

IN THE SUPREME COURT OF FLORIDA

Case No. SC 18-67

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

Appellants,

v.

FLORIDA STATE BOARD OF EDUCATION, et al.,

Appellees.

On Appeal from the First District Court of Appeal

Motion for Leave to File Amicus Brief

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**MOTION FOR LEAVE TO FILE JOINT
AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONERS**

The *Amici Curiae*¹, by and through undersigned counsel and pursuant to Florida Rule of Appellate Procedure 9.370, hereby move this Court for leave to file an *amicus curiae* brief on the merits in support of Petitioners in this case.

A. Preliminary Statement

The *Amici Curiae* wish to present the Court with additional research, analysis and perspective to assist the court with resolution of the issues on appeal, as those issues pertain to certain subcategories of disadvantaged students. More specifically, this Court will be called upon to determine whether the case presented by the Parents is justiciable, and in doing so, the Court will need to consider whether the State has complied with its constitutional duty to provide a high quality education to all children, using the standards set forth in Article IX of the Constitution, and as further established by the Legislature pursuant thereto.

The *Amici Curiae* are uniquely positioned, by virtue of the various subcategories of children that they serve, to assist this Court in reviewing the disparities in school performance of those children. The *Amici* propose that these disparities demonstrate that the State is failing to meet its constitutional mandate.

¹ The *Amici Curiae* are comprised of four organizations and one professor of law: (1) National Law Center on Homelessness & Poverty; (2) the Children and Youth Law Clinic at the University of Miami School of Law (3) Florida's Children First; and (4) FSU College of Law, Children's Advocacy Clinic and Michael J. Dale, professor of law at Nova Southeastern University.

B. Interests of Proposed Amicus.

The National Law Center of Homelessness & Poverty (the “Law Center”) is the only national organization dedicated solely to using the power of the law to end and prevent homelessness. Through policy advocacy, public education, and impact litigation, the Law Center addresses the symptoms and root causes of homelessness by developing, advocating for, and implementing effective laws and policies that meet the immediate and long-term needs of those who are homeless or who are at risk of becoming homeless.

Florida's Children First ("FCF") is a non-profit organization dedicated to advancing the rights of at-risk children, especially those who are in foster care. FCF works to improve government and private systems that exist to serve children through advocacy of the executive and legislative branches of government as well as training of attorneys representing at-risk youth.

Florida State University College of Law, Children’s Advocacy Clinic, is a leading educational organization advocating for children’s rights in Florida. The Clinic started in 1991 and provides full legal representation for children with foster care, juvenile delinquency, health care, special education, school discipline, disability, social security and criminal law issues. State court judges routinely appoint the Clinic to represent disadvantaged children throughout the state of Florida. The Clinic has extensive experience representing children in

special education and school discipline cases before school districts in the Florida Panhandle. Also the Director of the Children's Advocacy Clinic routinely publishes on special education issues and has provided trainings on special education for Florida Guardian Ad Litem Programs and Legal Services Programs around the state.

The Children and Youth Law Clinic ("CYLC") is an in-house legal clinic staffed by faculty and students of the University of Miami School of Law. Established in 1995, the CYLC engages in individual and law reform advocacy to serve the legal needs of vulnerable children, with a particular emphasis on the child welfare and juvenile justice systems. Many of CYLC's clients experience homelessness as children or young adults, and a significant focus of their policy advocacy has been improving educational outcomes for foster children and addressing youth homelessness. CYLC has appeared as amicus curiae in numerous federal and state court cases implicating the constitutional interests of children.

Michael J. Dale is a professor of law at Nova Southeastern University College of Law in Fort Lauderdale, Florida. The focus of his litigation practice and scholarship over the past 40 years has been on the rights of children including their right to educational benefits in a variety of contexts including racial discrimination, special education, and due process in public schools and

institutions. Professor Dale is the former attorney in charge of the Special Litigation Unit of the Juvenile Rights Division of the Legal Aid Society of the City of New York and Executive Director the Youth Law Center in San Francisco, CA. where he litigated cases involving a variety of rights to education in both state and federal courts. At the Nova College of Law he has litigated cases involving educational rights through the law school's family and children's clinic. Professor Dale is the author of over 75 articles focusing primarily on the legal rights of children and the author of the two-volume Matthew Bender text "Representing the Child Client".

C. Issue to be Addressed

The issue to be addressed in the *amicus curiae* brief is whether the First District Court of Appeal erred in holding that the Plaintiffs' claims against the State, which asserted that the State failed to meet its paramount duty to provide a uniform, efficient, and high quality system of free public schools, as mandated by Art. IX § 1(a) of the Florida Constitution, are non-justiciable.

D. How the Amici Curiae Can Assist the Court in its Disposition of the Case

The proposed *amicus* can assist the Court by providing information regarding disparities in school performance of disadvantaged children as compared to the general population of students, and analysis as to how those disparities can assist in determining whether the State is meeting its constitutional burden to

provide a high-quality, uniform education to all children. Additionally, given the nature of the *Amicis'* interests in protecting the rights of disadvantaged children, the *Amici* can provide guidance on the importance of the terms "all children" used in Article IX, given the history of Florida's Constitution, analysis as to why a heightened standard of scrutiny is necessary to protect those interests, insight on how the State can use existing disparities to remedy non-compliance with Article IX, and guidance as to what types of services disadvantaged children need to have access to a uniform system of education.

E. Objection to the Proposed Amicus Curiae Brief

The undersigned has contacted counsel for Respondents and Intervenors and has been advised that there are no objections to the filing of the amicus brief for which is leave is sought to file herein.

CONCLUSION

For all the foregoing reasons, the *Amicus Curiae* hereby move this court to permit the filing of an *amicus curiae* brief on the merits in support of Petitioners in this matter.

CERTIFICATE OF SERVICE

We hereby certify that a true and correct copy of the foregoing was furnished via electronic means and/or U.S. Mail to the persons on the attached service list, this 14th day of June, 2018.

Respectfully submitted,

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