STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. **SUPERIOR COURT**

(Filed: July 12, 2012)

WOONSOCKET SCHOOL COMMITTEE; ROBERT GERARDI, in his official capacity as Superintendent of the Woonsocket Public Schools; PAWTUCKET SCHOOL COMMITTEE; DEBORAH SYLKE, in her official capacity as Superintendent of the Pawtucket Public Schools; WOONSOCKET STUDENTS WSI–WS3; WOONSOCKET PARENTS WPI–WP6, in their capacity as next friends of Woonsocket–PS3; STUDENTS WS1–WS3; PAWTUCKET STUDENTS PS1; PAWTUCKET PARENTS PP1–PP4, in their capacity as next friends of Pawtucket Students PS1–PS3	:	
V.	:	**PM No. 2010-946**
THE HONORABLE LINCOLN CHAFEE, in his official capacity as the Governor of the State of Rhode Island; THE HONORABLE M. TERESA PAIVA-WEED, in her official capacity as President of the Rhode Island Senate; THE HONORABLE GORDON D. FOX, in his official capacity as Speaker of the Rhode Island House of Representatives; RHODE ISLAND GENERAL ASSEMBLY; and THE HONORABLE GINA RAIMONDO, in her official capacity as Treasurer of the State of Rhode Island	:	

DECISION

VOGEL, J. The Woonsocket and Pawtucket School Committees, along with their school superintendents, certain unnamed students enrolled in Woonsocket and Pawtucket public schools, and their unnamed parents (the "Plaintiffs"), bring this multi-count complaint against several state government officials. Plaintiffs sue the Governor of the

State of Rhode Island, Senate President, Speaker of the House of Representatives, General Treasurer, and Rhode Island General Assembly (the "Defendants"). In their complaint (the "Complaint"), Plaintiffs challenge the constitutionality of legislative actions taken by the General Assembly with respect to public education in Rhode Island. [1] Defendants have responded to the Complaint by filing a motion to dismiss pursuant to Super. R. Civ. P. 12(b)(1) and 12(b)(6). Specifically, Defendants claim that the Complaint fails to state a claim upon which relief can be granted and further claim that this Court lacks the requisite subject matter jurisdiction to entertain the dispute.

For the reasons set forth in this Decision, the Court grants the motion to dismiss. The Court finds that it has the requisite subject matter jurisdiction to hear this matter and that Plaintiffs have standing to bring this action. The Court further finds that Plaintiffs' Complaint fails to state a claim upon which relief can be granted as to all allegations. The Court notes that Count III has been withdrawn and Count IV, although fashioned as a separate count, is actually a demand for relief.

I

FACTS AND TRAVEL

The issue at the center of this dispute is the interplay between a perceived right to education in Rhode Island and the constitutional power of the General Assembly to "promote public schools . . . and to adopt all means which it may deem necessary and proper to secure to the people the advantages and opportunities of education." R.I. CONST. Art. XII. Plaintiffs outlined their grievances against Defendants in their lengthy Complaint, which they filed on February 12, 2010. Subsequently, on April 8, 2011,

[1] This Court refers to the Second Amended Petition as the "Complaint" throughout this Decision.

Plaintiffs submitted a Second Amended Petition in which they set forth the causes of action currently before the Court. Count I contends that the General Assembly has fallen short in its constitutional duty to "promote public schools" pursuant to the Rhode Island Constitution's Education Clause. See R.I. CONST. Art. XII. Count II alleges that Plaintiffs have a substantive due process right to public education under article 1, section 2 of the Rhode Island Constitution and the General Assembly has violated that right in its failure to provide adequate school aid. By agreement of the parties, Count III—alleging civil rights statute violations—has been withdrawn. In Count IV, Plaintiffs seek injunctive relief, a claim that they repeat in their demand for relief. Finally, Count V generally asserts that the 2010 Funding Formula is inadequate to meet the needs of the children of Pawtucket and Woonsocket.

Plaintiffs seek the following relief: that the Court declare that the student Plaintiffs have a right to receive an adequate education pursuant to article 12 and the Rhode Island General Laws; that the Court find that the current funding scheme deprives Plaintiffs of an adequate education and equal protection; that the 2010 Funding Formula is inadequate; that Plaintiffs are entitled to injunctive relief from further constitutional violations and that Defendants be directed to comply with the state constitution; and that the Court award Plaintiffs their attorneys' fees and costs.

In lieu of an answer, Defendants filed their Motion to Dismiss pursuant to Super. R. Civ. P. 12. They dispute the Court's jurisdiction over the instant matter and contend that Plaintiffs have failed to state a claim upon which relief can be granted. Plaintiffs object to the motion. Both sides have submitted multiple written memoranda in support of their respective positions, some filed before and others filed after April 24, 2012, when

the Court heard oral argument on the motion and objection. On June 19, 2012, the Court heard additional arguments on a limited issue.

II

STANDARD OF REVIEW

Defendants have moved to dismiss pursuant to Rule 12(b) of the Rhode Island Superior Court Rules of Civil Procedure. That rule permits a defendant to raise certain defenses by motion, which defenses include: lack of jurisdiction over the subject matter, 12(b)(1), and failure to state a claim upon which relief can be granted, 12(b)(6). Defendants base their motion on these two grounds.

A

Rule 12(b)(1)

A motion brought pursuant to Rule 12(b)(1), alleging lack of subject matter jurisdiction, challenges the Court's authority to adjudicate the matter before it. Pine v. Clark, 636 A.2d 1319, 1321-22 (R.I. 1994). "It is an axiomatic rule of civil procedure that such a claim may not be waived by any party and may be raised at any time in the proceedings." Id. (citing La Petite Auberge, Inc. v. Rhode Island Comm'n for Human Rights, 419 A.2d 274, 280 (R.I. 1980); Super. R. Civ. P. 12(b) & (h)). Because the Superior Court of Rhode Island is a trial court of general jurisdiction, deriving its authority from statute, it has "subject matter jurisdiction over all cases unless that jurisdiction has been conferred by statute upon another tribunal." Chase v. Bouchard, 671 A.2d 794, 796 (R.I. 1996) (citing La Petite Auberge, 419 A.2d at 279). The Court must address subject matter jurisdiction as a threshold issue prior to reaching the merits of an action.

With respect to a Rule 12(b)(1) motion to dismiss, "[t]he term 'lack of jurisdiction over the subject matter' means quite simply that a given court lacks judicial power to decide a particular controversy." Pollard v. Acer Group, 870 A.2d 429, 433 (R.I. 2005) (emphasis in original). Thus, if the court lacks jurisdiction over the class of cases to which the particular action belongs, it must dismiss the action. See Kent, Rhode Island Practice, (1960) at 110.

B

Rule 12(b)(6)

A motion brought pursuant to Rule 12(b)(6) tests the sufficiency of the complaint. Palazzo v. Alves, 944 A.2d 144, 149 (R.I. 2008) (quoting R.I. Affiliate, ACLU, Inc. v. Bernasconi, 557 A.2d 1232, 1232 (R.I. 1989)) ("[t]he sole function of a motion to dismiss is to test the sufficiency of the complaint"). Indeed, a trial justice considering a Rule 12(b)(6) motion "must look no further than the complaint, assume that all allegations in the complaint are true, and resolve any doubts in a plaintiff's favor." McKenna v. Williams, 874 A.2d 217, 225 (R.I. 2005) (quoting Bernasconi, 557 A.2d at 1232). "If it appears beyond a reasonable doubt that [the] plaintiff would not be entitled to relief, under any facts that could be established, the motion to dismiss should be granted." Id. (citing Laurence v. Sollitto, 788 A.2d 455, 456 (R.I. 2002)).

Though recent United States Supreme Court decisions arguably raise the bar for sufficiency by requiring plaintiffs to allege a set of plausible, rather than possible, facts showing an entitlement to relief, our jurisdiction has not expressly adopted (or rejected) this new precedent. See Ashcroft v. Iqbal, 556 U.S. 662, 662 (2009); Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 544 (2007). In decisions published after Iqbal and Twombly,

the Rhode Island Supreme Court continues to ascribe to the notice pleading doctrine. See, e.g., Barrette v. Yakavonis, 966 A.2d 1231, 1234 (R.I. 2009). As our Supreme Court has stated, "[t]he policy behind these liberal pleading rules is a simple one: cases in our system are not to be disposed of summarily on arcane or technical grounds." Hendrick v. Hendrick, 755 A.2d 784, 791 (R.I. 2000) (citing Haley v. Town of Lincoln, 611 A.2d 845, 848 (R.I. 1992)). As such, Rhode Island law indicates that granting "a Rule 12(b)(6) motion to dismiss is appropriate 'when it is clear beyond a reasonable doubt that the plaintiff would not be entitled to relief from the defendant under any set of facts that could be proven in support of the plaintiff's claim.'" Barrette, 966 A.2d at 1234.

C

Legislative Enactments

It is important to note that this Court evaluates legislative enactments with extreme deference: the Rhode Island Supreme Court will interfere with such enactments "only when the legislation at issue could palpably and unmistakably be characterized as an excess of legislative power." City of Pawtucket v. Sundlun, 662 A.2d 40, 44-45 (R.I. 1995) (citing Kennedy v. State, 654 A.2d 708, 711 (R.I. 1995)). Indeed, the Supreme Court has said it will not invalidate a legislative enactment "unless the party challenging the enactment can prove *beyond a reasonable doubt* to th[e] court that the statute in question is repugnant to a provision in the constitution." Id. at 44 (emphasis in original) (citing Gorham v. Robinson, 57 R.I. 1, 7, 186 A. 832, 837 (1936)). Moreover, the power of the General Assembly is "plenary and unlimited, save for the textual limitations to that power that are specified in the Federal or State Constitutions." Id. (citing Kass v.

Retirement Bd. of the Employees' Retirement System of Rhode Island, 567 A.2d 358, 360 (R.I. 1989)). To that end, the Rhode Island Supreme Court has explained that it will make "'every reasonable intendment in favor of the constitutionality of a legislative act, and so far as any presumption exists it is in favor of so holding.'" Id. at 45 (quoting State v. Garnetto, 75 R.I. 86, 94, 63 A.2d 777, 781 (1949)).

Bearing this framework in mind, this Court undertakes its analysis of the parties' arguments and the applicable law.

III

ANALYSIS

Defendants base their Motion to Dismiss on several grounds. They argue that Plaintiffs lack standing; that their Petition is not a "short and plain" statement as contemplated by Rule 8 of the Rules of Civil Procedure; that Plaintiffs have failed to state a legally cognizable claim; that they failed to join necessary parties; and that the Complaint presents no case or justiciable controversy such that this Court's subject matter jurisdiction can properly be invoked without violating the separation of powers doctrine.[2]

A

Subject Matter Jurisdiction

A motion brought pursuant to Rule 12(b)(1) questions the Court's authority to adjudicate the matter before it. As the Superior Court of Rhode Island is a trial court of

[2] "Justiciability" is defined as "the quality or state of being appropriate or suitable for adjudication by a court." Black's Law Dictionary 943 (9th ed. 2009). "The central concepts are elaborated into more specific categories of justiciability—advisory opinions, feigned and collusive cases, standing, ripeness, mootness, political questions, and administrative questions." 13 Charles A. Wright et al., Federal Practice and Procedure § 3529 at 278–79 (2d ed. 1984).

general jurisdiction, deriving its authority from statute, it possesses "subject-matter jurisdiction over all cases unless that jurisdiction has been conferred by statute upon another tribunal." Chase, 671 A.2d at 796 (citing La Petite Auberge, 419 A.2d at 279). Indeed, "[t]he term 'subject matter jurisdiction,' when properly used, refers only to the court's power to hear and decide a case and not to whether a court having the power to adjudicate should exercise that power." Mesolella v. City of Providence, 508 A.2d 661, 666 (R.I. 1986); see also Pollard v. Acer Group, 870 A.2d 429, 433–34 (R.I. 2005); Jordan v. Jordan, 586 A.2d 1080, 1084 (R.I. 1991); Silva v. Brown & Sharpe Manufacturing Co., 524 A.2d 571, 573 (R.I. 1987).

Here, Defendants argue that the Court cannot entertain this matter without violating the separation of powers doctrine, and, therefore, their 12(b)(1) motion should be granted because the Court lacks subject matter jurisdiction. However, this reasoning conflates the principles of subject matter jurisdiction and separation of powers. The two are separate and distinct doctrines, so that even if separation of powers precluded a court from considering a controversy, the court could arguably still retain jurisdiction.[3] Subject matter jurisdiction goes to the very power of a court to hear a particular type of case. Bradford Associates v. R.I. Div. of Purchases, 772 A.2d 485, 488 (R.I. 2001) (citations omitted). It is true that the distinction between the "appropriate exercise of power and the absence of power" may at times be "blurry," but in this instance, the Court is not without the power, or requisite jurisdiction, to examine these causes of action. Mesolella, 508 A.2d at 665 (internal quotation marks omitted). The Superior Court is a court of general jurisdiction, possessing jurisdiction over all cases not specifically delegated to another

[3] The Court's discussion of separation of powers issues is set forth infra.

tribunal; there has been no such delegation of cases of the type currently before this Court.

B

Standing

Like subject matter jurisdiction, standing must be examined prior to reaching the merits of a case. Indeed, "the first order of business for the trial justice is to determine whether a party has standing to sue." Bowen v. Mollis, 945 A.2d 314, 317 (R.I. 2008). "The requisite standing to prosecute a claim for relief exists when the plaintiff has alleged that 'the challenged action has caused him [or her] injury in fact, economic or otherwise[.]'" Id. (quoting Rhode Island Ophthalmological Society v. Cannon, 113 R.I. 16, 22, 317 A.2d 124, 128 (1974)). Accordingly, "[t]he plaintiffs must have standing to bring [the] action, and the Superior Court must have subject matter jurisdiction over the issues raised in the complaint." McKenna, 874 A.2d at 225.

The United States Supreme Court has explained that to satisfy the standing requirement, a complaining party must allege "such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions[.]" Baker v. Carr, 369 U.S. 186, 204 (1962); see also Flast v. Cohen, 392 U.S. 83, 99 (1968). In other words, when standing is at issue, "a court must determine if the plaintiff 'whose standing is challenged is a proper party to request an adjudication of a particular issue and not whether the issue itself is justiciable' or, indeed, whether or not it should be litigated." McKenna, 874 A.2d at 226 (quoting Flast, 392 U.S. at 99–100).

"Standing is an aspect of justiciability and, as such, the problem of standing is

surrounded by the same complexities and vagaries that inhere in justiciability." Flast, 392 U.S. at 98. In fact, as the Court noted in Flast, standing is one of "the most amorphous [concepts] in the entire domain of public law." Id. at 99. "When called upon to decide the issue of standing, a trial justice must determine whether, if the allegations are proven, the plaintiff has sustained an injury and has alleged a personal stake in the outcome of the litigation before the party may assert the claims of the public." Bowen, 945 A.2d at 317 (citing Burns v. Sundlun, 617 A.2d 114, 116 (R.I. 1992)). A "legally cognizable and protectable interest must be concrete and particularized . . . and . . . actual or imminent, not conjectural or hypothetical." Id. (quoting Pontbriand v. Sundlun, 699 A.2d 856, 862 (R.I. 1997)) (internal quotations omitted).

Most recently, the Rhode Island Supreme Court has emphasized the importance it places on the concrete and particularized harm aspect of standing when it indicated that "[the] Court's long-standing jurisprudence—perhaps to a greater degree than that of some other jurisdictions—has had a discernable focus on the requirement of concrete and particularized harm." Watson v. Fox, 44 A.3d 130, 138 (R.I. 2012) (citing Bowen, 945 A.2d at 317; McKenna, 874 A.2d at 226-27; Pontbriand, 699 A.2d at 862; Burns, 617 A.2d at 116). In this latest case involving private taxpayer standing, the Court declined to depart from that precedent based on the facts of that matter. Id.

However, the Rhode Island Supreme Court has made exceptions to the formalities of standing on "rare occasions" when it would be appropriate to "overlook[ ] the standing requirement to determine the merits of a case involving substantial public interest." Associated Builders & Contractors of Rhode Island, Inc. v. Department of Admin., 787 A.2d 1179, 1186 (R.I. 2002) (observing that the Court will only will relax standing

requirements on rare occasions where there exists a "substantial public interest in having a matter resolved"); Retirement Board of the Employees' Retirement System of Providence v. City Council of Providence, 660 A.2d 721, 726 (R.I. 1995) (internal quotation marks omitted) (overlooking claims of lack of standing when issues of substantial public importance were extant); Burns, 617 A.2d at 116; Kass, 567 A.2d at 359 n.1; Sennott v. Hawksley, 103 R.I. 730, 732, 241 A.2d 286, 287 (1968).

For example, in Burns, the Court determined that standing ought to be construed liberally because the plaintiff raised "a question of statutory interpretation of great importance" to various citizens. 617 A.2d at 116. Similarly, in Kass, the Court reasoned that the plaintiff's argument with respect to the General Assembly's circumvention of constitutional provisions demonstrated "substantial public interest" sufficient to persuade the Court to overlook standing requirements. 567 A.2d at 359. Likewise, the Court in Retirement Board of the Employees' Retirement System of Providence opted to overlook the lack of standing because issues of substantial public importance to the members of the retirement system and to the city's taxpayers were raised. 660 A.2d at 726. Finally, in Sennott, the Court examined whether a constitutional convention had acted within its authority without first resolving the question of standing in light of the "substantial public interest" in seeing the matter resolved. 103 R.I. at 732, 241 A.2d at 287.

Here, the Court finds that although Plaintiffs have not sufficiently demonstrated a particularized harm, the instant case is more akin to those in which the Supreme Court of Rhode Island has found a substantial public interest sufficient to justify overlooking standing requirements. Just as "substantial public interest" existed where a plaintiff raised "a question of statutory interpretation of great importance" to various citizens,

where a plaintiff brought a claim of "great importance" to a city's retirees, and where a plaintiff contested the actions of a constitutional convention, substantial public interest in public education justifies this Court's decision to entertain this matter. Retirement Board of the Employees' Retirement System of Providence, 660 A.2d at 726; Burns, 617 A.2d at 116; Kass, 567 A.2d at 359; Sennott, 103 R.I. at 732, 241 A.2d at 287. Specifically, as in Kass, the actions of the General Assembly are at issue here, and moreover, the implications of these actions will affect a multitude of citizens, as in Burns. Burns, 617 A.2d at 116; Kass, 567 A.2d at 359. While it is true that the Court opted not to exercise its discretion to overlook the standing requirement when a plaintiff was "essentially [ ] seeking an advisory opinion" with respect to taxpayer standing, the facts of the instant matter are distinguishable from those circumstances. Watson, 44 A.3d at 138. The Court in Watson was fundamentally troubled by the status of the plaintiff as a private taxpayer who had eschewed his official position, and that concern has no force in this case. Here, it is more appropriate to liken Plaintiffs to the parties who demonstrated substantial public interest in Retirement Board of the Employees' Retirement System of Providence, Burns, Kass, and Sennott.

This Court does not simply "vault over the required showing of a particularized injury." Watson, 44 A.3d at 138. Instead, the Court recognizes the strong public interest in this matter. As such, this matter will not be dismissed for lack of standing.

C

The Education Clause

The Court now turns to the merits of this matter. The constitutional framework surrounding these arguments is of great import to the resolution of this case.

Accordingly, the Court first examines article 12, section 1 of the Rhode Island Constitution (the education clause) and the Court's consideration of that article. Article 12, section 1 outlines the duty of the General Assembly to promote public schools and libraries:

> "The diffusion of knowledge, as well as of virtue among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools and public libraries, and to adopt all means which it may deem necessary and proper to secure to the people the advantages and opportunities of education and public library services."

R.I. CONST. Art. XII. Importantly, it has been held that this section confers no fundamental or constitutional right to education, nor does it guarantee an "equal, adequate, and meaningful education." City of Pawtucket, 662 A.2d at 55, 57, 60.

Though not the first case to consider the education clause, City of Pawtucket v. Sundlun is Rhode Island's seminal case with respect to article 12, section 1 and its broad delegation of power to the General Assembly. To that end, City of Pawtucket guides this Court's examination of the issues. Most notably, City of Pawtucket stands for the proposition that article 12 of the Rhode Island Constitution grants the General Assembly exclusive responsibility for public education in Rhode Island. Id. at 56, 57. In fact, the Court has consistently held that "article 12 vests in the General Assembly *sole* responsibility in the field of education" prior to City of Pawtucket. Id. at 57 (emphasis in original); see also Brown v. Elston, 445 A.2d 279, 285 (R.I. 1982) (determining that Rhode Island's Constitution "vests the State Legislature with sole responsibility in the field of education"); Chang v. University of Rhode Island, 118 R.I. 631, 639-40, 375 A.2d 925, 929 (1977) (noting that article 12 "expressly and affirmatively" grants the General Assembly sole responsibility for public education); Royal v. Barry, 91 R.I. 24,

31 160 A.2d 572, 575 (1960) (reasoning that article 12 "expressly and affirmatively reserves to the legislature sole responsibility in the field of education"); National Education Association of Rhode Island v. Garrahy, 598 F. Supp. 1374, 1387 (D.R.I. 1984) (stating "[i]t is beyond gainsaying that under state law, the state exercises supreme responsibility in the arena of education").

The Court in City of Pawtucket determined that "a more comprehensive or discretionary grant of power is difficult to envision," and, as such, "[t]he education clause leaves all [ ] determinations to the General Assembly's broad discretion to adopt the means *it* deems 'necessary and proper' in complying with the constitutional directive." 662 A.2d at 56 (emphasis in original). The Court acknowledged that education is "perhaps the most important function of state and local governments," but "the analysis of the complex and elusive relationship between funding and 'learner outcomes' . . . is the responsibility of the Legislature, which has been delegated the constitutional authority to assign resources to education and to competing state needs." Id. at 57.

The General Assembly's power in this regard has been described as "plenary" on more than one occasion. Id. at 56; Greenhalgh v. City Council of Cranston, 603 A.2d 1090, 1093 (R.I. 1992); Pawtucket Sch. Comm. v. Pawtucket Teachers Alliance, 610 A.2d 1104, 1105 (R.I. 1992). However, these decisions pre-date recent amendments to the Rhode Island Constitution. In 2004, the voters approved a resolution repealing article 6, section 10, to wit, the residual powers clause. Plaintiffs rely on the 2004 changes to the Constitution to support their argument that the General Assembly's authority with respect to education is no longer "plenary." The Court disagrees.

Specifically, with regard to article 12, section 1, the General Assembly's power

remains plenary notwithstanding the amendments. See In re Request for Advisory Opinion From the House of Representatives (Coastal Resources Management Council), 961 A.2d 930, 935 (R.I. 2008). While it is true that the CRMC opinion is only advisory in nature, that does not render its reasoning unpersuasive. Opinion to the Governor, 109 R.I. 289, 291, 284 A.2d 295, 296 (1971) (citing Opinion to the House of Representatives, 88 R.I. 396, 400, 149 A.2d 343, 345 (1959)) (acknowledging that "in giving advisory opinions, the judges of the Supreme Court do not render a decision of the court, but only express their opinions as individual judges . . . [and] for this reason such opinions have no binding force"); cf. In re Advisory Opinion to the Governor, 732 A.2d 55, 73 (R.I. 1999) (noting that although advisory opinions are of "limited precedential effect," "they may be persuasive although not binding upon future or even the present members of this Court").

In this instance, though not binding, CRMC is highly persuasive. There, the Court clearly stated that the separation of powers amendments "did not, either explicitly or implicitly, limit or abolish the power of the General Assembly in any other area where we have previously found its jurisdiction to be plenary." Id. at 935-936. Moreover, the Court elaborated when it explained more specifically that "[s]uch areas include the General Assembly's . . . duty with respect to education and public library services (article 12, section 1)." Id. at 936. The unambiguous reasoning and express mention of article 12, section 1 here makes it inescapably apparent that the recent amendments had no impact whatsoever on any "plenary" power of the General Assembly, including its plenary power in the area of public education. As such, the repeal of article 6, section 10 and its residual powers neither displaced nor curtailed the General Assembly's exclusive

article 12, section 1 power to regulate public education in this state.

Though mindful of Plaintiffs' efforts to characterize this issue as distinguishable from that which was posed in City of Pawtucket, this Court finds that City of Pawtucket is indeed controlling on the question of whether the General Assembly's authority is comprehensive and exclusive in the public education arena. The Court declines Plaintiffs' request to depart from the Supreme Court's reasoning and instead concludes that funding of public education is solely the province of the General Assembly.

D

Separation of Powers Doctrine

As in City of Pawtucket, one of the core substantive issues in this case is the role of the separation of powers doctrine. The doctrine has precluded Rhode Island courts from addressing various issues in the past, and the applicability and force of the separation of powers principles are very much at the center of the instant controversy. The Court will not entertain this matter if doing so would constitute a violation of separation of powers.

Article 5 of the Rhode Island Constitution states that the "powers of the government shall be distributed into three separate and distinct departments: the legislative, the executive and judicial." R.I. CONST. Art. V. In fact, the constitutional distribution of the powers of the government in article 5 is at once a grant of specific power to each department and a prohibition to the other two with respect to that same power. See, e.g., Almond v. Rhode Island Lottery Commission, 756 A.2d 186, 199 (R.I. 2000) (quoting Creditors' Serv. Corp. v. Cummings, 57 R.I. 291, 300, 190 A. 2, 8 (1937)).

The Rhode Island Supreme Court has held that "[t]he separation of powers doctrine prohibits the usurpation of the power of one branch of government by a coordinate branch of government." Moreau v. Flanders, 15 A.3d 565, 579 (R.I. 2011) (quoting Town of East Greenwich v. O'Neil, 617 A.2d 104, 107 (R.I. 1992)). In addition, the Court has said "without equivocation that 'a constitutional violation of separation of powers [is] an assumption by one branch of powers that are central or essential to the operation of a coordinate branch.'" Moreau, 15 A.3d at 579; In re Advisory Opinion to the Governor (Ethics Commission), 612 A.2d 1, 18 (R.I. 1992) (emphasis omitted) (quoting State v. Jacques, 554 A.2d 193, 196 (R.I. 1989)). The United States Supreme Court has likewise summed up the doctrine by expressly delineating the ways in which the separation of powers doctrine may be violated:

> "Functionally, the doctrine may be violated in two ways. One branch may interfere impermissibly with the other's performance of its constitutionally assigned function . . . Alternatively, the doctrine may be violated when one branch assumes a function that more properly is entrusted to another."

I.N.S. v. Chadha, 462 U.S. 919, 963 (1983) (Powell, J., concurring). In City of Pawtucket, the plaintiffs urged that the Court do both of these things. Specifically, they asked the Court to interfere with the "plenary constitutional power of the General Assembly in education," and further argued that the Court ought to order "'equity' in funding sufficient to 'achieve learner outcomes,'" which is, in effect, a request that the Court take on a responsibility explicitly committed to the Legislature. City of Pawtucket, 662 A.2d at 58 (citation omitted). The Court noted that it has held "that the task of designing a system of financing public education has been delegated to the General Assembly under article 12, not to the courts." Id. at 57-58.

Here, Plaintiffs urge this Court not only to disregard these prior holdings, but also

to act as a monitor of the General Assembly, scrutinizing its choices with regard to financing public education. This is precisely the sort of unwarranted and improper transgression into a separate governmental branch against which the separation of powers doctrine protects. Like the Rhode Island Supreme Court, this Court is constrained to "refrain from scaling the walls that separate law making from judging." Id. at 58.

Moreover, at a most fundamental level, the proper forum for this deliberation is the General Assembly, not the courtroom. "Members of the legislative and executive branches are directly accountable to the electorate."[4] Id. at 62. Importantly, Plaintiffs never dispute the availability of political access to the General Assembly, but rather they reject that forum as a realistic and viable means of lobbying their complaints. Constituents' frustration with an anticipated failure, however, does not justify an end-run around the General Assembly. Because the Legislature is "endowed with virtually unreviewable discretion in this area," Plaintiffs should have sought a remedy in that forum. Id. at 57. In fact, the separation of powers doctrine proscribes attempts to circumvent the General Assembly by bringing a matter to the courts.

The education clause does not guarantee a right to education, only a right to have the General Assembly formulate a system of education. Further, because the means and methods devised by the General Assembly to finance public education are specifically and comprehensively within the power of the Legislature, the funding scheme is not

[4] The Court there declined to endorse a plan that would effectively require "the people of this state 'to turn over to a tribunal against which they have little if any recourse, a matter of such grave concern to them.'" City of Pawtucket, 662 A.2d at 62 (citation omitted). The Court further explained "'[i]f their legislators pass laws with which they disagree or refuse to act when the people think they should, they can make their dissatisfaction known at the polls," while a court, on the other hand, "'is not so easy to reach . . . nor is it so easy to persuade that its judgment ought to be revised.'" Id. (citations omitted).

subject to this Court's review. Therefore, the Court grants Defendants' Motion to Dismiss with respect to Counts I and V, both of which hinge on the comprehensive, plenary authority of the General Assembly to regulate public school funding pursuant to article 12, section 1.

E

Substantive Due Process and Equal Protection

The Court now turns to Count II, titled "Substantive Due Process." In spite of omitting reference to "Equal Protection" when labeling that Count, the Court finds that Plaintiffs are also alleging violations of equal protection.[5] The Court can consider allegations of constitutional violations even in areas where the General Assembly has what appears to be unfettered power. The General Assembly does not go entirely unchecked as its actions are only "virtually" unreviewable. See City of Pawtucket, 662 A.2d at 57. Therefore, this Court will examine both arguments.

1

Motion To Dismiss the Due Process and Equal Protection Claims

Defendants argue that Plaintiffs have failed to articulate a legally cognizable claim against them as it relates to Plaintiffs' allegations of due process and equal

[5] Plaintiffs assert violations of article 1, section 2 of the Rhode Island Constitution, which includes equal protection. Also, in their demand for relief, Plaintiffs state that "[t]he present system of educational financing systematically deprives Plaintiffs of their right to equal treatment under the law, in violation of article 1, section 2 as well as R.I.G.L. § 42-112-1's guarantee of equal treatment of all citizens." The Rules of Civil Procedure have become more liberal, and the Court must "look to substance, not labels" in determining how to assess the posture of the requested relief. Sarni v. Meloccaro, 113 R.I. 630, 636, 324 A.2d 648, 651-52 (1974) (reasoning that "we are no longer in the days when common-law pleading was in full flower," and instead "we are governed by our more liberal rules of civil procedure which '. . . shall be construed to secure the just, speedy, and inexpensive determination of every action.'" Super. R. Civ. P. 1).

protection violations. Defendants challenge the legal sufficiency of these claims in their 12(b)(6) motion to dismiss. From a procedural standpoint, Plaintiffs object to such challenge as premature and not one that should be included in a motion to dismiss, a tool which merely tests the adequacy of a complaint.

The Court recognizes that "the sole function of a motion to dismiss is to test the sufficiency of the complaint," and thus this Court need not look further than the complaint in conducting its review. See Bernasconi, 557 A.2d at 1232. The grant of a Rule 12(b)(6) motion to dismiss is appropriate "when it is clear beyond a reasonable doubt that the plaintiff would not be entitled to relief from the defendant under any set of facts that could be proven in support of the plaintiff's claim." Ellis, 586 A.2d at 1057; see also Palazzo, 944 A.2d at 149-150.

Although generally the Court may not be able to determine the adequacy of due process and equal protection allegations by merely examining the complaint, there is no prohibition against doing so. Under appropriate circumstances, a motion to dismiss may be an entirely suitable vehicle to dispose of such claims. McKenna, 874 A.2d at 225 (citing Laurence, 788 A.2d at 456) (reasoning that "[i]f it appears beyond a reasonable doubt that [the] plaintiff would not be entitled to relief, under any facts that could be established, the motion to dismiss should be granted"). Thus, these constitutional allegations will be tested for sufficiency just as any other claims would be assessed at this stage of litigation.

In defending a motion to dismiss, plaintiffs certainly are not required to elaborate on their allegations with supporting facts. Here, the Complaint is so detailed that it provides the Court with a surplus of information that comprises the basis of the

allegations set forth by Plaintiffs. Rule 8(a) of the Rhode Island Superior Court Rules of Civil Procedure specifies that a pleading that sets forth a claim for relief shall contain a short and plain statement of the claim showing that the pleader is entitled to relief. Super. R. Civ. P. 8. Nonetheless, Plaintiffs have chosen to file a voluminous, detailed complaint totaling 81 pages and containing 537 numbered paragraphs. By choosing to elaborate so profusely on their stated causes of action, Plaintiffs have provided the Court with a comprehensive factual basis for their claims.

Moreover, the parties have submitted additional memoranda and have presented additional oral argument on the limited issue of testing the sufficiency of Plaintiffs' due process and equal protection claims under 12(b)(6). Significantly, at the June 19, 2012 hearing, counsel for Plaintiffs admitted that they were not alleging that the purported due process and equal protection violations were part of a deliberate plan to discriminate against Plaintiffs. (Hr'g, June 19, 2012.) Counsel further indicated that although they did not claim that the General Assembly intended to discriminate, it did so through political compromise. Id. At the hearing, counsel made it clear that Plaintiffs were focusing on the unfair result of the funding plan as opposed to any willful discriminatory motive. Id. Finally, counsel candidly noted that Plaintiffs were unable to point to the proverbial "smoking gun" to attribute intent to discriminate to the Legislature. Id.

The Court views the pending motion with the benefit of an 81-page complaint setting forth allegations in 537 detailed paragraphs. Given that voluminous Complaint, coupled with Plaintiffs' aforementioned concessions, the Court is well able to test the sufficiency of the due process and equal protection claims through a motion to dismiss under 12(b)(6). There is no procedural bar from doing so.

2

Substantive Due Process

Article I, section 2 of the Rhode Island Constitution provides that "[n]o person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws." The guarantee of substantive due process, as distinct from procedural due process, "acts as a bar against certain arbitrary, wrongful government actions regardless of the fairness of the procedures used to implement them." State v. Germane, 971 A.2d 555, 574 (R.I. 2009) (citations omitted); Jolicoeur Furniture Co. v. Baldelli, 653 A.2d 740, 751 (R.I. 1995). As the First Circuit has explained, substantive due process

> "does not protect individuals from all [governmental] actions that infringe liberty or injure property in violation of some law. Rather, substantive due process prevents governmental power from being used for purposes of oppression, or abuse of government power that shocks the conscience, or action that is legally irrational in that it is not keyed to any legitimate state interests."

PFZ Props., Inc. v. Rodriguez, 928 F.2d 28, 31-32 (1st Cir. 1991) (internal citations omitted).

In analyzing alleged substantive due process violations, the "threshold question" is whether there is a fundamental right at stake. Riley v. R.I. Dep't of Envtl. Mgmt., 941 A.2d 198, 205-06 (R.I. 2008). If there is a fundamental right at issue, the governmental action is subject to strict scrutiny, but if not, the action is analyzed under minimal scrutiny. Id. at 206. When there is no fundamental right at issue, substantive due process guards only against clearly arbitrary and capricious government action. Moreau, 15 A.3d

at 581; Riley, 941 A.2d at 206. The Rhode Island Supreme Court has embraced the position that "the due process clause includes a substantive component which guards against arbitrary and capricious government action, even when the decision to take that action is made through procedures that are in themselves constitutionally adequate." Moreau, 15 A.3d at 581; Brunelle v. Town of South Kingstown, 700 A.2d 1075, 1084 (R.I. 1997) (quoting Sinaloa Lake Owners Association v. City of Simi Valley, 882 F.2d 1398, 1407 (9th Cir. 1989)). Furthermore, a party seeking to establish a substantive violation of due process "must establish that the challenged provisions are 'clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare.'" Kaveny v. Town of Cumberland Zoning Bd. of Review, 875 A.2d 1, 10 (R.I. 2005) (quoting Brunelle, 700 A.2d at 1084); see also Village of Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926). Additionally, "'substantive due process prevents the use of governmental power for purposes of oppression, or abuse of governmental power that is shocking to the conscience.'" Moreau, 15 A.3d at 581 (quoting L.A. Ray Realty v. Town Council of Cumberland, 698 A.2d 202, 211 (R.I. 1997)). Specifically, "arbitrary and capricious" state action rising to the level of a violation of substantive due process is "shocking to the conscience" and "run[s] counter to ordered liberty." Id.; Jolicoeur, 653 A.2d at 751.

The United States Supreme Court has long held that the right to an education is not a fundamental right afforded protection under the Federal Constitution. Rodriguez, 411 U.S. at 35. In Rhode Island, education is not generally a judicially-enforceable right under article 12, section 1 of the Constitution. City of Pawtucket, 662 A.2d at 60. Thus, there is no fundamental right at issue, and the General Assembly's action must survive

only minimal scrutiny. Riley, 941 A.2d at 206. Additionally, because no fundamental right has been implicated here, Plaintiffs must demonstrate that the General Assembly's actions were not only clearly arbitrary and capricious, but also "'unreasonable, having no substantial relation to the public health, safety, morals, or general welfare.'" Moreau, 15 A.3d at 581; Riley, 941 A.2d at 206; Kaveny, 875 A.2d at 10 (quoting Brunelle, 700 A.2d at 1084). The Court finds that Plaintiffs have not carried this burden.

Under the minimal-scrutiny standard of review, a funding system must be upheld if it is rationally related to a legitimate state interest. City of Pawtucket, 622 A.2d at 61. Plaintiffs contend that the General Assembly's approach to funding public school education operates as a denial of substantive due process. This argument, however, fails under the rational basis test: the General Assembly's current system of educational financing bears a rational connection to legitimate state interests in controlling public education.

The Rhode Island Supreme Court, like the United States Supreme Court, has acknowledged legitimate state interests in funding in education. San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 49-50 (1973); City of Pawtucket, 662 A.2d at 62. In particular, preservation of local control over education is a legitimate state interest. City of Pawtucket, 662 A.2d at 62; see also Milliken v. Bradley, 418 U.S. 717, 741-42 (1974) (recognizing that "[n]o single tradition in public education is more deeply rooted than local control over the operation of schools; local autonomy has long been thought essential both to the maintenance of community concern and support for public schools and to quality of the educational process"). The Court in City of Pawtucket acknowledged that the public school financing system in Rhode Island relies

substantially on local property taxation to fund public schools and permits districts to increase their expenditures for education if the districts so choose. 662 A.2d at 62. Further, the Court reasoned that "[u]nder the Rhode Island Constitution, the level of state educational funding is largely a matter for the Legislature, which possesses the 'expertise and familiarity with local problems implicated in the raising and disposition of public revenues associated with public education.'" Id. (citing Hornbeck v. Somerset County Board of Education, 295 Md. 597, 651, 458 A.2d 758, 786 (1983)). Based on that reasoning, the Court concluded that the preservation of local control is a legitimate state interest and that the current financing system was rationally related to that legitimate interest. That reasoning applies with equal force to the instant matter.

Furthermore, Plaintiffs can establish neither the requisite arbitrariness and capriciousness nor the use of "'governmental power for purposes of oppression, or abuse of governmental power that is shocking to the conscience.'" Moreau, 15 A.3d at 581 (quoting L.A. Ray Realty, 698 A.2d at 211). Nothing in Plaintiffs' lengthy complaint gives rise to this level of alleged misconduct.

Plaintiffs propose that some nefarious force is at work—a political agenda, perhaps. Further, Plaintiffs diffidently submit that the adoption of an adjusted or updated approach to funding public education is both arbitrary and capricious. The Court finds these suggestions conclusory and unpersuasive. The Funding Formula applies to each district in Rhode Island; the General Assembly does not craft a formula specific to any given district, and thus the capriciousness allegation cannot stand. Quite the opposite is true: a formula that is applied to each district will yield varying results, but those results are still the product of the uniform application of the Funding Formula. Moreover, the

General Assembly has used funding formulas for many years, and this Court is persuaded that any adjustments incorporated into the formulas are so incorporated under the General Assembly's article 12 power. To that end, the formula is hardly arbitrary.

In conclusion, there exists a rational basis for the General Assembly's choices with respect to its funding mechanisms, and there has been no deprivation of due process of law. There has been no arbitrary or capricious action by the General Assembly, and certainly no action that rises to a level that would shock the conscience. Plaintiffs' substantive due process claim is therefore dismissed.

3

Equal Protection

The Rhode Island Constitution's equal protection clause "proscribes governmental action which treats one class of people less favorably than others similarly situated." Moreau, 15 A.3d at 581 (quoting Perrotti v. Solomon, 657 A.2d 1045, 1049 (R.I. 1995)). To demonstrate an equal protection violation by the State, a plaintiff must show that "(1) [he or she], compared with others similarly situated, was selectively treated; and (2) that such selective treatment was based on impermissible considerations such as race, religion, intent to inhibit or punish the exercise of constitutional rights, or malicious or bad faith intent to injure a person." Providence Teachers' Union Local 958, AFL-CIO, AFT v. City Council of Providence, 888 A.2d 948, 954 (R.I. 2005). When a suspect classification is not involved, the government action is subject to only minimal scrutiny. See Riley, 941 A.2d at 206; Mackie v. State, 936 A.2d 588, 596 (R.I. 2007); Cherenzia v. Lynch, 847 A.2d 818, 823 (R.I. 2004).

Though "[a]n equal protection violation may be established by showing that an

impermissible classification has occurred," it is equally true that equal protection "'does not require perfectly equal treatment for every individual.'" Moreau, 15 A.3d at 587 (quoting Felice v. Rhode Island Board of Elections, 781 F. Supp. 100, 105 (D.R.I. 1991)). Rather, "'[i]t is well established that where it has not been shown that a 'fundamental right' has been affected or that the legislation sets up a 'suspect classification,'" a statute will be invalidated "'only if the classification established bears no reasonable relationship to the public health, safety, or welfare.'" Moreau, 15 A.3d at 587 (citations omitted).

Here, as discussed supra, there is no fundamental right at issue. There is no fundamental right to education, and neither poverty nor wealth is a basis for declaring a suspect classification that would give rise to a strict scrutiny analysis for purposes of equal protection analysis. Therefore, this Court employs a rational basis standard to test the constitutionality of the General Assembly's actions. Riley, 941 A.2d at 206; Mackie, 936 A.2d at 596; Cherenzia, 847 A.2d at 823. In the absence of a fundamental right, and where the General Assembly's legislation has not delineated any suspect classification, the General Assembly's action can only be unconstitutional if the "'classification established bears no reasonable relationship to the public health, safety, or welfare.'" Moreau, 15 A.3d at 587 (citations omitted). With that standard in mind, the Court finds that the General Assembly's actions have not violated Plaintiffs' rights to equal protection.

Plaintiffs argue that the General Assembly's actions have violated the equal protection clause because students in the poorer school districts do not receive as well funded an education as do students from wealthier districts. This financial ability—or inability, as the case may be—constitutes the impermissible "classification" with which

Plaintiffs take issue. Put simply, Plaintiffs posit that their right to education has been compromised because of their districts' diminished financial ability. City of Pawtucket, 662 A.2d at 60. City of Pawtucket clearly indicated that education is not a judicially-enforceable right under article 12, section 1, and community wealth is not a suspect classification for the purpose of an equal protection analysis. Maher v. Roe, 432 U.S. 464, 471 (1977); 662 A.2d at 60. Moreover, the United States Supreme Court has stated unequivocally that "[i]t has simply never been within the constitutional prerogative of this Court to nullify statewide measures for financing public services merely because the burdens or benefits thereof fall unevenly depending upon the relative wealth of the political subdivisions in which citizens live." Rodriguez, 411 U.S. at 54. Indeed, the mere fact that the majority of those living in Woonsocket and Pawtucket are poor cannot and should not prevent the General Assembly from taking action it is constitutionally entitled to take. Equal protection "'does not require perfectly equal treatment for every individual.'" Moreau, 15 A.3d at 587 (quoting Felice, 781 F. Supp. at 105). Disparities in per student expenditure resulting from the application of the formula, while very unfortunate, are not unconstitutional. It is for the legislature to determine what that minimum constitutionally required education foundation will be. Rodriguez, 411 U.S. at 54, 55.

For purposes of discussion, the Court undertakes a brief discussion of Plaintiffs' recent contention that the Funding Formula discriminates against Hispanic students, notwithstanding the absence of any accusations of purposeful racial discrimination in the Complaint. Because race is a suspect classification, such a classification would trigger strict scrutiny. However, the General Assembly is not targeting this suspect class:

instead, the Funding Formula applies with equal force—and without making any special allowances for race—to students of all ethnicities and races in each and every district.

A more appropriate allegation might be that racial discrimination has manifested itself as a disparate impact of the General Assembly's actions. Even so, the Equal Protection Clause does not forbid policies that cause racial disparities, but rather the focus in such instances is on discriminatory intent. In other words, only intentional discrimination may violate equal protection. See Adarand Constructors, Inc. v. Pena, 515 U.S. 200, 217 (1995); Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 264–265 (1977); Washington v. Davis, 426 U.S. 229, 242 (1976) (determining that official action will not be held unconstitutional solely because it results in a racially disproportionate impact). Proof of racially discriminatory intent or purpose is required to show a violation of the Equal Protection Clause. Arlington Heights, 429 U.S. at 265. In this matter, it is undisputed that neither discriminatory intent nor discriminatory purpose motivated the General Assembly's formulation of its public school funding mechanism. Plaintiffs did not at any time—in their Complaint, memoranda, or at hearing—allege that there was a deliberate plan to discriminate based on the race of certain students or on any other suspect classification. Even when directly confronted with the question of whether there was a deliberate plan or decision to establish a funding formula that would discriminate based on race, Plaintiffs conceded that they did not "go as far as to say [they] thought this was part of a deliberate plan," and this "wouldn't be an intent to discriminate." (Hr'g, June 19, 2012.)

Thus, Plaintiffs' claims of substantive due process and equal protection violations do not survive the above scrutiny. Count II is therefore dismissed.

F

Other Arguments

This Court need not address Defendants' other arguments in support of their Motion to Dismiss—noncompliance with Super. R. Civ. P. 8's "short and plain" statement requirement, failure to include indispensable parties and school districts, appropriateness of this cause action in light of the availability of a Caruolo action—because the Court grants the motion on other grounds.[6] As a result, the Court does not reach these remaining arguments.

IV

CONCLUSION

In City of Pawtucket, the Court noted that it "fully appreciate[d] [ ] the advantages and opportunities of education" as being essential. 662 A.2d at 62. The Court further acknowledged that "[a]s an increasing proportion of our population becomes isolated in a separate culture and becomes increasingly undereducated, the resulting disintegration cannot but threaten the fundamental principles upon which our governments were established." Id. Seventeen years after the Court published its decision in City of Pawtucket, it is apparent that these troublesome realities persist.

Nevertheless, as the Rhode Island Supreme Court concluded in that case, the state constitution "clearly charged the General Assembly" with the duty to promote public schools and to adopt all means which it may deem necessary and proper to secure to the

[6] As a practical matter, however, the Court notes that a Caruolo action is neither a suitable vehicle to advance this matter, nor one to preclude Plaintiffs' claims. Whereas a Caruolo action contemplates a request for additional appropriations for a single fiscal year, Plaintiffs here seek a legislative overhaul with respect to the entire system of public education funding. Sec. 16-2-21.4. Moreover, Plaintiffs point out in their memoranda that the cities' lack of resources is precisely why they instituted this action.

people the advantages and opportunities of education. R.I. CONST. Art. XII; City of Pawtucket, 662 A.2d at 62. The complexities that are inextricably linked to the task of allocating resources and funds do not constitute "a proper arena for judicial determination." City of Pawtucket, 662 A.2d at 63. As such, the Court in City of Pawtucket cautioned that "a judge accustomed to the constraints implicit in adversary litigation cannot feasibly by judicial mandate interfere with this delicate balance without creating chaos." Id.

Mindful of the foregoing and for the reasons set forth herein, Defendants' Motion is granted. Counsel shall present an appropriate Order and Judgment consistent with this Decision.