

CASE NO. SCI8-67

In the Supreme Court of Florida

CITIZENS FOR STRONG SCHOOLS, INC., *et al.*,
Petitioners,

v.

FLORIDA STATE BOARD OF EDUCATION, *et al.*,
Respondents,

and

CELESTE JOHNSON *et al.*,
Intervenor-Respondents.

ON PETITION FOR REVIEW FROM THE
DISTRICT COURT OF APPEAL, FIRST DISTRICT
CASE No. 1D16-2862

**BRIEF OF AMICUS CURIAE THE URBAN LEAGUE OF
GREATER MIAMI IN SUPPORT OF RESPONDENTS**

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STATEMENT OF IDENTITY AND INTEREST

The Urban League of Greater Miami is a non-profit community-service organization in Miami-Dade County. It provides services in employment, childcare, senior citizen services, housing, economic development, training, community service, political advocacy, and education. The Urban League focuses on women and children and on achieving academic excellence in the community. The Urban League's historical emphasis has been enabling black children to reach their fullest potential. The organization's stated vision is that "[e]very child born in Liberty City shall grow up to be healthy, happy and successful." The Urban League has a significant interest in the issues before this Court.

The issue in this case is whether the State of Florida has made adequate provision by law for a system that *allows* students to obtain a high quality education. The answer is amply demonstrated by Miami-Dade County's success. If this Court concludes that the issue is justiciable, its decision will either maintain the current public education system or undo years of hard work by educators and policy-makers alike to craft the current system. This decision will significantly affect the communities and populations the Urban League serves. The Urban League has a distinct interest in preserving the quality of this system for the low-income communities it serves.

SUMMARY OF ARGUMENT

Petitioners argue that the State of Florida has failed to provide adequate education through its public school system and urges the judiciary to intervene. The trial court and the First District Court of Appeal found no judicially manageable way to measure “adequacy” and concluded that judicial intervention would violate the separation-of-powers doctrine. If this Court reaches the issue, we submit that the overwhelming weight of the evidence showed that the Florida public school system *is* providing its students with an adequate education. The experience in Miami-Dade County, in particular, reflects the success of the Florida public school system. Miami-Dade County Public Schools (“M-DCPS”) has received national recognition, and continues to do so. In the 2017-18 academic year, M-DCPS achieved a district-wide grade “A” for the first time in the history of Florida School Performance Grades. Judicial intervention is neither appropriate nor necessary.

I. MIAMI-DADE COUNTY PUBLIC SCHOOLS PROVIDE A CASE STUDY FOR THE SUCCESS OF FLORIDA PUBLIC SCHOOLS

The trial court found that Florida has achieved a dramatic increase in student achievement on a variety of measures and made education a top priority (R. 3384). The First DCA did not emphasize the trial court’s factual findings; instead, it held that the State’s duty to provide an adequate education raises political questions not subject to judicial review. *See Citizens for Strong Sch., Inc. v. Fla. State Bd. Of*

Educ., 232 So. 3d 1163, 1165 (Fla. 1st DCA 2017). The court also held that the separation-of-powers doctrine requires the judiciary to defer to the executive and legislative branches to adopt and execute education policy. *Id.* at 1166. Although this Court need not reach the merits, if the Court decides that these claims are justiciable, the overwhelming evidence demonstrated that Florida’s education system is constitutionally adequate.

M-DCPS is a case study for the success of Florida’s public schools. The fourth largest district in the country, *see* Miami-Dade Public Schools, <http://home.dadeschools.net/> (last visited July, 25, 2018); and the most populous in Florida, *see* Florida Demographics, *Florida Counties by Population*, https://www.florida-demographics.com/counties_by_population (last visited July 25, 2018), it has experienced unparalleled success across a variety of metrics.¹ M-DCPS is also one of the most demographically diverse school districts in the State. Overall, Florida’s public school students are 60% non-white minorities, 58% economically disadvantaged, and 10% English-language Learners (“ELL”) (Exs. 186, 3351, 3353, 3355, 3356). M-DCPS has about 350,000 students, comprising

¹ The Urban League’s extra-record citations refer to state and national statistics on education. It is generally accepted that *amicus curiae* may rely on extra-record facts that “broadly and generally address the issues in the case. . . . Indeed, precluding amicus from referring to any nonrecord materials would preclude amicus from ever filing a Brandeis brief, whose main contribution is to make extra-legal data readily available to the court.” *See* Sylvia H. Walbolt & Joseph H. Lang, Jr., *Off the Record*, 81 Fla. Bar J. 26 (Nov. 2007).

13% of the state total, 90% of which are minority students (*compare* Ex. 37, at 1379–80, *and* Ex. 3351 (row 20), *with* Ex. 186, *and* Ex. 3351 (row 7)). M-DCPS also has a relatively greater proportion of economically disadvantaged students (73%) and of ELL students (21%) (Ex. 37).

Judith Marte, the Chief Financial Officer for M-DCPS, testified that despite a challenging economic climate, “the students in Miami-Dade [] receive a high-quality education” (T24. 3637). M-DCPS improved the school district “under the worst of economic circumstances . . . without laying off a teacher or shutting down a school program” (T24. 3631-32). Regarding financial indicators of success, Marte testified that M-DCPS has won “[e]very single financial award [that it] applied for” (T24. 3602). And M-DCPS has continued to improve its economic health. In 2017, Standard & Poor’s gave the district a significant long-term bond rating improvement, from A+ to AA- with a stable outlook. The Miami Herald, *Miami-Dade Schools Gets Bond Rating Boost from S&P*, <https://www.miamiherald.com/news/local/education/article145523644.html> (last visited July 25, 2018). This is the first upgrade for the district in more than 20 years, evidencing continued financial improvement and stability (*id.*).

M-DCPS has also made significant strides in technology and transparency. Students and parents can access their textbooks online at any time (T24. 3602). In addition, any member of the community can also search online, by school, and

learn how much of the budget is currently spent on that school and how much will be spent in the future (*id.*).

Marte testified that M-DCPS is the “most successful urban district in the nation” and has the “highest NAEP [National Assessment of Educational Progress] scores in the country” (T24. 3601, 3665). As a result, in 2012 M-DCPS was awarded the prestigious Broad Prize (T24. 3630), given to educational institutions who show the best results in student performance while reducing achievement gaps among ethnic groups and between high- and low-income students (Ex. 564). M-DCPS is a four-time finalist—in 2006, 2007, 2008, and 2011 (T24. 3630-31). In 2012, M-DCPS won the award outright (*id.*). MDCPS was recognized for its concentrated approach in reading, including reading intervention, and intensive summer reading camps (Ex. 564). M-DCPS has also successfully increased the number of students in Advanced Placement (AP) classes by guiding middle-school students to advanced-level classes early on (*id.*).

Since the trial in 2016, M-DCPS has continued to improve the quality of its education. Most recently, in the 2017-18 academic year, M-DCPS achieved a district-wide grade “A” for the first time in the history of Florida School Performance Grades. Miami Dade County Public Schools, *2017-2018 Highlights*, http://pdfs.dadeschools.net/featured/2018/17-18_Highlights.pdf (last visited July 25, 2018). And for the second consecutive year, no traditional schools in Miami-

Dade County were rated “F.” *Id.* Overall, 98% of Miami-Dade schools are rated A, B, or C. Miami Dade County Public Schools, *M-DCPS Makes History Becoming an A-Rated School District*, <http://news.dadeschools.net/cmnc/new/28712> (last visited July 25, 2018). In the 2016-17 academic year, the district’s graduation rate rose to 84.2 percent—the highest since the Florida Department of Education began tracking graduation statistics in the late 1990’s. Miami Dade County Public Schools, *2017-2018 Highlights*, http://pdfs.dadeschools.net/featured/2018/17-18_Highlights.pdf (last visited July 25, 2018).

M-DCPS continues to have an impressive record among urban and low-income minority districts. On the 2017 National Assessment of Educational Programs (NAEP), Trial Urban District Assessment (TUDA) reading and mathematics assessment, it outperformed many of its national counterparts.² *Highlights of results from the 2017 National Assessment of Educational Progress (NAEP) Urban Trial Urban District Assessment (TUDA) Reading and Mathematics, Grades 4 and 8*, <http://oada.dadeschools.net/naep/NAEP%20TUDA%202017%20Signed%20memo%20M1208.041018.pdf> (last visited July 25,

² Participating public school districts include: Albuquerque, Atlanta, Austin, Baltimore City, Boston, Charlotte-Mecklenburg, Chicago, Clark, Cleveland, Dallas, Denver, Detroit, District of Columbia, Duval, Fort Worth, Fresno, Guildford, Hillsborough, Houston, Jefferson County, Los Angeles, Miami-Dade, Milwaukee, New York City, Philadelphia, San Diego, and Shelby.

2018). NAEP is an assessment overseen by the National Center for Education Statistics for the United States Department of Education and is often referred to as the “Nation’s Report Card.” *Id.* at 3. TUDA is a special subprogram that provides district-level results for selected urban districts. These districts are selected based on their size, minority concentration, socioeconomic conditions, percentage of disabled students, and English language learners. *Id.* In the 2017-18 school year, NAEP tested students in grades 4 and 8 across the 27 large urban districts that participated. *Id.* at 1.

In Miami-Dade County, more than 6,700 students in 161 schools participated in the assessment. *Id.* Although M-DCPS has a disproportionately high population of ELL students, it exhibited high achievement levels across the board. For example, fourth graders ranked #1 in reading and #2 in mathematics. *Id.* Miami-Dade’s Hispanic students achieved higher reading and mathematics scores in all tested grade levels than both the national public schools and large city sample populations. *Id.* at 2. M-DCPS was the only TUDA district to exhibit significant score improvement from 2015 to 2017 in fourth grade mathematics. *Id.* Miami-Dade eighth graders outscored the large-city sample population in reading and matched them in mathematics. *Id.* Miami-Dade’s black eighth graders outperformed the national public schools in reading. *Id.* at 15.

M-DCPS has also earned national recognition for its Advanced Placement courses and merit-based awards. For the seventh consecutive year, M-DCPS increased both AP exam passing rates and AP student enrollment. Miami Dade County Public Schools, 2017-2018 Highlights, http://pdfs.dadeschools.net/featured/2018/17-18_Highlights.pdf (last visited July 25, 2018). M-DCPS currently offers 37 AP courses. *Id.* In addition, it received 54 national magnet merit awards for the 2017-18 year—an increase of 12 additional awards from the previous year. *Id.*

II. PETITIONERS PROVIDE NO GOOD REASON FOR DEPARTING FROM THIS COURT’S DECISION IN *CHILES*

This Court has dismissed a similar challenge to Florida’s public education system. In *Coalition for Adequacy & Fairness in Sch. Funding v. Chiles*, 680 So. 2d 400 (Fla. 1996), the Court held that “there are no judicially manageable standards available to determine adequacy” and that plaintiffs failed to identify “an appropriate standard for determining adequacy that would not present a substantial risk of judicial intrusion into the powers and responsibilities assigned to the legislature[.]” *Id.* at 408.

Chiles has remained the law for over 20 years. Petitioners offer no valid reason for departing from it now.

Discontented with the majority’s decision in *Chiles*, Petitioners rely on its concurring and dissenting opinions. They cite Justice Overton’s concurrence,

which ruminated about a hypothetical situation: while “adequate may be difficult to quantify . . . were a complaint to assert that a county in this state has a thirty percent illiteracy rate, I would suggest that such a complaint has at least stated a cause of action under our education provision.” *Id.* at 109 (Overton, J., concurring). Petitioners, too, argue (br. at 18) that these types of claims *could be* justiciable upon an adequate showing, such as a 30% illiteracy rate. But that situation does not exist. As the trial court noted, “[t]his case is not about a significant level of illiteracy” (R.3387). Like the majority in *Chiles*, this Court need not indict the entire state public school system based on hypotheticals.

Petitioners also rely on the dissent in *Chiles*, which argued that the Court should have remanded “so that a factual context can be established for determining whether the legislature has complied with the mandate of the people of Florida to make adequate provision for a uniform system of free public schools.” *Id.* at 410 (Anstead, J., dissenting). In this case, the context *has been* established: the trial court heard argument and testimony over four weeks, considered over 5,000 exhibits, and made extensive factual findings totaling 469 paragraphs and 175 pages (R. 3400-3578) (also included in Respondent’s appendix). Having reviewed the evidence, the trial court concluded that Florida’s public education system is performing well. Miami-Dade County, the largest county in Florida and the fourth largest school district in the country, provides a case study in the success of

Florida's public schools. M-DCPS performs better than the national average in a number of areas and continues to receive national recognition for its high performing students. The district has achieved its success within the existing system of school funding, accountability, and high standards. To argue that the system provides an inadequate education is to dismiss the hard work of the teachers, administrators, and students who created the current system. To accept the argument would threaten the framework that has allowed M-DCPS students to obtain a high-quality education.

CONCLUSION

For the reasons stated, the Court should approve the First District's decision.

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the font requirement of Florida Rule of Appellate Procedure 9.210(a)(2) and is typed in Times New Roman 14-point font.

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