeder, Raynard Coney, Rubin Coney, Andres Davila, Will Milner, Lyanna Ridley, Student H, Student T, Keandre Brooks, Edward Aho and Erika Aho as representatives of the class;

85. A declaratory judgment that the low high school graduation rate in the Palm Beach County School District is a violation of the Defendants' constitutional obligation to provide a uniform, efficient, safe, secure and high quality education in Palm Beach County;

86. A declaratory judgment that the disparity in the high school graduation rates of African-American students and those of white students in the Palm Beach County School District is a violation of the Defendants' constitutional obligation to provide a uniform education to all students in Palm Beach County;

87. A declaratory judgment that the disparity in the high school graduation rates of Hispanic students and those of white students in the Palm Beach County School District is a violation of the Defendants' constitutional obligation to provide a uniform education to all students in Palm Beach County;

88. An injunction and order that the Palm Beach County School District adopt a definition of graduation rate approved by the Court that accurately measures graduation rates;

89. An injunction and order mandating and requiring the Defendants to improve the overall graduation rate in the Palm Beach County School District and the graduation rate for each racial subgroup of students, students who qualify for the school lunch program, and English Language Learners in the Palm Beach County School

System by a percentage to be set by the Court each academic year beginning with the 2008-2009 academic year; and

90. Such other and further equitable relief as this Court deems necessary, just and proper.

Dated this 18th day of March, 2008.

Respectfully submitted,

By: _____

Muslima Lewis
AMERICAN CIVIL LIBERTIES
UNION OF FLORIDA
4500 Biscayne Boulevard, Suite 340
Miami, FL 33137-3227
(786) 363-2700

Ramona M. Hupp
ACLU Cooperating Attorney
315 S. Dixie Hwy., Suite 102
West Palm Beach, Florida 33401
(561) 833-5787, ext. 124
Fl. Bar No. 0692972

The following counsel for Plaintiffs will seek *pro hac vice* admission:

Christopher Hansen
Vanita Gupta
Laurence M. Schwartztol
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street
New York, New York 10004
(212) 549-2500

Deborah N. Archer
NEW YORK LAW SCHOOL
RACIAL JUSTICE PROJECT
57 Worth Street
New York, New York 10013
(212) 431-2100

ATTORNEYS FOR PLAINTIFFS